

03-25-98

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Also Calls On Federal Judge to Open Hearings

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FOR IMMEDIATE RELEASE

Tuesday, March 24, 1998

WASHINGTON -- The American Civil Liberties Union today criticized both President Clinton's decision to invoke executive privilege regarding the grand jury testimony of presidential aides Bruce Lindsey and Sidney Blumenthal, and Federal Judge Norma Holloway Johnson's decision to resolve the privilege claim behind closed doors.

Almost 25 years ago, the ACLU noted, the Supreme Court unanimously ruled that President Nixon could not withhold the Watergate tapes from the Special Prosecutor based on a similar claim of executive privilege. As Chief Justice Warren Burger explained in 1974, the president's "generalized interest in confidentiality," although important, "cannot prevail over the fundamental demands of due process of law in the fair administration of criminal justice."

Based on the public record, said ACLU Legal Director Steven R. Shapiro, there is very little reason to believe that President Clinton is asserting anything over than a "generalized interest in confidentiality." In particular, it seems highly unlikely that military or diplomatic secrets are at stake given the nature of the current investigation and the job responsibilities of Mr. Lindsey and Mr. Blumenthal.

At the same time, Shapiro said, the wide ranging scope of the Independent Counsel's inquiry does raise some understandable questions about the relevance of the information he is seeking to the criminal investigation he is conducting.

Because all of the proceedings have been held in secret thus far, the public has been left guessing about what is being sought by the Independent Counsel's office and why it is being withheld by the President and his lawyers. Those issues were a matter of public record in the Watergate case, and they should be a matter of public record in this case as well. (Of course, the substance of any contested conversations need not be disclosed until the issue of privilege has been resolved.)

"This is hardly a typical dispute between private litigants," Shapiro said. "The President's assertion of executive privilege raises fundamental issues about the separation of powers and the extent to which the President is subject to the rule of law. The public should not be left in the dark as these vital issues about our system of government are debated and decided."