



Exploding The Phone

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Probe Could Put Different Light on Marston's Future

WASHINGTON, AP — The Philadelphia office of embattled U.S. attorney David Marston has told the Justice Department it is investigating two Democratic congressmen in Justice Department source said Tuesday.

At the same time, an administration official was reported to be named said that Marston, a Republican appointee who has been told he will be replaced by a Democrat, may be allowed to remain in office indefinitely if the Justice Department decides to suspend ongoing investigations.

The department team that spent part of Monday in Philadelphia has told Attorney General Griffin B. Bell that the U.S. attorney's office is investigating Reps. Joshua Eilberg and Daniel Flood.

The Justice Department officially refused to say if the investigation is underway.

But Bob Havel, a department spokesman, did confirm that the team had answered the question whether there is a probe of Eilberg and Flood.

The matter has stirred a furor because of the Carter administration's plans to replace Marston with a Democrat.

Carter has said he tried to speed up Marston's ouster after getting a call from Eilberg about two months ago. The president said he prodded Bell "to expedite" his plans to replace Marston.

But the administration has denied having any knowledge at that time that Marston was investigating either Eilberg or Flood.

The controversy took another twist Tuesday when Rep. James J. Florio, D-N.J., emerged from a White House meeting to report that Carter said the Justice Department still hadn't been able to find out if Eilberg and Flood were under investigation. Florio also said he was taking notes during the meeting.

Quoted Carter as saying, "The attorney general as late as today has been unable even to ascertain the existence of any investigation involving Democratic congressmen in Pennsylvania out of the U.S. attorney's office in Philadelphia."

The Gannett News Service reported that Reps. Florio and Robert Edgar, D-Pa., both said they urged Carter to reconsider the decision to replace Marston.

White House spokesman Jody Powell challenged Florio's account of what the president said. Powell said in a statement: "The president's comments this morning were directed toward allegations that Congressman Eilberg was under investigation. They were based upon statements by Atty. Gen. Bell at the cabinet meeting Monday morning that he had no evidence that Congressman Eilberg was the target of any investigation."

The president's comments were not based upon any report from the team Justice Department team in Philadelphia as he has had no report from them. The team did not begin to arrive in Philadelphia until Monday morning.

Powell later told a news briefing that it was understandable that Florio supposedly misinterpreted Carter's statement.

The investigation of Eilberg and Flood by Marston's office reportedly has to do with the obtaining of millions of dollars in federally subsidized loans to build an addition to Hahnemann Hospital in Philadelphia. Philadelphia newspapers have reported that Eilberg's law partners got fees of around \$500,000 to represent the hospital in obtaining the federal loans.

The Justice Department team that went to Philadelphia to assess the situation consisted of Thomas Henderson, head of the public integrity section in the criminal division, Michael Shaheen, in charge of the department's office of professional responsibility, and Russell Baker Jr., Bell's deputy in charge of the organized crime section.

Efforts to reach the three men for comment yesterday were unsuccessful.

Bell said the three men went to Philadelphia to make sure that any investigations by Marston's office would be "vigorously pursued" without any loss of momentum.

Illegal Phone Ears Reported

NEW YORK (AP) — A freelance telephone consultant who made his name by shortcutting phone company billing systems claimed Tuesday that the American Telephone & Telegraph Co. has developed a computer system with which it can listen in undetected on calls across the country.

An AT&T spokesman denied that the company had such a system.

Consultant John Draper, 34, claimed at a news conference that an AT&T computer system in Iowa has been programmed to bug telephone calls thousands of miles away undetected by the tapped parties.

Asked about the claim, AT&T spokesman John Travato said, "To my knowledge, no such device is being tested in Iowa." He said AT&T has "no such system" and "no such capabilities."

In Washington, Randolph Young, chief of the Federal Communications Commission's telephone tariff division, said, "We're not aware of any centralized ability of the telephone company to tap a line, but

obviously they have some capability in this regard."

Young said his staff consults periodically with telephone companies to determine that they are complying with the law when there is monitoring in connection with court orders.

"The capability does exist. It was demonstrated to me and it really blew me out," said Draper, who works as a consultant to businesses who want to reduce their phone bills.

Draper is also known as "Captain Crunch" because he once used whistles offered as prizes in cereal boxes to bypass phone company billing systems. His skill at such activities has made him something of a folk hero among other self-styled "Phone Phreaks" — people who delight in playing with telephones, often to circumvent charges.

Draper pleaded innocent last November in Pennsylvania to charges of theft of trade secrets and criminal conspiracy against the telephone company. The case has not yet come to trial. He is currently on probation after four months in jail on a 1976 conviction for similar activities.

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