Md. Suburbs Still Plan to Use Wiretaps

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Law enforcement officers in suburban Maryland said yesterday they plan to continue using wiretaps to obtain evidence of unlawful conduct, despite a Garrett County circuit judge's ruling Friday that the state's wiretap law is unconstituitonal.

Citing other lower court rulings that have upheld their wiretaps, the state's attorney for Montgomery and Prince George's counties said they would suspend wiretapping only if and when the Maryland Court of Appeals declares the law invalid.

"We just caonot be bound by the one trial judge's opinion on constitutionality," said Andrew L. Sooner, state's attorney for Montgomery County.

He was referring to the opinion issued by Judge Stuart F. Hamill, who dismissed drug charges against 11 defendants whose arrests had resulted largely from information gained through wire tapping. Among the defendants was Joseph W. Lee, son of Maryland Lt. Gov. Blair Lee III.

Judge Hamill found that the state's wiretap law lacks certain safeguards against the invasion of privacy made mandatory by a U. S. Supreme Court decision in 1967.

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WIRETAP, From C1

It was the second time a Maryland circuit judge declared the wiretap law unconstitutional. The same position was taken in 1968 by Montgomery County Judge Plummer M. Shearin.

But opinions of trial judges are not binding on their colleagues. Only when upheld by the Court of Appeals do such opinions acquire the force of law. Judge Shearin's ruling was never appealed. But the new decision, by Hamill, may prod state officials into abandoning their reluctance to deal with the unpopular wiretap issue and write a new law that better conforms with constitutional guidelines.

Already since the ruling, Gov. Marvin Mandel has informally indicated a willingness to sponsor legislation revising the wiretap law, a spokesman said yesterday.

Most other states with wiretap laws have revised their statutes to conform with a 1968 federal law that incorporated many of the safeguards suggested by the Supreme Court in 1967.

According to defense attorneys in the Garrett County case, the safeguards that must be added to the Maryland law to satisfy the Supreme Court include:

- A requirement that police, when seeking court authorization for wiretapping, state in writing the particular conversation they wish to record.
- A requirement that the wiretap be removed immediately after police intercept the conversation sought.
- A requirement that police demonstrate "probable cause" to believe that a crime is being committed and indicate the nature of the crime. The Maryland statute requires police to show only that "there are reasonable grounds to believe a crime has been committed or is about to be committed."

Law enforcement officials in Maryland's Washington suburbs, meanwhile, say they believe that if in their investigations they adhere to the standards of the federal law —even though the state law does not require them to— they can make their evidence stand up in court.

To Keep Wiretaps

Judge Hamill ruled that it did not matter whether the officers in the Lee case complied with the federal standards or not in placing their tap, because the law under which the tap was authorized was invalid.

But Arthur A. Marshall Jr., state's attorney for Prince George's county, cited a recent ruling by Judge Samuel J. DeBlasis of the Prince George's Circuit Court, who allowed evidence gained by wiretaps to be admitted after ruling that police had provided the proper safeguards.

"We have become much stricter in our use of wiretaps," Sonner said. "We only use them if we have exhausted every other means of obtaining the evidence we need."

Defense attorneys in the Garrett County proceedings cited four other Maryland wiretap cases in which the judge based his ruling on the procedures used by the law enforcement officers.

In these cases, the judges all ruled against the prosecution, and never got to the question of whether the Maryland statute was unconstitutional.