Allow Wiretapping, Panel Urges States

By Warren Brown
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A federal advisory committee urged yesterday that each state allow law enforcement officials to use wiretaps and other forms of electronic surveillance in organized crime investigations.

The recommendation was made by the organized crime task force of the National Advisory Committee on Criminal Justice, which is funded by the Law Enforcement Assistance Administration.

The task force, in a 288-page report on the causes and growth of organized crime in the United States, said electronic surveillance is needed "because organized crime activities require a sophisticated means of evidence gathering."

"Often witnesses will not come forward; and members of some [criminal] organizations are bound by either an oath of silence or threats of violence . . . One way to break through these conspiratorial safeguards is to enact a state statute permitting nonconsensual wiretap and microphonic surveillance," the report said.

The report said state laws authorizing electronic spying should contain strict provisions for protecting individual rights. Twenty-three states and the District of Columbia have such laws, the report said.

One member of the 13-member task force, washington lawyer Benjamin Louis Zelenko, dissented from the call for state-approved wiretapping.

"I would prefer to allow each state to decide how the conflicting demands of individual privacy and law enforcement should be balanced," Zelenko said. He also said that a recent report of the National Commission on Wiretapping "reveals that wiretapping has been effective exclusively in gambling and narcoites investigations."

He added: "Experience has been to limited to show its [wiretapping] effectiveness as to other criminal investigations. Moreover, the . . . report shows that once wiretapping is legalized, policing its limitations and protecting individual privacy is increasingly difficult to guarantee."

The task force also said that legalizing "victimless crimes"—gambling, prostitution and the use of drugs like marijuana—would open those areas to organized criminal activity.

The report said that state legislatures should view decriminalization proposals "with considerable caution" because "major sources of revenue for organized crime are provided by offenses involving prohibited activities such as gambling, drugs and prostitution.

"These crimes of vice share a number of characteristics," the report said. "They all play on human weakness and desire. They provide scarce good or service at high cost to members of the public. They can generate, or are often accompanied by, the commission of other incidental crimes."

The report noted that when New York legalized off-track betting on horse races in 1970, organized crime did not lose any business. Instead, illegal gambling appeared to increase, the report said.

Zelenko disagreed, saying the panel's conclusion was not supported by documented evidence.

"A more appropriate recommendation would seem to be that the subject of victimless crime deserves careful reappraisal by each state," he said.

The report also said that organized crime has grown in the Southeast in the last 10 years, and that "one southern city seems to be the center for financial fraud for the entire nation."

The report said that organized crime figures in the unnamed city are believed to have influence over the city's banking industry and grand juries, as well as some members of the city's legal profession.

New Jersey Gov. Brendan T. Byrne, chairman of the advisory panel, refused to name the city because he said it is only one of many cities which have problems with organized crime.

The LEAA, which channeled nearly $110 million into state and local governments last year for criminal justice research, said the recommendations and judgments expressed in the report do not necessarily reflect those of the agency.