

## FBI, Police Involved in Violations, Probe Told

# Wiretap Case Jolts New Haven

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NEW HAVEN — Excesses of the law committed in the name of the law nearly a decade ago have returned to haunt the New Haven police department and several of its former top-ranking officials in what has been termed the largest single case of illegal wiretapping ever investigated in this country.

According to testimony presented to the New Haven Board of Police Commissioners earlier this year by several current and former police officers, the department — under the authority of its former chief, James F. Ahern, once regarded as the epitome of the new generation of enlightened policemen, and his brother, former chief inspector Stephen Ahern — systematically monitored thousands of telephone conversations from a room in the basement of department headquarters between 1968 and 1970.

Police testimony also indicates that not only was the local office of the FBI aware of the police taps, it actively participated in the police department's tapping process, a clear violation of federal regulations. The FBI then was simultaneously carrying on its own set of taps under executive orders from then-Atty. Gen. John Mitchell and FBI Director J. Edgar Hoover.

The 1968 Federal Omnibus Crime Act expressly outlaws all tapping by local police departments. And a unanimous 1972 Supreme Court decision explicitly instructs that even under conditions of national security federally initiated taps still must have court approval. The FBI's taps in New Haven were not court-ordered.

DESPITE THESE SANCTIONS, police here continued to listen. Though electronic surveillance appears to have gone back as far as the 1940s as part of investigations into local gambling, bookmaking and other rackets, the current police board hearings have focused more on apparent violations of civil rights under James Ahern's administration from 1968 to 1970.

These apparent violations continued through the first five months of Ahern's successor, Biaggio DeLieto, into May 1971, when the new chief ordered one of his sergeants to destroy the four machines the department used for the tapping. The sergeant, however, kept and hid the machines, which were presented as evidence during the hearings.

DeLieto, who has admitted to ordering at least one tap, recently lost his bid for the Democratic mayoralty nomination by less than 200 votes in this city of 140,000.

It appears that during the 3½-year period in question, hundreds of phones, including the one in the lock-up room in police headquarters, were bugged, and several thousand conversations overheard.

When Ahern took over the department, testimony has shown that the wiretaps were expanded at the behest of his brother to monitor the activities of the city's large antiwar and black militant communities. They peaked during the spring of 1970, when New Haven geared for mass May Day demonstrations. The city then also was embroiled in the controversy surrounding the first in a series of trials involving nine Black Panthers alleged to have killed a Panther police informant.

WHEN COUPLED with the reactions of antiwar protestors to the Cambodia bombings, the mood of city officials was one of fear as thousands of people began flocking here from all over the nation. Though no violence occurred, many still believed that the taps were warranted in the interests of city security.

Because of the nature of the times, it is speculated that conversations involving Cyrus Vance, now the secretary of state and then a member of the Yale Corporation, the university's governing board, Kingman Brewster, then Yale's president and now American ambassador to Great Britain, and William Sloane Coffin, Yale's former controversial chaplain, had also been overheard. Brewster was quoted at the time as saying there was a question whether a black could obtain a fair trial in New Haven under existing conditions.

There is also evidence that the Aherns even tapped the private phone of former New Haven Mayor Richard C. Lee, considered in the late 1950s as a possible Democratic vice presidential nominee. Lee has also been said to have been aware of the police taps while they were going on.

The ramifications of the police board's findings — and of a civil suit filed last May in U.S. District Court on behalf of nearly 80 plaintiffs allegedly victimized by the taps and other police harassment — could reach far beyond the boundaries of this city 80 miles east of New York.

A subcommittee of the House Judiciary Committee hopes to find in the New Haven disclosures a pattern for similar illegal police and FBI operations in other cities, such as Chicago, Houston and San Diego. The Justice Department has mounted an investigation into FBI activity. And several court convictions, including that of Panther Lonnie McClucas, whose 1970 trial for the alleged torture-murder of fellow Panther Alex Rackley served as a magnet for political activists, could be overturned on appeal on the basis of the illegal gathering of evidence.

"It's just extraordinary what's happened here," observes M. Mitchell Morse, the police board's special counsel. "We're not dealing just with tapping and Black Panthers, though. The extent, the duration and the number of people whose conversations have been shown to be intercepted in testimony given us were so much broader than that that it's absolutely boggling."

TO DRAMATIZE just how broad police surveillance was, Morse once introduced into evidence a foot-thick stack of over 250 index cards containing the names and phone numbers of persons tapped. Many believe these cards, kept by a police officer for seven years as "insurance" against reprisals from superiors, are only the tip of the surveillance iceberg.

Though the information on them has been kept sealed from the public, the civil suit, which asks for damages in excess of \$1 million, lists 78 plaintiffs. Among them are nine lawyers (including Panther counsel Charles Garry, his assistant and his secretary), three Yale College masters, a former congressional candidate, local physicians, journalists, clergy, and several Black Panthers, students, and activists. In this last category is

John Froines, a defendant in the 1969 Chicago Seven trial and currently an official in the Department of Labor, who was then in the forefront of the antiwar movement:

"The tragedy here is the total non-concern and abuse of 4th Amendment rights," explains Gilbert Kelman, a member of the board of the Connecticut and New Haven chapters of the American Civil Liberties Union. "These were people who had nothing to do with any criminal investigations. They were simply people who differed with the political system and its apparatus."

"People," he continued, "who are — and should be — protected by the Bill of Rights."

Attorney John Williams, who represents most of the plaintiffs in the civil suit, agrees. "The public defense of tapping is that they only tapped when necessary, and only then to protect the public from imminent danger. But even by the popular standards of the times, these people did not present any imminent danger."

Then there is James Ahern, the man credited with keeping police and protestors's tempers cool during the May Day demonstrations, the former darling of the left, whose rugged good looks and liberal attitudes seemed to signal a new wave of progressive law enforcement in the late '60s. An appointee to President Nixon's special Committee on Campus Unrest, Ahern's reputation further blossomed with the publication of his 1972 book "Police in Trouble." In it he called for more restrained police behavior, greater respect for the constitutional rights of citizens, and took a critical stance on what he called the FBI's "surveillance overkill" and the "politicization" of the Justice Department under John Mitchell.

IRONICALLY, TESTIMONY offered by several of the men who worked under Ahern accused him of speaking from both sides of his mouth. While he and his brother have staunchly denied any involvement in the wiretapping, he has also refused to appear before the police board, seeking to quash its subpoenas in court. (Though the subpoenas have been held up in District Court, their validity is now being judged before the state Court of Appeals.) Since the board can only discipline current members of the department, Ahern has claimed through his lawyer, Daniel Sagarin, that the board has no real power to conduct the investigation.

Sagarin has implied, however, that the Aherns will offer either testimony or depositions before a federal judge when subpoenaed in the civil suit, of which they are two of 35 named defendants. Because of the number of defendants and the complexity of issues involved, the suit is expected to take years.

Frank Mongillo, a board member and Republican candidate for mayor in next month's election, believes differently about the board's power. "We are here in our capacity as police commissioners to determine the scope and involvement in this operation of members of the department, past and present. Like a congressional committee, we are empowered to produce rules and regulations to prevent this from happening in the future."

But attorney Williams believes it will take more than a series of rules and regulations to assure such operations from being repeated. "The police here have in the past been given the impression by both the elected officials and the public at large that they are not going to be subject to legal restraints. They have felt the law doesn't apply to them. That's why we had Watergate, and that's why we have a wiretapping scandal here."

"The real pity of it," continues the activist lawyer, "is that the recent Democratic mayoralty primary, one in which a former chief (DeLieto) who has admitted to illegal activities came within a breath of winning, suggests that this is still the public's attitude."