

Petersen Blasts Curbs On Wiretaps

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Assistant Attorney General Henry E. Petersen yesterday opposed broadening restrictions on wiretapping and electronic surveillance and refused to tell a House subcommittee exactly how many "no-warrant" wiretaps were authorized last year, though he estimated there were approximately 100.

Petersen, head of the Criminal Division of the Justice Department, testified on the department's position on nine bills proposing to limit the scope of electronic surveillance.

"I can be very brief. We oppose the bills. That's it," Petersen said.

"We maintain that electronic surveillance techniques are, to date, the most effective method to bring criminal sanctions against organized criminals, and are indispensable in developing witnesses with corroborating testimony, and generally in providing a useful tool in the evidence-gathering process," Petersen said in a 35-page statement. He maintained current law contains enough safeguards against violations of privacy and abuse of the technique.

He also maintained that wiretaps were necessary in the interest of national security and to fight subversion. Petersen said all agencies must clear their requests for wiretapping authority through the FBI or the Attorney General, except for "no-warrant" wiretaps, which may be made only in the interests of national security.

Divulgence of wiretaps

made on government officials and newsmen to plug leaks of National Security Council material has caused congressional concern and added impetus to legislation designed to protect the right to privacy.

One of the proposed bills would prohibit the President from ordering a burglary or "any other illegal act" in the interest of national security.

But Petersen said, "Any limitation of the President's constitutional power to protect the United States against foreign-instigated subversion must be objected to."

Rep. Robert Drinan (D-Mass.) said the subcommittee had been trying for two years to find out how many warrantless taps were made in 1973. Drinan said Senate Minority Leader Hugh Scott had released the figures for the four years previous to 1973, which ranged from a high of 123 in 1969 to 100 in 1972. Drinan said the subcommittee was interested in seeing if the number had decreased.

But Petersen maintained that the FBI felt divulging the number could be "of use to those countries who maintain foreign elements here."

Petersen said, "We're talking about 100 wiretaps in this country as opposed to 75,000 which take place in another

Western country," which he did not identify.

He also did not explain the nature of the 100 wiretaps.

Petersen declined to call the witness of Morton H. Halperin, a staff member of the National Security Council, an "abuse."

"The question of abuse seems to take on a different meaning depending on who's

Petersen also refused to assure the subcommittee that no wiretaps were now being made outside the normal procedures and channels. "I can assure no wiretaps should be," Petersen said, but added that if taps were going to be made, "they're not going to come and tell me about them."

Two of the bills would prohibit any "intercept of communications between two persons without their consent."

Petersen said, "This would negate any efforts to obtain evidence by investigative procedures that have consistently been approved by the Supreme Court."

Another bill, which would prohibit manufacture of interception devices and forbid any government employee or contractor from transporting the devices in interstate commerce, Petersen said, would have the ultimate effect of destroying "the government's authority to apply for wire and oral interceptions."

Petersen argued against disclosing the standards for wiretaps to Congress because they might be made public and aid those who wanted to get around them and because there is a legitimate separation of powers between the executive and legislative branch. "Yours is not the power to conduct foreign relations, yours is not the power of the commander-in-chief," Petersen said.

Subcommittee chairman Rep. Robert Kastenmeier (D-Wis.) commented softly, "You would think the last two years should suggest some humility to the executive branch."