

U.S. Wiretap On Gamblers Ruled Illegal

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A wiretap placed by the government during an investigation of an alleged major gambling conspiracy ring here last year was illegal, U.S. District Judge June Green ruled yesterday.

If her decision is upheld on appeal, the government has indicated it will be forced to dismiss all charges growing out of the investigation.

Forty-three persons were indicted as a result of the probe, which has been described by police officials as one of the largest gambling investigations in the city's history, costing police agencies thousands of man hours and hundreds of thousands of dollars.

Judge Green's ruling yesterday came in a case involving 11 of the defendants, including two persons—Joseph A. Bellosi and Warren R. Cooper—accused of being the ringleaders of the alleged numbers racket. The other 32 defendants were indicted in separate grand jury actions.

Four separate court-ordered wiretaps were placed during the nine-month-long investigation of the alleged gambling ring, but Judge Green found that the first of those had been improperly requested by the U.S. attorney's office here, therefore, it and all subsequent taps were faulty, she held.

According to local and federal statutes, such wiretap requests must include "a full and complete statement of the facts concerning all previous applications (for wiretaps) involving any of the same persons, facilities or places" for which the new wiretaps are asked.

In asking Superior Court Chief Judge Harold H. Greene for the first tap in the gambling probe last Nov. 15, the U.S. attorney's office did not tell him that Cooper had been the subject of a previous wire-

tap in a narcotics investigation here. Cooper, who has been labeled by federal officials as one of the top 10 Washington area narcotics dealers, is currently in jail on federal narcotics charges.

Assistant U.S. Attorney John Drury argued for the government that disclosure of all previous wiretap applications, especially those in unrelated investigations such as the Cooper drug probe, is not necessary.

In addition to that argument, Drury contended that the judge also could find that the government's failure to provide information on the previous tap could be classified as "harmless error" and the case could proceed with the current wiretap evidence intact.

In her ruling from the bench, Judge Green read the statutes to make it clear that she felt she had no alternative but to rule the tap illegal and suppress the evidence.

"The court is not persuaded by the government argument that this is a good-faith, technical violation" of the wiretap statutes, Judge Green said. "This defect goes to the very heart (of those statutes)."

Roger E. Zuckerman, one of seven defense attorneys in the case, had asked Judge Green to go even further and dismiss the indictments, but she denied that motion.

See WIRETAP, C2, Col. 1

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In addition, Zuckerman said in court papers and oral arguments that he felt the failure to disclose the previous tap was but one instance of impropriety in governmental requests for telephone taps in this investigation.

As an example, Zuckerman and other defense lawyers pointed repeatedly to a phone tap that was placed by the U.S. attorneys without court approval earlier in this same case. The Justice Department had recommended that tap be removed only seven hours after it was placed.

It was placed under emergency provisions of the wiretap statutes after an undercover metropolitan police officer was asked by an alleged gambler for the use of her apartment for illegal gambling activities.

After consultation with her superiors, she agreed and recording equipment was moved into her Capitol hill home before the alleged gambler arrived.

When the U.S. attorney's office went to the Justice Department for administrative approval of its actions, the Justice Department told it the tap should be removed.

By that time the alleged gambler was already using the phone. To protect the undercover agent, officials could not enter her apartment to stop the recording device.

Instead, the telephone service was disconnected from an outside location, and the gambler was forced to leave when the telephone went dead. The recording reel being used in the apartment was removed later and sealed, and has not been listened to by any officers, according to government affidavits filed in court.

No information concerning that attempted tap was given to Judge Harold Greene six days later, when the first approved tap was requested, and defense attorneys felt that alone would have been enough to suppress all later wiretap evidence.

Judge Green yesterday said she disagreed with those con-

tentions and further defense contentions that the wiretaps were unnecessary "investigative overkill."

Wiretap statutes stress that the tapping of telephones and other conversations should be only a last-ditch investigative technique. Defense attorneys say the government could have made a case against the alleged gamblers on the word of undercover officers and other surveillance techniques.

Prosecutor Drury claimed again yesterday, after being asked by Judge Green, that the wiretaps were central to the case and that suppression of the wiretap evidence "effectively . . . would terminate prosecution of this case."

Telephone wiretaps are considered essential by law enforcement officials in making major conspiracy cases against persons in the hierarchy of the numbers racket. The number, usually a three-digit combination on which bets are placed, is determined locally at racetracks and normally relayed by telephone to persons in the organization who control the payoff and betting arrangements.