

SF Examiner

DEC 19 1971

# Ted Reveals 'Bugging' Data

WASHINGTON — (AP) — Sen. Edward M. Kennedy said yesterday that government wiretapping and bugging in national-security cases is substantially greater than President Nixon and other administration officials have reported.

This type of electronic surveillance is conducted without court-issued warrants, as contrasted with a requirement that court authorization be obtained for government eavesdropping to combat domestic crime.

Kennedy said figures obtained from the Justice Department bear out his recent contention that "there has been three to nine times as much federal listening going on as a result of warrantless electronic surveillance as there has been on devices operated under judicial authorization."

#### 'Contradiction'

He made public an exchange of correspondence with Assistant Attorney General Robert C. Mardian, in charge of the department's internal security division.

Kennedy said figures supplied by Mardian contradict a statement by Nixon last April to the American Society of Newspaper Editors that the total number of taps for national-security purposes by the FBI has been fewer than 50 a year during his administration.

He said they contradict also a brief filed by the U.S. solicitor general in the Su-

preme Court saying that only 36 warrantless phone surveillances were operated in 1970.

Mardian, Kennedy said, reported "that a total of 97 warrantless telephones taps were operated in 1970 — almost double the President's figure, and almost triple the solicitor general's figure."

Kennedy said that in addition to the phone taps, Mardian's letter showed there were 16 microphone installations used for bugging in 1970.

#### Duration Usage

"Further," Kennedy said, "the repeated references by government officials to the limited number of warrantless devices ignore the far more significant question of the duration and total usage of these surveillances."

Mardian's March 1 letter listed 97 phone surveillances without court order in 1970 and broke these down into four categories of those in operation less than a week, from a week to a month, from one to six months and more than six months.

Mardian requested that the number in each category be treated as confidential "since an examination of the breakdown might indicate a fixed number of permanent surveillances."

#### Comparison

In compliance with Mardian's request, Kennedy did not disclose the number in each category. But from the figures his staff prepared a table showing a range from a minimum of 8100 to 22,600

days in which listening devices were in operation by executive order in 1970.

Kennedy said that for the two-year period of 1969-1970, the staff calculations showed that "warrantless devices accounted for an average of 78 to 209 days of listening per device, as compared with a 13-day per device average for those devices installed under court order."

Thus, he said, the information obtained from Mardian "poses the frightening possibility that the conversations of untold thousands of citizens of this country are being monitored on secret devices which no judge has authorized and which may remain in operation for months and perhaps for years at a time."

The Justice Department accused Kennedy of "erroneous and misleading allegations." It said the cumulative totals for 1970 were 97 wiretaps and 16 hidden microphones, but that the number of wiretaps in use at any one time "has consistently been below 50 for this three-year period" through 1971.