

American Civil Liberties Union Report

Court-authorized wiretapping

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Following close behind the disclosure of the Media documents on FBI operations is the recent report issued by the American Civil Liberties Union detailing part of the character of governmental electronic surveillance.

The 46 page report titled, "A Report on the Costs and Benefits of Electronic Surveillance," by Herman Schwartz, professor of law at the State University of New York at Buffalo, presents comprehensive statistics on the extent of governmental electronic surveillance for the period from 1968 — June, 1971.

The report does omit figures on electronic surveillance in the areas of national security and one party consent (usually involving police informants). The Justice Dept. is not required to divulge any information on its operations involving national security. Local law enforcement agencies use a similar rationale for shrouding its activities in secrecy.

All of the figures then contained in the report are based solely on reported instances of court-authorized wiretapping. The most common method of electronic surveillance was the telephone tap.

The majority of the cases involve either narcotics or gambling. A total of 1,073 taps were installed from 1968-1970. There was a notable increase in the number of installations in 1969 and 1970.

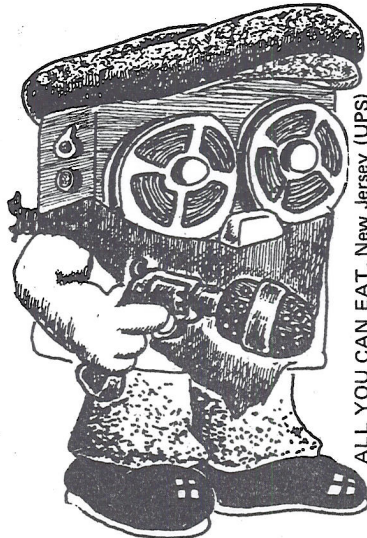
In 1968, 4,312 persons were tapped with 66,716 conversations monitored. In 1970, this rose to 25,652 persons with 381,865 conversations overheard. Projected figures for 1971, based on the number of installations through June, revealed a record total far surpassing the number of taps for 1970.

The report attributes this rise to several factors: the increasing repressiveness of the present administration, legal sanctions granted by the Omnibus Crime Bill, and the search for more sophisticated and efficient techniques in law enforcement.

The question remains: has the stepped up deployment of electronic surveillance resulted in the stated goal of more arrests, convictions, and improved police methods? The report answers no.

In 1969, only 106 convictions resulted from the taps. This averaged out to 1/3 of 1 per cent. For 1970, the conviction rate stood at

1/2 of 1 per cent. The figures for the state agencies was even spottier. Arizona, Florida, and Colorado had no convictions in either 1969 or 1970. In 1969, Maryland reported



five convictions in two cases, and in 1970 three convictions in two cases. New Jersey in 1970 reported four convictions in three bookmaking cases

In 1970, 193,850 conversations were recorded in New York State, with 41,202 incriminating statements resulting in 652 arrests and no convictions. The report notes: "The list of Mafiosi arrested, indicted or convicted since wiretapping began in 1968 and 1969 is hardly persuasive. Moreover, there is reason to believe that the arrest figures are not only relatively insignificant, but actually manipulated."

The average length of surveillance maintained was 15 days per installation. The courts allow up to 60 days and readily approve the numerous requests for extensions. In some cases, wiretaps have been maintained for over one year.

New York and New Jersey led all the individual states accounting for 85 per cent of the wiretaps. (Interestingly, New York City's Manhattan, which has the greatest black and brown population, had "the most experienced use of electronic surveillance." The District Attorney's office also has consistently refused to indicate the length of time each installation is used.

Electronic surveillance is by no means an inexpensive process. The yearly costs run into the millions. With a negligible productive yield in terms of arrests, convictions, not to mention the enormous amount of man power required, the report sees it as little more than a gigantic waste all at the taxpayers' expense.

In 1969 the average cost for each installation was \$8,885.07. The total reported federal costs for 1970 was over \$2 million. The report considers this a gross under-estimate. This doesn't even include the costs for the other types of unreported electronic surveillance, nor does it include any of the legal costs.

A series of federal investigations in California showed the costs for a single day on four installations averaged out to \$3,564.

Cost aside, the real value of electronic surveillance as the report observes, lay not in its use for eliminating crime but rather as a control mechanism over the movement and activities of large numbers of individuals. The assumption is made that all contacts a "suspect" makes with other persons must in some way involved criminal practice. The small percentage of incriminating statements compiled (even by the government's definition) proves that the opposite is much likelier to be the case. The report concludes: "The minimum costs are quite clear — the privacy of at least tens of thousands of people has been invaded, often in a deliberate effort to chill free speech and association, as the Media papers show, where national security surveillance is concerned; many, many millions of dollars are being spent at a time when social services, which might help to get at the root of the forces that breed crime, are being starved."