

The Big Business of Wiretapping

By Steve Harvey

A SECRETARY pauses in the hall of the San Diego Federal courthouse and says, "Hello, wall." The wall answers . . .

Suspicious of his wife's leisure activities, a husband gives his young son a toy rabbit containing two extra parts: a microphone located in the mouth and a transmitter inside the body . . .

Electronic eavesdropping is a relatively new art. It dates back only as far as electronics.

Soon after the appearance of the first telegraph wires 130 years ago, a stockbroker was arrested for conspiring to intercept information regarding stock operations. Less than two decades after the invention of the telephone, police wiretapping was a standard practice.

Today, thanks to more technological advances, almost anyone can play at electronic eavesdropping.

For example, \$135 on the black market will buy you a bugged mouthpiece smuggled in from Mexico that is identical to the mouthpiece on the standard telephone and simple to install.

Many electronics firms sell a \$20 wireless "babysitter" which enables a mother to pick up sounds her baby makes in a crib while the mother is in another room or next door. Not surprisingly, the "babysitter" has also been used to pick up the sounds of some unknowing adults.

Corporations eavesdrop on each other. One study showed that 75 per cent of the companies surveyed indulged in some type of industrial spying. Marital spying is also common.

The friendly neighborhood



SENATOR GOLDWATER AND RAMSEY CLARK

used-car dealer may be listening in via a bugging device from the next room as a man and his wife ponder his offer.

And even some courtroom buildings have hidden microphone-loudspeaker systems as in the case of the secretary who spoke to the wall in San Diego. A district judge ruled in that case that the devices were not improper. He said they had been installed for the purpose of checking security soon after the San Rafael courthouse shootout in which a judge was killed in August, 1970.

And then there are the pol-

drug pushers. But Justice William O. Douglas noted that many of "those who register dissent or who petition their government for redress . . . are bugged and their telephones are wiretapped."

Sen. Sam J. Ervin Jr. (D-N.C.), who is chairing the Senate investigation of the Watergate case, has warned that "knowledge that the government is engaged in surveillance of its citizens creates an atmosphere of fear, which is inimical to freedom . . ."

The Omnibus Crime Control Act of 1968 was sup-

posed to clear up legal questions regarding electronic eavesdropping but it has not. It makes wiretapping or bugging illegal without the consent of one of the parties except in cases where the Federal government (or states with wiretap legislation) has secured court orders.

company then points out the place to install the tap, and Federal (or state) agents go ahead and do it, using their own equipment.

The American Telephone and Telegraph Company estimates it gets about 100,000 requests from customers per year to check for bugs. About 250 listening devices are found annually.

In cases of Federal bugs, the telephone company once told subscribers only that there was "no illegal device" on the line, which didn't always quiet fears. Now, the subscriber is supposed to be told about all taps. He will probably learn later, anyway.

The 1968 Act requires that once a court-approved bug has been lifted, the government must send "wiretap notices" to individuals who were overheard.

Wiretapping is expensive not only in terms of dollars but of manpower as well. The average tap costs about \$6000. Just drawing up the application takes from two to five days for an assistant U.S. attorney. Then a command post has to be manned 24 hours a day, and the average court-ordered tap lasts 16 days. Frequently, the experience is comparable to an Andy Warhol movie: hour after hour of tedium, punctuated with boring dialogue.

Often it takes a few days for agents to translate what they're hearing. In narcotics cases, suspects often use code words like "dresses" for heroin and "shirts" for cocaine.

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iticians. One of the first reactions of Sen. Barry Goldwater (R-Ariz.) to the Watergate incident was: "They (the Democrats) did the same things to me — taping speeches, bugging, spying . . . I even did some."

The chief eavesdropper — and the one that has generated the most controversy — is, of course, the Federal government.

Herman Schwartz, a law professor at State College of New York, estimates from his studies that since 1968 between 150,000 and 250,000 Americans have been overheard by the Federal government.

Some were gamblers and

When the government gets a court order, the phone

"You might think at first you were listening to a laundry," says Robert L. Brosio, Chief Assistant U.S. Attorney in Los Angeles.

Sums up Assistant U.S. Attorney Paul Flynn: "We don't use a tap unless there is no other way."

Of the 205 court-approved Federal taps placed last year, 146 were used in gambling cases and 35 in narcotics cases. The 205 represented a 27 per cent drop from 1971.

The Justice Department says it averages 1.2 convictions per installation. Are the taps worth it?

Useful or Not?

Justice officials believe they are. Former Attorney General Ramsey Clark, on the other hand, contends they are worthless. Professor Schwartz wonders whether most of those tapped would not have been caught anyway.

The largest area of controversy, however, involves government eavesdropping without court orders — a practice which may have been used against anywhere from 54,000 to 162,000 persons since 1968, according to estimates.

Soon after passage of the 1968 Act, Attorney General John Mitchell claimed the power to wiretap (without court order) any group or person he considered "dangerous" to "national security."

The government later admitted in court cases that in some instances there was no evidence of a crime being committed. Only "intelligence" was being sought.

The Subjects

Subjects ranged from Dr. Martin Luther King to Daniel Ellsberg. A subcommittee headed by Sen. Edward Kennedy (D-Mass.) discovered that the government had operated almost twice as many warrantless taps (97) in 1970 as President Nixon had claimed. The taps lasted anywhere from 78 to 209 days, Kennedy revealed.

The late House majority leader Hale Boggs claimed in 1971 that he and other congressmen were being bugged by the FBI. And more recently, FBI files concerning the wiretapping of 13 government officials and four newspapermen were found in the office of former White House aide John Ehrlichman.

Last June, the Supreme Court ruled that the Federal government must have a warrant in cases of "domestic national security."

L.A. Times Service

S. F. Sunday Examiner & Chronicle