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Wiretapping: A Numbers Game

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WASHINGTON, May 4—The wiretap numbers game has reached a new plateau now that President Nixon has undertaken to answer the perennial question "How many wiretaps are there?" The fact that the President was asked to comment on the subject at his news conference last Saturday might indicate that governmental wiretapping has become a greater problem than in the past.

Not so, Mr. Nixon said. Selecting the years 1961, 1962 and 1963 as a period of comparison, he said that the Government then limited itself to 100 wiretaps at any one time. His own Administration has limited itself to 50 at any time, he said.

The result, he said, is "half as many taps" these days as there were then, "and 10 times as many news stories about them."

Mr. Nixon thus raised to the Presidential level the wiretap numbers game that has been a frequent sport of Attorneys General for the last few years. J. Edgar Hoover has played it for decades in his annual Congressional appropriations testimony.

Slippery Terminology

The ostensible purpose of the game is to tell the people how much electronic surveillance the Government is doing, so that they can ease their minds about the chances they are being snooped upon. But as Mr. Nixon's statement illustrated, the terminology of electronic surveillance is so slippery that the statistics reeled off by officials often confuse more than they explain.

The word "wiretapping," to the average person, means all electronic eavesdropping. But technically it includes only devices that intercept telephone calls, and not hidden microphones, called "bugs," which pick up all the conversations in a room.

'Security' Taps

So Mr. Hoover's testimony over the years that there were "64 wiretaps" or "95 wiretaps," or some other number then in operation, was all but meaningless. There might have been an equal number of bugs in use, and (as some ex-F.B.I. agents have contended) some wiretaps might have been turned off the day before Mr. Hoover's testimony to give him a lower number to relate.

President Nixon's recent statement was even more refined because he was asked about "security" wiretaps—those that are being used without court orders under Attorney General John N. Mitchell's theory that he has the inherent constitutional authority to lavesdrop on "dangerous" domestic groups as well as suspected foreign agents.

Mr. Nixon replied to dispel, as he put it, the "hysteria" that F.B.I. wiretapping has reached police state proportions. But in talking only of security wiretaps, and in comparing his Administration to three years in the early 1960's, he created the impression that governmental eavesdropping is relatively low today, when in fact it is probably higher than it has ever been before, and is increasing rapidly.

Security wiretapping had been subject to an unofficial ceiling of 100 taps for years before 1961. One year when

Mr. Nixon was Vice President, for instance, Mr. Hoover gave the figure 94. But the figure dropped under President Johnson, to as low as 32 in 1966. Officials who were then in the Justice Department say now that about an equal number of bugs were used.

Security wiretapping is about the same now, as Mr. Nixon mentioned, but wiretapping and bugging in ordinary criminal cases is increasing, as he did not note.

Impact of 1968 Law

The Omnibus Crime Control Act of 1968 gave Federal and local law enforcement officers legal authority to use—with court approval—electronic surveillance in criminal cases, and required that they report the results to Congress.

These reports show that the Justice Department got court authority to use 33 devices in 1969 and 183 last year, a total of 216. Mr. Mitchell told David Frost on an April 1 television talk show that the total number of court-approved devices since he took office was then slightly more than 300.

This means that the Justice Department installed at least 84 new devices in the first quarter of this year—a rate that, if maintained, would mean installation this year of well over 300 court-approved taps and bugs.

The reports also show that state police agencies have been steadily increasing their anti-crime electronic surveillance since the 1968 law authorized it. Last year they employed a total of 414 court-approved listening devices, and each year more state legislatures pass laws authorizing their lawmen to eavesdrop.