

The Outrage of Wiretaps

By Ina and
Morton H. Halperin

WASHINGTON—Here in the nation's capital, having your phone tapped is a status symbol. Thus in 1969, when we began to tell friends in Washington that we suspected the F.B.I. had a bug on our phone they thought we were bragging. As the signs increased—phones often out of order, phone company trucks frequently on our dead-end street—we began telling out-of-town friends who called that the Government was listening in. They thought we were paranoid; now they are contacting us to apologize and to concede that what looks like paranoia, at least in Washington, often turns out to be well-founded suspicion.

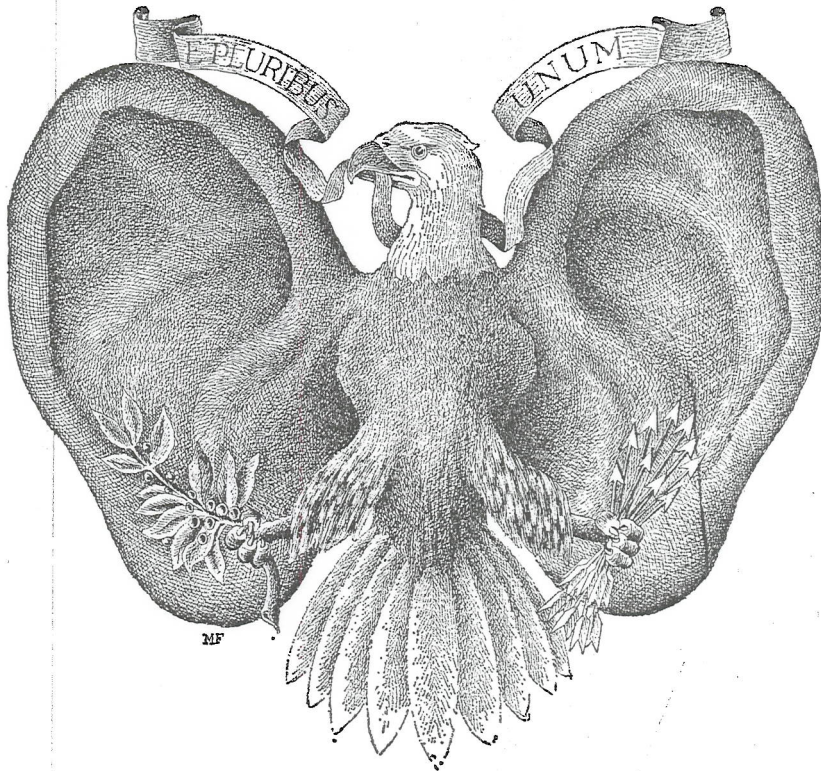
We learned through a fluke. Daniel Ellsberg used the phone and was overheard. This fact reported to Judge Byrne in Los Angeles contributed to the abrupt ending of the Pentagon papers trial. But for us the trials have just begun.

As we write, we hear on our TV set discussion of "wire men" at the Watergate hearings which prompted us to glance from time to time at our phone. We try to recall what was said on it during the eight or fourteen or twenty-two months beginning in May of 1969 when others were listening in. Nothing was heard, Henry Kissinger has said, which raised any doubts about loyalty or discretion. Our own knowledge plus leaks from the Justice Department confirm this. But still the tap was put on and kept on for many months and, it appears, Colonel (now General) Haig prepared summaries for Kissinger and John Ehrlichman to read.

What was it that they read? Did the summaries include the conversations of our sons, then aged 3, 5 and 7, talking to their friends? The anxious calls to New York about their grandmother's surgery? The weekly calls to the butcher? The occasional series of calls in search of a babysitter?

More significantly, did F.B.I. or White House officials read summaries of the obscene calls often in the dead of night, which we were receiving at the same time, or the anxious calls to the phone company and police pleading to have the mysterious caller traced? (We wonder now—or are we becoming paranoid—whether the curious fact that the calls never came when the phone company said it had a tracer on the phone was connected somehow with the F.B.I. taps.)

What else did the summaries contain? If there was no classified information, then surely there was amidst the everyday conversations and gossip, our political views stated frankly and privately to close friends.



Mel Furukawa

We are outraged because not only were our words intercepted but also those of the many people who spoke to us on the phone. Most of them have no connection with the Government or access to national security information. They too have cause to feel outraged.

We are bewildered when we read claims that this intrusion into our privacy is legal. The United States Constitution itself is quite explicit. The Fourth Amendment says that "the right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated." The Government must convince a court that it has probable cause to believe a crime has been committed before a warrant authorizing a wiretap can be issued. No such warrant was issued before our privacy was invaded.

The claim of the executive branch that it had the right to engage in electronic surveillance simply by invoking the magic words "national security" has never been sustained by the courts or the Congress. The Supreme Court, when it addressed this issue for the first time in 1971, ruled 8 to 0 that the Constitution did not permit the Government to tap the phones of American citizens without a court order, regardless of any claim of national security. That was the law of the land based on the Constitution before as well as after the Supreme Court spoke.

We now know that this tap was not an isolated event. Seventeen other Government officials and newspapermen were also tapped. The White House "plumbers" and intelligence committee described by President Nixon engaged in at least one burglary and may well have conducted their own wiretap operations. The unwillingness of the Congress and the courts to allow the President to hide behind "national security" to protect and justify unconstitutional acts is heartening.

Recently, we took our three sons, David, Mark and Gary, for a walk along the Freedom Trail in Boston. We talked about the precious liberties which the patriots of the American Revolution forged in those historic meeting rooms. Those leaders understood that genuine national defense could only be based on a respect by the Government for the rights of the people and on a respect by all the people—Government officials and private citizens alike—for the law. Hopefully we are now relearning that lesson.

The phone in the Maryland home of Ina and Morton H. Halperin was bugged when Mr. Halperin was on the staff of the National Security Council in 1969.