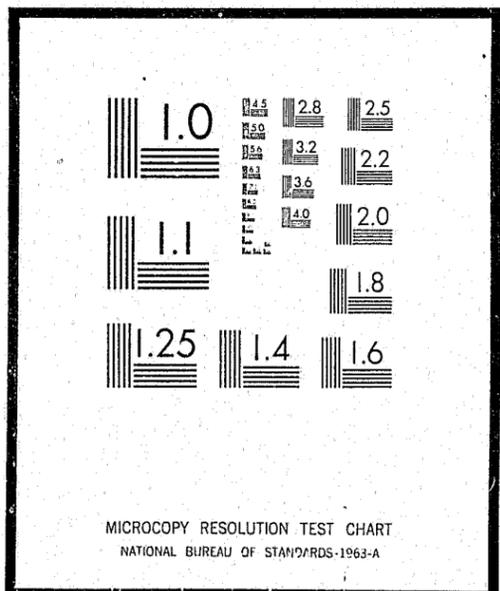


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U.S. DEPARTMENT OF JUSTICE  
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION  
NATIONAL CRIMINAL JUSTICE REFERENCE SERVICE  
WASHINGTON, D.C. 20531

5/31/77  
Date filmed

INDIVIDUAL TECHNICAL ASSISTANCE REPORT  
*In Response to a Request for Technical Assistance*  
by the  
Board of Crime Control  
State of Montana

January 4, 1973

NCJRS

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ACQUISITIONS

Prepared by:  
Public Administration Service  
1313 East 60th Street  
Chicago, Illinois 60637  
(Per Contract J-LEAA-015-72)

39334

I. PRELIMINARY INFORMATION

- A. **Consultant Assigned:**  
Hans W. Krussman  
Special Communications Technician  
Phoenix, Arizona
- Vincent W. Piersante  
Chief, Organized Crime Division  
Michigan Attorney General's Office  
Lansing, Michigan
- B. **Date Assignment Received:**  
November 22, 1972
- C. **Date of Contact with LEAA Regional Coordinator:**  
November 22, 1972
- D. **Dates of On-Site Consultation:**  
December 14 and 15, 1972
- E. **Individuals Contacted:**  
Montana Board of Crime Control

13333

## II. STATEMENT OF THE PROBLEM

### A. **Problem as per Request for Technical Assistance:**

The Montana Board of Crime Control requested that the consultants advise them concerning the use of electronic surveillance equipment.

### B. **Problem Actually Observed:**

As stated.

## III. FACTS BEARING ON THE PROBLEM

Not applicable.

## IV. DISCUSSION OF POSSIBLE COURSES OF ACTION

Not applicable.

## V. RECOMMENDED COURSES OF ACTION

The sole purpose of the technical assistance request was to advise the Montana Board of Crime Control on the use of electronic surveillance equipment. The Board's major concern is the potential misuse of equipment and the inadequacy of some types of equipments.

In addition to the oral presentation by both consultants, Hans W. Krussman provided the Board with a monograph that he recently prepared (Attachment).

ELECTRONIC SURVEILLANCE:  
ANATHEMA OR PANACEA? —

*By*  
*Hans W. Krussman*

Communication, like record keeping, is a basic necessity for the organized criminal. An efficient communications capability gives meaning to the word "organized" when we speak of organized crime. The 1968 Omnibus Crime Bill and recent Supreme Court decisions have bared organized crime's jugular vein to law enforcement. The bill allows law enforcement officers, upon the showing of probable cause, to a court of competent jurisdiction, to intercept selected conversations pertaining to certain specific felonies.

However, the law and inherent procedural and operational restrictions attending a court ordered wiretap or eavesdrop are sufficiently complex to warrant very close supervision by an attorney, if one is to avoid the pitfalls along the way. The pitfalls of any new and seldom tried technique tend to make that technique less desirable than an older and more practiced, even if less efficient, technique. However, this attitude does not reflect progress.

In view of the recent adverse publicity that has been attributed to users of electronic surveillance techniques and devices, it is of the utmost importance that law enforcement agencies practice extreme discretion in electronic surveillance applications. Myth and paranoia have made words such as "wiretap, eavesdrop, surveillance and bug," emotionally charted in the minds of the citizens of this country. The Democratic Party Platform, adopted July 11, 1972, reads in part:

"The epidemic of wiretapping and electronic surveillance . . . for the purpose of political intimidation must be ended."

With this in mind, one simply cannot afford to even stumble. Just as a rose by any other name is still a rose, the accidental or intentional misuse of electronic surveillance equipment is still a "Water Gate" in the eyes of the public that we serve.

The notion that law enforcement agencies who use electronic surveillance equipment are the forerunner of George Orwell's "1984" and that they are here to stamp out individual liberty is absurd. Most law enforcement agencies have a budget that lets them operate minimum surveillance activities. Law Enforcement Assistance Administration grants, although helpful in the purchase of equipment, do not finance a "1984."

Nonetheless, LEAA grants have made electronic surveillance equipment available to more law enforcement agencies than ever before. Some of the equipment is adequate, however, the rest by virtue of its design, does not serve the needs of law enforcement.

The circus-like atmosphere surrounding some sales pitches, much like the old medicine shows, make it difficult for one who is a layman in electronics and a professional in law enforcement to make an informed decision on what to buy. It is true also that a professional in electronics with no background in law enforcement has an equally poor chance of making an informed decision.

The technology for a "1984" is here today, fortunately the enormous financial resources required for its implementation are not. It is a fact that electronic surveillance equipment behaves according to predictable and well-known laws of physics. Equipment can be designed to duplicate certain extensions of the human behavioral repertoire.

Generally, we are concerned with the five human senses. We must remember though that the equipment is not human; and that unless a given trait is inherent in its initial design, desired objectives will be frustrated. (The difficulty that faces us today is the lack of equipment featuring the desirable traits. I have met this difficulty in our department simply by designing equipment and systems suitable to the occasion at hand.) Conversely, when we stay with the equipment's design limits, we come closer to attaining our objectives.

The first application of new electronic surveillance devices by the uninitiated is invariably an exciting experience. They may expect to simply solve all their earthly problems, past, present, and future. Understandably, the bubble is burst when the first implementation, conceived in such a rarefied atmosphere, results in feedback, crackling noises, and little else. After such a spectacular performance, several thousand dollars worth of equipment is put in a shoe box and placed on a shelf to collect dust to the chor'les of a number of "I told you so's." However, electronic surveillance equipment and techniques can be used effectively and to law enforcement's advantage. Consideration must be given to application. This is where the administrator must protect his department from the accidental misuse of equipment as well as the overzealous investigator.

Electronic surveillance equipment should be viewed as a tool. As we have seen, it is not magic. To be effective, it must supplement the officer and his investigation. It must make man-hours more productive.

A tool is only as effective as the man who is trained to use it. It is designed for a certain job. One must be careful to let electronic surveillance equipment aid in the solution and not let it become part of the problem, as is so often the case.

It will be helpful to note here that there are only a few enforcement occasions where electronic surveillance equipment and techniques are especially useful. They are:

- a. Undercover officers using the surveillance transmitters and receivers to provide one-way communications from one to the other so that one man may cover the other.
- b. A lone officer carrying a concealed transmitter at an interview for the purpose of recording such an interview. Such recordings have been of great value as rebuttal evidence in a court of law.
- c. During the investigation of some organized and controlled form of criminal undertaking such as major narcotics dealings, corrupt public officials, etc., pursuant to an ex-parte order. Persons involved in this type of crime consider police intrusion an occupational hazard, a mere nuisance.

It is this last category where the judicious application of electronic surveillance equipment and techniques can be a devastating weapon that can uproot a well-entrenched operation.

On the other hand, wiretapping and eavesdropping with or without a court order, for intelligence purposes is expensive, unproductive, a waste of time and money as well as illegal. It should be discouraged without reservation. Perhaps this is what Mr. Ramsey Clark was referring to when he said in "Crime in America" (1970):

"Bugs and taps have rarely been used to gain evidence of specific crime. When this has occurred, it has almost always been happenstance. The real utility, though limited and inefficient, is the accumulation of information and misinformation about individuals, their habits, associates and business dealings . . ."

As we can see, to bug or not to bug is a management question that must consider the variables of time, money, man-hours, and legality versus results, and not the missionary zeal of a miracle worker.

**END**

*7-10-57*