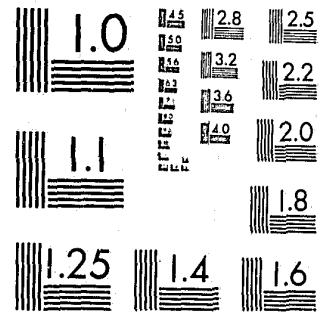


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ELECTRONIC SURVEILLANCE
IN NEW JERSEY 1977-1982



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Electronic Surveillance
in New Jersey 1977-1982

New Jersey Department of Law and Public Safety
Division of Criminal Justice
Research and Evaluation Section
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HISTORICAL PERSPECTIVE

The New Jersey Wiretapping and Electronic Surveillance Control Act (2A:156A-1 et seq.), modeled after the federal statute, was enacted in 1968. The Act authorizes law enforcement agencies to obtain a court order permitting the use of electronic surveillance to intercept evidential conversations while conducting criminal investigations. This exception to the general prohibition against wiretapping and eavesdropping was designed to aid law enforcement in the investigation of organized crime and corruption.¹ While permitting the use of electronic surveillance in such instances, the Act also provides safeguards against potential abuse of that authority.

When legislated, the Act provided a six-year period during which the operation of electronic surveillance and its usefulness as a law enforcement tool could be evaluated. After analyzing the use and effectiveness of the Act at the end of both the initial test period and two subsequent test periods, the Legislature renewed the statute for a period of five years. Presently, electronic surveillance is conducted within New Jersey pursuant to the most recently renewed statute, L. 1983, c.232, effective July 1, 1983 through July 1, 1988.

¹Electronic Surveillance, U.S. National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance, Washington, D. C., 1976, pp. 133, 134.

PURPOSE AND INTENT

The New Jersey Electronic Surveillance Act was legislated "as one of a number of responses to public demands for more effective law enforcement,"² and was introduced at a time when general public awareness of the existence of organized and sophisticated crime was increasing. To more effectively attack organized conspiratorial criminal activity it became necessary to make available to law enforcement the most modern methods of crime detection and investigation, one of those being electronic surveillance.

The telephone, that item most commonly subject to electronic surveillance activities, is used for communications essential to any business, whether legitimate or illegitimate. With expanded use of telephones, the need for person-to-person contact to conduct business activities diminished. As a result, organized criminal activities and conspiracies, like any other business, began utilizing the telephone to conduct business and, therefore, could not be detected or investigated by traditional means and surveillances. Principal members of the higher echelon of organized crime groups are generally protected from visual surveillances and undercover operations. Their criminal business activities

²Attorney General William F. Hyland, Report on the New Jersey Wiretapping and Electronic Surveillance Control Act, L. 1968, c.409, Office of the Attorney General, New Jersey, 1971, p. 1.

are frequently conducted over the telephone, not during personal contacts and meetings which can be monitored by law enforcement personnel. Without more sophisticated law enforcement techniques, investigations involving these criminal activities and crime group members were futile.

As electronic surveillance became available to law enforcement it was used in conjunction with investigations involving organized crime groups and conspiracies whose operations depend upon frequent communications. Such operations generally involve gambling and controlled dangerous substances. For instance, number bets are commonly placed over the telephone to centralized bookkeepers. With operations involving controlled dangerous substances, distribution plans and networks are developed during telephone conversations. Despite knowledge of the existence of electronic surveillance as an investigative tool, organized crime members and criminal conspirators continue to communicate and conduct business over the telephone.³ Although communication codes are sometimes used to confuse listeners and thwart chances of gathering evidence, they are generally discontinued after the conversation is underway, or are capable of interpretation in conjunction with other traditional investigative methods and thus rendered ineffective once detected.

³Juris Cederbaums, Wiretapping and Electronic Eavesdropping: The Law and Its Implications, A Comparative Study, New York University School of Law, New York, 1969, p.45.

Electronic surveillance is designed not only to detect ongoing organized criminal activity, but also to penetrate the higher echelon of the criminal organization, those members who do not participate in street-level activities. With electronic surveillance, those who direct and control organized criminal activity, those who are protected from visual surveillances and undercover investigations can be more effectively targeted. The insulation of those in such positions has, in the past, significantly limited the effectiveness of more traditional investigative techniques in successfully penetrating well-organized and ongoing criminal activity. Moreover, as crime became more organized and witnesses became more hesitant to cooperate or testify for fear of serious retaliation, electronic surveillance became necessary to corroborate other evidence of criminal offenses. The importance of corroboration to prosecution was summarized by a former Superior Court assignment judge during the 1976 legislative hearings regarding electronic surveillance.

Without the use of electronic surveillance, prosecution witnesses can be contradicted or terrorized into changing their testimony, but this device is not available when a defendant's own voice on tape serves as compelling evidence against him.⁴

In essence, evidence obtained through electronic surveillance not only aids in the detection and prosecution

⁴Judge Frank J. Kingfield (Retired J.S.C.), Testimony during Public Hearing before the Senate Judiciary Committee on Senate No. 1417, New Jersey, 1975, p.2A.

of specific criminal activities and participants, but also aids in the discovery of criminal networks once undetectable because of limitations inherent in conventional techniques.

STANDARDS AND SAFEGUARDS

The New Jersey Electronic Surveillance Act, modeled after the federal statute, provides standards to insure proper use and safeguard against any abuses. Specific standards and safeguards provide limitations on (1) those who can apply for a surveillance order, (2) the subject matter which is investigated, (3) when and for what reasons approval for electronic surveillance will be granted, and (4) the length of time for which an electronic surveillance device can remain in effect. Although modeled after the Federal Title III statute, the New Jersey Electronic Surveillance Act is more restrictive. The term permitted under the New Jersey Act during which an electronic surveillance device can remain operative is shorter. New Jersey law requires that monitoring agents minimize or exclude irrelevant communications not only from being recorded but also from being overheard. This minimization requirement as defined by the N. J. Supreme Court is more restrictive than federally required minimization. Moreover, a formal procedure of prosecutorial review is required in New Jersey in that the statute provides strict limitations on who may approve electronic surveillance applications for submission to the courts.

In addition to prosecutorial consideration, judicial review is required as a result of statutory limitations on who may grant orders authorizing use of electronic surveillance. A limited number of judges are assigned to review requests for and grant electronic surveillance orders. This permits designated judges to develop expertise in this particular area of the law and contributes to uniform, responsible application of the Electronic Surveillance Act throughout the state. Prior to seeking an electronic surveillance order, all other conventional investigative tools and techniques must have been utilized without success, or a determination made that their use would most likely prove unsuccessful or unreasonably dangerous.⁵

In addition to the statutory requirements for prosecutorial screening and judicial review, administrative policies provide further screening procedures and control measures in the use of electronic surveillance. At the state level each request for electronic surveillance is carefully scrutinized by the responsible agencies, the State Police and the Division of Criminal Justice. Every application is subject to independent reviews beginning with the law enforcement officer or investigator who first developed the premise for electronic surveillance. For instance, State Police requests for electronic surveillance are subject to a series of internal

⁵N. J. Department of Law and Public Safety, "Electronic Surveillance: Authorization for Court Order," Electronic Surveillance Manual, New Jersey, 1979.

reviews before a formal application is prepared. In turn, the formal application is referred to the Division of Criminal Justice where all requests for electronic surveillance undergo a review process prior to forwarding to the Attorney General. The Division of Criminal Justice review involves a five-step process conducted by deputy attorneys general, as well as an Assistant Attorney General specifically qualified for this function. Such reviews often require revisions of the application, including further clarification of the use or inappropriateness of more traditional investigative methods. On occasion, the application will not survive such scrutiny and will never be approved for submission to the court. Only upon approval by the Attorney General is the application forwarded to the Superior Court for authorization. In no instances in which this formal preliminary review process has been conducted has the Superior Court chosen to deny authorization for an electronic surveillance installation.

Once an order is issued and electronic surveillance is undertaken, additional protective measures are required to minimize or exclude non-pertinent conversations from those conversations recorded. Such measures include the provision of continual supervision by the Assistant Attorney General assigned to this function over those overseeing and operating the electronic surveillance equipment during the investigation. A requirement to retain detailed, accurate logs regarding

taped conversations also exists to protect against interception abuses. Further, only qualified law enforcement officers may operate the equipment and conduct electronic surveillance activities.⁶

In addition, compliance with reporting mandates concerning electronic surveillance established through federal and state statute is required. To monitor the use of electronic surveillance nationwide, the federal Title III statute requires states to file written reports with the Administrative Office of the U.S. Courts (A.O.). Both judges and prosecuting officials at the state level are required to file reports on every electronic surveillance application and order. Prosecuting officials are also required to submit reports annually to the A.O. regarding the use and results of electronic surveillance intercepts.⁷ Reporting mandates required by the New Jersey statute are comparable to federal mandates and provide opportunity for internal supervision and evaluation.

A 1976 study, conducted by the National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance, confirmed the value of those safeguards employed in New Jersey. Study findings established

⁶N. J. Department of Law and Public Safety.

⁷Report on Applications for Orders Authorizing or Approving the Interception of Wire or Oral Communications, Administrative Office of the U.S. Courts, Washington, D.C., April 1983, p.1.

that a correlation exists between the results of electronic surveillance and "prosecutorial involvement whether in the decision to request a surveillance order or in its execution."⁸ The success of an electronic surveillance investigation is attributed, in part, to prosecutorial involvement. The Commission arrived at the conclusion

. . . that close prosecutorial supervision is a prerequisite to success is supported by the practices followed in offices that make the best use of eavesdropping. The most effective state offices studied by the Commission, such as New Jersey's Organized Crime and Special Prosecutions Section, exhibited regular and comprehensive involvement by prosecutors from the time of initial discussions about the possible use of surveillance through post trial review of surveillance-derived materials for intelligence information.⁹

The report also cited the quality and training of law enforcement officers who are seeking and executing electronic surveillance orders as contributing to the effectiveness of electronic surveillance operations in New Jersey.¹⁰

⁸U.S. National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance, p. 138.

⁹Ibid.

¹⁰Ibid.

OPERATION OF THE ACT

The Attorney General's Office, as the principal law enforcement agency within New Jersey, has the authority to investigate and prosecute criminal matters within the state. The Division of Criminal Justice, in cooperation with the State Police, carries out this function as the prosecutorial arm of the Attorney General's Office and in so doing occasionally utilizes electronic surveillance techniques. While county prosecutors' offices and local police conduct the bulk of criminal investigations and prosecutions within the state, the Division of Criminal Justice is responsible for investigations and prosecutions of statewide significance. In particular, the Division handles cases involving official corruption and significant statewide or multi-county organized crime activity.

The establishment of the Division of Criminal Justice and the introduction of electronic surveillance enabled New Jersey law enforcement to effectively investigate and prosecute organized crime conspiracies within the state-- conspiracies that transcend not only county boundaries, but also state boundaries. At the state level, electronic surveillance investigations are conducted by the

Division of Criminal Justice, in conjunction with the Division of State Police. Similarly, county prosecutors' offices, sometimes in conjunction with local police, conduct electronic surveillance investigations targeting organized crime and conspiracies within the respective county of jurisdiction.

ASSESSMENT

Electronic surveillance is recognized within law enforcement as a productive, indispensable tool against organized crime, corruption and criminal conspiracies. The importance of electronic surveillance, though, is often understated by assessments relying solely on the frequency with which it is used. Effectiveness is generally measured by results such as the number of indictments and convictions. Such quantitative methods of assessment do provide useful information regarding electronic surveillance, but should be made with broader concern for the overall impact and consequences of its use.

When analyzing the use of electronic surveillance, the number of wiretaps authorized over a specific period of time is frequently referenced. This, however, does not accurately represent use as more than one wiretap is often employed in conjunction with one criminal investigation. To reach the highest echelon of an organization, "jump" wires, or subsequent related wiretaps, are often necessary. With "jump" wires the investigation will begin at that level in an operation where probable cause for an electronic surveillance order was initially obtained and then progress to other levels.

With a series of "jumps" to new telephones the investigation continues to penetrate the organization and results in prosecution of those functioning at higher echelons of the criminal structure.

Another instance requiring multiple wiretaps is the investigation of a large organization or conspiracy. When more than one telephone is utilized to conduct criminal business a separate wiretap order is needed for each telephone facility. In both instances, with more than one wiretap utilized in conjunction with a single investigation, the number of wiretaps reported artificially inflates actual use. The use of electronic surveillance is more accurately reflected by considering the total number of investigations conducted which employ the technique.

Additional problems exist in screening the usefulness of electronic surveillance in that many results attributed to the technique are not easily quantified. One such result was characterized by former New Jersey Attorney General William F. Hyland.

Electronic surveillance has enabled law enforcement to prosecute and convict many high echelon organized crime figures in situations where all other investigative techniques had previously proved unsuccessful. In addition, the wiretap procedure has provided evidence not only vital to conviction, but to continuing investigations. Evidence so obtained has aided in the discovery of several criminal combinations once undetectable.¹¹

¹¹Hyland, p.13.

Other results not easily quantified but valuable in assessing electronic surveillance include the specific class of violators detected and prosecuted, the extent of criminal activity uncovered, and the overall disruptive effect on the criminal organization. Although the ultimate purpose of electronic surveillance is generally viewed as the detection of criminal activity and conviction of offenders, disruption of the organization's structure, operations and activities is also significant. Damaging and disruptive effects are manifested in several ways, including internal organizational disarray, increased expenses and greater vulnerability to further surveillance. With leaders and members on trial or sentenced to prison, the organization becomes fragmented and internal authority is diminished. Defense measures become necessary and the operation of the organization becomes less efficient when fears exist that conversations will be overheard. In addition, profits decline as a result of discontinued or diminished criminal activity. Overall, detection, exposure and disruption breaks up ongoing power relationships within the organization, reduces the organization's influence, and provides a deterrent to further criminal activity.¹²

In essence, when evaluating electronic surveillance, focus should not be limited to the more visible results

¹²U.S. National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance, pp. 138-141.

measured by indictments and convictions, but should include less visible yet just as important effects such as inroads into and disruption of organized crime and conspiracies. In addition to the number of cases developed with the use of wiretaps, the significance of those cases and the more indirect effects of the accompanying investigative efforts should be noted.

During a speaking engagement in 1982, FBI Director William H. Webster summarized the importance of electronic surveillance in warning that Americans may have to give up some privacy to allow for the use of electronic surveillance. Webster described law enforcement techniques, such as electronic surveillance as

'...so necessary to combat high impact crime that privacy interests must yield to a reasonable degree to allow their lawful use. . . . We use them because they are extremely effective, and because we have confidence in the safeguards we have put in place.'¹³

In addition, Webster is also quoted as saying that such techniques have "helped us reach beyond the criminal on the street to those responsible for some of the most serious and often hidden or protected forms of crime," including organized crime and official corruption.¹⁴

¹³Mary Thornton, "Crime Fight May Cost Some Privacy, Webster Says," The Washington Post, October 14, 1982, p. A16, cols. 1-4.

¹⁴Ibid.

Webster's address reinforces the need to consider the overall results along with any other method of assessment when evaluating electronic surveillance. The statistical analysis which follows, then, should be considered as only one method of describing and assessing the use of electronic surveillance. A subsequent section provides a summary of significant electronic surveillance investigations to more completely disclose the total impact of this important technique available to law enforcement agencies throughout the state.

ELECTRONIC SURVEILLANCE 1977-1982

Statistical data were compiled to evaluate the use of court-authorized electronic surveillance throughout New Jersey. Relevant data were collected from case files and records within the Division of Criminal Justice and county prosecutors' offices. Summary reports concerning electronic surveillance published by the Administrative Office of the United States Courts were also consulted.

Statistical data describing the use and results of electronic surveillance are reported in terms of:

- . Frequency of electronic surveillance orders.
- . Wiretaps in conjunction with investigations.
- . Types of offenses investigated.
- . Defendant indictments.
- . Defendant dispositions.

Data with respect to electronic surveillance orders (wiretaps) and investigations are reported for the years 1977-1982, that period not covered by any previous evaluative report. However, due to the time delay in obtaining indictments and subsequent criminal case dispositions, defendant indictments and dispositions are reported for investigations conducted during the years 1977-1981.

Statistical information is reported in three sections:

- (1) New Jersey Electronic Surveillance Investigations--Statewide Total.
- (2) Division of Criminal Justice Electronic Surveillance Investigations.
- (3) County Prosecutors' Offices Electronic Surveillance Investigations.

Each section provides narrative highlights summarizing significant findings, as well as tables reporting more detailed data.

New Jersey Electronic Surveillance Investigations--Statewide Total

New Jersey electronic surveillance investigations refers to investigations conducted statewide--Division of Criminal Justice investigations and county prosecutors' offices investigations.

Highlights of significant data regarding the use and effectiveness of electronic surveillance statewide are summarized below. While data with respect to electronic surveillance orders and investigations are reported for the years 1977-1982, indictment and dispositional data are reported for investigations conducted during the years 1977-1981. More detailed data are presented in the referenced tables.

- . During the period 1977-1982, the Division of Criminal Justice and county prosecutors' offices obtained authorization for a total of 894 electronic surveillance orders (wiretaps)-- (Table 1).
- . The 894 wiretaps were in conjunction with 500 investigations statewide. (Table 1).
- . Of the total 500 electronic surveillance investigations statewide, 90% resulted in formal charges by indictment.
- . Of the total 500 investigations, 461 (92%) involved gambling or controlled dangerous substance offenses; 245 (49%) were controlled dangerous substance offenses and 216 (43%) were gambling offenses. (Table 2).

• Among the remaining 39 investigations involving other offenses; 17 involved theft or stolen property, 6 involved loansharking or extortion, and 4 involved bribery.

(Table 2).

• As a result of electronic surveillance investigations conducted during the period 1977-1981, 2,518 defendants were indicted statewide. (Table 3).

• Of the defendants indicted, 1,471 (58%) were indicted for controlled dangerous substance offenses and 889 (35%) were indicted for gambling offenses. (Table 3).

• In addition, 75 (3%) defendants were indicted for theft or stolen property, 44 (2%) for loansharking or extortion, 13 (1%) for bribery or official misconduct and 26 (1%) for various other offenses. (Table 3).

• Of the 2,518 defendants indicted statewide as a result of electronic surveillance investigations conducted during the years 1977-1981, 2,074 (82%) have reached final disposition. The remaining 444 defendants are fugitives or pending disposition. (Table 4).

• Of the 2,074 defendants whose cases have been disposed, 1,689 (81%) were convicted. In addition, 233 (11%) were granted dismissals, 115 (6%) were granted pre-trial intervention, 21 (1%) were granted conditional discharges, and 16 (1%) were acquitted. (Table 4).

Table 1.

New Jersey--Statewide Total
Electronic Surveillance Orders (Wiretaps)
and Related Investigations, 1977-1982

Year	Elec. Surv. Orders (Wiretaps)	Elec. Surv. Investigations
1977	150	101
1978	152	85
1979	148	76
1980	178	94
1981	138	73
1982	128	71
Total	894	500

Table 2.

New Jersey--Statewide Total
 Electronic Surveillance Investigations
 by Offense Category, 1977-1982

Year	Total Investigations	Investigations by Offense Category					
		CDS	Gambling	Theft Stolen Prop.	Loanshark Extortion	Bribery	Other
1977	101	50	43	5	0	0	3
1978	85	34	46	3	1	0	1
1979	76	31	39	3	2	1	0
1980	94	46	41	2	1	0	4
1981	73	40	24	4	2	2	1
1982	71	44	23	0	0	1	3
Total	500 (100%)	245 (49%)	216 (43%)	17 (3%)	6 (1%)	4 (1%)	12 (2%)

Table 3.

New Jersey--Statewide Total
 Defendant Indictments by Offense Category for
 Electronic Surveillance Investigations, 1977-1981

Year	Total Defendant Indictments	Defendant Indictments by Offense Category					
		CDS	Gambling	Theft Stolen Prop.	Loanshark Extortion	Bribery Misconduct	Other
1977	397	220	144	0	31	0	2
1978	495	272	207	8	8	0	0
1979	523	269	213	34	0	7	0
1980	651	418	204	19	0	0	10
1981	452	292	121	14	5	6	14
Total	2,518 (100%)	1,471 (58%)	889 (35%)	75 (3%)	44 (2%)	13 (1%)	26 (1%)

Table 4.

New Jersey--Statewide Total
 Defendant Dispositions after Indictment
 for Electronic Surveillance Investigations
 1977-1981

Year	Total Defendant Dispositions	Defendant Dispositions by Type				
		Convicted	Dismissal	PTI	Conditional Discharge	Acquittal
1977	390	313	53	12	9	3
1978	419	303	78	31	7	0
1979	451	372	49	29	1	0
1980	504	444	29	21	2	8
1981	310	257	24	22	2	5
Total	2,074 (100%)	1,689 (81%)	233 (11%)	115 (6%)	21 (1%)	16 (1%)

Division of Criminal Justice Electronic Surveillance Investigations

A summary of findings regarding the use and effectiveness of Division of Criminal Justice electronic surveillance investigations follows. While data with respect to electronic surveillance orders and investigations are reported for the years 1977-1982, indictment and dispositional data are reported for investigations conducted during the years 1977-1981. More detailed data are presented in the referenced tables.¹⁵

- . During the period 1977-1982, the Division of Criminal Justice obtained authorization for 201 electronic surveillance orders (wiretaps). (Table 5).
- . The 201 wiretaps were in conjunction with 64 investigations, or approximately 1% of the total investigations conducted by the Division during the same period of time. (Table 6).
- . Of the total 64 electronic surveillance investigations, 91% resulted in formal charges by indictment.
- . Of the total 64 investigations, about three-quarters involved gambling offenses or controlled dangerous substance offenses; 27 (42%) were gambling offenses and 20 (31%) were controlled dangerous substance offenses. (Table 7).

¹⁵Data with respect to Division of Criminal Justice electronic surveillance investigations are reported as of April 1, 1983.

- . The remaining 17 investigations involved a variety of offenses: 4 involved theft or stolen property, 4 involved bribery and 4 involved various other offenses. (Table 7).
- . As a result of electronic surveillance investigations conducted during the period 1977-1981, 432 defendants were indicted. (Table 8).
- . Of the defendants indicted, 186 (43%) were indicted for controlled dangerous substance offenses and 124 (29%) were indicted for gambling offenses. (Table 8).
- . In addition, 51 (12%) defendants were indicted for theft or stolen property, 44 (10%) were indicted for loansharking or extortion, 13 (3%) were indicted for bribery or official misconduct, and 14 (3%) were indicted for various other offenses including murder and organized crime conspiracy. (Table 8).
- . Of the 432 defendants indicted at the state level, 369 (85%) have reached final disposition. The remaining 63 defendants are fugitives or pending disposition. (Table 9).
- . Of the 369 defendants whose cases have been disposed, 302 (82%) were convicted. In addition, 43 (11%) were granted pre-trial intervention or conditional discharges, 21 (6%) were granted dismissals, and 3 (1%) were acquitted. (Table 9).

Table 5.

Division of Criminal Justice
Electronic Surveillance Orders (Wiretaps)
and Related Investigations, 1977-1982

Year	Elec. Surv. Orders (Wiretaps)	Elec. Surv. Investigations
1977	45	12
1978	37	8
1979	38	14
1980	27	10
1981	32	12
1982	22	8
TOTAL	201	64

Table 6.

Division of Criminal Justice
Total Investigations and Electronic
Surveillance Investigations, 1977-1982

Year	All Investigations	Electronic Surveillance Investigations	Percent
1977	725	12	1.6
1978	828	8	1.0
1979	695	14	2.0
1980	1,007	10	1.0
1981	1,398	12	0.9
1982	990	8	0.8
TOTAL	5,643	64	1.2%

Table 7.

Division of Criminal Justice
 Electronic Surveillance Investigations
 by Offense Category, 1977-1982

Year	Investigations by Offense Category						
	Total Investigations	Gambling	CDS	Loanshark Extortion	Theft Stolen Prop.	Bribery	Other
1977	12	7	3	0	1	0	1
1978	8	4	2	1	0	0	1
1979	14	5	5	1	2	1	0
1980	10	3	4	1	1	0	1
1981	12	6	2	2	0	2	0
1982	8	2	4	0	0	1	1
TOTAL	64 (100%)	27 (42%)	20 (31%)	5 (8%)	4 (6%)	4 (6%)	4 (6%)

Table 8.

Division of Criminal Justice
 Defendant Indictments by Offense Category for
 Electronic Surveillance Investigations, 1977-1981

Year	Total Defendant Indictments	Defendant Indictments by Offense Category					Other
		CDS	Gambling	Theft Stolen Prop.	Loanshark Extortion	Bribery Misconduct	
1977	132	48	53	0	31	0	0
1978	47	17	22	0	8	0	0
1979	126	59	30	30	0	7	0
1980	51	27	5	19	0	0	0
1981	76	35	14	2	5	6	14*
Total	432 (100%)	186 (43%)	124 (29%)	51 (12%)	44 (10%)	13 (3%)	14 (3%)

*Defendant indictments returned for the following offenses:
 one defendant indictment for murder, ten defendant indictments for organized crime conspiracy,
 and three defendant indictments for promoting prostitution.

Table 9.

Division of Criminal Justice
 Defendant Dispositions after Indictment
 for Electronic Surveillance Investigations
 1977-1981

Year	Total Defendant Dispositions	Defendant Dispositions by Type				
		Convicted	PTI	Dismissal	Conditional Discharge	Acquitted
1977	129	100	8	12	9	0
1978	46	35	0	4	7	0
1979	104	91	9	4	0	0
1980	39	39	0	0	0	0
1981	51	37	10	1	0	3
Total	369 (100%)	302 (82%)	27 (7%)	21 (6%)	16 (4%)	3 (1%)

County Prosecutors' Offices Electronic Surveillance Investigations

In addition to those investigations conducted by the Division of Criminal Justice in conjunction with the State Police, county prosecutors' offices utilize electronic surveillance when investigating county-based organized crime activities and criminal conspiracies. Each prosecutor's office is responsible for investigations conducted within the respective county jurisdiction. During the period of study, 1977-1982, 18 of the county prosecutors' offices utilized electronic surveillance. Three counties, Salem, Sussex and Warren Counties, did not seek authorization for electronic surveillance during that period. In one instance, in Passaic County in 1978, an application was denied.

Significant findings regarding the use of electronic surveillance during the period 1977-1982 are provided below. In addition, major findings are provided regarding indictments and dispositions arising from county electronic surveillance investigations conducted during the period 1977-1981. More detailed data are presented in the referenced tables.¹⁶

- . During the period 1977-1982, 18 county prosecutors' offices obtained authorization for 693 electronic surveillance orders (wiretaps). (Table 10).
- . The 693 wiretaps were in conjunction with 436 investigations. (Table 10).

¹⁶ Data with respect to county electronic surveillance investigations are reported as of January 1, 1983.

- . Of the total 436 electronic surveillance investigations, 90% resulted in formal charges by indictment.
- . Of the total 436 investigations, 414 (95%) involved gambling or controlled dangerous substance offenses; 225 (52%) were controlled dangerous substance offenses and 189 (43%) were gambling offenses. (Table 11).
- . The remaining 22 investigations included 13 for theft or stolen property and 9 for various other offenses. (Table 11).
- . As a result of electronic surveillance investigations conducted during the period 1977-1981, 2,086 defendants were indicted. (Table 12).
- . Of the defendants indicted, virtually all (99%) were indicted for either controlled dangerous substance offenses (63%) or gambling offenses (36%). The remaining defendants were indicted for various other offenses including theft and stolen property. (Table 12).
- . Of the 2,086 defendants indicted at the county level as a result of 1977-1981 investigations, 1,705 (82%) have reached final disposition. The remaining 381 defendants are fugitives or pending disposition. (Table 13).

- Of the 1,705 county defendants whose cases have been disposed, 1,387 (81%) were convicted. In addition, 212 (12%) were granted dismissals, 93 (6%) were granted pre-trial intervention or conditional discharges, and 13 (1%) were acquitted. (Table 13).

Table 10.

County Prosecutors' Offices
Electronic Surveillance Orders (Wiretaps)
and Related Investigations, 1977-1982

Year	Elec. Surv. Orders (Wiretaps)	Elec. Surv. Investigations
1977	105	89
1978	115	77
1979	110	62
1980	151	84
1981	106	61
1982	106	63
Total	693	436

Table 11.

County Prosecutors' Offices
Electronic Surveillance Investigations
by Offense Category, 1977-1982

Year	Total Investigations	Investigations by Offense Category				
		CDS	Gambling	Theft Stolen Prop.	Loanshark Extortion	Other
1977	89	47	36	4	0	2
1978	77	32	42	3	0	0
1979	62	26	34	1	1	0
1980	84	42	38	1	0	3
1981	61	38	18	4	0	1
1982	63	40	21	0	0	2
Total	436 (100%)	225 (52%)	189 (43%)	13 (3%)	1 (-)*	8 (2%)

*Less than one percent.

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Table 12.

County Prosecutors' Offices
 Defendant Indictments by Offense Category for
 Electronic Surveillance Investigations, 1977-1981

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Year	Total Defendant Indictments	Defendant Indictments by Offense Category			
		CDS	Gambling	Theft Stolen Prop.	Other
1977	265	172	91	0	2
1978	448	255	185	8	0
1979	397	210	183	4	0
1980	600	391	199	0	10
1981	376	257	107	12	0
Total	2,086 (100%)	1,285 (63%)	765 (36%)	24 (1%)	12 (-)*

*Less than one percent.

Table 13.

County Prosecutors' Offices
 Defendant Dispositions after Indictment
 for Electronic Surveillance Investigations
 1977-1981

Year	Total Defendant Dispositions	Defendant Dispositions by Type				
		Convicted	Dismissal	PTI	Acquitted	Conditional Discharge
1977	261	213	41	4	3	0
1978	373	268	74	31	0	0
1979	347	281	45	20	0	1
1980	465	405	29	21	8	2
1981	259	220	23	12	2	2
Total	1,705 (100%)	1,387 (81%)	212 (12%)	88 (5%)	13 (1%)	5 (-)*

*Less than one percent.

SIGNIFICANT INVESTIGATIONS

Since first legislated, the Electronic Surveillance Act has enabled law enforcement to detect, prosecute and convict members of organized crime groups, criminal conspirators and corrupt public officials. Moreover, electronic surveillance has led to the discovery, penetration and oftentimes elimination of organized crime enterprises and conspiracies. Significant investigations highlighted herein are representative of instances in which indictments and convictions would not have been possible without electronic surveillance.¹⁷

. State v. Zicarelli, et al (1969, 1970).

An early example of the significant contribution of electronic surveillance was the indictment of and subsequent conviction of the defendant, Zicarelli, and other organized crime group members as well as major political and law enforcement officials in Hudson County. Indictment charges involved gambling and related bribery offenses. For instance, the mayor of West New York

¹⁷ Defendants' names are provided in only those cases in which a trial was conducted and electronic surveillance interceptions became a matter of public record. Due to the strictures of the Electronic Surveillance Control Act, names are not provided in those cases in which defendants were disposed through plea. These cases are identified by electronic surveillance (wire) numbers.

was convicted of accepting bribes to protect an organized crime gambling operation. In addition, two Hudson County Prosecutor's Office officials and others involved in the gambling operation and betting activities were convicted of criminal offenses. Zicarelli, the Hudson County organized crime figure who controlled area gambling activities, had been the target of several previous unsuccessful investigations.

. State v. Esposito, Kordja, et al (1973)

This electronic surveillance investigation involving a multi-county gambling operation resulted in the indictment of three public officials and two organized crime members. Two Patterson police officers and a Passaic County Prosecutor's Office detective were indicted and convicted of accepting bribes from organized crime members to protect an illegal gambling enterprise from investigation, detection and prosecution and to permit its continued operation. The three law enforcement officials, having used their public offices to protect the gambling operation were also convicted of official misconduct. In addition, one organized crime member was convicted of gambling offenses and bribery, while the second organized crime member became a fugitive. The bribery payments were made over a period of at least one and one-half years.

. State v. Triola, Doran, Kobensky, et al (1977).

During 1977, an electronic surveillance investigation involving gambling activities resulted in the detection of a sophisticated gambling ring operating a \$2.5 million a year business. At the time of arrest, \$65,000 was confiscated along with voice activated recorders used to accept callers' bets. In total, eight defendants were convicted, including two leaders in the operation who received substantial prison terms and large fines.

. State v. Boiardo, et al (1977, 1978).

An investigation utilizing electronic surveillance resulted in the first indictment to ever allege the existence of a formal nationwide criminal organization. Members used the organization as a vehicle to commit crimes to maintain power over rivals and victims. This indictment, one of the most significant organized crime indictments in the history of the state, charged eight defendants with conspiracy in a "secret nationwide criminal organization" for the purpose of committing crimes for financial gain and perpetrating the organization. In addition, the indictment contained 23 substantive charges including murder, loansharking, extortion, robbery and gambling. Evidence obtained indicated that the conspiracy and related criminal activities continued over eight years throughout several New Jersey counties, New York, Las Vegas, Florida and elsewhere.

All defendants with the exception of one defendant who was severed from the indictment for trial purposes were convicted. Moreover, as a result of this electronic surveillance investigation, defendants were tried under the federal Organized Crime Control Act for organized crime ownership of a Las Vegas casino and convicted of racketeering influenced corruption operation (RICO) violations.

. Electronic Surveillance 79-1 and 76-6 (1979).

This electronic surveillance investigation uncovered two major, multi-state bookmaking operations. The two defendants indicted as a result of the investigation did not participate in the routine street-level betting and bookmaking operation, but accepted substantial bets, "lay-off" bets, of thousands of dollars for single bets from the smaller-scale bookmaking operations. Such bets enabled the smaller-scale bookmaker to sustain the business. Indictment charges were conspiracy, bookmaking, and maintaining a gambling resort. Both defendants were convicted.

. Electronic Surveillance 79-2A, 2B, 5, 8 and 9 (1979).

An electronic surveillance investigation into controlled dangerous substances and the major supplier in rural Sussex County, New Jersey resulted in the detection of a large-scale cocaine distribution operation. The conspiracy involved the importation of illegal drugs and distri-

bution activities which had been ongoing over a period of three years. The investigation, which concerned criminal conspiratorial activities within New Jersey, New York and California, the Dutch West Indies and South America, was conducted in conjunction with federal resources. In total, 12 defendants were indicted; eight were convicted.

• Electronic Surveillance 79-26 (1979).

A large-scale investigation into theft and stolen property conspiracies resulted in the indictment of eight defendants. Indictment charges stemmed from the defendants' participation in a stolen property conspiracy, fencing activities, and filing false claims of loss (vehicle theft reports) and subsequent recoveries of insurance proceeds. Criminal activities were conducted in various counties within New Jersey and several other states and involved various property, including construction equipment, boats, boat trailers, cattle, horses and horse trailers. Six defendants who were the principal participants and leaders of the operation were convicted.

• State v. Potter, et al (1979).

This investigation utilizing electronic surveillance was conducted to gather evidence concerning a bribery conspiracy involving public officials. As a result, an indictment was returned charging the Chief of Police of Kearny and others with accepting bribes to protect an ongoing lottery enterprise within Hudson County. Six defendants were indicted and convicted on bribery and misconduct charges. In addition, five defendants involved in the gambling operation were indicted on related charges.

• State v. Tarantile, Mendez, et al (1979).

As a result of an electronic surveillance investigation, indictments were returned charging 22 defendants with conspiracy, embezzlement, larceny, theft, receiving stolen property and attempting to evade taxes. Indictment charges stemmed from the ongoing thefts of railroad equipment and tools belonging to several individuals and corporations, including the National Railroad Passenger Corporation (Amtrak), the Consolidated Rail Corporation (Conrail), and the Penn Central Railroad. In addition to the New Jersey charges, defendants were prosecuted in Florida under the federal Racketeering Influenced Corruption Operations (RICO) statute for a railroad corporation embezzlement scheme which continued over a two-year period and involved \$600,000.

. Electronic Surveillance 79-39, 40 and 41, 80-1
(1979-1980).

This electronic surveillance investigation resulted in the indictment of 19 defendants for charges of conspiracy and distribution of controlled dangerous substances. The conspiracy uncovered during the investigation involved a cocaine and methamphetamine distribution network extending from Burlington and Camden Counties to out-of-state locations. The operation was disrupted through detection and subsequent imprisonment of those directing the conspiracy and distribution network.

. State v. Gregorio (1980).

Evidence obtained through an electronic surveillance investigation resulted in the indictment and subsequent conviction of the defendant, a New Jersey state senator and mayor of Linden. The indictment charged the defendant with conspiracy, official misconduct, obtaining money and other things of value under false pretense, tampering with public records and information, and attempting to evade tax. The defendant was convicted after trial of conspiracy to commit official misconduct.

. Electronic Surveillance 80-13A, B, C and D (1980).

This electronic surveillance investigation into ongoing extortion and theft by deception activities uncovered a major credit scam operating within the Atlantic City casino industry. Six million dollars in casino thefts had occurred as a result of abuses by employees in the issuance of credit in casinos. The intent was to grant credit to loanshark victims to pay off such debts. The investigation resulted in the indictment of 20 defendants charged with offenses including extortion, theft by deception, forgery and uttering forged instruments. To date, 16 defendants have been convicted by pleas. Those who directed the credit scam who have been sentenced received substantial terms of incarceration.

Four defendants are pending trial. In addition, this matter evolved into an extended investigation involving targets within and outside of New Jersey. Also as a result of this investigation, the State Commission of Investigation is conducting a review to introduce needed changes in casino credit procedures.

Electronic Surveillance 81-14, 15 and 16 (1981).

An electronic surveillance investigation led to the indictment of six defendants for loanshark operations in Atlantic City. The defendants operated the loanshark business out of two jewelry stores/pawn shops and catered to down and out gamblers. Loanshark activities are estimated to have been ongoing for one and one-half years and involved transactions of approximately \$150,000 for a one-year period. One defendant was known to have organized crime connections. All six defendants were convicted through pleas.

Electronic Surveillance 82-8 (1982).

After receiving information regarding the defendants' conspiratorial plot to commit murder, state law enforcement officials obtained authorization for electronic surveillance. The court authorized wiretap provided evidence of the defendants' plans to murder the wife of one defendant. Intercepted communications took place between New Jersey, Florida and Argentina. The wiretap enabled state law enforcement officials to identify when and where the murder was to occur. As a result, the murder was prevented. Both defendants were convicted and sentenced to state prison terms.

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