

Journal of Criminal Law and Criminology

Volume 51
Issue 4 *November-December*

Article 7

Winter 1960

Notes

Follow this and additional works at: <https://scholarlycommons.law.northwestern.edu/jclc>

 Part of the [Criminal Law Commons](#), [Criminology Commons](#), and the [Criminology and Criminal Justice Commons](#)

Recommended Citation

Notes, 51 J. Crim. L. Criminology & Police Sci. 448 (1960-1961)

This Note is brought to you for free and open access by Northwestern University School of Law Scholarly Commons. It has been accepted for inclusion in Journal of Criminal Law and Criminology by an authorized editor of Northwestern University School of Law Scholarly Commons.

reported prosecution under Section 501.⁶¹ Recently, however, Section 605 prosecutions seem to be on the increase.⁶²

In federal courts there are several remedies available to defendants when violations of Section 605 occur. The primary device is that originated by the courts—exclusion of the evidence under the *divulgence* provision. A second remedy is prosecution of violators of Section 605 on the basis of the penal provisions of Section 501. Invocation of the latter section is in the discretion of the Justice Department.

Naturally, the question arises as to whether exclusion of the evidence is an effective method of preventing taps. The same arguments may be advanced here that are propounded in favor of, and in opposition to, the exclusionary rule as it relates to the fourth amendment. Exclusion of the wiretap

(S.D.N.Y. 1957), illustrates the type of situation which may occur in a prosecution. There, the government, in prosecution for a violation of Section 605, was confronted by the defendant's motion to suppress prosecution evidence because it was allegedly obtained in violation of Section 605.

⁶¹ *United States v. Gruber*, 39 F. Supp. 291 (S.D. N.Y. 1941), *appeal denied*, 123 F.2d 307 (2d Cir. 1941).

⁶² *Massengale v. United States*, 240 F.2d 781 (6th Cir. 1957), *cert. denied*, 354 U.S. 909 (1957); *United States v. Gris*, 247 F.2d 860 (2d Cir. 1957); *Lipinski v. United States*, 251 F.2d 53 (10th Cir. 1958); *Elkins v. United States*, 266 F.2d 588 (9th Cir. 1959), *rev'd on other grounds*, 28 U.S.L. WEEK 4567 (U.S. June 27, 1960); *Massicat v. United States*, 266 F.2d 955 (5th Cir. 1959).

renders it useless for evidentiary purposes but does not prevent the tap itself. It may be argued that the Act is designed to protect the means of communication or, as Judge Hand suggests, the right of privacy. In either case, a more effective preventative would probably be in scientific devices designed to frustrate wiretapping.⁶³

The federal law on wiretapping is plagued with formalistic distinctions. Mere wiretapping is not prohibited, but both interception and divulgence of telephone communications are required to constitute a violation. The definition of interception is limited to a "seizure" of the message and thus excludes the various forms of eavesdropping. The Justice Department does not regard disclosure within the department as a divulgence, and prosecutions under the statutes are rare. As a result, private persons and in particular state law enforcement officials violate the law with relative impunity. Many of these problems may be traced to the fact that the courts are attempting to apply a statute never intended to be applicable to telephone wiretapping situations. The conclusion seems inescapable that the logical solution, indeed at this point the only solution, is remedial legislation.

VICTOR E. GRIMM

⁶³ A discussion of such devices is beyond the scope of this comment. For suggested technical devices, see, DASH, SCHWARTZ & KNOWLTON, *THE EAVESDROPPERS*, 327 (1959).

NOTES

"Pioneers in Criminology" Series Published in Book Form—A series of articles dealing with "Pioneers in Criminology" which appeared in recent volumes of this JOURNAL has now been printed in book form. The series appears as Volume 1 of the Library of Criminology, which was recently inaugurated by Stevens & Sons, Ltd., London, under the editorship of Edward Glover, Hermann Mannheim, and Emanuel Miller.

The volume, which was published under the title *Pioneers in Criminology*, was edited by Hermann Mannheim. Dr. Mannheim contributed a full introduction in which he defined the role of each individual pioneer in the light of his period and attempted to balance the claims of the various schools and disciplines concerned.

The book contains articles dealing with Cesare Beccaria (by Elio Monachesi), Jeremy Bentham (by Gilbert Geis), Alexander Maconochie (by John Vincent Barry), V. John Haviland (by Norman B. Johnston), Isaac Ray (by Winfred Overholser), Charles Doe (by Frank R. Kenison), Henry Maudsley (by Peter Scott), Cesare Lombroso (by Marvin E. Wolfgang), Gabriel Tarde (by Margaret S. Wilson Vine), Hans Gross (by Roland Grassberger), Raffaele Garofalo (by Francis A. Allen), Enrico Ferri (by Thorsten Sellin), Emile Durkheim (by Walter A. Lunden), Pedro Dorado Montero (by Manuel Lopez-Rey), Gustav Aschaffenburg (by Hans von Hentig), Charles Buckman Goring (by Edwin D. Driver), and Willem Adriaan Bongers (by J. M. van Bemmelen).

In addition, there is a chapter by Clarence Ray Jeffrey entitled, "The Historical Development of Criminology."

Orders for this new volume should be sent to Quadrangle Books, Inc., 119 W. Lake Street, Chicago 1, Illinois. The regular price of the book is \$7.50; however, an academic discount of 10% is available.

National Association of Defense Lawyers Holds Third Annual Meeting—The Third Annual Meeting of the National Association of Defense Lawyers in Criminal Cases was held at the Willard Hotel in Washington, D.C., on August 26 and 27, 1960. Approximately 80 members of the Association attended the sessions.

The theme of the meeting was, "How the Expert Practices Criminal Law." Among the speakers were Charles A. Bellows, Chicago, Ill., Joseph Rauh, Jr., Washington, D.C., Thomas McBride, Philadelphia, Pa., and Sol Gelb, Harris Steinberg and Milton Wessel, all of New York, N.Y.

Mr. Steinberg was elected President of the Association and Dan H. McCullough of Toledo, Ohio, was elected Vice-President. Jack L. Goodsitt of Milwaukee, Wisconsin, was reelected Secretary.

The objectives of the Association are:

(a) to provide an appropriate national organization representing those lawyers who are actively engaged in the defense of criminal cases.

(b) to foster periodic meetings of defense lawyers and thereby provide a forum for the mutual exchange of information regarding the administration of criminal justice.

(c) to protect individual rights and to promote the improvement of criminal law and practice.

Membership in the Association is open to "those persons of professional competency, integrity and good moral character who are actively engaged in the defense of criminal cases." Further information concerning the Association may be obtained from Jack L. Goodsitt, Secretary, National Association of Defense Lawyers in Criminal Cases, 225 East Mason Street, Milwaukee 2, Wisconsin.

NPPA Changes Name, Cites Services and Goals—The National Probation and Parole Association has changed its name.

National Council on Crime and Delinquency is the new name chosen by the trustees and membership, according to Milton G. Rector, director, in a formal announcement made to the Advisory Council of Judges at the opening session of their Eighth Annual Meeting.

"The new name reflects more accurately what our citizen-sponsored organization is doing in the field of prevention, control, and treatment of delinquency and crime.

"While probation and parole will continue to receive a major emphasis," Mr. Rector said, "our program has broadened over the years to make the old name of the agency inaccurate in describing all that we are doing."

"The Advisory Council of Judges, for example," said Mr. Rector, "is one of several activities of the agency that could not be reflected in our former name." He referred to several other aspects of the agency's work:

A three-year nation-wide study of the problems of the youthful offender and the most effective means of preventing and treating these problems is now under way.

In the last five years the Association has developed strong citizen leadership and major advances for the improvement of correction in eight states. In three of these states—Michigan, Ohio, and Indiana—at least \$22,000,000 in annual operating costs could be saved by 1970 if all of the NCCD citizen committee recommendations were to go into effect during 1960.

The Council's legislative and legal advisory service is available to law-making bodies requesting help in the field of correction. For the past several years it has developed forward-looking model laws for probation and parole as well as juvenile and family courts.

The NCCD library provides the field with the most complete reference service available, and a newly established Research and Information Clearing Center on Crime and Delinquency is gathering material so that the layman and professional can find out, from one central place, which research and operating programs are under way, which have been completed, and which have proved effective.

Professional consultation and survey services are available to states and communities planning new or improved services and facilities for the prevention, control, and treatment of crime and delinquency.

"The NCCD," Mr. Rector added, "is the only national, voluntary organization with field staff which brings citizens and professionals to work in concert for improvement in methods of dealing with children and adults in conflict with the law and to find ways of reaching them before they break the law. Our goal is to develop and encourage the use of existing knowledge and new

knowledge so the public may be better protected, the offender discovered and treated earlier, and the cost of crime and delinquency drastically reduced."

Northwestern's Law and Journalism Schools Announce Third Annual Short Course for Newsmen in Crime News Analysis and Reporting—The Third Annual Short Course for Newsmen in Crime News Analysis and Reporting, which is jointly sponsored by Northwestern University's Schools of Law and Journalism, will be conducted on the University's Chicago, Illinois, campus during the five day period, March 20-24, 1961.

The course, which is made possible by a grant from the Ford Foundation, has as its objectives:

- (a) The enrichment of newsmen's understanding of the crime problem.
- (b) An improvement in relations between newsmen, law enforcement officers, and the legal profession.
- (c) A forum for the mutual exchange of information by attending newsmen.

Attendance is open to all newsmen (of the press, magazines, television, and radio) and teachers of journalism and law.

The attendance fee is \$125. A limited number of full tuition scholarships will be available to newsmen or their employing agencies in need of such assistance as a condition to attendance.

For further information, as well as a copy of the program, write to Professor Fred E. Inbau, School of Law, Northwestern University, 357 East Chicago Avenue, Chicago 11, Illinois. Detailed information concerning the 1959 course for newsmen appeared in 50 J. CRIM. L., C. & P.S. 368-70 (1959).

Northwestern Law School Offers Six Criminal Law Fellowships—A 1958 grant to Northwestern University School of Law by the Ford Foundation contains provisions for a program of graduate study in criminal law. The grant provides that six fellowships may be awarded annually. Four of these fellowships are to be awarded to graduates of American law schools, while two of the fellowships are for graduates of foreign law schools. Generally, persons receiving these fellowships are candidates for the degree of Master of Laws.

A primary aim of this graduate program is the improvement of criminal justice through the development and training of outstanding persons interested in devoting their talents primarily to

teaching and writing in the field of criminal law and administration. The program is also open to persons interested in additional study as preparation for careers in other areas of the administration of criminal justice.

In selecting the Ford Fellows, considerable weight is given to the applicant's scholastic record and attainments both in law school and in college. Consideration also is given to the applicant's interest in the field of criminal law and his plans for the future with respect to that interest. Although actual experience in some area of the administration of criminal justice is not required for admission to the program, such experience is, of course, helpful in demonstrating the applicant's genuine interest in the field.

The criminal law graduate program is divided into two parts:

1. *Class work.* Each graduate student is required to complete one academic year of residence at the school, during which time credit must be obtained for not less than fifteen semester hours in courses not previously counted towards his first degree in law. Roughly half of the required number of hours is devoted to courses or seminars dealing with criminal law and procedure and related subjects. The remaining hours are elected by the student, subject to the approval of his faculty advisor and the chairman of the graduate committee.
2. *Thesis.* Each graduate student is required to undertake a thorough study of some approved criminal law topic and produce a paper embodying the results of his study. This paper must be of such character as to be suitable for publication. The manuscripts are usually printed in this JOURNAL.

Persons desiring further information concerning the program should write to Claude R. Soble, Assistant Professor of Law, Northwestern University, 357 East Chicago Avenue, Chicago, Illinois.

In order to be eligible for awards for the 1961-62 academic year, applications should be submitted by January 1, 1961.

Institute of Correctional Administration Offers Scholarships—The School of Government and Public Administration of The American University, Washington, D.C., is offering a limited number of scholarships to officials interested in or responsible for in-service training of personnel in civilian correctional agencies. Each scholarship will entitle