

Decision No. 56956**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation of all telephone  
 corporations concerning records  
 of devices for overhearing tele-  
 phone communications and steps  
 taken to insure privacy of such  
 communications. )

Case No. 6048

Appearances and Witnesses  
 are listed in Appendix B

O P I N I O NPurpose of Investigation

The above-entitled investigation was instituted on February 4, 1958, for the purpose of determining the records kept by telephone corporations concerning devices used for the purpose of overhearing telephone communications, as well as steps taken by such utilities to insure privacy of telephone communications, and for the purpose of establishing regulations as required by the Statutes of 1957, page 3203, which added two new sections to the Public Utilities Code as follows:

"7905. The Public Utilities Commission shall issue regulations requiring every telephone corporation subject to its jurisdiction to maintain complete records of all instances in which its employees discover any device installed for the purpose of overhearing communications over the lines of such corporation and all instances in which such employees reasonably believe and report to the corporation their belief that such device is installed or has been installed but has since been removed.

"7906. The Public Utilities Commission shall regularly make inquiry of every telephone corporation under its jurisdiction to determine whether or not such corporation is taking adequate steps to insure the privacy of communications over such corporation's telephone communication system."

Public Hearing

After due notice to all telephone corporations and certain interested parties, two days of public hearing were held upon this investigation before Examiner Manley W. Edwards on April 7, 1958,

in San Francisco and on May 29, 1958, in Los Angeles. The respondent telephone corporations presented 16 exhibits and testimony by their witnesses regarding records kept and steps taken to insure privacy of telephone communications. The Commission staff cross-examined the witnesses and in addition called two special agents of different telephone companies for the purpose of developing a full record to aid the Commission in carrying out the requirements of the new code sections.

#### Telephone Equipment

The first seven exhibits presented by the respondents showed the typical equipment used to furnish telephone service, such as subscribers' instruments, service drops, wires, telephone poles, pole terminal boxes, cable vaults, central office distributing frames and equipment, operators' boards and building cable terminals. Witnesses for respondents indicated that while wires could be tapped at several points along the system, tapping readily could be detected at the central office, at building cable terminals, at pole terminal boxes or on drop wires outside the subscribers' premises. Taps inside a residence or office building might be difficult to locate. It is unlikely that unauthorized taps would be made in cable vaults because of the necessity to pierce a lead cable sheath and locate one particular pair of a multi-pair cable.

Some idea as to the quantity of telephone equipment in use in the state and the number of points where wires may be tapped or overhearing devices installed may be gained from the listing of the total number of stations and the number of Private Branch Exchanges (PBX) furnished by the three largest telephone utility systems as of December 31, 1957:

	<u>The Pacific</u> <u>Tel. &amp; Tel. Co.</u>	<u>General Tel.</u> <u>Co. of Calif.</u>	<u>Calif. Water</u> <u>&amp; Tel. Co.</u>
Total Stations	5,280,960	914,998	130,167
Total PBX Systems	16,935	2,080	303
Total PBX Stations	791,023	99,825	10,827
Total PBX Trunks	145,802	13,692	1,267

Overhearing Devices

There are many devices connected to a telephone system which are capable of being used for the purpose of overhearing conversations. The operator at a central office switchboard or private branch exchange, with her headset, would be able to overhear almost any conversation passing through her board. The parties on a party line or farmer line can overhear each other. Service observing equipment has been installed by some telephone utilities for the purpose of monitoring calls. The employee with a test set and the wire chief at the test desk likewise can overhear almost any conversation. However, the utilities have strict regulations regarding the secrecy of telephone communications.<sup>1/</sup> The purpose of the wire chief in overhearing

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<sup>1/</sup> Telephone company employees are advised as to the confidential nature of telephone conversations and the penalties attached to violating the secrecy thereof. Exhibit No. 8 reads as follows:

NOTICE OF SECRECY OF COMMUNICATIONS

1. Employees must not disclose the contents, or any part, of any telephone, radio (including television and facsimile), teletypewriter or telegraph message addressed to another person without the permission of the sender, or wilfully alter the purport or effect or meaning of any such message. Both parties to a telephone conversation are considered senders.
2. Employees must not use any information, derived from any private message passing through their hands and addressed to another person, or in any other manner acquired as an employee of the company.
3. Employees must not permit any unauthorized person to listen to any telephone conversation. Employees must not monitor any connection more than is needed for its proper supervision.
4. Employees must not tell anyone the fact or the nature of any message, except as required for handling it properly.
5. Employees must not discuss communication arrangements made between the company and its customers, except as required for handling them properly.
6. Employees must not give any unauthorized person any information whatever about the location of equipment, trunks, circuits, cables, etc. or about local or toll ticket records of calls, teletypewriter messages, etc.

The secrecy of communications is protected by laws imposing punishment by fine and imprisonment for its violation. Fines of as much as \$10,000 and imprisonment for as long as 2 years and in some instances longer may be imposed for breaking these laws.

THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY  
BELL TELEPHONE COMPANY OF NEVADA

conversations is to determine the quality and strength of conversation to assure that satisfactory telephone service is being rendered. The use of such overhearing devices in the regular furnishing of telephone service is necessary for the maintenance of high quality service.

#### Wire Tapping Reports

Both The Pacific Telephone and Telegraph Company and the General Telephone Company of California maintain records of the instances in which their employees discover devices installed for the purpose of overhearing conversations. These reports are kept by the Chief Special Agents of these utilities. Incidents of wire tapping are noted on the Subscribers' Line Card and where they involve something more than for the purpose of stealing service, special reports are made. During the last five years the Pacific Company reports only 33 such cases, 11 of which were reported to law enforcement agencies for arrest and prosecution.

The General Company has been keeping such reports only for the past one and one-half years. Prior thereto no special reports were made, the incidents being recorded only on the subscribers' line cards. General reports that during this one and one-half year period 28 complaints were investigated and none was found to be wire tapping for the purpose of overhearing conversations.

#### Utility Recommendations as to Regulations

The utilities recommend that the Commission require them to (a) maintain records, (b) prescribe the data to be recorded, and (c) report the number of incidents each year. The suggested records are:

1. Each telephone corporation shall maintain complete records of all instances in which its employees discover any device installed for the purpose of overhearing communications over the lines of such corporation and all instances in which such employees reasonably

believe and report to the corporation their belief that such device is installed or has been installed but has since been removed.

2. The records to be maintained under paragraph 1 shall consist of appropriate entries on subscribers' line cards or their equivalent and a record of each case arising under paragraph 1 showing the following details:
  - (a) Date
  - (b) Name of customer
  - (c) Telephone number
  - (d) Location of service
  - (e) Nature of case
  - (f) By whom reported
  - (g) Condition found, action taken and disposition of the case.
3. Each telephone corporation shall submit annually to the Commission a report indicating the number of such cases found during the year.

With regard to reporting the number of incidents each year, the staff inquired of the witnesses as to the reason, in view of their small number each year, why the utilities could not furnish summary reports of each incident. In general, the utilities had no objection to such summary reports provided such reports are kept confidential and not divulged to the public. Many of the incidents involve divorce cases between husband and wife and it did not appear in the public interest that all of the details be divulged to the public.

#### Findings and Conclusions

After considering the evidence of record the Commission finds and concludes that a new General Order should be issued pursuant to Section 7905 of the Public Utilities Code requiring the telephone utilities to keep complete records of all instances in which their employees discover any device installed for the purpose of overhearing communications over their lines, and to make detailed summary reports annually; and pursuant to Section 7906 of the Public Utilities Code to file copies of secrecy regulations being enforced to insure the privacy of telephone conversations and annually advise of any changes made in such secrecy regulations.

O R D E R

Investigation as above-entitled having been instituted on the Commission's own motion, public hearing having been held, the matter having been submitted and now being ready for decision; therefore,

IT IS ORDERED:

1. That a new general order, designated General Order No. 107 and entitled "Privacy of Telephone Communications" shall be adopted to be effective August 1, 1958, as set forth in Appendix A attached hereto.

2. That the Secretary shall mail a copy of this said new general order to each telephone utility in the state requiring that copies of the secrecy regulations and a statement of steps taken to insure privacy of telephone communications be filed in accordance with the provisions thereof.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 8<sup>th</sup> day of July, 1958.

E. Lyn Fox  
President  
John Mitchell  
Paul W. Bremer  
William D. Ash  
Theodore Deener  
Commissioners

GENERAL ORDER NO. 107

Public Utilities Commission of the State  
of California

PRIVACY OF TELEPHONE COMMUNICATIONS

A. Pursuant to Section 7905 of the Public Utilities Code,

IT IS HEREBY ORDERED that each telephone corporation subject to the jurisdiction of the Commission shall maintain complete records of all instances in which its employees discover any devices installed for the purpose of overhearing communications over the lines of such corporation and all instances in which such employees reasonably believe and report to the corporation that such device is installed or has been installed but has since been removed.

IT IS HEREBY FURTHER ORDERED that each such telephone corporation shall file with the Commission on or before the 31st day of March each year four copies of a report of all instances in which its employees discover any devices installed for the purpose of overhearing communications over the lines of such corporation and all instances in which such employees reasonably believe and report to the corporation that such device is installed or has been installed but has since been removed.

This report shall cover the immediately preceding calendar year and shall include the date, name of subscriber, telephone number, location of service, nature of case, description of such device, circumstance of discovery and designation of lines involved in each discovery of such devices, by whom reported, action taken, and disposition of the case. Such reports will be labeled "confidential" and will be so treated by the Commission as to details the disclosure of which, in the Commission's opinion, would be adverse to the public interest.

APPENDIX A  
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- B. Pursuant to Section 7906 of the Public Utilities Code,  
IT IS HEREBY ORDERED that each telephone corporation subject to the jurisdiction of the Commission shall file with the Commission within sixty days after the effective date of this order four copies of all instructions to employees, regulations, rules and forms designed to insure the privacy and/or maintain the secrecy of communications over the lines of such corporation together with a statement of the steps being taken to insure the privacy of and/or secrecy of communications.
- C. IT IS HEREBY FURTHER ORDERED that each such telephone corporation shall file with the Commission on or before the 31st day of March of each year four copies of a statement showing any changes in the steps being taken to insure privacy of and/or secrecy of communications together with four copies of any new or revised instructions, regulations, rules and/or forms being used.

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

R. J. PAJALICH, SECRETARY



APPENDIX B

LIST OF APPEARANCES

RESPONDENTS: Arthur T. George and Pillsbury, Madison & Sutro by Charles B. Renfrew for The Pacific Telephone and Telegraph Company; William G. Fleckles for California Water & Telephone Company and West Coast Telephone Company of California; H. Ralph Snyder, Jr. for General Telephone Company of California; Littler, Mendelson and Salzman by Warren H. Salzman for McCloud Telephone Company; Neal C. Hasbrook for Adelaida Rural Telephone Company, The Bigelow Telephone Company, William Butts Telephone Company, Calaveras Telephone Company, California Interstate Telephone Company, California Oregon Telephone Company, California-Pacific Utilities Company, California Water & Telephone Company, Capay Valley Telephone System, Inc., Central California Telephone Company, Citizens Utilities Company of California, Coachella Valley Telephone Company, Colfax Telephone Exchange, Colorado River Telephone Company, Delta Telephone and Telegraph Company, Dorris Telephone Company, Dos Palos Telephone Company, Inc., Ducor Telephone Company, Enterprise Telephone Company, Evans Telephone Company, Foresthill Telephone Company, Inc., Gilroy Telephone Company, Happy Valley Telephone Company, Hornitos Telephone Exchange, Kerman Telephone Company, Kern Mutual Telephone Company, Livingston Telephone Company, Mariposa County Telephone Company, Inc., Parker Valley Telephone Company, Inc., Petrolia Telephone Company, Richardson Springs Telephone Company, Roseville Telephone Company, Sanger Telephone Company, San Joaquin Telephone Company, San Miguel Telephone Company, Sierra Telephone Company, Inc., Siskiyou Telephone Company, Snelling Telephone Exchange, Tuolumne Telephone Company, The Volcano Telephone Company, Western California Telephone Company, The Western Telephone Company, White River Telephone Exchange, Sunland-Tujunga Telephone Company.

INTERESTED PARTIES: J. J. Deuel for California Farm Bureau Federation; T. M. Chubb for City of Los Angeles; Neal C. Hasbrook for California Independent Telephone Association.

COMMISSION STAFF: Hector Anninos and William Dunlop.

LIST OF WITNESSES

Evidence was presented on behalf of respondents by: Chester L. Wickstrom for The Pacific Telephone and Telegraph Company; Harold A. Hahlbeck for General Telephone Company of California; Arthur D. Scripture for California Water & Telephone Company and West Coast Telephone Company of California.

Evidence was presented on behalf of the Commission Staff under Section 2055 of the Code of Civil Procedure by: Douglas H. Hayden and Robert H. Warner.