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May 2, 1975

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Application of Wiretap Law Outside the United States.

This is in response to your query as to whether the warrant procedure of Title III of the Omnibus Crime Control and Safe Streets Act, 18 U.S.C. 2510-2520 applies outside the United States. It clearly does not.

The provisions covering authorization and procedure for interception of wire and oral communications specify that applications shall be made to judges "of competent jurisdiction." 18 U.S.C. 2516 and 2518(1). These include Federal district and court of appeals judges and state judges of courts of general criminal jurisdiction. 18 U.S.C. 2510(9). The section on procedure only authorizes the judge to issue an order "within the territorial jurisdiction of the court in which the judge is sitting." 18 U.S.C. 2518(3). Thus, it is clear that Title III does not apply outside the territorial jurisdiction of such courts.

This conclusion was confirmed recently by the Second Circuit in United States v. Toscanino, 500 F.2d 267, 279 (1974). In reaching the same result for somewhat different reasons, the Court said:

"we agree with the government that the federal statute governing wiretapping and eavesdropping, 18 U.S.C. § 2510, et seq., has no application outside of the United States. The term "wire communication," as used in the statute, 18 U.S.C. § 2510(1), is intended to refer to communications "through our Nation's communications network." See 1968 U.S. Code Cong. & Admin. News, 90th Cong., 2d Sess., p. 2178 (emphasis added). In prescribing the procedures to be followed in obtaining a wiretap authorization, see 18 U.S.C. § 2518, the statute significantly makes no provision for obtaining authorizations for a wiretap in a foreign country."