

U.S. Department of Energy

Oak Ridge Operations Office

NOTICE

ORO N 471.2 Change 1

Date: 04-10-98

Expires: 03-05-99

**SUBJECT: TECHNICAL SURVEILLANCE COUNTERMEASURES (TSCM) PROGRAM -
Use of Telephone Lineman-type Handsets or Items Similar in Purpose, Use, or Effect on DOE-
owned or -Leased Property**

This Notice correlates to DOE 471.2, Attachment 1, of 9-26-95 and its Supplementary Directives. It also cancels OR 5636.3B, dated September 9, 1987, which was inadvertently omitted in this previous publication.

Except as noted below, the use and possession, on DOE-owned or leased property, of telephone handsets or similar devices to intercept telephone conversations and tap wire communications are prohibited. The unauthorized manufacture, assembly, procurement, or use of equipment which can be employed to intercept communications, including telephone conversations, is a violation of Federal law. Persons employed to maintain telecommunication systems may use such equipment only in the performance of their assigned duties.

The penalties for violation of Federal law are serious. Title 18 of the United States Code (USC), Chapter 119, Sections 2511 and 2512 (copy attached), provide stiff penalties for violators, including fines, imprisonment, and suit. Also, Title 18 USC 2513 states, "Any electronic, mechanical or other device used, sent, carried, manufactured, assembled, possessed, sold, or advertised in violation of Section 2511 or Section 2512 ... may be seized and forfeited to the United States." The only EXCEPTIONS to this action are those bon fide employees of telecommunications common carriers who are authorized to possess and use such equipment as necessary in the performance of their official duties.

DOE Operating Contractors may execute a formal written agreement with their local telephone company(ies) allowing selected contractor telecommunications specialists to perform telephone lineman functions. These functions must be in support of the local common carrier and may include the installation, repair, and maintenance of telephones and related equipment. The designated specialists may be authorized to use telephone handsets to perform their duties only under controlled conditions and when use is governed by approved procedures.

Any questions should be directed to the Oak Ridge Operations Office Safeguards and Security Division (423/576-1858 or 423/576-0914 or the Lockheed Martin Energy Systems Technical Surveillance Countermeasures (TSCM) Officer (423-574-9434).

Original signed by

William G. Phelps, Director
Safeguards and Security Division

Attachment: Title 18 USC, Chapter 119
Sections 2510, 2511, 2512, and 2513

Title 18
United States Code

Chapter 119 - Wire Interception & Interception of Oral Communications

Sections:

- 2510. Definitions.
- 2511. Interception and disclosure of wire or oral communications prohibited.
- 2512. Manufacture, distribution, possession, and advertising of wire or oral communication intercepting devices prohibited.
- 2513. Confiscation of wire or oral communications intercepting devices.

2510. Definitions

As used in this chapter--

- (1) "wire communication" means any communication made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable or other like connection between the point of origin and the point of reception furnished or operated by any person engaged as a common carrier in providing or operating such facilities for the transmission of interstate or foreign communications;
- (2) "oral communication" means any oral communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation;
- (3) "intercept" means the aural acquisition of the contents of any wire or oral communication through the use of any electronic, mechanical, or other device.
- (4) "electronic, mechanical, or other device" means any device or apparatus which can be used to intercept a wire or oral communication other than--

2510. Continued

(a) any telephone or telegraph instrument, equipment or facility, or any component thereof, (i) furnished to the subscriber or user by a communications common carrier in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business; or (ii) being used by a communication common carrier in the ordinary course of its business, or by an investigative or law enforcement officer in the ordinary course of his duties;

(5) "Investigative or law enforcement officer" means any officer of the United States or of a State or political subdivision thereof, who is empowered by law to conduct investigations of or to make arrests for offenses enumerated in this chapter, and any attorney authorized by law to prosecute or participate in the prosecution of such offenses;

(6) "communication common carrier" means any person engaged as a common carrier for hire in interstate or foreign communication by wire or radio or interstate or foreign radio transmission of energy, except a person engaged in commercial radio broadcasting.

2511. Interception & disclosure of wire or oral communications prohibited.

(1) Except as otherwise specifically provided in this chapter any person who--

(a) willfully intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept, any wire or oral communication;

(b) willfully uses, endeavors to use, or procures any other person to use or endeavor to use any electronic, mechanical, or other device to intercept any oral communication when--

(i) such device is affixed to, or otherwise transmits a signal through, a wire, cable, or other like connection used in wire communications; or

2511. Continued

(ii) such device transmits communications by radio, or interferes with the transmission of such communications; or

(iii) such person knows, or has reason to know, that such device or any component thereof has been sent through the mail or transported in interstate or foreign commerce; or

(iv) such use or endeavor to use (A) takes place on the premises of any business or other commercial establishment the operations of which affect interstate or foreign commerce; or (B) obtains or is for the purpose of obtaining information relating to the operations of any business or other commercial establishment the operations of which affect interstate or foreign commerce; or

(c) willfully discloses, or endeavors to disclose, to any other person the contents of any wire or oral communication, knowing or having reason to know that the information was obtained through the interception of a wire or oral communication is in violation of this subsection; or

(d) willfully uses or endeavors to use, the contents of any wire or oral communication, knowing or having reason to know that the information was obtained through the interception of wire or oral communication in violation of this subsection;

shall be fined not more than \$10,000 or imprisoned not more than five (5) years, or both.

(2)(a)(i) It shall not be unlawful under this chapter for an operator of a switchboard, or an officer, employee, or agent of any communication common carrier, whose facilities are used in the transmission of a wire communication, to intercept, disclose, or use that communication in the normal course of his employment while engaged in any activity which is a necessary incident to the rendition of his service or the protection of the rights or property of the carrier of such communication: Provided, That said communication common carrier shall not utilize service observing or random monitoring except for mechanical or service quality control checks.

2512. Manufacture, distribution, possession, and advertising of wire or oral communication intercepting devices prohibited

2512. Manufacture, distribution, possession, and advertising of wire or oral communication intercepting devices prohibited.

(1) Except as otherwise specifically provided in this chapter, any person who willfully--

(c)(ii) any electronic, mechanical, or other device knowing or having reason to know that the design of such device renders it primarily useful for the purpose of the surreptitious interception of wire or oral communications;

(2) It shall not be unlawful under this section for--

(a) a communications common carrier or an officer, agent, or employee of, or a person under contract with, a communications common carrier, in the normal course of the communications common carrier's business.

2513. Confiscation of wire or oral communications intercepting devices.

Any electronic, mechanical, or other device used, sent, carried, manufactured, assembled, possessed, sold, or advertised in violation of section 2511 or section 2512 of this chapter may be seized and forfeited to the United States.