

States of the Union

THE NEW 'STANDARD POLICE PRACTICE'

BY RICHARD J. MARGOLIS

"The people never give up their liberties but under some delusion."

—EDMUND BURKE

WILTON, CONNECTICUT
THEY POURED concrete today for our new, half-million-dollar police station behind Town Hall. I watched them awhile, and wondered how many individual liberties of the sort Burke treasured we were inadvertently burying in the wet cement. Something is quietly occurring here that, in its municipally folksy way, is as dangerous as Watergate and as subversive of our system of justice as would be repeal of the Fifth Amendment.

The station *per se* is not the problem. Nearly everyone in the community understands that our 28-man police force, presently housed in the Town Hall cellar, requires a better facility. Last year Wilton's police investigated more than 2,300 cases, including 615 automobile accidents, 132 breakings and enterings, 168 larcenies, 100 breaches of the peace, and 40 instances of missing persons. They deserve an adequate place in which to work.

The new headquarters will contain four jail cells—waystops for persons

arrested too late in the day to be arraigned, or for drivers considered too drunk to proceed safely. These citizens will be detained overnight; in the morning they will face a judge. Nothing wrong with that. But the ceiling above the cells will have two hidden microphones—concealed bugs—wired to a receiving set in another part of the station. On the builder's blueprints the microphones are designated as "overhear devices."

I find this incredible. Can it be that we in Wilton have grown so indifferent to civil liberties, our own as well as others', that we now draw bugs on our blueprints? Is that what we mean by long-range planning? No spur-of-the-moment spying?

Other people in town are also troubled. Yet when word got back to our police chief, Robert J. Northcott, that we were worrying about the bugs, his first response was, "How did they find out? Nobody's supposed to know." President Nixon had the same reaction when Daniel Ellsberg unveiled the Pentagon Papers. He instinctively preferred secrecy to publicity.

People tell me that Chief Northcott is a decent man, and I have no

reason to doubt their word. A few days ago a friend and I went to see him. He received us cordially. "It's not a bug," he told us, "it's an overhear system. Most jails use them. It's the usual police procedure."

The Chief explained that the microphones were being placed in the ceiling for the prisoners' own good. For example: "What if an intoxicated man was sick? He could choke to death on his own vomit. That's been known to happen. With an overhear system our officer could hear him and bring him assistance."

My companion said, "But if the microphone is for the man's own good, why don't you tell him about it in advance, when he enters the cell?"

The Chief smiled and shook his head. "That's not standard police practice," he replied.

To learn more about what is "standard" I called an expert, Frank Donner, who is completing a book on surveillance methods in America. He had never heard of bugged cells. Another equally reliable source, however—who requested anonymity—said he knew for a fact that the police department in Cheshire, Con-

necticut, hides a microphone in the interview room where prisoners confer with their lawyers, and secretly tapes the conversations. (The Cheshire police would neither confirm nor deny.) And in Stratford, he added, the cells are monitored by a TV camera with a microphone attached. Prisoners delight in throwing coffee at the camera lens.

In any case, "standard police practice" does not excuse secret and unsavory policies. In the end, the phrase serves as a soporific catch-all, promoting the illusion among citizens that they need not ask hard questions, that they are in good hands with the State.

After our talk with Chief Northcott I called Janet Knauth, a member of the town's three-person Police Commission. The commission is supposed to set policy for our police force the way the Board of Education sets policy for our schools. They represent the public. Mrs. Knauth is the only female police commissioner in Connecticut, possibly in the world.

She told me she had already raised the question with the other commissioners, and they had decided "the advantages of an overhear system outweighed the disadvantages." One of the commissioners is a lawyer. He assured Mrs. Knauth that the microphones would be legal because prisoners do not have the same rights as other citizens.

Perhaps somebody should have pointed out to him that Wilton's jail is being built to detain individuals who have not yet been arraigned, much less indicted, much less convicted, and every schoolchild knows that a bedrock of American justice is the presumption of innocence. Moreover, if we invade a man's privacy on the grounds that he is a prisoner, and therefore less a man, we instantly invite the next step—invading a man's privacy because he is under suspicion, i.e., because he is a *potential* prisoner.

During the Watergate spectacle we have heard operatives like Bar-

ker and McCord blandly explain that they based their criminal acts on suspicions that the Democrats were consorting with Castro. There was no harm in a bit of illegal wiretapping, they reasoned, if it would rescue the country from the clutches of a foreign enemy.

IN FRENCH jurisprudence a man is considered guilty until proven innocent. Do we want that? It makes for an unfair fight; it also renders the defendant fair game for certain "standard police practices." A few weeks ago, ac-



cording to the *New York Times*, a government official in Paris warned the French Senate that government wiretapping "was none of its affair. He reaffirmed that the taps would continue in a wide variety of cases." In Wilton, the bugs on the blueprints were to be none of our affair. They were strictly police business.

I next telephoned Robert Meek, chairman of the Citizens' Building Committee, which is entrusted with keeping a sharp eye on construction of the police station. "I see your point," he said to me. "I don't believe in this Big Brother stuff. Even with my own kids I wouldn't dream of picking up the extension and lis-

tening in on their phone conversations."

That much said, he nevertheless went on: "It's maybe too fine a point. My job is to see that the building gets completed on time and within budget. I'm there to serve the police chief and the commission.

"Actually," he concluded, "I can't get too excited about the overhear system one way or the other. I know Chief Northcott won't abuse it; he's a good man. Besides, if a person's innocent, what has he got to fear? And if he's guilty. . . ."

After those phone calls I was more worried than ever. As Judge Learned Hand observed, "That community is already in the process of dissolution where each man begins to eye his neighbor as a possible enemy. . . ."

I would like to forget the bugs and move on to points less fine. Why should I carp at the work of honorable men like Bob Meek and Chief Northcott who are trying to accomplish something useful for the town? Still, instead of forgetting, I continue to read up on the law and find quotations suitable to the occasion. "The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding." That was Justice Louis Brandeis in 1928; he was talking, of all things, about wiretapping.

In a comment concerning the same Supreme Court case, Justice Holmes labeled wiretapping "a dirty business," and expressed the opinion that it was "less evil than some criminals escape than that the government should play an ignoble part."

Yesterday I called the Connecticut Civil Liberties Union in Hartford. They agreed that what Wilton plans to do in its jail is "a dirty business." They may investigate; I hope they do. Meanwhile, construction on the new police station, future home of the new "standard police practice," is continuing—on schedule and within budget.