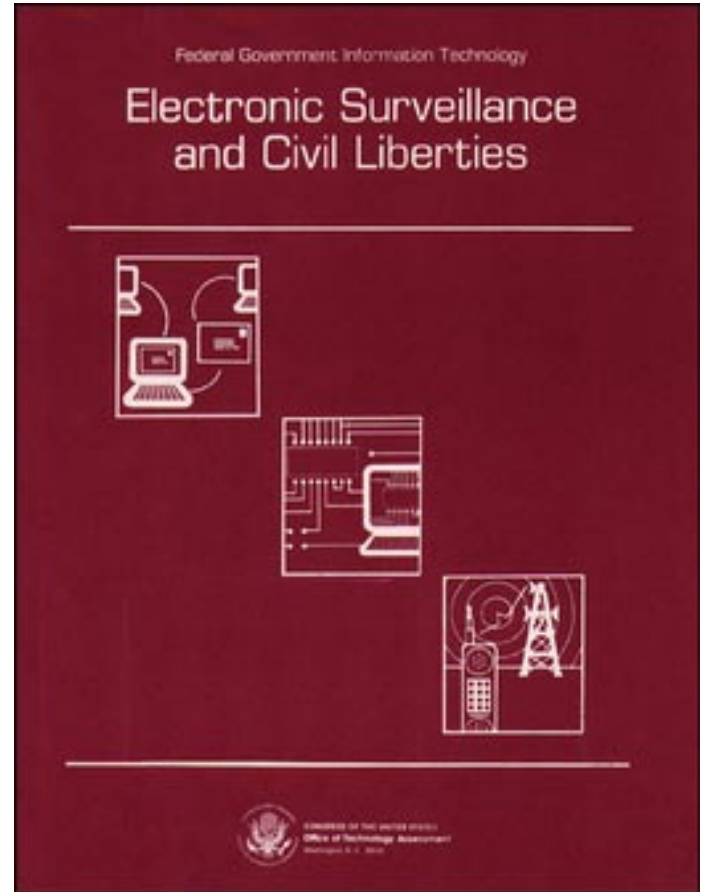


Electronic Surveillance and Civil Liberties

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Foreword

Public policy on the use of information technology to electronically monitor individual movements, actions, and communications has been based on a careful balancing of the civil liberty versus law enforcement or investigative interests. New technologies—such as data transmission, electronic mail, cellular and cordless telephones, and miniature cameras—have outstripped the existing statutory framework for balancing these interests.

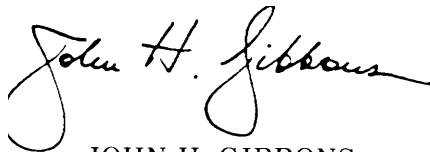
The primary technical focus of this report is on technological developments in the basic communication and information infrastructure of the United States that present new or changed opportunities for and vulnerabilities to electronic surveillance, not on the details of specific surveillance devices. The primary policy focus is on domestic law enforcement and investigative applications, not on foreign intelligence and counterintelligence applications.

Thus, this report addresses four major areas: 1) technological developments relevant to electronic surveillance; 2) current and prospective Federal agency use of surveillance technologies; 3) the interaction of technology and public law in the area of electronic surveillance, with special attention to the balancing of civil liberty and investigative interests; and 4) policy options that warrant congressional consideration, including the amendment of existing public law to eliminate gaps and ambiguities in current legal protections.

Conducted at the request of the House Committee on the Judiciary, Subcommittee on Courts, Civil Liberties, and the Administration of Justice, and the Senate Committee on Governmental Affairs, this report is one component of the OTA assessment of “Federal Government Information Technology: Congressional Oversight and Civil Liberties. Other topics covered in the assessment include: information technology management, planning, procurement, and security; computer crime; computer matching and privacy; electronic dissemination of Government information; and computer-based decision support, modeling, and Government foresight. These will be published under separate cover.

In preparing this report on electronic surveillance, OTA has drawn on working papers developed by OTA staff and contractors, the comments of participants at an OTA workshop on this topic, and the results of an OTA Federal Agency Data Request that was completed by over 140 agency components. The draft of this report was reviewed by the OTA project advisory panel, officials from the U.S. Department of Justice, and a broad spectrum of interested individuals from the governmental, academic, private industry, and civil liberty communities.

OTA appreciates the participation of the advisory panelists, workshop participants, external reviewers, Federal agency officials, and others who helped bring this report to fruition. The report itself, however, is solely the responsibility of OTA, not of those who so ably advised and assisted us in its preparation.



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NOTE: OTA appreciates and is grateful for the valuable assistance and thoughtful critiques provided by these advisory panel members. The views expressed in this OTA report, however, are the sole responsibility of the Office of Technology Assessment.

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