

ANTI-WIRETAPPING ACT

Republic Act 4200

by: Relea Grace B. Salak



Policy

An act to prohibit and penalize wiretapping and other related violations of the privacy of communication, and for other purposes.

Section 1. It shall be unlawful for any person, not being authorized by all the parties to any private communication or spoken word, to tap any wire or cable, or by using any other device or arrangement, to secretly overhear, intercept, or record such communication or spoken word by using a device commonly known as a dictaphone or dictagraph or detectaphone or walkie-talkie or tape recorder, or however otherwise described:

Policy (cont...)

It shall also be unlawful for any person, be he a participant or not in the act or acts penalized in the next preceding sentence, to knowingly possess any tape record, wire record, disc record, or any other such record, or copies thereof, of any communication or spoken word secured either before or after the effective date of this Act in the manner prohibited by this law; or to replay the same for any other person or persons; or to communicate the contents thereof, either verbally or in writing, or to furnish transcriptions thereof, whether complete or partial, to any other person: *Provided*, That the use of such record or any copies thereof as evidence in any civil, criminal investigation or trial of offenses mentioned in section 3 hereof, shall not be covered by this prohibition.

Policy (cont...)

Section 2. Any person who willfully or knowingly does or who shall aid, permit, or cause to be done any of the acts declared to be unlawful in the preceding section or who violates the provisions of the following section or of any order issued thereunder, or aids, permits, or causes such violation shall, upon conviction thereof, be punished by imprisonment for not less than six months or more than six years and with the accessory penalty of perpetual absolute disqualification from public office if the offender be a public official at the time of the commission of the offense, and, if the offender is an alien he shall be subject to deportation proceedings.

Policy (cont...)

Section 3. Nothing contained in this Act, however, shall render it unlawful or punishable for any peace officer, who is authorized by a written order of the Court, to execute any of the acts declared to be unlawful in the two preceding sections in cases involving the crimes of treason, espionage, provoking war and disloyalty in case of war, piracy, mutiny in the high seas, rebellion, conspiracy and proposal to commit rebellion, inciting to rebellion, sedition, conspiracy to commit sedition, inciting to sedition, kidnapping as defined by the Revised Penal Code, and violations of Commonwealth Act No. 616, punishing espionage and other offenses against national security.

Provided, That such written order shall only be issued or granted upon written application and the examination under oath or affirmation of the applicant and the witnesses he may produce and a showing:

(1) that there are reasonable grounds to believe that any of the crimes enumerated hereinabove has been committed or is being committed or is about to be committed: *Provided, however*, That in cases involving the offenses of rebellion, conspiracy and proposal to commit rebellion, inciting to rebellion, sedition, conspiracy to commit sedition, and inciting to sedition, such authority shall be granted only upon prior proof that a rebellion or acts of sedition, as the case may be, have actually been or are being committed;

(2) that there are reasonable grounds to believe that evidence will be obtained essential to the conviction of any person for, or to the solution of, or to the prevention of, any such crimes; and

(3) that there are no other means readily available for obtaining such evidence.

The order granted or issued shall specify:

(1) the identity of the person or persons whose communications, conversations, discussions, or spoken words are to be overheard, intercepted, or recorded and, in the case of telegraphic or telephonic communications, the telegraph line or the telephone number involved and its location;

(2) the identity of the peace officer authorized to overhear, intercept, or record the communications, conversations, discussions, or spoken words;

(3) the offense or offenses committed or sought to be prevented; and

(4) the period of the authorization. The authorization shall be effective for the period specified in the order which shall not exceed sixty (60) days from the date of issuance of the order, unless extended or renewed by the court upon being satisfied that such extension or renewal is in the public interest.

- All recordings made under court authorization shall, within forty-eight hours after the expiration of the period fixed in the order, be deposited with the court in a sealed envelope or sealed package, and shall be accompanied by an affidavit of the peace officer granted such authority stating the number of recordings made, the dates and times covered by each recording, the number of tapes, discs, or records included in the deposit, and certifying that no duplicates or copies of the whole or any part thereof have been made, or if made, that all such duplicates or copies are included in the envelope or package deposited with the court. The envelope or package so deposited shall not be opened, or the recordings replayed, or used in evidence, or their contents revealed, except upon order of the court, which shall not be granted except upon motion, with due notice and opportunity to be heard to the person or persons whose conversation or communications have been recorded.

- The court referred to in this section shall be understood to mean the Court of First Instance within whose territorial jurisdiction the acts for which authority is applied for are to be executed.

Policy (cont...)

Section 4. Any communication or spoken word, or the existence, contents, substance, purport, effect, or meaning of the same or any part thereof, or any information therein contained obtained or secured by any person in violation of the preceding sections of this Act shall not be admissible in evidence in any judicial, quasi-judicial, legislative or administrative hearing or investigation.

Policy (cont...)

Section 5. All laws inconsistent with the provisions of this Act are hereby repealed or accordingly amended.

Section 6. This Act shall take effect upon its approval.

Purpose/Rationale

- authored by by Senator Lorenzo Tañada.
- passed in the Congress in 1965.
- Approved: June 09, 1965
- enacted in consonance with the constitutionally guaranteed right of privacy of communication.
- intends to stop the practice by officers of the government of spying on one another

RESTRICTIONS

- *The law does not prohibit the recording of all private communications, but provides a limited and narrowly drawn exception for law enforcers.*
- *The law does not prohibit the recording of private communications that are authorized by ALL parties.*

Jurisprudence

“Hello Garci” Case

- On June 6, 2005, Sec. Ignacio Bunye made known to the public the existence of wiretapped recordings of alleged cellphone conversations between Pres. Gloria Macapagal Arroyo and Comelec Commissioner Virgilio Garcillano.

- Sec. Bunye violated RA 4200 because...
 - he knowingly possessed illegally wiretapped recordings of the Commander in Chief and a Comelec Commissioner;
 - he played it for many persons in the Mass Media; and
 - he allowed the reporters and journalists to make digital copies of the two CDROMs.



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