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Court Says FBI Can Use Your Cell Phone To Spy... On You

by Vic Walter and Krista Kjellman, ABC News

Cell phone users, beware. The FBI can listen to everything you say, even when the cell phone is turned off.

A recent court ruling in a case against the Genovese crime family revealed that the FBI has the ability from a remote location to activate a cell phone and turn its microphone into a listening device that transmits to an FBI listening post, a method known as a "roving bug." Experts say the only way to defeat it is to remove the cell phone battery.



Can You Hear Me Now?

"The FBI can access cell phones and modify them remotely without ever having to physically handle them," James Atkinson, a counterintelligence security consultant, told ABC News. "Any recently manufactured cell phone has a built-in tracking device, which can allow eavesdroppers to pinpoint someone's location to within just a few feet," he added.

According to the recent court ruling by U.S. District Court Judge Lewis Kaplan, "The device functioned whether the phone was powered on or off, intercepting conversations within its range wherever it happened to be."

The court ruling denied motions by 10 defendants to suppress the conversations obtained by "roving bugs" on the phones of John Ardito, a high-ranking member of the family, and Peter Peluso, an attorney and close associate of Ardito, who later cooperated with the government. The "roving bugs" were approved by a judge after the more conventional bugs planted at specified locations were discovered by members of the crime family, who then started to conduct their business dealings in several additional locations, including more restaurants, cars, a doctor's office and public streets.

"The courts have given law enforcement a blank check for surveillance," Richard Rehbock, attorney for defendant John Ardito, told ABC News.

Judge Kaplan's ruling said otherwise. "While a mobile device makes interception easier and less costly to accomplish than a stationary one, this does not mean that it implicated new or different privacy concerns." He continued, "It simply dispenses with the need for repeated installations and surreptitious entries into buildings. It does not invade zones of privacy that the government could not reach by more conventional means."

But Rehbock disagrees. "Big Brother is upon us...1984 happened a long time ago," he said, referring to the George Orwell futuristic novel "1984," which described a society whose members

were closely watched by those in power and was published in 1949.

The FBI maintains the methods used in its investigation of the Genovese family are within the law. "The FBI does not discuss sensitive surveillance techniques other than to emphasize that any electronic surveillance is done pursuant to a court order and ongoing judicial scrutiny," Agent Jim Margolin told ABC News.



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