

Tick Talks Case

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WHENEVER hard-won evidence is suppressed in court, there are — to borrow an expression — no winners, only losers. This is the sad state of affairs of Operation Tick Talks, a most ambitious investigation of cocaine trafficking among dozens of suspects targeted by Miami and Coral Gables police.

After reviewing the proceedings of an eight-week evidentiary hearing and other documents, Circuit Judge Gerald Kogan concluded the other day that information gathered by telephone wiretap in Tick Talks must be rejected. The evidence is legally contaminated, the judge ruled, because police deliberately violated basic procedures in gathering it. Tainted fruit from a tainted tree.

The ruling places the case in serious jeopardy. "The state can't go to trial without evidence," said the prosecutor. The state attorney promises to decide soon whether to appeal the judge's ruling.

That prospect does not obviate the disturbing pattern of police neglect painted by the judge in his lengthy opinion. "The court finds that good faith . . . was totally lacking," Judge Kogan wrote.

A primary problem was the star witness, Ricardo "Monkey" Morales, whose extensive criminal background police

neglected to include in their request for wiretap permission. Mr. Morales has admitted to premeditated murder, attempted murder, multiple bombings, narcotics dealings, and a role in the bombing of a jetliner that killed 73 persons in October 1976. On none of these charges will Mr. Morales be prosecuted, principally because the statute of limitations has expired on most, and evidence is lacking on the others.

It is needless to speculate how a judge would have ruled on the wiretap request had he had full knowledge of Mr. Morales's past, especially his proclivity for bombast and selling his services to the highest bidder. The point is that police ended up making decisions specifically reserved in law for judicial oversight.

Worse still, by Judge Kogan's analysis, police exhausted none of the usual investigative techniques of routine police work, opting instead to seek first the wiretaps. That violates the legal safeguards designed to keep electronic surveillance "an extraordinary tool of last resort."

Former U.S. Supreme Court Justice Louis Brandeis's thoughts on governmental excess are appropriate here: "If the government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy."