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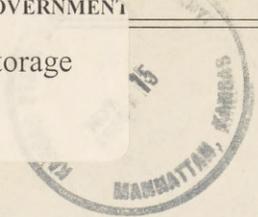
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ABUSIVE AND HARASSING TELEPHONE CALLS

GOVERNMENT

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HEARINGS BEFORE THE SUBCOMMITTEE ON COMMUNICATIONS OF THE COMMITTEE ON COMMERCE UNITED STATES SENATE EIGHTY-NINTH CONGRESS

SECOND SESSION

ON

S. 2825 and S. 3072

BILLS THAT WOULD AMEND THE COMMUNICATIONS ACT
OF 1934 WITH RESPECT TO OBSCENE OR HARASSING TELE-
PHONE CALLS IN INTERSTATE OR FOREIGN COMMERCE

MAY 11 AND JUNE 14, 1966

Serial 89-68

Printed for the use of the Committee on Commerce



U.S. GOVERNMENT PRINTING OFFICE

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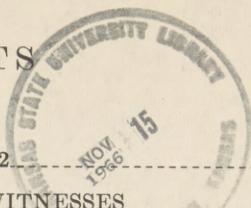
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CONTENTS



Text of S. 2825, S. 2825 amendment, and S. 3072-----	Page 3, 4
--	--------------

ALPHABETICAL LIST OF WITNESSES

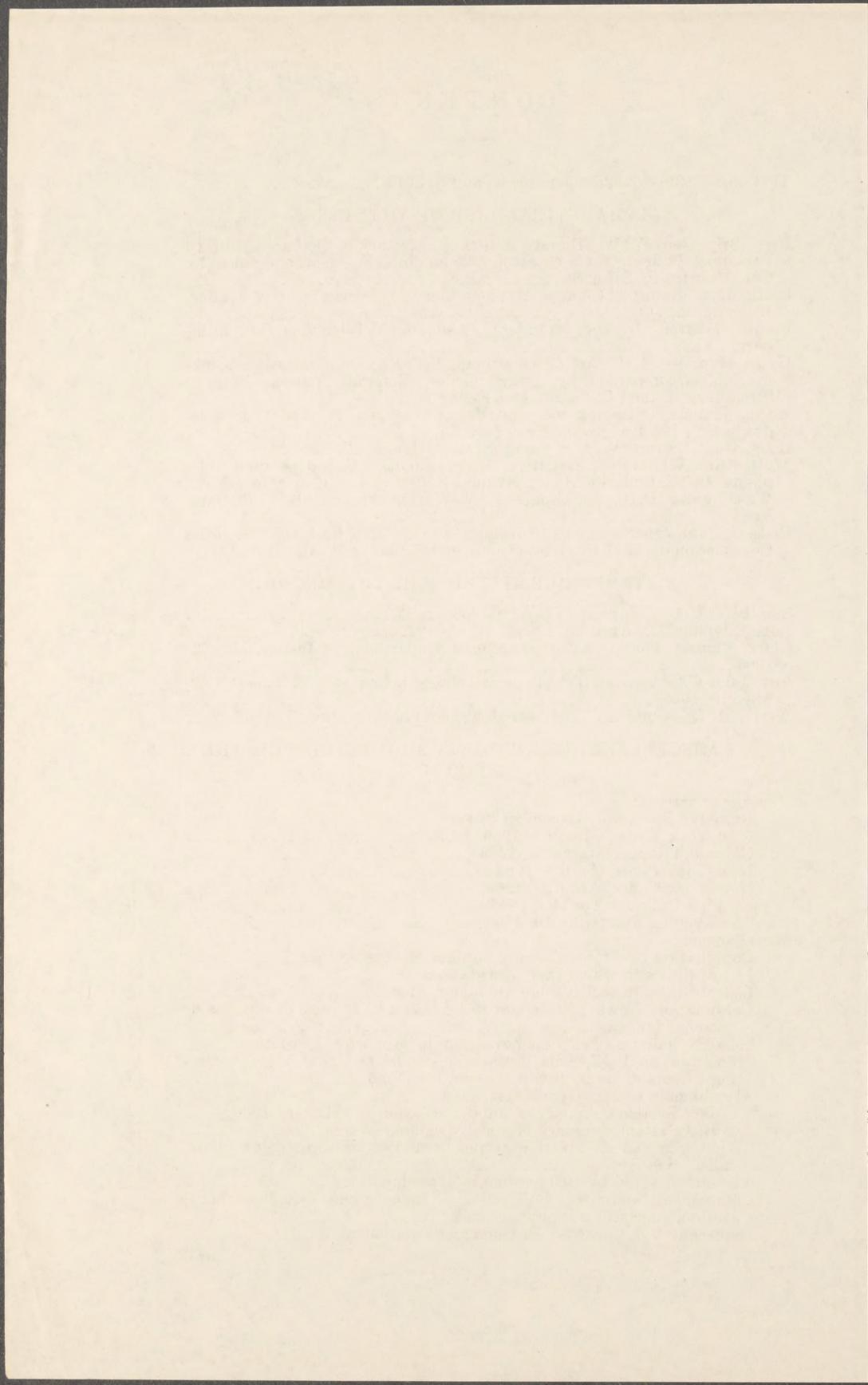
Berg, Brig. Gen. W. W., Deputy Assistant Secretary of Defense (Military Personnel Policy), the Pentagon, Washington, D.C., accompanied by Col. Manrico P. DiFusco-----	24
Clark, Hon. Ramsey, Deputy Attorney General, Department of Justice, Washington, D.C.-----	66
French, Warren, Jr., vice president, Shenandoah Telephone Co., Edinburg, Va-----	59
Hyde, Hon. Rosel H., Acting Chairman, Federal Communications Commission, accompanied by Henry Geller, General Counsel; Bernard Strassburg, Daniel Ohlbaum, and Kelley Griffith-----	17
Kertz, Hubert, operating vice president, American Telephone & Telegraph Co., 195 Broadway, New York City-----	28
Long, Hon. Edward V., U.S. Senator from Missouri-----	10
Mott, Adm. William C., executive vice president, U.S. Independent Telephone Association, 438 Pennsylvania Building, 425 13th Street NW., Washington, D.C., accompanied by Warren French, Jr., Edinburg, Va-----	45
Rodgers, Paul, general counsel, National Association of Railroad & Utilities Commissioners, 3327 Interstate Commerce Building, Washington, D.C.-----	60

LETTERS SUBMITTED FOR THE RECORD

Smathers, Hon. George A., May 11, 1966-----	8
Long, Stephen M., April 30, 1966-----	8
Clark, Ramsey, Deputy Attorney General, Department of Justice, May 11, 1966-----	27
Fox, John G., American Telephone & Telegraph Co., 1730 K Street NW., May 16, 1966-----	72
Kertz, H. L., American Telephone & Telegraph Co., May 27, 1966-----	43

MISCELLANEOUS ARTICLES SUBMITTED FOR THE RECORD

Newspaper articles:	
Brooklyn Spectator, December 3, 1965-----	4
New York Times, March 3, 1966-----	4
Chicago Tribune, March 25, 1966-----	5
New York Times, April 4, 1966-----	6
New York Times, April 27, 1966-----	7
Evening Bulletin, April 28, 1966-----	9
The Evening Star, May 10, 1966-----	10
Miscellaneous:	
Compilation by States showing number of abusive calls-----	14
List of States in which there are statutes-----	15
List of States in which there are no statutes-----	15
Compilation showing State statutes relating to the use of obscene or indecent language-----	16
Senator Claiborne Pell's memorandum in support of legislation-----	17
Memorandum, FCC, citing prosecutions under 18 U.S.C. 875(c) involving threats made by use of interstate telephone-----	19
Attachments to Mr. Hyde's statement:	
Bell System summary of annoyance calling, February 1966-----	22
Bell System summary of abusive calling, March 1966-----	22
"What you can do about obscene, harassing, or threatening phone calls," Bell System-----	36-42
Amount invested by Bell System in experiments-----	43
Commercial Committee Bulletin, U.S. Independent Telephone Association, concerning annoyance calls-----	47
Representative Cornelius E. Gallagher's statement-----	73



ABUSIVE AND HARASSING TELEPHONE CALLS

WEDNESDAY, MAY 11, 1966

U.S. SENATE,
COMMITTEE ON COMMERCE,
SUBCOMMITTEE ON COMMUNICATIONS,
Washington, D.C.

The subcommittee met, pursuant to call, at 10 a.m., in room 5110, New Senate Office Building, Hon. John O. Pastore (chairman of the subcommittee) presiding.

Senator PASTORE. The hour of 10 having been reached, at which time this hearing was scheduled, the hearing will come to order.

During the hearings conducted by this subcommittee last November, the growing practice of using the telephone for abusive and obscene purposes was dramatically revealed. The most glowing and vicious of the various examples involved the malicious calls made to families with a loved one killed or wounded in Vietnam where the anonymous caller uses obscene or abusive language or gloats over the death of the serviceman involved.

I asked the Federal Communications Commission to look into this matter of obscene and harassing telephone calls. In its report to me in January of this year, the Commission indicated that the Bell System received approximately 375,000 complaints a year concerning abusive telephone calls that threaten or harass the recipients.

It was also revealed that only 38 States had statutes making it a crime to make such calls. Most of the statutes are classed as misdemeanors with fines ranging from \$100 to \$500 and with prison terms ranging from 90 days to 2 years.

Incidentally, each of these 38 statutes has been incorporated and printed in full in the hearing record this committee developed last November regarding the anonymous recorded telephone messages.

Most important, however, was the disclosure that there is no Federal statute covering threatening, harassing, or abusive telephone calls.

Over and above the fact that there were 12 States without statutes on this subject, the significance of the interstate nature of the problem becomes more obvious when one turns to a metropolitan area like Washington, D.C. It has Virginia and Maryland on its borders. This, of course, is true of many States as well. Here it is simple to dial from one area to another area. With direct dialing a way of operation in telephony, a call from one area to another is merely a simple dialing maneuver. This immediately raises jurisdictional questions.

In view of the fact that the Federal Government has undertaken under the Communications Act of 1934 to establish a comprehensive

Staff counsel assigned to this hearing: Nicholas Zapple.

scheme of regulation of the telephone system, it is logical that this obvious loophole regarding the interstate use of threatening and abusive purposes must be closed. This is the primary purpose of my bill, S. 2825, and S. 3072, introduced by my distinguished colleague from Missouri, Senator Edward Long.

Since the introduction of S. 2825, this problem has grown in leaps and bounds. For instance, in the April 27 issue of the New York Times there appears the following statement:

Crank telephone calls—some obscene, some threatening, all annoying—have become so epidemic and evil that the New York Telephone Company has set up an Annoyance Call Bureau to shield the victims.

This bureau, created five weeks ago, already has received more than 1,000 complaints.

The crank trend is up. Last year the Bureau of Policewomen of the Police Department recorded 11,810 complaints from women who had received obscene calls. That was a 30 per cent increase over 1964.

The New England Telephone Co. has estimated that 1,500 abusive calls a month are made in its area.

In order to assist in the apprehension of these anonymous, abusive callers, the Bell System has developed new techniques to trace these calls:

One is a tone set, a box equipped with an on-and-off switch. The box is connected by a wire to the annoyed customer's phone on the customer's premises.

When a crank call is received, the customer flips a switch which places a 20,000-cycle tone on the circuit and also activates an alarm in the central office, alerting a switchman on duty to start tracing the call. This tone cannot be heard by either party but the switchman can pick it up on a test set that expedites his tracing procedures.

2 Other Devices:

Another device is a pen register attached to the line of a prime suspect in a crank-call case. This instrument records the time, the call for later comparison with the complainant's log.

A third device, mounted in a central office, puts the calling number, called number, date and time on a punch card.

The telephone company representatives will give the committee a demonstration of these new techniques later this morning.

I want to make it perfectly clear that there is no effort on my part to limit the freedom of speech as it applies to the use of the telephone. It would be unwise to place severe limitations on the use of telephones. This is why I have endeavored to be as specific in the legislation as one possibly can, but at the same time recognizing the gaping loophole that must be closed if we are to avoid the abusive and threatening calls that are increasing as each day goes by.

Take, for example, the dreadful telephone call received by Mrs. Edna Klobe of Festus, Mo., on February 19. The anonymous caller said that he was from the War Department and this is what he said, and this is a quote:

Your son has been wounded in Vietnam. He is being transferred to the New York Naval Hospital and you are wanted there immediately.

Mrs. Klobe, 45 years old, has a weak heart, but she chose to carry the burden alone. She didn't want to worry her husband. After a careful check, it was established that the call had been a fake and that the young boy was safe and healthy.

In my judgment there is no penalty too strong to impose on a warped individual who taunts a widow or parent about the death or health of their loved ones in Vietnam. This is cruel and vicious.

I am hopeful that at the conclusion of this hearing that, so far as the Federal level is concerned, appropriate penalties will be adopted and the statutory gap closed.

At this point I want to make a part of the record the following items: Text of S. 2825 and S. 3072; newspaper articles from the Brooklyn Spectator, December 3, 1965; New York Times, March 3, 1966; Chicago Tribune, March 25, 1966; New York Times, April 4, 1966, and New York Times, April 27, 1966. Also, letters from Senator George A. Smathers dated May 11, 1966, and Mr. Stephen M. Long of San Francisco, Calif., dated April 30, 1966, and an article from the Evening Bulletin, Providence, April 28, 1966.

(The material referred to follows:)

[S. 2825, 89th Cong., 2d sess.]

A BILL To amend the Communications Act of 1934 with respect to obscene or harassing telephone calls in interstate or foreign commerce

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title II of the Communications Act of 1934, as amended, is further amended by adding at the end thereof the following new section:

"SEC. 223. OBSCENE OR HARASSING TELEPHONE CALLS IN INTERSTATE OR FOREIGN COMMERCE.—Whoever by means of telephone communication in interstate or foreign commerce—

"(i) makes any comment, request, suggestion, or proposal which is obscene, lewd, lascivious, filthy, or indecent; or

"(ii) anonymously makes a call or calls in a manner reasonably to be expected to annoy, abuse, torment, threaten, harass, or embarrass one or more persons, or

"(iii) makes repeated calls with intent to annoy, abuse, torment, threaten, harass, or embarrass one or more persons; or

"(iv) knowingly permits any telephone under his control to be used for any purpose prohibited by this section—

shall be fined not more than \$1,000 or imprisoned not more than one year, or both. Each such telephone call or use shall constitute a separate offense."

[S. 2825, 89th Cong., 2d sess.]

AMENDMENT Intended to be proposed by Mr. Smathers to S. 2825, a bill to amend the Communications Act of 1934 with respect to obscene or harassing telephone calls in interstate or foreign commerce, viz: At the end of the bill add a new section as follows:

SEC. 2. Section 12 of the Universal Military Training and Service Act, as amended (50 App. U.S.C. 452), is amended by inserting immediately before "or who conspires to commit any one or more of such offenses", the following: "or any person or persons who distribute or attempt to distribute any written or printed matter which counsels, advises, or urges individuals subject to the provisions of this title to evade or refuse registration or service in the Armed Forces, or to refuse to comply with or evade any of the requirements of this title, or of any rule, regulation, or direction issued pursuant to this title, or who knowingly counsel, advise, or urge the parent, guardian, or wife of an individual subject to the provisions of this title to counsel, advise, or urge such individual to refuse or evade registration or service in the Armed Forces, or to refuse to comply with or evade any of the requirements of this title, or of any rule, regulation, or direction issued pursuant to this title, or who knowingly counsel, advise, or urge the parent, guardian, or wife of any individual subject to the provisions of this title to counsel, advise, or urge such individual to refuse or evade registration or service in the Armed Forces, or to refuse to comply with or evade any of the requirements of this title, or of any rule, regulation, or direction issued pursuant to this title, or who knowingly counsels, advises, or urges any individual or individuals subject to the provisions of this title to refuse or evade registration or service in the Armed Forces, or to refuse to comply with or evade any of the requirements of this title, or any rule, regulation, or direction issued pursuant to this title, whether such counseling,

advising, or urging is directed to a particular individual or individuals or is directed to all individuals, or any class or group thereof, subject to the provisions of this title,".

[S. 3072, 89th Cong. 2d sess.]

A BILL To amend the Communications Act of 1934, as amended, to prohibit threatening and harassing telephone communications

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title V of the Communications Act of 1934, as amended, is amended by adding at the end thereof a new section as follows:

"THREATENING AND HARASSING TELEPHONE COMMUNICATIONS

"SEC. 511. Whoever by means of telephone communication threatens physical injury to another person; or

"Whoever, with intent to harass or torment another person, repeatedly contacts such person by means of telephone communication or causes such person to be repeatedly contacted by means of telephone communication—

"Shall be fined not more than \$500 or imprisoned not more than two years, or both."

[From the Brooklyn Spectator, Dec. 3, 1965]

WE'RE GLAD YOUR SON IS DEAD, CALLER TELLS 87TH STREET COUPLE AS THEY WAIT FOR HIS BODY TO COME HOME FROM VIETNAM

The grief-stricken parents of Harold Scott, 87th Street soldier who gave his life in Vietnam, are getting telephone calls from strangers who say:

"We're happy it happened to Harold."

"He deserved it."

And more of the same.

The calls, of which there have been four so far, add a cruel burden to the mother and father who are waiting for their son's body to be brought back home for burial.

Mr. and Mrs. William Scott are also being bothered by other anonymous callers who dial their number and then hang up when the phone is answered.

Similar experiences have been reported by other loved ones of Vietnam casualties, but this is the first time such calls are known to have been made to a Bay Ridge family.

Mr. Scott told The Spectator that the Army has been advised of the nuisance calls, and that he understood the FBI was investigating.

A spokesman for the FBI declared that present Federal laws with respect to telephone use do not make such calls a violation of U.S. law, unless a threat of some kind is made by the caller.

This does not mean that the FBI is necessarily powerless to crack down on the callers. It means only that some new legal approach has to be found—and while the FBI does not announce in advance what it plans to do, one may assume that the agents are investigating these calls with a purpose in mind.

That purpose could have something to do with the Federal subversive activities control laws.

[From the New York Times, Mar. 3, 1966]

TELEPHONE CALL IS A HOAX; SON IN VIETNAM UNINJURED

FESTUS, Mo., March 2 (UPI).—Mrs. Edna Klobe received the dreaded telephone call Feb. 19. The man said he was from "the War Department."

"Your son has been wounded in Vietnam," he said. "He is being transferred to the New York Naval Hospital and you are wanted there immediately."

Mrs. Klobe, 45 years old has a weak heart, but she chose to carry the burden alone. She didn't want to worry her husband.

She asked the Red Cross and Representative Richard H. Ichord, Democrat of Missouri to check out the report and find out what had happened to her son, Pfc. David Klobe. The combined efforts of the Red Cross, Representative Ichord and others finally established that young Klobe, 20, was safe and healthy.

The mother got final assurance last Monday that the call had been a fake.

ABUSIVE AND HARASSING TELEPHONE CALLS

[From the Chicago Tribune, Friday, Mar. 25, 1966]

FIND MURDER VICTIMS GOT OBSCENE CALLS

(By Aldo Beckman)

QUINCY, Ill., March 24.—Two young women who were stabbed to death earlier this week had been bothered for several months by obscene calls and mysterious knocks on the door of their apartment, the Tribune learned today.

The women, Miss Judith Ann Greening, 22, and her roommate, Miss Donetta Pickens, 21, had called police several times complaining about the calls. They also complained that on several occasions, they answered knocks on the door of their apartment and found no one there.

It also was learned that three women who previously lived in the same building also had complained of obscene phone calls. The murder victims did not have the same phone number that had been registered to the earlier tenants.

POLICE HUNT WEAPONS

Don Adams, Adams county state's attorney, said that sheriff's police and city police are combing the area where the victims were found seeking the knife and the shotgun that were used in the slayings.

Autopsy reports showed that Miss Greening, who was found Tuesday morning in a ditch south of Quincy, and Miss Pickens, who was found in the trunk of her car parked in an exclusive residential area 12 hours later, died of multiple stab wounds, altho both had been shot with a shotgun.

Adams said he might order police to drag the Mississippi river for the weapons if they aren't recovered. "That would be a last resort tho," he said, "since the chances of finding a knife at the bottom of the river would be so remote."

RAIN HINDERS PROBE

He lamented the fact that a spring shower, about four hours after the women are believed to have died Monday night, probably washed away much of the evidence and destroyed any fingerprints that might have been on the outside of Miss Pickens' car.

Adams said he still has not ruled out the possibility that the slayer, or slayers, might have been women. It was noted that the viciousness of the crime might have indicated the assailant was a jealous person. Neither woman had been sexually molested, the autopsy report showed.

Police disclosed today that Don Dittmer, the owner of a swim club, who discovered Miss Greening's body Tuesday morning, received a threatening phone call shortly after it was made public that he found the body. His home was watched and his phone was tapped, but police say they now are convinced the caller was a crank.

NOT PRIME SUSPECT

Sheriff Charles Proctor said his men are checking out numerous leads, but none have produced any solid clues. A factory worker, who is married and has one child, was questioned by police after it was learned he had dated Miss Pickens. However, he was released and sheriff's police said he "is not considered a prime suspect."

Police admit they are marking time until they receive the results of fingerprints taken from the interior of Miss Pickens' car. The results of the tests, sent to the state crime laboratory in Springfield, are expected by tomorrow.

Meanwhile, the Quincy Herald-Whig announced it is soliciting funds for a \$5,000 reward which will be offered for any information leading to the arrest and conviction of the killer or killers. By noon today, more than \$1,000 had been collected.

A special committee of law enforcement officials and citizens will decide how the reward is dispensed if there is a conviction, the Herald-Whig said.

[From the New York Times, Monday, Apr. 4, 1966]

CRANK CALLS HARASS FAMILIES OF G.I.'S SERVING IN VIETNAM

(By Hanson W. Baldwin)

An incomplete Defense Department compilation showed yesterday that families of military personnel serving in Vietnam had received 100 threatening, abusive or crank telephone calls or communications in the last year.

A considerable number of the calls have been made to widows or dependents of men killed in Vietnam. The anonymous callers have used obscenity or abuse, or have gloated over the death of the servicemen involved.

In one case, in a call to a home where the widow of a captain killed in Vietnam had been staying, a man and a woman said in unison over the telephone:

"Slaughtered sheep sound like this. * * *"

The words were followed by a bleating noise.

FALSE INJURY REPORT

Many of the ghoulish calls have been much more specific: The caller has said he was glad the serviceman was killed, or has used profanity to express his pleasure.

Other communications have involved threats. One Navy wife in the Norfolk, Va., area was threatened with physical violence if she attended a homecoming celebration for the aircraft carrier *Independence*, which had served in Vietnamese waters.

In the most recent reported incident, on March 11, a bogus officer, dressed in a Marine Corps uniform, visited the home of a Marine officer serving in Vietnam and told his wife that her husband had been seriously wounded. The wife detected the fraud and notified the Federal Bureau of Investigation. So far no arrest has been made.

MOST TO ARMY FAMILIES

According to the Defense Department, there appears to be no common pattern to the calls and letters. However, the servicemen themselves, particularly some of those who have served aboard carriers, believe that the calls are so widespread that organization is evident. They believe that the number is considerably larger than that reported by the dependents to the services and that Communists or left-wing sympathizers in the United States have in part been responsible.

Dependents of Army personnel have received the majority of the recorded telephone calls. Almost 50 have been reported, most of them to dependents of the First Cavalry (AirMobile) Division, and to the next of kin of paratroopers serving in Vietnam. Most of these calls have been made in the Third Army area in the vicinity of Fort Bragg, N.C., and Fort Benning, Ga.

The majority of the calls or communications to Navy and Marine personnel, which total at least 25, were made in the vicinity of the Naval Air Station, LeMoore, Calif., and in the Norfolk area. The relatively few recorded calls involving Air Force personnel—about 7—were in scattered geographical areas.

In addition to the calls centrally compiled by the Defense Department, a great many additional calls, letters or communications have been reported in New York, Pennsylvania, the Middle West, California and elsewhere.

According to the Defense Department, the types of telephone calls have included "silence, hoarse breathing, obscenity, abuse or gloating over death of the servicemen involved."

"None of the calls," it says, "have been identified, either as to name or association with a group."

Whenever such calls or communications are reported, the local military intelligence services, local police authorities and the F.B.I. have been informed, but so far the originators of the calls or the abusive communications have not been identified.

Legal action that can be taken varies widely with local laws. Apparently there is no Federal statute that applies, although Senator Thomas J. Dodd, Democrat of Connecticut, has introduced a bill that would make it a Federal offense to make threatening and abusive communications to members of the armed forces and their families.

Vigorous local investigation of each such communication and the voluntary withholding by many public relations media of the home addresses of dependents of Vietnamese casualties has apparently resulted in some diminution of the communications.

The information programs by the services to inform dependents of what to do if such calls are received serves, the Defense Department says, to "reduce the impact of families—however, there is still shock, humiliation and anger."

[From the New York Times, Apr. 27, 1966]

BUREAU IS SET UP FOR CRANK CALLS

TELEPHONE COMPANY SEEKS TO SHIELD AN INCREASING TOTAL OF VICTIMS HERE;
INTERCEPTION OFFERED

Agency Will Merely Record Calling Number, Not Listen—7-Day Log Is Required

Crank telephone calls—some obscene, some threatening, all annoying—have^e become so epidemic an evil that the New York Telephone Company has set up an Annoyance Call Bureau to shield the victims.

This Bureau, created five weeks ago, already has received more than 1,000 complaints.

The crank trend is up. Last year the Bureau of Policewomen of the Police Department recorded 1,810 complaints from women who had received obscene calls. That was a 30 percent increase over 1964.

The new bureau will screen telephone calls at the request of an annoyed party. It will not listen in on any conversations. It will merely intercept incoming calls, putting the calls through after obtaining the calling number.

Seven-Day Log Required

These interceptions will be made only in cases of extreme harassment. The bureau will act only after the annoyed party has kept a seven-day log of nuisance calls.

This log must note, among other things, the frequency, date, time and duration of the calls, a record of the conversation, a description of the caller and a description of the caller's voice.

The annoyed party must also indicate whether he or his family received recent publicity, such as a marriage, birth or death or a promotion of honor that might occasion jealousy.

On the basis of this "fact sheet," the telephone company will decide whether the complaint is serious enough to be passed on to the Annoyance Call Bureau.

The company said it had developed new techniques for tracing a crank call.

One is a tone set, a box equipped with an on-and-off switch. The box is connected by a wire to the annoyed customer's phone on the customer's premises.

When a crank call is received, the customer flips a switch which places a 20,000-cycle tone on the circuit and also activates an alarm in the central office, alerting a switchman on duty to start tracing the call. This tone cannot be heard by either party but the switchman can pick it up on a test set that expedites his tracing procedures.

Two Other Devices

Another device is a pen register attached to the line of a prime suspect in a crank-call case. This instrument records the time, the call for later comparison with the complainant's log.

A third device, mounted in a central office, puts the calling number, called number, date and time on a punch card.

The company urged recipients of crank calls to hang up if a caller used obscenity, didn't properly identify himself or said nothing.

It said it had given special training to business-office representatives who will judge whether complaints are important enough to be transmitted to the Annoyance Call Bureau, which currently consists of four business office supervisors.

State law prohibits the use of the telephone to make obscene remarks to a woman or child under 16 or to threaten to commit a crime against any person. The penalty is imprisonment for up to one year or a fine up to \$500, or both.

In addition the telephone company pointed out that anyone found guilty of making harassing calls would face the loss of his telephone service. The owners of seven phones have been warned.

U.S. SENATE,
COMMITTEE ON FINANCE,
May 11, 1966.

HON. JOHN O. PASTORE,
*Chairman, Communications Subcommittee, Committee on Commerce, U.S. Senate,
Washington, D.C.*

DEAR MR. CHAIRMAN: Due to prior commitments, I regret that it is not possible for me to appear personally before you and your Subcommittee in support of your bill, S. 2825, which would for the first time make obscene or harassing telephone calls a Federal offense, as well as in support of an Amendment which I introduced to your measure which reaches offenses entirely different from those contemplated by your Bill, and would not in any way duplicate the provisions of your proposal, but rather would broaden its scope.

In view of my inability to appear before your Subcommittee, I would appreciate this letter being made a matter of record in the hearings on your proposal.

On February 24th of this year I introduced S. 2975, which would amend the Universal Military Training and Service Act, to make unlawful certain actions designed to influence individuals to refuse or evade registration and service in the armed forces. The Amendment which I propose to your Bill is identical with S. 2975.

I recognize that my measure would amend the Universal Military Training and Service Act, which is under the jurisdiction of the Senate Armed Services Committee. It would appear to me, however, that coordination between your Committee and the Senate Armed Services Committee could be worked out so that no difficulty would be encountered with respect to having this Amendment favorably reported as an Amendment to S. 2825.

As you know from a reading of the Amendment which I introduced, it does not reach the harassing type of telephone call unless the purpose is to influence a person to evade registration or induction in the armed forces of the United States. It covers the actions of individuals who attempt to compel or advise others in any manner whatsoever to evade military service, which all of us recognize in the world we live in today is a responsibility of citizenship.

There have been several bills introduced to cope with this serious problem which could have significant impact on the morale and effectiveness of our fighting men. Each of these measures approaches the problem from a slightly different angle. I believe the Amendment which I propose is a worthy one indeed, and I cannot urge too strongly that you and the Members of your Subcommittee act favorably so that what I believe is a major gap in our Federal laws can be closed.

I sincerely trust that you will give favorable consideration to my Amendment to your Bill which I wholeheartedly support.

With kind regards, I am

Sincerely yours,

GEORGE A. SMATHERS,
United States Senator.

SAN FRANCISCO, CALIF., April 30, 1966.

HON. JOHN O. PASTORE,
*3213 New Senate Office Building,
Washington, D.C.*

DEAR MR. PASTORE: In the 26 January 1966 issue of the Congressional Record, there appeared the text of a bill (S 2825) which you introduced on that day. This bill, which would amend Title II of the Communications Act of 1934, was referred to the Senate Committee on Commerce and to the best of my knowledge, its status remains unchanged. I am therefore forwarding a copy of this letter to the Committee's distinguished Chairman, Mr. Magnuson.

The need for legislation to deal with telephone harassment is obvious. That the Federal government is the proper vehicle of such legislation can be argued, but for the moment I will allow that it is. Of course any restriction of spoken material must necessarily take cognizance of the Constitutionally guaranteed rights of the individual. I believe that S. 2825 in its present form does not fulfill this criterion, specifically in paragraph "(i)". Recent Supreme Court decisions which seek to define "obscene" have given it a very narrow meaning. Thus, in the courts, convictions under paragraph "(i)" will be almost certainly reversed.

According to the Constitution, there is a formal enjoinment on the Congress which states that Congress shall make no laws which amend the rights of the indi-

vidual to certain actions. Since you can be reasonably sure that paragraph "(i)" is unconstitutional by today's standards, Congress is obliged not to pass this bill. I urge the Committee to amend S. 2825 so as to delete this paragraph. I further urge my Senators (Mr. Kuchel and Mr. Murphy) to vote "NAY" should this bill come to the floor unaltered.

Yours truly,

STEPHEN M. LONG.

[From the Evening Bulletin, Providence, Apr. 28, 1966]

PHONE COMPANY ACTING ON SMUT CALLERS

Bad news came from the New England Telephone Co. today for persons who use phones to spout obscenities or threats to subscribers.

But it was good news for lone women and other victims that modern electronic devices are being used to trap abusive callers.

The telephone company has adopted a system through which sensitive instruments, trained personnel, and the subscriber can cooperate in tracing improper calls to their source.

The action was made necessary by the disturbing increase in telephone misuse. In Rhode Island 465 annoyance calls were reported last month. In the whole of New England there were more than 3,420 such calls.

A large number of these calls involve indecent overtures to women who live alone and have phones listed in their names.

In the past these calls have been hard to trace, partly because the offender did not remain on the line long enough.

"But his days are surely numbered now," telephone company officials said today.

The new equipment has been tested in isolated cases. Now it has been improved to a point where its use can be general.

When a pattern of harassment seems to be developing, the customer will be asked to keep a record on forms supplied to him by the phone company for one week.

On them the customer will describe the nature of the call and the caller's voice. He will say who was at home when the call came. If the same caller repeats, the customer will record any trend or variation in the message.

Meanwhile, the company will keep a log containing such data as duration of call, time it was made, whether the receiver was a public figure or had been in the news recently and other information taken from the customer's fact sheet.

These details will be studied by a central office expert who will decide whether they warrant installation of electronics surveillance equipment.

One device can intercept calls before the telephone of the receiving party rings. This means that calls to a particular place can be screened by the telephone company and their source identified in advance.

Another enables a customer to signal the central office so tracing can be started immediately.

A third instrument can be attached to the line of a suspect to record his outgoing calls for comparison with the log kept on a complaining subscriber.

"With the combined efforts of the customer, the phone company and law enforcement officials, telephone service will remain what it was designed to be—a convenience and not a nuisance," phone officials said.

The company reminded the public that a person found guilty in Rhode Island of making an obscene phone call is subject to a \$500 fine or imprisonment up to one year—or both.

The company suggested some practices customers may follow to help protect themselves from nuisance calls:

Hang up if the caller hesitates unnecessarily or doesn't identify himself at once. Give him a maximum of two hellos and then a firm goodbye.

Don't talk if an indecent remark is made—unless you have arranged with phone officials and police to keep the nuisance on the line to trap him.

Instruct children and baby sitters in protective use of the phone.

Report all improper calls to police and phone officials at once.

Senator PASTORE. We have a number of distinguished witnesses here today. I notice that my colleague, Senator Long from Missouri, is here. So in order to expedite his getting to his other official duties, he can be the first witness if he chooses so to do.

**STATEMENT OF HON. EDWARD V. LONG, U.S. SENATOR FROM
THE STATE OF MISSOURI**

Senator LONG. Thank you, Mr. Chairman. I would be very happy.

Senator PASTORE. All right, Senator. You may proceed in any way you like.

Senator LONG. Thank you, Mr. Chairman.

It is a pleasure for me to have this opportunity to appear before the Subcommittee on Communications and testify on S. 3072, a bill I introduced on March 10, 1966, to amend the Communications Act of 1934, to prohibit threatening and harassing telephone communications, very similar, Senator, to the bill that you introduced.

I need not inform this subcommittee of the growing problem of telephone harassment. I have been informed that the Bell System alone receives approximately 375,000 complaints a year concerning threatening, harassing, or otherwise abusive telephone calls. And how many of our American citizens are so ashamed or so frightened that they do not report the disgusting phone call to proper authorities.

Mr. Chairman, recently I received a letter from a constituent who must remain nameless. He is a prominent citizen from the State of Missouri, and he and his family have suffered enough at the hands of mischievous and even malicious phone callers. My constituent writes, and I quote:

On many occasions I have seen (my wife) leave the telephone in tears, although she should be a hardened veteran after receiving these calls for over 20 years. On one rainy evening, I went to a dinner meeting, and prior to the time I returned home she received a telephone call from an individual representing himself to be the coroner and told her that my mutilated body was found on the street car tracks near the station, that my body was identified by half of a driver's license which was found near the scene of the accident. You can imagine how frantic my wife was when (she) initiated calls to various hospitals, the police department, and other agencies trying to obtain more information.

My constituent then says:

Now I ask you, Senator, should any man's family endure such abuse? Forgive me for writing such a long letter, but an accumulation of so many years of abuse and frustration reduced even the strongest of us to the state of a drowning man reaching for a straw. Please give us more than that.

Mr. Chairman, it is in response to this and many other letters that I have introduced S. 3072.

And before I proceed, I notice that it was reported in last night's Washington Star that one of the suspects in the tragic slaying of the 9-year-old Montgomery County boy is a man who calls up mothers and tells them he has their children and he is committing unnatural sex acts with them.

With the Chair's permission, I would like that to be made part of the record.

Senator PASTORE. Without objection, so ordered.

(The article referred to follows:)

[From the Evening Star, May 10, 1966]

BOY FOUGHT SLAYER, BODY BRUISES HINT

Several suspects have been questioned in the search by more than two dozen Montgomery County detectives for the slayer of a 9-year-old boy found yesterday stabbed to death in a wooded area near his Bethesda home. None is being held, a police official said today.

Det. Capt. Fred P. Thraikill said: "We really have little to go on" and urged anyone who noticed anything that might be helpful in the search for the killer of Stephen F. Johnston to telephone police.

Thraikill said one possible suspect police still are looking for is believed to have taken part in the last year in four offenses involving 12 to 14 children, including indecent exposure.

He said that this suspect is a white man, between 18 and 21, 5 feet 11 inches to 6 feet tall, weighing 175 to 185 pounds, with broad shoulders, a prominent Adam's apple, generally bad complexion with acne marks and light brown to reddish hair.

ANOTHER PHONES MOTHERS

Thraikill also said that another possible suspect is being sought who calls up mothers, tells them he has their children and is committing unnatural sex acts with them.

The detective captain said that this man called up a mother in the area today and said he had her daughter and that he was the one who had killed the Johnston boy. But the daughter was later found safe in school.

The body of the Johnston boy, son of Mr. and Mrs. Francis Johnston, 5117 Fairglen Lane, was found lying on its side in a clump of bushes and wild undergrowth about 100 yards from the Little Falls parkway.

The boy choked to death on his own blood, according to an autopsy by Dr. J. Thornton Boswell, a Suburban Hospital pathologist.

Most of the wounds from a long, narrow-bladed instrument were about the neck and head, and two had penetrated the trachea and throat, Boswell said.

Police suspect a sexual motive for the attack, although there were no bodily signs of molestation. The boy's clothing was disarranged.

Dr. John G. Ball, Montgomery County deputy medical examiner, said there were scratches and bruises on the boy's body and "we think he put up quite a fight. That's probably why he got stabbed."

He also said the youngster had been stabbed about 20 times.

Known sex deviates in the area are being checked by police to determine if they have any connection with the case, Thraikill said. He said that police believe the killing occurred where the youngster's body was found. The Johnston boy was last seen about 2:30 p.m. Sunday when he left his home to search for golf balls near Kenwood Country Club and look for turtles in a nearby creek, police said.

\$1,000 REWARD POSTED

Samuel Delvecchio, grandfather of the slain boy, posted a reward of \$1,000 this morning for information leading to the arrest and conviction of the slayer.

He asked anyone with information on the case to call Lt. M. A. Leahy at the Bethesda police department.

Private funeral services are being arranged by Joseph Gawler's Sons, Inc., Wisconsin Avenue and Harrison Street, NW. The burial in Arlington Cemetery also will be private.

Senator LONG. Mr. Chairman, in response to this letter that I have just read and many other letters, I have introduced S. 3072.

I was surprised to learn that although there are some 12 State laws which prohibit harassing or annoying telephone calls, there is today no Federal statute to cover the threatening, the harassing, or the abusive telephone call.

Recently this problem of the so-called crank calls became so epidemic an evil that the New York Telephone Co. set up an annoyance call bureau to shield the victims. After a 7-day period of receiving the unwanted phone calls, and after keeping a detailed log of these calls, an individual phone subscriber can request the annoyance call bureau to screen all incoming telephone calls. I want to point out that the bureau will not listen in on any conversations—not wire-tapping, a matter I have been having some discussions on in the past. It will merely intercept incoming calls, putting them through after obtaining the calling number.

In addition, the Bell System itself is attempting to solve the problem of identifying where the malicious call comes from. I am happy to inform this committee that recently the Bell Telephone Laboratories developed a system which permits a customer whose line has been temporarily equipped for this service to "lock up" a connection by dialing a designated digit and thus permit identification of the calling line.

Thus, Mr. Chairman, we have reached a stage in our technology where it is now possible to identify, almost instantly, the calling number. Not all of these malicious calls originate from pay telephone booths where identity is difficult to establish; many anonymous callers like to hide in the security of their own room and dial a victim. But it is my understanding that where the phone call crosses interstate lines, no Federal law is violated, no matter how vicious or how malicious it may be.

S. 3072, if enacted, would make it a Federal crime—punishable by not more than \$500 or imprisonment for not more than 2 years—for anyone by means of telephone communication to threaten physical injury to another person. Similarly, it would be a Federal crime for anyone, with intent to harass or torment another person, to repeatedly contact such person by means of telephone communication.

I have introduced this bill as an amendment to the Federal Communications Act so as to include all of these phone calls, whether interstate or intrastate. It seems senseless to say that calls which originate in the District of Columbia, for example, and go across the Potomac into Virginia would be in violation of the law, whereas if the harassment stopped at the water's edge it could be made with impunity. The harm to the citizen is the same, Mr. Chairman.

The bill requires that these calls be made repeatedly. I do not mean to suggest that one telephone call cannot harass or torment its recipient. The only purpose in requiring repetition is to preclude persons from running to our already overworked law enforcement agencies when there may be no reason to believe that another such call will ever again be made.

I do want it made perfectly clear, however, that the silent call—where the caller hangs up immediately or where only heavy breathing is heard—falls under the definition of "intent to harass or torment."

Mr. Chairman, I have purposely omitted the word "obscenity" from S. 3072 because of my deep interest in the first amendment. The use of the telephone is closely tied to freedom of speech, and we certainly do not want to impede the use of the telephone as a free and open means of communication. I am well aware that protection of public morals is one of the traditionally proper restraints upon speech and press. But it nevertheless poses important civil liberty problems.

Serious abuses have too often occurred in connection with the methods and procedures by which the standards of obscenity are applied and enforced by our law enforcement agencies.

It is my belief that repeated obscene phone calls are usually made with intent to harass or torment the recipient. Thus, repeated phone calls—whether overtly obscene or only suggestive—fall within the purview of S. 3072, while at the same time preserving our basic first amendment freedoms.

Mr. Chairman, no person should have to tolerate this invasion of his home—this invasion of privacy. I believe that S. 3072, if enacted, will help to protect the privacy of our citizens.

I thank you, Mr. Chairman, for giving me this opportunity to be heard as the first of your witnesses this morning.

Senator PASTORE. Thank you very much.

Only this, Ed, about the introduction of my bill which is confined more or less to interstate as against the inclusion of intrastate: I believe that under the Constitution we have the authority to regulate both, because it is a system that is integrated and a system that can easily be used both for intrastate and interstate. Sometimes the line of distinction is so fine that there is no question at all about it in my mind that there is no violation of the Constitution.

Senator LONG. We agree with you entirely, Senator.

Senator PASTORE. One other observation: The reason why I did not include intrastate—not because I did not think it is just as vile for a person to use the telephone for these reasons in the District of Columbia as it would be across the border, let's say, to Virginia and Maryland—was strictly because I feel that the States ought to assume some of this responsibility.

If we were to preempt the field strictly for the Federal Government, you can imagine what a herculean task and tremendous burden this would place on the Federal Government.

I think that the States ought to assume some of this responsibility, and I think they want to, and I think that they could facilitate the detection and identification of these people making the calls. There is no question in my mind that those making such calls are perverted. They are sadistic. There is no question about that at all.

You do have these people who are sexual perverts and who often use obscene language. They pick out women's names from telephone books deliberately and then call them. They do this, and they vent their spleen on them.

I do not know of anything that is more vicious or should be corrected more than that.

Senator LONG. Thank you, Senator. We agree with you rather generally.

Senator PASTORE. I do not think you and I are very far apart.

Senator LONG. I think we are very close together on it. Thank you very much.

Senator PASTORE. I have here a compilation of all of the abusive calls received by the Bell System in the month of March, State by State, showing the number of abusive calls, number of accounts, statutes, and complaints; a list of States in which there are statutes relating to the use of profane or obscene language over the telephone; a list of States in which there are no statutes; and a compilation showing the State statutes relating to the use of obscene or indecent language over the telephone or making of threatening or annoying calls, and I am going to ask that this be inserted in the record at this point.

(The document referred to follows:)

Abusive-calling summary

State	Number of abusive calls, March	Number of accounts	Statutes	Complaints per 1,000,000 accounts
Alabama.....	354	626,761	Yes.....	565
Alaska.....			Yes.....	
Arizona.....	230	382,098	Yes.....	602
Arkansas.....	117	294,865	Yes.....	397
California.....	4,751	5,037,317	Yes.....	943
Colorado.....	422	593,733	Yes.....	711
Connecticut.....	1,277	903,148	Yes.....	1,414
Delaware.....	94	152,516	Yes.....	616
District of Columbia.....	796	294,375	Yes.....	2,704
Florida.....	460	1,129,187	Yes.....	407
Georgia.....	181	873,875	Yes.....	207
Hawaii.....			Yes.....	
Idaho.....	56	130,622	Yes.....	429
Illinois.....	3,513	12,770,063	Yes.....	1,268
Indiana.....	749	748,220	Yes.....	1,001
Iowa.....	0	550,759	No.....	(⁵)
Kansas.....	205	526,159	No.....	390
Kentucky.....	261	461,629	Yes.....	565
Louisiana.....	226	821,797	Yes.....	275
Maine.....	163	240,398	Yes.....	678
Maryland.....	987	1,005,152	Yes.....	982
Massachusetts.....	2,327	1,755,840	Yes.....	1,325
Michigan.....	0	2,197,124	Yes.....	(⁵)
Minnesota.....	0	815,831	Yes.....	(⁵)
Mississippi.....	58	380,852	Yes.....	152
Missouri.....	1,863	¹ 1,143,331	No.....	1,629
Montana.....	100	162,690	No.....	615
Nebraska.....	0	237,346	No.....	(⁵)
Nevada.....	130	49,842	No.....	2,608
New Hampshire.....	121	193,234	No.....	626
New Jersey.....	3,631	2,088,996	Yes.....	1,738
New Mexico.....	159	191,252	Yes.....	831
New York.....	5,960	5,356,327	Yes.....	1,113
North Carolina.....	182	550,058	Yes.....	331
North Dakota.....	0	124,884	Yes.....	(⁵)
Ohio.....	2,526	³ 2,337,365	Yes.....	1,081
Oklahoma.....	173	612,139	Yes.....	283
Oregon.....	278	468,353	No.....	594
Pennsylvania.....	3,203	2,882,227	Yes.....	1,111
Rhode Island.....	465	286,776	Yes.....	1,621
South Carolina.....	338	365,966	Yes.....	924
South Dakota.....	0	141,234	Yes.....	(⁵)
Tennessee.....	476	805,176	Yes.....	591
Texas.....	2,677	2,154,945	Yes.....	1,242
Utah.....	165	265,153	No.....	622
Vermont.....	37	100,380	No.....	369
Virginia.....	835	825,168	Yes.....	1,012
Washington.....	348	⁴ 752,262	No.....	463
West Virginia.....	378	375,824	Yes.....	1,006
Wisconsin.....	619	883,044	Yes.....	701
Wyoming.....	54	89,310	No.....	605

¹ Includes part of Indiana.² Includes piece of Illinois.³ Includes Cincinnati.⁴ Includes piece of Idaho.⁵ No report.

LIST OF STATES IN WHICH THERE ARE STATUTES RELATING TO THE USE OF
 PROFANE OR OBSCENE LANGUAGE OVER THE TELEPHONE AND THE MAKING OF
 THREATENING OR ANNOYING TELEPHONE CALLS

Alabama	Michigan
Alaska	Minnesota
Arizona	Mississippi
Arkansas	New Jersey
California	New Mexico
Colorado	New York
Connecticut	North Carolina
Delaware	North Dakota
Florida	Ohio
Georgia	Oklahoma
Hawaii	Pennsylvania
Idaho	Rhode Island
Illinois	South Carolina
Indiana	South Dakota
Kentucky	Tennessee
Louisiana	Texas
Maine	Virginia
Maryland	West Virginia
Massachusetts	Wisconsin

LIST OF STATES IN WHICH THERE ARE NO STATUTES RELATING TO THE USE OF
 PROFANE OR OBSCENE LANGUAGE OVER THE TELEPHONE AND THE MAKING
 OF THREATENING OR ANNOYING TELEPHONE CALLS

Iowa	New Hampshire
Kansas	Oregon
Missouri	Utah
Montana	Vermont
Nebraska	Washington
Nevada	Wyoming

Statutes relating to the use of obscene or indecent language over telephone or making of threatening or annoying calls

State	Indecent obscene language	Anonymous calls	Calls to females	Annoying or harassing calls	Threatening calls	Prosecute where call placed or received	Printed notice of statute required in directory
Alabama	X			X	X	X	
Alaska	X	X		X			
Arizona	X	X		X			
Arkansas	X	X		X			
California	X	X		X	X	X	
Colorado ¹	X	X		X	X	X	
Connecticut	X			X	X		
Delaware	X	X		X			
District of Columbia ²							
Florida	X						X.
Georgia	X		X				X.
Hawaii	X						
Idaho	X			X	X	X	
Illinois	X			X			
Indiana	X			X	X	X	
Iowa							
Kansas							
Kentucky	X			X			X.
Louisiana ³	X	X			X		
Maine				X			
Maryland	X	X		X	X	X	
Massachusetts	X		X	X			
Michigan	X				X		
Minnesota	X	X		X	X	X	
Mississippi	X				X	X	
Missouri							
Montana							
Nebraska							
Nevada							
New Hampshire							
New Jersey	X			X		X	
New Mexico				X			
New York	X		X		X		
North Carolina	X	X	X		X		
North Dakota	X						
Ohio	X			X	X	X	X.
Oklahoma	X		X				
Oregon							
Pennsylvania	X			X		X	
Rhode Island	X			X	X	X	
South Carolina	X					X	
South Dakota	X						
Tennessee	X			X			
Texas	X			X	X		
Utah							
Vermont							
Virginia ⁴	X				X	X	X.
Washington							
West Virginia	X						
Wisconsin				X			
Wyoming							

¹ Colorado is the only State to also prohibit extortion of money or other thing of value from any person or family by means of the telephone.

² Prosecution has been under the disorderly conduct provisions of the District of Columbia Code; however, H. R. 10497, which passed House, now pending in U. S. Senate, will cover.

³ Public service commission may adopt rules authorizing telephone employees to cooperate with police.

⁴ Telephone company may be subpoenaed to supply information on above calls. Virginia also has a provision prohibiting malicious calls giving false information about third persons.

Senator PASTORE. I quite agree with Mr. Long, there are a lot of people who do not want to carry this any further, people who are harassed and tormented with these calls but feel that there is no need of giving the publicity so they do not report it.

I do not think we ought to secure any limitation from the fact that these are the reported calls and that is it. It goes beyond that. There is no question at all about it.

I have a statement from my colleague, Senator Pell, which will be made part of the record at this point.

(The statement referred to follows:)

STATEMENT BY SENATOR CLAIBORNE PELL IN SUPPORT OF LEGISLATION IMPOSING PENALTIES FOR OBSCENE OR HARASSING TELEPHONE CALLS

Mr. Chairman, I appreciate having this opportunity to register my support for the legislation before your subcommittee, particularly your own bill, S. 2825, providing penalties of up to \$1,000 or 1 year in prison, or both, for making obscene or harassing telephone calls in interstate or foreign commerce.

I have a personal interest in this legislation, and my personal interest supports my conviction that such legislation would be sound public policy. Members of my own family have been victimized and bothered by such calls, and I know at first hand how very distressing it can be to have the privacy and security of one's home violated in such an abusive and frightening way.

It seems to me that the penalties proposed by this bill are thoroughly warranted and should serve to deter those who may be tempted to commit such malicious mischief. It is high time that we had effective national laws to curb such practices, and I congratulate you, Mr. Chairman, for taking the lead in introducing this legislation and holding these hearings.

Senator PASTORE. Next we have Mr. Hyde, representing the Federal Communications Commission. We will now hear from him.

STATEMENT OF ROSEL H. HYDE, ACTING CHAIRMAN, FEDERAL COMMUNICATIONS COMMISSION, ACCOMPANIED BY HENRY GELLER, GENERAL COUNSEL, BERNARD STRASSBURG, DANIEL OHLBAUM, AND KELLEY GRIFFITH

Mr. HYDE. Mr. Chairman, I am Rosel H. Hyde, Acting Chairman of the Federal Communications Commission. I appear here today in response to the committee's invitation to discuss S. 2825 and S. 3072. These bills would both amend the Communications Act of 1934 to deal with the problem of the misuse of telephone facilities to make abusive, obscene, and harassing calls.

S. 3072, which is not limited to interstate telephone calls, would prohibit the threat of personal injury and the making of repeated telephone communications with intent to harass or torment another person. It provides for a fine or not more than \$500 or imprisonment for not more than 2 years, or both.

S. 2825 would apply only to telephone communications in interstate or foreign commerce, and would prohibit three classes of telephone communications: obscene calls; anonymous calls made in a manner reasonably to be expected "to annoy, abuse, torment, threaten, harass, or embarrass" other persons; and repeated calls made with the same intent, whether anonymous or not.

S. 2825 would also prohibit anyone from knowingly permitting a telephone under his control to be so used. It provides for a fine of not more than \$1,000 or imprisonment for not more than 1 year, or both.

S. 2825 appears to be modeled closely upon H.R. 10497, which provides criminal penalties for certain telephone calls made in the District of Columbia. The latter bill passed the House of Representatives on October 11, 1965, but has not been adopted by the Senate.

The Federal Communications Commission is fully in accord with the effort which these two bills constitute to deal more effectively with the problem of obscene and harassing telephone calls. Such calls have apparently been increasing in number. The telephone, unfortunately, provides a ready cloak of anonymity to the sort of person who can somehow derive satisfaction or pleasure from frightening other people. This cloak has been availed of by such people in various

ways. The telephone may ring at any hour of the day or night, to produce only a dead line when answered. Sometimes the caller will merely breathe heavily, and then hang up. Sometimes he will utter obscenities.

And recently, a new and most offensive form of harassment has been devised. Families of servicemen are called and given false reports of death or injury, or even, hard as it is to believe, are gloatingly reminded of the death of a son in service. The ordinary person has no defense against such perverted behavior.

The dimensions of the problem are also large. Thus, we have been advised by American Telephone & Telegraph Co. that the Bell Telephone System receives approximately 375,000 complaints of such calls per year, not including complaints of annoying commercial solicitations.

Until recently, the Bell System did not attempt to keep precise statistics concerning the various categories of such calls and the disposition of all complaints. As the Commission advised the chairman of the Subcommittee on Communications of the Senate Committee on Commerce by letter on January 20, 1966, the Bell System has now undertaken to keep precise records upon the basis of reports from its various operating companies.

While it takes some time for the procedures required to keep adequate records to be put into effect, we have received from the Bell System summaries for February and March 1966, which are attached to my statement. The Commission expects that further monthly reports will be more detailed and informative.

Some remedies do exist at the present time. Although there is no Federal statute specifically dealing with the use of telephones, 18 U.S.C. 875(c) makes it a criminal offense to transmit in interstate commerce any communication containing any threat to injure the person of another.

I might note here parenthetically that section 303(m) of the Communications Act authorizes the Commission to suspend an operator's license for the use of obscenity, and section 1464 of title 18 of the United States Code makes it a crime to utter any "obscene, indecent, or profane language by means of radio communication."

And some 38 States have legislation similar to that now before this committee.

Chairman Henry furnished this committee with the texts of these statutes when he testified on November 18, 1965, on S. 2693 and S. 2713, bills dealing with anonymous recorded telephone messages.

Senator PASTORE. May I interrupt you at this point, Mr. Hyde, to ask you a question about the statement on the bottom of page 3.

You say there is a Federal criminal statute prohibiting transmission in interstate commerce of any communication containing any threat to injure the person of another. Has there ever been a prosecution under that statute?

Mr. HYDE. None has come to my attention, and none has come to the agency as far as I am aware.

Mr. GELLER. We would have to check with the Department of Justice, but we are not aware of any.

Mr. HYDE. We will check that matter for you, Senator.

(Memorandum furnished by the FCC follows:)

MEMORANDUM FURNISHED BY FEDERAL COMMUNICATIONS COMMISSION

The following reported prosecutions under 18 U.S.C. § 875(e) involved threats made by the use of interstate telephone and are submitted for insertion at page 26 of the record of May 11 hearings on S. 2825 and S. 3072.

Carbo v. U.S., 314 F. 2d 718, cert. den. 377 U.S. 953, reh. den. 377 U.S. 1010 (Cal., 1963)

Defendant was convicted of charges of (1) extortion affecting interstate commerce, (2) conspiracy to extort in violation of the Hobbs Act, (3) interstate transmission of threats, and (4) conspiracy to commit an offense against the United States. The aim of defendant was to secure managerial control of a welterweight professional boxer (Don Jordan).

Rathbun v. U.S., 236 F. 2d 514, aff. 355 U.S. 107, reh. den. 355 U.S. 925 (Colo., 1956)

Defendant was convicted of offense of knowingly transmitting an interstate communication containing a threat to injure another person, and for threats with intent to extort. In a telephone call from New York to Colorado, defendant threatened a former business associate.

Seeber v. U.S., 329 F. 2d (Ariz., 1964)

Defendant was convicted of offense of transmitting in interstate commerce a communication threatening injury to another person (threat to kill) in violation of 18 U.S.C. § 875(e). In a telephone call from Phoenix, Arizona to Barberton, Ohio, defendant threatened to kill one Weese although threat was intended for a different person named Weese.

There are additional cases where prosecutions have occurred for violation of 18 U.S.C. § 875(e) involving threats made through other forms of interstate communication, such as by use of the mails.

SENATOR PASTORE. Would this be something your department would initiate?

MR. GELLER. We have not initiated any. If something came to our attention that would be a threat, we would refer it to the Department of Justice.

To my knowledge we have not done so in recent years.

SENATOR PASTORE. How far back would you say that goes in your recollection?

MR. GELLER. Five years at least.

MR. HYDE. In my case it would go even longer. Of course, there could be a complaint which would not necessarily come to the attention of the members of the Commission.

SENATOR PASTORE. I am not making an issue of this, but merely developing the point for the purposes of the record. I think that much of our problem here has been identifying the caller.

MR. HYDE. Certainly there has been no activity based upon this statute to come to our attention. I think if there had been activity we would know about it.

SENATOR PASTORE. I see. All right, sir.

MR. HYDE. In addition, telephone company tariffs also prohibit the use of telephone service in such a manner as to harass or frighten others. Thus, FCC Tariff No. 132 filed by American Telephone & Telegraph Co. for interstate or foreign message toll telephone service prohibits:

(c) The use of service or facilities of the telephone company for a call or calls, anonymous or otherwise, if in a manner reasonably to be expected to frighten, abuse, torment, or harass another;

(d) The use of profane or obscene language;

The Bell Telephone System has also been developing improved equipment to determine the source of anonymous abusive calls and has issued instructions to operating companies for close cooperation with subscribers who complain of obscene or harassing telephone calls.

In the absence of appropriate Federal legislation, there may be a question for congressional consideration as to whether the available remedies are adequate. Not all States have legislation, and local legislation may in any event be inadequate to deal with long-distance calls. So, too, the threat of discontinuance of telephone service may not be an adequate deterrent, and it also will not deter calls from public telephones.

Although the Commission is not in a position to conclude at this time whether Federal legislation is required for effective remedial action, Congress may well feel that a Federal criminal penalty is warranted in any event, in addition to local penalties and the sanction of discontinuance of telephone service.

Senator PASTORE. All right. Let's take that step by step. You say it is part of their tariff filing to prohibit the use of the telephone service. Against whom is this prohibition invoked? The telephone company?

Mr. HYDE. No; this is directed to the use of the telephone service. These are the conditions of use.

Senator PASTORE. All right. But if there is a violation, whom do you prosecute?

Mr. HYDE. There is no prosecution. The sanction is the removal of the telephone facilities.

Senator PASTORE. Would you not say then there is a clear need here for some kind of legislation?

Mr. HYDE. Senator, I have no hesitancy at all saying there is a clear need for Federal legislation.

Senator PASTORE. I thought, Mr. Hyde, the FCC was hedging a little bit.

Mr. HYDE. Mr. Chairman, my statement is—

Senator PASTORE. I do not think there is any "if" involved here. Either we do or we don't. We either have the laws on the statute books that make it a criminal penalty whereby you can prosecute these sadistic and obscene people who are harassing people on the telephone and gloating over it, or we don't do it.

I mean there is no gray area here. You either do or you don't.

Mr. HYDE. Senator, I agree with you fully. What I have presented here is an agency statement. Put it this way: The bills which have been proposed would be subject to enforcement by the Department of Justice. And since this legislation would be administered largely by them, we would expect to provide our expertise wherever that would be necessary.

Senator PASTORE. Fine. I am very happy to hear you say that.

Mr. HYDE. Our official agency position is drawn in some deference to the position of the other agency which must enforce it.

Senator PASTORE. Yes. Well, I would expect, of course, that you might not be wholly satisfied and would want to make further suggestions and recommendations with reference to the legislation that has been introduced for many, many reasons and many, many ramifications. But insofar as the objective is concerned, I was shocked when

it was discovered that we had no Federal statute against abusive use of the telephone, and I think it needs to be cured.

I am very happy to hear you say that you think so too.

Mr. HYDE. I do think so.

Senator PASTORE. All right. You may proceed.

Mr. HYDE. As noted above, S. 2825 and S. 3072 would deal with the problem in somewhat different ways. S. 3072 is more limited with respect to the types of conduct it would prohibit, but it would apply more broadly to all telephone calls, whether intrastate or interstate. Whether a Federal statute should apply to all telephone calls, intrastate as well as interstate, is a policy question for resolution by Congress.

Present information available to the Commission from the American Telephone & Telegraph Co. indicates that the number of interstate calls which are obscene or abusive may be a very small part of the total number of calls in these categories. However, Congress may well feel that the problem is one requiring uniform treatment at the national level.

If the thrust of the cases dealing with section 605 of the Communications Act, the wiretapping provision, is applicable also to this situation, Congress may constitutionally concern itself with all uses of the interstate telephone system. See *Weiss v. United States*, 308 U.S. 321 (1939), *Benanti v. United States*, 355 U.S. 96 (1957).

We should point out in this connection that enforcement of a Federal statute would appropriately be the responsibility of the Department of Justice, whether the prohibition were to be included in the Communications Act or in the Criminal Code. This would be consistent with existing Federal criminal laws affecting interstate communications.

Moreover, it should be noted that the Commission's Common Carrier Bureau staff does not include personnel trained in criminal investigative techniques or the kind of investigation required for the enforcement of such a statute. And the Commission, of course, has no special knowledge of the extent to which enforcement problems would be increased by extending the reach of the law to intrastate as well as interstate telephone communications.

With respect to the substance of the two bills, S. 2825, as we have noted above, is somewhat broader in that it would apply to obscene calls, anonymous but not repeated abusive calls, and to knowingly permitting an illegal use by another person. The type of conduct to be covered by new legislation is also a policy question for the Congress. There could also be appropriate congressional consideration of whether legislation should include threats of destruction of property or calls made for the sole purpose of putting a person in fear that injury has been done to a member of the family.

The Commission suggests furthermore that consideration be given to tightening the language of S. 2825 to insure that it would apply only to calls made willfully and without just cause.

In addition, it might be possible to reach the objectives of the legislation without including calls which merely annoy or embarrass. As presently drawn, S. 2825 would seem to cover such widely varying conduct as making an anonymous call to a law enforcement officer concerning the commission of a crime by another or the making of repeated calls by a creditor trying to collect money owed him.

Since any legislation in this field necessarily raises questions concerning the restriction of speech, it is recommended that it be drawn as narrowly and specifically as possible to include only the specific conduct sought to be made illegal and to do so with the least possible room for doubt as to its precise applicability.

Senator PASTORE. That is a very, very good and wise recommendation or observation, and I would hope that your staff could meet with our staff and work out some language with regard to that.

Mr. HYDE. Senator, they are available to you. Because of our experience in this area, I think we could be of some assistance.

Senator PASTORE. That is fine.

Mr. HYDE. I should like to say finally that, while these bills would be general criminal provisions which are generally outside the Commission's jurisdiction to regulate the rendition of service by telephone companies, we will be most happy to work with the committee as I previously stated.

I believe the information appended to my statement should be made part of the record.

Senator PASTORE. Yes, they will be made part of the statement and will be included in the record at the conclusion of your statement.

(The information follows:)

BELL SYSTEM SUMMARY OF ANNOYANCE CALLING, FEBRUARY 1966

Extensive training of more than 25,000 Bell System employees is required before the revised procedures for handling annoyance calls can be placed in effect on a system-wide basis. Because of the magnitude of this undertaking, introduction of these procedures in all companies has not yet been completed.

In most instances the figures shown represent actual results of a limited number of offices within each reporting company projected on a company-wide basis. Although a number of the companies were able to make complete reports, a number were unable to furnish any report for the month of February.

For the non-reporting companies a projection based on the number of accounts handled was arbitrarily made to attain the system-wide figures.

These figures, set forth below, are, at best, broad-gauge indicators. They do, however, point up the nominal amount of interstate calling.

Classification:	Number
Abusive.....	37, 332
Commercial solicitation.....	2, 086
Misdirected.....	4, 148
Disposition of abusive:	
Closed after initial discussion.....	21, 139
Closed after keeping log.....	4, 014
Number, change, no transfer.....	5, 630
Change to nonlist or nonpublish.....	6, 530
Requests for line identification.....	1, 593
Lines successfully identified.....	332
Cases referred to security.....	656
Cases requiring disconnection by company.....	8
Cases resulting in court convictions.....	24
Cases involving intercity calling.....	269
Cases involving interstate calling.....	28
Total number closed.....	33, 017
Total number pending.....	6, 290

BELL SYSTEM SUMMARY OF ABUSIVE CALLING, MARCH 1966

Extensive training of more than 25,000 Bell System employees was required before the revised procedures for handling complaints concerning abusive calling could be placed in effect on a system-wide basis. The figures shown represent actual results in all Bell System Companies, except for Michigan Bell, North-western Bell and Southwestern Bell Telephone Companies where the figures were

estimated on the basis of the ratio of their respective customer accounts to the customer accounts in the other Bell System Companies.

Total messages (local and toll)	8, 529, 000, 000
Total complaints received involving abusive calling	46, 023
Total interstate messages	139, 000, 000
Total complaints received involving interstate abusive calling	70
Disposition of abusive calling cases:	
Closed after initial discussion	24, 819
Closed after keeping log	5, 769
Number, change, no transfer	11, 029
Change to nonlist or nonpublish	10, 053
Requests for line identification	1, 828
Lines successfully identified	307
Cases referred to security	686
Cases requiring disconnection by company	20
Cases resulting in court convictions	43
Total number closed	42, 751
Total number pending	5, 641

Of the total of 46,023 calls, the Bell System was able to identify 36,810 calls in the following categories:

Obscene	8, 763
Harassing	23, 358
Threatening	1, 971
Interference	2, 718

Senator PASTORE. Any question, Senator Cotton?

Senator COTTON. None, Mr. Chairman. I have arrived too recently to ask any questions.

Senator PASTORE. Would your staff want to comment on whether or not there should be any inclusion of the District of Columbia in S. 2825?

Mr. HYDE. Our immediate answer is that the whole question is whether or not the legislation is to be directed to interstate alone as is proposed in your bill, Mr. Chairman.

Senator PASTORE. But the Congress would have to pass legislation that governed the District; you know that.

Mr. HYDE. Yes.

Senator PASTORE. As distinguished from the States——

Mr. HYDE. That is right.

Senator PASTORE (continuing). Who exercise their own sovereignty.

All right. I think you have answered my question.

Are there any further observations you or any member of your staff would like to make with reference to this legislation?

Mr. HYDE. No.

Senator PASTORE. We thank you very much.

Mr. HYDE. We will be available at your call.

Senator PASTORE. Next we have Brigadier General Berg, Deputy Assistant Secretary of Defense. We will hear from him.

We are very happy to have you here this morning, General, and you may proceed.

STATEMENT OF BRIG. GEN. WILLIAM W. BERG, DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR MILITARY PERSONNEL POLICY; ACCOMPANIED BY COL. MANRICO P. DiFUSCO

General BERG. Thank you, Mr. Chairman.

Mr. Chairman and members of the committee, I am Brig. Gen. William W. Berg, Deputy Assistant Secretary of Defense for Military Personnel Policy. I have with me here Col. M. P. DiFusco, a member of my staff.

I welcome the opportunity to present the Department's views—Senator PASTORE. Incidentally, who is a Rhode Islander.

General BERG. That is right.

I would like to present the Department's view on S. 2825 and S. 3072, which would make obscene, threatening, or harassing telephone calls in interstate or foreign commerce a Federal offense.

We in the Department of Defense are concerned about the adverse effect on the morale and welfare of our servicemen and their families of these offensive, harassing, and even subversive acts—particularly as they pertain to our military operations in Vietnam and elsewhere. To date, we have been able to identify a total of 87 such contacts reported to us.

Here I would point out that the bills under consideration address themselves exclusively to telephonic communications. The reported incidents of harassment of service families—while mostly by telephone—have included letters, postcards, telegrams—and even face-to-face visits.

The character of these particular harassments vary greatly. Some of the more ghoulish ones have included sadistic taunts to the bereaved widow of an Army sergeant killed by enemy fire in Vietnam—gloating that “he got what was coming to him.”

Another phone—called to the wife of an Air Force sergeant stationed in Vietnam said:

I know your husband is in Vietnam and he deserves everything he gets. Before he can come home, you will be a widow.

A second call to the same wife, a month later said:

What kind of a hero will your husband be when we burn his kids?

Communications received through the mail are equally vicious—as witnessed by a letter to the widow of a deceased serviceman which said, in part:

You must be rejoicing in anticipation of receiving \$10,000 NSLI (National Service Life Insurance). As a gesture of thanks we suggest that you send \$1,000 to the Vietcong Sympathizers Arms Fund Student Center, CCNY, N.Y.C., N.Y.

There have been several reported cases of personal visits. For example, in March of this year the wife of a Marine Corps corporal stationed in Vietnam received a visit from an unidentified male who claimed to be a Marine Corps officer. The individual falsely told her that her husband had been seriously wounded by a gunshot wound in the chest while serving in the Chu Lai area.

Shortly after the visit, the wife received three telephone calls from unknown persons in which the callers objected to U.S. policy in Vietnam and tried to convince the wife that she should voice similar objections in her letters to her husband in Vietnam.

I am providing for the record the known details on all instances of these contacts which have been brought to our attention. We are certain, however, that there may be many more which have gone unreported. In this connection, we respectfully request that any public disclosures of these cases omit any reference to the names of the individuals involved to preclude the possibility of further harassment of these same persons.

Senator PASTORE. I do not think there is any objection to that, General.

General BERG. I should also mention that recently we made a spot check of nine representative military bases throughout the United States to get some idea of the magnitude of the general problem of abusive and harassing telephone calls. This survey turned up a total of approximately 500 reported complaints of all types during the past year. I would like to emphasize that these 500 calls were mostly unrelated to Vietnam.

Mr. Chairman, at this point I am reading from a prepared statement, and I recognize the point you made a while ago in your discussion with Senator Long about the intrastate problem.

As you know, Mr. Chairman, the views of the Department of Defense on S. 2825 have been reprinted by this committee. The Department of Defense concurs in the enactment of S. 2825. However, we would point out that the provisions of the bill are restricted to telephonic communications in interstate or foreign commerce. As I indicated earlier, the harassment of military families, while mainly by telephone, has included other means. Further, there is the strong likelihood that many of the contacts were made intrastate.

Accordingly, the Department of Defense is now drafting proposed substitute legislation which would broaden the scope of S. 2825 to encompass these contingencies. The Department of Defense recognizes that salient aspects of the proposed legislation are mainly within the purview of the Department of Justice and the Federal Communications Commission. Accordingly, we defer to their views on the technical merits of the proposal.

However, I can assure the committee that the Department of Defense welcomes and will strongly support any legislation which promises a measure of protection to the members of our Armed Forces and their families from these vicious and despicable acts. Their impact on the morale and well-being of the service member and his family directly affected is obvious. The fact of the matter is that—once publicized—they have a detrimental effect on all members of our Armed Forces and their families everywhere.

In this connection, and as a result of a meeting we held last week, I would like to mention that the American Telephone & Telegraph Co. has offered its full cooperation and assistance to the Department of Defense. We have, in fact, arranged to provide the American Telephone & Telegraph Co. with the information available so that we can develop a cooperative procedure.

Mr. Chairman, on behalf of the Department of Defense, I would like to thank you and the committee for this opportunity to express our views and we stand ready to assist the committee in any way we can.

Thank you.

Senator PASTORE. Thank you very much, General.

Any questions?

Senator COTTON. General, I note in the first paragraph of your statement that you say to date you have been able to identify a total of 87 such contacts. I recognize, of course, that it might not be in the public interest if you disclosed any individual cases. I am curious to know, however, whether you could give us some idea of the type of people involved, whether they are people of unbalanced mentality or just what type of people you have had revealed to you.

Could you answer that without injuring the public interest?

General BERG. The contacts we talk about, sir, are the cases where we have had them reported back to us.

Senator COTTON. Oh. You are not talking about cases you have succeeded in running down?

General BERG. You are correct, sir.

Senator COTTON. Have you succeeded in running down any cases?

General BERG. To my knowledge, we have not.

Colonel DiFUSCO. No.

Senator COTTON. I realize that the armed services have plenty to attend to these days, but what, if anything, do you do and what sort of an organization do you have to deal with this sort of thing?

General BERG. Well, we have an investigative function in each of the services and, in addition to that, in a number of cases where we had some information, some substantive information, it has been turned over to the FBI.

Senator COTTON. Now, these 87 contacts are the only ones you have had reported to you?

General BERG. That is right.

Senator COTTON. To date?

General BERG. That is right, sir.

Senator COTTON. Are they separate cases, or do some of them involve several calls to the same person?

General BERG. These 87 contacts I referred to, sir, involve a total of 50 families, so there is some duplication in there.

Senator COTTON. Thank you, Mr. Chairman.

Senator PASTORE. Thank you very much, General.

I am in receipt of a letter this morning from the Department of Justice under the heading of Office of the Deputy Attorney General. It is a four-page letter. I have not yet had an opportunity to read it in full because we only received it this morning. But the next to the concluding paragraph reads:

While the Department of Justice is in accord with the salutary objectives of S. 2825 and S. 3072 for the reasons stated above, we are unable to recommend their enactment.

In other words, they take the position that this whole responsibility should be left to the States.

Now, it is my firm conviction that the Justice Department, in view of what they say here, has not gone into this matter in depth. For that reason I am going to ask that the letter be made part of the record, because they did send it here, and I think it should be made public.

At the same time, I am going to request they come up here and testify. I think they ought to elaborate a little more clearly and precisely on their reasons.

Take my own State. We are very close to Seekonk, Mass., very close to Rehoboth, Mass. We are very close in the southern part of

the State to Connecticut, and there are many, many calls that go over the State boundary over which a State would have no jurisdiction. I think this needs to be cleared up, and I think they should elaborate on their reasons.

I am going to instruct the staff to communicate with the Justice Department to determine when it will be convenient for them to come up here and testify. I am not too much satisfied with the letter.

(The letter referred to follows:)

MAY 11, 1966.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: This is in response to your request for the views of the Department of Justice concerning S. 2825, a bill "To amend the Communications Act of 1934 with respect to obscene or harassing telephone calls in interstate or foreign commerce" and S. 3072, a bill "To amend the Communications Act of 1934, as amended to prohibit threatening and harassing telephone communications."

S. 2825 would add a new section 223 to the Communications Act of 1934 to make it a misdemeanor punishable by a fine of not more than \$1,000 or imprisonment for not more than one year, or both, for any person by means of an interstate or foreign commerce telephone communication (1) to make a comment, request, suggestion, or proposal which is obscene, lewd, lascivious, filthy, or indecent, (2) to make an anonymous call in a manner reasonably expected to annoy, abuse, torment, threaten, harass, or embarrass another, (3) to make repeated calls with intent to annoy, abuse, torment, threaten, harass, or embarrass another or (4) to permit a telephone under his control to be used for a purpose prohibited by the proposed section.

S. 3072 would amend the Communications Act to add a new section 511, which would make it a felony punishable by a fine of not more than \$500 or imprisonment for not more than two years, or both, to threaten physical injury to another by means of the telephone or repeatedly to contact another, or cause another to be contacted, by means of the telephone with intent to harass or torment such person.

It is not clear why a telephone communication which is reasonably to be expected to annoy, abuse, torment, threaten, harass, or embarrass another, should be punished only if it is anonymous and why one made with intent to annoy, abuse, torment, threaten, harass, or embarrass another, should be punished only if it is repeated. It would appear that if a call of the character described in S. 2825 is to be the subject of Federal law, it should be covered whether or not made anonymously and whether or not made repeatedly.

The words "harass", "torment", "annoy", "abuse", "threaten", and "embarrass", describing the conduct to be prohibited by this legislation, must be viewed in the light of constitutional requirements. In our view, standing alone such terms might well be unconstitutionally vague. It is a basic constitutional demand that the conduct to be prohibited in a criminal statute must be defined with sufficient preciseness as to give fair warning to persons who might come within the prohibition. Some measure of precision is provided by the bills in that they would prohibit calls made in a "manner reasonably to be expected" to accomplish the prohibited result or "with intent" to do so. Whether these criteria furnish sufficient guidance to a prospective caller, in order that he may determine whether his call will constitute a mere inconvenience or a harassment, is questionable.

There would probably be no problem with respect to the use of the words "obscene", "lewd", "lascivious", "filthy", or "indecent". Although these words, also, are not susceptible to precise definition, the Supreme Court has concluded that they are of sufficient exactitude to withstand attack on the ground that they are unconstitutionally vague. *Roth v. United States*, 354 U.S. 476, rehearing den., 355 U.S. 852 (1957).

Aside from legal considerations, the subject measures present other problems which require careful thought. Thirty-eight states have statutes which make it a crime to place obscene and/or harassing telephone calls. The Department of Justice has no evidence that state and local law enforcement machinery in these states, as well as in those which may enact remedial legislation, cannot adequately protect the public from such calls. Unless the Committee has clear and convincing

evidence that Federal enforcement assistance is necessary, we believe that this responsibility should be left to the states.

We understand that the Bell System receives approximately 375,000 complaints annually charging telephone calls such as are encompassed by the legislation. The Company has estimated that only about 500 of these complaints concern interstate calls. But even under S. 2825, which is limited to interstate communications, an investigation would be necessary in each case before the origin of the call is determined. Hence, under either bill, there would be a potential of 375,000 investigations, imposing a staggering burden upon the Federal Bureau of Investigation, to the detriment of many other important investigative responsibilities. The number of telephone calls which recipients might characterize as obscene, harassing, or annoying could be enormous. Although there may be a difference in the case of calls spanning a long distance, we do not know of any investigative tools possessed by Federal investigative officers, whether in dealing with local calls or calls crossing the state lines, which are not now available to local officers.

As a technical observation, we note that paragraph (iv) of the proposed section 223 (S. 2825) which prohibits permitting a telephone to be used for a prohibited purpose, is incompatible with the introductory clause of the section.

The Department has also been asked for its views on Amendment No. 557 which is intended to be proposed to S. 2825. The amendment, which would amend the Universal Military Training and Service Act to prohibit urging or advising, directly or indirectly, persons to evade or refuse registration or service in the Armed Forces, would appear to be unrelated to the subject of S. 2825 and S. 3072 and more properly the subject of separate consideration. In this connection, we note that an identical measure (S. 2975) is pending with the Committee on Armed Services.

While the Department of Justice is in accord with the salutary objectives of S. 2825 and S. 3072, for the reasons stated above, we are unable to recommend their enactment.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

RAMSEY CLARK,
Deputy Attorney General.

Senator PASTORE. Mr. Hubert Kertz, vice president of the American Telephone & Telegraph Co.

STATEMENT OF HUBERT KERTZ, OPERATING VICE PRESIDENT, AMERICAN TELEPHONE & TELEGRAPH CO.

Mr. KERTZ. My name is Hubert Kertz. I am operating vice president of the American Telephone & Telegraph Co. and I appear on behalf of the Bell System telephone operating companies.

We are very concerned about the problem of abusive calls and we are doing all we can to stop them.

We are pleased that this committee is interested in the problem and I appreciate the opportunity to present our views. We would welcome legislation at the Federal level along the lines proposed in Senate bill 2825.

The Bell System policy has always been to insure that customers receive the best possible telephone service. When the telephone becomes an instrument of annoyance or harassment, it is a matter of serious concern. Removing sources of customer irritation is an integral part of providing high-quality telephone service. In our attempt to eliminate this problem, we welcome help.

In a summary compiled for the month of March 1966 the Bell System companies reported having received about 46,000 complaints involving abusive calls. Of course, the only way we can know about such calls is when they are called to our attention by our customers.

We consider abusive calling to be a serious problem even though these 46,000 complaints represent only a small fraction of the more than 10 billion calls made by our customers in the same month of March. I shall in this statement explain the problem and the steps we are taking to remedy it.

We really do not know exactly how much of this abusive calling is interstate or how much is intrastate, but it is our judgment that most of the problem is local in nature. An interstate call may be a toll call of which there is a record in the form of a toll ticket or the automatically recorded equivalent—or it may be a local call such as one from Arlington, Va., to the District of Columbia. It is only after an investigation of a complaint has been successfully completed that we are able to classify the offending calls as interstate or intrastate.

Of the some 46,000 complaints received in March of this year, only about 70 have so far been classified as involving interstate calling.

Senator PASTORE. You say 70?

Mr. KERTZ. Seventy. Yes sir.

We think Federal legislation will have a deterring effect on potential offenders and that such legislation would be a practical advantage to us in attempting to deal with this abusive calling problem.

Senator PASTORE. I will call that paragraph to the attention of the Justice Department.

Mr. KERTZ. Yes sir.

Existing State and local criminal legislation is of great help to us. In view of the fact that most abusive calling appears to be intrastate and local in nature, we have found that in many cases appropriate remedial action can be promptly and effectively taken by using our procedures and tariffs and, where necessary, by having recourse to State and local criminal prosecutions.

Presently 38 States have statutes specifically outlawing abusive calling, and we are urging similar legislation in the others. Even in the remaining 12 States more general statutes, such as those dealing with disturbing the peace, have been used in abusive calling cases. In areas served by the Bell System the courts convicted 358 abusive callers during 1965.

We think Senate bill 2825 would be more effective than Senate bill 3072, which might possibly be construed as superseding existing State and local laws and whose breadth of coverage—in this bill, S. 3072—might dampen the enthusiasm of local authorities in their approach to the abusive calling problem.

It might be appropriate at this time to review with you the procedures the Bell System is following in handling complaints about abusive calls. We are determined to eliminate such abuse; we are assuming the responsibility for taking action; and we will maintain close contact with the victims until the abusive calling problem is resolved to their satisfaction.

When a customer informs us that he received a call threatening bodily harm, kidnaping, or damage to property, we develop the pertinent details and immediately refer the matter to a management person in our security organization. He is authorized to take whatever action is necessary to deal with this type of complaint, including steps to identify the telephone line from which the call was made.

We also suggest to the customer that he acquaint the local law enforcement authorities with the facts, if he has not already done so.

In cases not involving threats, we take a number of steps to solve the customer's problem. When we receive a complaint, we attempt to bring to the customer's mind any details that might uncover clues as to who might be making the calls. These facts also aid us in determining what further steps are appropriate to solve the customer's problem. They also prove to be helpful in setting up the line identification procedure, if such action turns out to be necessary.

As you can understand, I would rather not discuss in detail all the techniques we use to identify the telephone lines from which abusive calls originate. Public disclosure of this information might make it easier for annoyance callers to avoid detection.

Senator PASTORE. Can I ask you a categorical question at this time before we get into the demonstration?

Mr. KERTZ. Yes, Mr. Chairman.

Senator PASTORE. Is it now possible technically to trace a call, even on the dial system, whether it is interstate or intrastate?

Mr. KERTZ. That question is difficult to answer yes or no. But given most circumstances, yes.

Senator PASTORE. All right. Now, you tell me "most circumstances." What do you mean?

Mr. KERTZ. Well, obviously, when you are talking about tracing annoyance calls, abusive calls, you have to divide them into two categories. I try to look at them on the basis of before the fact and after the fact.

If the complaint comes in and the customer says, "I had an annoyance call night before last at 2:30 in the morning," obviously we have no way of finding out.

Senator PASTORE. Of tracing it?

Mr. KERTZ. Of tracing that call.

Senator PASTORE. I think everybody agrees to that.

Mr. KERTZ. Now, however, if the customer comes in to us and says, "I have been getting annoyance calls every night at 2 o'clock in the morning," then the following night we can take measures to trace that call.

Senator PASTORE. In other words, once it comes to your attention and after it comes to your attention that annoyance is repeated, you have facilities to detect it?

Mr. KERTZ. Yes, sir; to try to detect it.

Senator PASTORE. All right, sir. You may continue.

Mr. KERTZ. I would like, Mr. Chairman, if I may, to explain some of the devices and the methods that we use.

This chart is an oversimplification of the dial system in the telephone company. And what I have placed on the chart is a diagram of the way an annoying party might call the annoyed party or, if you will, the calling party and the called party.

Now, as indicated on the diagram, the annoying party's telephone here is connected by wires to the central office, which is shown by the equipment at the top of the chart. At the central office it goes through what we call a main frame and from there goes to the various parts of the switching equipment. I have shown that as line frame, trunk frame, and trunk circuits.

Then the so-called common control equipment which regulates the switches or sets up the call is indicated down here by this block that is shown marked "control equipment."

Now, if we have an indication, again after the fact, that this annoyed party telephone may be expecting an abusive or annoying call, what we do is to place upon the annoyed party's telephone a false trouble.

Now, when the annoying party calls the annoyed party, before the connection is established this control equipment here, which is marked in the block and is in the central office, detects that there is seemingly a trouble on the annoyed party's telephone. And when it does that, in order to give the maintenance people some indication of trouble in the office, it drops out a punched card which is similar to an IBM card and is shown down here on the bottom of the easel.

I have some of these which have been marked, Mr. Chairman.

Now, obviously, looking at the size of this card, there is a lot more information on here than is required to trace a call, and so what I have done to simplify it is to mark in here in red circles the pertinent information involved in determining the annoying party's telephone number that has called the annoyed party.

Now, if you look at that card I gave you, it has the red circles on it, and we have marked in red there on top about the middle of the card the called number.

You will see the first number is a 5, and it is obtained by adding the 1 and the 4 which are punched as you can see. Now, that happens to be the thousands digit of the called number.

This is the called number now, the annoyed party. So that is a 5.

Now, you go to the next block, and you see that we have marked in red there a 6. That is obtained by adding the punched 4 to the punched 2. So that our hundreds digit is a 6.

The next block is the tens digit, and that is indicated by the red mark as a 5 and is obtained by adding the punched 4 and the punched 1.

Likewise, the unit digit of 5 is again obtained by adding the punched 4 block and the punched 1 block in the units block.

So that the called number is 5655.

Now, over on the right-hand part of the punched card, there is a series of other punches which relate to the equipment that was used in the particular call that was set up.

But for the call-tracing purpose or the line identification of the calling number now, which is the annoying party, if you look down at the bottom of the left-hand part of the card you can see we have circled again the calling or the annoying party's number, and again it turns out to be a 3 in the thousands digit by adding the 2 and the 1, a 3 in the hundreds digit by adding the 2 and the 1, a 3 in the tens digit by adding the 2 and the 1, and a 6 in the units digit by adding the 4 and the 2.

So we now have the calling number in here which is 3336.

Now, I have oversimplified this explanation a bit, but this is the general idea.

Now, the time is also punched on here so that if we tell the annoyed party to let us know when he or she receives that annoying call we can compare it with this false trouble ticket that was dropped out and determine the annoying party.

That is one method that is used.

Now, I have oversimplified this explanation a bit, and there are other problems going through this switching equipment, which I guess you realize is a large computer, that makes it in some cases a little bit more difficult. So we have another way of doing this which is an

assist in tracing for line identification. I would like to demonstrate that by this equipment that we have over here on the left.

Under certain circumstances, this line identification becomes a little more difficult, as I indicated. What we have tried to portray here is the annoyance caller. And I will be the annoyance caller, which is represented by this telephone.

The central office is represented by this box here in the middle with the red light on it. And you must visualize, of course, large amounts of switching equipment along with it.

The annoyed party is the customer over here on the right where Mr. Miller is sitting.

What we have done—again this is after the fact, Mr. Chairman—is to provide the annoyed party with a little black box that you see there.

Now, to demonstrate this, it is always a risk making a demonstration like this to make sure it works, but I am going to call the annoyed party, or Mr. Miller, and his number I believe is 2975.

When the phone rings, he is going to answer it, and then I am going to ask him to perform an operation.

Now, we have an established connection between the annoyance caller and the annoyed caller. And it goes through this equipment which is represented here in the center of the table.

Now, whatever I do to annoy the called party, he determines that it is an annoyance call or an abusive call. And I am going to ask him to operate a switch.

Now, since the alarm makes quite a bit of noise, if you do not mind I will ask him to restore the switch to normal. But in the actual case he would leave it on.

Now, this buzzer that you heard is in the central office. It draws the attention of the maintenance people there. The way that buzzer was actuated was that a 20,000-cycle note was placed on this connection, and it operated equipment in the central office to call the attention of the maintenance people that an annoyance call is in progress.

Now, the annoyance caller being myself did not hear that at all, because 20,000 cycles is well above the audible range of the average person.

Now, as long as the annoyed party has that switch operating, the alarm is ringing in the central office. But further than that, if I am the annoyance caller, I have the impression that if I hang up the whole connection falls down and there is no possibility of tracing the call.

So this I will do. Now, however, because that key is still operated, we have operated some relays in the central office that in part hold up that connection. And if I may return to the chart—

Senator PASTORE. In other words, you are saying when that person puts that receiver down, the connection is still open? Not like the usual case where it closes the circuit? In other words, it gives you time, does it not? It gives you time?

Mr. KERTZ. Yes, sir. That is correct.

Senator PASTORE. In other words, if that person picked it up and breathed heavily, if the one who receives the call is able to turn on that switch, thereby alerting your maintenance office, even with the mere fact that the fellow stops breathing heavily and hangs up, that line is still open so that you can detect where it came from?

Mr. KERTZ. This is correct, Mr. Chairman.

Now, however, I must put a couple of caveats in this. All calls such as I just described and as you described, Mr. Chairman, are not quite that simple. It is true what I just answered you—that with that key operated, this connection from the annoyed party is held up through the switching equipment back here, and the equipment maintenance people in the central office are able to trace the call and determine the annoying party's telephone number.

Now, in our large dial switching network, which is getting more complex every day, we have, of course, such other things there as are known as tandems, No. 4A crossbar switching systems, and so forth, which are quite often interposed between the central office of the annoying party and the central office of the annoyed party.

And then this program of this tracing becomes a little more difficult.

However, the fact that that key is still thrown allows us to get at least to the trunk circuit and we now have an indication.

And, of course, by other means, a subsequent call can be traced even further, and on repeated attempts we can get it.

Now, of course, it is not enough to make a successful line identification, because there is always the question of the annoying party being on a party line, for example, or the question of a false trace—that is, misinformation. And since we are dealing with a serious matter here, we want to be sure that we are right in our conclusions.

So we have another gadget that we use, Mr. Chairman, and I will get around over here and explain it.

Now, having arrived at the point that we feel that we have identified the annoyance caller again on his telephone number, we then place on the annoyance caller's telephone line a pen register which is this device that you see here.

Now, I would like to emphasize at this point there is nothing about this device or that device on the other end of the table or the others that I have described that involves any monitoring whatsoever of either the calling or the called party's line. There is no attempt to get onto the line to listen to conversations. This is simply a question of line identification.

Now, if I am again the annoyance caller and I am going to again call the annoyed party, in this particular case I take the receiver off the hook and, as you can see, the pen register starts to operate.

Now, what I am going to do is to dial the number of the annoyed party. When I do that I will have put on the tape the number of that annoyed party.

So let me demonstrate that. The annoyed party is now 2926.

Now, we are on the line, and we have annoyed him, and I hang up.

Now, we have prepared this tape, and I have a few others that I have prepared here too, and to make this demonstration as live as possible I have not attempted to mark it up as I did the card.

But in this particular case, Mr. Chairman, you will remember now that the annoyed party's telephone number was 2926, and here [indicating] was where I took my receiver off the hook. That is the first mark you see on there.

The next two marks are the digit 2.

Now you see there are nine marks. So we now have a 2 and a 9. And another 2. And there is the 6. The last mark over there was where I disconnected.

Now, we have positive proof that at least at that particular time the annoying party which was represented by myself called the annoyed party, 2926. And since we had the pen register on that annoying party's line, we are sure we have the right party.

Senator PASTORE. In other words, you start out with this contraption which leads you to the suspect. And in order to fortify your position regarding the suspect, you put a contraption on his telephone, and then when he calls back to the annoyed party, then you have closed the loop?

Mr. KERTZ. Precisely, Mr. Chairman.

Now, I must add, of course, that there are other means that we have as well, but I think with these explanations I have given a general idea.

Now, over the years many different techniques have been devised to identify the lines from which anonymous and abusive calls originate. These techniques have grown more sophisticated as our telephone switching systems have become more complex. We are continually working on better and quicker ways of making these line identifications, and we are adding special equipment to improve our ability to do so.

We believe that successful identification of the calling line, and the publicity following the conviction of the annoying caller, substantially deters abusive calling by removing the cloak of anonymity which hides and emboldens such callers. I might add that local law-enforcement authorities have been most cooperative and extremely helpful in investigating these cases.

When there has been a line identification, there are several directions a case might take:

(a) We normally secure written consent from the customer who is receiving these calls when he asks us to disclose the calling line to a law-enforcement agency to which the facts have been reported or with which he plans to file a complaint. In any ensuing prosecution a company representative may be a witness and may be asked to provide a chronological history of the telephone company's role in handling the matter. As I mentioned previously, we attempt to publicize all successful prosecutions since we believe such publicity significantly deters abusive calling.

(b) Where the annoyed customer does not decide to take legal action we still may be in a position to take further steps. Bell System tariffs provide for the discontinuance of the telephone service of an offending party in such cases.

In addition to the foregoing course of action, we are launching a national advertising campaign on this subject. This advertising will clearly enunciate our policy, including our pledge of assistance to any member of the general public within our operating areas who is a victim of such calling.

Several Bell companies have already placed such advertising in local newspapers in their areas, and others are planning to do the same. Attached to this statement are copies of such advertising. The Bell companies have also embarked on an extensive employee information program outlining our policy and procedures.

In recent months there have been a number of articles in the national press about abusive calls made to relatives of servicemen engaged in Vietnam. When these articles first appeared, we immedi-

ately requested each of the Bell System companies to give special cooperation when complaints were received involving abusive calling to families of servicemen. To date, we have received very few complaints about these kinds of calls.

We contacted the Department of Defense at the senior level and expressed our desire to be of assistance in this situation and requested them to furnish us any information they might have which would be helpful in locating these abusive callers. To date, we have not been furnished any specific information about these calls, but, as General Berg has said, we have been together on this matter recently, and we are looking into these.

You must remember again the difference between before the fact and after the fact.

Let me summarize the Bell System position on the entire matter of abusive calling. We are deeply concerned about this problem. We welcome legislation on it. We are doing all in our power to eliminate it. We stand ready to give this committee any assistance it requires.

(Attachments to Mr. Kertz' statement follows:)

What you can do about obscene, harassing or threatening phone calls

It's our policy—indeed, it's our business—to make sure that customers receive the best possible phone service.

That's why, when the telephone becomes an instrument of annoyance, unpleasantness or harassment, it's a matter of the most serious concern to us.

There are three things that you and members of your family can do about such calls, if you receive any.

1. Don't talk to a caller you're doubtful of. Don't give him the audience he wants.

2. Hang up at the first obscene word, or if the caller doesn't say anything, or doesn't identify himself to your satisfaction.

3. Call your Bell Telephone Business Office if the annoyance persists. We have employees who are trained to assist and advise you and who can frequently help in identifying the origin of unwelcome and troublesome calls.

In communities across the nation, we are working with police officials and other authorities to curb abusive calling.

In most circumstances we can reveal the origin of abusive calls to the called party, or to law enforcement authorities with the consent of the called party. We want to do all we can to protect your right to privacy.

The more everyone cooperates, the fewer such calls there will be.



Bell System
American Telephone & Telegraph
and Associated Companies

Here's what to do about obscene or harassing phone calls:

1. Don't talk

What the caller really wants is an audience. Don't keep talking to him.

2. Hang up

Hang up if the caller doesn't say anything.

Hang up at the first obscene word.

Hang up if the caller doesn't identify himself to your satisfaction.

Don't slam down the receiver and admit the call bothers you. Hang up.

3. Call Police

Call police if a threat is made at any time.

4. Call us

Call us if these obscene or harassing calls persist.

Business Office Phone Number - 622-9900

We're concerned about these calls and want to help stop them. Should you receive any, remember, you control your phone. You can end any conversation simply by hanging up. If the calls continue, don't hesitate to call your Telephone Business Office. We will do everything we can to co-operate with the police in the apprehension of the callers.

With the help of improved procedures, many persistent callers have been caught.

We also remind everyone that Ohio law provides up to **SIX MONTHS IN PRISON AND A \$500 FINE**, or both, for anyone using language of a lewd, lascivious or indecent character on the telephone, or anyone who repeatedly telephones a person for the purpose of harassing or molesting that person.



Ohio Bell

Part of the Nationwide Bell System



What to do about obscene or harassing phone calls

We are very concerned about these calls. Should you receive any, the following guidelines provide a very effective way for you to stop them:

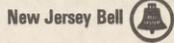
1. **Hang up**—if the caller does not say anything.
 - at the first obscene word.
 - if the caller does not identify himself to your satisfaction.

Remember, *you* are in control of your phone. You can end any conversation simply by hanging up.

2. **Don't keep talking to the caller**—what he really wants is an audience. Don't be that audience.

By keeping these hints in mind, you can usually discourage someone from continuing to call you. If the calls do persist, call your Telephone Business Office. We have representatives who are trained to investigate, identify, and help in the apprehension of these callers.

NOTE: New Jersey laws provide up to ONE YEAR IN PRISON AND A \$1000 FINE to anyone making lewd, lascivious, or disgusting remarks on the telephone, or who repeatedly telephones a person for the purpose of molesting or annoying that person.



Here's what to do about obscene or harassing phone calls:

1. Don't talk.

Don't keep talking to the caller. What he really wants is an audience. Don't be that audience.

2. Hang up.

Hang up if the caller doesn't say anything.

Hang up at the first obscene word.

Hang up if the caller doesn't identify himself to your satisfaction.

3. Call us, if...

these obscene or harassing calls persist.

We're concerned about these calls and want to help stop them. Should you receive any, remember, you control your phone. You can end any conversation simply by hanging up.

If the calls continue, don't hesitate to phone your Illinois Bell Service Representative. She can call in people we have specially trained to help investigate, identify, and work with police in the apprehension of these callers. With the help of improved procedures many persistent callers have been caught.

We also remind everyone that Illinois law provides up to six months in prison and \$500 in fines for making obscene or harassing calls. And where evidence is clear, we are permitted to disconnect or remove the phone service of anyone making such calls. We want you to know we're doing all we can to preserve your right to privacy.



**We hope
you never receive
a malicious or annoying phone call.**

**But
if you should,
here is what you can do,
and what we will do to help**

We're deeply concerned that some people are receiving malicious or obscene phone calls.

The majority of such harassing calls are made by misguided people. The best way to stop them is simply to hang up. But if the calls persist, please follow these suggestions:

- If the caller uses obscenity or doesn't properly identify himself or says nothing, hang up. Don't keep on talking. That's what he wants.
- Call your Telephone Business Office if you are harassed again.

HERE'S HOW WE WILL HELP:

- Our Business Office personnel throughout the state are specially trained to assist you.
- In difficult cases, our Annoyance Call Bureau will work closely with you and police officials to catch offenders.
- This special action group can arrange to:
 - Trace such calls.
 - Intercept calls to a harassed customer.
 - Interview the customer from whose phone the calls were made.
 - Terminate service of the telephone from which calls originated.

We believe this campaign will assure continuing progress toward the elimination of annoyance calls.

The New York Penal Law makes it a misdemeanor to use the telephone to make obscene remarks to a woman or child, or to threaten to commit a crime against any person. The penalty can be imprisonment for one year and a \$500 fine.



New York Telephone
Part of the Nationwide Bell System





What to do about obscene or harassing phone calls

We are very concerned about these calls. Should you receive any, the following guidelines provide a very effective way for you to stop them:

1. **Hang up**—if the caller does not say anything
 - at the first obscene word
 - if the caller does not identify himself to your satisfaction

Remember, *you* are in control of your phone. You can end any conversation simply by hanging up.

2. **Don't keep talking to the caller** — what he really wants is an audience. Don't be that audience.

By keeping these hints in mind, you can usually discourage someone from continuing to call you. If the calls do persist, call your Telephone Business Office. We have representatives who are trained to investigate and assist in the identification of these callers.

What to do about obscene or other offensive phone calls

We are very much concerned about these calls. Should you happen to receive any, the following simple guidelines provide an effective way for you to stop them:

- 1. Hang up** — if the caller does not say anything.
 - at the first obscene word or improper personal question.
 - if the caller does not identify himself to your satisfaction.
- 2. Don't keep talking to the caller** — what he really wants is an audience. Don't be that audience.

Remember, you are in control of your phone. You can end any telephone conversation simply by hanging up.

By following these guidelines, you can usually discourage someone from continuing to call you. If the calls do persist, call the Telephone Business Office. We want to help in investigating and apprehending these callers.

Northwestern Bell Telephone Company



Senator PASTORE. I want to ask you a question in two parts. If the first part is in the affirmative, then you can answer the second part.

Is it proper for me to ask you how much money the Bell System has invested in these experiments?

Mr. KERTZ. Yes, sir; it is proper.

Senator PASTORE. Is it proper for me to ask the question?

Mr. KERTZ. Yes.

Senator PASTORE. Are you in a position to answer the question?

Mr. KERTZ. Only in general terms, Mr. Chairman. When you speak of money invested, I am sure that the operating expense, which is not investment, is many, many times the investment.

Senator PASTORE. Let me put it this way: How much money have you spent in this experiment?

Mr. KERTZ. Well, I would hate to make an estimate at this time, but I can provide the committee with that.

Senator PASTORE. Is it a large sum?

Mr. KERTZ. It is a large sum, sir. It is in the millions.

Senator PASTORE. It is in the millions?

Mr. KERTZ. Oh, yes, sir. Surely.

Senator PASTORE. If it is proper to reveal the figure, I would appreciate it very much if you would provide it for the record.

Mr. KERTZ. Yes, sir, I would be glad to do that.

(The information requested follows:)

AMERICAN TELEPHONE & TELEGRAPH Co.,
New York, N. Y., May 27, 1966.

HON. JOHN O. PASTORE,
U. S. Senate,
Washington, D. C.

DEAR SENATOR PASTORE: When I appeared before your Senate Subcommittee on Communications you asked for the record of how much money the Bell System spent in an attempt to solve the annoyance call problem.

We estimate the day-to-day operating costs incurred for handling these complaints from customers will be more than 7.5 million dollars this year. We further anticipate that our costs connected with these cases will approach 10 million dollars in 1967.

Again, I would like to express my appreciation for the opportunity to appear before the Sub Committee. Should you wish any further information, please let me know.

Respectfully,

H. L. KERTZ.

Senator PASTORE. Any questions, Senator?

Senator COTTON. You mentioned that presently 38 States have statutes on this subject. Based on your company's work on this, could you give the committee your opinion on how these statutes have operated and how successful they have been in reducing the annoyance calls?

Mr. KERTZ. Yes, Senator. The statutes have been very successful in the States in which they are effective. In addition, of course, in the States that do not have statutes specifically mentioning telephonic communications, there are other laws under which we have obtained convictions.

Now, as to the effectiveness of these statutes, I mentioned in the testimony that we had obtained some 300-odd convictions in the year 1965. Of those, there were only 3 percent of them that turned out to be repeaters. So I think we can say that they are fairly effective.

Now, may I, Senator, point out that where you have people who are mentally ill, innumerable statutes are not going to solve the problem. And we find that these people are about one-third of the total.

Senator COTTON. How about the other two-thirds? What sort of people are they?

Mr. KERTZ. Of the total of some 400 cases that we analyzed where we were able to obtain full information, about one-third of them were mentally ill. About one-third of them were juvenile pranks. And the other third were business disagreements, divorce cases, labor strife, and extremist organizations.

Senator COTTON. Do you happen to know what percentage or how many of these calls originate from subscribers, from people who have telephones, and how many from public phone booths?

Mr. KERTZ. We believe that the majority of them come from private telephones. Now, this includes both residents, as well as business, incidentally.

My general impression is that the majority of them come from private residential or business telephones.

Senator COTTON. Are these procedures that you have so interestingly outlined to us and these devices that you use to trace calls less effective in tracing calls to public phones than they are to private phones?

Mr. KERTZ. No, Senator, they are not. They are equally as effective on a coin telephone. But the problem is that I like to think the misdirected person or the mentally ill person has left by the time we are able to get somebody to the coin telephone.

Senator COTTON. The next time he does it he will use another phone?

Mr. KERTZ. Precisely.

Senator PASTORE. Not only that. When he has to put a dime into the telephone, you do not expect a juvenile to be doing it, and you do not expect a mentally ill person to be doing it. And even with a crank, a sadistic person, I suppose it is going to get a little expensive, if that becomes a way of life for him.

Mr. KERTZ. Well, Mr. Chairman, people—

Senator PASTORE. Unless he makes a complaint to have a reduction in rates. [Laughter.]

Mr. KERTZ. Mr. Chairman, people are peculiar, and we have had cases in which we have actually identified calls from coin telephones, a substantial number of them, and one of them, one person was willing to make a 15-cent call each time in order to harass a business establishment from which he had been dismissed from his job. And he was willing to spend 15 cents some 20 or 30 times before he was caught.

Senator PASTORE. Well, he had a pecuniary interest. [Laughter.]

I want to thank you very, very much for the assistance you have given to this committee.

How long has this equipment been in use, and is it now in use?

Mr. KERTZ. Some of this equipment, Mr. Chairman, has been in use for years and years. Some of the others that we are using are of recent origin.

In the past—and I like to think of the past as before the war, that is, before World War II—this was no real problem to us. It has only

been in recent years that either through publicity or changing times it has become a real problem. Of course, more telephones and more people also add to it.

As a result of that, to meet this magnified problem, we have developed other devices. But we are using today very effectively devices that we used 20 and 30 years ago. On the other hand, we are also using today devices that have been developed over the last few years.

Senator PASTORE. Let me ask you one final question along the lines of Mr. Cotton, if you really know. And I have no particular purpose in asking this. It is merely to get into the question of sexual perversion. How many would you say were men as against women in these cases that you prosecuted?

Mr. KERTZ. The majority are men.

Senator PASTORE. The majority are men?

Mr. KERTZ. Yes, sir. Now, when I said that, you qualified, Mr. Chairman, the type of cases. There are a great many cases that involve domestic squabbles where the woman is the offender.

Senator PASTORE. I see.

Mr. KERTZ. But going to your pervert, the majority of it is men.

Senator COTTON. It is practically impossible for a woman to put in a telephone call and not talk; is it not? [Laughter.]

Mr. KERTZ. The strength of our business, Senator. [Laughter.]

Senator PASTORE. Any further questions?

Senator COTTON. No, thank you.

Senator PASTORE. Thank you very much.

Our next witness is Admiral Mott.

Admiral, it is nice to have you here again.

**STATEMENT OF WILLIAM C. MOTT, EXECUTIVE VICE PRESIDENT,
UNITED STATES INDEPENDENT TELEPHONE ASSOCIATION,
ACCOMPANIED BY WARREN FRENCH, JR., VICE PRESIDENT,
SHENANDOAH TELEPHONE CO., EDINBURG, VA.**

Admiral MOTT. Thank you, Mr. Chairman.

Senator PASTORE. You may proceed.

Admiral MOTT. Mr. Chairman, my name is Adm. William C. Mott. I am executive vice president of the United States Independent Telephone Association, a trade association composed of over 1,000 telephone companies.

I am pleased to appear here on behalf of our member companies in the independent industry.

I am also happy to have with me Mr. Warren French, who is vice president of the Shenandoah Telephone Co. down in Edinburg, Va., one of our member companies.

Mr. French is familiar, Mr. Chairman, with the problem of customer complaints regarding abusive and harassing telephone calls. He knows how these calls may be traced with the equipment in his company and is familiar with the kind of working arrangement a telephone company must have with prosecuting attorneys under a criminal statute in order to bring about a conviction.

Whenever you are prosecuting under a criminal statute, Mr. Chairman, you have to have this kind of a working arrangement with the

local authorities. It is really a kind of a three-legged stool, the complaining party, the telephone company, and the prosecuting attorney.

Mr. French has such an arrangement with the Commonwealth attorney in the area his company serves. There are some 23,000 people in that area, and he has 9,000 stations. He has actually traced such calls and secured sufficient evidence with which the Commonwealth attorney has brought about convictions under the Virginia State statute.

He will be happy to describe the procedure to members of this committee, should you desire to question him.

Now, like all trade associations, we are governed by a board of directors. The board of directors of the United States Telephone Association met here in Washington earlier this month to consider the position it should take on the matter of Federal legislation to make it a crime to use the telephone for purposes of harassment.

We regard this, Mr. Chairman, as an industrywide problem—all of the telephone systems in the United States.

I am pleased to report to you, sir, that our directors, representing the vast majority of the some 15 million Independent telephones in this country, passed a unanimous resolution condemning the kind of practices this committee is investigating this morning.

Because of the great interest that some of our directors have, one of them has come down here this morning from Rochester, N. Y. and is in the hearing room. He is Mr. George Beinetti, president of the Rochester, N. Y., Telephone Co., and he is accompanied by his staff.

The resolution adopted by the Board reads as follows:

The USITA supports the concept that Federal and State legislation should provide penalties for the origination of obscene or harassing telephone calls both in interstate and intrastate commerce. Since there is no Federal legislation on the subject and since not all States have such legislation the Association urges legislative action by the Federal and appropriate State governments.

As a matter of interest to the committee, the independent industry operates in some 49 States. There are two States, however, which are completely Independent, that is, non-Bell. They are the States of Hawaii and Alaska. I checked yesterday and discovered that both of these States have statutes condemning and providing penalties for the use of the telephone for the type of harassing calls envisaged in Senate bill 2825.

I understand from Mr. Hyde that you already have all of these statutes in the record, so I will not both to read them.

Senator PASTORE. Yes; we do have.

Admiral MOTT. But they are in my statement.

Now, as my Bell colleague has indicated, Mr. Chairman, there are some technical difficulties involved in tracing calls because normally the control of a circuit is with the calling party, not the called party. However, as Mr. French will describe to you, if you wish, when a legitimate complaint is made, the telephone company has the means, with some changes in equipment and considerable extra effort in some cases, to get the kind of evidence which is needed for a conviction. I think it best not to go into detail with respect to the procedure for tracing calls and the equipment used. It differs somewhat in different cases.

I might say, though, Mr. Chairman, that we have a commercial committee in the United States Independent Telephone Association which is concerned with matters such as this, and they have prepared a very complete bulletin, copies of which have been furnished to you, which is recommended as a guide to all of our companies in handling this matter.

I believe you will find that this bulletin covers the whole gamut of these calls from beginning to end and gives advice to the companies as to what procedure they should follow.

Senator PASTORE. Do you think it will serve a purpose to have it inserted in the record?

Admiral MOTT. Mr. Chairman, I would rather leave that to you and your discretion, after you and Mr. Zapple have reviewed it. I am perfectly willing to have it included in the record, but there is a matter here for you to decide, sir, as to whether you want to make all of these details available to the public.

Senator PASTORE. Well, we have got to fish or cut bait. Without objection, it will be inserted in the record.

Admiral MOTT. All right, sir.

(The document referred to follows:)

COMMERCIAL COMMITTEE BULLETIN

ANNOYANCE CALLS

The attached Commercial Bulletin covering procedures for handling annoyance calls has been developed by the Commercial Committee and is recommended to all companies as a guide.

The problem of customers' complaints about receiving annoyance calls has become increasingly troublesome in recent years. In the interest of good telephone service and good customer relationships, each company should do all it can to assist customers who ask for help after receiving annoyance calls. There is some indication of pressure for legislation to require telephone companies to take action against offenders. It is certainly important that companies do everything possible to prevent more complaints and more public attention to the matter.

PART I—STATEMENT OF POLICY

One of the problems the telephone industry faces today is the increasing number of customer complaints about annoyance calls. The number of such complaints has increased steadily in recent years and it is estimated that more than 1,500,000 are currently received each year. It can be assumed that many more customers receive similar calls but never report them.

Calls that annoy can be divided into three broad groups:

1. Abusive calls (including obscene, harassing, threatening or interfering calls).
2. Commercial solicitation calls (including sales, promotional solicitation or survey calls).
3. Misdirected calls.

Abusive and commercial solicitation calls are the most serious problems and have the most damaging effect on customers' attitude toward their telephone service.

Coincident with the increase of annoyance calling complaints, adverse criticism has intensified in newspapers and magazines where the telephone company's inability and unwillingness to detect or take action against serious offenders is cited. Similar unfavorable comments have been made on radio and TV programs.

Also related to the increase in annoyance call complaints is the serious problem of the growth of non-published and non-listed service. Studies have established abusive and commercial solicitation calling as the primary reasons for requesting non-published or non-listed service.

It is the policy of all telephone companies to insure that customers receive the best possible telephone service. When the telephone becomes an instrument of annoyance, unpleasantness or terror, it should be a matter of serious concern. Removing sources of customer irritation is an integral part of providing high

quality telephone service to our customers. By taking a positive approach in handling complaints arising from annoying calls, customers will be convinced that telephone companies are:

Concerned about their individual situations and sincerely anxious to help correct such misuse of telephone service.

Responsible for taking action necessary to insure customer satisfaction—that they will follow through effectively—maintaining contact with customers until their telephone problems have been solved.

Able to do something about eliminating the problem—including attempts to identify the calling telephone number in aggravated abusive calling cases.

When handling complaints of annoyance calls of an abusive nature, telephone companies should fully appreciate the customer's point of view and assume responsibility for satisfying legitimate complaints. Telephone companies should recognize that they are usually the only ones who can identify the number from which calls originate and that they have an obligation to do so in aggravated cases. The consequences of refusing to act are obvious—increasing customer criticism, increasing non-published service, continued loss of public goodwill and a possible imposition of a legal obligation to eliminate these calls.

When handling complaints about commercial solicitation calls, telephone companies should seek out offending parties and, where possible, help them correct the situation through professional training. Failing in this approach, they should attempt to dissuade the offender from using this means of selling.

It is recommended that telephone companies establish the following expressed policy regarding annoyance calls:

THE TELEPHONE COMPANY WILL USE EVERY AVAILABLE LEGITIMATE MEANS TO
COMBAT ANNOYANCE CALLING

Considerations in Handling Annoyance Call Complaints—General

Annoyance call complaints represent a serious customer service problem and the telephone company should make every effort to remove the conditions which cause these complaints.

The degree of customer irritation resulting from these calls varies from minor annoyance, in the case of a call received in error, to a serious reaction in the case of an unwanted call from a sales organization or a call that is abusive in nature.

Calls that cause customer irritation can generally be classified into three groups as follows:

1. *Abusive calls*

The call made with the intent to annoy or embarrass the called customer. They include obscene, harassing, threatening, and interference calls.

(a) The call is considered obscene when a comment, request, suggestion or proposal is made which a reasonable person would consider indecent.

(b) Calls made with the intent to harass fall into several categories.

(1) Ring and hang-up calls or calls where breathing heavily into the telephone without speaking occurs. When these calls occur frequently to the same customer, it can be assumed they do not result from misdialing.

(2) False report calls—where the caller represents himself as a member of the police force or hospital staff and informs the called party that a child, husband, et cetera, has been killed or injured in an accident.

(c) Threatening calls—these include threats of kidnapping, bodily harm, property damage, et cetera.

(d) Interference calls—these are calls made with the intent of hindering the called party in the use of his service.

The interference is usually accomplished in dial offices by the calling party not hanging up when his call is completed. Release of the called number is prevented for a period of time. The call can be repeated when the connection is finally broken. In some dial offices, interference can be accomplished by dialing all but the last digit.

2. *Sales, promotional solicitation or survey calls*

Included in this category are calls placed indiscriminately to residence customers in an attempt to sell a variety of products or services. They also include calls appealing for donations to charitable organizations or requesting information for research purposes. Generally, the person or organization making the call is

unknown even though identified to the called party. Such calls can be annoying to the person called when:

- (a) Received at inconvenient times.
- (b) The caller is discourteous or overly aggressive in his selling techniques.
- (c) The called party objects to receiving any calls of a solicitation nature.
- (d) The called party objects to the personal nature of questions asked by a research interviewer.

It should be kept in mind, however, that to many individuals and firms selling or interviewing by telephone provides a very useful service. Just as important, selling or interviewing by telephone provides an occupation for many people who cannot work at other jobs, e.g., shut-ins, handicapped persons.

3. *Misdirected calls*

These calls are generally defined as those where the caller attempted to reach someone other than the person who actually received the call. Generally they result from:

- (a) The calling party dialing a number incorrectly.
- (b) The called number appearing in error in another customer's advertisement.
- (c) The listing of the called number in a current directory under a prior customer's name.

Some recent studies show that misdirected calls are the most frequently received, but that they are less serious as far as customer irritation is concerned.

Legal considerations—Abusive call problem

Further substantiation of the growing seriousness of the abusive call problem is the fact that since 1955, States have enacted or broadened statutes penalizing one or more varieties of such calling. A majority of States, plus Canada, now have such criminal statutes.

The approach with the customer has been, in general, giving him the impression "there's really nothing we can do." Too often the telephone company has relied on the lack of legal compulsion to screen the content of telephone calls. They have also taken refuge in the general principle that privacy of telephone communications must remain inviolate.

The means used to identify calling numbers do not impair the privacy of communications. Furthermore, if the calling number is identified, the telephone company can under most circumstances properly reveal it to the called party, or to law enforcement authorities with the consent of the called party.

There appears to be no compelling legal reason why a telephone company should not attempt to identify the line from which an abusive call is made if the customer called so requests. From a policy standpoint, there are significant reasons why such calls—inter—as well as intraoffice—should be identified to their source:

- (a) Successful identification of the calling line and the ensuing publicity might substantially deter abusive calling by removing the cloak of anonymity which now hides and emboldens most callers.
- (b) By decreasing such calling, the telephone would become more of an instrument of service and pleasure.

Considerations to the commercial solicitation call problem:

Telephone sales calls between businesses are part of the day-to-day routine through which the nation's economy functions. These calls find outlets for goods and services; they are of interest both to buyer and seller in what is commonly called the "public market place."

Objections to telephone selling among business firms, that is, from wholesaler to middleman to retailer, are few. When used properly, the telephone is an effective tool, and business expects and appreciates this use.

Providing vital communications services to commerce and industry is the telephone companies' business. Yet, there is a line of good taste which selling and soliciting by telephone should not cross.

Telephone solicitation of residence customers is another matter. This is the second most serious annoyance call problem to residence customers. Many of these calls irk, annoy, and intrude on the privacy of the home. Customers react to these calls negatively and many believe the telephone companies should do something to stop or limit them.

However, distinctions can be made between these calls and abusive calls. Most commercial solicitation calls are made for the legitimate purpose of selling a product or service, and the identity of the caller (or his product) is disclosed to the called party, whereas most abusive calls are made for an illegitimate, improper or

indecent purpose and are anonymous. The former do not present as clear a case for intervention by the telephone company (as distinguished from, say, the Better Business Bureau) as do the latter.

It is recommended that there be continued the policy of attempting to improve the telephone selling techniques of business customers. The telephone company should intervene in commercial solicitation calling situations only in the exceptional case where such calling, to a given called party, appears, in their judgment, to become an abusive calling situation.

PART II—BUSINESS OFFICE HANDLING OF ANNOYANCE CALL COMPLAINTS

General

Because of the serious nature of annoyance call complaints and their effect on the customer's opinion of us as a company, all business office people should have a thorough understanding of company practice and policies relating to annoyance calls. They should recognize their responsibility to:

(a) Instill in the complainant a feeling of confidence that the problem is understood and that something can and will be done about it.

(b) Display a sympathetic understanding of the problem to those who receive such calls.

(c) Follow an intelligent, inquisitive approach to problem-solving which will be helpful in developing the facts needed to make the proper analysis.

They should also understand the effect that improperly handled complaints may have on the company image, reputation and standing in the community.

Service representatives, when discussing complaints with customers, should:

(a) In all instances, be sympathetic, tactful, and show genuine interest in the customer's problem.

(b) Determine, by tactful questioning, the specific nature of the call, i.e., abusive, commercial solicitation, misdirected, etc., then proceed as follows:

Local police authorities (particularly those talking with our customers who are complaining about annoyance calls) need to understand the telephone company position—that we want to assist our customers whenever possible, and how we plan to help. Policies of the law enforcement authorities need to be understood by the telephone company.

Every effort should be made to inform these agencies about our efforts, as well as to offer cooperation and assistance in the satisfactory processing of complaint calls received by police authorities. In specific cases we should have the customer's consent before discussing it with any outside agency.

Abusive calls

The receipt of abusive calls is a serious matter and may be emotionally disturbing to the customer. Therefore, we must give every indication that we are concerned and will make every effort to solve the customer's problem and help correct misuse of telephone service.

When handling these types of complaints, it should be kept in mind that abusive calls are usually frustrating, and sometimes terrifying to those who receive them. The representative should first express concern for the problem and then proceed to obtain details about the calls. A complete recording of the information obtained is essential in determining a calling pattern. The facts developed in the initial contact will usually determine what further action should be taken. A check list (Exhibit 1) may be used to facilitate the development of pertinent facts.

By following the proper line of questioning, the representative will be able to bring to the customer's mind some details that may not have occurred to him or give him some clue as to who might be making the calls.

The discussion with the customer should generally result in developing the following information:

(a) Frequency of calls, i.e., daily, twice a week, et cetera.

(b) Time of day or night calls received, i.e., after midnight, around dinner time, et cetera.

(c) Nature of conversation held with the caller. (This information will help classify the type of call, i.e., obscene, harassing, threatening, et cetera.)

(d) Deviations, if any, in calling pattern observed when calls are answered by different members of the family.

(e) Relationship of calling time to members of family being at home.

(f) Any recent publicity in newspapers or magazines about a member of the family, i.e., engagement announcement, contest winner.

Evaluation of the information developed will aid the representative in determining what further steps are necessary to solve the customer's problem.

Additional steps required in case of obscene, harassing or interference calls

When only one or two abusive calls have been received, and a threat of bodily harm is not involved, the customer should be informed that it has been our experience that such calls are usually discontinued after a few attempts.

This is particularly true if the called party refuses to give the offender any satisfaction. A suggestion for action readily available to the called party is to hang up gently and consistently as soon as the offending voice is recognized.

Where this suggestion appears to be ineffective or where there has been a number of calls over a period of time, the customer should be requested to keep a record of all abusive calls received during the next seven days. Experience indicates that several benefits are derived from this procedure:

(a) The customer does not feel he is getting a "brush-off" but rather that we are taking his problem seriously and can do something if we have more facts.

(b) Withdrawal of the complaint if the condition is temporary and the customer receives no further calls. (Experience indicates that almost 50 per cent of the cases can be closed at the end of the seven-day "log-keeping" period.)

The representative should make a specific commitment and call the customer back at the end of the agreed upon period to discuss any new information developed.

It should also be made clear to the customer that if the problem becomes critical before the end of the seven-day period, he should re-call the representative with the additional facts without further delay.

Customers who agree to keep a log should be requested to record the following details about the calls:

- (a) Date and time of each call.
- (b) Duration and nature of each conversation.
- (c) Background noise, if any.
- (d) Who answered the call.
- (e) Members of the family, home and absent.
- (f) Any variations in the conversations if different members of the family answer.
- (g) Description of caller's voice, e.g., male, female, or other speech characteristics.

Reviewing the "logged" information with the customer

At the end of the seven-day period, the customer should be called and the information he has "logged" reviewed. If the customer reports that the calling has stopped, the representative should suggest that the calling possibly was a temporary condition. If the customer agrees, the case can be considered closed and the customer should be assured of our willingness to help him further should the calling start again.

Where the customer reports receiving very few calls, between one and three during the period of the log-keeping, and there is no apparent pattern, a number change with no referral of calls may be suggested. A temporary or permanent number change should be arranged, dependent on the customer's wishes.

When such a change is made, the anonymous caller often suspects an identification operation and hangs up when the operator intercepts. Frequently, the calls cease under these circumstances.

When a change of telephone number does not succeed in stopping the calls, a "silent" transfer may be offered in those offices equipped for this function.

This arrangement provides an interception by the operator at a miscellaneous position, and the calling party is asked for his number and name before the call is completed. This information is recorded on a special form by the operator. The arrangement requires the use of an assigned second telephone number which is used by the operator to complete calls to the customer's telephone number.

Where the change in telephone number arrangements is not satisfactory to the customer, or if tried, to not prove to be effective, the customer should be requested to continue the recording and a second commitment for a call back should be arranged.

The facts developed to this point should determine the number of days involved before calling the customer back.

If the customer has recorded more than three calls on the original log, these should be discussed with the customer in light of the information developed in the previous contact. If it appears appropriate to attempt a line identification, the customer should be reassured of our concern and of our willingness to cooperate to the fullest extent possible. Arrangements to recall the customer should be made without specifically stating the next action to be taken.

SITUATIONS INVOLVING AN ATTEMPT AT LINE IDENTIFICATION

Where an attempt to identify the calling telephone number is appropriate, proper consent of the customer must first be obtained. In addition, it should be made clear to the customer that if identification is successful, only the number from which calls are being made will be identified and not the calling party. The request is then referred to the Plant Department to arrange for the necessary action.

Such requests should be followed by a copy of the form "Request for Line Identification (Exhibit 2)."

After being advised by Plant that the arrangements for identification have been completed, the customer should be so informed. The customer should be requested to call the business office each time a call is received and give the date and exact time of receipt. The line identification arrangements should remain in effect for a reasonable length of time, depending on the case, so that more than one call may be identified, if they recur.

When the customer reports receiving the first annoyance call after the identification equipment is in place, the Plant Supervisor in the central office should be called and requested to provide information verifying a call to the complainant's number at the same time the annoyance call was reported to have occurred. If there was such a call, the Plant Supervisor should record the line identification or trouble card information and the date, time and his initials. This written verification is required if further action is to be taken.

Where there is no indication that the annoyed customer plans to take legal action, a deterrent interview should be held with the subscriber to the suspected service. The deterrent interview consists of appraising the subscriber that the calls are being made and that they are originating from his telephone. He should be informed that the making of such calls is a violation of telephone company tariffs, which, if continued, will result in a suspension or termination of service. The appropriate State law, if any, should be clearly explained. Care should be exercised to insure that no inference is made that the listed customer is making the calls, since someone in his household or with access to his telephone could be originating the calls without his knowledge.

If practicable, after completing the interview, the line identification equipment should not be removed from the line. It should be left in place for a reasonable length of time, depending on the seriousness of the case, so that additional calls may be identified if they recur.

If calls do not cease after this warning, consideration should be given to advising the listed customer, with concurrence of company counsel, that his service will be suspended or terminated in accordance with applicable tariff provisions.

When the annoyed customer states he has reported the incident to a law enforcement agency or indicates he plans to initiate legal action, written consent authorizing the disclosure of the identity of the telephone number or numbers to law enforcement personnel engaged in conducting an investigation with respect to such calls, should be obtained from him (Exhibit 3).

In those cases where legal action is to be taken, the following information should be available for presentation in court:

(a) A chronological history of the complaint from the start, including the gathering of all evidence regardless of how insignificant some details might appear.

(b) The names, addresses and telephone numbers of the Plant or Traffic Department personnel who actually placed a pen register, or otherwise assisted, including the dates and times the calls were placed.

(c) The names, addresses and telephone numbers of personnel holding any records which may pertain to the case which may be subpoenaed; for example, the customer log, pen register tapes, Plant tickets.

(d) The names of any law enforcement officer and agency and/or attorney, that may have had contact with the business office regarding the case.

(e) Any other information that might be of value.

All of the foregoing information should be available from information accumulated in the course of investigation. The information should be furnished in a chronological order so that the investigating law enforcement agency will have a ready understanding of the facts in the case without requiring additional investigation.

In those cases where line identification arrangements do not verify any calls to the complainant's number at the times and dates furnished by the customer, he should be so advised. A decision must then be made to continue or discontinue the line identification.

Cases requiring immediate action

When a request is received to identify a call after the receipt of a serious threat of bodily harm—kidnapping, damage to property—immediate action is warranted.

The pertinent details relating to the call or calls received should be developed. Where possible the following information should be determined:

- (a) Date and time of each call.
- (b) Nature of the caller's conversation.
- (c) Background noise, if any.
- (d) Description of the caller's voice, e.g., male, female, or other speech characteristics.

The representative should recommend that the customer should also contact the local law authorities with the facts, if he has not already done so. During this discussion it should be made clear that we recognize the seriousness of the situation and will cooperate to the fullest possible extent. Because of the urgency of the situation prompt and complete interdepartmental cooperation is required to bring the case to a satisfactory conclusion.

Although the identity of a telephone number from which annoying calls are received is normally not disclosed to law enforcement agencies without the written consent of the called party, in emergency cases a law enforcement agency may request immediate information concerning the telephone number from which the annoying calls are originating. In such an emergency the information can be given to law enforcement agencies with the verbal authorization of the complaining party. Subsequent written authorization should be obtained.

Use of information obtained by line identification equipment

Line identification equipment used to identify the line of the calling party has limitations. It does not identify the person(s) making the calls nor can positive identification be made in the case of party line service. Therefore, care must be exercised during interviews with suspected offenders to make certain no accusation is made, since the subscriber or custodian of the service may not have knowledge of the calls.

Care must also be exercised to insure that the results obtained from the use of line identification equipment are fully safeguarded. Information obtained from which the annoying calls originated should be divulged only under the following circumstances:

- (a) Upon presentation of a lawful subpoena, or
- (b) Upon request of a law enforcement agency, in accordance with procedures previously set forth in this section, or
- (c) To the annoyed party. If the annoyed party's attorney requests such information from the company, the matter should be referred to counsel.

Publicity

Publicizing the arrest and/or conviction of annoyance callers serves several purposes:

- (a) Creates awareness of our positive action.
- (b) Advises offenders that we are actively looking for them.
- (c) Provides victims of offensive calls with evidence that we earnestly are trying to protect them.
- (d) Gives evidence to other customers of our efforts to make telephone service more pleasing.

The press normally looks to law enforcement officials for information of this type. It is our job to put sufficient and appropriate information on a given case in the hands of law enforcement people in time to be used simultaneously with the announcement of an arrest or conviction. However, we should avoid discussing specific methods used to identify calls or details of steps we have taken with the police.

Publicity isn't warranted on every arrest. Each case must be decided on its own merit. For instance, when children are apprehended, or even adults in some cases, circumstances may preclude public exposure.

Sales or promotional solicitation calls

Sales or promotional solicitation calls made to residence customers present a serious problem since many of these calls irk, annoy and intrude on the privacy of the home. Customers react adversely to those calls, and many believe the telephone company should do something to stop them.

When handling these complaints, it is essential to determine the following information:

- (a) Time and date of call.
- (b) Person and/or company calling.

(c) Nature of call—solicitation, contest, survey, etc.

(d) Customer's specific objection to the call.

We should explain to the customer what the telephone company can and cannot do. Such an explanation might include such points as:

(a) The telephone company is required by law to provide telephone service for any legal purpose, and selling by telephone is legal.

(b) The company encourages use of the telephone in a way that meets with general customer acceptance, but strongly discourages the use of the telephone for indiscriminate sales calls.

As an initial suggestion, the customer should be advised that the best remedy for handling a rude or persistent solicitor is to simply place the receiver back on the hook and terminate the call.

Where it is apparent that this action is not satisfactory to the customer, or if complaints are being received from numerous customers concerning a particular solicitor, a company representative should visit the customer responsible for the call(s) and explain that we have received a complaint (without revealing the details). We should explain that he has offended his potential customer(s); therefore, he cannot be selling as effectively or as efficiently as he might. Emphasize that telephone selling should always aim at the mutual advantage of buyer and seller. The first essential is to consider thoughtfully the interest and convenience of the person called. The telephone call, like a personal visit, needs sound appraisal of its possible value to the prospective buyer, and courtesy and respect when the call is made. When telephone selling is appropriate and well done, it helps expand markets, save time, and lower costs.

High-caliber telephone selling requires:

1. *Clear definition of the job.*

Telephone selling reflects the character of a business and influences its reputation. It should be carefully considered by management, clearly defined, and closely coordinated with the total company sales program.

2. *Product value.*

The products or services offered should have intrinsic value and buyer appeal.

3. *Sensible selection of prospects.*

Prospects should be selected on the basis of probable need and ability to pay.

4. *Trained sales personnel.*

People who sell by telephone should have special aptitude for the job and be trained in its requirements and techniques.

5. *Timeliness, truth, and good manners.*

Sales calls should be timed to the prospect's convenience. They should be courteous. They should give information that will interest the prospect. They should be completely free from deceptive and pressure tactics.

By reviewing the customer's operations and helping him to establish clear goals, we should be able to eliminate the cause of the complaints, improve the customer's selling efforts, and enable him to achieve far better results.

If the customer refuses to change his telephone selling techniques, we should strongly recommend that telephone solicitation be stopped.

Misdirected calls

After indicating an interest and willingness to help, the representative should develop certain facts which will determine how to proceed in handling the case. Knowing the number and name of the party the caller is trying to reach and the frequency of misdirected calls is necessary in making this decision.

Many times the reason for the complaint is obvious—dialing in error (customer's number is 555-4363 and has received a call or calls for 555-4366).

The possible reason for the error in this case is explained with the suggestion that it may be a temporary condition. If the customer requests a number change, the disadvantages of such an action are weighed against the degree of annoyance he is experiencing.

Where it is evident that a caller is attempting to reach the party who had the number previously, a number change should be offered with an intercept of calls. If this is not satisfactory, the new number of the former customer is furnished and the present customer should be requested to give it to callers.

It can also be pointed out to the customer that experience has shown that these calls tend to diminish as callers recognize that the number of the party they are attempting to reach has been changed.

In some cases, the called number appears in error on another customer's stationery, cards, or in an advertisement. Every attempt to determine the number that should appear on the stationery, cards, et cetera, is made.

In a further effort to satisfy the complaint, the representative should contact the customer responsible for the misprinted information and request that the distribution of the incorrect information be discontinued.

The customer receiving calls in error should be offered a number change with an intercept where the volume of calls being received constitutes a sufficient annoyance.

In some cases, the customer's current number may be similar to a frequently called number, e.g., a cab company, hospital, fire department, et cetera. Where this is the condition and the number is changed, Traffic Assignment should be requested not to reassign the number.

* ANNOYANCE CALL COMPLAINT FACT SHEET

Part II
Exhibit 1

Customer's Name _____ Received by _____ (Date) _____
 Address _____ Time _____
 Tel. No. _____ Closed by _____

1. Record of Annoyance Calls #		Week											
Day Of	Week												
	Month												
Time													
Duration of Call													
Those Home	Wife												
	Husband												
	Daughter												
	Son												
	Others												
Not Home	Wife												
	Husband												
	Daughter												
	Son												
	Others												
Description of Caller	Man												
	Woman												
	Boy												
	Girl												
	Other Description												
Caller's Voice	High												
	Low												
	Strained												
	Camouflaged												
	Other Desc.												

2. Recent Publicity? Marriage Debut Promotion School Birth
 Other Explain: _____

3. Anyone who might want to annoy or "get even" with a household member?
 Explain: _____

4. Has this been reported to local law enforcement authorities? _____

5. Has customer signed an authorization for line identification? _____

* This fact sheet may be used as a Form, check list or handbook sheet as determined by each company. It should, however, be used in conjunction with the regular contact memo.

Each column is used to record the facts concerning a specific annoyance call.

REQUEST FOR LINE IDENTIFICATION

To _____ Foreman Date _____
_____ Central Office

Please arrange for line identification on

Customer's Name _____ Tel. No. _____
Street Address _____ Class of Service _____
City _____

Nature of annoyance calls and time usually received

(Enter any additional information on reverse)

Furnish calling number(s) to _____ Manager
_____ Tel. No.

To _____ Manager Date _____
_____ (Addr.) Tel. No. _____

The annoyance calls to:

Customer's Name _____ Tel. No. _____
Street Address _____ Class of Service _____
City _____

have been originating from

Tel. No. or Distant Central Office	Date	Time
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

(Enter details as to how the information was obtained on reverse)

Foreman: O. O.

I _____
(Customer's name and address)

authorize the _____ to
(Telephone Company name)

disclose the identity of the telephone number or numbers that are the source of annoyance calls which are being made at this time to my telephone number to law enforcement personnel engaged in conducting, at my request, any investigation with respect to such calls.

Signature

Date

Admiral MOTT. Suffice it to say, Mr. Chairman, both the equipment and the procedure exist to trace these calls. All of the manufacturers for the independent industry have equipment which goes along with the particular kind of equipment they service. One of our manufacturers, for instance, Automatic Electric, has had such equipment since 1935. Of course, it has been improved, and we hope that it will be improved further.

I would like to make the point, Mr. Chairman, that since this is an industrywide problem, it is my feeling that if any one of the manufacturers in the industry comes up with a startlingly improved device, it should be made available to the whole industry for purchase if it is compatible.

Senator PASTORE. I agree. But you would say this, Admiral: That the day of not being able to detect a call and use procedures and technology to make such detection is long past?

Admiral MOTT. Yes, I would say it is long past. I would not say that there is not room for improvement, because it can become a very expensive process—

Senator PASTORE. Yes.

Admiral MOTT (continuing). With some of these calls that are in, let us say, extended area service over a whole wide area.

Senator PASTORE. But give us time and give us effort and give us patience and give us energy, we can find these cranks? Is that right?

Admiral MOTT. That is correct, sir.

We in the United States Independent Telephone Association believe that a Federal statute prohibiting obscene or harassing telephone calls in interstate or foreign commerce would have a deterrent effect on the making of such calls. Furthermore, it would set an example for those States not now having statutes or whose statutes might need revision.

We favor Senate bill 2825 because of its broad coverage.

Your committee, Mr. Chairman, is to be commended for its review of this subject. We welcome the opportunity as always to appear before you. We hope that effective legislation in this area will be forthcoming.

Senator PASTORE. Now, you did not consult with the representative of the Bell System when you wrote that paragraph on page 3? "We in the United States Independent Telephone Association believe that a Federal statute prohibiting obscene or harassing telephone calls in interstate or foreign commerce would have a deterrent effect on the making of such calls."

Admiral MOTT. Mr. Chairman, we are as independent as our name implies.

Senator PASTORE. Yes. I just want to point that up because I want to call this paragraph to the attention of the Justice Department.

Admiral MOTT. Yes, sir. I would not want to leave the impression that we do not consult with our friends in the Bell System, however, on matters which are of industrywide concern. We do.

Senator PASTORE. I had a motive.

Admiral MOTT. Yes, sir. I recognized it.

Senator PASTORE. Does Mr. French want to make an observation?

Admiral MOTT. It depends. I said—

Senator PASTORE. I do not want him to reveal your equipment, although I quite disagree a little bit with you, Admiral, on this.

I think the sooner we make the public understand that there is a way to find out and the sooner we bring it to the attention of these cranks that they can be discovered and be prosecuted, the sooner we are going to get a relaxation of this practice.

I do not think there is any security involved here, unless, of course, it is a matter of patent right. I would not want you people to release any proprietary interest that you might be holding fast to here, because this is a land of free enterprise and competitiveness.

I understand that the Bell System is pretty big, but that you fellows are pretty big too.

Admiral MOTT. Well, Mr. Chairman, the reason I asked Mr. French to drive up here this morning from Edinburg, Va., was to be able to tell you that a small telephone company such as his in the Shenandoah Valley not only is capable of tracing these calls but has really traced them in such an effective manner that the Commonwealth attorney in that part of the country has gotten three convictions of harassing telephone callers.

Senator PASTORE. Is it a dial system?

Mr. FRENCH. Yes, sir.

Senator PASTORE. It is a dial system?

Mr. FRENCH. Yes.

Senator PASTORE. Well, why don't we hear from you, Mr. French? Who knows? Maybe inadvertently you may drop a big secret.
[Laughter]

Mr. FRENCH. Well, our procedure is very simple. Our main concern is to eliminate the domestic problems, since we do not like to get in the middle between husband and wife in family squabbles. So when these calls come in, I try to determine whether it is a legitimate complaint or just some spying on family operations. If it appears to be a complaint and they have no idea where it is coming from, I suggest, if it continues, to tell them that they will ask the telephone company to trace the call. If this does not stop the complaint, then we ask them to file a complaint with the commonwealth attorney.

He then obtains an order from the circuit judge subpoenaing us to furnish any information that we have available.

With this, then, we proceed to modify our equipment so that if a call is made similar to what the Bell just showed, by leaving the receiver off it holds the connection up. We do not provide for the automatic signaling. Then they go to another phone and will call me.

We send a switch man into the office and verify the connection is up.

I then call the sheriff's office, and we send the Sheriff and one of his deputies to the two parties, the man that has received the complaint and the phone that we feel it is coming from. The connection has been left up. These two officers then verify that this connection is existing. This leaves us out of testifying about the complaint or how we have traced it but shows the connection is still there, and the Commonwealth attorney carries it from that point.

Senator PASTORE. How many prosecutions have you had?

Mr. FRENCH. We have had 24 orders since March of 1964.

Senator PASTORE. 1964?

Mr. FRENCH. Yes. Of that, we have had activity on all but eight. Some of these have turned out to be—well, one of them was a wife calling the husband, and so they decided just to drop it. There have been three convictions.

Senator PASTORE. Are these convictions pretty well publicized in your community?

Mr. FRENCH. Yes. We publicize them in the papers.

Senator PASTORE. Do you find that that in itself creates a certain deterrence in this practice?

Mr. FRENCH. Until this procedure was set up, I was faced with the problem of telling the people I had no way of handling this, and it just continued to snowball. But since this has happened, we have reduced it tremendously.

Senator PASTORE. Thank you very much, gentlemen.

Our last witness this morning is Mr. Paul Rodgers from the Association of Railroad and Utilities Commissioners.

Mr. Rodgers, we are very happy to have you here. You may proceed.

STATEMENT OF PAUL RODGERS, GENERAL COUNSEL, NATIONAL ASSOCIATION OF RAILROAD AND UTILITIES COMMISSIONERS

Mr. RODGERS. Thank you, Mr. Chairman.

My name is Paul Rodgers. I am the general counsel for the National Association of Railroad and Utilities Commissioners (NARUC).

The NARUC was founded in 1889. Within its membership are the governmental bodies of the 50 States and of the District of Columbia, Puerto Rico, and the Virgin Islands which regulate carriers and public utilities.

The chief objective of the NARUC is to serve the public interest through the advancement of governmental regulation of carriers and utilities.

The members of the NARUC appreciate the opportunity you have given me as their spokesman to make their views known on S. 2825 and S. 3072 which propose amendments to the Communications Act of 1934 to impose penalties on persons making threatening or harassing telephone calls.

The members of the association are aware of the abuses which have inspired the introduction of these bills, and are sympathetic toward ways of preventing their recurrence.

Both bills seem to attack the same evil, but they possess two significant variations in scope.

As to the first variation, S. 2825 prescribes penalties for persons making obscene calls, or making anonymous or repeated calls intended to torment or harass, or knowingly permitting the use of their telephones for the making of such calls. On the other hand, S. 3072 merely prescribes penalties for persons making calls which threaten physical injury or making repeated calls with the intent to torment or harass.

In this context S. 2825 obviously provides more comprehensive sanctions for combating threatening or harassing telephone calls.

As to the other variation, S. 2825 expressly applies to "telephone communication in interstate or foreign commerce," while S. 3072 is silent on this point. We believe that the clear-cut jurisdictional line spelled out by S. 2825 shows a wholesome regard for the respective responsibilities of the Federal and State governments in solving this problem.

I am advised that 38 States presently have laws which impose penalties for persons making harassing telephone calls. Also, I understand that the remaining 12 States have general laws, such as those prohibiting disturbances of the peace, which may have application in attacking the harassing telephone call problem.

As you can see, the States have already developed a fairly adequate remedy to handle the problem in the case of intrastate calling. In instances where State laws may prove insufficient, I believe that we can depend upon the people to devise appropriate rectifications through their State legislatures. Clearly, the responsibility for attacking harassing intrastate calls rests with State and local governments.

S. 2825, with its sharp jurisdictional dividing line, aguments State action and responsibilities and, at the same time, effectively fills the interstate gap in this matter.

In contrast, S. 3072, with its hazy jurisdictional line, might be interpreted as superseding State and local initiative in solving the problem of harassing intrastate telephone calls.

In view of these considerations, we believe that the enactment of S. 2825 would be an appropriate means for combating the making of threatening and harassing telephone calls in interstate or foreign commerce, and at the same time would foster rather than stifle State and local initiative for combating such calls in intrastate commerce.

In closing, I wish to invite the members of this committee to call upon me or the other members of the staff of the NARUC whenever you need information concerning State regulation.

Thank you for your attention.

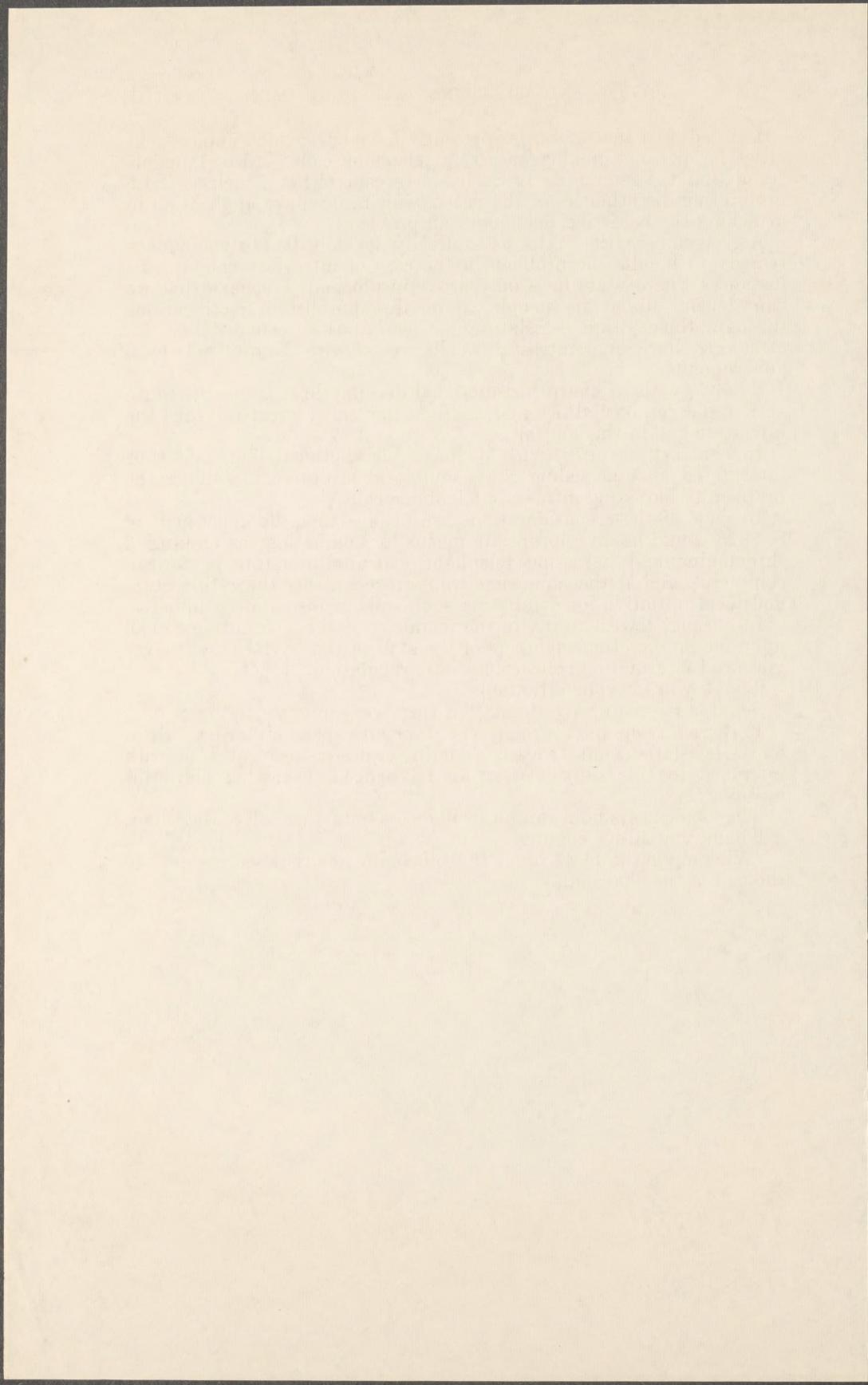
Senator PASTORE. We thank you very, very much.

Is there anyone in this room who desires to speak either pro or con on the legislation that we are considering or desires to speak at all with reference to this subject that we have been discussing here this morning?

The Chair hears none, and we will recess to further call of the Chair.

Thank you all for coming.

(Whereupon, at 11:43 a.m., the subcommittee recessed, subject to the call of the chairman.)



ABUSIVE AND HARASSING TELEPHONE CALLS

TUESDAY, JUNE 14, 1966

U.S. SENATE,
COMMITTEE ON COMMERCE,
SUBCOMMITTEE ON COMMUNICATIONS.

The subcommittee met, pursuant to notice, at 9:30 a.m., Hon. John O. Pastore (chairman of the subcommittee) presiding.

Senator PASTORE. This hearing was called for 9:30 this morning, and the hour of 9:30 having been reached, the hearing will come to order.

This morning we are honored and pleased to have as our witness, Mr. Ramsey Clark, Deputy Attorney General.

We have inserted in the record a letter from Mr. Clark in his capacity as Deputy Attorney General. The concluding paragraphs are:

While the Department of Justice is in accord with the salutary objectives of S. 2825 and S. 3072, for the reasons stated above we are unable to recommend their enactment.

It is that paragraph that caused me to invite Mr. Clark to come before the committee, which he has graciously agreed to do and has done, so that we might have a clarification.

The reason why, Mr. Clark, I invited you to come here is because there is an incongruity in the record at the present time, because of the position taken on this bill by the various executive departments.

The Federal Communications Commission has unequivocally endorsed legislation and said it is not only desirable but that it is necessary.

The Defense Department manifested, in my opinion, some impatience with the situation that exists because of the lack of legislation with reference to this, and as a matter of fact, when they came before the committee they expected us to go further than any one of these two bills.

Now, Mr. Long of Missouri, who sponsored S. 3072, desired to include intrastate as well as interstate, and he made it abundantly clear that we didn't want to do anything that would impinge upon the activities of the States nor to discourage them in dealing with this matter as much as they could.

We are particularly interested in getting your views and further elaboration that you care to make with reference to S. 2825. S. 2825 is limited to interstate telephone calls.

Now I realize that a rather good job is being done by some of the various States who have the law covering such offenses. That is, 38 States have laws, and 12 do not. In some cases it is a rather stern legislative edict, and in other States, of course, it is not quite so stern.

But apart from all of that, the thing that has concerned me—and I must be real frank about this—the thing that has concerned me is a person picks up the telephone, in the District of Columbia, where you do not have a precise law, and he calls a mother in Montgomery County, in Maryland, who has just lost a son in Vietnam, and abuses the mother.

The question in my mind is, Where was the crime committed? If the law does not exist in the District of Columbia, and this is a despicable and vicious practice, and everyone agrees to that, what do you do about it? If someone called up a mother in Montgomery County, and the mother lived in Montgomery County, maybe the State of Maryland could deal with it.

The thing that bothers me, today, with the extension of communications as we have them, Mr. Clark, where a local call becomes interstate in nature because the borders of some States are so close to each other a jurisdictional problem arises. The question arises as to where the crime was committed and what jurisdiction is to deal with it. All of these matters of course have come up. And I understand the House of Representatives has passed a bill with reference to the District of Columbia. Because of the furor in reference to this practice, and there has been a furor about this, I instructed Mr. Zapple to copy the language of the House bill. That is where I got the language. Mr. Zapple got the language from the House bill. And we confined it, of course, to interstate calls.

Then the Federal Communications Commission came up here and said well, it needed a little tightening up, and they made certain recommendations. But there is no pride of authorship here. Whatever language will do the job will be acceptable to me.

I merely want to say this: that this question is of such importance that it came up also before the Senate Judiciary Committee. And that had to do with these abusive calls with reference to affecting the morale of our Armed Forces, and abusing parents and friends of people in the Armed Forces by telephone or other means of communication. However, we are only interested in the telephonic aspect of the problem.

And speaking again about incongruities, I want to cite this so you will have all of the predicates, so when you address yourself to me, and I have the highest respect for your judgment, no one has brought you here to change your mind, it is merely a matter of clarifying the record, this had to do with S. 2351. This is the letter that you wrote to Mr. Eastland, the chairman of the Committee on the Judiciary:

This is in response to your requests for the views of the Department of Justice concerning S. 2351, a bill to protect the morale and efficiency of members of the Armed Forces by prohibiting the making of certain threatening and abusive communications to members of such forces or their families, and for other purposes.

Then you said:

The Department of Justice is not aware of widespread activity of the type to which S. 2351 is directed. However, if the Congress believes that the dimensions of the problem require Federal action, the Department offers the following for Committee consideration.

Now the only reason why I am bringing that up is because in that case you did not take the position that you did not recommend passage of the legislation. You made some very fundamental suggestions which I had hoped possibly would be your position before this com-

mittee today, but that didn't happen. That is another incongruity I would like to have straightened out.

Suffice it to say that the Defense Department—I understand you have read the transcript—the Defense Department did come before this committee and made a very strong recommendation for this kind of legislation.

Now you raised the point—and I hope I am not belaboring this too much, but I am covering the whole problem so you can respond in full. I am not going to interrogate you, or cross-examine you; I am just going to cite my case now and you cite your case and that is the end of it.

But since you wrote the letter, of course, we have had the advantage of a very respected member of the American Telephone & Telegraph Co. who came before this committee—Mr. Kertz. He is in this room today. I asked him to come back so we could clarify a few points.

Now the argument you made in your letter was that this would be a burdensome thing and it should be left to the States to deal with, because the States can deal with it provided it is intrastate. Whether or not they can do it in instances where it is interstate is conjectural and that is the reason why I introduced the legislation.

But you made the strong point that we have had about 375,000 complaints, and if you were to begin to get into 375,000 complaints, it would be a difficult or Herculean task, and you wouldn't have sufficient personnel. And I suppose that is why you consulted with the Budget Bureau on that question.

As I understand this—and a representative of the telephone company will correct me if I am wrong—as I understand it, when an offensive call is made, if it is that one call and that one call alone, there isn't a great deal you can do about it unless the person identifies himself or unless the voice is recognized, which, of course, is not usually the case. It is usually an anonymous call. But where the call is repeated, and it is called to the attention of the telephone company at some juncture, subsequent thereto the telephone company puts its gadget on the telephone and they can trace the call.

The complaint usually is made either to the telephone company or to the local law enforcement agency. This doesn't come to the FBI at all. Once the gadget is put on, at that point they can determine the source of the call. That is, the point where the call originated. At that point, then it will be determined whether it is intrastate or interstate.

So as I understand it—and I hope we can clarify this today, because I don't want to throw a burden of 375,000 complaints into the Justice Department overnight, because after all I am on the Appropriations Committee too, and I have to provide the money to engage the personnel in order to do this job. On the other hand, we do have a despicable practice here that has to be eliminated. But I understand at that point, if the telephone company is consulted with—and I understand the telephone company is willing to sit down with the Justice Department and work out an arrangement, and I have a letter to that effect—that this job of detecting and enforcing with reference to interstate infractions would be a very simple procedure and would not be cumbersome at all.

Now, Mr. Kertz, am I right in what I just said?

Mr. KERTZ. Yes, Mr. Chairman; that is right.

Senator PASTORE. Is that absolutely right?

Mr. KERTZ. Yes, sir.

Senator PASTORE. Do you want to modify it in any way?

Mr. KERTZ. No, sir; it is precisely right.

Senator PASTORE. OK, Mr. Clark, you take it from there.

STATEMENT OF HON. RAMSEY CLARK, DEPUTY ATTORNEY GENERAL, DEPARTMENT OF JUSTICE

Mr. CLARK. Thank you, Senator Pastore. Let me read a brief statement which we have prepared for this hearing, and say at the threshold that it is supplemental to the letter we sent you on May 11, and does not repeat, or at least does not intend to repeat all of the items there raised.

The Department of Justice has been asked to elaborate on its report of May 11, 1966, on S. 2825 and S. 3072 dealing with obscene, threatening, or harassing telephone calls.

Obscene, threatening, or harassing telephone calls are lamentable, and as you say, that we can all agree to. They should not be tolerated.

The question for the committee is not whether such calls should be prohibited. The question is who should prohibit such calls and by what means.

The illuminating evidence from your hearings helps put the issue in perspective.

Testimony there shows that within the Bell System there were 8,529 million telephone messages in March of 1966. The company received 46,023 complaints of calls potentially within the scope of the bills under consideration. Of these, 23,358 were described as harassing, 8,763 as obscene, 2,718 as interfering with the telephone subscriber, and 1,971 as threatening. Only 70 calls were identified as interstate calls. This compared with 28 in February of 1966.

To better identify and handle annoyance calls, the Bell System has retrained 25,000 of its more than 600,000 employees. The number of people it has retrained would exceed by fourfold the total investigative resources of the FBI.

Now, while statistics are limited and vague, a study of 400 calls indicated that approximately one-third were placed by mentally disturbed people, and one-third by juvenile pranksters. The remainder were placed by extremists, spouses in domestic disputes, disgruntled employees, and miscellaneous persons.

The majority were placed from private phones, but a closer approximation was not made.

In all there were some 375,000 complaints received by the Bell System in 1965. A substantial increase during 1966 was indicated. Bell estimates that about 500, 1 in 750, or less than one-seventh of 1 percent, were interstate, and a substantial increase during this year was indicated.

Now a total of 38 States, as you pointed out, have statutes which make it a crime to place obscene and/or harassing telephone calls. In other States, however, as in the District of Columbia, prosecutions for such calls have been based on other statutes such as disorderly conduct or disturbing the peace.

As has been noted by Senator Pastore, much of the problem of preventing obscene and harassing telephone calls is the identification

of the caller. The Bell System, as Mr. Kertz just stated explicitly, has developed techniques by which it can trace most calls, particularly repeated calls, where their equipment designed for the purpose is installed. Assuming that all calls can be traced to the telephone of origin, if the proper equipment is installed and manned, at least two difficult hurdles remain to identification of callers.

First, what phones are presently covered by this equipment? How long will it take and how much will it cost to cover all phones? What will be the course of enforcement pending such full coverage?

Second, how many calls are made from public phones, or phones accessible to a large number of people?

These questions are critical to an evaluation of the cost of investigation and the effectiveness of enforcement of a statute outlawing obscene and harassing phone calls.

A review of the facts elicited by your hearings coupled with an evaluation of the law enforcement responsibilities of the Department of Justice affirms our earlier view that Congress should not enact either S. 2825 or S. 3072.

As Paul Rodgers, the General Counsel for the National Association of Railroad and Utilities Commissioners, said, "Clearly the responsibility for attacking harassing intrastate calls rests with State and local government."

That conduct is purely local. The volume is immense. Local law enforcement is better suited to investigate, apprehend, prosecute, and rehabilitate. If harassing telephone calls within a city, or between neighbors, or between husband and wife, are appropriately a Federal crime, then there is little appropriately left to State and local law enforcement.

Whether interstate phone calls should now be covered by a Federal statute presents a closer question. For the following five reasons, we think not.

1. Federal legislation affecting only interstate phone calls which comprise apparently a minute fraction of all calls involved obviously is no substitute for inadequate State and local law enforcement. For the Federal Government to effectively prosecute a few hundred offenders while hundreds of thousands making local calls go unpunished would be of little value and somewhat capricious. Indeed one could question the equality of our justice when the local dialer goes unpunished while the interstate dialer, turning perhaps one different number, is hailed into Federal court for a hoax or crank call.

Senator PASTORE. Does that necessarily follow? What is there in S. 2825 that does that? I mean where do we rob the local authorities of any jurisdiction on intrastate?

Mr. CLARK. We were talking here of inadequate State or local law enforcement. The assumption is therefore that there are local calls of this same nature that are going unpunished. One person makes a call that happens to be across a State line——

Senator PASTORE. You think he should go unpunished?

Mr. CLARK. The point is there is an inequality of justice and to really reach the problem, where the problem is, there must be fully adequate State and local law enforcement.

Senator PASTORE. Well, can't you say the same thing when a man steals a car and takes it across the border, or under the Mann Act is transporting for prostitution? When you go beyond the jurisdiction

of a State, you have to realize this, that the interstate calls all come under the jurisdiction of the Federal Government, and sometimes even the control of rates by the Federal Communications Commission is resented by local authorities.

But that is neither here nor there. We have a Federal Communications Commission that has control of interstate telephone operations, that is perfectly clear. I tell you frankly, I don't want to argue the point with you, but this idea about the inequality of justice raises some other questions. What you are really saying is this: If you have an intrastate call that should be under the local jurisdiction, and we should have enforcement mechanisms to punish these people who offend the law. But where you have interstate—and I have pointed out an example to you—you may make the call out of a State that has no statute, and in that case without a Federal law the person could commit the crime with immunity.

There is the inequality of justice. If you make local calls, you are punished. If you make an interstate call, you can go unpunished. You are twisting it around. You are saying if we pass a Federal statute, we reach 70 people and lose out on 375,000. I think the reverse is true.

I don't want to do anything to take anything away from the States. They ought to be encouraged to have their laws and to prosecute. I don't want to do anything to burden the Federal Government.

The only reason I am taking the position I am taking is because I have been assured by the telephone company that has spent \$11 million in this research that they can distinguish an intrastate call from an interstate call. And right off the bat you will know what it is, when the FBI comes into the picture. And this idea of being overburdened, of course, doesn't impress me at all, because it won't be that at all, unless I am wrong in this.

Am I wrong in this, Mr. Kertz?

Mr. KERTZ. No, sir, you are precisely right.

Senator PASTORE. With that in the record, where it is clearly established that the technological advancements have been so successful one can sift the interstate calls from the intrastate calls. In addition the intrastate calls only amount to a handful each month, you are merely supplementing the States' responsibility through a Federal law which will also act as a deterrent.

That is why I am so impressed with it. Now I realize when you started out on this road, it was your idea that the FBI would be called in to investigate 375,000 cases in order to find 50. You made a good point. But I understand that is not the case. When a call of this kind is made, the first person that is approached by the person that is aggrieved is the telephone company. They take it up with the local enforcement authorities. Then the machine goes into operation, and at that point they discover whether it is interstate or intrastate.

I don't see this inequity, Mr. Clark. But I don't want to argue the point. If you believe it, you believe it. But I don't see it.

This idea that a person can make a call in a State where they don't have such a law, and make it into another State where they do have the law, and go unpunished, it doesn't convince me at all. We have gambling laws in most States and yet when it comes to using a telephone that is interstate in nature on gambling, the Federal Govern-

ment is involved, and you are involved and we are involved. We have stealing of cars, that is a crime in every State I know of. And I have been a prosecutor for 5 years, I have tried hundreds and hundreds of cases. And yet we have the Dyer Act, which makes it a Federal crime, if you take that car over the State line. You have kidnaping. That is a crime in every State. And yet if you take a child over the line, it is a Federal crime.

We have done this before, it is not a new idea. All I am saying here, is the public interest involved? Is the practice despicable? Is it of enough importance that the States should deal with it? And if it is a Federal crime, should the Federal Government deal with it?

I don't think we can duck that issue. I realize that is a determination for the Congress to make, and that is my responsibility. And we consult with you people, because you have to enforce the law. But I am afraid that you are exaggerating what your responsibility is going to be in the way of prosecution.

I don't see it will be such a cumbersome task, from what I know and what has been developed in this hearing. So help me God, I believe that as much as I believe anything in good conscience.

All right.

Mr. CLARK. The second of the five reasons is that Federal legislation might create an assumption by States and telephone companies that the U.S. Government will or should handle the entire problem.

3. It is only after investigation that it can be determined whether a phone call is interstate or intrastate. It would make no sense for the FBI to investigate all complaints since only a tiny fraction will involve interstate calls. Indeed, unless the telephone companies themselves trace calls, costs of detection are prohibitive in most cases. If the telephone company is detecting and referring local calls to local law enforcement officers, the very few additional interstate calls should be referred in the same way. Fifteen States include local calls to out-of-State numbers and out-of-State calls to local numbers within their prohibition. This is effective State and local law enforcement. Anyone making such calls interstate is likely to make them locally as well.

4. In the cases of juvenile pranksters and mentally disturbed people, which may comprise two-thirds of the total, it seems clearly better to proceed in local courts with local resources able to deal with these individuals in their community environment. This is the preferred method even as to existing Federal crimes such as violations of the Dyer Act.

5. Without clear and convincing evidence, which we do not find in the record, that Federal law enforcement assistance is necessary to deter obscene and harassing phone calls, and when only a tiny fraction of such calls are interstate, a substantial Federal investigative involvement should not be risked.

Let me say here in fiscal 1965, a total of approximately 122,000 complaints were received by the 92 U.S. attorneys' offices throughout the country. This is less than one-third of the complaints of abusive calls which we are advised were received by the Bell System during calendar 1965.

Federal investigative, prosecutorial and judicial resources are small compared to State and local resources. Federal investigative forces are already heavily burdened with such important and urgent respon-

sibilities as civil rights violations, national defense matters, kidnaping, and bank robberies. Their capacity in these areas should not be diluted except on clear showing of need.

Accordingly we recommend that Congress proceed by: (1) Assuring itself that the full potential for having the telephone companies detect offenders through regulation is realized as through Federal Communication Commission Tariff No. 132 prohibiting obscene phone calls. (2) Enacting a model statute for the District of Columbia if consideration here demonstrates need.

Any such statute should be based on a clear and definite standard of conduct and fully protect freedom of speech. In the cases of the mentally ill, careful consideration should be given to a procedure for civil commitment for psychiatric cases in lieu of criminal prosecution. Juveniles should be treated by trained juvenile workers to provide the best opportunity for their correction.

In view of your comments on our report on the bill before the Judiciary Committee having to do with threatening phone calls to families of the military, let me cite our distinction between the two types of conduct.

In our judgment, harassing and obscene telephone calls as to the public generally can only effectively be handled by State and local government. If State and local governments do not enact good statutes which are effectively enforced, then any interstate effort by the Federal Government would be of little value.

And we feel that as to the general public, it is important for the States and local governments to care for their need.

As to the military, that is a matter of particular Federal concern. In a sense the integrity of our military forces and their effectiveness are involved. And we should not rely upon State law in that area.

This is not, as I understand it, really within the subject matter of the bill. I would feel that, as apparently the spokesman from the Department of Defense felt, a bill to protect military families from such harassment should not be limited to phone calls; it should be comprehensive, because phone calls are only one and perhaps one minor, technique that people who wish to harass families of the military might use.

Senator PASTORE. But, Mr. Clark, you know in most instances this harassment of the military has been through the media of telephonic communication?

Mr. CLARK. I am not sure of that. As I recall the statistics presented by the Department of Defense, they indicated that their total knowledge encompassed 87 phone calls involving 50 families. I remember also that they testified about some fellow who dressed up in a uniform and actually came to the door of the home of the military man's family, and made some abusive statement.

Senator PASTORE. The only refutation I could make to that logic is the fact that the military did come before our committee and strongly recommended that we pass this bill. Apparently they consider it of enough importance that they feel there should be some Federal legislation with reference to it.

Now I am all for this business of the States assuming their responsibility. I hope that we don't go off on the wrong tangent here. No one is trying to take the jurisdiction or responsibilities away from the States. The only question that concerns me, where you have a

vacuum that involves the Federal Government, and where you can only do it through the Federal processes, what do you do in that case? Do you leave it a vacuum, or do you fill in the vacuum?

You say here:

As Paul Rodgers, the general counsel for the National Association of Railroad and Utility Commissioners said "Clearly the responsibility for attacking harassing intrastate calls rests with State and local government."

No one disputes that. But this is what he said further:

In view of these considerations, we believe the enactment of S. 2825 would be an appropriate means for combatting the making of threatening and harassing telephone calls in interstate or foreign commerce, and at the same time would foster, rather than stifle, State and local initiative for combatting such calls in intrastate commerce.

Now your same witness made a very strong pitch for the bill we are talking about. He thought it would be a very good thing, a very salutary thing.

The thing that disturbs me, let's assume a call originates in the State that does not have a legislative provision that prohibits this, and the call is made to a State that does. Where would you say the crime was committed?

Mr. CLARK. Well, there would obviously be no crime in the State where the call was made, if that State does not have a statute covering such calls. There would be a crime in the State where the call was received if that State had a statute making it a crime to make a phone call from out of State received within the State. There are 15 States that have such statutes.

Senator PASTORE. In other words, you say the crime was committed where the call was received and not where the criminal made the call?

Mr. CLARK. Under the type of statute I just described; yes, sir.

Senator PASTORE. All right. Let's reverse it. Let's assume the call is made in the State that does have the law, it is received by a person in the State where they do not have the law. Then in that case that person would go unpunished unless you had a Federal law, wouldn't he?

Mr. CLARK. I think not. If the State from which the call was made had a statute which made it a crime to place such a call in the State, whether the call is made to someone within or without the State, then it could be punished within that State.

Senator PASTORE. In answer to the first question I asked you, you said the crime was committed where the call was received. Are you saying the crime was committed in both States?

Mr. CLARK. No, sir, I thought the first time you said that the call was made from the State which had no statute into a State which did. In such a case, there could be no crime committed in the first State since that State did not make abusive calls a criminal offense. There would, of course, be a crime committed in the second State, since that State has a law punishing such calls.

Senator PASTORE. Yes. In that first instance, where would you say the crime was committed? Where the call was made or where it was received?

Mr. CLARK. There would be no crime where the call was made, if there was no State law or Federal law making it a crime there. If there was a State law making it a crime where it was received, it

would be a violation in the State where it was received. And if both States had statutes punishing abusive calls made or received within their jurisdiction, then the making of such a call would be a crime in both States.

Senator PASTORE. Therefore, aren't I right in saying that if a call is made by a person harassing a mother whose son has been killed in Vietnam in a State, in one of the 12 States that does not have a law, and that call is made to a State that does have the law, where the mother is located, that that crime will go unpunished because there is no law that will take care of it?

Mr. CLARK. If the State where the call was received is one of these 15 that has a statute making it an offense whether the call is received or placed in the State then it could be prosecuted in that State.

Senator PASTORE. Provided he goes there? But you just told me the crime is committed where the call is made. So the crime is not committed in the State where the call is received, the crime is committed in the State that has no law that makes it a crime. That is my problem, Mr. Clark. How can you commit a crime if you don't have a State law that says it is a crime. So a person picks up the phone and he makes a crank call, harasses this mother in a State that has no such law. That person indulges in something not prohibited by law, even though it does disturb the mother. Because the crime is committed where the call originates. Yet there is no statute in that State that makes it a crime. So that person is not committing a crime. I want to make it a crime. That is why I want a Federal law. That is my problem.

AMERICAN TELEPHONE & TELEGRAPH CO.,
Washington, D.C., May 16, 1966.

Mr. NICHOLAS ZAPPLE,
Staff Counsel, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. ZAPPLE: We will be glad to meet with you and with the representatives of the Department of Justice in connection with the proposed legislation (S. 2825) to make interstate annoyance telephone calls a Federal crime.

At such a meeting, we could explain in detail the nature and extent of these calls and discuss the establishment of liaison between the telephone companies and the Federal law enforcement people to determine when Federal responsibility would arise under S. 2825.

As our Mr. Kertz testified before your committee, out of the 46,000 complaints of annoyance calls the Bell System telephone companies received during March of 1966, only 70 have so far been determined to have involved interstate calls. This seems to indicate that if S. 2825 is enacted Federal effort will be required in only a small percentage of the cases.

Yours very truly,

JOHN G. FOX.

We have a letter here addressed to Mr. Zapple:

We will be glad to meet with you and with representatives of the Department of Justice in connection with the proposed legislation S. 2825 to make interstate annoyance telephone calls a Federal crime. At such a meeting we could explain in detail the nature and the extent of these calls and discuss the establishment of liaison between the telephone companies and the Federal law enforcement people, to determine when Federal responsibility would arise under S. 2825. As our Mr. Kertz testified before your committee, out of the 46,000 complaints of annoyance calls to the Bell System telephone companies received during March of 1966, only 70 have so far been determined to have involved interstate calls. This seems to indicate that if S. 2825 is enacted, Federal efforts will be required in only a small percentage of these cases.

Yours very truly,

JOHN G. FOX.

I wish that somehow, if you saw fit in your good judgment, Mr. Clark, you would have a talk with these people about this.

Mr. CLARK. We would be very happy to talk with them.

Senator PASTORE. I tell you frankly, I know you, I know you well, and I know your dedication and your devotion. I know your talent. And the sincerity of your position, and I don't want to dispute it. But I hope you equally as well understand mine.

Mr. CLARK. Certainly, sir.

Senator PASTORE. Thank you very much.

STATEMENT BY REPRESENTATIVE CORNELIUS E. GALLAGHER

Mr. Chairman, First, I wish to thank you and the other members of this distinguished Subcommittee for allowing me the opportunity to testify on problems with which I have been concerned now for almost a year.

On August 5, 1965, I introduced a bill to protect members of the Armed Forces and their families from threatening and harassing communications.

On August 17, 1965, I presented legislation to increase the penalties for obscene and crank telephone calls made in the District of Columbia. This bill, I might add, was unanimously passed by the House on October 11, 1965, and the Senate District Committee is presently considering my proposal.

Because of my previous interest in the problems presented by obscene and harassing phone calls, I am encouraged that this Subcommittee has seen fit to delve more deeply into the issues involved.

I think it unnecessary for me to go into lurid examples of obscene telephone calls received by private persons, mainly defenseless women. It is also unnecessary for me to relate examples of the senseless and perverted calls that have been directed at the families of our servicemen, particularly those serving or killed in Vietnam. This Subcommittee has received ample testimony to dramatize the need for corrective regulation.

With all due respect for Senator Long, I tend basically to favor the legislation introduced by the Chairman, Senator Pastore. I think the need for Federal regulation and enforcement is presented by inter-state, as opposed to intra-state, calls.

As previously presented to the Subcommittee, 38 states currently have laws dealing with obscene and harassing telephone calls. I believe that there is much the individual states can contribute to the prohibition of these calls. These state statutes have been effective in the past, and I think they have the potential to remain as effective deterrents to future commission of these crimes.

I further believe that there is a lack of an all-pervasive need for the Federal Government to preempt the states in this area. It is only in the case of inter-state calls and calls made within the District of Columbia where this Federal enforcement is necessary and desirable.

I might interject here that I commend the Bell Telephone Systems for their efforts and success in developing scientific and accurate devices to trace and apprehend offenders. This action will do more than anything else to discourage the pranksters and perverts who violate a person's right to privacy in this manner.

To demonstrate my support, I introduced Wednesday a slightly amended version of S. 2825. My bill will include calls made within the District under the Federal law. This legislation will supercede my present bill.

Testimony and statistics given this Subcommittee have indicated the clear and pressing need for increased penalties for obscene phone calls made within the District of Columbia. The aim of my former bill, H.R. 10497, was to accomplish this effect.

I am certain that most of the members of this Subcommittee have heard of numerous instances, many times from women working on your own staffs, of obscene telephone calls. Washington with its large number of single women is particularly in need of effective deterrent regulation. I think this purpose can be effectively accomplished within a bill which would make all inter-state obscene and harassing telephone communication subject to Federal prosecution.

Mr. Chairman, we are dealing with an act, in many cases an act of a perverted mind, which sinks to the very core of our lives. It invades our right to privacy. As Chairman of the Special Inquiry on Invasion of Privacy of the House Government Operations Committee, I am especially concerned with this. I think this legislation will result in an effective and helpful tool for protection of this basic

right. These unwanted calls result in damage, both physical and mental. I am hopeful that this Subcommittee will adopt my bill, and I think I can safely predict that the House will act quickly to complete the job. The peace of mind of a great number of citizens rests on our action.

Again, my thanks for this opportunity to appear, and my congratulations for the intelligent light you are shining on a very real problem.

(Thereupon, at 10:12 a.m., the hearing was adjourned.)



