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90-6 ABUSIVE AND HARASSING TELEPHONE CALLS

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HEARING  
BEFORE THE  
SUBCOMMITTEE ON COMMUNICATIONS  
OF THE  
COMMITTEE ON COMMERCE  
UNITED STATES SENATE  
NINETIETH CONGRESS

FIRST SESSION  
ON

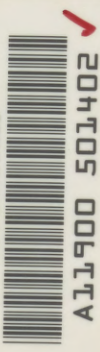
S. 375

A BILL TO AMEND THE COMMUNICATIONS ACT OF 1934 WITH  
RESPECT TO OBSCENE OR HARASSING TELEPHONE CALLS IN  
INTERSTATE OR FOREIGN COMMERCE

FEBRUARY 16, 1967

Serial 90-6

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ABUSIVE AND HARASSING TELEPHONE CALLS

HEARING  
BEFORE THE  
COMMISSION ON INVESTIGATIONS  
**COMMITTEE ON COMMERCE**

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**A. S. MIKE MONRONEY**, Oklahoma  
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# ABUSIVE AND HARASSING TELEPHONE CALLS

THURSDAY, FEBRUARY 16, 1967

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

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

(The bill and agency comments follow:)

[S. 375, 90th Cong., 1st 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 THE DISTRICT OF COLUMBIA OR IN INTERSTATE OR FOREIGN COMMERCE.—Whoever by means of telephone communication in the District of Columbia or in interstate or foreign commerce—

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

"(b) makes a telephone call, whether or not conversation ensues, without disclosing his identity and with intent to annoy, abuse, threaten, or harass any person at the called number; or

"(c) makes or causes the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number; or

"(d) makes repeated telephone calls, during which conversation ensues, solely to harass any person at the called number; or

Whoever knowingly permits any telephone under his control to be used for any purpose prohibited by this section—

"Shall be fined not more than \$500 or imprisoned not more than six months, or both."

FEBRUARY 15, 1967.

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

DEAR SENATOR MAGNUSON: The Commissioners of the District of Columbia have for report S. 375, 90th Congress, a bill to amend the Communications Act of 1934 with respect to obscene and harassing telephone calls in interstate and foreign commerce.

The bill amends existing law by adding to Title II of the Communications Act of 1934, immediately following section 222 (47 U.S.C.A., sec. 222), a new section 223 making it an offense to make a telephone call in the District of Columbia or in interstate or foreign commerce (1) for the purpose of making any comment, request, suggestion, or proposal which is obscene, lewd, lascivious, filthy, or indecent; (2) without disclosure of identity and with intent to annoy, abuse, threaten, or harass any person at the called number; (3) for the purpose of making or causing the telephone of another to ring repeatedly or continuously, with intent to harass any person at the called number; or (4) for the purpose of making repeated telephone calls, during which conversation ensues, solely to harass

Staff counsel assigned to this hearing: Nicholas Zapple.

any person at the called number. Any person engaging in any of the proscribed activities, or knowingly permitting any telephone under his control to be used for any of the proscribed activities, would, upon conviction, be fined not more than \$500 or imprisoned not more than six months, or both.

The existing District of Columbia disorderly conduct statute (D.C. Code, sec. 22-1121) provides in pertinent part that whoever, with intent to provoke a breach of the peace, or under circumstances such that a breach of the peace may be occasioned thereby, acts in such a manner as to annoy, disturb, interfere with, obstruct, or be offensive to others, shall be fined not more than \$250 or be imprisoned not more than 90 days, or both. This provision of the disorderly conduct statute on occasion has been used to prosecute persons who by using a telephone annoy or harass other persons with anonymous, repeated, or obscene and lewd calls. The Commissioners are informed, however, that as a practical matter it has been very difficult for the prosecution to prove that such calls, by such means, constitute a violation of the disorderly conduct statute.

Maryland and Virginia have statutes which prohibit the type of conduct made unlawful by the bill. Both statutes provide for a fine of not more than \$500 or imprisonment up to twelve months, or both. See Article 27, §555A, Annotated Code of Maryland (1964); §18.1-9 and 238, Code of Virginia (1950); and §18.1-238, Code of Virginia (1964 Supp.).

The Commissioners believe the bill is needed for the purpose of providing an effective means of dealing with the kind of activity prohibited by it. However, they suggest that the bill might be more effective were it amended to provide that an offender may be prosecuted in the jurisdiction in which the telephone call was made, or in the jurisdiction in which it was received. Further, they believe provision should be made for requiring a pretrial mental examination of a person making a call of the kind prohibited by the bill. Accordingly, they suggest the insertion of the subsection designation "(a)" immediately before the first word of the text of the proposed new section 223, the striking of the quotation marks at the end of line 17 on page 2, and the addition of the following subsections "(b)" and "(c)":

"(b) A violation of this section shall be deemed to have occurred at either the place at which the telephone call was made or the place at which the telephone call was received.

"(c) The court may in its discretion order any person arrested, indicted, or otherwise charged with violating this section to undergo a pretrial mental examination, at a mental hospital designated by the court. All costs of such examination shall be paid by the Government."

The Commissioners urge enactment of the bill, preferably with the amendments they have recommended.

The Commissioners have been advised by the Bureau of the Budget that, from the standpoint of the Administration's program, there is no objection to the submission of this report to the Congress.

Sincerely yours,

WALTER N. TOBRINER,  
*President, Board of Commissioners, D.C.*

FEDERAL COMMUNICATIONS COMMISSION,  
*Washington, D.C., February 15, 1967.*

The Honorable WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your request of January 23, 1967, seeking the Commission's comments on S. 375, a bill to amend the Communications Act of 1934 with respect to obscene or harassing telephone calls in interstate or foreign commerce.

On July 27, 1966, the Commission adopted comments on S. 2825, 89th Congress, which, as it passed the Senate on June 29, 1966, is identical to S. 375. It is requested that these comments, copies of which are enclosed, be accepted as the Commission's comments on S. 375.

The Bureau of the Budget has advised that while there is no objection to the presentation of this report from the standpoint of the Administration's program, it believes that the comments and recommendations made by the Department of Justice on S. 2825, 89th Congress, merit careful consideration by your Committee.

Sincerely yours,

ROSEL H. HYDE, *Chairman.*

COMMENTS OF THE FEDERAL COMMUNICATIONS COMMISSION ON S. 2825, A BILL TO AMEND THE COMMUNICATIONS ACT OF 1934 WITH RESPECT TO OBSCENE OR HARASSING TELEPHONE CALLS IN INTERSTATE OR FOREIGN COMMERCE

S. 2825 would add a new section 223 to the Communications Act of 1934, to prohibit, in substance, the making of obscene, lewd, lascivious, filthy, or indecent telephone calls or those intended to annoy, abuse, threaten, or harass, either in interstate or foreign commerce or within the District of Columbia.

Obscene and harassing telephone calls have become a matter of serious concern, for the dimensions of the problem are already large and are apparently growing. While the Bell Telephone System, which provides more than 80 percent of the Nation's telephones, has only recently begun to compile statistics concerning the number of calls as to which it receives complaints, it estimates it receives approximately 375,000 complaints a year concerning abusive telephone calls that threaten or harass the recipients. Figures provided the Commission by the Bell System show almost 43,000 abusive calls in April of this year, and about 46,000 in May.

S. 2825 would deal not only with obscene calls, but also the anonymous call made with intent to harass, and repeated calls made solely for the same purpose. The bill thus covers certain types of anonymous calls which have been of increasing concern. 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. 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 or husband in the service. S. 2825 reaches all of these vicious practices.

Some remedies do exist at the present time. Thirty-eight States have statutes generally prohibiting the making of various types of obscene, harassing, or annoying telephone calls. These laws, many of which are of recent origin, appear to be helping to check intrastate abusive calling. In addition, telephone company tariffs prohibit obscene language over the telephone or the use of telephone service in such a manner as to harass or frighten others.

The Bell Telephone System has developed 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. It is to be hoped that telephone company publicity recently given to the problem and the manner in which they will serve customers who receive such calls will have a beneficial effect.

However, no Federal law deals with any part of the problem, except for 18 U.S.C. 875(c), which prohibits interstate communications containing a threat of personal injury. S. 2825 would apply to all interstate calls and those calls made within the District of Columbia. Its enactment would facilitate prosecutions for interstate calls by permitting prosecution where it may be convenient for the witnesses, since section 3237 of Title 18, U.S. Code, permits prosecution of offenses in any district in which the offense is begun, is continued, or is completed.

While enforcement of a federal criminal statute dealing with obscene and harassing calls would appropriately be the responsibility of the Department of Justice, the Commission is fully in accord with the effort to deal with this problem which is embodied in S. 2825, and we support its enactment.

COMPTROLLER GENERAL OF THE UNITED STATES,  
*Washington, D.C., February 16, 1967.*

The Honorable WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate.*

DEAR MR. CHAIRMAN: By letter of January 20, 1967, you requested our comments on S. 375, entitled: "A BILL To amend the Communications Act of 1934 with respect to obscene or harassing telephone calls in interstate or foreign commerce."

We have no special information as to the desirability of this measure and, therefore, make no comments regarding its merits.

Sincerely yours,

FRANK H. WEITZEL,  
*Assistant Comptroller General of the United States.*

Senator PASTORE. The hour of 10 having been reached, I will call this hearing to order.

This is a hearing on S. 375, a bill that would make it a Federal offense to make certain obscene or harassing telephone calls in interstate or foreign commerce or within the District of Columbia.

It will be recalled that, in the last Congress, the Subcommittee on Communications received a number of complaints about the growing practice of using the telephone for abusive and obscene purposes. I requested the Federal Communications Commission to check out this subject matter. In its report to me the Commission indicated that the Bell System received approximately 375,000 complaints a year concerning abusive telephone calls that threaten or harass the recipient. It was also revealed that only 38 States had statutes making it a crime to make such calls. Most of the statutes could be classified in the misdemeanor category.

Above the fact that there were 12 States without statutes on this subject was the disclosure that there was no Federal statute covering threatening, harassing, or abusive telephone calls.

The significance of the interstate nature of the problem becomes more obvious when one turns to a metropolitan area like Washington, D.C., which has Virginia and Maryland on its borders. This, of course, is true of many areas throughout the United States. In the District of Columbia it is simple to dial from one area to another area with direct dialing a way of operation in telephone communications. A call from one area to another is a mere, simple, dialing maneuver. Under such circumstances a jurisdictional question immediately arises.

In order to close this interstate gap, I introduced a bill, S. 2825, in the 89th Congress. Hearings were held, the bill reported favorably and passed the Senate on June 29, 1966. It was then referred to the House Interstate and Foreign Commerce Committee where, because of the press of business and the lateness of the session, action was not taken.

I want to say at this juncture that I personally talked with the chairman of the committee, Mr. Staggers, who assured me that, if it were reintroduced in this session of the Congress, he would give it special attention.

During the hearings conducted last year by the subcommittee, the Chairman of the FCC, Rosel H. Hyde, supported the legislation. Brig. Gen. William W. Berg, Deputy Assistant Secretary of Defense for Military Personnel Policy, presented the views of the Department of Defense. His testimony showed that a spot check of nine military bases in the United States turned up approximately 500 reported cases involving the general problem of obscene or harassing telephone calls during the past year at these nine bases of which some 87 incidents involved harassment to some 50 military families in connection with service in Vietnam. He contended that legislation was necessary in order to afford a sense of protection to the members of our Armed Forces and their families from these vicious and despicable acts. General Berg strongly urged the enactment of the legislation.

Mr. Hubert Kertz, operating vice president of American Telephone & Telegraph Co., also appeared on behalf of the Bell System's operating companies. Mr. Kertz gave the committee helpful testimony as to the techniques used by the telephone companies so as

to identify the telephone line from which the abusive telephone calls originated.

He revealed that certain techniques were being used that he did not want to disclose publicly lest the information would make it easier for annoyance callers to avoid detection.

Generally, there are three basic detection services. One is a tone set, a box equipped with an on-and-off switch and connected by a wire to the annoyed customer's telephone. When a crank call is received, the customer flips the 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 to the telephone call.

Another device is a pen register attached to the line of a prime suspect in a crank-call case. This instrument records number called and the time of the call.

A third device acts as a computer in the central office and puts the calling number, called number, date, and time on a punchcard.

He indicated that in the month of March 1966 the telephone company had received 46,000 complaints. In fact, it was pointed out that crank calls had become so epidemic and evil that special annoyance call bureaus have been set up in various cities by the Bell System offices to help shield the victims.

A recent check reveals that total complaints of abusive calls in the Bell Systems reached a high in August 1966 of 68,000. In October it was 56,000, and a similar level was reached in November 1966. This indicates that the problem is still with us.

Mr. Kertz showed that existing State and local criminal legislation was of great assistance to the telephone companies but believed that Federal legislation was necessary to close the interstate gap. And above all, Federal legislation would have a deterring effect on potential offenders.

Adm. William C. Mott, executive vice president of the U.S. Independent Telephone Association, a trade association composed of over 1,000 telephone companies, strongly supported the legislation.

He stated that a Federal statute prohibiting obscene or harassing telephone calls in interstate commerce would have a deterring effect on the making of such calls and might further set an example for those States not having a statute or whose statutes might need a revision.

Mr. Paul Rodgers, general counsel of the National Association of Railroad and Utilities Commissioners, expressed the view that State legislation deals adequately with intrastate threatening and harassing telephone calls and supported S. 2825 to fill the interstate gap.

S. 375, which is the subject of today's hearings, is the same as the bill reported by this committee and passed by the Senate last year.

I note from our witness list that each of the men that I have mentioned above will testify, and I hope they will bring our records up to date as to what has happened in their respective areas with reference to obscene and harassing telephone calls. It is my intention after this hearing is completed to press for early enactment of this legislation.

We are honored to have with us today Congressman Lionel Van Deerlin, of California. He is welcome to come forward and testify.

Before hearing the Congressman, we have a statement here from Senator Edward B. Long of Missouri, which I ask to be placed in the record.

UNITED STATES SENATE,  
COMMITTEE ON THE JUDICIARY,  
February 15, 1967.

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

DEAR JOHN: Regret that it will be impossible for me to appear before your subcommittee February 16 to testify in support of S. 375. Would appreciate, however, your having the attached statement made a part of the hearing record.

You may be assured of my desire to be of all possible assistance in securing the enactment of this much needed legislation.

Kind personal regards.

Sincerely,

EDWARD V. LONG,  
U.S. Senator.

STATEMENT OF SENATOR EDWARD V. LONG OF MISSOURI

Mr. Chairman, I appreciate this opportunity to express my support for S. 375, legislation which you introduced on January 17 which would amend the Communications Act of 1934 with respect to obscene or harassing telephone calls in interstate or foreign commerce.

I was pleased to appear before your subcommittee last May 11 in support of a bill I offered in the 89th Congress, S. 3072, with very similar objectives. While I have not reintroduced this legislation, it is not because I feel that the problem of telephone harassment has been reduced. Rather, it is because I believe S. 375 which is basically the same bill approved by the subcommittee and passed by the Senate last year, offers a responsible solution to the problem.

Complaints similar to those which led me to introduce my bill last year have continued to reach my office on a regular basis. I hope that it will be possible to secure enactment of this measure without delay.

For many years, it was very difficult, if not impossible, to identify persons harassing others through telephone calls. Now, however, communications technology has advanced to such a degree that I am sure this difficulty can be overcome.

All but about a dozen states have some statutes relating to the misuse of the telephone. I hope that these states will take steps to effectively enforce these laws and that states which have no statutes will take prompt action to provide this protection.

Without a statute against interstate harassment, however, the public will never be assured of adequate security. The Metropolitan Washington area, which leads the Nation in obscene phone calls, demonstrates the need for a Federal law. While both Virginia and Maryland have statutes relative to these abuses, there is no effective relief available for calls made across the borders of these two states or into or within the District of Columbia.

No person should have to tolerate this invasion of his home—this invasion of his privacy. Early action by your subcommittee will be sincerely appreciated by the thousands of parents, women and prominent persons who have been victimized by abusive and harassing telephone calls.

We also have a statement here from Congressman Cornelius E. Gallagher, of New Jersey. I ask that that be placed in the record in toto.

(The aforementioned documents follow:)

STATEMENT OF REPRESENTATIVE CORNELIUS E. GALLAGHER OF NEW JERSEY

Mr. Chairman and Members of the Subcommittee: I am grateful to you for the opportunity to testify today on a measure I have been actively involved with since the summer of 1965.

I think it might be useful at this point to give a short history of the congressional efforts in recent times to combat the growing menace of obscene and harassing telephone calls.

On August 16, 1965, I introduced a bill in the House to raise the penalties for obscene calls made within the District of Columbia. At that time and in fact

at the present time, the penalties are woefully inadequate to protect Washington residents from these callers. My original bill would have raised the District penalty to correspond with the laws in the neighboring states of Virginia and Maryland.

This bill, H.R. 10497, was passed unanimously by the House on October 11, 1965. It was then sent to the Senate.

On January 26, 1966, Mr. Chairman, you introduced a bill to make obscene calls in interstate commerce a Federal crime and to provide penalties of up to \$1,000 fine and/or one year in jail.

In the meantime, on March 23, 1966, the Senate District Committee held hearings on my bill. These hearings were never completed, nor was any legislation ever reported out.

Subsequently in May 1966, this Subcommittee began hearings on your original bill.

Because your original bill, S. 2825, did not include the District of Columbia and since it had been my original purpose to include protection for the District, I introduced an amended version of your bill in the House. This bill would have outlawed, under Federal Penalty, calls made in interstate commerce and those made within the District of Columbia. This legislation was referred to the House Interstate and Foreign Commerce Committee and died there when the 89th Congress ended.

The Senate Commerce Committee reported the amended version of S. 2825 on June 27, 1966, and the bill subsequently passed the Senate on June 29, 1966.

Mr. Chairman, I think it was most unfortunate that with all the effort expended by both the House and the Senate that no law resulted last year to protect our citizens from these annoying and abusive calls. I am hopeful that this year we will see greater success.

I am confident that this Subcommittee will receive testimony from the various expert witnesses from the telephone companies and other interested parties as to the increasing number of these calls and the ineffectiveness of the present law in this area.

I would like to touch for a moment today on one aspect of this problem which has, perhaps, been overlooked.

As Chairman of the Subcommittee on Invasion of Privacy of the House Government Operations Committee, I have become increasingly aware of, and concerned over, the threats to individual privacy posed by the advancement of our technology and the resultant responsibility of the Government to protect the citizens of these United States.

Admittedly, obscene phone calls may seem relatively unimportant when compared to electronic eavesdropping and wiretapping, but I feel that we should be just as diligent in our efforts to control these "small" threats as we are with the larger ones.

When a person contracts to have a telephone installed, I do not believe that he contracts to open himself up to any kind of caller. Of course, a telephone user cannot expect to be free from wrong numbers in the middle of a shower, solicitors in the middle of dinner, or friends in the middle of the night. But I submit that the telephone user has the right to be protected from deliberate and malicious calls made for the very purpose of harassing, embarrassing and threatening the recipient. Obscene telephone callers present, to my mind, a definite invasion of privacy—an invasion lacking even the implied consent flowing from the installation of the telephone in one's home. As in many other areas, I feel that the Federal Government has a responsibility to help protect innocent citizens from this intrusion.

As previously presented to this Subcommittee last year, 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 no all-pervasive need for the Federal government to pre-empt the states in this area. It is only in the case of interstate 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 accurate devices to help apprehend these callers. The Bell System has also performed an outstanding civic service by placing advertisements in national and local publications stressing the penalties for these calls and the actions to be taken by a person receiving such a call. These meas-

ures will do more than anything else to discourage the pranksters and perverts who perpetuate these offenses. When the element of anonymity disappears, there will be less chance of these calls.

Mr. Chairman, I introduced my amended bill, similar to the one which passed the Senate last year, on January 10, 1967. It is now pending before the House Interstate and Foreign Commerce Committee. I think this legislation will result in an effective tool to cope with these calls and this inherent invasion of privacy. I feel that the peace of mind of many citizens rests with our action.

Again, my thanks for this opportunity to appear before this Subcommittee and my gratitude for the intelligent light you are helping to shine on a very real problem.

---

**STATEMENT OF THE HONORABLE LIONEL VAN DEERLIN, REPRESENTATIVE IN THE CONGRESS OF THE UNITED STATES FROM THE 37TH DISTRICT, STATE OF CALIFORNIA**

Mr. VAN DEERLIN. Thank you, Mr. Chairman.

I learned long ago that the way to ingratiate one's self with a committee is to submit a statement for the record and hold one's remarks, spoken remarks, as brief as possible.

I think this would be especially compelling in my case when I see the quality of the witnesses that are waiting to be heard.

Senator PASTORE. Let me just say, a personable gentleman like you, and a Member of Congress, is ingratiating no matter what you do.

Mr. VAN DEERLIN. Let me respond to that, Mr. Chairman, by saying that I look forward to the opportunity of hearing, on the House side, hearing from the chairman of this subcommittee who once again I am sure will come up with a bill which has passed the Senate.

I can assure you that, when the pressure is put on us a second time over there, we will act.

We are accustomed on the House side to seeing much worthy House legislation die in the Senate, and I find myself in a very apologetic position when I find a worthy bill like this, which has passed the Senate and died for want of action on our side of the Hill.

Senator PASTORE. Is that the elementary reciprocity that Dean Rusk talks about? [Laughter.]

Mr. VAN DEERLIN. In submitting this legislation on the opening day of Congress—and it is a bill which is identical to your own, Mr. Chairman, H.R. 1422—I had been moved to action by the interest shown by the telephone company and by the evidence they provided that there are some 5,000 objectionable or obscene telephone calls reported each month in the State of California, which I am privileged to represent.

And so, as a member of the Communications and Power Subcommittee, I prepared this bill for offering on opening day.

It just happened that I developed a slight conflict of interests, you might say, in the days immediately preceding the convening of Congress. I had become involved in a matter of widespread public interest in those days immediately preceding Congress with regard to the credentials of one of our colleagues to be sworn in. And beginning the weekend before the convening of Congress, and right up to the day and day after, itself, my own home became the target of a number of such calls as this. And while, as a candidate for public office I have become accustomed to being awakened at 3 o'clock in the morning by harassing calls which succeed in their intent of robbing

the candidate of an hour's sleep, because after answering the telephone you become so angry that you take the phone off the hook and go to bed and you don't get to sleep for an hour or two, I didn't object to such calls being resumed in regard to the matter that was before the House.

I did object, however, when my teenage children, particularly my daughters, began taking calls which in the most obscene language imaginable threatened them with death and all the other things that these strange minds conjure up.

And we have changed our own number and made it an unlisted number, which I think is regrettable in a public official. I think we should be available for telephone calls.

I did feel that we learned what this problem is like. I have known, in newspaper work, of people involved in the news, particularly very good-looking women who may be pictured in the paper, it is almost axiomatic that they subject themselves, especially if their addresses are given, to objectionable telephone calls. And I feel that I know firsthand the urgent need for this legislation and I intend to push for it with all the powers at my command.

I thank you, Mr. Chairman, for the leadership that you have provided, and I will submit the substance of my statement for the record.

Senator PASTORE. You are the typical example, Mr. Congressman. If I were to dramatize in any possible way within my competence I would say that your situation is precisely the one thing that we are directing ourselves to and the one thing that we want to eliminate.

A person has a perfect right to disagree with you. But this idea of being harassed in the middle of the night, and the obscenities being spewed upon innocent victims, is despicable and should be punished as a crime. A "crying trumpet player," if I may use the expression, is being utilized to arouse the Congress to the need for this kind of legislation.

I can imagine the anguish and discomfort of your family in being subjected to this kind of practice. That is the one thing that motivated me.

I don't think we are going to have any trouble in the Senate. We have already gone through this. I think that the Senate will accept it this year as they did last year, and I hope that you will be instrumental in the House in seeing that it gets speedy attention.

I want to thank you for coming here this morning. You have been a great help.

Mr. VAN DEERLIN. Thank you, Mr. Chairman.

(Statement follows:)

#### STATEMENT OF CONGRESSMAN LIONEL VAN DEERLIN OF CALIFORNIA

Mr. Chairman, members of the Subcommittee. I am honored to have this opportunity to appear before you this morning to testify in support of S. 375. Because of my feeling that this proposal by Senator Pastore would fill a definite gap in the Communications Act, I have introduced an identical bill, H.R. 1422, in the House.

There are few offenses more sinister than the telephoned threat made from behind a coward's shield of anonymity. As your Committee noted in Senate Report 1334 of the 89th Congress, it is a strange individual indeed who "can somehow derive satisfaction or pleasure from frightening other people" while keeping his own identity unknown.

Shortly after I decided to introduce my companion legislation, I learned firsthand what it's like to be the target of abusive telephone calls.

After receiving a series of such calls last month at our Washington home, we were forced to take an unlisted number. For some of the callers, there were no bounds of decency. My 13-year-old daughter for example, talked to one anonymous person who used obscenities in threatening to kill her and her brothers and sisters.

I believe that other Members of Congress have been harassed in similar fashion by unscrupulous persons seeking to intimidate them.

But most disturbing to me are the threats and false reports directed at the wives and parents of our servicemen. We have all seen news accounts of how service families have been called in the night by twisted people gloating over the real or invented deaths of loved ones in Viet Nam.

I am aware that at least 38 States now have statutes of their own to deal with abusive callers, and Oregon is considering such legislation.

But the State laws in themselves are probably not enough. They should be supplemented by the appropriate Federal controls proposed in S. 375.

I believe that many a potential abusive caller would think twice before dialing if he knew he faced possible penalties. The \$500 fine and six-month prison term provided for convictions under S. 375 and H.R. 1422 seem to me to fairly match the crimes covered by the measures.

It is my hope that S. 375, or legislation very similar to it, will be enacted this year, for the problem of menacing telephone calls appears to be growing, with psychotic adults as well as irresponsible youngsters among the perpetrators.

The Bell Telephone Company has indicated that the average number of abusive calls reported each month in my own State of California is now approaching 5,000.

How many such calls go unreported can only be surmised.

Because of the peculiarly vicious nature of these calls, the remedial legislation is needed now. I am confident that this distinguished Subcommittee will give prompt and favorable consideration to S. 375.

At the same time, I pledge that I will do my utmost to obtain a hearing and favorable action on H.R. 1422 by my own House Committee on Interstate and Foreign Commerce.

Senator PASTORE. Are there any other Congressmen who want to testify here?

(No response.)

Senator PASTORE. We are honored this morning to have the Chairman of the Federal Communications Commission.

You have already testified on this, Mr. Hyde. And we have a complete hearing record. This is the same bill. It is identical to the bill that was passed by the Senate, as I have already pointed out.

I understand that our understanding is that you will put your statement in the record and bring us up to date as to where this matter stands now. Is that correct?

#### STATEMENT OF ROSEL H. HYDE, CHAIRMAN, FEDERAL COMMUNICATIONS COMMISSION

Mr. HYDE. Yes, Senator Pastore.

Senator PASTORE. Without objection, the statement will be placed in the record.

Mr. HYDE. Thank you very much, Mr. Chairman. Our statement is in fact a restatement of our support of what is now S. 375, and the reasons why we support it are very well outlined in your opening statement. And certainly documented by the statement just made by Congressman Van Deerlin.

Senator PASTORE. Let me ask you, has anything transpired from the time that you appeared here before to the present moment when you come before this committee, that would indicate to you that there is less need for this legislation now as there was then?

Mr. HYDE. No, sir. On the contrary, there is evidence of an increasing need in terms of a trend of increasing numbers of calls. The number has increased over the last 11 months from about 45,000 a month to 51,000. The difference in the figure is not as important as the trend it discloses.

I would be concerned that the absence of a statute dealing with all aspects of this may constitute a sort of an invitation to the type of mind that indulges in this kind of abuse.

The Commission strongly supports the enactment of the legislation which is before the committee this morning.

Senator PASTORE. Would you like to add anything else, Mr. Hyde?

Mr. HYDE. I would add a personal experience. We have calls in our own home, and I can recall one instance when my wife said, "I am certainly glad it wasn't Marilyn"—our daughter—"who received that call," because it was a revolting type of call that no one should be subjected to.

Senator PASTORE. I want to thank you, Commissioner Hyde.

Mr. HYDE. I have several members of our staff commentary bureau who will be pleased to assist you in any manner that you might require.

Senator PASTORE. I think your staff did go over this legislation with a fine-tooth comb the last time.

Mr. HYDE. Yes, sir.

Senator PASTORE. And we accepted all the modifications and suggestions that you made. I think that the bill today is in the form that you recommended it at that time after you looked it over. Is that correct?

Mr. HYDE. Yes, sir. We believe it is in the form for approval, but should anything new develop, we continue at your service.

Senator PASTORE. Thank you very much. You have been very cooperative.

Mr. HYDE. Thank you, Senator.

Senator PASTORE. We have Brig. Gen. William Berg here, who is welcome to come forward.

First, let me welcome you. I say to you what I have also said to Chairman Hyde. We have your statement in the record. I think we will incorporate it by reference insofar as those hearings are concerned, for the convenience of Members of Congress.

You have a statement here. I am going to ask that it be placed in the record in toto.

(The statement follows:)

STATEMENT OF ROSEL H. HYDE, CHAIRMAN, FEDERAL COMMUNICATIONS COMMISSION

Mr. Chairman, I am Rosel H. Hyde, Chairman of the Federal Communications Commission. I appear here today at the Committee's invitation to discuss S. 375. This bill would add a new section 223 to the Communications Act of 1934 to prohibit, in substance, the making of obscene, lewd, lascivious, filthy, or indecent telephone calls or those intended to annoy, abuse, threaten, or harass, either in interstate or foreign commerce or within the District of Columbia. It provides for a fine of not more than \$500 or imprisonment for not more than six months, or both.

The Federal Communications Commission is fully in accord with the effort to deal with the problem of obscene and harassing telephone calls which is embodied in this bill. S. 375 is identical to S. 2825, 89th Congress, as passed by the Senate on June 29, 1966, which this Commission supported in its present form.

Obscene and harassing telephone calls have become a matter of serious concern. The dimensions of the problem are already large and are apparently growing. At the request of the Commission, the Bell Telephone System, which provides more than 80 percent of the Nation's telephones, began to compile statistics in February 1966 concerning the number of calls as to which it receives complaints. The Bell System lists as abusive calls those falling under the headings of obscene, harassing, threatening, or interference. The figures show that, for eleven months of 1966, the Bell System received over 568,000 complaints concerning abusive telephone calls that threaten or harass the recipient, or an average of over 51,000 such complaints each month.

When compilation of complaints began in early 1966 the number of reported abusive calls was between forty and forty-five thousand per month. The number of incidents of such calls increased to between fifty and fifty-five thousand per month as of the latter part of 1966.

Over 56,000 abusive calls were reported in November and over 51,000 in December. A detailed breakdown of the statistics for these two months is attached to this statement.

It should be noted that only a small portion of the total number of reported abusive calls were interstate in nature. During the eleven-month period in which the Bell System compiled statistics, 512 complaints of abusive interstate calls were reported. Thirty-six such complaints were received in November and 19 in December, 1966.

S. 375 would deal not only with obscene calls, but also the anonymous call made with intent to harass, and repeated calls made solely for the same purpose. The bill thus covers certain types of anonymous calls which have been of increasing concern. 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. Recently a new and most offensive form of harassment has been devised. Families of servicemen care 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 or husband in the service. S. 375 reaches all of these vicious practices.

Some remedies do exist at the present time. Thirty-eight States have statutes generally prohibiting the making of various types of obscene, harassing, or annoying telephone calls. These laws, many of which are of recent origin, should assist the efforts to solve the problem of intrastate abusive calling. In addition, telephone company tariffs prohibit obscene language over the telephone or the use of telephone service in such a manner as to harass or frighten others.

The Bell Telephone System has developed 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. It is to be hoped that recent publicity given to this matter by the telephone company and the manner in which they will serve customers who receive such calls will have the beneficial effect of reducing these insidious practices.

Although Title 18 U.S.C. 875(c) prohibits interstate communications containing a threat of personal injury, and 18 U.S.C. 837(d) prohibits use of the telephone to make threats of damage to certain property or threats to persons seeking to make specified uses of such property, no Federal law deals with the many aspects of the problem of abusive calls. S. 375 would apply to all interstate calls and those calls made within the District of Columbia. Its enactment would facilitate prosecutions for interstate calls by permitting prosecution where it may be convenient for the witnesses, since section 3237 of Title 18, United States Code, permits prosecution of offenses in any district in which the offense is begun, is continued, or is completed.

Enforcement of a Federal criminal statute dealing with obscene and harassing telephone calls would appropriately be the responsibility of the Department of Justice. From the standpoint of the Federal Communications Commission's general concern in this area, we are fully in accord with the effort to deal with this problem which is embodied in S. 375 and support its enactment.

ATTACHMENT NO. 1, BELL TELEPHONE SYSTEM SUMMARY OF ABUSIVE CALLING,  
NOVEMBER 1966

The figures shown represent actual results for November 1966 in all Bell Telephone System companies.

Classification:	<i>Total number</i>
Abusive.....	56,796
Commercial solicitation.....	1,734
Misdirected.....	3,097
Breakdown of abusive:	
Obscene.....	12,359
Harassing.....	39,088
Threatening.....	2,538
Interference.....	2,811
Disposition of abusive:	
Closed after initial discussion.....	30,562
Closed after keeping log.....	13,344
Number change—no transfer.....	6,237
Change to nonlist or nonpublished numbers.....	4,853
Requests for line identification.....	3,783
Lines successfully identified.....	699
Cases referred to security.....	1,224
Cases requiring disconnection by company.....	5
Cases resulting in court convictions.....	58
Cases involving intercity calling.....	1,342
Cases involving interstate calling.....	36
Total number closed.....	50,607
Total number pending.....	11,021

ATTACHMENT NO. 2, BELL TELEPHONE SYSTEM SUMMARY OF ABUSIVE CALLING,  
DECEMBER 1966

The figures shown represent actual results for December 1966 in all Bell Telephone System companies.

Classification:	<i>Total number</i>
Abusive.....	51,439
Commercial solicitation.....	1,331
Misdirected.....	2,573
Breakdown of abusive:	
Obscene.....	11,571
Harassing.....	35,612
Threatening.....	2,063
Interference.....	2,193
Disposition of abusive:	
Closed after initial discussion.....	28,350
Closed after keeping log.....	13,452
Number—change—no transfer.....	5,092
Change to nonlist or nonpublished numbers.....	4,021
Requests for line identification.....	3,503
Lines successfully identified.....	755
Cases referred to Security.....	1,064
Cases requiring disconnection by company.....	15
Cases resulting in court convictions.....	39
Cases involving intercity calling.....	1,281
Cases involving interstate calling.....	19
Total number closed.....	47,763
Total number pending.....	9,700

Senator PASTORE. The purpose of the hearing here this morning is to bring the whole situation up to date, as to whether or not the need exists today as it did then when you testified, and I would hope that you would direct yourself to that.

**STATEMENT OF BRIG. GEN. WILLIAM W. BERG, DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR MILITARY PERSONNEL POLICY**

General BERG. Mr. Chairman, as we indicated in this short statement, we still strongly support the legislation. We indicate that there has been a slight drop in the number of cases. Our attribution of that drop is to the fact that we did hold the hearings and to the degree of cooperation which now exists between us and the telephone industry.

Senator PASTORE. I think, too, they had a television show the other night, and I think when these crackpots—and I use the word advisedly—the minute they are made to understand that this is a dangerous practice, that they are subject to criminal prosecution and that they can be not only detected, but identified, that this will have a very deterrent effect upon the practice to begin with. And that has been said time and time again.

I think that that program, together with the testimony that has been adduced here, together with the action of the Senate, and if we make this a statutory Federal law, I think this will have a very, very deterrent effect upon these people, and the only reason why they do it is because they know that in the past it has been hard to discover.

Now that we have the technology to discover these people, and we have the investigatory facility to identify them, I think that you will see that the practice will wane more and more.

I am very happy to hear you say that the need exists today as it did before when your committee met. Thank you very, very much.

General BERG. Thank you, Senator.

Senator PASTORE. General, Mr. Zapple has brought to my attention that you were going to have a summary available for the record.

General BERG. Yes, sir.

Senator PASTORE. Will you send it up so that we can incorporate it at this point?

General BERG. Yes, sir.

(The summary was submitted and is in the committee's files.)

(The Statement of General Berg follow:)

**STATEMENT OF BRIG. GEN. WILLIAM W. BERG**

Mr. Chairman and Members of the Committee: I am Brigadier General William W. Berg, Deputy Assistant Secretary of Defense for Military Personnel Policy.

It was my pleasure to appear before this Committee last May to present the views of the Department of Defense on S. 2825 of the 89th Congress, a predecessor version of S. 375.

As I stated at that time, the Department of Defense is concerned about the adverse effect on the morale and welfare of our servicemen and their families of obscene and harassing communications, particularly as they relate to our military operations in Vietnam and elsewhere. We welcome and support any legislation which promises our servicemen and their families a measure of protection from these vicious and despicable acts.

In May of 1966, I reported to your Committee on some 87 incidents then known of harassment of some 50 military families related to our military operations overseas, mostly in connection with service in Vietnam. This harassment included everything from false reports of death or injury to threats, demands for

money for the Viet Cong, and gloating comment on the actual death in combat of servicemen. This harassment was mainly by telephone but also included letters, postcards, telegrams, and even face-to-face visits. Since May of 1966 the incidence of reported harassment of this nature has dropped significantly. I will provide for the record a summary of the known details of new incidents. As in the past we request that any public disclosure of these cases omit reference to the names of the individuals involved to lessen the possibility of their further harassment.

We believe that two factors have contributed to the reduced incidence of harassment of our service families. One is the publicity given to the Nation's outrage at these acts by your consideration of remedial legislation during the last session of the Congress. The other is the excellent cooperation we have received from the commercial telephone companies in developing joint procedures to protect service families from the perpetrators of this viciousness. The American Telephone and Telegraph Company has worked with us in behalf of the entire telephone industry in developing and publicizing procedures for assisting service families who are victimized by telephonic harassment.

While we have no way of knowing whether or not this welcomed reduction of harassment is permanent or merely temporary, we do not cite it as evidence that corrective legislation is not needed. Recognizing that the overall problem of obscene and harassing communications goes far beyond the matter of harassment of service families, the Department of Defense defers to the wisdom of the Congress on the content of specific legislation and to the views of the Department of Justice and the Federal Communications Commission on the technical merit of particular proposals.

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

Thank you, Mr. Chairman. This concludes my statement.

Senator PASTORE. Our next witness is Mr. Hubert Kertz. You I want to hear at length.

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

Mr. KERTZ. All right, sir. I will start in.

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

As I said in my statement of May 11, 1966, before this committee, we are very concerned about the problem of abusive calls and we are doing all we can to stop them.

We are pleased, too, with this committee's continued interest in the problem, and I appreciate the opportunity to present our views again. We would welcome legislation at the Federal level along the lines proposed in Senate bill S. 375.

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.

As I mentioned in my previous appearance, the Bell System companies reported having received about 46,000 complaints during the month of March 1966, involving abusive calls. Subsequently the number of such complaints received per month increased for awhile reaching a high of about 68,000 in August of 1966, but declined since to about 51,000 in December of 1966.

I might add parenthetically, Mr. Chairman, that the reason for that decrease we feel quite sure was the wide advertising campaign that the American company and the operating companies of the Bell System started in the middle of 1966 to bring to the attention of the public the procedures to follow if they were to receive these types of abusive calls.

Of course, the only way we can know about such calls is when they are called to our attention by our customers. There is no doubt about it that there are many more of these calls made than are indicated by the number of reports that are received.

We consider abusive calling to be a serious problem even though these 51,000 complaints represent only a small fraction of the more than 10 billion calls made by our customers in the same month.

We do not know how much of this abusive calling is interstate or how much is intrastate, but it is our judgment that the problem is predominantly 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 51,000 complaints received in December of 1966, only about 20 have so far been classified as involving interstate calling.

I might add here parenthetically that there were about 70 of them that were classified as interstate last March. This does not mean those are the total of the interstate, by any means. There must be many more than that.

Although this is a small percentage, we think Federal legislation will also have a deterring effect on potential offenders in interstate calling and that such legislation would be of practical advantage to us in attempting to deal with this abusive calling problem.

Senator PASTORE. Mr. Kertz, I want to cover a point. We addressed ourselves to the Justice Department. That one of their chief objections to the legislation which they thought might not have been necessary—and that was their prerogative to think so—was the fact that this would become quite burdensome and would encumber the Justice Department because of the number of calls involved.

As far as the technology here is concerned—as far as the technology is concerned—once you have been apprised by a victim of such a call that he or she did receive such a call, up to that moment there isn't a great deal that you can do about it because at that moment you have had no opportunity to bring your technology into play insofar as detection is concerned. Am I correct?

Mr. KERTZ. That's correct.

Senator PASTORE. But once you bring your technology into play and you trace the call successfully, at that moment you can say very easily whether it is in interstate or intrastate; isn't that a fact?

Mr. KERTZ. Yes, sir; that is correct.

Senator PASTORE. So before the Department of Justice comes into play at all, the technology itself will separate the interstate from the intrastate. Am I correct?

Mr. KERTZ. Precisely correct; 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 by our customers having recourse to State and local criminal prosecutions.

As I stated in my last appearance, 38 States have enacted statutes specifically outlawing abusive calling. I understand that the legislatures of 11 of the 12 remaining States currently have before them specific statutes outlawing abusive calling.

Even in the absence of such specific legislation, more general statutes, such as those dealing with disturbing the peace, have been used in abusive-calling cases. All in all, in the areas served by the Bell System the courts convicted 358 abusive callers during 1965 and 788 abusive callers in 1966.

I reviewed with this committee last May the procedures which 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; we are improving our techniques; and we are maintaining close contact with each victim until the abusive-calling problem is solved to his satisfaction.

Over the years we have devised many different techniques 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 specific 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 will in the long run substantially deter abusive calling. Local law enforcement authorities have been most cooperative and extremely helpful in investigating these cases, as evidenced by the over 100-percent increase in court convictions in 1966 that I just referred to.

☛ We have conducted a national advertising campaign on this subject. This advertising clearly enunciated 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.

☐ The Bell System ads on this subject in 1966 appeared in more than 20 magazines having a total circulation of almost 120 million. This was the greatest exposure an A.T. & T. informative ad has ever had. Readership studies have demonstrated wide public interest.

☛ Bell System officials have appeared on this subject on a number of national and local television shows and have spoken about it before law enforcement and other public groups. We understand that one of the television interviews was seen in 2 million homes by 3 million adult viewers.

Bell companies have also placed such advertising in local newspapers in their areas. The Bell companies have also conducted extensive employee information programs outlining our policy and procedures to be followed.

Let me summarize the Bell System position on the entire matter of abusive calling. We are deeply concerned about this problem. We are doing all in our power to eliminate it. We still think there is a need for Federal legislation covering interstate abusive calling and

endorse Senate bill S. 375. We stand ready to give this committee any assistance it requires.

Senator PASTORE. How about inserting a flier in the bill that you send to each subscriber?

Mr. KERTZ. We have done that, Mr. Chairman. In quite a few cases the operating companies have done that where there has been a rash of this type of work. In addition to that, we have had, as I mentioned before, the ads and local programs and talks and I assure you—

Senator PASTORE. I realize that, but the other would be a very personal contact.

Mr. KERTZ. Yes, we have done that, to answer your question.

Senator PASTORE. Now this technology that you use, does this in any way fall within the area or the category of this very controversial issue on bugging?

Mr. KERTZ. No, sir, it does not. The techniques that we employ in identifying the calling line involved in abusive calls does not monitor the line at all. We do not listen in to the conversation.

Senator PASTORE. The minute I asked this, the press picked up their pencils. Will you elaborate? This will be a headline, I know.

Mr. KERTZ. I hope the headline comes out right, Mr. Chairman. When we receive a complaint from one of our customers that he or she is receiving abusive calls, one of the first things we do is ask them to keep a log when it occurs. Depending upon the severity of the problem, we then employ some of these electronic techniques that I'm talking about. The electronic techniques consist in tracing the connection back to the calling line, but in tracing this connection, we are in no way monitoring the line. We do not get across the wires or the pair, if you will, the talking connection, rather we get across the signal leads. So, there is no opportunity for people to monitor this type of conversation.

Senator PASTORE. And insofar as evidence is concerned in any prosecution, the accuser will have to be the witness as to what was said?

Mr. KERTZ. This is correct, sir.

Senator PASTORE. There is no recordation of the conversation?

Mr. KERTZ. No, sir; there is not. I was going to continue to state, however, Mr. Chairman, that when we get to the point of actually having the offender prosecuted, the telephone company has at that point put one of those pen registers on the line of the offending party, as I indicated to you last May. Now, this is not listening to the conversation on the line. It is impossible to do that with this equipment. All that the pen register does is to mark on a tape the time of day and the called number so that what we have here then is a tape that shows that a particular line on such and such a day at such and such a time made a call to the called number, that is, the complaining party. Now we are prepared to testify that this was the case and beyond that we do nothing.

Senator PASTORE. Then, of course, it becomes a question of personal investigation?

Mr. KERTZ. That is correct.

Senator PASTORE. Either by the local police authorities or by the Federal police authorities, by listening to the person who complains

and to the respondent who apparently is the person who made the call.

Mr. KERTZ. That is right, Mr. Chairman.

Senator PASTORE. That is a matter of identification at that moment. It is a question of affirmation or denial or what have you. But beyond that you are out of the picture.

Mr. KERTZ. That is correct.

Senator PASTORE. Thank you very much. Admiral Mott.

**STATEMENT OF ADM. WILLIAM C. MOTT, EXECUTIVE VICE PRESIDENT, U.S. INDEPENDENT TELEPHONE ASSOCIATION, 438 PENNSYLVANIA BUILDING, 425 13TH STREET NW., WASHINGTON, D.C.**

Senator PASTORE. How are you, Admiral?

Admiral MOTT. Fine.

Senator PASTORE. Do you have a written statement?

Admiral MOTT. Yes, I do.

Senator PASTORE. Do you want to read it?

Admiral MOTT. Mr. Chairman, I think our interests might be better served if I filed the statement and just made a few comments.

Senator PASTORE. All right, sir. Admiral, we welcome that. Without objection, the statement will be made a part of the record.

(The full text follows:)

**STATEMENT OF WILLIAM C. MOTT**

Mr. Chairman and Members of the Committee: My name is William C. Mott. As Executive Vice President, I represent the United States Independent Telephone Association, a trade organization with membership constituting well over 90 per cent of the Independent segment of the telephone industry. On behalf of my members I want to express my deep appreciation for the opportunity of again appearing before the Subcommittee on Communications of the Senate Commerce Committee. As I pointed out last May, our Association fully supports the endeavors of this Committee in attempting to obtain federal legislation to make it a crime to originate obscene or harassing telephone calls.

Like all trade associations we operate by policy declaration of our Board of Directors. Our directive is 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."

The wording of S. 375 which we are considering today is identical to S. 2825 as reported out by the Senate Committee on Commerce last year, but is slightly different from the wording of that same bill at the time I testified. I do subscribe to the changes made last year by the Committee and believe them to be an improvement. Our members indeed hope that early consideration of this legislation will enable passage and enactment in this session of Congress.

The Committee would be interested, I am sure, in what has happened since the publicity given hearings on S. 2825 last year. We then pointed out that one of the real advantages of federal legislation is the example it would set for state legislation. Relatively few harassing calls are interstate. Most are intrastate where state regulations govern. Therefore state laws are perhaps more important, as far as prosecution and conviction go, than federal laws.

There were twelve states without statutes last year. We are interested in obtaining state legislation in all twelve. In Iowa, Kansas, Missouri, Nebraska and Washington, we have the greatest number of telephones. Bills are now in the hoppers of the legislatures of every one of these five states. Progress is being reported on the measures introduced. The executives of telephone associations in these five states have played and are playing a real part in the advocacy of legislation.

The publicity given your hearings and advertising by the Bell System and our companies have created a favorable "climate" for the reception of state legislation. I am sure that the number of states without legislation by the end of 1967 will be less by far than today. Parenthetically, I would certainly regret to see the federal government be among the last to enact legislation on the subject.

We do know that manufacturers of telephone central office equipment are now advertising tracing features in their new equipment and in additions to existing equipment. Although there is no easy way to determine the availability of call tracing equipment we know the very great majority of our telephone companies now realizes its importance.

You will recall that with me when I last testified was Mr. Warren French of the Shenandoah Telephone Company in nearby Virginia. Before coming to this hearing I asked Mr. French to advise me of annoying cases traced since we appeared here. In his relatively small company of 8,000 telephones there have been no more than 6 complaints since last spring—approximately one every two months. These have been closed without court actions mainly because they were domestic or juvenile situations.

One instance, however, is worth noting because it involved an interstate call. The calling party in this instance was using what we term a "Wide Area Telephone Service" (WATS) in Washington, D.C. WATS is a fast growing service and national in scope. There is no individual charge for messages and in that respect is similar to local telephone calling. Had this case required court action there would have been no federal statute under which to prosecute. Therefore federal not state legislation is desirable to cover annoyance calling over WATS lines.

Also before coming here I checked with the headquarters of the General Telephone System, our largest member. The General System follows the procedures outlined in the USITA Commercial Committee bulletin which was placed on record in the previous hearing. But, in addition, the General System companies have "Security" departments to which they refer those complaints which may involve the local police. The reports of the Security departments of the General operating companies were scanned for me.

The number of Security department annoyance call reports fluctuates from month to month and from company to company. For example, Florida and California have greater numbers than the rural mid-western states. Cooperation of the local authorities everywhere is excellent and has probably reached the present state because of the publicity and activity of last year. The General System Company in Kentucky last year obtained the first convictions under the Kentucky law. Two women in Ashland were fined \$50 and costs for annoyance calling.

One observation from the General System records is of particular note. In those instances of serious and repeated calls the pen register, which is attached by the telephone company to the suspect's line is a valuable tool. This piece of equipment records the numbers called. It provides printed evidence on local calls in much the same manner as records on toll calls are made. Such evidence is extremely handy in local convictions.

It has been a pleasure to return before this Committee. I thank you for your attention.

Admiral MOTT. Like most people who have been in public life, I have suffered, too, from these calls and my family, which has four girls, also has. Of course, the reason was, as Judge Advocate General of the Navy, I used to have to write some letters about undesirable discharges in connection with court-martials which were unpopular with certain people.

To give you an example, it fell to my lot to write the letter which Secretary Connally signed giving Mr. Lee Harvey Oswald his undesirable discharge from the Marine Corps, which he took a very dim view of and, of course, he bore no affection for Secretary Connally because of that.

In the old days, whenever I arrived in New Orleans to give a speech, I used to find myself being paged in the New Orleans Airport and invariably it would be the same party telling me that I could expect not to leave New Orleans alive. Well, the FBI happened to run that man down and dissuaded him from making any more calls,

but he was a man who had been given an undesirable discharge from the Navy.

Senator PASTORE. Let me ask you a question, Admiral. This thing that was brought out here, was this ever brought to the attention of the Commission that Oswald was teed off against Connally because of the letter you wrote him?

Admiral MOTT. I'm not certain it was but, of course, Mr. Connally knows it. I talked to him about it in Texas.

Senator PASTORE. In other words, tell us that once again?

Admiral MOTT. Well, as I believe, it is a matter of public record, Oswald was in the Marines and this is actually where he got his penchant for getting mail-order guns and using them. He used to do this over in Japan and, actually, I think one of the guns fell out of his locker over there when the lockers were being inspected and I think he either wounded himself or somebody else. I have forgotten the details, but he was not the kind of person that the Marine Corps likes and he was given an undesirable discharge.

I am speaking now from memory, but my recollection is that there was an appeal to the Secretary, which Mr. Connally had to deny because he was the Secretary. This is just the kind of thing, well, I used it for purposes of illustration because it makes you a target when you are in public life.

Senator PASTORE. Did that discharge have Connally's signature on it.

Admiral MOTT. Whether the actual discharge had his signature on, I don't know. I do know that Mr. Connally had to sign a letter in the case, which I'm sure didn't endear him to Lee Harvey Oswald.

Senator PASTORE. This has nothing to do with this hearing, but is a very, very unusual and very interesting sidelight.

Admiral MOTT. Yes, sir. Well, Mr. Chairman, as I have testified before, the U.S. Independent Telephone Association, which is made up of some 2,300 companies throughout 49 States, including, I might say, one in Rhode Island over on Prudence Island, which has done everything that it can to create the kind of climate of opinion in America which would make it possible not only to pass this legislation, but to pass legislation in those 12 States which do not now have legislation. For example, in some of those States, which I mentioned in my statement: Iowa, Kansas, Missouri, Nebraska and Washington—those are five of the 12 States which do not now have legislation—we have been on the telephone with the State telephone secretary. You see, it is a lot easier in the State where you have a State telephone association to get legislation introduced and put through the hopper and in each one of these States we have been checking with them. I'm happy to report that there are bills in the hopper now. The climate of opinion which has been created here in this committee by the hearing has been very helpful in getting interest out in the hinterlands in State legislation.

I, myself, whenever I go to address one of the State associations—as an example, I'm speaking to the Minnesota Telephone Association Monday of next week. We have 150 companies in Minnesota scattered throughout the vast expanse. The Bell System is also a member of the Minnesota Association and so I will tell about the interest of this committee and your interest in the legislation when I

appear before that committee and urge all of our companies present to get behind enforcement of this State legislation.

You may remember, Mr. Chairman, I brought with me last year Mr. Warren French, the executive vice president of the Shenadoah Telephone Co. down in the Shenadoah Valley, who had this working arrangement with the Commonwealth attorney in Virginia to bring about prosecutions and convictions. Last year when I reported to you, they had had six cases in that telephone company which had resulted in 50 percent convictions. They had three convictions and the other three, as you may recall, turned out to be domestic situations.

I called Warren before I came up here today and said, "Warren, how are you making out since we appeared before the committee last year?" And he said, "Well, we have had six complaints since last spring, when I was here, and this is one about every 2 months in this peaceful valley, and they have all been closed without court action mainly because they were either domestic or juvenile situations."

But, there is one very interesting call that he reported to me and this indicates the need, the real need for Federal interstate legislation. One of these calls involved an interstate call over what is known as a Watts line from Washington, D.C. This is a wide area telephone service line which the Bell System and our companies, too, encourage. It is a fast-growing service which is becoming national in scope. It is the kind of line where there isn't any individual charge for messages. In that respect, it is similar to local calling. But had this case required court action, the Virginia statute would have been of no avail, of course, and this is one added reason for the necessity for Federal legislation in this particular area.

So, Mr. Chairman, I also checked with the General System, which is our largest member operating in some 38 or 40 States and having about 8 million telephones in service, and the General System has a security department, as most big operating companies do. The security departments work very closely with the local police. The number of calls that they check fluctuates from month to month and company to company. I think Florida and California lead the parade as far as the General System is concerned. They have greater numbers than the rural Midwestern States. But we don't have any difficulty in our companies, Mr. Chairman, in getting the full cooperation of the local law enforcement authorities and I think the Bell representative has testified similarly before me.

The General System Co. in Kentucky last year obtained the first conviction under the Kentucky law. It so happens that the General System serves the capital of Kentucky. There were two women down there in Ashland who were fined \$50 and costs.

Our manufacturers that serve the independent telephone industry, such as Automatic Electric and Stromberg-Carlson and North Electric, just to mention a few, have been very sensitive to this problem as well and their own devices, the pen register, for instance, as you have already heard described, to attach to the telephone line—they are actually using advertising for their new equipment and part of their pitch is that their new equipment enables the tracing of these calls. They are also advertising modifications of old equipment which would enable tracing of calls or make it easier to trace.

We have the greatest and closest of cooperation with our Bell colleagues through our commercial committee and other committees of the U.S. Independent Telephone Association so that anything that they have is made available to us. I'm not talking about equipment, but I'm talking about ideas and, of course, we have the kind of reciprocity that you mentioned earlier and Mr. Rusk mentioned, between the industry.

In short, Mr. Chairman, the U.S. Independent Telephone Association has done everything that it knows how to do to give publicity to the effort that you and this committee are making to get Federal legislation. Frankly, when the battle is joined in the House, we will do even more to see to it, if we can, that this legislation does not die aborning in this session of Congress.

Senator PASTORE. Thank you very much, Admiral.

Our next witness is Mr. Paul Rodgers, general counsel, National Association of Railroad & Utilities Commissioners.

**STATEMENT OF PAUL RODGERS, GENERAL COUNSEL, NATIONAL ASSOCIATION OF RAILROAD & UTILITIES COMMISSIONERS, WASHINGTON, D.C.**

Mr. RODGERS. Mr. Chairman, I will submit my statement for the record and will briefly summarize it.

Senator PASTORE. Without objection, so ordered.

(The full text follows:)

STATEMENT OF PAUL RODGERS

Mr. Chairman and Members of the Committee: 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 fifty 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. 375 which proposes an amendment to the Communications Act of 1934 to impose criminal penalties on persons making obscene or harassing telephone calls in interstate or foreign commerce.

The NARUC supports the enactment of S. 375.

We are particularly pleased that the scope of S. 375 is limited to "telephone communication in the District of Columbia or in interstate or foreign commerce." We believe that this clear-cut jurisdictional line shows a wholesome regard for the respective responsibilities of the Federal and State governments in solving this problem.

I understand that thirty-eight States presently have laws which impose penalties for persons making obscene or harassing telephone calls.

I further understand that eleven of the remaining twelve states are giving consideration to specific legislative proposals to outlaw abusive calling. In the meantime, I am advised that these twelve states have general laws, such as those prohibiting disturbances of the peace, which may have application in attacking the harassing telephone call problem.

Chairman Ben T. Wiggins of the NARUC Committee on Communications Problems is also vitally concerned with the problem of abusive calling. He has called a meeting of his Committee to convene here in Washington on the twenty-eighth of this month. At that time, he intends to present to his Committee a model state bill to outlaw abusive calling in intrastate commerce. His proposal will closely parallel the language of S. 375.

If the Committee and the Officers of the NARUC approve the form of the model state bill, and I have every reason to believe that they will, it will be transmitted, under imprimatur of the NARUC, to the chairman of each commission engaged in the regulation of telephone companies. The letter of transmittal will request each commission to seek enactment of the bill by the state legislature if the commission determines that existing laws are inadequate to cope with abusive calling.

As you can see, the States have already developed a fairly adequate remedy to handle the problem in the case of intrastate calling and are now aggressively pursuing means to strengthen public safeguards in this area. 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.

In view of these considerations, we believe that the enactment of S. 375 would be an appropriate means for combating the making of obscene 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.

Mr. RODGERS. The NARUC, which is composed of State commissioners, supports your bill, and as has been previously pointed out, 38 States have specific laws dealing with this situation. The remaining 12 have general statutes such as disturbances of the peace, which are probably applicable. Of these, 11 States I understand now have under consideration specific legislation to deal with this matter. The 12th State is Iowa and I should hope that they will follow along shortly.

Now, Chairman Wiggins of the NARUC Committee on Communications Problems has called a meeting of his committee to convene here in Washington. This is one of our commissioners' committees which is composed of our leading State commissioners across the Nation that are interested particularly in telephones. He plans to present to his committee a model State bill dealing with this problem. The language of his model State bill will closely parallel the language of S. 375.

If the committee adopts the bill, and I feel that it will, the NARUC office adopts it, and I feel they will, this bill will be transmitted to the chairman of each of the 15 State commissions, the Virgin Islands, and Puerto Rico, with a request that they review this bill with their existing legislation and if they find their legislation is insufficient, to urge the adoption of this bill in their State legislatures.

So, as you can see, I think the States are making rapid progress in this area and I think that your bill will complement the State activity to try to solve this problem as best as practicable.

Thank you for the opportunity of testifying, Mr. Chairman.

Senator PASTORE. Thank you, sir.

Now, is there anyone else in this room who desires to talk on S. 375 for or against? The Chair hears none. We will recess until the further call of the Chair.

I want to thank everyone for coming.

(Whereupon, at 10:50 a.m., the committee was adjourned.)

(Letter and statement submitted for the record from the American Legion follows:)

THE AMERICAN LEGION,  
Washington, D.C., February 23, 1967.

HON. JOHN O. PASTORE,  
Chairman, Subcommittee on Communications,  
Senate Committee on Commerce,  
Senate Office Building, Washington, D.C.

DEAR SENATOR PASTORE: Enclosed please find a statement by Mr. James R. Wilson, Director, National Security Division, The American Legion, presenting the position of this organization in support of S. 375, a bill relating to obscene or harrassing telephone calls in interstate or foreign commerce.

The American Legion does not wish to appear personally before the Subcommittee but would appreciate your including Mr. Wilson's statement in the printed record of the hearings.

Your continued cooperation with The American Legion is appreciated.

Sincerely yours,

HERALD E. STRINGER, *Director.*

STATEMENT OF JAMES R. WILSON, JR.

Chairman Pastore, gentlemen of this important subcommittee: At the outset, let me express the gratitude of The American Legion for the opportunity to evidence our support for S. 375. As an organization comprised exclusively of men and women who honorably served their nation in time of war, we are deeply concerned with any legislation which serves to curb practices alien to our way of life.

In 1965, based on complaints from all sections of the United States, representatives of The American Legion testified in support of Senate bill 2351. We, and others whose stomachs were turned by this vile practice, had high hopes this legislation would be swiftly approved. As you, Mr. Chairman, and members of the Subcommittee, know such was not the case.

The testimony I offer is based on a mandate of our last National Convention held here in the Nation's Capital in August 1966. Resolution 311, the full text of which follows, was unanimously adopted by delegates representing the more than 2½ million members of The American Legion.

"Whereas There has been an outbreak of vicious, outrageous telephone calls harassing and threatening widows and relatives of servicemen killed in Viet Nam; and

"Whereas The American Legion is an organization comprised exclusively of veterans who served during wartime and therefore have a deep understanding of the effect of harassment on the families of servicemen; and

"Whereas The American Legion wholeheartedly supports the American position in Viet Nam to curtail the spread of communism throughout the "Free World;" and

"Whereas There is presently a bill (S. 2351) before the Congress designed to protect the morale and efficiency of members of the Armed Forces by making it a federal offense for anyone to make threats or harass members of the Armed Forces, their wives, widows or families; now, therefore, be it

"Resolved by The American Legion in National Convention assembled in Washington, D.C., August 30, 31-September 1, 1966, That we support S. 2351 and urge its immediate passage by the Congress."

Our concern with the harassment of the families of servicemen dates back several years, but as witnesses who previously appeared testified, the number of harassing phone calls recently has increased dramatically.

In cases falling within the purview of this proposed legislation, it goes without saying we are dealing with sick, deranged or depraved individuals *in most instances*. However, as the number of American servicemen fighting in Viet Nam grew, so grew the extent of harassment of their families which leads to the inevitable conclusion that mental cruelty to the dependents of members of our Armed Forces is as much a part of war as guns, bullets and bombs. It also follows that among the sick, the nuts and the pacifists, there are dedicated communists as well.

Psychological warfare against troops is not new. During World War II, it was used by the Germans and Japanese. But the harassment of the wives, children, mothers and fathers of soldiers, sailors, marines and airmen sets a new low in cruelty and barbarism. As you might presume, our primary interest in

S. 375 is the protection of the families of servicemen, particularly those defending freedom in Viet Nam.

I cannot emphasize too strongly just how important The American Legion feels this legislation is. May I assure you that it has the unequivocal support of our organization. If any changes were to be made, my recommendation would be that the penalties be made more severe.

I thank you.



