

withheld about himself, but also his choice as to when, to whom and the extent to which such disclosure shall be made. Notwithstanding the large contribution made by each of these scientific developments to the well-being of man, each is, quite clearly, capable of abuse in its application. And such abuse can occur in industry,²⁴ in commerce,²⁵ in the law and by law enforcement agencies,²⁶ in medicine,²⁷ in government,²⁸ and in a myriad of other fields.²⁹

24. (a) For example in personnel selection or retention, compare *Town & Country Food Co.*, 39 Lab. Arb. 332 (1962), with *McCain v. Sheridan*, 160 Cal. App. 2d 174, 324 P.2d 923 (1958) (refusal of employees to take "lie detector" tests). Several state statutes prohibit employers from making certain uses of lie detector tests. See, e.g., ALASKA STAT. § 23.10.037 (Supp. 1965); CAL. LABOR CODE § 432.2; MASS. ANN. LAWS ch. 149, § 19B (Supp. 1963); ORE. REV. STAT. § 659.225 (1963); R.I. GEN. LAWS ANN. § 28-6.1-1 (Supp. 1964). In New York, bills to preclude the use of lie detectors as a condition of initial or continued employment are introduced in the Legislature with regularity. In the 1965 session, seven such bills were introduced, see 1965 N.Y. LEG. RECORD & INDEX 1337, and two, after reaching the Governor, were vetoed for "technical defects." See N.Y. Assembly Bill Print No. 4439, passed June 7, 1965, vetoed June 28, 1965 (1965 N.Y. LEG. RECORD & INDEX 865); N.Y. Sen. Bill Print No. 279, passed April 27, 1965, vetoed May 24, 1965 (1965 N.Y. LEG. RECORD & INDEX 29). See also 111 CONG. REC. 15378 (daily ed. July 8, 1965) (a resolution of the Communications Workers of America on invasions of privacy).

(b) For examples, in labor relations, compare *Chesapeake & Potomac Tel. Co.*, 98 N.L.R.B. 1122 (1952) (monitoring an employee's home telephone), with *Eico Inc.*, 44 Lab. Arb. 563 (1965) (television surveillance of production floor) and *Thomas v. General Elec. Co.*, 207 F. Supp. 792 (W.D. Ky. 1962) (in-plant movies for time, motion and safety studies). See also N.Y. LAB. LAW § 704.

25. See *McDaniel v. Atlanta Coca-Cola Bottling Co.*, 60 Ga. App. 92, 2 S.E.2d 810 (1939) (use of eavesdropping device to obtain evidence for defense of civil action); *Schmukler v. Ohio-Bell Tel. Co.*, 66 Ohio L. Abs. 213, 116 N.E.2d 819 (Ohio C.P. 1953) (use of telephone monitoring to ascertain breach of contract). For the statutes of those states making at least some form of eavesdropping a crime, see note 65 *infra*. For a discussion of some of the ethical issues in personality testing in business, see CRONBACH, *ESSENTIALS OF PSYCHOLOGICAL TESTING* 459-62 (2d ed. 1960).

26. (a) For examples in the practice of law, see *Matter of Wittner*, 264 App. Div. 576, 35 N.Y.S.2d 773 (1st Dep't 1942), *aff'd per curiam*, 291 N.Y. 574, 50 N.E.2d 660 (1943) (lawyer suspended from practice for surreptitious use of recording device). The Committee on Professional Ethics of the Association of the Bar of the City of New York has concluded that the use of recording devices by lawyers, without the consent of the person whose conversation is being recorded, violates the Canons of Ethics. See, e.g., *Opinions* Nos. 832, 836, 13 N.Y.C.B.A. RECORD 36, 568 (1958); No. 813, 11 N.Y.C.B.A. RECORD 207 (1956).

(b) In law enforcement: see DASH, *THE EAVESDROPPERS* (1959); *Symposium*, 44 MINN. L. REV. 811 (1960). See also N.Y. Times, July 14, 1965, p. 1, col. 3 (use of two-way mirrors and other eavesdropping devices by Internal Revenue Service).

27. (a) In medical research: see Lewis, *Restrictions on the Use of Drugs, Animals and Persons in Research* (paper delivered at the Rockefeller Institute Conference on Law and the Social Role of Science, April 8, 1965).

(b) In medical practice: see Rheingold, *Products Liability—The Ethical Drug Manufacturer's Liability*, 18 RUTGERS L. REV. 947, 957, 1009 (1964).

28. See STAFF OF HOUSE COMM. ON GOV'T OPERATIONS, *USE OF POLYGRAPHS BY THE FEDERAL GOVERNMENT* (Preliminary Study 1964), 88TH CONG., 2d SESS. (Comm. Print 1964); House Comm. on Post Office and Civil Service, *Use of Electronic Data Processing Equipment in the Federal Government*, H.R. REP. NO. 858, 88th Cong., 1st Sess. (1963); *Hearings Before the House Comm. on Post Office and Civil Service, Confidentiality of Census Reports*, 87th Cong., 2d Sess. (1962); cf. *United States v. Rickenbacker*, 309 F.2d 462 (2d Cir. 1962), *cert. denied*, 371 U.S. 962 (1963).

29. (a) In newsgathering: see the charge of Alex Rose that a *New York Herald Tribune* reporter had rented an adjoining hotel room to eavesdrop on a political meeting. N.Y. Times, June 20, 1965, § 1, p. 46, col. 1.

(b) In public safety: consider the number of apartments, office buildings, hospitals, laboratories, jails, and other public buildings that have electronic systems to cover en-