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Report of the Director of the Administrative Office of the United States Courts

on Applications for Orders Authorizing or Approving the Interception of Wire, Oral, or Electronic Communications

The Omnibus Crime Control and Safe Streets Act of 1968 requires the Administrative Office of the United States Courts (AO) to report to Congress the number and nature of federal and state applications for orders authorizing or approving the interception of wire, oral, or electronic communications. The statute requires that specific information be provided to the AO, including the offense(s) under investigation, the location of the intercept, the cost of the surveillance, and the number of arrests, trials, and convictions that directly result from the surveillance. This report covers intercepts concluded between January 1, 1998, and December 31, 1998, and provides supplementary information on arrests and convictions resulting from intercepts concluded in prior years.

From 1997 to 1998, the total number of intercepts authorized by federal and state courts increased 12 percent to 1,329, reflecting continued growth in applications involving the surveillance of narcotics operations (up 10 percent). Following a 2 percent decrease in 1997, the number of applications for orders by federal authorities remained essentially stable in 1998, dropping one half of one percent. The number of applications reported by state prosecuting officials increased 24 percent over last year, with more jurisdictions providing reports than in prior years. The number of federal intercept applications authorized has grown over the last 10 years, increasing 93 percent from 1988 to 1998, while state applications have increased 71 percent since 1988. The number of intercepts employed in drug-related investigations also has experienced significant growth. Drug offenders were targeted in 955 of the interceptions concluded in 1998, compared to 435 in 1988, a 120% increase.

The appendix tables of this report list all intercepts reported by judges and prosecuting officials for 1998. Appendix Table A-1 shows reports filed by federal judges and federal prosecuting officials. Appendix Table B-1 presents the same information for state judges and state prosecuting officials. Appendix Tables A-2 and B-2 contain information from the supplementary reports submitted by prosecuting officials about additional arrests and trials in 1998 arising from intercepts initially reported in prior years.

Title 18 U.S.C. Section 2519(2) mandates the submission of wiretap reports to the AO no later than January 31 of each year. This office, as is customary, sends a letter to the appropriate officials every year reminding them of the statutory mandate. Nevertheless, each year reports are received after the deadline has passed. Information received after the deadline will be included in next year's *Wiretap Report*; the number of missing state and local prosecutors' reports was lower in 1998 compared to 1997. The AO is grateful for the cooperation and the prompt responses we received from officials around the nation.

Leonidas Ralph Mecham
Director

April 1999

Applications for Orders Authorizing or Approving the Interception of Wire, Oral, or Electronic Communications

Reporting Requirements of the Statute

Each federal and state judge is required to file a written report with the Director of the Administrative Office of the United States Courts (AO) on each application for an order authorizing the interception of a wire, oral, or electronic communication (18 U.S.C. 2519(1)). This report is to be furnished within 30 days of the denial of the application or the expiration of the court order (after all extensions have expired). The report must include the name of the official who applied for the order, the offense under investigation, the type of interception device, the general location of the device, and the duration of the authorized intercept.

Prosecuting officials who applied for interception orders are required to submit reports to the AO each January on all orders that were terminated during the previous calendar year. These reports contain information related to the cost of the intercept, the number of days the intercept device was actually in operation, the total number of intercepts, and the number of incriminating intercepts recorded. Results such as arrests, trials, convictions, and the number of motions to suppress evidence related directly to the use of intercepts also are noted.

Neither the judges' reports nor the prosecuting officials' reports contain the names, addresses, or phone numbers of the parties investigated. The AO is **not** authorized to collect this information.

This report tabulates the number of applications for interceptions that were granted or denied, as reported by judges, as well as the number of authorizations for which interception devices were installed, as reported by prosecuting officials. No statistics are available on the number of devices installed for each authorized order.

No report to the AO is required when an order is issued with the consent of one of the principal parties to the communication. Examples of such situations include the use of a wire interception to investigate obscene phone calls; the interception of a communication to which a police officer or police informant is a party; the use of a body microphone; or the use of only a pen register (a mechanical device attached to a telephone line to record on paper tape all numbers dialed from that line).

Regulations

The Director of the AO is empowered to develop and revise the reporting regulations and reporting forms for collecting information on intercepts. Copies of the regulations, the reporting forms, and the federal wiretapping statute may be obtained by writing to the Administrative Office of the United States Courts, Statistics Division, Washington, D.C. 20544.

The Attorney General of the United States, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, any acting Assistant Attorney General, or any specially designated Deputy Assistant Attorney General in the Criminal Division of the Department of Justice may authorize an application to a federal judge for an order authorizing the interception of wire, oral, or electronic communications. On the state level, applications are made by a prosecuting attorney "if such attorney is authorized by a statute of that State to make application to a State court judge of competent jurisdiction. . . ."

Many wiretap orders are related to large-scale criminal investigations that cross county and state boundaries. Consequently, arrests, trials, and convictions resulting from these interceptions often do not occur within the same year as the

installation of the intercept device. Under 18 U.S.C. 2519(2), prosecuting officials must file supplementary reports on additional court or police activity that occurs as a result of intercepts reported in prior years. Appendix Tables A-2 and B-2 describe the additional activity reported by prosecuting officials in their supplementary reports.

Table 1 shows that 45 jurisdictions (the federal government, the District of Columbia, the Virgin Islands, and 42 states) currently have laws that authorize courts to issue orders permitting wire, oral, or electronic surveillance. During 1998, a total of 26 jurisdictions reported using at least one of these three types of surveillance as an investigative tool.

Summary and Analysis of Reports by Judges

Data on applications for wiretaps terminated during calendar year 1998 appear in Appendix Tables A-1 (federal) and B-1 (state). The reporting numbers used in the appendix tables are reference numbers assigned by the AO; these numbers do not correspond to the authorization or application numbers used by the reporting jurisdictions. The

same reference number is used for any supplemental information reported for a communications intercept in future volumes of the *Wiretap Report*.

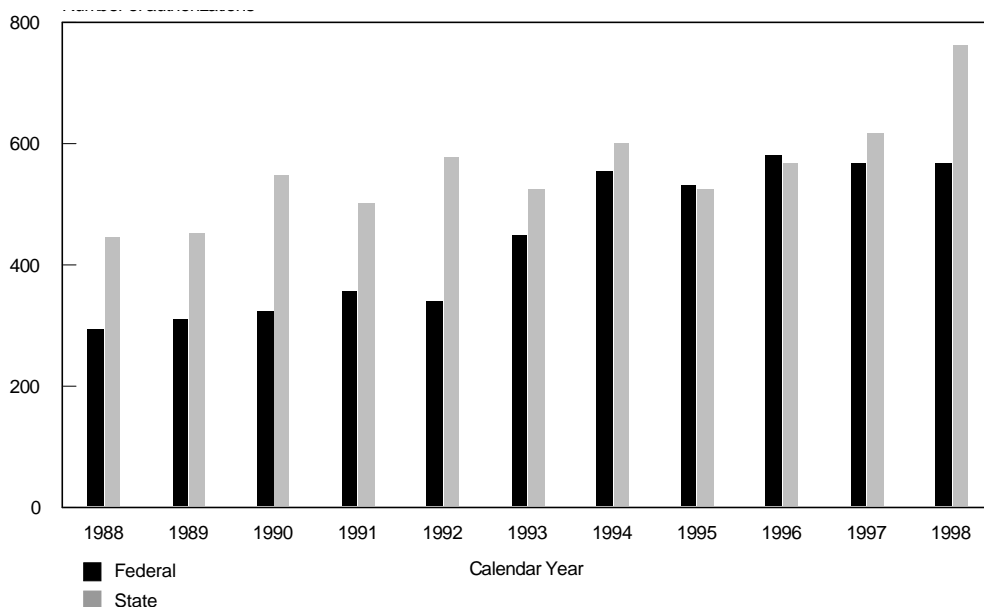
A total of 1,329 applications – an increase of 12 percent – were authorized in 1998, including 566 by federal judges and 763 by state judges. Judges denied two applications. The number of applications approved by federal judges in 1998 remained essentially stable, dropping one half of one percent below the previous year's total, while approvals by state judges increased 24 percent. Wiretap applications in New York (373 applications), New Jersey (84 applications), Pennsylvania (68 applications), California (52 applications), and Florida (44 applications) accounted for 81 percent of all authorizations approved by state judges.

Authorized Lengths of Intercepts

Table 2 presents the number of intercept orders issued in each jurisdiction that provided reports, the number of amended intercept orders issued, the number of extensions granted, the average length of the original authorizations and their extensions, the total number of days the intercepts were actually in operation, and the

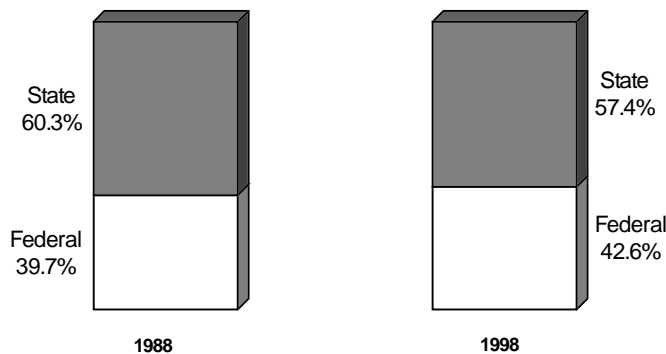
Federal and State Wiretap Authorizations

Number of authorizations



Federal and State Wiretap Authorizations

Percent of Total Authorizations



nature of the location where each interception of communications occurred. Most state laws limit the period of surveillance under an original order to 30 days. This period, however, can be lengthened by one or more extensions if the authorizing judge determines that additional time for surveillance is warranted.

During 1998, the average length of an original authorization was 28 days. A total of 1,164 extensions were requested and authorized in 1998 (an increase of 13 percent). The average length of an extension was 27 days. The longest federal intercept occurred in the Eastern District of New York, where the original 30-day order was extended seven times to complete a 240-day wiretap used in a loansharking investigation. Among state wiretaps terminating during 1998, the longest was a unique wiretap in New York that was in operation for more than five years, nearly three times longer than any wiretap reported since tracking began in 1968. A narcotics investigation by the New York Organized Crime Task Force required the original 30-day order to be extended 146 times and the intercept to last 2,073 days. Because its duration would distort the 1998 summary information, data from this wiretap are excluded from computations of averages reflected in the summary tables in the report, but are reported in Table B-1. The next-longest state wiretap was used in a narcotics investigation in Los Angeles County, California, that required a

30-day order to be extended 19 times and kept the intercept in operation 600 days. In contrast, 59 state intercepts each were in operation for less than a week.

Locations

The most common location for the placement of wiretaps in 1998 was a "single-family dwelling," a type of location that includes houses, rowhouses, townhouses, and duplexes. Table 2 shows that in 1998 a total of 23 percent (309 wiretaps) of all intercept devices were authorized for single-family dwellings; 9 percent (126 wiretaps) were authorized for apartments; and 7 percent (87 wiretaps) were authorized for business establishments such as restaurants and hotels.

Since the enactment of the Electronic Communications Privacy Act of 1986, a specific location need not be cited in a federal application if the application contains a statement explaining why such specification is not practical or shows "a purpose, on the part of that person (under investigation), to thwart interception by changing facilities" (see 18 U.S.C. 2518 (11)). In these cases, prosecutors use "roving" wiretaps to target a specific person rather than a specific telephone or location. The Intelligence Authorization Act of 1999, enacted on October 20, 1998, amended 18 U.S.C. 2518 (11)(b) so that a specific facility need not be cited "if there is probable cause to believe that actions by the person under investigation

could have the effect of thwarting interception from a specified facility.” The amendment also specifies that “the order authorizing or approving the interception is limited to interception only for such time as it is reasonable to presume that the person identified in the application is or was reasonably proximate to the instrument through which such communication will be or was transmitted.”

For the 1998 report, federal authorities reported that they specifically employed “roving” wiretaps for one racketeering investigation in the District of New Jersey. On the state level, 23 roving wiretaps were reported: 1 in Maryland for a murder investigation; 1 in Louisiana and 2 in New Jersey for narcotics operations; 12 in New York for racketeering investigations; and a total of 7 in Illinois (4 for narcotics investigations and 3 for assault investigations).

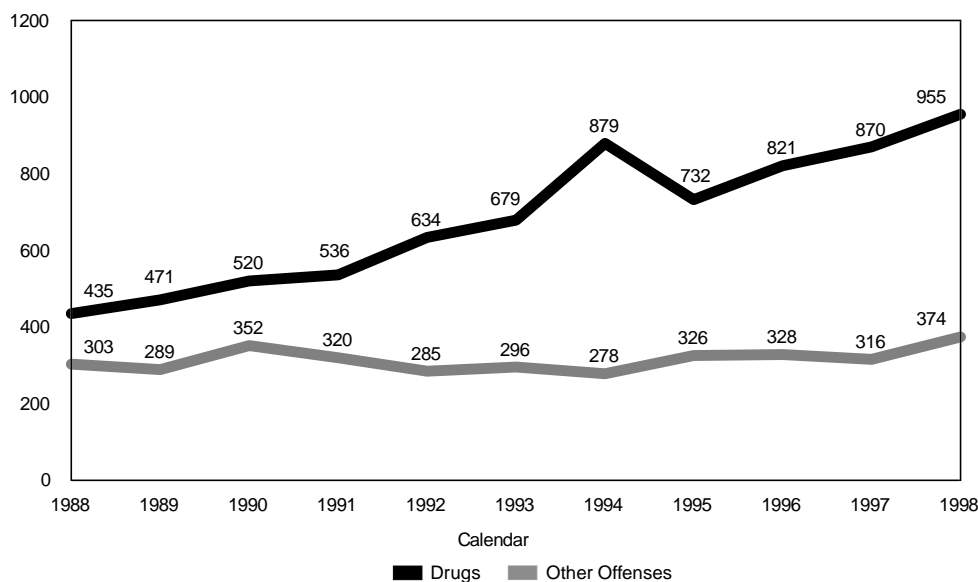
Forty-four percent of intercept applications (584 applications) specified “other” locations. Applications specifying other locations, which include mobile telephones, electronic pagers, and cellular telephones, have increased in recent years

with the proliferation of these types of communication devices. Combinations of locations were cited in 198 federal and state applications (15 percent) in 1998; of this number, 21 were reported to include “roving” in combination with other location information.

Offenses

Violations of narcotics, racketeering, and gambling laws remain the most prevalent types of offenses investigated through communications intercepts. Table 3 indicates that 72 percent of all applications for intercepts (955 cases) authorized in 1998 cited “narcotics” as the most serious offense under investigation. Many applications for court orders indicated several criminal offenses under investigation, but Table 3 includes only the most serious criminal offense named in an application. The use of federal intercepts to conduct drug investigations was most common in the Central District of California (49 applications) and the Southern District of Florida (36 applications). On the state level, the New York City Special Narcotics Bureau conducted the most drug

Drugs as the Major Offense



investigations, obtaining authorizations for 186 drug-related intercepts, which accounted for 37 percent of all drug-related intercepts reported by state jurisdictions in 1998. Nationwide, racketeering (153 orders) and gambling (93 orders) were specified in 12 percent and 7 percent of authorizations, respectively, as the most serious offense under investigation.

Summary and Analysis of Reports by Prosecuting Officials

In accordance with 18 U.S.C. 2519(2), prosecuting officials must submit reports to the AO no later than January 31 of each year for intercepts terminated during the previous calendar year. Appendix Tables A-1 and B-1 contain information from all prosecutors' reports submitted for 1998. Judges submitted 59 reports for which the AO received no corresponding reports from prosecuting officials. For these authorizations, the phrase "No Prosecutor's Report" appears in the appendix tables. Some of the prosecutors' reports may have been received too late to include in this report, and some prosecutors delayed filing reports to avoid jeopardizing ongoing investigations. Information received after the deadline will be included in next year's *Wiretap Report*.

Nature of Intercepts

Of the 1,329 authorizations made in 1998 for communication interceptions, intercept devices were installed pursuant to 1,245 orders. Table 4 presents information on the average number of intercepts per order, the number of persons whose communications were intercepted, the total number of communications intercepted, and the number of incriminating intercepts. Wiretaps varied extensively with respect to the above characteristics. As was the case in calculating the average length of intercepts, a wiretap by the New York Organized Crime Task Force that lasted more than five years was excluded from calculations of these averages to preclude distorting the 1998 summary information; data for this wiretap appear in Table B-1 under the listing for A.O. Number 1 for that jurisdiction.

The average number of interceptions per day reported in 1998 ranged from less than 1 to more

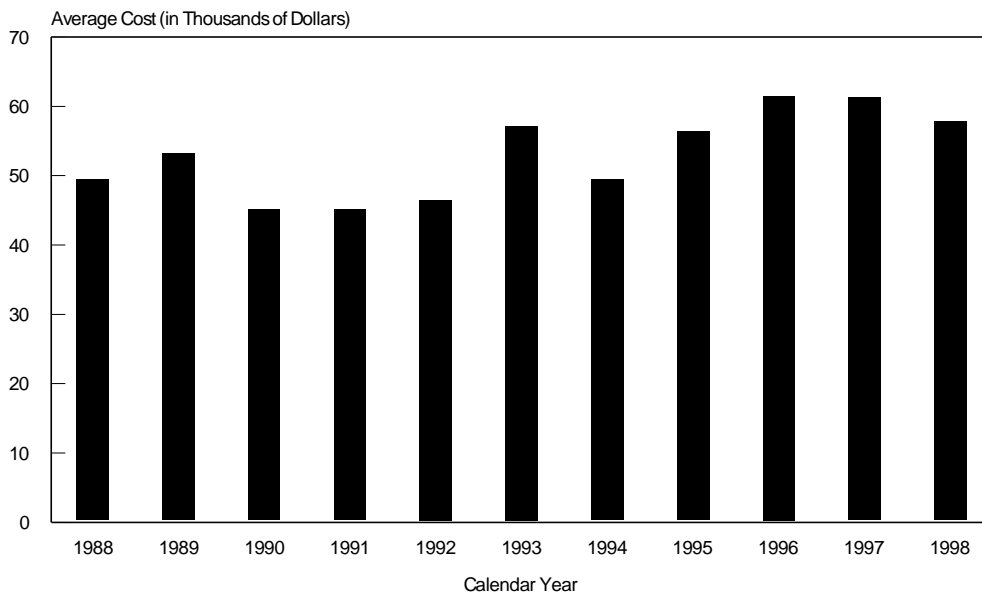
than 800. The most active federal intercept occurred in the Northern District of California, where a 14-day fraud investigation installation at a business involved more than 120 agent work-days and resulted in an average of 818 interceptions per day. For state authorizations, the most active investigation was a 22-day narcotics operation in Maricopa County, Arizona, that produced an average of 329 intercepts per day. Nationwide, in 1998 the average number of persons whose communications were intercepted per order in which intercepts were installed was 190. The average number of communications intercepted was 1,858 per wiretap; an average of 350 intercepts per installed wiretap produced incriminating evidence. The percentage of incriminating intercepts decreased slightly from 20 percent of interceptions in 1997 to 19 percent in 1998.

Table 6 presents the type of surveillance device used for each intercept installed. The most common method of surveillance reported was the electronic wiretap, which includes devices such as digital display pagers, voice pagers, cellular phones, and electronic mail. Electronic wiretaps accounted for 46 percent (576 cases) of intercepts installed in 1998. Telephone wiretaps, which in previous years were the most common type of wiretap, constituted 40 percent (494 cases) of intercept devices installed; microphones were used in 4 percent of intercepts (50 cases). A combination of devices was involved in 10 percent of intercepts (125 cases).

Costs of Intercepts

Table 5 provides a summary of expenses related to intercept orders in 1998. The expenditures noted reflect the cost of installing intercept devices and monitoring communications for the 1,184 authorizations for which reports included cost data. The average cost of intercept devices installed in 1998 was \$57,669, a six percent decrease from 1997. For federal wiretaps for which expenses were reported in 1998, the average cost was \$73,404, an 11 percent decrease from 1997. Despite the overall decline, the average cost of a state wiretap increased 19 percent to \$44,111 in 1998. The unique five-year wiretap in New York was excluded from the calculation of average cost to preclude distorting the 1998 summary information; the cost data from that wiretap can be

Average Cost of Wiretaps



found in Table B-1. For additional information, see Appendix Tables A-1 (federal) and B-1 (state).

Arrests and Convictions

Federal and state prosecutors often note the importance of electronic surveillance in obtaining arrests and convictions. The Western District of North Carolina reported a federal telephone wiretap that led to the arrest of 21 persons and 16 subsequent convictions, and noted, "Without the authorized interception, the investigators would not have learned that the drug trafficking activities of the defendants were related to a multi-state drug trafficking organization which was responsible for the importation and distribution of hundreds of kilograms of cocaine and cocaine base." A federal wiretap in the Southern District of New York led to the conviction of six persons in a money laundering case and resulted in the targeted business's forfeiting \$1 million. In the Northern District of Illinois, a cellular telephone wiretap in use for 19 days resulted in the arrest of three persons and the seizure of \$6.5 million in cash, 1,476 kilos of cocaine, five weapons, and six vehicles. On the state level, the Schnectady

County District Attorney's office in New York reported that a 30-day wiretap approved as part of a gambling investigation resulted in the arrest of eight persons, five of whom were convicted, and noted that the interceptions were instrumental in obtaining convictions: "When the targets heard their own voices on the tapes, the impact (was) obvious." The State Attorney's office in the 17th Judicial Circuit (Broward County), Florida, reported that a 1998 wiretap in use for six days in a racketeering investigation contributed to five arrests and four subsequent convictions. In the 9th Judicial Circuit (Orange/Osceola County), Florida, a cellular telephone wiretap used in a narcotics investigation led to the arrest of ten persons and three convictions; the report noted that the wiretap was essential to obtaining evidence to prosecute the organized criminal activity being investigated.

Table 6 presents the numbers of persons arrested and convicted as a result of interceptions terminated in 1998. As of December 31, 1998, a total of 3,450 persons had been arrested based on electronic surveillance activity, 26 percent (911 persons) of whom were convicted (an increase over the 1997 conviction rate of 18 percent). Although the majority of convictions in 1997

resulted from federal wiretaps, state wiretaps were responsible for the most convictions in 1998 (57 percent). A wiretap in the Northern District of Ohio resulted in the most convictions of any single federal intercept in 1998. This wiretap, used in a narcotics investigation, resulted in the arrest of 59 persons and the conviction of 54 persons. Among state intercepts, the wiretap producing the most convictions took place in Los Angeles County, California, where an intercept conducted as part of a narcotics investigation resulted in the conviction of 64 of the 65 persons arrested; the next-highest number of convictions was reported for an intercept conducted by the New York Organized Crime Task Force, which led to the conviction of 56 of the 68 persons arrested. In Pontotoc County, Mississippi, an intercept used in a narcotics investigation resulted in the conviction of each of the 41 persons arrested. Because criminal cases involving the use of electronic surveillance may still be under active investigation, the results of many of the intercepts concluded in 1998 may not have been reported. Prosecutors will report the costs, arrests, trials, motions to suppress evidence, and convictions related directly to these intercepts in future supplementary reports, which will be noted in Appendix Tables A-2 or B-2 of subsequent volumes of the *Wiretap Report*.

Summary of Reports for Years Ending December 31, 1988 Through 1998

Table 7 provides a historical summary of information on intercepts reported from 1988 to 1998. The table specifies the number of intercept applications requested, denied, authorized, and installed; the number of extensions granted; the average length of original orders and extensions;

the locations of intercepts; the major offenses investigated; average costs; and the average number of persons intercepted, communications intercepted, and incriminating intercepts. From 1988 to 1998, the number of intercept applications authorized increased 80 percent. The majority of wiretaps involved drug-related investigations, ranging from 59 percent of all applications authorized in 1988 to 72 percent in 1998.

Supplementary Reports

Under 18 U.S.C. 2519(2), prosecuting officials must file supplementary reports on additional court or police activity occurring as a result of intercepts reported in prior years. Because many wiretap orders are related to large-scale criminal investigations that cross county and state boundaries, supplementary reports are necessary to fulfill reporting requirements. Arrests, trials, and convictions resulting from these interceptions often do not occur within the same year in which the intercept was first reported. Appendix Tables A-2 and B-2 provide detailed data from all supplementary reports submitted.

During 1998, a total of 2,368 arrests, 2,435 convictions, and additional costs of \$3,850,018 resulted from wiretaps completed in previous years. Table 8 summarizes additional prosecution activity by jurisdiction for intercepts terminated in the years noted. Most of the additional activity reported in 1998 involved wiretaps terminated in 1997. Intercepts concluded in 1997 led to 57 percent of arrests, 50 percent of convictions, and 88 percent of expenditures reported in 1998 for wiretaps terminated in prior years. Table 9 reflects the total number of arrests and convictions resulting from intercepts terminated in calendar years 1988 through 1998.

