



Annual Report

on the Use of Electronic Surveillance

**As Required Under
Section 195 of
*The Criminal Code***



2002

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Solicitor General of Canada

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of Canada



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Her Excellency
the Right Honourable Adrienne Clarkson, O.C.,
C.C., C.M.M., C.D.
Governor General of Canada
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Excellency:

I have the honour to submit to your Excellency the Annual Report for 2002 which provides the information required by section 195 of the *Criminal Code*.

Sincerely,


Wayne Easter, P.C., M.P.

Canada

ANNUAL REPORT ON THE USE OF ELECTRONIC SURVEILLANCE
2002
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The Solicitor General of Canada is required under section 195 of the *Criminal Code* to prepare and present to Parliament an annual report on judicially authorized interception of private communications by the Royal Canadian Mounted Police (RCMP), provincial and municipal police forces with respect to proceedings that may be instituted at the instance of the Government of Canada and conducted by or on behalf of the Attorney General of Canada.¹ The report covers applications for authorizations in relation to offences listed in Table 4 of this report up until December 31, 2002.

The report also contains information related to certain *Criminal Code* offences that occurred in the Northwest Territories, Nunavut or Yukon, as well as offences that meet any of the requirements set out in section 2 of the *Security Offences Act*.

Section II of the report provides an overview of the key procedural requirements of Part VI of the *Criminal Code*. Section III presents data provided by agents of the Solicitor General of Canada who are designated pursuant to paragraph 185(1)(a) of the *Criminal Code* and information contained in the operational reports of police forces that requested that applications be made for authorized interception. Section IV provides a general assessment of the importance of electronic surveillance for the investigation, detection, prevention and prosecution of offences in Canada as required by paragraph 195(3)(b) of the *Criminal Code*.

Appendix "A" lists designated agents of the Solicitor General of Canada who made an application for an authorization in accordance with sections 185 and 487.01 of the *Criminal Code*. Appendix "B" lists peace officers designated by the Solicitor General of Canada who made an application for an authorization in accordance with sections 188 and 487.01 of the *Criminal Code*.

¹ It should be noted that subsection 195(5) of the *Criminal Code* also requires that the Attorney General of each province prepare and make public a similar report in connection with authorizations requested by agents designated by the provincial Attorney General and interceptions granted for offences under provincial jurisdiction.

2 **SECTION II – OVERVIEW OF PART VI OF THE CRIMINAL CODE**

The provisions of what is now Part VI of the *Criminal Code* came into force on July 1, 1974. The legislation protects the privacy of Canadians by making it an offence to intercept private communications except as provided for by law, while providing the police with the means to obtain judicial authorizations to conduct electronic surveillance to assist in criminal investigations.

The following are the key features of the requirements related to the application for and the granting of an authorization under section 185 and a warrant under section 487.01:

- A police investigator must swear an affidavit deposing to the facts relied upon to justify the belief that an authorization or warrant should be given, and must provide reasonable and probable grounds to believe that electronic surveillance of certain persons may assist the investigation of the offence.
- An agent designated by the Solicitor General of Canada to make an application for an authorization to intercept private communications is responsible for ensuring that all matters relating to the application comply with the law. In addition, the agent must ensure that the offence, although provided for in law, is of a serious enough nature to warrant the application and that sufficient evidence does not already exist to prove the offence.
- The judge, when considering the application, must be satisfied that granting the authorization would be in the best interests of the administration of justice and that other investigative procedures have been tried and failed, other investigative procedures are unlikely to succeed or the urgency of the matter is such that it would be impractical to carry out the investigation of the offence using only other investigative procedures. The last two requirements do not apply to applications relating to criminal organization offences or, more recently, terrorism offences. The judge may also impose such terms and conditions regarding the implementation of the authorization as the judge considers appropriate.

The following are the key features of the procedural regime:

- Only the Solicitor General of Canada, or persons specially designated by the Solicitor General of Canada, may make an application for an authorization in relation to offences that would be prosecuted on behalf of the Government of Canada. In practice, applications for authorizations are made by lawyers employed by or under contract with the federal Department of Justice who are designated by the Solicitor General of Canada, and peace officers who are specially designated by the Solicitor General of Canada for the purpose of applying for emergency authorizations under section 188 of the *Criminal Code*.

An agent designated by the Solicitor General of Canada can, on the basis of an affidavit sworn by a peace officer or public officer, apply for an audio or video surveillance authorization. A judge of a superior court of criminal jurisdiction or as defined in section 552 of the *Criminal Code* may grant an authorization if, among other things, the judge is satisfied that it conforms with the criteria specified in the *Criminal Code*.

Peace officers specially designated by the Solicitor General of Canada may also apply directly to a judge for an audio or video authorization, if the urgency of the situation requires surveillance before a non-emergency audio or video authorization could be obtained with reasonable diligence. This emergency video or audio authorization may be granted for a period not exceeding thirty-six hours.

Applications may also be made for a renewal of an authorization. A judge may grant such an application if he or she is satisfied that the same circumstances which applied to the original application for the authorization still apply. Renewals, therefore, serve to extend the period during which audio or video surveillance may lawfully be undertaken.

In granting an application for an authorization, a judge may impose such terms and conditions as the judge considers advisable in the public interest. The terms or conditions a judge may impose consist of restrictions or limitations on who, how, when, where or what interceptions may be made. Examples include such requirements as live monitoring, live monitoring accompanied by visual surveillance, or restrictions based on solicitor-client privilege or other confidential relationships.

APPLICATIONS FOR AUTHORIZATIONS AND RENEWALS

Paragraphs 195(2)(a) and (b) of the *Criminal Code* require statistics relating to:

- (a) the number of applications made for authorizations;
- (b) the number of applications made for renewal of authorizations;

TABLE 1

TYPE OF APPLICATION MADE	NUMBER OF APPLICANTS				
	1998	1999	2000	2001	2002
Audio S.185 C.C.	157	145	149	126	124
Video S.487.01 C.C.	6	5	9	5	21
Renewals S.186 C.C.	10	7	4	1	8
Emergency audio S.188 C.C.	0	4	2	0	2
Emergency video S.487.01 C.C.	0	0	0	0	0
TOTAL	173	161	164	132	155

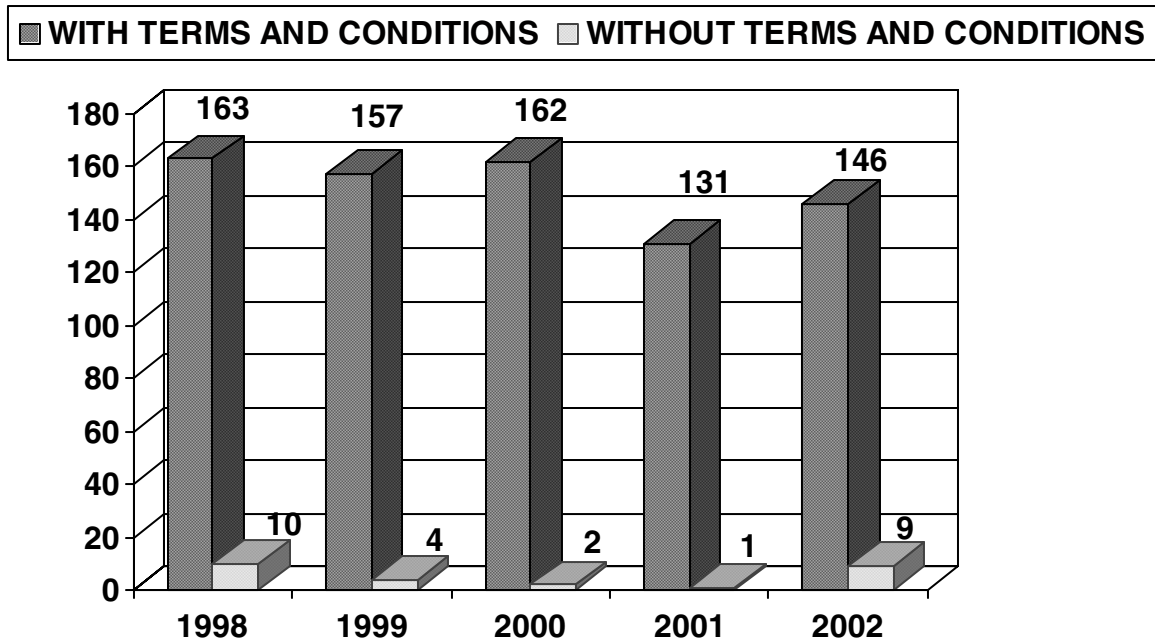
Table 1 presents the number of applications made for audio and video authorizations and renewals each year for the five-year period 1998 to 2002. The data is categorized by the three types of applications for which authorizations may be granted: audio and video applications (maximum duration sixty days) and renewals thereof pursuant to subsections 185(1), 186(6) and section 487.01 of the *Criminal Code* and emergency applications (maximum duration 36 hours) pursuant to subsection 188(1) and section 487.01 of the *Criminal Code*.

Paragraph 195(2)(c) of the *Criminal Code* requires information relating to:

(c) the number of applications referred to in paragraphs (a) and (b) that were granted, the number of those applications that were refused and the number of applications referred to in paragraph (a) that were granted subject to terms and conditions;

NOTE: NO APPLICATION FOR AN AUTHORIZATION OR A RENEWAL HAS BEEN REFUSED FOR THE PERIOD 1998-2002.

FIGURE 1



PERIOD FOR WHICH AUTHORIZATIONS AND RENEWALS GRANTED

Paragraph 195(2)(f) of the *Criminal Code* requires information relating to:

- (f) **the average period for which authorizations were given and for which renewals thereof were granted;**

TABLE 2

TYPE OF AUTHORIZATION		AVERAGE PERIOD OF TIME VALID				
		1998	1999	2000	2001	2002
Audio	S.185 C.C. (days)	59.1	60.0	59.4	60.0	60.0
Video	S.487.01 C.C. (days)	36.0	60.0	56.8	60.0	51.6
Emergency audio	S.188 C.C. (hours)	0.0	36.0	36.0	0.0	36.0
Emergency video	S.487.01 C.C. (hours)	0.0	0.0	0.0	0.0	0.0

Although authorizations may be valid for a period of up to sixty days, this does not necessarily mean interceptions are made during the entire period. For example, sufficient evidence may be obtained as a result of the authorization to prove the offence and to lay charges prior to the expiration of the authorization.

Paragraph 195(2)(g) of the *Criminal Code* requires information relating to:

- (g) **the number of authorizations that, by virtue of one or more renewals thereof, were valid for more than sixty days, for more than one hundred and twenty days, for more than one hundred and eighty days and for more than two hundred and forty days;**

TABLE 3

RENEWAL PERIOD (DAYS)	NUMBER OF AUTHORIZATIONS RENEWED				
	1998	1999	2000	2001	2002
61-120	2	3	1	1	6
121-180	1	1	1	0	2
181-240	2	1	0	0	0
241 or more	0	0	0	0	0
TOTAL RENEWALS	5	5	2	1	8

The categories in Table 3 are mutually exclusive. For example, an authorization valid for a period of sixty days which was renewed for a further sixty days is counted in the category 61-120 days, and an authorization of sixty days coupled with three sixty-day renewals would be counted in the 181-240 category.

OFFENCES SPECIFIED IN AUTHORIZATIONS

Paragraph 195(2)(i) of the *Criminal Code* requires information relating to:

- (i) the offences in respect of which authorizations were given, specifying the number of authorizations given in respect of each of those offences;

TABLE 4

STATUTE	TYPE OF OFFENCE	NUMBER OF AUTHORIZATIONS				
		1998	1999	2000	2001	2002
<i>Controlled Drugs and Substances Act</i> *	Trafficking 5(1)	135	141	139	110	121
	Possession of a narcotic for the purpose of trafficking 5(2)	124	130	129	124	114
	Importing and exporting 6(1)	95	81	88	72	80
	Possession for the purpose of exporting 6(2)	3	6	6	6	2
	Production 7	17	31	44	46	36
	Possession of property obtained by designated substance offences 8	114	125	117	101	25
	Laundering proceeds of designated substance offences 9	81	108	90	75	21
<i>Narcotic Control Act</i> *	Trafficking 4(1)	6	7	1	N/A	N/A
	Possession for purpose of trafficking 4(2)	6	7	N/A	N/A	N/A
	Importing and exporting 5(1)	4	7	N/A	N/A	N/A
	Possession of property obtained by certain offences 19.1	6	N/A	N/A	N/A	N/A
	Laundering proceeds of certain offences 19.2	3	N/A	N/A	N/A	N/A

* The *Controlled Drugs and Substances Act* was brought into force on May 14, 1997, replacing the *Narcotic Control Act* and Parts III and IV of the *Food and Drugs Act*. However, data reported for 1998, 1999 and 2000 indicate that in rare circumstances, authorizations have specified offences under the *Narcotic Control Act*.

TABLE 4 (Continued)

STATUTE	TYPE OF OFFENCE	NUMBER OF AUTHORIZATIONS				
		1998	1999	2000	2001	2002
<i>Export and Import Permits Act</i>	Export or attempt to export 13	0	0	0	0	0
	Import or attempt to import 14	0	0	0	0	0
<i>Customs Act</i>	False statements 153	4	6	3	3	3
	Smuggling/attempt to smuggle goods into Canada 159	20	11	4	9	7
	Possession of property obtained by smuggling 163.1	15	11	2	5	3
	Laundering proceeds of smuggling 163.2	10	7	2	2	2
<i>Competition Act</i>	Deceptive marketing 52.1	0	0	0	3	0
<i>Excise Act</i>	Possession of property obtained by excise offences 126.1	7	9	2	5	2
	Laundering proceeds of excise offences 126.2	9	10	2	2	1
	Unlawful distillation 158	0	0	0	0	0
	Unlawful selling of spirits 163	10	11	4	6	2
	Unlawful manufacture of tobacco products 226	0	0	0	0	0
	Unlawful packaging or stamping 233(1)	0	0	0	0	0
	Unlawful possession or sale of manufactured tobacco or cigars 240(1)	12	9	2	3	2
<i>Immigration Act</i>	Organizing entry into Canada 94	1	1	9	3	5

TABLE 4 (Continued)

STATUTE	TYPE OF OFFENCE	NUMBER OF AUTHORIZATIONS				
		1998	1999	2000	2001	2002
<i>Criminal Code</i>	Forgery of passport 57	0	1	0	0	0
	Using Explosives 81	0	0	0	1	0
	Possession of a prohibited weapon 90	0	0	3	1	0
	Importing or Exporting of prohibited weapon* 95	2	N/A	N/A	N/A	N/A
	Possession of weapons obtained by commission of offence 96	0	0	0	0	1
	Weapons trafficking 99	0	0	0	1	2
	Possession for the purpose of weapons smuggling 100	0	0	0	1	1
	Obstructing justice 139	0	0	0	2	2
	Murder 235	6	2	9	6	18
	Attempted murder 239	3	2	0	1	5
	Uttering death threats 264.1	3	2	3	2	1
	Assault with a weapon or causing bodily harm 267	5	3	0	2	0
	Aggravated assault 268	3	3	0	4	1
	Unlawfully causing bodily harm 269	3	1	3	0	0
	Kidnapping 279	2	0	0	0	1
	Theft 334	5	2	2	1	0
	Theft, forgery, etc., of credit card 342	0	1	2	0	0
	Robbery 344	3	1	1	0	2
	Extortion 346	2	0	2	2	9
	Criminal interest rate 347	0	0	2	0	0
	Break and enter 348	1	0	0	2	0
	Possession of property obtained by crime 354	5	11	6	2	76
	Forgery 367	1	1	0	0	0
	Uttering forged document 368	1	2	0	0	0
	Possession of instruments of forgery 369	0	0	0	2	0
	Fraud 380	1	0	3	4	0
	Fraudulent manipulation of stock exchange transactions 382	0	0	0	1	0
Intimidation of justice system participant or journalist 423.1	0	0	0	0	2	
Arson – disregard for human life 433	3	2	3	0	2	

TABLE 4 (Continued)

STATUTE	TYPE OF OFFENCE	NUMBER OF AUTHORIZATIONS				
		1998	1999	2000	2001	2002
<i>Criminal Code</i>	Arson – damage to property 434	0	0	1	1	0
	Making counterfeit money 449	0	0	0	3	0
	Buying, receiving, possessing or importing counterfeit money 450	0	1	0	3	0
	Uttering counterfeit money 452	0	1	0	3	0
	Laundering proceeds of counterfeit money 462.31	1	9	7	10	63
	Attempts, accessories 463	25	27	16	20	14
	Counselling 464	25	26	16	18	7
	Conspiracy 465	157	147	150	123	135
	Participating in Criminal Organization 467.1	10	25	11	5	6
	Participating in activities of a criminal organization 467.11	0	0	0	0	21
	Commission of an offence for a criminal organization 467.12	0	0	0	0	7
	Instructing commission of an offence for a criminal organization 467.13	0	0	0	0	6

* This section was repealed on December 1, 1998, with the implementation of the *Firearms Act*.

Most authorizations granted to agents of the Solicitor General of Canada provide for the use of electronic surveillance in relation to more than one offence. A typical example of such an authorization would be in relation to sections 5 (trafficking), 6 (importing and exporting), and 7 (production) of the *Controlled Drugs and Substances Act* and conspiracy under section 465 of the *Criminal Code* to commit these offences. Table 4 presents the number of times specific offences were provided for in authorizations granted to agents of the Solicitor General of Canada. For example, of the 161 authorizations granted in 1999, 141 of these authorizations specifically provided for the use of electronic surveillance in connection with trafficking a narcotic, 130 for possession for the purpose of trafficking, etc.

CLASSES OF PLACES AND METHODS OF INTERCEPTION

Paragraph 195(2)(j) of the *Criminal Code* requires information relating to:

- (j) a description of all classes of places specified in authorizations and the number of authorizations in which each of those classes of places was specified;

TABLE 5

CLASS OF PLACE	NUMBER OF AUTHORIZATIONS				
	1998	1999	2000	2001	2002
Residence (permanent)	148	120	148	37	59
Residence (temporary)	2	3	6	5	11
Commercial Premises	47	36	24	18	28
Vehicles	17	15	21	14	28
Other	55	72	98	32	31

Paragraph 195(2)(k) of the *Criminal Code* requires information relating to:

- (k) a general description of the methods of interception involved in each interception under an authorization;

TABLE 6

METHOD OF INTERCEPTION	NUMBER OF METHODS				
	1998	1999	2000	2001	2002
Telecommunication	963	1007	1320	612	877
Microphone	208	75	93	91	106
Video	4	41	24	10	28
Other	85	92	111	46	207
TOTAL	1260	1215	1548	759	1218

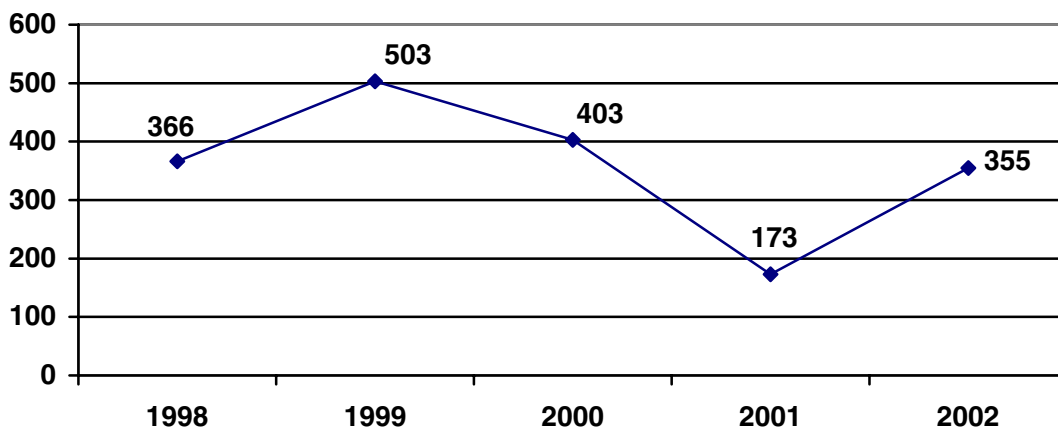
It should be noted that the data reported for 2002 will likely rise in future reports as the data are updated.

LEGAL PROCEEDINGS, USE OF INTERCEPTED MATERIAL AND DISPOSITION

Paragraph 195(2)(l) of the *Criminal Code* requires information relating to:

- (l) **the number of persons arrested whose identity became known to a peace officer as a result of an interception under an authorization;**

FIGURE 2



It should be noted that the data reported for 2002 will likely rise in future reports as the data are updated.

Paragraph 195(2)(d) of the *Criminal Code* requires information relating to:

- (d) the number of persons identified in an authorization against whom proceedings were commenced at the instance of the Attorney General of Canada in respect of:
- (i) an offence specified in the authorization,
 - (ii) an offence other than an offence specified in the authorization but in respect of which an authorization may be given, and
 - (iii) an offence in respect of which an authorization may not be given;

TABLE 7

CATEGORY OF OFFENCE	NUMBER OF PERSONS AGAINST WHOM PROCEEDINGS WERE COMMENCED (IDENTIFIED IN AUTHORIZATION)				
	1998	1999	2000	2001	2002
Offence specified in authorization	241	317	283	179	196
Offence for which an authorization may be given but not specified in the authorization	30	27	18	10	96
Offence for which no authorization may be given	13	42	39	3	26

Paragraph 195(2)(e) of the *Criminal Code* requires information relating to:

- (e) the number of persons not identified in an authorization against whom proceedings were commenced at the instance of the Attorney General of Canada in respect of:
- (i) an offence specified in such an authorization,
 - (ii) an offence other than an offence specified in such an authorization but in respect of which an authorization may be given, and
 - (iii) an offence other than an offence specified in such an authorization and for which no such authorization may be given,

and whose commission or alleged commission of the offence became known to a peace officer as a result of an interception of a private communication under an authorization.

TABLE 8

CATEGORY OF OFFENCE	NUMBER OF PERSONS AGAINST WHOM PROCEEDINGS WERE COMMENCED (NOT IDENTIFIED IN AUTHORIZATION)				
	1998	1999	2000	2001	2002
Offence specified in authorization	105	143	96	70	145
Offence for which an authorization may be given but not specified in the authorization	12	38	7	4	66
Offence for which no authorization may be given	14	23	10	3	37

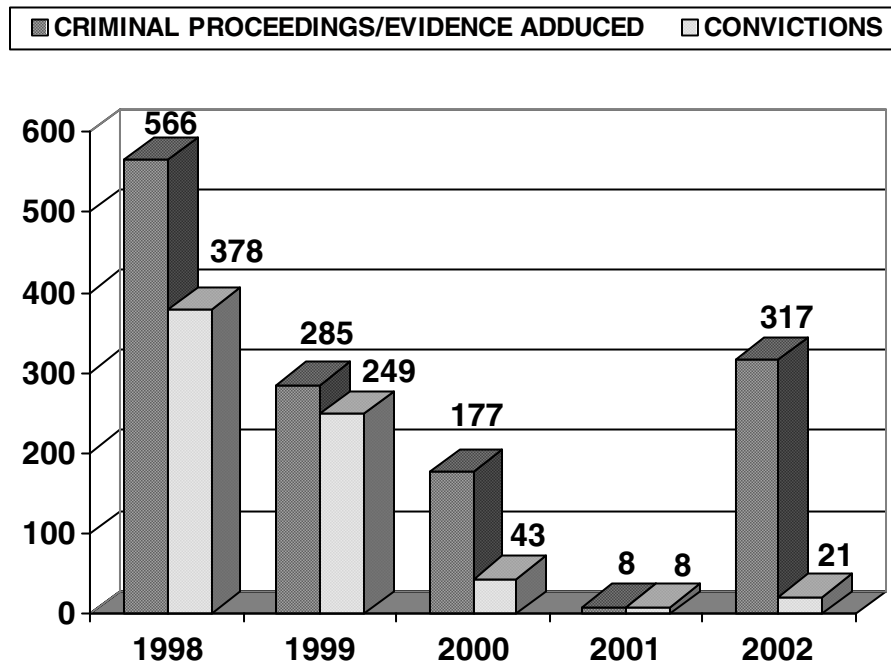
Tables 7 and 8 contain information relating to the number of persons charged for all types of offences, including *Criminal Code* offences. Moreover, the three categories of offences are not treated as being mutually exclusive, and persons charged with more than one category of offence are counted more than once. Therefore, one cannot add the columns in Tables 7 and 8 to obtain the total number of persons. It should be noted that the data reported for 2002 will likely rise in future reports as the data are updated.

Tables 7 and 8 are interrelated. Table 7 provides information on the number of persons identified in an authorization charged with specific categories of offences, i.e., an offence specified in the authorization, an offence other than an offence specified in such an authorization but in respect to which an authorization may be given, or an offence other than an offence specified in such an authorization and for which no such authorization may be given. Table 8 provides similar information on persons not identified in an authorization, but charged as a result of information from the authorized interception.

Paragraph 195(2)(m) of the *Criminal Code* requires information relating to:

- (m) the number of criminal proceedings commenced at the instance of the Attorney General of Canada in which private communications obtained by interception under an authorization were adduced in evidence and the number of those proceedings that resulted in a conviction;

FIGURE 3

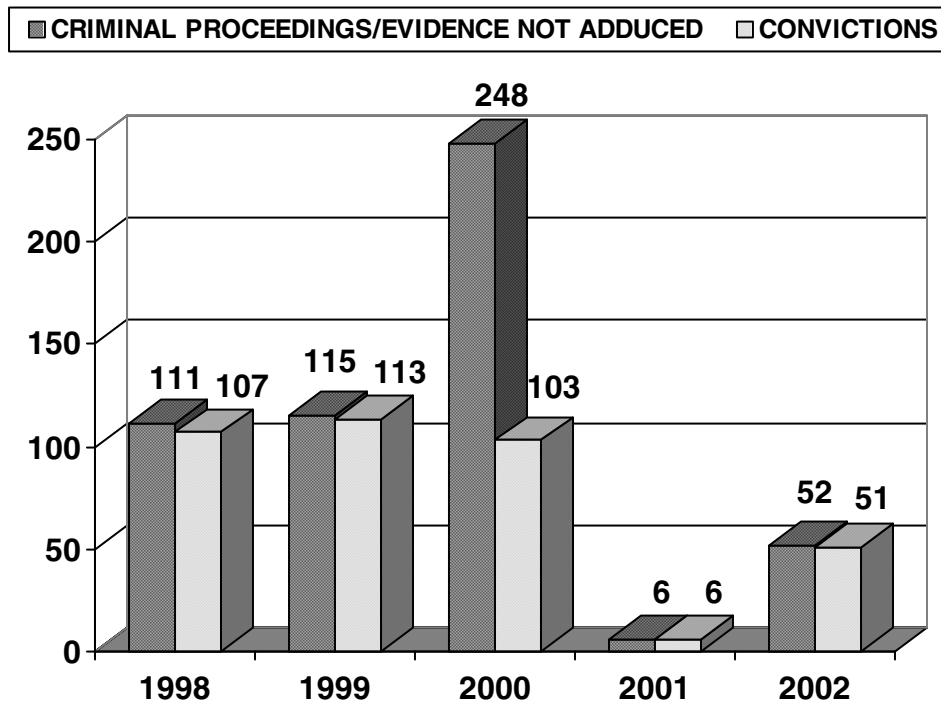


It should be noted that the data reported for 2002 will likely rise in future reports as the data are updated.

Paragraph 195(2)(n) of the *Criminal Code* requires information relating to:

- (n) the number of criminal investigations in which information obtained as a result of the interception of a private communication under an authorization was used although the private communication was not adduced in evidence in criminal proceedings commenced at the instance of the Attorney General of Canada as a result of the investigations.

FIGURE 4

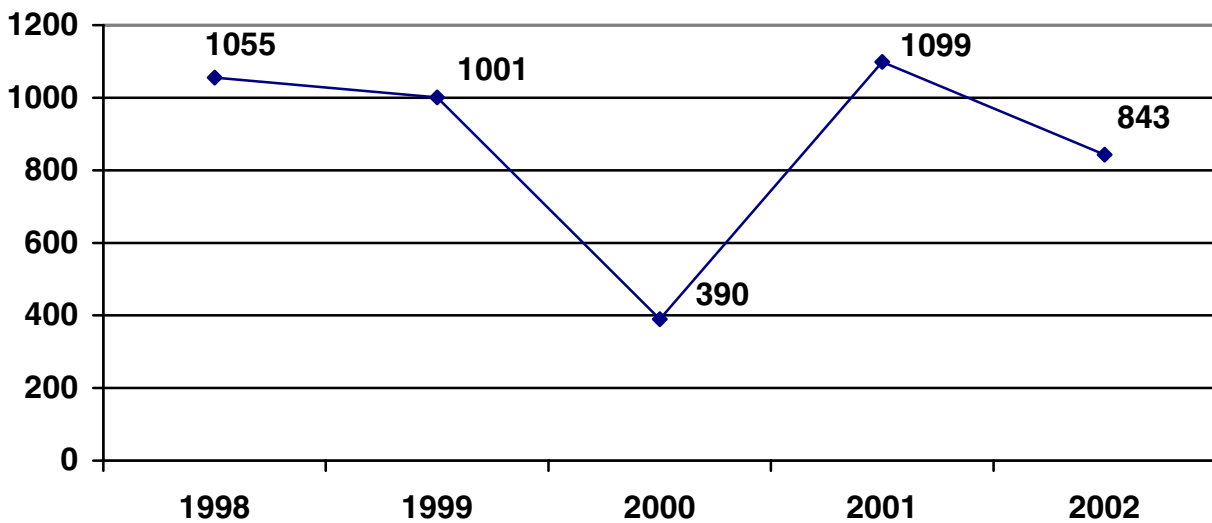


It should be noted that the data reported for 2002 will likely rise in future reports as the data are updated.

NOTIFICATIONS

Pursuant to subsection 196(1) of the *Criminal Code*, the Solicitor General of Canada is required to notify in writing the person who was the object of the interception. Furthermore, paragraph 195(2)(h) requires that the Annual Report of the Solicitor General of Canada provide:

(h) the number of notifications given pursuant to section 196;

FIGURE 5

Notification is served on those persons identified in the authorization who were actually under electronic surveillance. There is therefore a significant difference in the number of persons named in authorizations and the number of persons notified. Another factor which contributes to this difference is that notification may be delayed for up to three years if the investigation is in relation to a criminal organization and is continuing.

PROSECUTIONS FOR UNLAWFUL INTERCEPTIONS AND UNLAWFUL DISCLOSURE

Paragraph 195(3)(a) of the *Criminal Code* requires that the Annual Report provide information relating to:

- (a) the number of prosecutions commenced against officers or servants of Her Majesty in right of Canada or members of the Canadian Forces for offences under section 184 or section 193;**

No such prosecutions have been initiated for the period 1998 to 2002.

Subsection 184(1) of the *Criminal Code*, with a number of specific exceptions, makes it an offence for a person to willfully intercept a private communication by means of an electromagnetic, acoustic, mechanical or other device. Subsection 193(1), with similar specific exceptions, makes it an offence to disclose private communications that are lawfully intercepted, or to disclose the existence of such intercepted communications.

Paragraph 195(3)(b) of the *Criminal Code* requires that the Annual Report provide a:

(b) general assessment of the importance of interception of private communications for the investigation, detection, prevention and prosecution of offences in Canada.

INVESTIGATION

The lawful interception of private communications is a vital tool used by law enforcement agencies in the investigation of criminal activities of organized crime groups, especially with respect to the trade of illicit drugs. The statistics presented in Section III of this report indicate that the majority of authorizations issued are in relation to the offence of trafficking in a controlled substance.

DETECTION

The illegal activities of organized criminal groups would remain largely undetected were it not for the active investigation of the police. Offences such as money laundering, smuggling and drug trafficking present serious threats to the safety and stability of Canadian communities, and the lawful interception of private communications provides a means for the police to detect, and consequently investigate, the commission of such offences.

PREVENTION

The use of electronic surveillance in investigations has led to numerous drug seizures, leading to a reduction in the amount of illicit drugs and crime associated with their abuse. Without this crucial tool, the ability of the law enforcement community to prevent crimes and ensuing social harm would be seriously hindered.

PROSECUTION

Investigations of the activities of organized crime groups are increasingly complex and sometimes difficult to prove in a court of law. The use of electronic surveillance often provides strong evidence against those accused of being involved in illegal activities, increasing the likelihood of conviction. The prosecution of such offenders increases public confidence in the criminal justice system and contributes to public safety by holding such persons responsible for their actions.

CASE EXAMPLE

In December 2002, the Royal Canadian Mounted Police Airport Drug Section searched nine residences and arrested nine people in connection with an alleged international cocaine smuggling network based in and around the Greater Toronto Area. The RCMP Airport Drug Section consists of members from the Toronto Police Service, Peel Regional Police, Ontario Provincial Police and Canada Customs and Revenue Agency. Its year-long investigation included audio surveillance, which targeted several subjects who were part of an organized criminal network smuggling cocaine into Canada and the United Kingdom from Panama and Jamaica. The cocaine was destined for Southern Ontario communities along the corridor from Kitchener through the Greater Toronto Area to Oshawa. The network engaged mainly female “couriers” to transport the drugs that were typically hidden in false-bottomed suitcases. Approximately 30 kg of cocaine from “couriers” in Canada, Panama and the United States were seized. Also in connection with this investigation, U.S. authorities seized approximately 11 kg of marihuana at the Niagara Falls border along with the transport truck in which the marihuana was concealed. Further arrest warrants for offences under the *Controlled Drugs and Substances Act* have been issued for a number of people in Canada, Panama and the United States with respect to this operation. As a result, the infrastructure of this drug smuggling network has been completely dismantled, preventing the proliferation of other types of cross-border crime, which is important to the safety and security of people in both Canada and the United States.

Designated Agents who made applications in accordance with subsections 185(1) and 487.01(1) of the *Criminal Code*, as required by paragraph 195(1)(a) of the *Criminal Code*:

C. Bélanger
R. Benoit
M. Bertrand
B. Boyd
H. Connolly
K. Gorman
J. Gormley
J. Iaona
S. Kovacevich
J. M. Loncaric
A. Meghani
B. Mercier
T. Nadon
E. Neufeld
H. O'Connell
M. O'Malley
J. C. Randall
E. M. Reid
J. Richardson
L. Rose
P. Roy
R. Roy
B. L. Veldhuis
M. Vien
K. Ward
T. Zuber

Designated Peace Officer who made applications in accordance with subsections 188(1) and 487.01(1) of the *Criminal Code*, as required by paragraph 195(1)(b) of the *Criminal Code*:

Randy Jesse