cal intrusion into any given enclosure." [397] Because the surveillance of Katz's telephone calls had not been authorized by a magistrate, it was invalid; however, the Court thought that "it is clear that this surveillance was so narrowly circumscribed that a duly authorized magistrate, properly notified of the need for such investigation, specifically informed of the basis on which it was to proceed, and clearly apprised of the precise intrusion it would entail, could constitutionally have authorized, with appropriate safeguards, the very limited search and seizure that the government asserts in fact took place." [398] The notice requirement, which had loomed in *Berger* as an obstacle to successful electronic surveillance, was summarily disposed of.[399] Finally, Justice Stewart observed that it was unlikely that electronic surveillance would ever come under any of the established exceptions so that it could be conducted without prior judicial approval.[400]

Following *Katz*, Congress enacted in 1968 a comprehensive statute authorizing federal officers and permitting state officers pursuant to state legislation complying with the federal law to seek war-

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[397] 389 U.S. at 353. "We conclude that the underpinnings of *Olmstead* and *Goldman* have been so eroded by our subsequent decisions that the 'trespass' doctrine there enunciated can no longer be regarded as controlling. The Government's activities in electronically listening to and recording the petitioner's words violated the privacy upon which he justifiably relied while using the telephone booth and thus constituted a 'search and seizure' within the meaning of the Fourth Amendment."

[398] 389 U.S. at 354. The "narrowly circumscribed" nature of the surveillance was made clear by the Court in the immediately preceding passage. "[The Government agents] did not begin their electronic surveillance until investigation of the petitioner's activities had established a strong probability that he was using the telephone in question to transmit gambling information to persons in other States, in violation of federal law. Moreover, the surveillance was limited, both in scope and in duration, to the specific purpose of establishing the contents of the petitioner's unlawful telephonic communications. The agents confined their surveillance to the brief periods during which he used the telephone booth, and they took great care to overhear only the conversations of the petitioner himself." Id. For similar emphasis upon precision and narrow circumscription, *see* Osborn v. United States, 385 U.S. 323, 329–30 (1966).

[399] "A conventional warrant ordinarily serves to notify the suspect of an intended search . . . . In omitting any requirement of advance notice, the federal court . . . simply recognized, as has this Court, that officers need not announce their purpose before conducting an otherwise authorized search if such an announcement would provoke the escape of the suspect or the destruction of critical evidence." 389 U.S. at 355 n.16.

[400] 389 U.S. at 357–58. Justice Black dissented, feeling that the Fourth Amendment applied only to searches for and seizures of tangible things and not conversations. Id. at 364. Two "beeper" decisions support the general applicability of the warrant requirement if electronic surveillance will impair legitimate privacy interests. *Compare* United States v. Knotts, 460 U.S. 276 (1983) (no Fourth Amendment violation in relying on a beeper, installed without warrant, to aid in monitoring progress of a car on the public roads, since there is no legitimate expectation of privacy in destination of travel on the public roads), *with* United States v. Karo, 468 U.S. 705 (1984) (beeper installed without a warrant may not be used to obtain information as to the continuing presence of an item within a private residence).