

Senators charge Justice Department

By Morton Kondracke
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WASHINGTON — Two senators accused the Justice Department Wednesday of failing to supervise the FBI or punish unauthorized disclosure of material in the bureau's files.

And a Justice Department official contended that the Constitution does not protect citizens against government snooping. He aroused the ire of yet a third senator.

Sen. Edward M. Kennedy (D-Mass.) accused the director of Justice's internal security division at a Senate hearing of "washing your hands of responsibility over the FBI." He charged:

"You don't have regulations and directives of your own regulating surveillance of citizens and you have to ask the FBI for permission to see its regulations."

Failure charged

Kennedy said the Justice Department was failing to act as the FBI's "civilian leadership"

and that the bureau — and not the department — was deciding that groups should be watched as potential causes of civil disturbance.

He repeatedly asked Asst. Atty. Gen. Robert Mardian for regulations that would demonstrate that the Justice department will do better than the Army did in monitoring the nation's potential for violence, at the same time protecting citizens' constitutional rights.

Must ask FBI

Mardian said that Justice had no published regulations, pers. When Kennedy asked if only "internal working papers" could be made available to the committee, Mardian said he would have to ask the FBI.

Mardian said that the Justice Department's inter-divisional information unit collects information on "any group that has announced it is going to have a demonstration and if a reasonable person would conclude that it might result in

a civil disturbance."

He said information was being gathered on the National Peace Action Council, planner of an April 24 anti-war rally in Washington, in view of its connection with more violence-prone groups.

Kennedy retorted that NPAC "has eschewed violence and has no record of violence. It is a nonviolent group." He accused Mardian of allowing the FBI to set "subjective standards" for surveillance.

Tunney rips leaks

Meanwhile, Sen. John Tunney (D-Calif.) criticized the government's handling of alleged disclosure by six federal agencies, including the FBI of confidential information detrimental to San Francisco Mayor Joseph Alioto.

He asked Asst. Atty. Gen. William H. Rehnquist why the only action taken in the case was the request that one FBI agent retire with full pension benefits.

Tunney claimed to have seen

confidential notes of a Look magazine reporter indicating that other FBI agents had supplied information for an article accusing Alioto of ties to organized crime.

Tunney said the notes indicated information also was supplied to Look by the Immigration and Naturalization Service. He said meetings were held between Look editors and lawyers and Henry F. Petersen, deputy assistant attorney general, in charge of organized crime.

No comment

Rehnquist said he could not comment on the Petersen-Look meetings because of a pending prosecution. He said an immi-

fails to control FBI

gration service investigation had not produced evidence that its files had been given to Look, and that an FBI investigation had cleared all but one agent of unauthorized-disclosure charges.

Tunney said, "I'm deeply disturbed that, on the face of it, there appears to have been a very serious breach of regulations on the part of several agencies and yet, again on the face of it, there doesn't seem to have been an adequate investigation."

Ervin disagrees

In an exchange, meanwhile, with Sen. Sam J. Ervin Jr. (D-N.C.), Rehnquist testified that while government surveillance

of citizens at public meetings may be "reprehensible," it is not unconstitutional.

Ervin asked, "Does this mean that the executive branch has a right to follow me around and observe where I go?"

Rehnquist replied, "It would be a waste of the taxpayers' money but it does not constitute a violation of constitutional rights."

Ervin said that surveillance of public gatherings impairs citizens' rights to free assembly and expression. Rehnquist said that was true only when the government compels testimony under threat of official sanction.