

9/11/75

Dear Mac,

Your Civil Rights Procedures Act proposal is great.

Not having seen the bill I don't know whether any suggestions I might make can be helpful.

If you have not I think you should define "surveillance" and not limit it to physical following or mail intrusions or the electronic. There are today other means that the agencies do not call "surveillance" but can and I think have repressed First Amendment rights. Going along with this I believe there should be a limitation to what is genuinely within the definition of criminal or potentially criminal, not the kind of paranoia that has been invoked to justify anything and everything. Not just since Nixon took office, by the way.

There should also be a limitation on distribution that extends to redistribution. Going along with this should be an absolute prohibition against any distribution to any non-official person. There has been for years a cozy arrangement between federal and local authorities where they get private persons to do for them what they do not want to do or risk getting caught doing and pay back with information from files. There are few private detective agencies that can't get what they want from official files, federal and local. If I have samples you know how easy this can be.

The court order provision should enable legitimate acts, but from extensive experience I tell you that the courts are deceived by federal agents regularly and in some cases with open willingness. The record in my C.A. 226-75, federal district court, D.C. is full of undenied proofs of deception extending into perjury and the judge's reaction, to threaten my lawyer and me for proving the charge. I don't know what if anything can be done about this but I think a general provision for mandatory punishment upon conviction for deceiving a court might help -and will be resisted. I think this should extend to having the wrong agent execute a hearsay affidavit, common within my experience and ignored by the court. Without sanctions these people will lie. When accompanied by counsel I told the CIA's general counsel that I have copies of some of their files on me he actually wrote that they have none. (How do they stall? By taking my appeal as an initial request and sending it elsewhere.)

As in another context I recently wrote Bob Kelley, this continuing effort of yours to do something about the growing authoritarianism is under-appreciated and of major importance to us all. This bill represents an important new initiative. I hope it passes.

I wish it were possible to do something about the deception of Congress. Some day perhaps you will have time for me to tell you about the snow job Pat Gray did on your Judiciary committee and how he could.

Thanks again for this fine work,
Harold Weisberg



CHARLES M^C. MATHIAS, JR.
UNITED STATES SENATE

Dear Friend -

Liberty, the freedom from government interference and snooping can be guaranteed without crippling necessary law enforcement. One way - described in the attached article - can become law this year with the benefit of your help. Please review the Bill of Rights Procedures Act and give me the assistance of your opinion on the protection it would provide.

Sincerely yours

Charles M^C. Mathias, Jr.



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PRIVACY LEGISLATION: A GOP HALLMARK

Mr. HUGH SCOTT. Mr. President, the current edition of "First Monday," the publication of the Republican National Committee, has an article detailing Republican initiatives in the privacy field which I think deserves the attention of my colleagues. I was pleased to note that its author, Marc Rosenberg, is a former intern of mine and a constituent from Cheltenham, Pa.

I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

PRIVACY LEGISLATION: A GOP HALLMARK

(NOTE.—The author, Marc H. Rosenberg, is the legislative assistant to a Midwest Republican Congressman. Previously, he was a writer for the Legislative Digest and served as Director of the Washington Campus News Service.)

Republicans have quietly moved to the forefront of Congressional efforts to guarantee citizens' rights-to-privacy. In doing so, they are not seeking any special publicity, but are working behind the scenes to assert traditional Republican beliefs in the importance of the individual and the personal rights enumerated in the Constitution.

The GOP has taken more than its share of lumps as a result of Watergate and the more recent accusations of abuse in various domestic intelligence activities which are alleged to have actually taken place during the Johnson years.

The truth of the matter is that in recent years the impetus for most new laws to protect rights-to-privacy has come primarily from Republican Members of Congress. GOP Congressmen and Senators have actively spearheaded efforts to provide greater confidentiality of school records, to prevent abuse of IRS information and authority, and to place tighter controls on federal surveillance activities.

Last year, students and parents were cheered by passage of the Family and Educational Privacy Act, which is better known as the Buckley Amendment to the Elementary and Secondary Education Act. It was authored by Sen. James Buckley of New York.

This new law gives students over 18 and parents of minor students access to most files kept on students by their schools, but denies access to unauthorized third parties. The law was prompted by a number of documented horror stories wherein damaging, sometimes erroneous, information was leaked from school files while students and parents were denied access to those same files.

The Buckley amendment corrects this situation, restoring proper priorities for the confidentiality of school records. The law went into effect early this year, less than a year after it was first proposed.

The Educational Privacy Act was one of 12 specific proposals that were either initiated or endorsed in a report issued last August by the House Republican Task Force on Privacy. Other issues addressed in the report include: government surveillance; juvenile and criminal arrest records; computer data banks; and standard universal identification numbers.

"A LANDMARK"

The Task Force consisted of 13 Republican Congressmen, chaired by Barry Goldwater, Jr. Its recommendations were unanimously en-

dorsed by the Republican Research Committee, on behalf of all Republicans in the House of Representatives. In a cover letter attached to the final Task Force report, the chairman of the Research Committee, Congressman Lou Frey Jr. of Florida, said, "The recommendations are a landmark in the area of individual rights. Nowhere (else) has the total question of privacy been so well or thoughtfully covered. . . . These recommendations and the follow-up legislative efforts will insure that the 1984 envisioned by George Orwell will remain only fiction."

During public hearings in March of this year, the House Judiciary Subcommittee on Civil Liberties praised the Task Force report as being the most comprehensive document of its kind. They commended Congressman Goldwater and his colleagues for their efforts.

Last year, Congressman Goldwater also distinguished himself in the privacy area by being the prime sponsor of the Goldwater-Koch Comprehensive Privacy Act. This new law guarantees citizens access to most files kept on them by the federal government and provides a mechanism for correcting or deleting inaccurate information. At the same time, the law prohibits improper dissemination of information found in these federal files.

In other areas, Sen. Lowell Weicker of Connecticut is leading efforts to guarantee the confidentiality of federal tax returns and to prevent any future abuse of the Internal Revenue Service's audit powers. The Senator says, "Clearly, only those legitimate authorities concerned with proper functions of tax administration or law enforcement should be allowed access to tax returns." Chances appear very good that the Weicker proposals will be approved by the 94th Congress.

New York Rep. Jack Kemp has proposed legislation to help safeguard the privacy of personal medical records. He explains, "The adequacy of safeguards to assure protection of the right of privacy as to individual medical records is a matter of growing concern. The proliferation of automated data systems, within both government and the private sectors, has focused particular attention on . . . these protections and, generally, has found them inadequate." Consequently, Congressman Kemp has introduced the proposed Medical Records Privacy Act.

MOST IMPORTANT

In this current session of Congress, probably the single most important piece of privacy legislation is the proposed Bill of Rights Procedures Act, which was developed by Maryland Sen. Charles Mathias and Rep. Charles Mosher of Ohio.

This legislation would require federal agents to obtain court orders before they could conduct any surveillance on any private citizens. It would greatly enhance the protections granted by the First, Fourth and Fourteenth Amendments and would plug up many loopholes in existing laws.

This past February, Mathias and Mosher testified before the House Subcommittee on Civil Liberties, which is holding extensive hearings on the Bill of Rights Procedures Act.

They warned that "American citizens today, in many instances, are becoming virtually paranoid about government surveillance." They noted that this can have a "chilling effect" on the public. This phenomenon is described as citizens being intimidated by the fear that improper surveillance is taking place, so that they can avoid participating in certain political activities or other lawful exercises of their Constitutional rights.

At the outset of the hearings, Subcommittee chairman, Democrat Robert Kastenmeier of Wisconsin, noted that 62 Congressmen had joined as cosponsors of the Bill of Rights Procedures Act. The cosponsors were evenly divided, 31 from each party, representing the whole spectrum of political philosophies and coming from every part of the country.

The House Judiciary Committee is continuing hearings on the Mathias-Mosher privacy bill and indications are that it will receive a favorable recommendation. There is a very good chance that the bill will be put before the House for a vote this summer.

The Senate Judiciary Committee has promised to consider the Bill of Rights Procedures Act in hearings to be held later this year. A rival bill has been introduced by Senators Kennedy and Nelson, but experts in the privacy field openly state that the Mathias-Mosher bill is clearly the superior piece of legislation. To date, the Bill of Rights Procedures Act has been endorsed by groups as diverse as the Republican Task Force on Privacy, the *Washington Star-News*, the *New York Times*, the *Akron Beacon Journal* and the National Newspaper Association.

Throughout the statements of these legislators there runs a common theme: Involvement in the privacy issue is not a new-found interest for Republicans. Rather, the commitment to the individual's rights-of-privacy is in the finest traditions of the Republican Party. These Congressmen and Senators all feel that the GOP has a history of commitment to championing the rights and freedoms of the private citizen. Their efforts today are merely the newest chapters in a long story.