

FORD BILL OPPOSES

TAPS ON CITIZENS

MAR 17 1976

Surveillance Would Require
Warrant—Draft by Levi

Endorsed by Kennedy
NYTimes

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Special to The New York Times

WASHINGTON, March 16—

The Ford Administration is expected to unveil later this week legislation that its framers said would virtually end the practice of Federal electronic surveillance of American citizens without a court order.

This is the first time that a Republican administration has been willing to support a bill that would require Federal officials to get a warrant from a judge before instituting national security and foreign intelligence electronic surveillance within the United States, senior Administration sources said today.

The bill is not designed to cover foreign intelligence-gathering activities in international communications and foreign communications conducted by the National Security Agency, according to Administration sources.

The draft of the bill, which is now before President Ford for approval, was worked out

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in six months of negotiations between members of the Senate Judiciary Committee led by Senator Edward M. Kennedy, Massachusetts Democrat, and Attorney General Edward H. Levi.

Liberal Support

If a coalition of liberals, including Senators Kennedy and Gaylord Nelson, also an acknowledged expert on electronic surveillance legislation, were to support the bill, its chances to support the bill, its chances of passage would be assured, according to veteran Congressional sources.

Mr. Kennedy said in an interview that he found the draft now completed by the Justice Department to be a "constructive piece of legislation." Mr. Nelson, a Wisconsin Democrat, said in an interview that he found the draft "a substantial improvement over current practice."

Senators Kennedy and Nelson were joint authors of a bill last year to ban warrantless electronic surveillance. That proposal was frozen in the Senate Judiciary Committee because it did not command the support of conservative Democrats and Republicans.

According to Congressional sources, Mr. Levi has marshaled support for the President's legislation among these elements and the Administration's proposal will have conservative support.

Not Curbing President

The legislation does not purport to attempt to end a President's constitutional power to order electronic surveillance to save the nation. Congressional and Administration sources say that only the Supreme Court can rule against a President using his constitutional powers.

But Administration sources assert that the bill severely limits "for all practical purposes" the power of a President or an Attorney General to ignore the warrant procedure and simply order electronic surveillance in these areas.

Nevertheless, Senator Nelson and several other Congressional sources said this and certain

areas of language and description gave them, as one put it, "concern" and that these would have to be ironed out in hearings.

The following are the key elements of the proposal, according to sources who worked on it:

¶The bill would cover electronic surveillance within the United States to protect national security or obtain intelligence vital to the conduct of the nation's foreign affairs.

¶The bill, in effect, sets out what are to be considered acceptable targets for electronic surveillance in these fields. A target could be either an American, a foreigner or a resident alien who is working for a foreign power. This is not aimed at "benign" representation of a foreign government—for instance, registered foreign agents of a government. The target would have to be engaged in sabotage, terrorist activities or "clandestine intelligence activities," the draft said.

¶Once the Government agency—for example, the Central Intelligence Agency or the N.S.A.—established an individual or facility it wanted to target, it would have to prepare a sworn certification setting out the national security or foreign affairs need for the information and establishing that the target met the criteria set down in the law. The certification would have to be signed and sworn to by someone of Presidential appointee rank.

¶It would take this certification before a Federal judge and ask for a court order to conduct the surveillance. The order could not be sought from just any Federal judge but only from one of a panel of seven judges who would be appointed to this work by the Chief Justice of the United States.

¶The order would be good for only 90 days and would have to be renewed at the end of that time. Unlike court-ordered surveillance in domestic criminal casts, there is no requirement that the agency ever notify the victim of the surveillance.

Several sources who had setn

at agencies seeking approval would not get their warrants the most sympathetic of Federal judges.

Levi, according to several sources, is expected to write a letter to the Sen-

ate Judiciary Committee that would clear up some questions and commit his administration at the Justice Department to seek no electronic surveillance in these areas without complying with the bill.