

## F.B.I. Opposes Legislation That Would

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WASHINGTON, March 18—The Federal Bureau of Investigation has come out against the sealing of some criminal records as proposed in bipartisan legislation before a Senate subcommittee.

The F.B.I.'s opposition to the closing of individual records to police and nonpolice agencies came during six days of testimony from about 20 witnesses before the Senate Judiciary Subcommittee on Constitutional Rights.

One of the purposes of the hearings, according to Senator Sam J. Ervin Jr., the subcommittee chairman, was "to learn how law enforcement agencies collect, use and disseminate" data held in more than 100 "criminal history" information banks throughout the country.

Senator Ervin and Senator Roman L. Hruska, Republican from Nebraska, have introduced separate bills, both similar in approach, to serve as "a stepping off point" for final legislation to control the expanding network of federally funded criminal data banks. Senator Hruska's measure was largely developed when Elliot L. Richardson was Attorney General.

### Years After Felony

Each bill contains a provision for sealing an individual's criminal record seven years after a felony has been committed and five years after the commission of a misdemeanor. The record would be sealed only if there had been no conviction during those years, no prosecution was pending and the person was not a fugitive.

In his testimony on March 7, Clarence M. Kelley, Director of

the F.B.I., said he was "completely opposed to sealing any criminal justice information against criminal justice agencies.

"Arrest records have served to assist law enforcement authorities in the solution of many cases," Mr. Kelley said. "They provide leads to suspects, knowledge of the whereabouts of other individuals who can thus be eliminated as suspects and, as a result, save valuable investigative time and energy," he said.

Although the sealing provisions of the two bills are similar, other parts are not. Computerization of criminal intelligence information, often unsubstantiated allegations, would be prohibited under the Ervin proposal but not in the Hruska bill.

The Hruska bill would re-

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## Seal Individual Criminal Records

quire that arrest records could not be released to other police agencies without a disposition of the case, if available. Raw arrest records, under the Ervin measure, could only be disseminated if the arrest was less than a year old and prosecution was pending.

Both bills would set varying penalties from \$5,000 to \$10,000 and one year in jail for anyone wrongfully disseminating any criminal information. The two bills would also allow stricter state dissemination laws to take precedence over Federal legislation.

Generally, according to Lawrence M. Baskir, the subcommittee counsel, the Ervin bill establishes more precisely who is entitled to receive criminal information, while allowing more state control of criminal data bank operations. Limits

on the dissemination of criminal data, under the Hruska bill, are "looser" with the Attorney General given more latitude in drawing up regulations to control criminal information dissemination, Mr. Baskir said.

In his opening statement, Senator Ervin said that neither he nor any of his co-sponsors were "wedded to every provision" of his proposal. "While we want to avoid any unnecessary impediments to proper and enlightened law enforcement, at the same time the need is clear that strong action must be taken to protect the privacy of American citizens," he said.

In attempting to "balance between the rights of citizens and needs of law enforcement," Mr. Ervin said that the task of controlling criminal data banks

was part of the larger "privacy" problem.

"I see the controversies surrounding the establishment of criminal justice data banks as a microcosm of the general controversy about governmental data banks and the invasion of privacy," he explained.

In confronting the dangers to the millions of Americans who have criminal records of one kind or another, the Senator said, "We will be taking the first steps toward the development of a comprehensive policy on all data banks and the protection of personal privacy."

A House judiciary subcommittee plans to continue hearings within the next few weeks on the two Senate bills as well as House bills relating to the control of criminal data banks.