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Law Enforcement: The F.B.I.'s Ears

To the Editor:

F.B.I. Director Clarence Kelley's response [letter July 15] to a Times editorial that encouraged greater Congressional oversight of F.B.I. expansion into the area of local police telecommunications itself deserves a response.

To set the record straight, Mr. Kelley states he is "unalterably opposed to F.B.I. monitoring of messages sent over the N.C.I.C. network." He may be opposed, but the Bureau does it every day. The F.B.I. must monitor communications. It can and does automatically log inquiries from local police made to its system.

Mr. Kelley's stated commitment to decentralize sensitive computerized criminal information systems is undoubtedly sincere. However, the history of the F.B.I., with support from the Justice Department, does not reflect any sharing of that commitment. In fact, the Bureau first got into the business of collecting computerized criminal history data from the states in 1971 over the objections of representatives of the states. Since Mr. Kelley took office, the F.B.I. has codified this takeover in regulations promulgated last May 20.

In addition, those same regulations permit the Bureau to computerize manual arrest finger print cards (submitted by local police departments) for inclusion in the computerized N.C.I.C. despite specific refusals of a number of states, including my own, Massachusetts, as well as New York and Pennsylvania, to participate voluntarily in this inadequately safeguarded program.

Finally, Mr. Kelley asserts that the F.B.I. is withstanding "misleading" and "gratuitous" criticism in the name of privacy because the Bureau persists in the "fight against crime." One has only to go to a number of Federal and state courts throughout the country to verify that the dissemination of incomplete and inaccurate criminal data by the F.B.I. has been ruled a serious infringement of data subjects' constitutional rights.

Not only are such records a threat to privacy, they aren't good for law enforcement. Recently, a Federal court not only ruled the dissemination

of inaccurate N.C.I.C. data "a capricious disregard for the rights of the defendant as a citizen" but concluded that evidence seized as the result of an arrest based on that data had to be suppressed. (*U.S. v. Mackey*, 43 Law Week 2333 [D.C. Nev., Jan. 27, 1975]).

The Times is right. Congress must see that rights are protected and law enforcement is uncompromised by further Federal intrusion.

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Boston, Aug. 4, 1975

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* Kelley's letter apparently not in file.