

(The following material was received for the record:)

STATEMENT BY JOHN DE J. PEMBERTON, JR., EXECUTIVE DIRECTOR, AMERICAN CIVIL LIBERTIES UNION, NEW YORK, N.Y.

The American Civil Liberties Union is grateful for the opportunity to present its views regarding proposals for a Federal Data Center or centers which the Special Subcommittee on Invasion of Privacy is now considering. We applaud the Subcommittee's concern over values threatened by these proposals and the observation by Congressman Gallagher that they raise "serious questions about individual rights."

The implications of such proposals shock the sensibilities of thinking Americans. In our modern age, with all of its intrusive impact on the individual, traditional concepts of a man's right to privacy are already being increasingly undermined. These proposals would alarmingly accelerate this trend.

The privacy of which we speak has been defined in these terms:

"The essence of privacy is * * * the freedom of the individual to choose for himself the time and circumstances under which, and most importantly, the extent to which, his attitudes, beliefs, behavior and opinions are to be shared with or withheld from others." Ruehlhausen and Brim, "Privacy and Behavioral Research," 65 Colum. L. REV. 1184, 1189 (1965).

It is our concern that this privacy, which is an essential source of civil liberties and therefore lies at the heart of our free society, will seriously be jeopardized by proposals presently being made for the collecting and centralizing of all data possessed by the Government regarding each citizen.

We concentrate our comments on two proposals, the FBI National Crime Information Center and the National Data Center.

Under the first proposal, a network of computers would store all information on criminal conduct. Certain valid law enforcement purposes will be served by the creation of such a data center. Police work and crime detection can be more efficiently pursued if information concerning major crimes is readily and quickly available to law enforcement officials. In addition, such a center can serve as a source of vital statistical research on crime and police practices in the United States.

However, two dangers to civil liberties are inherent in the existence of such an information center. The first of these, the widespread use of incomplete and unexplained arrest records, has long concerned the American Civil Liberties Union. We have been deeply troubled by the adverse consequences to an individual flowing from the recording of an arrest not followed by indictment or conviction, as well as from the making of a record of certain arrests, and even convictions, where the true nature of the conduct leading to arrest (such as peaceful participation in civil rights or peace marches) is not disclosed. In our correspondence over the past few years with the FBI about the arrest record problem it has been clearly established that too frequently local law enforcement officials report arrests to the FBI but fail to report later disposition of the case. Countless persons against whom charges have been dropped or who have been acquitted must still suffer the harsh consequences of a wrongful taint of criminality when seeking employment or other privileges. These problems are even more grievous in the all-too-common case today of those arrested for the valid exercise of constitutionally protected rights. No reliable procedure exists for differentiating such arrests in present FBI records from arrests made for the normal incidents of criminal conduct.

The union has frequently suggested methods to eliminate employment discrimination based upon the bare record of an arrest, urged better reporting of arrests and ultimate disposition in each case, and pressed for avenues of legal redress for improper use of arrest records. Yet the problem remains, and will be accentuated by the creation of a central pool of information. Such a pool will serve only to multiply the deprivation of the civil liberties of those who are wrongly arrested or arrested and even convicted for merely exercising their rights. Inaccurate and prejudicial data will be made available to a greater number of police officials and through them to still greater numbers of unauthorized persons.

Our second concern regarding the proposed FBI Crime Information Center is that it will be the repository not just for crime information, which is a valid function, but for other types of information not at all relevant to the prevention and detection of crime. It is said that other Federal investigative agencies will