

an official from any agency will have access to every bit of data ever accumulated on a person, including information completely unrelated to his concern. For example, information gathered from a passport application will be available to the official processing a request for an FHA loan. Medical and psychiatric histories of applicants for veterans benefits may become available for political misuse. In our view, others simply have no business seeing data gathered for such special purposes. That such access can be abused, and that improper determinations based on legally irrelevant information can be made, is a proved experience with Government. During the 1950's we learned the tragic lesson that the confidentiality of Government files is already too difficult to maintain and that there are unscrupulous persons who will utilize their access to file information for ulterior purposes.

There is danger that data gathered by the Government will find its way into the hands of private firms where it will be improperly used against an individual. Moreover, the reverse will also occur; thus, for example, a Government agency, itself unauthorized to administer a polygraph test to job applicants, will have available the results of such a test administered to the individual when he applied for employment with a private company. Prohibited results will be achieved in an indirect fashion. When any official determination is made on the basis of irrelevant information which that official has no right to consider, the end result is a deprivation of the individual's civil liberties.

In recent years the Supreme Court has erected constitutional barriers against the improper use of surreptitious surveillance devices (*Silverman v. United States*, 365 U.S. 505, 1961), has prohibited the attempted elicitation by Government agencies of information about an individual's associational ties (*Shelton v. Tucker*, 364 U.S. 479, 1960) and has taken the first step toward defining an area of protected privacy and sanctity into which the Government may not intrude (*Griswold v. Connecticut*, 381 U.S. 479, 1965). The proposed data bank threatens to vitiate these protections so vital to our free society. The content of conversations, monitored by eavesdropping devices, may well be codified and put on tape. The individual's associational ties will become part of his dossier available to the lowest personnel official. The private lives of our citizens, as "documented" by the basest form of gossip, will be fed into the machine. All this in the name of efficiency. This is Government surveillance which brings 1984 to our doorstep.

Confirming our apprehension over the alarming implications of this proposal is the absence, in descriptive statements we have so far seen, of emphasis upon any such vital safeguards as those that have been suggested to the subcommittee by Prof. Charles A. Reich—and the concomitant likelihood that such safeguards will be overlooked in its implementation. Such safeguards would include—

1. Prohibitions on the eliciting, storing, or retrieving by any officer of Government of certain types of information for any purpose.
2. Provision to each citizen of an effective right to inspect the contents of information collected about him and to compel corrections of its inaccuracies and prejudicial omissions, and
3. Limitations on the access to stored information to the original recipient of that information.

The seeming insensitivity of proponents of the National Data Center to the needs for such safeguards underscores the reasons for our opposition.

The principles which protect liberty and human dignity from the insistent demands of order and efficiency are the very stuff of which our democratic society is made. They demand that the collection, storing, and retrieving of essential information, such as that concerning crimes and criminal proceedings, be surrounded with safeguards of the kinds we have proposed. And they demand that all larger conceptions, looking to such essentially unlimited Federal surveillance as that of the proposed National Data Center, be rejected and discarded outright.

We commend the subcommittee for its vigilant attention to these hazards.

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PAPER SUBMITTED BY DR. DONALD N. MICHAEL, PROFESSOR OF PSYCHOLOGY AND PROGRAM DIRECTOR IN THE CENTER FOR RESEARCH ON THE UTILIZATION OF SCIENTIFIC KNOWLEDGE, THE UNIVERSITY OF MICHIGAN ENTITLED "SPECULATIONS ON THE RELATION OF THE COMPUTER TO INDIVIDUAL FREEDOM AND THE RIGHT TO PRIVACY"

In this paper, we are concerned with the future—the next 20 years or so. To look even that far ahead may well be a futile exercise, for the rate of change of technology and society threatens to make footless fantasizing of any specula-