

Privacy: The Issue and the Agenda

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ONE good gauge of the potency of an issue is the number of politicians who decide to get involved. By this standard, the so-called "privacy issue" is finally picking up strength. Sen. Sam J. Ervin (D.-N.C.) and a few other stalwarts are no longer fighting alone. Largely because of Watergate, more and more elected officials have begun to talk about, look into and suggest remedies for a host of actual and potential intrusions into individuals' private lives, from political surveillance to computerized data banks and the expanding use of social security numbers. Now, it is said, the issue has gained so much momentum that President Nixon is planning to include something on the subject in his legislative program for this year.

A sudden spurt of presidential interest in this area is bound to generate some caustic comments because to date Mr. Nixon has shown little concern for anybody's privacy except his own. But if he now regards the subject as a problem to be dealt with, rather than merely an issue to be defused, there are several specific matters—aside from the abuses involved in Watergate—which the administration could usefully address.

First on the agenda should be the enactment of a law to control the contents and uses of computerized files of criminal histories. Although federal funds have fueled a vast expansion of such networks since 1968, Congress until last summer left the chore of regulation entirely to the Justice Department, which in this context largely means the FBI. The FBI in turn has consistently maintained that its National Crime Information Center is under tight control. In fact, under the NCIC system, many fundamental matters—such as insuring that records are accurate and complete, correcting errors and limiting access to the files—are left to the participating states. It is entirely too easy for wrong information to get into the wrong hands, seriously hurting an individual's reputation or job prospects. Under pressure from Congress and the State of Massachusetts, former Attorney General Richardson did start to draft real controls for the NCIC and all federally-funded criminal justice data banks. Attorney General Saxbe has recently expressed his commitment to pursue this project, improving the likelihood that solid legislation can be passed this year.

The second item of business should be the enactment of some basic rules to govern all kinds of auto-

mated files on individuals. Last summer, in an important report, a HEW advisory committee proposed a code of elementary safeguards or "fair information practices." That code, sponsored in the House by Rep. Barry Goldwater Jr. (R.-Calif.), would give every citizen more control over who knows how much about his private life and how that knowledge may be used. Rep. Edward I. Koch (D.-N.Y.) and a few other legislators have proposed more stringent curbs and disclosure requirements for federal data systems. Again, formal recommendations from the executive branch might encourage Congress to act. If Mr. Nixon wants to achieve immediate reforms, he could even open many federal systems to public scrutiny by executive order right now.

Third, there are several other areas in which specific laws are needed to combat specific threats to individual liberties. Major improvements in the Fair Credit Reporting Act have been proposed by Sen. William Proxmire (D.-Wis.) and the Federal Trade Commission, which administers that act. Bills to protect the privacy of bank records are awaiting action. It is also about time for Congress to come to grips with the privacy problems raised by official efforts to learn more about the lives of welfare recipients, drug users, and others who participate in federally-funded programs.

The fourth item on the agenda is the toughest one. That is the problem of official investigations and intelligence—the problem raised by illegal and improper wiretaps, political surveillance, domestic spying plans, infiltration and harassment of dissident groups, and the whole raft of related abuses and excesses which have come to public attention in the past few years. There has been no shortage of congressional complaints about such incursions on the Bill of Rights; the Senate permanent investigations subcommittee has just launched a fresh probe of official surveillance efforts. So far, however, Congress as a whole has generally shied away from the hard question of how the government's enormous police powers ought to be used, and what kinds of investigations, by what agencies, are necessary and legitimate. Yet if legislators are finally serious about grappling with basic issues of liberty and governance, such problems of surveillance and law enforcement will have to be faced. Just making speeches about privacy is not enough.