

Three Brothers

By William Safire

ESSAY

WASHINGTON, Jan. 9 — "Little Brother" is watching you.

The poking and prying into an individual's private life by "Big Brother"—the Federal Government—is a matter of great concern, but the less-publicized snooping of "little" and "middle" brothers is more pervasive and no less a danger to personal freedom.

"Little Brother" is the hard-to-reach private organization that determines whether or not you are a good retail credit risk. Deadbeats do not deserve credit, but a great many honest live-beats have found themselves denied the right to live life on the installment plan because of computer foul-ups or the indelibly recorded judgments of vindictive neighbors.

The Fair Credit Reporting Act of 1970 helps the determined credit rejectee to find out who is rattling his rating, but "Little Brother" is still hard to find and nearly impossible to budge.

Right now, at State of the Union time, President Nixon is considering a proposal that would come to the aid of the individual's battered right to privacy in these ways:

1. Making it possible for an individual to see what is in his credit record and how it is being used;
2. Enabling that credit-seeker to correct and amend information that is inaccurate or incomplete;
3. Placing a legal "burden of reliability" on credit agencies so that they must take precautions against abuse of their files;
4. Preventing the use of information that people give about themselves for one purpose from being used for another purpose—which happens when you send in your address to receive an item and wind up on some mailing lists you don't want to be on.
5. Requiring agencies that ask individuals for information to inform them whether they are legally required to provide it. Sometimes you have to answer the Census Bureau, for example, and sometimes you can tell their doorbell-ringers to get lost.

Such proposals to shore up privacy are creditable, so to speak; so is an idea now being discussed in the White House to put restraints on "Middle Brother," the computerized cooperation between local police departments and state and Federal law enforcement agencies.

Police officials should have a quick way of identifying suspects or examining far-off records of previous convictions, and the F.B.I.'s National Crime Information Center has long been available to state agencies—but once placed in computers, how secure will

F.B.I. files be? When does sensible record-keeping become a dreaded "dosierization"?

One of the hottest controversies raging within the law-enforcement community is whether computers used by lawmen should be "dedicated" or "shared." Computer salesmen say it is cheaper and more efficient to "share" giant computers with banks and insurance companies, rather than to dedicate a computer to police work alone—but there is the danger of a smart programmer breaking the police code and having access to information that should be confidential.

Sounds esoteric—but a mistake here could put a crimp in privacy for decades to come. The legislative proposal the President is mulling over would make the Federal Law Enforcement Assistance Administration, which would put up the money for computerization, aware of the need for the most stringent safeguards.

This White House interest in curbing both little and middle brother is vital and welcome but it does not deal with the privacy question now on the front burner: warrantless wiretaps, the encroachment on Fourth Amendment protections by "Big Brother."

Such tapping was declared illegal by the Supreme Court in 1971; since then, no taps can be placed directly on American citizens even in national security cases without a court warrant—at least, that's how a nervous White House interprets the Supreme Court decision.

President Nixon is not one to cheerfully give away any of the powers of office, but the man who opened Pandora's Box of eavesdropping would be well advised to help nail down the lid.

One solution would be to do away with warrantless wiretaps entirely, forcing future Attorneys General to go to Federal judges for permission to do any tapping. This would drive the intelligence community up the wall; but isn't warrantless wiretapping a danger to liberty that outweighs the advantage of listening in to foreign embassies—especially when they know we're listening?

Since the state of this Union has been so deeply afflicted by matters related to eavesdropping, the President does well to think about civil liberties in dealing with the "little brother" of credit ratings and the "middle brother" of computerized police records. But that still leaves Big Brother. If the President were to take the lead in doing away with warrantless wiretaps, he would astound his friends, confound his critics and show history he was able to profit from his most costly lesson.