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APPROVED

DEC 31 1974

Statement issued 11/1/75

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To Archives 1/3/75

**THE WHITE HOUSE
WASHINGTON**

ACTION

Last Day: December 31, 1974

December 28, 1974

MEMORANDUM FOR:

THE PRESIDENT

FROM:

KEN COLB *C*

SUBJECT:

S. 3418 - Privacy Act of 1974



The Enrolled Bill Memorandum at Tab A sets forth the compromise provisions on Privacy adopted by the House and Senate without going to Conference. The legislation presents a case of "opportunity lost," since your administration hoped and expected to obtain the House version -- which was far preferable.

None of the agencies or departments have ever been enthusiastic about this legislation; and most have muted their comments in their certain expectation that you will sign it for political reasons. Those objections do, however, include:

- Creation of a Commission, where Presidential appointees are in the minority, which has subpoena power over individuals and their records.
- The fact that the bill, in effect, disclaims any relationship to the recently amended Freedom of Information Act -- despite an obvious interface between a bill which penalizes the release of information and a bill which penalizes the failure to release information.
- The fact that many of the provisions must await court interpretation which could greatly expand or narrow the effect of the legislation on current administrative procedures in the various departments.

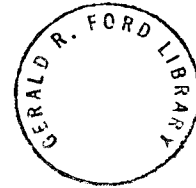
- Further, DOD feels the Congressional staff's Analysis gives wider interpretation to provisions than DOD thought they were agreeing to; and Justice feels the exemption provided law enforcement and litigation records are inadequate.

To the extent the objections point out this is not a perfect bill, they are entirely correct. But even your departments realize that this legislation contains almost all of your Administration's proposals. Your suggested signing statement at Tab B (Paul Theis has approved) emphasizes that this represents an initial attempt to strike a balance between competing interests and anticipates suggested changes in light of experience with the legislation.

There is no question in anyone's mind but that you should sign this legislation -- precisely because it is both a compromise and an initial effort to strike a balance in a very complex area. It does, however, represent only a beginning.

STAFF AND AGENCY POSITIONS

Friedersdorf	Approval
Ash	Approval
Cole	Approval
Areeda	Defers
NSC	No objection
Civil Service Commission	Approval
Department of Commerce	Approval (Informally)
Veterans Administration	Approval
Domestic Council Committee on Privacy	Approval
Department of Defense	Approval
Department of Health, Education, and Welfare	Approval (Informally)
Department of Justice	No objection
Central Intelligence Agency	No objection
General Services Administration	No objection
Federal Trade Commission	No objection (Informally)
Department of the Treasury	No recommendation
Department of State	Does not recommend veto





RECOMMENDATION

That you sign S.3418 and approve the signing statement which has been cleared by Paul Thies (Tab B).

DECISION

S. 3418

Sign (Tab C)

MR 9.

Veto _____

(Prepare memorandum of disapproval)

Signing Statement (Tab B)

Approve _____

MR 9.

Disapprove _____

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

DEC 26 1974



MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 3418 - Privacy Act of 1974
Sponsors - Sen. Ervin (D) North Carolina, Sen. Percy (R)
Illinois and Sen. Muskie (D) Maine

Last Day for Action

December 31, 1974 - Tuesday

Purpose

To safeguard individual privacy from misuse of Federal records, provide individual access to records, and establish a Federal Privacy Protection Study Commission.

Agency Recommendations

Office of Management and Budget	Approval
Civil Service Commission	Approval
Department of Commerce	Approval (Informally)
Veterans Administration	Approval
Domestic Council Committee on Privacy	Approval
Department of Defense	Approval
Department of Health, Education, and Welfare	Approval (Informally)
Department of Justice	No objection
Central Intelligence Agency	No objection
General Services Administration	No objection
Federal Trade Commission	No objection (Informally)
Department of the Treasury	No recommendation
Department of State	

Discussion

Background

Concern with the uses and possible abuses of personally identifiable information compiled by governments and other institutions is of long standing. Computers and the increasing size and scope

of institutions compiling such information has heightened the concern.

The report of the Senate Committee on Government Operations on the enrolled bill states that:

"...the computer is an instrument which is absolutely essential to the proper transaction of many government programs, and...the collection of information from the individual is absolutely necessary... At the same time, however, ...in the management of computer systems and all other aspects of information technology, a special status must be accorded to the issue of individual privacy..."



Establishment of the Domestic Council Committee on the Right of Privacy and your chairmanship of that Committee, while you were Vice-President, highlight the concern of the Administration with this problem.

During the 93rd Congress a number of congressmen played key roles in the development of numerous privacy initiatives and the Administration has been actively engaged with Congress in developing legislation. S. 3418 is a compromise bill reflecting the Administration's position, the position of the Senate in S. 3418 and a key House bill, H.R. 16373.

Provisions of the Enrolled Bill

The bill generally would require agencies to annually identify record keeping systems; establish minimum standards for all systems which would regulate the process of accumulation of data as well as its security and use; permit an individual to gain access to his record and contest its accuracy; provide administrative and judicial machinery for oversight; and establish a study commission.

Specifically, S. 3418 would require Federal agencies to:

- permit an individual to examine records pertaining to him and to correct or amend these records
- assure accuracy, currency, and security of records and limit record keeping activities to necessary and lawful purposes, and
- be subject to civil suit for willful or intentional action violating individual rights under the act.

The enrolled bill would provide that unless an individual otherwise consents, no agency shall disclose records except under specified conditions and only to persons and agencies, or for purposes expressly provided in the bill including:

- to officers within the agency maintaining the records who need the records in their work
- pursuant to a "routine use" -- a use compatible with the purposes for which the records were collected -- following public notice and comment on the type of "routine use"
- to the Bureau of the Census to perform their statutory functions
- to the National Archives where preservation is warranted
- to other agencies in connection with law enforcement activities under prescribed conditions
- to individuals when the health and safety of an individual is involved
- to committees of Congress with jurisdiction
- to the Comptroller General or pursuant to court order
- when required by the Freedom of Information Act for statistical purposes if the information is not in a form by which an individual may be identified.



Each agency would be required to keep a detailed accounting of all disclosures of records other than disclosures under the Freedom of Information Act, make the accounting available to the individual, inform the person to whom disclosure is made of any corrections made to the records disclosed, and retain the accounting for at least five years.

S. 3418 would require each agency to respond to a request by an individual for correction of a record pertaining to him within prescribed times, to provide procedures for an individual to contest an agency's refusal to correct a record and for noting the portions of records in dispute, and would provide for judicial review of agency decisions on requests for correction of records.

S. 3418 would further require each agency to:

- limit its record keeping to that which is relevant and necessary
- inform individuals requested to provide information of the authority for the request, the purpose for collecting the record, the uses to which the records will be put, and the legal implications of not providing requested information
- publish descriptive information on record systems
- assure such accuracy, relevance, timeliness and completeness of records as is necessary to assure fairness to the individual and make reasonable efforts to meet such standards before each disclosure
- maintain no record respecting exercise of first amendment rights, and
- develop procedures to provide notice to individuals concerning certain disclosures, develop rules of conduct for those working with records, establish safeguards, provide notice of system changes, provide for disclosure of records to affected individuals and to facilitate an individual's review of the records on himself.



The enrolled bill would permit judicial review of an agency's refusal to comply with a request for correction of an individual's record; refusal to permit examination of a record pertaining to him; and for a failure to comply with the Act if he is injured thereby, and would permit judicial in camera court inspection of records, de novo court review, assessment of litigation costs and attorney fees to successful litigants, and actual damages incurred by the individual.

The enrolled bill would provide for criminal penalties and a fine up to \$5,000 against officers and employees of agencies when such people have knowingly and willfully acted in violation of the bill. Exemptions from many of the provisions of the bill would be permitted by the bill after promulgation of rules for records:

- of the CIA and criminal justice agencies
- comprised of investigatory material for law enforcement purposes

- maintained for the protective services to the President
- required to be maintained for statistical purposes
- for determining eligibility for Federal employment or security clearance if such disclosure would violate confidentiality, and
- certain testing and examination and evaluatory material.



S. 3418 would require the Office of Management and Budget to develop regulations to implement the bill and provide continuing oversight of the implementation of the bill.

S. 3418 would establish a two-year Privacy Protection Study Commission composed of seven members -- three appointed by the President and two each appointed by the Speaker of the House and the President of the Senate.

The Commission, would be required to conduct a study and review a wide range of public and private record systems and to analyze the relationship of such systems to constitutional rights, potential abuses, and standards which would be established under the bill. The Commission would be required to make general recommendations and to propose changes in laws or regulations on certain matters. The Commission would be authorized to hold hearings, conduct inspections, issue subpoenas to compel attendance of witnesses or production of books or records, and administer oaths. The Commission may appoint an executive director and other personnel at rates not to exceed GS-18.

The enrolled bill would restrict the use of Social Security numbers for identification; prohibit an agency from selling a mailing list unless authorized by law; and authorize appropriation of \$1.5 million for fiscal years 1975, 1976, and 1977 except that no more than \$750,000 could be spent during any one fiscal year.

Assessment of the Enrolled Bill

The enrolled bill is a compromise between a House bill, H.R. 16373, which the Administration supported and a Senate bill S. 3418, which the Administration opposed. The compromise represents the result of extensive discussion among the two Congressional committee staffs and executive branch representatives.

We would have preferred a bill which had no Privacy Commission in it. However, the Commission provided for in S. 3418 is a substantial improvement from earlier versions which would have created a commission with operating and regulatory functions. The enrolled bill limits the Commission to a study role, and the Commission expires after two years.

The bill provides for direct submission to the Congress of budget and legislative proposals without review by the executive branch. We object to this provision which circumvents the orderly review of legislative and budget proposals.

The Commission has three members appointed by the President, two by the Speaker of the House and two by the President of the Senate, and the chairman is selected by the members. We would have preferred Presidential appointments of all members and the chairman. We also oppose the subpoena power which the bill would provide.

The bill would require release of personal information to anyone requesting it under the Freedom of Information Act unless the release would constitute a clearly unwarranted invasion of privacy. We would have preferred an approach which would have precluded release of personal information except for essential reasons set forth in the bill, instead of permitting the courts to define what a clearly unwarranted invasion of privacy is.

The bill would permit judicial review of agency decisions on an individual's challenge to the accuracy of his records. This could be expensive and we preferred no judicial review unless an individual is somehow adversely affected by an inaccurate record. We also objected to the requirement to assure accuracy of a record prior to each release.

The bill would require advance notice of the establishment or significant alteration of a personal information system to Congress and OMB. We oppose this as too costly and cumbersome.

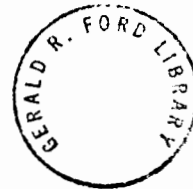
The bill would permit disclosure to the Comptroller General without a requirement for safeguards. We would have preferred that all access to the records be subject to similar standards.



On balance, we feel the enrolled bill represents a significant step forward and the most acceptable compromise possible of the issues on which we had reservations.


Acting Director

Enclosures

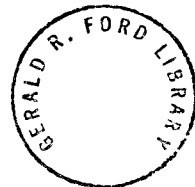


substantive change in the current law. The latter in my opinion does not adequately protect the individual against unnecessary disclosures of personal information.

I want to congratulate the Congressional sponsors of this legislation and their staffs who have forged a strong bipartisan constituency in the interest of protecting the right of individual privacy. Experience under this legislation, as well as further exploration of the complexities of the issue, will no doubt lead to continuing Legislative and Executive efforts to reassess the proper balance between the privacy interests of the individual and those of society. I look forward to a continuation of the same spirit of bipartisan cooperation in the years ahead.

My Administration will act aggressively to protect the right of privacy for every American, and I call on the full support of all Federal personnel in implementing requirements of this legislation.

Gerald R. Ford



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 854

Date: December 27, 1974

Time: 7:00 p.m.

FOR ACTION: Max Friedersdorf *oh*
NSC/S *noobj.*

cc (for information): Warren Hendriks
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Saturday, December 28

Time: noon

SUBJECT:

Proposed signing statement for S. 3418 - Privacy Act of 1974



ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President

THE WHITE HOUSE
WASHINGTON

December 28, 1974

MEMORANDUM FOR: WARREN HENDRIKS
FROM: MAX L. FRIEDERSDORF
SUBJECT: Action Memorandum - Log No. 854
Proposed signing statement for S. 3418
Privacy Act of 1974

The Office of Legislative Affairs concurs in the attached proposal and has no additional recommendations.

Attachment



THE WHITE HOUSE

WASHINGTON

ACTION MEMORANDUM

LOG NO.: 854

Date: December 27, 1974

Time: 7:00 p.m.

FOR ACTION: Max Friedersdorf
NSC/S

cc (for information): Warren Hendriks
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Saturday, December 28

Time: noon

SUBJECT:

Proposed signing statement for S. 3418 - Privacy Act of 1974



ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

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For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Warren K. Hendriks
For the President

THE WHITE HOUSE

STATEMENT BY THE PRESIDENT



I am pleased to have before me this important piece of legislation--The Privacy Act of 1974. It represents an initial but essential advance in protecting a right precious to every American--the right of individual privacy.

I am, moreover, especially happy to sign this bill because of my own personal concern in the privacy issue. As Chairman of the Domestic Council Committee on the Right of Privacy, I became increasingly aware of the vital need to provide adequate and uniform privacy safeguards for the vast amounts of personal information collected, recorded and used in our complex society. It was my objective then, as it is today, to seek first opportunities to set the Federal House in order before prescribing remedies for State and local government and the private sector.

The Privacy Act of 1974 signifies an historic beginning in codifying fundamental principles to safeguard personal privacy in the collection and handling of recorded personal information by Federal agencies. This bill, for the most part, strikes a reasonable balance between the right of the individual to be left alone and the interest of society in open government, national defense, foreign policy, law enforcement and a high quality and trustworthy Federal work force.



No bill of this scope and complexity--particularly initial legislation of this type--can be completely free of imperfections. While I am pleased that the Commission created by this law has been limited to purely advisory functions, I am disappointed that the provisions for disclosure of personal information by agencies make no substantive change to the current law, which in my opinion does not adequately protect the individual against unnecessary disclosures of personal information.

I want to pay personal tribute to the sponsors of this legislation. They have helped forge a strong bipartisan constituency in the interest of protecting the right of individual privacy. I commend these individuals, their Congressional staffs and officials in the Executive Branch for their unwaivering dedication and hard work in enacting this bill. I take special pride in knowing that this historic legislation came to fruition in the spirit of cooperation between the legislative and executive branches of our government.

I call on the full support of all Federal personnel in implementing requirements of this legislation. My Administration will continue to aggressively pursue measures needed to protect the right of privacy for every American.

THE WHITE HOUSE

STATEMENT BY THE PRESIDENT



, S.3418,
The Privacy Act of 1974⁴ represents an initial but essential advance in protecting a right precious to every American--the right of individual privacy.

I am especially happy to sign this bill because of my own personal concern in the privacy issue. As Chairman of the Domestic Council Committee on the Right of Privacy, I became increasingly aware of the vital need to provide adequate and uniform privacy safeguards for the vast amounts of personal information collected, recorded and used in our complex society. It was my objective then, as it is today, to seek, first, opportunities to set the Federal house in order before prescribing remedies for State and local government and the private sector.

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I want to congratulate the Congressional sponsors of this legislation and their staffs who have forged a strong bipartisan constituency in the interest of protecting the right of individual privacy. Experience under this legislation, as well as further exploration of the complexities of this issue, will no doubt lead to continuing Legislative and Executive efforts to reaccess the proper balance between the privacy interests of the individual and those of society. I look forward to a continuation of the same spirit of bipartisan cooperation in the years ahead.

My Administration will act aggressively to protect the right of privacy for every American, and I call on the full support of all Federal personnel in implementing requirements of this legislation.



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 842

Date: December 26, 1974

Time: 3:30 p.m.

FOR ACTION:

Geoff Shepard
Max Friedersdorf *oh*
Phil Areeda *comments but defers*
NSC/S *no obj - Janha*

cc (for information): Warren Hendriks
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Friday, December 27

Time: noon

SUBJECT:

Enrolled Bill H. 3418 - Privacy Act of 1974



ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President

92, 2/27/74

THE WHITE HOUSE



STATEMENT BY THE PRESIDENT

~~I am pleased to have before me this important piece of legislation.~~ The Privacy Act of 1974 ^{S. 3418} represents an initial but essential advance in protecting a right precious to every American--the right of individual privacy.

I am ~~_____~~ especially happy to sign this bill because of my own personal concern in the privacy issue. ~~As Chairman~~ As Chairman of the Domestic Council Committee on the Right of Privacy, I became increasingly aware of the vital need to provide adequate and uniform privacy safeguards for the vast amounts of personal information collected, recorded and used in our complex society. It was my objective then, as it is today, to seek, first, opportunities to set the Federal House in order before prescribing remedies for State and local government and the private sector.

The Privacy Act of 1974 signifies an historic beginning ^{by} in codifying fundamental principles to safeguard personal privacy in the collection and handling of recorded personal information by Federal agencies. This bill, for the most part, strikes a reasonable balance between the right of the individual to be left alone and the interest of society in open government, national defense, foreign policy, law enforcement and a high quality and trustworthy Federal work force.

No bill of this scope and complexity--particularly initial legislation of this type--can be completely free of imperfections. While I am pleased that the Commission created by this law has been limited to purely advisory functions, I am disappointed that the provisions for disclosure of personal information by agencies make no substantive change ⁱⁿ the current law, ^{The letter} which in my opinion does not adequately protect the individual against unnecessary disclosures of personal information.

I want to ^{congratulate} ~~pay personal tribute to~~ ^{the bill's} ~~the~~ ^{the Congressional sponsors, and their staffs,} ~~sponsors of this legislation~~ ^{of their legislation} ~~who~~ ^{who} have helped forge a strong bipartisan constituency in the interest of protecting the right of individual privacy. ^{My name} ~~I commend these individuals, their Congressional staffs and officials in the Executive Branch for their unwavering dedication and hard work in enacting this bill.~~ ^{and as further exploration of the complexities of the issue, will no doubt lead to continuing legislative and executive efforts to reach the proper balance between the privacy interests of the individual and those of society. I look forward} ~~I take special pride in knowing that this historic legislation came to fruition in the spirit of cooperation between the legislative and executive branches of our government.~~ ^{to a continuation of the same spirit of bipartisan cooperation in the years ahead.}

I call on the full support of all Federal personnel in implementing requirements of this legislation. ^{act} ~~My~~ Administration will ~~continue~~ ^{act} to aggressively ~~promote~~ ^{act} ~~measures~~ needed to protect the right of privacy for every American, and

*Respectfully,
Gerald R. Ford*



THE WHITE HOUSE
WASHINGTON

December 27, 1974

MEMORANDUM FOR: WARREN HENDRIKS
FROM: MAX L. FRIEDERSDORF
SUBJECT: Action Memorandum - Log No. 842
Enrolled Bill S. 3418 - Privacy Act of 1974

The Office of Legislative Affairs concurs in the attached proposal and has no additional recommendations.

Attachment



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 842

Date: December 26, 1974

Time: 3:30 p.m.

FOR ACTION: Geoff Shepard
Max Friedersdorf
Phil Areeda
NSC/S

cc (for information): Warren Hendriks
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Friday, December 27

Time: noon

SUBJECT:

Enrolled Bill S. 3418 - Privacy Act of 1974



ACTION REQUESTED:

___ For Necessary Action

X For Your Recommendations

___ Prepare Agenda and Brief

___ Draft Reply

X For Your Comments

___ Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

This legislation seems all-considered to me, but I defer to those who have worked with it. I note, however, that some Departments have submitted their views under the impression that the President has already decided that he wants to sign the bill.

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President



COMMISSIONER

UNITED STATES CIVIL SERVICE COMMISSION

WASHINGTON, D. C. 20415

December 23, 1974

Honorable Roy L. Ash
Director, Office of Management
and Budget
Washington, D.C. 20530

Attention: Assistant Director for
Legislative Reference



Dear Mr. Ash:

This is in reply to your request for the views of the Civil Service Commission on enrolled bill S. 3418, "To amend title 5, United States Code, by adding a section 552a to safeguard individual privacy from the misuse of Federal records, to provide that individuals be granted access to records concerning them which are maintained by Federal agencies, to establish a Privacy Protection Study Commission and for other purposes."

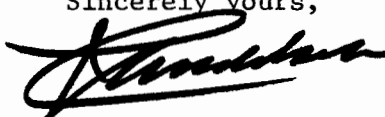
To accomplish the purposes stated in the title, the bill sets out conditions for disclosure to Federal employees of records concerning them, requires accounting for disclosures of employee records among agencies, imposes restrictions on the types of records agencies can maintain on individuals and provides civil remedies for maintenance of faulty records and criminal penalties for improper disclosure of records. The bill also establishes a temporary Privacy Protection Study Commission to make studies in the privacy area, make recommendations to Congress, the President, and Federal agencies on this and other legislation and prohibits Federal and State Government requests of individuals for their social security numbers, unless pursuant to law.

The Commission had objected to the original version of S. 3418 in its report of July 24, 1974 and to provisions of a companion House bill, H.R. 16373, on September 18, 1974. Vital exemptions to disclosure provisions of the legislation recommended by the Commission for its testing material and for the confidentiality of its sources of

investigation material have been incorporated in the proposed section 552a(j)(5) and (6) to title 5, United States Code in the bill. We interpret paragraph (5) of section 552a(j) to mean that the source of confidential information may be withheld from the individual except in those cases where a benefit is to be denied without revealing the information on the basis that such revelation would identify the source. In such cases the identity of the source must be revealed or the information may not be used. Although the Commission believes that the implementation of a number of the provisions of the bill will require a good deal of time and expense on the part of the Commission and Federal agencies, in view of the strong support for legislation of this nature in the Congress as evidenced by the large majorities that passed the bill in both Houses, we recommend that the President sign this enrolled bill.

By direction of the Commission:

Sincerely yours,


ACTING Chairman





VETERANS ADMINISTRATION
OFFICE OF THE ADMINISTRATOR OF VETERANS AFFAIRS
WASHINGTON, D.C. 20420

DECEMBER 23 1974

The Honorable
Roy L. Ash
Director, Office of
Management and Budget
Washington, D. C. 20503



Dear Mr. Ash:

This will respond to the request by the Assistant Director for Legislative Reference for the views and recommendations of the Veterans Administration on the enrolled enactment of S. 3418, 93d Congress, which would be cited as the "Privacy Act of 1974."

This comprehensive measure is designed to protect the privacy of individuals with respect to information gathered and maintained by Governmental agencies. It would impose limitations on the gathering, dissemination, and exchange of information maintained by a Governmental agency on individuals; authorize an individual to inspect records concerning him maintained by a Governmental agency; permit him to make corrections to such records; grant jurisdiction to courts in cases of disagreement between the individual and the Government, including the award of damages and would authorize penalties against employees of the Government who were found guilty of disobeying the provisions of the proposed statute; establish the Privacy Protection Study Commission, whose duty it would be to study the information systems of governmental and private organizations in order to determine the standards and procedures for the protection of personal information; and authorize the Commission to make legislative recommendations for the implementation and revision of this program.

The enrolled enactment has the same related purposes as that of draft bills and a draft Executive Order prepared by your office, which proposals were the subject of correspondence between our respective offices.

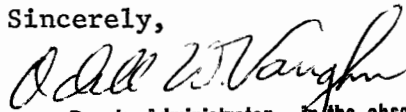
In our comments on the mentioned prior proposals, the Veterans Administration has recognized that irreparable harm may be incurred by individuals from inaccurate or incomplete information of which the individual has no knowledge or opportunity to rebut or explain. We have also expressed the belief that the rights of the individual are a matter of legitimate concern and that a responsible approach to the reconciliation of public and private interests is a proper concept and goal. At the same time, we expressed fears that the proposed

legislation would create a significant additional administrative workload and additional administrative problems for this agency. We have also expressed our fears concerning the release, without reservation, of medical records concerning a patient's mental condition in those cases where such information could be injurious to a veteran's mental health.

We continue to have the reservations and fears expressed in our prior correspondence. We do not believe, however, that such considerations are sufficient to recommend a Presidential veto.

In light of the foregoing, I recommend that the President approve S. 3418.

Sincerely,



Deputy Administrator - in the absence of

RICHARD L. ROUDEBUSH
Administrator



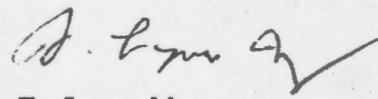
THE WHITE HOUSE
WASHINGTON

December 20, 1974

MEMORANDUM FOR WILLIAM SKIDMORE

SUBJECT: Privacy Bill Signing Statement

Attached is a draft of a signing statement to supplant the one submitted by the Domestic Council Committee Staff. Bob Bedell and I worked on this together. Thanks.


F. Lynn May



Attachment

THE WHITE HOUSE

STATEMENT BY THE PRESIDENT



I am pleased to have before me this important piece of legislation--The Privacy Act of 1974. It represents an initial but essential advance in protecting a right precious to every American--the right of individual privacy.

I am, moreover, especially happy to sign this bill because of my own personal concern in the privacy issue. As Chairman of the Domestic Council Committee on the Right of Privacy, I became increasingly aware of the vital need to provide adequate and uniform privacy safeguards for the vast amounts of personal information collected, recorded and used in our complex society. It was my objective then, as it is today, to seek first opportunities to set the Federal House in order before prescribing remedies for State and local government and the private sector.

The Privacy Act of 1974 signifies an historic beginning in codifying fundamental principles to safeguard personal privacy in the collection and handling of recorded personal information by Federal agencies. This bill, for the most part, strikes a reasonable balance between the right of the individual to be left alone and the interest of society in open government, national defense, foreign policy, law enforcement and a high quality and trustworthy Federal work force.

No bill of this scope and complexity--particularly initial legislation of this type--can be completely free of imperfections. While I am pleased that the Commission created by this law has been limited to purely advisory functions, I am disappointed that the provisions for disclosure of personal information by agencies make no substantive change to the current law, which in my opinion does not adequately protect the individual against unnecessary disclosures of personal information.

I want to pay personal tribute to the sponsors of this legislation. They have helped forge a strong bipartisan constituency in the interest of protecting the right of individual privacy. I commend these individuals, their Congressional staffs and officials in the Executive Branch for their unwaivering dedication and hard work in enacting this bill. I take special pride in knowing that this historic legislation came to fruition in the spirit of cooperation between the legislative and executive branches of our government.

I call on the full support of all Federal personnel in implementing requirements of this legislation. My Administration will continue to aggressively pursue measures needed to protect the right of privacy for every American.

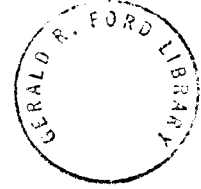




GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
WASHINGTON, D. C. 20301

24 December 1974

Honorable Roy L. Ash
Director
Office of Management and Budget
The White House
Washington, D. C. 20500



Dear Mr. Ash:

This is in response to the request of the Office of Management and Budget (OMB) dated December 20, 1974, for the views of the Department of Defense on the enrolled enactment of S. 3418, 93d Congress, entitled "Privacy Act of 1974."

The legislation was designed to protect the privacy of each individual by giving him certain rights in the process by which information concerning him is collected, stored, disseminated, and used by Federal agencies. During the legislative process the Department of Defense recommended a number of changes in the legislation in order to permit a proper balancing of individual rights and the needs of the Government. While the Privacy Act of 1974 is basically acceptable to the Department of Defense, the matters set forth in the following paragraphs should be carefully weighed before submitting recommendations to the President.

Section 3 amends section 552 of title 5, United States Code by providing among other things, that each agency "maintain no record describing how any individual exercises rights guaranteed by the First Amendment" unless such record is expressly authorized by statute, or by the individual, or "within the scope of an authorized law enforcement activity." The scope of this prohibition is virtually limitless, and could be construed to prohibit record keeping deemed essential to the conduct of Government business. For example, it brings into question the Department's authority to maintain investigative files about activities and associations of its employees and defense contractor personnel as required by Executive Orders 10450 and 11652. Unless it can be demonstrated

that such investigative records are expressly authorized "by statute" or "within the scope of an authorized law enforcement activity" the Department would be prohibited. Should the Courts decide that the exceptions are to be narrowly interpreted, remedial legislation would be necessary in order that essential investigative programs, involving civilian employees, military personnel, and Defense contractor personnel, might be resumed.

The second major area of concern are the considerable administrative problems resulting from its enactment, including the substantial increase in the cost of modifying our record management systems. Unlike most legislation, it does not deal with a single governmental function, but imposes privacy requirements on a wide range of Governmental functions. Given the magnitude of the coverage of the legislation, and the absence of any comparable experience in implementing legislation of this nature, there will be not only a substantial amount of administrative adjustments necessary, but also a need for programming additional funds to meet the requirements of the new law.

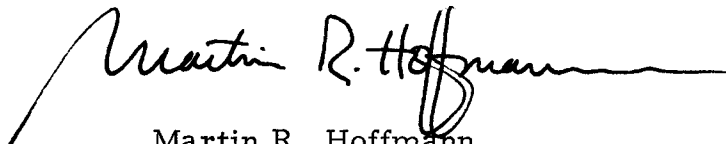
The third and final caveat relates to the "Analysis of House and Senate Compromise Amendments to the Federal Privacy Act" presumably prepared by the Congressional staff involved in the development of the Conference Report. The Analysis sets forth interpretations of the Act which do not square with those accepted by the Department of Defense during the closing stages of negotiations. For example, the Analysis suggests that agencies are required to inform an individual about the "existence" of information about him, even though such a revelation might identify a confidential source. This, and other statements, are completely contrary to the Defense Department's understanding, and would be opposed if it is considered to be the controlling legislative interpretation. Consequently, the President's Statement upon signing the bill should seek to narrow these sweeping and overly broad legislative interpretations.

Despite the above reservations, the Department of Defense has concluded that the Privacy Act of 1974 offers the best prospect, at the present time, for achieving an acceptable balance between

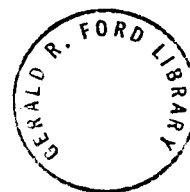


the Government's need for personal information and the need of the individual for privacy. It is therefore recommended that the President sign the enrolled enactment of S. 3418.

Sincerely,

A handwritten signature in black ink that reads "Martin R. Hoffmann". The signature is written in a cursive style with a long, sweeping underline.

Martin R. Hoffmann





DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

DEC 24 1974

Honorable Roy L. Ash
Director, Office of Management
and Budget
Washington, D. C. 20503

Dear Mr. Ash:

This is in response to Mr. Rommel's request for a report on S. 3418, an enrolled bill "To amend title 5, United States Code, by adding a section 552a to safeguard individual privacy from the misuse of Federal records, to provide that individuals be granted access to records concerning them which are maintained by Federal agencies, to establish a Privacy Protection Study Commission, and for other purposes."

On October 9, 1974, the President issued a statement on S. 3418 and its companion in the House, H.R. 16373. In substance, the President expressed his support for H.R. 16373, except for the provisions, then contained in the bill, which would have allowed unlimited individual access to records vital to determining eligibility and promotion in the Federal service and access to classified information. He also opposed the establishment, by S. 3418, of a separate commission or board to administer the Privacy Act. Finally, he asked executive branch officials to continue to work with the Congress to assure swift action on measures to strengthen privacy and confidentiality in income tax records, criminal justice records, and other areas identified as needed privacy initiatives by the Domestic Council Committee on the Right of Privacy.

Although the bill, in its present form, would appear to meet these concerns, we defer on those issues to the Domestic Council Committee and to other agencies more directly affected than this Department.

Insofar as the bill would touch on matters peculiar to our programmatic interests, we would invite your attention



Honorable Roy L. Ash

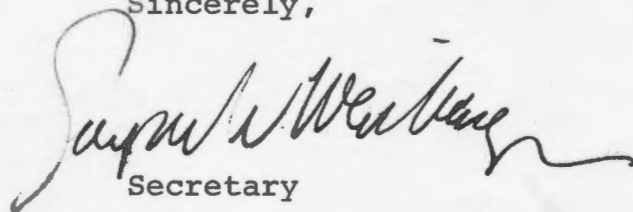
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to the bill's section 7, which would make it unlawful for any Federal, State, or local government agency to deny to any individual any right, benefit, or privilege provided by law because of the individual's refusal to disclose his social security account number. The section would not apply to disclosures required by Federal statute; or to other disclosures pursuant to statutes or regulations adopted prior to January 1, 1975, if requested in order to verify the identity of an individual. Requesting agencies would be required to inform individuals solicited of the legal basis for the request, and the uses to be made of the number requested.

This provision, as far as it goes, is consistent with a proposal to govern the use of the social security number now under development within the Department for submission to the 94th Congress.

Subject to the views of other affected agencies, we recommend that the enrolled bill be approved.

Sincerely,

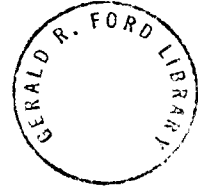

Secretary



Department of Justice
Washington, D.C. 20530

DEC 24 1974

Honorable Roy L. Ash
Director, Office of Management
and Budget
Washington, D.C. 20503



Dear Mr. Ash:

In compliance with your request, I have examined a facsimile of the enrolled bill, S. 3418, the "Privacy Act of 1974."

The bill would provide individuals with a right of access to records kept about them by the Executive Branch of the Federal Government, the right to correct those records, and the right to control dissemination of the records to some extent. It would require agencies to publish annual notice of the contents of their records and to maintain the records in a manner to insure their accuracy, timeliness, completeness and relevance. Limited exemptions may be made, after public hearing, for law enforcement and other records. The bill would also create a study commission which would have full access to all government records relevant to its broad mission.

The Department of Justice recognizes the importance and necessity for privacy legislation with respect to individually identifiable records maintained by the Federal Government. However, the provisions in the bill permitting exemption of law enforcement and litigation records are inadequate. They do not adequately protect law enforcement files and may seriously interfere with the Department of Justice's litigation responsibility. Moreover, the vagueness of the bill, such as the lack of any standard for completeness, accuracy, timeliness and relevancy, will generate excessive litigation burdening both this Department and the federal courts. The bill, in effect, disclaims any relationship to the recently amended Freedom of Information Act despite an obvious interface between a bill which penalizes the release of information and a bill which penalizes the failure to release information. Increased litigation will undoubtedly result also from attempts to reconcile these provisions.



Notwithstanding the problems noted above, the Department of Justice does not object to Executive approval.

Sincerely,



W. Vincent Rakestraw
Assistant Attorney General



CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

21 December 1974

Honorable Roy L. Ash, Director
Office of Management and Budget
Washington, D. C. 20503



Dear Mr. Ash:

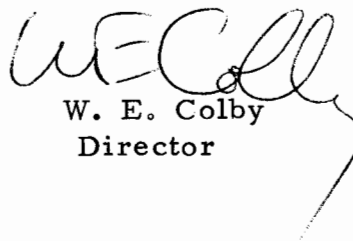
This is in response to your request for this Agency's views and recommendations on enrolled bill S. 3418, the "Privacy Act of 1974."

Congress recognized that the activities of the Agency require special consideration and in section 552a. (j)(1) of the bill exempted Agency records from most of the bill's operative provisions. The Agency is subject to subsections (b) and (i), and to certain provisions in subsections (c) and (e). These provisions require the proper protection, handling, and control of personal information, and publication in the Federal Register of a description of personal records systems.

By providing our exemption, the Congress assured the protection of sensitive intelligence information. The broad powers granted the Privacy Protection Study Commission are a matter of concern to me; however, I am sure that the Commission will take due regard for the special status of the Agency records pertaining to individuals, and of my statutory responsibility to protect intelligence sources and methods from unauthorized disclosure.

In principle, I endorse the objectives of S. 3418 to establish a comprehensive program for the protection of individual privacy. I appreciate the fact that the subject is highly complex, and recognize that this bill was the best compromise attainable. I therefore have no objection to approval of S. 3418 by the President.

Sincerely,


W. E. Colby
Director

UNITED STATES OF AMERICA
GENERAL SERVICES ADMINISTRATION
WASHINGTON, DC 20405



DEC 23 1974

Honorable Roy L. Ash
Director
Office of Management and Budget
Washington, DC 20503



Dear Mr. Ash:

By referral dated December 20, 1974, from the Assistant Director for Legislative Reference, your office requested the views of the General Services Administration on enrolled bill S. 3418, 93rd Congress an act "To amend title 5, United States Code, by adding a section 552a to safeguard individual privacy from the misuse of Federal records, to provide that individuals be granted access to records concerning them which are maintained by Federal agencies, to establish a Privacy Protection Study Commission, and for other purposes."

Although we believe that agencies may experience considerable difficulty in implementing the provisions of section 3 and 4 of the bill within the 270-day period provided in section 8, particularly since the development of guidelines by OMB as required by section 6 will consume a portion of that period, GSA interposes no objection to Presidential approval of the enrolled bill.

Sincerely,

Dwight A. Ink
Dwight A. Ink
Acting Administrator



THE GENERAL COUNSEL OF THE TREASURY
WASHINGTON, D.C. 20220

DEC 20 1974

Director, Office of Management and Budget
Executive Office of the President
Washington, D.C. 20503



Attention: Assistant Director for Legislative Reference

Dear Sir:

Your office has requested the views of this Department on S.3418, the Privacy Act of 1974. The Treasury Department believes that the Privacy Act of 1974 accomplishes some broad goals of the Administration, but that it suffers a number of technical deficiencies. However, these do not appear sufficient to justify a veto recommendation, although clarifying and improving legislation should be strongly pursued before the principal operative sections of the enrolled enactment become effective in nine months from the date of enactment.

Furthermore, we are concerned that the expenditures resulting from this legislation may be considerably higher than the version originally proposed and the draft Privacy Act presented by the Office of Management and Budget.

The Treasury Department has no recommendation to make as to whether the enrolled enactment should be approved by the President.

Very truly yours,

Richard R. Albrecht



DEPARTMENT OF STATE

Washington, D.C. 20520

Honorable Roy L. Ash
Director
Office of Management
and Budget
Washington, D. C. 20503

December 26, 1974



Dear Mr. Ash:

Mr. Rommel's enrolled bill request of December 20, 1974, requested the views of the Department of State on S. 3418, a bill to safeguard individual privacy. The Department is seriously concerned about the substantive and administrative-fiscal implications of the bill, but believes that only experience will determine what modifications will be necessary. We note that the effect of the substantive provisions is deferred for 270 days following enactment, so that we will have some opportunity to propose modifications in that time.

I would not wish to give the impression that the Department's view of this bill is negative on its substantive aspects. We believe that the restrictions it would place on disclosure of information collected by Government agencies for purposes other than that for which collected, and on disclosure generally, are useful and desirable to prevent abuse of the information collection function.

As background for discussion of our substantive and other concerns, it is important to point out that the Department of State has a very substantial volume of files on individuals.

Each passport application generates an individual file. At present, there are 90 million such files, of which 5 million are stored on the premises of the Passport Office, 35 million active files are stored in facilities of the Federal Records Center, and 50 million have been placed in the custody of the National Archives. While the application itself is submitted by the subject of the file, the file often contains



information from other sources. Our Foreign Service posts, pursuant to their statutory responsibility for protection of Americans overseas, routinely report considerable information on Americans. They inform the Department whenever an American is arrested abroad, normally report other serious incidents affecting Americans, and are asked to report on behalf of family on the welfare and whereabouts of Americans. An estimated 10 to 15 thousand individual files are generated each year by these reports. In addition, there is commercial and political reporting which may include information on Americans and may or may not be filed under the name of the person. These files would be in the Central Foreign Policy files. Finally, there are personnel files, loyalty-security files, suitability files and the like on Department personnel and applicants for employment.

We are uncertain what protection there is under the bill from unauthorized access by the subject of a file to classified information or otherwise privileged information. The provisions of the bill authorizing heads of agency to exempt a "system" of records (section (k)) in certain circumstances are not clear. There is no "system of records" of this Department which as such is subject to section 552(b)(1) of Title 5 United States Code (information required to be kept secret under the criteria of Executive order). The Central Foreign Policy files, which is one "system", contains both classified and unclassified material; the same is true of many of the 32 authorized decentralized file "systems". We presume that the provision on specific exemptions would be so construed that classified and other privileged material which is now protected may continue to be protected; however, like the provisions in the 1974 Freedom of Information Act Amendments which authorize Judicial review of classification determinations by Executive agencies, S. 3418 provides Judicial review of determinations of entitlement to access. There may be constitutional issues here.

Second, the requirements of S. 3418 on specific exemptions for investigative reports, particularly in the light of section (Q), appear to provide narrower grounds for protection of investigative information (not limited to sources) than is provided by the 1974 Freedom of Information Act Amendments, which themselves created serious concern about the adverse impact on investigations.

Third, subsection (e)(3) of S. 3418, if applied literally to the overseas reporting of the Foreign Service, would have no doubt unintended consequences and could reduce the effectiveness of that reporting by imposing technical formalities and possibly chilling warnings.



Another area of substantive concern is with the impact of the access provisions of the bill on the loyalty-security program. Department employees are particular targets of foreign espionage, and much of our preventive security program depends upon leads. Coupled with the Freedom of Information Act amendments of 1974, S. 3418, because no meaningful assurance of confidentiality can be given, could have a chilling effect on the free flow of relevant and necessary information to the responsible investigative agencies from members of the public whose information is useful essentially only for lead purposes. We would like the Administration to consider corrective legislation should experience indicate that this is happening--paralleling the experience under recent legislation opening files of educational institutions.

With respect to the administrative-fiscal aspects of S. 3418, reports by the Department on other privacy bills indicated that a onetime expenditure of \$200,000 and a recurring annual expenditure of approximately \$373,000 would be required just to set up and maintain the central files of the Department to meet the requirements for protection against unauthorized disclosure, access and review by subjects of files, and correction of files. In addition, it was estimated that approximately \$375,000 the first year, and somewhat less each year thereafter, would be required by the Office of Personnel to cover the identification and definition of records services under its jurisdiction and to develop procedures and to carry out the action required by S. 3418. Similar expenditures could be anticipated for at least some of the authorized decentralized files. In the case of 50 million passport files in the custody of the Archives, of course, the Department has no basis for estimating costs. With respect to the 35 million files stored off premises, we would need to know if we would be charged by the Federal Records Center for our portion of their total costs of implementing the bill or would have to establish our own system. With respect to the 5 million passport files now stored on premises, present physical facilities are inadequate, and a major capital expenditure may well be required, as well as additional personnel costs. If S. 3418 becomes law, we would thus expect a major supplemental authorization and appropriation for the Department to prepare for the effective date and substantially increased regular appropriations in subsequent fiscal years. We would expect to need some time to come up with precise figures.

In summary, the Department, while seriously concerned about the effects of S. 3418, is sufficiently unclear about the precise dimensions of these problems to recommend veto.

We would suggest that the President make a signing statement in which he indicates that experience with the law may necessitate some amendments for budgetary reasons and to reduce undue interference with the conduct of official business. In any event, we would wish to work closely with other agencies in developing guidelines for implementation of this bill.

Cordially,



Linwood Holton
Assistant Secretary
for Congressional Relations





THE UNDER SECRETARY OF COMMERCE
Washington, D.C. 20230

DEC 24 1974



Honorable Roy L. Ash
Director, Office of Management
and Budget
Washington, D. C. 20503

Attention: Assistant Director for Legislative Reference

Dear Mr. Ash:

This is in reply to your request for the views of this Department concerning S. 3418, an enrolled enactment

"To amend title 5, United States Code, by adding a section 552a to safeguard individual privacy from the misuse of Federal records, to provide that individuals be granted access to records concerning them which are maintained by Federal agencies, to establish a Privacy Protection Study Commission, and for other purposes,"

to be cited as the "Privacy Act of 1974".

This Department recommends approval by the President of S. 3418.

Enactment of this legislation is expected to involve some increase in the administrative costs of this Department, the extent of which we are unable to estimate at this time.

Sincerely,


John K. Tabor

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

DEC 26 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 3418 - Privacy Act of 1974
Sponsors - Sen. Ervin (D) North Carolina, Sen. Percy (R) Illinois and Sen. Muskie (D) Maine

Last Day for Action

December 31, 1974 - Tuesday

Purpose

To safeguard individual privacy from misuse of Federal records, provide individual access to records, and establish a Federal Privacy Protection Study Commission.

Agency Recommendations

Office of Management and Budget	Approval
Civil Service Commission	Approval
Department of Commerce	Approval (Informally)
Veterans Administration	Approval
Domestic Council Committee on Privacy	Approval
Department of Defense	Approval
Department of Health, Education, and Welfare	Approval (Informally)
Department of Justice	No objection
Central Intelligence Agency	No objection
General Services Administration	No objection
Federal Trade Commission	No objection (Informally)
Department of the Treasury	No recommendation
Department of State	

Discussion

Background

Concern with the uses and possible abuses of personally identifiable information compiled by governments and other institutions is of long standing. Computers and the increasing size and scope



To
Harmon Henderson
12-26-74
1:00 P.M.

Office of the White House Press Secretary
(Vail, Colorado)

THE WHITE HOUSE

STATEMENT BY THE PRESIDENT

The Privacy Act of 1974, S. 3418, represents an initial advance in protecting a right precious to every American -- the right of individual privacy.

I am especially happy to have signed this bill because of my own personal concern in the privacy issue. As Chairman of the Domestic Council Committee on the Right of Privacy, I became increasingly aware of the vital need to provide adequate and uniform privacy safeguards for the vast amounts of personal information collected, recorded and used in our complex society. It was my objective then, as it is today, to seek, first, opportunities to set the Federal house in order before prescribing remedies for State and local government and the private sector.

The Privacy Act of 1974 signified an historic beginning by codifying fundamental principles to safeguard personal privacy in the collection and handling of recorded personal information by Federal agencies. This bill, for the most part, strikes a reasonable balance between the right of the individual to be left alone and the interest of society in open government, national defense, foreign policy, law enforcement and a high quality and trustworthy Federal work force.

No bill of this scope and complexity -- particularly initial legislation of this type -- can be completely free of imperfections. While I am pleased that the Commission created by this law has been limited to purely advisory functions, I am disappointed that the provisions for disclosure of personal information by agencies make no substantive change in the current law. The latter in my opinion does not adequately protect the individual against unnecessary disclosures of personal information.

I want to congratulate the Congressional sponsors of this legislation and their staffs who have forged a strong bipartisan constituency in the interest of protecting the right of individual privacy. Experience under this legislation, as well as further exploration of the complexities of the issue, will no doubt lead to continuing Legislative and Executive efforts to reassess the proper balance between the privacy interests of the individual and those of society. I look forward to a continuation of the same spirit of bipartisan cooperation in the years ahead.

My Administration will act aggressively to protect the right of privacy for every American, and I call on the full support of all Federal personnel in implementing requirements of this legislation.

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JANUARY 1, 1975

Office of the White House Press Secretary
(Vail, Colorado)THE WHITE HOUSE

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My Administration will act aggressively to protect the right of privacy for every American, and I call on the full support of all Federal personnel in implementing requirements of this legislation.

Gerald R. Ford

