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C.F.
FG 6-15-1

MEMORANDUM OF INFORMATION FOR THE FILE

DATE 10/8/76

LETTER, MEMO, ETC.

TO:

FROM:

SUBJECT: Correspondence from Barry Rath's office
dated Aug. 1974 - Aug. 1976 re
the Domestic Council Committee on the
Right of Privacy

Filed CF Oversight Attachment #257.



CORRESPONDENCE FILED CENTRAL FILES - CONFIDENTIAL FILE



U.S. DEPARTMENT OF COMMERCE

September 5, 1974

To : Philip Buchen

From: *Theodore G. Clemence*
Theodore G. Clemence
Committee Guidance & Control Officer

Enclosed are background materials for the September 16 meeting of the Advisory Committee on Privacy and Confidentiality, and other items of interest. Also enclosed is the agenda.

We look forward to seeing you on the 16th.

Enclosures



September 1974

STATUS REPORT ON ARCHIVAL USES OF 1900 CENSUS RECORDS

In December 1973 the 1900 Population Census records were opened to inspection at the National Archives Building in Washington, D.C., in accordance with procedures and restrictions established by the Archivist of the United States.

At the end of 1974 a detailed report is expected on archival uses of these records. Meanwhile, the staff of the National Archives and Records Service has made available, informally, the following information.

Access is limited to genealogical, historical, biographical, and legal researchers. In each category, the searcher must sign the 1900 Population Census Data Use Agreement, and provide evidence of qualifications, credentials, or authority.

The dominant type of inquiry has been for genealogical research, averaging approximately 50 searches per week. All but a few of these requests relate to individuals seeking information about their own family ancestry. The remainder are searchers who have permission from a family member to seek information.

Historical research accounts for about two dozen searches weekly, which are usually related to studies of the economic and social mobility of immigrants or other identifiable population groups.

Biographical searches account for approximately two searches per week, mostly related to historical personages.

Legal searches are relatively infrequent, accounting for only about one-half dozen inquiries during the first eight months of operation. Legal researchers must show evidence of the court or tribunal of which they are an agent seeking data to determine inheritance or otherwise adjudicate a controversy.

No unusual problems have arisen thus far, though searchers occasionally complain because the records are available only in Washington, D.C., and no photocopying is permitted.



INFORMATION REQUESTED FOR CONFIDENTIALITY STUDY

The Russell Sage Foundation is funding a study of events and problems concerning the confidentiality of social science research sources and data. The study will analyze such issues as the confidentiality of survey research data, and the obligation of a scholar to reveal his or her research sources to other scholars.

The study is sponsored by the American Sociological Association, the American Political Science Association, the American Anthropological Association, the American Psychological Association, and the American Historical Association. (The Association of American Law Schools, the Association of American Geographers, the American Economic Association, and the American Statistical Association are considering sponsorship.)

The study will begin in February 1974 and end in December 1975.

Individuals and organizations are invited to send to the director of the study a statement of (1) any events of which they have knowledge that have raised questions concerning the confidentiality of social science research sources and data, and (2) any problems they have encountered that have involved questions concerning the confidentiality of social science research sources and data. The statement should specify the time and the place and the individuals and the organizations and the circumstances involved in the events and problems. Information provided in response to this request will be treated as confidential unless the individual providing the information consents to its release.

The statements will be used by the director and project board to select events and problems for further analysis.

Statements should be sent to the principal investigator, James D. Carroll, Director, Public Administration Programs, 200 Maxwell Hall, Syracuse University, Syracuse, New York, 13210, Tel: (315) 423-2687.





UNITED STATES DEPARTMENT OF COMMERCE
Social and Economic Statistics Administration
BUREAU OF THE CENSUS
Washington, D.C. 20233

OFFICE OF THE DIRECTOR

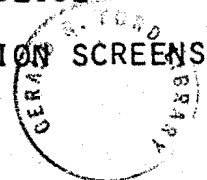
THE RIGHT OF PRIVACY AND THE NEED TO KNOW

VINCENT P. BARABBA
DIRECTOR, BUREAU OF THE CENSUS
SOCIAL AND ECONOMIC STATISTICS ADMINISTRATION
U.S. DEPARTMENT OF COMMERCE

DISTINGUISHED VISITING PROFESSORS' LECTURE SERIES
UNIVERSITY OF SOUTHERN CALIFORNIA
SCHOOL OF PUBLIC ADMINISTRATION
AUGUST 8, 1974

RECENTLY I WAS REVIEWING A CENSUS BUREAU PROJECT TO DESIGN AN IDEAL CENSUS FOR THE YEAR 2000, A PROJECT WHICH WE UNDERTOOK TO STIMULATE SOME INNOVATIVE THINKING. IT OCCURRED TO ME THAT WE ARE NOW---IN AUGUST, 1974---CLOSER TO THE YEAR 2000 THAN WE ARE TO THE END OF THE SECOND WORLD WAR. THAT'S HARD TO GRASP, BECAUSE THE YEAR 2000 SOUNDS SO FAR IN THE FUTURE. IT ALSO OCCURRED TO ME THAT IN JUST TEN YEARS IT WILL BE 1984.

NINETEEN EIGHTY-FOUR. I'M SURE AS WE GET CLOSER TO THE YEAR ITSELF THERE WILL BE ANOTHER PRINTING OF GEORGE ORWELL'S POWERFUL WORK ABOUT WHAT TOTALITARIANISM CAN DO TO THE HUMAN SPIRIT. RECENTLY I TOOK MY COPY DOWN FROM THE BOOKSHELF AND REVIEWED IT. EVEN THOUGH THE NOVEL WAS PUBLISHED IN 1949 AND IT HAD BEEN A LONG TIME SINCE I HAD PICKED IT UP, SEVERAL THINGS REMAINED CLEAR IN MY MEMORY. FOR INSTANCE, THE SLOGANS OF THE RULING PARTY: "WAR IS PEACE," "FREEDOM IS SLAVERY," AND "IGNORANCE IS STRENGTH." MOST OF ALL, I REMEMBERED THE THOUGHT POLICE MONITORING A PERSON'S EVERY MOVEMENT ON TWO-WAY TELEVISION SCREENS,



AND THE SAYING "BIG BROTHER IS WATCHING YOU."

THE VERY TITLE 1984 HAS COME TO STAND FOR ANYTHING WHICH INFRINGES OR CONFLICTS WITH THE NATURAL DESIRES AND RIGHTS OF THE INDIVIDUAL. TO PUT IT ANOTHER WAY, 1984 STANDS FOR DEHUMANIZATION, REGIMENTATION, AND THE LACK OF FREE CHOICE.

THE NOTED SOVIET AUTHOR, ALEXANDER SOLZHENITSYN HAS WRITTEN, "AS EVERY MAN GOES THROUGH LIFE HE FILLS IN A NUMBER OF FORMS FOR THE RECORD, EACH CONTAINING A NUMBER OF QUESTIONS... THERE ARE THUS HUNDREDS OF LITTLE THREADS RADIATING FROM EVERY MAN, MILLIONS OF THREADS IN ALL. IF THESE THREADS WERE SUDDENLY TO BECOME VISIBLE, THE WHOLE SKY WOULD LOOK LIKE A SPIDER'S WEB, AND IF THEY MATERIALIZED AS RUBBER BANDS, BUSES, TRAMS AND EVEN PEOPLE WOULD ALL LOSE THE ABILITY TO MOVE, AND THE WIND WOULD BE UNABLE TO CARRY TORN-UP NEWSPAPERS OR AUTUMN LEAVES ALONG THE STREETS OF THE CITY. THEY ARE NOT VISIBLE, THEY ARE NOT MATERIAL, BUT EVERY MAN IS CONSTANTLY AWARE OF THEIR EXISTENCE EACH MAN, PERMANENTLY AWARE OF HIS OWN INVISIBLE THREADS, NATURALLY DEVELOPS A RESPECT FOR THE PEOPLE WHO MANIPULATE THE THREADS."

AND THAT'S WHAT I WOULD LIKE TO TALK ABOUT TODAY--THE RELATIONSHIP OF THE NATURAL DESIRES AND RIGHTS OF AN INDIVIDUAL LIVING IN OUR SOCIETY, AND SPECIFICALLY THE RIGHT OF PRIVACY, WITH THE LEGITIMATE NEED OF SOCIETY TO COLLECT INFORMATION ABOUT THE INDIVIDUAL, IN ORDER FOR SOCIETY TO UNDERSTAND ITSELF.



THE SPECTOR OF GOVERNMENT INTRUSION INTO THE AFFAIRS OF INDIVIDUAL CITIZENS HAS ALWAYS BEEN A HIGHLY EMOTIONAL SUBJECT, AND UNFORTUNATELY, ONE WHICH IS OFTEN DISCUSSED IN THE FRAMEWORK OF EMOTIONAL NEWSPAPER HEADLINES. EVENTS OF RECENT YEARS HAVE BROUGHT THE ISSUE INTO THE FOREFRONT OF PUBLIC DEBATE; BUT AT THE SAME TIME THE HIGHLY EMOTIONAL CHARACTER OF SUCH EVENTS AS THE MILITARY SURVEILLANCE OF CIVILIANS, WIRETAPPING, AND POLITICAL ESPIONAGE HAVE TENDED TO OBSCURE THE NATURE OF A WHOLE SERIES OF PRIVACY RELATED QUESTIONS, AND HAVE REDUCED THIS VERY COMPLEX PROBLEM TO A SIMPLISTIC ASSERTION THAT EACH MAN HAS AN INALIENABLE RIGHT TO PRIVACY AND THAT NO MORE INVASIONS OF THAT PRIVACY SHOULD BE ALLOWED. YET, THIS SORT OF DOGMATIC APPROACH OBSCURES AND HAMPERS OBJECTIVE DEBATE, AS WELL AS DECISION MAKING, CONCERNING ASPECTS OF INDIVIDUAL PRIVACY AND CONFIDENTIALITY THAT COLLIDE WITH OUR SOCIETY'S NEED TO KNOW.

FOR EXAMPLE, IN VARIOUS SPEECHES AND CONGRESSIONAL TESTIMONY SENATOR SAM ERVIN, A MOST DISTINGUISHED CONSTITUTIONAL LAWYER AND ADVOCATE OF AN INDIVIDUAL'S RIGHT TO BE LET ALONE, HAS USED AS EXAMPLES OF UNLAWFUL OR QUESTIONABLE GOVERNMENT INTRUSION THE COLLECTION BY MILITARY INTELLIGENCE OF DOSSIERS ON CIVILIANS, AND ALSO THE QUESTIONS ASKED IN THE DECENNIAL CENSUS AND OTHER SURVEYS OF THE CENSUS BUREAU.

WHILE I KNOW THAT THE SENATOR UNDERSTANDS THE DISTINCTIONS BETWEEN THESE ACTIVITIES, THE CONTEXT OF HIS SPEECH DOES NOT REVEAL THE DIFFERENCES BETWEEN THE COLLECTION OF INFORMATION FOR ADMINISTRATIVE PURPOSES, AND THE COLLECTION OF INFORMATION FOR THE PUBLICATION OF ANONYMOUS STATISTICS. THE OVERSIGHT OF

FAILING TO DISTINGUISH BETWEEN TYPES OF DATA COLLECTED AND THE PURPOSES FOR WHICH THEY ARE USED DOES MUCH TO CONTRIBUTE TO THE SORT OF HEADLINES ON THE CLIPPINGS THAT CRAM MY FILES, SUCH AS "REVERSING THE RUSH TO 1984," "WHO KNOWS? THE COMPUTER KNOWS!," "BIG BROTHER SOCIETY FEARED," AND "FEDERAL DATA GATHERING LIKE OCTOPUS."

MANY OF THESE HEADLINES ARE FOLLOWED BY ARTICLES WHICH MENTION THE CENSUS BUREAU IN THEIR CATALOGUE OF "SINISTER OR POTENTIALLY SINISTER"--DATA-GATHERING AGENCIES. SO FAR, THE BUREAU HAS NOT BEEN DIRECTLY IDENTIFIED AS A CULPRIT, BUT SOME OF THE ARTICLES AND MANY PUBLIC STATEMENTS LEAVE THE DISTINCT IMPRESSION THAT IT HAS THE POTENTIAL TO BECOME ONE. THIS IMPLICATION ALL TOO OFTEN OCCURS BECAUSE THE POTENTIAL DANGER IS VIEWED IN ISOLATION. CURRENT BUREAU PROCEDURES FOR CONFIDENTIALITY ARE NEVER MENTIONED. BUREAU HISTORY AS TO CONFIDENTIALITY OF DATA IS NOT CONSIDERED. THE "WATCH-DOG" NATURE OF THE CONGRESS IS NOT RAISED. I COULD NAME MANY MORE ASPECTS OF THE PROBLEM THAT MUST BE CONSIDERED BEFORE ONE CAN DRAW CONCLUSIONS CONCERNING THE ABUSIVE OR POTENTIAL ABUSIVE NATURE OF A DATA COLLECTION SYSTEM.-- AND I WILL ATTEMPT TO DEAL WITH THESE LATER IN THIS TALK.

BUT, WHEN ONE HEARS SUCH STATEMENTS BEING MADE BY RELIABLE ELECTED OFFICIALS, AND WHEN WE ALL READ HEADLINES, IN ALMOST ANY JOURNAL OR NEWSPAPER, LIKE THOSE I HAVE ALREADY MENTIONED TO YOU; IT BECOMES APPARENT THAT REGARDLESS OF THE ACTUAL SITUATION THERE IS A CLEAR CONCERN ON THE PART OF THE PUBLIC THAT ALL IS NOT AS IT SHOULD BE. THE PUBLIC READS OF GOVERNMENT OFFICIALS ABUSING



DATA COLLECTED ABOUT INDIVIDUALS. THE CENSUS BUREAU IS A COLLECTOR OF INFORMATION ABOUT INDIVIDUALS. THE PUBLIC IS CONCERNED THAT THE BUREAU SHOULD NOT ABUSE SUCH INFORMATION. PARTS OF THE PUBLIC MAY ALREADY BELIEVE THAT SUCH INFORMATION IS ABUSED. REGARDLESS OF HOW ONE WANTS TO CATEGORIZE PUBLIC FEELINGS CONCERNING DATA COLLECTION NO ONE WOULD DENY THAT THERE IS A GREAT AND GROWING ANXIETY THAT THERE IS ABUSE OF DATA --THAT PEOPLE EITHER AS INDIVIDUALS OR IN THE MASS ARE BEING MANIPULATED.

I SEE TWO TYPES OF ANXIETY REFLECTED IN THESE HEADLINES. ONE IS ON THE PART OF THE INDIVIDUAL, THE OTHER BY SOCIETY AS A WHOLE.

FIRST, LET'S LOOK BRIEFLY AT SOCIETY IN GENERAL. IF ONE WERE GOING TO GENERALIZE ABOUT THE "DATA COLLECTION" CONCERNS OF SOCIETY OR OF LARGE GROUPS OF INDIVIDUALS--THIS CONCERN MIGHT BE BROKEN INTO TWO PARTS.

FIRST, THERE IS THE CONCERN FLOWING FROM THE MYRIAD OF ADVERTISING AND MASS MEDIA CAMPAIGNS. THIS IS A FEAR THAT UNCONSCIOUSLY THE PUBLIC IS BEING COERCED INTO ACTING AND RESPONDING IN WAYS THAT ARE ACTUALLY THE OPPOSITE OF WHAT IS BEST FOR THE INDIVIDUAL. THAT IS, THAT STIMULANTS ARE BEING APPLIED IN A SCIENTIFIC AND ORDERED FASHION TO CAUSE INDIVIDUALS TO REACT AS THE ANONYMOUS "THEY" OF CORPORATE AMERICA AND MADISON AVENUE WOULD HAVE THEM BEHAVE.

MUCH OF THIS CONCERN HAS ARISEN SINCE, AND IS NO DOUBT LINKED TO, THE BIRTH AND GROWTH OF TELEVISION AND COMPUTERS, AND THE FACT THAT THEY HAVE BECOME PART OF THE EVERYDAY SCENE IN AMERICA.

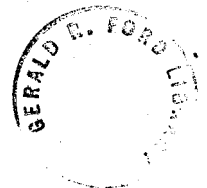


IT HAS EVEN BEEN ALLEGED THAT POLITICAL CANDIDATES ARE BEING DISGUISED IN ORDER TO "SELL" THEM TO THE PUBLIC--A PUBLIC THAT WOULD HAVE REJECTED THEM OUT OF HAND HAD IT NOT BEEN FOR THE SO-CALLED MAGIC OF THE COMPUTER.

BY THE LATE 1950'S, COMPUTERS AND TELEVISION HAD BECOME PART OF THE EVERYDAY SCENE IN AMERICA. VANCE PACKARD'S BOOK THE HIDDEN PERSUADERS CRYSTALIZED A FEAR THAT HAD BEEN FORMING FOR SOME YEARS--THE FEAR THAT INCREASED KNOWLEDGE ABOUT SOCIETY IN GENERAL WOULD LEAD TO THE ABILITY TO MANIPULATE THE PUBLIC MIND. WORDS SUCH AS "BRAINWASHING" AND "SUBLIMINAL ADVERTISING" WERE CURRENT ON THE COCKTAIL PARTY CIRCUIT.

RAYMOND BAUER, WRITING IN THE HARVARD BUSINESS REVIEW A FEW YEARS LATER, PUT THIS FEAR INTO PERSPECTIVE. HE SAID THAT THE FEAR OF MANIPULATION IS AN OLD ONE ON THE PART OF SOCIETY, AND POINTED OUT THAT SUPERSTITIONS SUCH AS POSSESSION BY DEMONS AND BELIEF IN WITCHCRAFT HAVE BEEN REPLACED BY FEARS OF THE UNKNOWN POTENTIAL OF NEW TECHNOLOGICAL INVENTIONS.

BUT, BAUER WENT ON TO STATE THAT THOSE WHO WOULD DESIRE TO MANIPULATE THE PUBLIC MIND ARE ALWAYS ONE JUMP BEHIND THE PUBLIC MIND--THAT AS WE ARE BOMBARDED BY TELEVISION, "EDUCATION", AND THE EXPERIENCE OF LIVING IN A TECHNOLOGICAL SOCIETY--YOU AND I BECOME MORE SOPHISTICATED, AND THAT OUR RESISTANCE LEVEL TO PERSUASION INCREASES ALONG WITH OUR SOPHISTICATION. A CASE IN POINT IS THE CONSUMER MOVEMENT--WHO COULD HAVE FORETOLD SUCH A POWERFUL GRASSROOTS PHENOMENON JUST A FEW YEARS AGO?



THE SECOND CONCERN IS SOMEWHAT MORE SUBTLE AND IS PROBABLY EVEN FURTHER FROM REALITY THAN ADVERTISING'S EFFORTS TO CONTROL A SOPHISTICATED PUBLIC.

IN IMPERIAL ROME THE POLITICIANS DISCOVERED THAT GAMES AND CIRCUSES PLUS FREE GRAIN WERE ALL THAT WAS REQUIRED TO PLACATE THE MASSES SO THAT NO REAL PUBLIC OPINION EVER FORMED CONCERNING A VARIETY OF EXTREMELY IMPORTANT BUT MORE REMOTE ISSUES SUCH AS LAND REFORM, OR THE DECLINE OF THE SENATORIAL SYSTEM.

SO TODAY FEARS HAVE ARISEN THAT THE DATA COLLECTED ABOUT INDIVIDUALS IS AGGREGATED AND COMPILED TO SHOW BOTH NEEDS, DESIRES, AND MINIMUM LEVELS OF FULFILLMENT, WHICH THE PUBLIC WILL ACCEPT AND THAT THE POLITICIANS HAVING DISCOVERED THE "GAMES AND CIRCUSES" OF THE AMERICAN PEOPLE--WILL WHEREVER POSSIBLE PROMISE WHAT THE PEOPLE WANT TO HEAR WHILE PROVIDING THE MINIMUM DESIRED. IN OTHER WORDS, BY USING STATISTICAL DATA THE POLITICIAN IS ABLE TO GIVE THE VOTER JUST ENOUGH TO KEEP HIM SATISFIED, AND THEN DOING HIS OWN THING FOR HIS "SPECIAL INTERESTS."

THIS SORT OF ARGUMENT IGNORES A VERY FUNDAMENTAL TRUTH ABOUT THE AMERICAN GOVERNMENT'S STATISTICAL PROGRAMS. THAT IS, SIMPLY, THAT EVERY EFFORT POSSIBLE IS BEING MADE TO PRODUCE LOW COST STATISTICS, TO MAKE DATA AVAILABLE TO ALL GROUPS WITHIN OUR SOCIETY, AT REASONABLE COST, AND TO ALLOW GROUPS WITH SPECIAL INTERESTS WHETHER THEY REPRESENT BLACK AMERICANS, OR THE HOUSING INDUSTRY, TO HAVE ACCESS TO STATISTICS, SO THAT THEY MAY ANALYZE THEM AND PREPARE THEIR ARGUMENTS AND EFFORTS BASED ON THIS INVALUABLE INFORMATION. EVERYONE ADMITS THAT STATISTICAL INFORMATION USED PROPERLY, IS ONE OF THE BEST TOOLS AVAILABLE FOR DECISION MAKING

AT A RECENT CONFERENCE OF GERMAN AND SWEDISH SCHOLARS, HELD IN STOCKHOLM, IT WAS SUGGESTED THAT ONE OF THE FINEST DEVICES EXISTING FOR COMBATING THE POSSIBLE MANIPULATION OF SOCIETY WAS FOR INTERESTED GROUPS TO USE THE SAME STATISTICS TO MANIPULATE THE MANIPULATORS." SOME OF THE MORE SUCCESSFUL ACTIONS OF CONSUMER ADVOCATE, RALPH NADER, CERTAINLY SERVE AS AN EXAMPLE OF PUTTING THIS ADVICE TO GOOD USE. SO LONG AS NO ONE GROUP HOLDS A MONOPOLY ON THE STATISTICAL INFORMATION PRODUCED BY THE BUREAU AND OTHER AGENCIES I CANNOT IMAGINE THE PEOPLE OF OUR COUNTRY BECOMING MERE "PUSHOVERS".

NOW LET'S LOOK AT THE INDIVIDUAL'S PERSONAL CONCERNS. AT THE TOP OF THE LIST IS THE QUESTION OF THE INDIVIDUAL DOSSIER. THAT IS, THERE EXISTS A POTENTIAL FOR ABUSE OF INFORMATION COLLECTED FOR VARIOUS ADMINISTRATIVE PURPOSES, AT DIFFERENT TIMES AND PLACES, UNDER EXTREMELY DIFFERENT CIRCUMSTANCES; BY COMBINING IT WITHOUT THE DATA SUBJECT'S KNOWLEDGE INTO A HIDDEN AND UNALTERABLE RECORD OF PAST PERFORMANCE, TO BE USED POSSIBLY FOR QUESTIONS OF JOB TENURE, PROMOTION, OR FINANCIAL LOAN SUITABILITY.

IF THERE IS AN AREA WHICH REQUIRES OUR ATTENTION THIS IS IT! INFORMATION COLLECTED FROM THE AVERAGE PERSON FOR ONE PURPOSE, POSSIBLY BEING USED LATER IN A WAY WHICH WILL INJURE EITHER HIM OR HIS FAMILY. IN 1973 THE DEPARTMENT OF H.E.W. RELEASED A WIDELY ACCLAIMED REPORT DEALING SQUARELY WITH THE ABOVE PROBLEM ---AND RECOMMENDED THAT THERE BE NO ADMINISTRATIVE RECORD KEPT OF WHICH THE DATA SUBJECT WAS NOT AWARE, AND THAT DATA COLLECTED

FOR ONE PURPOSE NOT BE USED FOR ANOTHER WITHOUT THE PERMISSION OF THE DATA SUBJECT. AT THE MOMENT THERE ARE SEVERAL BILLS BEFORE THE CONGRESS THAT WOULD MAKE SOME OF THE HEW RECOMMENDATIONS LAW.

AND THIS IS A PROBLEM THAT WE ALL FACE---THAT THERE IS ENOUGH TRUTH IN THE AVERAGE MAN'S FEAR OF INDIRECT OR DIRECT MANIPULATION FOR THEM TO BE HARD TO PUT TO REST. BUT, ALMOST WITHOUT EXCEPTION THE TYPES OF ABUSE THAT ARE DISCUSSED ARE THOSE THAT CONCERN THE USE OF INDIVIDUAL DATA COLLECTED FOR ADMINISTRATIVE PURPOSES AND HELD FOR INDIVIDUALLY IDENTIFIABLE ACTION.

ALSO ON THE LIST OF THE INDIVIDUALS PERSONAL CONCERNS IS THE "MAILING LIST." MANY PERSONS ARE ANNOYED BY THE USE OF THEIR NAME ON MAILING LISTS, AND CONSIDER THIS TYPE OF MARKETING AN INVASION OF THEIR PRIVACY.

I SOMETIMES PLAY A GAME WHEN I ORDER SOMETHING BY MAIL. MY MIDDLE INITIAL IS "P," BUT I OFTEN PUT DOWN ANOTHER INITIAL AND KEEP TRACK OF WHETHER THE COMPANY I BUY SOMETHING FROM SELLS OR USES MY NAME FOR ANOTHER PURPOSE. ACTUALLY, I DON'T MIND BEING ADVISED BY MAIL OF SERVICES AND PRODUCTS WHICH I MIGHT BE ABLE TO USE. I JUST WANT TO KNOW HOW SOMEBODY GOT MY NAME.



THE FEAR OF THE MISUSE OF PERSONAL INFORMATION IS FURTHER EXAGGERATED BY THE POPULAR IMAGE OF THE COMPUTER. SPY MOVIES AND TELEVISION HAVE FOSTERED A PUBLIC OVER-ESTIMATION OF THE ABILITIES AND APPLICATIONS OF THE COMPUTER. TOGETHER WITH RECENT HEADLINES, THIS HAS LED TO FEARS OF AN OMINOUS NATIONAL DATA BANK WHICH WOULD STORE EVERY FACET OF OUR PERSONAL LIVES FOR INSTANT RETRIEVAL BY ANY GOVERNMENT AGENCY WHICH REQUESTED INFORMATION.

LET ME STATE THAT THIS FEAR TO BE REALIZED--FOR US TO MOVE THAT CLOSE TO GEORGE ORWELL'S NIGHTMARE SOCIETY OF 1984--THE UNITED STATES WOULD HAVE TO ABROGATE NOT ONLY CURRENT LAW BUT ITS ENTIRE DEMOCRATIC TRADITION.

LET ME ADD EMPHASIS TO THIS THOUGHT BY QUOTING TO YOU A KEY PORTION OF A PAPER WRITTEN BY OTIS DUDLEY DUNCAN WHICH CONCERNED PLANS FOR THE 1970 CENSUS.

"...IN THIS COUNTRY WE HAVE PROVED THAT A STATISTICAL SYSTEM CAN INCORPORATE RIGID SAFEGUARDS OF CONFIDENTIALITY. THE INSTITUTIONALIZATION OF THESE SAFEGUARDS HAS PROCEEDED TO THE POINT WHERE IT IS INCONCEIVABLE THAT THEY WOULD BREAK DOWN, EXCEPT IN THE CATASTROPHIC EVENT OF A BREAKDOWN IN OUR WHOLE SYSTEM OF INSTITUTIONS PROTECTING THE RIGHTS OF THE INDIVIDUAL. IN THE CASE OF SUCH A CATASTROPHE, MY GUESS IS THAT MUCH MORE DIRECT WAYS OF INFRINGING THESE RIGHTS WOULD BE FOUND THAN THAT OF MAKING INAPPROPRIATE USE OF STATISTICAL RECORDS SECURED OSTENSIBLY IN CONFIDENCE."



NEVERTHELESS, THE IMAGE OF THE COMPUTER, IN THE PUBLIC MIND, IS OFTEN THAT OF A VILLIAN---EITHER BECAUSE OF ITS POTENTIAL FOR ABUSE OF PERSONAL INFORMATION, OR IRRITATING ARGUMENTS WITH DEPARTMENT STORE COMPUTERS ABOUT INCORRECT BILLING.

YET, I THINK THE COMPUTER HAS MADE A PROFOUND CONTRIBUTION TO THE PUBLIC GOOD---AND DONE IT SO WELL WE TAKE IT FOR GRANTED. JUST ONE EXAMPLE WHICH COMES TO MIND IS THE MILLIONS OF CHECKS SOCIAL SECURITY RECIPIENTS GET EACH MONTH. THOSE CHECKS SIMPLY WOULDN'T ARRIVE AS FAST OR AS ACCURATELY WITH MANUAL PROCESSING. FURTHERMORE, AS REGARDS OUR TOPIC OF PRIVACY, THE ADVENT OF THE COMPUTER HAS DONE A GREAT DEAL TO PROTECT AN INDIVIDUAL'S PRIVACY --AS I HOPE TO DEMONSTRATE A LITTLE LATER IN THIS TALK.

WHILE I HAVE NO OBJECTION WITH THE PRESS OR ELECTED OFFICIALS INVESTIGATING THE POTENTIAL FOR MISUSE OF ANY SYSTEM CONTAINING INFORMATION ON OUR CITIZENS, I AM VERY CONCERNED THAT AS REAL CULPRITS ARE IDENTIFIED THE CENSUS BUREAU WILL BE TARRED WITH THE SAME BRUSH. YET, NO REAL INVESTIGATION OF BUREAU PROCEDURES AND ITS STANDARDS OF PRIVACY AND CONFIDENTIALITY, AS WELL AS AN ASSESSMENT OF THE IMPORTANCE OF THE SOCIETAL NEED THAT THE BUREAU'S PRODUCTS FILL, APPEAR TO HAVE BEEN CONSIDERED BY THE VERY INDIVIDUAL'S WHO ARE MOST CONCERNED WITH THESE MATTERS. A LOT OF PEOPLE ARE JUST UNAWARE THAT THE CENSUS BUREAU IS THE ONLY GOVERNMENT OR PRIVATE AGENCY THAT COLLECTS DATA ON EVERY HOUSEHOLD IN AMERICA. NOR, DOES THE PUBLIC AT LARGE HAVE ANY GOOD IDEA OF EXACTLY WHAT THE BUREAU DOES TO INSURE EACH CITIZEN'S PRIVACY AND THE CONFIDENTIALITY OF THE INFORMATION WHICH EACH PERSON PROVIDES.

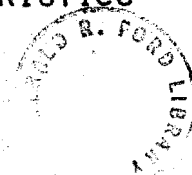


BECAUSE OF THE CONCERNS I'VE EXPRESSED, I WOULD LIKE TO REVIEW FOR YOU HOW THE BUREAU LOOKS ON THE PRIVACY OF THE CITIZENS FROM WHOM IT COLLECTS DATA, AND ITS POSITION AS REGARDS THE CONFIDENTIALITY OF THE INFORMATION IT COLLECTS.

WE AT THE CENSUS BUREAU BELIEVE OUR MISSION IS TO GATHER ACCURATE, TIMELY AND COMPLETE DATA FROM INDIVIDUALS, BUSINESSES, AND GOVERNMENTS, WHILE MAKING THE MINIMUM INTRUSION INTO THEIR PRIVACY, AND TO MAKE AVAILABLE TO THE PUBLIC AT LARGE GENERAL ANONYMOUS STATISTICAL SUMMARIES OF THAT DATA, SPECIFICALLY DESIGNED TO RESPECT THE CONFIDENTIALITY PROMISED EACH RESPONDENT.

FIRST OFF, WE SHOULD ADDRESS THE QUESTION OF WHETHER OR NOT WE NEED A CENSUS BUREAU AT ALL. WHAT WOULD HAPPEN IF THE BUREAU CLOSED DOWN OR GREATLY RESTRICTED ITS COLLECTION OF DATA? WITHOUT CENSUS STATISTICS MUCH OF THE PLANNING IN THE PUBLIC AND PRIVATE SECTORS WOULD HAVE TO BE BASED ON GENERAL ASSUMPTIONS WHICH COULD NOT BE VERIFIED.

YOU MAY BE ASKING YOURSELF WHAT SORT OF USES ARE CENSUS STATISTICS PUT TO? SOME OF THE FIGURES WHICH THE BUREAU GENERATES INCLUDE THOSE USED TO DETERMINE THE UNEMPLOYMENT RATE, THE ALLOCATION OF FUNDS FOR FEDERAL REVENUE SHARING, THE GROSS NATIONAL PRODUCT, CHARACTERISTICS CONCERNING THE LOW INCOME POPULATION, CHARACTERISTICS OF MINORITIES WITHIN OUR COUNTRY -- INCLUDING ON-GOING FIGURES ON BIRTH, EDUCATION AND UNEMPLOYMENT AMONG THESE SUB GROUPS -- PROJECTIONS OF POPULATION, BIRTH EXPECTATIONS, CHANGING AGE PATTERNS OF THE POPULATION, THE BALANCE OF U.S. IMPORTS AND EXPORTS, AND CRIME VICTIMIZATION CHARACTERISTICS



BY SOCIO-ECONOMIC STATUS -- TO NAME BUT A FEW. I SHOULD ADD THAT ALL THESE EXAMPLES DO NOT INCLUDE THE MANY USES TO WHICH THE DECENNIAL CENSUS IS PUT.

MY EXAMPLES ARE INTENDED TO ADD EMPHASIS TO THE STATEMENT THAT WITHOUT ACCURATE AND TIMELY CENSUS STATISTICS DECISION-MAKING BOTH INSIDE AND OUTSIDE THE GOVERNMENT WOULD BE HANDICAPPED AT ALL LEVELS.

IT IS PROBABLY OBVIOUS TO YOU, AND I WOULD BE LESS THAN CANDID, IF I DID NOT SAY, THAT THERE IS AN INHERENT CONFLICT IN GATHERING DATA FROM INDIVIDUALS. THAT CONFLICT IS BETWEEN THE AMOUNT OF PRIVILEGE SOCIETY IS WILLING TO ACCORD THE INDIVIDUAL IN ALLOWING HIM TO DECIDE WHETHER OR NOT TO DISCLOSE INFORMATION ABOUT HIMSELF, AND THE SOCIETY'S USE OF MANDATORY PROCESSES TO OBTAIN THE INFORMATION IT NEEDS FOR VALID PURPOSES.

I HAVE NOT TALKED ABOUT THE INDIVIDUAL'S RIGHT TO BE LEFT ALONE, BECAUSE I AM NOT SURE THAT IN ISOLATION SUCH A RIGHT EXISTS. WHEN MEN CHOOSE TO LIVE IN A GROUP, CLAN, OR SOCIETY, THEIR VERY PRESENCE IMPLIES A CERTAIN OBLIGATION TO THAT GROUP. IF AN INDIVIDUAL OBTAINS BENEFITS FROM A GROUP LIVING SITUATION THERE IS LITTLE DOUBT THAT HE WILL BE EXPECTED TO MAKE A CONTRIBUTION TO THE ADVANCEMENT OR CONTINUATION OF THAT GROUP.

FEW GROUPS EXCEPT THE MOST PRIMITIVE TRIBES CAN BE IDENTIFIED WHERE AN INDIVIDUAL IS ALLOWED TO REAP THE BENEFITS OF SOCIETY AND YET DOES NOT CONTRIBUTE, IN SOME WAY--EVEN IF THE CONTRIBUTION IS NOT MEASUREABLE. A CASE IN POINT IS THE SERVICE AND RESPECT ACCORDED AN AGING TRIBAL MEMBER WHICH IN RETURN RESULTS IN A



TRIBAL UNITY, AND A FEELING THAT WHEN ONE IS IN THAT PERSON'S SHOES THE TIME HONORED PROTECTIONS WILL CONTINUE.

THE OBLIGATIONS OF DWELLING IN A HIGHLY COMPLEX INDUSTRIAL CIVILIZATION ARE PERHAPS EVEN GREATER THAN ANY THAT HAVE BEEN LAID UPON THE INDIVIDUAL IN RECORDED HISTORY. EACH MAN, WOMAN AND CHILD IN OUR SOCIETY REAPS BENEFITS AS WIDE RANGING AS SECURITY OF THEIR DWELLINGS, TO PRODUCT CHOICE, OR A HIGH QUALITY OF MEDICAL CARE. EACH OF THESE EXAMPLES IS RELATIVE, VARYING FROM PLACE TO PLACE AND WITHIN THE SUB-GROUPS OF OUR SOCIETY. YET, THERE IS LITTLE DOUBT THAT THE INDIVIDUAL AS A SINGLE HUMAN UNIT DERIVES BENEFITS FROM DWELLING AMONG HIS FELLOW MEN.

FOR INSTANCE, NO ONE FORCES A PERSON TO APPLY FOR A DRIVER'S LICENSE, TO REGISTER TO VOTE, TO OBTAIN A PASSPORT, OR TO PRACTICE A LICENSED PROFESSION. BUT IF A PERSON WANTS TO DO ANY OF THESE THINGS HE OR SHE MUST PROVIDE CERTAIN INFORMATION THAT SOCIETY HAS DEEMED NECESSARY TO ESTABLISH QUALIFICATIONS. THESE ARE BASIC STEPS OF ORDER THAT SOCIETY TAKES TO PROTECT ITSELF.

WHAT THEN, SHOULD BE THE PRICE CHARGED AN INDIVIDUAL FOR THE SERVICES AND BENEFITS, BOTH REALIZED, AND POTENTIAL, THAT HE RECEIVES? I WOULD SUGGEST THAT A BROAD DEFINITION WOULD REQUIRE THAT EACH PERSON COOPERATE AS MUCH WITH THOSE PERSONS WHO REPRESENT THE INSTITUTIONS OF A SOCIETY AS IS NECESSARY FOR THE SMOOTH FUNCTIONING OF THE SOCIETY. THAT SOCIETY IN RETURN MEET MOST OF ITS RESPONSIBILITIES TO THE INDIVIDUAL'S NEEDS, MOST OF THE TIME. TO DO THIS, THOSE OFFICIALS AND DECISION MAKERS WHO ARE HELD RESPONSIBLE FOR THE ORDERED RUNNING OF THE

SOCIO-ECONOMIC CONGLOMERATION WE CALL THE "STATE" MUST HAVE ACCURATE INFORMATION. THEY MUST GET THIS INFORMATION FROM THE INDIVIDUALS THAT CONSTITUTE THE SOCIETY IN ORDER TO DETERMINE AND EVALUATE BOTH NEEDS, DEMANDS, TRENDS, AND A VARIETY OF INFORMATION THAT IS INDISPENSIBLE TO THE INTELLIGENT RUNNING OF SUCH A SYSTEM.

BASIC TO THIS DISCUSSION THEN, IS THE QUESTION -- WHAT IS THE RIGHT OF PRIVACY? IS THAT RIGHT SOMETHING THAT CAN BE BRUSHED ASIDE ANYTIME THAT A GOVERNMENTAL ORGANIZATION BELIEVES IT NEEDS A NEW BRAND OF INFORMATION TO ASSIST IN A PLAN TO HELP INDIVIDUALS? THE RIGHT TO PRIVACY IS INDEED A VERY EASY TERM TO EVOKE, BUT A VERY DIFFICULT ONE TO DEFINE.

AMERICAN LEGAL AND ACADEMIC SCHOLARS HAVE WRESTLED WITH THE PROBLEM OF PRIVACY EVER SINCE 1890 WHEN SAMUEL WARREN AND, THE LATER TO BE, MR. JUSTICE BRANDEIS, PUBLISHED IN THE "HARVARD LAW REVIEW" THEIR FAMOUS ARTICLE ENTITLED "THE RIGHT TO PRIVACY", WHICH THEY DEFINED AS A RIGHT TO BE LET ALONE.

TODAY, SEVERAL WEST EUROPEAN NATIONS HAVE COMMISSIONS AT WORK THAT ARE REVIEWING THE PRIVACY SAFEGUARDS THAT PRESENTLY EXIST, AND THAT SHOULD BE BROUGHT INTO EXISTENCE, IN ORDER TO SAFEGUARD THE INDIVIDUAL'S DESIRE, AND NEED, TO BE LEFT ALONE. I HAVE ALREADY MENTIONED PROPOSED AMERICAN LEGISLATION INTENDED TO DEAL WITH THIS MATTER -- THE SWEDISH LEGISLATURE HAS RECENTLY BROUGHT INTO BEING A "DATA ACT" DESIGNED TO COPE WITH PROBLEMS OF INDIVIDUAL PRIVACY, AND SOME GERMAN STATES HAVE FOR SEVERAL YEARS HAD A DATA PRIVACY AND CONFIDENTIALITY OMBUDSMAN WHOSE

TASK HAS BEEN TO ACT AS AN INDEPENDENT INVESTIGATORY ARM, REPORTING TO THE ELECTED OFFICIALS ON PROBLEMS OF INDIVIDUAL DATA PRIVACY AND CONFIDENTIALITY.

WARREN AND BRANDEIS DEVELOPED THEIR QUASI-LEGAL DEFINITION OF PRIVACY BY VIEWING IT AS A "RIGHT" BASICALLY TO BE SECURE FROM UNDUE INTERFERENCE WITH ONE'S PERSON, PAPERS, PROPERTY, OR THOUGHTS, AND TRACED THE DEVELOPMENT OF THIS RIGHT THROUGH THE HISTORY OF THE COMMON LAW.

MORE RECENTLY, GERMAN PSYCHOLOGISTS HAVE ATTEMPTED TO DEFINE PRIVACY AS THOSE AREAS OF INDIVIDUAL'S LIVES IN WHICH THEY CAN ACT WITHOUT HAVING TO FEAR THAT INFORMATION MAY BE PASSED ON IN A WAY DISFUNCTIONAL TO THEMSELVES. THUS, MULLER AND KUHLMANN HAVE ADDED TO THE CONCEPT OF THE RIGHT TO BE LET ALONE, THE IDEA OF SELECTIVE TRANSMISSION OF INFORMATION, BE IT TO FAMILY, FRIENDS, ONE'S DOCTOR, OR A GOVERNMENT ORGANIZATION. THEY VIEW PRIVACY IN THE MODERN SENSE, AS INCLUDING THE SELECTIVE TRANSMISSION OF INFORMATION ABOUT ONE'S SELF.

FOR THE PURPOSES OF OUR DISCUSSION THIS AFTERNOON LET'S ACCEPT THE NOTION THAT THE WORD PRIVACY REFERS TO A SPHERE IN WHICH THE INDIVIDUAL IS ABLE TO DECIDE WHAT WILL AND WHAT WILL NOT BE TRANSMITTED TO OTHERS, AND THAT IN ADDITION THIS SPHERE ALSO INCLUDES CERTAIN CONFIDENTIAL RELATIONSHIPS WHERE THE INDIVIDUAL BELIEVES THAT INFORMATION TRANSMITTED EITHER BY CHOICE OR COMPULSION WILL GO NO FURTHER THAN THE PARTIES TO THAT RELATION, AND WILL ONLY BE USED FOR THE PURPOSES THAT WERE IDENTIFIED AT THE TIME THE INFORMATION WAS IMPARTED. GIVEN THIS NOTION WE CAN SEE THAT T



TERM "PRIVACY" DOES NOT MEAN A SACROSANCT AREA WHERE NO QUESTIONS CAN BE ASKED; AS THAT IS ONLY PART OF THE DEFINITION. ON TOP OF THAT WE HAVE A LARGER AREA WHERE QUESTIONS MAY BE ASKED ON A VOLUNTARY OR MANDATORY BASIS, BUT THE INDIVIDUAL UNDERSTANDS AND IS ABLE TO BELIEVE THAT THE ANSWERS HE GIVES WILL NOT BE USED FOR OTHER THAN WHAT HE HAS BEEN TOLD OR PERCEIVES.

THIS "SECURITY" OF BELIEF, ON THE PART OF EACH INDIVIDUAL, WHEN COUPLED WITH THE PROMISE OF THE RECEIVER, STATED OR IMPLIED, THAT INFORMATION WILL ONLY BE USED IN SPECIFIED WAYS, CREATES A BOND BETWEEN THE GIVER AND RECEIVER WHICH I WOULD CALL A "CONFIDENTIAL RELATIONSHIP". TO ME, CONFIDENTIALITY MUST BE CONSIDERED WHEN ANYONE ATTEMPTS TO ASSESS OR BALANCE INDIVIDUAL PRIVACY AND SOCIETY'S NEED TO KNOW. BUT, WHAT EXACTLY ARE CONFIDENTIAL RELATIONSHIPS?

THE MOST REVERAND MARK J. HURLEY, WRITING FOR THE KNIGHTS OF COLUMBUS, DEFINED CONFIDENTIALITY AS SECRETS--TWO TYPES OF WHICH ARE THE "PROMISED SECRET" AND THE "COMMITTED SECRET."

THE COMMITTED SECRET IS ONE KEPT BY REASON OF A TACIT AGREEMENT BETWEEN THE PARTIES THAT THE INFORMATION WILL NOT BE DIVULGED. EXAMPLES WOULD BE SECRETS BETWEEN LAWYER AND CLIENT, DOCTOR AND PATIENT, COUNSELOR AND COUNSEL.

THE PROMISED SECRET IS ONE KEPT BY VIRTURE OF A PROMISE MADE PRIOR TO LEARNING THE SECRET. SUCH A PROMISE MIGHT BE OUR BUREAU'S PLEDGE THAT RESPONSES TO CENSUS QUESTIONNAIRES WILL BE SEEN ONLY BY SWORN EMPLOYEES OF THE BUREAU. OR THE PRESIDENTIAL



PROCLAMATIONS DEFINING THE NATURE OF THE CENSUS REQUEST AND STATING THE SORT OF ACTIVITIES THAT INFORMATION GAINED FROM INDIVIDUALS WILL NOT BE USED FOR.

THE SORT OF CONFIDENTIALITY WE ARE TALKING ABOUT WHEN WE SAY CENSUS CONFIDENTIALITY RELATES TO INDIVIDUAL INFORMATION IN THE HANDS OF INSTITUTIONS. AND HERE, IT IS IMPORTANT TO REINFORCE THE DISTINCTION BETWEEN PERSONAL INFORMATION GATHERED FOR STATISTICAL PURPOSES AS OPPOSED TO THAT COLLECTED FOR ADMINISTRATIVE TASKS. THE INFORMATION COULD BE THE SAME IN BOTH CASES, BUT ADMINISTRATIVE RECORDS ARE INTENDED TO AFFECT THE INDIVIDUAL DIRECTLY, FOR INSTANCE THOSE USED BY THE INTERNAL REVENUE SERVICE OR THE SOCIAL SECURITY SYSTEM. STATISTICAL RECORDS--SUCH AS THOSE MAINTAINED BY THE CENSUS BUREAU DO NOT DIRECTLY AFFECT INDIVIDUAL LIVES ON A ONE TO ONE BASIS.

ALL THAT I'VE REALLY BEEN TRYING TO POINT OUT IS THAT "PRIVACY" DOESN'T EXIST IN AN ABSOLUTE SENSE ANYMORE THAN FREEDOM DOES. THERE IS NO DOUBT THAT OUR CONSTITUTION IS LESS THAN SPECIFIC ABOUT ALL THE ASPECTS OF INDIVIDUAL PRIVACY AND YET OUR JUSTICES HAVE BEEN ABLE TO FIND IN THE FIRST TEN AMENDMENTS SEVERAL REFERENCES TO THE SUBJECT THAT SERVE AS GUIDEPOSTS FOR DEALING WITH SPECIFIC CASES THAT COULD NOT HAVE BEEN CONTEMPLATED BY THE ORIGINAL DRAFTERS.

AS OUR SUPREME COURT IS CALLED UPON TO ADJUDICATE CONSTITUTIONAL QUESTIONS PERTAINING TO THE RIGHT TO PRIVACY -- THAT RIGHT MAY BE FURTHER EXPANDED AND BETTER DEFINED -- BUT WE MUST REMEMBER THAT PRIVACY, AS FREEDOM, HAS MEANING ONLY IN THE



CONTEXT OF HUMAN SOCIETY, AND OUR SOCIETY IS RAPIDLY CHANGING, WHILE AT THE SAME TIME OTHER INDUSTRIAL SOCIETIES MAY HAVE VERY DIFFERENT IDEAS ABOUT WHAT SHOULD BE THE LIMITS OF INDIVIDUAL FREEDOM AND PRIVACY. AS AMERICAN SOCIETY BECOMES MORE COMPLEX, WE NEED TO KNOW MORE ABOUT OURSELVES IN ORDER TO ESTABLISH PRIORITIES AND PROPERLY ALLOCATE OUR HUMAN, FINANCIAL AND NATURAL RESOURCES.

ALL OF THIS MERELY REPRESENTS OUR PHILOSOPHICAL APPROACH TO MATTERS OF INDIVIDUAL PRIVACY AND RESPONDENT-BUREAU CONFIDENTIALITY. BUT, NONE OF THIS GOES VERY FAR TO SHOWING YOU HOW THE BUREAU FACES THE TOUGH "REAL WORLD" DECISIONS THAT ARE CONSTANTLY CONFRONTING IT.

FOR EXAMPLE, IN THE RURAL STYLE OF LIFE THAT EXISTED IN 1790, IT WOULD HAVE BEEN HARD TO JUSTIFY THE GOVERNMENT'S INTEREST IN WHETHER OR NOT A HOUSEHOLD HAD ITS OWN BATHROOM FACILITIES.

BUT, TODAY WITH SOCIETY'S COMMITMENT TO ELIMINATE SLUMS AND SUB-STANDARD HOUSING, INFORMATION AS TO SANITARY FACILITIES IS NEEDED TO ACCURATELY PINPOINT THE NUMBER AND GENERAL LOCATION OF SUCH HOUSING SO THAT THE TAXPAYERS' DOLLAR IS SPENT WISELY AND NOT TOSSED AWAY ON GUESSWORK.

I'VE CITED TO YOU THE QUESTION ABOUT PLUMBING BECAUSE IT IS ONE OF THE MANY WELL PUBLICIZED EXAMPLES THAT CRITICS OF THE BUREAU USE TO SHOW, HOW MEANINGLESS OR SILLY, AND, HOW VERY PERSONAL AND UNNECESSARY OUR QUESTIONS ARE.



TO CLAIM THAT THIS CENSUS QUESTION NOW CONSTITUTES A VIOLATION OF AN INDIVIDUAL'S PRIVACY STRIKES ME AS A REBIRTH OF THE KNOW - NOTHING PHILOSOPHY OF THE 19TH CENTURY. PUT ANOTHER WAY IT IS AN ARGUMENT THAT THE INTERESTS OF THE INDIVIDUAL IN BEING ABLE TO REFUSE TO ANSWER SUCH A QUESTION TRANSCENDS THE INTEREST OF THE SOCIETY, AND HAVE PRIORITY OVER PUBLIC EFFORTS TO ELIMINATE SLUMS AND ACCURATE RESOURCE ALLOCATION.

BUT THE QUESTION OF A HOUSEHOLD'S PLUMBING IS NOT THE ONLY EXAMPLE.

I DON'T NEED TO TELL THIS AUDIENCE THAT THE SALARIES AND PENSIONS OF MILLIONS OF AMERICANS ARE TIED TO VARIATIONS IN THE COST OF LIVING, WHICH IS GAUGED BY THE CONSUMER PRICE INDEX. HOWEVER, RECENTLY, APPEARING BEFORE A COMMITTEE OF THE HOUSE OF REPRESENTATIVES, I WAS QUESTIONED INTENSELY ABOUT THE CENSUS QUESTIONNAIRE WHICH FORMS PART OF THE CONSUMER EXPENDITURE SURVEY, WHICH IS THE BASIS FOR THE CONSUMER PRICE INDEX.

THE FORM WHICH DREW THE COMMITTEE'S QUESTIONS IS A LONG ONE. IT WAS USED TO RECORD OVER A PERIOD OF FIVE QUARTERS THE DETAILS OF A HOUSEHOLD'S SPENDING.

ONE COMMITTEE MEMBER WANTED TO KNOW WHY THE ENTRY "HAIR AND SCALP CARE FOR MEN AND BOYS" WAS IMPORTANT. OUT OF CONTEXT, I ADMIT IT SOUNDS LUDICROUS, BUT AS ONE COMPONENT OF A FAMILY'S TOTAL SPENDING RECORD, IT IS IMPORTANT. AND REMEMBER, THOSE INDIVIDUALS WHOSE INCOME IS TIED TO THE CONSUMER PRICE INDEX ALSO SPEND MONEY ON "HAIR AND SCALP CARE FOR MEN AND BOYS."

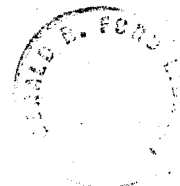


THE CONSUMER EXPENDITURE SURVEY WAS TAKEN OF A SCIENTIFICALLY SELECTED SAMPLE YIELDING 17,000 HOUSEHOLD INTERVIEWS. AS WITH ALL THE BUREAU'S CURRENT HOUSEHOLD SURVEYS, PARTICIPATION WAS VOLUNTARY. I SHOULD ADD THAT DESPITE THE FACT THAT THE SURVEY WAS VERY LENGTHY AND REQUIRED THAT THE INTERVIEWER VISIT THE RESPONDENT SEVERAL TIMES OVER A TWO YEAR PERIOD THE BUREAU OBTAINED APPROXIMATELY A 90% RESPONSE RATE -- THIS VERY HIGH RATE INDICATES AN EXCELLENT DEGREE OF COOPERATION ON THE PART OF THE PUBLIC AT LARGE. AND, THE ANSWERS OF EACH FAMILY ARE VERY IMPORTANT, SINCE THE 17,000 HOUSEHOLDS REPRESENT THE ENTIRE CIVILIAN NON-INSTITUTIONAL POPULATION OF THE UNITED STATES.

AS LONG AS RESPONSIBLE GOVERNMENT LEADERS DETERMINE THAT A DETAILED PICTURE OF HOW FAMILIES SPEND THEIR MONEY IS ESSENTIAL, THERE IS NO OTHER WAY TO OBTAIN IT THAN TO ASK SUCH DETAILED QUESTIONS.

ANOTHER EXAMPLE IS THE CENSUS QUESTION ABOUT HOW A PERSON GETS TO WORK. IN 1970, SOME PEOPLE FELT THIS WAS NONE OF THE GOVERNMENT'S BUSINESS. BUT WHEN THE ENERGY CRISIS HIT WITH FULL FORCE, THE ONLY COMPLETE STATISTICS ABOUT THE NATION'S COMMUTING HABITS CAME FROM SUMMARIES OF EACH PERSON'S ANSWER TO THAT QUESTION.

THE BUREAU WAS ABLE TO RESPOND WITH STATISTICS ABOUT THE NUMBER OF DRIVERS AND PASSENGERS FOR EACH METROPOLITAN AREA--- FIGURES WHICH SHOWED THAT A TOTAL OF 26 MILLION PERSONS DROVE TO WORK ALONE EACH DAY.



TAKING A QUESTION OUT OF CONTEXT TO IMPLY INVASION OF PERSONAL PRIVACY IS THE MOST PERSISTENT TECHNIQUE USED TO CRITICIZE THE BUREAU, AND IS THE MOST INTELLECTUALLY DISHONEST.

So, I've given you a few examples of questions that some people feel should not be asked because they are believed to be an unnecessary invasion of an individual's private sphere and I've tried -- briefly -- to explain why they are relevant and necessary questions.

I think that Senator Sam Ervin in his role as Chairman of the Subcommittee on Constitutional Rights summed the problem up well when he said:

"SOMEWHERE A BALANCE MUST BE STRUCK BETWEEN THE INDIVIDUAL'S DESIRE TO KEEP SILENT AND THE GOVERNMENT'S NEEDS FOR INFORMATION. IF IT IS PROVED NECESSARY TO INVADE CERTAIN RIGHTS, CLEARLY IT IS THE CONSTITUTIONAL DUTY OF CONGRESS TO ESTABLISH PRECISELY HOW AND UNDER WHAT CIRCUMSTANCES THIS MAY BE DONE."

CONGRESS HAS BEEN DOING EXACTLY THAT FOR ALMOST A CENTURY. SINCE THE ACT WHICH PROVIDED FOR THE 1880 CENSUS, THE LAWS PROTECTING THE CONFIDENTIALITY OF THE INFORMATION GIVEN IN RESPONSE TO CENSUS QUESTIONS HAVE BEEN PROGRESSIVELY TIGHTENED. WHILE AT THE SAME TIME WHAT THE BUREAU CAN COLLECT HAS BEEN DEFINED AS WELL.

THIS WAS NOT ALWAYS THE CASE. TO BEGIN WITH, UNTIL THIS CENTURY THERE WAS NO PERMANENT CENSUS ORGANIZATION. FEDERAL MARSHALS SUPERVISED THE ENUMERATION FROM THE FIRST CENSUS IN 1790 THROUGH THE COUNT OF 1870. IN FACT, THE RULES FOR THE FIRST FIVE CENSUSES REQUIRED THAT THE MARSHALS POST COPIES OF THE LIST OF NAMES GATHERED IN TWO PUBLIC PLACES IN THEIR DISTRICTS.

BETWEEN 1840 AND 1870 THERE WERE NO LEGAL RESTRICTIONS, BUT CENSUS TAKERS IN THE FIELD WERE INSTRUCTED TO TREAT ALL INFORMATION THEY GATHERED AS STRICTLY CONFIDENTIAL.

I DON'T KNOW IF THE URGE TO GOSSIP WAS STRONGER THAN THOSE INSTRUCTIONS, BUT BEGINNING IN 1880 THE LAW REQUIRED ALL ENUMERATORS TO TAKE AN OATH NOT TO DISCLOSE ANY PERSONAL INFORMATION. ODDLY, THIS REQUIREMENT DID NOT EXTEND TO THEIR SUPERVISORS.

THAT LOOPHOLE WAS CLOSED FOR 1900---WHEN ALL CENSUS EMPLOYEES WERE MADE SUBJECT TO A 500 DOLLAR FINE FOR VIOLATION OF THEIR OATH.

IN 1902, THE PERMANENT CENSUS BUREAU WAS ESTABLISHED. IT HAD BECOME APPARENT THAT THE NEED FOR STATISTICS WAS A CONTINUING ONE---AND THAT THE SIZE OF THE JOB WAS SUCH THAT A FULL TIME TRAINED STAFF WAS MUCH MORE EFFICIENT THAN SETTING UP AND DISBANDING A NEW ORGANIZATION EVERY DECADE.

UP UNTIL 1910, CENSUS LAW REQUIRED THE DIRECTOR TO FURNISH ON DEMAND TO GOVERNORS OR HEADS OF MUNICIPAL GOVERNMENTS CERTAIN PARTS OF AN INDIVIDUAL'S RETURN---THE NAME, AGE, SEX, BIRTH PLACE, AND RACE.

THE ACT FOR THE 1910 CENSUS CHANGED THAT WORDING TO READ THAT THE DIRECTOR COULD---AT HIS DISCRETION---FURNISH INFORMATION FOR GENEALOGICAL AND OTHER PROPER PURPOSES.

FOR THE BUREAU, 1910 ALSO MARKED THE START OF ANOTHER TRADITION---THE PRESIDENTIAL PROCLAMATION. THE ONE ISSUED BY PRESIDENT TAFT TOLD THE AMERICAN PEOPLE THEIR REPLIES TO CENSUS QUESTIONS WERE TO BE USED ONLY TO COMPILE GENERAL STATISTICAL

INFORMATION, AND THAT THEIR ANSWERS WERE PROTECTED BY LAW. IN PART, IT READ: "THE CENSUS HAS NOTHING TO DO WITH TAXATION, WITH ARMY OR JURY SERVICE...OR WITH THE ENFORCEMENT OF ANY NATIONAL, STATE, OR LOCAL LAW OR ORDINANCE, NOR CAN ANY PERSON BE HARMED IN ANY WAY BY FURNISHING THE INFORMATION REQUIRED."

THE CURRENT LAW UNDER WHICH THE CENSUS BUREAU OPERATES IS TITLE 13 OF THE U.S. CODE, MOST OF WHICH DATES FROM 1929. THIS LAW IS VERY SPECIFIC WHEN IT COMES TO PERSONAL INFORMATION. IT REQUIRES THAT INFORMATION OBTAINED FROM AN INDIVIDUAL BE USED ONLY FOR STATISTICAL PURPOSES. IT ALSO REQUIRES THAT PUBLISHED DATA BE IN SUCH A FORM THAT IT IS NOT POSSIBLE TO IDENTIFY AN INDIVIDUAL OR A SINGLE BUSINESS ESTABLISHMENT. THE LAW STIPULATES THAT NO ONE OTHER THAN SWORN OFFICERS AND EMPLOYEES MAY HAVE ACCESS TO INDIVIDUAL INFORMATION, AND EACH CENSUS EMPLOYEE HAS SIGNED AN AFFIDAVIT OF NONDISCLOSURE TO UPHOLD THE LAW.

THE CURRENT LAW STILL HAS WORDING MUCH LIKE THAT OF 1910, WHICH ALLOWS THE DIRECTOR AT HIS DISCRETION TO PROVIDE COPIES OF INDIVIDUAL INFORMATION FOR GENEALOGICAL AND OTHER PROPER PURPOSES. THE KEY WORD HERE IS "DISCRETION." OVER THE YEARS, THE APPLICATION OF THIS RULE HAS BECOME RESTRICTIVE RATHER THAN PERMISSIVE.

IN CURRENT BUREAU PRACTICE, THE TERM "CONFIDENTIALITY" REPRESENTS NOTHING LESS THAN A CLEAR EXTENSION OF AN INDIVIDUAL'S RIGHT TO PRIVACY. I THINK THE BEST WAY OF SHOWING THIS IS TO REVIEW THE BUREAU'S TRACK RECORD REGARDING THE CONFIDENTIALITY OF INDIVIDUAL DATA.

UNTIL RECENTLY, MOST OF THE BUREAU STAFF ASSUMED THAT INDIVIDUAL INFORMATION COLLECTED HAD ALWAYS BEEN HELD IN STRICTEST CONFIDENCE. I MUST REPORT THAT THIS HAS NOT ALWAYS BEEN THE CASE. BUT LOOKING AT THE WAY WE DID THINGS IN THE PAST, AND COMPARING THEM WITH TODAY'S PRACTICES, MAKES ME EVEN MORE CERTAIN THAT OUR CURRENT POSITION IS A VERY STRONG ONE.

BETWEEN 1900 AND THE MID-1920'S, THERE WERE AUTHORIZED RELEASES OF INDIVIDUAL DATA WHICH WERE AT THE TIME CONSIDERED PROPER, THAT TODAY WOULD CAUSE A STORM OF PROTEST IN THE PRESS, IN THE COURTS, AND IN CONGRESS. AS FAR AS WE KNOW THIS PRACTICE CAUSED NO SUCH OUTCRY THEN. I SAY AS FAR AS WE KNOW BECAUSE COMPLETE RECORDS DO NOT EXIST.

WE DO HAVE SOME INFORMATION ON ONE CASE WHICH DEMONSTRATES THE TYPE OF SITUATION IN WHICH IT WAS CONSIDERED PROPER IN THE PAST TO RELEASE DATA ABOUT INDIVIDUALS. THIS RELEASE OCCURRED IN 1918, DURING WORLD WAR ONE. CONGRESS HAD PASSED A WAR POWERS ACT, AND PRESUMABLY THIS WAS THE BASIS FOR SUCH AN EXTREME USE OF CENSUS DATA. INFORMATION ABOUT INDIVIDUALS WAS GIVEN TO THE DEPARTMENT OF JUSTICE FOR USE AS EVIDENCE IN PROSECUTING YOUNG MEN WHO CLAIMED THEY WERE TOO YOUNG TO REGISTER FOR THE DRAFT, WHILE WE DO NOT KNOW THE EXACT CIRCUMSTANCES SURROUNDING THE RELEASE, WE DO KNOW THAT PERSONAL INFORMATION FOR AT LEAST SEVERAL HUNDRED YOUNG MEN WAS RELEASED TO COURTS, DRAFT BOARDS, AND THE JUSTICE DEPARTMENT.

THE BUREAU STOPPED SUCH RELEASES DURING THE 1920'S, A POSITION WHICH WAS MADE OFFICIAL IN 1930 BY AN OPINION FROM THE ATTORNEY GENERAL. HIS OPINION SAID THAT EVEN THE NAME AND ADDRESS OF AN INDIVIDUAL WAS CONFIDENTIAL.

AT ABOUT THIS SAME TIME, THE SECRETARY OF STATE ASKED FOR DATA ABOUT INDIVIDUAL FARMS IN STEVENS COUNTY, WASHINGTON. CLOUDS OF SULPHUR DIOXIDE FROM A SMELTER LOCATED ACROSS THE BORDER IN CANADA HAD CAUSED EXTENSIVE DAMAGE TO CROPS IN THE UNITED STATES, AND THE MATTER HAD BEEN HANDED OVER TO AN INTERNATIONAL TRIBUNAL. THE CENSUS BUREAU REFUSED TO RELEASE THE INFORMATION, AND THE TRIBUNAL DECIDED NOT TO PRESS THE POINT, EVEN THOUGH IT FELT IT HAD THE NECESSARY POWER. THE REASON? BECAUSE IT WOULD HAVE CAUSED THE UNITED STATES GOVERNMENT TO BREACH A PROMISE IT HAD MADE TO ITS CITIZENS AS WELL AS TO VIOLATE THE U.S. LAW OF CENSUS CONFIDENTIALITY. ALTHOUGH THE CENSUS BUREAU DID PROVIDE AGGREGATED COUNTY DATA WHICH ALLOWED THE COURT TO AWARD DAMAGES TO THE WASHINGTON FARMERS.

NOW WE JUMP TO 1941. IT'S HARD TO IMAGINE NOW, BUT WITH WORLD WAR II UNDERWAY, THERE WAS NEAR HYSTERIA ABOUT THE JAPANESE-AMERICANS LIVING ON THE WEST COAST---EMOTION WHICH LED TO ONE OF THE MOST EMBARRASSING MOMENTS IN U.S. HISTORY, THE INTERNMENT OF LARGE NUMBERS OF THESE LOYAL AMERICANS. AT THE HEIGHT OF THIS FEELING, THE SECRETARY OF WAR REQUESTED THAT THE CENSUS BUREAU SUPPLY THE NAMES, ADDRESSES, AND AGES OF ALL PERSONS OF JAPANESE EXTRACTION LIVING ON THE WEST COAST. THIS TIME---IN SPITE OF THE NATIONAL EMERGENCY---THE BUREAU HELD TO ITS POSITION ON CONFIDENTIALITY OF INDIVIDUAL RECORDS AND REFUSED. HOWEVER, THE BUREAU DID SUPPLY SUMMARY DATA AT TRACT LEVEL BUT NOT INDIVIDUAL DATA. I SHOULD ADD THAT TODAY TRACT LEVEL DATA IS PART OF THE REGULAR PUBLICATION PROGRAM

OF THE BUREAU--BUT, AS IN 1941, NO INDIVIDUAL DISCLOSURES, EVEN BY INFERENCE, ARE ALLOWED.

IN 1947, DURING THE RISING CONCERN ABOUT POSSIBLE COMMUNIST INFILTRATION AND SABOTAGE, THE ATTORNEY GENERAL REQUESTED INFORMATION FROM CENSUS RECORDS ABOUT CERTAIN INDIVIDUALS FOR USE BY THE FBI. AGAIN, THE REQUEST WAS DENIED.

A LOOPHOLE IN THE LAW TURNED UP IN A CASE IN THE EARLY 1960'S WHEN THE COURTS RULED THAT FILE COPIES OF CENSUS FORMS NOT KEPT BY THE BUREAU COULD BE SUBPOENAED. THIS RESULTED IN CONGRESS AMENDING THE LAW TO EXTEND CENSUS CONFIDENTIALITY TO INCLUDE EVEN COPIES OF CENSUS QUESTIONNAIRES WHICH ARE KEPT BY BUSINESSES FOR THEIR OWN FILES.

THERE'S A TECHNOLOGICAL ASPECT OF THE BUREAU'S HISTORY THAT I'D LIKE TO MENTION AS WELL. HERMAN HOLLERITH, AN ENGINEER WHO HAD WORKED AS A SPECIAL AGENT IN THE 1880 CENSUS, BECAME INTERESTED IN THE PROBLEM OF HOW THE VOLUMINOUS QUANTITY OF MATERIAL GATHERED IN THE CENSUS WAS TO BE PROCESSED. AFTER SOME EXPERIMENTATION HE INVENTED THE PUNCHED CARD SYSTEM FOR RECORDING AND TABULATING THE CENSUS RETURNS. EVEN IN ITS EARLIEST STAGE OF DEVELOPMENT, THE HOLLERITH SYSTEM SPEEDED TABULATIONS TO SUCH AN EXTENT THAT ITS MERITS WERE DEMONSTRABLE BEFORE THE 1890 ENUMERATION BEGAN.

THE ADVENT OF THIS NEW SYSTEM HAD DUAL IMPLICATIONS FOR THE QUESTION OF CONFIDENTIALITY. ON THE ONE HAND, IT REMOVED THE ACTUAL CENSUS RETURN ONE STEP FARTHER FROM THE FINAL STATISTICAL PROCESS. ON THE OTHER HAND, IT MADE POSSIBLE THE COLLECTION OF EVEN MORE INFORMATION ON INDIVIDUALS. IT IS

PROBABLE THAT THE HOLLERITH SYSTEM ENHANCED THE ANONYMITY, AND THUS THE CONFIDENTIALITY, OF CENSUS DATA. TECHNOLOGICALLY IT WAS THE FORERUNNER OF MODERN COMPUTER BASED RECORD KEEPING, WHICH, IF USED AS AT THE BUREAU, PROVIDES CONSIDERABLE CONFIDENTIALITY FOR RESPONDENTS. BUT--MORE OF THIS IN A MOMENT.

BRIEFLY, THAT IS A SUMMARY OF HOW CONFIDENTIALITY GREW TO BE AN INTEGRAL PART OF CENSUS TAKING. KEEPING THAT INFORMATION IN MIND, AND MY EARLIER REMARKS ABOUT THE GENERALIZED FEAR OF THE COMPUTER LET'S LOOK AT HOW A MODERN CENSUS IS TAKEN AND PROCESSED.

AS YOU KNOW, WE HAVE INCREASINGLY UTILIZED THE U.S. POSTAL SYSTEM. IN 1960, FORMS WERE MAILED TO EACH HOUSEHOLD, AND WERE PICKED UP BY ENUMERATORS. FOR 1970, THE FORMS WERE AGAIN MAILED TO ALL HOUSEHOLDS. BUT THOSE PEOPLE LIVING IN LARGER METROPOLITAN AREAS ALSO RETURNED THEIR FORMS BY MAIL. THIS MEANT THAT IN ABOUT THREE-QUARTERS OF THE NATION'S HOMES, PERSONAL INFORMATION DID NOT HAVE TO BE GIVEN FACE-TO-FACE TO A NEIGHBOR OR A STRANGER. IN GREAT BRITAIN, A 1973 PARLIAMENTARY PAPER DEALING WITH THE SECURITY OF THE CENSUS OF POPULATION INDICATED THAT THE COUNCIL OF THE ROYAL STATISTICAL SOCIETY VIEWED THE IDEA OF HAVING TO GIVE PERSONAL INFORMATION TO SOMEONE WHO KNEW THE RESPONDENT, AS A PROBLEM THAT SHOULD BE DEALT WITH.

AFTER ALL THE FORMS ARE COLLECTED THE DATA ON THEM MUST BE TRANSFERRED TO THE COMPUTER FOR TABULATION. IT USED TO BE THAT THE DATA ON EACH FORM WAS MANUALLY TRANSFERRED TO PUNCHCARDS, AND THE PUNCHCARDS FED TO COMPUTER TAPE. NOW, WE BYPASS



LABORIOUS PROCESS. THE FORMS ARE MICROFILMED ON HIGH-SPEED PAGE-TURNING MACHINES AND RETURNED TO STORAGE. THIS IS THE LAST TIME EACH ORIGINAL FORM IS HANDLED UNTIL IT IS DESTROYED.

THE FIRST PAGE OF THE CENSUS FORM IS NOT MICROFILMED. THIS PAGE HAS THE ADDRESS OF THE HOUSEHOLD. SO THE ROLLS OF MICROFILM, WHICH HAVE NAMES AND PERSONAL INFORMATION, CONTAIN ONLY A GEOGRAPHIC CODE RELATING THAT INFORMATION TO THE BLOCK ON WHICH THE HOUSEHOLD IS LOCATED, AND THE ADDRESS REGISTER IS MAINTAINED IN A SEPARATE FILE.

ANOTHER SOPHISTICATED PIECE OF MACHINERY READS THE MICROFILM AND TRANSFERS THE DOTS, THAT ORIGINATED WITH THE CITIZEN'S PENCILLED-IN CIRCLES, DIRECTLY ONTO COMPUTER TAPE.

EVEN THIS IS NOT ENOUGH TO GUARANTEE THAT A PERSON COULD NOT BE IDENTIFIED IN THE STATISTICAL SUMMARIES. SOME AREAS HAVE SUCH A SMALL POPULATION THAT IT WOULD BE POSSIBLE, BY DEDUCTION, TO KNOW WHOSE CHARACTERISTICS ARE IN THE TABLES. OUR COMPUTER PROGRAM IS SET UP TO SUPPRESS ANY CHARACTERISTICS THAT WOULD ENABLE AN ANALYST TO IDENTIFY INDIVIDUALS. SO, AS I'VE SAID A COUPLE OF TIMES ALREADY, HERE YOU CAN SEE HOW THE COMPUTER IS A DIRECT ASSET TO CONTRIBUTING TO THE CONFIDENTIALITY OF THE INFORMATION COLLECTED. THE BUREAU IS ABLE TO ACCURATELY AND RAPIDLY PRODUCE DETAILED STATISTICS--THAT WOULD NOT BE POSSIBLE IF THE EDITING OF POTENTIAL DISCLOSURES HAD TO BE DONE BY HAND.



WE ARE EXAMINING OTHER TECHNIQUES FOR PROTECTING CONFIDENTIALITY. THESE INCLUDE ROUNDING NUMBERS TO THE NEAREST 5, AND A "RANDOM NOISE" SYSTEM, IN WHICH VALUES OF ONE AND NEGATIVE ONE ARE SCATTERED THROUGHOUT THE TABULATIONS, BALANCING TO ZERO AT CERTAIN GEOGRAPHIC LEVELS. SUCH A SYSTEM WOULD HAVE NO SUBSTANTIAL EFFECT ON STATISTICAL ANALYSIS.

WHEN IT COMES TO SUPPRESSION OF DATA FROM THE ECONOMIC CENSUSES, EVEN THE CUTOFF POINTS ARE CONFIDENTIAL--BECAUSE THAT INFORMATION BY ITSELF COULD BE USED FOR DEDUCTION, SINCE THE NUMBERS INVOLVED ARE SO MUCH SMALLER THAN POPULATION FIGURES.

I ALSO SHOULD MENTION HERE THE PUBLIC USE SAMPLE, WHICH WE ESTABLISHED IN 1960. THESE ARE NOT SUMMARIES, BUT INDIVIDUAL CENSUS RECORDS MINUS CERTAIN DATA WHICH ENSURE THAT THE INDIVIDUAL CANNOT BE IDENTIFIED. THE SMALLEST AREA IDENTIFIER FOR WHICH THESE RECORDS ARE AVAILABLE IS 250,000, AND EVEN THEN CERTAIN DATA HAS BEEN TRUNCATED TO AVOID IDENTIFICATION. AN EXAMPLE WOULD BE EXTREMELY HIGH SALARY FIGURES, FOR INSTANCE ---EVERYTHING OVER \$50,000 IS SIMPLY MARKED "\$50,000 AND OVER."

THESE SAMPLES HAVE PROVEN OF GREAT VALUE TO THE ACADEMIC AND BUSINESS COMMUNITIES FOR RESEARCH, AND FOR DETERMINING IF SPECIAL TABULATIONS WOULD PROVIDE THE SUMMARY DATA DESIRED.

WHEN THE TABULATION OF A CENSUS IS FINISHED, THE ORIGINAL PAPER FORMS WHICH HAVE BEEN STORED IN GUARDED BUILDINGS ON A GOVERNMENT FACILITY ARE DESTROYED. THEY ARE SHIPPED IN SEALED BOXCARS AND RECYCLED, WITH BUREAU OFFICIALS WATCHING UNTIL THEY DROP INTO THE PULPING VATS.



THAT LEAVES THE MICROFILM. WHERE DOES IT GO AFTER WE ARE FINISHED PROCESSING THE DATA? THE ROLLS ARE SENT TO THE PERSONAL CENSUS SERVICE BRANCH IN PITTSBURG, KANSAS, WHICH WE COMMONLY REFER TO AS THE AGE SEARCH SERVICE. THIS IS A UNIQUE SELF-SUPPORTING OPERATION WHICH HAS HELPED MILLIONS OF PEOPLE. EVERY DAY THE BUREAU RECEIVES ABOUT 1,300 REQUESTS FROM PEOPLE WHO NEED TO VERIFY SOME ITEM OF INFORMATION ABOUT THEMSELVES. MOST ARE FOR SUBSTITUTES FOR BIRTH CERTIFICATES WHICH EITHER NEVER EXISTED, OR HAVE BEEN LOST OR DESTROYED. PEOPLE NEED THEM TO QUALIFY FOR RETIREMENT, FOR SOCIAL SECURITY, FOR MEDICARE, TO GET A PASSPORT, AND MANY OTHER USES. FOR A VERY SMALL FEE THE AGE SEARCH SERVICE WILL SEARCH OLD CENSUS RECORDS AND ISSUE A CERTIFICATE WHICH HAS LEGAL STANDING.

THIS SERVICE IS PROVIDED ONLY AT THE REQUEST OF THE PERSON HIMSELF. FOR EXAMPLE, A SON CANNOT ASK ABOUT HIS FATHER UNLESS HE HAS A POWER OF ATTORNEY OR A DEATH CERTIFICATE. THIS OPERATION IS THE ONLY USE MADE TODAY OF THE DIRECTOR'S AUTHORITY TO RELEASE PERSONAL INFORMATION AT HIS DISCRETION.

FINDING INFORMATION FOR THOSE WHO REQUEST IT IS NOT AN EASY JOB. IT TAKES AN EXPERT TO UTILIZE THE MICROFILM. SINCE THE CENSUS IS BASED ON ADDRESSES, NOT NAMES, THERE IS NO SUCH THING AS A MASTER LIST OF RECORDS ARRANGED ALPHABETICALLY BY NAME. FOR THE CORRECT REEL OF FILM TO BE LOCATED, THE PERSON MAKING THE REQUEST MUST SUPPLY INFORMATION ABOUT WHERE HE LIVED.

REMEMBER, I SAID THE MICROFILM FOR 1970 DOES NOT CONTAIN BOTH NAME AND ADDRESS. IN ORDER TO WORK BACKWARDS AND RELATE NAME WITH ADDRESS, IT IS NECESSARY TO HAVE ACCESS TO THE GEOGRAPHIC CODING INFORMATION ON THE FILM, AND THE MASTER LIST OF ADDRESSES.



THE VERY SIZE OF THE U.S. POPULATION HELPS TO GUARANTEE CONFIDENTIALITY. IT TOOK SOME 5,000 MILES OF MICROFILM TO PROCESS THE 1970 CENSUS. FOR US TO MAKE THIS PROCESS OF WORKING BACKWARD ANY EASIER WOULD BE EXTREMELY COSTLY, AND WOULD IN THEORY, WEAKEN THE PROTECTION OF CONFIDENTIALITY.

NOW---WHERE DOES THE MICROFILM OF PAST CENSUSES EXIST? THE RECORDS OF THE COUNTS FROM 1790 THROUGH 1880 ARE ACCESSIBLE TO THE PUBLIC IN THE NATIONAL ARCHIVES. DATA IN THESE ENUMERATIONS WERE NOT GATHERED UNDER LAWS OF CONFIDENTIALITY. THE CENSUS OF 1890 IS ALMOST NON-EXISTENT, HAVING BEEN MOSTLY DESTROYED BY FIRE.

THE PITTSBURG, KANSAS UNIT HAS MICROFILM FOR 1900 THROUGH 1960, AND LATE THIS YEAR WILL HAVE THE 1970 RECORDS SET UP TO BE ABLE TO ANSWER THE QUERIES WHICH HAVE BEEN COMING IN. A COPY OF THE 1960 AND 1970 RECORDS WILL BE HELD UNDER SECURITY CONDITIONS AT JEFFERSONVILLE, SO THAT IF ONE COPY WERE DESTROYED THE WHOLE CENSUS WOULD NOT BE LOST. HERE I MIGHT SAY THAT A TORNADO LIFTED ONE CORNER OF THE ROOF OF THE PITTSBURG BUILDING A FEW YEARS AGO.

COPIES OF THE 1900 THROUGH 1950 RECORDS ARE ALSO HELD BY THE NATIONAL ARCHIVES. THESE WERE SENT TO THE ARCHIVES FOR STORAGE. IN DECEMBER OF LAST YEAR, THE ARCHIVES OPENED THE 1900 CENSUS TO LIMITED ACCESS BY QUALIFIED RESEARCHERS, A MOVE OPPOSED BY THE CENSUS BUREAU. WHILE THIS ACCESS IS UNDER CONTROLLED CIRCUMSTANCES, WE FEEL AT THE VERY LEAST IT VIOLATES IN PRINCIPLE THE RIGHTS OF THE ESTIMATED SEVEN MILLION PERSONS STILL ALIVE WHO WERE COUNTED IN THE 1900 CENSUS.



THE LAW UNDER WHICH THE ARCHIVES OPERATES SAYS GOVERNMENT RECORDS SHALL BE MADE PUBLIC AFTER 50 YEARS, UNLESS AN INTERAGENCY AGREEMENT STIPULATES A LONGER PERIOD OF TIME. IN 1952, THE DIRECTOR OF THE CENSUS BUREAU AND THE ARCHIVIST AGREED THAT CENSUS RECORDS SHOULD REMAIN CLOSED FOR 72 YEARS ---AN AVERAGE PERSON'S LIFETIME. THE BUREAU'S POSITION IS THAT THE 1952 AGREEMENT WAS IN EXCESS OF THE DIRECTOR'S AUTHORITY, AND THEREFORE IS INVALID. HOWEVER, AN OPINION FROM THE JUSTICE DEPARTMENT DID NOT SUPPORT OUR VIEW.

REMEMBER THAT THERE WAS A DIFFERENCE IN THE STATUS OF PROTECTION BETWEEN THE CENSUS OF 1900 AND THAT OF 1910. THE 1910 COUNT WAS PRECEDED BY A PRESIDENTIAL PROCLAMATION--A PROMISE FROM PRESIDENT TAFT WHICH STATED: "THERE NEED BE NO FEAR THAT ANY DISCLOSURE WILL BE MADE REGARDING ANY INDIVIDUAL PERSON OR HIS AFFAIRS."

THE OBVIOUS QUESTION IS---HOW LONG DOES THAT PROMISE AND THE LAW'S GUARANTEE OF CONFIDENTIALITY APPLY? A LIFETIME? ONE HUNDRED YEARS? OR FOREVER? THE BUREAU HOPES CONGRESS WILL CLOSE THIS FINAL LOOPHOLE IN THE LAWS RELATING TO CENSUS OF CONFIDENTIALITY.

CONGRESS AT THE MOMENT HAS A LOT TO CONSIDER IN THE AREA OF PRIVACY. SOME 100 BILLS ARE PENDING IN THE HOUSE AND SENATE. THE BASIC QUESTION SEEMS TO BE NOT WHETHER SOMETHING MUST BE DONE TO INSURE PRIVACY AND PROTECT IT, BUT WHAT, AND BY WHOM. FOUR OF THOSE BILLS DEAL WITH CENSUS INFORMTION. EIGHT OF THEM WOULD ESTABLISH A FEDERAL PRIVACY BOARD OR SOME COMMITTEE



OR COMMISSION AS AN OVERALL AUTHORITY. MANY OF THE BILLS WOULD ALLOW THE CITIZEN THE RIGHT TO INSPECT HIS OWN RECORDS, CORRECT THEM, AND BRING SUIT FOR DAMAGES RESULTING FROM INCORRECT OR MISUSED RECORDS.

MUCH OF THE DATA BANK FEAR CENTERS ON THE USE OF A PERSON'S SOCIAL SECURITY NUMBER AS A UNIVERSAL IDENTIFICATION NUMBER. ONE BILL WOULD EXPRESSLY BAN USE OF SOCIAL SECURITY NUMBERS FOR ANY IDENTIFICATION OTHER THAN THE RETIREMENT SYSTEM. THE ARMED FORCES SCRAPPED THE OLD ID SERIAL NUMBER SEVERAL YEARS AGO IN FAVOR OF SOCIAL SECURITY NUMBERS, AND SEVERAL STATES ARE USING THESE NUMBERS ON THEIR DRIVERS' LICENSES. I WOULD LIKE TO NOTE THAT SOCIAL SECURITY NUMBERS HAVE NOT BEEN ASKED FOR IN THE DECENNIAL CENSUS, WHERE ANSWERS ARE MANDATORY.

WE HAVE ASKED FOR THESE NUMBERS IN SOME VOLUNTARY SURVEYS. THIS ALLOWS US TO MATCH CURRENT ANSWERS WITH INFORMATION THE GOVERNMENT HAS ALREADY GATHERED, TO EVALUATE THE ACCURACY AND CONSISTENCY OF THE STATISTICS WE PRODUCE.

ONE OF THE MOST COMMON COMPLAINTS FROM THE PUBLIC IS THAT SEVERAL AGENCIES OF THE GOVERNMENT ASK THEM THE SAME QUESTIONS. SO---WHERE IT IS FEASIBLE, AND WHEN AUTHORIZED BY LAW, THE CENSUS BUREAU UTILIZES THE RECORDS OF OTHER AGENCIES. IT DOES THIS EVEN THOUGH IT HAS THE AUTHORITY TO GO OUT AND COLLECT THE DATA ITSELF, FOR TWO REASONS---TO SAVE MONEY, AND TO LESSEN THE BURDEN ON THE PUBLIC OF ANSWERING QUESTIONNAIRES. WHEN WE DO USE SUCH ADMINISTRATIVE RECORDS, THE INFORMATION COMES UNDER THE SAME RULES OF CONFIDENTIALITY AS IF WE GATHERED IT OURSELVES.



WHILE WE'RE ON THE SUBJECT OF THE BURDEN TO THE PUBLIC, LET ME TELL YOU THAT THE BUREAU SPENDS A LOT OF TIME AND EFFORT IN THE RESEARCH AND DEVELOPMENT OF QUESTIONNAIRES, AND TECHNIQUES OF TAKING SURVEYS AND CENSUSES.

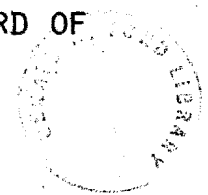
FOR A QUESTION TO BE USED, ITS PROPRIETY HAS TO BE WEIGHED AGAINST THE SOCIAL NEED FOR THE INFORMATION. THE WORDING IS ALSO VERY IMPORTANT. A QUESTION MUST RESULT IN THE MAXIMUM OF INFORMATION FOR SOCIETY, WHILE CAUSING A MINIMUM OF INCONVENIENCE FOR THE INDIVIDUAL.

HERE AGAIN, THE KINDS OF QUESTIONS CHANGE AS SOCIETY CHANGES. WHEN THE NATION WAS NOT CROWDED---WHEN BIG FAMILIES WERE NEEDED TO RUN FARMS---A QUESTION ASKING HOW MANY CHILDREN A COUPLE EXPECTED TO HAVE WOULD HAVE BEEN OUT OF LINE. WITH TODAY'S CONCERN ABOUT THE SIZE OF THE POPULATION, SUCH INFORMATION BECOMES VERY IMPORTANT.

THE CONCERN FOR THE RIGHT TO PRIVACY WAS UNDERLINED WHEN THE PRESIDENT ESTABLISHED A BLUE-RIBBON PANEL TO REVIEW BOTH GOVERNMENT AND INDUSTRY PRACTICES RELATED TO THE COLLECTION AND USE OF PERSONAL INFORMATION.

AT THE SAME TIME, COMMERCE SECRETARY FREDERICK DENT HAS DIRECTED THE NATIONAL BUREAU OF STANDARDS TO FIND OUT HOW COMPUTER INFORMATION MAY BE MADE MORE SECURE.

AND AT THE BUREAU, WE HAVE ESTABLISHED AN ADVISORY COMMITTEE ON PRIVACY AND CONFIDENTIALITY, STAFFED WITH EXPERTS FROM THE ENTIRE SPECTRUM OF DATA GATHERERS AND USERS, TO ADVISE US ON PROCEDURES TO MAINTAIN AND STRENGTHEN OUR RECORD OF CONFIDENTIALITY.



YOU MIGHT WELL ASK WHY WE AT THE CENSUS BUREAU ARE SO CONCERNED, IF OUR RECORD IS GOOD AND OUR INTENTIONS ARE CLEAR. ASIDE FROM THE MORAL IMPLICATIONS, I'LL GIVE YOU A VERY PRACTICAL ANSWER. A CENSUS OR A SURVEY IS ONLY AS GOOD AS THE CONTRACT OR TRUST WITH THE PEOPLE WHO ANSWER THE QUESTIONS. IF THE PUBLIC FEELS WE ARE NOT KEEPING OUR WORD THAT THEIR ANSWERS WILL BE KEPT CONFIDENTIAL---OR EVEN THAT THE POTENTIAL FOR SUCH VIOLATION OR THEIR TRUST EXISTS---THEIR ANSWERS WILL NOT BE AS ACCURATE, OR GIVEN AS WILLINGLY. IF THIS OCCURS ON A LARGE SCALE, THE QUALITY OF THE SUMMARY STATISTICS WILL DETERIORATE. AND IF THIS OCCURS, THE NATION HAS LOST A PRIME DECISION-MAKING TOOL, AND SOCIETY WILL BE THE LOSER.

THIS WOULD BE A TRAGEDY! IT WOULD COME JUST AS MORE AND MORE DECISION MAKERS IN THE PUBLIC AND PRIVATE SECTORS ARE BECOMING AWARE OF HOW VALUABLE CENSUS DATA IS TO THEM---AND IT WOULD COME AS THE BUREAU'S MAIN THRUST IS TO INCREASE THE UTILITY OF THE DATA IT GATHERS.

TO THE CENSUS BUREAU, A PROMISE IS A PROMISE. THE CALENDAR MAY READ 1984 IN TEN YEARS, BUT I WANT TO MAKE IT CLEAR THAT AS FAR AS THE BUREAU IS CONCERNED, ~~1984~~ WILL NEVER COME.

IN HIS REMARKS TO THE MOST RECENT MEETING OF THE ADVISORY COMMITTEE ON PRIVACY AND CONFIDENTIALITY, SECRETARY DENT SAID: "I THINK PERHAPS THE STRONGEST BRAND NAME IN AMERICA MIGHT BE THAT OF THE CENSUS BUREAU."

WE PLAN TO KEEP IT THAT WAY.



Statement of
Mr. Vincent P. Barabba,
Director, Bureau of the Census,
before the
Subcommittee on Foreign Operations and
Government Information
of the
House Committee on Government Operations
April 30, 1974

I am very pleased to have this opportunity to discuss the views of the Department of Commerce on H. R. 12206, its successor, H. R. 13303, and related bills which would provide that persons be apprised of and have access to records concerning them maintained by Federal agencies.

It is our purpose to be wholly constructive in our comments, both because the issues are fundamental to the operations of government, and because we have long accepted and supported the principle of fair information practice. We think the Department has an excellent record on this score.

H. R. 13303 has an attractive simplicity, but we believe its terms are too general and sweeping, given the complex problems and issues involved-- some distinctions are needed among different types of records, different uses, and different impacts on individuals, which the bill does not recognize.

Considering specific provisions of the legislation, we shall be speaking primarily of H. R. 13303, which differs from H. R. 12206 primarily in that information provided by the data subject is covered. H. R. 13872 and H. R. 14163 will be mentioned as the issues are discussed.



Initially, a necessary classification which affects completely the scope of the bill has to be made. We agree with the interpretation by Mr. Thomas McFee in his testimony for the Department of Health, Education, and Welfare, that the word "person," unless otherwise defined, would apply to individuals and the public and private organizations and associations defined in section 551 of title 5. As presumably it was intended solely to protect individual privacy, the term "person" should be defined specifically in that respect for the new section 552a being proposed.

In fact, the bill could use several definitions to clarify its intent. The term "disclosure," for example, is defined in H. R. 13872 as including oral, written or wire transmission, but not in the other bills. It is also desirable to define "notification," and to spell out the situations in which notification must take any particular form. Of course, the whole question of definitions depends upon the scope of the bill.

A fundamental provision of the bill is that without notification of the data subject, an agency shall "refrain from disclosing the record or any information contained therein to any other agency". "Disclose to any other agency" covers many different processes of information exchange. We will note only a few. Does this include disclosure between two bureaus within a single Administration? Agencies within a Department?

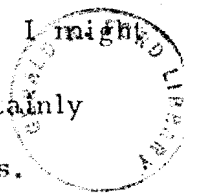


It appears to include a telephone conversation between two supervisors of two agencies concerning the qualification of a job applicant, the transfer of information from millions of Social Security Administration records to State agencies as referred to by Mr. Mc Fee, the exchange of information between agencies for statistical purposes which are not at all concerned with the identity and characteristics of a single person, and the transfer of active records to inactive storage or archival storage and use.

We cannot believe that each such event is equally and sufficiently critical to each data subject's welfare or privacy as to require the major burden of such notice contained in (a)(1)(A) of H. R. 13303.

We think that before a data subject notification requirement is agreed on, very thorough examination should be made of the circumstances in which it would be very burdensome and costly with little or no benefit or advantage to a data subject. Under section (a)(1)(B) of H. R. 13303, every record made publicly available under the Freedom of Information Act or similar law requires notification to any person identified in such record.

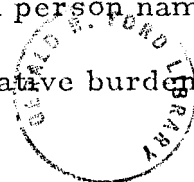
It may also be desirable from a practical standpoint, after considering under what conditions notification is most vital to a data subject, to impose more rigorous requirements on newly-created records than upon existing records, which must number in the hundreds of millions. I might add here that an effective date 90 days after enactment is certainly not adequate time to prepare to implement the bill's provisions.



A most important distinction we find missing in H. R. 13303--but present in H. R. 14163--is that between administrative records systems and statistical records systems. Though both may contain identical or similar information, the former is intended to affect the individual directly, whereas the statistical record will not affect the individual and his privacy when used solely for the compilation and analysis of aggregate data. I assume, of course, here that release of data is in a form that does not disclose any individual's identity or characteristics. We strongly endorse Mr. McFee's testimony on this point.

With regard to individual records used solely for statistical purposes, or used administratively only in the sense of returning the data to the data subject on his own request, we urge that a third exemption be added under subsection (b) which would then state: "This section shall not apply to records - - - - authorized by law to be collected and used solely for statistical purposes or as authorized by section 8, title 13 U. S. C."

The Census Bureau under section 8 is able to perform the valuable service to individuals of furnishing extracts of otherwise strictly confidential information contained in population census reports about themselves and their immediate family for birth, inheritance, and other such proper purposes. Thousands of such requests are handled yearly, without any detriment to the individuals concerned. Notification to each person named in these extracts will be a costly and uncalled for administrative burden.



We do not suggest this exemption lightly. There are millions of statistical records in existence. There are also very specific procedures and rigorous safeguards as to how such records may be used. There is no reason to believe the statistical uses would ever adversely affect an individual. The exemption will remove an incalculable administrative burden which would serve no privacy purpose. Furthermore, if individuals were permitted to alter information about themselves as reported on census and survey questionnaires, the production and dissemination of statistics would be endlessly interrupted and hopelessly frustrated, with very serious results as to the timeliness of data.

Subsection (a)(2) of H. R. 13303 would restrict disclosures within an agency to persons with job-related needs to know. This provision is a salutary one, but superfluous from our viewpoint, in that there are no records systems in the Department which are accessible to the casual or curious employee without a job-related purpose for inspecting records. We would be surprised if this were not true of all agencies.

Subsection (a)(3) requires that records be kept of the names and addresses of all persons to whom information on data subjects is disclosed. For personnel records and statistical records this would be a horrendous administrative burden at considerable cost and with little benefit.



With respect to access to personnel records, the practices of this and most agencies are derived from statutory or administrative requirements, and regulations of the Civil Service Commission. With regard to statistical records, all Department employees are subject to criminal penalty under section 1905 of title 18 for unauthorized disclosures of data held to be confidential, and access is limited to those authorized by law to see it. In the unique case of the Bureau of the Census, all employees may have either processing or analysis access to the data which are confidential by law. Almost all employees need access, and all are subject to heavy penalties for disclosure. At the Census Bureau, a log of entrants to the data files would serve no purpose not already being carried out under title 13, U. S. C. Since millions of records are handled in a year, the costs of the recordkeeping proposed in the bill could be very substantial.

Subsection (a)(4) of H. R. 13303 would permit any person to inspect his own record and have copies made at his expense. This is no problem when "inspection" is as simple as looking through a file cabinet for the folder with an identifying name.

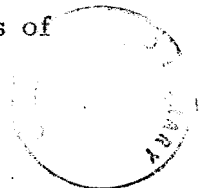
It should be recognized, however, that large-scale record systems are not usually arranged for easy retrieval by name, and that in some cases they are not maintained in a single location. Census records

would often need to be recalled from storage, even for inspection, and this entails substantial cost. We suggest that the reference to expense should read, "in no event shall be greater than the cost of making such copies and making such record available for inspection."

Subsection (3) of H.R. 13303 would require agencies to publish rules regarding their records in sufficient detail so that data subjects know what categories of information are maintained, and when, how, where, and at what cost they can have access to their record. We agree it is desirable to develop such rules, at least for personal records systems that have a significant impact on individual rights.

Also desirable is subsection (b)(8) of H.R. 13872, which would require agencies to inform people whether or not the supplying of information is legally required, and the consequences of providing or not providing the data requested.

A final comment on H.R. 13303 concerns the type of data transfer involved in an archival records system. The bill makes no mention of records which are disclosed to the National Archives in accordance with the Records Disposal Act of 1945 and the Archives Act of 1950. We are especially concerned with the problem of notification in this instance because, if it applies to data transfers undertaken in the past, it would appear that the Census Bureau would have to notify hundreds of



millions of Americans as to the transfer of their personal census records to Archives, not only for permanent preservation, but to be used for historical and genealogical research. The prospect of notifying all living persons reported in each census since the turn of the century that their records have been transferred to another agency for archival purposes leads us to contemplate costs to the Census Bureau of tens of millions of dollars annually, as well as very poor results because so many persons have, over the intervening years, moved from the address of their birthplace or residence at census time. Further, what desirable purpose would it serve to make such notification?

H. R. 14163, the new bill recently introduced by Mr. Goldwater for himself and Mr. Koch, entitled the "Right to Privacy Act", has a much wider sweep than H. R. 13303. It is not limited to governmental record-keeping, and it applies to all information which in any way "describes, locates or indexes" anything about anybody.

There has not been sufficient time to focus on the wide ramifications of H. R. 14163, particularly as they would affect recordkeeping of the entire business community. Certainly the business burden and costs which would result, as well as impairment of business operations which now convenience the consumer, will need the closest scrutiny.



The Domestic Council Committee on the Right to Privacy headed by Vice President Ford is considering the role and responsibilities of the private as well as the public sector--and we look to its findings for guidance.

What is affordable must be in the balance as the citizenry will foot the bill for H.R. 14163 through both taxes and pass-through of costs to prices. The broad sweep is expensive. There is, we believe, need for focus on the specific information practices which are subject to the most consequential abuse--as Congress did in the case of the Fair Credit Reporting Act. With the right balance, the individual will continue to enjoy at reasonable cost both services wanted and protection against abuses of information systems.

In conclusion, we are pleased that some of the ideas contained in the most recent bills have been refined from earlier versions, such as H.R. 667, but we think further work is needed on these concepts as they would apply even to Federal agencies. We urge that statistical records, properly defined, be exempted altogether, and that there be focus on those kinds of administrative records which are most vulnerable to frequent or unintended secondary uses that significantly and adversely affect individuals.

I will be glad to attempt to answer any questions.



STATEMENT OF PHILIP W. BUCHEN, EXECUTIVE DIRECTOR,
DOMESTIC COUNCIL COMMITTEE ON THE RIGHT OF PRIVACY,
INCORPORATING A COMMUNICATION OF THE VICE PRESIDENT
TO THE SENATE GOVERNMENT OPERATIONS AD HOC SUBCOMMITTEE
AND THE JUDICIARY SUBCOMMITTEE ON CONSTITUTIONAL RIGHTS
CONCERNING THE RIGHT OF PRIVACY, JUNE 19, 1974.

Mr. Chairman, I appreciate this opportunity to present a communication by the Vice President to you and members of the two Subcommittees in joint session, to testify on the importance of protecting the right to privacy, and to review briefly the progress of the Domestic Council Committee on the Right of Privacy. Accompanying me is Douglas W. Metz, Deputy Executive Director of the Committee.

I would like first to read a letter from the Vice President to the Chairman:

Honorable Sam J. Ervin, Jr., Chairman
Government Operations Committee
Judiciary Subcommittee on Constitutional Rights
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

It is a distinct pleasure and honor for me to respond to your invitation to communicate with the Senate's Government Operations Ad Hoc Subcommittee and the Judiciary Subcommittee on Constitutional Rights as you undertake joint hearings on legislation to protect the right of privacy.



As each member of the Committees is aware, my concern for the protection of personal privacy was heightened by the intense investigation directed at me in connection with my nomination to be Vice President. Subsequently, the President afforded me an opportunity to continue my interest by naming me Chairman of the Domestic Council Committee on the Right of Privacy.

The Committee was given the challenging mandate to review a broad spectrum of privacy concerns and to make recommendations as soon as possible for new initiatives to advance the right of personal privacy.

There have been previous commitments, hearings, studies and recommendations to deal with privacy problems. Many findings have been ignored and too little actually done. The time has come for action. I will do all in my power to get results.

Currently the Congress has pending before it over 140 bills dealing with privacy issues. Legislation has already passed the Senate to control the maintenance and use of sensitive records about pupils in our schools and to protect the privacy of Federal employees. This session may consider bills to regulate the information practices of the Federal government and the collection and dissemination of criminal history records by States and the Federal government. Proposals have been



introduced in other problem areas including military surveillance of civilian politics, wiretapping and electronic surveillance, and amendments to strengthen the Fair Credit Reporting Act.

There is extensive activity at the State level. Since the beginning of this year, over 65 measures governing privacy have been introduced in State legislatures, some of which have already been enacted into law.

My first act as Chairman involved complaints about an Executive Order of the President that permitted the Department of Agriculture to review the income tax returns of farmers to obtain data for statistical purposes. The President asked me to look into the matter. I immediately discussed the Executive Order with Secretary Butz and recommended that it be withdrawn. The President accepted my recommendation.

Only a few weeks ago plans for the largest nonmilitary government data processing and communications procurement in American history were shelved, partly at my urging, so that the proper privacy safeguards could be developed. The contemplated system, known as FEDNET, without proper safeguards, could have escalated the fears of the people over the collection and dissemination of personal information.



In addition to these initiatives, I can report that the Administration is planning to submit to the Congress draft legislation that would prohibit "snooping" and monitoring of communications entering and leaving a citizen's home via cable television. It would forbid disclosure of identifiable information about the viewing habits of subscribers of cable television systems without their consent. Safeguards are essential to prevent the abuses of a "wired society" and to assure that advanced technology remains the servant of our society's most cherished freedoms.

In these hearings the Senate commences formal consideration of legislation with a scope which will impact the lives of every American in terms of his right to informational privacy. In our zeal to protect this right more adequately, we should not attempt to remedy all abuses within the four corners of one bill. Potential intrusions on personal privacy have too many facets and the public interests involved are too complex to permit all-inclusive remedies. The burden of legislating in this field requires a delicate balancing of the interests of each individual to control the gathering and use of information about him and the interests of government in obtaining the information needed to administer its services and enforce its laws.



I would hope that the legislation you act upon will embody several basic principles which provide the individual with fundamental safeguards to protect his privacy:

- (1) The Federal government should not maintain any record-keeping system whose very existence is secret from either the elected representatives of the people or the public-at-large.
- (2) The Federal government should collect from individuals only the amount and types of information that are reasonably necessary for public protection and for the provision of governmental services.
- (3) The Federal government should provide a means for the individual to inspect his records and challenge the accuracy, timeliness, and relevance of their content in relation to the purpose for which the records are kept.
- (4) The Federal government should use information collected from individuals only for purposes reasonably understood and intended at the time it is collected unless the government gives notice to or obtains the informed consent of the individual.

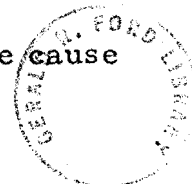


- (5) The Federal government should act as a trustee for sensitive personal information it collects and in so doing provide reasonable safeguards to protect the security and confidentiality of such information in existing and future record-keeping systems.

These principles are not new. In one form or another they have been articulated by informed observers, researchers, concerned citizens and in studies such as the recent report of the HEW Secretary's Advisory Committee on Automated Personal Data Systems.

I have asked the Executive Director of the Domestic Council Committee on the Right of Privacy, my friend and colleague of long standing, Mr. Philip W. Buchen, to report to you and the Subcommittees in joint session about the plans and progress of the Committee which I chair and to provide his own thoughts concerning needs and opportunities for new legislative initiatives.

Privacy is a bipartisan cause. We can and should close ranks on this vital issue of growing and legitimate concern to the American people. Our zeal for this cause, however, should not tempt us to overlook the complexity of the problems involved or to resist study and debate on questions of the scope, timing, and suitability of different possible remedies for advancing the cause



of personal privacy without inhibiting government or business in its proper functions.

I want to express appreciation for your prompt and cordial response to my request that the staff of the Privacy Committee have access to the results of the questionnaire of the Subcommittee on Constitutional Rights sent to executive agencies to obtain information about the nature and content of their data banks. This survey, as well as the hearings you have held over the years, has yielded an enduring legacy of leadership and essential information vital to those formulating public policy so that Americans forever remain the masters rather than the servants of the record-keepers.

You and the Subcommittees can be assured of my continued cooperation and that of the Privacy Committee staff as you consider new legislation. Such a relationship now exists with Chairman Moorhead and the staff of the House Government Operations Subcommittee on Foreign Operations and Government Information, which is currently marking up legislation similar to that which you are taking up.

Let us begin now to work together so that we can celebrate our Nation's Bicentennial confident that we have vindicated the best hopes of the architects of our Constitutional liberties and have



added sound legislative and administrative structures to secure the right of privacy for future generations.

Sincerely yours,

Gerald R. Ford

Mr. Chairman, I would like to take this opportunity to bring the members of the Subcommittees up to date on the work of the Domestic Council Committee on the Right of Privacy.

The Committee was established by the President on February 23, 1974. The Committee was charged with formulating by midyear an action plan for decision-making and implementation in the ensuing months. Because of the Congressionally created National Commission on Wiretapping and Electronic Surveillance, the President asked the Committee to defer recommendations in this area pending receipt of the Commission's report.

I was appointed Executive Director by the Vice President on March 15, 1974. The initial task was to form a small staff capable of rapid development of a comprehensive work program, mobilization of the executive agency resources, liaison with the Congress, and communications with informed and interested individuals and groups outside the Federal government.

As preparation for addressing the complexities and subtleties of privacy, the Privacy Committee staff sought, and continues to seek,



ideas and recommendations from the Congress, State governments, industry, citizens' groups, private individuals, academic experts, and Federal agencies not represented on our Committee.

In developing our work program we gave primary emphasis to action-oriented activities rather than additional research. We sought projects that met two criteria: first, the relative urgency of the need for immediate steps to protect personal privacy and second, the likelihood that substantial action could be obtained this year.

We identified over sixteen major projects meeting these criteria. In April, we selected eight for immediate consideration. These projects were assigned, in most instances, to interagency task forces composed of representatives of Federal agencies, and, where appropriate, individuals outside the Federal government.

The first project is reviewing Federal policy to cope with the problem of the growing use of the Social Security Number for purposes never envisioned by the founders of the Social Security system.

The second project seeks to define the needs for further protection of the consumer's right to privacy in the marketplace -- examining not only proposals to strengthen the Fair Credit Reporting Act but other initiatives affecting consumer privacy interests.



Another project is examining further executive and legislative safeguards to protect the confidentiality of personal information contained in the millions of records collected and used for statistical and research purposes.

The fourth project aims at greater restraints in government data collection by developing practical means of assuring that individuals are aware of their rights and obligations with respect to the information they are asked to provide to Federal agencies.

A further project is reviewing policy governing the dissemination and use of Federal mailing lists and the impact of these practices on the individual's right of privacy.

The sixth project is concerned with new initiatives for safeguarding the confidentiality of taxpayer data.

An additional project is developing policies to assure that personal privacy rights are given prominence in the planning, coordination and procurement of Federal data processing and data communications systems.

The eighth project seeks to accelerate the development of guidelines and standards for data security in computer systems and networks.

Besides these efforts, the Privacy Committee staff is devoting a significant portion of its time to analyzing legislative proposals on privacy introduced in the Congress. These efforts have been supplemented by close collaboration with OMB in its preparation of a newly proposed



bill dealing with certain information systems of the Federal government, the text of which will shortly be made available to the House Government Operations Subcommittee on Foreign Operations and Government Information and to your Subcommittees.

Notwithstanding our orientation toward action, we have not overlooked the need for further research on the right to privacy and are seeking support for worthy longer-range studies from agencies such as the National Science Foundation.

The Privacy Committee staff is now reviewing the initial reports of some of the project task forces in preparation for a meeting of the Committee early next month. I, of course, cannot predict the outcome of our work and the extent of its acceptance. I am confident, however, that a new beginning has been made in the Executive Branch. The work of the Committee has developed a new awareness that the protection of privacy is an obligation of government more serious than ever before.

The work of the Committee has been aided immeasurably by the interest of many members of Congress and, in particular, the cooperation and assistance of many Congressional staff members. The staff of the Privacy Committee is aware that in length of Federal service we are junior to the individuals in the Congress and the Executive Branch who can properly be called pioneers in the cause of privacy. We wish to consider ourselves, however, their equals in dedication and zeal for



seeking sound and effective remedies against violations of what Mr. Justice Brandeis has called "the right most valued by civilized men" -- the right of privacy.

Nevertheless, we should not minimize the immensity of our common task and the difficulties in devising remedies for problems so complex and with so many facets and ramifications as those of intrusions on privacy interests. Deciding on the proper balance between privacy interests and the public need to collect information involves varying considerations for different kinds and uses of information. Controls of information practices ought to accommodate for situations where the problems are not alike and where the same remedies are not equally workable or useful.

Generally, it has been assumed that criminal justice or law enforcement information (whether used by government or in the private sector) gives rise to problems requiring treatment different from that of information used to carry out social, health, or money benefit programs, to administer revenue and regulatory laws, to select and manage employees and outside contractors, and to conduct the multiplicity of other operations by government or business. However, even within the broad range of separate informational relationships between individuals and government or between individuals and business, where criminal detection and apprehension or enforcement of regulatory laws is not the



object, wide differences occur. Material differences occur in the kinds and volume of information used, in the manner of collecting and disseminating information, in the degrees of data sensitivity, in the uses made of the information, and in the risks of possible abuse.

Our Committee staff and one of our task forces is in the process now of using the valuable survey of Federal data banks by the Subcommittee on Constitutional Rights of the Committee on the Judiciary of the United States Senate to propose a classification system for the varieties of information held by Federal departments and agencies. This survey has identified about 850 separate data banks in the Federal government which contain data on individuals, and many more information systems, including manual ones, are actually in existence. It was estimated in 1967 that the Federal government possessed about 3,111,500,000 individual person-records. We can be sure that by now this incredible number of records has grown even larger.

It is unnecessary to think of making all of the systems containing these records, or even the great bulk of them, subject to the same public notice requirements, to similar procedures for keeping each record item current, accurate, and relevant, and for allowing access, inspection, and correction by every information subject, and to uniform standards for safeguarding confidentiality and controlling use. I fear



that with remedies so comprehensive as these, preservation of the right of privacy may become bogged down in an administrative morass.

Therefore, I would urge that any legislation affecting files in the Federal government should not treat all record systems alike. Surely dormant or archival files should be distinguished from active files. Data used for statistical or research purposes should be distinguished from records dedicated to specific ongoing relationships between Federal agencies and individuals. The latter records which are subject to checking and correction on a transactional basis where only hard data is relied on and no administrative discretion is involved in granting or withholding benefits may be treated differently from more complex records which could be the basis for exercise of administrative discretion.

Possibly information supplied entirely by or at the request and with the knowledge of the data subject should be distinguished, at least for some purposes, from third-party information, the existence of which is unknown to the data subject. Also, distinctions may be appropriate for some purposes on the basis of relative sensitivity of different categories of data. Information derived from public records would not generally deserve such protection of confidentiality or such restrictions

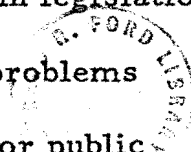


on use as would information containing intimate details of personal behavior or health. Vaccination records are surely not so sensitive as records of mental illness.

Other appropriate distinctions for control of information practices may concern the relationship of the data subject to the users of particular data. The collection and management of information about individuals for personnel or contractual purposes involves different problems of awareness and access than occur in cases of persons at large about whom information is needed to administer programs for their benefit. If the relationship is one that in the public interest calls for regular testing or audits of information supplied or representations made, then another factor is injected that may expand the need to know so as to include otherwise confidential information.

The purpose of suggesting such distinctions is to urge legislation which varies the controls or procedures to fit the varying privacy risks and public needs involved and which more accurately balances private interests with the public interest according to the character and purposes of the information system involved and according to the relationship between the data subject and the users of the information.

There are practical limits to the niceties of distinctions and the refinements in controls or remedies that can be provided for in legislation. However, legislation that overlooks the complex realities of problems may prove unworkable and cause disservice to either private or public interests or to both such interests.



For the reasons stated, it would seem desirable to confine initial legislation to information practices of the Federal government rather than reaching at once into state government operations or into private business. Before claiming confidence in the workability and the effectiveness of particular controls to solve problems so complex as those posed by information systems everywhere in our society, it would seem prudent to gain experience from their application solely within the Federal government. The problems are certainly large enough in scope right here, and the groundwork done to arrive at solutions, however thoughtful, hardly promises assured success in all respects.

Even legislation affecting only Federal information practices should not go beyond what a single bill can reasonably accomplish to deal discretely with distinct features and problems of different information systems and of different informational relationships as discussed above. Yet there is certainly need now to make a strong start in laying down basic principles of fair information practices. Also procedures should be prescribed which adapt those principles in a flexible but effective manner to the different information systems covered. Then, after experience is gained, further legislation can be passed to expand effective application of those principles to additional Federal information systems, and, if necessary, to ones outside the Federal government.



In conclusion, I would stress again the importance of action this year by the Congress on legislation to implement the basic obligations of the Federal government to the individual with respect to fair information practice safeguards to protect personal privacy.

I thank you very much for your kind attention to this account of how the work of the Privacy Committee has gotten underway; also for your kindly allowing me to express my views of the demanding challenges posed by the privacy problems which arise in different ways from various kinds of information needs and uses.



5/15

Tom C

This was an attempt to try and find out what the A/S knew about ADP at HUD and their office, their und. understanding by forms, etc. I use it only for my knowledge.

W.C.