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THE WHITE HOUSE
WASHINGTON

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Polytechnic Institute of New York

333 Jay Street Brooklyn, N.Y. 11201

DEPARTMENT OF MANAGEMENT

(212)643-4993

August 13, 1974

Mr. Philip W. Buchen
The White House
Washington, D.C.

Dear Mr. Buchen:

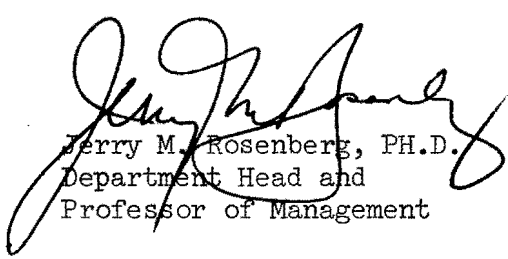
As you can see from the accompanying materials I have been active in dealing with the issue of privacy. I have appeared in testimony before Senator Ervin's Constitutional Rights Subcommittee and authored *The Death of Privacy: Do Government and Industrial Computers Threaten our Personal Freedom?*

At the request of Mr. Milton Hoffman, a community friend, I wrote to President Ford in the early part of this year when your Domestic Council Committee on the Right of Privacy was being formed.

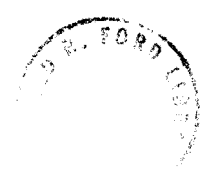
Should there be any way that I may be of assistance to you, please feel free to call upon me.

With best wishes to you and the new Administration, I remain

Sincerely,



Jerry M. Rosenberg, PH.D.
Department Head and
Professor of Management



Jerry M. Rosenberg, Ph. D.

September 1974

An expert on the relationship of technology to man, Dr. Jerry Rosenberg has written on this subject, testified before government agencies on the issue of privacy and security, practiced industrial psychology and is presently Head of the Management Department and Professor of Management at Polytechnic Institute of New York.

Considered one of the country's foremost psycho-technologists, he is the author of The Death of Privacy, which was hailed by the New York Times as one of the year's 20 best books of general interest in 1969. He has also written The Computer Prophets (also translated into Japanese), The Need for a Renewed Conception of Technical Education, and Automation, Manpower and Education.

When the issue of privacy, rights, computerized-data bank and surveillance as affected by technological advances has been brought before government agencies, Dr. Rosenberg has been called upon to testify. In 1971 he appeared as an expert witness before Senator Sam Ervin's Senate Judiciary Committee on Constitutional Rights. His testimony appeared in the March 12, 1971 proceedings of the U. S. Congressional Record.

Dr. Rosenberg also specializes in Organizational Psychology and has written, consulted and taught on this subject. Prior to his arrival at Polytechnic Institute of New York, he had been on the faculties of Columbia University, Cornell University and City University of New York. He was a visiting Professor at the University of British Columbia and at the Israeli Institute in Tel Aviv.

He received his B. S. degree in psychology and science from the City College of New York, an M. A. degree in industrial psychology from Ohio State University and Ph. D. from New York University. As a recipient of Fulbright and French Government Awards, he studied at and received a certificate from the Sorbonne's Center of Higher Studies in Paris.



Jerry M. Rosenberg, Ph. D.

Brief Resume

1. Date of Birth: February 5, 1935, New York City
2. Education: Ph. D. New York University, 1962
Certificate La Sorbonne, Center of Higher Studies, 1958
M. A. Ohio State University, 1957
B. S. City College of New York
3. Honors: Psi Chi Award - 1956
Fulbright and French Government Awards - 1957
Book - "Death of Privacy" - chosen by New York Times
as one of the best 22 for the year 1969
Testified as an "expert witness" on the psychological-
organizational implications of loss of privacy, before
the U.S. Senate Committee on Constitutional Rights -
1971
4. Experience: Polytechnic Institute of New York, Head, Department of
Management, and Professor of Management. 1974 - present.
Baruch College, City University of New York, 1971-1974
Associate Professor.
Private Practice, Consultation and Research, 1968-1971.
Teachers College, Columbia University, Assistant Professor
of Psychology and Organizational Behavior, 1961-1964.
5. Books: The Death of Privacy, Random House, 1969, 236 pages
The Computer Prophets, Macmillan, 1969, 192 pages
New Conceptions of Vocational & Technical Education,
Editor, Teachers College Press, 1967.
Automation, Manpower and Education, Random House,
1966, 179 pages.
6. Additional: Visiting Professor, University of British Columbia, Summer,
1967.
Visiting Professor, Israeli Institute, Summer 1962.
Witness before several governmental agencies, 1968- present.
Consultant for various profit-non-profit organizations.
7. Family: Married, father of two daughters.
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STATEMENT OF SENATOR SAM ERVIN, JR. pertaining to testimony of Dr. J.M.Rosenberg before Senate Constitutional Rights Committee's hearings on "Federal Data Banks, Computers and The Bill of Rights," February 23,1971

"Dr.Rosenberg,I am delighted to welcome you on behalf of the subcommittee to this hearing,and wish to express our deep appreciation for your willingness to come. I would like to make this statement for the record.

The subcommittee has been extremely privileged today to have the testimony of Dr.Miller and the testimony of yourself in this area. You and Dr.Miller are the authors of two books which I think are the most profound books on this subject. Each of you shares the distinction of having a very acute awareness of the threat which present methods of collection and preservation of data concerning individuals pose to the privacy of individuals, and each of you has made constructive suggestions as to how we can try to take advantage of the efficiency which computers make possible without sacrificing those precious individual liberties which the first amendment is designed to secure to each citizen.

I would like to say that you have written a remarkable book on this subject entitled THE DEATH OF PRIVACY.....

FEDERAL DATA BANKS, COMPUTERS AND THE BILL OF RIGHTS

HEARINGS

BEFORE THE

SUBCOMMITTEE ON CONSTITUTIONAL RIGHTS

OF THE

COMMITTEE ON THE JUDICIARY UNITED STATES SENATE

NINETY-SECOND CONGRESS

FIRST SESSION

ON

FEDERAL DATA BANKS, COMPUTERS AND THE
BILL OF RIGHTS

FEBRUARY 23, 24, AND 25, AND MARCH 2, 3, 4, 9, 10, 11, 15
AND 17, 1971

PART I



Dr. Jerry Rosenberg

PUBLICATIONS:

a) Books

Automation, Manpower and Education, Random House, N.Y. 1967
Renewed Conception of Technical Education, Columbia University,
Teachers College Press, 1968 (Editor)
The Computer Prophets, Macmillan, New York 1969
The Death of Privacy, Random House, New York 1969
The Computer Prophets, translated into Japanese, Tokyo
Broadcasting System, Japan, 1972

b) Articles

Automation and The Shorter Work Week, M.A. Thesis, Ohio State
University, 1957
Cahiers D'Études De L'Automation, A French Government Publication, 1958
Training and Education - The Uses of Simulation in Sensitivity
Training, Teachers Association Conference, Spring 1960
Perceptual Differences in Sociometric Patterning - The formation
of group interactions, Group Psychotherapy, March 1960
Role-Playing - A Useful Tool in Understanding the Impact of
Industrial Automation, Journal of Group Psychotherapy, 1961, Vol. IV,
No. 1-2, March
The Impact of Automation on Youth Employment, New York City Youth
Board, May 1961
Perception of Automation Issues, Worker Background and Interpersonal
Background, Ph.D. Dissertation, New York University, 1962
Automation and Manpower Utilization, Editor, Cornell University
Press, 1963
Nine Approaches to Cushioning the Impact of Technological
Displacement, National Office Management Association Bulletin,
February 1963
The Impact of Automation on the Labor Movement, Adult Education
Quarterly, Vol. XIII, No. 3, Spring 1963
Improved Interviewing Skills (in programmed format), U.S. Industries
Publication, 1964
Sensitivity Training and Group Dynamics in Action, Cornell Univ., 1965
Techniques for Teaching Civil Liberties and Equal Opportunity
Issues, Columbia University, Arden House Conference, 1966
Computers and Man's Psychological Submission and Loss of Privacy,
U.S. Congressional Record, March 12, 1971
Surveillance and Privacy," Union of American Hebrew Congregations,
Los Angeles, California, 1972, Position Paper

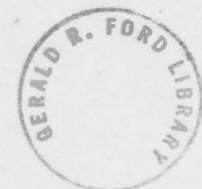


Dr. Jerry M. Rosenberg

PUBLICATIONS (continued):

c) Professional Papers

- January 13, 1971 - Wesleyan College, Macon, Georgia, "The College Student and Freedom"
- February 23, 1971 - U.S. Senate, Committee on Judiciary, Subcommittee on Constitutional Rights, testimony titled, "Computers and Man's Psychological Submission and Loss of Privacy"
- March 12, 1971 - U.S. Congressional Record, "U.S. Senate testimony introduced into Congressional Record by Congressman Jonathan B. Bingham"
- March 24, 1971 - North Dakota State University, Fargo, North Dakota, "Student's Rights"
- March 25, 1971 - College of St. Mary, Omaha, Nebraska, "The Death of Privacy"
- May 19, 1971 - State University of New York at Oswego, New York, Convocation Address, "The Right of All Men to Privacy"
- August 19, 1971 - The Council of State Governments National Convention, Minneapolis, Minnesota, "The State Government's Responsibility to Protect the People's Right to Privacy"
- November 9, 1971 - Canadian Information Processing Society, Toronto, Canada, "The Threat to Individual Freedom"
- January, 1972 - Hearings before the Subcommittee on Constitutional Rights, "Federal Data Banks, Computers and the Bill of Rights," pp. 69-84, Published by U.S. Government Printing Office, 62-032, Washington, D.C.
- February 9, 1972 - LaSalle Junior College, Auburndale, Massachusetts "Student's Rights on a Changing Campus"
- April 13, 1972 - High Point College, High Point, North Carolina, "Campus Surveillance"
- May 8, 1972 - Muskingum College, New Concord, Ohio, "The Right of All Men to Privacy"
- May 25, 1972 - Southern Illinois University, Carbondale, Illinois Convocation Address, "The Age of Aquarius versus the Age of Aquariums"
- September 28, 1972 - Plymouth State College, Plymouth, New Hampshire, "Student's Rights and Psychological Submission."
- November 6, 1973 - St. Lawrence University, Canton, New York "Watergate - Implications for Student's Rights"





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PROCEEDINGS AND DEBATES OF THE 92^d CONGRESS, FIRST SESSION

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WASHINGTON, FRIDAY, MARCH 12, 1971

No. 34

COMPUTERS AND PRIVACY

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 11, 1971

Mr. BINGHAM. Mr. Speaker, in the course of the recent hearings before the Senate Constitutional Rights Subcommittee of the Committee on the Judiciary concerning Government invasion of privacy through collection of personal data, a most informative statement was presented by Dr. Jerry M. Rosenberg on the role of computers in the decline of individual privacy. Dr. Rosenberg is a resident of the 23d Congressional District of New York, which I represent, and is a practicing psychotherapist and management consultant.

Dr. Rosenberg's paper emphasizes the difficulties in developing surveillance-proof computer systems and urges creation of an Institute for the Responsible Use of Technology to help instill greater responsibility in this field. I am sure many Members and readers of the RECORD will find Dr. Rosenberg's views provocative and stimulating. The text of his testimony before Senator SAM ERVIN's subcommittee follows:

COMPUTERS AND MAN'S PSYCHOLOGICAL SUBMISSION AND LOSS OF PRIVACY

(By Jerry M. Rosenberg, Ph. D.)

Mr. Chairman, thank you for inviting me to submit my thoughts on the matters of your current concern, the question of protecting personal privacy from being reduced under the influence of computerization.

I would like to say that my particular emphasis, supported by my psychological training and research efforts, has been the impact on the individual of pressure generated by advancing technology. My recent book "The Death of Privacy—Do Government and Industrial Computers Threaten Our Personal Freedom?" was specifically concerned with the erosion of individual privacy, both from direct application of computer designs as well as from a more subtle loss of psychological independence, often unknown to the person affected.

At present, computers in and out of government have an almost limitless capability to store, intermingle and, at the push of a button, retrieve information on persons, organizations and a variety of their activities, all without the knowledge of those involved. Even now, stacks of punched cards and tapes store statistics about us that we may not know exist. We might never escape in time or



distance the bureaucratic machinery keeping tabs on us.

With present technical capability, it is possible to develop a composite picture of an individual that can be stored in a single information warehouse. Each year we offer information about ourselves which becomes part of the record. It is often scattered across the continent and is usually inaccessible except after considerable effort. It begins with our birth certificate and is followed by a series of medical notations. Early in life we are documented as an added income tax deduction by our parents. Then there is information on what high school, public or private, and what college, public or private, we attended. At school, records are made of our abilities, grades, tests of intelligence and attendance. For some, there will be car registration and driver's license, draft status, military service or Peace Corps. Then job history is recorded—working papers, Social Security number, a first job, our performance with each employer, recommendations, and references—all this makes an interesting dossier. Then, perhaps, a marriage license, a home mortgage, and when children come, the cycle begins anew. Should we divorce, the court records will be added. These would increase should we be arrested, convicted or serve time in prison. And of course, when we die, a last footnote is made.

In our daily activities we leave behind a trail of records: the credit card carbon for a luncheon meeting, the receipt from the hotel where we spent last night, our airline ticket, the check we cashed in a city bank, and the bill for the toys we charged for our children.

There are also government dossiers including tax returns over a number of years, responses to census questionnaires, Social Security records, passport files, and perhaps, our fingerprints and military intelligence reports. If we have worked for a defense contractor or for the federal government, there are lengthy files on us that may note our associations and affiliations.

Information is power. These records may at various times be of considerable interest to people outside a specific government agency. Years after our birth, for example, an interested party may be happy to pay for information from our birth certificate which is officially confidential. And in a number of cities there are entrepreneurs who obtain and sell this information as well as hospital records, police records, immigration records, and so on.

Confronted with the erosion of his privacy, the individual American has until now had the consolation that all these files have been widely dispersed and often difficult to put together. It has been a time-consuming, expensive proposition to compile a sizable file on any individual. Giant computers with their capacity for instant recall of a great variety of available information are changing all this.

The evolution of computerized complexes without effective public participation and protest can have a serious impact on our democratic process. Under our present system, individuals are expected to make fundamental choices where the future welfare is at stake, as would be the case in an election. By alienating the people from the decision-making process, control of the computer technology is left in the exclusive hands of those in possession of organizational power.

The public itself should question the drift of these technologies. We should want to make certain that human dignity, psychological well being and civil liberties remain intact. We should demand to know the precise nature of the information that will be stored and who will have access to it. The public has the right to know who will have the power to control the computers and most importantly, how confidentiality and individual privacy can and will be protected.

Liberty is never gained once and for all. It is forever in conflict with civilization—a conflict which has no clear-cut solution but which reappears in cycles, usually in different forms. Each succeeding generation must win it anew. Each must defend it against ensuing dangers. This is necessary because we are constantly changing our life environment; society may be altered so frequently that safeguards that in the past adequately protected our liberties become obsolete.

Science and technology are of immense benefit to society. And I for one, am a champion of the computer. These advances are so important to us that we would not want under most circumstances to impede their movement in advancing our knowledge of the world. But they may also expose us to potential danger—to a pollution that could curtail our anonymity, solitude and privacy. Unless certain practices in the technological exploitation of scientific knowledge are restrained, they will cost us more than we should be willing to sacrifice.

And we must constantly evaluate these technologies which are tools developed to increase man's power to understand his world. The mere fact that an innovation presents itself does not mean that we should surrender years of experience and values to its authority. Yet it is difficult to bring social pressure to bear against the control of potentially dangerous technologies. One reason is that those who have the use of the technology are influential enough to prevent societal, or for that matter, legal restraints.

Today's college generation, in particular, is challenging the apparent complacency and indifference of its senior leadership. That privacy will forever remain because it is implied in the Constitution and Bill of Rights is not credible to the new adult population. With growing hostility toward the dominating technology and the establishment, a segment of this group fear that the documentation of their so-called acts of rebellion will only show that the freedoms once assumed have been surrendered. Should our older citizens in power fail to come to grips with the issue of preservation of privacy, it can be expected that the last struggle will be made by those who question how their present behavior, if documented, could be used against them at some future time.

The computer cannot be blamed for the loss of privacy. It is but an instrument created by man. Computers and other advanced machine systems are not permitted to be in error, but man is not a machine and does not have to be as efficient as the tools he has created to serve him. If man loses his right to be wrong, will he react by withdrawing from society? Will his curiosity to experiment with life falter? If this happens, man truly becomes nothing more than a machine.

Of course, not all computerized systems contain potentially damaging information. Some operations merely act as accounting systems and high-speed calculators, while others at more sophisticated levels are depositories for internal decision-making; some store research information from diverse sources; and some are documentors for the purpose of assimilation and distribution of pertinent data to a large community.

Not all computerized complexes contain the "sensitive" or potentially "threatening" information that might be found in a computerized system designed to collect personal data. But the possibility of incorporating such information does exist. Even the rather elementary, antiquated computer has the potential for being an information storage center. It doesn't matter whether it is formally called a "bank" or a "single unit processor"—any capacity to collect, store and retrieve data instantaneously upon request may, if misused, infringe on personal privacy.

There is little doubt that as computerized

systems spread throughout the nation and world, surveillance by data processing is bound to increase. If the trend continues, it will soon be possible to have personal information about an individual gathered on a continuous basis and held indefinitely until requested. The snowballing effect is quite pronounced here. When the decision is made to purchase a computer, more data are gathered about the employees, customers or taxpayers who are of interest to an organization. Although this may provide for better services, improved decision-making and policy-programming, it also provides personal information about individuals never known before the advent of computers.

ALONG THE ROAD TO PSYCHOLOGICAL SUBMISSION

Today man lives in an atmosphere dominated by the machine. He brushes his teeth with an electric toothbrush; prepares his meals with mechanical toasters; ovens and broilers; works in an atmosphere of motors, switches, fans, typewriters; goes to and from home by car, bus and train, reduces the chores of home life with sewing machines, washing machines and drying machines. In the past only the craftsman used the tool. Today all of us take machinery for granted. As long as machines served us and did not threaten our rights as persons, we welcomed technology.

The charm of the horse-drawn buggy yields to the modern automobile; the candlestick maker is not needed in this day of electric power; the complexities of the abacus are incorporated into the computer's memory unit. Often we are glad to say goodbye to what we leave behind because many innovations free man from monotony, physical effort and waste of energy.

Computers are part of this advance, aiding us in ways that are valuable for our everyday living and essential for progress on all levels. Much of what has been achieved in medical research and outer-space exploration would have been impossible without the wide range of sophisticated computers.

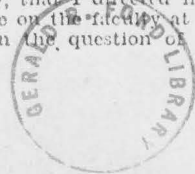
Unfortunately, sacrifices frequently accompany these changes. With all the splendid wonders of the computer we find ourselves asking: has man become submissive to the computers of today? Can each individual profess to be more human in his actions than the complex system he has developed to assist in daily endeavors? Will there be a growing tendency to create a world where we treat each other as machines? Are we building more barriers which prevent the individual from having the opportunity to evolve his own unique potential—to be self-realized?

Man submits more and more as his ability to make choices about and control his future is gradually taken away from him. He is willing to have the machine make numerous decisions for him about his future; he is willing to permit the machine to build towers of brick and metal, hoping that it will not fall him when he has to live or work in them; he is willing to have the machine process his life's facts, hoping that it will be accurate and objective.

It seems that we are not aware of what is happening to us—that we are losing a little each day to the machines. We are usually too busy to think about matters which seem on the surface not to be so "important" as whether our cars are safe, or the price of bacon or the way taxes are skyrocketing.

From the psychologist's point of view, there is an observable area of change in a computerized atmosphere. The fact that information can be processed in fractions of seconds with tremendous accuracy forces the rethinking and redesigning of the use of people. With greater integration, control is further centralized and the autonomy of groups reduced.

A study that I directed in the spring of 1967 while on the faculty at Columbia University, on the question of computers and



people's concern over loss of their privacy, found that the public is troubled over how much of their lives—their thoughts, emotions and personal facts—they are encouraged to share with others.

What is most disturbing to the American population is the undemocratic process which starts at birth to make people believe that they are unable to say "no" to divulging personal information, thus perpetuating a collection of data that will follow them for the remainder of their lives—"frozen in time and the computer."

People want to determine for themselves in every particular situation of life just how much of their complex beliefs, attitudes and actions they choose to disclose. To the American, this data is more than just statistics. It is the data of judgment, a possible last judgment that can affect their schooling, employment possibilities, promotion, or role in the community. The citizens of this country want to have the right to a personal diary that is away and free from the organization's outstretched hands. They plead the case that if all their actions were documented, including their mistakes, it would be difficult to close a page of one's life and start anew. It would be a tyranny over mind and destiny.

To maintain their dignity and fill their needs for psychic distance, people construct mental walls around themselves. To be a total psychic being, with stability and confidence, forces people to reject being intruded upon without permission. Psychologically, privacy demands a delineation of the self, the acceptance that each of us are unique and separate from all others. It recognizes an empathy toward the finer qualities within man. It demands the perpetuation of a private psychic domain, displaying a defensive shield against psychological penetration, unless authorized.

There is a growing antagonism against people desiring power, who will through mental coercion try to intrude upon our concealed thoughts. Unfortunately, we have learned that the man who wishes to gain control will employ various techniques to influence and force individuals and groups into submission.

People have a right to remain unique and different. But there are many, and indeed the number is growing, who intentionally or by title of their office, are against the solitary man. They may envy his uniqueness. They want to keep a close watch on his behavior so as to anticipate future moves, often defended in the name of science or national priority. They too often regard his privacy as a denial of their own mechanized psychology which has a stereotyped and oversimplified answer for everything.

Raymond Katzell, Chairman of the Psychology Department at New York University, has spoken about protecting privacy. Confining men in close quarters physically and socially, as in submarines, he points out would "make them particularly prone to peevishness and mutual hostility. Employing the phrases "getting away" and "letting go," Katzell suggests that vacationers are really seeking to avoid the pervasive inspection by society. "In short, there is reason to believe that a modicum of privacy is a necessary condition to mental and emotional well-being. Conceivably, a society which fails sufficiently to preserve the individual's privacy may become characterized by undesirable behavior patterns such as irritability, mistrust and hostility." Campus disorders, including the bombing of computer centers, may be related to this growing phenomenon.

COMPUTER AND PRIVACY PROTECTION

A major problem in protecting our privacy is that too often we believe in the principle that the ends justify the means. When we consider that the goal is the greater good of our people, we cannot understand why a specific intrusion should be prohibited. The

result; gradual erosion of the value we place on individual privacy. Sometimes we are confused and become easily convinced that a particular device that may lead to personal intrusion is warranted on other grounds, such as purposes of security. This is an inadequate argument I believe.

I will not attempt to explore with you many of the legal and Constitutional questions raised by the issue of computers and privacy. My book "The Death of Privacy," documents these areas quite thoroughly.

As computer networks spread throughout the country and world, science and privacy must be able to thrive together. We will be collecting thousands of facts about everyone, depositing these details into the unforgetting computers of the future. To date there are no adequate legal protections to safeguard the individual against computer leakage. Furthermore, laws alone will not offer satisfactory protection in the face of widespread use of these systems. Although laws can impose penalties for violation and can set the limits of proper safeguards, legislative actions have not always been effective in the control of surveillance activities like wiretapping and eavesdropping.

There is reason to hesitate before passing new legislation that might in fact backfire. Laws that give special agencies or departments the responsibility of investigating those who break the law would be introducing yet other bodies that decide who can know what, thus putting a new decision-power in the hands of a few.

We have to make sure that information given to a specific organization will not be shared in such a way that the person's identity will be discovered. It is necessary to specify those who may use certain technological devices. Neither the principal of a school nor a personnel director should be allowed to enter at will the dossier on a potential or present student or employee. The question of duration of surveillance is most important. In addition, we need to determine what kinds of electronic devices are appropriate and permissible.

What is a major concern of Senator Ervin—we must define the penalties that would be imposed on those who disclose information improperly or without authorization, and we must regulate the use of information for purposes other than those for which it was originally obtained.

We must also bear in mind that we are dealing with a super-technology that will become increasingly complex and difficult to evaluate. It is safe to assume that probably the only persons who will understand the complexities and operations of these systems will be the computer designers and systems engineers who are directly responsible for the evolution of the industry.

Safeguards can be inserted into a system already in use, but it would be more efficient and less costly to build them in at the time the computer is designed. The burden of a great deal of the responsibility must lie with the computer manufacturers. If they want to avoid external regulations, they will have to start thinking about how to design systems with built-in safeguards.

To date, the best attempt to identify the relationships between computer surveillance and invasion of privacy has been outlined by Petersen and Turn of the Rand Corporation. They visualize two types of disclosures of information—accidental disclosures resulting from failure of the computer, and deliberate disclosures from infiltration of the system. They suggest countermeasures to prevent surveillance of data within a computerized system.

Unfortunately, essential safeguards are not as easily attained as is suggested by some of these outspoken specialists. It is one thing to design countermeasures as they apply to the "general" concept of computer leakage;

it is quite another matter to build in protections for a specific computerized system.

For example, few can find fault with Petersen and Turn's countermeasures but they are merely a theoretical framework for the complex changes that are needed. These countermeasures offer little assistance to those attempting to design a surveillance-proof computerized system in the medical field, in an educational community, for a corporation or for a government repository. Examples of a specific computer utilization within a defined framework are necessary. The rules that apply for one computer installation might be inadequate for another or might fail to respond to the more crucial or pressing needs.

Prior to the formal establishment of critical data complexes, an appropriate structure could be developed in the form of a superagency composed of representatives from government, law, the social and behavioral sciences, public interest, computer sciences, corporations and the computer's users. At the outset, they should review any of the proposed computer legislation and, after considerable study and approval, submit their recommendations to the proper authority. Before a government data center is approved, everyone should be satisfied that only summary tabulations of data will be included, in which individual's names are protected against leakage, and that appropriate safeguards exist. Should a computerized repository be established, this group would remain responsible for the physical operation of the center; the procedures for selecting those who will survey the computers; the decision on what data can be stored and retrieved; the control of validity; and the perennial watch for data leakage.

As an alternative to a new government agency to supervise the expansion of computerized data systems, I advocate the establishment of a non-profit, private organization that might be referred to as the Institute for the Responsible Use of Technology. Among its activities, the Institute would:

Conduct research studies to determine how man's rights are being submitted by technological advances and computers;

Present to the public major issues and findings of studies conducted;

Act as a channel of communications between the public and appropriate organizations where individual rights and the needs of society might be violated;

Publish reports on pertinent issues affecting citizens;

Identify and publicize the means for protecting the human dignity of man as he interacts with technological changes and computers; and

Act as an "early warning system" of potential technological "dangers" to the well-being of man.

There are certain general rules of conduct pertaining to all computerized data centers that should be followed in order to increase confidentiality and reduce information leakage:

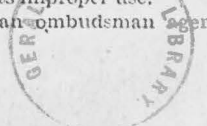
1. Let people know what their records contain, how they are used and protected, and who has access to them.

2. Employ a verification process to insure accuracy of data; in addition, permit the individual to review the data for accuracy, completeness, current application, and freedom from bias.

3. Categorize all stored information as intimate, private and therefore non-circulating (such as physical, psychiatric and credit information); pertinent, but confidential and having limited distribution; or public, and therefore, freely distributed.

4. Regard personal data as personal property, requiring permission for its use, and punishment for its improper use.

5. Appointing an ombudsman agency—or



a committee that represents all levels of the organization—to take major responsibility for hearing and responding to complaints, and to determine appropriate measures to minimize leakage.

6. Record each request for access that is made, along with the authorization.

7. Make security checks on computer personnel.

8. Assess, from time to time, people's attitudes toward and anxieties about the issue of invasion of privacy. Such studies could be useful in determining what form of records would be most acceptable.

9. Periodically review and update the adequacy of the physical safeguards. Employ capable outside consultants to attest to the safety of the systems used, and to assist in the development of appropriate technical devices (such as scrambled data and code names), and

10. Allow psychological seclusion and withdrawal from accountability to remain as a permanent stronghold of our value system. The individual must freely choose whether or not he wishes to become submissive to the power of the computer.

A creative response by the computer industry to its technology will probably serve, and satisfy, the public better than rewriting our laws. In fact, one can doubt that legal measures—although necessary—will be as effective as technological adjustments in the protection of the public's privacy.

What is needed before the establishment of large government computerized centers is a rigorous research effort to answer the following unresolved questions:

1. What are the purposes of a computerized central facility? What kinds of information are strictly relevant to these purposes?

2. How much information about an individual is required to guarantee that such services are useful to the person, community and nation? How accurate, objective and challengeable is the information?

3. What are the procedures for inter-agency cooperation in the system?

4. How will individuals be protected from the creation and distribution of derogatory data caused by clerical mistakes or computer malfunction?

5. Will procedures be developed to permit individuals to see their files?

6. Will the cost of such a facility be justified in terms of future savings?

7. Will there be adequate safeguards to prevent penetration from the outside?

8. In whose backyard should computerized centers be physically established?

9. Will a computerized center officially created as a statistical system eventually become a storehouse of personal information?, and

10. Does the concept of computerized data centers suggest a changing value system and further government intervention in the lives of Americans?

The burden of proof of the security of the data facility should lie primarily with those who propose it. They must demonstrate that they can create a virtually unpenetrable and incorruptible system and justify its greater economy and expanding service.

The dialogue has just begun. The right to preserve privacy is a right worth fighting for. Computerized systems offer great potential for increased efficiency; yet they also present the gravest threat of invasion of our innermost thoughts and actions. As we charge, or are billed for, more and more of the services and goods we buy, all these transactions of our personal movement and financial status will glut the records of our lives and offer a very up-to-date picture of how we conduct ourselves in private. Some see this trend as leading to an Orwellian nightmare with Big Brother watching over us and reporting to the central record-control authorities any behavior adjudged out-of-line with stated policy.

We are slowly drifting into a world of

nakedness. Each year an increasing number of technological devices invade the world that once we considered private and personal. In spite of this, we are still confident that our lives, activities, ideas, thoughts, and sensations are shared with no one unless we so chose. Will this confidence be perpetuated?

Traditionally this cherished belief has been based on an expectation that governments would set the pattern that the rest of the nation would follow. In fact, within the decade, unless governments intervene, there will be few questions left to ask about privacy; we will have taken for granted a society in which everything about us may be revealed. It will be difficult to protest unguarded data surveillance if governments fail to set themselves up as a safety model against information leakage.

The snowballing effect of computers is very real indeed. The more you know, the more you want to know and the better your methods will become to get and integrate this information. In the end, will there be any place to hide?

Computers may continue to prove themselves the worthy servant of man. But the servant must yield to his master, and the necessary thought must be given to developing essential safeguards. The computer manufacturers have thus far shirked their responsibility, but they cannot long remain bystanders if they wish to continue to make their own decisions. Both the manufacturers and then the consumer must seek ways to control the all-documenting, all-remembering computer systems and demonstrate that machine technology need not necessarily bear the stamp of increased surveillance.

The ultimate submission must be of the machine to man. If we fail to act immediately to preserve our claims to anonymity, psychological independence and seclusion we may develop a permanent fear—a fear to enjoy the fuller opportunities of life. We will hesitate before experimenting with the challenges of the world. We could become carbon copies of one another—conforming, dull and psychologically equivalent to the computer—heartless and non-emotional.

PROTECTED AREAS FOR NONSMOKING PASSENGERS ON COMMERCIAL TRANSPORTATION

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 11, 1971

Mr. FRENZEL. Mr. Speaker, on February 22, our colleague, the Honorable C. W. BILL YOUNG of Florida, introduced a bill (H.R. 4776) aimed at requiring airlines, trains, and buses to set aside a protected area for nonsmoking passengers.

From across the Nation, the reaction has been overwhelming. Letters, cards, and telegrams—even telephone calls—have poured into Congressman Young's office in support of this legislation.

The bill places no burden on the smoker, but does provide relief for the nonsmoker who is distressed or made ill from having to breathe smoke from someone else's cigarette.

Many Americans feel strongly that their rights are being violated. The majority of our citizens, in fact, do not smoke.

I join Congressman Young in his concern that nonsmokers should not be

forced to endure the distress and health hazards resulting from a buildup of smoke in the confines of public carriers under Federal regulation.

No one should be forced to smoke—even indirectly. No one is entitled to pollute the air we breathe in confined spaces.

I strongly urge my colleagues to join in passing this needed legislation promptly.

A sample of the editorial support Congressman Young's measure has gained, follows:

[From the St. Petersburg Times, Feb. 27, 1971]

AIR FOR NON-SMOKERS, TOO

Smokers are polluters.

Their cigarette and cigar puffs may not seriously befoul the atmosphere, but they often make the immediate environment uncomfortable for the non-smoking public, especially travelers.

U.S. Rep. C. W. Bill Young thinks relief is needed. He proposed a law to require airlines, railroads and bus companies to provide protected areas for non-smoker passengers.

The St. Petersburg Republican rightly wants to protect "the person who prefers not to be exposed to exhaled smoke and smoke from the burning end of a fellow passenger's cigarette."

Since transportation companies of all kinds have been aware of such irritations for years and have done nothing to solve the problem, indeed retreated from smokers' sections in railroad cars, Congress should pass Young's bill immediately.

No one should have to bear smoky plane cabins, train coaches or buses any longer.

[From the Sarasota Herald-Tribune, Feb. 23, 1971]

BREATHING RIGHTS

It takes more than a single choked and offended congressman to make it law, but it takes only one to introduce a bill to prohibit the pollution of the air on public conveyances by smoking passengers.

And the one necessary congressman has just stood up.

He is US Representative C. W. Bill Young of St. Petersburg, and after getting off an airliner the other day coughing, wheezing and with tears in his eyes, he declared that it is time for the Congress to come to the aid of the non-smoking traveler.

So this week he is introducing a bill requiring airlines, railroads and bus lines to establish areas where passengers will not be forced to breathe used tobacco smoke.

"My bill," says the freshman Republican from Florida, "places no burden on the smoker, but it does provide relief for the person who prefers not to be exposed . . . The non-smoker is entitled to relief and protection."

The assumption, of course, is that there will be enough customers with a strong desire to smoke to make it worth extra expense to the carriers to provide separately ventilated smoking areas. If not, then the law Young proposes would restrain the carriers from letting the tobacco-addicted impose on others.

The proposal does not go as far as the US Surgeon-General would. Dr. Jesse L. Steinfield wants to outlaw smoking in all confined public places, including theaters and restaurants—except, presumably, when separate smoking areas would be provided where their exhaled smoke would not disturb or offend non-participating patrons.

But the law Young proposes would be a bold step in that direction.

It will be argued, of course, that nonsmokers don't have to attend entertainments. Of course they don't. And smokers don't have



DR. JERRY M. ROSENBERG



An expert on the relationship of technology to man, DR. JERRY ROSENBERG has written four books on the subject, testified before government agencies on the issue of privacy, practiced psychotherapy and is presently on the faculty at the City University of New York.

DR. ROSENBERG, a psychologist and consultant, is most famous for his book *The Death of Privacy*, which was hailed by The New York Times as one of the year's 28 best books of general interest.

He has written three other books and numerous professional articles. The books are *The Computer Prophets* (also translated into Japanese), *The Need for a Renewed Conception of Technical Education and Automation*, *Manpower and Education*. He is presently preparing a study on technological manipulation.

When the issue of privacy, human rights and surveillance as affected by technological advances has been brought before government agencies, DR. ROSENBERG has been called upon to testify. In February, 1971, he appeared as an expert witness on the hearings of the Senate Judiciary Committee on Constitutional Rights. His testimony appeared in the March 12, 1971, proceedings of the U.S. Congressional Record. He is considered one of the country's leading psycho-technologists.

He received his B.S. degree in psychology and science from the City College of New York in 1956; an M.A. degree in psychology from Ohio State University in 1957 and Ph.D. degree from New York University in 1962. As a recipient of Fulbright and French Government Awards, he studied at and received a certificate from the Sorbonne's Center of Higher Studies in Paris in 1957.

DR. ROSENBERG has taught at Cornell University and Columbia University. He was a visiting professor at the University of British Columbia and at the Israeli Institute of Productivity in Tel Aviv before his present professorship at the Baruch College of the City University of New York.



SURVEILLANCE, COMPUTERS and INVASION OF PRIVACY

Knowledge is power in the age of technology. With computerized data banks creating an efficient, accurate and total recall system which can bring together an unprecedented and unprotected personal dossier on the individual, will privacy and the power of the individual become only a memory? Is 1984 arriving sooner than planned?

DR. JERRY ROSENBERG, author of the widely acclaimed *The Death of Privacy*, addresses himself to these questions and more.

He criticizes specifically the existence of government and industrial data banks which contain an immense, almost limitless capability to store, intermingle and retrieve at the push of a button information on all persons and organizations of one type or another, all performed without the knowledge of the person or institution involved.

The idea is not farfetched. After all, computers already play a big role in our life: credit rating, law enforcement and surveillance, medical diagnosis, airline reservations, banking, motivational research, etc.

Putting all statistical information about a person in centralized memory banks not only subjects one to possible blackmail and the abuse of confidential information, but is also psychologically detrimental. Who puts the data into the bank, and in what form? Who will evaluate it and what for? He suggests that one know what his file contains, how it is protected, who has access to it, be able to review it and challenge its accuracy.

The psychological necessity of privacy in modern society is noted by DR. ROSENBERG. The loss of psychological independence, which he feels will accompany such a computerized dossier, may even be undetected by the individual:

"Today man lives in an atmosphere dominated by the machine. Man submits more and more as his ability to make choices about and control his future is gradually taken away from him. He is willing to permit the machine to build towers of brick and metal, hoping that it will not fail him when he has to live or work in them; he is willing to have the machine process his life's facts, hoping that it will be accurate and objective."

The uniqueness of man is vital to his sanity. Some sort of psychological distance between man (his inner world) and that of society must be maintained. ROSENBERG says "Man in American society must be provided with the right to be different from others. . . He must be allowed error to be part of his life and allowance made for minor sins. . . If man loses his right to be wrong, he will react by withdrawing from society. Will his curiosity to experiment with life falter?" Can we live in a world in which our inner and outer thoughts are to be revealed to anyone and everyone?

ROSENBERG's complaints are not against technology or computers, per se, but against their misuse. He demands strong safeguards on government developed and proposed computerized data centers. He deplores government and military public surveillance. He analyzes the present ways in which privacy is protected, proves them inadequate and proposes specific regulations and rules of conduct to be supervised by a superagency.

Will man or machine prevail? Will the age of Aquarius yield to the age of Aquariums?

The New York Times

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NEW YORK, WEDNESDAY, FEBRUARY 24, 1971

Senators Hear of Threat of a 'Dossier Dictatorship'

Dr. Jerry M. Rosenberg, a New York psychotherapist, testified that "today man lives in an atmosphere dominated by the machine."

He said that "what is most disturbing to the American population is the undemocratic process which starts at birth to make people believe that they are unable to say 'no' to divulging personal information, thus perpetuating a collection of data that will follow them for the remainder of their lives—frozen in time and the computer."



The New York Times/George Tamas

Senator Sam J. Ervin Jr., subcommittee chairman, showing a two-inch square of microfilm he said contained 773,746 words, the same number as 1,245-page Bible before him.

By RICHARD HALLORAN

Special to The New York Times

WASHINGTON, Feb. 23—

The private life of the average American is the subject of 10 to 20 dossiers of personal information in the files and computer data banks of Government and private agencies, a Senate subcom-

mittee was told today. Two lawyers and a social scientist testified that most Americans are only vaguely aware of the extent to which they are watched, contending that the controls over abuse of information gathering and dissemination are limited.

One said that the chilling ef-

fect of snooping was leading the nation toward a "dossier dictatorship." Senator Sam J. Ervin Jr., Democrat of North Carolina, the chairman of the Subcommittee on Constitutional Rights, opened nine days of hearings on the

Continued on Page 24, Column 3



MEMORANDUM OF INFORMATION FOR THE FILE

C.F.
FG 6-15-1

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 C.F. Overseas Attachment #257.



CORRESPONDENCE FILED CENTRAL FILES - CONFIDENTIAL FILE

Sen. Bartlett

THE WHITE HOUSE

WASHINGTON

June 5, 1974

Honorable Dewey F. Bartlett
United States Senate
Washington, D. C. 20510

Dear Senator Bartlett:

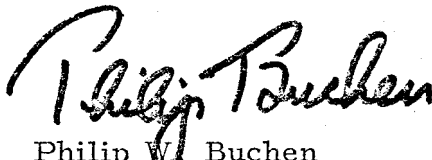
In behalf of the Vice President, I thank you for your letter of May 10 regarding the interest of State Senators Pierce and Monks in the work of the Privacy Committee.

Neither the Committee nor its staff is planning to hold hearings. To the largest extent possible, our work is proceeding through reliance on consultations and written submissions.

If Senators Pierce and Monks would please advise me in writing or by telephone of their particular concerns, I would be happy to suggest how they may relate to projects we have under way and what would be a convenient method of receiving their submissions.

I enclose two extra copies of this letter for your office to send on to the two Senators.

Sincerely yours,



Philip W. Buchen
Executive Director
Domestic Council Committee
on the Right of Privacy

PWB:ed

Enclosures



OFFICE OF THE VICE PRESIDENT
WASHINGTON, D.C.

TO: Mr. Philip Buchen
FROM: Robert T. Hartmann

Please respond to the attached.

Thanks.



WEY BARTLETT
OKLAHOMA

United States Senate

WASHINGTON, D.C. 20510

May 10, 1974

The Honorable Gerald R. Ford
Vice President of the United States
Washington, D. C.

Dear Mr. Vice President:

On behalf of State Senators Jerry T. Pierce and John Monks of Oklahoma, I would like you to consider their request to appear before the President's Council on Privacy to testify.

They have made their request to you to be allowed time to make their views known to the Council.

Any help you can give in obtaining permission to testify for Senators Pierce and Monks would be sincerely appreciated.

Sincerely,



Dewey F. Bartlett
United States Senator
OKLAHOMA

DFB:pw

cc: Jerry T. Pierce



[ca. 8/19/74]

THE WHITE HOUSE
WASHINGTON

Doug Metz to be
Exec Dir. ?

Eva:

I certainly hope so. Check
with Tom as to how it ought
to be accomplished. I am
as yet uncertain what bases
we have to touch, and I
dislike going directly to Pres.
Unless Tom thinks that is
the only appropriate way.
P.



ITEM WITHDRAWAL SHEET
WITHDRAWAL ID 01346

Collection/Series/Folder ID : 001900550
Reason for Withdrawal : DR, Donor restriction
Type of Material : TEL, Telegram(s)
Creator's Name : Peterson, Jacqueline
Receiver's Name : Buchen, Philip
Description : Personal matter.
Creation Date : 08/21/1974
Date Withdrawn : 07/06/1988

Books of The Times

Perils of Technology (1): No More Privacy

By JOHN LEONARD

THE DEATH OF PRIVACY. By Jerry M. Rosenberg. 236 pp. Random House. \$6.95.

MAYBE an exploding technology makes for an imploding psychology. During World War II, when physicists with their big machines created the atom bomb, America discovered that knowledge is power. Government immediately invested in the knowledge industry, and off we tore on the Federally subsidized technological binge that hangs us up and over today. Unfortunately, we are not a nation of philosophers, and we neglected a corollary to the "knowledge is power" proposition. If intellectual activity has physical consequences, it has moral consequences, too. If every accession of knowledge is itself an "act," altering the observed object and the observer, then technology (applied knowledge) alters moral as well as social contexts. In an age of computerized defense systems, electronic journalism, automated factories, information processing and biological refabrication, identity crisis is a "spin-off."

Old questions are reopened: How much should the individual cede to the state, in exchange for what? And new questions yawn: Is the individual capable of understanding a social contract rewritten every other day by systems analysts drunk on cost effectiveness?

Sees All, Knows All

Dr. Rosenberg, an industrial psychologist and management consultant, attacks one aspect of our technological thralldom in this trenchant, fact-filled book—the threat to privacy posed by government and industrial computers. His particular concern is the proposed Federal Data Bank, where comprehensive files on every individual



Albert Guida

Jerry M. Rosenberg

He explores the role computers already play in our lives: credit rating, law enforcement, medical diagnosis, airline reservations, banking, motivational research, etc. He sketches computer history from Babbage's Difference Engine to microprogramming and lasers. He speculates on a future when computers will apply their own "inferential logic" to various behavior patterns.

And he is properly worried. For already, anyone who wants to can buy our arrest records, credit reports and tax returns. Already there are over 30,000 "investigators" on the Federal payroll. Already the Bureau of the Census can force us to answer personal questions that would have outraged Thomas Jefferson. Putting all this into one centralized memory bank not only subjects us to possible blackmail, to the abuse of confidential information, but also tends to lock us into our mistakes. Who puts the data into the bank, and in what form? Who will evaluate the data, and for what purposes?

Because he believes that privacy guarantees a "personal autonomy" necessary for people to stay sane in modern society, and because he suspects a Federal Data Bank is inevitable, Dr. Rosenberg proposes strict legislation.

Margins for Safety

We should know what our file contains, how it is protected and who has access to it. We should be able to review it and challenge its accuracy. An ombudsman should oversee the operation; computer personnel should undergo security checks; technical systems should be regularly tested to prevent accidental leakage; and all files should be exempt from court subpoena.

"The Death of Privacy" is a troubling, convincing and necessary book. It serves also as a launching pad for mind probes of the technological moon. Most of us live on installments, as numbered markers and symbolic work-units on the great credit grid. For permission to borrow from our own future, we may have given up something more than just privacy. If we are considered to be the accumulation of our errors, statistical likelihoods estab-

The New York Times

8/21/74

THE WHITE HOUSE
WASHINGTON

IRS Weicker amendments

- grace period
until 1 week
after return from
recess.

EW.

Call from Doug Metz



DOMESTIC COUNCIL COMMITTEE ON THE RIGHT OF PRIVACY

WASHINGTON, D.C. 20504

August 22, 1974

To: Phil

From: Doug 

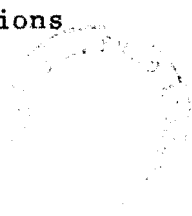
Attached for your review, comments
and approval.



DRAFT LETTER FROM PRESIDENT FORD
TO MEMBERS OF THE DCCRP

In addressing the Congress on August 12, I stressed the importance of safeguarding the individual American's right to personal privacy. Time permitting, I would have liked to acknowledge the work of the Domestic Council Committee on the Right of Privacy and to thank all of the members and the hundreds of people in the various agencies who have participated in the effort. Please know that I am enormously grateful to each and every one of you.

In the months ahead, I intend to pay close attention to the implementation of the Committee's recommendations and to take the steps necessary to see that they are carried out expeditiously. When the Committee meets again in early October we will be considering two sets of recommendations that were not ready in time for the July 10 meeting, along with reports and recommendations



from several new projects launched since July. With that amount of work before it, I expect the Committee to have no difficulty sustaining its initial momentum.

I do think, however, that it is essential for each member to continue to attend personally to the projects for which his or her agency has lead responsibility and to assure that adequate resources are invested in these projects.

When I asked Phil Buchen to serve as Counsel to the President, I also asked him to continue as Executive Director of the Privacy Committee. This will enable me to stay in close touch with the Committee staff, while we consider some other more formal arrangement within the Executive Office of the President.

Sincerely,

President



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Sincerely,

President

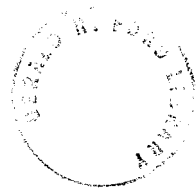


Tuesday 8/20/74

11:45 As I mentioned to you last night, I checked with Tom about whether something should be done to put Mr. Metz in as Executive Director of the Privacy Cmte.

Tom suggests not making any moves like that until we had more definite scheduled in mind.

The Cmte. can go on -- with Doug acting as Executive Director.



THE WHITE HOUSE

WASHINGTON

Doug Metz to be
Exec Dir. ?

Eva:

I certainly hope so. Check
with Tom as to how it ought
to be accomplished. I am
as yet uncertain what bases
we have to touch, and I
dislike going directly to Pres.
Unless Tom thinks that is
the only appropriate way.
P.



**SPECIAL
SERVICE**

IMPORTANT

8/23/74

DOMESTIC COUNCIL COMMITTEE
ON THE RIGHT OF PRIVACY

4 pm

WASHINGTON, D.C. 20504

Eva -

If Phil has opportunity
to see but one of the
several priority memos and
notes being sent over this
afternoon, it should be
the memo Re: Future Role of
the Privacy Committee etc

Thanks

P.S. Almost all of the items
may be relevant, depending on
this evening.



DOMESTIC COUNCIL COMMITTEE ON THE RIGHT OF PRIVACY
WASHINGTON, D.C. 20504

August 23, 1974

To: Phil Buchen
From: Doug Metz *DM*
Subject: Future Role of the Privacy Committee and
Responsibilities for Information Policy

This memorandum is background for your meeting this evening with the President. Four recommendations are advanced.

(1) The President Should Remain as Committee Chairman
At Least Through This Session of Congress.

Such action would:

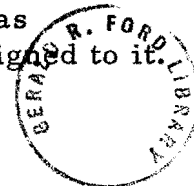
- . Signify that he remains personally committed to making privacy concerns a top priority of his Administration
- . Assure continuity of policy and program.

You should remain active in Committee work to the extent your duties permit as proposed in Attachment B.

(2) Neither OMB Nor Any Other Existing Agency Should Be
Given Formal Responsibilities for Privacy Until Our
Staff Has Prepared Specific Organization Plans.

This means that:

- . The attempt by OMB to assume responsibility by Executive order should be resisted until full discussions can be conducted with interested parties.
- . The existing Privacy Committee staff should continue to exercise responsibility for privacy and legislative matters related to information policy, such as information disclosures, as specifically assigned to it.



(3) Consideration Should Now Be Given to Streamlining Responsibility for Information Policy Matters in the Executive Branch.

Several reasons justify this action:

- . With a new Administration the time is opportune
- . Information policy matters are receiving greatly increased visibility, e. g.
 - The amount and type of information collected
 - How information is classified, whether it relates to security or privacy
 - Public disclosure policies (Freedom of Information Act)
 - Congressional disclosure policies (executive privilege)
 - Privacy and confidentiality policies
 - Mail list policies
 - Information retention policies for sensitive information (purging, sealing and destruction).
- . Currently, organizational responsibilities are widely fragmented among:
 - OMB and GSA for weak data collection controls (with informal liaison with GAO for regulatory agencies)
 - Justice for limited impact Freedom of Information disclosure policies
 - The White House for Congressional disclosure (executive privilege) policies
 - The agencies for data classification actions pursuant to criteria established by Executive order



- GSA for security and privacy in information systems procurement and records retention and disposal policies
 - The Privacy Committee for informational privacy concerns
 - The OTP for security and privacy in data communications
 - Civil Service, Justice and Defense for regulations governing electronic surveillance, including polygraphs.
- . Inconsistencies in administrative and legislative approaches are starkly apparent and need a unitary perspective, e. g. , in definitions of records, files and systems, in information disclosure policies and in approaches to agency sanctions.

(4) Planning Should Go Forward to Staff Out a Proposed Office of Information Policy in the Executive Office of the President.

After a tentative plan is fully developed:

- . Informal consultations should be held with OMB, OTP and other concerned agencies
- . Knowledgeable and expert persons outside the government should be consulted on an informal basis
- . A formal plan (e. g. , Executive order) should be staffed out.

The proposed Office of Information Policy in addition to its several policy coordination responsibilities would support special Councils, Committees and Commissions that may, from time to time, be established to deal with matters such as privacy, Freedom of Information, data collection controls, etc.

The attachments to this memo provide additional thoughts and background on this subject.

Attachment A - Letter justifying in greater detail the Office of Information policy concept

Attachment B - Draft letter from the President to Privacy Committee members



DOMESTIC COUNCIL COMMITTEE ON THE RIGHT OF PRIVACY

WASHINGTON, D.C. 20504

August 23, 1974

The Honorable Philip W. Buchen
Counsel to the President
The White House
Washington, D. C. 20500

Dear Phil:

Our forced-draft efforts to develop a coherent Federal posture on the protection of personal privacy, and on proposed amendments to the Freedom of Information Act, have led me to conclude that a focal point for providing policy guidance and expert advice on matters affecting the information collection and disclosure practices of Federal agencies should be established forthwith in the Executive Office of the President.

Looking back over the last ten years, one can see that the need for such an entity has been growing steadily. First there was the national statistical data center controversy which gave use to our current concern about the protection of personal privacy; then, in 1967, the Freedom of Information Act; and now wide-ranging debate over the classification practices of Federal agencies, Federal policy on information systems procurement, Executive privilege, the impact of Federal grants and contracts on information-handling practices at other levels of government and in the private sector, the complex issue of privileged communication (between doctor and patient, case worker and client, researcher and data subject), and the perennial question of how to curb, or at least control, the government's voracious appetite for information of all kinds.

I think it is clear that in the long run we are not going to be able to duck any of these issues, but even now we may be verging on a situation in which the Congress, prompted by the persistently reactive and desultory behavior of the Executive branch, will seek to impose one or more solutions on us. I can report, for example, that at the markup on H. R. 16373 this week, the Moorhead Subcommittee showed itself quite willing to think about creating an independent Commission on Privacy and Freedom of Information and, as you know, the corresponding Senate bill, S. 3418, expressly calls for the establishment of a Privacy Commission.



In the light of these developments, and having seen how important it is to provide timely guidance on policy issues as controversial as some of those raised by the Freedom of Information Act Amendments, I would strongly recommend that the President consider establishing, within the Executive Office of the President, a small, competently staffed Office of Information [Law and] Policy to provide him with independent advice and to provide the agencies with clear guidance on Administration policy.

A staff not much larger than the current staff of the Domestic Council Committee on the Right of Privacy (8 professionals) would be about the right size, since the Office, like the Committee staff, should be able to call upon the agencies for help in initial fact finding and in the preliminary development and exploration of policy alternatives. Overall I think that the ad hoc task force approach has served the Privacy Committee well; when it has faltered, doubt about White House support appears to have been the chief cause. Also, I think it is important to avoid even the appearance of setting up a cumbersome bureaucracy, or creating an all-powerful "data czar" (a major reason why, with all due respect, I would not lodge such a policy-making function in OMB).

The Office should not have operational responsibilities. However, the policy oversight, guidance and coordination making responsibilities on information matters that are now dispersed among the Privacy Committee, the Freedom of Information Committee at Justice, and various units of OMB and GSA should be consolidated in the new office. The day-to-day operating functions of the line agencies mentioned should remain intact, at least until there has been a thorough study--conceivably one of the new Office's first projects--of the need for government-wide restructuring of decision making and operation with respect to information management.

Since a principal reason for establishing such a new entity is to enhance our capacity to deal squarely and effectively with the Congress, the Office should work directly with the White House Congressional Relations Office on priority matters and should also be able to communicate with the public through the White House Press Office. Although the core staff would always be small it should have its own budget, be able to secure consultants, as needed, and be capable of tapping agency budgets for contract or grant funds needed to undertake special studies.

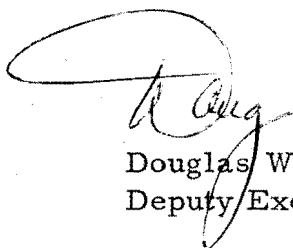


The Office could be established by Executive Order, but preferably by Reorganization Plan as was OTP. A Reorganization Plan gives an agency more "teeth" since a specific statutory power of the President must be cited. Congress, unfortunately let the Act giving the President such reorganization powers lapse in April of 1973. (I would urge that the President consider asking for a renewal of this authority at this Session.)

As we discussed I am taking steps to draft a proposed Executive Order for your review.

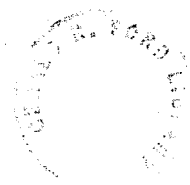
The organizational concept proposed in this letter has the support of the Privacy Committee staff. To the extent the concept has been advanced discreetly to outside parties, it has received support. Reactions have ranged from "anything is better than the present system" to "a group independent of vested informational interests is essential" to "a unitary organizational approach is necessary."

Sincerely,



Douglas W. Metz
Deputy Executive Director

DWM/crs



DRAFT LETTER FROM PRESIDENT FORD
TO MEMBERS OF THE DCCRP

*Doug: I would
like to have
question with
President
about the
last
para.
Will
see him
Friday
evening
if not
before.
That
too late.
P.*

In addressing the Congress on August 12, I stressed the importance of safeguarding the individual American's right to personal privacy. Time permitting, I would have liked to acknowledge the work of the Domestic Council Committee on the Right of Privacy and to thank all of the members and the hundreds of people in the various agencies who have participated in the effort. Please know that I am enormously grateful to each and every one of you.

In the months ahead, I intend to pay close attention to the implementation of the Committee's recommendations and to take the steps necessary to see that they are carried out expeditiously. When the Committee meets again in early October we will be considering two sets of recommendations that were not ready in time for the July 10 meeting, along with reports and recommendations



from several new projects launched since July. With that amount

of work before it, I expect the Committee to have no difficulty

sustaining its initial momentum.

I do think, however, that it is essential for each member to continue to attend personally to the projects for which his or her agency has lead responsibility and to assure that adequate resources are invested in these projects.

When I asked Phil Buchen to serve as Counsel to the President, I also asked him to continue as Executive Director of the Privacy Committee. This will enable me to stay in close touch with the Committee staff, while we consider some other more formal arrangement within the Executive Office of the President.

Sincerely,

President

Aug 23, 1974 from DM

A) ~~Re~~ Memo to V-P (draft to be prepared by DM)

B) ~~Sec 9~~

Aug 20 DM & I agreed draft should be circulated w/o provision re organizational resp. +, after SB had asked DM for comments. Then DM called SB who agreed

Aug 21 - SB circulated E.O. draft with Sec 9 in.

Aug 22 - Because DM could not reach SB, he sent memo, but SB called later to ~~admit~~ explain rationale for including Sec 9 even though admitting prior understanding of 8/20

Task force 7 had been working ^{under Joyce} on E.O. to implement initiative #1 (principles) which paralleled OMB draft (although should ^{not} have been E.O., but an OMB circular) + such Task force ~~did give~~ kept it with Task force membership.

C) Legislative activities (see overall status report 8/23)

1) FOIA amendments - Silberman in charge (as result of Saxbe-Pres. conf. of 8/13 at 11:00) with memos from both Saxbe, Silberman & me)

2) ^{Albrecht} Trans. Gen Counsel opinion on 8/16/74 - OMB cut out prior to circulation per Geoff, Doug & me. - will take up at meeting Mon 8/26



DOMESTIC COUNCIL COMMITTEE ON THE RIGHT OF PRIVACY
WASHINGTON, D.C. 20504

August 23, 1974

To: Phil Buchen
From: Doug Metz *Doug Metz*
Subject: Overall Status Report on Agreed-Upon Priority Activities

The following is the briefest possible summary of where we are on:

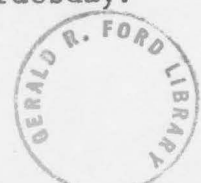
(1) Freedom of Information Act Amendments *

- . Final Conference action deferred until September 11 or after both Houses reconvene from recess
- . Special status report under separate cover dated August 23.

(2) IRS Legislation/Weicker Amendments

- . OMB clearance process being accelerated by us
- . Objective of clearing bill before August 30 and final date for transmission to Congress September 11. (The timetable is now tighter with the Senate returning September 4, with the Weicker amendment again scheduled by the leadership for Senate action in one week after return from recess.)
- . Two principal issues remain:
 - Presidential access
 - Justice's serious objections to third party access provisions *Albright meeting before cob 8/26 with DOJ + Shepard.*
- . Action:
 - Meeting with you Monday, 10:00 a. m. with specific recommendations on Presidential access. Justice's concerns are targeted for resolution by next Tuesday.

*N.Y. Times
Aug 25, 1974
P. 5*



**SPECIAL
SERVICE**

(3) Privacy Committee Leadership and Future Formal Responsibilities for Information Policy Matters

- . See special memorandum under separate cover dated August 23.

(4) Criminal Justice Information and Privacy Bill *

(Skidmore of OMB involved)

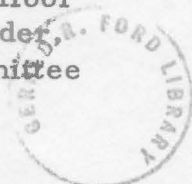
- . Moved to priority legislative item
- . Deadline: A bill the Administration can support by mid-September
- . Organization: Privacy Committee staff coordinating concerned agencies and Larry Silberman spearheading negotiations
- . Forecast: Reasonably optimistic.

(5) OMB-Sponsored Privacy Legislation

- . Senate on August 19 reported out S. #418 Revised, which is reasonably close to Moorhead bill. May have come a long way toward our position.
- . Moorhead House Subcommittee almost reported out a bill August 20. Likely to complete action September 12.
- . Forecast: A likely consensus bill if Moorhead Subcommittee acts. Favorable Senate action on S. 3418, and possible bottling in House Committee
- . Plan: Seek consensus bill in House rather than ride herd on Senate bill
- . Overall objective: Same as for all legislative initiatives endorsed by Committee viz., action, if possible, at this Session

(6) Warrantless Wiretaps *

- . Senators Ervin and Nelson will press for Senate floor action as soon as possible, for an appropriate rider, although they were successfully blocked in Committee earlier this week



* all taken up at Pres-Saxbe meeting of 8/13 w/o memos to others - but Dagg has helped ~~be~~ implemented in my name but found in coordination with Justice, OMB & Don Council

- Strategy: Support needed action on this sensitive subject, but only after (1) needed discussions before the Attorney General and the Hill, and (2) consideration by the Wiretap Commission resulting in a report on this subject in December/January
- Tactics: Allow Attorney General to handle until Presidential response is appropriate.

(7) New Privacy Screening Procedures (Privacy Initiative No. 1)

*Only acknowledged -
ment by
Friederick
of Timmons
office
OMB asking
lead to investigate
& will prepare
draft response
for Pres.*

- Should, at this writing, have number 3 Priority because of Congressman Moss' inquiries and consequent headlines.
- Situation under control (barely) by Task Force 7
- Backup by you or President might be necessary should there be need for intervention to assure OMB, OTP and GSA "togetherness" in decision making.

There is more, but I have confined my remarks to what I believe are "need to know" matters.



DOMESTIC COUNCIL COMMITTEE ON THE RIGHT OF PRIVACY

WASHINGTON, D.C. 20504

August 23, 1974

To: Phil Buchen

From: Doug Metz

Subject: Status Report on Freedom of Information Act Amendments

The Conference Committee on this legislation met August 20 and 21 without taking final action on this bill.

The President's individual letters to each Conferee were received in the spirit of the "new openness" in Executive/Hill relationships, interpreted properly, as a well-phrased veto threat, and carefully considered in its deliberations.

A status report on the four major concerns raised in the President's letter and in the Attorney General's memorandum to the President of August 13 is as follows:

(1) Employee Sanctions

The Conferees agreed to a McClosky compromise provision acceptable to the Civil Service position, and I believe to the Administration. Senator Kennedy tried to modify this compromise which contributed to the Conference ending in disarray.

Conclusion: The Administration should regard the Conference's action (and even Conference approval) of the latest Kennedy modification as acceptable.

(2) In Camera Judicial Review

The Conference agreed to include explicit language in its report which it believes is responsive to the President's concern over the degree of burden of proof that would have to be sustained by an agency in withholding sensitive national security records from judicial scrutiny.

Rather than take this opportunity to describe the court decisions (Primarily the Mish case) and the legal issues posed, I will be glad to brief you orally or in writing on the situation.



The upshot is that it is possible for the Administration to live with the bill as drafted with interpretive report language.

Conclusion: The Conference has attempted to accommodate to the President in a situation whereby the language of the House and Senate bills which gathered substantial support in both Houses is virtually identical. The Conferees felt that any change in the provisions itself would be subject to a permit of order in either body.

(3) Exemptions for Law Enforcement Files

The proposed bill establishes more specific and elaborate criteria to guide the FBI and other agencies in claiming an FOI exemption from public disclosure of "files compiled for law enforcement purposes".

The Conference attempted to accommodate the President's concerns (primarily those of the FBI) by altering the language. But the confusion over interpretation prompted Congressman Moss to walk out; thus adjourning the Conference until after recess.

Conclusion: The Conference made an unsuccessful attempt to be responsive to the President's concerns with reconsideration action probable at its next meeting.

(4) Time Limits

The Conference did not reach this issue before adjourning.

A prognosis is difficult. Feelings were running high among the Conferees over issues (1) and (3).

Recommendations:

- . That the President, as he indicated in his letter, continue to advocate needed reforms in the Freedom of Information Act to implement his objective of making the processes of government more open and accessible to the American people.
- . That the President continue to make his viewpoint known in the context of informal contacts with Members of Congress that ensue from this regular schedule.



I am preparing for your review and the President's signature a reply to a letter received on this subject from Congressman Matsunaga.




THE WHITE HOUSE

WASHINGTON

August 27, 1974

ADMINISTRATIVELY ~~CONFIDENTIAL~~

MEMORANDUM FOR: PHILIP W. BUCHEN
FROM: JERRY H. JONES 
SUBJECT: Future Role of the Privacy Committee

Your memorandum to the President of August 27 on the above subject has been reviewed and the three recommendations set forth in the memo were approved. Please note the following notation:

-- I agree. Let's move.

Please follow-up with the appropriate action.

Thank you.

cc: Al Haig



THE WHITE HOUSE

WASHINGTON

August 27, 1974

MEMORANDUM FOR THE PRESIDENT

FROM: Philip W. Buchen *PWB*

SUBJECT: Future Role of the Privacy Committee

An early announcement by you concerning the future of the Domestic Council Committee on the Right of Privacy is recommended.

Following the Committee's last meeting on July 10, the staff has been working with concerned agencies to implement the endorsed initiatives and to initiate new studies as planned. The next meeting of the Committee was announced for late September or early October. The subject of privacy and the work of the Committee have been given increased stimulus and visibility by your remarks to the Congress on August 12. Press commentary has been extensive and favorable.

The following recommendations are advanced for your approval:

- (1) The Domestic Council Committee on the Right of Privacy Should Be Continued for the Indefinite Future.

This action is consistent with the priority status you have given to protection of personal privacy by the Administration.

- (2) The New Vice President, After Confirmation, Should Be Designated Committee Chairman.

The job of Chairman, as a precedent, should devolve to the Vice President as one of his priority responsibilities, thereby easing the Presidential burden in one area of substantive responsibility.



(3) Until a New Vice President Is Confirmed, You Should Direct That Immediate Supervision of the Committee Operations Be Exercised by the Domestic Council.

Under this proposal, Doug Metz would succeed me formally as Acting Executive Director but work directly under the Domestic Council until the new Vice President selects his Executive Director.

This plan is preferable to naming a Cabinet Committee member as an Acting Chairman for the interim. As you know, each member agency has a strong institutional bias and unique privacy perspective -- and varying degrees of enthusiasm for certain privacy initiatives. A strong, independent balance wheel is vital to assuring a sound, balanced approach to safeguarding personal privacy. Currently, several agencies are actively competing for leadership in the privacy effort. To give one agency a lead role, albeit for a brief period, would risk (1) foreclosure of some organizational options for the transition team, (2) likely programmatic distortion of current and planned privacy initiatives we have undertaken, (3) probable organizational constraints on the new Vice President, and (4) possible unfavorable publicity because of known individual agency biases with respect to privacy issues.

Announcement of the foregoing actions would be made by Jerry terHorst.

APPROVE _____

DISAPPROVE _____



Call
Mr. Metz

8/28/74

all sent to
Doug Metz

