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Transcript of Proceedings

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SECRETARY'S ADVISORY COMMITTEE

ON

AUTOMATED PERSONAL DATA SYSTEMS

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Bethesda, Maryland
Monday, 17 April 1972

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

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SECRETARY'S ADVISORY COMMITTEE

on

AUTOMATED PERSONAL DATA SYSTEMS

- - -

Fogarty Center
Stone House
National Institutes of Health
Bethesda, Maryland
Monday, April 17, 1972

The meeting was convened at 9:00 a.m.,

Mr. David B. H. Martin presiding.

COMMITTEE MEMBERS PRESENT:

- Professor Layman E. Allen
- Juan A. Anglero
- State Senator Stanley J. Aronoff, Ohio
- Assemblyman William T. Bagley, California
- Dr. Philip M. Burgess
- Gertrude M. Cox
- Gerald L. Davey
- J. Taylor DeWeese
- Guy H. Dobbs
- Robert R. J. Gallati
- Florence R. Gaynor
- John L. Gentile
- Jane L. Hardaway
- James C. Impara
- Patricia J. Lanphere
- Professor Arthur R. Miller
- Don M. Muchmore
- Jane V. Noreen
- Roy Siemiller
- Ruth S. Silver
- Willis Ware
- Professor Joseph Weizenbaum

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1 ALSO PRESENT:

2 James Sasser
3 Carole Parsons
4 Edith Sontag
5 Al Guolo
6 William Marcus
7 Frederick Sontag
8 Robert Knisely (present at evening session)
9 Nancy Kleeman
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P R O C E E D I N G S

MR. MARTIN: I think we'll get underway. Philip Burgess and Stanley Aronoff and William Bagley and Arthur Miller are unaccounted for. They are not at the hotel, and no word of them at the office. They may be on their way. But I think since all of you have managed to get here on time we ought to start without them. I hate to do it.

This is the initial meeting of the Secretary's Advisory Committee on Automated Personal Data Systems. It's very gratifying that in spite of the relatively short notice for this meeting all but two members of the Committee are expected to be in attendance at this meeting this morning and tomorrow.

Sheila Smythe we know will not be here. She is in Europe attending an international conference. And Patricia Cross is in California with a conference commitment of very long standing which she felt she couldn't conscientiously reschedule.

No chairman has yet been appointed for the Committee. Accordingly, Secretary Richardson has directed me to preside over this initial meeting. The Secretary plans to have appointed a chairman and one or more vice chairmen before the Committee's next meeting.

Oh, here is Arthur Miller.

The Secretary is in California on Department

1 business yesterday and today and gets back this evening and
2 for that reason could not be present with us today. He
3 will, however, start his day tomorrow with us. He has to
4 testify before a congressional committee before the morning
5 is very old tomorrow so he will not be able to spend a
6 lot of time with us, but he will be here first thing tomorrow
7 morning for the purpose initially of swearing you all in as
8 consultants and members of the Committee and for the
9 purpose also of meeting with you and saying a few words and
10 giving you the opportunity to ask any questions that you may
11 wish to address to him.

12 The Secretary and I hope that the result of
13 this initial meeting of the Committee will include at
14 least the following accomplishments:

15 First, that the members of the Committee will
16 have an understanding of the circumstances which have
17 led to the formation of this Committee and also an under-
18 standing of the administrative arrangements and procedures
19 for the Committee as a group and for each member indi-
20 vidually.

21 You have already met I think personally and cer-
22 tainly by mail Jim Sasser, the executive officer of the
23 Committee, and if you have any questions about your own
24 specific arrangements about travel or compensation, and so
25 on, Jim would be the person to take them up with.

1 Secondly, we hope that as a result of this first
2 meeting we will have made a good start at least at defining
3 the nature and the scope of the issues in this undertaking
4 which the Department of Health, Education, and Welfare
5 seeks to carry out with the advice and assistance of this
6 Committee and of such other persons and organizations as
7 we mutually come to feel it would be helpful for the Depart-
8 ment to call upon.

9 Third, we hope also to make a start at identify-
10 ing additional persons and organizations whose advice and
11 assistance it appears that the Department should consider
12 enlisting in this undertaking.

13 We have what many have said to me is an impossibly
14 large committee. I received advice, as did the Secretary,
15 some months ago when we first started talking about this
16 enterprise, that we should try to confine the group to
17 something on the order of seven or eight or nine people.
18 And then that seemed impossibly small, given the nature of
19 the enterprise and the variety of background and expertise
20 that we felt it would be useful to bring in.

21 So we sort of set a target figure of 16 to 18.
22 We are up to 25, and even so we are feeling deprived. In
23 spite of the richness of this assembly, there are others
24 who were suggested, others whom we feel, as I'm sure many of
25 you would know, we would prosper from having involved who

1 are not here.

2 We can, however, arrange to add to our resources
3 on various bases, and during the course of today and
4 tomorrow, and for that matter thereafter, would welcome
5 suggestions that any one of you may have about additional
6 persons to include, or organizations.

7 Fourth, out of this initial meeting we should
8 have made some plans for future meetings and activities
9 of this Committee and its members.

10 And fifth, perhaps most important and perhaps
11 the one thing that we will most address I think, is for
12 the members of the Committee to have begun to get acquainted
13 with each other and with some of the HEW personnel and
14 other observers who will be involved with us in this under-
15 taking.

16 Before going any further, I'd like to call
17 attention to the fact that we are making a record of what
18 transpires at this meeting. The record will be in three
19 forms -- a tape recording, a stenographic record being
20 made during the meeting, and a transcript to be typed up after
21 the meeting.

22 Both the tape recording and the typed transcript
23 will be available to members of the Committee. And a
24 number of members have already indicated to me their
25 pleasure at this prospect because they don't expect to be

1 able to attend perhaps every meeting, and this will provide
2 an easy way of finding out what happened at meetings that
3 one missed.

4 In addition, we expect to make this record
5 available to other persons with whom we interact who may
6 have a need to know what transpires here in order effectively
7 to participate with us and assist us or understand our
8 undertaking.

9 If at any point during the discussions anyone
10 feels inhibited with respect to something they would like
11 to say by the fact that a record is being made, obviously
12 we can indicate that the record should cease, and just
13 indicate you'd like to go off the record and then the
14 tape recording and the stenography will cease.

15 Now, perhaps a good way to start our meeting
16 would be for a round of brief self-introductions so we can
17 all start the process of associating names and faces and
18 voices.

19 We are seated in alphabetical order as members
20 of the Committee, and what I'd like to do is ask Layman
21 Allen on my left here to start and identify himself. I
22 think if you said who you are and what your present
23 principal occupation and affiliation are and perhaps a few
24 words about your prime areas of interest and activity as
25 they relate to the Committee's undertaking -- insofar as

1 you fully understand that at this stage. (Laughter)

2 PROFESSOR ALLEN: Layman Allen, University of
3 Michigan Law School and Mental Health Research Institute.
4 I'm interested in uses of logic in law, computers and
5 instructional games.

6 MR. ANGLERO: Juan Anglero from the Commonwealth
7 of Puerto Rico. I work for the Department of Social
8 Services and I am dedicated to the planning of social plans
9 really.

10 MISS COX: I am Gertrude Cox, consultant simply
11 because I have already retired three times and the only way
12 I can keep active is by doing consulting work. I consult
13 in research planning, the collection of data, and use of
14 the machines for the analysis, but only the planning for
15 the use of the machines, not in the detailed machine
16 operations. I know what the machines should do.

17 MR. DAVEY: I'm Jerry Davey. I'm involved now
18 with a small company involved in providing computerized
19 technical services for hospitals, medical services.

20 My previous experience is largely with large
21 files, large data bases of various types.

22 MR. DeWEESE: Taylor DeWeese. I'm a student
23 at the University of Pennsylvania Law School, and I have
24 been working on a comment on the recent computerization of
25 the FBI criminal histories and how this affects personal

1 privacy. So my main area is in the criminal field.

2 MR. DOBBS: I'm Guy Dobbs. I'm Vice President
3 in charge of Technical Development at Xerox Computer
4 Services. My background is in the computer sciences over
5 the period of the last couple of decades.

6 As a technologist I am vitally concerned about
7 how computers are applied in a variety of ways and the
8 kind of people problems that that poses.

9 MR. GALLATI: Bob Gallati, Director of New York
10 State Identification and Intelligence System, which is a
11 computerized criminal justice information system.

12 I am, of course, concerned as Director of NYSIIS
13 about problems of security and privacy. I am also
14 Chairman of the Security and Privacy Committee of Project
15 Search, which is a Law Enforcement Assistance Administra-
16 tion-funded national project for the interstate exchange
17 of criminal history records.

18 MISS KLEEMAN: I'm Nancy Kleeman, staff of the
19 Committee.

20 MISS GAYNOR: Florence Gaynor, Executive Director,
21 Sydenham Hospital. I'm interested in data systems in
22 relationship to research and to having some base for
23 utilizing statistics for the delivery of health care.

24 MR. GENTILE: I'm John Gentile, Deputy Director
25 of the Illinois Department of Finance, State Government. My

1 responsibilities include. by statute. the operations of
2 all State computers, and we have operating on our data
3 center 27 State agencies, including all of the social
4 service agencies.

5 In addition, I am President-elect of the
6 National Association for State Information Systems, whose
7 members include my counterparts in all of the 50 States.
8 And one thing I feel that I could bring to the Committee
9 is my service as a conduit between this Committee and the
10 other State governments if this is desirable.

11 MISS HARDAWAY: I'm Jane Hardaway. I'm the
12 Assistant Commissioner of Personnel for the State of
13 Tennessee. At the present moment I'm creating for the
14 State a central system of keeping up with 33,000 people.
15 We have within our State Government 33 departments and
16 commissions, each of whom has been running their own
17 individual personnel systems, and our Governor is interested
18 in centralizing that through the use of computers so that
19 we can put our finger on each employee and can know the
20 particulars that surround him through the use of computers.
21 We are very involved.

22 I feel I am going to perhaps learn more than I
23 will give, and I am very pleased to be here.

24 MR. IMPARA: Jim Impara, Florida Department of
25 Education, director of the Statewide accountability program

1 which involves large-scale student testing.

2 Since most of the test results will be computerized
3 we are interested very much in how to maintain the indi-
4 vidual confidentiality of the test data while still being
5 able to use it for research purposes.

6 MISS LANPHERE: I'm Pat Lanphere. I'm Assistant
7 Supervisor of the Bureau of Children's Services for the
8 Oklahoma Department of Institutions, Social and
9 Rehabilitative Services. My main responsibility at this
10 time is we have designed and are in the middle of implement-
11 ing the computerized system to show accountability of
12 services.

13 PROFESSOR MILLER: I'm Arthur Miller. Out of
14 deference to my brother, Layman Allen, I have split
15 allegiance at the moment. I'm at the University of Michigan
16 Law School on my way to the Harvard Law School.

17 One of my prime areas of research and teaching
18 is technology and law, and in that connection I have
19 served with the Committee on Scientific and Technical
20 Information, National Academy of Sciences project on data
21 banks, and I have authored a book on law and privacy called
22 "The Assault on Privacy."

23 MR. MUCHMORE: My name is Don Muchmore. I'm
24 Senior Vice President of California Federal Savings and
25 Loan, which is a \$2 billion institution, which doesn't mean

1 very much except it's got just under 900,000 people we deal
2 with on a daily basis.

3 And my function at the company is rather broad,
4 but essentially I look upon myself as someone concerned with
5 paperless data, if I can say that, which is exactly what
6 I'd like it to be.

7 I am also Chairman of the Board of Opinion
8 Research of California, which is a nationwide firm where we
9 are dealing with the attitudes and behaviors of people and
10 their function thereof in society. And that's been my basic
11 research area and also my writing area.

12 I have been a troubleshooter for various
13 governmental persons and for higher education institutions,
14 having been Vice Chancellor of the State College system at
15 one time.

16 MISS NOREEN: Jane Noreen, senior at *Henry Sibley*
17 High School, St. Paul, Minnesota. *(Sibley)*

18 MR. SIEMILLER: I'm Roy Siemiller. I'm an
19 employee of the AFL-CIO, who pays my salary and expenses,
20 and I'm on loan to the National Alliance of Businessmen to
21 assist them in keeping the peace between the trade union
22 movement and the business community in the business
23 community's commitment to find jobs for the hard-core
24 unemployed and for 100,000 returning servicemen this
25 year.

1 And I must give a plug for the business community,
2 which is very unusual for me as you will find as I continue.
3 They are doing a tremendous job but they have got the
4 poorest public relations of any group that I ever saw.

5 How many in this room would realize-- There
6 are very learned people here, but how many would even have
7 the faintest idea that the business community for the last
8 3 years has had on loan to the National Alliance of Business-
9 men between 2,000 and 2,500 loaned executives, for which the
10 business community is paying their salary and expenses,
11 engaged in this endeavor?

12 It's a tremendous story. But they just never
13 get around to telling it. And that's year-round, and it's
14 been that way for 3 years now ever since President Johnson
15 in 1968 in his State of the Union message asked the
16 business community to assume this responsibility.

17 I don't really know why I'm here unless I might
18 be a conduit between the girl and the guy who's working
19 in the mine, mill and factory in the Nation between what
20 they might be thinking and what we're talking about here.

21 For 17 years I was Vice President of the
22 Machinists' Union, International Association of Machinists
23 and Aerospace Workers, with the responsibility within our
24 union for nine Midwestern States.

25 For 4 years I was International President. And

1 like our good lady consultant, I'm almost a consultant
2 too because I retired as International President and for
3 3 years I have been engaged in this program that I just told
4 you about, although I'm a former member of the Executive
5 Council of AFL-CIO and I still attend the meetings, confer-
6 ences, and so forth, that go on in the trade union movement.

7 I do have a pretty definite idea of what the
8 guy and the gal that's working for an hourly rate of pay
9 thinks about storing up data that you give to Mr. Muchmore in
10 his savings and loan associations.

11 Incidentally, his name and my job title for all
12 these years fit perfectly. We in the trade union movement, that's
13 what we want -- much more. (Laughter)

14 This about does it.

15 MR. MUCHMORE: Since you got that one in, I
16 have to come back and tell you you have a senior vice
17 president on loan from my office. We think your program
18 is the greatest program in the world and you're doing
19 quite a job, by the way.

20 MR. SIEMILLER: Thank you.

21 MRS. SILVER: I'm Ruth Silver, formerly a
22 teacher of speech at Brigham Young University. Right now
23 I'm concerned with a multitude of civic projects in
24 Denver. And I don't know what I have really to contribute
25 to this Committee unless it's an open mind that's willing to

1 listen and has yet to be made up.

2 MR. WARE: I'm Willis Ware from Rand Corporation.
3 Like Guy Dobbs I'm a computer specialist or computer
4 technologist by profession.

5 For the last 3 or 4 years I have been very
6 active in publicizing largely within the Department of
7 Defense the problem of computer systems that can leak
8 information and ways and means of providing information
9 safeguards against such leakage.

10 As a collateral interest I am also obviously
11 interested in what computer systems that leak information
12 can do to personal privilege or personal privacy.

13 PROFESSOR WEIZENBAUM: I'm Joe Weizenbaum,
14 professor of computer science at Massachusetts Institute
15 of Technology. I hope that's the last time I'll say that.
16 Henceforth I'll say M.I.T.

17 I, like Guy Dobbs and Willis Ware, have been
18 in the computer field essentially all of my adult life
19 and have the last few years turned my attention to the
20 problem of the impact of the computer on society, man's
21 image of himself and things of that kind.

22 MR. MARTIN: I wonder if our consultants and
23 observers would briefly identify themselves too starting
24 perhaps with Carole Parsons.

25 MISS PARSONS: Carole Parsons from the Department

1 of Behavioral Sciences at the National Academy of Sciences.
2 My interest in being here today stems from a number of
3 activities that overlap that the Division has underway
4 or is thinking about undertaking which involve concerns
5 that overlap with concerns that I expect will be raised here.

6 In particular we have had two major committee
7 efforts, one on communication resources in the behavioral
8 sciences, the use of computers for research purposes in
9 the social sciences, and the other, more recent, is a project
10 on the problem of under-enumeration in the census where we
11 became interested in the utility of record linkage
12 technologies for measuring the accuracy of the census and
13 other social surveys and more specifically for identifying
14 the social characteristics of people who are not counted
15 in the census because we know that of the 3 percent who are
16 uncounted nationally about 20 percent-- That is made up
17 primarily of 20 percent of the Nation's population of
18 black males between the ages of 20 and 35.

19 MISS SONTAG: I'm Edith Sontag, an observer
20 at this conference. I have participated in several of this
21 type of conference. I regard this as one of the most key
22 and important in the future. I am vitally interested in
23 what is decided here and what will be acted upon.

24 MR. GUOLO: I'm Al Guolo on the staff of the
25 Social Security Administration, an organization with whom

1 you will have some dealings I'm sure in the coming months.
2 I'm here as an observer today.

3 MR. MARCUS: I'm Bill Marcus and I'm on David
4 Martin's staff and directly on the research staff of the
5 Advisory Committee.

6 MR. SONTAG: I'm Fred Sontag, consultant to the
7 Secretary, Dave Martin, and this Committee. I'm a public
8 affairs and research and public relations consultant,
9 Montclair, New Jersey, and have seen and used data systems
10 in the Congress, on the Hill, especially on the Ways and
11 Means Committee and Joint Economic Committee, during the
12 last 25 years and have recently served as co-director of
13 20th Century Fund and Alfred A. Knoff in connection with the
14 study and book to be published this June on the future of
15 American government and the political process entitled
16 "Parties."

17 MR. MARTIN: I suppose I should say a word about
18 myself since all you know is my name, that I am a special
19 assistant to Secretary Richardson. I am a lawyer by
20 training and have practiced law privately and worked in
21 government at all levels, Federal, State and local.

22 I was Secretary Richardson's deputy the last
23 time he was at HEW as Assistant Secretary for Legislation,
24 and when he returned to HEW as Secretary in the summer of
25 1970 was among his former colleagues whom he asked to rejoin

1 him in tackling the big assignment which being Secretary
2 of this Department constitutes.

3 I am not an expert in computers. I am in a sense
4 a professional "know nothing" -- a generalist. I have
5 been scrambling to get sort of on top of this subject and
6 to try to play a useful role as the coordinator and synergist,
7 if you will, of the enterprise.

8 I have put at each person's place a little
9 brochure entitled "HEW, People Serving People." I don't
10 ask you to look at it now, but for those of you, which is
11 probably everyone, who don't feel that they know HEW as
12 well as they would like to, it is an effort of our Public
13 Affairs Office to produce a kind of overview of what HEW
14 is all about which at some point it would be good for you
15 to go through.

16 It's rather light reading and I think on the
17 whole quite interesting, and it gives you a sense of the
18 posture of the Department with reference to the issues that
19 will be considered in this undertaking.

20 I said earlier that one of the things we hoped
21 to accomplish in this first meeting is for everyone to
22 come to share a sense of how this Committee came to be,
23 why it came to be, and I'd like for a few minutes to address
24 that now.

25 I suppose when events occur which have complicated

1 and variegated antecedents it takes an historian to faithfully
2 and fully seek to explain the reason for the event. I am not
3 an historian and I have not sought in an omniscient way to
4 analyze why it is that we are here.

5 But I can tell you from the perspective of
6 what I have been up to for the last year or so and some of
7 the conversations I have had with people what I think has
8 led to this Committee's existence.

9 One vein of our history I think is the work of the
10 American National Standards Institute. This is a private
11 organization, sort of a national clearinghouse and
12 coordinating agency for the development of voluntary
13 standards in the United States. It is a nonprofit member-
14 ship organization located in New York. It's a federation
15 of approximately 140 trade associations and professional
16 societies, of which something over 750 companies are dues-
17 paying members.

18 The American National Standards Institute
19 provides a mechanism for developing and approving standards
20 which will be supported by a national consensus, a whole
21 variety of standards.

22 For our purposes, the dimension of ANSI's --
23 as the organization is known -- behavior that we are
24 concerned with that has relevance to our existence is
25 its work in information processing standards.

1 It operates by a complicated network of committees
2 and subcommittees, and one of its subcommittees developed
3 several years ago a proposed standard for the identification
4 of individuals for information interchange. The standard
5 was called a Standard Identifier for Individuals, an SII,
6 and it consists, the proposed standard, of two parts,
7 a numerical part and a name part.

8 The numerical part is the social security
9 account number. The name part is the surname, first name,
10 and middle name of the individual.

11 Now, under the processes of ANSI, when a
12 standard is developed by a subcommittee or committee of
13 ANSI, and these committees are typically composed of
14 representatives from both the private sector and from
15 government, principally the Federal government, various
16 agencies and departments, a process is engaged in in which
17 the standard is circulated for comment, reaction among the
18 membership of ANSI.

19 And when a standard comes to be accepted or
20 approved by not just a simple majority but by an overwhelming
21 majority of all the interests and members and organizations
22 in ANSI, then it becomes adhered to and becomes a standard
23 in practice.

24 When this proposed standard identifier for
25 individuals was started through the process of seeing how

1 organizations and individuals and entities would react
2 to it, as occurs in this process, it was brought to the Office
3 of Management and Budget. It may be actually brought to the
4 Budget Bureau. The history on this I'm not sure of. The
5 standard may have been developed before the Budget Bureau
6 became the Office of Management and Budget. And what
7 happens next is that the Office of Management and Budget
8 circulates the proposed standard for comment within the
9 Federal establishment.

10 If the Government, the Federal Government, is
11 disinclined to go along with a proposed standard developed
12 for information processing, given the enormous role that the
13 Government plays in information processing, the standard
14 isn't going to achieve the kind of consensus and adherence
15 that is necessary for it to be adoptable and effective.

16 So when it came to the Budget Bureau, the Budget
17 Bureau circulated the proposed standard widely in the
18 Government for comment and reaction. And I think it's a
19 fair statement to make that the Department of Health,
20 Education, and Welfare has -- more I think because of
21 indecision and uncertainty rather than antipathy or op-
22 position to the standard -- served by its posture to stall
23 the consideration of this standard.

24 As near as I can reconstruct what has happened by
25 going back through the correspondence between the Department

1 and the Office of Management and Budget, we have been saying,
2 in effect, sort of, "Hold the phone. We're not sure
3 whether we want to go along with this standard."

4 As recently as about a year ago the Office of
5 Management and Budget renewed its taking the temperature
6 of the Federal establishment, including HEW, on this
7 standard, and a letter went from Secretary Richardson to
8 the Office of Management and Budget saying, "We're not
9 ready to say whether we like this proposed standard
10 identifier for individuals."

11 Another strand-- Well, let me just I suppose
12 finish that and say we can't be in a kind of "no comment"
13 or "we're not ready to say what we think" posture forever.
14 HEW has got to get off the dime and decide whether it wants
15 to go along with this standard or not.

16 And I guess it goes without saying -- but I'll
17 say it -- that the reason HEW's reaction to this proposed
18 standard is crucial is that the social security number as
19 an element in the standard is, if you will, our number.
20 The Social Security Administration you I'm sure know is an
21 operating agency of the Department of Health, Education, and
22 Welfare.

23 And so unless we're prepared to go along with
24 this standard -- and it will have implications for the use
25 and assignment and other behavior relating to the number --

1 this particular proposed standard obviously is not going to
2 gain adherence.

3 One thing which I think we must come out of
4 this Committee enterprise with is a basis for decision of
5 that question.

6 Let me come back to discussing a little what the
7 decision process will be. But that is a rather relevant
8 piece of history I think.

9 All right. Another factor or another vein of
10 our history lies in the work of the Social Security Number
11 Task Force, a copy of whose report to the Commissioner of
12 last May 1971 you should all have received prior to this
13 meeting and I hope will have had a chance to read prior
14 to this meeting, and, if not, as soon after the meeting as
15 you can take it in.

16 This is the report to which I refer (indicating).

17 Now, this report I think -- Al Guolo can perhaps
18 correct me if I'm mistaken -- this report was made, the
19 task force assembled, the work done which led to this
20 report, in part I think as a response to the work of ANSI,
21 of the American National Standards Institute, in having
22 developed this identifier.

23 Is that right, Al?

24 MR. GUOLO: Yes.

25 MR. MARTIN: The American National Standards

1 Institute's committees and subcommittees include, for the
2 most part, technical people, and I'm sure that there were
3 participants in the process that led to this standard, at
4 least as observers, from the Social Security Administration,
5 and surely the Social Security Administration was aware
6 of the fact that this standard was being developed, and the
7 need for the Social Security Administration to think
8 through and have a posture in relation to this proposed
9 standard became clear I take it to the management of the
10 Social Security Administration, and that in turn led to the
11 establishment of the task force whose report was submitted
12 to the Commissioner and then to the Secretary last spring
13 and of which you have a copy.

14 Another vein of relevant history to the
15 existence of this Committee is the work of the Subcommittee
16 on Constitutional Rights of the Senate Judiciary Committee
17 chaired by Senator Ervin. Senator Ervin and his subcom-
18 mittee have for over a year been actively engaged in hearings
19 and other inquiries designed to try to I think provide a
20 basis for legislation by the Congress in the area of
21 privacy as it is affected by a number of different kinds of
22 government behavior, investigatory behavior, recordkeeping
23 behavior, management of computerized systems behavior, and
24 so on.

25 Before we finish our work in this Committee

1 over the next several months, you may wish to have access
2 to and at least read in hearings of the Ervin Committee--
3 You received or should have as one of the documents for
4 today's meeting Xerox copies of those pages from the hearing
5 record which contain the Secretary's appearance before the
6 Ervin Committee.

7 And if you have read that record you will
8 have noted that in the course of his testimony the Secretary
9 said that he was going to appoint-- And I think the term
10 he may have used was an "advisory council." Reference is
11 made in the Social Security Number Task Force report to
12 the desirability of establishing an "advisory council or
13 commission." Both language may have been used, at least
14 between the Secretary's presentation and the report.

15 This body is then the body called for in the
16 report to the Commissioner and in the Secretary's testimony.
17 It is called the Secretary's Advisory Committee and not the
18 "Advisory Council" or "Commission" because there is -- which
19 may have been unknown to the authors of this report and
20 may have been unknown to the Secretary when he testified
21 before the Ervin Committee -- an executive order which in
22 effect says if you're going to create this kind of body
23 you call it an advisory committee.

24 That's the only significance in the change in
25 name from that which was suggested by the Social Security

1 Administration report and by the Secretary in his testimony.
2 So you are an advisory committee.

3 You are not an advisory committee on the social
4 security number, and thereby hangs a tale which is worth
5 recounting briefly at least.

6 Because of the work of the American National
7 Standards Institute committee leading to a standard
8 individual identifier and because of what that triggered
9 in terms of the work of the task force, for a good many
10 months and from a number of perspectives the central
11 issue, the thing to be concerned about, had seemed to be the
12 social security number.

13 If you have read the charter of our Committee,
14 as I hope you have, you see recounted briefly in the public
15 interest determination section of the charter the fact
16 that -- and it is said also in this report and the Secre-
17 tary's testimony -- the social security number is being
18 used more and more widely outside the Social Security
19 Administration, and that fact has given rise to concerns
20 and interests which are reflected in the Ervin Committee
21 hearings too.

22 And so there has been a tendency to respond in
23 those terms: "We've got to do something about the social
24 security number. We've got to have a policy about the
25 social security number."

1 Well, the early discussions which led to the
2 creation of this Committee finally by Secretary Richardson
3 suggested that it isn't enough to decide policy about the
4 social security number. You could have any one of a range
5 of different postures about the social security number.

6 You could, for example, say that the social
7 security number will be discontinued, that we'll abolish
8 the social security number, and we'll start over again
9 and we'll have a new number, numbering system, whose use will
10 be confined to the purposes of the Social Security Administra-
11 tion, and we'll repeal the executive order which was
12 issued by President Roosevelt which calls for the social
13 security number to be used in all Federal filing systems of
14 information about people, that we'll repeal that executive
15 order and have a new order that says, you know, nobody can
16 use the social security number except the Social Security
17 Administration. That would be a policy about the social
18 security number.

19 And if you had such a policy, you would still
20 be left, it seemed to us as we were discussing this-- You
21 would still be left with all the concerns that one perhaps
22 should have today about computerized information systems about
23 people, of possible invasion of privacy, possible misuse
24 of data, possible linkages of data systems that one is
25 troubled by, possible disadvantageous effects of automated

1 data systems.

2 And that's in a sense the most conservative
3 or the most sort of confined policy you could make
4 for the social security number -- you know, to abolish it
5 and start over again and have a number that is only going
6 to be used in Social Security.

7 And anything that comes more nearly to where
8 we are in fact with the social security number in society
9 would, a fortiori, all the more leave us with all the
10 issues of privacy and linkage and interchange and access
11 of individuals to information and systems, and so on, un-
12 settled and unsolved and unaddressed.

13 So, recognizing that it seemed clear that the
14 subject matters, the issues which the Department needs to
15 face and with respect to which it needs outside assistance
16 are much broader than what to do about the social security
17 number.

18 Having said that, it is very important -- and
19 no one would urge this more strongly than Commissioner Ball
20 who will be with us this evening, Commissioner of Social
21 Security Administration -- that we mustn't lose sight of
22 the need to develop a clear posture on the social security
23 number, as we broaden the scope of our concern to encompass
24 all that we feel that it should encompass beside the
25 social security number.

1 And so, as I said earlier, one of the things that
2 we certainly want to come out of this Committee with-- And
3 as to timing, we don't have to wait until December, which
4 is the date projected in our charter for a report. We
5 might conceivably wish to arrive at a posture on the
6 social security number before then, but we do have to
7 address that question within this broader context.

8 If anything that I am saying seems worth
9 exploring further, when I'm talking about it, please feel
10 free to interrupt, or if I'm saying anything which isn't
11 clear, please feel free to interrupt.

12 PROFESSOR WEIZENBAUM: If it were all clear,
13 we'd be done. (Laughter)

14 MR. MARTIN: Well, at least what I'm saying is
15 that the setting of the problem is clear.

16 I was going to say earlier, and I will now, that
17 I think a ground rule that we should adhere to in these
18 meetings, certainly at least in the early stages, is that
19 any speaker should be asked and should feel comfortable
20 about being asked to clarify anything which he or she
21 has said upon the instance of anyone else around the table.
22 We are a very, very diverse group of people with
23 enormously diverse backgrounds and perceptions and expertise,
24 and so on, and I think it will take a lot of effort and
25 patience and courage and candor to achieve a fully shared

1 general conversation.

2 MR. GENTILE: Mr. Chairman, I have a question, a
3 matter of interpretation. When you said that the Committee
4 is not an advisory committee on the use of the social
5 security account number, do you intend that we address
6 much more than that or that we do not address that issue at
7 all?

8 MR. MARTIN: Much more.

9 MR. GENTILE: In addition to the use of the social
10 security number?

11 MR. MARTIN: Yes. If I said that it's not an
12 advisory committee on that subject I misspoke. What I meant
13 was that the Committee is not called, isn't named the
14 "advisory committee on the social security number." It's
15 the "Advisory Committee on Automated Personal Data Systems."
16 And selection of that as a title is intended to make
17 clear that the Committee has a much broader charter, much
18 broader scope of concern to engage in with the Department or
19 the Secretary than it would if it were called the "social
20 security number committee."

21 If it were that, maybe one would think that's
22 all it has to deal with.

23 But the broadening is not to suppress the social
24 security number.-- What I'm trying to say is, whatever
25 else, we must address the social security number even though

1 we have a much broader responsibility.

2 MR. DOBBS: Even within that context, is it the
3 case that our concern is not whether the ANSI SSI standard
4 is a good one or a bad one? It's the concern with whether
5 the implications of standardization vis-a-vis personal
6 data systems of the social security number is the right
7 thing to do? Is that correct?

8 That is to say that there is capability within
9 the Social Security Administration to do the technological
10 work in terms of what is required? We are not being asked
11 to deal with that issue I assume?

12 MR. MARTIN: Well, I don't know. That's one
13 thing that I personally at least -- I think the Secretary --
14 feel we need to thrash out a bit.

15 We need guidance on, if I understand your
16 question, we're concerned with, whether or not there should
17 be a single standard, unique identifier available for all
18 purposes of data management, personal data management.

19 And I think we're also concerned with, if one
20 assumes that there should not be a single unique standard
21 identifier for all purposes-- Then the question arises:
22 What if any use do we see in the social security number?
23 How do we confine the use of the social security number?

24 Supposing we were to decide there should not be
25 a single standard unique identifier for all purposes, would

1 it be inconsistent with such a view to approve a standard
2 identifier that is built on the social security number on
3 the theory that although you have such an identifier you
4 won't use it uniformly and systematically in all data
5 settings, you will try to confine the number, the use of
6 the number, sticking with the social security number?

7 I don't know if I made that clear. Let me take
8 another cut at it.

9 We are told -- and it would be interesting to
10 know whether anybody dissents from this view or would like
11 to qualify the view -- it's getting to be almost a piece
12 of constantly reiterated rhetoric -- that the use of the
13 social security number is spreading throughout data systems.
14 The assumption that this is true raises the question:
15 Is it too late to abandon the social security number?
16 What would be the cost of abandoning the social security
17 number? "We like the social security number. We don't
18 want to abandon the social security number. But we just
19 don't want to see it used as widely as it may come to be
20 used. We want to put a rope around the extent of use that
21 it can be given."

22 Now, from that standpoint it seems to me we
23 might want to ask the question: Is the ANSI proposal a
24 sound one? -- not technically in the sense of, you know,
25 can you write it legibly. I'm not enough of a technician

1 to know what I'm trying to say here.

2 But the ANSI proposal is not that we use some
3 numerical portion which they have defined. It is the social
4 security number.

5 And we might say, "Well, there ought to be a
6 standard identifier but it ought not to be the social
7 security number."

8 So if I understood your question, it seems to me
9 that we may wish to deal with both aspects of it.

10 MISS COX: This concept is not in the charter
11 though -- the question of whether we should recommend that
12 the social security number be the individual identifier --
13 I mean that that stand -- as I have read it. I mean we
14 start from assuming it exists. Now shall we recommend
15 further use of it and what restrictions do we need to put
16 on it?

17 MR. MARTIN: Well, the charter attempts to
18 state our commission very, very broadly. It talks about
19 potential adverse effects of automated data systems,
20 safeguards against those effects. It focuses on social
21 security number policy.

22 One might say -- in fact, it has been argued
23 by people -- that the best safeguard that one might intro-
24 duce against some of the feared potential adverse effects
25 of automated data systems would be to assure that there not

1 be any unique, uniformly totally available personal
2 identifier.

3 You know, it has even been suggested, whether
4 facetiously or not -- I don't think facetiously --
5 certainly analytically to raise it -- it has been suggested
6 the social security number ought to be abolished, that we
7 ought to start over again.

8 Now, I think that is within the charter. It
9 certainly is intended to be within the charter of the
10 Committee either as a safeguard or as social security number
11 policy under the section of the charter which specifically
12 addresses social security number policy.

13 But, in any event, I think the charter is very
14 broad, but it shouldn't be construed as a limitation on the
15 Committee's and the Department's ability to tackle anything
16 which we come to feel would be relevant or important to
17 tackle.

18 And I will before the morning is out, perhaps after
19 the coffee break, ask each of you to start identifying
20 what you think the problems or the issues are as you see
21 them from your perspective, your background of experience,
22 your world, so to speak, which you feel need to be con-
23 fronted by, well, at a minimum, HEW and its Secretary but
24 also by the Nation, which perhaps leads me logically to
25 addressing briefly what the outcome of our Committee effort

1 is hoped to be.

2 HEW now has certain authority. It can do certain
3 things if the Secretary, let's say, decides to do them.
4 So one of the outcomes of this effort could be
5 determinations that the Secretary shall do certain things
6 in exercise of the authority he has.

7 For example, he has a good deal of freedom
8 to change policy with respect to the social security number,
9 to take one matter. How effective he can be in making
10 changes with respect to the social security number just
11 because he has the authority to do so will depend a good deal
12 on what resistance would develop from various sources to a
13 new policy with respect to the social security number.

14 And if we were to come out of this process with
15 a feeling that there ought to be a dramatic change in policy
16 with respect to the social security number, the hope and
17 belief is that the rationale for that proposed change in the
18 form of a report by this Committee would be of enormous
19 assistance to engineering that change.

20 All right. So one of the outcomes of this
21 Committee could be behavior, decisions, actions to be
22 taken by the Secretary of HEW for which he does not need
23 new legislation.

24 Also within the ambit as an outcome of this
25 effort could be recommended legislation, adding to the

1 capacity of HEW to do things -- or not just of HEW but of
2 the United States Government, the Executive Branch generally.

3 This Committee and the Secretary can feel free I
4 think to make recommendations that go outside of HEW.

5 We can also I think and may feel the necessity
6 to address recommended action by State and local government
7 either independent of a Federal role or in some kind of
8 partnership arrangement, as so much Federal and State and
9 local action is.

10 We can also address I think actions or courses
11 of action that we come to feel would be wise for the private
12 sector to take. And these could be recommendations for
13 voluntary action or they could be recommendations for
14 voluntary action backed up with some sort of either
15 incentives or requirements imposed by Federal, State, or
16 local government.

17 In short, at least at the outset as we approach
18 our task, we should feel I think totally unconstrained
19 in the range of courses of action and decision which we
20 might wish to consider.

21 Arthur?

22 PROFESSOR MILLER: At the risk of being
23 premature, Dave, could you just give a line or two about
24 what this Committee might or might not do in relation to the
25 work currently going on in the Senate Subcommittee with

1 regard to the social security number? What is our relation-
2 ship?

3 MR. MARTIN: You mean the Finance Committee?

4 PROFESSOR MILLER: Yes, the Finance Committee's
5 operations.

6 MR. MARTIN: Are you all familiar with what
7 Arthur Miller is referring to? Arthur, would you like to
8 say --

9 PROFESSOR MILLER: Well, in a word, since all I
10 do is read the newspapers, there is a proposal now to
11 extend the social security number so that it is administered,
12 or some other appropriate word, to -- what? -- first or
13 second grade students. In other words, automatically
14 to provide everybody with a social security number upon
15 entry into the education system as opposed to requiring
16 people to receive social security numbers when they enter
17 the work force, which obviously has a tremendous extending
18 factor with regard to those who have social security numbers
19 and when they get it.

20 Now, I gather the Senate can do that.

21 MR. MARTIN: Can do that?

22 PROFESSOR MILLER: Yes.

23 MR. MARTIN: It has the authority, the power.

24 PROFESSOR MILLER: Yes. And I just wondered how
25 we should view our roles in this group knowing that there is

1 a group across town thinking about it too.

2 MR. SIEMILLER: Isn't there an addition to add
3 to that? Aren't they also suggesting fingerprints at the
4 same time for the issuance of cards? And can the Senate
5 do it by itself, or does it take an act of the Congress and
6 the signature of the President?

7 PROFESSOR MILLER: Well, I assume the Senate can
8 only do it in conjunction with an act of Congress.

9 MR. SIEMILLER: That's what I thought.

10 MISS KLEEMAN: In fact, there is a proposal
11 submitted by Representative Griffith in the House that
12 the number be assigned at birth rather than in first grade,
13 that that would be a more effective way of handling it.

14 MR. SIEMILLER: That's true.

15 MISS KLEEMAN: And I don't know that we-- Certain-
16 ly they can coopt us, but I think they may be willing to
17 let us have a word first.

18 MR. MARTIN: Well, let's put that question to the
19 Secretary tomorrow, Arthur.

20 I have assumed -- and perhaps it's not a sound
21 assumption to make -- that there is very little likelihood
22 that that legislation is going to be enacted. So far --

23 MR. SIEMILLER: This year anyhow.

24 MR. MARTIN: -- our intelligence is that this
25 is a legislative exploration of the committee which is not

1 likely to be accepted by the full Senate, and if accepted,
2 you know, if that guess is wrong. that it's not likely to
3 survive conference.

4 I don't think that the Administration has
5 begun, you know, at least at the level of the White House
6 or OMB, to address what the President's posture would be on
7 it.

8 We are taking a negative position on it as a
9 Department. We haven't had much opportunity to do so.
10 We were asked by the Finance Committee for our view of
11 that proposal, and we took the position that the enumeration
12 called for by the Finance Committee proposal was way beyond
13 what was needed for the administration of the proposed
14 welfare reform program and that any enumeration beyond what
15 is operationally necessary for the program we are not prepared
16 to support.

17 And I think we also took the position that in any
18 event it didn't need to be covered in legislation, that
19 we will do as much enumerating as we need to to administer
20 the programs as an ordinary piece of operational administra-
21 tive business, and that the Congress really doesn't need
22 to legislate on the number for that purpose.

23 PROFESSOR MILLER: So, practicabilities being
24 what they are, and in an election year, we might, as Nancy
25 indicates, look at ourselves as a potential input to that

1 committee.

2 MR. MARTIN: Yes. My own view -- and, as I say,
3 we can try it out on the Secretary tomorrow morning -- my
4 own view would be that if the guess we make now as to what
5 is likely to come in the Congress on that proposal is
6 wrong and the thing looks as though it can go somewhere,
7 if this Committee would like to address that specially I
8 guess -- because I think our inclination would be, our
9 present mind set is, to oppose it -- if the Committee were
10 inclined to support our opposition to it, it would be
11 very helpful.

12 On the other hand, maybe our mind set is
13 wrong and the process of discussing it with this Committee
14 might lead us to a different point of view as to what the
15 policy should be.

16 PROFESSOR WEIZENBAUM: What leads you to
17 believe that the mind set of this Committee is to oppose it?

18 MR. MARTIN: No, I say the mind set of the
19 Department is to oppose it.

20 PROFESSOR WEIZENBAUM: I see.

21 MR. MARTIN: I don't know what the Committee's view
22 would be about it.

23 PROFESSOR WEIZENBAUM: I'll take no for an
24 answer, but just to see what sort of company I'm in I'd
25 like to see sort of a hand-raising as to just who would

1 oppose at this moment with what information we have the
2 proposal to assign social security numbers at birth on one
3 hand and at entry into the school system on the other hand.

4 PROFESSOR MILLER: Accompanied or unaccompanied
5 by fingerprinting? (Laughter)

6 PROFESSOR WEIZENBAUM: Unaccompanied. Let's say
7 unaccompanied. I'd just like to see --

8 MR. GALLATI: It doesn't go far enough. It
9 should go to the fetal stage. You can get a fingerprint at
10 the fetal stage.

11 PROFESSOR WEIZENBAUM: But that is not a proposal
12 that is seriously in front of Congress.

13 PROFESSOR MILLER: Not this week.

14 MR. MARTIN: I don't know that we could --

15 PROFESSOR WEIZENBAUM: This is by way of finding
16 out who you are. I don't know who you are, you see. I'd
17 just like to see what kind of company I'm in.

18 MR. GENTILE: I wouldn't mind telling you who I
19 am except that there are so many ramifications to the
20 problem I'd be afraid to make an oversimplified answer.

21 MR. MARTIN: Would you mind conducting a private
22 poll? (Laughter)

23 PROFESSOR WEIZENBAUM: I said I would take no for an
24 answer.

25 MR. SIEMILLER: Well, the answer seems to be to a

1 great extend depending on what kind of a cure you develop
2 for a disease. Sometimes the cure is worse than the
3 disease.

4 Recently in El Paso we ran into a situation where
5 we found an illegal immigrant from Mexico carrying six
6 social security cards, different ones. Well, you begin
7 to wonder at that time-- Of course, he wasn't carrying
8 them for the purpose of -- I don't think -- of getting
9 social security on all six but as identification to continue
10 to work in the United States.

11 But when you get into all these various problems,
12 then you begin to wonder what kind of cure you have to
13 develop for the disease, and you have to be careful the
14 cure is not worse than the disease. And that's before-- You
15 couldn't at this time say yes or no, or I wouldn't want to.

16 MR. MUCHMORE: Mr. Chairman, I think that my
17 difficulty with the subject and what you have said so far
18 this morning is very simple. I'm not much worried about the
19 social security number itself. I'm worried about the use
20 of the social security number, (a); (b) the accumulation of
21 data which might result from the existence of the social
22 security number; and (c), probably the most important part
23 of all, what point will be the central point for the
24 accumulation of that data?

25 Now, that seems to me to be in essence the three

1 things I really have some thoughts about, and I would hope
2 that we would address ourselves at later meetings to some of
3 those, and I assume that we will because the charter itself
4 virtually states that.

5 MR. MARTIN: Yes.

6 MR. MUCHMORE: I think that the bugaboo of the
7 social security number, if I may put it that way -- that's
8 in my own phrase -- is one which does not really mean six
9 or nine numbers -- I don't even recall my own social security
10 number -- the numbers and how the numbers apply in terms
11 of getting it now or getting it 2 weeks from now or
12 something like that -- but then what it is used for after
13 that.

14 MR. DOBBS: I think Don has got to the point
15 of the issue that I was trying to clarify a little bit
16 earlier, and that is the concern is with what is going to
17 be done and not the particular form and content of the
18 social security number as such.

19 And I think it's an important distinction. To
20 me at least it's an important distinction because if in
21 fact what you are looking for is some endorsement of the
22 recommendations of the Social Security Agency in terms of the
23 research that they have done thus far, so far as the number
24 is concerned and the way in which you collect information,
25 it seems to me it's an inappropriate kind of question to ask.

1 But the issues that Don has identified are in fact much more
2 appropriate ones.

3 MR. MARTIN: All right. Let's go with that for
4 a bit. Do you feel, Don, that the issues that you are
5 posing -- which I agree, I think we all agree, we have got to
6 address -- are unaffected by whether or not you have a standard
7 unique identifier?

8 MR. MUCHMORE: I think that there will be as this
9 society multiplies some standard identifier other than
10 one's name at one time or another. I'm not going to stand
11 here and say, you know, as much as my own personal belief
12 says there shouldn't be, that there won't be some time or
13 other as we multiply, say, in numbers, and numbers alone
14 is going to force us to do it.

15 But I have grave doubts that I would consider
16 going along with the use of that identifier and the
17 creation of that identifier or approval of a specific
18 authorized identifier without knowing beforehand to what
19 extent it is going to be used and who is going to use it and
20 who is going to accumulate the data that's being used around
21 it.

22 MR. SIEMILLER: How are you going to keep them
23 from giving it to Jack Anderson?

24 MR. MUCHMORE: I believe it gets down to the
25 question that it seems to me before any committee of the

1 Senate-- And I agree with you it's a legislative explora-
2 tion. But I think at the same time, even though it may be,
3 it's something we have to worry about because it is a sign
4 of the times, let's say, and I m not yet convinced we are
5 prepared for that sign of the times.

6 I am not yet prepared to believe that we have
7 thought this process through sufficiently to say this is
8 what we want to do or this is not what we want to do in terms
9 of opposing or not opposing some structure.

10 MR. MARTIN: Stanley Aronoff?

11 MR. ARONOFF: Yes.

12 MR. MARTIN: Hi. Welcome.

13 This is Stanley Aronoff. You missed your
14 opportunity earlier, Stanley, to say in a few words who
15 you are and what you are, and that much we should catch up with
16 from you.

17 MR. ARONOFF: Oh, fine. I'm late. That's the
18 first thing. (Laughter)

19 I'm Stan Aronoff. I'm a State Senator type from
20 Ohio. Qualifications for this Commission I'm not certain
21 of except that I do quite a bit of work on the Education
22 Committee of the State of Ohio and am Chairman of the
23 Vocational Education Commission of Ohio.

24 MR. MARTIN: Let me say a word about our output
25 objective, our report. where we are going to come out. I

1 haven't discussed this with the Secretary, and it may be
2 that discussion of it with him by anyone at this stage is
3 premature until we have had a chance to get into the issues
4 a bit.

5 The Secretary is anxious to act, insofar as he can
6 act, and anxious to recommend action by others in relation
7 to the broad area of our inquiry. This suggests that what
8 we want to come out with is a document or a set of recom-
9 mendations which can be action.

10 Now, obviously, the Secretary is not a free
11 agent. He's a member of an --

12 PROFESSOR WEIZENBAUM: That's an understatement.
13 (Laughter)

14 MR. MARTIN: He's a member of an Administration.
15 And his willingness to act is constrained by that environ-
16 ment.

17 It may be that the constraints -- and I don't
18 know of any at the moment that are relevant to our
19 inquiries -- that those constraints will be constraints that
20 are ones that this Committee as a group can't live with.
21 This Committee may wish to recommend actions which, let's
22 say, would not be ones that the Secretary would be free to
23 take within whatever constraints come to be imposed on him
24 in relation to this enterprise. As I say, I know of no such
25 constraints at the moment.

1 So I think it is premature to decide exactly
2 what the relationship between the document or the work of
3 this Committee and its recommendations and outcomes will
4 be. I think we should approach the task on the basis of
5 doing the best we know how or can arrive at on the basis of our
6 judgment and experience and not be constrained by any sense
7 of what may be the limitations on the Secretary's freedom
8 of action.

9 PROFESSOR ALLEN: Dave, before you leave the
10 relationship between the social security number and the
11 possible recommendations of this Committee, as a practical
12 matter how dependent for implementation would recommendations
13 about safeguards be upon social security number being used
14 as the standard identifier? To what extent does it provide
15 a handle for recommendations that we might make about safe-
16 guards?

17 I don't know that it's something that can be
18 answered at this point, but I think perhaps we need to be
19 clear on that.

20 MISS KLEEMAN: Are you saying is that HEW's
21 key to-- Is that what HEW would be dependent upon in
22 order to make a kind of broader recommendation?

23 PROFESSOR ALLEN: Could we sensibly come up with
24 recommendations abolish the social security number and its
25 use, yet any other system should nevertheless have a set of

1 safeguards that we recommend?

2 MR. IMPARA: Are you asking the question that,
3 assuming it's a moot point that there will be a standard
4 identifier, should it be the social security number, and
5 if it shouldn't, what is the alternative? And then what
6 restrictions should be placed on either data collection or
7 transfer using some standard identifier or what safeguards
8 can we impose on the transfer of personal data across or
9 within systems?

10 PROFESSOR ALLEN: It's more centering on the
11 effectiveness of implementation of any recommended safe-
12 guards. Does the use of the social security number
13 facilitate that? Would implementation of safeguards be
14 dependent on that? Or how dependent?

15 MR. IMPARA: Or could safeguards be reasonably
16 implemented? And could that be better facilitated if
17 the social security number was used as the standard identi-
18 fier as opposed to some alternative?

19 PROFESSOR ALLEN: Yes, that's the question I'm
20 raising, not expecting an answer at this point, but I think
21 it would be useful for us to be clear about that.

22 MR. MARTIN: Do you want to develop that thought
23 a little, Layman?

24 PROFESSOR ALLEN: I'm raising the question only.

25 MR. MARTIN: Yes?

1 MR. ANGLERO: I'd like to say something here.
2 When we talk about social security we talk about identifica-
3 tion mostly. Perhaps there are other things and what
4 reasons do we have for basic identification, whatever it
5 is, number or figure. We haven't talked about planning as
6 such. I would like to see how the Committee comes across
7 on this.

8 MR. MARTIN: That's where I thought we might
9 start after a coffee break, which is to discuss is there
10 a need for a unique identifier or what are the needs for
11 a unique identifier? What are the pros and cons of the
12 social security number in performing the functions which a
13 unique identifier performs and what alternatives to the
14 social security number or a number such as the ANSI
15 identifier which is built on the social security number--
16 What alternatives might there be and what would the costs of
17 such alternatives be?

18 I think we might begin to focus in after a coffee
19 break on those questions.

20 I would also remind you that I'd like after the
21 coffee break to have you start surfacing, as Don Muchmore
22 has done, what from your perspectives you feel are the
23 issues, the problems that you would like to see addressed by
24 this Committee for the benefit of HEW and our Nation.

25 As a kind of further stimulus to that response

1 process -- and then we will take a break -- let me describe
2 another way of thinking about what we are engaged in here.

3 Automated personal data systems is a chewy
4 phrase for a technology or activities and processes that
5 center on a group of technologies. It has been said
6 by historians and students of the human condition that man
7 tends to be shaped by his tools, that historically this
8 has been true.

9 The shaping of man and his condition by his
10 tools is, as we know, not always all good. Most of man's
11 tools, most of man's technology, has as we look back seemed
12 to have a characteristic that it could be both beneficial
13 and hurtful. The automobile is a commonly thought of example.
14 Obviously great advantages to the automobile, and from
15 many perspectives obviously very great disadvantages.

16 Man has tended not to be able to anticipate before
17 they occur what the adverse effects of the technology
18 which he produces will be, and indeed it has been argued
19 by some commentators that this is a good thing, that if man
20 could anticipate the negative effects of what he does
21 he might not do them and he wouldn't get the positive
22 benefits of the risk-taking that is involved in new tech-
23 nology and progress.

24 In spite of that comment, there are many who
25 feel that man ought to be able and should try to anticipate
what the adverse effects of new technology which he develops

1 will be and try to manage the onset and application of that
2 technology in such a way as to minimize the adverse effects
3 while at the same time reaping the benefit of the tech-
4 nology.

5 We may be at a stage, say many, where we still
6 have it within our reach to take the technology which
7 underlies automated personal data systems and manage it,
8 manage its application and use in such a way as to prevent
9 some of the ill effects which are thought to be latent
10 within it.

11 One way to think about this enterprise then is
12 as a kind of technology assessment process. The process of
13 technology assessment is still ill-understood. I mean the
14 methods for it are not very good. There's a lot of talk
15 about it. There are a lot of suggestions about how to try to
16 do it, and maybe it can't be done.

17 But I think that the Secretary's hope is that
18 it may be worth thinking about automated personal data
19 systems in that way, try to anticipate, try to look
20 ahead, try to see things which might happen, and by taking
21 action now preventing them rather than letting them occur
22 and then trying to dig out from under them after they have
23 occurred.

24 And there are many who feel that it's worth making
25 a very careful examination at least and effort to do that in

1 relation to this technology on the theory that at its worst
2 potential adverse effect the cost of this technology might
3 be freedom.

4 I don't know if I believe that personally, and
5 we mustn't-- You know, if we feel that isn't so we'd be
6 doing a service I think to prick that fear and dissipate
7 the gas in that balloon, to mix a metaphor.

8 There are surely an awful lot of fearful atti-
9 tudes about technology, present and developing technology,
10 which serve as an undesirable inhibition on the development
11 and application of technology. So an effort like this can
12 serve a useful purpose if it dissolves groundless fears as well
13 as taking steps to help protect against realistic fears.

14 Well, I'm sorry to have tended to monopolize
15 the discussion so much up until this point. I haven't
16 known quite how else to go. But when we come back from
17 coffee, after a break of say 10 or 15 minutes, I suggest we
18 come back and at that point I would like to do listening
19 and presiding in as quiet, uninvolved way as possible and
20 have you come back to discuss the questions I suggested:

21 What needs are there for unique personal
22 identifiers? Do we need one for all purposes? What are
23 the pluses and minuses of the social security number?
24 What are the alternatives? What would be the costs of
25 an alternative or of alternatives? And also the sort of

1 continuing charge that you identify as they occur to
2 you, the issues, the problems, the concerns you feel we
3 should tackle and which you want to see HEW and the Secretary
4 and your Government and your Nation respond to, and not
5 just in terms of today and tomorrow but over the next, say,
6 decade or 2 decades, to plant seeds, that may not flower next
7 year, now.

8 (Whereupon, a recess was taken.)

9 MR. MARTIN: Shall we resume?

10 I just had word Mr. William Bagley is on his way
11 by car and will be here very shortly, but we won't wait for
12 him.

13 (Remarks off the record.)

14 MR. MARTIN: All right. Who would like to
15 respond?

16 MR. MUCHMORE: May I ask a question first --

17 MR. MARTIN: Please do.

18 MR. MUCHMORE: -- because of my own personal
19 convenience? I may not be able to be present tomorrow.
20 Perhaps if there are others beside myself we could discuss
21 the next meeting date today rather than tomorrow. I don't
22 want to inconvenience anybody. If everybody is going to be
23 here, just let it go and drop me a note.

24 MR. MARTIN: All right. Will anyone not be
25 here tomorrow besides Don Muchmore.

1 MR. DAVEY: I'll have to leave after lunch.

2 MR. MUCHMORE: Fine. Just drop me a note.

3 MR. MARTIN: No, I think Bill Bagley is still to
4 come, so let's plan at some point this afternoon, perhaps
5 before or after the break-- We have gotten a fancy planning
6 calendar up there that covers the entire year and we have it
7 with a thought that we may be able to crystallize some dates
8 that would be more convenient for people for the future.

9 I'd like to put it off until Bill is here and
10 until we have a better sense, which further discussion may
11 give us, of what we want to use our future meetings for,
12 including possibilities of meetings in the field around
13 the country, which we might discuss briefly this afternoon.

14 MR. WARE: You mean like California?

15 MR. MARTIN: Yes, like California.

16 MR. MUCHMORE: I'll be happy to offer a conference
17 room.

18 (Simultaneous discussion.)

19 MR. MARTIN: That seems to have provoked some
20 interest. Let me say a few words about what we thought about
21 regional meetings or meetings outside of the Washington
22 area.

23 We thought first that there are a lot of people
24 who may have something to contribute to our thinking and
25 deliberations whom we would like to hear from in person

1 and who could do so more conveniently if we got out to them
2 rather than asking them to come to Washington.

3 Secondly, it's not clear how well the issues
4 that we are going to be dealing with are understood and
5 appreciated by those who produce our newspapers and radio
6 and television reporting, and going out around the country
7 might give an opportunity for interaction with representa-
8 tives of the press in a way that they simply don't get by
9 wire services out of Washington and so on.

10 So as the issue develops and as the fruit of
11 our efforts becomes available to share with the public
12 that there will be a better and more informed handle of it
13 and response to it by the press.

14 Third, we are constantly reminded of the gaps
15 that are said to exist in our society. One of the gaps is
16 the gap between the public and its government. And if
17 you go out around the country and do things, the fact of
18 your going will create interest reported in the papers, and
19 so on, and stir public interest and attention which can be
20 valuable in lots of ways.

21 So it seems to us there are good and sufficient
22 reasons for thinking in terms of going around the country.
23 Now, this takes planning. You can't just go. Going on the
24 road takes a lot of advance thought.

25 We are thinking in terms of regional office

1 cities. The little pamphlet, "People to People," that I
2 distributed earlier has a map or something in it which
3 shows the regional office cities of the Department and the
4 regions. Regional office cities for the reason that we
5 have a built-in capacity for meetings there. We have
6 logistic support in the form of our regional offices' hearing
7 rooms and so on which diminishes the cost of going on the
8 road and the complications of doing so.

9 However, if individual members of the Committee
10 can give us help with respect to other locations than
11 regional office cities, then we don't have to feel con-
12 strained to those.

13 Also I don't think we have to think in terms of a
14 full Committee meeting on the road. We might want to
15 divide into subcommittees or have, you know, some number of
16 members of the Committee present to preside over a kind of
17 meeting. I'm not sure we can call it hearings technically,
18 but some sort of an open meeting.

19 That's as far as our thinking has gone about it.
20 If anybody cares to crystallize more now, fine -- if not,
21 fine, at any point during the course of the day or tomorrow --
22 as to where you think the first of such meetings might
23 usefully be held and more specific ideas than I suggested
24 as to how you think we ought to plan them, who you would
25 like to see involved, what sort of efforts to attract what

1 sort of people to meet with us do you think would be useful
2 -- all by way of sort of broadening our understanding and
3 encounter with the issues.

4 MR. MUCHMORE: If we were going to go on the
5 road, David, I would hope we would take a time let's say
6 during August maybe or late July or early September and
7 meet back here in Washington, D. C. for a quick look at
8 what we have done and a resume type of situation rather
9 than a hearing situation where we can evaluate our position
10 and see which way we are going and where we are going to go
11 from there.

12 If we do something like that, it might be wise
13 in our planning I would think, and then perhaps go out
14 again if we want to.

15 MR. ANGLERO: We should know how frequently we
16 are going to meet. It says quarterly in the charter, but I
17 don't know --

18 MR. MARTIN: Yes, a lot of language in the charter
19 is boilerplate, sort of induced by that executive order I
20 referred to earlier. Quarterly I think is not an unrealistic
21 expectation.

22 I think unless this topic suddenly collapses in
23 terms of its complexity and range, which I don't see it
24 about to do, we have got our work cut out for us, and it's
25 not going to be feasible to maintain a very sedate "minuet"

1 pace.

2 PROFESSOR MILLER: I think in terms of the life
3 span of this group as stated in the charter -- although I
4 recognize it could well be extended -- that there should
5 be no illusions as to the pace that we have to move at
6 in order to do anything worthwhile.

7 There are precious few months left in this year.
8 Thus, I think if you are going to go to the road it's
9 probably unrealistic to think the whole group can be a
10 traveling road show. It's probably got to be broken up
11 into various regions and perhaps coordinating people and
12 then meeting back as a group.

13 MR. MARTIN: Well, there are a number of members
14 who have had experience at presiding over hearings and
15 meetings. I'm sure Stan Aronoff and Bill Bagley for two.
16 And Don Muchmore I guess has done a lot of meeting pre-
17 siding, and I'm sure others of you. So I'm sure we don't
18 lack for leadership for these kinds of enterprises.

19 MR. MUCHMORE: I agree with Arthur on this
20 point. We have as I see two deadline dates in this charter.
21 Of course, the latter means the most at the present time.

22 What I'm particularly interested in is perhaps
23 at this meeting we get a sense of direction that we're
24 going to have some of the meetings on the road, get together
25 in August where we are meeting as a group.

1 We are saying almost the same thing, Arthur.
2 And then that we then sort of exchange viewpoints of what we
3 found let's say on the different hearings held elsewhere.

4 Then perhaps we go again. Maybe we want to go
5 again. Maybe there are other people. This should have
6 generated some enthusiasm at this point and there may be
7 necessity for two or three others, and then meet back in
8 Washington in that type of situation.

9 But I think we are under a tremendous pressure.
10 And if any of us are living under the illusion that we are
11 not going to be meeting almost monthly, if we're going to
12 continue what is necessary here and to have the hearings
13 also, then we're just not going to do it.

14 That doesn't necessarily mean that everybody
15 has to go to every meeting every month I wouldn't think,
16 but --

17 MR. SONTAG: Regardless as to the time of ^When
18 the regional meetings will be held, one of the greatest
19 contributions each of you could make to David is in your
20 own experience or where you have heard locally where someone
21 has really used their heads in getting a new format for
22 hearings for the 1970's and not the normal stereotyped
23 hearings that all of us have been subjected to both on the
24 Hill and in the Administration, on a State and local level.

25 Recently the Joint Economic Committee had their

1 first day basically working people on the center level.
2 They were really people whose names had never been heard of
3 before. And because they were on first the tendency and the
4 fact was that they told the truth. Because there was
5 nobody whose testimony, you know, they went away disputing.

6 And by very careful staff work in advance, this
7 subcommittee managed to get on the record working people,
8 men and women, white and black, and what have you, that
9 has never before been said.

10 Then the second day a particular city went on
11 the record with some private people, and it was in some ways
12 contradictory.

13 And the third day the State went on the record,
14 and the State said the people had been lying. the city had
15 been lying. And the word "lying" was used by both the
16 congressional people and others.

17 Well, for the first time there was real candor,
18 and that came through clearly to the press, members of the
19 Congress, and to the participants, and I think the results
20 will be much, much more useful.

21 It wasn't a junket. We all got a hell of a lot
22 out of it, including David getting input on the social
23 security number and so forth.

24 So I think that each one of you have seen just
25 one or two examples of new things we can do, including one

1 that has been done in New Jersey recently of doing some
2 things in the evening and on the weekend, because that was
3 the only way that certain witnesses could appear. People
4 can't take time off during the day to do these things.

5 I think David welcomes anything that will make
6 this committee look bright compared to the normal type of
7 committee.

8 MR. ARONOFF: In reading the materials that you
9 forwarded to us, I got the impression that I understood
10 the Government's case a little bit more than I understood
11 the invasion of privacy argument, and I'd be interested
12 in having some sophisticated constitutional lawyer
13 types testify before the Committee and having their opinions,
14 from the Bell^{xi} types down or whoever you prefer, but
15 people that involve themselves from the individual's point
16 of view and who have a cross that they want to have
17 expounded before a group such as this.

18 MR. MUCHMORE: If you're thinking about unusual
19 approaches to hearings, I would suggest that you might want
20 to take a look at Saturday hearings very definitely, be-
21 cause these have become very successful lately in the Western
22 scene especially where people are showing up that would
23 normally not appear at hearings just as witnesses and also
24 as public audience.

25 And the other thing I have seen lately which is

1 kind of intriguing to me is opening the floor for presenta-
2 tions of 5 to 7 minutes and also a collection of written
3 questions which were then addressed to various members of
4 the people who had testified, not members of the committee
5 but individuals who had testified during the day, and the
6 public could write out a question and they submitted them
7 and then all the people who testified-- Normally what you
8 find in these hearings is the guy testifies -- you know as
9 well as I do -- testifies and leaves. In this case they
10 would be asked to stay and the public would address ques-
11 tions.

12 You get an interplay there that's very, very
13 interesting in terms of what the product is at the end of
14 the day.

15 MR. MARTIN: Well, feel free as we go along to
16 make additional suggestions as to people you'd like to hear
17 from or techniques for doing this.

18 Also we need a candidate for the first place to
19 do it. We may want to commit ourselves to one or two to
20 see how it goes before we commit ourselves to more.

21 So if I didn't say it, and I don't think I did
22 earlier, another thing that I hope any of you will feel
23 free to come forward with is the willingness yourself or
24 through -- in the case of those who have students at your
25 beck and call -- to tackle any piece of this that you would

1 like to tackle in the form of either some analytic work, some
2 writing, some research.

3 We have a budget. We can commit funds to the
4 extent that they are necessary to pay for work to be done
5 that you would like to direct. And, of course, you will
6 all be, however modestly, compensated by the day for your own
7 contribution.

8 And if there is any piece of this as it develops
9 that you are anxious to sort of just tackle yourself and
10 roll your sleeves up and do, let us know that you would like
11 to do that. There will be no obstacles placed in your way.

12 Also a lot of work has been done in this area.
13 Arthur Miller is currently directing a project on this. He
14 has written a book on the subject recently. There have
15 been many books and studies and commissions and groups.

16 And I think perhaps in writing might be the best
17 way. Before you leave, if you would indicate from your
18 perception projects, studies, commissions, undertakings that
19 are in any way related to this that you are aware of, that
20 you are familiar with, that have been done, I'd like to be
21 sure that I get the reference to them from you so that we
22 have a way of avoiding redundancy in our own effort that we
23 don't want to engage in.

24 MR. DOBBS: Can you supply us with that reference
25 list as far as --

1 MR. MARTIN: As quickly-- We are in the course
2 of putting one together, things that we know and
3 see, and that coupled with whatever input we get from you.
4 If you gave us something today we might be able to get some-
5 things in your hands before you leave tomorrow. Well, maybe
6 not before you leave at noon but before the day is out.

7 And if there are materials such as the Federal
8 Commission on Statistics report or the report of the hearings
9 of the Ervin Committee, if there are any materials that
10 you are anxious to read more fully and have access to, let
11 us know that too and we could obtain those for you and get
12 them to you.

13 Yes?

14 MR. GENTILE: Dave, I would just like to state an
15 opinion that we do have quite a variety of backgrounds
16 here, and I think we should be careful not to overemphasize
17 the public hearings. I think they are necessary and good,
18 but I know there are some mbers at least on this Committee
19 who have been through a number of hearings, and I think
20 some good old fashioned "head knocking" right here in this
21 room would be very helpful.

22 And I'm concerned about having too many public
23 hearings or fact gatherings when we could do a lot just
24 among ourselves as well.

25 PROFESSOR MILLER: Indeed, when we go public, it

1 seems to me we should go public on the basis of a list of
2 subject matters that we want specific information about
3 rather than just a general forum of human events.

4 MR. MUCHMORE: Arthur, is it subject matter or
5 is it subject matter and/or persons?

6 PROFESSOR MILLER: Both.

7 MR. MUCHMORE: Because we might not know what
8 their subject matter is as of the time we ask them but
9 we know they are in that field and specifically interested
10 in the field and doing work in the field but we haven't
11 seen it.

12 PROFESSOR MILLER: Right. Not to disagree with
13 Mr. Aronoff, it seems to me that if there is one area that
14 is well written and well covered it is the constitutional
15 law with regard to privacy -- that is, the extent to which
16 it does or does not exist.

17 And I think it would save this group's time if we
18 simply distributed a memo or a short reading list on that
19 subject. Indeed, my guess is we have people around this
20 table who can articulate --

21 MR. ARONOFF: That might be true, but maybe
22 it's the question of timing. This group is going to come
23 up with some recommendations, and maybe before we come up
24 with our recommendations we ought to-- In some of the
25 suggestions that we make, some of the people that you are

1 talking about might be very good people to analyze what we
2 ourselves are doing, sort of in the window looking in at us
3 also.

4 I agree with you that you can read the case de-
5 cisions, and so forth, on the invasion of privacy as it
6 presently exists, but, as I understand one of our charges,
7 there are certain definitions that this Committee is
8 supposed to look at for future action perhaps by Congress,
9 perhaps by State legislatures and so forth, and in that
10 regard some of the constitutional theorists that we are
11 talking about could be utilized.

12 MR. MARTIN: Well, can we come back to the
13 question of hearings or meetings? I think what maybe would
14 make sense would be to put together a subcommittee of the
15 full group to address the question of hearings. When we
16 break for lunch, if there are one or two -- well, two or
17 three -- of you who would particularly like to address the
18 matter of arrangements for hearings, I'd be delighted to
19 have you volunteer to do that.

20 I'm reluctant, since you'll have a chairman duly
21 appointed by the Secretary at your next meeting, to
22 exercise all the roles that a chairman would do. I'm trying
23 to preside over this meeting.

24 So, as I say, if there are two or three of you
25 at least who would like to assume some leadership for the

1 full Committee on the issue of what kinds of meetings to
2 hold, let's know that and we can start a little subset
3 process of defining what kind of regional meetings or
4 hearings we want to have.

5 MR. GENTILE: I wonder, since the time factor is
6 so pressing, if we shouldn't perhaps develop a little plan
7 of action that would be all-encompassing as to what the
8 Committee plans to address, you know, in addition to the
9 hearingssubcommittee. We might want some task assignments
10 made to someone who could address the issue of constitutional
11 law. Others might address the possible safeguards
12 that are technologically available, and perhaps we could
13 just kind of PERT^K it out and I think we'd be in a
14 better position to meet or get closer to that end date.

15 It might be appropriate for later tonight or
16 tomorrow for a group to just sit around or for the whole
17 Committee to just list all the tasks and see if we can
18 put it together in a little PERT^K chart.

19 MR. MARTIN: All right. Did you get those,
20 Nancy? This is just what I was hoping would happen, you
21 know, that you would be specific as to tasks you think we want
22 to tackle. We have got those down. We will perhaps get
23 a list of them out of all this and have them for you after
24 lunch.

25 MR. DeWEESE: It just seems to me we would be

1 wasting our effort if we concentrated too much on the
2 constitutional issues involved, because there's not too much
3 we can do about the Constitution or about the courts to-
4 day.

5 And in that sense I mean I think everybody
6 agrees that certain use of computerization affects personal
7 privacy and it sort of infringes on personal privacy.
8 Whether or not that is protected by the Constitution I think is
9 sort of an academic question, and I think we ought to
10 concentrate more on a statutory solution to a problem
11 than thinking too much about whether or not there is a
12 constitutional solution, which I don't think there is. I
13 think Professor Miller might agree.

14 MR. MARTIN: Well, let me toss in by way of
15 response to that, that Arthur hasn't, I have heard it
16 observed by some that we are going to need a constitutional
17 amendment before privacy will be well secured in our law,
18 in jurisprudence.

19 If that is the consensus of view of constitu-
20 tional experts, would you still hold the view that you
21 expressed? Do you think it would be beyond the relevance
22 of this Committee to say that?

23 MR. DeWEESE: Not to say it, but whether or not
24 we want to push for it. I think that is true. I think
25 there might have to be a constitutional --

1 MISS KLEEMAN: You just don't want to depend on it?

2 MR. DeWEESE: I don't think we should concentrate
3 our efforts on achieving a constitutional amendment.

4 PROFESSOR MILLER: It's just interesting to note
5 that there are two or three States currently undergoing
6 constitutional revision that are contemplating putting in,
7 in their counterpart to the Bill of Rights, an amendment or
8 a statement with regard to privacy.

9 But I happen to agree with Jim that, given
10 priorities in time, the dimensions and the practicalities
11 of constitutional revision at the Federal level seem to me
12 a very low order of significance.

13 It may well be that as a practical matter and
14 an ultimate matter if you want to preserve privacy it
15 has got to be done via the Constitution, but I just don't
16 think that that is a reasonable or practical, useful line
17 for us to pursue at this time.

18 PROFESSOR WEIZENBAUM: I have no opinion on the
19 questions of fact that you raise, but I have a question of
20 principle: That if this Committee sees that because of
21 the urgency and the time and all such constraints we can't
22 address what we may agree is an issue of overriding impor-
23 tance and a very fundamental issue, for example, constitu-
24 tional reform, then it's pretty clear to me that every
25 other committee that faces similar problems over the next

1 10 or 15 years, say, will have exactly the same out. And
2 if in fact these are fundamental issues, then someone has
3 to begin to discuss them.

4 PROFESSOR MILLER: Well, just a very brief foot-
5 note to that. We are at a peculiar crossroads in the
6 constitutional history with regard to privacy, and that is
7 that if you read the existing cases decided by the Supreme
8 Court it is not terribly clear to what extent the Court
9 through the process of judicial construction of the
10 Bill of Rights is prepared to recognize constitutional
11 foundations of privacy.

12 Thus, what we do here as a group with regard to
13 our attitudes towards privacy may become a sort of
14 piece of information that that Court might use in construing
15 the existing Constitution in terms of recognizing from
16 various amendments in our Bill of Rights elements of a
17 right to privacy at a constitutional level.

18 So I guess I'm torn, because I for one would
19 like to see a right of privacy in the Constitution, but --
20 I don't think I am being unduly cynical -- I don't think
21 that that is a reasonable or a useful thing to pursue.

22 On the other hand, I would very much like to see
23 and I think we can affect the Supreme Court's attitudes
24 towards the existing Constitution and its willingness to read
25 a right into it. And I think that's a much more fruitful

1 line.

2 As I'm sure everybody knows, we talk about our
3 Constitution as being a living document, and one way that
4 it does live is the willingness of the highest Court in the
5 land to read things into it that really aren't there.

6 PROFESSOR WEIZENBAUM: The point I'm trying to make
7 is somewhat more general. I'm using the constitutional
8 question that just arose merely as an example.

9 I'm afraid that too many committees, commissions,
10 individuals, and so on, engage, knowingly or not, in the
11 drunkard's search.

12 I don't know whether everyone knows this ancient
13 joke about the fellow who is looking under a lamp post
14 and a policeman walks up and says, "What are you looking
15 for?"

16 "I'm looking for my keys."

17 "Where did you lose them?"

18 "I lost them over there."

19 "Then why are you looking here?"

20 "Because there's light here."

21 That is known in computer circles as the drunkard's
22 search.

23 And, you know, what I'm alluding to is simply
24 setting aside problems that we may agree are important
25 problems, perhaps even fundamental problems, whatever they

1 may be, whether they be constitutional or technological
2 or social or whatever, you know, setting them aside
3 because they are too difficult, because we don't have enough
4 time, or because they're too deep, or whatever.

5 We shouldn't do that. Every commission, com-
6 mittee, etc., is tempted to do that all the time.

7 That's my argument. I'm using this constitutional
8 thing merely as an example.

9 PROFESSOR ALLEN: Joe, if I was hearing Arthur
10 on that, he was suggesting not to avoid it but a matter of
11 effectiveness would be more to concentrate on influencing
12 the interpretation rather than revising through amendment
13 the Constitution.

14 PROFESSOR WEIZENBAUM: Yes. Well, at this early
15 stage all I'm saying is if we in fact uncover what we
16 believe to be a fundamental problem, whatever it is, whether
17 it's the question of constitutional amendment, influencing
18 the courts, or whatever, okay, we ought not at the initial
19 stage be afraid of facing a fundamental problem even if we
20 recognize that it's going to take us, you know, very, very
21 deep and that we may not come to a final conclusion by the
22 end of the term of this Committee or whatever.

23 The keys we are likely to find under the lamp
24 post may turn out to unlock a box that we don't want to unlock
25 when, in fact, the keys to the box we do want to unlock are

1 just over there if we had only been willing to work harder.
2 That's the only point.

3 MR. MARTIN: Going back to what John Gentile said
4 earlier, I think that we ought to try and get a clear
5 notion of what the Committee can and will attempt to do,
6 what help it wishes to seek in producing that which it will
7 do itself -- help from other individuals or groups that
8 may not be involved or represented here, and that would
9 include hearings -- and identify what kinds of issues
10 it feels it cannot fully handle or perhaps handle at
11 all but which it may feel are very important that may need
12 handling and as to which it may wish to recommend a course
13 of action for handling. And this constitutional issue
14 question might be somewhere in that last area.

15 It might be something on which the Committee
16 would want to take sort of a preliminary cut and say. "Okay.
17 if we tried to really tackle this we will be at it to the
18 exclusion of everything else, and we do have other things
19 listed that we want to accomplish, so let's underline it
20 as something that needs to be tackled and suggest a way
21 of getting that tackled outside this forum."

22 PROFESSOR WEIZENBAUM: Surely in the history of
23 mankind it has happened before that commissions of this
24 kind have ended up with recommendations for further study.
25 (Laughter)

1 MR. WARE: Not the good ones.

2 MR. MARTIN: Can we turn to the question that I
3 said--

4 MR. WARE: May I raise a point?

5 MR. MARTIN: Please do.

6 MR. WARE: I'd like to observe the Canadians
7 are very much turned on by this problem, apparently in
8 part because there is no concept of privacy in Canadian
9 law.

10 So it might be that there are some useful inputs
11 to this group to be obtained from there. And I will try
12 to find out for you because I have been coupled to them
13 for 2 or 3 years and can check up easily.

14 MISS KLEEMAN: We are getting shortly a study of
15 some sort -- and I can't define it too clearly -- of a
16 Canadian group that has been looking at security and
17 privacy in computers.

18 PROFESSOR MILLER: Is that the Ontario group?

19 MISS KLEEMAN: I'm afraid I don't know much more
20 about it. I have been told we will soon be receiving in the
21 mail a copy of it.

22 MR. MARTIN: Well, it sounds to me as a minimum
23 what this group would like would be kind of an overview or
24 precis of what the constitutional situation is both here
25 and in jurisdictions such as Canada and others where there

1 may be relevant insights to be gained on the basis of which
2 you can decide how far or how near you want to go with that
3 issue.

4 Is that something you could do for us, Arthur?
5 Or has it been done?

6 PROFESSOR MILLER: It has been done. Also you
7 don't really want to talk narrowly of the Constitution.
8 You want to talk about the legal.

9 I mean the legal approach to privacy is multi-
10 leveled and starts at the Constitution, comes down
11 through statutory treatment, and, of course, judicial
12 treatment. And the literature is really quite rich on
13 that.

14 And I guess the easiest thing to do would be to
15 provide the group with a couple of the better writings on
16 it, the condensed writings on it.

17 MR. MARTIN: Or would a short talk by you before --

18 PROFESSOR MILLER: Sure.

19 MR. MARTIN: -- before we break up --

20 PROFESSOR MILLER: I'd be delighted to do that.

21 MR. MARTIN: -- as a kind of opener on it --

22 PROFESSOR MILLER: Sure.

23 MR. DAVEY: Would it be helpful to get down to
24 some practical cases?

25 MR. MARTIN: Yes.

1 MR. DAVEY: I think I can probably give you an
2 idea of what is happening at least as far as the credit
3 industry is concerned and their approach to this whole
4 problem and interaction with social security number and
5 things of this nature if that would be of benefit. I
6 think that we could at least have something to sink our
7 teeth into.

8 MR. MARTIN: Sure.

9 MR. DAVEY: Shall I do it now?

10 MR. MARTIN: Why don't you?

11 MR. DAVEY: I think it would be easier if I
12 used the blackboard. I tend to do things geometrically.

13 MR. MARTIN: Fine.

14 MR. SIEMILLER: First define the credit industry.

15 MR. DAVEY: I am no longer associated with the
16 credit industry, but I was a part of a burgeoning growth
17 in the credit industry as far as computers were concerned
18 in 1965. The company I was associated with automated the
19 first credit bureau in Los Angeles, and at the time I left,
20 which was 1970, we had credit records on most of the people
21 in California, most of the people in the Detroit area,
22 quite a few in Chicago, quite a few in the metropolitan area
23 of New York, Syracuse and Buffalo.

24 So we had something on the order of about I'd
25 say 25 or 30 million credit histories on people living within

1 the United States, and there were a number of considerations
2 that we had in how to protect these files so that unauthorized
3 people would not have access to them, and just some of the
4 considerations that went into it.

5 Let me frame this in light of the social security
6 number because it has played quite a role as far as we are
7 concerned.

8 Just to give you some indication of this, 1 per-
9 cent of the population in the United States' last name
10 is Smith, and probably J. Smith or R. Smith are the most
11 common names.

12 People move about once every 5 years. I think
13 that's kind of a national average.

14 So that you don't have a name and an address
15 which is unique, and the problem of distinguishing between
16 various people of the same name becomes quite a considerable
17 problem.

18 And so very early when we were looking at some
19 of these problems we wanted to get some type of an
20 identifier. At that time it was primarily a secondary
21 identifier which would help to identify people. And the
22 reason is that we had banks who were being required to
23 provide information to Internal Revenue Service on savings
24 accounts, any types of dividends which were being paid.
25 Again this facilitated the ease with which income tax

1 information could be provided to the Internal Revenue
2 Service.

3 And so as time went on, people became more and
4 more used to the idea of giving their social security
5 numbers.

6 Now, of course, this information is going over to
7 the IRS, and what I mean information is that whatever
8 information is required as far as their Internal Revenue
9 Service needs are concerned. But primarily the social
10 security number was the primary identifier.

11 Other people, particularly those who were
12 retired, have been using social security number and using
13 it in a number of their correspondences and the like.

14 And I think that what we decided to do was to
15 more or less piggyback on that same number so that if
16 we have a credit bureau-- (At the blackboard) We weren't
17 interested in the information which was being passed, but
18 we were essentially interested in the number as another
19 identifier to help keep all of the Smiths apart or whoever
20 apart and give them some kind of a unique representation.

21 So that we had information coming from the banks
22 and also going back to the banks. The same thing with
23 department stores, although their requirements for providing
24 information to the Internal Revenue Service are not anywhere
25 near as great as the banks, the savings and loans, or

1 whoever are providing dividend information on their customers.

2 But you start getting a two-way information back
3 and forth.

4 Now, we recognized right from the very beginning
5 that there was kind of a barrier as to what information
6 would be available as far as the social security number is
7 concerned, and it was essentially a piggyback operation.
8 There is no way, for example, if you wanted to find out
9 something about John Smith and used his social security
10 number-- There is no way for a credit bureau or anyone
11 else to inquire of the Internal Revenue Service to find
12 out, or the Social Security Administration, just what type
13 of address information they have on that individual.

14 If you have lost somebody -- and the very
15 practical problem, of course, is one in which somebody
16 has left and left a bill behind and you'd like to locate
17 him to see what the possibilities are of collecting that
18 bill -- there is just no way in which you can use the
19 Social Security Administration to help trace that indi-
20 vidual.

21 But again the purpose is that in using the
22 social security number-- It could be any other number.
23 It could be the American Express card number. It could
24 be a Mastercharge number, Bank Americard number, anything
25 else of this nature, one which is readily available to

1 individuals.

2 I wonder how many of you know your social
3 security number now by heart?

4 (Show of hands.)

5 I'm sure that I do; I have given it so many
6 times that it's the easiest thing in the world. And I
7 just look upon it as another identifier for myself.

8 PROFESSOR WEIZENBAUM: May I ask a question?

9 MR. DAVEY: Yes.

10 PROFESSOR WEIZENBAUM: You say there is no way
11 of getting any information out of the Social Security
12 Administration in case, for example, you want to find
13 someone. Now, do you mean "no way"?

14 MR. DAVEY: I'm aware of no way. Let me say it
15 that way. Nor did our company. Nor did anyone that I know
16 who tried to get information this way.

17 Now, I'm sure it might be possible if somebody
18 knew somebody who was working there that might be able to
19 do this, but, you know, --

20 PROFESSOR WEIZENBAUM: For example, let's take
21 the specific example you mentioned. Someone leaves a
22 bill and you don't know where he went. And half a year
23 passes and you assume that he's gotten another job some-
24 where.

25 MR. DAVEY: Yes.

1 PROFESSOR WEIZENBAUM: Now, suppose you now go
2 to, say, the sheriff's office and you ask the sheriff's
3 office to inquire of the Social Security Administration the
4 name and address of the last employer of this particular
5 individual.

6 According to congressional testimony I have
7 read, the Social Security Administration will give that
8 information to law enforcement agencies.

9 MR. DAVEY: Again I don't know of any skip
10 tracers or anyone who uses that technique. I'm sure that
11 they may from time to time, but I don't know of any who do.

12 PROFESSOR WEIZENBAUM: There is testimony in
13 the CONGRESSIONAL RECORD which would --

14 MR. DAVEY: Okay. I'm talking again largely
15 about the way that things normally work 99.5 or 99.9 percent
16 of the time.

17 PROFESSOR WEIZENBAUM: Okay. So we have your
18 "no" reduced by half a percent anyway.

19 MR. DAVEY: I'm not aware of anything, but I'm
20 also saying that there could possibly-- There may be a
21 possibility.

22 PROFESSOR WEIZENBAUM: The reason --

23 MR. DOBBS: The distinction Joe is trying to
24 point out is the distinction between practice, which is
25 what you are asserting to, --

1 MR. DAVEY: That's correct.

2 MR. DOBBS: -- and, in fact, something else which
3 is what we are afraid of.

4 MR. DAVEY: Yes. And what are the safeguards,
5 of course. And that's what we are all interested in also.
6 Because when we were setting this thing up we wanted to
7 set up the same kind of walls around credit information
8 as have been effectively set up in these kinds of things.
9 And the same kind of thing getting information from law
10 enforcement agencies. We were never able to get
11 information from law enforcement agencies, nor did we try.

12 MISS HARDAWAY: What concerns me is when you make
13 a mistake how do I, the citizen, know it before you pass it
14 to the banks, the department stores, and et cetera?

15 MR. DAVEY: Well, I think that this comes into the
16 whole question of a credit process, and I think that
17 when you apply for credit you are essentially giving
18 permission to have a credit search made on you.

19 Now, in many States you actually sign a statement
20 to the effect that a credit search will be made and that
21 information will be stored as a result of this loan or
22 credit card or whatever else other thing.

23 In other words, the person that you are applying
24 for credit from will provide information to the credit
25 bureau and will also get information back. In other words --

1 MISS HARDAWAY: Under the Disclosure Act he now
2 has to let you know why he's not extending credit.

3 MR. DAVEY: That's correct. But at the time you
4 initiate this is when you become aware of that particular
5 process on the thing.

6 So that this Credit Reporting Act has essentially
7 given anyone the right to see what his own record is on this
8 thing.

9 MISS HARDAWAY: Under the Disclosure Act, am I
10 not right in assuming that the law states that now I must
11 give permission before my credit can be checked?

12 MR. DAVEY: I don't believe that is the case,
13 no. I think that your rights are that you can go to a
14 credit bureau or that if you are turned down for reasons
15 of credit that the banks or the department stores will tell
16 you that information which was found at such and such a
17 credit bureau was of such a nature they don't feel they can
18 give you credit.

19 MISS HARDAWAY: It may be a State situation,
20 because now within our State you have to give permission.

21 MR. DAVEY: Right. but let me just come back to
22 again this credit process, and that is that when you
23 apply for credit, then someone wants to check out your
24 credit, and usually it's now getting to the point where
25 it's easier to have someone else check that credit than for

1 the bank or the department store to call around and verify
2 the various references and things of this nature which you
3 would put on your application. And so that normally it is
4 done through some type of credit bureau.

5 Now, the bank or department store or whoever makes
6 that inquiry will get information back about you, and then
7 usually on that information and other information -- it's
8 not only on the information the credit bureau supplies --
9 then the decision is made as to whether you should have
10 credit or not have credit.

11 And if you do have credit, then you don't
12 normally hear about it any more except you get your
13 refrigerator or whatever else it is that you're after.
14 And if not, then you are told if there is some kind of
15 problem, the salary is not enough or there has been
16 derogatory information as far as your credit references
17 are concerned, or just whatever the case may be. Then this
18 comes back.

19 Well, then, at least in our system, after that
20 is done, then the credit granter sends back information,
21 and largely on the larger credit granters who are com-
22 puterized they send this information back to us on magnetic
23 tape which has the name and the social security number.
24 if we can get them to put the social security number in,
25 the address, and the amount of credit which was extended,

1 the terms of the credit, the length the credit will be
2 extended, and so on through, the factual details about the
3 loan or the credit card or whatever it is that is coming in.

4 And then that information is likewise stored.

5 Now, one of the things that we were very much
6 concerned about is that we get away from what we call
7 qualitative types of information. These are he's a "good
8 credit risk" or "poor credit risk." Nobody knows what that
9 means.

10 So what we would do would be to put down, for
11 example, that somebody became seriously delinquent. And
12 "seriously delinquent" is like missing three or four con-
13 secutive monthly payments without paying a bill. Then
14 that information would be stored, and in the form of, say,
15 a 90-day delinquency and the date at which that occurred,
16 and then following it through.

17 If that became current, then it would show a 90-day
18 delinquency now current, and stay away from these very
19 qualitative types of modifiers called "good" or "poor" or
20 whatever on this type of a thing.

21 MISS NOREEN: Excuse me. Are there any legal
22 limits on who a credit bureau can give information to?

23 MR. DAVEY: Well, this is one of the things
24 that we were certainly pushing for very much. We felt that
25 only the institutions which had-- In other words, what we

1 felt is that the individual applying for credit give that
2 bank permission to get information. He's not giving
3 blanket permission for everybody to get information.

4 And I think that we have certainly been trying
5 very hard in order to limit the access to these kinds of
6 files, because you will find that there are employment
7 agencies and others who would very much like to get this
8 kind of information, and our feeling was that we would
9 not sell to them, that in order to really become a member
10 of the credit bureau one had to be a credit granter, a
11 bona fide credit granter, and he not only would get informa-
12 tion out but he would also have to supply information.

13 And it was essentially a pooling type of effect of
14 exchanging information. But it was recognized it was for
15 credit and for credit only.

16 Yes?

17 MR. SIEMILLER: Was there any way for the person
18 whose records were in your bureau to go over them with
19 you occasionally so he would know where he stood with you?
20 Or is this kind of used against him perhaps without his
21 knowing just what was there?

22 MR. DAVEY: Well, the Fair Credit Reporting Act
23 now provides that possibility for an individual to see his
24 credit record and see what is on his credit record if he
25 so desires.

1 MISS LANPHERE: I was going to ask if the credit
2 bureau has some information that is in error or the person's
3 situation changes how this can be corrected.

4 MR. DAVEY: Yes, it could be easily corrected on
5 the thing. Normally you have to go back to the original
6 source.

7 Now, there is also another source of information
8 besides just the information from the credit gatherers
9 themselves, and that is from the courts, and you get into
10 bankruptcies, judgments.

11 MR. IMPARA: Which are usually all matters of
12 public record?

13 MR. DAVEY: Which are matters of public record.
14 And you are essentially picking up the public record
15 information and supplying it and putting it into the credit
16 bureau. Again this becomes of significance.

17 MR. WARE: Why did you answer Miss Noreen's
18 question the way you did? You said "we tried very hard
19 not to let this data be available." Why didn't you have an
20 absolute prohibition?

21 MR. SIEMILLER: There's no way.

22 MR. WARE: It suggests your system is either
23 leaky or there was financial incentive not to --

24 MR. SIEMILLER: I can go to Los Angeles and get
25 anything I want to get out of that credit bureau. I can find

1 the way to get it out through one of your customers, one of
2 your people. It can be done.

3 MR. DAVEY: I think this is correct. And I'm
4 looking at it again from a practical standpoint.

5 MR. SIEMILLER: Yes. There is no way, absolutely
6 no way, to keep it private.

7 MR. DAVEY: I don't know of any secure files
8 really, absolutely secure files, in the absolute sense.

9 MR. WARE: That's not the question. It's not
10 secure files. It's unauthorized users.

11 MR. DAVEY: We do keep unauthorized users out
12 from the standpoint that now there are some teeth in the
13 laws.

14 MR. WARE: He just told you he's an unauthorized
15 user.

16 PROFESSOR MILLER: He's an authorized user using it
17 for an unauthorized purpose.

18 MR. WARE: He's not an authorized user.

19 PROFESSOR MILLER: He isn't, but he will go to
20 a credit data customer who is an authorized user.

21 MR. WARE: He goes through a front.

22 MR. SIEMILLER: Yes, that's the way I used to
23 do. You can get anything you want in America.

24 MR. DAVEY: He can't come to us and get
25 information on somebody besides himself.

1 MR. SIEMILLER: Oh, that's true.

2 MR. DOBBS: I thought Willis was going to address
3 a different part of Miss Noreen's question. That is, are
4 there in fact any legal restrictions on the credit bureau
5 which will, you know, legally prohibit them from giving
6 information?

7 MR. DAVEY: Yes, there are now. But go ahead.

8 PROFESSOR MILLER: The Fair Credit Reporting Act
9 which Jerry has referred to periodically is a Federal
10 statute effective in 1971 which purports in one of its
11 sections to define the legitimate uses of consumer reporting
12 information.

13 I would argue -- perhaps Jerry would disagree --
14 that the definitions are so badly and loosely drawn that
15 virtually anybody fits under one of them.

16 In defense of Jerry, by the way, his former system
17 was without question one of the most secure and one of the
18 most hedged in in terms of who they would give information
19 to.

20 Now, it is true that they don't have ultimate
21 authority over what their clients did with the system.
22 But they at least had guidelines for access to the system
23 that were far more protective than even those spelled out
24 in the Fair Credit Reporting Act.

25 MISS HARDAWAY: Let me ask you this. I think

1 we probably all would agree with our population growing as
2 it is that we are coming to a national identifying number
3 of some sort, whether it's the social security number.
4 That's what we're going to talk about here. Wouldn't you be
5 less likely to gather my information incorrectly if a
6 standard number was used such as my social security number?

7 I'm so concerned about what goes in in error and
8 is not identified to the citizen as being in there as an
9 error.

10 I don't know how many of you several months ago
11 saw the TV show one Sunday evening on "The Lawyers" about
12 the man who was fighting this sort of thing through a
13 divorce, through his business, through his reemployment,
14 and finally ended up killing himself.

15 We should get that and look at it as a committee.
16 You know, we should definitely see that. I'm sure many
17 of you have seen "The Anderson Tapes," and et cetera.

18 But this concerns me. Now, wouldn't you at the
19 credit bureau or at the bank or at the Tennessee State
20 Department of Personnel where I gather it be less likely to
21 get my information in error if we all used the same number?

22 MR. WARE: There's a subtle point here I think
23 we'd better keep straight. He has no way of knowing that
24 information is wrong.

25 MISS HARDAWAY: Yes. Right.

1 MR. WARE: And, moreover, he has no obligation to
2 even ask. Right?

3 MISS HARDAWAY: Well, if he turns me down for
4 credit, I know. And then I go and plead my case.

5 MR. WARE: But until that happens --

6 MR. IMPARA: He has an obligation to verify in-
7 consistencies. But if there are no internal inconsistencies in
8 the data, then he's under no obligation until he is told
9 something is wrong by the customer.

10 MR. WARE: He has no obligation by law to do it.
11 It's just as a good manager of a system that he wants it to
12 keep working.

13 MR. IMPARA: He has a profit motive.

14 PROFESSOR MILLER: There's that and -- I'll
15 make this a little clearer when Dave asks me to make a
16 presentation on law -- there are some legal restraints on
17 him, libel actions, defamation actions, that put some con-
18 straints and in a sense provide some incentive for him to
19 correct the data.

20 MISS HARDAWAY: To come back to my question, are
21 we less likely to be in error if the bank, the department
22 store, my employer, the credit bureau -- if we are all
23 using the same number that identifies me?

24 MR. DAVEY: It certainly helps. It certainly
25 helps. Now, looking at the number itself, there are some

1 awkward things about the number. It's a 9-digit number,
2 whatever, on the thing. There's no check digit.

3 And by a check digit, using computer terminology,
4 it means that it checks the way in which the numbers are
5 written down so that you get away from some of the common
6 errors like inverting the numbers, like instead of "34" you
7 write down "43" or somebody else writes that down. It
8 helps to eliminate or reduce the number of errors and this
9 kind of thing.

10 It would be very convenient to have that type of
11 a number at the end of it. It probably should be increased
12 to another number of things. It would also be very helpful,
13 you know, to have that turnaround capability from the
14 standpoint of being able to find out whether that is a valid
15 number.

16 As I say, when other people are using the social
17 security number at the present time it is strictly a
18 piggyback type of number. There is no internal consistency
19 or any other type of check that is made as far as that is
20 concerned.

21 The only way it is now being done is compare it
22 with another social security number which has come in on
23 that same individual.

24 MISS HARDAWAY: There's something else I think we
25 should get into, this thing of identifying people at birth,

1 and I would like us to hear from some people from the Census
2 Bureau.

3 If we identify our people at birth and have some
4 system of reporting back on that, would that then eliminate
5 the need of a national census and would we then know the move-
6 ment of our people at all times so that we would not be
7 Statewise into these terrible reapportionments? It could
8 be done at the time it's needed instead of 15 years later.

9 I think that's something we should look into.

10 What would this do to the census?

11 MR. WARE: You mean you want to track everybody?

12 MISS HARDAWAY: That's what I'm saying. Is it
13 better to be done along or on a census as we take it? I
14 don't know. But I think we should hear from both sides.

15 MR. WARE: I'd sure like to bid on the computer
16 system that does that. (Laughter)

17 MISS HARDAWAY: Maybe you could do that.

18 (Laughter)

19 MR. GALLATI: I was a little disturbed by Jane's
20 statement that because we want to have the credit bureaus
21 operate efficiently we should therefore have a universal
22 number and we should all be marked.

23 MR. DAVEY: From the standpoint of the credit
24 bureau it isn't necessary. This is the point I'm trying to
25 make. We're getting along just fine with the kind of

1 information --

2 MR. WARE: It may not even catch the biggest
3 class of errors. All that does is to get the facts to the
4 right record.

5 MR. DAVEY: I've done a lot of studies of our
6 own system with regard to the number of errors, and I
7 think it's something on the order of one out of 50,000
8 entries or something like that. It's very, very low.

9 So, you know, you kind of get the impression,
10 well, "Boy, oh boy, I really have got to watch out for my
11 record. There will be some wrong stuff in there." Sure,
12 there could be some wrong stuff in there, but the likelihood
13 of it happening is so low that I think at least for
14 most people who are involved with the process of going and
15 applying for credit and getting credit it is enough of a --

16 MR. DOBBS: I think you ought to amplify on that
17 in the sense it's not the single error that's the problem.
18 It's the multiplicative effect that in fact that same
19 error-- You're fairly clean in terms of the figure that
20 you quoted, and in most of the interfacing systems that
21 error is much greater. Okay?

22 And the fact is that the combined effect of that
23 information transfer in terms of the error rate across
24 the total use of that identifier is much greater.

25 MR. DAVEY: Yes, I agree, but I think again what

1 you come down to is how many barriers you put up so that you
2 don't get a credit bureau talking with a law enforcement
3 agency, talking with an employment agency, so that you
4 start getting exchange of information going this way. Then
5 I think that this multiplicative effect really comes into
6 being.

7 But right now, you know, if I don't get my
8 refrigerator or I'm delayed in getting a refrigerator for
9 2 weeks, you know, there isn't a great deal of damage that's
10 done. But if somebody gets access to this thing and there
11 is an error and the slight chance that there's an error and
12 he's turned down for a job or something else where somebody
13 doesn't really know how to read a credit report or understand
14 a credit report, then I get very alarmed about it.

15 And I'm all for putting up more and more
16 barriers between these various systems as possible, and
17 that's why I say that, you know, from the standpoint of
18 the credit industry I'm not arguing for any real improvement
19 on this thing.

20 I'd be very disturbed if they came and had this
21 turnaround capability here. I think that not only from the
22 standpoint of the privacy but as a taxpayer I'd be concerned
23 because I think this would then become the next checking spot
24 for any skip tracer or anything else.

25 You make it so convenient for people to find out

1 that information that that's the way they do it.

2 I don't know how many of you have given up looking
3 at telephone books to find numbers because all you need to
4 do is dial 411 and get the information and number just as
5 quickly as you can look it up in the telephone book.

6 What I'm concerned about is it makes things so
7 convenient for people that it becomes the natural flow of
8 things. And I really get very concerned about these types
9 of things.

10 PROFESSOR WEIZENBAUM: I'm terribly concerned
11 lest we fall into a web of illusions here. That was
12 the purpose of my first question -- essentially to attack
13 the illusion that a system operates as intended or as
14 designed or indeed that its so to speak normal operation is
15 in fact its universal operation, so on and so forth.

16 You mentioned another instance about telephone
17 books and operators and so on. It is in fact not true any
18 more that you can easily get a number either out of the
19 telephone book or from the information operator. And I
20 think that is a very, very significant point.

21 Our society has become very complex. We have
22 imposed on this complexity all sorts of technological solutions
23 which in their design and in principle appear to solve the
24 problem that is being attacked but which in fact, because of
25 the very overhead of complexity, and so on, don't work any

1 longer.

2 Okay. This is true of both the telephone book,
3 an example you happened to mention, and of the information
4 operator. The probability that the number you find in the
5 telephone book is wrong today is very much higher than it was
6 say 10 years ago. The probability that you can get a number
7 from the information operator is much lower today than it
8 was 10 years ago.

9 The system is becoming overburdened both because
10 of the increase in population on the one hand and because
11 of the increase of the complexity of the technological
12 solutions that have been imposed on it.

13 MR. SIEMILLER: You can also secure a telephone
14 with an unlisted, unpublished number, and then only the
15 White House and the FBI can get it. But you try to get
16 one.

17 But I'd like to ask a different question. Say,
18 for example, that you do have stored derogatory information
19 on an individual which is incorrect information. What
20 chance has someone who was raised in the ghetto, the hard
21 core, your transit farm worker in California, someone like
22 that-- What chance do they have of getting that information
23 out?

24 They don't have very good vocabulary perhaps.
25 Take the worst type of an individual educationwise or an

1 opportunity to express themselves-wise. How would they
2 get that out without hiring a lawyer or somebody to repre-
3 sent them, to go in there, to do all that is necessary to
4 get the derogatory information removed?

5 MR. DAVEY: Well, --

6 PROFESSOR WEIZENBAUM: In the first place, they're
7 not even in there.

8 MR. DAVEY: It's likely they really are not in
9 there.

10 MR. MUCHMORE: Why wouldn't they be?

11 PROFESSOR WEIZENBAUM: Just reality.

12 MR. SIEMILLER: Some of the laid-off engineers
13 in the aerospace industry you're getting now.

14 MR. DAVEY: We did quite a study in California
15 with regard to whether we would be much service to utility
16 companies, for example. And it turns out the people who
17 don't pay utility bills are not up in the credit bureau for
18 most cases.

19 MR. SIEMILLER: This is all utilities? Tele-
20 phone, water, lights?

21 MR. DAVEY: And gas. You know. The real basic
22 commodities. The people that don't pay those we don't find
23 them in the credit bureau.

24 MR. DOBBS: But those utilities have in fact an
25 equivalence operation that works very much the same way.

1 MR. DAVEY: Yes, no doubt about that.

2 MR. GALLATI: Jerry, when you decided at some
3 point in time to choose the social security number, did
4 you go through any kind of an examination of conscience
5 or anything at that time? Why would you, for example,
6 use that as opposed to say American Express or some of the
7 other credit card situations?

8 MR. DAVEY: Primarily because it was being used
9 so much. When we first started out in Detroit we were
10 asking people to give us social security numbers, but it
11 was just-- People just didn't know their social security
12 numbers, and, you know, nobody wants to make it a condition
13 to buy a refrigerator that you have to have your social
14 security number. It just is impractical.

15 But, as I indicated, banks had to start giving
16 social security numbers on their dividends and other
17 things. It becomes more of an identifier. Then we decided
18 rather than try to work out some kind of new number or
19 anything else, let's use the social security number.

20 MR. GALLATI: You could very well have run your
21 own series of numbers.

22 MR. DAVEY: And we have seen over the last
23 7 years a blank for social security number appearing on
24 many applications, on most applications as a matter of
25 fact. And I think that it was primarily-- A certain amount

1 of it was done by our prodding, saying, "Look, this will
2 help to identify people."

3 PROFESSOR WEIZENBAUM: Even though it says on
4 the social security card, "This number shall not be
5 used for identification"?

6 MR. DAVEY: They don't need to.

7 MR. SIEMILLER: You can't cash a check on it.

8 MR. MUCHMORE: Off the record.

9 (Remarks off the record.)

10 MR. SONTAG: Jane, as a followup to your question
11 and your point, one thing that each member of the Committee
12 could do themselves in their own community that might be
13 helpful both to yourself and to David to see how things
14 function, following up Mr. Miller's point I think and
15 Joe's how our law functions in theory and how your own
16 experiences are, is to try to see what you go through to
17 ask your local credit bureau to give you a look at your
18 report to "see whether there are any inaccuracies about it."

19 And see what experiences you have as compared to
20 our experiences. And then knowing that this Committee is
21 full of very imaginative people, go to your friendly
22 banker who is constantly soliciting you for new business
23 and ask the bank whether they would get it for you, because,
24 after all, they have your account or they want your account,
25 or what have you.

1 Then your local retail stores are constantly
2 trying to badger you.

3 Well, there are three at least. And see what
4 you come up with. So by the next Committee meeting maybe
5 you will have a better sense as to, one, the law which
6 the Congress has passed, how it really is functioning, and
7 how you who are all not Chicanos or living in the ghetto,
8 what have you -- how you can function with your college
9 education, and, secondly, how some of those lessons apply.
10 We are going to have a lesson in realism by members of
11 this Committee.

12 PROFESSOR MILLER: If anybody is going to do
13 that, you'd better know what your rights are before you go.

14 MR. SONTAG: You're going to tell us before.

15 (Laughter)

16 MR. DOBBS: It sounds like he's telling us he
17 hasn't got time.

18 PROFESSOR MILLER: I'll do that one.

19 MR. MARTIN: Jerry, let me go back to a question
20 that was put to you by I think it was Jane Hardaway about
21 whether greater accuracy results from there being a common,
22 unique number. Could you develop that? I think I
23 understand --

24 MR. DAVEY: Well, there's greater accuracy from
25 the standpoint that if you're getting, say, name information

1 and you have got address information, the individual may
2 well have moved during the last year and so you are trying
3 to compare a name with an address, old address information,
4 and you may be able to hit it or may not be able to.

5 Having a social security number insures that you
6 will find that under a similar previous address. You know,
7 there are lots of areas --

8 MR. WARE: Things are getting screwed up here.
9 There are two kinds of errors to worry about. The first
10 kind is whether you can aggregate two facts to the same
11 common individual, whether you can post information to a
12 file correctly, and for that the social security number
13 helps.

14 MR. DAVEY: That's correct.

15 MR. WARE: The other kind of error is that the
16 fact is just plain wrong, and for that the social security
17 number does nothing.

18 MR. DAVEY: That is correct.

19 MR. WARE: So let's keep them straight.

20 MR. GALLATI: I would also argue if I may that
21 the social security number is not a unique number.

22 MR. DAVEY: It is not. That's right.

23 MR. GALLATI: You have not provided a unique
24 number. And you may have many errors occurring in this
25 case because, as you well know, people can have many social

1 social security numbers and can make a mistake in putting
2 down the number, and so on.

3 If you had in lieu of this assigned a series
4 of specific numbers to the individuals upon whom you have
5 credit reports, then you would have considerably more
6 accuracy and you wouldn't have this problem of interchange
7 of your information with many other people who can access
8 their files through your social security number. This is
9 the danger.

10 MR. WARE: There are a lot of practical problems
11 involved with that, and cost.

12 MR. DAVEY: Tremendous.

13 MR. WARE: He would then have the same problem
14 that the magazines have in maintaining subscription lists.
15 People move and you have got to go find out where they
16 moved. You have to solicit address changes. He has a big
17 file update problem.

18 MR. DAVEY: As a practical matter, what happens
19 now if there's divergence in the records, you know -- I'm
20 not looking at the intrinsic correctness of any records or of
21 any individual item within a particular record -- but the
22 problem of merging records together -- if there's any
23 question, if there's any discrepancy, then we create two
24 separate records and hope that at some point we will be
25 able to pull them together.

1 MR. SIEMILLER: The fact really remains though
2 that for most people the only continuing number that you
3 will have all of your life is your social security number.
4 You may temporarily have a credit card. You may temporarily
5 have a number in a prison or some other place. But it can go
6 by the board just that fast. This is the only continuing
7 number that an American has today.

8 MR. DAVEY: That's right, and the point I'm
9 making here, as imperfect as this number is, the fact that
10 there can be many numbers associated with one individual,
11 doesn't take away from the effectiveness of what it is that
12 we are talking about.

13 We started out when we first started keeping track
14 that about 15 to 20 percent of our records had social
15 security numbers in them, and it was a good secondary
16 identifier. At the present time -- I just checked a couple
17 of weeks ago with our New York office -- the indication is
18 now we're up to around 65 to 70 percent.

19 Now, you know, all of the rest of the records
20 which don't have social security numbers, that doesn't mean
21 that we can't get information on them, that we can't access the
22 files, can't do the kind of things that we have been doing
23 all the time.

24 And it's just a convenience -- and recognizing
25 the imperfections of the social security numbers and the

1 like.

2 You know, I think that some of the questions
3 that we ought to address are: All right, what kind of
4 information goes into these files? How long does it stay
5 there?

6 In other words, you start looking at credit
7 bureau files, at other types of files. How long should it
8 be there? What kind of information should there be?
9 Should it be of a quantitative nature? Should you allow
10 qualitative information? Things of this nature which I
11 think are important.

12 I mentioned some of the problems over here as
13 to just how much are you going to make it available outside
14 of the Act. Well, here you have got two-way arrows which
15 go this way but right at the present time there shouldn't
16 be any return information.

17 MR. GALLATI: Jerry, are you able to comment on
18 what might have been either your increase in cost or your
19 loss in effectivity in terms of service to your subscribers
20 if in fact there had been sanctions against using the social
21 security number in this fashion?

22 MR. DAVEY: I don't think it would have made
23 much difference.

24 MR. GALLATI: It would not have cost --

25 MR. DAVEY: It would now.

1 MR. GALLATI: Simply because it has sort of
2 happened by default?

3 MR. DAVEY: That's correct. And I think that
4 this is what we are facing. That is, that the inertia is
5 such that to turn things around would be very, very
6 expensive. But, you know, when we first started out I don't
7 think we --

8 MR. GALLATI: Had you used your own unique
9 identifying series in the beginning it would cost no more
10 now?

11 MR. DAVEY: I question whether we could have used
12 our own unique identifier. There's no way, because we
13 can't get John Smith when he is applying for credit to give
14 that type of number.

15 MR. GALLATI: Of course you can. When the
16 original person, John Smith, applied for credit, he made an
17 application for credit --

18 MR. DAVEY: Yes.

19 MR. GALLATI: -- and this application came in to
20 you and you assigned him a number. Right?

21 MR. DAVEY: Yes.

22 MR. GALLATI: From then on any time that John
23 Smith comes in for credit he's given that same number. How
24 do you identify that's the same John Smith? Because he has
25 already supplied you with sufficient information.

1 MR. DAVEY: He hasn't supplied us. See, we're
2 getting it as a secondary source from a bank or from a
3 department store, and you just can't tell me that John
4 Smith is going to have that number every place that he goes
5 on this thing.

6 MR. GALLATI: No, he won't have the number,
7 but you should be able to apply it to him.

8 MR. DAVEY: We're in the same problem right now
9 with name and address. As long as he gives us the same name
10 and same address there's no problem in identifying him.

11 MR. GALLATI: You have a lot of data in your
12 files that can identify him.

13 MR. DAVEY: Not that much.

14 MR. WARE: The file search isn't that subtle.

15 MR. DAVEY: It's a very effective file searching
16 technique which we have worked out on this kind of thing.
17 We are using essentially the name and address information
18 which is there. But it also doesn't-- We looked at this
19 very closely, at having some kind of separate identifier,
20 and there was just no way we could see that would work.

21 One thing I would like to mention about this is that
22 when we were first operating in New York we had about-- Oh,
23 we started out with one person, then had two people who were
24 answering inquiries about consumer -- about their credit
25 records, you know, if they had been turned down for credit,

1 and we were automatically doing this trying to check out and
2 make the records as accurate as possible and answer ques-
3 tions.

4 After this Fair Credit Reporting Act had gone
5 into effect, it's now up to about-- We have got about 35
6 people, and the cost of the report has gone up about 15
7 percent as a result of providing this service. And it
8 turns out that the kinds of questions that are being asked
9 are not so much of accuracy but really more of a general
10 credit nature: "Why did they turn me down?"

11 And we're finding ourselves trying to explain
12 what it is in their record which would cause problems or
13 anything. It's very, very seldom does the question of
14 accuracy come up. It's really more of the whole credit
15 process and understanding that. These are the major portions
16 of the questions.

17 MR. SIEMILLER: You're back to if or not he's a
18 good credit risk.

19 MR. DAVEY: We are not in that position. We
20 don't have all of the information on which the credit --

21 MR. SIEMILLER: The questions are more of a
22 general nature?

23 MR. DAVEY: That's correct.

24 MR. SIEMILLER: Yes.

25 MR. DAVEY: "Does it really make any difference

1 that I declared bankruptcy 3 years ago?"

2 MR. SIEMILLER: The statute of limitations won't
3 let him do it again.

4 MR. WARE: You probably misled-- You said the
5 questions are, "Why was I turned down?" And you implied you
6 answered them, and I'm sure you don't.

7 MR. DAVEY: No, we spend a lot of time reviewing the
8 whole credit process. We don't know why he's turned down.

9 MR. WARE: All you can do is show them the file?

10 MR. DAVEY: All we can do is show him the file
11 and have him state whether it's correct or not.

12 MR. MUCHMORE: The bank or department store
13 has to interpret what material they have given in terms
14 of their particular relationship with the applicant.

15 MR. WARE: Given the record, a man can then go
16 to the department store and have it out if he wishes.

17 MR. DAVEY: That's right.

18 MR. MUCHMORE: We get in our office a number of
19 people who have gone to the credit bureau, asked for the
20 information, and said that we would not accept them in the
21 bank. They call the credit bureau and say, "Why didn't
22 you certify me to X bank?" And then they come to us and say,
23 "Why did you accept what they gave you?"

24 And we say, "Because of the fact it's history of
25 payments -- boom, boom, boom." We spell this out for them.

1 And it answers the question somewhat. We usually find
2 that they leave as disgruntled as they came in.

3 MR. SIEMILLER: They still wanted the credit.

4 MR. MUCHMORE: That's right.

5 MR. DAVEY: Everybody would like to give them
6 credit, of course, if they can.

7 MR. SIEMILLER: You said that no bank would open
8 an account for an individual without-- I'm on the board of
9 directors of . . . Midland Trust and Savings Bank in Chicago
10 and this intrigues me because I wasn't firmly convinced
11 we would not take an account from an individual or a joint
12 account without the social security number, so I'm going
13 to check it out the next meeting for sure.

14 MR. MUCHMORE: I said many and most.

15 MR. SIEMILLER: I thought you said "any." I'm
16 sorry. If you didn't, excuse me.

17 MR. WARE: In any event, it's not a legal
18 requirement apparently.

19 MR. MUCHMORE: Let's put it this way. We must
20 file-- We still can file the person's name, address and
21 all other information we have if we do not have any.

22 MR. SIEMILLER: That's true.

23 MR. MUCHMORE: It specifically says that if
24 they don't have a number we can open an account. It's
25 obvious.

1 MR. SIEMILLER: There's people that never had a
2 social security number, never worked where they had full
3 wages.

4 MR. MUCHMORE: Many people don't have it. One
5 of the real reasons why there is a considerable discussion
6 within our industry about this thing is the recent regulation
7 issued by the Federal Home Loan Bank Board which said that
8 any transfer of funds, withdrawal or deposit thereof, of
9 \$10,000 or more should be recorded by social security
10 number or by Internal Revenue identification number for the
11 purposes of watching the transfer of cash to outside of
12 the United States.

13 We don't believe it's our function as a savings
14 and loan to control the flow of money between this country
15 and foreign countries.

16 MR. DAVEY: Unless there are any more general
17 types of questions on this thing-- But I was just trying
18 to give some kind of a structure as to how I see the world
19 from my particular vantage point.

20 MR. MARTIN: Could you say a few words before
21 you sit down about what the nature -- I don't know how you
22 try to put a size on it -- but what the nature of the
23 cost is and anything you can say about the amount of the
24 cost that would be involved in shifting from the social
25 security number, if that, you know, were to be before the

1 house, in credit operations?

2 MR. DAVEY: Well, I think that introducing
3 another number would be very, very expensive. I don't see
4 how you could do that for less than about 10 cents an entry.

5 MR. MARTIN: I guess the first question is: Why
6 a number? There are other ways of identifying people, are
7 there not, that don't --

8 MR. DAVEY: You already have-- There is a
9 perfectly good identifier which is being used very much
10 right at the present time, and that's name. That's a very
11 good identifier. Address information is a good identifier.
12 If I have got my name, my current address, and my previous
13 address, that will pretty well tie things together.

14 That's the universal identifier at the present
15 time, and that's what everybody is using at least as far
16 as the credit industry is concerned in this thing. A number
17 is just the secondary identifier and a helpful secondary
18 identifier, but the whole structure would not collapse
19 if that number did not exist or it were turned back on this
20 kind of a thing.

21 I don't think that the banks-- I think that the
22 banks have their own account number. They have their own
23 account numbers. Department stores have their own account
24 numbers. The social security number except for these
25 requirements for reporting to Internal Revenue Service and

1 other agencies using social security number-- It wouldn't
2 hurt that much.

3 MR. SIEMILLER: If you use the computer you have
4 to have a number, don't you?

5 MR. DAVEY: You don't have to have a number. It
6 just makes it easier.

7 MR. SIEMILLER: You have to have the key symbol.

8 MR. DAVEY: It helps.

9 MR. WARE: Identifier.

10 MR. SIEMILLER: Well, it's a symbol identifier
11 to get it put on the punch card, to get into the thing, and
12 then to get it out.

13 MR. MARTIN: I take it the technology is capable
14 of handling other than numbers. I mean --

15 MR. DAVEY: Oh, it's handling it now.

16 MR. WARE: It's not the question whether it's
17 letters or numbers. That isn't the question.

18 MR. DAVEY: They're handling it now, and combina-
19 tions of numbers.

20 MR. SIEMILLER: They're a symbol.

21 MR. DAVEY: For example, my name, Gerald L. Davey,
22 it's possible to find me by using G. Davey, G. L. Davey,
23 Jerry Davey with a "J," with whatever other thing. We
24 have enough of those techniques built into the logic so
25 that we can find me.

1 MR. WARE: Not on the basis of that much. You'd
2 better have an address or something.

3 MR. DAVEY: Yes, an address helps.

4 There are some things that are nearly unique so
5 that you can find them.

6 MR. DOBBS: You don't use DOB?

7 MR. DAVEY: No, we don't use that.

8 PROFESSOR WEIZENBAUM: I was just going to ask
9 why did this Commission or why did the Department of Health,
10 Education, and Welfare ask for my date of birth, place of
11 birth, and social security number before actually inviting
12 me to join?

13 MR. BAGLEY: Wanted to check up on you.

14 (Laughter)

15 PROFESSOR WIEZENBAUM: That's undoubtedly the
16 answer.

17 MISS KLEEMAN: You're going to be on the Federal
18 payroll, and for payroll purposes --

19 PROFESSOR WEIZENBAUM: There are two questions.
20 One, why was this done before I was actually appointed?
21 And the second question is why in order to be on the
22 Federal payroll do you need to know my birth date and place
23 of birth?

24 MISS KLEEMAN: That's an interesting question.

25 (Laughter)

1 MR. MARTIN: I can only --

2 MR. DAVEY: Have I answered enough of --

3 MR. MARTIN: I can give you an answer which
4 isn't an answer in a sense, Joe. The form on which nomina-
5 tions -- (laughter) -- on which nominations are transmitted
6 has boxes for this information, and the system that
7 processes the boxes won't process them if the boxes are
8 empty. (Laughter)

9 Presumably we can fill them in with hokum, you
10 know. We can make up words, you know.

11 PROFESSOR WEIZENBAUM: That's what I did, but --
12 (Laughter)

13 MR. MUCHMORE: When were you born? (Laughter)

14 MR. SIEMILLER: Go ahead. Where and why.
15 (Laughter)

16 PROFESSOR WEIZENBAUM: But, you know, I think
17 it's enormously significant, and perhaps it might be the
18 most important, the most significant thing that has
19 happened, that is going to happen, at this meeting is the
20 laughing response to this particular situation.

21 Yet I think that the bind we are in as a
22 society is more vividly illustrated by the last 2 or 3
23 minutes here than anything else I can think of. The fact
24 that an answer is offered seriously that there is a form
25 which demands that such and such be put in and that's why

1 it is put in and that the system won't process it unless
2 the form is properly filled out, and so on and so forth,
3 although the information may be hokum and so on and so
4 forth, that's an extremely serious matter which it seems to
5 me testifies to the extent to which technology of all
6 kinds, including administrative technology not just machine
7 technology, has in fact taken over and to our willingness
8 to accept this with only a very slight protest.

9 I take the laughter to be fundamentally an
10 attempt at tension reduction. We feel the tension that
11 this induces in us but we dismiss it by laughing about it.
12 In fact, it's a deadly serious matter.

13 MISS HARDAWAY: I agree.

14 MR. MUCHMORE: I think that this brings up the
15 question which I should really go ahead and pick up on the
16 bank thing. I hate to hit on this subject so often, but
17 I think it's what we're seeing throughout America more
18 and more.

19 In the kind of responsibility I have with
20 savings and loan I see it more often than the average person
21 does.

22 That is, at our downtown office -- and I
23 happened to be there passing by because I am usually not in
24 one of the branch offices -- but I was standing behind a
25 new accounts girl and a woman wanted to open an account

1 for \$10,000. They asked her for her social security number,
2 and she refused to give the social security number. And
3 she presented her arguments why she did not want to give it.

4 She said that she would not mind paying taxes
5 and she would declare whatever income she received from
6 that in the way of interest but she didn't think it was any
7 of our damn business. And, furthermore, we might use that
8 for other purposes because it was an identification number.

9 Sitting next to her was another new accounts
10 girl who was opening up a sizable account, a half million
11 dollar account, for a credit union of a local union. And
12 this individual was depositing \$500,000 and filling out the
13 form. The woman listened to part of the conversation because
14 there was an exchange of questions back and forth between
15 the two new accounts girls. And at no time did she hear a
16 question asked, "What is the social security number of the
17 credit union?"

18 Because the credit union does not have one. Yet
19 it is possible for us to open an account for \$500,000 in
20 relative value compared to the \$10,000 account and have to
21 identify one of them by social security number but not
22 identify the other one by social security number.

23 And the woman immediately presented her argument
24 in such a way that I sat down and I said, "You know, I'm
25 amazed to find somebody as interested as you are in this

1 subject."

2 She said, "I have written over a hundred letters
3 to Congressmen this week alone."

4 And I said, "Is this a personal crusade?"

5 She said, "No, this is a group of half a dozen
6 of us that are doing this. And I did not believe I would
7 walk into this situation today or I would have brought some of
8 my materials with me" -- which happened to be some of your
9 writings, by the way, (to Professor Miller) which is kind
10 of interesting, on the invasion of privacy. And she felt
11 this was one more step in invasion of privacy.

12 But the question in her mind was something
13 which I think is of paramount interest to us, and that is
14 the delineation between the individual and his rights, and
15 the diminishing of those rights it seems to me or the
16 invasion of those rights, and groups or corporations or
17 unions or whatever they would be and their protection
18 against invasion of privacy.

19 MR. BAGLEY: Don, right on that point -- sorry I
20 was a little late this morning --

21 MR. MARTIN: Could we ask you, Mr. Bagley, before
22 you speak, to do what everyone else did, and that is to
23 introduce yourself, your name, what --

24 MR. BAGLEY: I'm sorry I don't have my social
25 security number. (Laughter)

1 MR. MARTIN: Oh, we'll let that go. (Laughter)

2 MR. BAGLEY: I do have an American Express card.
3 (Laughter)

4 MR. MARTIN: We'd like your name and a little
5 something about what you do.

6 MR. BAGLEY: Okay. Bill Bagley. I'm a lawyer
7 by profession and legislator by avocation. I find my
8 avocation is becoming more and more consumptive, and I don't
9 mean in a chest sense. (Laughter)

10 My interest in this field-- I'd like to say
11 that California, Don, is at least 2 years ahead of HEW
12 if not the full forces of the United States Government.

13 MR. MUCHMORE: Largely because California has
14 had a great deal to do with it for a while. (Laughter)

15 MR. BAGLEY: I think that's why you and I may be
16 here.

17 PROFESSOR WEIZENBAUM: I don't know. In which
18 direction? (Laughter)

19 MR. BAGLEY: The interest in this field was
20 inspired in myself a couple of years ago. We had a special
21 committee-- In fact, I dug out my files and I haven't
22 looked at them in 2 years so I'm not an expert. I'll become
23 one again after I read my own files.

24 But we had a special committee of the State
25 Legislature on information policy. We did a 5- or 6-month

1 study. Willis Ware testified before us. An advisory
2 committee which was truly impressive.

3 We came out with a report. It was in two
4 spheres. One led to the adoption of an omnibus public records
5 act in California. The second sphere was a study of just the
6 problems we are talking about here which led to the intro-
7 duction of legislation in California.

8 Parenthetically, the Department of Motor Vehicles
9 told us it would cost them -- that agency alone -- \$5 million
10 to implement the protective devices that we had in mind,
11 and that in and of itself for that period of time stopped
12 the legislation. We weren't going to go out and find
13 \$5 million plus another ten times that to fund the protective
14 devices we were talking about. Therefore, our little com-
15 mittee disbanded, and other interests took over our activi-
16 ties.

17 But right on this -- if that's enough background --
18 right on this point, one of the basic questions, responding
19 really to what Don was saying, is whether or not we go
20 in one or two -- and there may be a myriad of other -- one
21 or two directions.

22 One direction is because we are fearful of a system
23 that we are all talking about here we jam the system, we
24 stop technological progress, so that you simply can't put
25 A, B, C or 1, 2, 3 together and thereby have data available.

1 Or, No. 2, do we recognize that the technology
2 is here and not try to stop the technology but try to
3 improve it so that there are protective devices such as
4 the types -- not necessarily the types; we haven't got to
5 that -- but types which will meet such things as we have been
6 talking about here today? How do you prevent access that
7 is unauthorized? How do you give access to the individuals
8 involved so that they can correct their own record? How
9 do you prevent intercommunication between systems when
10 that should be prevented?

11 So all I'm trying to do is to define as the
12 thought came to me and delineate two obvious areas of
13 concern.

14 One, should we complain about the system? And
15 I think it's too late. Or, No. 2, should we try to be
16 correcting the system by law?

17 End of little comment.

18 MR. SIEMILLER: Very successful talk. Because
19 it's the first time I ever heard a Congressman or a Senator
20 stop the conversation. (Laughter)

21 MR. BAGLEY: And himself stop at the same time.
22 (Laughter)

23 MR. MARTIN: Well, picking up from Jerry Davey's
24 description he put on the board, from anybody's perspective
25 how important is it that there be-- If we assume there

1 needs to be a unique identifier for the purposes of certain
2 systems for their internal ability to sort information
3 uniquely to individuals, how important is it that many, many
4 systems be able to use the same identifier?

5 Why isn't it enough -- to put it another way --
6 for there to be identifiers for credit purposes and for
7 Social Security Administration purposes and for taxpayer
8 purposes without having them all be the same number?

9 MR. DAVEY: I think it would be very difficult to
10 do it without having them be the same number, because I
11 think you run into the practical problem of getting the
12 individuals to carry around all these various numbers with
13 them. You pull out your wallet now and look at all the
14 credit cards and all the different numbers you have on this
15 thing. I have no idea what my American Express number is
16 and so on.

17 But that's certainly a dominant theme of every
18 credit application or anything else that I have filled
19 out in the last several years. It has included as part of
20 it social security number, and that becomes associated with
21 me.

22 MR. WARE: There is a whole collection of other
23 parameters that are unique to you -- name, date of birth,
24 place of birth, mother's name, etc.

25 MR. DAVEY: That's correct.

1 MR. GALLATI: Description.

2 MR. DAVEY: That's correct. And I assume you
3 already have the name and address there.

4 MR. BAGLEY: Voice even now.

5 MR. MARTIN: One asserted advantage of having
6 a common number is that it simplifies the process for
7 the person who has an interest in having information
8 discretely sorted in different systems from having to keep
9 track of more than one number.

10 MR. WARE: Of course it does. It makes it con-
11 venient, and it makes it cheap, but the point is it's being
12 done for the purposes of the fellow who is a consumer of
13 the information and not for the purposes of the man who is
14 the supplier of the original data -- namely, us.

15 MR. MARTIN: Well, no, I think Jerry Davey was
16 suggesting that from his standpoint there is a plus.
17 Namely, he only has to remember one number. It may not
18 be a very important one.

19 MR. WARE: That isn't my point. He doesn't
20 have to remember the number. He remembers his name, where
21 he was born, and his mother's name, and that's probably just
22 as unique.

23 MR. DAVEY: There are any number of unique
24 identifiers. There's no question about it.

25 MISS COX: What does "unique" mean?

1 MR. DAVEY: And I guess I'm disturbed about a goal
2 of trying to make all this data interchangeable or making
3 it accessible from one file to another. I get very nervous
4 about that.

5 But certainly from the standpoint of convenience
6 I think that a number is not a bad thing. I don't mind
7 doing it if it helps to get credit faster, if it helps
8 you to pay me quicker.

9 MR. WARE: How are you then-- What are your
10 assurances against massive interchange?

11 MR. IMPARA: None. But what are the assurances
12 against massive insertion of any other unique characteristic
13 like name, date of birth, and mother's name? Regardless
14 of which set of parameters you have there is still the
15 possibility of interchange.

16 MR. DAVEY: We're largely operating in a vacuum
17 outside of the Federal Government where I think it is
18 defined, where a social security number can be defined. But
19 there are certainly no restrictions. There may be some among
20 various law enforcement agencies and other things about
21 giving access to data.

22 But I don't think there would be any problem with
23 us going to some other type of information agency and asking
24 for information from them or setting up some type of thing.
25 I don't think that would be necessarily restricted.

1 MR. ARONOFF: Joe, you may want to go off the
2 record here --

3 (Discussion off the record.)

4 MR. MARTIN: On the record.

5 MR. ARONOFF: Do you have any source of background
6 other than you get from the credit bureau?

7 MR. MUCHMORE: We don't really have what you
8 might call an exchange bank for information other than
9 data comparable to what they would have. We maintain it
10 for ourself. And I must admit the savings and loan
11 industry is a fairly new industry when you get right down to
12 it.

13 MR. ARONOFF: The banks do?

14 MR. MUCHMORE: The banks do have an exchange
15 situation, but theirs also is a heck of a lot informal.
16 They do have some material but not an extensive amount of
17 material. I think it depends on, for instance, whether
18 you're talking about major borrowers out of the New York
19 area or something like that compared to the situation which
20 you find in Los Angeles, because we're a little provincial
21 in this particular case.

22 MR. BAGLEY: Particularly in Southern California.

23 MR. MUCHMORE: That's right. In Southern
24 California. I just said San Francisco stopped and started
25 following us and they're just three or four steps behind us.

1 (Laughter)

2 But in this particular case I would think that
3 we're too provincial in order to start that at this stage
4 of the game. We don't have an exchange, we don't have a
5 clearinghouse exchange system as an example, for any kinds
6 of drafts against savings and loans from savings and loans.
7 So we wouldn't be in a data situation.

8 PROFESSOR MILLER: Since we have gone into
9 this direction, and to pick up a question Joe really asked
10 when Jerry started his presentation, I think it would be
11 well if we all realized when we are talking about the credit
12 granting information systems, specifically Jerry's which is by
13 far the most advanced technologically and probably the
14 cleanest in the United States, you are only looking at
15 one very small slice of informational life in this country
16 -- informational life which bears heavily on how human
17 beings react to institutions, both governmental and
18 private, the point Joe was making before.

19 I think you should all know -- I'm sure most of
20 you do know -- that the insurance industry and the retail
21 credit reporting industry, which combined probably
22 represent a much, much greater informational pool, does
23 not deal exclusively with hard financial data. It does
24 deal with investigative, law enforcement, and evaluative
25 material.

1 And this is the type of testimony Joe referred
2 to earlier, and the six congressional committees that
3 held hearings on or related to the legislation that ulti-
4 mately emerged as the Fair Credit Reporting Act presented
5 a rather astounding portrayal of information gathering
6 techniques used in the private sector and the linkages between
7 information units in the private sector and the governmental
8 sector.

9 And if you do apply for insurance as opposed
10 to a \$5,000 loan or mortgage, you can anticipate a field
11 investigation into your neighborhood with questioning of
12 your neighbors, your relatives, your employer that may
13 indeed go, depending on the nature of the insurance, into
14 such matters as home life, drinking habits, sexual behavior,
15 stability, etc., etc.

16 And, ironically, one of the saddest things about
17 the material spread on the record before the Congress
18 was not only that this type of surreptitious and evaluative
19 and I would characterize it as somewhat "gossipy" and
20 "hearsay-ish" type of investigation goes on, but that the
21 pressures, the economic pressures, on the data gathering
22 units are such that in many, many instances the reports
23 are actually fabricated because the investigator does not
24 have the time to meet his investigatory quota for the week
25 or for the month.

1 And it's always important to keep in mind that
2 this kind of data, whether it be in the insurance industry's
3 emerging data bank or Retail Credit of Atlanta or the
4 Associated Credit Bureaus of America, is not single-file
5 data but moves between and among law enforcement agencies,
6 detective bureaus and other private instruments in the
7 society.

8 I just wanted to state that because I think we
9 were getting a rather pretty view of one aspect of the
10 consumer reporting field -- namely, commercial credit
11 bureaus dealing with credit granters. And that, as I say
12 again, is a small aspect of what is going on in the private
13 sector and an even smaller aspect of what is going on in
14 the combined public and private sector.

15 And that leads to the type of alienation and
16 paranoia and mistrust both of government and private
17 institutions that I think we dealing with probably the
18 single most significant Federal data gathering agency must
19 consider, because the ability of this agency effectively
20 to serve the population can be seriously damaged by
21 mistrust of this agency, and mistrust of this agency can
22 be engendered if its informational patterns are not above-
23 board, fully disclosed, and hedged in by all sorts of
24 "due process-ish" type protections for individuals.

25 And I for one hope that we will not spend our

1 entire time talking about the universal identifier, because
2 I think there are much, much more significant issues
3 about the informational habits of Health, Education, and
4 Welfare that we must consider.

5 MR. MARTIN: I think it's almost time for us
6 to break for lunch. Before we do, I'd like to pick up
7 on what Arthur was saying and in effect invite you to
8 respond to a further kind of difficulty or dilemma or
9 aspect of this that we are going to have to wrestle with.

10 Arthur, if our practices in HEW or if the
11 society's practices insofar as HEW can affect them with
12 respect to the handling of information in health, education,
13 and so forth, social welfare, social services area, were
14 all impeccable and provided for -- and I'm not suggesting
15 that they aren't either; let's assume they were and
16 continued forever to be all that one would like them to be
17 from the standpoint of privacy, confidentiality, whatever
18 values were in question -- we would still I think as a
19 department have a concern and something to worry about on
20 the issue of a numerical identifier.

21 Because the identifier we are talking about, the
22 identifier that is so widely being used we are told, is the
23 social security number. And the practices of those data
24 systems operators who are in no way connected with the
25 Department of Health, Education, and Welfare -- that is, they

1 are not in health, they are not in education, they are not
2 in welfare; we don't make grants to them: we don't make
3 contracts with them; they just have nothing to do with our
4 world -- are still of I think some concern to us at least
5 in a practical sense if they are using the social security
6 number, because they are perceived and their behavior is
7 perceived by the public as in some way or other connected
8 with or having something to do with us because it is the
9 social security number, our number.

10 PROFESSOR MILLER: That's right. That's right.
11 No, I agree with that.

12 MR. MARTIN: I think we have a very difficult
13 problem as a department which obviously we ask you to be
14 concerned about and help us with, but I think that insofar
15 as the Department and its number and the Social Security
16 Administration and all that that means and the programs in
17 health, education, and welfare, as far as they are
18 matters of concern to all of us as citizens, I think that
19 we have a problem as a country of how we are going to solve
20 this dilemma of the identifier.

21 Because people may ask, "What business is it of
22 the Department of Health, Education, and Welfare and of
23 this Committee working with the Department of Health,
24 Education, and Welfare to talk about practices in the credit
25 reporting field?" We don't have any statutes as far as I

1 know of HEW that give us any authority to be concerned with
2 credit reporting. We are not in the banking field.

3 There are lots of areas where the social security
4 number is being used that we have no operational relation-
5 ship to as a department, but we have a kind of psychological
6 relationship to it in the minds of the public if they are
7 using the social security number.

8 And I don't have any, you know-- I just have
9 this sense of discomfort and a problem here. I don't have
10 any avenue of solution, and it's something on which I
11 think we are going to have to spend a little time.

12 MR. BAGLEY: Can you say it this way? That
13 this ethereal right of and desire for privacy is in part
14 protected because of the inefficiency of separate computer
15 data systems, and our fear is that it, the system, becomes
16 much more efficient when they are interconnected. So we
17 have just a mechanical protection as of now for "privacy"
18 because, you know, the millennium hasn't achieved itself
19 yet where everything is interconnected. And that's why
20 our concern for HEW systems obviously has a ripple effect in
21 its concern nationwide.

22 MR. MARTIN: I'm told back in the late 1930's
23 or perhaps it was even before my tenth anniversary which
24 was the same date as the date of enactment of the Social
25 Security Act -- August 14, 1935 was the date of enactment of

1 that law -- that there was quite a battle waged among
2 people concerned with the creation of the social security
3 system on what should be the office and the function of the
4 number.

5 And there were some who argued that the number
6 should be confined to the Social Security Administration's
7 use, that barriers should have been built then and there to
8 make sure this number couldn't spread.

9 Well, obviously that point of view didn't
10 prevail, and it has to a greater or lesser degree spread.

11 If the fears are real of the adverse potential
12 that comes from linkage which is in turn facilitated
13 by a very widely used, very commonly used unique
14 identifier-- If those fears are real, we ask ourselves I
15 think, most of us who have been wrestling with this in the
16 Department, is there any way that we can protect against
17 those risks without very markedly changing the terms on
18 which the social security number is available for use?

19 And if that's true -- I'm not saying it is, but
20 if that's true -- by what process can the Department of
21 Health, Education, and Welfare move in a politically viable
22 way to make whatever changes or to initiate a process whereby
23 whatever necessary changes need to be made can be made?

24 Will the credit bureaus and the banks and the
25 others who are using the number be a political force, an

1 interest group force let's say, that will operate to
2 stymie any effort to change the terms on which the number is
3 available?

4 MR. BAGLEY: Before the public rises up in
5 wrath and you lose -- Art Miller made this point -- you
6 lose public confidence.

7 MR. DOBBS: I think on the fear issue, I think
8 the fear is real, that it is there. Recently, AFIPS in
9 conjunction with Time-Life did a survey in terms of
10 what the public fear really is, and I think that the results
11 there indicate that. And that's something I think should
12 be made available to the Committee.

13 MR. MARTIN: We have copies of that report.
14 We will distribute them.

15 MR. DOBBS: It's there, and it's quite real.

16 I think, however, even before you get to the issue
17 of the sheer data and the implications of the kind of data
18 Art was talking about, I think you get back to Joe's
19 fundamental question relative to the HEW form and you get
20 back to the notion that Jerry raised in terms of their
21 use of the social security number.

22 And the problem is that he points out very
23 clearly and very honestly that there was a technological
24 reason and a technological requirement which facilitated
25 their doing business. And that was why the number was

1 there. Okay?

2 And it may be -- it may be -- that for a variety
3 of situations that it would be sufficient to in fact inform
4 the public -- if someone knows -- of why the requirement
5 for certain kinds of information is there.

6 That is to say, we have in fact propagated with
7 automated systems requirements for a good deal of informa-
8 tion which have to do with the technology, which have to
9 do with the administration, and it may be sufficient in many
10 instances to be quite precise about that need and that
11 use.

12 So that, you know, may be something I think that
13 we might want to consider.

14 PROFESSOR MILLER: You see, the last few remarks
15 I made were really in response to your inquiry when we came
16 back from coffee -- namely, globally what should we be
17 doing between now and our death date? I think Guy has
18 reinforced that.

19 So much of the information extraction process
20 is done haphazardly. It is almost an ethic of "when in
21 doubt, ask." And I think that contributes to a certain
22 public unease, this constant barrage of questionnaires
23 and inquiries and forms and requests for disclosure.

24 And I think in many, many instances, as I think
25 we possibly found out with the Census Bureau, it's bad

1 public relations that's at the root, that there's never
2 really effective disclosure to the population that you're
3 making inquiry of why it is you're asking these questions.

4 Most people are rational. They may come to the
5 conclusion that the inquiries were perfectly reasonable,
6 given a mass system we currently call the United States.

7 On the other hand, there's a lot of data gather-
8 ing that is going on that can't be rationalized. It's
9 no better than, "We've got four empty spaces on the punch
10 card."

11 And if we really came to grips with what is
12 going on perhaps in various elements of this agency or the
13 Department, we would find lots of examples, maybe in
14 Medicare, maybe in OE. maybe in SS, in which we'd scratch
15 our heads and say, "Strike it out. That's doing nothing
16 but bugging people."

17 PROFESSOR WEIZENBAUM: We had a committee that
18 ran at M.I.T. for two years in which we tried to look into
19 the personal information gathering processing -- and by this
20 I don't mean information processing by computer necessarily
21 -- distribution and so on and so forth -- going on at M.I.T.
22 but most particularly with respect to students but also with
23 respect to the rest of the staff.

24 And I'm sorry I don't have the report here.
25 Perhaps I'll get it mailed to you. That might be a good

1 idea. But we came up with a number of ideas or positions
2 I should say that are similar in spirit to the sorts of
3 things you have just alluded to.

4 For example, if you ask a student for some
5 information, we felt that the student is entitled to know
6 for what purpose the information is to be used, who is
7 going to have access to it, and how long it's going to sur-
8 vive.

9 For example, there's some information which
10 should be destroyed upon graduation. There is some informa-
11 tion which should survive perhaps 20 years, until 20 years
12 after he has left the institute, and so on.

13 We also worried a little bit -- not only a little
14 bit -- about leakage and safeguards and what you tell the
15 Department of Defense or a prospective employer when they
16 ask about him, and so on and so forth.

17 But, in any case, we for 2 years struggled with
18 the problem. M.I.T. certainly needs certain information.
19 If these needs are reasonable, not to say rational, if
20 they are reasonable, then those reasons and that reasonable-
21 ness should be capable of being communicated to the person
22 who is giving the information.

23 The difficulty is, the reason this is not an
24 easy problem, as you well know, Arthur, that you are
25 constantly swinging back and forth between the institution's

1 right to know, the individual's right to know -- for example,
2 his own record. How do you adjudicate that, for example,
3 with respect to what the psychiatrist might write down about
4 him or indeed a confidential note that the professor makes
5 about the student just after having talked to him? The
6 right to know on the part of the individual or the institu-
7 tion versus the right to withhold, the right to hide if you
8 like, the right to privacy on the part of the individual or
9 indeed the institution.

10 This came up in some force.

11 You may remember that 2 years ago the campus
12 wasn't as tranquil as it was yesterday. I don't know about
13 today. I haven't seen the papers. But there's serious
14 demand on the part of the students for the right to know
15 what the institution is doing, for example, with its stocks
16 and bonds, how curricula are formed, and so on and so forth.

17 I will see to it that that report is distributed.

18 MR. MARTIN: If you'd like to send it to us, we
19 could --

20 PROFESSOR WEIZENBAUM: Okay.

21 MR. BAGLEY: Don, just a funny note recalling
22 your involvement in polling and in politics even in the
23 broad sense of the word.

24 It used to be officeholders and potential office-
25 holders would write, you know, the typical computerized

1 letter. The best gimmick today is to write a mass mailing
2 and address it to "Dear Friend" and in the first sentence
3 say, "This is not a computerized letter, and you will not
4 find your name in the body hereof," and go on and give the
5 message. And it gets everybody's attention.

6 MR. MUCHMORE: The label gave you away, Bill,
7 though. I saw it. (Laughter)

8 PROFESSOR MILLER: It said "Occupant." (Laughter)

9 MR. MARTIN: I think it's appropriate that we
10 break for lunch.

11 Before we do, Phil Burgess, --

12 DR. BURGESS: Yes.

13 MR. MARTIN: -- would you mind introducing yourself
14 to the group -- everyone else has done that -- with your
15 name and what you do and your interests in relation to this?

16 DR. BURGESS: I'm Phil Burgess from Ohio. My
17 area code is -- (laughter) -- 614. Zip code, 43210. And
18 social security, [REDACTED]. I'm the director of the
19 Behavioral Sciences Laboratory and have been interested
20 in survey work as well as in application of computer tech-
21 nology in State government.

22 If I could just say a word -- I came in late --

23 MR. MARTIN: Sure.

24 DR. BURGESS: -- because of a computerized
25 reservation system -- that's true --

1 MR. DOBBS: That's one of the better systems.

2 DR. BURGESS: -- that got mixed up.

3 I was sitting in the back listening, and it seems
4 to me that there are very few people who would deny, you
5 know, the value of society learning about itself through self-
6 study and the knowledge that is gained by that process,
7 and from a technical point of view it seems to me that there are
8 very few people who would deny the need for some kind of --
9 or the desirability and the efficiency let's say, leaving
10 aside other competing values, of some kind of unique
11 identifier.

12 And it seems to me that an awful lot of time
13 could be spent, you know, talking about either of those
14 issues. But I would think that the critical issue is the
15 process of accountability by which whatever system exists,
16 not just a central data system or a system with a set of
17 unique identifiers, but even the kind of, you know, hodge-
18 podge of systems we have today -- the process of account-
19 ability by which those systems are maintained and by which
20 an individual can know what is being said about him and
21 written about him and diffused to other people about him.

22 And I would hope that those issues could have --
23 you know, could capture our central attention. Because in
24 addition to the things that Professor Miller and others
25 have talked about here, I also think there is a tremendously

1 serious problem that has not reached the ATLANTIC MONTHLY
2 and HARPERS and the NEW YORK REVIEW OF BOOKS and places
3 like this, and that has to do with the way survey data
4 are being used increasingly, and now with the ombudsman
5 systems coming up we have another kind of data being
6 collected, and that's the individual complainant
7 coming to government for services and to get problems solved.

8 I have been directly involved in a couple of
9 those, and the amount of data that are collected on indi-
10 viduals in the ombudsman systems goes well beyond anything
11 that we have been talking about here this morning. And
12 because those have come up in the last several years
13 without exception to my knowledge, those are all computer-
14 ized.

15 And once again it seems to me the issue is the
16 accountability issue and the process by which, you know,
17 people know about these things.

18 MR. MARTIN: Okay. When we resume I hope each
19 of you will have taken the time -- and be prepared to share
20 with us what you have written down -- to write down, insofar
21 as you haveh't sounded off about them, specific problems
22 and issues that you feel we want to address in this and
23 anything that you care to say about how this should be
24 done where you think the Committee can't undertake it itself
25 or ought to in a subcommittee, where it needs to enlist

1 other resources, where you want to undertake something your-
2 self.

3 I want to have sort of a response to John
4 Gentile's plea or suggestion that we --

5 MR. GENTILE: Plea is right.

6 MR. MARTIN: -- that we become quite specific
7 as to how we proceed from here. We have had enough general
8 discussion now we can do that.

9 Have a good lunch.

10 (Whereupon, at 12:58 p.m., the luncheon recess
11 was taken.)

AFTERNOON SESSION

2:05 p.m.

MR. MARTIN: During lunchtime there should have been put at your place a copy of an interesting article which appeared in the HARVARD LAW SCHOOL BULLETIN entitled "The Diminishing Right of Privacy, The Personal Dossier and the Computer," by Verne Countryman.

A number of members have indicated the desire to have more material to read by way of homework, and there is a fairly substantial literature available, and we will try to give you some awareness of what is available and supply you copies of things that you might want.

Nancy?

MISS KLEEMAN: I just point out I have asked Bill Bagley to get for us copies of his committee's report from a couple of years ago, and he will get it to us, and we will get it to you.

MR. BAGLEY: As soon as I call the printer.

MISS KLEEMAN: As soon as it gets reprinted. And Arthur Miller has also given me the name of a man at the publisher's that did the paperback of his book, "The Assault on Privacy," so we can acquire copies of that fairly easily if people have not had a chance to read that.

MR. WARE: Fine.

MISS KLEEMAN: I guess maybe we should get a

1 count of how many want it at some point.

2 DR. BURGESS: Ramsey Clark did a nice review of
3 that some place. Where was that? In the SATURDAY REVIEW?

4 PROFESSOR MILLER: SATURDAY REVIEW.

5 MR. MARTIN: All right. Incidentally, the
6 Fair Credit Reporting Act to which reference was made in
7 this morning's discussion, you all know from having read it
8 carefully, appears as an appendix in the Social Security
9 Number Task Force report, those of you who have forgotten
10 that.

11 MR. WARE: Along with Executive Order 9532.

12 MR. MARTIN: Right.

13 I noted just before sitting down that John
14 Gentile had taken my invitation seriously about developing
15 a list of proposed tasks for the Committee, and if we
16 could get that discussion started, John would be willing
17 to share what he has been assiduously writing over there.

18 MR. GENTILE: Well, first I'd like to just
19 preface my list, which is certainly not a comprehensive
20 list, with a few comments. And one concern, my biggest
21 concern, is the possibility of all of the efforts and all
22 of the time of the Committee members resulting in a form of
23 a debating society rather than coming up with some concrete
24 answers to concrete issues and problems.

25 And for this reason I think it's really critical

1 hopefully by the end of tomorrow to have a plan of action
2 as to how we are going to set out to perform certain tasks,
3 what these tasks are, and who should be assigned the
4 responsibility for pulling people and things together.

5 My personal opinion is that there are numbers
6 of pressures moving us to the common identifiers. I think
7 Mr. Bagley's comment was well taken this morning concerning
8 the inefficiencies affording some privacy. And my concern
9 there is: What if we are unfortunate enough
10 to get so efficient that we have lost this protection? Which
11 makes me think: Is this the proper approach to take, this
12 negative attitude towards protection of privacy through
13 inefficiencies?

14 And I think as our systems and data collection
15 become more and more efficient we lose that kind of protec-
16 tion, and I think we have to talk in terms of the protection
17 of privacy rather than the invasion of privacy.

18 I think it was all right in the beginning of
19 this issue to attract attention by talking about the
20 invasion of privacy, the death of privacy, Arthur's assault
21 on privacy. I think this all had a very real purpose. And
22 it has attracted attention to us.

23 Now we must solve the problem. And I'd like to
24 see this Committee work towards this end.

25 I think we have a number of tasks to perform.

1 One, we have to address the psychological, the
2 emotional, the PR and the kind of "information to public"
3 task.

4 Another, we have to address the cost -- the
5 cost of having common identifiers as opposed to not having
6 it.

7 I think we should assess the extent to which the
8 social security account number is in use.

9 I think we should assess the effect of whatever
10 decision we make -- the effect that it would have on the
11 Social Security Administration's operations. I think this
12 is a very real issue. And, to extend it further to the
13 operations of State government, local governments, and
14 private industry which are using the numbers now.

15 I think we should have perhaps a task or a whole
16 sub-net of tasks that address the legal aspects, the
17 constitutional, the statutory, the court decisions, and
18 to come up with possible recommendations on how to challenge
19 the data, what kind of administrative procedures are
20 available to an individual who maybe cannot afford to incur
21 legal expense if he feels he's been wronged by data

22 We have to treat data as a resource much in the
23 same sense that we treat dollars as a resource. As we are
24 held accountable for dollars I think we have to be held ac-
25 countable for data.

1 I think we-- And I don't really know how to
2 approach this next one, but we're going to have to somehow
3 address the issue of what do we define as public data or
4 what is in the public domain and what is private.

5 I think we should address issues such as the
6 time limitations in which data should be stored.

7 And again these are not by any means a compre-
8 hensive list but these are some of the thoughts that I have
9 heard expressed this morning.

10 I think we should address what are the benefits
11 of the social security number.

12 The cost I think I touched on already.

13 I think we should carefully investigate the
14 fact-finding hearings. I personally do not see great
15 benefit from the open hearings because primarily there have
16 been so many of them and I think we could accomplish a great
17 deal by just finding out what has already been said in
18 hearings and what has already been documented.

19 I don't think we should expect that this Committee
20 could be, for example, trying to do a job that Alan Weston is
21 trying to do with a couple of million dollars and a staff
22 in a couple of years. I think we are going to have to
23 narrow our scope.

24 We have to separate what is factual -- as
25 Professor Weizenbaum pointed out -- what is factual and what

1 is judgmental. And I think we should just go after the
2 facts where they exist.

3 And, of course, we run the danger of having
4 distorted facts and slanted information. But how much
5 better would it be if we attempted to go after it? It
6 would depend on who was assigned that particular sub-task
7 and where he went and how he approached coming up with the
8 solution.

9 So I think we are going to have to recognize
10 that we are dependent upon others, on the Social Security
11 Administration, on a number of organizations and research
12 studies and congressional hearings that have already been
13 conducted, and it's almost the job of a research analyst
14 to address some of these items and report back.

15 I propose that we make a large list of these
16 tasks, perhaps each of us independently or however you
17 choose to do this, and then come back and just try to
18 organize it into little sub-task forces and perhaps take
19 assignments away and come back with them at one of our next
20 meetings.

21 This is not an organized list of tasks that I
22 have presented. I have just jotted down notes. And if I
23 have any defense for giving this list, it's just notes that
24 I followed through in this morning's conversation.

25 MR. BAGLEY: I have a list.

1 MR. MARTIN: Okay.

2 MR. BAGLEY: Happily, the categories are the
3 same, indicating some consistency to start with.

4 Maybe I'm not talking about techniques here as
5 much as I am goals.

6 Primarily, without anything else, to express
7 throughout our deliberations and in our final report, if
8 you will, the fact of governmental concern for the right
9 of privacy. That gets to the point of giving the public
10 some solace, if nothing else, that somebody cares.

11 Perhaps define -- and this is the legal aspect,
12 and I haven't done research in depth -- define the right of
13 privacy in some broad statutory form, proposing Federal
14 legislation.

15 I'm pointing my finger down there because I think
16 it was Brandeis and Warren in the 1890's in the HARVARD
17 LAW REVIEW that first came up with the tort of invasion of
18 privacy. And I don't know that anybody has really defined
19 it since other than sporadically.

20 Then, thirdly, and more specifically, develop
21 and propose specific protective legislation. This does go
22 back to what we tried to do in California. Just specifying
23 the personal right to access to your own personal files,
24 the right to correct records, and a mechanism therefor
25 without setting up a whole monstrous administrative procedure,

1 both obviously in reference to governmental records and
2 private records.

3 This whole question of unauthorized access and
4 protection therefrom.

5 The question of interconnection and whether or
6 not we can do anything about providing mechanisms or pro-
7 tections against inordinate interconnection.

8 There's an interesting interrelationship --
9 obviously there is -- between protection of the right of
10 privacy and also protection of freedom of information, the
11 public's right to know. And hopefully we can find a
12 correlative relationship rather than competing.

13 That might sound a little too ethereal, but
14 it's a problem.

15 If you're going to talk lastly about putting
16 something into action, then you need some political input,
17 and that's where that correlation becomes important. We
18 don't want to get ourselves in the position of being against
19 freedom of information. I think we need to think ahead
20 of what we're going to do after our recommendations are in
21 print. In other words, followup -- this is another item --
22 followup techniques.

23 Are we going to go out and lobby for something?
24 There's nothing wrong with that. If we are, we need media
25 involvement. We need special interest involvement so that

1 once we get a consensus we can do something about it.

2 We need, obviously, political palatability if
3 we're talking about passing laws.

4 And, lasly, talking about passing laws, yes, we
5 come up with something for Federal Congressional action or
6 Departmental action, but we shouldn't lose sight of the
7 fact that the major States are equally involved. Our
8 recommendations should at least have some applicability to
9 State legislation also.

10 MR. MARTIN: Yes?

11 MR. GALLATI: I'd like to pick up on Bill's
12 mention of State legislation. And one of the things that
13 never seems to be considered in discussions such as
14 we are engaging in here today is the role of the States.

15 In my opinion, one of the problems that we run into
16 in this whole area is this fascination we have for Federal
17 legislation and Federal control directly from the Federal
18 agency down to the individual, bypassing the State and the
19 local government.

20 The threats that we see here are largely the
21 threats of the Federal Government, the national data bank. We
22 worry about transferability of data because of the
23 universal identifier where information will be given for
24 one reason and used for another. We are worried about the
25 ability of people to exercise their liberty and freedom in

1 terms of redemption. They'll have this great Federal Govern-
2 ment following them wherever they go throughout the country
3 or indeed, if they get a passport, throughout the world.

4 Why don't we give a little thought to the
5 possibility of bringing these identifiers down to the State
6 level?

7 For example, why couldn't the social security
8 number be unique to a State? You would have a California
9 social security number which would tie you in to the money
10 that is available to you in the social security system. If
11 you move to another State you change your social security
12 number. You now get an Ohio social security number, but
13 it goes back into this property right that you have acquired
14 in the social security system.

15 This way you may have a unique identifier but
16 it will be a California identifier or Ohio identifier.
17 It won't permit transferability outside the property right
18 systems of the social security.

19 MR. BAGLEY: It's like putting social security
20 into the Mann Act. (Laughter)

21 MR. DOBBS: It boggles the mind.

22 MR. BAGLEY: I just thought I'd say that.
23 (Laughter)

24 MR. SIEMILLER: Too big an opportunity to confuse
25 records. We get records mixed up now and we spend a good

1 deal chasing it out and helping people get their retirement
2 and stuff because of confusion in the records already. And
3 if you keep adding to that, that would only make more oppor-
4 tunities for confusion.

5 I would think what we need is if there's a
6 possibility to simplify the process rather than make a
7 multiple process of it.

8 MR. GALLATI: I would submit it would be simpler
9 if it is handled by the State government which is closer
10 to the people and has facilities which will represent the
11 people better than if it's done at the Federal level.

12 If the State of New York comes in to Social
13 Security and says, "We want to get social security for
14 unionist so and so whose New York State social security
15 identification number is so and so," the State of New York
16 is getting it for him. He's not fighting the tremendous
17 bureaucracy at Federal level.

18 MR. SIEMILLER: But try that in Mississippi.

19 MR. GALLATI: Well, this goes to the old problem
20 of do we trust the States?

21 MR. SIEMILLER: There's 50 States. Try that
22 in Mississippi. The trade union movement doesn't want to
23 entrust Mississippi with any responsibility that we don't
24 have to.

25 MR. GALLATI: It's their problem.

1 MR. DeWEESE: It seems to me there has probably
2 been a lot of areas where the States probably should be
3 given a responsibility but that this responsibility was
4 given to the Federal Government by mistake and by this
5 general attitude that the Federal Government has superior
6 decision-making powers and that they also operate in good
7 faith and the States often don't on this.

8 I think in a lot of areas this has been wrong.
9 But I think if there is one area that really does need
10 Federal control it is in the area of data information
11 exchange because almost all of this data passes between
12 States, across State lines, and at least the most serious
13 threats to privacy arise when the data is transferred
14 among the States, and with the highly mobile society and
15 the main question being how closely should our informational
16 paths follow us around the country as we move from place
17 to place, I think it's almost essential that the controls
18 be placed from the Federal Government down and shouldn't
19 be in the 50 various States in this area.

20 MR. GALLATI: I submit that the control can be
21 maintained at the Federal Government level and the guardian
22 should be the Federal Government, but the States should do the
23 operation.

24 If you're going to have the Federal Government act
25 as both the operator and the guardian, you're going to

1 have the conflict immediately of interest here.

2 But let the Federal Government be the monitor, the
3 control agency. Let the States do the operations.

4 MR. DeWEESE: I can't quite visualize how that
5 would work, but I mean all I'm talking about is the fact
6 that the legislation should be passed at the Federal level.

7 MR. GALLATI: Legislation for control perhaps,
8 but perhaps when we are talking about the universal
9 identifiers if we get the damn thing the hell out of being
10 a national identifier and get it to the State level, at least
11 we will have obviated many of the threats that are inherent
12 in a universal identifier.

13 MR. SIEMILLER: You'd be in the same trouble
14 then I'm in right now having to make State income tax return
15 in D. C. and Virginia and Illinois. You get all mixed up with
16 the things. It's more opportunities for confusion.

17 The simpler you can make a process, the better
18 it is. But then on the other hand --

19 MR. WARE: Not if you wish to deliberately intro-
20 duce inefficiency.

21 MR. SIEMILLER: No, this is true, but on the
22 other hand how much data are we controlling? We're talking
23 about Federal data under a federally owned social security
24 system and the identifier for the social security system
25 which is the number of the individual. And that has nothing

1 to do with data that is secured and stored by any -- the
2 insurance industry as was pointed out, the credit bureaus
3 and something else that you'd have. That would be specific
4 legislation.

5 But how much of the Federal data is going to be
6 made available and to whom and how are you going to
7 identify it all over and should the States or other people
8 who collect data be denied the opportunity to use the social
9 security number as a basis of storing their data?

10 MR. GALLATI: Of course, my basic concept is
11 that nobody should use that social security number except
12 for social security purposes -- period. And therefore --

13 MR. SIEMILLER: I can't quarrel with that.

14 MR. GALLATI: -- it's not necessary to have a
15 Federal number. It could be a State number.

16 MR. WARE: The point is the horse is long
17 since out of the barn.

18 MR. SIEMILLER: That's right.

19 MR. GALLATI: That doesn't mean we shouldn't try
20 to do something about it.

21 MR. WARE: Whether you can undo all of that
22 seems to me an open question.

23 MR. GENTILE: It's going to take some deliberate
24 action on the part of HEW to either undo the use of the
25 social security account number or to authorize its use or to

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1 go along as the Social Security Task Force recommended
2 and make it available I think for grade 9 and above.

3 My personal interpretation of the social security
4 study, task force study, is that they recognize the
5 inevitability of the use of the social security number
6 merely by the need for the people to have such a number.
7 And by lowering the age I think we are getting closer to
8 making it the common number.

9 I think if that is the approach, it's wise to
10 be careful as to, you know, how wide you open the floodgates
11 because of the impact on the operations of the Social
12 Security Administration.

13 But I think what we should do as one of our
14 tasks here is to, you know, make an analysis of the current
15 operation. We say -- and I don't know with how much factual
16 backup -- that there is an extensive use of social security
17 number in States. I happen to think that's right, but I
18 would be hard pressed if someone asked me where or how
19 many or how many people, how many systems.

20 MR. WARE: The California State College system
21 uses it as a student identifier.

22 MR. GENTILE: So I think once we make that analysis
23 of the current operation it might be the conclusion of this
24 Committee that it is too late to reverse that issue or too
25 expensive to reverse a practice that has evolved without the

1 benefit of some conscious decision.

2 MR. MARTIN: Well, wouldn't it be important-- Go
3 ahead.

4 MISS LANPHERE: I was going to point out your
5 State welfare departments -- I gave my title a while ago,
6 Department of Institutions, Social and Rehabilitative
7 Services -- talking about welfare departments, which
8 is more familiar to you all -- use your social security
9 number.

10 For instance, we are able to query Internal
11 Revenue Service for the most recent address of absent
12 fathers to try to locate them.

13 And, for instance, with Social Security
14 Administration, when we query Baltimore, we use the social
15 security claim numbers to determine amount of benefits
16 because it determines the computation of their grant. So
17 your State welfare departments --

18 MR. WARE: Is your ability to query IRS something
19 that -- a deal that you just made with them or legal
20 action?

21 MISS LANPHERE: No, statutory.

22 MR. SIEMILLER: Fathers don't like that.

23 MISS LANPHERE: The wife and kiddies do.

24 MR. SIEMILLER: I m not always sure that's true.

25 MR. IMPARA: I think the issue of whether it's a

1 social security number or some other number is not relevant.
2 We heard from the credit bureau this morning that system that
3 was developed by the credit bureau has the social security
4 number only as a secondary number. We know that we can take
5 the name, birth date, birthplace, and mother's and father's
6 name as a very long identifier but it's virtually unique.

7 There would be very little duplication even
8 though it would take up a lot of space, more than nine digits.
9 It would still be a very good identification.

10 MR. GALLATI: I submit there's a difference
11 though. The social security number represents a property
12 right. You have a property right in that number or that
13 account at least that is kept under that number.

14 Now, I can change the data. I can change my
15 name tomorrow. I can change any data I give to anybody at
16 any time, except, of course, they can see my appearance.
17 But I can give them a phony date of birth, a phony place of
18 birth. I can give them a phony mother's name. I can give
19 them all kinds of phony numbers.

20 But the thing that is bothering most people is
21 the fact that when you talk about a social security
22 number you're talking about a property right. There's money
23 here that belongs to the person who is involved with that
24 number. So to give a false number here for other than a
25 deceptive purpose does not benefit him if he wants to retain

1 that property right.

2 If he goes and gets a job and he wants to be on
3 social security he's got to give the right number. He can
4 give a phony name. If there's no number involved he could give
5 a phony name, and he would have the right of redemption.
6 He could go from one State to another and assume a new
7 identity.

8 If we believe in the concept and principle of
9 redemption and of liberty and freedom to move throughout
10 the country and establish a whole new life, then we are
11 denying it by virtue of insistence upon this unique
12 identifier, are we not?

13 MR. SIEMILLER: I think we have to keep the
14 social security number. I don't think there's any way
15 around it. I don't personally object to giving it to any-
16 body. I don't think anybody is entitled to but one, and
17 there should be some kind of arrangements made to see that
18 they don't get but one.

19 But what disturbs me is its use after it is assigned
20 to the individual and how much information collected by the
21 Federal is going to be given to the credit bureau out in
22 Los Angeles or some other place.

23 MR. WARE: How would you control that?

24 MR. SIEMILLER: This is what I want to know. I
25 think this is our problem that you have. Who has the right

1 to know to federally stored data, No. 1? And how do you
2 protect it to see that only those who have the right to know
3 get that data?

4 MR. WARE: I was on your other point. How would
5 you control the use of the social security number for some
6 other purpose?

7 MR. SIEMILLER: If someone else uses it and you
8 want to patronize the bank that asks you for it to make a
9 deposit or something else, you can do that. That's something
10 you have the freedom to do or not to do. They have their
11 right to make their system. And if they use-- I don't
12 see anything wrong with them using a government number as
13 far as that for their purposes of identification.

14 MR. GALLATI: Roy, would you believe in universal
15 fingerprinting? Why can't you ask a man to be fingerprinted
16 in order to get an application for credit and so on? This
17 is the same thing basically. You're going to get down to
18 the point --

19 MR. SIEMILLER: I think basically you're going to
20 be fingerprinted.

21 MR. GALLATI: Then we're talking about universal
22 fingerprinting.

23 MR. SIEMILLER: Yes.

24 MR. GALLATI: We're not talking about universal
25 identifier which is the social security number. We're

1 talking about do we believe in universal fingerprinting.
2 That's what we're really saying.

3 MR. SIEMILLER: There are those that don't. My
4 personal feeling is I see nothing wrong with it. They've
5 got mine everywhere. So it's a --

6 MR. BAGLEY: On everything. (Laughter)

7 MR. SIEMILLER: On everything, yes. (Laughter)

8 MR. GENTILE: I think the universal finger-
9 printing matter to our society, the American culture, is --

10 MR. SIEMILLER: Repugnant.

11 MR. GENTILE: -- repugnant. Right. And I don't
12 think we should bring this in at this time. I think we
13 would be best serving the purpose of this Committee if
14 we could just block out in little groups or chunks some
15 tasks that we have to perform, the analysis of the current
16 operation, is the problem here to stay, are we beyond the
17 point where it is no longer feasible to even discontinue the
18 use of social security account number.

19 So that whole analysis of current operation might
20 be one group of activities. The safeguards --

21 MR. SIEMILLER: One second. Would you go before
22 that and say first is there a real reason that it should be
23 discontinued? And then if there is, have we gone too far
24 to accomplish something that there is a real reason for?

25 MR. GENTILE: Okay. Let me continue. I think

1 another group of activities could be potential safeguards,
2 and I think --

3 MR. SIEMILLER: That's right.

4 MR. GENTILE: -- our technological people here
5 could be of great assistance in that area. I know that
6 there are hardware capabilities -- limited no doubt. There
7 are software capabilities to protect privacy. And again
8 they are limited. We're never going to have complete
9 security and protection of privacy no matter what this
10 Committee does or any other committee.

11 There are physical security activities we could
12 address. There are administrative procedures and
13 policies that are here now.

14 And I guess what concerns me is that we get
15 into a debating mode, which is good, but I think that's
16 better for cocktail hour.

17 There are here today certain measures that can
18 be used to make certain safeguards, and we are not
19 addressing those.

20 So I view that as one group of activities.

21 Again the legal.

22 And the answer to the question what is public
23 information. I don't know who would be assigned that. It
24 would be a tough one.

25 And then the rights, the individual rights,

1 ability to know and challenge data. The appeals procedure.
2 This kind of activity.

3 But I think the purpose of our first day or two
4 should be to block out the kinds of activities because
5 we can get hung up on any one of the details and come
6 back to this the next week and the next month and the next
7 month and the next month.

8 MR. BAGLEY: Who was it in England -- the Luddites
9 or somebody, some group -- that destroyed machines in the
10 industrial revolution? I think we ought to dispel ourselves
11 of our desire or ability to go out and smash computers. So
12 maybe we should stop talking about the horrors of the
13 single identification, acknowledge that it is a fact, and
14 then start in talking about protective mechanisms. That's
15 your point.

16 MR. SIEMILLER: We don't have wooden shoes. We
17 can't sabotage the data.

18 PROFESSOR WEIZENBAUM: I disagree with what you
19 have just said. I'm not a Luddite and I don't want to smash
20 machines. However, I think it's dangerous for us to
21 accept what has been said many times in the last few
22 minutes -- the inevitability and irreversibility. I'm
23 disagreeing with you. I don't know why you --

24 MR. BAGLEY: That's good. I like people to do
25 that. That's why we're here.

1 PROFESSOR WEIZENBAUM: Anyway, I say we should
2 not simply accept the inevitability of this or that or the
3 irreversibility of an existing situation.

4 For example, it occurs to me that if the Govern-
5 ment, presumably representing the will of the people in some
6 sense, were to legislate that the social security number is
7 not to be used for any purpose except direct social security
8 purposes, as was initially intended, as is testified to
9 by the message on your card which says, "This number shall
10 not be used for identification," and if it were widely
11 publicized that no one is entitled to ask for this
12 number for any purpose other than the Government for social
13 security purposes, and so on, that this might very well work.

14 For example, some years ago legislation was
15 passed both on the Federal level and on the State level
16 that no one shall ask for the race of an applicant for a
17 job and that therefore it was no longer legal to have
18 racial information appear, for instance, in newspapers. And
19 sure enough it disappeared. In some sense that's all there
20 was to it.

21 MR. WARE: That's a no-cost action.

22 PROFESSOR WEIZENBAUM: That it may cost something,
23 there's no question about that. I'm just saying that it is
24 possible.

25 It is possible if the Government were to mount

1 a campaign informing the public that they are not required
2 to give their social security number to anyone except for
3 direct purposes of social security. this could very well
4 result in a refusal of the public to give the number.

5 It is not irreversible.

6 MR. GENTILE: It is not irreversible, but there is
7 a cost attached.

8 PROFESSOR WEIZENBAUM: Of course there is a
9 cost attached.

10 MR. GENTILE: And the cost is more than dollars.

11 PROFESSOR WEIZENBAUM: Of course.

12 MR. GENTILE: We're talking about dollars and
13 we're talking about service which is what government is all
14 about.

15 PROFESSOR WEIZENBAUM: That's right.

16 MR. GENTILE: And I think by making this
17 initial analysis we might be in better position to say
18 what these costs are because we might not be willing to pay
19 those costs.

20 PROFESSOR WEIZENBAUM: Right.

21 MR. GENTILE: Then again we might. I don't know.

22 PROFESSOR WEIZENBAUM: What I'm arguing is we
23 shouldn't fall into the trap which I think has been
24 suggested at times in various ways of believing that the
25 existing situation is irreversible, indeed that the existing

1 trend is irreversible, and that we must accept the fact that
2 the social security number has already become a universal
3 identifier and now the only thing to worry about is safe-
4 guards technological and otherwise.

5 It may indeed be possible -- I'm not saying it
6 is; I don't know -- it may be possible to reverse the
7 trend.

8 MR. GENTILE: Okay. But my concern there is
9 while we are making this longer-range plan, in fact, the
10 social security number comes closer and closer to becoming
11 the common identifier.

12 MR. WARE: That's because there has been no
13 opposition to that.

14 PROFESSOR WEIZENBAUM: Yes.

15 MR. GENTILE: That's true.

16 MR. WARE: It's the readymade solution for
17 everybody that needs a set of ID's.

18 MR. GENTILE: So because of this, because we are
19 at that point now, I'm saying there are some things that
20 we can do for safeguarding measures that we ought to do.
21 This would be a constructive --

22 PROFESSOR WEIZENBAUM: It's hard to oppose that
23 very moderate statement you have just made, and I don't
24 oppose it. Nevertheless, I want to call attention to
25 another attitude that may come from that unless one is

1 careful, and I'm sure you are not arguing that we ought not
2 to be careful.

3 In the very act of building safeguards and so on,
4 one may again be seduced into accepting the present situa-
5 tion, because then, for example, one begins to have a
6 vested interest in the safeguards themselves.

7 Okay. So it's clear to me that while people
8 should worry about what to do in the present situation which
9 represents, as you say, matters of fact -- there is no
10 argument with that -- that on the other hand some people
11 -- perhaps it should be a subgroup of this Committee --
12 perhaps -- but in any case some people have to refuse to
13 accept the inevitability of the present situation and the
14 present trend and think about what may be possible and
15 indeed what the costs are to doing it the other way.

16 MR. DeWEESE: Sir, pardon me. It seems to me
17 all the talk about the universal number is somehow missing
18 the real issues. For example, if the State welfare
19 departments are using any number or any way to check with
20 the IRS to find lost fathers now, if for instance-- I don't
21 have any objection to this myself, but if Congress would
22 decide, for instance, that this was invasion of privacy
23 and as a matter of policy they weren't allowed to do this,
24 then that's where you put your controls. That's where you
25 draw the line.

1 And it seems to me when you make those kind of
2 policy judgments in the legislature, then you sort of moot
3 the question of the universal number, and I think that we
4 ought to get to the-- I think those are the key policy
5 issues, and I think in a sense those questions are much
6 more difficult than the universal number.

7 And if you address those and answer those, then
8 you moot the problem of having a universal indicator.
9 Because I think we have a universal indicator today, whether
10 we call it that. And I see the only difference is I think
11 we have to advise the Secretary, you know, if he should go
12 along with this and declare the social security number can
13 go on and become officially a universal indicator.

14 But I think that's a decision that really goes to
15 the political impact, and I think the greatest danger of
16 saying at this point that you are going to use the social
17 security number as a universal indicator would be the
18 political impact, the big-brother, statism that would arise
19 in people's minds. Because if nothing is done we have a
20 universal indicator today, and I think we have to not neces-
21 sarily accept that fact but look beyond it to the real
22 issues.

23 I'm not sure if I have made myself clear.

24 PROFESSOR WEIZENBAUM: No, you haven't to me.

25 MR. DeWEESE: Let me go back to the original

1 example. Let's assume that the State welfare department
2 has been using social security number to get into the IRS
3 files to find lost welfare fathers. Let's assume that the
4 Congress decided in its wisdom that this was an illegal use
5 of information in the sense it was not wise from a policy
6 standpoint to allow that interchange of information.

7 If Congress passes a law which says that State
8 agencies cannot get into the IRS system for these reasons,
9 then it seems to me once that law is on the book at least
10 as to that specific problem you have mooted the question of
11 whether or not there is a universal indicator, because it
12 doesn't make any difference any more.

13 In other words, you don't concentrate on whether
14 or not a person can be identified. You concentrate on how
15 this information is being used.

16 Maybe I'm not making myself clear, sir.

17 MR. WARE: What you are concentrating on are
18 information linkages. In this case Congress or somebody
19 has decided it's in the best interests of society to permit
20 this information linkage.

21 MR. DeWEESE: No, to not permit it.

22 MR. WARE: No, it is permitted.

23 MR. SIEMILLER: It is permitted. It's statutory.

24 MR. WARE: It is permitted. Somebody made that
25 decision for society. Whether you like it or not it's been

1 What everybody is worrying about are the informal,
2 ad hoc information linkages that have grown up that haven't
3 been considered and the consequences thereto on society.

4 MR. DeWEESE: Or maybe Congress wants to change
5 their minds and take that permission out.

6 MR. WARE: They might, but so far at least --

7 MR. IMPARA: The issue whether we have a
8 universal identifier and it's the social security number
9 or something else-- If we accept the fact it is now the
10 social security number-- And, Joe, I think your point is
11 well taken that we don't have to accept that. But I think
12 we have to accept the fact that if we reject either by
13 regulation or law that it is the social security number,
14 that the people who have or feel a need to transfer informa-
15 tion to interface different systems will find on their own
16 a universal identifier. It may be a more complex one, but
17 it will nevertheless-- Why did you have to fill out the name
18 and date of birth and all of the information on the thing?
19 Because in addition to your social security number that's
20 other specific identifying information.

21 And you fill out a credit report and you put
22 down your social security number. Whether you put it down
23 or not, you put down the other kind of information. It
24 makes for a bigger file but it makes for just as much ease
25 of transferring data from one source to another source.

1 MR. MARTIN: I think I would dissent from your
2 statement "just as much ease." It seems to me that's the
3 crucial point, that if you have a nine-digit number plus
4 the ANSI proposal, nine-digit number isn't good enough
5 because it isn't intended as an identifier, and as an
6 identifier it's been degraded by redundant enumeration and
7 the fact that not everybody has it.

8 But if you have a unique identifier that is
9 relatively economical in its statement, you have enormously
10 simplified as I understand it the linkage possibility, and
11 that's what is attractive technologically to having a short
12 code statement of identifier. So it seems to me that --

13 MR. IMPARA: It takes less time to match up on 27
14 digits --

15 MR. WARE: No, that's peanuts. Forget it.

16 MR. IMPARA: Okay.

17 PROFESSOR WEIZENBAUM: Look, I, as all of us do,
18 play many different roles in life. I'm father of my
19 children. I'm professor at M.I.T. I'm a citizen of the
20 United States, and so on. I'm ex-Army and all that stuff.

21 Okay. And sometimes I'd like to in some sense
22 compartmentalize these roles. Let me give you an example.

23 I subscribe to a number of magazines. Okay.
24 When I subscribe to a magazine I, who happen not to have a
25 middle initial, invent a middle initial. Okay. So I

1 subscribe to, say, the SATURDAY REVIEW, and it's Joseph S.
2 Weizenbaum. Okay. And I do that in order to see what mail-
3 ing lists I get onto as a result of having subscribed to
4 that particular publication.

5 In effect, what I'm doing is I'm creating an
6 identity for myself which begins as a reader of the
7 SATURDAY REVIEW and whatever that implies.

8 Okay. And I'd like to have the freedom to do
9 that. Okay. And I'd like to at my choice keep that
10 particular identity separate from the identity of myself
11 as a reader of say the WALL STREET JOURNAL, which I happen
12 not to subscribe to, but suppose I did.

13 Okay. That's my own private decision. Okay.
14 I'd like to be able to implement that, and I'd like to
15 be able to keep those two things separate.

16 Okay. Now, it may very well be in the next few
17 years unless something is done that even magazines will
18 require a social security number or some other universal
19 identifier, perhaps my date of birth or whatever it may be.
20 Okay. And that will destroy this particular aspect of
21 myself which is in one sense a compartmentalization.

22 In another sense it's a hiding, you see. I'm
23 hiding from the WALL STREET JOURNAL in a sense when I use
24 a different name or different middle initial, in any case a
25 different identifier, to subscribe to it than I do for the

1 SATURDAY REVIEW.

2 DR. BURGESS: What's the importance? I don't
3 understand. I understand the game. I have played it too.
4 But I don't understand why it's important.

5 PROFESSOR WEIZENBAUM: The importance of this is--
6 Let's take credit for example. The point is I may very well
7 wish to establish a credit line with respect to my
8 mortgage, my house and so on and so forth, which is quite
9 separate and distinct, which I do by the way as head of
10 family and so on and so forth which may be quite separate
11 and distinct from the credit line I establish say
12 professionally with the ACM, with M.I.T., with the credit
13 union at M.I.T., and so on and so forth, that I may wish to
14 do.

15 Okay. I may wish to be able to default on
16 my house, for example, without damaging necessarily or at
17 least automatically damaging myself with respect to my
18 professional life, for example.

19 Okay. I may --

20 DR. BURGESS: I understand that, but I don't
21 understand how that is related to any of these issues.
22 Those are problems now. It would be very difficult for you
23 to do that under the present system.

24 PROFESSOR WEIZENBAUM: It is possible for me to
25 do it under the present system to some extent.

1 Okay. As soon as a universal identifier becomes
2 established, okay, then it will be impossible for me to do
3 that, and all of my various identities, all the various
4 roles that I play become merged into one, and, among
5 other things, people who make a connection with me by virtue
6 of one role that I play will automatically have made a
7 connection with me with respect to all the other roles that
8 I play, which may in fact be none of their business and
9 may in fact be damaging to me.

10 DR. BURGESS: I guess, you know, I agree with
11 the spirit of much of what you said, Joe, and particularly
12 the opening remarks about with respect to, you know, the
13 point that we do indeed have a choice and we shouldn't feel
14 locked in.

15 But I guess I'm dismayed a bit by the discussion
16 of alternatives that might involve a more explicit recog-
17 nition of a universal identifier on the ground that every
18 single horror story that people tell or that they write
19 about is a horror story from the present system, not a horror
20 story from a future system that people have envisioned.

21 And, indeed, one of the problems of the present
22 system is the lack of accountability. There are so damn
23 many people keeping records on us as citizens that we have no
24 way to know who they are or what the records are, how they
25 are accessed, how they are being used and what their content

1 is.

2 And it seems to me there is kind of a logical
3 fallacy here when the evidence for something that doesn't
4 exist is brought to bear from behavior in a system that does
5 exist.

6 PROFESSOR WEIZENBAUM: I'm confused. It seems to
7 me we can get evidence only from the real world, which is
8 the world that exists. Therefore, it seems to me hard to
9 complain that all the evidence that we talk about are in
10 fact from existing systems. Surely the only evidence we
11 have from future systems come from the novelists, and it's
12 generally bad -- "1984," for example.

13 I don't know what you're asking for.

14 DR. BURGESS: No, no, I'm saying that the kind
15 of anecdotes that we all live by are anecdotes from the
16 present system, you know, and part --

17 PROFESSOR WEIZENBAUM: It can't be any other way.

18 DR. BURGESS: Well, part of those have to do
19 with the inadequacy of that system to protect the individual.

20 I mean the point that somebody made earlier about
21 shifting the focus of discussion from the invasion of
22 privacy to the protection of privacy I think is right to the
23 point.

24 That is, the concerns that we all have, many of
25 which we have experienced directly, are functions of privacy

1 having been invaded by an existing system. An equally
2 good question is: Could some alternative system that might
3 involve a universal identifier -- or might not -- could that
4 system protect privacy more adequately and more felicitously
5 than the present system does? That's the issue it seems to
6 me.

7 PROFESSOR WEIZENBAUM: Well, it seems not to me to
8 be so. It seems to me that the burden of evidence has to
9 fall on those who propose, for example, the universal
10 identifier that we happen to be talking about, not on the
11 technologists to demonstrate that safer systems can be
12 engineered.

13 The first question is do we in fact need the
14 kinds of systems that we may or may not be able to build?
15 And a second question is, assuming that the answer to that
16 question is yes -- and it seems to me not at all to be a fore-
17 gone conclusion -- then a subsequent question is can we in
18 fact engineer safe systems? And the answer to that
19 is surely not automatically.

20 DR. BURGESS: I think you're right. The important
21 prior question is, as I think was suggested earlier, you
22 know, to what end these systems serve, what's their purpose,
23 and, you know, what are the costs of not having them?

24 But I think the racial example, the question of
25 racial data that you gave, in a sense is a point for some

1 other side in a sense that here we have a case where
2 society was denied certain kinds of data about itself and
3 institutions were denied certain kinds of data -- namely,
4 the racial distribution of its members. And the costs
5 there have been fantastic.

6 MR. GENTILE: I understand that's required now.

7 MISS HARDAWAY: It is required now.

8 DR. BURGESS: I mean for a period of years when,
9 you know, at the same time you have the restrictions on
10 collecting racial data, you also have universities, for
11 example, setting up minority fellowship programs and all of
12 a sudden getting applications and not being able to identify
13 who the minority are.

14 MR. DOBBS: Yes, but that distinction you point
15 out comes from the fundamental understanding of what the
16 data is to be used for. You know, we got into that particular
17 stage because in fact that racial data was being used
18 improperly. Okay?

19 When we got to that point where we were rational
20 enough, if we are there yet, to use it in a rational way,
21 then it becomes useful to make it available.

22 MR. BAGLEY: Yes, absolutely.

23 PROFESSOR MILLER: You know, one of the things
24 to reinforce that, I think one of the traps we have fallen
25 into is that we are looking at this universal identifier

1 as a black/white situation. Do we have it or don't we
2 have it? Well, it might be a semi-universal identifier.

3 And I think we have lightly skipped over what I
4 think is one of the charges if perhaps not the fundamental
5 charge of this group, and that is to look at this Department's
6 overall policy with regard to automated information systems.

7 I think we have got the tail and we are trying
8 to make it wag the dog by looking at life through the
9 universal identifier.

10 What systems does this agency have? What does
11 it do with those systems? What kind of data does it
12 collect for use in those systems? Is the data collection
13 pattern rational or irrational? What are the linkages
14 between this agency's systems and other agencies' systems?

15 If we know that, if we can sort of articulate
16 policies of rationalization with regard to the agency's
17 systems and what it needs to discharge its legislative
18 functions and what it doesn't need to discharge its legis-
19 lative functions and who it must talk to through its
20 automated data systems, then we might be able to come to
21 the question of what kind of an identification program it
22 needs for these systems. Some of them? All of them? None
23 of them?

24 And to me one of the basic things this group
25 should be doing is looking at what this agency does in the

1 information arena broadly.

2 MR. MARTIN: Could I broaden Arthur's term "this
3 agency" by reminding you that this agency, by which I
4 understand you to mean the Department of Health, Education,
5 and Welfare, --

6 PROFESSOR MILLER: Right.

7 MR. MARTIN: -- you must perceive as surrogate
8 for all the activities in the society in the fields of
9 health, education, and welfare.

10 PROFESSOR MILLER: Right.

11 MR. MARTIN: Because this agency does-- In spite
12 of an enormous budget and a fairly substantial number of
13 employees, and so on, this agency does very little itself
14 apart from the social security program and an enormously
15 complicated proposed nationalized welfare system which has
16 been before the Congress for the last couple of years,--

17 Apart from those, there is very little that
18 the Department does that depends importantly on having the
19 kinds of automated personal data systems that we have been
20 talking about in operational terms.

21 So when you say "this agency," think of the
22 functions to which this agency relates, such as in the
23 health area, in the education area, and in the welfare,
24 which is for the nonce at the State and local level. And
25 it might be useful if some of you who come from these worlds

1 would address from your experience -- Pat Lanphere, for
2 instance, from the welfare field, or Jim Impara from educa-
3 tion, or Florence Gaynor from health -- if you would share
4 with us your perception at an operational level of what
5 the significance is of linkages, what the problems are of
6 managing data systems.

7 What need we to be concerned-- Is it important
8 that you have a universal identifier for these purposes?
9 The mere fact that the social security number is asked
10 for of people, gets written down on a piece of paper, and
11 somewhere, you know, somebody has it, doesn't mean it's being
12 used. It may be being used. It may have just been
13 collected.

14 As far as I know, we are not using the social
15 security number to go back to what Joe Weizenbaum asked this
16 morning. The fact you all supplied your social security
17 number on that piece of paper, as far as I know it isn't
18 being used for anything. It may eventually be used. I
19 don't know. I don't know of any use it will be put to, but
20 we have it.

21 One's impression that the social security number
22 is as we keep saying "spreading in use" may be erroneous.
23 It may not be being used. It may be just like people are
24 asking for middle names, color of hair, color of eyes, that
25 this is a piece of datum about people that is asked for on

1 forms and one infers from that that it is being used.

2 If it isn't being used, then to say, for example,
3 that it may not be used would have no traumatic effect
4 on the operations in health, education, and welfare.

5 PROFESSOR MILLER: I want to force you back one
6 step, and maybe I'm right, maybe I'm wrong, maybe this
7 isn't our ballpark, but the agency does support, directly
8 and indirectly, to greater or lesser degree depending on
9 the field, the establishment of data banks, automated
10 data systems, in a wide range of social service arenas.

11 To take a small example, the funding of the
12 migrant worker children data bank in Little Rock, Arkansas.
13 Now, I want to know what is being gathered and put into
14 that system. What is the alleged justification for gathering
15 that data? How long will it stay there? Who is in charge
16 of verifying its accuracy?

17 What rules and regulations exist with regard to
18 the movement of highly sensitive data about disadvantaged
19 children to other agencies of government and the private
20 sector?

21 It seems to me that is something we should be
22 looking at.

23 MR. WARE: If that is our charge, then I think
24 you ought to recess this group for 6 months or a year
25 while you give Arthur D. Little or Peat Marwick or somebody

1 a contract to go collect all that information.

2 MISS KLEEMAN: We have it.

3 MR. MARTIN: We're on the verge of being able to
4 give you that.

5 First of all, do you share Arthur's curiosity
6 and interest in that? Do you share his sense of its
7 relevance to your deliberations?

8 MR. DAVEY: I think it shows what the official
9 use of the social security number is all about, and I
10 think we have a concurrent problem, and that is kind of the
11 unofficial use of the social security number where you
12 don't have access --

13 MR. MARTIN: I'm not sure it's going to shed
14 much light on the social security number.

15 We will have shortly -- I will not make
16 any promise to what I mean by "shortly" -- it's been over
17 a year since we promised Senator Ervin that he would have it
18 shortly; Senator Ervin will be most upset if "shortly" means
19 another year spoken now in April of 1972 -- we will have
20 shortly an overview at least of all of the Department's own
21 data systems, automated data systems, what is in them, what
22 they are used for, and so on.

23 I don't know when we will have what he has also
24 asked for and what you appear to be asking for, Arthur,
25 which is what is in all the data systems to which we have a

1 contractual or grant support or other relationship as a
2 department, data banks maintained by others in State, local
3 government, private institutions to which we have some
4 relationship. That is a bigger task.

5 MR. WARE: Or even an information linkage going
6 either way whether it's financial or not.

7 MR. MARTIN: We can I think fairly soon share
8 with you a sense of what our own data systems are. Now, I
9 think Willis Ware is right, it would take a lot of doing --
10 it's got to take a lot of doing -- to get a real sense
11 of what the data systems are to which HEW relates.

12 What we had hoped to be able to do is make some
13 kind of a pass at this with the help of this Committee
14 and of persons and organizations not in this room and not
15 represented in this room but identified by persons in this
16 room in the field of health, education, and welfare.

17 And I would I think maybe now like to press
18 somebody to come forward and talk about data systems in
19 education or data systems in the welfare field or data
20 systems in the health field with reference to this question
21 of an identifier.

22 I don't think we can-- You know, we may be able
23 to moot the issue of the identifier in the odd case of
24 Congress passing a statute dealing with some particular
25 thing, but I don't think we can moot it just because we say

1 we will moot it with reference to having to answer to the
2 American National Standards Institute's proposal.

3 Do we want to have a standard uniform personal
4 identifier built on the social security number? HEW has
5 got to answer that question. And I don't think we can-- I'm
6 inclined and I think most of us in HEW are inclined now,
7 subject to being turned around by all of you or others, not
8 to want to make that decision in the way -- and this will
9 sound critical; I'm afraid I feel critical -- in the way
10 in which the Social Security Administration has been in
11 effect ack-leading us.

12 The Social Security Administration has for years
13 been saying that it stands neutral to the question what
14 happens to the social security number? It issues the social
15 security number for its purposes. It has no standing by law
16 to prevent people from making other use of it or from
17 encouraging it, so it stands neutral.

18 Now, its neutrality it seems to me-- It's a
19 funny word to use to stand neutral to a process that you see
20 occurring, that you occasionally actually collaborate in
21 as a school system comes to you and says, "Hey, Social
22 Security, we want to enumerate everybody in our schools with
23 your number. Now, the kids don't have them yet and they're
24 not going to need them for a few years, but won't you help
25 us? We're trying to build a file, and we'd like to have

1 you give them a number. Otherwise we've got to go to the
2 trouble of giving one."

3 Social Security has managed -- and I think it's
4 understandable -- to rationalize cooperating in situation
5 after situation like that. The consequence of that has
6 been to spread the number. I don't call that neutrality.

7 I don't mean to criticize the Social Security
8 Administration in a very serious way because it's a big
9 bureaucracy, enormously well managed as government
10 bureaucracies go, and the issue which has been buried under
11 this has not been an issue that is of operational moment to
12 the Social Security Administration.

13 The Social Security Administration leadership
14 has said, you know, "We don't have any authority." That
15 usually ends the matter. If you don't have authority in
16 government, you know, what can you do about it? You don't
17 have a standing to act or not act. It's just outside the
18 purview of your concern.

19 Well, that posture has brought us to where we
20 are. And I don't think it's necessary-- It may be wise but
21 it isn't sort of inevitable and necessary that we just allow
22 the river to carry the ivory soap cake another few miles
23 until the point where in fact the social security is a uni-
24 form universal reliable identifier.

25 If it's a good idea to do that, let's, you know,

1 jump in the stream and swim to that destination. If it's
2 a bad idea, let's build a dam. And I think either is
3 possible.

4 Now, can we get to questions of how do we
5 perceive the data management processes in these discrete
6 settings to which HEW relates operationally in health,
7 education, and welfare?

8 Which of you experts from those fields would
9 like to go ahead? Mental Health?

10 PROFESSOR ALLEN: No, this is a footnote and an
11 aside but it's one I didn't want to miss because I
12 wanted to reiterate and emphasize and reinforce a subtle
13 shift that you went from, Dave, when you once characterized
14 the number as a personal identification number, but you
15 returned to calling it a universal identifier.

16 Because I think the universal characterization is
17 carrying two connotations, not merely universal in that all
18 persons have them but universal and available for all uses,
19 and I think that we confuse them, and I think it useful to
20 return to Joe's suggestion that we identify the real needs for
21 a personal identification number.

22 MR. MARTIN: I didn't mean to blur that distinc-
23 tion.

24 PROFESSOR ALLEN: But the reference is most to
25 the universal identifier, and maybe the term is connoting

1 unnecessarily that it should be universally available for
2 all uses and that we ought to get some different term to
3 indicate that it's only being used -- that is, individuals
4 have the number but not available for all uses.

5 MR. MARTIN: Right.

6 MR. GENTILE: I think that's a good point, because
7 I wouldn't want my telephone credit card number to be
8 my social security number, for example.

9 MR. WARE: You don't have to tell me your credit
10 card number. If I look you up in the phone book and know
11 where you live I can make it up.

12 PROFESSOR WEIZENBAUM: Right.

13 MR. SIEMILLER: Just add 032 and some letter and
14 you have it.

15 MR. WARE: You can discover the algorithm by
16 looking at about half a dozen cards.

17 MR. GENTILE: But you wouldn't do that.

18 (Laughter) Most people who would do that don't know that.

19 MR. WARE: Except as a game.

20 MR. MARTIN: How about Jim Impara talking a
21 little about data in the education setting and the
22 significance of linkages and relate-- As an expert in the
23 field of automated personal data systems, share your
24 perceptions as they relate to the discussion we have been
25 having.

1 MR. IMPARA: Well, I think some of the university
2 professors here can probably do this as adequately as I,
3 can probably do the job of discussing the use of some number
4 for articulating information from one institution to
5 another, which is its primary use in education.

6 As you read in the Social Security Administration's
7 task force report, Florida is one of the States which
8 has received cooperation from the Social Security Administra-
9 tion in having numbers assigned at the ninth grade level.
10 This is on a voluntary basis by school, so it is not in
11 fact done on a census-wide basis to all ninth grade students
12 in the State.

13 It's for two reasons. In some instances particular
14 schools or school districts don't wish to participate, and
15 that's their option, and in one particular school district
16 the Social Security Administration office doesn't wish to
17 participate. They claim not to have adequate staff to
18 handle the enumeration process. It's a very large district
19 I might add.

20 The typical uses of the social security number
21 at the ninth grade level are for articulating information
22 on several fronts. One is that Florida until last year
23 or this year had a Statewide ninth grade testing program.
24 Each student who was issued a social security number used
25 that number as an identifying number on his test form.

1 We also have a twelfth grade testing program,
2 and supposedly the same number was used as the identifier
3 on the twelfth grade test answer sheet.

4 In this way we could do research on the correla-
5 tions between the ninth and twelfth grade test, and in
6 isolated instances in the school systems where the number
7 was available we could do research studies on grade point
8 average and other information which might be available.

9 The entire university system of Florida, as in
10 California, uses the social security number as an identi-
11 fier, as a student number. This has just gone into effect I
12 believe 2 to 3 years ago so it's not a perfect system yet. I
13 doubt that it ever will be. But it can be used, and I
14 don't know whether it is or not, for transmitting transcripts
15 from high schools to colleges, to the State university
16 system.

17 Also we have a fairly extensive community college
18 system which I believe is using the social security number
19 as an identifier, which facilitates the transmittal of
20 information from junior college transfers or community
21 college transfers to the institutions at a higher degree
22 level.

23 So its primary use is one of articulation

24 Unfortunately or fortunately -- I'm not sure
25 which -- we have the inefficiency problem that the

1 transmittal of information is not as well articulated as
2 a lot of our university personnel would like for it to be.
3 As a consequence, there are still matters of confusion.

4 The social security number hasn't gotten to the
5 point yet where a standard transcript has been developed,
6 and I don't know that this-- This is probably not the fault
7 of the social security number. It's probably the fault
8 of the board of regents and community college board of
9 presidents that hasn't come up with a rational transcript
10 format so that consistent information could be sent.

11 There is limited restriction on what data are
12 sent as a part of the transcript information. It's up to
13 the high school which part of the student record is sent.
14 Typically it's only the grades and the courses since we
15 have a uniform course description in Florida. The more
16 personal data about a student is often not transmitted from
17 the high school to the college or the university.

18 MR. DOBBS: What do you mean by "often"?

19 MR. IMPARA: What do I mean by "often"?

20 MR. DOBBS: Yes, often. Often not. I caught
21 some dissonance between your prior statement and "often."

22 MR. IMPARA: All right. The student information that
23 is on hand in the high school includes the grade point
24 average, scores on the ninth grade and twelfth grade test,
25 scores on other standardized tests that the school district

1 gives. It may or may not include -- and this is part of
2 the lack of uniformity -- information about psychological
3 workups, delinquency records, information of that nature.

4 MR. DOBBS: I'm glad I asked you that.

5 MR. IMPARA: All right. Now, this is often a
6 part of the student's record but it's not necessarily the
7 part that is submitted to the university or college or
8 employer upon request.

9 And we are trying now in Florida to develop some
10 guidelines on this matter. It's quite a problem. It's
11 the same kind of problem that we will be facing right here,
12 which is why I'm glad that I'm here.

13 In other words, we're asking ourselves a question:
14 What information about the student does the employer or
15 the university have the right to have? Different school
16 districts have different policies on the matter. Some of
17 them are very conservative about it, and some of them are
18 not so conservative about it.

19 Typically the universities don't request that
20 information. But occasionally it is a routine matter to
21 transmit it whether it is asked for or not as a part of
22 the student's record.

23 MR. ARONOFF: As a matter of curiosity, do you
24 send information on the use of drugs?

25 MR. IMPARA: I don't know.

1 MR. ARONOFF: As a matter of curiosity, do you
2 send information on whether a person was an activist student
3 leader while he was in high school in terms of his application
4 to college?

5 MR. IMPARA: I would say that on both questions
6 it's not a routine.

7 MR. ARONOFF: But it's being done some places?

8 MR. IMPARA: It may be. It may be that when a
9 student applies for admission he's asked to give some
10 references, high school references, for example, a teacher.
11 If the university feels that this student may fit into
12 that category they could always go back and check.

13 Police records again for students under 17 or
14 people under 17 are closed records but may be open under
15 certain conditions. In other words, it's not public in-
16 formation. It's not published in the newspaper when a person
17 17 years old or under is arrested. But unless the court
18 secures that file specifically, then there are ways that
19 it can be accessed.

20 Now, in the Department of Education-- Now,
21 that's not just in Florida I might add. That's other
22 places as well. There are other reasons that we in the
23 Department of Education would be interested in having access to
24 information about police records, drug use, other types of
25 information as part of a Federal requirement under Title III

1 of the Elementary and Secondary Education Act which requires
2 us to do a needs assessment, and we have defined needs
3 assessment as looking at learner educational needs.

4 We have had what is often called in the State
5 a "blue ribbon committee" determine some of the values and
6 issues which should be open for investigation relative to
7 student or learner needs, and one of the things, for
8 example, is delinquency rate.

9 It would be very important to us in responding
10 to this blue ribbon committee's set of questions to be able
11 to look at-- We don't care about individuals here. We
12 are looking at aggregate statistics. But in order to
13 look at correlations within aggregate statistics we need
14 to be able to look at this individual's scores, for
15 example, his recidivism rate, or drug abuse, or what have
16 you, on different variables.

17 As I say, we don't care about which individuals
18 this is, and the data are secured, you know, magnetic
19 tape, and only one or two people have access to it, and
20 very few people even know it exists. But it would be
21 useful to have the different types of information from the
22 different agencies:

23 Is the child on AFDC? Or is the family on
24 AFDC? Is the child considered a delinquent? Is the
25 child a frequent drug user? Does the child have particular

1 health problems? Is the child living in a ghetto area? Is
2 he black? You know. Different characteristics which we
3 can correlate to try to come up with certain educational
4 solutions to educational and occasionally social problems.

5 MR. ARONOFF: May I ask one more question?

6 MR. MARTIN: Yes.

7 MR. ARONOFF: If an employer then would request
8 your department to give the same information as you are
9 transmitting to the educational institution, do you give it
10 or not?

11 MR. IMPARA: I m glad you asked that, because
12 I neglected to make something clear. The Department of
13 Education doesn't transmit the data to anybody. We
14 collect the data from secondary sources. In other words,
15 we collect the data on AFDC from our local welfare agency.
16 We collect the data on delinquency from law enforcement
17 agencies. We collect the data from the schools.

18 And that's all held in confidence in Talla-
19 hassee. Now, whether the school would be willing to
20 transmit to that employer or not is the school's or the
21 local school district's decision.

22 Now, this is typically a school board policy, and
23 typically the school board policy is not to transmit that
24 information.

25 MR. ARONOFF: Then the school itself -- let's say

1 a university -- could not get any of the information that
2 you collect upon request?

3 MR. IMPARA: Not from us. They could get summary
4 statistics but not about individuals from the Department of
5 Education.

6 DR. BURGESS: Are you authorized by statute
7 to recover those data from the originating agencies?

8 MR. IMPARA: No. We are not authorized not to
9 collect it though. I mean it's neither way. There's no
10 legislation on it.

11 In other words, we have a cooperative agreement
12 with the State law enforcement agency that says we can
13 collect the data. You know. We ask can we have it?
14 We have to justify it to them and make certain promises
15 about maintaining the confidentiality, which we are very
16 happy to make because we don't even want people particularly
17 to know we have the data even though it's all from secondary
18 sources.

19 PROFESSOR MILLER: But if there is no statute
20 authorizing its collection and insuring its confidentiality,
21 then it is subject to subpena and it is very dangerous
22 data to exist.

23 MR. WARE: What you have said --

24 MR. IMPARA: Let me speak to that point for just
25 a moment. Yes, it may be subject to subpena, but it would

1 be subject to subpoena from the originating agency.

2 PROFESSOR MILLER: It would be subject to subpoena
3 by any subpoena-issuing agency of the State of Florida
4 or of the Federal Government. It's very dangerous data
5 not to be protected by a confidentiality statute.

6 DR. BURGESS: That wouldn't be true in the
7 original agency though?

8 MR. IMPARA: That I don't know.

9 PROFESSOR MILLER: May or may not. Depending
10 again on whether there is statutory basis for its collection
11 at that level and the umbrella of a confidentiality statute
12 at that level.

13 MR. DOBBS: What you're saying is the fact
14 he's not the originator does not make it not subpoenaable?

15 PROFESSOR MILLER: That's right.

16 MR. IMPARA: It's an issue that hadn't occurred
17 to us. As I say, very few people even know that we have it.
18 Most of the data, by the way, is --

19 MR. DOBBS: You just multiplied that population.
20 (Laughter)

21 MR. IMPARA: Well, that's all right. Most of
22 the data that we have is aggregate statistical data. In
23 other words, even on the secondary source data we collect
24 it by school attendance area or by school district. Very
25 little of the information we have has any relationship to

1 individuals.

2 However, in order for us to get it, it had to
3 have been collected from individuals.

4 PROFESSOR MILLER: That's right.

5 MR. IMPARA: So that the originating agency
6 would have the recidivism rate, for example, of an indi-
7 vidual. When we ask for it we ask for it generally as a
8 summary statistic so if it was subpoenaed from us we'd be
9 glad to give it to them because it's summary on the basis
10 of the school or school attendance area or school district.

11 Now, if they ask for it from a university, then
12 the data there are kept on the basis of individual names.
13 If they ask for it from a high school, then it's kept on
14 the basis of individual names at the school district level.

15 PROFESSOR MILLER: But I thought you said
16 before that you do some cross-correlating on the number
17 of different variables which seemed to indicate that is
18 being done on --

19 MR. GALLATI: Using the social security number?

20 MR. IMPARA: Yes, in a limited way-- All right.

21 PROFESSOR MILLER: On an individual basis by
22 social security number.

23 MR. IMPARA: Okay, but-- All right. We do
24 that on the test scores. We do that on grade point average.
25 We don't do that -- because we don't have the data even

1 on the individuals -- on some of the law enforcement data on
2 individuals. In other words, the law enforcement agency
3 doesn't collect social security number so we can't access
4 their file on individuals.

5 We can do it for anything within the school
6 system such as test scores, such as grade point averages,
7 and those are about the only things, such as mobility kinds
8 of factors which we don't bother with because they are too
9 massive. In other words, the transfers within a school
10 district or across school districts.

11 In a State like Florida and California where
12 we have such a high mobility rate it's just not worth it.

13 So the data that we collect and have access
14 to on individuals is data on such variables as test
15 scores, such variables as grade point averages, courses
16 taken. If we wanted it we could have it on frequency of
17 absenteeism, for example.

18 That is not to say that we couldn't go into more
19 detail, but at the State level we don't have the need for
20 it.

21 The data that we have from primary sources that
22 we use as secondary data are generally aggregate data on
23 groups of individuals like drug abuse and things that we
24 would get from the law enforcement agencies. They are
25 reluctant, for obvious reasons, to give us data on

1 individuals, and we don't want it anyway.

2 PROFESSOR MILLER: What about the disciplinary,
3 psychological and medical data maintained on an individual
4 basis at the educational level? Does that come up with the
5 grade point averages?

6 MR. IMPARA: No.

7 PROFESSOR MILLER: You said before there was some
8 behavioristic data that you have.

9 MR. IMPARA: That's correct, and that may be
10 transmitted from one school to another. It may be trans-
11 mitted from a high school to a university at the option of
12 the local school district, whatever their policy happens to
13 be. It's not transmitted at all routinely to the State
14 agency, to the State Department of Education.

15 MR. WARE: What you have said to me is that for
16 various reasons you wish to label each student. You want
17 to be able to track his educational performance. You want
18 to keep his grade point average. You want to do longitudi-
19 nal studies on 5-year performance. You could have given him
20 any old set of numbers.

21 MR. IMPARA: That's correct.

22 MR. WARE: Why did you pick social security
23 numbers for labels?

24 MR. IMPARA: Because we have such a high rate of
25 mobility. See, the number that would be assigned to him

1 at school X in Dade County, which is the Miami area-- I'll
2 use myself as a good example, because I went to seven
3 different schools while I lived in Dade County.

4 MR. WARE: All in Florida?

5 MR. IMPARA: All in Dade County.

6 MR. WARE: It's a Statewide set of numbers?

7 MR. IMPARA: We're just not that far along yet
8 to assign a State number to a student. As I say, I went to
9 seven schools in Dade County. Some of my counterparts
10 who were educated in Florida went to that many schools over
11 the State.

12 Now, we have doubled our population in the last
13 20 years, and that's a net increase of doubling. If we
14 count the tourists who come down, you know, the "snowbirds,"
15 it's just not worth it in terms of cost.

16 DR. BURGESS: Yes, but the reason you use these
17 data in any case is for studies over time, and the people
18 move out and the change measures can't be measured anyway.
19 Any time one is concerned with, you know, human development
20 over time, you are always going to have some decay in a
21 population of people.

22 MR. IMPARA: That's correct.

23 DR. BURGESS: And what number they have doesn't
24 make any difference.

25 MR. IMPARA: That's correct. So why should the

1 State go to the expense of issuing them a number when the
2 Social Security Administration is going to issue them a
3 number eventually?

4 MR. WARE: There's the answer. It was the expedi-
5 ent and cheap thing to do.

6 MR. IMPARA: Exactly. In fact, it was signifi-
7 cantly cheaper.

8 MR. WARE: It was a readymade solution, and I
9 suspect that's going to turn up to be the answer almost
10 every time.

11 MR. IMPARA: In social agencies I'm sure.

12 DR. BURGESS: Is there any experience-- I mean
13 has this gone on long enough that there may have been some
14 things happen that are worth mentioning? I mean
15 have people had to live with bad scores on ninth grade
16 tests when they applied for a job some place?

17 MR. IMPARA: Yes, if they made a bad score they
18 had to live with it, and whether they had a social security
19 number or not.

20 DR. BURGESS: Well, I don't think that's true.

21 MR. IMPARA: When an employer queries a school for
22 a transcript --

23 DR. BURGESS: One of the beautiful things about
24 paper files is they get lost or they don't get sent on, you
25 know, so I think in a way that is the point, to say that

1 what one does in the seventh grade or ninth grade or eleventh
2 grade is somehow -- somehow gets purged from the system.

3 MR. IMPARA: Let me say we have 67 school
4 districts. Each of our school districts is responsible
5 for keeping the records of its students, and this is
6 sometimes handled at the district level, sometimes at the
7 individual school level, not at the State level.

8 Now, out of our 67 districts I would hazard
9 a guess that 60 percent of our student records are kept
10 both on computer file and paper file. That would represent
11 about nine or ten school districts because we have heavy
12 concentrations.

13 So the other 50 to 55 districts don't even
14 have a computer or ready access to one and maintain paper
15 files. Because of the perceived importance of these files,
16 you know, there is usually at least one backup set of files
17 some place, so if a school burns, which happens occasionally,
18 the files are not totally destroyed.

19 So that if a kid-- You know, I agree with you
20 if a kid makes a bad score on the ninth grade test that he
21 shouldn't be penalized for it, and, in fact, he is not,
22 because that often is used as a placement prediction
23 device. The twelfth grade test is much more significant,
24 and the probability of losing that between this June and
25 next September is much less likely than 4 years ago when

1 he took the ninth grade test, because that's used as a
2 selection device for college entrance.

3 MR. DeWEESE: Jim, pardon me. I have a couple
4 of questions because I was sort of confused about a couple
5 points. Does your system get any type of a criminal
6 record information from the police that is identifiable on
7 a name search basis?

8 MR. IMPARA: Not in the State Department of
9 Education, no.

10 MR. DeWEESE: Okay. And the other question I
11 have is are the test scores-- Do they include
12 personality tests like the regular -- what your vocation
13 is? Are you going to be a fireman or police chief?

14 MR. IMPARA: Some of the school districts
15 collect those data. They are not routinely collected
16 on any of the Statewide testing programs to date. And I
17 say "to date" because there is some possibility that they
18 will be collected in the future. And even those will not
19 be collected on a basis where we can identify individuals.

20 MR. DeWEESE: I see. Okay. The third question
21 and the final question I have is the scores that you do
22 keep, I guess the raw grade scores and the academic type
23 test scores, are those available both to universities
24 and to employers?

25 MR. IMPARA: They are available from the school.

1 MR. DeWEESE: I mean I am more concerned about
2 through you.

3 MR. IMPARA: No, they are not.

4 MR. DeWEESE: Only the universities through you?

5 MR. IMPARA: No, through us they-- We don't
6 release anything. If the university wants to get the data
7 they have to go to the school to get it. They have to
8 make a request of the school.

9 MR. DeWEESE: I don't quite understand why you
10 collect it then?

11 MR. IMPARA: For research purposes only. In other
12 words, see, one of the roles of the Department of Education
13 is to establish educational policy and to set goals and
14 objectives on a Statewide basis. At least that's --

15 MR. DeWEESE: Right.

16 MR. IMPARA: -- as the State of Florida has per-
17 ceived its function. There are those who would disagree with
18 that.

19 MR. DeWEESE: Couldn't you do this without having
20 the information on name search basis? Couldn't you make
21 the same policy decisions?

22 MR. IMPARA: Yes. You lose a lot of variance
23 that way in a statistical sense. Yes, if we had the mean
24 scores for each school district, then we can do things
25 with that. But when we know that Dade County, to use that

1 as another very good example, has-- It's a standard metro-
2 politan area, SMSA. And that particular school district
3 has an inner city ghetto which is predominantly black. It
4 has an inner city ghetto which is predominantly Spanish
5 speaking because of the Cuban refugee influx. It has a
6 very large rural area. And it has some very large semi-
7 industrial suburban areas.

8 MR. DeWEESE: Right.

9 MR. IMPARA: Now, if we look at the mean score
10 for Dade County we miss an awful lot about different cate-
11 gories of kids.

12 MR. DeWEESE: I see that, but, for example, the
13 Census Bureau makes all sorts of policy determinations
14 without ever keeping track of individual name, just by
15 segregating it according to category. I can't see why you
16 can't do that without having individuals' names in the file.

17 MR. IMPARA: I can't defend it. I can simply say
18 the Census Bureau that collected data in 1970 still hasn't
19 been able to make it available to us in 1972.

20 The Statewide testing programs are operated by
21 our State university system. In other words, the University
22 of Florida does the twelfth grade and Florida State
23 University does the ninth grade. Their turnaround time is
24 about a month.

25 Since we have got court orders about busing and

1 desegregation, a rural school doesn't necessarily have all
2 rural children in it. An inner city school doesn't neces-
3 sarily have all inner city children in it. So we can't make
4 too many judgments about the school so we just collect
5 individual data.

6 If anyone should ask us for the data, we'll be
7 glad to give them -- and it's public information -- the
8 school means, the school standard deviations on each score
9 on each of the various subtest categories, the county
10 mean, the county standard deviations on each of the subtest
11 categories. And beyond that we do have a department
12 policy which prohibits the release of the data on indi-
13 viduals.

14 Now, the University of Florida which does the
15 twelfth grade test publishes a book every year which is
16 about twice as thick as the one that was in front of us
17 this morning which has each individual in the State who took
18 the twelfth grade test listed alphabetically.

19 MISS COX: With their scores?

20 MR. IMPARA: With their scores. And that's trans-
21 mitted routinely to each of the State universities and
22 community colleges, and that's all.

23 Now, that's not to say that it's not accessible
24 from any place else, but it's routinely sent to those
25 places, and it's difficult at best to get a copy of that book

1 unless you have some authorization.

2 And as I say, the individual scores are in there,
3 and you go to put in your application at one of the State
4 universities and the registrar turns around and opens his
5 file and pulls out the book and says, "Your name is," he
6 opens it up to the name, and he says, "You're qualified
7 or you're not qualified based on your score."

8 In other words, if you have a score of 300 on the
9 test --

10 MR. DeWEESE: "In my case you've just got the
11 wrong score." (Laughter)

12 MR. IMPARA: If you have a score of 300 on the
13 test, then you are past the first hurdle of qualifying for
14 entry into one of the State universities. If you have a
15 score of less than 300 you can't even be considered because
16 of the number of people who have a 300 fills the quota, and
17 it's strictly a quota system.

18 We have limited enrollments. So the cutoff
19 score is not based on the prediction of success any more
20 although it used to be many years ago. It's based strictly
21 on the fact that we can only accept 1,200 new freshmen
22 at FSU, and it happens that in the fall quarter that 350
23 is the cutoff because at 350 we have enough people to fill
24 the quota.

25 MR. MARTIN: Why don't we break here for tea or

1 coffee or water or a breath of air and resume in about 10
2 minutes.

3 (Whereupon, a recess was taken.)

4 MR. MARTIN: While we were reconvening here I
5 asked Bill Marcus to pass around a two-page Xeroxing of
6 some material from the periodical report issued by the
7 Griffin Hospital in Derby, Connecticut whose administrator is
8 a friend with whom I used to serve on a State commission in
9 Connecticut.

10 I was interested when I got it in the mail a
11 few weeks ago to see Tony (DeLuca), the administrator of
12 this hospital, proudly proclaiming his hospital's adherence to
13 the social security number as a means of identifying
14 patient records.

15 This is a slice of life in the real world as it
16 relates to HEW which has come into being at the initiative
17 of the hospital and can add to our sense of reality about
18 data systems.

19 I expect that what Griffin Hospital has done is
20 not unique. I'm hoping that we will hear from our
21 hospital administrator, Florence Gaynor, who will broaden
22 our understanding of aspects of data systems in the
23 health field from her experience in hospitals in New York.

24 Pat Lanphere has said she would be willing to
25 start our session now with a brief account of the

1 application of automated personal data systems in the welfare
2 field based on her experience in Oklahoma, which I suspect
3 is in some respects unique but in others gives us a sense
4 of what is going on in the welfare field in many States.

5 MISS LANPHERE: To describe the welfare field
6 briefly is rather difficult because it's pretty broad.
7 I would like to emphasize that right now, of course, you
8 all read the newspapers and hear TV that the welfare
9 departments are in a great state of change. Separation
10 of eligibility from services is in process, and particularly
11 in Oklahoma we are right in the midst of this, looking
12 forward to the time when the family assistance plan goes
13 into effect and the States would primarily have the
14 responsibility for delivery of services.

15 This would mean that the public assistance
16 grants would be issued from Washington and the States would
17 deliver services that were needed to any citizen whether
18 they are recipients or not.

19 I might discuss briefly what we are doing in
20 Oklahoma which is unique so that you can get an idea.

21 I'd like to emphasize services because so many
22 people when they think of welfare all they think of is
23 money, public assistance grants, and that the services are
24 rather secondary. And while, of course, the public
25 assistance is essential and I don't mean to minimize its

1 importance, because obviously it is, but the services are
2 also important.

3 So I'd like to take a few minutes to discuss the
4 computerized system that we have designed and are in the
5 midst of implementing in Oklahoma called the Oklahoma
6 service system, which was the result of the test of CASS,
7 or the Case and Administrative Service System.

8 This was a 3-year Federal grant in which Maine,
9 Minnesota and Florida designed and tested in their three
10 States, not Statewide but for instance in certain areas
11 of accounting in the various parts of their States, and
12 the aim of this was to design some system whereby we could
13 account for services.

14 We have always been able to account for
15 eligibility, how many people were on a grant, the amount
16 of grants, the deprivation factor making them eligible,
17 etc., but services were always a rather nebulous thing.
18 You knew they were being given but what type of services in
19 what depth to how many people, and so forth, we just had to
20 kind of gather them as we may. But we really didn't have a
21 good system.

22 So it became apparent that it was going to be on
23 the States' level that we were going to have to account for
24 these services.

25 So after the 3-year testing of CASS, and they

1 designed it and revised it, worked on it and tested it-- It
2 started out I think with 30-odd forms that were quite compli-
3 cated and all different colors and real complex, and the
4 three States that tested it-- I don't know how they sur-
5 vived.

6 But when the grant ended in October of 1970
7 they had boiled down the CASS system to 17 forms that had
8 not been tested, and the money ran out.

9 So they looked for a State to test this latest
10 revision of CASS, and since Oklahoma was one of the model
11 States and NDP States, we were asked if we would test this
12 latest revision of CASS.

13 Now, I might add that Oklahoma had served as
14 an evaluator for the third year of the test and had gone to
15 these three States just as an observer and to make comments.
16 Since we were not actually involved in the test, it was
17 easier for us to be more objective and to make suggestions
18 and ask questions and contribute what we could.

19 Now, the purpose of testing this revised CASS
20 and the reason that NDP was willing to give us the money to
21 test it was they wanted standardized data elements in regard
22 to services. In other words, if Oklahoma was discussing
23 what a family was, a legal family structure, this data
24 element would have the same meaning in the State of Oregon
25 or Utah or any other State.

1 So the purpose was to have standardized data
2 elements that would have the same meaning all over the United
3 States. For any Federal reporting or any type of statistics
4 or research that was done it would be valid.

5 So we agreed to do this, and we picked four counties
6 in various parts of the State. Various areas were con-
7 sidered. Two were urban. Two were rural. Some had
8 many resources. Some didn't have hardly any.

9 And we had training sessions, and we learned the
10 17 forms and the whole new concept and philosophy of this
11 service system which was very different from what we had
12 done in the past.

13 For instance, I might just give one example. In
14 the past, social workers were prone to do something for
15 people, and in this service system you do something with the
16 client. And this is a new concept of the social workers
17 working with the client where they actually develop a
18 service plan with the client.

19 The client fills out a request saying, "I want
20 help with. . .," and actually gets to express themselves
21 what they want and actually participates in making their
22 service plan, their needs, the goals to be reached, and
23 how you're going to get there.

24 And these are all computerized by the use of
25 codes and so forth, so that we can show the requests that

1 are made, the actions that were taken, the source of the
2 service, the date you hope to achieve the goal, and the
3 current status of this service at any given time.

4 At the present time we have 77 counties in
5 Oklahoma, and when I left Friday we had implemented 47 of
6 them, so hopefully while I am gone they are implementing
7 six more counties this week.

8 We are very excited about it because we feel
9 it is an opportunity to show not only for ourselves the
10 services that we are giving but to help other States as
11 well.

12 I should back up and say that we tested CASS
13 for 6 months from April 1 to October 1 in 1971. In our
14 report to Washington at the end of that time we felt
15 CASS to be a very good steppingstone, a very good basis for
16 delivery of services.

17 But, obviously, when you design something for 50
18 States it's not going to fit any one State. And Oklahoma
19 happens to have a rather large umbrella of services, many
20 more than some other States. For instance, we have the
21 schools for the retarded, the training schools for the
22 delinquent, vocational rehabilitation, youth service centers,
23 crippled children's unit program. I could just go on and
24 on.

25 But, anyway, we have a rather large number of

1 services that we give. So that we had to revise the forms,
2 redesign them, broaden the codes considerably, redefine
3 them and make it fit Oklahoma's services.

4 But I feel it's important because it shows the
5 trend that is being taken in having to account for the
6 services that are being given in the States.

7 Now, I know you wonder what this has to do with
8 the numbering system, but I did want you to understand what
9 is going on in the welfare field, and this is one of the
10 biggest things.

11 We have representatives from I don't know how
12 many States that have already come to look at this service
13 system, not only other welfare people but regional HEW
14 people. We have had people from San Francisco, Dallas and
15 other regional offices come to look at this system. In
16 fact, we have a man from Washington coming next week to
17 look at it.

18 So the accent on services is definitely coming to
19 the fore. We have always given services but people didn't
20 know it. And it was interesting that in our four test
21 counties newspaper articles started appearing and the
22 image of the welfare office changed from just a place
23 where you go see if you can get a welfare check to a
24 place where you can go get a service. And one of those
25 services might be a check, but that we also had other

1 services to offer.

2 Now, while we are doing this we are also having
3 to take a look at our numbering system. We have this large
4 umbrella of services, and the reason we have this
5 large umbrella is because we have earmarked funds in Okla-
6 homa. We're very fortunate. And so when the legislature
7 meets, many times they give us another area of responsi-
8 bility.

9 Like one year it was the schools for the retarded.
10 And one year it was vocational rehabilitation. One year it
11 was a crippled children's program, and so forth. And each
12 of these systems came to us with their own set of numbers.
13 They already had their case load with their numbers, and,
14 of course, as we incorporated them they already had a case
15 load and case records and so forth.

16 We are very fortunate in that we do have a great
17 deal of hardware capability. In fact, I think we're still
18 the only State where we are the only carrier for Medicare.
19 So we do have the capability to design and implement systems.

20 We have a large number of types of case numbers,
21 for example. We do not use social security number as our
22 case number. For instance, for four types of categorical
23 assistance we have A, B, C and D numbers -- aged, blind,
24 disabled, and aid to families with dependent children.

25 In addition to that we have for children that

1 have been placed in institutions, either training school
2 for the delinquent or for the dependent neglected-- They
3 have an institutional number.

4 For children that are not on public assistance
5 or not in grants, we have a child welfare number.

6 So we have large numbers. In fact, when we
7 design a form we have to leave about five or six spaces for
8 cross-reference numbers. That shows you what kind of bad
9 shape we're in right now.

10 So we're looking for a common identifier, and
11 I definitely feel the need for one and naturally look at
12 the social security number because so many people have
13 already got it. So it's the first number that really comes
14 to mind I would say.

15 We even have a little problem there. I was
16 speaking to Al about it a while ago. We not only have to
17 store the social security account number, but the social
18 security claim number.

19 Because when we query Baltimore for our social
20 security beneficiaries, they have to have the claim number.
21 When we are querying IRS they have to have the account number.
22 So just the social security number is not unique. There's
23 two kinds of social security numbers.

24 And this has created a problem for us, because,
25 of course, we have to store an extra 12 digits on these

1 families.

2 So it is a problem with us. It is one that we
3 are working on at the present time in order to link all
4 these different types of services together.

5 For instance, if the family assistance plan
6 goes through, I would assume-- I read Secretary Richardson's
7 testimony. They plan -- I guess they still plan -- to use
8 the social security number as the case number for issuance
9 of the public assistance grants, unless they don't. Did I
10 read that correctly?

11 MISS KLEEMAN: Yes.

12 MISS LANPHERE: So if this is true and that
13 becomes the "case number" for every public assistance re-
14 cipient on this level, then the States have to consider
15 that in their service load, their service case load. I
16 think both the Federal Government and the State would want
17 to know how many of these people that receive public
18 assistance are also in need of services, whether it is to
19 secure adequate housing they enter the WIN program, they
20 have emotionally disturbed children, or whatever it is
21 that they need a service on.

22 So that we feel there should be some linkage
23 there. So this would mean then that we should also use the
24 social security number or have it as a cross reference number
25 or what.

1 Of course, we haven't reached any decision yet,
2 and we are just in the great state of change right now --
3 state of flux. And, of course, we are waiting to see
4 what the Federal Government is going to do, and at the same
5 time we are definitely going to show accountability of
6 services because our director wants to be able to go to our
7 legislature and justify our expenditure of monies on services.

8 So, briefly -- and that's very briefly -- this is
9 where welfare programs are now. We do definitely need the
10 ability to link all of these different little divisions and
11 units within our agency that we have into a common identifier
12 with some way to identify as to which services they are
13 getting from which units, and that also at the same time
14 we must consider how we are going to link with the Federal
15 Government the people who are receiving the public assistance
16 grants.

17 That's about as brief as I can make it.

18 MR. WARE: How do you find the multiplicity of
19 identifiers to be a bind?

20 MISS LANPHERE: To be a bind?

21 MR. WARE: Why does it trouble you?

22 MISS LANPHERE: Well, the head of NDP, the
23 project, Mr. Townsend, said, "Pat, the reason we need to be
24 able to link these together," he said, "if you'll explain
25 to people downstairs on the second floor there, right now,"

1 he says, "it's just like pulling open three file cabinets."
2 He said, "I can't link them together in the computer. If
3 I had one number where I could chain them together
4 instead of having three files or four files that you have to
5 go to to get a piece of data to be able to chain them to-
6 gether, it would save much storage space and make the
7 gathering of the data much easier.

8 "For instance, I might have something in the
9 institutional record. I might have something in the medical
10 record. I might have something in the public assistance
11 record. And they're all in separate files."

12 MR. IMPARA: On the same individual?

13 MISS LANPHERE: On the same individual you see.

14 MR. WARE: Is it cost of running the computers?
15 Is it the response time of the computer to inquiry? Is
16 it programming headaches? Or is it professional dislike?
17 It isn't neat? Or what?

18 MISS LANPHERE: I'd say it's all of those. It's
19 more costly. It takes much more storage. For instance,
20 we have a computerized system called the CI system, or the
21 CI file. Everyone who receives a public assistance grant
22 is on this file. It's the grant computation, resources,
23 etc.

24 And it used to be services were on this, but it
25 was just kind of tacked on and it was not sufficient. And

1 this is why we found it necessary to have our own service
2 system. So we have what we call Service System, which is
3 another file.

4 Then, of course, there are other files. And it
5 would be much more expedient in terms of retrieval and ability
6 to compile your data and get what you need on an individual
7 if you had it all under a common identifier.

8 PROFESSOR WIEZENBAUM: Let me question --

9 MISS LANPHERE: I don't mean working day process
10 now. They trained me as a systems analyst but all my
11 training, education and experience is in the field of
12 social work, so if I'm a little vague that's why.

13 PROFESSOR WEIZENBAUM: Let me suggest that, in
14 fact, if you had it all in one file that just in terms of
15 money, in fact, the operation might be more expensive than
16 it is now.

17 MISS LANPHERE: Would be more expensive?

18 PROFESSOR WEIZENBAUM: Yes. Does that strike you
19 as odd or-- Well, let me explain.

20 MISS LANPHERE: Well, --

21 PROFESSOR WEIZENBAUM: I am making some
22 assumptions about what actually goes on there. Among the
23 assumptions I make is that very frequently you need to get
24 access to a client's file for some very specific purpose,
25 like, for example, is this individual getting medication, you

1 know, via some welfare agency, for example.

2 I'm not sure that is a realistic example or not.
3 Or food stamps. Or whatever. But, anyway, it's some very
4 specific purpose.

5 And there's a very specific file which contains
6 that which is separate from the other files that might contain
7 other information.

8 So now you fire up the computer to search for
9 that. The fact that the file is in fact separate from other
10 files means that it's smaller and in some sense more readily
11 accessible for that specific purpose.

12 Now, except in those few instances -- and I
13 imagine they'd be very few -- when you actually need a
14 summary file, you know, containing all the information that
15 the whole welfare system has on the specific client, I
16 would suggest that it's cheaper to have the data separated.

17 Another question is how often do you need all or
18 much of all the information on the client and how often do
19 you need very specific information about one specific aspect
20 of the client?

21 If it's true that most of the time you need
22 specific information on some specific aspect of the relation-
23 ship between the agency and the client, then it might very
24 well be-- Then the present system might very well be
25 cheaper than the global system of which you speak.

1 MR. GENTILE: I'd like to comment on that state-
2 ment. The Director of Public Aid in the State of Illinois
3 once told me that of his budget of last year of \$1.12 billion,
4 less than one-tenth of 1 percent was attributed to cost of
5 data processing.

6 Whenever I talked to him about improvements in
7 data processing, he came back to me with that
8 argument, "Well, that's an insignificant figure to address,
9 that the issue of far greater importance is getting the
10 information we need."

11 There are a number of programs that affect the
12 same people, and we are not sure if all of these programs
13 that are here to serve the people are not conflicting in
14 their own objectives, if one is not washing out the other,
15 you know. What are we doing to that person who comes through
16 the door looking for help?

17 And if we had all of these programs with separate
18 numbers, then my question is, you know, how do we know what is
19 happening to that person?

20 MR. WARE: It wouldn't prohibit you from accessing
21 all of them one after the other and aggregating them at the
22 time you need them.

23 MR. DOBBS: Yes, but I think what Mr. Gentile
24 is saying, Willis, is that sometimes the emphasis from our
25 point of view in terms of whatever the cost of storing the

1 file and handling the information may be is inappropriate.
2 In the final analysis it is the delivery of the basic
3 service. And it may in fact double the administrative cost
4 in order for you to do that.

5 MR. WARE: So it's two-tenths of 1 percent.

6 MR. DOBBS: Yes, whatever. And it may be unim-
7 portant.

8 MR. WARE: Peanuts.

9 MR. DOBBS: Yes. It may be unimportant..

10 MR. GENTILE: That's my point.

11 MR. DOBBS: In the spirit of the thing.

12 But there were two or three interesting
13 principles in the comments by Mrs. Lanphere, --

14 MISS LANPHERE: Pat.

15 MR. DOBBS: Pat. -- that I think may be important
16 in terms of how we consider this whole problem.

17 The one is the notion of the standardized data
18 element. She described a situation where there were
19 apparently several sets of data and some effort was
20 made in that environment to get some consistency at some
21 level of description of what that meant.

22 And I think that is an important thing in terms
23 of thinking about transfer of information in any sense,
24 because one of the difficulties is that, in fact, what may
25 appear to be the same data in one system may in fact be

1 different certainly in the interpretation or the semantics
2 of the situation.

3 Okay. So I think that in her example she provides
4 an important kind of principle.

5 Another one, a secondary kind of thing, I think
6 relates back to some of our earlier discussions, and that
7 is that she pointed out that the client, consumer of their
8 services, is a participant in the planning, and I presume
9 because of that has access to the information about himself
10 and about the services in a different way than may be available
11 in many systems. That's a conclusion that I may have over-
12 laid on what she has just said.

13 But I'm assuming that because the client is a
14 participant in the planning process that he in fact has
15 some precise information about what is in the files about
16 him in a way which is not normally available.

17 MR. WARE: Is that true?

18 MISS LANPHERE: Yes. Could I explain this?

19 Because this has been one of the most beneficial things that
20 we feel has come out of this new system.

21 When the client requests services-- And they
22 even express themselves in writing if they want to. It
23 isn't essential that they do so. For instance, some are not
24 able to write. Some are blind, and so forth. But if they
25 are able to, we like them to, because we feel psychologically

1 it's good and usually they want to.

2 Then the social worker, the service worker, makes
3 a home visit, and they sit down and they go over this, and
4 they work out what they call a service plan together. And
5 they write down the goals, like the ultimate goal might be
6 to secure employment, but a subgoal might be vocational
7 testing if they don't know what their aptitudes are,
8 vocational training. Child care during the day while they
9 are receiving the training. Maybe they need glasses. What-
10 ever the subgoals are in order to achieve this final goal of
11 securing employment.

12 Then they can put dates down. The client and
13 worker will agree on dates that they hope to achieve each
14 one of these goals.

15 Then on the bottom half of the page they list
16 the steps to be taken to achieve the goals and what the
17 worker will do and what the client will do. Like the worker
18 will make the appointment with the doctor.

19 These are sometimes very simply worded. They
20 are always worded so that the client can understand them
21 and knows exactly what is going to happen, what they can
22 expect from the service worker and understand what is expected
23 from them.

24 Then they put down the source, and the worker
25 will write out the doctor's name she's going to make the

1 appointment with, or the clinic, or whatever the service is
2 they are going to do.

3 Then the client is given a copy of this, and they
4 keep it. And it's been very interesting what they have done
5 with it. They have shown it to all their friends, "Look
6 what the Welfare and I are doing together."

7 MR. WARE: But that's a personal discussion
8 without involving the computer?

9 MISS LANPHERE: That's right. This is done in
10 the client's home on the home visit where they sit down and
11 try to set realistic goals and how they are going to reach
12 the goals.

13 And we have had some very interesting reactions
14 to it. Maybe the service worker was sick with the flu
15 for 2 weeks and the client was calling to ask if the service
16 worker had done what she said she was going to do by that
17 date.

18 Or we have had other instances where the client
19 was sick, was out of town, and had a relative call and
20 say, "Well, she said she was going to do it by a certain
21 date, but she couldn't, but she wants you to know she's going
22 to."

23 Well, this has been a change from what we had
24 before.

25 MR. WARE: Is that interaction kept manually --

1 the tickler file and the followup and so forth? Or does
2 this plan get "zapped" into the computer?

3 MISS LANPHERE: Well, the tickler file for the
4 worker comes out of the computer.

5 MR. DOBBS: So the plan actually is input and
6 then procedurized in some way?

7 MISS LANPHERE: Yes.

8 MR. DOBBS: So it provides that kind of
9 direct support?

10 MISS LANPHERE: Yes, when the worker comes
11 back-- The way we really get our accountability for services
12 is that after the service plan has been made with the client
13 we have a form we call a K6 which is called "Service
14 Information," and we have code pages that cover all of
15 the-- Well, one side is all the requests that have code
16 numbers, and they are under headings of health, housing,
17 individual development, and so forth, education, listing the
18 requests that were made.

19 And then we have another set of codes called action
20 codes of what action is being taken in response to these
21 requests. And these are coded as a result of this service
22 plan.

23 Then as the case progresses and progress is being
24 made, for instance, at first you might just show the service
25 was referred. Client was referred to vocational rehab. So

1 the service status at that time is "Referred."

2 When training has been initiated you update to
3 "Initiated" and the date.

4 And then when the training has been completed
5 you update to "Completed" and the date.

6 And this computer printout which is the result
7 of this K6 is the K7 which not only gives you the current
8 information but the list of all the services that have been
9 referred or initiated and completed, and if they were not
10 completed, why. All in codes.

11 MR. DOBBS: Does the client after the initial
12 collection of this data-- Does he get any benefit from this
13 feedback that you obviously-- I mean in any direct way?

14 MISS LANPHERE: Through the worker. He doesn't
15 ever see the computer printout or anything. You know, he
16 wouldn't understand them.

17 But, of course, in the worker's regular contacts
18 with the client as to the progress being made-- For
19 instance, on the little service plan form that the client
20 and the worker have, after the "plan to do by" date there
21 is another little column that says "did do," and they put
22 in the date -- the client and the worker -- the date they
23 actually did accomplish it. So the client can kind of see
24 where they are all the time.

25 We have found particular success -- and we

1 didn't anticipate it in the beginning -- but this has worked
2 very well with our teenagers, our delinquents or pre-
3 delinquents, in actually sitting down and making out a
4 service plan with the teenagers.

5 And we tried it on an experimental basis at
6 first, and it worked very well.

7 PROFESSOR WEIZENBAUM: Excuse me. What is a pre-
8 delinquent?

9 MISS LANPHERE: It's a child that the court
10 calls us and says, "I'm not going to adjudicate him a
11 delinquent, but I feel like he's on the road, Pat, but if
12 you'll get out there and work with him and get him to quit
13 sniffing glue or, you know, trying to steal a car or
14 something"-- It's a child we feel is in danger of becoming
15 delinquent but has not actually been adjudicated but might be
16 in need of supervision and so forth.

17 And we are working with him trying to -- through
18 counseling and supervision, working with the parents and the
19 child -- to keep him from becoming a delinquent.

20 PROFESSOR WEIZENBAUM: Is he so coded in the files
21 as a pre-delinquent?

22 MISS LANPHERE: No. We don't code them as a
23 delinquent or in need of supervision unless there has
24 been a court adjudication.

25 MR. DOBBS: At the time you collect the initial

1 information, the client is aware of the fact this is going
2 to be dealt with in the computer? Is that made explicit
3 to him?

4 MISS LANPHERE: Yes. They really don't under-
5 stand it, you know, and they really don't care. They just
6 want to know what you're going to do to help them, you know.
7 This is their primary concern.

8 We don't go to any great lengths to explain
9 the computer because-- Well, I guess some of the service
10 workers couldn't really explain the computer in great depth.
11 They know that their public assistance checks come out of
12 a computer if they are recipients. But they are really
13 not primarily concerned.

14 They are more concerned with what is on this piece
15 of paper: "This is what I need. What are you going to do to
16 help me get it? I need a house with a roof that doesn't
17 leak. I need training for a job. I have a child that's
18 emotionally disturbed and I can't handle him." You know.
19 Or whatever the problem is.

20 DR. BURGESS: Can I just ask a followup question
21 to you on that? Why does it make a difference whether it
22 goes to a computer or goes to a file or whatever? The
23 question I would think is why is the information being
24 collected?

25 MR. DOBBS: I don't think it does except to the

1 extent that it gives the supplier of information some sort
2 of bias one way or the other. That was the only sense that
3 I had in asking the question.

4 PROFESSOR WEIZENBAUM: Let me make a few comments
5 just on that. Perhaps not in this specific instance but
6 certainly underneath this there does lurk the more general
7 question of informed consent -- just generally, you know,
8 perhaps not in this particular instance but generally.

9 Well, enough said. Let me just raise that
10 point and not say any more about it.

11 DR. BURGESS: That's not related to the computer.
12 That's related to any kind of collection of information.

13 PROFESSOR WEIZENBAUM: That's right.

14 MISS LANPHERE: See, we can do this without the
15 computer.

16 PROFESSOR WEIZENBAUM: Yes. That's right. I
17 just remarked that it --

18 MISS LANPHERE: It's a tool that helps us.

19 PROFESSOR WEIZENBAUM: Okay. I just say that in
20 general, in the collection of information, there is the
21 question of informed consent.

22 And if in fact the collection mechanism and the
23 storage mechanism has certain implications, then the question
24 of informed consent becomes much more difficult than other-
25 wise. That's all I mean to say.

19 It may very well be that a concept such as
20 family or even the concept of assistance and other such
21 concepts may have one meaning in one context and may have
22 a totally different meaning in another context. Okay.
23 Certainly if you unify the files there will be a
24 further temptation to not only unify the files but to
25 collapse them as well and, consequently, to lose some of the

1 human connotations, what Dobbs calls the semantics of the
2 situation, in this compacting of the files. I think that's a
3 serious matter.

4 I also wonder just by the way, although your
5 system sounds very good -- all I know about it is what you
6 said -- nevertheless, I wonder how soon after this system
7 comes into operation someone will say to a colleague or to
8 a client, "We can't do that because there's no code for it."

9 I just wonder how soon that happens. I speak
10 from experience, for example, in schools. For example,
11 M.I.T. We have computerized registration systems. You
12 know the sort of thing that happens is that a student
13 registers for this, that and the other thing, and 4 weeks
14 into the semester he comes in and he wants to make a change.

15 And students are generally good sort of "jailhouse
16 lawyers," and they know what the rules are. So they want
17 to make this change.

18 And it turns out as his adviser I sign everything
19 appropriately, and he goes to the registrar, and it turns
20 out that the registrar says, "You can't do that."

21 "Why not?"

22 "Well, because the computer system isn't set up
23 to handle it."

24 Now, it's well within the rules. Okay. But now,
25 you see that the society -- in this case the student

1 society -- has become to some extent a victim of what the
2 computer makes possible and what the computer doesn't make
3 possible.

4 Again I just want to bring that out. It's one
5 of the side effects that I think we ought to be concerned
6 about.

7 MISS LANPHERE: Let me answer that one first.
8 We have been very fortunate and have established really
9 a new, unique milestone. In the olden days when people
10 were kind of in awe of computers they told you what you
11 could get and you took it, you know, and you were grateful --
12 which happened.

13 From the beginning of this test we have worked
14 very closely with Data Processing. And in this system
15 the program people or the service people have designed the
16 system and have told Data Processing what we wanted and
17 they have designed it. And this system has been this way
18 since the beginning.

19 I might say that since the beginning of when we
20 revised all the code structure to the Oklahoma service
21 system -- and I think this is one thing we can attribute
22 to the success that we feel we are having although we
23 recognize it is still far from perfect -- we did not rely
24 on people sitting up in the State office and in the data
25 processing office and those of us that are kind of far

1 removed from the client now to design this system and hand
2 it to the counties and to the service workers and the
3 clients, which is where it's at, and say, "Now, here's
4 your system. Good luck to you."

5 But after this 6-months test, and in fact all
6 during this 6 months, we met with the service staff, the
7 workers, the field representatives, the county administrators,
8 and the service supervisors as to how is the system going,
9 what is wrong with it, how can it be improved, what codes
10 do you need, what services are not available, what resources
11 need to be developed, etc.

12 So that from the very beginning of the test of
13 CASS and the revision of it to the Oklahoma service system,
14 the service staff out in the field played a vital role in
15 this, and this has made all the difference in the world.

16 This is one of the reasons that we have the
17 majority of the codes that we need. When we redesigned the
18 code page we left room for growth in every field, every cate-
19 gory of service that there was.

20 We have already added five new codes that we
21 didn't think of. And to my knowledge no service worker has
22 said to a client or a consumer or whatever we call her
23 that, "We cannot do this because we do not have a code."

24 If we ever found this to be the case, we'd be
25 out there the next day seeing that that client got that

1 service. Because we add codes as we discover the need.

2 I beg your pardon?

3 DR. BURGESS: It would be called "Other."

4 MISS LANPHERE: We did provide "Other." Right.

5 (Laughter)

6 Under every major category of service we brought
7 up "Other." And we watched this, and we asked the counties
8 to keep track of the times they have to use the "Other"
9 and what are they meaning when they code "Other." And if
10 the frequency justifies it, then we make it a valid code,
11 add a code.

12 We are determined that we are going to have
13 a good system for accountability of services in Oklahoma.

14 PROFESSOR WEIZENBAUM: Well, you know, first of all,
15 let me say that these difficulties that I am alluding
16 to are difficulties with the machine, but the term "machine"
17 has to be understood in a very general sense. Obviously
18 these same difficulties result from the creaking of
19 administrative machinery as easily as computers.

20 So, you know, it doesn't necessarily have anything
21 to do with computers. It's just that computers make it
22 possible for the system to get frozen at some point,
23 whereas in an administrative system it may be possible to
24 break the system.

25 One question is how easy it is to override such

1 a system. Now, in a human administrative system it is
2 sometimes possible to go to someone, some person, who simply
3 decides to override, you know, all the built-in constraints
4 and so on and so forth.

5 It's just an observation.

6 The second observation is that while the system
7 may be as flexible -- I'm sure it is if you say so -- as
8 you say, there is a question as to what happens in the next
9 generation. You know. What happens when the programmers
10 who did this, who built and designed this system, leave,
11 when people like you because of the wonderful job you have
12 done get promoted?

13 MR. WARE: Or get hired by Montana.

14 PROFESSOR WEIZENBAUM: Or get hired by some other
15 State. And so on and so forth. And now the system which
16 is no longer so well understood by the people who now
17 take it over, who in fact really don't understand what is
18 going on inside-- What happens when they take it over?

19 This is not a question you can answer. I'm just
20 calling attention to potential --

21 MISS LANPHERE: I didn't do this all by myself.

22 MR. DOBBS: Let me relate to the third point that
23 Pat made and that Phil Burgess touched on in a different sense,
24 and that is what the notion of accountability in fact en-
25 compasses.

1 She has talked about accountability for services
2 delivery, and my presumption was that whatever the
3 administrative costs, computer costs, however you want to
4 lump them, are an accountable component of that delivery
5 system in some sense I presume. And Phil talked about
6 accountability earlier in a slightly different context.

7 But it's not clear to me that they are necessarily
8 that dissimilar, that one can think of accountability
9 constructs for privacy, for use of standard kinds of
10 numbers, which deal with the issue of how in fact you
11 protect the next generation from misuse. I don't think they
12 are dissimilar.

13 Maybe I didn't state that well. Phil, if you
14 could help me --

15 DR. BURGESS: No, I think that's true.

16 Can I get this in another way by making an
17 observation on some experience that I have had that's related
18 to this business of numbers.

19 Let me just make a brief observation just to go
20 in the record that I think this business about computers is
21 a straw man, and I think the issue is information and
22 privacy and all th se kinds of things.

23 And I just-- You know, forms that had closed-
24 ended items existed a hell of a long time before computers
25 existed. And I don't see how much is gained by, you know --

1 for the student who has trouble with the registrar because
2 he can't do something when he wants to do it because of the
3 computer system. I'm surprised that Professor Weizenbaum
4 thinks that dealing with secretaries in graduate schools
5 is any easier -- or deans. I don't think they are.

6 And one certainly can't conceive of a university
7 of 40,000 or 50,000 students operating without this kind of
8 assistance.

9 So it seems to me other values come into play
10 here too if one wants to have a neat, tidy little
11 university system that educates, you know, 5 or 6 percent of
12 our people so we can do away with these machines --

13 PROFESSOR WEIZENBAUM: As short a time ago as 20
14 years ago the universities operated without these systems.
15 It's perfectly conceivable.

16 DR. BURGESS: Not with 50,000 students they
17 didn't.

18 PROFESSOR WEIZENBAUM: Well, M.I.T. doesn't have
19 50,000 students anyway.

20 DR. BURGESS: Well, you're a special case.

21 PROFESSOR WEIZENBAUM: Even we get into trouble.

22 DR. BURGESS: Not everybody is privileged that
23 way.

24 PROFESSOR WEIZENBAUM: Even we get into trouble.
25 That's the point. Not only are we privileged in having

1 only 7,600 students --

2 DR. BURGESS: I'm saying privilege can afford to
3 worry about those things. But I'm saying there are other
4 values at stake, and if a guy has to wait 3 days to change
5 a course that may be a price some are willing to pay in order
6 that 20,000 a year get educated in a State rather than 5,000.

7 PROFESSOR WEIZENBAUM: I just gave an example of
8 changing a course which may or may not be important to the
9 administration, to the university, to the professors, and
10 so on, but it's certainly important to that individual
11 student.

12 I really don't know-- I really don't quite know
13 what is more important than that. That's in some sense why
14 the university is there.

15 So I don't know what other values take over. If
16 in fact the rules --

17 DR. BURGESS: The value that large numbers of
18 students get educated.

19 PROFESSOR WEIZENBAUM: If the rules which were
20 designed in the wisdom of the faculty and the administration
21 in fact provide that the student may do such and such
22 and so and so and then he's frustrated in doing that because
23 of some hitch in the system, because a programmer wasn't
24 smart enough to make the system that flexible, that's a
25 serious difficulty with the system.

1 DR. BURGESS: Anyway, I just, you know-- I'm not
2 going to argue the point. I just want to go on the record
3 saying I think your response convinced me it's a straw man,
4 so I won't, you know, pursue that.

5 But it seems to me that based on some experience
6 that I had this summer in Puerto Rico working with both
7 personal data systems and social accounting kinds of data
8 I think that a very strong case can be made from the point
9 of view of both privacy concerns and social analysis
10 concerns not to have this common identification number that
11 you say, you know, you would like to have.

12 That is, the privacy issue is quite clear in
13 that regard it seems to me.

14 But on the social analysis side, what we found
15 was that when we tried to-- Working with two agencies in
16 Puerto Rico with governmentwide planning responsibilities
17 who therefore for the most part didn't
18 collect their own data -- they recovered data much as you
19 people in Florida do from originating agencies -- that data
20 recovery was much more difficult when the originating agency
21 used a standard identification number, because they were
22 concerned about the confidentiality of the data.

23 And any kind of social analysis, most kinds of
24 good social analysis, require the unit-level data -- that is,
25 the disaggregated data, the level of the individual if

1 you're dealing with individuals.

2 And when the agencies like the Bureau of Labor
3 Statistics let's say use a general or common ID number,
4 social security number, they are very reluctant to
5 give up data. Or when the Treasury Department uses social
6 security number they are very reluctant to give up data.

7 But when other agencies are using their own peculiar
8 numbers, they don't mind giving up the data because the
9 user has no way of linking that number back to a person.

10 And so it seems to me that there is not only a
11 tremendous amount of protection for the individual in the
12 non-use of common numbers but that the larger social system
13 interest in the recovery of data for different users for
14 social analysis is served by having a jungle of numbers
15 rather than one common one.

16 The second thing in this regard has to do with
17 the notion of these central data banks anyway. It seems to
18 me that central data banks are talked about, you know, mostly
19 by people who don't do analysis. And it seems to me that
20 the problem in society is, you know, that there is too much
21 data, not too little. The problem is we haven't thought of
22 imaginative ways to use data.

23 And, therefore, the idea of setting up-- Or to
24 put it conversely, it seems to me there is a great deal of
25 value in requiring those with analysis and appraisal kinds

1 of functions in society to ask for discrete kinds of data
2 from those who originate the data and not making those data
3 broadly available either indirectly by the use of common
4 numbers or directly through some kind of a system that
5 puts all of this in a central storage unit some place,
6 and that it's only in some abstract way that the notion of
7 a central data file, you know, has any kind of appeal.

8 So it seems to me that in summary, whatever the
9 costs may be of having, you know, four different numbering
10 schemes for these different kinds of people, that as an
11 outsider who might be interested in doing some analysis, let's
12 say, on welfare recipients my bet would be that as long
13 as those numbers remain four separate numbers unrelated to a
14 social security number a lot more multiple social good is
15 going to come from that kind of information than if you were
16 to succeed in getting a social security number inserted.

17 MR. DOBBS: The assumption there, of course,
18 is if in fact one has better data for better analysis
19 that there's going to be some improvement in the delivery of
20 services, which is not at all clear either on the other
21 hand.

22 DR. BURGESS: Right.

23 MR. ANGLERO: One thing that we have to keep in
24 mind is that we have only central government in Puerto Rico,
25 so all the data is aggregated for the state, so there you

1 can't make sectoral analysis.

2 MISS KLEEMAN: I just wanted to make one point
3 on what Pat was saying. That is, I wondered how much the
4 workers are a slave to the coding process and how much
5 of a social worker's time and effort is taken in preparing
6 computer forms.

7 We have just had examples of that where for the
8 Committee we have spent some intolerable amounts of time
9 preparing computer forms where we had to look through seven
10 different books for codes.

11 And it seems to me that the computers could
12 serve us a little better if we could speak to them in
13 English rather than in 06, you know, and 2050, or something.

14 MR. WARE: It's just because you're dealing with
15 antiquated computer systems.

16 MR. MUCHMORE: No, it's because she helped design
17 the system, and you didn't.

18 MR. ANGLERO: You should try to speak to them in
19 Spanish. (Laughter)

20 MISS LANPHERE: I might explain this, Nancy. We
21 condensed the 17 CASS forms to ten forms to the Oklahoma
22 service system, and two of those are not-- They're still in
23 the stage of revision. Only three of these forms go to the
24 computer, and the others are what we call narrative backup
25 forms.

1 For instance, the first form I told you about
2 is where the client says, "I want help with. . .," and fills
3 it out.

4 The second form is if it is a protective need
5 request of the court and so forth. In other words, it's
6 not a voluntary request but the individual is in danger of
7 neglect, abuse or exploitation. Then this form is used
8 instead of the voluntary request form.

9 But we have three forms that are actually coded
10 and go into the computer. The first two, the codes are on
11 the form, which the workers like very much. For instance,
12 legal family structure. Is it a complete family? That is,
13 is there a mother and a father and a child? Then you put a 1.

14 And all of the codes are right there on the form.
15 So they are very easy to find. And the workers memorize
16 those codes pretty fast. Like living arrangements. Especially
17 the ones that they use the most.

18 On the other form, the service information form
19 that uses the code pages, it is a little more difficult.

20 And during the first, oh, first month of the
21 test we found the code pages kind of cumbersome. But what we
22 did was break down-- Well, we didn't do it. CASS had
23 already done it, and we retained it because we thought it was
24 a good idea. The codes are under major headings like health,
25 housing, training and employment, education, and so they

1 can kind of go-- It's like looking in the yellow pages of
2 a telephone book for your major category of type of request,
3 and your action codes are the same, and they soon memorize
4 the most common ones that they use.

5 For instance, source of service. A Bureau of
6 Children's Services service worker, if she's the source,
7 after about the second time she puts it down knows she's
8 a 601, because that is a BCS service worker. And if she's
9 the one doing the work, she puts 601.

10 If Vocational Rehab is doing the work, they
11 son remember that's a 603.

12 They have the main ones memorized already. They
13 do have to look up the more unusual ones. But it is such
14 an improvement over the much more complex, cumbersome form
15 that we did have where the blocks were little bitty and
16 you really needed glasses, you know, to see them. They
17 are very pleased with it.

18 And we have included, as I say, all of the codes
19 on the form itself that we could, because they ask for this.

20 MR. WARE: Do you keypunch all that stuff?

21 MISS LANPHERE: Yes. Well, it's not keypunched.
22 It's OCR.

23 MR. ARONOFF: Could I ask you the same question that
24 I asked Jim I^Mpara? Aside from your own bureau-- By the
25 way, I think it's a very slick way of getting around calling

1 yourself a department of welfare.

2 MISS LANPHERE: It wasn't my idea.

3 MR. ARONOFF: Aside from your own bureau, who has
4 access to the bank of information that you get? Now, if
5 you're in the WIN program, for example, doesn't the employer
6 have an opportunity to --

7 MISS LANPHERE: Yes, with the WIN program we work
8 with the Department of Labor, you know, in finding the
9 recipients who would be eligible, and so forth. They don't
10 have access to the client's complete record.

11 MR. ARONOFF: Could they have if they asked for
12 it? Supposing now under some of the experimental programs
13 where companies are trying to find out how a WIN-trained
14 employee compares with an employee out of a society that
15 wasn't given this particular kind of training, they say
16 that, "We're using it now for our purposes in order to
17 help in manpower training," and they ask you for it, what
18 would you do?

19 MISS LANPHERE: For our case record you mean?

20 MR. ARONOFF: Yes.

21 MISS LANPHERE: No. No, our persons, our people --

22 MR. IMPARA: What is WIN?

23 MISS LANPHERE: I'm sorry. It's Work Incentive
24 Program for Unemployed Fathers on AFDC. Excuse me. I
25 forget in talking my welfare lingo.

1 MR. MUCHMORE: Services lingo.

2 MISS LANPHERE: Right. But WIN is Work Incentive
3 Program for Unemployed Fathers on AFDC. Right now we have
4 it in 14 counties, but it is going Statewide. I believe
5 it has to be Statewide by July 1. So we will be going into
6 all the counties.

7 And so we are just-- In regard to our
8 Oklahoma service system, since we are just now implementing
9 working WIN into this service system because it just so
10 happened none of the four counties that were in our test
11 were WIN counties and we didn't have any WIN cases during
12 the CASS test because none of the counties had WIN that we
13 tested --

14 MR. IMPARA: The employer couldn't get the data?

15 MISS LANPHERE: No, wouldn't have access to
16 our records which were confidential.

17 Now, our representative that works with the
18 person that works for the welfare department, that works
19 with the Department of Labor and so forth, education, they
20 all work together in selecting the clients and how they are
21 doing and so forth.

22 MR. ARONOFF: But the linkage would be similar to
23 Jim's? Maybe your department itself wouldn't give it, but
24 the training school would have its own-- Either the school
25 or the plant where the person was trained or the secretarial

1 course or whatever it is. That training school has informa-
2 tion from your records, don't they?

3 MISS LANPHERE: Well, just --

4 MR. ARONOFF: Don't they in turn have the right
5 to decide or not to decide whether to pass it on to a
6 prospective employer?

7 MISS LANPHERE: Well, for instance, now we make
8 the referral of the people we think would be good candidates,
9 you know, to the Department of Labor. Then they determine
10 if they are going to accept them.

11 Now, I'm not sure I'm following your question.
12 But they would not have access to the client's complete
13 record, no, but in regard --

14 MR. ARONOFF: That's my question. I'm a prospec-
15 tive employer.

16 MISS LANPHERE: No, you would not have access.

17 MR. ARONOFF: I can't get it from you. Can I get
18 it from any of the training places that you referred the
19 welfare recipient?

20 MISS LANPHERE: Well, we wouldn't release the cli-
21 ent's complete record.

22 DR. BURGESS: When you release records, do you
23 release --

24 MISS LANPHERE: We don't release records.

25 DR. BURGESS: Well, for the WIN program, for

1 example, where you said you did release part of a record.

2 Right?

3 MISS LANPHERE: Well, we have to release the
4 fact-- He has to be an AFDC recipient to be eligible.

5 DR. BURGESS: But that's all? You simply certify
6 he's eligible?

7 MISS LANPHERE: Yes, but as far as just turning
8 over the whole --

9 DR. BURGESS: I'm not talking about the whole
10 thing. What I wanted to ask was if in those conditions
11 when you do provide some information to other users outside
12 your bureau, would that information be provided with a
13 Xerox copy of let's say the original form on which the data
14 were collected -- or a 3M copy -- (laughter) -- or would
15 it be provided in the form of a computer printout
16 from the computer file? What?

17 MR. ANGLERO: It doesn't matter. It might happen
18 in this case they might not release it, but in other
19 cases they might release it.

20 DR. BURGESS: What form would it go in?

21 MR. SIEMILLER: Certification form provided for the
22 WIN program. You fill out the certain form is what I under-
23 stand is the way it happens.

24 MISS LANPHERE: Yes. I should have brought them,
25 with me. I'm sorry. I haven't actually participated in the

1 WIN program so that I could --

2 MR. SIEMILLER: I have been dealing in jobs.

3 MR. MARTIN: We're coming toward the end of our
4 afternoon session, and I had hoped -- and I hope we can run
5 a little bit longer than we might otherwise do -- to have
6 had Arthur Miller give us a kind of talk on the law of
7 privacy briefly, which he has agreed to do, to help bring
8 us to a more commonly shared perception of some of these
9 issues.

10 Would you like to do that before we break for
11 the rest period before dinner or would you rather hear
12 Arthur at the session which we will have after supper
13 tonight in this room starting about 8:30 or quarter of 9?

14 PROFESSOR MILLER: There's a third possibility --
15 which is would they rather not hear me at all? (Laughter)

16 MR. ARONOFF: Are you sure you want that answer?
17 (Laughter)

18 PROFESSOR MILLER: Oh, I'd love the answer to that
19 question. (Laughter)

20 MR. SIEMILLER: Why not hear him now and cancel
21 that later meeting you're talking about after dinner --
22 unless you're prepared to pay statutory overtime. (Laughter)

23 MR. MARTIN: In your case, Mr. Siemiller, we are.
24 (Laughter)

25 MR. DOBBS: I think it's extremely important that

1 we hear Arthur's talk.

2 I have some concern personally about some lack
3 of structure at this point. We have spent the day -- and
4 this one is getting ready to draw to a close -- and some
5 of us are going to be heading out of here tomorrow afternoon
6 at some time, and I get a feeling that if we do not come
7 back in tomorrow with some form of structure as suggested
8 earlier either in terms of things which have to be done or how
9 we plan to break down, that we aren't going to have enough
10 time to sort of get rolling.

11 So in my concern for hearing Arthur's talk I
12 have just as much concern for getting some sort of
13 structure formalized.

14 I don't know if everyone else shares that feeling
15 or not but --

16 MR. IMPARA: Yes, others share that feeling.

17 MR. DAVEY: I think it would be a good idea to
18 have Arthur talk as quickly as possible because I think that
19 it would help. (Laughter) I don't mean to get it over
20 with, but I think it would help to get some kind of a basic
21 understanding of what it is we are talking about.

22 MR. SIEMILLER: You can listen better now.

23 MR. DAVEY: I think that's correct. I think it
24 may also serve to give some good topics of discussion at
25 dinner and thereafter. Because I think we are drifting at the

1 present time, and this may help to give it some of the
2 structure you're looking for.

3 DR. BUGESS: Second.

4 PROFESSOR MILLER: I'm not sure how many words
5 per minute you'd like, Jerry.

6 I'll stand up, primarily because I always lecture
7 standing up, and, secondarily, in order to keep myself
8 awake.

9 DR. BURGESS: That means 47 minutes?

10 PROFESSOR MILLER: Yes. I'm programmed for
11 about 15-minute units. (Laughter)

12 First of all, I'm not licensed to practice in the
13 District of Columbia, and nothing that I say should be
14 construed as advice.

15 MR. SIEMILLER: What about Maryland? You're not
16 in the District.

17 PROFESSOR MILLER: Us academic lawyers are rarely
18 licensed to practice anyway.

19 Now, there is no law of privacy as such, and I
20 think that's a very important fact of life. We tend to think
21 of privacy as a fundamental right, and maybe
22 we do think of privacy as a fundamental right in sort of
23 the cultural sense or out of some sense of subjective ethos.
24 And there is no doubt if you go back and do research on the
25 sociology of, oh, pick the Greco-Roman Empire, you will find

1 strands of privacy, both spatial privacy and privacy with
2 regard to citizen versus the state, and privacy even in a
3 very preliminary informational sense, but not legally.

4 There has never yet been a uniform conception
5 of a legal right to privacy.

6 In the continental or European system, privacy
7 is really submerged in what is called the right of
8 personality, which is a congeries or grouping of rights
9 belonging to the individual which he can assert in various
10 contexts and against various social units.

11 In the United States we first started
12 hearing about privacy, as was remarked earlier in the day,
13 when two gentlemen by the name of Warren and Brandeis --
14 Brandeis later to become one of the great Justices of the
15 United States Supreme Court -- wrote an article in the
16 HARVARD LAW REVIEW pleading for the creation of a common
17 law or judicially-created right to privacy.

18 It is interesting that as of 1890, a mere 90
19 or 80 years ago, there was no recognition by the courts,
20 by the legislature of a right to privacy of the individual.

21 And it's also interesting to note that the
22 original right of privacy conceived by Warren and Brandeis
23 in this doctrinally significant article in 1890 was simply
24 a right that the individual would have against the mass
25 media.

1 It was not conceived to be a general right. It
2 was not conceived to be a right of the individual against the
3 state. It was simply a right as Brandeis phrased it to be
4 let alone by the mass media.

5 That was the era of yellow journalism, and
6 that was an era in which the life style of the Back Bay
7 Bostonians was being subjected to press treatment, and,
8 indeed, the Warren-Brandeis article was really a retaliation
9 against the yellow press in Boston.

10 Now, definitionally, there is no, again, generally
11 accepted legal definition of the right to privacy. The
12 Brandeis notion of right to be let alone is sort of the
13 essence of what courts and legislatures have talked about,
14 but they have talked about it and written about it in very,
15 very different ways and different contexts.

16 You might think of the right of privacy culturally
17 in related ways -- the right to self, the right to
18 autonomy, the right to individuality, the right, as some
19 writers have characterized it, to decide for yourself when
20 to go public, the right to hold yourself in and lead sort of
21 an anonymous life, and then the right to disclose something
22 about yourself.

23 All of these things are related to the right to
24 privacy.

25 Now, what has emerged since the Warren and Brandeis

1 article in 1890 really has been the judicial and legislative
2 recognition of various rights to privacy, particular rights
3 in particular contexts of the rights to be free against cer-
4 tain types of intrusion.

5 Now, I will take it at three levels just to
6 give you some illustrations.

7 First is the constitutional right of privacy.

8 Second would be the legislatively-created
9 rightof privacy.

10 And third would be the types of privacy that the
11 courts have decided on their own to protect.

12 Now, I'll start at the top.

13 There is no mention in the Constitution of
14 privacy -- again further evidence of what some conceive to be
15 the nonfundamental character of privacy, or, stated somewhat
16 differently, the fact that privacy is an element of other
17 rights.

18 Because although the Constitution nowhere mentions
19 privacy, the United States Supreme Court, in a variety of
20 different contexts, have recognized constitutional protection
21 for things that look like privacy but really are brought
22 under one of the specific grants of protection in the Bill
23 of Rights.

24 Let me give you a couple of examples.

25 The Supreme Court has decided that the government --

1 State, Federal, local, or agencies that act like government,
2 various corporations, public corporations -- does not have
3 the power to extract from us information about our associa-
4 tions or beliefs.

5 For example, the State of Alabama cannot coerce
6 the NAACP into delivering a membership list.

7 Now, that in a sense is privacy. People have the
8 right of privacy constitutionally-founded not to be coerced
9 into revealing their associations, revealing their beliefs,
10 political, social, philosophical, absent an overpowering
11 demonstration by the state of necessity, public order, etc.,
12 etc.

13 Now, all of that is justified not necessarily in
14 privacy terms, although it really is privacy, but in terms
15 of freedom of speech, freedom of religion, freedom of
16 association, or, as Justice Douglas characterizes it, the
17 right to keep the government off your back.

18 And these are rights guaranteed in the First
19 Amendment, Fourth Amendment, Fifth Amendment, and a variety
20 of other amendments, but they are not articulated in terms
21 of a right of privacy.

22 Some of you will remember the creation or the
23 recognition of another right of privacy not really
24 denominated as a right of privacy. This is the right to
25 practice contraception in your home -- the great case of

1 Griswold v. Connecticut -- in which the Supreme Court said
2 the State of Connecticut could not interfere with the people's
3 right to use and talk about and learn about contraception,
4 that it was an impermissible intrusion on the life of people
5 for the State of Connecticut to try to ban the use of contra-
6 ception.

7 Now, that is a privacy right. That is a right to
8 practice contraception in your home.

9 And it was articulated in terms of a number of the
10 Bill of Rights -- the First, Fourth, Eighth and Ninth
11 Amendments, none of which speak about privacy.

12 The Supreme Court has also recognized a constitu-
13 tional right to watch or look at or read pornography in the
14 home -- again something like a zone of privacy, the right
15 to do certain things in the privacy of your home -- but
16 again not articulated in terms of privacy, rather articulated
17 in terms of limitations on governmental power and govern-
18 mental intrusiveness into conduct of private people.

19 Of course, you all know that the Fourth Amend-
20 ment guarantees to us a right against unreasonable searches
21 and seizures. This too has strands of privacy in it and
22 creates certain zones of privacy into which the government
23 cannot unreasonably intrude and from which the government
24 cannot unreasonably search, seize and extract.

25 Now, that is basically where we are today in the

1 notion of a constitutional right of privacy -- no such right
2 but sort of emanations or rights of privacy emerging as
3 subsidiary themes to the protection of speech and association,
4 search and seizure, the home, etc., etc.

5 Thus it is, for example, that the great challenge
6 to the United States Army's military surveillance
7 program which is currently before the Supreme Court of the
8 United States is being conducted not primarily as an
9 invasion of privacy. That is, military surveillance of
10 lawful political activity of the public. It is being
11 challenged because it has the so-called chilling
12 effect on free speech, association, assembly, petition,
13 dissent.

14 So there is a certain amalgamation of privacy
15 themes and other constitutional themes.

16 My own personal view is that probably one of
17 the great constitutional bastions of privacy not yet
18 explored in the courts or by the activist litigators is the
19 concept of due process -- the notion that the government
20 cannot deprive you of life, liberty, property without due
21 process of law, a restraint that affects both the national
22 government and, of course, the State and local governments.

23 It seems to me there is yet to be written a
24 chapter about informational due process. And certain types
25 of governmental information gatherings, uses, disseminations

1 might be challenged on the grounds that they violate due
2 process.

3 For example, the ability of the government to
4 extract certain types of information coercively and use it
5 to a citizen's disadvantage may be said to be a violation
6 of that citizen's due process rights, particularly if that
7 individual is not given a right to see the file, to challenge
8 its accuracy, to try and force the government to create
9 locks, gates, barriers to the movement of that data and
10 participate in decisions made about that citizen on the
11 basis of that data.

12 I think that is the next privacy battleground
13 in terms of constitutional rights of privacy.

14 Now let me switch over to judicially-created
15 rights of privacy. This is the common law, the great,
16 glacially-moving doctrine established by the courts which
17 we have inherited, for better or for worse, from our friends
18 across the sea.

19 The courts have recognized sort of a scattergram
20 of common law rights to privacy, almost none of which really
21 meet the exigencies of modern informational life.

22 Going back to the Warren and Brandeis notion,
23 the courts have recognized certain protections against the
24 press for outrageous behavior. You have something of a
25 right to prevent the media of mass communication from

1 invading your privacy in an impermissible or outrageous or
2 unpleasant way and reporting to the public events about
3 your private life.

4 Now, that is hedged in by two very important
5 doctrines which really bear on a lot of the things we
6 talk about here. One is that as you go public as a human
7 being you lose your right to privacy, and, ironically,
8 people who are hell-bent on preserving their privacy because
9 of who they are and what they do occasionally involuntarily
10 lose their privacy and cannot object to press reportage of
11 their activities.

12 President Nixon has no right of privacy.

13 Howard Hughes has no right of privacy to any
14 significant degree.

15 Jacqueline Kennedy Onassis has, in a sense, gone
16 public and lost much of her privacy, although each of these
17 people retains rights of privacy as against unconscionable
18 intrusions on their life, like the gentleman who follows
19 Jackie around constantly snapping her picture day in, day
20 out.

21 So one theme is as you go public you become
22 less capable of preserving your privacy in a legal sense.

23 The other one is the great notion of the public's
24 right to know. And this, of course, is tied in with freedom
25 of the press.

1 A great deal in our society that we as sensitive
2 human beings would like to characterize as private must
3 go by the boards simply because we have created freedom of
4 the press and free speech and the concept of the public's
5 right to know.

6 So the press is given great latitude even to
7 engage in intrusive behavior to report on matters of public
8 interest whether they be matters of public interest
9 as committed by individuals or by governmental instrumental-
10 ties.

11 For example, there is a very important statute
12 on the books called the Freedom of Information Act which
13 gives the press direct legislative access to enormous
14 quantities of information held by Federal agencies. Why?
15 Because there is a public right to know what the agencies are
16 doing. Popular oversight. Participatory democracy. Any-
17 thing you want to call it.

18 One of the facts of life is that as we as human
19 beings get involved with Federal agencies a lot of the
20 data those Federal agencies record about us then become
21 fair game for the Freedom of Information Act mill and may
22 get siphoned out the back door because of the legislative
23 obligation on the Federal agencies to open up and show what
24 they are doing.

25 Another form of common law privacy is an as

1 yet amorphously defined notion of freedom from intrusion.
2 We seem to be developing in our courts the right to be let
3 alone in terms of being surveilled by other people and
4 other agencies and even the government. A perfect example
5 of that is the General Motors surveillance, alleged
6 surveillance, of my good friend Ralph Nader, which he then
7 sued on.

8 You will recall Nader charged that he was being
9 watched by GM people, his phone was being tapped by GM
10 people, GM people were sicking girls on him, etc., etc.

11 In a preliminary decision the New York Court
12 decided that he conceivably had had his right of freedom
13 from intrusion violated by General Motors -- another type
14 of privacy created by the courts.

15 Yet another one would be the notion that you
16 and I have rights to be free from being cast in a false
17 light in the public eye as it's called. Wonder Bread can't
18 take a picture of Joe Weizenbaum and put it in a national
19 magazine and say, "Joe Weizenbaum eats Tip-Top bread or
20 Wonder bread." That's being cast in a false light in the
21 public eye.

22 It borders on libel, but it's not quite libel.
23 And the courts have yet to decide what the relationship is
24 between the law of libel and that aspect of privacy called
25 false light in the public eye.

Now, none of these individual little pockets of common law privacy created by the courts has really very much to do with computerized information systems. None of them really gets there. Arguably, you could say a big computerized system, particularly if it's interconnected with other computerized systems, sort of intrudes on me, it surveills me, or it misappropriates me. But notice it doesn't fit the Warren and Brandeis model of freedom to be let alone by the mass media. It has nothing to do with the mass media.

Thus, I personally have concluded that the common law of privacy holds little hope in terms of generating judicially-created safeguards in a computerized environment -- which leads me to the third leg of the law of privacy, and that is statutes.

Now, there are a variety of statutes on the books related to privacy. Some of these statutes, although precious few of them, limit the kinds of data that can be collected in the first instance.

There are statutes on the books that really proscribe and limit what a Federal agency can gather in terms of information collection about people, but that is an exception rather than the rule.

In some senses, for example, the statutes that control the census, the statutes that control the activities

1 of the Census Bureau, can be loosely said to be pro-privacy
2 in the sense that they describe what it is that the Census
3 Bureau can do and by negative implication suggest what it
4 is they can't do.

5 Unfortunately, a survey conducted by former Senator
6 Ed Long of Missouri indicated that the vast majority of
7 Federal agencies that collect private information or informa-
8 tion on people exceed their statutory powers, which is a
9 very interesting commentary on the limitations or the
10 limited effectiveness on statutory restraints on data gather-
11 ing.

12 Other types of statutes deal with confidentiality.
13 At last count there were well over 200 Federal statutes
14 suggesting that this or that item of data collected by
15 Federal instrumentality was confidential. Of course, none
16 of these confidentiality statutes, with the possible
17 exception of the Census Bureau, is an absolute.

18 For example, we heard today of the ability to get
19 data from the Internal Revenue Service. Why? There is
20 a confidentiality statute that applies to the
21 Internal Revenue Service, but it is virtually "Swiss-cheesed"
22 by exceptions. Wide numbers of groups and organizations,
23 including anyone denominated by the President, can break the
24 veil of confidentiality supposedly created by the statute
25 in the Internal Revenue Code.

1 But, nonetheless, there are a couple of hundred
2 confidentiality statutes that do protect privacy to some
3 degree.

4 Now, quite obviously, in my view, one of the
5 things this group should think about in terms of the use of
6 the social security number and the use by the agency of
7 automated data systems is possibly preserving privacy
8 through the effective creation of confidentiality statutes.

9 Another type of legislative enactment is pro-
10 scriptions on dissemination -- that is, defining the groups of
11 people who can see the data. This is closely related to
12 confidentiality statutes. It may be a question of
13 presumptions of burdens of proof.

14 But there are a fair number of statutes that
15 limit dissemination. There are other statutes that limit
16 the length of time data can be kept -- expungement statutes,
17 sort of a statute of limitations on the existence of data.

18 For example, the Fair Credit Reporting Act con-
19 tains provisions stating how long a credit reporting or
20 consumer reporting agency can maintain records of bankruptcy,
21 arrest, and things of that nature.

22 That is an emerging concept of developing
23 legislative guidelines for the lifespan of information.

24 And, of course, the Fair Credit Reporting Act
25 also indicates the legislative possibilities of enacting

1 statutes that give the individual rights of access to the
2 data because the Fair Credit Reporting Act does give the
3 credit subject, the file subject, the consumer, the ability
4 to know the nature and content of his file and give him a
5 series of rights for the correction of that file if it is
6 shown to be inaccurate.

7 One of the things I have argued for in the few
8 years I have been involved in this problem of privacy is
9 greater legislative awareness of the ability to use statutes
10 to create informational rights of due process, to
11 limit data collection, to limit data assembly or aggregation,
12 to enforce codes of professional ethics on data users
13 and data processors, to force, for example, the use of fail-
14 safe or protective devices on information systems, to limit
15 dissemination, to give people rights of access, to compel
16 expungement.

17 You could go on and on and on about the possible
18 legislative -- or the use of legislation to protect
19 privacy by maximizing confidentiality and limiting sort of
20 the intrusiveness of governmental and private agencies.

21 At this point, looking at the computer era, I'd
22 say there has really been one statute that has in any
23 sense been responsive to the problems of privacy in the
24 contemporary society, and that is the Fair Credit Reporting
25 Act. I view that statute with mixed emotions. It's a

1 step, a modest step. I think there are a lot of loopholes
2 in it.

3 There are, you should be aware of, a number of
4 legislative proposals both in the Congress and at the State
5 level for the enactment of additional statutes, some
6 dealing with the census, some dealing with arrest
7 records, some dealing with the registration of data banks,
8 which is a solution that the English are moving toward, the
9 registration of data banks with the development of a public
10 data bank on data banks, so to speak, so that each citizen
11 would know who is keeping what kind of information on him
12 and where he could go to seek correction or gain access
13 to the files, coupled with an ombudsman or an oversight
14 group that would monitor the activities of data banks to make
15 sure that they were following a reasonable pattern of
16 data collection, data dissemination, and data destruction.

17 I think you can gather from my remarks that
18 it is in this third category of legislative solutions
19 that I think there is the most promise for achieving the
20 balance between the public's right to know and the citizen's
21 right to privacy -- the public's right to gain information
22 in order to manage itself, protect itself, allocate its
23 resources, and again the citizen's right of privacy.

24 I think the Constitution is sort of like taking
25 the cannon to the mouse. I think the common law process is

1 much too slow to be properly reactive to the movement of
2 technology and the movement of data banking.

3 In order to protect you against mass hypnosis, I
4 have tried to keep this reasonably short, and I think if
5 anybody is interested in pursuing these three strands --
6 judicial, constitutional, and legislative -- and the
7 possible safeguards by way of legislation, I have got them
8 really all in my book, and they do exist in a variety of
9 other contexts.

10 MR. MARTIN: Okay. Well, I am sure we will want
11 to continue those, but I think not right this minute.

12 (Discussion off the record.)

13 MR. MARTIN: Are there any questions or comments
14 for the good of the order before we break?

15 (Whereupon, at 5:50 p.m., the meeting was recessed,
16 to be reconvened at 8:45 p.m., this date.)
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EVENING SESSION

8:55 p.m.

MR. MARTIN: Could I have your attention, please?

A few matters of housekeeping.

(Discussion off the record.)

MR. MARTIN: There is being circulated to each of you a resume which we have prepared from materials which we have received heretofore from you. We would be grateful if you would review these resumes and correct any errors you see therein, make any deletions that you would like made, and make any additions thereto that you would like to have made, with the understanding that the resulting amended -- if you amend it -- resume will provide the basis on which we may -- or I should say will -- indulge in certain public information activities about the membership of this Advisory Committee.

No public announcement external to the Department has been made as yet of the appointment and the members of the Committee. I think there is a story in this week's HEW Newsletter which should have come out today which tells about the Committee. And the expectation is that that's not likely to find its way into the public press.

We will be issuing a press release and would like to be sure that we include accurately whatever information is to be included about you in that release. We can't guarantee

1 what the papers will print, but at least we can start off
2 on the right foot.

3 So after you have corrected those resumes, see
4 that they get back to Bill Marcus. Where is Bill? Well,
5 you all know Bill I'm sure.

6 MISS KLEEMAN: To one of us.

7 MR. MARTIN: Or to Nancy Kleeman or to me; any one
8 of us will be fine.

9 Now, we adjourned a little bit abruptly this
10 afternoon. Arthur Miller had finished his compressed
11 version of a 47- or 57-minute lecture on the law of
12 privacy. And if that left you with a sense of
13 frustration and there are questions you'd like to ask or
14 extensions of Arthur's remarks in any particular that you'd
15 like to indulge in, I think this might be an appropriate
16 time to resume with Arthur Miller and his lecture on the law
17 of privacy.

18 DR. BURGESS: Can I ask a question?

19 MR. MARTIN: Phil?

20 DR. BURGESS: If we can indulge each other a little
21 bit, I'd just like to say I thought it was a tremendous
22 lecture or speech or whatever you want to say.

23 But I would like to ask a question about your
24 point about a legislative strategy. And this is a very
25 naive kind of question. Maybe it's not an appropriate one.

1 But since you have given thought to this, would
2 you recommend that an omnibus kind of approach to this
3 problem be taken where lots of different sectors and lots
4 of different issue areas get considered together, or
5 would you feel that a sector-by-sector kind of approach with
6 problems in the area of aging, problems in the area of
7 health problems, in the area of education be considered
8 separately and independently with respect to safeguards with
9 respect to privacy?

10 PROFESSOR MILLER: Phil, I'm very schizoid about
11 this. And this is personal. I'm very schizoid.

12 I used to think that an omnibus approach would
13 work. And the longer I have been involved in the field,
14 the more I have become convinced that you really need
15 a sector-by-sector approach. Because although there are
16 common themes, you can spot identical problems across the
17 board, the balances and adjustments that have to be made
18 between the competing interests strike me as sensitive within
19 a discipline or within a field. I don't know how you'd cut
20 that.

21 So I come more and more to the conclusion that
22 it really has to be sector by sector or ad hoc/ad hoc.

23 For example, I don't think you can solve Bob
24 Gallati's problem in the law enforcement field the same way
25 you can solve them in the HEW field.

1 DR. BURGESS: I asked the question because most
2 of my experience has been in what you might call the foreign
3 area arena, and in reading lots of material kind of over
4 the last month, kind of thinking about this meeting, I
5 have discovered that the Freedom of Information Act, which
6 among people in the foreign area of research, research and
7 action community, is almost exclusively seen as a very
8 positive kind of thing, very important achievement-- I
9 begin to discover reading your stuff and other people's
10 material that the Freedom of Information Act is viewed,
11 you know, with misgivings by lots of people in other areas.

12 And it led me to think more and more that the
13 problem of privacy with respect to personal data systems,
14 you know, might be more appropriately looked at in terms of
15 agencies or constrained by issues or by some smaller kind
16 of boundary.

17 PROFESSOR MILLER: Yes. I mean your area,
18 behavioral sciences in the research field, seems to me to be
19 an area that has a low intrusive factor and a high social
20 utility factor. And I don't think you would draw the same
21 lines and require the same types of controls over data
22 gathering or data use.

23 I don't know. I must confess I don't know to
24 what extent I have been brainwashed by the realities of the
25 political environment in terms of what it is possible to get

1 through Congress or a State legislature. But I like to think
2 of myself as becoming increasingly sophisticated in special
3 and special-user groups, and I think I would argue that in
4 this Committee's work that it not think in global terms.

5 My guess would be that the problems of the Office
6 of Education are quite different from Social Security and
7 the Medicare people, and so on and so forth. Not all data
8 banks are created equal, sort of.

9 MR. MARTIN: Go ahead, Stan.

10 MR. ARONOFF: I guess I'll throw one out. In
11 your primary approach you seem to feel that the statutory
12 approach was the most practical one in terms of really
13 doing something. Am I reading you correctly there?

14 PROFESSOR MILLER: Among the three segments I
15 would go a statutory route. But understand there are other
16 ways of meeting the problem, such as administrative
17 solution and self-regulation, that I didn't touch on because
18 they are not directly legal solutions.

19 MR. ARONOFF: Okay. Now, taking that as
20 one of the potential conclusions that this Committee could
21 reach, are you thinking in terms of guidelines for
22 congressional legislation or are you actually thinking in
23 terms of this Committee writing a potential bill to be
24 introduced into Congress? That's question 1. I'll stop
25 there and let you answer.

1 PROFESSOR MILLER: I really haven't reached a
2 conclusion on that. At least guidelines in terms of which
3 segments of the problem as we ultimately conceive it require
4 legislative correction which can be handled in house,
5 which can be handled by executive order. I have my doubts
6 whether this is an appropriate group for legislative draft-
7 ing.

8 MR. ARONOFF: If you're thinking in terms of
9 guidelines, do you think it also appropriate that there be
10 guidelines in terms of a uniform bill that would be
11 recommended, recognizing the sovereignty of States, but
12 nevertheless would be recommended for State legislators also?

13 PROFESSOR MILLER: I would certainly hope that at
14 some point during the lifespan of this group we establish
15 liaison with such groups as the Commissioners on Uniform
16 State Law, perhaps at one point or another bring one or two
17 of their people in.

18 MR. ARONOFF: That was my next question. Should
19 there be as one of the witnesses or invited witnesses that
20 group of people?

21 PROFESSOR MILLER: One of our colleagues is the
22 executive director of the Commissioners on Uniform State
23 Law, William Pierce, of the Michigan faculty, and it seems
24 to me that this by its very nature is a multi-level problem
25 -- that we here can only recommend policy to the agency --

1 but as Bob Gallati said this afternoon, I think, we could
2 provide a useful input to groups like the Commissioners on
3 Uniform State Law and State legislatures or --

4 MR. ARONOFF: Then may I suggest as one of
5 the specifics that some place along the line of witnesses
6 that are invited that the Uniform Commissioners be invited?

7 MR. SONTAG: Two questions. One, in your
8 list of alternatives that you offered, is there a
9 place for one or more executive orders in view of what
10 executive orders have done beforehand?

11 PROFESSOR MILLER: Oh, yes.

12 MR. SONTAG: Especially by a new President or a
13 President reelected?

14 PROFESSOR MILLER: Yes. That would be part of,
15 to me, the administrative or self-regulatory solution.

16 MR. SONTAG: And then in the back of the social
17 security book -- which we discussed a little bit briefly
18 earlier but we won't take time now to do -- but especially
19 on places like page 80 and 81, do you see the public interest
20 lawyer group trying out some court cases, especially in
21 that third paragraph, as they begin to leave this document?

22 Page 80, third paragraph, regarding the second
23 issue.

24 MISS KLEEMAN: This is what if the individual
25 refuses to disclose his social security number in some

1 situations. What right does the individual have particularly
2 in non-Federal --

3 PROFESSOR MILLER: Yes. I see the public interest
4 law firms already involved in fields that you could call
5 consumerism but which have a privacy overtone. For
6 example, the Nader groups are very much involved in the
7 administration of the Fair Credit Reporting Act. And I
8 would very much guess that the public interest lawyer
9 would be very much interested in the administration of
10 welfare and social benefit programs, particularly to the
11 degree that they have a coercive element on individuals.

12 MR. SONTAG: Well, it was pretty clearly estab-
13 lished earlier today that there is a limited amount of time
14 until Senator Long, Mrs. Griffith, and others act. I mean
15 somewhere along the line there will be some action.

16 My interviewing indicated that the public interest
17 lawyers will get into page 80 and others.

18 And I just want to make sure that you thought
19 there was a good enough case there so that, you know, HEW's
20 lawyers or Social Security's lawyers are going to be con-
21 fronted with what you called previously "your friend Ralph
22 Nader" and others within a reasonable period of time.

23 PROFESSOR MILLER: Yes. I might just drop a foot-
24 note there and say that my limited reading of the cases
25 indicates thus far low success in seeking to stop State

1 agencies and private agencies from using the social security
2 numbers.

3 For example, there have been cases seeking to
4 enjoin a bureau of motor vehicles in some State from
5 insisting on the social security number. There was one
6 in Connecticut. There have been a couple in the Midwest.
7 By and large, those cases have been losers -- that the courts
8 have not enjoined the State agencies from using the social
9 security number.

10 On the other hand, to take cases in another
11 field, but I think they have an analogical content to them,
12 there is some success in actions brought by citizens to
13 expunge files, particularly in the "arrest without probable
14 cause" field.

15 The great case, that Mr. DeWeese knows quite well,
16 is Menard v. Mitchell, a case involving a suit by a citizen
17 arrested without probable cause to try and seek the FBI
18 either to expunge or to freeze a file to prevent it from
19 dissemination.

20 And there have been counterpart cases in a number
21 of States.

22 It is from those cases that I got the notion I
23 suggested before dinner of due process in the handling of
24 data, that this was something lacking of due process to
25 have an arrest record circulating about somebody when there

1 was no probable cause for the arrest in the first instance.

2 Now, although the cases involving the social
3 security number have been losers for the citizens, I do see
4 a lot of social action law firm involvement in bringing due
5 process to the administration of governmental files.

6 I think the social action law firms have been
7 tied up with other things up to now, but there is
8 plenty of room for them.

9 DR. BURGESS: Why wouldn't administrative
10 remedies be more -- an ombudsman type system, for example --
11 be more desirable to think about than a legal remedy?

12 PROFESSOR MILLER: Oh, they would, Phil. Please,
13 I'm not a monolithic thinker by nature. When I say one
14 thing, it's never to the exclusion of anything else.

15 To me, the rational sequence of events would be
16 citizen access to his file and right of correction on the
17 spot, with an appeal to an in-house administrative board of
18 appeals. Failing that, into the civil courts -- so that
19 you don't go into the courts until you are at the third level
20 of the process.

21 You just don't want the courts cluttered up with
22 this kind of -- forgive me -- relatively trivial litigation.

23 That, indeed, is the model of the Fair Credit
24 Reporting Act.

25 So, please, in this field, internal remedies seem

1 to me to be fully capable to solve 90 to 95 percent of the
2 problems.

3 DR. BURGESS: Could you tell us a bit about the
4 credit remedies -- I mean the administrative remedies --
5 that exist in the credit field?

6 PROFESSOR MILLER: The way the scheme goes now --
7 and this is apropos of I guess Mr. Sontag's point this
8 morning that we all run to the credit bureau and make noise --
9 you walk in and you say you want to see your file. Now,
10 the Act gives the citizen the right to be told the
11 nature and content of his file.

12 Now, I emphasize that because if any of you want
13 this lesson in civics and you walk in and you say, "Let me
14 see my file," the bureau is under no statutory obligation to
15 show you the file itself. It is theoretically only under
16 the obligation to tell you what is in it.

17 I pass for the moment any commentary on de-
18 sirability of a procedure such as that.

19 Now, they tell you the nature and content of
20 the file, and you say, "That's wrong. You've got the wrong
21 Arthur Miller. You're talking about that deadbeat playwright,"
22 or, "I didn't buy that television set," or, "That television
23 set doesn't work so I'm not paying for it."

24 At that point the credit bureau or the consumer
25 reporting agency is under statutory obligation to make a

1 correction in good faith if you can convince it that the
2 file is in error.

3 That is remedy No. 1, sort of the confrontation
4 right.

5 The second remedy you have under the Fair Credit
6 Reporting Act is you can insert up to 100 words of explana-
7 tory material into your file, and the statute requires
8 that explanation to travel with your file, so that
9 whenever there is a credit report on you your 100 words go
10 with it.

11 The third remedy is the action at law in a
12 civil court to seek expungement and/or damages for the
13 improper entries in the file.

14 Understand the Fair Credit Reporting Act is
15 premised on the assumption that the citizen knows there is
16 a file on him and the citizen knows that the file is in the
17 credit bureau. Thought should be given in my view
18 to more automatic systems of notification and easier access
19 by the citizen to his files in HEW than may or may not
20 exist right now.

21 The only time the citizen is automatically going
22 to get notification under the Fair Credit Reporting Act is
23 if adverse action has been taken on him based in part on
24 his credit file. He is turned down for a job. He is turned
25 down for insurance. He is turned down for credit. Then he

1 gets a statutory notification from the turning-down organiza-
2 tion which tells him that the rejection was based in part
3 on a consumer report filed by such and such an organization.
4 That's the only way he is guaranteed of learning that there
5 is a file.

6 But there are all sorts of actions that might or
7 might not be taken about him without him ever knowing that
8 a file exists.

9 Now, some people -- and I'm on the borderline
10 personally on this -- would like to see a procedure
11 whereby an agency that opens a file on a citizen is under
12 an obligation to notify the citizen of the creation of the
13 file and is required periodically to notify the individual
14 as to changed content or particular utilization of the file.
15 These are, in your words, Phil, forms of insuring account-
16 ability.

17 It seems to me one thing worth thinking about
18 is whether the social cost of these forms of accountability
19 override the benefit to the individual by providing for
20 them.

21 MR. MARTIN: We have with us tonight, and only
22 for tonight so I'd like to ask him to speak briefly, Robert
23 Knisely, who is the director of an interesting research
24 and demonstration program I guess is the way to describe
25 it involving municipal data systems, to which HEW is a

1 partial contributor of funding and support.

2 Bob, would you want to briefly describe that to
3 add to our sense of data problems?

4 MR. KNISELY: Let me start by saying stop me
5 when I begin to go over time.

6 Since January I have been the chairman of a thing
7 called the Urban Information Systems Interagency Committee,
8 which is a group of ten Federal agencies banded together in
9 funding prototype demonstration projects in six cities,
10 now five cities.

11 And I think that privacy is more likely
12 to be a problem in municipal systems than almost any place
13 else. It's of great concern to me.

14 In my copious free time I am also going to
15 Georgetown Law School and graduate in June.

16 The principal theory behind integrated municipi-
17 pal information systems is that the more data that you can
18 get into the system, the better the system is going to be
19 for the purposes of those who run the system -- period.
20 Therefore-- Well, let me describe what we define as the
21 integrated municipal information system.

22 We would break the cities or municipal areas or urban
23 or conglomeration of human beings areas, systems of govern-
24 ment, into four parts, which would be public safety, which
25 is largely police and fire, public finance, human resources

1 development, which is sort of everything else after you take
2 out physical and economic development, and those are obvious-
3 ly very broad terms.

4 And the benefit other than improving municipal
5 operations is alleged to lie in the fact that given random
6 and ready access to all of those files, browsing through
7 the files will develop new and different ways of looking
8 at how cities work or don't work or how people are managing
9 to treat or not treat various individuals in the system.

10 We say that we have information about indi-
11 viduals. We are not interested in aggregate data only.
12 Because our focus is in operational data.

13 There is a man with a somewhat similar system
14 named Fred Lundberg in Cincinnati who would claim that
15 he can identify by name a thousand families in Cincinnati
16 who generate 60 percent of the street-type violent crime
17 in that city and that that same thousand families absorb
18 60 percent of the social service costs in that city.

19 And I think that that sort of information
20 presents problems which could take the rest of my time and
21 the rest of the evening to go into.

22 Clearly, in my mind at least, it is necessary
23 to degrade the system in some way in an effort to maintain
24 privacy and confidentiality, and so forth.

25 The responses that I get when I mention this in

1 the group of people who are largely computer oriented or
2 let's say the responses to the program have been usually at
3 one of two extremes. The first extreme is one of our project
4 director who says he doesn't see that privacy is really a
5 problem with one of these systems because the system is
6 just going to do what it is told and that doesn't
7 involve anybody, you know, threatening anybody else's
8 privacy.

9 The other extreme was brought up by the Minnesota
10 ACLU when asked to help with our projects in St. Paul in
11 human resources, and they said that the whole thing is
12 as dangerous as the cobalt bomb, and they refuse to look
13 at, deal with it, read about it, meet with the people who
14 are working on it or anything else.

15 And I'm not sure that either one of those
16 attitudes are going to lead to a solution of the problem.

17 I can use some better solutions to the problem
18 myself.

19 I am in the process of setting up a group of
20 advisers on the non-computer sciences myself. I have
21 plenty of advisers on the computer side. And the three
22 people I have got so far are Larry (Basker), Senator
23 Ervin's general counsel on the Subcommittee on Constitutional
24 Rights, a woman named Hope Eastman associated with the
25 National ACLU in Washington, and a lawyer named Daniel

1 Resnick with Arnold & Porter in town, one of their
2 constitutional lawyers. He does other things obviously.

3 I would be very interested in any input I can
4 get from this Committee, detailed or specific.

5 HEW is the second largest supporter of the pro-
6 gram, by the way. The supporters, if I can remember them,
7 are HUD first, HEW second, and then you taper down
8 dramatically. Some of the remaining ones don't provide
9 money. But the other agencies are Justice, Commerce, OEO,
10 NSF, Office of Civil Defense, Transportation. I have got
11 two more.

12 MISS KLEEMAN: Labor?

13 MR. KNISELY: Labor. And there's one more.
14 Anyway, you can see it's a substantial hunk of the Federal
15 Government.

16 This then would be at least to our knowledge the
17 largest effort being put forth with Federal support in the
18 area of developing integrated across-the-board municipal
19 information systems. From the standpoint of setting ad-
20 ministrative precedent and administrative guidelines
21 this is a jolly good place to do it.

22 We have so far an ordinance in Wichita Falls
23 which was specifically addressed to project needs and to
24 the rights and responsibilities of both the city and the
25 individual citizen. And we have a council resolution in

1 Charlotte, North Carolina which is moving towards an
2 ordinance, which area is also moving towards an ordinance.

3 Now, both of those legal actions by the city
4 governing boards were initiated by our projects. They were
5 not initiated in response to our project, which I think is
6 significant.

7 I don't really have any suggestions for this
8 group, but I will say that there is a certain amount of
9 leverage in this group over my project because of the
10 fact that HEW is a large contributor.

11 DR. BURGESS: Are there guidelines now-- I mean
12 HEW certainly supports a lot of activities which lead to the
13 creation of data banks, sometimes explicitly and sometimes
14 implicitly. Are there any administrative guidelines issued
15 now in grants that are given for that purpose with respect to
16 the utilization of data?

17 MR. KNISELY: The contracts for my projects each
18 state that confidentiality is to be addressed. Does that
19 answer the question?

20 DR. BURGESS: Yes.

21 MISS KLEEMAN: Bob, haven't you gone even
22 further than that? I understood that you had pretty much
23 threatened project managers "if a serious problem is pre-
24 sented you will be relieved of your responsibilities."

25 MR. KNISELY: I told them that I considered that

1 that group could be the vanguard of 1984, in that I wasn't
2 interested in really being part of that, and at the end of
3 that speech I said two things:

4 One, that I hoped they know that I would have
5 no hesitation to close down a project on the basis of
6 serious breaches of privacy and confidentiality.

7 And I also said that although they might
8 not share my fascination with privacy, I hoped they were
9 all aware of it. And I think I left them in that state.

10 I should point out, however, that there is a
11 very serious conflict between the efficiency of such
12 systems and the viability of cities and privacy. I think
13 that degrading the system is necessary.

14 And again what I'd like to do if I can manage
15 in the next couple of years with this is to make sure
16 that there is a dialog going on between the computer people
17 and -- or at least make sure that we are involved to some
18 degree with any other ongoing dialog between the computer
19 people and the ACLU people so that we don't have "no problem"
20 on the one hand and the "cobalt bomb" on the other hand.

21 I see it as a sort of discontinuity (maslemet)
22 theory, in that what we are trying to do for cities, for
23 the disadvantaged citizens, is to be able to provide really
24 some fairly basic necessities, and this is when you get
25 into the inability for rational discourse because someone

1 says, "But you're threatening my privacy."

2 Then the computer person says, "But I'm trying
3 to get food stamps to that welfare mother."

4 And they are really, in the proverbial Washington
5 phrase, apples and oranges. It's very difficult to weigh
6 one's right to privacy against one's right to food stamps
7 on the day they're due. And I think that's one of the
8 things we have to do, and I don't know how to get about it.

9 MR. ARONOFF: You will get me those thousand
10 families in Cincinnati, won't you? (Laughter)

11 MR. KNISELY: No.

12 DR. BURGESS: They're your major contributors.
13 (Laughter)

14 MR. MARTIN: Phil, I assume your question to Bob
15 was relating only to the project that he's describing?

16 DR. BURGESS: I guess I was asking a larger-- I
17 was trying to find out if under other areas --

18 MR. MARTIN: Let me for the record make it
19 clear that there are a variety of sources of guidelines
20 and character of guidelines bearing on what sort of treat-
21 ment will be accorded to information in data systems which
22 are either supported by or required to be established by or
23 in some way or other related to HEW. Bob's answer should be
24 heard only as applicable to the project that he was
25 describing, and I don't know whether you were here when I

1 commented earlier in the day that we are in the process of
2 completing the aggregation of a lot of information about
3 HEW internal data systems for the Ervin Subcommittee, which
4 as soon as they are fully available we will be glad to share
5 with as many of the members of this Committee as would like
6 to have them.

7 We have on the horizon a much bigger task to do
8 for the Ervin Subcommittee, which is to make a similar
9 kind of reply to a questionnaire on data systems of the
10 sort you were referring to that are maintained and
11 operated by other entities than HEW through a variety of
12 relationships with HEW.

13 The material that we are sending at this point
14 to the Ervin Subcommittee covers in part an answer to some
15 of the questions relating to so-called external data banks.
16 The task of assembling fully the information on those is,
17 as you could understand, a very big one.

18 We are not even sure we know where they all are.

19 Nancy, do you want to --

20 MISS KLEEMAN: I just wanted to add Bob said he
21 would depend on us for help, but we I understand can also
22 depend on Bob and his people for project doing.

23 MR. KNISELY: To a somewhat limited extent, but
24 some of that can be worked out.

25 I would say that if we can manage to set decent

1 precedents in this program, then it would be possible to
2 carry those forward in a number of different ways.

3 MR. DOBBS: Bob, can I ask you-- You noted that
4 the computer people said that they felt that there was no
5 problem.

6 MR. KNISELY: One did.

7 MR. DOBBS: A person?

8 MR. KNISELY: Right. They are not all that way.

9 MR. DOBBS: All right. And that apparently in
10 your contracts -- I'm not sure I quite understood this -- but
11 in your contracts with the participating cities there is
12 a requirement that confidentiality be addressed?

13 MR. KNISELY: I couldn't really say that
14 it defines what should be done and should not be done
15 in greater specificity than that.

16 MR. DOBBS: It simply says just those --

17 MR. KNISELY: It's a combination of research and
18 demonstration effort, and the area of confidentiality is
19 really much closer to me on the research side. Look into
20 the problem, figure out what you ought to do, and do it.
21 There's really quite a lot of autonomy left at the city
22 level.

23 MR. DOBBS: I see. Except that Lundberg
24 apparently --

25 MR. KNISELY: He's not one of my contractors.

1 MR. DOBBS: I understand. But he is apparently
2 well beyond the point of an experiment, if in fact what he
3 says is true.

4 MR. KNISELY: Right.

5 MR. DOBBS: And it seems to me on that basis that,
6 you know, the experimentation may not be warranted, if in
7 fact what he says is true. He has proved that it in fact
8 can be done and is in fact a problem. And, you know, I'm
9 wondering if that in fact is the case why you aren't out
10 addressing the problem he has already demonstrated.

11 MR. KNISELY: I have a lot of problems in the
12 cities. I think we are moving onto the privacy thing.
13 I'm not sure that I understand what you mean when you say
14 that Lundberg has addressed the problems. He has the
15 ability to identify those families, but again that
16 list of families is those who are obviously those in-- Well,
17 it would be defined at least in Washington as obviously
18 those who are in need of social services and rehabilitation.

19 Therefore, you could pinpoint your services,
20 such services, on that population.

21 And I'm not sure at this point within my earlier
22 framework is that good or is that bad? What are the
23 limitations that you have to put on the use of that informa-
24 tion?

25 If you gave it to whatever Cincinnati's

1 equivalent of the vigilante committee is, I think you'd be
2 severely restrained in constitutional process.

3 MR. DOBBS: Doesn't that scare you?

4 MR. ARONOFF: I want to know who Lundberg is
5 first. I would want to know whether this would be a
6 relatively similar statistic in towns the same size. Would
7 this be the same statistic in Columbus or in Pittsburgh or in
8 St. Louis?

9 MR. KNISELY: He would claim in towns sharing some
10 of their demographic characteristics a very small population
11 of families accounts for a disproportionate share of both
12 street crime and social service cost.

13 MR. ARONOFF: Did I get your statistic
14 correctly that a thousand families --

15 MR. KNISELY: That's in that general area.

16 MR. ARONOFF: -- account for what percent?

17 MR. KNISELY: Sixty percent of the violent crime.
18 Say muggings and robberies and, you know, dope, prostitution,
19 and so forth.

20 MR. ARONOFF: Have you analyzed his --

21 MR. KNISELY: I'm taking that two ways, one as
22 a fact because he is an incredibly honest man. I would
23 trust him as coming up with that out of his data. But
24 ignoring that as a fact for Cincinnati, I can clearly see
25 how a computer system can arrive at such a list. And

1 whether it is true or not for Cincinnati, it wouldn't be a
2 hard thing to develop for any city.

3 We have to face the possibility that such
4 systems will be developed in other cities, whether they are
5 federally funded, whether they are State funded, or-- In
6 fact, Lundberg is at a university.

7 MR. ARONOFF: Well, Guy, the question that you
8 asked, does it scare me that he acting independently
9 found this, I'd say no. Probably the police records in
10 any comparable city ought to have just about that same
11 information. Wouldn't they?

12 MR. KNISELY: Well, at that point, yes, they
13 have it, but can you get to it? I'm sure somebody during
14 the day has brought up the quantum jump in information
15 handling comparable to the invention of the movable press
16 which computers have given us. So it's that much leap
17 forward.

18 To say it exists in the file some place else and
19 could be gotten together is not the same as being able to
20 browse through the files and say, "I wonder if we can pick
21 out all the left-handed people who are over 6 feet tall,"
22 you know, and that sort of thing, just instantaneously
23 wandering through the files.

24 MR. ARONOFF: If this came to me, knowing
25 nothing about the man at all, if I were sitting on a committee

1 and somebody gave that statistic to me, the first thing I
2 would want to do would be to analyze the statistic and find
3 out how he got his information.

4 The fact that he is an honest man and that he
5 has a lot of academic credentials behind him would not
6 necessarily prove to me that his statistic is correct.
7 And I'd want to analyze how he reached his figure first of
8 all. And then I'd want to compare it with other figures to
9 find out whether this is across the board a 60 percent
10 factor in towns of the same size or not.

11 If all these things prove correct, then I might
12 be able to better answer your question as to whether or not
13 it scares me. But --

14 MR. KNISELY: It scares me.

15 MR. ARONOFF: Fine. And it may scare me after you
16 have proved to me all these other things.

17 PROFESSOR ALLEN: Bob, you referred to the degrad-
18 ing of the information systems as one way of helping to
19 safeguard the privacy issue. Did you have particular ways
20 in mind that might be appropriate for particular circum-
21 stances? And does this Cincinnati case suggest any?

22 MR. KNISELY: Not really. I don't think the
23 problem is that well defined. The easiest example of that
24 is I'm told it's quite difficult to get police chiefs to
25 enter information on their informers into computerized files,

1 which I can certainly understand. I have had people say,
2 "Well, why don't they? I mean after all it's just a
3 computer."

4 I say, "You're out of your mind. They're just
5 not going to do that."

6 In that case you have degraded capability of
7 the overall system by not being able to search through the
8 system and be able to come up with names identified as
9 police informants.

10 That's the easiest case. Another very simple,
11 readily understandable case is that it's very difficult to
12 get information about homosexually-contacted syphilis out of
13 the public health files over to the police files. So you
14 then have degraded the system if everyone can't get
15 everything they want to know about out of the system.

16 I'm not sure that all of that can be done,
17 however, by internal limits or external limits between
18 computers. Perhaps there are some things that should never
19 be put in. And I'm sure -- and I have used that example
20 any place -- that any police chief who told me he wanted to
21 put informer information, I'd really try to have a long
22 talk with him, because I don't see what he'd get out of it.

23 But if we sat here for 10 minutes we could
24 think of a good reason for having that information in, to
25 get it out some place else. But as to specifics on a case-by-

1 case basis I can't.

2 MR. MARTIN: It's getting late. We have had a
3 long day. But before we break, Nancy has a hint I think
4 along with some subset of the Committee about tomorrow's
5 opening adventures following the Secretary's meeting with
6 us.

7 The Secretary will be here a little bit before 9 for
8 our purposes to swear in the members of the Committee.
9 Don, I trust you have been sworn in. The rest of you will
10 be sworn in tomorrow by the Secretary who will meet
11 with us for some time first thing tomorrow morning. I don't
12 know exactly how much time. He got back from California early
13 this evening and had some sort of a commitment this evening,
14 and I don't know what his schedule for tomorrow holds other
15 than the last I heard he had to be on the Hill.

16 (Remarks off the record.)

17 MISS KLEEMAN: What we were talking about as we
18 closed this afternoon's meeting and what some of us continued
19 to discuss before dinner was that we really need I think
20 to have a structured approach, and I trust that there is a
21 consensus on that point, so that we leave tomorrow with both
22 assignments for us as staff to parcel out to the Department
23 and with assignments for you as Committee members to tackle,
24 so that we come into a next meeting with some sense of movement
25 and accomplishment.

1 There have been a few recommended approaches
2 from people who have been taking copious notes all day
3 that all seemed to have common threads and that seemed to
4 categorize tasks, and I thought if I just very quickly ran
5 over what two or three of these approaches were, then all of
6 you or some of you who are so inclined can think about
7 it overnight, and first thing tomorrow we will call upon
8 people who have then digested all of this and come out
9 with recommended approaches, and then we can decide on a
10 specific approach.

11 Because I think we seem to need to identify
12 areas of inquiry and then pick out the specific subjects
13 that need to be addressed.

14 Now, Arthur Miller suggested that -- in no
15 particular order -- these are seven areas of inquiry:

16 Collection of information.

17 Dissemination of information.

18 Linkages between systems.

19 Identifiers or identifier.

20 Confidentiality.

21 Expungement of information.

22 And accountability, systems accountability.

23 Those are kind of mixed-up order but I think
24 you can get an idea from that.

25 He also pointed out that we have to look at

1 three basic needs -- the needs of the agency, the needs
2 of the user, and the needs of the citizen, as well as the
3 rights of the citizen.

4 Then Mr. Gallati suggested that -- and some of
5 these overlap -- but a slightly more detailed approach to
6 this is looking at eligibility for access to information,
7 security of systems, the content of information records on
8 people, training of system personnel who are handling the
9 information, public education, what we have been talking about
10 in a sense as the public relations efforts, the segregation
11 of computerized files and their linkages to other files,
12 the research use of various recorded information, the purging
13 of various recorded information, an individual's right
14 to review recorded information. And included here would be
15 challenges to the accuracy or completeness of such informa-
16 tion. And then the listing of agencies or people to whom
17 information has been disseminated.

18 Administrative penalties and also administrative
19 procedures. Access to various information. And then
20 sensitivity classification and clearances as you are looking
21 at what information you actually decide to collect. How
22 do you categorize it?

23 There have been two other approaches suggested.
24 John has elaborate flow charts and task assignments --
25 legal, citizen right desired, analysis of current operations,

1 what is public information, what are safeguards, public
2 attitudes, the benefits of what he likes to call a more
3 common rather than a universal identifier, the cost of going
4 or not going with a common identifier, alternatives to a
5 more common identifier, kind of policy acceptance
6 test including political feasibility and cost-benefit analysis,
7 and then the environment in which we are operating, the
8 changing environment in which we are operating.

9 Then Gertrude Cox has done an outline that is
10 based on all of these same concepts and it structures again
11 in somewhat different way, and what I hope would happen
12 is that tomorrow morning we'd be able to hear from the
13 people who have an idea on structure and from there be able
14 to assign tasks so that we can go forward.

15 We are very willing to go out in the Department
16 and get things done, but we would like to know from you
17 what you think is most beneficial to be done.

18 MR. MUCHMORE: I think it's excellent. When we
19 first start I won't be here, but I trust you
20 will be able to bring in recommended solution for all these
21 things that can then be assigned back to you to do.

22 (Laughter) It's been more fun talking today.

23 PROFESSOR MILLER: There's another way, Don.
24 When you get back to California your work assignment will be
25 waiting for you. (Laughter)

1 MR. MUCHMORE: Thank you very much. I wondered
2 when that was going to happen. (Laughter)

3 Nancy, I was kidding. I think your approach
4 is absolutely correct. Today was a chance to explore
5 everybody else in reality. Now that you see the facets
6 and the wealth of information that is available right here
7 in this room, it's an intriguing thing to see which way we
8 can go and get the work done.

9 MISS KLEEMAN: I know Gertrude is really straining
10 at the bit to get her plan out. She has a lot to suggest.

11 MIXX COX: No, I'm not. I'm straining to keep
12 still. (Laughter)

13 MISS KLEEMAN: We'll let her go first maybe.

14 MR. GENTILE: I'd like to comment on one or two
15 other things that happened at the meeting too.

16 One was we assumed certain purposes for which
17 this Committee has been convened, and these included the
18 concept that one purpose of the Committee is to develop a
19 recommended policy for the Secretary of HEW to follow
20 regarding the systems under the HEW programs, and by this
21 we mean more than those internal to the Department. We
22 are talking about all State, local government, USAC, etc.,
23 projects which are funded by HEW, which makes it a very
24 massive amount of systems.

25 And also to determine or make recommendations

1 concerning the policy regarding the issuance of the
2 social security account number for non-HEW programs.

3 With regard to the internal operations of HEW,
4 for example, if there is an internal personnel or
5 payroll system in the Department -- and I'm stating a
6 personal opinion on this matter -- I'm not convinced that
7 that is within the scope of this Committee. I think that
8 will have to be addressed, but I don't know that it's
9 appropriate for this Committee to address that kind of
10 matter.

11 And, finally, I would just like to add
12 another matter, and that is my personal view of how we
13 should approach our plan of action is that
14 we consider ourselves and other people and government
15 people as resources and that we accept assignments by
16 discipline. One person might be an excellent computer
17 technologist. Another one might be an excellent lawyer.
18 And each person should develop his own sphere of interest
19 and activity, and then bring it back to this Committee,
20 because we meet so infrequently, and bounce it off against
21 the multidisciplines that are represented here.

22 This is something I just throw out for your
23 consideration, something to think about overnight, to
24 discuss tomorrow, as a proposed approach.

25 MISS KLEEMAN: I gather I read too fast, so I am

1 kind of outlining what I read on the board so any of you
2 who want to look at it or write it down can do that.

3 MR. MARTIN: Unless there is more, we will
4 stand adjourned until tomorrow morning.

5 (Whereupon, at 9:50 p.m., the meeting was
6 adjourned, to be reconvened at 8:45 a.m., Tuesday, April 18,
7 1972.)

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