

Transcript of Proceedings

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SECRETARY'S ADVISORY COMMITTEE

ON

AUTOMATED PERSONAL DATA SYSTEMS

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SECRETARY'S ADVISORY COMMITTEE

on

AUTOMATED PERSONAL DATA SYSTEMS

Fogarty International Center
Building 16
NIH
Bethesda, Maryland

Monday, July 24, 1972

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P R O C E E D I N G S

MS. GROMMERS: I'd like to call the meeting to order, first welcoming you all to cool, cool Washington, and I'm very glad that you all could take some time out from your vacations to come and advance the knowledge of computer technology in the United States today.

We have a little different procedure in this particular meeting we are going to be having today compared to the others. The first thing I would like to call to your attention is a sheet entitled "The Procedures for Taking Evidence," if you want to just read that for a second.

The other thing, while you're at that, I'd like to call your attention to -- in your folders is the memo from Mr. Martin on the open meeting. That's the last page in the right-hand side of your folders. The memo has to do with the Executive Order. The subject is "New Requirements for Open Meetings." Those of you who have them might share them with your neighbors. We'll see to it that each of you get a copy.

In general, and in principle, all public advisory meetings are now open to the public by Executive Order and this means that the press will be here, or at least may be here, so that you want to realize that everything that you say may very well be published the next day in your home town newspaper -- not necessarily that it will be, but it may be.

1 In addition to that, any members of the public who
2 would like to come to the meeting and make their opinions
3 known also are able to do so. This has been published in the
4 Federal Register. The agenda has been published in the
5 Federal Register and there are certain people who have
6 expressed certain interest in certain parts of it and will
7 definitely be here.

8 If there are a lot of them, we thought the best
9 procedure would be to have a certain hour of the day for their
10 particular mention.

11 In addition, a number of you have indicated that
12 you would prefer a parliamentary type of procedure rather than
13 a workshop and discussion type procedure for the meetings.
14 This means that you all would like to stick rather rigidly
15 to a time schedule. Therefore, the meeting was scheduled at
16 9:00 and we are going to have a timekeeper who will be keeping
17 track for us, helping me to keep track of the time that's
18 going on.

19 In the hearings that are going to be occurring most
20 of the meeting -- we are going to have one discussion in the
21 afternoon which is not a hearing type. The way that we will
22 proceed is that I will call on you around the table in order.
23 If you have a question at that time I will say to you, "Do
24 you have a question to ask at this time?" If you do not, you
25 just say, "No, not at this time." You may also make a comment.

1 When each person has had a turn to ask something of the
2 presenter, then we will go back if there's time left and have
3 random access to the person. However, if you have a question
4 that you would like to ask that is a continuation of the
5 thought process that someone prior to you has started, if you
6 will ask the Chair, the Chair will be happy to recognize you
7 for this purpose.

8 This is all explained here. We want to keep this
9 rather formal and I will be addressing all of you by your
10 titles rather than your first names. If anyone cannot hear
11 me, I'd appreciate it if you'd just put your hand behind your
12 ear so I can set out to speak louder for you.

13 Very briefly, what we are going to be doing today
14 and how it's situated with what we have done up until now, the
15 first session, at which I was not in attendance, we all talked
16 in general discussion about what the purposes should be. We
17 tried to define the charter to get something in hand that we
18 could actually attack and have a product by January 31. The
19 second meeting we defined that process a little bit further
20 and at the meeting which we have just finished a month ago we
21 actually arrived at a schedule of at least a minimum amount
22 of data that we would like to know about and that staff has
23 responded to.

24 In your folders there is a check list of information.
25 This is a composite of all of the kinds of information that any
of you have requested at all. It includes some other

1 information that was on the Ervin Committee questionnaire
2 to the HEW employees and it's trying to be as comprehensive
3 as possible. If any of you see any omissions as we try to
4 use this instrument we'd like to develop it obviously -- polish
5 it -- if you'd make a note on it, then we can continue to
6 revise this.

7 Each person who is going to be presenting evidence
8 before you today has received a copy of this and has been
9 asked to try to make a 20-minute presentation which summarizes
10 the main points. He obviously can't answer in detail every-
11 thing that is on this list. You are asked, if you will, to
12 keep a note as they are talking about what particularly you
13 would like to know that they really didn't go into and use
14 this as the basis of your questioning. What information we
15 are unable to get in the hour and a half talks devoted to
16 each system -- we can ask them to supply us with other data
17 if you'd like to do so and that could be one of your comments
18 or questions.

19 When we finish this procedure today we will have
20 added the contents of about five more systems to what we have
21 learned about in the last meeting. Essentially, what we are
22 developing here is a picture of the current state plus a
23 sampling of what is going on in information processing in
24 HEW and in the private sector today.

25 The other kinds of information that you decided you

1 would like to know can really be summarized by where is it
2 leading to; what is the potential in the future of this kind
3 of system. To really answer that, we need to know something
4 more than has been presented to the Committee about the
5 technological feasibility of linkages and also computer
6 operations, and at the next meeting we will try to arrange to
7 have a presentation for you of a computer brought into this
8 room and we have a telephone down there in the corner and we
9 will bring a terminal into the room and tie up to a national
10 system. In fact, it's an international system and you can
11 have a chance to compose your own programs and see -- the main
12 programming that is on this computer system is a health-based
13 data system, but you will have a chance to see how you can
14 develop in the wink of an eye a modern management system or
15 a health system.

16 There are four other kinds of applications on that
17 system. One of them is an automotive parts catalogue system.
18 The second one is a patent attorney scheduling system, and
19 the third is not on the system but these people were consul-
20 tants to an international shipping company and this particular
21 company has four computers; one in Haifa, one in New York,
22 one in London and one in Lima; and they used these computers
23 to plan the loading of their ships and all the transportation
24 of the inventory into the ships, all of the billing and all of
25 the invoicing. When the ships are all loaded, they fly the

1 tape to whichever harbor it is that the ship is coming into
2 and they unload according to the computer tape, and I thought
3 you might be interested to see the international basis of a
4 computer system.

5 Another piece of information that we have not as
6 yet brought to the attention of the Committee that I thought
7 you might be interested in, this is an OECD report and there's
8 an OECD Committee -- you don't have this in your data --
9 there's an OECD Committee called the Computer Utilization
10 Group, and one of their prospective projects I will read to
11 you. This is concerning the computer and telecommunications
12 interaction. "A report has been recently completed which will
13 be presented to the Committee at a later meeting, concerning
14 the economic, technical and organizational policy issues in
15 this field of converging technologies. Since the manifold
16 applications could not be treated as extensively as this
17 appears necessary, a seminar will be held on the 13-15 of
18 November, 1972, with the aim of assessing the applications of
19 these technologies in nine different sectors, and an
20 evaluation will be attempted. This seminar is designed to
21 prepare a larger international symposium in September 1973 on
22 the same theme. The Netherlands Government has offered to
23 act as the host for this symposium. It is suggested that the
24 field of computer/communications interaction represents a very
25 good case for technology assessment."

1 I don't know how many of you are aware of what has
2 been going on in the international field. We have a very
3 close contact with the Canadian Government and we have a
4 brochure which we have asked to be passed out to all of you
5 so you can get an idea of what has been done in Canada about
6 the same issue, and there are a number of other international
7 reports that we would like to make available to you as soon
8 as we are able to do so.

9 Putting together these two things, what we have
10 now said we are accomplishing in the Committee is a look at
11 where it's at in the United States today, a look at the
12 technological capabilities with some predictions of where it
13 could be at. What one of your tasks are, according to the
14 mandate of the Secretary, is given how the world is probably
15 goin, what might you do to intervene to make it go in some
16 other direction.

17 I think that the next step in our development of
18 Committee process is for you to be thinking about what you
19 would like to know in order to be able to make those kind of
20 steps to that end. Wilmot Hastings, who is the General
21 Counsel for HEW, will be coming to talk with you on Tuesday
22 and will be talking to you about the Freedom of Information
23 Act and the application of this.

24 In addition, we have asked the Vice President of
25 CBS News and Mr. Samuel Archibald, Executive Director of the

1 Fair Campaign Practices Committee, to come to you and present
2 in a panel discussion some of the regulatory potential that
3 exists for you today. Professor Pool of M.I.T. will be
4 speaking to you this afternoon essentially really what the
5 impact of social science technology and using modern communi-
6 cations technology can be. Specifically for those of you
7 who don't know, he was designer of simulation models which
8 were used in President Kennedy's campaign, and are any of
9 you familiar with those? If you could ask him some questions
10 that would be specifically designed to bring out some
11 responses, I think it would be most appropriate.

12 MR. WEIZENBAUM: You mean on that aspect?

13 MS. GROMMERS: On that aspect of it, yes.

14 MR. WEIZENBAUM: That's pretty ancient history.

15 MS. GROMMERS: Yes. The purpose of this is to
16 focus on what some of you have suggested you'd like to get
17 more concrete, what is the potential use of this kind of
18 information, what is there to be afraid of, or alternatively,
19 how can this kind of information be used other than in
20 statistical or sorting work or playing out how many people
21 are living in a block to allocate public resources. This is
22 part of the problem which you all have recognized in your
23 declaration of privacy where there was a conflict between the
24 need of society to know information in order to allocate
25 properly the scarce resouces and the right of the individual
to have privacy.

1 I think you will find some very interesting things
2 coming out of Professor Pool's discussion, what they did with
3 the data which was statistical and not identifiable.

4 Now, Miss Parsons, in speaking -- if you will look
5 on Wednesday afternoon, you have something very interesting
6 planned and I do hope that you all are not planning to leave
7 at noon, and I have asked her to explain briefly to you what
8 this is going to consist of and what the significance of this
9 is. This is a different set of systems. Really there are
10 five of them and you won't be able to analyze them in detail
11 as you have been able to do some of the others, but I have
12 asked her to speak very briefly to tell you why we put this
13 kind of system in and what the contribution of Mr. Shiskin,
14 who will be speaking last, will be.

15 MS. PARSONS: The directors of the four principal
16 statistical data collection centers at HEW have been asked to
17 come Wednesday afternoon, along with Joseph Waxberg, who is
18 the associate director for research at the Bureau of Census,
19 and Dr. Julius Shiskin, who is the director of the Offices
20 of Statistical Policy at the Office of Management and Budget,
21 Division of Statistical Policy.

22 The format for that will be a panel discussion of
23 the statistical activities carried on within the four centers
24 in HEW. There has been another check list. It's very similar
25 to the one you have in your folders now but it's different in

1 some respects in that there's certain kinds of issues that
2 arise in a statistical context that needed to be flagged.
3 That will be available by tomorrow afternoon.

4 Generally, the four participants from HEW have
5 been asked to respond to two very broad questions of interest;
6 namely, to explain to the committee in as much detail as
7 possible from the point of view of privacy and confidentiality
8 issue what the essential differences are as they perceive
9 them between an operation that collects information on
10 individuals for the purpose of publishing aggregate statistics
11 and one which collects information on individuals for the
12 purpose of maintaining some kind of a file on that individual.

13 Secondly, to give the committee a sense of what
14 the data collection process is on top of which these four
15 centers sit, emphasizing the kinds of files that need to be
16 maintained in order to permit institutions who are the
17 principal reporting units for these centers to respond to
18 requests for information emanating from the four centers.

19 The Census, Mr. Waxberg, was invited because the
20 Census performs both research and data collection activities
21 for other government agencies. Most of the research on
22 record matching that has been done in the last decade has
23 been done at Census. At the present time Census has been
24 charged with exploring the possibility of developing a way of
25 enumerating the nation's population into Census years using

1 record systems as the primary vehicle, considerations about
2 the concern about the types of resistances that were
3 encountered in 1970 during the Census and Census-taking
4 activity.

5 Finally, Mr. Shiskin would like to talk to the
6 Committee about how issues of privacy and confidentiality
7 from his vantage point, which is at the top of the federal
8 statistical data gathering enterprise -- and particularly
9 he has told us that he would like to consult with the
10 Committee on some of the issues that are currently before him,
11 one in particular where Census was asked to take a survey for
12 another government agency. The information was delivered to
13 the other government agency which then requested the names and
14 addresses of all the households from which the information
15 was gathered. Census refused to give this, claiming it was
16 confidential Census information. The agency was very unhappy
17 because they wanted this information for follow-up purposes
18 and the issue is in the process of adjudication and no decision
19 has been made, and he wants to seek some advice from the
20 Committee on that issue.

21 MS. GROMMERS: Essentially, we will have an oppor-
22 tunity to really ask some questions about linkages, which is
23 one of the other topics that you expressed a great interest
24 in hearing more about.

25 I think Mr. Martin has a few words that he would

1 like to say to you and then we will start our formal hearings.

2 MR. MARTIN: We have closed the doors as you see.
3 That's never happened before -- and tried to draw a barrier
4 between those who would be present at a closed meeting of the
5 Committee, which is essentially what we are having now. We
6 will open the Committee meeting in accordance with the
7 Executive Order as soon as we are ready to start with the
8 first presentation.

9 The persons who are permitted inside the barrier
10 when we are in a closed meeting -- I thought some of you who
11 have not been present at all meetings -- and we have some new
12 staff members -- may not know. First, I should say that
13 Professor Burgess and Professor Miller are unable to attend
14 this meeting but have sent observer/listeners to keep them
15 fully aware of what is transpiring during their absence.

16 (Introductions)

17 MS. GROMMERS: I wonder whether there are any
18 comments from the rest of the Committee, anything you wanted
19 to say.

20 MR. DOBBS: It is my understanding that there's
21 legislation introduced in the Senate by Senator Birch Bayh and
22 one other Senator relative to the rights of privacy, intro-
23 duced around three weeks ago. I wonder if it would be possible
24 for the Committee to have copies of that legislation.

25 MS. GROMMERS: Excellent.

1 MR. DOBBS: The other question I wanted to ask, I
2 guess had to do with the check list and our future scope, in
3 that we will have at some point in time reviewed a considerable
4 number of systems both from the viewpoint of the technology
5 and also from the viewpoint of the arguments of that consti-
6 tuency in terms of their utility, et cetera.

7 Do we intend to ever talk to people who in fact
8 are affected by these systems at the outer interface?

9 MS. GROMMERS: I think if we want to we certainly
10 can, and we are going to have an hour and a half on Wednesday
11 to plan really what we are going to be doing in a gross way
12 between now and November and at that time we can bring these
13 things up.

14 We have all said that we wanted to hold meetings at
15 various places around the country as well, and this might also
16 be something we can plan at that time.

17 MR. MARTIN: Ron, would you throw open the meeting
18 and I hope we can get everyone who comes in to sign a sheet
19 so that we can Xerox that and make available to all members
20 of the Committee a record of the observers and the people
21 from the public or press that come in. I think most of the
22 members would like to know by whom they have been observed.

23 MS. GROMMERS: Just one addition, we are going to
24 revise the coffee break to be at 11:00 rather than 10:45.

25 We want to welcome you, Mr. Shoub and Mr. Baier, to

1 our meeting today and we are looking forward to hearing your
2 presentations on the systems with which you are charged.

3 May I ask, Mr. Shoub, would you introduce yourself
4 and could you also introduce Mr. Baier.

5 PRESENTATION BY MR. EARLE P. SHOUB, DEPUTY
6 DIRECTOR, APPALACHIAN LABORATORY FOR
7 OCCUPATIONAL RESPIRATORY DISEASES, MORGANTOWN,
8 WEST VIRGINIA; AND MR. EDWARD BAIER, DEPUTY
9 DIRECTOR, NATIONAL INSTITUTE FOR OCCUPATIONAL
10 SAFETY AND HEALTH, DHEW.

11 MR. SHOUB: My name is Earle Shoub. I am the
12 Deputy Director of the Appalachian Laboratory for Occupational
13 Respiratory Diseases, which is part of the National Institute
14 for Occupational Safety and Health, and is located in
15 Morgantown, West Virginia.

16 MR. BAIER: I am Ed Baier, Deputy Director, National
17 Institute for Occupational Safety and Health. We are located
18 in Rockville.

19 Would you like an overview of the Institute? Is
20 this what you're interested in?

21 MS. GROMMERS: It would be helpful.

22 MR. BAIER: The National Institute for Occupational
23 Safety and Health has headquarters in Rockville and also
24 operates research laboratories in Cincinnati and Salt Lake
25 City, the Appalachian Laboratory known as ALFORD, which

1 Mr. Shoub represents, and also ten regional offices of HEW.

2 We are charged really under three acts: the Public
3 Health Service Act, the Coal Mine Health and Safety Act, and
4 the Occupational Safety and Health Act. In all of these we
5 are concerned with the research into job stresses, both the
6 occupational health stress and the occupational safety stress.
7 As a result of our research we are to develop criteria or
8 standards for occupational exposure. That's kind of the over-
9 view.

10 Now, in order to obtain data so that we can
11 establish either a standard which we are required to do under
12 the Coal Mine Health and Safety Act, or to develop recommen-
13 dations for standards to the U. S. Department of Labor under
14 the Occupational Safety and Health Act, quite a bit of our
15 activities are directed toward epidemiology and, as such, we
16 are trying to relate the stresses on the job with the effects
17 on individuals and as a requirement of this we must do
18 epidemiologic studies and accumulate present and past employ-
19 ment records of individuals, medical and health histories, and
20 we also accumulate things like smoking histories, alcohol
21 consumption, and any self-medication habits that someone may
22 have.

23 Now, when we are dealing with air contaminants at
24 the work site for physical stresses such as laser beams and
25 microwaves, noise and this kind of thing, we must get some

1 sort of a concept of what medication an individual might be
2 on because of the synergistic effects of the medication with
3 the stress. So, as such, we do accumulate medical records.

4 Now, some of our epidemiologic studies are not
5 directed to people who are working now but people who are
6 deceased, and depending on the nature or the cause of death --
7 for instance, in the asbestos area, we are concerned with
8 people who have died of asbestosis, people who have died of
9 mesothelioma, which is like a cancer form following exposure
10 to asbestos. So we do accumulate those data also.

11 In terms of the specifics, I think it might be well
12 to have Earle Shoub discuss with you the operations at ALFORD
13 and these same procedures are pretty much followed throughout
14 the Institute. So, Earle, I'll turn it over to you.

15 MR. SHOUB: It was my understanding from discussions
16 I had with Mr. Justice and Mr. Marcus that you're particularly
17 interested in our handling of personal information about the
18 people examined either at ALFORD or under the program super-
19 vised by ALFORD. If you wish, I can discuss some of our
20 medical research programs which are totally unrelated to this
21 operation or I can immediately launch into a discussion of the
22 medical examination programs which produce personal information.

23 MS. GROMMERS: I think we'd be interested in the
24 latter.

25 MR. SHOUB: Fine. All of the work we are doing in

1 this area falls under the Federal Coal Mine Health and Safety
2 Act of 1969. The most important portion of it for this
3 meeting is Section 203, which requires that the Department of
4 Health, Education, and Welfare provide under the terms of the
5 Act an opportunity for every coal miner to have a chest x-ray
6 within 18 months of enactment and periodically at intervals
7 of three to five years thereafter. It also provides that
8 every miner entering the industry subsequent to enactment
9 should be given a chest x-ray within six months of coming to
10 work.

11 These x-rays are required to be given by the coal
12 mine operator -- that is, the owner or the lessee of the
13 mine -- except that when he fails to do this the Public
14 Health Service is required to step in, arrange for the
15 examination, and then to backcharge the coal mine operator
16 for the cost involved.

17 The Act also provides that all of this will be
18 done under regulations issued by the Secretary of HEW. These
19 regulations -- and, incidentally, I was asked to bring a
20 supply of them together with the forms used --

21 MS. GROMMERS: Could you pass those around to us?

22 MR. BAIER: Let me do that.

23 MR. SHOUB: Thank you, Ed. These regulations can
24 be analyzed in two parts. The first part is to set up the
25 system and this is, first, that the UICC, which is French

1 for Union International to Conquer Cancer -- the UICC classi-
2 fication system for coal workers pneumoconiosis will be used
3 for measuring the presence or absence or degree of disease
4 found in the lungs. It also permits the use of an older
5 system which was approved by the International Labor Organiza-
6 tion in 1957 or '58.

7 Second, the physicians who interpret the x-rays had
8 to qualify under a scheme provided in the regulations; and,
9 third, the facilities at which the x-rays are taken also had
10 to qualify under a scheme provided.

11 Insofar as the actual plans of the coal mine
12 operators for taking x-rays and reporting results are con-
13 cerned, there are five important parts: (1) The information
14 is confidential. The operator is not to know anything about
15 the health of his employees. The operator is excluded from
16 any information about the health of his employees. (2) These
17 x-rays shall be taken at no cost to the miner. (3) They
18 shall be taken in a manner convenient to the miner. (4) --
19 and I'm now reverting to the approved physicians and approved
20 facilities -- An approved facility shall be used for taking
21 the x-ray; and (5) Only an approved interpreter or physician
22 shall read and classify the x-ray.

23 The information to ALFORD then flows in primarily
24 on the two forms which I have distributed. The information
25 about the miner which he contributes is contained on the

1 shorter form. The information from the physician as to his
2 findings with regard to the x-ray are on the longer form. The
3 same information comes to us if we take the x-rays in one of
4 our own mobile units or if it is done by a Public Health
5 Service contractor when the coal mine operator has failed to
6 provide his own system for taking x-rays.

7 I'm afraid now I'm going to have to bore you with
8 the details of how we process the data. When these documents
9 are received, together with the chest x-ray, the information
10 contained on the two documents is introduced through onto
11 tape on the 360-75 computer which we have under contract with
12 the University of West Virginia. The x-ray is separated and
13 sent to a second -- or what we call a "B" interpreter for
14 verification of the opinion of the first physician. In
15 something over 25 percent of the cases, the second physician
16 does not agree with the first and we have a panel of three
17 experts and we refer those cases to any one of those three
18 experts for a final decision.

19 We have examined in this particular program over
20 63,000 miners. In order to minimize the problems of storage
21 of paper, filing and so forth, we do not keep any of these
22 documents, but rather, we microfilm all of them, introducing
23 an additional code number each time so that we can recover
24 the microfilm if we have to, and destroy all of the documents.
25 Two copies are made of each document, two reels of microfilm.

1 One is preserved in the vault and the other is the one
2 available for daily use in locked files.

3 To make matters worse, in about three percent of
4 the cases, the second reader finds that the x-ray film is of
5 inadequate quality to make a final decision and we have to
6 arrange for an x-ray to be retaken. This pretty much describes
7 the material and information flowing into the system.

8 Let me now go to the output of the system.
9 Occasionally, the initial forms are incomplete. If that's
10 the case, we write back and ask for the additional information
11 required. At the time or immediately after the first inter-
12 pretation of the x-ray film, if any abnormalities other than
13 coal worker pneumoconiosis to which the Act is addressed are
14 found, we notify the miner that he should consult his personal
15 physician and we notify the personal physician of the sus-
16 pected findings.

17 When the final opinion as to the degree of
18 pneumoconiosis or its absence is arrived at, the miner is sent
19 a letter, not by HEW but by the Department of the Interior,
20 because this is the way the Act is worded, telling him of the
21 degree of pneumoconiosis.

22 At the outset, almost two years ago, we were con-
23 cerned about possibilities of too many people being involved
24 and hence loss of confidentiality, and we made an arrangement
25 with the Bureau of Mines of the Department of the Interior

1 that although legally they are supposed to report to the
2 miner, we would do it in their name and on their stationery.
3 So the letters to the miner are actually produced in
4 Morgantown on our computers and mailed to the miner in this
5 manner.

6 We do provide to the Bureau of Mines, however,
7 statistical information as to how many have the varying
8 degrees of pneumoconiosis.

9 Early on in the program -- let me back up a second.
10 Let me repeat that the regulations provide that the physician
11 who interprets the x-rays must keep the information confiden-
12 tial, particularly in the sense that the coal mine operator
13 may not know anything about the health of his employees.
14 Despite this, early on in the program, Mr. A. J. Boyle, the
15 President of the United Mine Workers of America, addressed a
16 letter to our Secretary in which he expressed great concern
17 about the possibility of this information being kept away
18 from the operator when the physician was a direct employee of
19 the company, and he referred to them I think as "company
20 doctors."

21 This letter to our Secretary was published openly
22 in the United Mine Workers Journal and elsewhere and served
23 as a strong deterrent to the participation of many of the men.
24 They were apprehensive and did not participate. It took quite
25 a while to finally overcome this objection. Indeed, the last

1 one was only overcome within the past 60 days when a formal
2 complaint went through the union/management arbitration pro-
3 cedure. We were also delayed because of the two and a half
4 month work stoppage in the industry during the period of
5 negotiating a new labor/management agreement.

6 We have completed essentially the first round of
7 our program. We are, with very few exceptions, receiving
8 x-rays only of men who have been hired within the past six
9 months to meet that requirement in the Act. We are hoping to
10 start a new round of x-rays in the three-year period some time
11 after the beginning of the calendar year.

12 I think that covers the program in brief. I'd be
13 pleased to answer any questions you might have.

14 MS. GROMMERS: Thank you very much, both Mr. Baier
15 and Mr. Shoub, for your presentation.

16 We will now proceed to the Committee's questioning
17 of you. I will start with Mrs. Hardaway, who is Commissioner
18 of Personnel for the Tennessee State Government.

19 MS. HARDAWAY: One question, sir. Do you inter-
20 change your material or your information with any other agency
21 of HEW or any other health agency at all?

22 MR. SHOUB: Only if we have a signed release of
23 medical information from the miner asking us to provide the
24 information. All of the information we provide to his physician,
25 for example, is based on a release he signs at the time he's

1 examined. If the miner, for example, applies for black lung
2 benefits under Title 4 of the Federal Coal Mine Health and
3 Safety Act, he applies to Social Security and they obtain a
4 release of information from him. They turn that release over
5 to us and it is in our files. We then advise them of the
6 findings, but not prior to that.

7 MS. HARDAWAY: Thank you.

8 MS. GROMMERS: Do you have any other questions in
9 that same line? You may ask more than one.

10 MS. HARDAWAY: Thank you. That's all at this time.

11 MS. GROMMERS: Mr. DeWeese.

12 MR. DE WEESE: I'd just like to follow that up for
13 a second. If you condition receiving of black lung benefits
14 on the release of this information, then for all intents and
15 purposes the individual doesn't really have a choice about
16 exchange of data.

17 MR. SHOUB: I think I agree with you but I'm not
18 absolutely certain of your question. Are you saying that once
19 the miner makes application for black lung benefits there
20 isn't much choice but to release the data? This is true, but
21 it is a fundamental part of the application that he sign a
22 release of medical information. It is equally true, if it's
23 a deceased miner, that the widow or next-of-kin must sign
24 such a release.

25 MR. DE WEESE: No more questions.

1 MS. GROMMERS: Ms. Noreen.

2 MS. NOREEN: You said that you have overcome the
3 objections of some miners that the company doctors might tell
4 the operators about the health conditions of the employees.
5 I was wondering just how you can be sure of that.

6 MR. SHOUB: Well, in the case of the largest
7 company which was involved, because they had staff physicians
8 interpreting x-rays, the problem was resolved by their agreeing
9 no longer to do this but to hire independent physicians. In
10 the case of the next largest company, we had exactly the
11 opposite. Their stand apparently was that they were meeting
12 the requirements of the Act and of the regulations and they
13 would not change. The latest agreement between the United
14 Mine Workers and the operators provides for a five-step binding
15 arbitration arrangement and they carried the grievance all the
16 way through the five steps. The neutral arbitrator ruled in
17 favor of the union and since then, in a matter of less than
18 two months, we have been asked to approve a modification of
19 their previous plan so that a physician who is not on the
20 company payroll but is on a fee basis will interpret the
21 x-rays.

22 MS. NOREEN: Thank you. That's all I have.

23 MS. GROMMER: Professor Weizenbaum.

24 MR. WEIZENBAUM: No questions.

25 MS. GROMMERS: Mr. Dobbs.

1 MR. DOBBS: What is the use of the physician's
2 social security number on the x-ray interpretation form?

3 MR. SHOUB: I'm sorry, I don't understand that.

4 MR. DOBBS: What use is made of the physician's
5 social security number on the x-ray interpretation form?

6 MR. SHOUB: This is our way of determining, using
7 the logic of a computer, whether the physician is indeed one
8 of the 800 who have passed our qualifying requirements and is
9 acceptable as an interpreter. It's simply that the computer
10 recognizes digits better than it does anything else.

11 MS. GROMMERS: Mr. Gentile.

12 MR. GENTILE: I had a follow-up on the miner social
13 security number, too, but I don't want to use that one question.

14 My question that I want to ask is what measures
15 have you taken within your own data center or computer
16 operation to assure that this confidentiality guarantee that
17 you have given to the miner is, in fact, possible to enforce
18 and to deliver?

19 MR. SHOUB: I told you that all of the incoming
20 paper documents are converted to microfilm and the microfilm
21 is maintained under secure conditions. What I didn't say was
22 that the paper was shredded. We are fortunate we are on the
23 campus of the University Medical Center with an enormous
24 incinerator so we can get rid of that mountain of paper we
25 generate. The computer center which is approximately a mile

1 away from us is operated by the university, is kept secure by
2 the usual combinations of access codes for information, and
3 all of their waste material is delivered to us daily and run
4 through the same shredding operation and same destruction.
5 The contract with the university which operates the computer
6 includes some requirements for confidentiality.

7 MS. GROMMERS: Is it appropriate to ask for that
8 contract? Could you send that to us?

9 MR. SHOUB: I think Mr. Marcus has the pertinent
10 paragraphs. He asked for them during the week.

11 MS. GROMMERS: Mr. Gentile, would you like to
12 finish that follow-up question?

13 MR. GENTILE: I was curious about the miner's
14 social security number as well as the physician's social
15 security number, both of which appear on this input document.
16 I was wondering if you use that number because it's a mature,
17 convenient numbering system, or if you use that number because
18 you have to have access for matching capabilities to other
19 files.

20 MR. SHOUB: It's the former, not the latter. It's
21 amazing. We have some miners with -- as many as 50 or 60 men
22 with identical names, even to initials. The social security
23 number is the easiest way we've found to make sure that we are
24 talking about or to the right man.

25 MR. GENTILE: And there's absolutely no use of the
social security number to link with other files?

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1 MR. SHOUB: No. We have never linked with another
2 file. When we receive the release, however, from Social
3 Security, it is signed with the name and address of the man
4 and it also has a social security number. Before we provide
5 information, we match all of the items to make sure we are not
6 crossing files by accident. But no one else has access to our
7 tapes nor have we access to anyone else's tapes.

8 MS. GROMMERS: Mr. Davey.

9 MR. DAVEY: I have some questions regarding costs
10 of the system. Do you have any idea as to what the unit costs
11 are for each miner that you check, or physician costs or
12 computer costs and the like?

13 MR. SHOUB: Yes. However, the unit cost is
14 decreasing daily.

15 MR. DAVEY: What is the configuration?

16 MR. SHOUB: The biggest single cost we had was
17 about \$650,000 for a two and a half year contract with the
18 University of West Virginia for the use of their computer.
19 This also included the systems work which preceded the program
20 and all of the programming.

21 Now, obviously, as we go through additional cycles
22 and more documents are handled, the unit price is going to go
23 down. We anticipate that for the next two years the continua-
24 tion of this contract would be something of the order of
25 \$265,000 for the two-year period. You see, the initial

1 investment was largely in the systems work and programming.

2 MS. GROMMERS: Do you have any exact figure of the
3 cost per man in unit cost?

4 MR. SHOUB: In HEW, not reimbursed, we are now at
5 about \$10 per man processed. In addition to that, the cost
6 of the x-ray which is borne by the coal mine operator varies,
7 depending on where it's done, from \$10 through -- I think we
8 have some as high as \$60 in isolated communities where there
9 aren't many facilities available.

10 MS. GROMMERS: Mr. Davey, did you want to proceed?

11 MR. DAVEY: Yes. That's \$10 per man now. Is that
12 for the last two years?

13 MR. SHOUB: That's up to date.

14 MR. DAVEY: And you expect it will come down con-
15 siderably after that and you estimate that to be somewhere
16 around \$3 or \$4, or what's your target on that?

17 MR. SHOUB: I don't think it will come that low.
18 I wish it would. I would think that it will eventually level
19 off at around \$5 or \$6.

20 MS. GROMMERS: Would it be possible for us to get
21 the breakdown of the costs?

22 MR. SHOUB: We could attempt to construct one for
23 you. You should realize I have been making gross estimates,
24 but we could try to make a breakdown and send it to you.

25 MS. GROMMERS: We'd be most interested in that.

1 MR. DAVEY: I think that satisfies me right now.

2 MS. GROMMER: Mr. Muchmore.

3 MR. MUCHMORE: Have you had any objections about
4 the confidentiality of these records from either miners,
5 physicians or other persons involved?

6 MR. SHOUB: With the exception of the instance I
7 described, Mr. Boyle's letter, I know of only two cases. We
8 have investigated both of them and it was true in both cases
9 that the operator knew of the miner's condition, but equally
10 true in both cases he knew because the miner himself told the
11 operator; and over that we have no control.

12 MR. MUCHMORE: Another question. What happened to
13 company physicians who are no longer able to do this any more?
14 Are they now going into private practice and making three times
15 as much as they did before?

16 MR. SHOUB: These men have always been on the
17 payroll of the company. These are large companies with
18 industrial medicine an integral part of their operation, and
19 their occupation as health physicians was the one they chose.
20 Of course, it has been an additional burden to these companies.

21 MR. MUCHMORE: You made my point.

22 MS. GROMMERS: Ms. Cox.

23 MS. COX: I want to pursue a question just a little
24 bit further that you had previously. You microfilm the docu-
25 ments. That means all identification is microfilmed?

1 MR. SHOUB: Yes, the entire document.

2 MS. COX: And the x-rays?

3 MR. SHOUB: No. The x-rays are not microfilmed.

4 MS. COX: Are they destroyed?

5 MR. SHOUB: No, and we don't plan to destroy them.

6 We plan to preserve the x-rays into successive rounds of
7 x-rays so that the x-rays of an individual man can be compared
8 side by side to see what changes of disease might be occurring
9 in his body.

10 MS. COX: Then how does the microfilming give any
11 protection on secrecy of data?

12 MR. SHOUB: The x-ray contains only the man's social
13 security number, the date it was taken, and the name of the
14 facility or its identification number where it was taken, no
15 other information. The x-rays are filed in paper jackets.
16 These are 14x17 x-rays and the outside of the jacket contains
17 the man's social security number reversed and that's all.

18 MS. COX: I'm not so concerned about the x-ray as
19 the microfilm. There's no protection on the microfilm. Anyone
20 can pull that out and get any individual.

21 MR. SHOUB: No. Two copies are made of the micro-
22 film. One is the back-up copy for safety in case something
23 should happen to the working copy. The back-up copy is kept
24 in a fireproof locked safe. The daily copy is kept in a
25 security file and three people have access to it.

1 MS. COX: Wouldn't it be a little more protection
2 if that were coded and a separate file of the coded microfilm?
3 I just throw that out. I don't see where that's a great deal
4 of protection. A microfilm is a document.

5 MR. SHOUB: Oh, yes.

6 MS. COX: So destroying the documents is not any
7 protection.

8 MR. SHOUB: Well, we have at least the same pro-
9 tection we would if we kept the documents themselves in
10 security files with only limited people having access.

11 MS. COX: But the microfilm could be coded, a new
12 numbering, and the code material kept where only one person
13 knew how -- or one or two. That just looks like a little bit
14 more protection.

15 MR. SHOUB: I'll give that some thought.

16 MS. GROMMERS: Senor Anglero.

17 MR. ANGLERO: Is any information forwarded to the
18 NIOSH about individuals or about any particular information?

19 MR. SHOUB: The only information we pass on to
20 either higher authority in HEW or use for any form of publi-
21 cation is gross statistical information in which no miner may
22 be identified. A typical set of our periodic reports would
23 be this (indicating), and it starts off with "Total Number of
24 Miners Examined," and everything goes from there. So, while
25 percentages of degrees of pneumoconiosis for prevalence value

1 are published, no man is identified in any way. I might say,
2 we have found two female coal miners in the United States, so
3 I shouldn't say "man." I should say man or woman.

4 MR. ANGLERO: What do you receive from the
5 Institute?

6 MR. SHOUB: What do we receive back?

7 MR. ANGLERO: Yes.

8 MR. BAIER: ALFORD is part of the Institute, like
9 the Institute is part of HEW.

10 MR. ANGLERO: I see. But do you in any way give
11 back resource on this information, any kind of analysis or
12 anything that may help?

13 MR. SHOUB: The analyses which have been made so
14 far are in this form (indicating), which as I say are entirely
15 on the basis of large numbers of people and of no individual.
16 I foresee no reason ever to publish information in any other
17 form. There is, of course, a great deal of interest on the
18 part of the medical profession, for example, in knowing how
19 severe a medical problem this might be. They are perfectly
20 satisfied with knowing that 88 percent of the men examined in
21 this study have normal chest x-rays, 12 percent have abnormal
22 chest x-rays, and then of the 12 percent, how it breaks down
23 into different categories.

24 MR. ANGLERO: If I could follow this up to the
25 Institute, how is this information disseminated or what use is

1 made of the analysis of the information gathered?

2 MR. BAIER: In terms of the standard, what we are
3 trying to do is tie together exposure levels. You see, the
4 Department of Interior, in the case of coal miners, are
5 accumulating data on environmental conditions within that
6 mine, and by tying together how much dust the man has been
7 exposed to with the effect on an x-ray you can develop stan-
8 dards. This is true across the board because not only in
9 terms of coal mines but many other jobs we are trying to tie
10 together an environmental condition to an effect, which is the
11 epidemiology. That's how we use the data.

12 Now, we don't use it in terms of any individuals,
13 but we do use it in terms of mass numbers.

14 MR. ANGLERO: Do you make any kind of policy? Do
15 you make any other kind of recommendations?

16 MR. BAIER: Yes. In other words, if we know how
17 much of a contaminant -- any contaminant -- causes effects,
18 then, of course, exposure should be kept below that effect
19 level with some safety factor built into it -- that type of
20 thing.

21 MR. ANGLERO: Has it been done already?

22 MR. BAIER: This is what we have been trying to do.
23 You see, in the coal mines -- well, that Act is one year older
24 than the Occupational Safety and Health Act almost to the day.
25 Also, coal mining is a pretty specific type of occupation

1 compared to all other stresses and combinations of stresses
2 that exist in the work site. For instance, we have standards
3 for asbestos, carbon monoxide, beryllium, heat stress and this
4 type of thing. The problem comes in, if you look at each of
5 these individually, they may very well be less than standard.
6 If you have a combined effect of all five at once this is the
7 research area that we are getting involved with.

8 So we don't have as many answers in that area as
9 we do in pneumoconiosis in the coal miners.

10 MR. IMPARA: I have two analytical questions, one
11 to Mr. Shoub, and it's not really a question; it's a verifi-
12 cation of an assumption. That is, when a miner signs a
13 release to the Social Security Administration authorizing
14 them to get his file from you or some portion of it, I assume
15 that's a very restrictive release, that's not a blanket release
16 that you can now give the data not only to the Social Security
17 Administration but someone else.

18 MR. SHOUB: You're right. We have always inter-
19 preted it this way and release it only to the Social Security
20 Administration.

21 MR. IMPARA: Or a research facility.

22 MR. SHOUB: But each authorization would stand on
23 its own feet.

24 MR. IMPARA: Mr. Baier, I assume that you have
25 other activities ongoing much like the one Mr. Shoub has
described.

1 MR. BAIER: Yes.

2 MR. IMPARA: Would you say that the security pre-
3 cautions --- the primary data collection procedures in terms
4 of the details I understand would be different -- would be very
5 similar to the ones described?

6 MR. IMPARA: Very similar with the exception of
7 death certificate reviews. We don't have the very tight
8 security and the microfilming and the storing that we have
9 with death certificates as we do with medical histories. This
10 is something that we have talked about, but at this point in
11 time we have no real firm operating procedures on it.

12 MR. SHOUB: Aren't death certificates public pro-
13 perty?

14 MR. BAIER: Well, they are public property only
15 if -- I don't know what the release forms are. I think that
16 varies from state to state. But any data we get --

17 MS. COX: They all go to the National Center for
18 Health Statistics.

19 MR. BAIER: So we don't have that tight a security
20 on death certificates.

21 MR. IMPARA: Thank you.

22 MS. GROMMERS: Ms. Lanphere.

23 MS. LANPHERE: I just have one question. I was
24 wondering, do the operators receive any type of statistical
25 reports or data? I understand that they don't get the

1 individual's results of their examination. I just wonder if
2 they had asked for any type of statistical data on the number.

3 MR. SHOUB: We haven't decided this yet, but I can
4 tell you that if we do, we're going to have to exercise great
5 caution to limit the report to any one operator to those
6 operators who have so many men examined that they can't, by
7 juggling around internally, determine who has what. We may
8 have to limit ourselves rather to regions or to types of coal
9 to get large enough numbers to maintain confidentiality.

10 MS. LANPHERE: Have they asked?

11 MR. SHOUB: Some have. As you would expect, the
12 companies with active occupational health programs have asked
13 for it and the others are disinterested.

14 MS. LANPHERE: Thank you.

15 MS. GROMMERS: Mr. Allen.

16 MR. ALLEN: On the confidentiality question, I
17 assume that you have had only two comments on the version of
18 Mr. Boyle's letter, that there hasn't been very much experience
19 in the short time of breaches of confidentiality. Could you
20 describe what you think the expectations are of operating
21 personnel concerned with the system, the doctors, of what is
22 likely to happen if breaches do occur? Is there any informa-
23 tion program to them about this?

24 MR. SHOUB: I don't know. I can't tell you whether
25 coal mine operators would tend to find some manner of disposing

1 of men who are sick on the theory that ultimately they may
2 become a financial burden to the company or whether they would
3 not. I have no experience with this. But this is the appre-
4 hension of the United Mine Workers. This was the point
5 behind the letter which Mr. Boyle wrote to Secretary Richardson,
6 that the job of no miner would be safe if his employer was
7 aware that he had any illness.

8 MR. ALLEN: I'm sorry. I was trying to focus more
9 on persons who had access to the information, like the doctors,
10 like the operators of the system, and what their expectations
11 are if they were involved in a breach of the precautions for
12 the confidentiality.

13 MR. SHOUB: The physicians who interpret the x-rays,
14 for example, or the facilities at which the x-rays are taken
15 which might, for example, take two x-rays instead of one and
16 use one improperly, something we watch carefully, they would,
17 of course, at a minimum, be excluded from then on from the
18 program and would suffer whatever financial losses occur
19 because of this.

20 There are some provisions in the Act for penalties
21 for breach of the Act or the regulations issued under it.
22 However, these are administered by the Department of the
23 Interior and I can't even guess as to whether they would
24 respond to a complaint or tend to ignore it.

25 Internally, people involved who have access to the

1 information, and our contractors, also, have been very strongly
2 cautioned about the importance of confidentiality, and every
3 evidence we have is that they are taking it extremely seriously.

4 MS. GROMMERS: Ms. Gaynor.

5 MS. GAYNOR: I'd be interested in knowing what
6 types of problems you had in collecting data or utilizing the
7 forms per se on the initial level. What type of reaction did
8 you have to the other form?

9 MR. SHOUB: I think you have asked me two questions.

10 MS. GAYNOR: That's right.

11 MR. SHOUB: Let me take the second one first if I
12 may. We have not had any protest from those people who are
13 involved in providing us the information. Remember, this is
14 a voluntary program so that the miner must want to be x-rayed,
15 and this is one of the prices he pays, to provide the informa-
16 tion to fill out the shorter -- the white and black form. The
17 other form is a little different situation. You may have
18 noticed that it could be used for some form of optical scanning
19 or optical -- OMR. This form is filled out by physicians. The
20 original thought was that we might be able to use optical
21 scanning instead of a keyboard entry system. It turned out
22 that it was virtually impossible to convince the physicians
23 that they should form their digits and characters in a pre-
24 scribed fashion and even to keep the markings within the boxes.
25 You notice a matrix of twelve here, for example, and all they

1 have to do is put an "x" in the appropriate ones, and I guess
2 about two percent come back with a ring around the box. So
3 we gave up on the thought of optical scanning very early on
4 and we never invested any money in it.

5 So I suppose, in answer to your question, that was
6 a way of protesting.

7 MS. GAYNOR: I also asked that question in relation
8 also to cost, because in many instances what you're doing is
9 sending these things back again that are improperly filled
10 out.

11 MR. SHOUB: Not in many instances. Let me answer
12 it this way. We have not had enough incidences to warrant
13 preparing any sort of a form letter.

14 Your other question I think was what problems do
15 we have. I think the greatest single problem we had was the
16 question which I thought would be clear, "How many years has
17 miner worked in underground mines?" And surprisingly, we get
18 back answers which obviously are the number of years the miner
19 has worked in that particular mine but his total exposure
20 has been longer than he reports. That question has been our
21 most troublesome one.

22 Of course, in the second round we will improve
23 the quality of the question. Occasionally we have trans-
24 position of digits, particularly in social security numbers.
25 This becomes immediately apparent in almost every case because

1 the number on the x-ray, the number of the miner on this form,
2 and the number of the miner on this form do not agree.

3 MS. GAYNOR: One other question. I notice you are
4 attempting to revise the form.

5 MR. SHOUB: Yes.

6 MS. GAYNOR: What do you have in mind in relationship
7 to revision; more questions; and for what purpose? You say
8 here in description of file that you're about to revise it
9 so further information may be required on the medical or
10 occupational history.

11 MR. SHOUB: We are. Let me remind you that in the
12 first round of this medical program we offer the miner only an
13 opportunity to have a chest x-ray and to have it interpreted
14 by a scheme which would provide a reliable answer to him with
15 regard to what the x-ray shows. But this isn't enough
16 information for the miner to protect his health and for us
17 to protect his health in terms of the type of exposure he has
18 in the coal mine.

19 We are proposing in the next round to add to the
20 medical examination some breathing tests, what we call
21 pulmonary function tests, which would show the degree of
22 impairment he has in his actual breathing. This will have to
23 be supported with some information about the miner, particu-
24 larly about his occupational history.

25 The simple question of how many years he has worked

1 in underground mines has to be improved in itself because the
2 answers haven't been coming back reliably; but more importantly
3 now, we are going to try to determine what portion of time he
4 spent in the high dust areas and what portion of time he spent
5 in low dust areas and also what other dusty occupations he
6 might have been engaged in earlier in his life.

7 MS. GAYNOR: Well, I'd better pass, although I have
8 some other things.

9 MS. GROMMERS: Go ahead.

10 MS. GAYNOR: Well, actually, my point in really
11 asking all of these questions was also in relationship to the
12 reliability of data and also working out a good kind of program
13 before all of this money is spent initially. I get a feeling
14 of a kind of vagueness. I understand you need a base data. I
15 understand you're about to implement a law. But there seems
16 to be some kind of gap in the actual programming and utilizing
17 those people on an operational level who may be able to give
18 you some kind of input which in the end may save you perhaps
19 some cost in setting up the program.

20 My point is, sometimes you collect too much
21 information and sometimes too little, and I keep wondering how
22 we can guard against this in relationship as to costs.

23 Now, I understand the whole -- I think I do, anyhow--
24 in relationship to the implementation of this law, but I still
25 say -- and I can only give it to you from my point of view and

1 my perspective -- that it also becomes costly to the people
2 who are on that level, like one of our participants here made
3 the innuendo about how the cost is really related back to the
4 company itself.

5 So these are some of the things of why it's spoken
6 in that instance.

7 MR. SHOUB: Well, there's no question that this
8 will continue to cost the companies something between, let's
9 say, \$10 and \$30 per man for the x-rays and the pulmonary
10 function tests. I have no firm figures as to what the
11 pulmonary function tests will cost them. We do know what the
12 x-rays have cost in the past. The offsetting benefit which
13 occurs is, of course, to the miner, and not to the coal mine
14 operator directly. It protects the health of the miner.

15 MR. BAIER: We are thinking in terms of prevention,
16 also. Really, what we're doing, our primary thrust is in the
17 prevention but to prevent you must define. So this is where
18 we are. The organization, NIOSH, was just about a year old
19 the end of June. So it gives you some idea of where we stand,
20 although there was an organization as a bureau previously,
21 but the whole concept of the two, the bureau versus the
22 institute, are completely different.

23 MS. GAYNOR: All right. Thank you.

24 MS. GROMMER: I have a comment to make about this
25 question but I'd like to hear from Mr. Gallati first.

1 MR. GALLATI: My question relates to the problem
2 of releases and I understand, of course, that you have said
3 that you would not release the data unless you had a release
4 signed by the miner. This presents problems frequently in
5 other areas and perhaps may present problems to you and maybe
6 you have already anticipated them. But the person to whom
7 you release, regardless of whether you get a release from the
8 miner, is very significant it would seem to me. An employer
9 who later employs a miner in some other industry, for example,
10 knowing he had been a miner and knowing of this program, might
11 very well ask him to get this data from you as a condition of
12 employment.

13 If you release it without some circumscribed way
14 of knowing where the data was going, it may be dangerous in
15 terms of his privacy and in terms of his rights to further
16 employment.

17 MR. SHOUB: All I can assure you in this regard is
18 that the information goes only to the person designated by
19 the miner to receive it. One can't follow it from there on,
20 as I'm sure you realize. It is now common practice, however,
21 in the coal mining industry to require a complete pre-employment
22 physical examination. The information we have in our files
23 might be of ancillary benefit, but I'm sure the operators are
24 paying their major attention to the examination they require
25 just before they hire the man, and I have heard from many

1 miners recently telling me that they no longer can get new
2 jobs in the industry because when they take a pre-employment
3 physical exam deficiencies show up.

4 MR. GALLATI: I was thinking more of employment in
5 other industries which would take cognizance of the fact that
6 he had been employed in a mine and now ask questions in the
7 personnel process they might not otherwise ask and be able to
8 get this kind of data from a release requiring a release as a
9 condition of employment; whereas they might not have the
10 facilities or the right to give him a physical examination
11 for that particular job, they might still in view of the fact
12 that there is a potential illness here because of his previous
13 industrial experience, they might demand this on a sub rosa
14 basis as a condition of employment.

15 MR. BAIER: We're doing a lot of study in terms
16 of motivational aspects, but we are looking at the motivation
17 in terms of why does an accident occur. It might be a strictly
18 boredom of the job and that type of thing, but we can't look
19 at the motivational aspects of an individual when he says,
20 "Release my information to so and so." We can't say, "Why
21 do you want us to release it to so and so?"

22 MR. GALLATI: I would suggest that maybe you could
23 ask that, because if you have to release this to a physician
24 for some company where this man can only seek employment --
25 for example, if he lives in a certain area and wants to remain
in that area, there are limited amounts of employment available

1 to him, and you would perhaps be able to be aware of the
2 fact that certain companies are prejudicing the future employ-
3 ment of miners by making these kind of requests.

4 MR. BAIER: Well, a number of industries other than
5 mining have required pre-employment physical examinations and
6 have very strong union contracts, so the union supports this
7 in all kinds of industries. In fact, if you go into the
8 steel industry, they say, "Gee, we're hiring a lot of former
9 miners ," or some such thing, because that's the area. Plants
10 that manufacture pencils are moving into coal regions -- this
11 kind of thing, and they have been requiring that. It's
12 required in one city and it's certainly required in their new
13 plants, and our information certainly doesn't contribute that
14 much to -- it might give what the fellow looked like a year
15 ago, but what he looks like now is certainly right there, and
16 they don't have to ask for it.

17 MR. SHOUB: I might add that we must have several
18 thousand releases in our files now, but they come from only
19 two places; either from the Social Security Administration or
20 if a man changes his designated physician -- that is, he
21 decides to change physicians -- we get a release saying, "I now
22 have a new doctor. Please send him the information." We have
23 not had any case so far of a release for information to be
24 sent to a new employer or to an employer in another industry.

25 MR. GALLATI: I suggest it might be something to

1 keep in mind to monitor.

2 MR. SHOUB: Thank you.

3 MS. GROMMERS: Mr. Aranoff.

4 MR. ARANOFF: I pass.

5 MS. GROMMERS: Mr. DeWeese.

6 MR. DE WEESE: Could I follow up for a minute on
7 the tack Mr. Gallati was taking. I think this is a very key
8 thing to examine very closely because even if the information
9 only goes to the Social Security Administration, after it's
10 gone that far, as I understand it, you have really no control
11 over what the Social Security does with that information. Is
12 that correct? You don't take it upon yourselves to follow up?
13 Maybe you can't.

14 MR. SHOUB: Nor do I believe we have any right to
15 do that.

16 MR. DE WEESE: Knowing that you take that position--
17 and I think that's probably an understandable position I
18 suppose, in some respects -- in a recent Philadelphia newspaper
19 article, I read that a fellow from HEW by the name of Richard P.
20 Nathan said that he planned to use the local credit bureaus
21 as a source for getting information on welfare recipients in
22 the welfare system, and, of course, it seems to me that it's
23 very possible that if this information -- as you said, it con-
24 tains information on the fact that a person is a cigarette
25 smoker, his alcohol consumption habits -- this type of data is

1 in the files as I understand it -- now, if HEW is going to
2 rely on local credit bureaus for information, I think the
3 local credit bureaus will feel they are also entitled to get
4 some information on the other side of things, and I could
5 anticipate a local credit bureau in West Virginia or Western
6 Pennsylvania would be quite interested in knowing if a person
7 has a terminable illness or a person is a high consumer of
8 alcohol or cigarettes and so forth, and I could also see a
9 major recipient of information from credit bureaus is in
10 insurance companies and I could see this information in a
11 kind of a spiral, being used for purposes for which it was
12 totally not contemplated when the program was initiated to
13 protect miners.

14 Really, that's not a question. That's more of a
15 comment I guess. I think what we're trying to get at is when
16 you set up a system, maybe you do have a duty to look beyond
17 and to look at possible ways that this information can be
18 used once it gets away from you. For example, as Mr. Gallati
19 was pointing out, it won't do a prospective employer any good
20 to get a release from a person if he knows that that release,
21 once it's tendered to you, will be of no value because you
22 have a policy against releasing information for that purpose.

23 The same thing would be true of Social Security
24 Administration. I think possibly when you give this informa-
25 tion to Social Security in light of the apparent plans HEW
has to rely on the computers, as evidenced by this article

1 I recently read in the July 12th issue of the Philadelphia
2 newspaper, it seems to me you should maybe outline specifically
3 what you feel would be the proper use of the information by
4 Social Security.

5 MR. SHOUB: Let me play "Devil's Advocate" for a
6 moment. Under the Act, which the regulations can't change,
7 the miner must be given a written report of the findings
8 with regard to pneumoconiosis. I suggest in partial answer
9 to what you say, that if the credit bureaus or the lending
10 companies, the banks or the insurance companies would demand
11 that the miners show them the letter, we could have no control
12 over it.

13 Equally, if the miner writes and says, "I lost my
14 letter. Will you please send me a duplicate," we are faced with
15 a problem of either denying him information to which he is
16 entitled by law, or giving him something which he might use
17 to his own disadvantage.

18 I'm afraid we can't have complete control in the
19 manner you suggest.

20 MR. DE WEESE: Maybe not complete control, but you
21 certainly could have a step beyond the control that you have
22 at present.

23 MR. DAVEY: I'd like to explore this question that
24 came up just a while ago about the attending physician of the
25 miner. I don't see any place on the form where that is

1 indicated. How do you contact him? You say that you have
2 several thousand releases in your file for releases for change
3 in physician.

4 MR. SHOUB: At the time the man is examined, this
5 white form is used, and toward the bottom it says, "I hereby
6 voluntarily agree to participate"--and I'll skip some words--
7 "I authorize and request that any findings by the Public
8 Health Service be referred to my personal physician." He
9 inserts the physician's name and address immediately below.

10 MR. DAVEY: I see.

11 MR. SHOUB: Now, this is literally the case, many
12 of these men do not have physicians and suddenly they are
13 asked to name someone, and they think of the first physician
14 that comes to their minds. Very often it's their wife's
15 obstetrician. So then, he gets home and starts to think
16 about it and he says, "Well, that isn't going to do me very
17 much good." So we get in a written request from the man to
18 change the name on the form.

19 Sometimes he doesn't do this until after we write
20 him and say, "Something has been found about which we are
21 sending all the details to your physician and you should con-
22 sult him." Then he comes back and says, "Well, he won't do
23 me any good. Send it to so and so."

24 MR. DAVEY: Do you have many problems in this
25 respect?

1 MR. SHOUB: We have had three or four physicians
2 who had large practices in mining communities who have died
3 during the program.

4 MR. DAVEY: Do you find many physicians who receive
5 these reports and don't know what to do with them?

6 MR. SHOUB: No. But conversely, we find some
7 physicians more active in using the information than others.
8 There are some who, if they think it's worthwhile, will
9 actually call the miner and not wait for the miner to come to
10 the physician, and others will sit back and wait.

11 There was a study of the effectiveness of this
12 portion of the program going on now under contract with the
13 NIOSH with the American College of Radiologists. I don't
14 think that will be available for another five or six months
15 but they have made a very detailed study of what do the
16 physicians do with the information, what effect does it have
17 on the miner when he receives a letter suggesting that he
18 consult his physician. Does he ignore it or does he follow it?

19 MS. GROMMERS: I want to thank both of you, Mr.
20 Shoub and Mr. Baier, for your excellent presentation. It's
21 been most helpful. The staff in studying this system inde-
22 pendently would be interested in knowing for the record a
23 couple of questions which I'd like to put to you. In addition,
24 as it's now 11:00 o'clock, if other committee members have
25 other questions these gentlemen will both be there during the

1 coffee break and you might address the questions to them then.

2 I have one question. The staff questions are
3 apropos of the question Mr. DeWeese and Mr. Davey raised. Do
4 the statutes provide for confidentiality? They do. The
5 question then is on what basis does the miner rely on the
6 assurance of confidentiality? How does he know that in fact
7 confidentiality is maintained?

8 MR. SHOUB: We provided to staff earlier -- last
9 week -- copies of notices signed by Surgeon General Steinfeld
10 and by Marcus Key, the director of what was then the Bureau
11 of Occupational Safety and Health, and is now NIOSH, addressed
12 to the miners and which were posted on the bulletin boards of
13 every coal mine in the United States.

14 MR. BAIER: There was some question about this and
15 there was a boycott, an actual literal boycott until it was
16 demonstrated that there was confidentiality.

17 MR. SHOUB: The boycott followed these letters that
18 preceded it.

19 MS. GROMMERS: What would the effect be if the
20 miner crossed out the release section on the form? What would
21 happen to the miner's rights if he simply crossed out the
22 release section on the form rather than signing it?

23 MR. SHOUB: Well, in order for the x-ray to be
24 taken he must at least sign one portion of that authorizing
25 the facility to expose him to the small amount of x-radiation
that's involved. No medical facility would take an x-ray

1 without some protection from the miner, but if he crossed out
2 only the last sentence, for example, or simply didn't fill in
3 the name of the physician in the lower box, which has happened
4 then we wait until we determine whether the man is healthy or
5 not. If he's fully healthy we have no name for the physician.
6 We would do nothing anyway, so we ignore that case. If, on
7 the other hand, there is something which should be reported
8 to the physician for the miner's sake, we write to him and
9 ask him if he would not please designate a physician. In
10 almost all cases he comes back and does so because by this
11 time he's beginning to be curious and possibly a little bit
12 apprehensive about what we have found.

13 MS. GROMMERS: Thank you. I have just one brief
14 last question of my own. That is, what evidence is there that
15 on the average over his work span a person with positive lung
16 scan and no symptoms does any less good work or less pro-
17 ductive work than any others?

18 MR. SHOUB: In itself, none. This is a major
19 reason that we want to introduce in the second round of the
20 examinations actual pulmonary function tests to see what the
21 impairment is. We have other studies which are not conducted
22 in this manner of coal miners which we have been attempting
23 to correlate the findings with regard to pulmonary function
24 tests, reduce ventilatory capacity, and correlation is not
25 good. We have found men who have advanced x-ray findings and

1 occasionally with almost no pulmonary impairment, and vice-
2 versa. So we feel the man should be examined both ways for
3 his sake.

4 MS. GROMMERS: Yet, following up on Mr. DeWeese's
5 comment, what you just said is not generally really widely
6 known and the implication --

7 MR. SHOUB: I have to differ on that. I have
8 dealt with coal mine operators in prior positions I have had
9 with the Bureau of Mines, for example, and one of their major
10 arguments against the entire program has always been the lack
11 of correlation between the man's actual work capacity and the
12 x-ray findings. The large operators, the ones with more
13 facilities, are well advised on this point.

14 MS. GROMMERS: Yes, but the welfare people, the
15 people who might take this information on a secondary basis
16 and use it against a man for other employment, in fact, would
17 regard a positive x-ray finding as a reason for not giving a
18 man a good working credit; do they not?

19 MR. SHOUB: You must take into account the fact
20 that the Congress amended the Federal Coal Mine Health and
21 Safety Act in April or May of this year and among other things,
22 specifically says in the amendments that the x-ray findings
23 shall not stand alone. There's presumptive evidence now
24 after 15 years of exposure in coal mines that the man is
25

1 impaired because of his occupation without any x-ray evidence.

2 MS. GROMMERS: Thank you very much.

3 We will now break for some coffee. We'll be back
4 here at 11:20.

5 (Recess)

6 MS. GROMMERS: In lieu of the gavel, the meeting
7 will come back to order. We want to welcome Mr. Fred Sachs,
8 Mr. Wesley Grier and Mr. Lesowitz today to come and give us
9 some evidence on their system.

10 Mr. Sachs, would you identify yourself and also
11 introduce the gentlemen with you?

12 PRESENTATION BY MR. FRED SACHS, ASSISTANT
13 COMMISSIONER FOR PROGRAM MANAGEMENT,
14 REHABILITATION SERVICES ADMINISTRATION, DHEW;
15 ACCOMPANIED BY: MR. WESLEY GRIER, CHIEF,
16 DIVISION OF PROGRAM SURVEYS AND STATISTICS,
17 NATIONAL CENTER FOR SOCIAL STATISTICS, SRS,
18 DHEW; AND MR. NATHAN LESOWITZ, CHIEF,
19 REHABILITATION SERVICES ADMINISTRATION,
20 STATISTICAL BRANCH, SRS, DHEW.

21 MR. SACHS: I'd be happy to. I am Fred Sachs,
22 Assistant Commissioner of the Rehabilitation Services Admini-
23 stration with some primary responsibility for the area of
24 program management. On my left is Mr. Wesley Grier, who is
25 Chief of the Division of Program Surveys and Statistics in the

1 National Center for Social Statistics, Social and Rehabilita-
2 tion Services; and on my right, Mr. Nathan Lesowitz, who is
3 Chief of the Rehabilitation Services Administration Statistical
4 Branch.

5 We are delighted to be asked to come and talk with
6 you, primarily I think because ours is such a strongly client
7 oriented program that we are most anxious -- and I'd like to
8 emphasize the "most" -- most anxious to have this group come
9 up with findings which would preserve the integrity of the
10 individual's personal data. We can't think of anything that's
11 more important than that. I wanted to say that at the outset
12 so you would understand the position from which we speak.

13 I thought perhaps for our brief period together
14 to be most meaningful perhaps we could give you a kind of
15 capsule summary of what this program is, the vocational
16 rehabilitation program of the country that SRS and the
17 Rehabilitation Services Administration is responsible for, the
18 nature of what we do, the magnitude of the kinds of people
19 we work with, and leave, hopefully, a substantial amount of
20 time for you to ask questions that you might have regarding
21 our program or that our comments might stimulate.

22 The vocational rehabilitation program of the
23 United States, particularly that part which is government
24 administered, has been in operation since 1920. It's a
25 program to provide vocational rehabilitation services, and in
the Act those services are defined very broadly so that it is

1 possible for the program to provide almost any kind of service
2 that a handicapped person -- and handicapped is defined as
3 either a physical or mental disability -- that a person of
4 that type might need in order to be able to get or return to
5 employment.

6 So I think our program is one of the relatively
7 few in the Federal Government -- and I'll deal with the
8 relationship between the Federal Government and the states in
9 a moment -- it's one of the few programs that has very clear
10 mission. The mission is to find people who are physically
11 and mentally handicapped who have a problem in getting or
12 retaining employment and in providing them with services so
13 that they can become self-sufficient.

14 The direct service program is not administered by
15 HEW. It's a grant-in-aid program and a grant-in-aid program
16 means that the Federal Government makes funds available to
17 states to operate a program, so that the actual delivery
18 program is operated by some 82 agencies, 82 because the Act
19 gives states authority if they wish to establish a separate
20 program of services for those who are blind. So we have the
21 50 states, the District of Columbia, the Virgin Islands,
22 Puerto Rico and Guam having a total program, and in the
23 remaining states, adding up to 82, there are separate agencies
24 serving the blind.

25 The program, since we're interested in data, I'll
give kind of a brief summarization of how the service delivery

1 system operates in the states. Handicapped individuals come
2 to the attention of the state agency and that may be in any
3 number of ways. They may walk in the door. They may be
4 referred by hospitals, by physicians, by social agencies, by
5 welfare departments; the intent being to identify and to at
6 least have an opportunity to talk with those people who have
7 the physical or mental handicap and a barrier to employment.

8 Out estimates at this time on the number of handi-
9 capped people who might be eligible for our program range
10 between five and ten million in the country. Our expectations
11 are that in the fiscal year just passed -- and we do not yet
12 have the program data to support this but I think our esti-
13 mates will bear out -- are that the state agencies will serve
14 something in excess of a million handicapped people and they
15 will be rehabilitating something in the neighborhood of
16 335,000 handicapped people. So it's a fairly major program.

17 The financing of the program, the formula grant
18 program for which the Federal Government contributes 80 percent
19 of the cost, is in the neighborhood of \$610 million in federal
20 funds and those funds are matched with the 20 percent contri-
21 bution required of the states.

22 When a handicapped individual comes to the attention
23 of the state agency he is seen by a rehabilitation counselor,
24 and in the program the rehabilitation counselor is the key to
25 the delivery system and the counselor is responsible for doing

1 a diagnostic work-up on the individual which might include
2 medical, psychological, vocational testing, so that when the
3 counselor and the client are able to look at the objective
4 data about the assets and limitations of the handicapped
5 individuals together they arrive at a vocational objective.
6 They decide what kind of work seems most feasible for the
7 particular individual and what does he need in order to be
8 able to do that kind of work. Then the plan is put into
9 effect and the services are provided, either directly by the
10 agency or more often through purchase or by arrangements with
11 other resources in the community.

12 So the delivery system is locally based. Its key
13 is a rehabilitation counselor. Its strength is in the one-to-
14 one relationship between the rehabilitation counselor and the
15 client. Its resources are a wide range of services which can
16 be applied to meeting the needs of the individual. Its goal
17 is employment.

18 In our program we are really quite proud of our
19 data collection system. It's evolved over a long period of
20 time. It gives us information on a 100 percent sampling of
21 the cases that are served by the state agencies. It gives
22 us a world of materials on the nature of the disabilities
23 served, the kinds of services that are provided, the outcomes
24 of those services, the costs of those services.

25 I'd like to hasten to add that the millennium has
not arrived and we get pressed for much information we don't

1 have and we are in the process now of beginning to look very
2 critically at our whole data system because we have got some
3 new legislation that's being considered on the Hill that
4 adds some new dimensions to the program which will require a
5 significant change in our data system.

6 Information is collected by state agencies on the
7 people they serve. When a case is closed, either as rehabili-
8 tated or not rehabilitated, a document which we term the R-300
9 is prepared and submitted to the Center for Social Statistics.
10 They compile these, get them on the computer, and Mr. Lesowitz'
11 shop does the analysis of the data. The information that we
12 get nationally contains -- the only identifying information
13 relative to the individual client is the social security
14 number, and that's fairly new. We asked the states only
15 within the past year to provide us with the social security
16 number because we have arranged with the Social Security
17 Administration -- and we are just beginning to get there;
18 we're not there yet -- but what we are trying to do is to
19 assess the benefits of rehabilitation over time, and the best
20 way of doing that is by looking at earnings records for those
21 people who are closed as rehabilitated.

22 Since this is a group that's concerned about con-
23 fidentiality, the Social Security Administration is very
24 jealous of confidentiality and the information that we will
25 get by supplying them with our data tapes will be in blocks

1 so that nobody in rehabilitation, either at the national level
2 or at the state level, will be able to identify earnings
3 records for specific individuals, but in terms of groups of
4 rehabilitated cases.

5 We have other kinds of information requirements
6 that are made on the states but they don't deal as much with
7 the individual. They deal with case flow and the nature of
8 the total program in the state and then, on the financial end,
9 with an accounting for the expenditure of the federal dollars.

10 Did you want to add anything to that?

11 MR. GRIER: No.

12 MR. LESOWITZ: Well, either way. Perhaps Wes might
13 want to take it first, but I'll be glad to.

14 MR. SACHS: All right.

15 MR. LESOWITZ: Roughly speaking, Mr. Sachs went
16 ahead and gave you the general picture. Just to give you some
17 idea of the figures, the way they work out, taking the clients
18 that go ahead and come to the vocational rehabilitation agency,
19 let's assume that of eight who walk through the door roughly
20 half of them or four are accepted for services, and roughly
21 half of them are turned away for any variety of reasons; either
22 they have a disability which is not a substantial handicap to
23 employment or else they may be in some sort of a terminal
24 situation or the disability itself may be of such a high degree
25 of severity that the judgment is that the types of services

1 that we render would not be of very much help under the
2 circumstances.

3 Then, with the four clients that we do go ahead and
4 pick up, our rate of successes are roughly in the neighborhood
5 of something exceeding 75 percent. So when you take the pro-
6 cess overall, about three of eight clients who come to us and
7 emanate a successful rehabilitation somewhere on the average
8 probably of about 18 months after they first come to our
9 attention. So this isn't a quick process. The types of
10 people that we work with in many instances -- well, let's say
11 that they are frail people. We work with the blind. We work
12 with the deaf. We work with deaf people who also have no
13 speech. We work with psychotic, psychoneurotics and so forth,
14 and the arrangement that Mr. Sachs, for example, spoke about
15 following up in terms of the continued earnings history or
16 continued employment history of these clients -- the results
17 that we expect to find probably will not show -- they are the
18 form that say for every 100 clients that we rehabilitate in a
19 given year, that five years later 100 of them will still be
20 in employment and may be earning higher wages and so on.

21 Undoubtedly, under the circumstances, there will be
22 some amount of recidivism and recession and this is something
23 again which is due to the makeup of the people that we work
24 with. They obviously would not be coming to us unless they
25 were in the position of need and many of them are. We estimate--

1 and this is only kind of a guestimate because the data have
2 not been fully developed -- that perhaps as many as 50 percent
3 of them or more come out of either the poverty pocket or some-
4 thing which is very closely related to poverty. The informa-
5 tion that we have -- and unfortunately, I didn't realize the
6 size of this group and we have also had a pretty heavy run on
7 some of our publications -- but I brought along three volumes
8 or several copies at least of three volumes which I will leave
9 up front here for any of you people that are interested.

10 We have one that is called our characteristics
11 report and this takes the demographic, socioeconomic charac-
12 teristics of the rehabilitated individuals, and we present
13 an additional amount of information showing various distribu-
14 tions by sex and by age and by race, and by terms of employment
15 status at the time they first come to us and the employment
16 status at the conclusion of the program, what their earnings
17 were before and after, what their public assistance status
18 happened to be if they were on public assistance at the time
19 they arrived, and upon completion of the process, and it does
20 supply a great deal of information on the nature of the people
21 that we are working with.

22 We also have a fairly extensive distribution as to
23 the different disability types that we handle.

24 A second volume which I will leave is also basically
25 derived from the same R-300 form that Mr. Sachs mentioned a

1 while ago with these 85 separate agencies, or something very
2 close to 85, out in the states. That is, 54 general agencies
3 in each one of these states and Puerto Rico, District of
4 Columbia, the Virgin Islands and Guam.

5 In addition to these 54, we have something like
6 31 separate agencies serving the blind and the visually handi-
7 capped.

8 Now, the actual direction of the administration
9 and the day-to-day processing under this program is conducted
10 by these individual agencies with a considerable amount of
11 latitude to suit the needs of peculiar local conditions, in
12 some cases to accommodate itself to certain mandates which
13 might be passed out from their state legislatures, in some
14 cases perhaps governed by the kinds of staffs that they might
15 have where one agency might be better oriented to the ortho-
16 pedically handicapped while another might be gearing its
17 operations more toward people afflicted by mental retardation
18 or mental illness of one variety or another.

19 So what we have done in the second publication,
20 which we call our state data book, is to make different
21 comparisons from state to state on any number of these
22 variables that I mentioned a while ago which we do go ahead
23 and pick up as a result of the R-300.

24 The third volume which I'll leave will be a book
25 which will get into the aspects more or less of the eight

1 clients coming through the door, the four who are accepted,
2 the three out of the four who eventually make it to the end
3 of the process and so forth, giving you the entire configura-
4 tions of the program on a national basis and also pretty much
5 broken down in terms of the activities occurring within each
6 of the state agencies.

7 Mr. Sachs also mentioned a while ago the fact that
8 we conduct this on a 100 percent sampling or, in other words,
9 really on a census type of arrangement. We frequently have
10 thought about sampling this information, but there are many
11 considerations in the program, including such things as a
12 fairly high turnover in some instances on the part of coun-
13 selors who have to collect the data in the first instance, and
14 certain problems of control. So that if we did go over to
15 some sort of a sampling basis, and much of our information
16 probably could be obtained that way, we are afraid that in the
17 calculation of such things as variants and the like we might
18 be asking or bargaining for a lot of trouble.

19 We certainly haven't abandoned the idea of sampling.
20 It's something that we have been giving serious consideration
21 to over the years. But for the time being, we still haven't
22 broken away from the full-scale processing methodology whereby
23 upon the closure of any kind of a case, even if it's a case
24 which is closed almost immediately after referral, we do go
25 ahead and get a report for the individual except, of course,

1 that the longer the person stays with us and to the extent that
2 he may or may not complete the entire process we acquire more
3 and more information. In other words, for the person who comes
4 to us merely as a referral and then for some reason or other
5 decides not to go through with the program, there we might be
6 limited to having the individual's age, sex, date of birth and
7 perhaps a reported disability, nothing more than that. Whereas
8 the rehabilitated client, we have a wealth of information on
9 that particular person.

10 I think that's about it, at least for the moment.
11 Perhaps Mr. Grier would want to answer to complete the picture.

12 MR. SACHS: Before he does, I wanted to mention
13 another dimension of the program. Since 1954, most of the
14 state SR agencies in all but five states have under contract
15 with the Social Security Administration been adjudicating
16 disability for the Social Security Disability Trust Fund
17 program, and as an offshoot of that, in 1962, the Social
18 Security Act was amended to provide for a transfer of up to
19 one percent of the benefits paid in the prior year to the
20 Vocational Rehabilitation Administration for use in the
21 rehabilitation of trust fund beneficiaries. That's a very
22 active program.

23 The constraint imposed by the Congress is that
24 there be an ultimate savings to the trust fund and the
25 actuaries at Social Security reported to the Congress last

1 year and the program has been quite successful. In other
2 words, those beneficiaries who have been collecting social
3 security benefits on the basis of the disability have been
4 rehabilitated into employment at a rate which washes out the
5 expenses in rehabilitating them and results in their being
6 removed from the trust fund rolls and in a resultant savings.

7 Do you have any comments?

8 MR. GRIER: Well, I always start out by trying to
9 be quiet and almost never manage. There are a couple of points
10 that have not been mentioned that I think are germane to what
11 I believe is the interest of this group.

12 First of all, it should be understood that the
13 so-called form R-300 -- and if you're interested in it I brought
14 along 30 copies -- is not collected in the Federal Government.

15 MS. GROMMERS: Would you like to pass those out?

16 MR. GRIER: Not really. I'm afraid you'll all start
17 looking at them while I start talking. As you can see, I'm a
18 very brash young man.

19 I think a point to be made here is that the R-300
20 is not collected in the Federal Government until the case is
21 closed. As Mr. Lesowitz mentioned, cases can be recorded as a
22 referral and closed in a few days. They can also be recorded
23 as a referral, moved through a decision process, put into
24 rehabilitation services, and perhaps sent to college for four
25 years. The point is, the piece of paper coming in to us with

1 personal information about people does not come to us until
2 the case is closed, whatever the length of the life of the
3 case, and there have been cases ten years old. There have been
4 cases with as much as \$20,000 spent on them and cases with no
5 money spent on them.

6 The bugaboo about sampling is constantly coming up
7 to heckle me. I'm the bad boy in the group. I'm not really,
8 but I keep trying to tell the program people that if you want
9 to know about drug addicts and a few other choice little
10 goodies that are a very important part of the VR program, you
11 cannot sample by anything called reasonable sampling and get
12 any kind of an accurate picture about such a small number of
13 people who run maybe three or four hundred rehabilitations
14 out of three or four hundred thousand. I don't know whether
15 you're interested in this, but as I say, I always try to keep
16 quiet and never make it.

17 Secondly, VR is a strange program again from the
18 sampling point of view because you have very small blind
19 agencies with perhaps as many as 100 people in a program for a
20 whole year, a counselor and a half and ten rehabilitations.
21 You also have agencies that are running a 100,000 volume that
22 have 19 or 20 thousand rehabilitations. Sampling would come
23 up quite conceivably with missing some states entirely and
24 obviously missing the goodies like drug addiction and a few
25 others, the latest being spinal cord injury. So that I would

1 like to dispense with the idea that you can sample.

2 I would also like to point out that the R-300 asks
3 what is felt and believed to be the minimum amount of
4 information necessary to get an evaluation of people. You
5 should understand, if you do not, that there is quite a bit of
6 additional personal information asked of individuals by a
7 rehabilitation counselor for reasons of need. The counselor
8 may ask, "Do you have an arrest record?" We do not ask this
9 information, but a counselor had better find out in the
10 beginning if the person he's dealing with has an arrest record
11 because he's got other handicaps.

12 He may ask, "Who is your pastor?" He doesn't care
13 about the person's religion, but he may need to work with that
14 pastor and this individual and this individual's family. So
15 he asks these kinds of information. He asks, "What's your
16 work history, if any?" We don't ask this.

17 I could go on about a few other things that are
18 personal in nature, but I think it's important that you do
19 understand: (1) We don't collect everything about people we
20 could; and (2) We don't ask for anything that isn't thought
21 out as a group amongst ourselves with the state vocational
22 rehabilitation people to get what is considered absolute
23 minimum program information.

24 This R-300 contains it. Everything on this 300,
25 except some dates, is keypunched. We then run basic tabulations

1 which we give back to the individual agencies which gives a
2 distribution of all of the items on here as I said, except
3 for a few dates.

4 MS. GROMMERS: Could we get a printout or a listing?

5 MR. GRIER: No way.

6 MS. GROMMERS: Why not?

7 MR. GRIER: Because it costs \$25,000 and I don't
8 have \$25,000.

9 MS. GROMMERS: For one printout?

10 MR. GRIER: Yes. It's a big program.

11 MS. GROMMERS: Could you elaborate?

12 MR. GRIER: It just costs \$25,000 to run these 85
13 agencies in our basic tabulation.

14 MS. GROMMERS: No, I mean one printout of the data.
15 You said you took the data from this and put it on the punch-
16 card.

17 MR. GRIER: Yes. It's fed into the computer; it's
18 programmed; and we run what we call a set of basic tabulations.
19 It's a stack of paper about that high (indicating).

20 MS. COX: For each unit or nationally?

21 MR. GRIER: We do it for the country as a whole.
22 We firmly believe that if you ask people to give you things
23 you should give something back. So we furnish each individual
24 agency in the country with a copy for their tabulation for
25 their agency only. I thought that was what you were asking for.

1 That's a mountain of paper. The U.S. tabulation is about that
2 thick (indicating). That could be made available to you if
3 you'd like.

4 MR. SACHS: Just a copy is what she had in mind, I
5 think.

6 MR. GRIER: Of the national tabulation?

7 MS. GROMMERS: We'd like to see the form that is
8 converted into it.

9 MR. GRIER: Yes, we could make available to you a
10 copy of the national tabulation.

11 MR. LESOWITZ: The first conversion is simply a
12 series of punchcards. By the way, the information comes up
13 to us either on the form itself which is in front of you
14 people or in some cases the state agencies give it to us in
15 the form of IBM punchcards per se. So we never get a copy of
16 the form from them. In certain other instances, we receive
17 computer tapes containing the same data. In each case,
18 depending on the medium whereby we receive the information,
19 if it's on the form, we first have to punch and then we have
20 to go from card to tape. If it comes in on the cards, we have
21 to convert after we check the cards, we convert the cards to
22 tape and so forth, so that the national summaries and the
23 individual state summaries are all gathered together in the
24 last analysis from computer tapes because the conversion has
25 been made along the way as we process; and much of the

1 information in this characteristics report which I'll be
2 leaving here, and then the counterpart data for the states
3 will appear in the state data book because we use those state
4 tabulations, too. We could not prepare state data unless we
5 had breakdowns at that level.

6 MR. SACHS: I want to make a comment here so you
7 would understand what appears to be a difference of opinion.
8 I spoke about 82 state agencies. Mr. Lesowitz and Mr. Grier
9 spoke of 85. What's happening nationally is that there is a
10 tremendous rush in many states to develop umbrella agencies,
11 and it isn't until the action is completed and has been in
12 operation for a year that the statistical data shows up in a
13 unified way. Whereas, from the standpoint of our legal
14 relationship which requires a state plan, there are in fact
15 only 82, but three of those at least didn't start operation
16 as an umbrella agency until July 1 of this year. That's the
17 nature of the dilemma.

18 Incidentally, on these things that Mr. Lesowitz
19 spoke about, if there is enough interest, I suspect we could
20 probably get more copies for this Committee.

21 MS. GROMMERS: Thank you very much. We will now
22 start to --

23 MR. GRIER: I wasn't quite finished.

24 MS. GROMMERS: I'm very sorry.

25 MR. GRIER: I just had two more small points. In

1 the matter of confidentiality, we permit state agencies to
2 send us the individual data on the R-300s in any one of three
3 forms, as Mr. Lesowitz mentioned. It can either be the R-300
4 itself which will contain a name and an address; it can be IBM
5 punchcards in a format that we prescribe which will not contain
6 either name or address; or it can be on magnetic tape which
7 will contain the same card images of the formats that we
8 prescribe which will not contain name or address.

9 At this point in time, less than 30 percent of the
10 total volume of individuals involved -- and for the most
11 recent year this is in excess of 800,000 -- less than 30
12 percent will come in on paper with a name and address. We
13 merely examine the paper to make sure that it's not empty or
14 it's not full of gaps, and we take a Bates number machine and
15 we sequentially number those pieces of paper and the number
16 that we put on the pieces of paper is then keypunched in lieu
17 of a name or an address.

18 Once we're sure that the data has been properly
19 keypunched and put on magnetic tape, we send the paper in
20 sealed boxes to the Federal Archives with a one-year destruct.
21 So there is virtually no way that anyone in the Federal
22 Government can violate the confidentiality of the individuals
23 involved, even though we have individual information about
24 them.

25 I am now finished.

1 MS. GROMMERS: Thank you.

2 I just wanted to ask one thing. The printout or
3 listing I referred to was a printing made from this form, not
4 the composite; but I'd like to see how your inputting your
5 disability, for example. You have Section G here, disability
6 is reported. I'd like to see what that looked like. That
7 wouldn't cost \$25,000, would it?

8 MR. LESOWITZ: We have a code structure consisting
9 of 162 separate codes which was adapted from the coding
10 structure used by the World Health Organization. There are
11 some variations but to give you some idea of the different
12 things that you could pick up, just let me read a few of the
13 disabilities that we have here.

14 I mentioned several of them earlier. We have
15 blindness, both eyes, other visual impairments --

16 MS. GROMMERS: Excuse me. What we really want to
17 know is what it looks like on the computer printout. We know
18 the kind of information you're getting.

19 MR. LESOWITZ: The computer printout will contain
20 one of the 162 different codes that we use.

21 MS. GROMMERS: Would you be able to send us a
22 sample of that?

23 MR. LESOWITZ: Yes.

24 MS. GROMMERS: And with the instructions which key
25 them?

1 MR. LESOWITZ: To go along with this form, we have
2 a manual. We have a regular chapter in the VR manual,
3 Chapter 13, Section 2, which gives the detailed definitions
4 of the codes and so forth.

5 MS. GROMMERS: We just want to have our hands on
6 one.

7 MR. GRIER: You don't mind a Xerox copy?

8 MS. GROMMERS: We don't want a Xerox copy. You can
9 block out the names of the individuals.

10 MR. GRIER: There's no individuals. This is all
11 summary data.

12 MS. GROMMERS: You will be printing the information
13 onto machine that is in here. For example, "G" is disability
14 reported. Maybe you're using the ICDA code or not. I don't
15 know. You have got down here "Highest grade completed," et
16 cetera. You're putting this onto a computer, as I understand,
17 and you can get a printout back from the machine.

18 MR. GRIER: Right, but not by individual R-300.
19 It's accumulated and put in what I called formerly frequency
20 distributions. In other words, it would give you the number
21 of people between ages 14 and 18.

22 MR. SACHS: Excuse me. Would it suit your purposes
23 more to have the punchcard, because that's the last time it's
24 handled as an individual?

25 MS. GROMMERS: Yes.

1 MS. COX: That would be useless without the code,
2 a punchcard.

3 MR. GRIER: Why would you want the punchcard?

4 MS. GROMMERS: I'll tell you. Rather than getting
5 into this right at this point, let me come back to you about
6 this.

7 MR. SACHS: We'll be glad to give you -- once we
8 agree on what you want, we would be glad to give it to you.

9 MR. ARANOFF: I think maybe I ought to ask a
10 question for Arthur Miller in abstentia who might be outraged,
11 I don't know at this stage. It seems to me that you do have
12 a wall of security around the data from the federal level,
13 but I'd like to ask you a question about access and linkage
14 and even expungement at an earlier level.

15 As I look at the staff committee report and if that
16 report is correct, there really is nothing legally to forbid
17 access from some of the material that's collected at the state
18 level. Am I correct in that assumption?

19 MR. SACHS: No, you're wrong. Our regulations are
20 very clear about the degree of latitude the states have in
21 handling their data.

22 MR. ARANOFF: May I proceed for more than one
23 question?

24 MS. GROMMERS: Yes. Let me clarify that for
25 everybody. You can pursue your line of questioning until you

1 get the answer you want.

2 MR. LESOWITZ: Every state plan, before the plan
3 is accepted by the national organization, must have various
4 provisos in it that the information collected on individual
5 clients is not to be divulged to anyone without the express
6 consent of the client that's involved. That is written into
7 each one of the state plans of all of the agencies participating.

8 MR. ARANOFF: Supposing I'm a client and I find the
9 state agency and have a counselor and the counselor asks me
10 various kinds of questions and I seek help and the counselor
11 now is trying to rehabilitate me and let's assume the service
12 is good. Nevertheless, it is the state that has the option of
13 giving the information to prospective employers, is it not?

14 MR. SACHS: Well, is that the nature of your --

15 MR. ARANOFF: I'm now a prospective employer and
16 somebody who has had counseling from the vocational rehabili-
17 tation service is applying for a job and I say I want to have
18 a workup on the fellow.

19 MR. SACHS: Let me speak to that. There is implicit--
20 and I'm not sure whether explicit -- an understanding between
21 the client and the counselor that the agency is going to use
22 its resources to help him to reach a particular state in life
23 and that state happens to be employment.

24 Now, the agency, in effect, is serving the client,
25 but at the same point, in serving the client, there are

1 frequently occasions when it's necessary that the employer
2 be brought in on certain kinds of information. For example,
3 if the agency is dealing with an epileptic, it would be sheer
4 folly to train that epileptic as a lathe operator and to get
5 him a job as a lathe operator unless the employer knows and
6 certain protective devices are applied to the lathe the needs
7 of the client are certainly not being met.

8 So, yes, there is a certain sharing of information
9 when it's necessary to effect the employment. It would not
10 be relative to data that has no bearing on the client's
11 capacity to do a job.

12 MR. ARANOFF: I understand that. By the way, when
13 I say "outraged," I was saying what somebody else's outrage
14 might be. But if I could pursue that one step forward, there
15 are, nevertheless, some subjective determinations that are
16 made by a counselor. Would you not agree with that?

17 MR. SACHS: Yes.

18 MR. ARANOFF: And these subjective determinations
19 that are made by a counselor may be, in turn, passed on to a
20 prospective employer in the interest of the client. Is that
21 not correct? So if we accept that, then would you give me
22 what rules or regulations you have that forbid any linkage of
23 this information?

24 MR. GRIER: Linkage to what?

25 MR. ARANOFF: Linkage of the information collected

1 by the vocational rehabilitation service on the one end, and
2 that then gets into computer file of the employer or gets
3 into the employer's file some way, and then gets on to another
4 computer.

5 MR. GRIER: No, no way. Let's start with Genesis.
6 I mentioned that part of it may be "Do you have an arrest
7 record?" Well, the counselor is a fool and the client is a
8 fool if the counselor, in trying to work up an early vocational
9 rehabilitation plan with an ultimate goal of employment for
10 this individual and he has a prospective employer who would
11 have the kind of employment for this individual, if he doesn't
12 go to that employer and say "I've got John Jones or Wesley
13 Grier here and he's disabled. Now, I want you to know right
14 from the outset I think he's okay. He's squared away. He's
15 got a fairly bad arrest record." That's private, personal
16 information that's divulged. It sure doesn't go on any com-
17 puter.

18 If you're asking will the employer now put in his
19 computer, assuming that he has one, that Wesley Grier has an
20 arrest record, there's no way in the world that anybody can
21 stop that.

22 MR. ARANOFF: What you're essentially saying is that
23 there is a potential linkage here and that you don't have any
24 way of stopping it.

25 MR. GRIER: Well, of course not.

1 MR. SACHS: It's the same thing as Wesley Grier
2 went to that same employer, if the only role the rehabilitation--

3 MR. GRIER: When you're talking, it's Sachs.

4 MR. SACHS: That the rehabilitation counselor sent
5 the individual to the employment service and knew that an
6 opening was available that Fred Sachs could fill and sent
7 Fred Sachs over to interview the employer. The questions
8 asked by the employer of me could very well show up on his
9 computer. Now, I don't know what control I would have over
10 that.

11 MS. GROMMERS: You have control by not collecting'
12 the data.

13 MR. ARANOFF: I say the very nature of the service
14 they're delivering requires the accumulation of some very
15 personal data and the passing on of that data.

16 MR. GRIER: Well, verbally, but not necessarily in
17 a recorded form. There's a big difference.

18 MR. ARANOFF: Okay. I'll stop now and pass.

19 MR. LESOWITZ: It's a good point you're making.
20 It is kind of a fine line. What is the other option? Let's
21 take the prospective employee with an arrest record. I would
22 dare say that the average counselor, if he could avoid that
23 issue, he probably would not go ahead and bring it up unless
24 it was actually something very, very germane to the employment,
25 like if he was trying to place this gentleman with a Wakenhut

1 agency which involves security of one variety or another.
2 Other than that, he probably would try to skirt the issue.
3 But in some cases where the information was very, very germane
4 to the type of job -- and there again, there probably would
5 be consultation with the prospective employee before the
6 employer was approached -- it might be vital to go ahead and
7 perhaps bring these matters up, because the other way around
8 you would be foisting somebody off to do a job which he didn't
9 have the capabilities, for which he did not have the qualifi-
10 cations and so forth. So this is something which involves a
11 great deal of tact.

12 You cannot take a mentally retarded person and
13 try to sell him to an employer on the basis that he has an
14 IQ of 149 when he might have an IQ of 79 and so forth. So
15 this is something which has to be worked out. There has to
16 be a great deal of tact and it's something on which I don't
17 know that you can ever go ahead and set regulations which
18 would give you hard and fast considerations. It's something
19 which is very intimate to the whole process.

20 MS. GROMMERS: Indeed, this is one of the problems
21 that we really are trying to get at through this process.
22 In what way and where does one set regulations, but to do
23 this, first we have to bring out what the problems are.

24 MR. SACHS: It's really a very good question and I
25 wish I had an answer for you. I really don't. I would hope

1 the answer doesn't -- finding employment for people who have
2 two strikes against them is difficult at best. If you are
3 unable to bring the employer along in this plan that you have
4 developed with the client, it might make it very difficult.

5 MS. GROMMERS: I think some of the other questions
6 that people wanted to ask may elaborate quite a bit on this
7 point.

8 MR. GALLATI: I'd just like clarification. Am I
9 understanding correctly that once this data does get into the
10 computer it no longer is capable of being identified to an
11 individual at all in any fashion?

12 MR. GRIER: I would like to answer that question
13 carefully. I want to answer it carefully so you will not end
14 up with a misunderstanding.

15 In the case of the paper which I mentioned where I
16 don't know if you know what a Bates numbering machine is, but
17 it just numbers successively and it has rather large numbers,
18 those numbers go into the computer. If after one year we for
19 some reason wanted to go to that particular state's file and
20 pull out those numbers and go back to that state and say, "Who
21 is this," they could not tell us. The paper is gone. We'd
22 have to ask the state by name and address. They might or
23 might not be able to locate the person for us.

24 In the case of numbers that are case numbers on
25 punchcards, as long as a magnetic tape is alive and usable, we

1 would be able to go back to a state and say, "Can you tell us
2 something about number-whatever-it-is?" They might or might
3 not be able to locate that particular case number and give us
4 information. The same would be true of magnetic tape. Some
5 states are using as a case file number a social security number
6 of an individual. Theoretically, they could go to Social
7 Security and ask for the information and, to the best of my
8 knowledge, could not get the information because I believe it
9 was Mr. Sachs who mentioned that Social Security is inviolate
10 about revealing information about individuals based on social
11 security number.

12 Now, that's the picture. I don't know if that
13 answers your question, but it's almost impossible for anyone
14 to get back to individuals for individual information.

15 MR. GALLATI: There's no way in which you can update
16 your file?

17 MR. GRIER: No. Remember, these are all closed
18 cases. They are people that VR has finished their process
19 with.

20 MR. GALLATI: Thank you.

21 MR. GRIER: We work very hard to protect confi-
22 dentiality, believe me. I believe in it very strongly.

23 MS. GROMMERS: I would like to remind everyone
24 we have only about four minutes per questions, so we're trying
25 to really get a large amount of information through a very

1 small sieve and I hope everybody will take it into considera-
2 tion both in our questions and in the answers.

3 MS. GAYNOR: In consideration of Madam Chairman, I
4 pass.

5 MS. GROMMERS: Professor Allen.

6 MR. ALLEN: Back on the information gathered by
7 the individual counselors, is there any limitation or guide-
8 lines to the information gathered at that level? That is
9 information, for example, communicated in some instances to
10 a prospective employer.

11 MR. GRIER: No. Normally it's prescribed by the
12 state and it's over and above what's contained on this R-300.
13 Now, the minimum they must collect is what's on the R-300 form.
14 They must all collect that and they certainly need additional
15 information I mentioned before, like employment history and so
16 forth. But there is nothing really to stop it from being much
17 more than that, providing the state felt that they needed more.
18 There's nothing in the regulations that says, "You will
19 collect this, this and this."

20 MR. ALLEN: There's no limitation saying that you
21 shouldn't go beyond?

22 MR. SACHS: No. You have to remember what I said
23 at the beginning. This is a partnership arrangement in which
24 the states are agents of the states and not of the Federal
25 Government. We prescribe and mandate certain safeguards in

1 the nature of the program, but the Federal Government doesn't
2 go into that kind of detail for information of tying the hands
3 of the relationship between the counselor and the client.

4 MR. ALLEN: Essentially, then, it's completely open-
5 ended and at the discretion of the counselor what information
6 he will secure from the client.

7 MR. SACHS: Well, every state has forms. They have
8 a process and I think essentially you're right, but more often
9 than not, the process dictates -he kind of information you
10 get. I'd be less than honest if I said that an individual
11 counselor faced with a particular kind of problem might not
12 want to get more information relative to that problem.

13 MR. GRIER: But he may not record it. You can
14 listen to information verbally and it doesn't become reported.
15 Let's go back to the arrest record. I have only seen one
16 state that had it on the form.

17 MR. ALLEN: But the unrecorded information might
18 be communicated to employers.

19 MR. LESOWITZ: But by and large, the type of
20 information and this, mind you, is all designed to help the
21 counselor in working with the client so they can both achieve
22 the maximum result. They might get into more detail in terms
23 of education, in terms of the disability. We just collect it.
24 We just have a disability code. One of the 162 is the pri-
25 mary disabling condition. They might want to go into much

1 more detail, functional capacity, how much can he lift, what
2 kind of transportation problems does this individual have, in
3 some instances, what kind of support can he draw from the
4 family and so forth.

5 MS. GROMMERS: I'm afraid we must move on.

6 MR. LESOWITZ: I just wanted to explain what kind
7 of things the counselor might be looking for.

8 MS. LANPHERE: First, I think many of the questions
9 that the people in this room are asking would be answered if
10 you choose an agency to visit that has a vocational rehabili-
11 tation agency where you're going to visit. For instance, if
12 you come to Oklahoma, vocational rehabilitation is with our
13 department where there would be counselors, and you can see
14 the form and the actual process on that local level.

15 MS. GROMMERS: That's a suggestion we can talk
16 about. Be sure and bring that up.

17 MS. LANPHERE: If I understood you correctly at
18 the beginning, you said you had some proposed changes you
19 were considering making. Is it premature to ask what these
20 might be, in what areas?

21 MR. SACHS: No, it's not. I don't know that it's
22 germane to this but I can say it very briefly. The status
23 of our legislation is that the House has passed our legisla-
24 tion and the Senate Committee is now writing legislation and
25 the House has said that they are concerned that the vocational
rehabilitation program over the past few years has tended to

1 deviate from what they saw as its primary mission; namely,
2 serving severely handicapped individuals; and so there are
3 several sections in the House-passed version which point the
4 state agency much more toward serving the severely disabled
5 and, in fact, one title in the House-passed version speaks to
6 a service program where the end objective will not be employ-
7 ment, but benefits to the individual; and that means different
8 kinds of data that you have got to collect which shows bene-
9 fits.

10 MS. LANPHERE: This is what I was getting at.

11 Thank you.

12 MS. GROMMERS: Mr. Impara.

13 MR. IMPARA: You mentioned that you have an inter-
14 face with the Social Security Administration. Therefore, each
15 computer record does contain social security number, which is
16 a device for getting back to the individual if the Social
17 Security Administration would release this information. Do
18 you have an interface with any other federal agency?

19 MR. SACHS: No.

20 MR. IMPARA: Thank you.

21 MS. GROMMERS: Mr. Anglero.

22 MR. ANGLERO: You talked about systems and data
23 collection. I'm working in an institute which has to deal
24 with both welfare and vocational rehabilitation systems and
25 I will make a comment here. I have my own problems to try to

1 establish a single system for these two agencies. The
2 following question that came to mind is why is it needed to
3 have individual data by identifiable individual data at the
4 central level if after all as far as I understood you would not
5 use it one way or the other? We cannot relate situations
6 with individuals first. Second, would you think that this
7 system of having the data gathered at the central level and
8 having the counselor from their part dealing with the client
9 as such is hampering in some way the ability of the state to
10 establish a system which can in one way or the other be used
11 for improving decision making evaluation and get a better
12 understanding of the socioeconomic situation of these people,
13 welfare, and vocational rehabilitation clients?

14 MR. SACHS: Well, you have asked a very difficult
15 question and I may turn it around because the social and
16 rehabilitation service which is responsible for both the
17 welfare program and the rehabilitation program is embarking
18 on a path because of the failure of the welfare agency to get
19 a handle on its program; and one of the things they are doing
20 now is trying to establish for the welfare program a benefits
21 kind -- not a benefits -- but a results oriented kind of
22 structure in which the end objective is not necessarily
23 employment but moving the person who is getting social ser-
24 vices from one state of dependency to a lesser state of
25 dependency.

1 Now, that's down the pike, but I think what you may
2 find is that their needs for data based against results --
3 they have never had a results oriented kind of program -- may
4 lead to a structure more nearly like ours than ours being more
5 nearly like theirs now.

6 Now, your other question, in the management of a
7 program of this magnitude, from the standpoint of the Federal
8 Government but also from the standpoint of the state government,
9 we are really not interested in this piece of paper as it
10 relates to the individual. What we are interested in is what's
11 happening in the state with regard to the program, and the
12 program is the sum of what happens to the individual. So we
13 don't have to collect the information on the individual really
14 as an individual, but it tells us what kinds of people they
15 are serving, what kinds of services they are providing, how
16 they are going about their business.

17 It has a great impact from the standpoint of
18 managing the program effectively.

19 MR. ANGLERO: Yes, but is it possible to leave this
20 aspect to the states and receive from the state information
21 that you rarely use? How is the state to manage the informa-
22 tion?

23 MR. GRIER: I've got to correct you on one thing.
24 You have said it twice, "on information we do not use." This
25 certainly is not true and you will certainly see it when you

1 get this stack of tabulations about this information. You
2 must realize that the R-300 system came into being primarily
3 because the vocational rehabilitation division of statistics
4 spent most of its time telling Mary Switzer and various
5 committees of Congress "We don't know that information because
6 we have a summary reporting situation from the states." We
7 have got the same picture in welfare right now. You get
8 summary reports and welfare people want information and it
9 cannot be done. We can now get a wealth of information. We
10 automatically produce a wealth of information, but if questions
11 that are asked are not in the tabulation we have devised, then
12 we can go to the computer and pull it out in a relatively
13 short period of time, a relative short period of time being
14 maybe a couple of days. So we are using this information and
15 a great deal of it.

16 MR. ANGLERO: You know better than I do about the
17 Allied Services Act.

18 MR. SACHS: It's not an Act. It's a proposal.

19 MR. ANGLER: The proposal of President Nixon and
20 Secretary Richardson to try to give more what we call revenue
21 sharing -- we don't call it revenue sharing -- trying to give
22 the states more responsibility in terms of decision making in
23 terms of solving their own problems. The way we talk here --
24 I'll not say the way you talk here -- we talk here, it looks
25 like we're on the other road.

1 MR. SACHS: You missed something that Mr. Grier
2 said. When this form was developed it was not developed by
3 Washington. It was developed by a group made up primarily of
4 state people who said, "These are the minimum items of
5 information that we need to manage our program. Now, it might
6 not fit your needs. If not, we will be in touch with you
7 when we revise it because we are beginning now to revise it."

8 MR. ANGLERO: It's not the information that is
9 there. I have seen it. It's the way the system works that
10 goes behind it. I'm talking about the system, not about the
11 information. The way we manage it at the central level is not
12 the way it's managed at the state level.

13 MR. SACHS: When you say "central" you mean in
14 Washington?

15 MR. ANGLERO: You collect it and process it.

16 MR. SACHS: Let me say this. If the states waited
17 for the information to come back to them, they would be in very
18 poor shape in terms of managing their program because states
19 vary in their ability to produce this information and these
20 reports on one fiscal year don't show up -- don't get back to
21 the states until usually the spring of the following year.
22 Meanwhile, the states have their data and they prepare annual
23 reports and analyses and all kinds of things. They can have
24 that by September for the fiscal year just passed. The states
25 don't wait for us.

1 MR. ANGLERO: What I would like to know -- that's
2 not our case. Our case is that as far as we comply with
3 federal regulations to get the money, we do not -- we have not
4 developed our capability at the state level, and that's what
5 I'm trying to tell you. It's not required so I don't know
6 how many other states have gone through the system because
7 it's not required, so we wash our hands and comply with the
8 federal regulations and there is the information we get next
9 year.

10 Thank you very much.

11 MS. GROMMERS: Thank you very much.

12 MR. GRIER: I understand the nature of your problem.

13 MS. GROMMERS: Ms. Cox.

14 MS. COX: I address mine to Mr. Grier because he
15 said he didn't want us to spend our time looking over this
16 while he was talking. As I understand it, you're collecting
17 factual data like on the training and the work and the educa-
18 tion and what you have achieved, which comes after the case
19 has been dismissed. Now, this information goes to the central
20 office. Why? What is the objective of getting this informa-
21 tion from the state? Am I correct in assuming that the state
22 has much more information but it doesn't tell you on here
23 whether this person has had a criminal record or whether this
24 person is an epileptic? That's a state affair?

25 MR. GRIER: It does tell if he's been an epileptic.

1 MS. COX: That information is on here?

2 MR. GRIER: That's right. It's on the punchcard
3 or magnetic tape so we can get a count of epileptics who have
4 been through a rehabilitation process; those accepted, those
5 not accepted, what kinds of backgrounds those who are accepted
6 had versus those who are not accepted.

7 MS. COX: What's your objective of collecting this
8 then?

9 MR. GRIER: For program administrative purposes.

10 MS. COX: But if it comes ten years after it
11 happens, what good is it for program evaluation to help him
12 on the next one?

13 MR. GRIER: Well, there's an old cliché, "What is
14 past is prologue."

15 MR. LESOWITZ: It's nothing like ten years.

16 MR. GRIER: You can take five years of vocational
17 rehabilitation data and stack them up as we do in a publication
18 and you do not see great changes.

19 MR. LESOWITZ: These reports that I have here, the
20 earliest fiscal year is 1970 and we did have some problems in
21 the year or two that have gone by. Otherwise, we would have
22 had something more recent and would -- one of these reports
23 is fiscal year 1971, so it's nothing like ten years. It's
24 more like a year.

25 MR. GRIER: She didn't mean ten years that way. The

1 case might be alive ten years before it's closed and we would
2 know nothing about the case until it's closed. We're statis-
3 ticians. We're program managers. We're not interested in
4 individuals per se. That's the interest of the counselor.
5 That's the interest of the state agency. They are the people
6 to be concerned about the individual as an individual. But
7 we collect great gobs of data about individuals and arrange
8 them in various ways to provide program evaluation.

9 MS. COX: Are you getting evaluation of the program
10 for the government? This is one of the weak spots in the
11 whole HEW program, how do you evaluate, and are you getting
12 any evaluation from this?

13 MR. GRIER: I would say probably more than any
14 other program in HEW that I have any knowledge about.

15 MS. COX: Just one comment. As a statistician, I'll
16 challenge you on saying that you can't take a sample. You can
17 get a sample, a stratified sample, that will give you good
18 information, and probably it's apt to give you better
19 information than a 100 percent sample.

20 MR. GRIER: Yes, I know.

21 MS. COX: I have met this too many times in govern-
22 ment agencies, having served --

23 MR. GRIER: Yes, ma'am, you are 100 percent right.
24 Be our guest.

25 MR. MUCHMORE: If you could convince the House and

1 Senate they would be very happy to do that.

2 MR. SACHS: We'd be glad to do it because our
3 numbers keep going up. As I indicated, we expect to be
4 serving a million cases.

5 MS. COX: A good job on a sample is far better
6 than a wholesale job on a 100 percent sample.

7 MR. MUCHMORE: You mentioned the Census Bureau.
8 As the Vice Chairman of the Census Advisory Committee, we are
9 under attack right now for having done the Census by sampling.

10 MS. COX: We don't -- it is the -- well, it's not
11 easy.

12 MS. GROMMERS: I'm sure Miss Cox can help you if
13 you would like her to.

14 MR. GRIER: We have invited her to be our guest.

15 MS. COX: It's not easy, though, because it can
16 get very complicated, but it can be done.

17 MR. MUCHMORE: I pass.

18 MR. DAVEY: I'd like to ask some questions about
19 the cost of maintaining this program, the data processing
20 cost. Do you have any unit figures as to what it costs to
21 process a record or just how do you have any information?

22 MR. GRIER: An individual record?

23 MR. DAVEY: An individual record or whatever it is.

24 MR. GRIER: No. That would be almost impossible,
25 if not impossible. We can give you some overall costs of

1 processing at the federal level once the data reaches us.

2 MR. DAVEY: That's all I'm interested in right now,
3 the things you have control over.

4 MR. GRIER: The last contract was \$80,000.

5 MS. COX: And how many cases?

6 MS. GROMMERS: Mr. Grier, what does this refer to,
7 the cost of data services?

8 MR. GRIER: They're talking about the cost of
9 processing this data. The cost of data services is the cost
10 of taking this individual client through a rehabilitation
11 process.

12 MR. SACHS: How much did you spend for training?
13 If you bought a prosthetic appliance, how much did it cost?
14 Part of the reason your question is so difficult to answer is
15 that the case record is the counselor's tool. If he's handling
16 200 or 150 cases --

17 MR. DAVEY: I know you can't answer it from the
18 standpoint of the local level where it's actually being
19 administered, but from your standpoint, a million records --
20 say you're processing a million records. What is it costing
21 to process these million records? What does it cost to main-
22 tain these million records or prepare your statistics from
23 them? That's the nature of my question, rather than what is it
24 at the regional or local level.

25 MR. GRIER: There's no maintenance cost once the

1 thing has been developed. There can be additional costs. As
2 Mr. Lesowitz and his cohorts come in and want all kinds of
3 fancy cross-tabs, this takes additional computer programming
4 and some processing time on a machine. There's no way to tell
5 you except based on past experience what's been asked for so
6 far. Maybe the total has been in the neighborhood of \$25,000
7 for all those additional tabulations they have asked for out
8 of several years of data. As I said, the basic cost in any
9 given year for processing all the paper, all the cards, all
10 the tape, for going through an edit process, a review process
11 and correction process, and finally a clean-up file and then
12 running what we call a basic tab, which is frequency distri-
13 butions on here for every item except a few dates -- it's
14 always been under \$100,000.

15 MR. DAVEY: Okay.

16 MR. GRIER: That's nationally, and included in that
17 has been the \$25,000 for running the basic-- that's the
18 biggest single cost -- running the basic tabulation again for
19 every single agency in the country.

20 MR. LESOWITZ: Of course, there are associated
21 costs with this in the states, some of which would have to be
22 incurred anyhow because they don't -- the R-300 is not main-
23 tained as a separate piece of paper just so we can satiate our
24 insatiable desire for more and more numbers, but part of it --
25 the case recording practice on the part of state agencies and

1 considering the program maybe now in the neighborhood of
2 three-quarter billion dollars a year, I would say the total
3 cost involved in these situations is probably a fraction of
4 one percent, which I think might be fairly reasonable.

5 MS. GROMMERS: Could you get a breakdown for us
6 that you could send to us? Would you have any way of getting
7 a cost breakdown that you could send to us?

8 MR. SACHS: Including the states, cost to the
9 states?

10 MS. GROMMERS: Yes, an estimation.

11 MR. GRIER: No.

12 MR. LESOWITZ: It would be extremely difficult and
13 tied in with a great deal of conjecture.

14 MS. GROMMERS: How about just on the federal level
15 then?

16 MR. SACHS: On the federal level, yes.

17 MR. LESOWITZ: I think the federal level might be
18 fairly simple.

19 MS. GROMMERS: If you don't mind, I think we'll
20 whip around to the next question. Mr. Davey, are you through?

21 MR. DAVEY: There was one question that was
22 unrelated that I'd like to ask. This is more on the local
23 level. Do the local levels deal with personnel agencies or
24 job agencies or do they deal directly with particular employers?
25 Do you know?

1 MR. SACHS: Well, the name of the game is getting
2 people to work, and at the local level this is where the
3 action takes place. The counselor will use whatever devices --
4 you know, if they can get somebody placed through the state
5 employment service they'll use their resource. If it means
6 taking the individual by the hand to the employers they'll do
7 that. If it means preparing them and sending them they'll do
8 that.

9 MR. DAVEY: Thank you.

10 MR. GENTILE: I'd like to make an observation and
11 then ask a two-part question. An observation is that you men-
12 tioned that three out of every four of the successful appli-
13 cants who received the service from you are rehabilitated,
14 and yet you have a closed file. So my question is, you really
15 don't know if you're having some of these same people over and
16 over again.

17 MR. GRIER: Yes, we do. One of the questions on
18 the R-300 asks if this person has been in the rehabilitation
19 process within the last 36 months.

20 MR. GENTILE: Then they don't count in the three
21 out of four?

22 MR. GRIER: Yes, they do. I could be treated for
23 the amputation the first time and a heart attack the second
24 time. They are two entirely different cases, even though I'm
25 the same individual. We don't count them twice if it occurs

1 while he's in the rehabilitation process.

2 MR. GENTILE: Okay. My question really comes from
3 the little handout that was given in which you said that the
4 program officials contend, under "Security Section" on page 4,
5 that it would be extremely difficult to misuse an individual's
6 record once an automated file has been created. Then, on
7 subsequent pages, you say, "There is no specific indication as
8 to precise ownership of data files or who is legal custodian."
9 There's no legal sanctions. There is no plan for a systematic
10 and continuous evaluation with the procedure and no considera-
11 tion of the longer range aspects to the use and collection of
12 the data. And I contend that this is inconsistent with
13 assuring that you do, in fact, have this kind of protection.

14 MR. DOBBS: Point of order. Is that not Bill
15 Marcus' staff job, which makes it I think an unfair question
16 to this gentleman unless he's reviewed it.

17 MR. GRIER: He's asking me what handout is that
18 and I'm saying I don't know.

19 MS. GROMMERS: Do you think you could answer the
20 question anyway?

21 MR. GRIER: Well, he talked a little fast. In fact,
22 he was reading it and he can probably read it pretty fast.

23 MR. GENTILE: Would you like to rephrase that for
24 Mr. Grier?

25 MR. GENTILE: Yes. I'll do it without reading. I

1 understand that program management feels that you have
2 adequate protection of individual's privacies by use of your
3 files.

4 MR. GRIER: In vocational rehabilitation?

5 MR. GENTILE: Yes. And at the same time, you have
6 no procedure or regulation or administrative system for
7 establishing who the custodian of the data is at any one
8 point in time. There are no sanctions and there is no plan
9 for the continued monitoring of the files.

10 My second question is, do you sense any responsi-
11 bility for the use of the information in the states, even
12 though it's out of your direct managerial control? Do you
13 sense any responsibility for maintaining these files in a
14 confidential manner because you're federally funding these
15 programs, or do you just delegate that completely to each
16 state? That's really two questions.

17 MR. GRIER: Let me walk backwards with you. Yes,
18 I sense a responsibility and I guarantee you there's not
19 enough people in the City of Washington and enough money in
20 the City of Washington to police it. There's nothing you and
21 I can do about preventing an individual counselor giving
22 information about an individual, and the chances are very
23 remote that I'd know about it if it happened. Knowing quite
24 a number of counselors, I don't visualize it happening. For
25 the most part, they are extremely dedicated people and very

1 jealous about the prerogatives of their job and are not
2 inclined to divulge confidential information. But the answer
3 is yes, I feel a sense of responsibility; and no, there is
4 absolutely no way to police it, none whatsoever.

5 MR. GENTILE: I don't agree that there is nothing
6 you can do about it.

7 MR. GRIER: Procedurally, I can. I can put out an
8 edict. But I ask you again, how do I tell whether it's being
9 obeyed or not?

10 MR. LESOWITZ: Again, as far as this goes, it would
11 actually take a kind of illegal action on the part of anybody
12 in the states. They do have to -- in each of their state
13 plans they have to write in provisions safeguarding the con-
14 fidentiality of these data on the part of individual clients
15 unless they have the express permission of the client to go
16 ahead and divulge information and so forth. So they can, of
17 course, if you want to look upon some kind of circuitous route
18 where they're skirting their own regulations, the possibility
19 exists; but again, it would take some sort of a violation.

20 As far as the national office is concerned, let
21 anybody come to us and try to get the information on any indi-
22 vidual client. They will not get it. We simply will not
23 divulge it. The Social Security Administration, even though
24 they have our files, they will give us the information in terms
25 of various aggregates or variables, but you will not get the

1 information on client A or client B. These materials for the
2 most part are kept under fairly strong sense of control by
3 you people and by the Social Security Administration if and
4 when they actually begin working with it, so the situation is
5 not bleak. It's not a wide open ballpark where you just walk
6 in and find out anything you want. Even if you could, because
7 on our tapes, on our punchcards, it's impossible to go ahead
8 and know the client without going back through all kinds of
9 collation with numbers and things like that and names and
10 addresses -- it's a very difficult process.

11 MR. SACHS: If I may, I think what's at issue here
12 are the difference between data banks which are built on the
13 basis of individuals and data retrieval which deal with program
14 structure. As I said at the beginning, we really are quite
15 opposed both in terms of the agency and individually -- I
16 think all of us -- are opposed to data banks which assume that
17 all will be well if everything that's possible to know about
18 an individual is in one place and all you have to do is
19 trigger the computer and you can get all kinds of information
20 about an individual. We think that's a very bad business.

21 But in terms of collecting data which permit a
22 program either at the federal level or at the state level to
23 know what's happening in that program, it's quite a different
24 thing. That's what we have tried to preserve.

25 Now, it could be that there are ways that we could

1 improve it, but that's the direction we would see the rehabi-
2 litation people going.

3 MS. GROMMERS: Thank you. Does that answer your
4 question?

5 MR. GENTILE: Yes.

6 MR. DOBBS: As I understand it, in respect to the
7 confidentiality of data at the state level, that you, in
8 effect, approve when they submit a program to you that that
9 is sufficient protection, or am I wrong in that interpreta-
10 tion?

11 MR. SACHS: The Act requires that before a state
12 agency can join in the partnership with the Federal Government
13 they ~~must~~ have a state plan. Now, the state plan in rehabili-
14 tation is different from -- state plan is an overworked term
15 in the Federal Government. It means a thousand different
16 things. In rehabilitation it is, in essence, the formal
17 contract between the state government and the Federal Govern-
18 ment as to the nature of the program, how it will organize,
19 kinds of services it will provide, who they will provide it
20 to, and it doesn't change unless there's some substantive
21 change in law.

22 MR. DOBBS: Does that plan spell out specific --

23 MR. SACHS: And the Federal Government requires that
24 in the state plan the state tell us what they propose to do to
25 preserve the confidentiality.

1 MR. DOBBS: Could we get a sample of the strongest
2 set of requirements for any given state? Would that be
3 possible?

4 MR. SACHS: Yes.

5 MR. ARANOFF: And the weakest?

6 MR. DOBBS: And the weakest, yes.

7 MR. ARANOFF: That you have approved.

8 MR. DOBBS: The next question is with respect to
9 the form in terms of a couple of items. With respect to the
10 public assistance question, at the time that the collection
11 of the information is made by the counselor, is there any
12 validation or cross-reference made with other existing state
13 systems to verify that in fact the public assistance figure
14 is right or wrong?

15 MR. GRIER: I wish you hadn't brought that up. No.

16 MR. LESOWITZ: May I try to answer it? I suppose
17 in some instances the information will be simply elicited by
18 the counselor from the client and there possibly may not be any
19 additional follow-up to assure the validity of the data. In
20 other cases, I know that there are systems where in some cases
21 the VR agency, say in Oklahoma -- and I'm just choosing that
22 at random more or less -- will go ahead and actually, through
23 some sort of teletype mechanism or something like that, check
24 with the public assistance agency in the state and then go
25 ahead and rely on the information that's fed back from the

1 public assistance agency with respect to what it goes ahead
2 and writes on the form.

3 MR. DOBBS: But you do not require that such a
4 check be made for purposes of this form?

5 MR. GRIER: No.

6 MR. LESOWITZ: That's right. We do not require
7 that kind of a check.

8 MR. GRIER: You see, there's a small problem. It's
9 primarily a procedural problem. The VR counselor records the
10 first source of referral that comes to him and it is a bone of
11 contention where states have not set up a mutually exclusive
12 system where there's feedback both ways. There is contention
13 about the number of people referred by the welfare people.
14 Rehabilitation says, "I don't have that many referrals."
15 Because if welfare refers this person second, third or fourth,
16 it's not normally recorded. I know one state which does this.
17 They record up to three referrals. But this is the basic
18 problem, a difference in numbers.

19 With respect to two of the items on the completion
20 of referral process, in particular, race and Spanish-American
21 surname, is the client required to supply this information in
22 order to get services?

23 MR. GRIER: Absolutely not.

24 MR. DOBBS , Is he informed that he's not required
25 to?

1 MR. GRIER: I do not know.

2 MR. DOBBS: That is not in the regulations insófar
3 as you're concerned?

4 MR. SACHS: We objected violently to the Spanish
5 surname because it just on the face of it would give bad data,
6 but this came about when this form was prepared and sent over
7 to OMB for clearance. It was at the time that President
8 Johnson I think had met with the President of Mexico, opening
9 a bridge, and they had agreed that the Federal Government
10 would try to do much more for chicanos and we were told that
11 this form would not be approved without the inclusion of that.
12 The instructions were department instructions.--I think it
13 exists on almost all Department of HEW data forms -- are that
14 you are not to ask the individual if he is of Spanish origin.
15 You only note if he has a Spanish surname.

16 Now, the question of race is kind of self-explanatory.

17 MR. DOBBS: I guess the final question which really
18 derives from the last one, has to do with how much the indi-
19 vidual really ought to be informed at the time of data
20 collection about the conditions of the data collection. Do
21 you really believe or do you believe that if the client is
22 informed of the existence of a national social services data
23 center that that would in any way impact the validity of the
24 information that you're collecting?

25 MR. GRIER: That's a cutie. Who knows? I don't

1 know. You might go out and do some sort of a study to make
2 this determination.

3 MR. DOBBS: Has it ever occurred to you?

4 MR. GRIER: You're asking an opinion question?

5 MR. DOBBS: Yes, I am. Is there any reason why the
6 client would not -- should not be informed that in fact this
7 information is collected and held in a central place, regardless
8 of what you are?

9 MR. GRIER: Yes, because there are implications in
10 that which do not exist. I can give you a copy of the VR tape
11 for a fiscal year and you can take it and do anything you want
12 with it, except find out about the people individually in that
13 tape. It just isn't there. You start going around and telling
14 people that they are putting you in a national data bank,
15 which is not the truth -- it's a lie -- and you will make the
16 people say, "I'm not going to tell you."

17 MR. DOBBS: The problem is one of the difficulty
18 of expressing the truth.

19 MR. GRIER: Otherwise, no. I want to repeat that
20 I am against data banks, believe me.

21 MR. DOBBS: No more questions.

22 MS. GROMMERS: Thank you very much.

23 Mr. Weizenbaum.

24 MR. WEIZENBAUM: I pass.

25 MS. GROMMERS: Ms. Noreen.

1 MS. NOREEN: I was wondering, when a case is
2 closed, do state and local governments generally destroy
3 whatever files they have collected on an individual after a
4 certain period of time?

5 MR. SACHS: Not immediately. The Department
6 regulations, since those represent the basis on which
7 expenditures are made, are that they be retained for audit
8 purposes for three years or until the federal audit is made.
9 All these programs are audited. So the retention is on the
10 basis of an audit, a fiscal audit, rather than for any program
11 purposes.

12 MS. NOREEN: And that period of time is what, about
13 three years?

14 MR. SACHS: Yes.

15 MS. GROMMERS: May I just have one follow-up on
16 Mr. Dobbs' question. Would you have any objections to seeing
17 this made a requirement, that this respondent be informed, that
18 that be made policy, that such regulations were made in a
19 positive sense? Would you have any objections, not personal
20 but from the point of view of your agency, to having the
21 respondent informed of this fact?

22 MR. GRIER: No.

23 MR. SACHS: No. I think if reasonable people --
24 how do you describe to somebody without threatening him that
25 information on his situation will be collated with information

1 on other people all over the country? I think it would be
2 difficult. Many people personalize these things and would
3 find great difficulty in accepting the fact that there isn't
4 some way of identifying him as an individual. But I would
5 have no problem with it.

6 MR. GRIER: They wouldn't believe it. I'm not
7 sure we even convinced all of you.

8 MS. GROMMERS: We want to come back to that with
9 some staff questions. I'd like to come to Mr. DeWeese.

10 MR. DE WEESE: I pass.

11 MS. GROMMERS: Ms. Hardaway.

12 MS. HARDAWAY: I have no questions, but, as a
13 Committee member, I would like to compliment you on the
14 morning session. It's been well ordered and I think everybody
15 has had an opportunity to be heard.

16 MS. GROMMERS: Following up on that question, when
17 the social security number is the file identifier -- this is
18 a staff question -- will not the ability of the individual to
19 be identified change? Will you record these social security
20 numbers in your central file?

21 MR. GRIER: Yes.

22 MR. LESOWITZ: But then we have the problem that --
23 let's assume we have a social security number and let's assume
24 that for whatever purpose we might want to find out who the
25 individual is. Our only alternative would be to go to the

1 Social Security Administration, and there we run up into a
2 blank wall because you cannot and will not get it.

3 MR. ANGLERO: That's not true.

4 MR. WEIZENBAUM: Do you really believe that?

5 MR. SACHS: That's been our experience.

6 MR. WEIZENBAUM: Do you really believe that if you
7 had a file and all that's missing is the client's identity,
8 and you have a social security number, you couldn't find out
9 the client's identity? Do you really believe that the only
10 way to find out who that person is is to go to the Social
11 Security Administration and be told "No?"

12 MR. LESOWITZ: I know there are other mechanisms
13 because Internal Revenue probably has that number. If the
14 person owns any stocks or bonds he usually has to supply his
15 social security number.

16 MR. WEIZENBAUM: If an individual came to you from
17 the State of Oklahoma -- which happens to be our favorite
18 state to day -- and I could go to the Register of Motor
19 Vehicles in the State of Oklahoma, or probably 57 other
20 agencies in the State of Oklahoma, and find out the person's
21 name probably with a single telephone call.

22 MR. LESOWITZ: I imagine the possibility does exist
23 but again, it's not -- it would take something above and
24 beyond the call of duty.

25 MR. GRIER: I would be happy to give you my social

1 security number and have you tell them you're calling for
2 Secretary Richardson and see if you can get my name and
3 address.

4 MR. WEIZENBAUM: No, but you give me your social
5 security number and I imagine with a small expenditure of
6 time and money -- in addition I know where you live -- and I
7 could find that out without too much difficulty --

8 MR. MUCHMORE: You asked them how you would do it.
9 Let's find out how you would do it.

10 MR. GRIER: We're telling you we cannot do it, and
11 ~~we~~ are a fellow federal agency under the same umbrella and
12 they won't give us the same information.

13 MR. WEIZENBAUM: I understand that, but it's a red
14 herring. You're telling me that the Social Security Admini-
15 stration will not give you the information, but there are ten
16 thousand other agencies that will gladly give you information.

17 MS. GROMMERS: Are you thinking of the Bureau of
18 Motor Vehicles?

19 MR. WEIZENBAUM: That's just one.

20 MR. GRIER: Well, those stinkers. We don't even
21 talk about them.

22 MR. WEIZENBAUM: They are a gold mine of information.
23 I assure you, if you give me your name and your social
24 security number, I can walk in let's say a month from now when
25 we meet again with a pile of stuff about you that's --

1 MR. GRIER: I don't think you can. I really don't.

2 MR. LESOWITZ: The absence of a social security
3 number would do this: It would mean that once we closed the
4 case we would never have any way of ever being able to find
5 out what the long-term -- what the lasting effects of the
6 program were and so forth. It would cut us off from --

7 MR. WEIZENBAUM: Please understand. The only
8 thing I'm getting excited about here is that the public ought
9 not to be told that the social security number is benign
10 because the Social Security Administration will not release
11 any information. It is true that the Social Security Admini-
12 stration will not release any information. But it is not
13 true that their social security number is not identifiable.
14 That's the only point I'm trying to make.

15 MR. SACHS: I'm sure you're right. I said earlier
16 that only within the past two years have we been asking the
17 states to supply social security numbers. We never used it
18 before. The only reason we did is because within the
19 Department the rehabilitation program has been put under
20 scrutiny by virtue of the long-term benefits of the program
21 and there are several ways one could attack that, but the least
22 costly is to develop an interface with Social Security where
23 earnings records are maintained. Again, we don't need to do
24 it on a case-by-case basis. We need to do it in terms of
25 groups of cases that would say there were, in fact, postings

1 against the earnings record of these people who are rehabili-
2 tated three, five or ten years ago, and that was the reason
3 for going into it.

4 MS. GROMMERS: Gentlemen, we want to thank you very
5 much. We are going to recess for lunch now. I think the
6 problems and the conflicts that we have brought out here are
7 examples of what we have been finding out in most of our
8 interviews, that what has been set up for one very, very
9 laudatory reason, in the light of the new computer technology
10 and what is happening to the social security number, may in
11 fact take on a meaning and usage that was not intended; and
12 the qu4stion is, what can be done about this.

13 MR. SACHS: Well, if in your deliberations you are
14 able to ensure the protection of the individual, then we would
15 be willing to live with whatever inconvenience it might cost
16 us.

17 MS. GROMMERS: Thank you very much. We are very
18 glad to hear that.

19 We will return and meet back here at 2:00.

20 (Luncheon Recess)

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AFTERNOON SESSION

(Film Presentation)

MS. GROMMERS: I think on the basis of this film and your discussion afterwards we have really made some progress in defining where it is that the possible danger of the data system may lie. That is what Guy summed up when he was describing the distortion between the reality and the symbols made by machine.

Would anyone like to comment on their comments or on the film? If not, I think we'll break for coffee a little bit earlier and then be back here just before 3:30.

(Recess)

MS. GROMMERS: By now a lot of you have had a chance to speak with Professor Pool, so he really doesn't need any introduction; but let me say that he's Professor of Political Science at M.I.T. and he's particularly interested in communications and communications technology where he has been really rolling back the frontiers in this field. He's been working with computer simulation particularly, and the uses of computers in data systems. He's currently working on the effects of the new communications technology on society.

PRESENTATION BY PROFESSOR ITHIEL DE SOLA POOL,
DEPARTMENT OF POLITICAL SCIENCE, MASSACHUSETTS
INSTITUTE OF TECHNOLOGY.

MR. POOL: Thank you. I'm delighted to be down here

1 and delighted that this group is functioning because the
2 problem that you're addressing yourselves to is a terribly
3 important one and one in which there's growing public concern
4 and unless government takes effective action, one that could
5 become an unnecessarily disturbing and divisive issue in our
6 society.

7 I think that the issue of privacy is central and
8 of growing importance. I'm not going to go into a discussion
9 of the history or development of the concept -- Professor
10 Miller on this Committee can do it better than I can -- but I
11 think we're all aware of how critical it is in a modern
12 technological society but it isn't only the issue of privacy
13 that concerns the general public. As far as the general
14 public is concerned, in the way that Phil Weizenbaum was
15 describing in his comments on the movies, people tend to push
16 various kinds of vague statements together when one ought to
17 be making very careful distinctions, and the image of the
18 computer elicits all kinds of frightened fantasies, not only
19 of snooping into people's personal files but also somehow
20 controlling people.

21 Somehow, the image of impersonality, somehow the
22 image of ruthlessness, all of these images come into the minds
23 of the man on the street as he thinks of that beast that
24 produces cards that he's not allowed to spindle or fold and
25 that makes errors and that there's no way of talking to anybody

1 to get the error corrected but just spews out the same error
2 over and over again, or that it spies on him, that it somehow
3 controls his life.

4 Now, you have been meeting long enough so that I'm
5 sure what I'm saying has been said many times and it's easy
6 to dismiss this kind of fantasy but it's there in the minds of
7 the public and from personal experience I'm aware of how
8 intense it is.

9 In 1960, I first became involved in the use of
10 computers. I became involved in the use of computers doing a
11 simulation of voter behavior in Presidential election. Now,
12 in basic concept, it was a very simple operation. I recog-
13 nized that there existed by that time a very large amount of
14 public opinion poll data that had been collected in various
15 elections over long periods of time and I recognized that
16 there were certain problems about the use of poll data in the
17 course of an election. People keep talking about polls as if
18 they are predictions when, in fact, they are not predictions
19 at all.

20 The public opinion poller goes out and surveys a
21 couple thousand people as to who they're going to vote for and
22 he gets their answers as of today. Well, that's not a pre-
23 diction of how they're going to vote a couple of months later
24 on election day. It may be a completely accurate report with
25 a marginal error because every survey has a marginal error, but

1 it is really not a prediction. It's interpreted as such and
2 was interpreted as such because what the politician or what
3 the newspaper man wants is a prediction. That's what's
4 needed. What's needed is a statement of what's going to
5 happen at some point in the future.

6 So it seemed to me one ought to be able to
7 approximate more nearly onto what was wanted using the poll
8 data by introducing a simulation model of the processes of
9 change that might take place between the time of the survey
10 and the time of the election itself. Now, how would you do
11 that?

12 Well, obviously, it isn't a flat prediction because
13 nobody knows what's going to happen between the time of the
14 survey and the time of the election, but one could say for
15 various eventualities what would happen; what would happen if
16 there were an international crisis; what would happen if
17 there was some marked change in the economy; what would happen
18 if -- suppose you did this before the convention -- if one
19 party or the other nominated a candidate of a certain kind, and
20 then one could look into the public opinion poll data for the
21 relevant things and if one found, for example, that people who
22 were inclined towards one attitude on international affairs
23 were -- let's say one found there were certain kinds of people
24 who might vote Republican on the basis of international issues
25 and Democrat on the basis of domestic issues. Then, you could
say, well, now, let us postulate that if international issues

1 become more important in the course of the campaign, then
2 people of this kind will swing to a certain degree.

3 All right. So what we did, in effect, was to write
4 a series of equations as to how different kinds of voters
5 might behave under different eventualities and then went
6 through the public opinion poll responses applying these
7 equations to producing changes under different sets of
8 assumptions. So we came out with simulation results and the
9 simulation results were quite interesting and relatively
10 successful.

11 By "successful," I simply mean that given the
12 course of history of what actually happened, the changes
13 corresponded reasonably to the changes in the electorate.

14 Now, this was a straightforward use of data
15 analysis and the simulation model with no issues of privacy
16 involved because we had no idea who the individuals -- or
17 couldn't get any information about who the individuals were
18 from whom this data came. Conceivably, with issues of
19 manipulation involved -- and I'm going to come back to that --
20 but clearly, without any magic.

21 Well, it got to be quite controversial and the
22 following year a friend of mine wrote a novel about this
23 particular incident. This was Eugene Burdick who wrote a
24 novel called "The 480," a very bad novel. I don't recommend
25 that anybody read it. But it was based upon this piece of

1 research and it gave ment to all of the popular lay fantasies
2 about that dangerous computer.

3 Now, if you read the novel, in the first place, I
4 don't call it the mad scientist -- the dangerous scientist
5 was somehow -- you know, the person who took my place in the
6 novel was a woman by the name of Dr. Devlon. Now, Dr. Devlon
7 would walk up to the computer on the wall and when there was
8 a crisis in the election she would say, in effect, "Computer,
9 computer on the wall, what should we do?" And spewing out
10 would come long passages of literate text saying "Look for a
11 candidate who has the following characteristics and so on."
12 Then they found somebody who represented the perfect candidate,
13 a complete unknown in the United States somewhere, and then
14 they would walk up to the computer and say, "What should we
15 do?" And again, the computer would spew out all the information
16 about what strategy to follow and so on.

17 Well, aside from causing me a certain amount of
18 personal embarrassment and not being a very good novel, it
19 obviously was a gross distortion of both the possibilities
20 and what was involved. Well, I think it was a fair represen-
21 tation of some of the things that people are afraid of.

22 Well, let me move from the level of personal
23 anecdote to saying something about the implications for this
24 Committee. Well, now, what I have been suggesting so far
25 might be interpreted to mean that I think that the fears

1 represented, say, in Burdick's novel are concepts. That's
2 not what I'm saying. What I'm saying is that I think the
3 fears are misplaced. I think that the fears are genuine and
4 justified, fears of invasion of privacy, fears of manipulation,
5 fears of impersonality -- all of these things. These are
6 real problems in society, but are they problems of computers
7 as such?

8 I would say no; that what they are -- and I am
9 reluctant to say this but I think I must in honesty -- they
10 are the problems of the technology of behavioral sciences. I
11 am reluctant to say this as a practicing behavioral scientist
12 because I would be much happier if I felt we could sweep the
13 issue under the rug and not have people question the behavioral
14 sciences, but I don't think we can.

15 I think that the fact of the matter is that there
16 are a whole gamut of ways that we are learning about to under-
17 stand human behavior better and, therefore, conceivably to
18 do something about it; and if we can do something about it,
19 conceivably to do it for good; and if we can do it for good,
20 also conceivable to do it for evil; and these two things are
21 inseparable.

22 If we learn how to teach better in the schools, we
23 learn how to take kids in the schools and make them learn what
24 we want them to learn, however it may be, then we are also
25 learning how to indoctrinate better, if you want. We are also

1 learning how to control better. These two things are simply
2 not completely separable and we have to recognize that there
3 are real dangers.

4 The real dangers come from the likelihood that
5 there will be over the coming decades a substantial improve-
6 ment in the technology of the behavioral sciences, using all
7 kinds of devices, of which computers are one. Drugs are
8 another conceivable example. If we learn anything about how
9 to influence behavior by drugs that's equally dangerous and
10 equally useful. **Observational devices** to keep track of what's
11 going on, communications devices, devices for influencing
12 people by a better understanding of habit formation, of moti-
13 vation, of conditioning -- that whole area is tremendously
14 important potentially.

15 So that the real problem, the broad problem of
16 which this Committee sees, is a problem of an improved
17 behavioral science technology which will certainly use com-
18 puters and which will use a lot of other things, too.

19 Now, my general predilection in talking to a group
20 like this, though clearly I don't want to try to tell you what
21 you want to do because I think you have been thinking about
22 it a great deal more than I have, is to think that given the
23 breadth of these problems, it may be just as well that you're
24 narrowing and focusing on one particular piece of it, recog-
25 nizing that it is only a piece. The problem of privacy and
the problem of personal files is by far -- well, is only part

1 of this whole gamut of concerns that the public has about
2 scientific technology that can influence people, and yet,
3 since you're not writing a general tract but presumably
4 trying to come up with recommendations, it's probably just as
5 well that having looked at the broad picture one tries to
6 narrow down as much as possible.

7 In so doing, if the problem is privacy, then the
8 implications of what I have been saying is that you really
9 ought to initially perhaps forget about computers. Don't ask
10 yourselves how do we want to handle personal files and what
11 are the problems involved -- and clearly one of the problems
12 is security, the fact that personal files in manual or computer
13 forms can be gotten into. They can be gotten into by the
14 people who run them, so there's that problem, the problem of
15 the integrity of people who have them legitimately; and they
16 can be gotten into by people who aren't supposed to get at
17 them; and then they accumulate. They accumulate old materials
18 and the devices that one can approach to do something about
19 this are many.

20 One of the devices is that -- I'm sure you have
21 discussed this -- is giving people the right to see what's in
22 their files, and sometimes this makes sense and sometimes it
23 doesn't make sense. There are obviously some kinds of files
24 where you invade the privacy of the person who gave the
25 information when you protect the privacy of the person on whom

1 the information is, and so on.

2 There is the device of trying to keep records of
3 who's had access, trying to know who's been into the file and
4 who has the information. There's the device of removing
5 labeling, the device that made the public opinion poll data
6 that I worked with essentially impersonal because we were
7 given data on a few thousand people around the country with
8 no information on the individual -- I'm sorry -- no identifi-
9 cation of the individual and only very gross information on
10 the categories he falls into. There was no way of pinning it
11 to an individual.

12 And there's the device of purging files, of seeing
13 that things that one no longer wants in them go out and go out
14 permanently.

15 Once you have analyzed the problem of what you
16 want to do with a personal file, without thinking about
17 computers, then it seems to me you can turn back and ask a
18 question -- the same questions in the context of an environ-
19 ment where computer technology exists. Now, some of these
20 problems then become more acute because access is faster and
21 easier for certain kinds of people, and some of the problems
22 become more soluble; and this is a point that I hope this
23 Committee will stress; that is, that computer technology
24 exacerbates some aspects of the problem and makes some
25 aspects more soluble and provides ways of doing something about

1 some of the invasions of privacy. There's no reason why
2 computer files in many instances shouldn't be a great deal
3 more secure than the very bad, very insecure, very sloppy
4 manual files that sit around most offices today. I mean, I
5 don't have much by way of personal files, but I do have letters
6 that people wrote me and so on. I would hate to be cross-
7 examined on how secure the material in my office is against
8 somebody looking into it.

9 It isn't because the work involved in securing it would
10 be very great. For example, on the matter of purging, if
11 there are categories of things you want to purge it may become
12 very much easier to do this in a computer file where you can
13 go through large amounts of material rapidly and rewrite
14 rapidly than it is on hard copy on pieces of paper where
15 nobody is going to go through the work of cutting things out
16 or blacking them out or whatever it might be on lots of
17 different pieces of paper.

18 So I think what's really called for is an analysis of
19 the problem of respect for the human being on whom the material
20 is there in the file and how you're going to handle it, and
21 then an analysis of what computer technology can do to handle
22 those objectives better or less or where it makes the problem
23 more difficult.

24 Now, if we're to recognize that this is not just a problem
25 of computers and not just a problem of personal files, but a

1 problem of behavioral science technology more generally, then
2 I think we have to also balance -- as one has to for any
3 purpose -- the positive goals that can be achieved by the
4 advance of science against the problems, against the dangers,
5 and there is no simple solution to this kind of a balancing
6 process.

7 In my own field, public opinion communications and
8 public opinion research, we are very much concerned with the
9 rights of the poller, of the person who collects the data, and
10 the restrictions on him and proper ethics for the field. For
11 example, one of the things that happened when public opinion
12 polling people became popular and successful was the people
13 saw this as a very nice gimmick for marketing. One could go
14 out and poll people as to what commodities and what they
15 wanted and so on, and then give this information to the
16 company that had things to sell, and then somebody shows up
17 at the door and you've got a very good list of customers who
18 have been told they are being polled on their opinions with a
19 lot of information about them, and the American Association
20 for Public Opinion Research has adopted resolutions condemning
21 this practice. This is an improper use of information that
22 was gotten under one guise for another purpose.

23 Of course, there is again the question of the
24 privacy of the records. Those of us who are social scientists
25 are very concerned that polling data from scientific studies

1 be preserved because it's an enormously valuable historical
2 record as used in one way, in my election study. It could be
3 used in many other ways. One can write the history of a
4 period since 1936 in this country in a way that one could
5 never write the history of a country before because we now
6 have direct evidence of the trends of opinions. In the past,
7 the only way in which historians could document the trends of
8 opinion was by clipping the old newspapers, looking at the
9 old editorials and assuming that what the newspaper said was
10 what the public thinks. Well, it's not. Now, for the first
11 time, one can write history with an accurate representation
12 of the processes of attitude change in the public.

13 So this is an enormously valuable file but, of
14 course, it's a file that if not properly handled would contain
15 personal information on a lot of people who should be pro-
16 tected, and there is a real dilemma here because -- and it's
17 the same dilemma in the Census tapes, the ones the Census
18 takes, for example -- the more detail you put on the identifi-
19 cation of the individual, the more likelihood that by chance
20 somebody might become identified. There are only a relatively
21 few, let's say, rich women over 80 on a single block in a poor
22 neighborhood. So, if you narrow it down enough, you get the
23 possibility of identification.

24 Or to take another issue that may have come up in
25 your discussions, it would be enormously useful if from Census

1 to Census we could match the cards. Our social mobility data
2 is very, very bad because we can't follow individuals. We
3 know how many people there are who are in various kinds of
4 jobs in 1960 and how many people there are in various kinds
5 of jobs in 1970, but any kind of inference about the ways in
6 which people move from job to job in the course of a decade
7 or a lifetime as they grow older -- we have very bad data on
8 this and it's a terribly important thing to be known and it
9 could be easily known if the social security number or some-
10 thing was attached to the Census study so you could make these
11 longitudinal studies over time.

12 I can think of very few things that would be as
13 beneficial to the sciences as making the Census longitudinal,
14 but it creates the very near danger of identification; and
15 once again, there are technologies that can help protect the
16 record but there's no technology that can make the protection
17 perfect. So there is this very subtle balance that has to be
18 drawn between improving our knowledge and our understanding
19 which can be done only to the extent that we can make records
20 specific to individuals over time and the dangers involved.

21 To social scientists and behavioral scientists,
22 this is a crucial issue because, as scientists, of course, we
23 always want more and more information; and as citizens, we are
24 aware of the problems. I think I'll leave it there.

25 MS. GROMMERS: Thank you very much, Professor Pool.

1 Would someone like to lead off the discussion with
2 a question or comment?

3 MR. DOBBS: This sort of relates to your comment
4 about manual files and the fact that there really is no dis-
5 tinction in principal between some of the processes that are
6 involved and computerized files, and it sort of gets all the
7 way to your last statement as a social scientist. Let me see
8 if I can go all the way back and express part of what my
9 concern is.

10 You pointed out the difficulty of purging manual
11 files to the extent that data begins to accumulate and there-
12 fore there is a characteristic in many large collections to
13 not purge. Lo, we introduce this marvelous device which is
14 able to accumulate the stuff for us very gracefully and also,
15 as you point out, to purge effectively if we so describe the
16 purging procedures. But having acquired that technology,
17 the rationale for continuing to accumulate the data has now
18 changed. That is to say, I now have a device which makes it
19 cheap for me to continue to keep it; therefore, the motivation
20 to purge it is no longer as great; therefore, I will accumulate
21 it.

22 Furthermore, an eminent social scientist tells me
23 that to the extent that I am able to continue to accumulate
24 historical data, I perhaps will enhance my ability in the
25 future to answer a range of significant questions as yet

1 yet undefined.

2 My difficulty is that we have had a parade of
3 public servants who have essentially enunciated that same
4 kind of argument without, I suspect, the experience or the
5 sophistication that you have as an individual in terms of
6 dealing with this type of data, but yet with some hope, some
7 act of faith, that some day these data will be useful.

8 I guess my concern is how do we and to what extent
9 are we -- I, as a technologist in my area and you, as a social
10 scientist -- frame public opinion to lead it down this path?
11 I don't know whether I have articulated the problem clearly.

12 MR. POOL: You have articulated it very clearly and
13 I guess what I have tried to say is that I don't have any
14 answer. But I think that one might follow up on what you have
15 said by perhaps an example, juvenile offenses. Juvenile
16 offenses enter a person's records at some point and may stay
17 with him for life and be damaging later on, no matter what
18 some kind of policy may say about a certain length of time or
19 a certain age. These should no longer be considered.

20 Now, there are files, computerized files -- whatever
21 makes them better, whether it's computer or anything else --
22 makes it easier to locate the fact that a particular person
23 was in trouble as a kid, was in trouble at some earlier
24 point. A policy can be adopted that says -- let's assume we
25 have computerized records and it's in readable form but there

1 are no pieces of paper kept any more so it's all in this
2 computer readable form. Say a policy says that on everybody's
3 record after 20 years any offense that was committed before
4 the age of so and so is to be purged, and it's really to be
5 purged -- taken completely out. Well, all right. This may
6 be a very desirable policy. It produces some kinds of pro-
7 tections. It has to be weighed against the fact that somebody
8 is going to want to do research on juvenile offenses as a
9 predictor of later behavior and really wants a 50-year time
10 sequence.

11 Now, this is a problem where a balance is required
12 and it's not an insoluble one because it may be that one says
13 all right, there are certain kinds of records where we, for
14 analytic purposes or for some purposes, want to keep them, but
15 we want to remove the identification from them and make them
16 nontraceable, and so remove all the relevant information
17 from the name identified file into some other file for ana-
18 lytical purposes but with the identifiers removed and so on.

19 So there are things one can do. But I think all
20 you can say is this is a real dilemma and you have got to
21 look at the problem and look at the problem recognizing that
22 computer technology gives you -- exacerbates some aspects
23 of it and gives you ways of coping with some aspects of it.
24 I don't know that I have helped.

25 MS. GROMMERS: To add one thing, one goal of that

1 is to prevent these children from getting into trouble in the
2 first place for future children.

3 MR. GALLATI: I think that's a very good point that
4 you made that a lot of people overlook when we talk about
5 purging. They just assume that you're going to eliminate
6 this from your files, particularly in the case that you've
7 cited. It very well could be handled by merely removing
8 identifiers and maintaining a separate file, and as far as
9 purging is concerned there is a great deal of merit to purging
10 in many, many types of files and I think this is one of the
11 other aspects of the whole problem of computerization which
12 is considerably overlooked, and that is that you have the
13 capacity for purging and provided you have the motivation to
14 do it you have this added increment to your capabilities as a
15 good record keeper and also as a social benefit in terms of
16 handling the data.

17 MR. DOBBS: The thing I was really struggling with
18 was the problem of the kind of validity we, the scientists, give
19 to large collections of data and this historical accumulation
20 which causes them to be used, collected and/or held by people
21 not only for purposes which are at variance with the whole
22 confidentiality issue, but for things which are just totally
23 removed from the kind of research that you describe. For
24 example, the kinds of systems that we have heard described
25 to us have argued not only is there the need for the research

1 data, but that in fact it is a requirement to do something
2 just called program evaluation. Again, I think I've heard
3 administrator after administrator say this is a requirement
4 for me to collect this data in order for me to do program
5 evaluation, which I'm not sure I completely understand; but
6 I think that the reason that that thing, whatever it is, has
7 gotten a stature where it requires this kind of data collection
8 comes as a result of some perceptions on the part of admini-
9 strators about what they think they are going to get out of
10 data which may not in fact have any basis either in good
11 research or in fact.

12 I guess that's what I was really trying to get at
13 in some way.

14 MR. POOL: You're saying there is a squirreling
15 instinct.

16 MR. DOBBS: Worse than that.

17 MR. POOL: I think you hit a very important point
18 when you said if there is a motivation to do something about
19 it. It seems to me that is where a committee like this can
20 have a very profound impact in creating the motivation.

21 MR. GENTILE: Are you aware of any studies or any
22 body of knowledge that we could go to that would pull together
23 some of the attitudes of the population, the general popula-
24 tion, concerning privacy and computers and invasions, etc.?
25 Are there any polls or studies taken of this?

1 MR. POOL: I'm sure there are. The first step I
2 would suggest that you take is to communicate with the
3 Rockford Public Opinion Research Center in Williamstown,
4 Williams College, which is the archive, the national library,
5 if you will, for old public opinion poll data. The trouble
6 with that, for your purposes, is that most organizations
7 turn over their data only when it's five years old or something
8 like that and many of these issues are new and quite current.
9 So I guess one might have to do a little bit of probing as to
10 what has been done on this subject by the major polling
11 organizations in the last few years.

12 MR. MUCHMORE: It would just mean writing 15 or
13 20 letters and you could get it faster than writing to
14 Williams, having dealt with Williams myself.

15 MR. POOL: They may be slow in computing.

16 MR. MUCHMORE: I'm talking about the time lag.

17 MR. POOL: I thought you meant their response.

18 MR. MUCHMORE: No. They're good. It's just that
19 you're right, I don't know of anyone who turns the material
20 over in less than five years and some of them are eight, nine
21 and ten year periods.

22 MR. POOL: Yes. So you'd have to follow up with
23 15 letters or so, as you say, but I don't know the answer.
24 It would be surprising if somebody hadn't done something.

25 MR. MUCHMORE: It's an issue that has been explored

1 by about four or five candidates during the course of the
2 primaries and by the current President, and I'm sure it's
3 available in some cases. In some cases they won't be made
4 available because they're closed surveys, but just this part
5 may be available.

6 MR. DOBBS: In response to John's question, since
7 he just told me he didn't get it, there is a Time-Life survey
8 material which we all should have gotten.

9 MS. GROMMERS: On the public opinion polls?

10 MR. MARTIN: On computers.

11 MS. PARSONS: I would like to ask you if you would
12 respond to this question. I'll read it. Are you not saying that
13 the problem is less a function of the behavioral science
14 methodology itself than of the social institutions that frame
15 the questions to which it is applied? For example, it has
16 recently been argued that using Moynihan's data, which is
17 census data largely, on black families, one arrives at
18 different conclusions about the appropriate public policy
19 response if the questions asked of the data are framed by
20 Moynihan or by a black sociologist.

21 So also, it could be said that the social theory
22 that underlies the census posits a mode of social organization
23 that existed in the U. S. 30 years ago. Hence, it could be argued
24 the questions that are asked in the census are perceived by
25 many as irrelevant or at least inadequately representative of
their life experience. The problem in this case is not the

1 methodology -- survey research -- but rather, the institutional
2 framework, and the people in it, who frame the questions.

3 MR. POOL: Yes.

4 MR. SIEMULLER: I would suggest there's about 17
5 questions in that.

6 MR. POOL: Very good question. It was focused,
7 however, on one aspect of what I describe as behavioral
8 technology, and that is the question-asking part, and it's
9 true I emphasized that to some degree in my own comments. But
10 as I listened to the question, my first reaction was that is
11 perhaps in some ways the least frightening.

12 That is, I agree with the criticisms -- with a
13 number of the criticisms that were suggested in the question.
14 We do tend to get opposite leads in all fields and we do ask
15 the same questions over and over again. Sometimes they no
16 longer are up-to-date. That has a very good reason for it,
17 too. That is, time series are extremely useful and very
18 powerful. One can get a lot more data out of watching a time
19 series than you can the first time you ask a question. So
20 you're always reluctant to drop what you have been doing.
21 That certainly applies to the Census. To drop what we have
22 been doing would be very damaging indeed, and there are
23 limitations to what you can just add on.

24 So there are these built-in factors to conservatize
25 the operation. It is also certainly true that the interpre-
tation of the data will vary from scholar to scholar, from

1 Moynihan to a black sociologist, as the example given. But
2 if all the behavioral scientists did was to ask questions and
3 interpret the replies, then the fears could be much less acute
4 than I think quite legitimately they are.

5 Behavioral scientists also -- well, let me say, I
6 used the word "behavioral technology", or at least I hope I
7 did -- the technology is more than the science. The tech-
8 nology involves uses, applications. The technology involves
9 the design of educational courses or the design of advertising
10 campaigns or the design of any kind of influence process, and
11 influence processes affect people, just as it isn't biological
12 science but it's medicine that raises the most acute moral and
13 policy issues. So here, it isn't behavioral science, but
14 behavioral technology that grows out of behavioral science
15 that raises the most acute issues.

16 As far as computers are concerned, they can fit in
17 anywhere along the way. I'm sure that somebody has -- if Joe
18 hasn't made the point I don't know what he's been doing --
19 that the word "computer" is a very ambiguous word. He told
20 us a lot of things were ambiguous this morning and it's not
21 clear where you want to draw the line and say that this is the
22 end of the computer and the beginning of another technology.
23 What we are getting is large networks of equipment linked by
24 various kinds of telecommunications, by wires, cables and so
25 on. In these networks are various kinds of devices which

1 store information, devices which actually compute, manipulate
2 symbols, devices which transmit the information, and devices
3 which do other things like collect the information -- the
4 photoelectrical cells or whatever it may be.

5 Now, where is the computer and which is the
6 computer in this network? So, in behavioral technology, if
7 the problem is computer-aided instruction, it's computer-
8 aided, and the technology -- the network of equipment and
9 facilities and so on -- includes movies, slides, books -- an
10 antiquated technique but nonetheless a useful one -- and
11 desks and carrels and wires that transmit it from wherever it
12 is to wherever the student is and so on. So it's a large
13 technology.

14 If the problem is one, let's say, of the urban
15 environment involving security measures, involving anti-
16 pollution measures, involving traffic control, involving all
17 these things, well, again, you have networks of devices which
18 observe -- let's say cameras -- transmitting their images by
19 communications devices, by wire, by cable, to various kinds of
20 display devices, and in this whole structure, of course, are
21 computers, too. That is, computers in the narrow sense of
22 the central processor. I hope I'm repeating. Am I? All
23 right. So it's the behavioral technology involving all kinds
24 of devices that it seems to me is perhaps the more the matter
25 of concern than pure behavioral science as such.

1 MS. PARSONS: Could I ask just one further two-
2 sentence question to follow on that?

3 MS. GROMMERS: Please.

4 MS. PARSONS: What would you say to the proposition
5 frequently heard that the technology -- when we're looking at
6 problems like that, that the technology appears to be and may
7 indeed be said to be under certain circumstances autonomous
8 in that it's the technology which creates the environment which
9 feeds its own uses as opposed to the opposite argument which
10 is that the social situation exist prior to the technology
11 which prompted its application?

12 I'll offer an example in this case. It could be
13 argued that the use of chemical pesticides in this country is
14 a consequence of a decision to encourage people to leave farms
15 and rural areas during the depression because farming at that
16 time was uneconomical, that one could produce the same amount
17 of food today that we do with our present agrobusiness if one
18 used a larger land area and maybe only 20 percent of the
19 pesticides, and our rivers are polluted and the lakes and so
20 forth. There, it wasn't the chemical pesticide technology
21 which created the situation. It was a prior decision. But
22 there is the other side.

23 MR. POOL: Yes.

24 MS. PARSONS: Social policy decisions are made and
25 then technology is encouraged to apply more widely --

1 MR. POOL: One way of defining the social sciences
2 is to say they are the study of unanticipated consequences.
3 Unanticipated consequences are one of the serious problems in
4 any social system. You do things thinking you're going to
5 get one result and you get another result. If you got the
6 results you intended you wouldn't need sociologists and
7 economists and so on to study it because it would all be very
8 simple. Men of common sense would do things that were common-
9 sensical and they'd get the results they expected, but in fact
10 things come out quite differently, and that's where the
11 economist and the sociologist comes in. He looks at what's
12 done and he says, "Ah, but it isn't what you think it is.
13 It's doing something else, too." And you get these successive
14 cycles of you do something with one purpose and it has other
15 results. These other results, in turn, lead you to do some-
16 thing else and so on.

17 Among the things that enter into this cycle of
18 unanticipated consequences clearly are decisions about tech-
19 nology, decisions to push a certain technology which, in turn,
20 produces results and so on, as you very well described it in
21 a beautiful example.

22 MR. GALLATI: Professor, you were talking about the
23 fears of the people and you mentioned the fear of loss of
24 privacy and the possibility of manipulation and the danger of
25 impersonality of people. In terms of manipulation, I'd like

1 to ask you if you feel that there is more danger of manipulation
2 where you're dealing with identified personal data than where
3 you had other non-personal data which was not identified. I
4 think the problem we ran into with the gentleman that Guy
5 described was the fact that they had identifiable personal
6 data in most cases and they seemed to want this and, of course,
7 this raises not only the question of privacy, but possibly
8 aggravates the problem of people being manipulated.

9 Do you feel there's a correlation between identified
10 personal data and manipulation or could it be manipulated as
11 well without the identification?

12 MR. POOL: Well, the election study that I did, as
13 I said, became very controversial, and among the kinds of
14 attacks that occurred was those that said that this is manipu-
15 lative. Here, you're telling politicians that if you behave
16 in a certain way that you can get elected and you can use this
17 device and you will understand the public well enough so that
18 you can do with them what you want to do.

19 Well, I think there are some errors to this analysis.
20 One of the errors is that there are two parties and presumably
21 each party is using similar devices to outfox the other one,
22 which is some protection for the public in the middle.

23 Another reason I think this argument is misplaced
24 is that it assumed a degree of ability and knowledge and skill
25 on our part -- on my part and other behavioral scientists,

1 which we are far from. But this latter argument is a kind of
2 cop-out. It's only a quantitative argument that says we can't
3 do it yet, but it doesn't really answer the question in prin-
4 ciple.

5 The first argument does deal with the matter of
6 principle, it seems to me. As long as one has competitive
7 usage of manipulative devices, you're in a very different
8 game from where you have monopolistic use of these devices.
9 The second one, I quite concede that it's in principle
10 possible to be very manipulative without personal information.
11 It does seem to me that it raises a different kind of problem,
12 but that isn't to say it isn't raising a problem. It raises
13 a different kind of problem in that one of the things that
14 we're particularly concerned about is the infringement on the
15 individual, the abuse of the individual, and these issues
16 aren't raised here. But nonetheless, I think if it were
17 possible to deal with what Burdick thought -- well, he didn't
18 think we were doing it; he just wrote a good novel -- he
19 thought he was writing a good novel. In any case, if it was
20 possible to do that, that would be a very serious problem.

21 MR. DOBBS: Let me ask a question on the same thing.
22 You were here earlier, were you not, this morning?

23 MR. POOL: No, I wasn't here this morning. I came
24 for lunch.

25 MR. DOBBS: It was suggested that in the case of

1 certain kinds of personal data that it is unwise to let a
2 supplier of the data know that it is being held in some centra
3 so-called set of files on the grounds that his perception of
4 the fact would make him reluctant to supply data.

5 Now, that's a fairly trivial and elementary kind
6 of notion, and my question to you is, is that not a very
7 manipulative kind of concept in itself?

8 MR. POOL: It is, indeed. Having said that, I
9 don't think I have completely prejudiced the issue. The
10 word "manipulative" is a very loaded word. In discussing the
11 movie we talked about the differences between computer
12 language and language that had emotional loading in them.
13 While manipulative is a very loaded word, but it is obvious
14 to use the word manipulative to describe the process of trying
15 to get results. Trying to get results can be a very useful
16 thing.

17 Isn't it the business of a politician to try to --
18 or an educator or anybody -- to try to influence people to
19 see problems that he's aware of? And if you don't like this,
20 you can call it manipulation. Okay.

21 Now, I think you have got to look at the merits or
22 demerits of this particular suggestion in its own right, and
23 I'm bothered by it. But, on the other hand, it certainly is
24 true I think, without knowing the case, my inclination would
25 be to come to the conclusion that the basic honesty as to

1 what's kept in files probably has to prevail over the fact
2 that when people do know this they frame what they put in with
3 that awareness. We all do this all the time.

4 People who write letters of recommendation think
5 about the consequence and we don't write letters of recommen-
6 dation blindly, just saying what is the abstract truth. They
7 think, "How will this be interpreted? What will this do,
8 given the institutional structure?" It's a problem.

9 MR. SIEMULLER: Professor, in your original pre-
10 sentation you used the word "purging" of file's quite a number
11 of times. That becomes a problem in my judgment in itself.
12 You take an industrial relations -- you commit some little
13 error and you have a note put in your file. You may take the
14 case even to arbitration and the arbitrator says the decision
15 is it's not justified and remove it from the file, but it's
16 only removed from one side of the live file to the dead file.
17 It still remains in that particular file and available to
18 anybody.

19 I have served on the selection boards for the
20 Department of State and everything that was not supposed to
21 be in the file is there for the selection boards to see. You
22 have not only the good side but the bad side, and it certainly
23 creates an impression on whoever is searching the total file,
24 and I have been wondering about this particular thing in
25 gathering information and what you do about it when you get

1 bad information on individuals and I have been asking my
2 associates as I have gone around the country for the last
3 month whether or not they believe that information gathered
4 on an individual and placed in a file, computerized or other-
5 wise, is ever taken out of that file, and I haven't got a
6 single "Yes" yet. In fact, two or three times they said it
7 is maintained even after death in any file, federal, city,
8 state, county or otherwise.

9 So then, if that be true, don't we have a real
10 problem with the average citizen in the United States as to
11 the credibility of maintaining and gathering this information
12 in the first place? You have been doing it for quite some
13 time I think. It would be interesting to have an expression
14 on that line as to if or not we don't have a real problem of
15 credibility with the common citizen in the United States.

16 MR. POOL: I think that there's no doubt about that
17 and on this I have looked at some of the public opinion poll
18 data recently and it is quite clear that this is growing.
19 Lou Harris runs an alienation index and I'm sure a number of
20 you noticed that story in the newspaper within the last month
21 where he asked questions like: "People who run the country
22 don't care what people like me think," and "Do you disagree?"
23 And, "It's hard to influence things, hard to get anything
24 done around here" and so on, whatever the questions are. And
25 he's got a time series and it's very impressive and very

1 depressing, because it is quite clear that over the past
2 decade there has been a great growth in lack of trust. It's
3 real, very real.

4 MR. SIEMULLER: Another example is if you're trying
5 a case before a commission or in the courts, you try to put
6 in an exhibit and you don't particularly care too much if
7 it gets into the record or not; if it's rejected it's still
8 in the record as a rejected exhibit; and it's the same example
9 completely.

10 MR. WEIZENBAUM: May I ask why do you say it's
11 depressing that there's this enormous increase in lack of
12 trust? Do you think it's depressing because you feel that
13 it's realistic or because it's not realistic?

14 MR. POOL: I think it's quite independent of
15 reality.

16 MR. WEIZENBAUM: What depresses you about it?

17 MR. POOL: What depresses me about it is that the
18 health of the society depends upon a high degree of confidence
19 in one's own social efficacy and in the integrity and in the
20 respect for the people who run the society and so on. In
21 some areas you could say well, people are right; it is true.
22 In others, you might want to say it's false. But others of
23 them just are quite independent of truth or falsity. They're
24 the kind of question that merely reflects one's feeling that
25 it's really quite -- like the comments in the movie, it's

1 hard to say. You have to have a lot of qualifiers on there.
2 The kinds of questions that are in projects I have, you really
3 couldn't say this is a true statement or a false statement.
4 No one is saying that in any rigorous way. It's just a
5 reflection of feeling.

6 MS. GROMMERS: May I ask Dr. Noble, would you like
7 to ask a question on this?

8 MR. NOBLE: Just an observation. It seems to me
9 we have been skirting the issue of control that may become
10 available to agencies or individuals in either the public or
11 private sector through the use of information which either
12 predicts future behaviors of people and/or is indicative of
13 past behaviors which can be construed as stigmatizing and
14 therefore will result in evaluations of the status or worth,
15 and with consequent losses of opportunities in the future.

16 It seems we have been all around it but that issue
17 of control is what sort of catches people in the croft and
18 makes them raise all sorts of spectres about this aspect or
19 that aspect, and depending upon which side of the control
20 equation you're on, the controller versus the controllee, the
21 evaluation of whether the information is good or "evil" gets
22 defined.

23 MR. WEIZENBAUM: Can I amplify that, if I may,
24 because it's closely related to my own concern. We have
25 talked here about manipulation and the image that we have

1 generated of manipulation is fundamentally an image in which
2 a person is manipulated perhaps by a kind of blackmail on the
3 basis of information which is stored about him in some data
4 system which may or may not be correct or ought not to have
5 been purged or whatever.

6 I think what we have seen at the number of meetings
7 that we have had here is quite another form of control which
8 I think gets closer to what was alluded to just a moment ago,
9 and the consequent alienation and so on. I think there are
10 two parts to this that are by no means independent. One is
11 the kind of homogenization that goes on when computer systems
12 are introduced into social processes. For example, we heard
13 about the educational system in the State of Florida. The
14 computers were introduced in order to make the computer
15 readability and manipulability of data about students in the
16 system more efficient fundamentally. The curriculum was
17 somewhat homogenized. Courses were given identical names
18 and the grading system was made uniform over the state and
19 so on, and all of this really in the service of the computer
20 system, although ostensibly in the service of the student.

21 Finally, what happens is that the person feels
22 that he's longer treated as an individual, no longer treated
23 as a person with his own dignity and autonomy and so on, but
24 simply as a pawn in the very large system. I think that's
25 one aspect of it.

1 The other aspect that we have talked about in this
2 Committee -- you haven't been here to hear this so I have to
3 tell you -- is that the very large computer systems that we
4 largely concern ourselves with -- that is, HEW systems -- the
5 ones that are more worrisome are, of course, the ones that
6 affect the greatest number of people and this almost
7 necessarily means that very often these programs impact or
8 affect people who are in one sense or another much more
9 defenseless than you or I might be.

10 There appears to be an attitude which has something
11 to do with computers but not everything, that once people are
12 in that position and they are being asked for information
13 that they in effect lose certain rights, that information
14 about them may be gathered that one wouldn't think of gathering
15 about more well-placed people. In other words, different
16 standards apply.

17 It's those two things put together I think which
18 lead to a feeling of alienation on the part of people and it
19 has very little to do with the fear of people that they are
20 about to be blackmailed by some information which happens to be
21 in the file about them.

22 MR. POOL: Maybe not blackmailed, but perhaps
23 affected. To take the extreme case, there are plenty of
24 people who are cheating in one way or another. Anyone who is
25 cheating doesn't like the computer which might catch him,

1 whether it's his income tax return or whatever it may be.
2 There is a great deal of low-level cheating that goes on in
3 society. People are upset by knowing that the records might
4 be kept in ways that will stop whatever the person is doing.

5 MR. WEIZENBAUM: I think you're exhibiting
6 precisely the attitude that we have heard from a lot of
7 government people. I imagine that the amount of cheating
8 that goes on at the very high level of income is rather much
9 greater in dollar volume than the person who gets ten extra
10 dollars a month from the welfare, and yet those systems,
11 dollar for dollar, have fewer controls on them than the wel-
12 fare systems that we have heard proposed.

13 I would suggest that a welfare client, if he were
14 interviewed -- or she -- if these clients were interviewed,
15 that the fears that they would express would not be fears
16 about getting caught cheating; but rather, their sense of
17 alienation from the society and from their government, from
18 the leadership and so on has much more to do with being
19 treated as a cipher, as a social security number, impersonally
20 and so on; and being controlled in quite another sense, namely,
21 that there are no alternatives.

22 You talk about the safety that's in competition.
23 When, in fact, two agencies -- I don't mean government agencies
24 particularly, but two agencies of any kind -- are using the
25 same methods but competing with one another, when things are

1 marketed where both gigantic firms use identical computer
2 techniques, then from that point of view there is no competition
3 because there's no escape.

4 MR. POOL: I'm not arguing with you, Joe, that it
5 is not true that this impersonality thing -- this just being
6 a cipher is not important. I mentioned it before in my pre-
7 sentation. I agree that it's terribly important. I'm arguing
8 that there are a lot of different things. There's a lot more
9 than that, that it isn't only that and only the fear of black-
10 mail. What I was going on to say from the cheating is rele-
11 vant, also, particularly when you go to the levels of edu-
12 cation and experience that you're talking about. But at all
13 levels, there is also the fact that a great many people don't
14 know an awful lot of the time whether they're right or whether
15 they're wrong because in the normal routines of life we do
16 things that seem appropriate to the circumstances but not
17 being experts we're not sure if we did it right.

18 So to move one step from the conscious cheating,
19 the next step is that there's an awful lot of worry about
20 anything that might just force us into the embarrassment or
21 the problem of being caught up with and told, "No, you can't
22 do that." Then, of course, there are these other things, too.
23 The distrust of whoever is running the system, that they will
24 use this power to do something unfair to you, and finally,
25 that it's just a machine and it will grind out God knows what

1 and it has no respect for you -- I think all of these things
2 enter in.

3 MS. GROMMERS: Professor Pool, I'd like to come
4 back in a moment to Dr. Noble's question. Dr. Martin had a
5 question he wanted to ask you.

6 MR. MARTIN: I have a mental itch which I'd be
7 grateful for you to scratch. I have an imperfect recollection
8 of "Operation Camelot" and I have an imperfect recollection
9 of what the State Department's response was to that by way of
10 clearance or preclearance of foreign area social science
11 research.

12 The itch I have is that I think it might be useful
13 for us all to have you tell us briefly about "Operation
14 Camelot" and what the consequence of that was by way of trying
15 to protect against the behavior of social scientists. Could
16 you do that?

17 MR. POOL: Sure. It's very relevant in one respect
18 and that is that --

19 MS. GROMMERS: Could you just briefly tell us what
20 it is?

21 MR. POOL: It was a study that the Defense Department
22 was funding that was in the planning stage, but if it had ever
23 gotten off the ground it would have been a study of the social
24 system of Chile with particular relevance to the conditions
25 of revolution. This was seven or eight years ago -- conditions

1 of revolution in Chile.

2 Now, it has relevance in a number of respects. It
3 has relevance as a good example for this discussion of the
4 sensitivity of behavioral and social science and the feelings
5 that it engenders and the dangers in that respect. It is also
6 a good example in another respect in that the kind of globali-
7 zation that occurs to these issues -- when there's a problem
8 of any sort, it's interpreted in all of these ways, like what
9 I was suggesting before about the computer. That is, there
10 are some real problems and then they get expanded to all kinds
11 of other things.

12 Now, the real story -- the simple, straightforward
13 story of "Project Camelot" is that it's questionable whether
14 it was a good idea or not. That had never really been decided.
15 The Department of Defense had authorized people who were going
16 to do this study to spend a year doing a planning study in
17 this country, and had explicitly barred them from undertaking
18 any overseas activities. The outcome of this year of planning
19 might have been a study. It might not have been a study. It
20 might have been a very different study, whatever it might have
21 been.

22 However, a young anthropologist who was Chilean by
23 origin, who had done some consulting for them, went down to
24 Chile and went around asserting that he was a spokesman for
25 this project and trying to recruit people to work with them.

1 This was reported to various Chilean social scientists who
2 got very excited about it and it was blown up in a large
3 exposé story in the communist newspaper in Chile about an
4 American military project to study revolution in Chile and,
5 of course, it was cancelled. The whole thing was cancelled
6 and cancelled with a great deal of flack, all sorts of notions
7 about what the project was which it never was. It was some
8 kind of counterinsurgency activity and so on, and the net
9 result was that the then President Johnson imposed a very
10 strict set of regulations for any overseas research projects
11 using government funds which have to go through an elaborate
12 clearance process in the Department of State involving the
13 ambassador, of course, in the country and so on, and a great
14 nuisance for anybody who wants to do it. It's perhaps a very
15 important protection for the government, but these are all
16 issues.

17 It would be almost impossible to say what the
18 project involved because it was only in a planning stage.
19 They did talk about doing computer simulations. There were
20 no serious plans developed. They did talk about problems of
21 studying conditions of insurgency and so on and that certainly
22 was one of the strong motivations of the project, but, in
23 short, there really was no "Project Camelot." There was a
24 "Camelot" episode.

25 MS. GROMMERS: Could you give us a specific example

1 of what was to be simulated?

2 MR. POOL: No.

3 MS. GROMMERS: What were you speaking about,
4 simulated what?

5 MR. POOL: There was a book that appeared in
6 print.--I'm trying to think of the name of the editor and
7 I can't offhand -- on simulating total societies, which was
8 a series of papers. It was my only connection with the
9 project. I wrote one of these papers in which I, in effect,
10 said you can't simulate a total -- let's say I put some
11 limitations on the concept of simulating total societies.
12 There was a series of papers people wrote as to what was
13 involved in simulations of societies.

14 There was no plan. I mean, it was at the stage of
15 this Committee's deliberations; that is, a group of people
16 discussing what might well be done and what should be done
17 and what ought to be done and so on, and it's impossible to
18 say what conclusions they would have come to.

19 MS. GROMMERS: Can you give us an example of what
20 kind of data might have been collected that might indicate
21 insurgency or counterinsurgency activities?

22 MR. POOL: You're not talking now about "Project
23 Camelot," but you're talking about one social scientist's
24 opinion on how to collect data?

25 MS. GROMMERS: Yes.

1 MR. POOL: Data in terms of alienation and degree
2 of respect for the government and so on, data on distribution
3 of income, the trend of it rather than the absolute amount;
4 is there a growing polarization between rich and poor. There
5 are lots of social indicators of the conditions of revolution
6 and these -- whether it was any business of the United States'
7 Defense Department to collect such indicators in Chile is a
8 very dubious question, but it's also very dubious that they
9 would have reached the decision that it was their business.
10 In other words, no such decision had been reached.

11 MS. GROMMERS: Do you have any opinion as to what
12 one would do if one had that data that you just suggested?
13 Supposing one had the trends, one had the opinions. What
14 might be the next step?

15 MR. POOL: Well, if you decide that a country is
16 becoming more alienated and the conditions are ripe for
17 revolution, there are obviously two directions in which you
18 can move. One direction is reform to try to do something
19 about it, and the other direction is repression to try to
20 repress the people -- well, there are three directions --
21 the other one is revolution.

22 The same data could be used by the revolutionists.
23 What you want to do, given the recognition of a growing
24 tension, of growing alienation, of growing conflict in the
25 society, is a matter of your own values and your own political

1 philosophy, and any one of these would follow equally from
2 understanding that the situation is getting bad. It doesn't
3 necessarily follow that one does any one of these -- any
4 particular one of these three things. I'm sure that knowledge
5 of what was emerging in Northern Ireland would have been
6 interpreted quite differently by the IRA and by the British,
7 for example. They both could benefit from knowing that the
8 tensions were growing and the conflicts and the animosities
9 were growing.

10 MS. GROMMERS: What you're really talking about is
11 a feedback control to the protagonists on one or another side
12 of the issue through opinion polls?

13 MR. POOL: Not only opinion polls. I mentioned
14 information on income distribution, so-called "genie" curves
15 the quality of income distribution. One might mention
16 organizational memberships or participation in various kinds
17 of activities. Don't forget, growing evidences of refusal --
18 of loss of interest -- let's say growing increase in staying
19 home from work, or not attending classes and so on, growing
20 dislocation of communities, people more and more moving out
21 of places where they have roots. All of these things can be
22 indicators of social tensions.

23 Of course, who should collect such information and
24 who should have it is a function of one's own political view
25 and if you're in a colonial country and are a loyal national
you don't want the government to have that kind of informati

1 because you don't want the government to use that kind of
2 information to maintain itself. If you're in your own country
3 and are a loyalist, you obviously want the government to have
4 that kind of information hoping that it can act on it to do
5 something about it. These are political questions. The
6 information is the same.

7 MS. GROMMERS: Thank you very much, Professor
8 Pool. Are there any other kinds of questions that Professor
9 Pool has not been addressing that someone would like to bring
10 up?

11 MS. KANE: This is a follow-up on what Mr. Dobbs
12 said in a slightly different area. You were talking about
13 striking a balance between the honesty that the social
14 scientist has to take when he's collecting the data and tellin
15 the research subject where it's going to be stored or how much
16 is going to be accumulated, and I think you came to the con-
17 clusion that at least in a general sense, not knowing the
18 particulars, that you should be honest with the subject as far
19 as telling him it's going to be in a centralized file, say,
20 in Washington.

21 MR. POOL: Sure.

22 MS. KANE: I was wondering how you would react to a
23 similar problem which I understand is true, that on several
24 surveys and questionnaires that are sent out in social science
25 and behavioral science studies there is appended a statement c

1 confidentiality which says that anything you put down on this
2 questionnaire will be kept confidential; however, no qualifying
3 statement is made that you really can't keep it free from
4 subpoena at this point and indeed, in certain studies, that
5 just means "I won't turn it over if somebody asks me to off
6 the street and walks in," but there's no real security measures
7 adopted.

8 I wonder what type of surveillance -- what type
9 of balance do you think there should be in qualifying state-
10 ments or what?

11 MR. POOL: I'm delighted you raised that issue. I
12 meant to get to it. It's one of the great concerns to social
13 scientists as it is these days to newspaper men and I guess
14 I would be very happy if this Committee, in its wisdom,
15 decided to recommend legislation on this point, since the
16 courts have indicated just last week that they are not going
17 to act on it.

18 You're right. There is no protection against
19 subpoena. There is no legal protection against subpoena. A
20 great many newspaper men and a great many sociologists have
21 taken the position that this is a matter of conscience on
22 which they would adhere to their promise of confidentiality
23 even at the cost of going to jail. It's becoming a fairly
24 critical matter. There have been some cases -- and I guess
25 my knowledge is not accurate enough to go into it on a

1 transcribed record when it might prove to be erroneous -- but
2 I would suggest that you might look into the case of the
3 income maintenance project -- was it in Trenton, New Jersey?

4 MS. KANE: No. Princeton.

5 MR. POOL Yes. You might look into that case where
6 there was a very serious threat to the social scientist
7 involved. I guess it was straightened out or solved somehow.
8 I'm not sure. In any case, as I understand it, the grand
9 jury laid down a presentment but not indictment, which means
10 they weren't -- at least they weren't tried. They were only
11 criticized.

12 The issue has come up more recently in regard to
13 some of the disputes about the Pentagon Papers, but I think
14 that's not a good model -- a good illustration. It involves
15 different kinds of issues. But it's going to come up quite
16 acutely at some point regarding personal files dealing with
17 medical, psychiatric, delinquency, drug use or any other such
18 kind of information, and it would be most desirable if the
19 guarantee of confidentiality that is normally given when such
20 data is collected could be recognized by law.

21 MS. KANE: Don't you think that in Mr. Dobbs' case
22 you thought the person should be honest in telling the -- the
23 scientist should be honest in telling the research subject
24 what was going to happen with the data, and I'm sort of asking
25 you if at the present state of the law you do not have freedom

1 from subpoena, therefore, do you think that in the same case
2 you should be honest in saying "I'll keep it confidential. I
3 won't pass it around. However, it is subject to subpoena,"
4 to let the data subject know?

5 MR. POOL: If you think the issue of subpoena is
6 a relevant one and it's your intention to comply with the
7 subpoena, then I think you ought to say so.

8 MR. DOBBS , Even if you don't intend to comply to
9 it?

10 MR. POOL: Then you're keeping your word. You're
11 saying that you're going to keep it confidential.

12 MR. DOBBS: The big issue is, does the subject have
13 a right to know the future conditions which will prevail
14 surrounding information about him, regardless of the indi-
15 vidual's ability to protect legally or otherwise.

16 MR. POOL: Well, I understand what you're saying.
17 I suppose that one could raise a lot of other questions. Do
18 you want to tell the subject whether it's going to be kept in
19 a steel file with a triple lock or not, or tell the subject
20 how many research assistants are going to have access to it?

21 MR. DOBBS: Quite possibly. This is precisely the
22 kind of questions that you raised are, in fact, not asked that
23 we have the difficulty. It's because those questions are not
24 asked that people feel that they do not have any control.
25 Nobody has put the price tag yet on asking those kinds of

1 questions, or at least making explicit to the person that's
2 supplying the data precisely what conditions are going to
3 prevail.

4 MR. POOL: Well, I don't have a strong view on
5 this. It seems to me in the usual situation all that the
6 subject is really asking for is a candid statement of your
7 policy. Now, I can imagine special kinds of situations where
8 you're dealing with very sensitive information, drug use, for
9 example, and other things where legality is involved; but in
10 the usual public opinion polls situation you really don't
11 have to promise the person confidentiality. They probably
12 don't care. But you tell them it's our policy that this
13 information is confidential and we're going to treat it as
14 such, and most of the time that's all the person really wants
15 to know, and raising all of these other issues might be
16 irrelevant. If a person wants to know them, obviously you
17 want to answer, but I can see that there are situations where
18 many of these details would be relevant.

19 MR. DOBBS: It's true that I extrapolated,
20 unfortunately, out of the area of public opinion into some of
21 the kinds of systems that we have seen described; so that's
22 unfair; and I also trampled on your question. I'm sorry.

23 MR. GALLATI: I just want to make a point following
24 on Guy's statement that one of the problems in this whole area
25 of personal data is that we don't have the concept of this
being personal property. As a result, we don't feel that we

1 need to put any kinds of caveats around our collection of it.
2 (Of course, Gu just mentioned special opinion polls which are
3 really not the problem.

4 The problem is personal data which is required in
5 order to get a legal benefit. When you demand this type of
6 data and the person is denied his legal right because he does
7 not give it, he certainly has a property right in that data.
8 It is a copyright, if you will. You can't use that data
9 unless you have the permission of the person properly.

10 One solution to this problem might possibly be
11 that since we would like to construct the concept of ownership
12 of the data, that if it is subpoenaed or if it is otherwise
13 involved in a breach of confidentiality, that we should -- or
14 anticipated breach -- that we should return the data rather
15 than give it to somebody else, and then let it be subpoenaed
16 if the person with the subpoena desired it from the person who
17 had it in the first place. He might not get so far.

18 We just don't have this concept. The concept of
19 personal property is very well developed in our law, but the
20 concept of personal information as property is not developed
21 at all.

22 MR. SIEMULLER: If that data is in physical form,
23 even if you don't honor a subpoena, can it not be confiscated
24 by the courts in its physical form and throw you in jail, too?

25 MR. POOL: Probably so.

1 MR. ANGLERO: Going back a couple of comments,
2 because you put this in a sort of negative way and I would
3 like to put it in a positive way if I'm right. How would yo
4 work out, if we can -- to define first and to move forward,
5 we can define a utopian community -- to put some background
6 on this, we are talking about information systems. We are
7 talking about the system forecasting and all these things.
8 Supposedly we would be able some day to define where we want
9 to go. If we do that, we would work out a utopian community
10 in some way. So if that is true, how would you manage to
11 move from actual reality to utopian community if it is
12 possible?

13 MR. POOL: I guess I don't know the answer. That
14 is to say, I think that we are dealing with a much more
15 limited question here, which is, given the non-utopian
16 community in which there are sharp differences of opinion
17 and tensions and hostilities and fears, what kinds of rights
18 do we want to give individuals to protect themselves in the
19 face of their distrust of others? It's clear that whenever
20 one creates such a right, whether it be the right of property
21 or whether it be the right of free speech or the right of
22 freedom of religion or whatever it might be, one is sacrific
23 the possibility of doing certain things that other people
24 might like to do.

25 I guess the right of privacy, which is perhaps the

1 most important one we're talking about here, has been his-
2 torically a very ill defined one, a much newer one and what we
3 are really asking is how far in contemporary society we want
4 to create the right of privacy like the right of free speech,
5 like the right of property and like the right of freedom of
6 religion, which would formulate constraint on other things
7 one might want to do.

8 These all make sense only in the non-utopian
9 community.

10 MS. GROMMERS: I have a question from Mr. Justice
11 and I think we're getting toward the end of the afternoon in
12 an informal part, and those of you who would like to speak --
13 will you be staying for a little while?

14 MR. POOL: I may have to run.

15 MS. GROMMERS: We'll make this the last question
16 then.

17 MR. JUSTICE: I hope I don't end this discussion
18 on a sour note, Professor, but I must confess personally
19 having watched the presentations of the meeting here thus
20 far and others the time before a certain uneasiness about what
21 seems to be the thrust of your own attitude. You speak, for
22 instance, of a computer sometimes exacerbating the problems on
23 the one hand, but on the other hand easing them, and yet you
24 fail to detail just how and how badly the problems are
25 exacerbated.

1 It seems from my perspective you are notably
2 unconcerned about some of these problems. Maybe I misread
3 what you're saying. We have had all kind of systems presented
4 to this Committee with wonderful reasons why they should be
5 and none of the fellows seem to see very much wrong with them.
6 We are sort of here to consider some of these things. My
7 question I guess to you is what do you see to be the chief
8 three dangers to the society, if you see any. What are they
9 and what would you recommend specifically in terms of law, in
10 terms of education, in terms of policy this Committee ought to
11 do about them, or do you see any?

12 MR. POOL: Well, I think you're perfectly right in
13 saying that I emphasized what I thought and you confirmed
14 this might have been understressed in other presentations;
15 that is, if it is true that the same technology can both hurt
16 and help; and if my guess was right that everybody has pointed
17 out some of the dangers but not much in cumulative ways in
18 which this could be used effectively; then I did the right
19 thing in stressing the positive.

20 But you asked the question what do I see as the
21 main dangers, and you're asking me to be very specific. I
22 also have to admit I was deliberately unspecific because in a
23 sense I was not asked here in the same way as a lot of your
24 other witnesses to talk about a particular system where you
25 can be specific. But to talk about somehow to frame some of

1 the problems with regard to behavioral science technology and
2 simulation and some of the similar things and at this level one
3 really can't be quite as specific.

4 Let me be very specific. I think that we got to
5 one specific thing that I would like to put a lot of emphasis
6 on. I would like to see action taken to protect data collection
7 for research from being used for any kind of punitive purpose,
8 prosecution and so on. That would be a very useful outcome
9 if one could make a sharp distinction between research files
10 and action files, so that they wouldn't have these subpoenas
11 that we talk about.

12 The second specific that I would put emphasis on is
13 I would go through a lot of the HEW files and ask for which of
14 these could we give the person the right of access to his own
15 file, and I suspect that you will find that there are a good
16 many of them where administrators won't like it but where it
17 could be done effectively and usefully without infringing on
18 anyone else's privacy; but what you would usually find is a
19 mixed situation. You would usually find a situation where the
20 file contains a small percentage of information that should be
21 free from that kind of scrutiny and most of it should be
22 subjected to that kind of scrutiny, but the administrator's
23 answer will be "We have no way of separating that." Here we
24 get a positive aspect of technology. We look forward to where
25 this would become increasingly easier to do as we get into

1 computer readable files. Nevertheless, one could start out
2 with the presumption that people ought to be able to consult
3 their own records and that presumption being rebutted rather
4 than the other way around.

5 Let's see if I can come up with a third specific.
6 Well, I guess a third specific, although it's not quite as
7 specific, would be for any abuse of this kind, whatever it may
8 be, or any problem of this kind, there ought to be some sort
9 of ombudsman system. In other words, in any problem, if the
10 operating interests are all on one side, then you're not going
11 to get a good outcome and then you have to institutionalize
12 somebody whose job it is to fight it on the other side. It
13 doesn't matter what you're talking about. Take the federal
14 security system. One of the things wrong with the federal
15 security system is that it's in the interest of all the people
16 who classify things to classify them and there is nobody in
17 whose interest it is to spend his time getting things declassi-
18 fied. That's the sort of situation where you could set up an
19 ombudsman, an office whose job was to say that this shouldn't
20 be classified. It's exactly the same here. If it's in the
21 interest of administrative offices to keep their files from
22 being looked over, as it generally is, then institutionalize
23 the opposite interest by creating some kind of person or
24 organization whose responsibility is to see -- is to worry
25 about that problem.

1 MR. JUSTICE: I think, without trying to press you
2 too far, the second part, the recommendations against what
3 specific evils, most notable evils would these protect against
4 in your mind? Either of these --

5 MR. POOL: The most notable evils are the illicit
6 or biased favoritism in giving information -- well, the whole
7 business of credit ratings, for example, of who do banks and
8 so on give information to. I don't know if your terms of
9 reference really go into the private sector like that.

10 MR. JUSTICE: You're talking about industry
11 dissemination then?

12 MR. POOL: Yes, inappropriate dissemination or
13 favoritism in dissemination of information. I guess if I were
14 singling out one single abuse off the cuff, that would be where
15 I would start. There are all kinds of situations where some
16 people can get hold of information they shouldn't be able to
17 get hold of in order to act in a partisan way on somebody else,
18 and anything that would institutionalize somebody who's
19 supposed to worry about this and protect people from this would
20 help restore some balance.

21 MS. GROMMERS: Thank you very much, Professor Pool.
22 It was very, very kind of you. You have been most illuminating
23 to have you come and spend this time with us.

24 MR. POOL: I did bring something here. I don't
25 know whether you want it. It's simply a chapter I wrote two

1 or three years ago for the Foreign Policy Association on the
2 Future of Behavioral Science Technology and some of these same
3 issues are raised there.

4 MS. GROMMERS: Well, we'll adjourn now and we'll
5 be having a special hour of conversation or whatever and
6 at social hour and maybe we can have that a little earlier
7 than six, if that's possible.

8 I would like to tell you all one thing. Jerry
9 Davey and Gary Wesler who's going to be working with him are
10 going to be available this evening at supper to talk with any
11 of us who are interested in doing so about some of the problem
12 that he asked of costing out some of the recommendations that
13 we might be thinking of making, and also looking at some of
14 the cost problems in the whole data system. So we'll probably
15 gather somewhere in one corner of a room.

16 (Whereupon, at 5:25 p.m., the meeting was recessed,
17 to be reconvened at 9:00 a.m., the following day.)
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