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Transcript of Proceedings

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SECRETARY'S ADVISORY COMMITTEE

ON

AUTOMATED PERSONAL DATA SYSTEMS

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Thursday, 9 November 1972

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U. S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SECRETARY'S ADVISORY COMMITTEE

on

AUTOMATED PERSONAL DATA SYSTEMS

Room 5051
DHEW North Building
Washington, D. C.
Thursday, November 9, 1972

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

Mr. David B. H. Martin, Special Assistant to the Secretary,
presiding.

COMMITTEE MEMBERS PRESENT:

Professor Layman E. Allen
Mr. Juan A. Anglero
State Senator Stanley J. Aronoff
Miss Gertrude M. Cox
Mr. Gerald L. Davey
Mr. J. Taylor DeWeese
Mr. Guy H. Dobbs
Dr. Robert R. J. Gallati
Mrs. Florence R. Gaynor
Mrs. Jane L. Hardaway
Mr. James C. Impara
Mrs. Patricia J. Lanphere
Professor Arthur R. Miller
Miss Jane V. Noreen
Mr. Roy Siemiller
Mrs. Harold Silver
Professor Joseph Weizenbaum

STAFF MEMBERS PRESENT:

Mrs. Carole Parsons	Mrs. Lynne Zusman
Miss Nancy Kleeman	Mr. Paul Corkery
Mr. John Fanning	Mr. John Salasin

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P R O C E E D I N G S

MR. MARTIN: Would the committee please come to order?

As far as I know, Chairman Grommers is not on this continent. The last I knew she was going to be in Europe for the month of October, which included her attendance at our last meeting, and I had expected her back by the first of or very early in November.

I take it something has precluded her returning on the schedule she indicated before she left.

In her absence I will continue to preside over the meeting.

The meeting of the committee for this and the next two days will be marked by a number of differences in its character, the first of which obviously is we are meeting in HEW North Building rather than out on the NIH campus.

Today's meeting will be an open meeting of the committee to hear from a number of people whose names are listed on the agenda for today's meeting which should be before each of you.

It is possible, perhaps even probable, that in addition to the persons whose names you see on the agenda and whose appearance before the committee has been arranged by the staff, that additional persons who are aware of the

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1 meeting will come and may wish, as they are entitled to do,
2 to participate in the meeting -- that is, to speak to the
3 committee.

4 What we have tried to do for today's meeting is
5 to recruit a number of individuals who are either the
6 subjects of records stored in automated personal data
7 systems, and therefore able to speak about their experiences
8 with relation to the impact of automated personal data sys-
9 tems on them, or persons who can represent the views of
10 such individuals or groups of such individuals.

11 In order to continue an overview of the meeting
12 of these 3 days, let me say that tomorrow and Saturday
13 we will also meet in this building. The agenda and work
14 materials for tomorrow and the Saturday meeting will be
15 distributed to committee members later in the day.

16 What we have in mind is to convene the committee
17 in toto at 9 o'clock tomorrow morning, spend a brief amount
18 of time in full committee discussion mainly to get clear
19 on the work to be accomplished, and then to break into a
20 set of three subgroups.

21 The work that we are going to be trying to
22 accomplish in these 2 days, Friday and Saturday, I think
23 would not be fruitfully attacked at least throughout the
24 time by the full committee meeting.

25 So we have subdivided the committee into three

1 different groups, each of which will be staffed and each
2 of which will meet in a different conference room in this
3 building. The places of meeting, the groups, the staff for
4 them, and the tasks to be accomplished, and some work papers
5 to help you get started on those tasks will be distributed
6 later in the day.

7 The schedule tomorrow and Saturday will in
8 some sense be less restful than you are accustomed to
9 because it will be an executive session meeting of
10 the committee in accordance with a determination made by
11 the Secretary or made by a delegate of the Secretary which
12 we have obtained in order to enable the committee to meet
13 in a closed-to-the-public executive session to discuss
14 its recommendations and advice to the Secretary.

15 That is one of the exceptions open to advisory
16 committees from a general requirement that their meetings
17 be public. Today's meeting, as I said earlier, is public.

18 The relief from the stress of a series of
19 tightly scheduled people who have been presenting to the
20 committee will I think be more than compensated in stress
21 by the work undertaking to which we will be addressing
22 ourselves and in which members of the staff will be
23 serving helpfully but I also hope forcefully to keep
24 attention focused on a very difficult task.

25 It's hard work to conduct public meetings in

1 which one is giving careful attention to what witnesses,
2 so to speak, are coming forward to share with a committee
3 and to follow their presentations and to ask some questions.
4 I suspect that you will find it no less hard work to meet
5 in small groups focusing in rigorous detail on decisions
6 that the committee must make in order to arrive at the
7 production of a final product for the Secretary.

8 Are there any questions or comments or any dis-
9 cussion which the committee would like to engage in? As
10 far as I can tell, our first speakers this morning haven't
11 yet arrived.

12 Professor Miller?

13 PROFESSOR MILLER: What do you plan for Saturday?
14 Continued small group? Or reassemble?

15 MR. MARTIN: Both. Let me detail that a little
16 bit more.

17 The tasks which, as I say, will be covered
18 by some work papers we will give you this afternoon are,
19 first, to identify what the committee feels the harmful
20 effects of automated personal data systems are or may be,
21 what the potential harmful effects may be that the committee
22 wants to say in a report, "These are what we think are the
23 harmful effects."

24 And what about the operation or characteristics
25 of automated data systems do these effects arise from? What

1 causes them? Or what can be cited as plausible explanations
2 of how these effects might come to be, and to give examples,
3 hopefully real, but since a lot of the harmful effects that
4 one speaks about in relation to automated personal data
5 systems haven't perhaps yet occurred, they may be hypothetical
6 examples. But some examples.

7 The second task is essentially what to do about
8 those potential harmful effects. What actions of safeguarding
9 nature might be taken? What does the committee want to
10 suggest to the Secretary by way of safeguards to be imple-
11 mented? And what action should he take to implement
12 those safeguards?

13 And then the third task which might more logically
14 appear to be the first task is to agree on a definition of
15 automated personal data systems. We have worked on this
16 at previous meetings, and the staff have produced a
17 proposed definition.

18 What the guidelines for the work of Friday and
19 Saturday will suggest is that you start by reading and
20 thinking hard about that definition and then sort of put
21 it aside and keep it in the back of your mind throughout
22 the 2 days' work, making adjustments, revisions, changes in
23 it as you see fit as you work through the heart of what
24 the committee has to do.

25 Now, to answer your question as to what proportion

1 of the committee's meeting on Friday and Saturday is spent
2 in small group discussions, that is, groups of about seven
3 let's say, we are anticipating a total attendance at any
4 given time of roughly 21 of the committee's 25 members,
5 and what proportion is spent in full committee discussion
6 will, it seems to me, have to be determined by the progress
7 which is made in the three tasks in small group sessions.

8 The thought was that the staff discussion leaders
9 could get together at a luncheon break tomorrow, which
10 will occur around 1 o'clock, to compare notes and see whether
11 it would be fruitful, for example, for there to be
12 immediately after lunch tomorrow a full committee meeting
13 or whether it ought to wait until 3 o'clock in the afternoon
14 or something.

15 The notion is that we want to alternate between
16 small group meetings and full committee meetings depending
17 on which seems the appropriate and most productive
18 vehicle for distilling from the committee's efforts, thought,
19 discussion the accomplishment of these three major tasks.

20 Does that seem a feasible --

21 PROFESSOR MILLER: Yes.

22 MR. MARTIN: I'm speaking as though this is being
23 laid out, you know, and God has spoken, and I certainly
24 don't mean to sound that way. Maybe I should say this is a
25 proposed course of action which we have come up with which

1 is modifiable at your taste, the object being to avoid
2 a risk which a number of members, notably, for example, Mr.
3 Dobbs, have expressed as a concern, and I think Professor
4 Burgess -- I note he isn't here yet -- the risk being that
5 the committee's report will not be the committee's product,
6 that it will be sort of by default of process or whatever
7 produced by the staff.

8 The staff has not desire to preempt the committee's
9 production of this report either as to substance or content
10 or style or anything else. The staff, however, wants to
11 encourage and help the committee to go as far as it will
12 in any direction to produce this report.

13 I don't suppose any of us expects that a committee
14 of 25 people is going to write the report word by word,
15 but certainly the content of the report should be the
16 committee's and as much of the formulation, presentation of
17 that content as possible should be the committee's.

18 And in that connection I should have said earlier
19 Willis Ware worked hard since the last meeting and produced
20 a proposed set of draft documents which you have received.
21 Another set of copies of those will be among your work
22 materials.

23 Layman Allen has brought in some material this
24 morning.

25 Juan Anglero has brought in some material this

1 morning.

2 If anyone else has any material either relative
3 to the Ware proposal or relative to our invitation at the
4 last meeting that you take a stab at drafting a formulation
5 of the statement of the problem, statement of the harmful
6 effects, we would be glad to receive those as soon as
7 possible and could have them reproduced and included in the
8 materials that will be distributed this afternoon to form
9 the basis for the small group work and the committee work on
10 Friday and Saturday.

11 Mr. Siemiller?

12 MR. SIEMILLER: Did you get any useful informa-
13 tion from your questionnaires you sent out or did you get
14 any replies?

15 MR. MARTIN: Yes. I'm glad you asked that.
16 The survey letter -- which I apologize was inadvertently
17 omitted I think from the mailing sent to you with a memo
18 which did enclose I think a list of organizations to which
19 the survey letter had been sent -- the survey letter was
20 sent in a subsequent mailing. Now I hope you have both the
21 survey letter and the list of I think 238-some organizations
22 to whom it was sent.

23 We have received responses from many. Some of
24 them are quite interesting and helpful, and copies of those
25 will be distributed this afternoon. Many of them were

1 perfunctory, "Thank you for writing us. We have nothing to
2 offer or suggest," kinds of letters. And a few of them
3 seemed to miss the point of our letter completely and make
4 responses that were either totally inapposite or which were
5 hard to understand.

6 We will also have a one-page supplement to the
7 list of organizations to whom the survey letter was sent,
8 another 15 or 18 I think sent out.

9 And we welcome, preferably in writing, the names
10 of any organizations which you would like to add to that
11 list, and you could submit those today. We could get the
12 letters out today. But at any time we welcome receiving them.
13 The sooner we get them, the sooner the letters can go out
14 and the more likelihood there is we will get a response in
15 time to make some use of them.

16 Another thing that will be distributed with the
17 materials this afternoon or perhaps tomorrow morning will
18 be an exchange of correspondence that we have had with
19 Inspector Roderick of the FBI who oversees the National
20 Crime Information Center system which was presented to the
21 committee. A number of you had questions about that
22 presentation and system which we put to Don Roderick by
23 letter, and he has replied with answers to those questions.

24 A copy of that exchange of correspondence, our
25 letters to him and his replies thereto, will be distributed

1 to all of you.

2 If you have still further questions, feel free to
3 give them to us.

4 I would also remind you that at one point in the
5 past you received copies of a presentation, a paper, submitted
6 to us by the American Telephone and Telegraph Company
7 and another by the Internal Revenue Service. Those were
8 distributed with the invitation that if you had any questions
9 or further information that you would like submitted to the
10 Telephone Company or the Internal Revenue Service, we
11 would be glad to do that.

12 As far as I know, we have had no such suggested
13 further inquiries from you, so I have to assume from that
14 that at least as of now the presentations submitted in
15 writing by IRS and AT&T substantially met your interest in
16 knowing about their automated information systems.

17 Oh, then the Weston Report summary. Did you all
18 receive that?

19 (General assent)

20 MR. SIEMILLER: And read it.

21 MR. MARTIN: We have made arrangements -- I
22 hope we have made arrangements -- with the publisher for
23 each of you to receive a copy of the Weston Report by mail
24 directly from the publisher as quickly as copies are avail-
25 able to be sent out.

1 We have been told by the publisher that it is
2 scheduled for publication on November 30th. They believe
3 that copies will be available before that date by as much
4 as 10 days, perhaps 2 weeks, and copies will be sent to
5 members of the committee as quickly as they are sent to
6 reviewers I have been promised by the publisher. I think
7 it is an important document for this committee.

8 Our friends in Canada have also promised to
9 send us as quickly as it is available a report of the
10 Canadian Government Task Force on Computers and Privacy.
11 You will recall that that report was being kept unpublished,
12 unreleased, pending the holding of the Canadian elections,
13 which as we know occurred on October 30th, and I don't know
14 now when we can expect that report, but very soon I hope,
15 and copies of that report will be made available and sent to
16 all members of the committee.

17 Since these documents are not likely to be
18 available, these two reports, much before the end of the
19 month I fear, and maybe not until after the end of the
20 month in the case of the Canadian report--I just don't have
21 any good fix on when that will be available--the question
22 has been going through my mind which I would like to raise
23 with you -- we don't have to decide it now -- whether it
24 would be prudent to consider a deferral from December 1 for
25 some period of time the target data for the completion and

1 submission to the Secretary of this committee's report.

2 It may be that one would be more comfortable
3 having available both of those reports before one had to
4 sort of sign off on the report of this committee.

5 The present target date in the committee's
6 charter is December 1, and it is perfectly easily extendable.
7 I have no question but what the Secretary would be glad to
8 push that date forward if the committee felt that it would
9 prefer to have more time, if only for the purpose of looking
10 at those two documents.

11 MR. DOBBS: I guess one comment that I would
12 make at least insofar as the Weston Report is concerned,
13 and at least the preliminary summaries that I have seen,
14 is that it may well be important to do that. Because for
15 me at least, in one or two important respects the conclu-
16 sions reached are not consistent with the evidence that I
17 have heard.

18 And to the extent that at least I can understand
19 why there is that difference, for me I would suggest, yes,
20 if it's possible for us to have more time to look at that
21 material, it may be useful.

22 MR. MARTIN: How do other members feel about
23 that?

24 MRS. HARDAWAY: I think it's very necessary -- I
25 agree with that -- that we see that first before coming to

1 any final conclusions on the draft.

2 MR. MARTIN: Any other views on that?

3 (No response)

4 Is there any dissent from that opinion?

5 (No response)

6 Both Mrs. Hardaway and Mr. Dobbs are suggesting
7 that it would be a good idea not to have to finally adopt
8 a report of this committee until after the committee had had
9 a chance to receive and read the report of the Canadian
10 Government's task force on computers and privacy and the
11 report prepared by Professor Weston and Michael Baker.

12 PROFESSOR MILLER: I reached the conclusion that
13 we should not try and terminate by December 1 on general
14 principles. I don't think we are ready to terminate on
15 December 1.

16 Here it is November 9, and we are talking about
17 starting to write a document and have it finalized by
18 November 30. I think that is ludicrous, frankly. No
19 opportunity to exchange drafts and consider language and
20 homogenize style.

21 Then I would add that I think the committee
22 would look a little silly putting out a report without at
23 least having considered these two documents. I myself
24 having been an adviser to the National Academy of Sciences
25 study have grave doubts about its validity, but I think we

1 should consider it. And I think the whole Christmas period
2 is a good time for us to consume these two documents if they
3 are available.

4 MR. MARTIN: Well, I construe that there is a kind
5 of consensus, in the absence of any contrary expressed
6 opinion, manifested for the views expressed by Mr. Dobbs,
7 Mrs. Hardaway, and Professor Miller.

8 Nancy Kleeman has learned that Catherine Jermany,
9 the Western Regional Representative of the National Welfare
10 Rights Organization, who had expected to be here this morning
11 at 9 o'clock, is in the hospital today, and I assume that
12 means that she will not be able to come.

13 Mr. Faith Evans, the Eastern Regional Representative
14 of NWRO, has, as far as I know, not yet arrived.

15 But Ralph Abascal, Staff Attorney, San Francisco
16 Neighborhood Legal Assistance Foundation, is here I see,
17 and perhaps it would be well now to turn to hearing from
18 those who have come to speak to us.

19 Ralph, would you like to take the witness table
20 down there?

21 Would you briefly identify yourself and your
22 organization for the record, Ralph, and then go on in what-
23 ever way you will?

24 MR. RALPH ABASCAL: My name is Ralph Abascal. I
25 am managing attorney of the San Francisco Neighborhood Legal

1 Assistance Foundation, an OEO-funded legal services program.

2 I guess my primary credentials for being here
3 are that I was one of the attorneys challenging what is
4 called the earnings clearance system in California, a
5 method of computerized earnings checking for welfare
6 eligibility determinations and fraud investigation in the
7 State of California.

8 The earnings clearance system was a method by
9 which all AFDC recipients over the age of 16 who had
10 social security numbers-- Those numbers were prior to the
11 initiation of the system collected at the State Welfare
12 Department's office. At the same time, for other purposes,
13 the State Employment Service, the agency administering un-
14 employment insurance, also utilized the social security
15 number for the purpose of identifying earnings and
16 eligibility for unemployment insurance.

17 The Welfare Department sent social security
18 numbers of all recipients over the age of 16 to the
19 Human Relations Department, HRD, the employment security
20 agency, and requested quarterly earnings reports from HRD
21 as to earnings reported to HRD for unemployment insurance
22 purposes.

23 Those were then returned to the State Welfare
24 Department, and the State Welfare Department would then
25 recategorize them perhaps -- I'm not certain -- by way of

1 county and by alphabet.

2 Each county would then be given a list of those
3 welfare recipients with social security numbers that
4 had earnings for the past -- not for the past quarter
5 because it generally operates two quarters back.

6 So at any particular time there is a 6-month lag.

7 That information is then sent to the County
8 Welfare Department, and the County Welfare Department then
9 matches that up with earnings reported by the recipient
10 for that particular quarter, although the emphasis on the
11 quarter presents one of the problems because there are
12 problems of reporting periods.

13 Now, most recently -- I'm not sure if the members
14 of the committee are aware of it -- most recently there
15 has been quite a bit of prominence given to the earnings
16 clearance system at least in California, and I think that
17 it was also relatively prominent throughout the rest of the
18 country in terms of the press.

19 And what is probably most remembered is a
20 statement that the system reported 41 percent fraud in
21 California's welfare system. That is somewhat of an
22 exaggeration I believe of the results.

23 The first thing, the primary thing, that ought to
24 be kept in mind in terms of this system and its possible
25 generalized use is that the system reports earnings for a

1 particular quarter on any individual. To then compare the
2 earnings reported by the welfare recipient to the welfare
3 department for that quarter-- And then if there is a
4 discrepancy between those two reports, it does not indicate,
5 as the California Welfare Department attempted to convince
6 the public, that there was an apparent fraud.

7 During the course of our litigation, the term-- And
8 this is an example. If for any particular recipient there
9 are reported earnings of \$1,000, or to make it even more
10 specific if the Welfare Department records show earnings
11 during that quarter of \$1,000 and the earnings clearance
12 system or the earnings report for unemployment insurance shows
13 \$1,200, that was called during the course of the litigation
14 a discrepancy, a discrepancy which gives rise to a question
15 of possibility of a fraud.

16 After the litigation was concluded and
17 publicity was given to this first search, it was then called
18 an "apparent" fraud.

19 So the question really is the extent to which
20 that does indicate apparent fraud, whether the discrepancy
21 gives rise to the inference or strong inference of fraud.

22 There are a number of reasons why it does not.
23 Most notable is because of differences in reporting periods.
24 Let me give the most concrete example.

25 A man works during the month of January of 1972

1 at some covered employment for which he pays unemployment
2 insurance tax, or his employer does, and he earns \$1,000 in
3 the month of January. At the end of January he is laid off.

4 In the month of March, the third month in the
5 quarter, he applies for welfare.

6 The two systems will report earnings of \$1,000
7 during that quarter as far as unemployment insurance is
8 concerned but no report of earnings in terms of welfare.
9 The reason why is because the earnings were earned before he
10 applied for welfare.

11 On the other hand, a person could have been
12 collecting welfare in the month of January, obtained a job
13 in the month of February, earned \$1,000 in the month of
14 March, and the same result will obtain. There will be
15 earnings reported for unemployment insurance purposes but
16 no report of earnings for welfare purposes.

17 That's perhaps the most extreme example.

18 Another example is problems of pay periods. And
19 let's take a relatively common system of pay periods, pay
20 periods from the 1st to the 15th and the 15th to the 30th.

21 For the 15th to the 30th period a person is paid
22 on the 10th of the following month. For the 1st to the
23 15th period a person is paid on the 25th.

24 That's a very common general structure of a
25 specific pay period and a subsequent period of time in which

1 an employer prepares the payroll, pays the check.

2 So assume a recipient, a welfare recipient, who
3 begins working in mid-February. The third pay period for
4 that recipient -- that is, the second half of the month of
5 March -- the employer will report to unemployment insurance
6 earnings from the 15th to the 30th. The pay period closes
7 on the 30th, and those earnings close also on the 30th.
8 That's the end of the quarter.

9 But the paycheck is not received by the
10 recipient until the 10th of the following month. For welfare
11 purposes the recipient would report the income when re-
12 ceived. That will show a discrepancy between earnings on
13 the one side from unemployment insurance and earnings
14 from the welfare side. There will be a discrepancy,
15 and that will be categorized as it was as apparent fraud.

16 Another pay period situation in which you will
17 have discrepancies between the one and the other is when
18 people are paid every 2 weeks as opposed to twice a
19 month. Every 2 weeks will from time to time quarter to
20 quarter have six paychecks, seven paychecks, eight pay-
21 checks. That will vary depending upon short months and
22 long months.

23 There is also quite a frequent situation that
24 exists in welfare systems -- that is, of both case workers
25 being a little tardy and recipients being tardy in terms of

1 reporting income.

2 In fact, I think-- Excuse me for just a moment
3 (looking for document). HEW on January 3, 1972 issued a
4 rather long press release summarizing the results of a
5 nationwide survey of the adequacy of eligibility determina-
6 tion, and on the first page of that press release it
7 said most of the errors they identified, errors in approxi-
8 mately 5 percent of the cases on that -- that most of the
9 errors were identified as honest mistakes by State and
10 local welfare agencies or by those who received the
11 payments. More than half were agency errors.

12 In many cases backlogged agencies did not reduce
13 benefits promptly enough when a client reported increase in
14 outside income.

15 Particularly within the last 2 or 3 years the
16 increases in case load in the AFDC program throughout the
17 country have resulted in very similar situations as to that
18 in San Francisco. The case load in San Francisco has more
19 than doubled, but the number of personnel has remained
20 exactly the same.

21 Not only does that in itself create a problem,
22 but the welfare system is becoming increasingly complex
23 partly because of anticipation of welfare. Increasing
24 legalization, specification of rights and responsibilities
25 makes the system more complex, makes it more difficult for

1 case workers to do the job that they had done before, and
2 at the same time when case loads are increasing very consider-
3 ably, thus putting fiscal pressures on the States in terms
4 of just the payments, one of the easiest areas to attempt to
5 economize is that of staff.

6 One of the consequences of attempting or two
7 of the consequences of attempting to economize in terms of
8 staff are that the people are overworked, become
9 demoralized, and result in what is an increasing fact
10 that is found in welfare departments -- that of very high
11 turnover of personnel.

12 A turnover of personnel obviously results in
13 relatively untrained people performing tasks.

14 Most welfare departments throughout the country
15 operate on a basis of if the money was earned in April
16 and they can't get around to reporting it as earned income
17 until June, that is done. If they are a little late in
18 getting around to taking into consideration the receipt of
19 income or receipt of increased income, that kind of delay
20 does not alter the consideration.

21 Now, when that happens and you are using a
22 system of interface between two different reporting systems
23 that operate on a specific time period-- That is, the
24 earnings clearance system came from unemployment insurance
25 earnings reported by quarter. Again let me emphasize that the

1 report that is received is a composite report for that
2 quarter. That is one figure, \$1,200, \$1,310, \$741, whatever
3 it may be. It is reported for that quarter, and it is
4 reported on the basis of the system by which employers
5 report.

6 When the system is different -- that is, the
7 way in which recipients report to the welfare agency in
8 terms of time period -- then there is bound to be a large
9 number of discrepancies.

10 To characterize that as apparent fraud is merely
11 rhetoric and demagogery.

12 Another factor that occurs frequently is the
13 failure on the part of recipients and case workers -- and
14 increasingly case workers because of the fact that many
15 of them are there for a short period of time -- to understand
16 that the earnings of \$100 a week are not a \$400-a-month
17 income.

18 The rule of thumb that is used for computation
19 conversion of weekly earnings is $4\frac{1}{3}$. That frequently
20 is not understood on either one side or the other. And
21 so if a person is earning \$100 a week and he is asked the
22 question, "How much do you earn per month?" he says, "\$400."
23 That's incorrect.

24 Now, many studies of-- I should say one study I
25 know of in California in terms of the adequacy or correctness

1 of eligibility determinations also revealed that
2 there was substantial failure to act upon information pro-
3 vided by recipients. This was particularly a problem in
4 California during the latter part of 1971.

5 That period is relevant because the reports that
6 have been received or generated from the earnings clearance
7 system were during that period of time.

8 Very extensive changes were made in California's
9 welfare system during that period, and all of those went
10 into effect on the 1st of October. There was very
11 extensive litigation. All people familiar with the system
12 in California characterized it as general chaos.

13 So for those and other reasons which I think
14 the committee ought to investigate, the efficiency of the
15 earnings clearance system-- Because that's the purpose I
16 understand of enumeration, social security enumeration, in
17 the welfare system, for the purpose of validating eligibility
18 determinations, determining the adequacy of the grant
19 amount. If it's going to be used to compare earnings
20 reported or income from other sources, those periods of
21 time period differentials are going to have to be looked at
22 very thoroughly.

23 I think another question that is perhaps an
24 unstated premise of major purpose of this committee in the
25 uses of the social security number as an enumerator -- I

1 shouldn't say it's the major purpose but at least one major
2 purpose, that is, in the use of the number in welfare
3 eligibility determinations -- is whether the whole thing is
4 worth it.

5 I have seen nothing by way of proponents' argu-
6 ments in favor of these kinds of systems -- in fact, it's
7 rarely ever discussed -- as to whether such intensive
8 investigation, use of computerization, is worthwhile, whether
9 in a cost-benefit sense the amount of time that is
10 necessary to make these determinations is really worth it.

11 In fact, in California thus far the earnings
12 clearance system is only used with respect to the top 10
13 percent of those who earn income. As to the other nine
14 deciles, thus far there is no comparison made between the
15 earnings reported in one system and the earnings reported in
16 the other. Only with respect to the top 10 percent is this
17 being done.

18 Now, there may be, in fact, in the top 10 percent
19 a greater incidence of conscious failure to report because
20 of one thing that is frequently discussed in the welfare
21 system, which is the notch problem. As people's earnings
22 increase to a very high level in comparison to their
23 grant where they have a minimum grant, the reporting of one
24 additional increment of income may render them ineligible.

25 Thus, I would think that the committee-- I'm

1 assuming that the committee would agree with one recommenda-
2 tion that they thoroughly investigate the earnings clearance
3 system and that in doing so they also determine the degree
4 of discrepancy that exists in the other deciles and the
5 cost and the relative benefit of intensive investigation with
6 respect to all of those deciles.

7 Now, I have no facts on which to base a
8 criticism of it, but I think there are sufficient questions
9 as to the value of utilization of computer systems, intensive
10 investigation, as noted, to warrant that kind of question
11 before other States or before HEW begins upon some sort of
12 general system of requiring States to enter into these
13 kinds of earnings verification systems.

14 The California Taxpayers' Association in
15 California -- and this is a rather extensive organization --
16 recently issued a very detailed report, part of which
17 dealt with welfare fraud, and their general conclusion was
18 that the amount of energy that is presently expended -- this was
19 written before the earnings clearance system -- the amount
20 of energy presently expended was not worthwhile, that the
21 amount of fraud that was turned up was negligible with
22 respect to the cost of generating that information.

23 And I would also add if the committee does
24 initiate some investigation of the earnings clearance system
25 that they go to the California Taxpayers' Association and

1 obtain their views as well.

2 Now, with respect to an earlier comment that I
3 made about the notch problem dealing with the top 10 percent
4 of income, I think that that raises another question as well.
5 I know from my own experience that a large number of
6 recipients are almost wholly uninformed of their rights and
7 responsibilities within the welfare system.

8 There is, in fact, disregard of earned income
9 whereby a recipient, a female, not a male, a woman, can
10 earn a specific amount of money and have another specific
11 part of that disregarded for purposes of welfare eli-
12 gibility. Many, many recipients do not know that.

13 And when they begin working, I know of several who
14 have failed to report income for fear that they would lose
15 their welfare grant entirely.

16 This disregard of earned income has existed
17 for 5 years, and it, like many, many other rights in the
18 welfare system, are totally unknown to the recipients.

19 In many States the medicaid programs-- There
20 are two types of medicaid, one which one is automatically
21 eligible for when one is a categorical recipient, when one
22 is a recipient of cash welfare, and another closely related
23 which is available to people who have incomes slightly
24 above the State welfare standards. I know from my own
25 experience that most people are unaware of that distinction

1 and unaware that although they no longer are eligible
2 for cash assistance they may continue to be eligible for
3 Medical assistance, medicaid assistance, in that other
4 category.

5 And if part of the committee's concern is
6 with welfare fraud, I think one thing that should be
7 emphasized strongly is to get that information to the
8 recipients on a regular basis.

9 Both of those factors are very important particu-
10 larly, I think, in dealing with that top 10 percentile.

11 I think another thing that should be done is to
12 make it very clear as far as the rights of recipients
13 for the subpoena power with respect to employers' reports
14 and employers if such a system is extended throughout the
15 country because of errors that can be made by employers.
16 And if a recipient cannot get beyond the IBM printout which
17 indicates \$1,509 reported for that particular quarter-- The
18 subpoena power, the ability to subpoena the actual report
19 that the employer made to the employment security office
20 and the ability of the recipient to subpoena the employer
21 in the event that there are errors is the only way to explain
22 that error. Because once it appears in the IBM printout,
23 without the subpoena power then it is a fact that cannot be
24 challenged.

25 I'd like to just make a couple of brief comments

1 on the earnings clearance system with respect to the
2 general use of the social security number as an enumerator.

3 I think that the last 30 years have shown an
4 increasing use of the social security number as an enumerator
5 with an incremental increase in the kinds of problems
6 generated.

7 The recommendations now being made -- I have
8 read the Social Security Number Task Force report from the
9 Social Security Administration -- speak of several
10 different points in time as to which mass enumeration would
11 occur, ninth grade, the entry into school, birth. And I
12 would suggest for several reasons that if enumeration is going
13 to proceed that it should proceed at the very earliest date,
14 and that would be at birth, for several reasons.

15 If enumeration as in H. R. 1 will occur when a
16 person applies for some sort of Federal benefit, I think
17 that enumeration will occur primarily in welfare, will
18 occur primarily in drug prevention programs, venereal
19 disease clinics, a number of Federal programs that operate
20 like that which may very well discourage-- I think it's
21 clear in, say, a drug prevention clinic or venereal disease
22 clinic if a person knows when he goes to obtain some
23 service that at the same time he is going to for the first
24 time receive a social security number, the combination of
25 those two factors may very well discourage the utilization of

1 that service.

2 If enumeration occurs at the entry into public
3 school or the entry into school, then most children 5 or 6
4 years old as they are entered into school will have been
5 enumerated previously only through the welfare system,
6 and I think it fairly safe to say that that enumeration
7 procedure will then distinguish between the welfare
8 recipients -- most people who recognize the previous receipt
9 of a social security number as the receipt of welfare with
10 the tendency to stigmatize children as they enter school.

11 Going into the ninth grade, which has been
12 another grade proposed, I think that possibility is even
13 greater then because of the greater awareness, greater
14 awareness of the stigmatization that is attached to the
15 receipt of welfare.

16 And also perhaps another problem that I really
17 see is that which the committee has touched upon at its
18 last session. H. R. 1 requires the Secretary to utilize
19 measures to insure that a social security number will be
20 applied for when the person first applies for Federal
21 benefits. How do you deal with the person who refuses?

22 And in California, probably the State with the
23 largest pilot project in social security enumeration, the
24 State has dealt with that by making the application for a
25 social security number a condition of eligibility. If one

1 refuses to apply for a social security number, he doesn't
2 get the benefit.

3 How is that going to be achieved for nonwelfare
4 recipients in schools?

5 Realistically, I mean, my understanding of the
6 use of social security enumeration is universality. If
7 the number is to be a universal enumerator, the only way to
8 deal with the perhaps unwise principle, aberrant behavior
9 of the person who refuses, or the parent who refuses to
10 have his 5- or 6-year-old child receive a number-- To make
11 it really efficient, one will have to refuse entry into
12 school. Otherwise this will not achieve universality.

13 If people can refuse when they apply for
14 Federal benefits, when they enter school, the universality
15 nature of the number will not be achieved.

16 That's why I believe that it really should be
17 done at birth. Therefore, I think perhaps some of the
18 problems that concern this committee and concern a large
19 number of people in terms of some of the consequences to
20 privacy of large, extensive data banks would be made most
21 emphatic by making it a condition of birth that you receive
22 a social security number.

23 One final point that I would like to make I
24 think is that-- Or I'd like to ask the question: Why
25 welfare recipients? Recent reports that I have read in the

1 newspaper indicate a very increasing degree of income tax
2 evasion on the part of corporations, an increasing degree
3 of income tax evasion on the part of private individuals.
4 One area I believe which is relatively unchecked in terms
5 of income generation is that of the purchase and sale of
6 stocks and bonds, corporate securities.

7 For the same reason that welfare recipients are
8 being used as the first group of people to receive universal
9 social security numbers for the purpose of determining their
10 income, a more universal use ought to be made of the system
11 in terms of the earnings of all other income.

12 Perhaps making receipt of a social security number
13 as a condition of birth will heighten in people's minds
14 some of the consequences and possibilities that extensive
15 enumeration, collection of data bring about.

16 I think that the kinds of fears that people
17 talk about and use are not really a device of rhetoric.
18 California has just 2 days ago passed by overwhelming
19 majority an amendment to the State Constitution to add to
20 the phrase that citizens in the State of California are
21 entitled to the rights of life, liberty and the pursuit of
22 happiness, the words in the phrase, the term, "privacy."

23 The arguments made in opposition to that
24 proposition -- it's Proposition 11 -- were primarily with
25 that inclusion of "privacy" as a basic, fundamental right

1 of California citizens it may deprive the State Welfare De-
2 partment of the opportunity to investigate thoroughly the
3 earnings of welfare recipients.

4 That was the primary argument. That was the
5 only argument that was contained in the voters' handbook.

6 And in spite of that argument, I think that the
7 percentage of the vote was around 67 or 68 percent in favor
8 of that amendment to the State Constitution.

9 But I think that probably exists as one of the
10 few broad referendums throughout the country on the
11 importance of privacy in the lives of Americans.

12 And I think that we are faced with that one
13 argument -- that it may hinder the verification of welfare
14 eligibility -- but Californians overwhelmingly preferred to
15 insure the right of privacy.

16 That's all.

17 MR. MARTIN: Are there questions for Mr. Abascal?

18 Mrs. Gaynor?

19 MRS. GAYNOR: I pass at the moment.

20 MR. ABASCAL: Could I add one other thing? I
21 don't think that the committee has specifically considered
22 this, but I'd like to add just one other thing.

23 The committee is concerned with the use of data,
24 personal data systems, in HEW. I think that there are some
25 very, very constructive uses of data that can be achieved

1 through the Department. I think it's really the responsibility
2 of the Department to do so.

3 PSYCHOLOGY TODAY, the magazine PSYCHOLOGY TODAY,
4 in its November issue this year has a relatively extensive
5 article on public attitudes with respect to the welfare
6 system. The author of that article conducted a relatively
7 extensive survey across the country and asked opinions
8 with respect to several statements which very closely match
9 what HEW characterized as six myths about the welfare
10 system.

11 One, there are too many people receiving welfare
12 money who should be working.

13 Two, many people getting welfare are not honest
14 about their need.

15 Three, many women getting welfare money are
16 having illegitimate babies to increase the money they get.

17 The author of this article used seven statements
18 like that surveyed extensively across the country, and
19 from that he derived what he called an "anti-welfare index."

20 He said income and education were related to
21 anti-welfarism in slightly different ways. The higher a
22 person's income, the more likely he was to take an unfavor-
23 able view of welfare. For education, the curve was U-shaped.
24 Respondents with a sixth grade education or less were the
25 least anti-welfare. Those with seventh to twelfth grade

1 education were the most anti-welfare. The college-educated
2 were in the middle but they were only slightly
3 less anti-welfare than those at the middle levels.

4 This finding deals something of a blow to the idea
5 that education elevates one's critical capacities, since
6 it is clear that a large number of well-educated Americans
7 accept many myths and misconceptions about welfare.

8 I think it was something to be applauded when HEW
9 distributed that little memorandum about a year or year and
10 a half ago called "Six Myths about the Welfare System." But
11 I think one thing the Department should do with the data
12 which it collects, which it has almost unique control over,
13 is very expansive distribution of that data and the
14 generation of a real public relations effort.

15 Because I think that the basic premise that this
16 committee exists upon is that enumeration will make more
17 efficient the verification of welfare eligibility, which
18 is based upon the premise of widespread fraud.

19 Many of the problems that HEW deals with in a
20 political sense with respect to its relations to Congress--
21 I think that perhaps from reading the debates on H. R. 1
22 this year that it would be very interesting to determine the
23 degree of anti-welfarism in Congress on the basis of correla-
24 tion in terms of education.

25 But I think it fair to say that HEW took a bit

1 of a drubbing in Congress this year, and from many of the
2 statements that I read on the floor of both houses there
3 seems to be widespread lack of knowledge on the part of
4 Congressmen.

5 But I think that that is constructive use of the
6 data that ought to be made.

7 HEW knows how long the waiting lists are throughout
8 the country to get into the WIN program, Work Incentive
9 Program, the training program for welfare recipients. That
10 fact if publicized may have some effect on the myth that
11 welfare recipients do not want to work.

12 HEW has information and the data as to the
13 average family size in AFDC and has information that the
14 average family size has been declining for the past 8 years
15 and that it declines more in those areas in which there are
16 extensive family planning services being offered by State
17 welfare departments. That information widely publicized
18 may partly dispel the mythology of widespread illegitimacy
19 and that, as some Congressmen characterize them, a large
20 number of welfare recipients are not "brood mares" who come
21 into the welfare system for the purpose of generating
22 more and more children to get more money.

23 But that data exists, and HEW can use it, and
24 that would be a very positive way of utilizing the data
25 systems available to the Department.

1 MR. MARTIN: Dr. Gallati?

2 DR. GALLATI: Pass at this time.

3 MR. MARTIN: Professor Allen?

4 PROFESSOR ALLEN: I'd like to ask about what
5 constraints, if any, you would recommend upon the use of
6 the social security number.

7 MR. ABASCAL: Well, I can't-- I guess like a lot
8 of people I cannot base it upon a factual foundation. I,
9 like most or many other people, immediately react negatively
10 to the use of social security numbers for the collection
11 of data. I think that perhaps some facts, some trans-
12 gressions of people are best left uncollected.

13 People grow over the years. And the reformed
14 juvenile delinquent is a very common occurrence. And some
15 things just ought not to be collected.

16 I basically, just viscerally, am opposed to the
17 collection of data, to the use of data banks and social
18 security enumeration, any kind of enumeration. However,
19 I believe that is unrealistic. And really my feeling on the
20 other side of it, which is not responsive to your question,
21 is that the whole issue should be brought to a head and
22 there should be the most expansive or suggestions for the most
23 expansive use of enumeration or the most expansive data
24 banks.

25 And that's why I suggest, and it's really not

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1 a contentious suggestion-- I think that difficult questions
2 are often resolved in the sense of crisis or conflict.

3 And what has happened with enumeration, collection of data,
4 is that we have had an accretion, a very slow one over a
5 period of time, and people ask questions about, "How do you
6 protect it?" I think there are a number of ways.

7 And many other people have made suggestions that
8 you have access to the system, that you be able to challenge
9 it, that you have administrative proceedings like the Fair
10 Credit Reporting Act has a system where one can challenge the
11 data that exists.

12 But most importantly I think, you know, beyond
13 the narrow area of welfare, is that individuals be permitted
14 to know what has been collected on them. Once they are
15 permitted to know what has been collected, they can challenge
16 that.

17 I'm uncomfortable with the collection of many
18 things because I think that some things should perhaps be
19 left uncollected and unrecorded in a broad sense in one's
20 individual or collective history.

21 I don't know the extent-- I think that has been
22 generally unresponsive.

23 MR. MARTIN: Professor Weizenbaum?

24 PROFESSOR WEIZENBAUM: I'll pass for now.

25 MR. MARTIN: Mr. Siemiller?

1 MR. SIEMILLER: You referred to the WIN program.
2 Would you be prepared to give us your opinion as to why
3 the WIN program is very unsuccessful as of this time?

4 MR. ABASCAL: Well, it doesn't deal with what is
5 perhaps the basic problem of employment. That is, the
6 country has gone through many structural changes in the
7 past. There is an evolutionary process of structural
8 changes, and it has nothing to do with job creation.

9 Now, as a result of the Talmadge amendments of
10 December of 1971 there is an increasing emphasis on job
11 creation. And I, perhaps maybe as a minority with some of
12 my colleagues, welfare attorneys or property lawyers around
13 the country, do not look upon the Talmadge amendments to
14 the WIN program and the job training program with great
15 fear. I think there is the possibility of some real positive
16 benefit.

17 The Federal Government for the past 10 or 12 or
18 13 years has invested tens of billions of dollars in job
19 training and very, very little in terms of job creation. And
20 that change in emphasis in the WIN program may very well
21 herald a period in which the program will be looked upon
22 positively.

23 To qualify that, in spite of nearly everyone
24 who looks at the WIN program or the job training, manpower
25 efforts in welfare over the last 10 years since 1962 as
 relatively unqualified failures, nevertheless, recipients

1 in spite of that are clamoring to get into the WIN program.

2 There is a lack of knowledge on the part of the
3 recipients as to the value of the WIN program, but I think
4 that is demonstrative of a great deal of hope that the WIN
5 program could in an individual sense create some sort of
6 permanent, meaningful employment for recipients.

7 So I think it is a strange anomaly that exists --
8 that the WIN program is a comprehensive failure and recipients
9 clamoring to get into it, nevertheless.

10 MR. SIEMILLER: We find in WIN that the tax
11 incentives for the employer to take on the WIN program
12 are such that if retention is a problem and the individual
13 doesn't stay the period of time, he loses any tax incentive.

14 And I am working with the National Alliance of
15 Businessmen, and the (BOL) has asked us to peddle the
16 program, and the employer is reluctant to take it on
17 because of the strict interpretation on retention to get
18 any tax benefits. And I think it's a very hard program to sell
19 in the public sector.

20 MR. ABASCAL: Yes. This doesn't deal with the
21 committee, but I think one way to deal with that is to
22 create some sort of a scale where the tax benefit will
23 accrue in an increasing amount as the period of employment
24 increases instead of just a flat 20 percent.

25 MR. SIEMILLER: I agree with you.

1 MR. MARTIN: Dr. Impara?

2 DR. IMPARA: I pass at this time.

3 MR. MARTIN: Miss Noreen?

4 MISS NOREEN: I believe that you suggested that
5 the social security number should be issued at birth because
6 that would make it more universal. I was wondering what
7 you see as the harm of not having the number be universal.

8 MR. ABASCAL: Well, I'm not a systems analyst. I
9 think that they would say that when it is not universal,
10 in the welfare sense let's say, that it's not made a condi-
11 tion of eligibility for the receipt of welfare but that
12 one can refuse it. Well, if you conclude that a system
13 like the earnings clearance system is worth a candle in
14 terms of cost-benefit ratios, I think in the welfare
15 context not making it a condition of eligibility is
16 relatively irrelevant because most employment that is
17 going to return a fair amount of money will be social security-
18 covered employment.

19 The only kind of employment that really won't
20 be reported to that kind of system is pin money,
21 domestic employment, baby sitting, the kind of employment
22 that is outside the social security system anyway.

23 In terms of the mass enumeration at the entry
24 into school, very few people are going to resist that, but
25 some people will.

1 And I think that the computer technician people
2 because perhaps of the concept of closure would resist the
3 absence of a mandatory requirement.

4 MISS NOREEN: If these people aren't involved
5 in the welfare system and they resist getting the numbers,
6 what harm would that do to the welfare system?

7 MR. ABASCAL: I see no reason to make a mandatory
8 requirement. I think from the limited experience that has
9 occurred so far in mass enumeration projects in school,
10 from the reports that I have read, there is almost universal
11 acquiescence. Rarely is there ever resistance.

12 I think there should be the opportunity for
13 resistance. I think that really people ought to have the
14 opportunity to not be enumerated. Most people will. But
15 I think that in the sense of raising some of the issues in
16 the public mind that, you know, to fail to require
17 universality is to keep the issue at the level that it
18 has existed in the past.

19 Some people are concerned about it. But I think
20 what I said earlier, by in a sense creating crisis, in a
21 sense, some policy issues become more apparent to the
22 public and they will think about some kind of resolution
23 one way or the other.

24 That's why I think universality should be
25 required and it should be required at birth, and those kinds

1 of recommendations should create that potential for real
2 consideration in terms of the public mind. Otherwise there
3 is going to be the continued accretion.

4 You know, in a certain sense this committee is
5 a fait accompli both in terms of H. R. 1 and
6 much of the enumeration that has gone on.

7 Perhaps in a sense the most that this committee
8 has an opportunity to do is to suggest some protections.
9 But as to the basic question of mass enumeration and
10 collection of data, I think that the committee is faced
11 with that kind of fait accompli. And perhaps greater public
12 consideration of the whole issue would be enhanced if it
13 reaches -- I don't want to use the dramatic term; I don't
14 think it's a crisis point -- but if the whole issue is
15 emphasized instead of going through this step by step as we
16 have in the last 30 years.

17 Because at each step there is self-interest
18 built in. As each step is built in, people benefiting
19 from it either in terms of technicians or actual generation
20 of information are resistant to basic changes.

21 MR. MARTIN: Professor Weizenbaum?

22 PROFESSOR WEIZENBAUM: Yes.

23 MR. MARTIN: Before you do, let me just call to
24 the committee's attention, in case you haven't noted it, the
25 text of the amendment to the Social Security Act relative

1 to the issuance of social security account numbers, to which
2 Mr. Abascal referred, is in your folders.

3 Professor Weizenbaum.

4 PROFESSOR WEIZENBAUM: I just wanted to be
5 clear. I think you made a distinction although you may not
6 have made it as explicit as you might wish to between
7 your concern that any form of identifier issued under
8 certain circumstances to certain people may stigmatize
9 those people-- That is your concern?

10 MR. ABASCAL: Yes.

11 PROFESSOR WEIZENBAUM: Okay. Now, you go from that
12 to what you believe to be a possible solution of resolution
13 of that concern -- namely, that everyone be identified
14 in the same way at some arbitrary time, for example at birth.
15 That represents your solution to that problem.

16 Now, if I may say so, I believe you are
17 competent to state the concern that you stated. Now, the
18 question of whether that is a good or feasible solution
19 or whether there are other solutions to that problem may
20 be largely a technical question where your solution is maybe
21 one of many.

22 MR. ABASCAL: I think there are two or three
23 problems in terms of picking a time period after birth of
24 mass enumeration. There is one of stigmatization. The
25 other is: Is one going to require that the particular

1 benefit, speaking generally in terms of benefit, be condi-
2 tioned upon acquiescence to enumeration?

3 Both of those problems I think would be
4 solved. If the possession of a social security number means
5 nothing more -- if one can infer nothing more -- than one
6 has been born, then the problem of stigmatization is reduced.

7 PROFESSOR WEIZENBAUM: I understand that, but
8 you seem to take for granted that some form of identification
9 by enumeration is necessary. I'm suggesting it may not be.

10 MR. ABASCAL: No, I believe that I am proceeding
11 on what appears to be the inevitable. We have H. R. 1,
12 the mandate of Congress. And that mandate of Congress I
13 think has proceeded on a premise that it is more valuable
14 to do this and more valuable to have systems like the
15 earnings clearance system than to not have them.

16 And I think there is a general belief among
17 policy makers that that is the case. And particularly there
18 is a belief on the part I think of technicians, computer
19 analysts and people --

20 PROFESSOR WEIZENBAUM: So what you are saying
21 fundamentally is that policy makers and technicians believe
22 such and such but you are not telling us particularly what
23 you believe. You are saying-- You used the word "inevitable."

24 MR. ABASCAL: I believe -- my own opinion is --
25 that it should not be, that there shouldn't be mass

1 enumeration. There should be the opportunity for some
2 people to err and have that undiscoverable essentially. An
3 arrest record in El Centro, California is nevertheless an
4 arrest record but may not be available to people without
5 enumeration and collection of data. It's the collection.

6 And I think that the kind of efficiency that
7 computers offer to mass data retrieval is the problem. I
8 don't think enumeration is the problem.

9 PROFESSOR WEIZENBAUM: I just want the record to
10 be straight on what I take your position to be. In effect,
11 what you are saying is that if identification by enumera-
12 tion is necessary and inevitable, a conclusion with which
13 you don't wish to agree -- but if it is inevitable, then
14 you would like it to start at some arbitrary point as for
15 example at birth?

16 MR. ABASCAL: Yes. I think it would be far more
17 preferable than having it start upon the receipt of
18 Federal benefits, because the receipt of Federal benefits
19 is for the most part welfare.

20 PROFESSOR WEIZENBAUM: But it's a conditional
21 statement? You are saying "if it is inevitable" --

22 MR. ABASCAL: Yes.

23 PROFESSOR WEIZENBAUM: -- but you don't
24 necessarily believe that it is inevitable, or, in any case,
25 you don't wish for that conclusion?

1 MR. ABASCAL: The latter. Right.

2 PROFESSOR WEIZENBAUM: Okay.

3 MR. MARTIN: Professor Miller?

4 PROFESSOR MILLER: I think Joe has just pursued
5 the process of straightening out the thesis of the speaker
6 that I had wanted to undertake.

7 You should note that section 205 of H. R. 1
8 simply authorizes the Secretary to take affirmative action
9 to enumerate school children when they enter the rolls.
10 It doesn't mandate that the Secretary do it. And, therefore,
11 I would disagree to say that the issue has been completely
12 taken out of our hands. It is still within our
13 power to recommend to the Secretary that he not necessarily
14 use the authorization that Congress has given.

15 If Congress hasn't told him to do it, you can
16 do it --

17 MR. ABASCAL: But it does mandate the issuance of
18 a number on receipt of Federal benefits.

19 PROFESSOR MILLER: Okay. Let's pursue that. I
20 have great sympathy, as some people around the table, with
21 the astigmatization problem of modern information systems
22 and losses of privacy. But I think it's unfair to say
23 that the social security number and having it is by itself
24 an astigmatizing fact when it is realized that you must
25 in modern society have a social security number to have a

1 bank account, to pay taxes, to register your vehicle in most
2 States.

3 The notion that it is astigmatizing seems to be
4 a little overstated.

5 MR. ABASCAL: But with the change in H. R. 1
6 that occurred in conference committee authorizing the
7 Secretary and not mandating the Secretary to require
8 enumeration at entry into school, then children who are 5
9 years of age and have a social security number are primarily
10 going to have one because they are welfare recipients.

11 PROFESSOR MILLER: Oh, I think that's a false
12 statement. My son has had a social security number since
13 age 1.

14 MR. ABASCAL: Why?

15 PROFESSOR MILLER: For the simple reason that he
16 has a bank account or for the second reason that --

17 MR. ABASCAL: Most poor people don't have bank
18 accounts.

19 PROFESSOR MILLER: Well, you're telling me the
20 only people who have social security numbers are poor
21 people on welfare. I'm telling you ironically the middle
22 class and wealthy children also have social security
23 numbers if there is any sort of a trust or banking arrange-
24 ment or taxpayer obligation that has descended upon them.

25 Probably the only people who don't have social

1 security numbers by the time they hit the first grade are
2 I would say lower middle income people.

3 MR. ABASCAL: Then I would suggest the committee
4 determine that actual fact. What is the extent of social
5 security number issuance with respect to children under the
6 age of 6 years of age?

7 If, in fact, there is a relatively high incidence,
8 then the possibility of stigmatization is minimal. If
9 there is not, then the possibility is high, because H. R. 1
10 says one must apply for a social security number upon the
11 application for Federal benefits. Most other Federal welfare
12 is given to corporations. And it speaks to individuals.
13 So individuals applying for Federal benefits who are under
14 the age of 5 are going to be primarily AFDC recipients.

15 If, in fact, that is true that there is rela-
16 tively widespread possession of social security numbers for
17 people under the age of 6, then I readily concede my premise
18 is false.

19 PROFESSOR MILLER: You see, I think the big
20 issue is on the conditional statement. If the enumerator
21 is indeed to become universal -- that is the question --
22 the when clause to me then is absolute trivia as to whether
23 it's administered by stamping it on the infant's foot in the
24 hospital or whether you give it to him in the first grade.

25 I think the level of astigmatization of the one

1 day the kids line up in school to pick up the forms to get
2 mommy and daddy to fill them out for the social security
3 number and a few of the kids don't have to take the forms
4 home to mommy and daddy-- I think that's silly.

5 I think the real question is the legitimacy of
6 the universal identifier, the "if" clause.

7 MR. MARTIN: Mr. Dobbs.

8 MR. DOBBS: I had a couple of questions about
9 the earnings clearance system. You mentioned several
10 items which seem to address inadequacies and inconsistencies
11 in the two separate systems which we are trying to in some
12 sense merge to accomplish this function.

13 And I guess one question I would ask is: Had
14 not these inadequacies existed which in fact would give
15 a false information base, if you will, for the conclusions
16 reached, would you have advocated that such a system would
17 be a reasonable one? You know, ignoring the --

18 MR. ABASCAL: I wouldn't have advocated it. I
19 wouldn't have resisted it perhaps to the same degree or
20 perhaps resisted it at all. Because to the extent that
21 it discloses fraud and assists in the prevention of fraud,
22 then it benefits the large majority of welfare recipients.

23 But to the extent that is a false indicator
24 and to the extent that administrative procedures, not by
25 malevolence but by just the overwhelming case load that

1 welfare departments have -- to the extent that it is an
2 invalid indicator of fraud and initiates fraud proceedings,
3 not fraud in the sense of criminal but the collection of
4 presumed overpayments without sufficient investigation
5 is the primary use of that kind of information -- where
6 it is unwarranted-- Ninety-nine percent of the people are
7 not going to resist presumed overpayment reduction for
8 reduction of grant.

9 It was very evident in 1970. A very similar
10 experience occurred in which HEW investigators issued a
11 report in which they have terminated or reduced grants to
12 approximately 25 percent of the case load. HEW went in,
13 investigated subsequently, and found approximately 22 percent
14 of those erroneous. There were around 3 percent correct
15 determinations. There was a wholesale purge of grant
16 recipients, reductions and terminations, which very, very
17 few people resisted. Very few. Not more than I think
18 initially-- For 3 months I don't think there were more
19 than 100 requests for hearings made during that period of
20 time.

21 So I would add one further comment to that: That
22 the committee, if it does conduct an investigation or obtains
23 such information as to the different explanations for
24 discrepancy, should suggest to the Department that if
25 there is going to be widespread use of such systems that

1 there be an extensive enumeration of the alternate explana-
2 tions, how they can occur, so that case workers when they are
3 confronted with the basic data, \$1,200 in the one system and
4 \$1,000 in here, would explore each of those possibilities
5 first before they conclude that there is fraud.

6 MR. DOBBS: I guess the fundamental indictment
7 is that, in fact, here is a case of a system which
8 was inadequate for the purposes for which it was
9 ostensibly designed, that in principle the fundamental problem
10 that was to be solved in itself is a real problem. In
11 principle one needs information in order to deal with that
12 of some kind.

13 Now, your action is a class action if I remember
14 correctly.

15 MR. ABASCAL: Yes.

16 MR. DOBBS: Were individuals indicted on the
17 basis of information out of the earnings clearance system?

18 MR. ABASCAL: Well, we initiated the case before
19 the system was utilized in any kind of a broad extent, and
20 it was only after we lost the case that a broader use of the
21 system has been initiated, although there were three or
22 four counties in the northern part of California in which
23 the comparisons were made before the case was brought.

24 Thus far there has been no publicity given to the
25 extent of actual fraud that occurred, the number of

1 prosecutions, the percentages, and so forth. And, in fact,
2 when the press has asked the department pointedly for that
3 data, they have said that that's not presently available
4 or they haven't analyzed it as of yet.

5 There is no indication as to the efficiency
6 in that sense as of yet.

7 MR. DOBBS: So, in any event, then, I guess,
8 given the discrepancy in the originally published report and
9 the subsequent analysis, we do not even yet have any hard
10 data in terms of the percentage of recipients who in fact
11 were engaged in fraudulent practices at least as proved in
12 a court of law?

13 MR. ABASCAL: Yes. I would, you know, really
14 caution you to realize what 41 percent of apparent fraud
15 means.

16 On one hand, it means these discrepancies. But
17 the 41 percent refers to-- First they start with the top
18 10 percent of those who earn income. Only 20 percent of the
19 entire case load earns income, so there we are dealing with
20 only 2 percent of the entire case load. The top decile
21 then is a much, much smaller figure, and it's 41 percent
22 of that top decile is what 41 percent means, but it means
23 also discrepancies, not fraud.

24 MR. DOBBS: I was interested in your statement
25 that there had been detection of substantial failure in

1 such systems to act on data furnished by recipients, and
2 in that connection are you talking about data which was
3 furnished by recipients as a result of the requirement of
4 the collection process itself -- that is, those forms -- or are
5 you talking about other kind of data which was ancillary to
6 that?

7 MR. ABASCAL: One problem that arises frequently
8 enough to create problems for us -- and we have had a
9 number of individual hearings on it -- the recipient
10 begins working in the month of April, April 15th reports
11 that fact to the department. And grant alterations, reduction
12 in grant taken in consideration of the earned income, do
13 not occur until June or July.

14 They say that the payment in May and June--
15 Let's say the first alteration of the grant is made in
16 July. They will characterize the May and June payments
17 as partially overpaid, that the recipient was partially
18 overpaid during those two months, and that overpayment will
19 be considered and the grant will be reduced accordingly
20 over the next few months.

21 Now, in terms of the system again, if the
22 recipient earns income in April but it is not taken into
23 consideration until June, then the records will show income
24 in July but none in April or May. Again we have a showing
25 of a discrepancy and a claim of apparent fraud.

1 It's the time factors. I think the time factors
2 are the most important in these comparison systems,
3 because the conclusions I think for the most part reveal
4 the time problems and not fraudulent conduct.

5 MR. MARTIN: Commissioner Hardaway?

6 MRS. HARDAWAY: Mr. Abascal, you spoke of enumera-
7 ting at birth or enumerating at any given period. Of
8 course, once we do that, we know that the interchange of
9 data becomes easier. And you spoke of collecting data
10 and that we should have an opportunity to correct that data
11 from time to time. And I agree.

12 What safeguards would you suggest along those
13 lines? -- allowing us to correct records once they have been
14 gathered?

15 MR. ABASCAL: I think the correction of
16 records is primarily to be found in the initiation of pro-
17 cedure by the individual affected, and that depends upon the
18 availability of the data that has been collected.

19 I think a number of agencies perhaps for the data
20 that they are collecting will not be willing to reveal
21 some of the things they are collecting. That's a possi-
22 bility.

23 But I think the primary safeguard ought to be
24 access to the information that has been collected and the
25 opportunity to correct it, the opportunity to challenge

1 particular data.

2 Now, one thing in terms of the point in time at
3 which enumeration begins, there is a universal enumerator
4 presently used at birth -- birth number. And I don't know
5 the costs of conversion or designation of a birth number
6 as opposed to the social security number as the universal
7 enumerator. But there is presently universal enumeration
8 that occurs at least with respect to people born in the
9 United States.

10 I don't know the extent to which the committee
11 has considered that. We do have a universal enumerator.
12 It's just not used.

13 MRS. HARDAWAY: Let me ask you one other question.
14 If a number were given at birth, would you be in favor or
15 would you suggest that the census be tracked through that
16 number, that that number be used to keep up with the
17 population?

18 MR. ABASCAL: I really haven't thought about
19 that. It's hard to think of the possible consequences or
20 why-- Why would you want to keep up with the population?

21 MRS. HARDAWAY: Well, that's what I'm asking.

22 MISS COX: Census.

23 MRS. HARDAWAY: Would you be fearful that if
24 a number was given at birth that at some time in some
25 particular political climate it would make it extremely easy

1 to track certain segments of the population?

2 MR. ABASCAL: A number is given at birth. And
3 what seems a little silly --

4 MRS. HARDAWAY: I'm talking about a universal
5 number.

6 MR. ABASCAL: It is a universal number in the
7 sense for everyone born in the United States he receives
8 a birth number through the National Center for Social
9 Statistics, division of HEW. It seems a little silly to
10 assign a number upon birth and then 5 years later assign
11 another number universally so one receives two universal
12 numbers. That seems redundant.

13 MRS. HARDAWAY: I believe that's what I'm
14 getting at. If that was done away with and we had
15 one number which was "it," so to speak, would you see
16 then maybe added importance to that one method? It would
17 become so universal then --

18 MR. ABASCAL: I think that's --

19 MRS. HARDAWAY: -- and we would use it so much that
20 then under a particular political climate, let's say for
21 instance, it would be very easy then to track certain segments
22 of our population?

23 MR. ABASCAL: Certainly I think that is both the
24 danger and the benefit of universality, that from its
25 efficiency in the collection of data, efficiency in the

1 following of people it precludes the possibility of
2 anyone-- I mean there are beneficial results to people
3 assuming new identities. Maybe it's mainly from TV
4 dramas, but I think there are benefits. Some people assume
5 new identities for positive reasons because of problems with
6 their past identities and things they did not want known.

7 Any kind of universal number and collection
8 increases the possibility that that could not be achieved.
9 It increases the Government's ability to track people and
10 to collect little bits of information that don't
11 necessarily detract from the character of a person but
12 they reveal something about his past, something that may
13 have no inference, no ability to create inferences at the
14 present.

15 MRS. HARDAWAY: One quick question. You would
16 then see personally some danger that a one-number system,
17 so to speak, would mean that we might become so efficient
18 we might gobble each other up?

19 MR. ABASCAL: I think that's the kind of feeling
20 people have viscerally. I think that that's the kind of
21 feeling reflected in California's what I consider overwhelming
22 approval of the inclusion of privacy into its State Constitu-
23 tion.

24 I think the people, perhaps irrationally as the
25 technicians would have us believe, believe that there are

1 great dangers. Conceding that to be irrational, perhaps
2 it is, nonetheless, I think, perhaps a widespread feeling.

3 MR. MARTIN: Senor Anglero.

4 MR. ANGLERO: Changing from the unique identifier,
5 would you recommend or would you react to what kind of level
6 of aggregation should be established for personal, individual
7 information?

8 MR. ABASCAL: Level of what?

9 MR. ANGLERO: Aggregation. We might have from the
10 consumer, whoever it is, up to the central level. We can
11 have different levels of aggregation, city, county, State,
12 or whatever.

13 Would you recommend any kind of approach or any
14 kind of aggregation by which levels of aggregation should
15 be established?

16 MR. ABASCAL: My feeling, perhaps somewhat
17 irrational-- I feel there should be no aggregation, my
18 own personal feeling. However, as a political tactical
19 matter I believe there should be the maximum amount of
20 proposed aggregation so the public will become most aware
21 and make some kind of concerted decision.

22 MR. ANGLERO: As individuals or statistically?

23 MR. ABASCAL: I'm not sure of the distinction
24 you're making.

25 MR. ANGLERO: You have information aggregated to

1 the national level without any identifiers in the person of
2 individuals. Okay. But having the individual with informa-
3 tion, you think it is not proper to have it at the central
4 level, national level?

5 MR. ABASCAL: I do, but I think collecting
6 information without an identifier satisfies only one's
7 academic interests, and I think that the interest primarily that
8 would be achieved by data enumeration and universal
9 enumerators is not academic. It's not research-oriented,
10 although it has that possibility and that is a positive
11 benefit that can be generated out of it.

12 But I think it's primarily looked upon as having
13 the benefit of associating the data collected, the
14 facts collected, with the individual.

15 MR. ANGLERO: Well, here is what I have in point.
16 I can't see -- would you explain it better? -- in the
17 place we are now why we shouldn't have that information to
18 know what is happening to those people and who are those
19 people if we are dealing with policy or the kind of
20 administration that is held here in Washington, let's say,
21 or any State capital.

22 MR. ABSCAAL: Let me be more specific because
23 I'm not sure if I understand.

24 The fact of illegitimacy of a particular
25 illegitimate birth I think is a worthwhile statistic for

1 collection. The fact that a particular person is a bastard
2 I think raises another question.

3 Now, that's what I understand your question to be,
4 whether the association of the enumerator-- I think that
5 the existence of an individual enumerator will necessarily
6 associate the fact with the individual.

7 MR. ANGLERO: What level should it take place?

8 MR. ABASCAL: I don't think it should take
9 place at all. And if this be irrational, I think it is
10 perhaps in a sense reflection of a large part of the American
11 public. I don't think it should take place at all. I
12 think if it doesn't take place at all, if there are detri-
13 ments-- I think there are certain things that cannot be
14 done if there are inefficiencies and there are benefits
15 that do not accrue to Government, and I think some of those
16 benefits should just not accrue.

17 Government in many, many areas operates very
18 inefficiently. There is wasteful expenditure, tremendous
19 wasteful expenditure, of a great deal of money. And to
20 sanction such inefficient on the one hand and to
21 elevate, to deify efficiency on the other hand-- I think
22 at least it should be recognized that perhaps efficiency,
23 the benefits that accrue are not the primary consideration.
24 They are an element.

25 MR. MARTIN: Senator Aronoff?

1 SENATOR ARONOFF: Thank you.

2 Mr. Abascal, I'd like to take issue with one
3 thing that I think you said, just a minor point, but I think
4 you said that the fears really come a lot more from
5 some isolated cases in the area of the public rather than
6 with technicians.

7 If this committee is at all representative
8 of the public, the fears are far greater among the tech-
9 nicians who know the potentiality of the computer world
10 than among the public, which leads me to my question.

11 Because as I read the staff preparation of this
12 meeting, it says the principal purpose of this session is
13 to hear from individuals who are the subjects of records
14 stored in automated personal data systems and from persons
15 who can represent the views of groups of such indi-
16 viduals. And I suppose that is where you are.

17 Since May in this committee we have been looking
18 for those dramatic examples that we thought that you and
19 other witnesses might be able to bring to the committee
20 of harm that is being done by the way we collect, store,
21 disseminate data in the HEW systems and other systems.
22 In your job working with the public in your sensitive area,
23 can you give us any such examples?

24 MR. ABASCAL: Well, in the earnings clearance
25 system we have had instances which I described to you.

1 MR. MARTIN: Senator Aronoff came in --

2 SENATOR ARONOFF: I missed apparently 10 critical
3 minutes.

4 MR. MARTIN: If you don't mind, we might try to
5 get that from the record for you, if that is the only example
6 you were going to give.

7 MR. ABASCAL: Yes. Let me just respond to the
8 first remark you made. I think that I'm really not in a
9 position to be able to categorize or stigmatize the tech-
10 nicians universally. I really don't know what they-- But
11 I think perhaps maybe what I expressed is something that a
12 lot of people believe, that there is a great interest on the
13 part of computer analysts and systems analysts to do this,
14 to initiate these kinds of systems, when, in fact, maybe they
15 have increased knowledge of the kinds of dangers that
16 occur and they have the greatest knowledge of the extreme
17 kinds of efficiencies of data retrieval and interface.

18 MR. MARTIN: Miss Cox?

19 MISS COX: Just a comment before a question.

20 In looking at H. R. 1, I see that the Secretary
21 shall take measures to assure that the social security
22 number will to the maximum extent practicable be assigned
23 to these groups. And you raised the question of the
24 stigma that was attached to a child entering the grades.

25 I rather object to the somewhat overemphasis on

1 the stigma of having a social security number.

2 I think populationwise very few people really
3 consider it a stigma to have a social security number. And
4 I would look at the negative aspect, but I think we could
5 spend more time on the positive aspect and the advantages
6 that exist to having an identifier, the safeguard, the pro-
7 tection it might give us -- a social security number.

8 And I hate to feel the fact that I receive a
9 social security check every month means that I am on
10 welfare. Because I earned the money and I paid into
11 it, and it was an advantage, not a stigma, that I see of
12 having a social security number.

13 I don't see any strong argument that you had
14 on this making records balance.

15 Of course, I waited until I was 72 and then I
16 didn't have to report and I didn't go through any of the
17 disadvantages of how much you earn and so on by waiting
18 until 72 to draw it. Maybe I didn't see any of the dis-
19 advantages.

20 MR. ABASCAL: But heretofore the number has been
21 assigned, and if one is stigmatized at all by the possession
22 of a social security number the stigma is that one has
23 worked.

24 MISS COX: Has what?

25 MR. ABASCAL: Has worked. Primarily the people

1 in the past have acquired a social security number when
2 they began their first employment. So the inference that is
3 to be drawn by the possession of a social security number
4 means that sometime in the past you have been employed.
5 However, --

6 MISS COX: Well, that's not a disgrace.

7 MR. ABASCAL: No, I don't think so either. But
8 I think what is being talked about is the use of the social
9 security number for non-social security purposes.

10 MISS COX: For the welfare cases?

11 MR. ABASCAL: So if one is 6 years old and has a
12 social security number, if I'm right and Professor Miller
13 is wrong, then there is the possibility of stigmatization.

14 One goes the first few days in school, there is
15 assignment of a social security number, and the child says--
16 You know, the question is asked, "Do you have one already?
17 If you do, you don't need another one." And if you do
18 have one already and the incident at which you acquire it
19 is upon receipt of welfare benefits, then it is going to
20 create the inference that you were a welfare recipient.

21 Possibly I'm incorrect and there is a large
22 number of children who do have social security numbers and so
23 that that inference would not be general. I don't know.

24 MISS COX: I still object to saying being on
25 welfare is a stigma. I mean I think the whole --

1 MR. ABASCAL: I wish --

2 M ISS COX: Welfare workers or somebody have
3 put an awful lot of emphasis on it being a disgrace for a
4 person to have been on welfare.

5 MR. ABASCAL: I wish that attitude --

6 MISS COX: I know there are disgraceful cases. I
7 know that. But just to be on welfare shouldn't-- Or to
8 have a social security number I don't want to think of as
9 a stigma. It can be an advantage and a big advantage.

10 That's all.

11 MR. MARTIN: We're running slightly behind time.
12 I'd like to suggest we try to wind up in the next 2 or 3
13 minutes and perhaps that could happen if members would confine
14 their role to asking questions. The members of the
15 committee will have ample time to express their views to
16 each other at later times.

17 Mrs. Lanphere.

18 MRS. LANPHERE: I have one question I would
19 like your opinion on. If welfare recipients are made
20 aware and are specifically advised that the data
21 they give when applying for benefits will be entered on a
22 computerized data system, what do you think their reaction
23 would be?

24 MR. ABASCAL: I know what the reaction has been
25 so far. In California there have been a number of instances

1 where people have refused to apply for social security numbers
2 for their children.

3 The few that I know of -- and again the ones
4 that I know of because I know that in every instance
5 where a change in policy is made that we receive only a
6 few people who are affected by it who complain -- the
7 several instances that I know of, people have had some
8 other income and they have preferred to live on that income
9 alone rather than obtaining a social security number for
10 their child.

11 They don't know exactly why. They just think
12 that they don't want their 1-year-old or 6-month-old daughter
13 to have a social security number, and they object to the
14 recourse of either one obtains the number or no welfare.

15 Further, in California the form that is used
16 for the application for the number, the upper lefthand corner
17 is all red, bright red here. The other form, the standard
18 form, is blank. There is no red identification.

19 I don't know the purpose of that, but I assume
20 that is to identify the fact that the enumeration or the
21 application for social security number occurred upon the
22 application for welfare.

23 We have been advising people that if they wish
24 to-- I mean if they are going to obtain a number, to
25 acquiesce, we have been advising that they obtain the number

1 by going to a regular social security office and applying
2 on the standard form rather than on the form that is given
3 to them by the welfare department, not because I have any-- I
4 don't know why that is done, but in terms of one alternative
5 as opposed to the other it's probably preferable not to have
6 that red tag on the top of your permanent form.

7 MRS. LANPHERE: I really wasn't speaking in
8 regard to the number so much as the fact that this
9 data concerning the individual will be on a computer.

10 MR. ABASCAL: Well, there are many, many other
11 conditions which welfare recipients, which people in general
12 find objectionable, which are a condition of eligibility
13 in the welfare system.

14 There was until very recently, until a court case
15 that I was involved in, the requirement that an AFDC
16 mother applicant proceed with criminal prosecution against
17 her absent husband. In some instances where there is
18 contemplation of reconciliation the choice is made. It's a
19 hard choice.

20 Usually when you're applying for welfare you have
21 no other choice. You're the bottom of the totem pole or
22 barrel and you accept those conditions and you know that's
23 the kind of choice you have. Either you accept it and get
24 the welfare check or you refuse it and somehow make it --
25 somehow.

1 You know, perhaps one of the most egregious
2 examples of the way benefits can be conditioned is what we
3 call the "motel questionnaire" in California, in which
4 there was a very, very extensive questionnaire, very detailed
5 questionnaire, investigation, into the sex life of AFDC
6 applicants, frequency of sexual intercourse, the numbers,
7 the names of people, dates, places, all done on the basis
8 of trying to identify paternity, trying to insure
9 that we make proper identification of paternity where
10 paternity is in question.

11 And that was done for many, many years until
12 very recently, but it stopped only because of litigation.

13 But those kinds of conditions are accepted. I
14 mean if that's responsive to your question. I think, you
15 know, one out of ten thousand will object to it. Hardly
16 anybody will object to it. But I think they won't object
17 to it not because they agree with it but because they are
18 faced with the difficult choice.

19 MR. MARTIN: Mrs. Silver?

20 MRS. SILVER: May I let Mr. Gallati take my turn?
21 He had a question.

22 MR. MARTIN: Dr. Gallati.

23 DR. GALLATI: Thank you. I just wanted to
24 make a fast comment and then a question.

25 I was very much impressed with the way in which

1 you described the possible misunderstanding of these
2 kinds of records within a single department, and when
3 we get involved in linkages between departments and
4 between various levels of government the possibilities for
5 these kind of misunderstandings become, of course, magnified
6 considerably.

7 One of the problems too which I don't think you
8 touched upon relates to this question that you raised about
9 when one gets the universal identifier. And you, of course,
10 wish to have it done at birth so you would presumably,
11 therefore, accentuate the enormity of it.

12 MR. ABASCAL: And also to reduce any possible
13 stigmatization. I may be wrong that --

14 DR. GALLATI: I'd like to ask you a question.
15 That is, in the bill it says that the Secretary may
16 establish the true identity or take measures to establish the
17 true identity of such applicants. And I am one of these
18 single-minded people that feel there is only one way to prove
19 a person is the person he says he is and that is through
20 fingerprints. And I wonder if you would also suggest, in
21 line with your previous suggestion, that we fingerprint all
22 the babies?

23 MR. ABASCAL: Well, I think that the social
24 security number if it is to be used and one is to have a
25 great deal of faith in it as a prevention of fraud will

1 perhaps prevent the least clever welfare criminal, but the
2 person really intent upon borrowing somebody else's children
3 to establish eligibility can to my surprise in reading
4 the Social Security Task Force report obtain a multiple
5 number fairly readily.

6 It's only a question of the degree of the
7 earnestness with which they address their problem.

8 But if that number can be obtained that readily, if
9 the multiple number can be obtained that readily, then I
10 think that is a further argument for the use of birth numbers
11 or the issuance of both social security numbers and
12 birth-- Because it's difficult for one to duplicate
13 birth for the purpose of obtaining multiple numbers.

14 It seems to me the only way in which one could
15 get around that is to say that, "I was born in a woodshed.
16 I wasn't born in a hospital. Therefore, I didn't get
17 a number. And this is my first attempt to get a number."

18 MR. MARTIN: Mr. DeWeese?

19 MR. DeWEESE: I have two questions. Could you
20 describe what happens in the clearance system when the
21 discrepancies show up? What procedures then begin? What
22 mechanism?

23 MR. ABASCAL: I don't know the details of it.
24 But that again is the investigation of the reasons for the
25 discrepancy.

1 The fact of discrepancy alone is assumed to
2 indicate a case of possible fraud.

3 You know, I frankly do not know the extent to
4 which thorough investigation is made. I know that we
5 have seen instances-- And again I want to emphasize that
6 while I have had clients who have objected to the enumera-
7 tion, that kind of conditioning is very, very efficient and
8 people just acquiesce.

9 Again with respect to the problems created by the
10 earnings clearance system, we have had a few people who have
11 had those kinds of problems like I enumerated earlier. In
12 employment they worked in January and collected welfare in
13 March. They were told to come in for possible investigation
14 as to fraud. They contacted us first before they contacted
15 the welfare department.

16 That is very, very, very rare. People contact
17 us usually after the fact. And very few people contact us.

18 So I think that I can only give examples of
19 possible-- You know, I cannot give the kind of conclusive
20 evidence as to where it is spread, the kind of abuse that
21 exists. I can identify the kind of situations that we
22 have seen. How widespread that may be, how frequent
23 that error may be, may be trackless -- and fraud proceedings
24 begun or collection of overpayment.

25 I can't really give you an honest figure. I

1 think that kind of information is absolutely necessary, and
2 I think that the only entity or agency that can obtain
3 that information is HEW by extensive investigation of the
4 earnings clearance system. And I think it's really
5 absolutely necessary because I think that is the whole
6 premise, it is a major premise, for the existence of this
7 committee.

8 It is assumed these kind of systems are efficient
9 and are really worth initiation.

10 MR. DeWEESE: The second question I had had to
11 do with, given the results of the California referendum,
12 do you believe that there would be a widespread
13 opposition in the country to the idea of giving a person
14 a number at birth? Or do you think that this would just
15 sort of pass?

16 MR. ABASCAL: I would think that if a number is
17 required at birth and at the same time proposals are
18 made for extensive universal data banks in which all the
19 information is collected, various interest groups that obtain
20 it, credit agencies, agencies in the Government-- I think
21 if both those things occur, then if there is not widespread
22 opposition to it there will be acquiescence in it. And
23 if there is acquiescence in it, that's what the country
24 wants.

25 But I think that what has been experienced over

1 the last 25 or 30 years is constant accretion -- you know,
2 additional elements of enumeration of data collection. And
3 when they occur in small increments, I don't think the impact
4 of the possibilities is fully appreciated by the public.

5 MR. DeWEESE: In other words, it could be sort of
6 a tactic for flushing the whole issue out in the open?

7 MR. ABASCAL: That's my feeling, whether it's
8 right or wrong.

9 MR. MARTIN: Mrs. Gaynor?

10 MRS. GAYNOR: I would just like to pose one
11 question. Do you feel -- and you were primarily concerned
12 with the welfare recipients -- that if there was a system
13 established of informed consent and the recipient knew that
14 he had the right to know where the information collected
15 on him was going and how it was going to be utilized,
16 that the recipient would utilize this informed consent?

17 Now, I ask this question for two reasons. One,
18 how would the information get to the recipient from the point
19 of collection -- you know, that this is available? And
20 then there also comes an issue of survival and your remark
21 about choice. I understand this too.

22 But do you feel that the recipient should have
23 the access to informed consent relating to how this
24 information is going to be used?

25 MR. ABASCAL: Yes, I do, but I think that everybody

1 should have access to information.

2 MRS. GAYNOR: I just went on this point.

3 MR. ABASCAL: I think in terms of welfare
4 recipients probably in comparison to other groups that
5 probably very few of them would utilize such mechanisms.

6 MRS. GAYNOR: Is it only because of the survival
7 issue that you feel they wouldn't use it or it's because
8 they are not informed about it?

9 MR. ABASCAL: Partly that and partly lack of
10 information. I think that I'm still quite surprised to find
11 from time to time that people now are completely uninformed
12 about the earnings disregard. I mentioned that earlier.
13 That is, when you talk about work incentives, when that
14 lack of information exists and people are making decisions
15 as to whether they will work or not. The income disregard
16 has been in existence for 5 years, and many, many people
17 don't know about it.

18 MR. MARTIN: I suggest that we adjourn for coffee
19 now, which you are free to bring back to the table, so
20 plan to be back at 11:15.

21 (Whereupon, a recess was taken.)

22 MR. MARTIN: I'm sure that all the members of the
23 committee are aware of the role and functions of the
24 American Civil Liberties Union as a representative of
25 people asserting their civil rights or liberties.

1 We are privileged I think this morning to have
2 three lawyers, John Shattuck, Ira Glasser, and Frank Donner,
3 all of whom work in different settings under the auspices
4 of the American Civil Liberties Union, to share views with
5 the committee.

6 I will ask each of them to speak. I believe Mr.
7 Shattuck will go first, followed by Mr. Glasser and Mr.
8 Donner. I will ask each of them to introduce themselves
9 and state briefly something about the activities and the
10 particular functions of the American Civil Liberties Union
11 with which they are associated and suggest that you proceed
12 as you will.

13 Perhaps we will hear from all three of you, and
14 then we will throw the meeting open for questions and dis-
15 cussion.

16 Mr. Shattuck has a prepared statement of some
17 length which I trust he will present more briefly than in
18 its full length. It will be distributed to the members of
19 the committee later in the day when we have had a chance to
20 make copies of it.

21 MR. SHATTUCK: Thank you, Mr. Martin. We will
22 proceed as follows.

23 I will attempt to present an overview of the
24 ACLU's concern generally with the problems of automated
25 data systems, and my colleague, Mr. Glasser, will describe

1 in some detail a number of cases where the ACLU or its
2 affiliates are representing various persons who have been
3 in one way or another injured by governmental recordkeeping
4 practices. And Mr. Donner will attempt to summarize
5 our views about the effects of recordkeeping on the indi-
6 viduals who have been injured in other ways than purely
7 legal injuries.

8 Over the past decade the ACLU has actively
9 promoted efforts to protect the privacy and security of
10 citizens who are subjects of increasing numbers of government
11 records, and we have also represented citizens, as I said
12 before, who have been injured in various ways by governmental
13 recordkeeping practices.

14 This winter the ACLU and several other private
15 organizations will begin to focus their concern about the
16 growth of automated personal data systems by creating an
17 office in Washington, privately funded, to monitor government
18 data collection programs.

19 This project will be based on our observation
20 that the great increase in personal data collection by
21 government agencies over the past several years is beginning
22 to create what we call in many cases a "record prison" for
23 vast numbers of citizens.

24 The impact of much of the recordkeeping that we
25 are concerned about particularly -- and that is not to say

1 that it's not a comprehensive concern about all recordkeeping
2 -- the impact of this particular kind of recordkeeping
3 often falls most heavily upon the poor and upon minority
4 groups.

5 For example, the FBI's practice of computerizing
6 and widely disseminating records of arrests not resulting
7 in convictions is statistically twice as likely, according
8 to the President's Commission on Law Enforcement and the
9 Administration of Justice, to result in the loss or denial
10 of employment by inner city blacks as by whites, since
11 the former are arrested -- inner city blacks, that is --
12 without being convicted twice as often as the latter.

13 Other examples abound of the racial and economic
14 impact of government data gathering and dissemination
15 practices, including the compilation by the Office of
16 Education of exhaustive personal files on the children of
17 migrant laborers, the saturation of Negro colleges and ghetto
18 communities with FBI "racial informants," and the nation-
19 wide dissemination of State and local welfare and medical
20 records.

21 Data collection and dissemination practices,
22 however, tend to trap any citizen who gets caught in them.
23 And we do not limit our concerns to minority groups. A
24 citizen is often unable to escape from his "record" because
25 allegations of past misdeeds and judgments about him

1 follow him whenever he seeks a job, a license, credit,
2 housing, admission to school, or a host of other social
3 benefits.

4 In practice, data gathering and dissemination
5 frequently works the way a tracking system works in
6 a school: it makes assumptions about people on the basis
7 of anecdotal information about their past and then conditions
8 the future of their lives on those assumptions.

9 For this reason we believe that it is often
10 antithetical to the possibility of a free and open society
11 which allows people the opportunity to improve their own
12 lives whatever their past.

13 I would like to describe to you before my
14 colleague, Mr. Glasser, gives you some particular examples
15 how computerized recordkeeping systems in our view tend to
16 circumvent a variety of specific constitutional rights which
17 should protect citizens from government interference with
18 their lives.

19 Personal records contained in automated data
20 banks have two important features which enhance the threat
21 to the constitutional rights of their subjects.

22 First, such records are persistent since they
23 can be permanently stored and continually augmented with
24 great efficiency.

25 This is not similar to recordkeeping practices

1 in the past where many records had to be destroyed merely
2 by the passage of time and the accumulation of records and
3 the lack of a place to put new ones.

4 Second, records which have been codified for
5 computerization in one data system are often interchangeable
6 with records codified in a similar manner in another data
7 system. Together, these features make it possible for
8 government recordkeepers to pull together a wide variety of
9 previously unrelated and shortlived records about one person
10 without his knowledge or consent.

11 Parenthetically, I should state that it's at
12 this point that we find that we are opposed to the increasing
13 use of the social security number as a universal identifier.

14 We don't necessarily oppose it because we are
15 opposed to the assignment of numbers to people, which I
16 think some groups find objectionable, but we do oppose it
17 because there are a host of constitutional reasons for
18 preventing personal records from becoming permanent and
19 interchangeable within a universal identifier system.

20 As the report of the Secretary's Task Force pointed
21 out last year on the social security number, "Unless there
22 are strong counterbalancing pressures, the use of the
23 social security number will continue to grow, and. . .data
24 collection and exchange built around the social security
25 number will continue to expand."

1 The rate of this expansion together with the
2 growth of interfaced computerized data banks have created in
3 our view a very real possibility that a universal identifica-
4 tion number for each citizen can be used to combine all
5 existing data about him.

6 To be sure, this hasn't happened, but we regard
7 it as a very real possibility.

8 Why do we regard recordkeeping as such in many
9 cases as a threat to constitutional rights?

10 Our critics often ask, and in many ways we have
11 difficulty answering the question, if a person
12 has done nothing wrong why should he be concerned about
13 records that are kept about him or surveillance that is con-
14 ducted over him by the government?

15 The simple answer -- but there are more complex
16 answers too -- is that a democratic society cannot exist
17 unless its citizens are encouraged to act free
18 from a sense of being observed and recorded all the time.
19 The more complex reasons flow from that.

20 The Constitution protects certain activities
21 from government interference and prevents the
22 government from depriving particular citizens of social
23 benefits, or condoning such deprivations, without due process
24 of law.

25 We don't look at recordkeeping as a simple

1 invasion of citizen privacy but a specific threat to
2 particular constitutional rights in a variety of recordkeeping
3 contexts.

4 The Supreme Court has created, at least briefly
5 and summarily, a right of privacy that flows from a number
6 of other constitutional rights, but I would like to focus on the
7 other constitutional rights because I am afraid if you
8 discussed recordkeeping in terms of privacy you tend to
9 lose sight of the real legal problems and constitutional
10 problems.

11 Perhaps the most dramatic circumvention of a
12 constitutional right by personal data systems takes place
13 in the First Amendment area, the right to political
14 anonymity. It is the oldest form of protected political
15 or religious freedom.

16 Indeed, the debates over the adoption of the
17 Constitution were carried on anonymously in the Federalist
18 and Anti-Federalist papers.

19 For this reason the Supreme Court has carefully
20 fashioned, in a series of cases over the past 25 years,
21 a right to joint a controversial social or political
22 organization without being called upon by the government
23 to identify yourself as a member of that group or as a
24 contributor to that group or as a participant in that group
25 without being a member and that extends to the right to

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1 receive political and social information through the mails
2 and through other forms of communication without the govern-
3 ment knowing about it.

4 Despite these constitutional protections,
5 the political activities of many citizens are being in-
6 creasingly scrutinized and recorded in government data
7 banks. The government's method is subtle and is based
8 upon the persistence and interchangeability of computerized
9 records.

10 Let me give you an example of bank records
11 which provide a detailed account of a person's political
12 contributions and membership in private clubs or other
13 organizations.

14 By statute the government now has the power to
15 require reports of domestic transactions that are recorded
16 on bank records to be made to the Secretary of the Treasury
17 and, moreover, to require the banks to microfilm for a
18 period up to 5 years all bank records.

19 All these financial records, in one way or
20 another, whether directly through the reporting requirements
21 of the legislation or informally, are available to the
22 government without notice to bank depositors, and we see
23 that as a circumvention of the First Amendment rights that
24 I just described of bank depositors.

25 In fact, we are now challenging that in Federal

1 Court in two lawsuits.

2 A similar effect is created by a recent Executive
3 Order of the President, 11611, promulgated last summer,
4 which provides that income tax records filed with the
5 Internal Revenue Service shall be made available to the House
6 and Senate Committees on Internal Security in the course of
7 their investigations into the political background of
8 suspected subversives.

9 Those are income tax records that were filed with
10 IRS and I think with the general expectation that they
11 would be kept within IRS and not disseminated to another
12 agency of government.

13 Similarly, the FBI and State and
14 local police are increasingly turning to record systems --
15 bank records, school records, tax records -- as a way of
16 getting background information unrelated to any specific
17 crime about persons whom they are either investigating or
18 gathering general intelligence about.

19 Almost equally dramatic is the way the Fifth
20 Amendment right to procedural due process is eroded by
21 an automated data system. This occurs notably in the case
22 of school records and employment records where subtle
23 stigmas can develop without the subject's knowledge,
24 causing him injury later when it is too late to do anything
25 about a record compiled years earlier.

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1 Again, the Supreme Court has set down a series of
2 procedural due process decisions in the public employment
3 setting and in the welfare setting and even in more general
4 recordkeeping settings that prevent the government
5 from denying people particular social benefits without
6 hearing.

7 However, in the case of many forms of employment
8 records or school records which will be described by Mr.
9 Glasser, such a hearing is never possible because the
10 information only surfaces years later or in another
11 context after it has been disseminated to another agency of
12 government, so that there is no adversary with which you
13 can have a hearing.

14 Two cases in addition to those to be
15 described by my colleague illustrate how the persistence
16 and exchange of anecdotal records effectively circumvent the
17 Fifth Amendment, one involving an ACLU client, a former
18 Post Office employee, who was forced to resign in 1965 when
19 he was placed under investigation for mailing obscene
20 letters.

21 He was subsequently cleared of this charge by
22 the Post Office, but they refused to reinstate him and
23 agreed only to make a notation in his personnel file that
24 he had been cleared.

25 Six years later, notwithstanding the notation

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1 in his Federal civil service personnel file, the man was
2 disqualified for State employment by the Utah State Civil
3 Service Commission on the basis of a file check which
4 indicated prior "immoral conduct" on his part.

5 Apparently the clearance notation that had been
6 entered in his personnel file by the Federal authority was
7 not disseminated with the record of his activities in the
8 Post Office because it was entered subsequent to the
9 dissemination of that record by the Post Office.

10 A second case involves a former overseas employee
11 of AID whose personnel file contained derogatory information
12 about his wife, information undisclosed to him, which he
13 learned about only after leaving AID to work for another
14 Federal agency, FAA.

15 After several years at FAA he was promoted to an
16 overseas position and passed a full security check.
17 Shortly before he was to leave he was given an unsuitability
18 rating for overseas assignment because of "information
19 received from AID about your wife."

20 His attempts to challenge the information were
21 to no avail because, in the words of both of the agencies
22 (1) AID security files cannot be expunged, according to
23 AID; (2) AID has no control over information in the files
24 of the FAA; and (3) the FAA does not question security
25 information it receives from other Federal agencies.

1 Essentially, the man was locked into a dissemina-
2 tion practice which left him with no effective remedy
3 even though under the doctrine of Greene v. McElroy, one of
4 the Supreme Court cases establishing the kind of procedural
5 due process rights I am talking about, he would have been
6 able to challenge the actions of the FAA against him had
7 he known about it at the time those actions were being
8 taken and had he been able to learn about the information
9 about his wife before he left the employ of AID.

10 The Fifth Amendment privilege against self-
11 incrimination, like the First Amendment right to political
12 anonymity, forbids compelling a person to provide information
13 about himself. And this is another area where we believe
14 recordkeeping practices effectively circumvent this right.

15 In submitting to an employment interview or supply-
16 ing an income statement on an application for medical
17 benefits or simply in attending school, for example, a
18 person does not consider generally that he is building a
19 record which may be used against him in another context at
20 a later time.

21 Indeed, he is not in the situation contemplated
22 by the Supreme Court in its classic Fifth Amendment decisions
23 where he has an effective "right to choose between silence
24 and speech" -- those are Miranda and Escobedo -- even

25 though the Court has held that he has an absolute right

1 not to "provide the state with evidence of a testimonial
2 or communicative nature. . . whatever form (the communications)
3 might take."

4 Even those broad Fifth Amendment self-incrimination
5 rights are circumvented in many cases by the kinds of anecdotal
6 records Mr. Glasser will describe.

7 If employees perform their jobs and pupils
8 attend school at the peril of "making a bad anecdotal
9 record," freedom of speech for employees and school children
10 suffers. One example of how an evaluative employee
11 report can haunt an employee and circumvent Fifth Amendment
12 rights and in many cases First Amendment rights comes from
13 an employee of the New York Port Authority, a police lieu-
14 tenant, who was an ACLU client.

15 He had participated out of uniform one day 6
16 years ago in a one-day picketing -- I guess it was
17 more recently than 6 years ago; it was probably about 4 years
18 ago -- a one-day picketing demonstration by rank-and-file
19 policemen against the Port Authority. The demonstration
20 ultimately resulted in higher wages for the police, none
21 of whom were disciplined for their actions.

22 The police lieutenant, notwithstanding an excel-
23 lent overall employment rating, received an evaluation
24 report from one of his superiors stating that he was an
25 irresponsible commander, without giving any further details.

1 Several years later, when he had retired from
2 the Port Authority, the lieutenant was unable to get a
3 job in several private security agencies because his
4 evaluation report, commenting on his First Amendment activity
5 for which he was never disciplined, had been widely
6 disseminated outside the Port Authority to nongovernmental
7 agencies. And he said to his lawyers that had he known that
8 this action would jeopardize his record he would not have
9 associated himself with the picketing, even though he had
10 a right to do so.

11 A third constitutional right which is circum-
12 vented by recordkeeping practices in various contexts is
13 the Fourth Amendment. The Fourth Amendment right to be
14 free from unreasonable searches and seizures has frequently
15 been construed to fall short of protecting against techno-
16 logically advanced methods of getting information by the
17 government without interfering with a person's property.

18 And realistically we have to expect that the
19 courts will be slow to recognize a Fourth Amendment right to
20 be free from unreasonable techniques of collecting and
21 storing personal data.

22 Once over the property hurdle, however, the
23 protection against unreasonable data searches in my view
24 can be fashioned from a connection between the Fourth
25 Amendment and the Fifth Amendment privilege against self-

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1 incrimination, because the Supreme Court has held in a
2 number of circumstances that the government can't compel
3 a person to produce information about himself or otherwise
4 acquire it merely by claiming that the information has been
5 recorded somewhere and is therefore not testimonial.

6 It is in this context that the current litigation
7 battle in which I am representing a number of bank
8 depositors is going on with regard to compulsory bank
9 records disclosure.

10 The government maintains in those cases that the
11 bank depositors have no standing to challenge the reports
12 on their checking transactions required to be made to the
13 Secretary of the Treasury because they have no property
14 interest in the bank records which are business records
15 and exempt from the provisions of the Fourth Amendment in
16 their view because they are maintained by banks.

17 The plaintiffs, however, claim that the property
18 issue is meaningless because they have a reasonable expecta-
19 tion of privacy and confidentiality in their banking
20 activities and because the government has no right to
21 acquire general information about these activities without
22 serving a formal search warrant, summons or
23 subpena or some other legal process directed at specific
24 records relevant to a particular crime or regulatory investi-
25 gation.

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1 One of the courts in the two cases that we
2 have, a three-judge Federal court in California, has
3 recently decided the first round of litigation in our favor
4 and has held briefly as follows, quoting from the court's
5 opinion:

6 ". . .insofar as it authorizes the Secretary to
7 require virtually unlimited reporting from banks and their
8 customers of domestic financial transactions as a sur-
9 veillance device for the alleged purpose of discovering
10 possible, but unspecified, wrongdoing among the citizenry,
11 so far transcends the constitutional limits. . .as to
12 unreasonably invade the right of privacy protected by. . .the
13 Fourth Amendment provision protecting 'the right of people
14 to be secure in their persons, houses, papers and effects
15 against unreasonable searches and seizures.'"

16 That I think is a very significant opinion because
17 it does for the first time in my view extend a right to
18 Fourth Amendment protection beyond the rather narrow defini-
19 tion of "property," in the context of recordkeeping.

20 Finally, one more circumvention should be
21 mentioned, the Eighth Amendment prohibition against
22 cruel and unusual punishment. This takes place in the
23 area of the collection, maintenance and dissemination of
24 computerized arrest records.

25 The collection and wide dissemination by the FBI

1 of records of arrest not resulting in conviction -- one
2 should remember the distinction between records resulting in
3 conviction and those not; we don't oppose the collection
4 of conviction records, to be sure -- result in the
5 treatment of arrested persons as if they were guilty of a
6 crime in many cases.

7 When a person is denied employment solely because
8 a record check reveals that he was once arrested, he is
9 punished for his status -- informally, to be sure, but,
10 nevertheless, the punishment he receives is very real.

11 Now, the Constitution prohibits as cruel and
12 unusual the punishment of status, and there are a number
13 of cases which I won't take time to cite which so provide.
14 This is particularly true in the area of physical condition
15 such as narcotics addition. You can't be punished for
16 being a narcotics addict, nor can you be punished for
17 your status as an indigent or as a vagrant.

18 And in our view the case of an arrested
19 person whose case has been dropped or dismissed is one where
20 there has been no judicial determination that his status
21 as an arrestee resulted from any wrongdoing on his part.

22 An arrested person, therefore, is even less
23 accountable for his status as an arrestee than an addict or
24 a vagrant, while the injury to his opportunities is even
25 more cruel and unusual than theirs.

1 I have appended to my statement a rather complete
2 treatment of the subject of arrest records not resulting
3 in conviction. The ACLU has testified before numerous
4 or several congressional committees now considering legisla-
5 tion to limit the dissemination of arrest records, and I
6 think that area is an example of one area where a wholesale
7 cutback in recordkeeping practices is necessary.

8 Now, to give effect to the constitutional rights
9 which are being circumvented in these ways, a number of
10 safeguards have to be built into personal record systems,
11 and obviously that is what this committee is considering.

12 Rather than summarize what we view as the safe-
13 guards that have to be considered -- we have treated them
14 in detail -- I commend the last four pages of my statement.
15 And I think at this time it would be useful if Mr. Glasser
16 were to orchestrate some of the themes that I have been
17 raising by describing some particular cases where record-
18 keeping rights have been circumvented.

19 MR. GLASSER: I have a little laryngitis. I
20 hope you will bear with me.

21 Let me first notify you that I am not a lawyer.
22 I state that only because I am consistently introduced as
23 one. And I think that happened first because somebody in
24 a news story so characterized me, and it was picked up, and
25 it has been disseminated around. And it is a good illustration

1 of the persistence of recordkeeping. I can't shake it or
2 expunge it or do anything else with it except notify you it's
3 not true. (Laughter)

4 What I was asked here to do is to try and
5 give some life to the principles that we are discussing
6 here.

7 I am the Director of the New York affiliate of the
8 American Civil Liberties Union, and one of the chief
9 differences between the State affiliates and the national
10 office of the ACLU is that we deal with clients, with
11 people, and they deal with principles. I don't know
12 that it's all that distinct and unoverlapping, but the
13 fact is that people walk in off the street with real problems
14 to the various State branches of the ACLU in a way that they
15 do not with the national office.

16 And as a consequence, we come across in a variety
17 of contexts people who are being hurt in very concrete ways
18 by the kind of problems that Mr. Shattuck was describing.

19 Also in a lot of these examples I will try to
20 concentrate some more on areas that may be more germane
21 to this body -- that is, not so much on areas having to do
22 with criminal justice, although I can give you a few
23 examples of those, but more in the health, education, and
24 welfare fields.

25 The other thing to mention at the outset is that

1 the half a dozen examples I could discuss are really the
2 tip of an iceberg. I could probably go on at great length
3 just from memory without even consulting our files in the
4 office. It is that frequent and that varied.

5 And what I hope to do is simply give you some
6 idea of the scope and the type of problem and anything
7 else that you may require in response to questions.

8 The first area is in the area of credit. Robert
9 Meisner is a resident of Westchester County who contacted
10 us a little over a year ago. His problem was that he
11 got a letter from his insurance company, and the letter
12 said that, "Your insurance on your car is hereby cancelled.
13 The reason it's cancelled is on the basis of a credit
14 report by the retail credit company," one of the many credit
15 reporting companies.

16 He didn't know what it was about, so he went
17 to the retail credit company, and they told him that it had
18 to do with a report on his son. His son was 18, and his
19 son was one of the drivers of the car.

20 Now, it turns out that as he had disclosed to
21 him some material in his file-- And bear in mind that the
22 credit area is one of the few areas where there is some
23 attempt at Federal regulation, and, therefore, there is
24 some reasonable expectation that maybe it's better in that
25 area. I don't think it is.

1 But, at any rate, he had a right to certain
2 disclosures under that act, and he found out first of all
3 that there was wholesale wrong facts. I mean the kind of
4 things that were not in themselves damaging but did say
5 something about the general sloppiness and lack of verifica-
6 tion that can sometimes get into the file and how difficult
7 it is sometimes to get that out.

8 They had the number of his children wrong.
9 They were way off on the combined salary of his wife and
10 him. They had his wife's job completely wrong.

11 I have come across cases where automobile
12 insurance companies consulted a credit reporting company and
13 they had the car wrong, the make of the car.

14 I mean it's almost as if it was done in a very
15 slapdash way and there was no real verification procedures.

16 The damaging thing, however, was that the reason
17 his insurance was summarily cancelled like that was there
18 was a line in there about his son, that he was a long-haired
19 hippie and was suspected of drug use. The source for that
20 information was, of course, not given and impossible to
21 discover. There is no procedure in the law which allows you
22 to discover that source unless you litigate, and you can
23 only litigate under very narrow circumstances if there is
24 negligence or noncompliance with the law.

25 As far as anybody could tell, the facts were not

1 true. I mean, to be sure, he did have long hair. What
2 "hippie" means is sort of difficult to define.

3 When I talked to the insurance company and
4 finally persuaded them to reinstate his insurance, I was
5 talking to the general counsel and vice president of the
6 insurance company, both of whom came to my office with
7 crewcuts and narrow lapels and, you know, all the badges
8 of the different generation. And in the middle of the
9 discussion I asked them if they had any children, and they
10 both had teenage sons.

11 And I asked them how long their kids' hair was.
12 They both went sort of like this (indicating shoulders), and
13 that was the end of the discussion.

14 That in itself becomes the provoking trigger
15 to categorizations like "hippie," which itself projects
16 all kinds of other images and causes an insurance company
17 to summarily cancel insurance.

18 As far as drug use, there apparently was no basis
19 for that at all. As a matter of fact, in terms of the
20 kid's radicalism in general it turns out he was active
21 politically but the last candidate he worked for was a
22 member of the conservative party in his district.

23 The high school principal went on local television
24 to defend the kid's character, and his high school principal
25 was no hippie, no radical. He was the subject of lawsuits

1 for suppressing student rights. So he was not coming at
2 this from any ideological basis.

3 Nobody could discover any basis at all for the
4 allegation of suspected drug use, and they wouldn't give
5 the source, which was probably a neighbor, and there is no
6 way to get that out of the kid's record or out of the father's
7 record.

8 We got the insurance reinstated by a non-litigation
9 technique. We blasted the insurance company publicly. They
10 were concerned about the public relations effect. They
11 sent their vice president to talk to me. They were persuaded
12 it wasn't a good reason and they reinstated his insurance.
13 That was the end of that problem.

14 But then Mr. Meisner tried to get the material
15 out of the report, because who knows how long it will maybe
16 persist and damage him in ways he doesn't know about, much
17 less to say the damage it might do his son.

18 He couldn't get it out. He has not to this
19 date been able to get it out. The most they are required
20 to do under the law is do further verification procedures
21 into the accuracy of the question. You don't know what they
22 are or even if they are doing them or who they have asked.
23 They probably go back and ask the same person and he will
24 say, "I think it is true," and that's the end of it.

25 They wrote him a letter to say they attempted to

1 verify it and they stand by it. He never found out the
2 source. There was no way of dealing with it in a fair way,
3 never any real chance of rebuttal.

4 The most they would allow him to do is put a letter
5 in the file saying he denied it, which is the kind of right
6 that nobody needs. It really means that, you know, I can
7 accuse you all I want.

8 It reminds me of the old Lyndon Johnson story
9 about in a tough campaign in the early part of his career
10 where where was trouble and an aide was supposed to have
11 suggested, "Let's accuse this guy of some crime, something
12 unethical, fraud, bribery, something like that."

13 And someone else said, "That's not true."

14 He said, "Let the son of a bitch deny it."

15 (Laughter)

16 And the capacity of recordkeeping agencies
17 to think that an accusation unbased, unverified, unrebutted,
18 unchecked, and unexpungeable is somehow mitigated, that the
19 damage that it can do is somehow mitigated, by allowing a
20 person to put a denial in the file is really the height of
21 naivete at best. It just doesn't go.

22 At this point this person's file, his wife's
23 file, his son's file contain this allegation and contain it
24 in such a way so that it gets exchanged and it's very
25 difficult to know when he applies for employment whether or

1 not anything that happens to him in employment, in credit,
2 in insurance is going to come as a result of this or what
3 damage it will do.

4 Now, that's the kind of thing that comes up all
5 the time. It's very difficult to get at unless you have
6 some procedure that is very precisely attuned to getting rid
7 of that problem.

8 Another area is the area of school anecdotal
9 records. I think in a way this is symbolic of the worst about
10 recordkeeping.

11 I have left a few copies with the committee of the
12 October 1972 issue of our newsletter which contains in it
13 a page-and-a-half piece called "The Secret File on
14 D. Isaacs, Age 8," written by his father originally in the
15 PHILADELPHIA INQUIRER. His father was a professor of
16 communications, no less, at Temple University.

17 I just want to read you a few paragraphs from
18 that. It begins in a rather shocking way, in a way which
19 has nothing directly to do with this, but it leads to how come
20 the father found out the information.

21 The opening paragraph is:

22 "Something extraordinary happened to my eight-
23 year-old son David two years ago. He was killed in a highway
24 accident.

25 "Litigation has ensued and in the course of it the

1 lawyers have obtained David's school records."

2 And the rest of the article goes on to tell what
3 they discovered in the course of this litigation about the
4 things that were on record on his son.

5 "These are not formal report cards," Mr. Isaacs
6 points out. These are not anything that is part of the
7 formal record that you ever see as a parent or that the
8 child ever sees.

9 Many people don't know that they are there.
10 They are supposed to be confidential. But I can tell you
11 from literally hundreds of cases of experience that the
12 school's operational definition of confidentiality is that
13 everybody can see those records except the parent and the
14 child, and that is not untypical of other social agencies.

15 We have had actual litigation cases where the
16 parent and the child and our lawyers representing the parent
17 have been denied the right to see the record on grounds of
18 confidentiality, where we know that the Bureau of Child
19 Welfare, the family courts, the police, employers, and
20 a host of other people have seen the records.

21 Mr. Isaacs goes on to say, "David's file makes
22 startling reading, particularly to someone who knew him.
23 For example, he is described in several places as not being
24 mature. 'He can read and do numbers,' according to one
25 unsigned comment, 'but is too immature.' This was at the

1 end of first grade.

2 "I am not sure," said the father, "what the
3 criteria of maturity are for a boy of six, but the year that
4 followed was the year of the rasins.

5 "A few weeks after school started my wife
6 noticed that David had suddenly begun to consume an unusual
7 number of those individual boxes of raisins, the kind
8 children put in their lunch kettles. David was averaging
9 better than two boxes a day, five days a week, which is a
10 lot of raisins even for a very active boy.

11 "It turned out that he was feeding a special
12 buddy at school. Buddy was undersized and came from a
13 poor family. David had concluded that the reason Buddy was
14 undersized was the fact that he was poor and therefore
15 undernourished. Hence, the raisins.

16 "But maybe warmth and concern for other
17 people have nothing to do with maturity. At any rate the
18 school could not find these qualities in David. In an
19 undated 'behavior description' he was given a rating of two
20 under 'concern for others.' Two means 'self-centered.'"

21 Well, it goes on and on.

22 "Another anonymous comment, 'Refuses to use left
23 hand. Dislikes being reminded to try.' Of course he
24 refused. Of course he disliked nagging. He had an
25 orthopedic problem on his left side and, as a result, there

1 was a slight limp to his gait, although he could move like
2 a flash, and a lack of agility and strength in his left
3 hand.

4 "An orthopedic surgeon had prescribed exercises
5 and both the hand and the foot were improving, but David
6 still worried about them and it bothered him to have other
7 people call attention to them."

8 The article goes on, and I think it more than
9 anything else ought to be read by every member of this
10 committee because it is the single best compact
11 illustration I have ever come across of the kind of thing I
12 am talking about.

13 Another entry was "Subject boy had bad
14 associates, the psychologist declared. The bad associates
15 were his parents."

16 We have come across a record of one teacher
17 passing along to another teacher a student from one semester
18 to the next with a comment, "A real sickie. Is nonverbal
19 about everything except things out of school," which may
20 say more about the school than the child.

21 But these kinds of things, you see, are really
22 in the nature of gossip.

23 You remember that famous Norman Rockwell
24 SATURDAY EVENING POST cover where one person in a small
25 town is saying something gossipy to another person, the

1 other person to another, and there is a series of people
2 talking to each other until the person in the upper lefthand
3 corner who started the gossip is receiving it at the end of
4 the series of pictures.

5 And what you have in this kind of situation is
6 the institutionalization of gossip. That's all you have.
7 The reason why persistence is important is that gossip
8 always had a short life.

9 To use a scientific metaphor, the notion of
10 persistence in the environment, for example, refers to
11 materials that do not break down. It refers to poisons
12 that stay in the system and have a multiplying
13 effect as they get past from one part of the system, say
14 the vegetation system, into the animal system, into the
15 human system, accumulating as they go.

16 This is the kind of metaphor that I think you
17 have to use to understand what persistence means in
18 records.

19 In the old days gossip really did have a short
20 life. It was oral for the most part, and it had a short
21 life in space and in time. It didn't go very far
22 geographically, and it didn't last very long.

23 Now it lasts a great deal of time and it goes
24 very far indeed. Twenty-five years later sometimes
25 you have trouble dealing with that kind of a problem. And

1 it's that persistence that I think is at the root of a
2 good deal of the problem, the root of the institutionalization
3 of gossip as a permanent feature in American life.

4 Although there are other school anecdotal
5 records, the best example of persistence is a man who walked
6 into my office about 3 or 4 years ago. He was black
7 and obviously made more money than I did and worked in a
8 very high executive capacity for one of the largest
9 corporations in Manhattan, a very responsible position.

10 His problem was this. He had just received a
11 promotion to an even higher position, a promotion which
12 would involve him in moving around the country to the
13 various affiliates of this corporation with large amounts
14 of money, because part of it involved contract responsi-
15 bilities. You know. The whole business of the chain on the
16 attache case on his hand and everything else. Because he was
17 dealing with large amounts of money, he had to get bonded.

18 Now, he told us that 25 years previous when he
19 was 17 or 18 living in the ghetto he was arrested for
20 armed robbery, a few dollars, and served some time in
21 prison. He came out. He has never had another arrest
22 and has had an exemplary life since and obviously held a
23 very important position for a long time. He had worked
24 for this company a long time.

25 His fear was the bonding investigation, which

1 would be a prerequisite to his taking and accepting this
2 job, would inevitably turn up that former record. What
3 that would mean would be he would not only lose the promotion
4 but probably the present job. And not to take the new
5 job as a way of avoiding a bonding investigation would
6 raise very serious questions indeed as to why would anyone
7 turn down such a promotion. It would also compromise the rest
8 of his life.

9 The guy was in an incredible fix. What to do?
10 Well, who knows? I don't know that litigation is possible.
11 Any way of dealing with the problem would make it
12 visible, which was the trouble.

13 The real trouble was the persistence of the
14 record. The real trouble was nobody was ever considering:
15 Isn't there some statute of limitations on a person's early
16 mistakes, even assuming the record is accurate?

17 A lot of what I have given you in the credit
18 area anecdotal area isn't even accurate. But even where
19 you have an accurate record on a conviction -- I'm not talking
20 about an arrest being a mistake or any kind of error -- an
21 accurate record of conviction, the kind of record everyone
22 would agree ought to be kept, isn't there some period of
23 time for a certain kind of crimes, depending on the crime,
24 the age, subsequent history, whatever-- Shouldn't there
25 be some hearing, some procedure, some floating scale, some

1 floating standard which for most crimes and most fact
2 situations would be a cutoff point where they would auto-
3 matically be sealed or expunged so they would not persist
4 in time forever to plague somebody, some initial mistake,
5 no matter what that mistake was, that writes finis to a
6 person's life and career, that's something you can't get
7 away from?

8 I think that's the question that takes the
9 hardest possible fact, a conviction for armed robbery, and
10 puts it in the best possible light. I don't think anybody
11 would really disagree that this guy should have had
12 this job, and yet everybody must admit if that record came
13 to light there is not, you know, a chance at all that he
14 would have either kept his present job much less get the new
15 one.

16 In school anecdotal records the problem is that
17 most people don't find out as Mr. Isaacs did
18 about the record's existence at all.

19 We have had hundreds of suspension hearings at
20 the high school level where a kid is accused of a particular
21 discrete act. He punched something. There was a fight.
22 Or the principal told him to stop chewing gum and he
23 refused, or he told him to get his hair cut and he refused,
24 whatever the particular act is.

25 You go into the hearing, and, like most hearings,

1 you think what is going to happen is a contest about that
2 particular accusation. And the first thing they do is trot
3 out this anecdotal record. That's what they call them --
4 anecdotal records. It's that thick (indicating) because
5 they have been keeping it on him since kindergarten. And
6 it's an inch thick and it has all of these little comments,
7 the kind I mentioned, "Subject had bad associates. The
8 bad associates were his parents," or, "A real sickie." It
9 goes on and on with dates. Impossible to verify. It
10 happened, you know, years ago.

11 There was one particular case we had where it turned
12 out there was an accusation made 5 years earlier against
13 a 16-year-old boy. As he was looking through it, it turned
14 out on that particular date his brother had been killed
15 and that was the date of his brother's funeral, and there
16 was no way he was in school. And, you know, we were able
17 to use that to point out to the school after questioning:

18 "Are you absolutely sure?"

19 "Oh, yes. We verify all these."

20 "Are you absolutely certain about this?"

21 "Oh, yes, he was here."

22 Then we pointed out he wasn't there.

23 They said, "Oh, well, that was one mistake."

24 But the point is there's never any way once you're
25 faced with that record of dealing with it. You can't

1 verify it. It really is again an example of the persistence
2 of gossip.

3 These kinds of records get transferred around.
4 We had one case of a boy who was a foster child. He
5 was suspended for an unarguably illegal reason, although the
6 father wouldn't recognize that and the father took a Federal
7 lawsuit to get him back in school.

8 That's not the point. The point is he had a
9 hearing. He was suspended from school. He was over 18 at
10 the time. He was a senior. The last few months of
11 school he was suspended from school, and not only was he
12 suspended summarily for illegal reasons but within 3 days
13 he received a letter, or his foster parent did, from the
14 Bureau of Child Welfare which administers in New York the
15 foster care payments notifying them that since he was over
16 18 and out of school the payments to his foster parents
17 were now cut off, again summarily and without a hearing.

18 The real question raised, aside from the fact
19 that I'm telling you later on all of that was considered
20 illegal-- The real question raised is how did the Bureau
21 of Child Welfare find out? The school did not let a
22 friend's mother attend the hearing in his behalf, did not
23 at that time let a lawyer in because this was a confidential
24 hearing.

25 It " wasn't an adversary hearing," they like to

1 say. It was something that "we'll settle the problem
2 between the child and the school." The crunch comes when
3 the child and the school disagree as to how the problem
4 should be settled. Then you find out about power instead of
5 procedures.

6 But what happened was while they did not let a
7 lawyer or friend or advocate in because of confidentiality,
8 they somehow found a way within 3 days to notify the Bureau
9 of Child Welfare which cut off the foster parents' payments
10 at the same time.

11 The multiplicity of damage that happens from the
12 exchange of that kind of information is really hard to
13 calculate. And I believe that I only see the tip of the
14 iceberg.

15 Consider for a moment who comes to the Civil
16 Liberties Union, who even knows about it. This particular
17 kid was black, had never heard of us. He had a white
18 friend whose mother had heard of us and she got him to come
19 to us. Other than that there is no place people can go.

20 Most people don't know the ACLU or Legal Aid or
21 any institution that may help. Most people just take it.

22 And that is why I think, no matter how many
23 examples I can throw out to you, it has got to be taken as a
24 mere hint of what the size of the real problem is.

25 Family court and youth arrest records are supposed

1 to be sealed. We have endless examples of where they come back
2 to haunt people. A person's application for teaching
3 license is denied on the basis of a youthful offender
4 status, which means when he was 15 or 16 he was arrested
5 for something and that's supposed to be absolutely sealed
6 record by law. Somehow the Board of Examiners in New York
7 City found out about it. I don't even know how. But it's
8 not an isolated instance.

9 In dealing with applications of teachers there
10 is a question that says, "Have you ever been arrested?"
11 One of them says, "Have you ever been a defendant in any
12 court action?" -- as if, for example, a civil suit
13 somehow is an indication of bad character.

14 And we have had cases that actually had to go to
15 court in order to win -- of a black woman denied a teaching
16 license in New York City on the basis of a civil rights
17 arrest in Louisiana 8 years previous for picketing
18 in front of a segregated movie theater, an arrest which was
19 clearly unconstitutional, which was never prosecuted,
20 which did not result in anything except the cops taking
21 people away to break up the demonstration.

22 Somehow that arrest found its way from that
23 small police station into somebody's record so that it could
24 get to the Board of Examiners in New York City. And this
25 teacher was actually denied a license on the basis of that.

1 This is not years ago. This is just within the
2 last 2-year period.

3 Another license was denied to a teacher on the
4 basis of a single conviction for putting his feet on a subway
5 seat -- which is something that might have dirtied the
6 shoes but hardly could have dirtied the seat. (Laughter)

7 The instances of intent to put a mark of
8 finality on people's lives through trivial convictions or
9 complete errors or relative information are almost
10 inexhaustible, and over and over again cases come into our
11 office which dwarf everything that has come into our
12 office previously.

13 A few months ago a black woman walked in. She
14 and her husband were being served with a notice of
15 undesirability. It's a chilling phrase all by itself. This
16 was by the Housing Authority in New York City.

17 If they are adjudicated, if they are found, to be
18 undesirable at an administrative hearing -- that is, if they
19 are found guilty of the charge of being undesirable -- they
20 are evicted.

21 They have lived in the public housing 20 years and
22 neither had ever been arrested or had any other problem.

23 It turns out they were made undesirable-- The
24 whole basis of the charge was they had a son in prison. And
25 how again the records got to the Housing Authority nobody

1 knows.

2 But they do this systematically. And somehow
3 the son's conviction of a crime and being in prison was
4 enough to make the whole family undesirable.

5 I called up the head of the Housing Authority and
6 talked to him about that, and I said, "The kid is in
7 prison," you know, without ever reaching the question where
8 does he live when he gets out. Are you supposed to say
9 you can't live anywhere when you get out of prison?

10 Why now when he is in prison?

11 The Housing Authority told me he might get
12 out and actually said to me, "If he was convicted for murder
13 and was going to be there for a long time, it might be
14 different, but it's only a 3-year sentence. He might be
15 out soon. He might begin to visit or live with the
16 parents," meaning the parents' presence in the public
17 housing somehow threatened the rest of the residents with
18 crime.

19 Just when I was prepared to believe-- That one
20 is still in the courts, by the way, still being litigated.
21 That is how resistant they are even when you point out the
22 absurdity of that fact to deal with. Just when I
23 was prepared to believe that was the worst I had seen,
24 3 weeks later there was another Housing Authority case where
25 a woman was involved in urban renewal and the tenement was

1 being torn down and she was applying for entrance into the
2 Housing Authority.

3 Her son who was 25, married, with kids, who had
4 a job, had once when he was 16 been convicted and he was
5 now living in a private apartment building that was three
6 blocks from the housing project she was trying to get into.

7 They denied her access because of the following
8 three reasons:

- 9 1. Prior conviction of son.
10 2. Proximity of son to Housing Authority.
11 3. Prior pattern of residence of son with
12 mother -- kind of difficult to avoid I suppose. (Laughter)

13 Now, these kinds of records are a problem that
14 I find can be dealt with really in two ways. One is a
15 whole lot of these records just have to be expunged. They
16 have to be sealed and they have to be demolished. People
17 will use them if they are available. That is what gossip
18 is about.

19 The second is records that one can justify
20 keeping, and there there have to be very fair procedures
21 to allow rebuttal and to allow for expungement given the
22 right circumstances, and define what those circumstances
23 should be.

24 I think unless that happens the increasing
25 technological capacity to keep, retrieve, restore and

1 disseminate and make persistent the kind of records I'm
2 talking about really means we will all soon be living in a
3 fishbowl and that the slightest mistake anybody ever makes
4 or the slightest false accusation anybody ever makes
5 against anyone will plague us forever in the ways that I
6 have tried to describe.

7 Thank you.

8 MR. DONNER: My name is Frank Donner. I'm the
9 Director of the ACLU project on political surveillance and a
10 practicing lawyer. Most of my clients over the years have
11 been radicals and dissenters, black people, poor people,
12 people who have some need for a sense of personal freedom
13 and security in their lives.

14 I want to talk to you today about two things.
15 One is the impact, the objective impact if you will, of
16 surveillance and recordkeeping in the political area, and
17 more importantly and more perhaps ambiguously the fact that
18 in this area as in every other area the impact of data collection
19 far exceeds its literal reach, that there are overtones and
20 consequences in the lives of human beings from the fact
21 that their lives are under surveillance and that the
22 experiences that they share with each other are being
23 officially recorded, that are all but ignored in meetings
24 like this if I may say so and in general discussions of
25 privacy.

Now, first, let me deal with the question of political surveillance. I feel a little bit like the blind man who describes the elephant by the part of the beast that he has seized. I see political surveillance as an extraordinarily pernicious phenomenon. There are 20 Federal agencies engaged in political surveillance and recordkeeping. Every large State in the Union engages in political surveillance and recordkeeping. A host of local urban police units and red squads are engaged in political surveillance and recordkeeping through photography, wiretapping, informers, and ultimately the keeping of files and dossiers.

I don't want to quantify it any more than that. I wrote an article about it called "The Theory and Practice of American Political Intelligence" which appears in the April 1971 NEW YORK REVIEW OF BOOKS.

But what I think is important to bear in mind are the assumptions of this data collection, and there are five or six that are salient.

The first is that the individual who is the target of the surveillance, the subject of the surveillance, is a "subject." That is, he is, in police language, someone who is an entry in a file. He might be John Jones, d.o.b. 9/11/1911, whatever, white, male, 34, etc. But he is a subject and by that fact alone is stigmatized.

1 The second point is that all political intelli-
2 gence gathering is based on the notion that the sum of the
3 parts is far less than the ultimate subversive whole, that
4 however innocent an act may be, if it's pieced together
5 with some larger whole from the subject's past, if you
6 will, or from his relationships to others, something will
7 come out of it, some puzzle will emerge, the solution to
8 some puzzle, which is very important to the safety of the
9 state.

10 My third point is that all data gathering in
11 this area has an enormous overkill. That is, it's like
12 the lesson we had in botany that you have to examine the
13 specimen before you can determine whether it is a toadstool
14 or a mushroom. The police investigation, so to speak.
15 They take pictures or they wiretap, not because they think
16 you're engaged in a crime but because you may be, and the
17 stakes are so great that you can't afford to make a mistake.

18 And for the same reason there is no statute of
19 limitations. The political sins of one's youth, no matter
20 how transient or how foolish, are treasured by the data
21 collector because again he proceeds on the assumption that
22 the leopard does not change his spots.

23 We all know that political enthusiasms and
24 interests vary with the passage of time. But for the person
25 who is engaged in political surveillance everything is

1 relevant. And the reason why everything is relevant is
2 because his assumption proceeds by what I call the politics
3 of deferred recordkeeping -- that a day will come when it is
4 important to know who these people are and all about them
5 because these people may well be poised for a takeover, they
6 may well want to destroy the country, and you can't be too
7 careful.

8 And that leads me to my final point that there
9 is a built-in bias to all political data collection, and
10 it is, of course, a negative bias. It ignores constitutional
11 restraints, and it distills from a man's actions only that
12 interpretation which lends support to some sinister theory,
13 to the concept that I have suggested, of the politics of
14 deferred recordkeeping.

15 Now I want very much to talk to you about the
16 impact of this kind of thing on people not only in terms
17 of the politics of it but in terms of the general
18 feeling that I have had for many years working with
19 radicals and dissenters and blacks about how this hits
20 them, how they feel about government activity which
21 invades their private lives.

22 Of course I don't have to tell you that the
23 whole notion of privacy is a highly variable one. It's
24 culturally determined and it's class determined.

25 I suppose you have seen the President's Committee's

1 report on privacy in behavioral research where they make
2 the point that the usual examples of privacy are too
3 gross to convey fully its nuances and strengths, and then they
4 go on to list various kinds of privacy.

5 And this is a very intangible kind of value. Ed-
6 ward Shils has written about it, "A civil society is not
7 a society of complete mutual transparency or visibility.
8 Everyone needs to be allowed to live somewhat in the
9 shade, both rulers and ruled, in order to 'keep' what belongs
10 to them. Invasions on privacy are baneful because they
11 interfere with an individual in his control of what
12 belongs to him. The 'social space' around an individual,
13 his recollections of his past, his conversation, his body
14 and its image, all belong to him. He does not acquire
15 them and is entitled to possess them by virtue of the
16 charisma which is inherent in his existence as an individual
17 and which is inherent in his membership in the civil
18 community and his membership in his own society. A society
19 which claims to be both humane and civil is committed to
20 their respect."

21 Not only does this sensitivity to privacy inva-
22 sion vary, but it is unpredictable. Let me tell you a story.

23 A year ago I was called in to represent some
24 workers in Waynesboro, Virginia, a General Electric plant
25 there. The company wanted to institute closed-circuit

1 television in order to obviate the necessity for intermediate
2 supervision. And in exchange -- this was a plant with a
3 large female work force -- the women were promised other
4 benefits.

5 I discussed it with them in advance. I said,
6 "Well, do you think that you can take this? Is it something
7 you want?"

8 They said, "Why not?"

9 The system wasn't in effect 2 weeks when they
10 called me down and they said, "Look, we feel like animals in
11 a zoo."

12 I said, "Why is that? After all, it's just a
13 television camera. You used to have the foreman walk by."

14 They said, "Yes, we're used to the foreman,
15 but this thing takes our picture when we scratch ourselves.
16 It invades things that we just don't want anybody to see."

17 And so they demanded and got rescission of this
18 agreement.

19 But they didn't know in advance, you see, that
20 they would feel this way. It was something that hit them
21 in a very personal way when the thing got started.

22 I see it in my own clients, you know, this
23 tremendous psychic impact of privacy invasion. You know,
24 this is an age of alienation, an age of tremendous fear of
25 government. To read people like Richard Slater's "Pursuit

1 of Loneliness" makes you realize there is something
2 going on out there, that there are people turned off by
3 the society, that are frightened by it, and, what's more,
4 they have a sense of a loss of community.

5 And, of course, this fear they have of officialdom,
6 of official power, is merely in a way an ironic revenge
7 because our whole culture breeds this kind of paranoia.

8 As Jules Henry pointed out in his book "Culture
9 Against Man," we are a society that programs fear. The
10 average consumer is told if he doesn't have a proper kind
11 of antifreeze his car will break down, and his teenager
12 is told if she doesn't have the right bra she won't get a
13 man. All our consumptive patterns are fueled by fear.

14 Naturally, the great fear is fear of tremendous
15 change and revolution, and so on.

16 So that the culture is like an enormous bellows
17 that plays on the private fears of each individual and
18 ratifies them.

19 You know, over the years I have had people come to
20 my office-- Well, here's a letter I just got yesterday
21 morning:

22 "It is evening. Sitting here in the hotel is a
23 person known to me only as Henry. He is apparently armed
24 with a bayonet. From what he says he is a Nazi, Nazi
25 agent, employed by the Soviets. He claims to have been in

1 the French Foreign Legion for 12 years.

2 "He is an ignorant criminal. He threatens me
3 and everyone else. He claims to have a diplomatic
4 passport from the Russians and to have talked personally
5 with J. Edgar Hoover about the assassination of President
6 John Kennedy."

7 Well, I get this all the time. I have a 2-inch-
8 thick file of paranoids, nuts and crackpots.

9 But a month ago a woman came to me and said-- A
10 well dressed woman flew in from Albany without an appointment.
11 She said to me, "They're after me. They even followed me
12 to your office."

13 I said, "Who?"

14 She said, "The FBI, the Albany police."

15 I said, "Why would they be after you?"

16 And she said, "Well, I have been in peace
17 rallies. I don't know. But I know they are after me."

18 Or Dorothy, another woman who was a client of
19 mine, who said, "Frank, when I made change to go to the
20 office today the change-maker said, 'You're a red, you're
21 a red, you're a red.' When I went home at night
22 the TV repairman said, 'You're a red, you're a red.'"

23 There's a lot of that. I have as I say tremen-
24 dous files of people who are sick with fear.

25 Incidentally, I have written an article about one

1 which will appear in HARPER'S next week.

2 Now, this fear, you can't dismiss it because it's
3 pathological or deviant. You can't say, "Well, obviously,
4 these are sick people." We know enough about paranoid
5 systems to know that this form of sickness merely is a pro-
6 jection of conventional fear, conventional behavior, that
7 we learn a great deal about the obsessions and the pre-
8 occupations, hidden though they may be, of the society from
9 the people who have paranoia and whose paranoia embodies the
10 same demons and the same fears as the society of which they
11 are a part.

12 Now, what are these fears? What are these
13 general fears?

14 One of the most common is the fear of a crack-
15 down. This whole notion that I described to you on the
16 rights, so to speak, on the part of the intelligence hunters
17 is also duplicated on the part of the hunted. See, they
18 think there's going to be a crackdown and that the day is
19 not far distant when the concentration camps, when some-
20 thing-- How frequently have you noticed the tumor of
21 concentration camps?

22 And, incidentally, while we're talking about
23 that, haven't you noticed the powerful way in which Orwell's
24 imagine of "Big Brother," you know seizes our society.
25 Millions of people who never read Orwell are nevertheless

1 obsessed with his bitter vision, obsessed with a vision of a
2 searchlight society.

3 Why is that? Because it mirrors their own fears.

4 And I say to you that these are real things, and I hope
5 you know what you're doing, because to me you can't

6 just-- However enticing, you know, the goods that may come
7 out of data collection of persons, the other side, the

8 fears, the evils are so intangible but nevertheless so

9 frightening-- Every individual who is a subject of data

10 collection assumes the data is derogatory. Invariably.

11 And every individual who is the subject of data collection

12 feels stigmatized about it. At least the people I know, the
13 clients I see.

14 I also think you have got to give some thought to
15 this: What is going to happen 10, 20 or 30 years from
16 now? You're not making decisions for tomorrow. According to
17 figures that I have read, in 30 years about nine out of
18 every ten Americans will live in giant supercities, mega-
19 cities, sharing less and less space.

20 What will happen if over the course of a genera-
21 tion we increase our systems of data collection? We know
22 now that the youth revolt of today wasn't born yesterday.
23 It's a product of the conditions which youth grew up in in
24 the late '40's and '50's.

25 We must recognize that what we are faced with is

1 the impact of this kind of thing on those who come after
2 us, on the next generation.

3 And who can vouch for the selfhood of the next
4 generation who live in this atmosphere of constant probing,
5 a constant fear, a constant attempt to renew connections
6 with each other away from the government?

7 You know, scholars have long puzzled about the
8 meaning of a phrase in one of T. S. Eliot's poems where he
9 writes, "Till human voices wake us and we drown." I
10 think the meaning is quite clear. I think we are all so
11 hooked on technology, so in love with process, that we
12 can't make a stand for the human needs of the members of
13 our society, and human voices wake us and we drown.

14 MR. MARTIN: I think rather than going methodi-
15 cally around the table what we might do is to have members
16 indicate their desire to ask a question or elicit further
17 comment from our speakers by just raising your hands, and
18 Nancy and I will try to keep our eyes peeled and get to you
19 as quickly as we can.

20 Mr. Dobbs.

21 MR. DOBBS: I'd like to address the first question
22 to Mr. Glasser.

23 One of the things that has been a dilemma for
24 me at least is that we have received testimony by the
25 Younger Commission in England, we have heard a representative

1 from the Canadian Government who had been conducting
2 similar studies, we have seen a summary of the Weston
3 report. we have had a parade of bureaucrats and systems
4 designers and/or operators, all of whom have suggested
5 that there is no conclusive evidence to indicate that there
6 is a clear and present danger or threat to individual
7 privacy. And they overstated that perception deliberately.

8 How do you account for that perception continuing
9 to exist in the face of the kind of evidence, the kind of
10 thing that you gentlemen have been coming in contact with?

11 MR. GLASSER: Well, the victims didn't write
12 those reports.

13 The basic problem I think comes down to a question
14 of choosing values in the face of necessarily uncertain
15 evidence. I think every value judgment we ever make
16 involves that.

17 I think one could say, for example, that there
18 is no clear and present danger that the Fourth Amendment
19 if it did not exist would really invade the majority of
20 the privacy of most citizens.

21 I think most of our constitutional rights,
22 most of the values that we cherish are not really capable
23 of proof. They really are in a sense life's inductant
24 lessons from experience.

25 What I'm suggesting here is that the attempt

1 of theoreticians and bureaucrats to analyze the effect of
2 their searchlight on other people is itself part of the
3 fascination with technology and proof and quantification
4 and all of this what one might call the cult of
5 objectivity, the kind of illusion that by standing as
6 far removed from the passion of the people who are victims
7 of something you can better study it.

8 I really think that that's almost a metaphysical
9 assumption of how we analyze things. And it's not right.

10 I think that what you have to put that together
11 with is the endless parade of stories that only time puts
12 a limit on my telling you and ask yourself really if you
13 accept for the moment that I am telling you the truth,
14 and if you accept also that I have told you only a tip of what
15 I know and that what I know I think is only a tip of the
16 iceberg, then there are lots of people out there getting
17 hurt.

18 Most protections don't really affect the
19 majority. If you didn't have a First Amendment, most
20 people in this country wouldn't be hurt. Most people in
21 this country don't feel that it's important for them to
22 dissent or speak out or be unpopular.

23 A lot of these values are always to protect the
24 relative few who are damaged by the absence of those
25 protections.

1 Not everybody on Mr. Meisner's block is going
2 to have a son who is accused of drug abuse. Not everybody
3 is going to have a kid who accumulates the record that
4 David Isaacs' kid accumulated.

5 The problem really is when you're measuring
6 whether or not there is evieence of damage done to people,
7 who is doing the measuring and by what standard? Have
8 they already so incorporated their insensitivity into their
9 assumptions that it takes just no account because they
10 never really come into contact with the human debris that
11 is left after the damage is done?

12 I think that that's, you know, the best answer
13 I can give. I don't think there are any studies
14 that document my anecdotes, and I don't believe that there
15 ever will be.

16 I think that to a certain extent one has to make
17 a value jump based on reality of what happens to people
18 when you don't have these protections.

19 MR. DOBBS: Given that that is in fact probably
20 true, to what extent does the ACLU have more data that they
21 could make available to us in terms of these specific kinds
22 of case incidents that we could use?

23 MR. GLASSER: Well, a great deal. I'm one
24 State branch of the ACLU. There are 47 or 48 others. To
25 be sure, we're the largest, and we exist in the middle of,

1 you know, the largest urban concentration in America and I
2 think getting more of this proportionately probably than
3 others.

4 But I could probably sit down and put on paper
5 and in detail all of what I have told you and probably
6 from five to ten times more than what I have told you
7 just out of my files probably on any given record. I mean
8 I could probably put together a 20-page memorandum
9 consisting of nothing but stories on each of seven or eight
10 different areas, you know, including some like mental ill-
11 ness.

12 How much the ACLU could gather nationally I
13 don't know. The easiest thing in the world is to do
14 an analytical memo and analyze the issues in 10, 15, 30, 50
15 pages. It's much more difficult to marshal this kind of
16 thing in a way so it's easy for people to read so it
17 doesn't become endless repetition of the same point being
18 made over and over again.

19 But if you think that would be valuable for you
20 to have, I would endeavor to put that into writing and
21 get it to you at some later date.

22 I suggest you look at the copies I have left
23 with Miss Kleeman, and I could give you as many of those as
24 you need on the David Isaacs thing.

25 But if that's the kind of thing you find useful,

1 I could probably multiply it to a large extent.

2 MR. MARTIN: Professor Miller.

3 PROFESSOR MILLER: Just a comment on Guy's ques-
4 tion and I guess on the response.

5 In a real sense, you know, the 25 of us around
6 the table and our comrades who are not here today represent
7 probably as skewed a group to investigate the question of
8 privacy in America as you possibly could imagine, because
9 by definition our records are clean. Otherwise we would
10 not be here. And our perspective really is a rather distorted
11 one.

12 And I think the point Mr. Glasser just made is
13 really a very powerful point, that the Constitution is
14 written for all the people but it is invoked and really
15 safeguards a relatively small segment of the society.

16 And the fundamental precept of the Constitution
17 is that when it is needed by one person it will be invoked
18 for his protection.

19 And it really is true because the debris, the
20 people who are damaged, don't surface. They simply do not
21 surface. Almost by definition they haven't got the
22 economic strength or the emotional strength to protect them-
23 selves. A few straggle in to the Civil Liberties Union.
24 The rest of the iceberg just is never seen.

25 I must say in the last 3 years since I have gotten

1 involved in this question I, like Mr. Donner, have
2 accumulated an enormous file written by sick people to be
3 sure but a lot of very desperate people probably who
4 have been grievously injured, and there is just no way
5 to protect them under the existing law and structure of
6 things.

7 And we should never forget that just because we
8 don't see the foundations of the republic crumbling
9 doesn't mean that this isn't a problem that is detrimentally
10 affecting a significant portion of the people.

11 Now, I would hope that the committee when it
12 considers the Canadian report and the Younger report and
13 the National Academy of Sciences report would understand
14 a couple of things.

15 First, as Mr. Glasner said, those reports were
16 written from on top. They were not written from underneath.
17 They were written by, in a sense, establishment groups.

18 Anyone who has spent any time with any members of
19 the Younger Commission as I have cannot come to the
20 conclusion that that was not an establishment group. Members
21 of Parliament, representatives of various mercantile
22 interests in Great Britain, so on and so forth. And they
23 looked at the problem through the eyes of establishment
24 people and through the eyes of the government and the
25 organized economy.

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1 Even putting that to one side, the problem
2 in Great Britain is far from the problem of the United
3 States. Great Britain is a much more homogenous nation.
4 It's a much more sophisticated nation in terms of its civil
5 service. There is a much higher level of professionalism
6 and tradition in British civil service. And fundamentally
7 there is a different philosophical attitude toward
8 such rights as the rights of individual privacy as reflected
9 in their law, and as the Younger Commission report itself
10 indicates, it didn't even begin to touch the famous M-7
11 units or the interni of Scotland Yard.

12 The same could be said of the Canadian report.
13 That was an establishment report in a nation that is at
14 least 10 and probably 20 years behind us technologically,
15 sociologically in terms of the problem of privacy, a nation
16 that still in a real sense has an open frontier into which
17 people can disappear and revive themselves and really
18 doesn't bear that much on our contemporary scene.

19 As to the National Academy of Sciences report,
20 that was a picture of 1970 based on reports of interviews
21 with data managers again in establishment units, by and
22 large, in a period of deep economic recession in this
23 nation when the whole imagery of technological advance
24 through the computer was on the downslide because of
25 economic cuts throughout the nation both from the public and

1 the private sector. And the perceptions generated in 1970
2 really in my personal view have no relevance for 1972, let
3 alone 1984.

4 So I think we have to take a rather sophisticated
5 look at who is telling us what.

6 MR. DOBBS: I agree with you, Arthur. The point
7 I'm trying to make is that we can sit here as those other
8 commissions sat and conclude that there is no problem and
9 on the basis of the same evidence that they at least cited,
10 and the reason that they said there was no problem was that
11 they could not find those individuals who had in fact been
12 damaged.

13 Okay? And, you know, what we're hearing from the
14 representatives of the ACLU is that they know where those
15 people are that are damaged.

16 And one of the things we have been struggling with
17 in this committee for the last several months is we have
18 never been able to get that kind of testimony from those
19 people into the hearings and into the record. We have
20 been listening to that same set of establishment bureaucrats
21 and other establishment kinds of interests coming in telling
22 us that there is in fact not a problem.

23 And that is the only reason that I wanted to
24 stress this, you know, the differential in the kind of
25 evidence we have heard in the past and the kind we are

1 hearing today.

2 MR. MARTIN: Dr. Gallati has a question I think.

3 PROFESSOR MILLER: Just a little line on this.

4 We will never get to Mr. Donner's point that there is a
5 psychic chill. None of us feels that psychic chill
6 because we have "made it" in the system. We will not be
7 chilled. Nobody is ever going to deter me from exercising
8 my First Amendment rights. And we just really will never
9 know whether Mr. Donner's perception is real, large, small.

10 DR. GALLATI: I have two fast questions, the
11 first one addressed to John Shattuck.

12 John, you mentioned that there were two aspects
13 in the electronic data processing, recordkeeping, and so
14 on, that you were most concerned with, and one was persistency
15 and the second was interchangeability.

16 And I would suggest that perhaps you might also
17 consider the speed of retrieval as an area in which there are
18 some tremendous potential dangers.

19 I am aware of at least one specific type
20 of speed of retrieval system which could present some
21 tremendous civil liberties problems, and also, of course, the
22 economy of the retrieval and the speed and the other aspects
23 you might give some thought to.

24 What was touched on by Frank was the fact that
25 you have this question of being able to mix 2 and 2 and

1 get 15 out of various facts.

2 Then I'd like to address one quick question to
3 Frank, and that is in terms of intelligence systems, which
4 is pretty much what you addressed yourself to, suppose we
5 had an intelligence system in an area in which we could
6 agree -- let's forget political for a moment -- but let's say
7 an area in which we agree there should be intelligence and
8 the intelligence system was composed entirely of "public
9 record data," in other words data retrieved from
10 congressional hearings, data assimilated from newspaper
11 articles, magazine articles, and so on.

12 Would you see this as having the chilling
13 effect which you saw in the others?

14 MR. DONNER: Well, of course, we are dealing with
15 something-- In the first place, I think the political
16 gesture of announcing to people that from here on out the
17 "only data that will be collected about you is data which
18 appears in some public medium" would be enormously reassuring.
19 I'd settle for that now.

20 But it's an unreal thing, because I don't think
21 intelligence collection works that way, and I don't think
22 you can get it to work that way.

23 I know John has a question on the fire. But I
24 really would like to-- You know, I have a feeling in a
25 different sense from Arthur Miller's that you people are

1 biased. You're biased by the culture. You're biased by
2 the pragmatic liberal values by which you live. And I'm
3 not blaming you for it. So am I.

4 But I'd like you to pretend we lived at the turn
5 of the century and you were sitting here discussing ecology
6 and somebody came in and said, "This is what is going to hap-
7 pen to the United States if you permit the present profit-
8 taking, the present this, that and the other thing," and
9 he gave this grim picture which approximated what we have
10 today.

11 Do you think he would persuade anybody?

12 Just one more thing which has been on my chest
13 for a long time, and that is this: You know, we have a
14 kind of ritualistic way of approaching these things. We
15 want to do something very badly. We want to do it because
16 it seems technologically feasible. We have all kinds of
17 good, sound reasons for doing it. We also see the evil.

18 And so we begin this interesting dialectic on
19 the challenge and the danger, the benefit and the challenge,
20 and we parade these horrors about how bad it will be if you
21 do it, and we solemnly nod and say, "Yes, these are the
22 things that will happen." And then we write long papers
23 with these hortatory collectives at the end, "We must pay
24 attention to individual rights and individual this."

25 But what invariably happens is that the enthusiasm

1 institutionalizes the evil and then ultimately fades to
2 ineffectiveness.

3 And that's what I am afraid will happen with
4 this whole field of privacy.

5 And now I will promise to keep quiet.

6 MR. SHATTUCK: Let me just say one thing in
7 disagreement with Frank because I don't think he does quite
8 far enough. I wouldn't settle for the public media
9 limitations, and I wouldn't settle for it for this reason:

10 I was one of the three lawyers in the case that
11 the Supreme Court decided by a 5 to 4 vote, Laird v. Tatum,
12 which I think so far is the only high-level treatment of
13 the problems that are being discussed today by the courts.
14 And the courts were consistently persuaded through that
15 case that what was being collected, notwithstanding the
16 fact that it was information on hundreds of thousands of
17 people and notwithstanding the fact that it all related to
18 their First Amendment activities, was similar to the kinds
19 of information that you can read in a newspaper.

20 The fact that it was similar to the kinds of
21 information that you can read in a newspaper I think is
22 irrelevant, because it was caught up in this whole data
23 system which in and of itself changed the character of
24 the information and made it judgmental about each of the
25 persons who was contained in the Army's data bank.

1 And I think, you know, in answer to Dr. Gallati's
2 question, I don't think you really can draw neat lines
3 about the kind of information that can be collected
4 generally and the kinds that cannot. I think you have to
5 take each system as it comes, and I wouldn't draw the line
6 at information that might otherwise generally be considered
7 public.

8 MR. GLASSER: With respect to free speech, I
9 mean to say that is a very important point. I think that
10 it's extremely dangerous to say that just because it's
11 public it can be collected.

12 Look at what happens. In the last 4 years in
13 New York City there has been a terrific explosion in the
14 schools with respect to student riots. Lots of students
15 have been activists.

16 We had a case where one student went on the
17 radio station to discuss student riots at his school and
18 was very critical of the principal's handling of those
19 student riots. It happened this principal, you know, dis-
20 obeyed the law, was the subject of half a dozen Federal lawsuits
21 and there was nothing the kid was saying that could either be
22 called inaccurate or libelous or anything else.

23 But there was an entry made in his record that
24 he was critical of the school, in his confidential dossier.
25 It was public. It was over the airwaves.

1 Two comments on that. One, do you think anything
2 good is going to happen to that kid because of that record?

3 And, two, what do you think the effect is on
4 other kids who are contemplating speaking out when they
5 know that people in authority, sometimes people in police
6 authority, are writing it all down?

7 The critical danger, the necessity to know that
8 there is the possibility of punishment, the possibility
9 of danger if you speak your mind I think would be an
10 inevitable effect of the collection of public data,
11 and I think that that is a completely different issue
12 relating to the free speech question than the question of
13 privacy.

14 MR. MARTIN: Professor Weizenbaum.

15 PROFESSOR WEIZENBAUM: Mr. Shattuck said what I
16 was going to say.

17 MR. MARTIN: Mr. Davey?

18 MR. DAVEY: I'd like to explore this question
19 that Guy was raising just a few moments ago about the types
20 of reports and things which have come to our attention so
21 far which indicate that there really in essence is no
22 problem.

23 I think you have been able to tell us the kind of
24 cases that you are familiar with. But as I was going
25 through, it doesn't seem like many of these cases have to do

1 automated personal data systems but, rather, overall types
2 of data systems.

3 And I think that an argument could be made --
4 and I wouldn't want to make it feeling the way that I do --
5 but I think that an argument could be made which would
6 support the reason for automating -- that you do structure
7 your records, that you do allow only so much information to
8 go into these automated records because of cost considera-
9 tions, and there are purging requirements which are usually
10 built into these kinds of systems. And the types of
11 automated systems that we have seen so far, you know,
12 a number of these things have them in.

13 And I think that when we contrast this with the
14 types of records which are being kept today where, you
15 know, it takes an effort to write them down and then it
16 takes just about as much effort if not more effort to
17 take that information out, where the cost of taking the
18 information out of a computerized system is much less, I
19 think that-- You know, how do we get to this basic question
20 of where the damage is with computerized records or with
21 automated systems?

22 And I think that we are all kind of looking at
23 ways of protecting and safeguarding privacy for individuals,
24 but I think that we need some concrete examples of where
25 these computerized systems have actually done some harm

1 or done something major.

2 MR. GLASSER: It's a mistake to think that the
3 central question is computerization or automation. It really
4 isn't.

5 MR. DAVEY: I agree.

6 MR. GLASSER: That has relatively little to do
7 with it. What the computerization allows you to do is it
8 allows you to build in safeguards or allows you to
9 multiply the damage.

10 The ultimate decisions are still policy decisions.
11 All the computer does is-- To think that is the problem is
12 to be seduced by technology. It is not a technical problem.
13 All the computerization does is give you technological
14 capacity to either reduce the damage you're doing or make
15 it larger.

16 Take something like the retail credit bureau
17 which has files on 40 million Americans. And since most
18 of the files are on adults, that's a larger proportion
19 than it first appears to be. They are not computerized
20 yet. Board of education files are not computerized. I
21 don't know to what extent the Board of Examiners in New
22 York gets its information on arrests, you know, out of
23 your system at all or tries to. But their records haven't
24 been computerized.

25 If they can get them computerized, they can make

1 them more persistent and spread them out easier and do all
2 the things I'm worried about easier. But they can also
3 expunge them. That's not the question. The question
4 is: What do we want to do with our technology?

5 And whatever the state of the technology is at
6 the time, it is going to be different 10 years from now as
7 it was different 10 years ago. We are going to be confronted
8 with a policy choice. What makes something new now is
9 that technology now gives the capacity for the first time
10 to, if used badly, create a persistence over time and
11 space that was not possible 100 years ago. And, therefore,
12 although it is possible to eradicate, the real change in
13 the advance of technology means the possibility of doing
14 damage has grown much faster than the possibility of undoing
15 it.

16 But that is just not the question, and I think --

17 MR. DAVEY: I think that's correct. But also
18 looking at historically what has occurred, you usually
19 find an improvement over the way the records were kept in
20 the past.

21 MR. GLASSER: I computerized my membership
22 records. We're a membership organization, you know. In
23 New York we have 30,000 members in the Civil Liberties
24 Union, about 200,000 nationwide. We used to have them kept
25 on little plates and have people doing it, and now we have

1 a computer doing it.

2 I find that in some ways the computer is more
3 inflexible, that there are certain kinds of data
4 you can't include or distinctions you can't draw. There's
5 only so much you can get on the tape.

6 Certain kinds of oversimplifications you intro-
7 duce really are inaccurate because you can't put in that
8 kind of detail. You can if you keep it personally.

9 It's also a little easier to do things. After
10 a long time if a person hasn't contributed the computer
11 blows him out of the records and we don't send things out.

12 The chief thing the computer does is it multi-
13 plies our capacity to make mistakes. I must tell you
14 what happens while it's doing all that automatic expunging
15 of members. When it makes mistakes, it makes it much worse
16 than any collection of clerks ever could have done.

17 In the New York Motor Vehicle Bureau after you
18 have run the gauntlet from window to window from green to
19 red to blue, when you finally get to the place where they
20 stamp it and take your money, until last year or 2 years ago
21 you were usually over the hurdle. Now they have all these
22 automatic machines linked up by computer to Albany, and they
23 put it in here and it comes down from Albany that checks
24 your arrest record and all that business to see if you've
25 been speeding and all that.

1 Because it's all linked up, sometimes like the
2 telephone it gets overloaded. And what happens? The whole
3 thing stops. The entire motor vehicle bureau shuts down,
4 and it takes about half an hour.

5 It used to be when a clerk got tired he went
6 for a coffee break. But now when the machine gets
7 tired, everybody is backed up for 2 hours.

8 The capacity to multiply what you do badly is
9 made just as large as the capacity to do well. It makes the
10 choice more pointed. But it just is not the problem to
11 talk about computerization per se.

12 MR. MARTIN: Dr. Impara.

13 DR. IMPARA: The same problem is an interesting
14 one to me that Mr. Dobbs brought up, and I don't know
15 quite how we could get or ask for some kind of summarization
16 which would adequately describe the problem of the anecdotal
17 records if you would go through all 47 or 48 States.

18 But in your observations, should at some future
19 time we ask for you to do something for us like that,
20 either Mr. Glasser or Mr. Donner, both, in your experience
21 have you observed that there might be some constant factor
22 which exists in these records?

23 Let me use the social security number as an
24 example. Is there a constant factor which might facilitate
25 the persistence or the transmission of records from one

1 source to another?

2 And the reason I ask is take a school record.
3 Let's consider it confidential, and your arguments about
4 that are very good. If I were an employer in California
5 and I was writing to New York for a school record,
6 depending on the policy of the particular school or school
7 district, I may only get the person's grades, maybe test
8 scores, achievement test scores, or something like that,
9 and none of this other anecdotal information. Again, it's
10 a matter of school or district policy.

11 So the persistence exists in the particular
12 locality where the record lies but not nationally, let's
13 say, or it doesn't get out of that community.

14 In those cases where it might get out of the
15 community, have you noticed anything, either or both of you,
16 that might facilitate these kinds of linkage or transmission
17 of data from one source to another?

18 MR. DONNER: Do you mean, sir, whether the trans-
19 mitting agency is struck by some salient fact which it
20 includes in the data that is transmitted? Is that what you
21 mean?

22 DR. IMPARA: Basically, yes. For example, are
23 all of these data collectors keeping something which -- like
24 social security number -- may facilitate going back and
25 forth from one source to another like the case you spoke of

1 where the student was suspended and the agency paying the
2 foster parents knew about it? Was there something that would
3 facilitate that kind of transmission?

4 MR. DOBBS: Can I try it a different way, Jim? I
5 think I know where you're headed. He's actually saying
6 does the fact that such data item as the social security number
7 existing in a record cause a possible person who may have an
8 interest in that data to say, "I would like to have it
9 because by virtue of the fact that I know that number exists
10 I can identify the individual that I want information on?"

11 MR. GLASSER: I have not noted anything like
12 that. The only thing that I have noticed appearing more
13 and more like that is, you know, if the kid is born and
14 somebody gives him \$25, the parent opens up a new bank
15 account and you have to put a number and most people will
16 get the social security number.

17 That happens. But I have not noticed that as
18 yet. What really is the enabling factor I think is the
19 wall of obscurity behind which that all flourishes.
20 Nobody ever knows about those records, and they get trans-
21 mitted around.

22 In the New York City school system the teachers
23 by virtue of a right they extracted by contract have an
24 interesting little device just within that narrow framework
25 that helps, and it goes right to the question of obscurity.

1 Their contract provides that nothing can go
2 into their file by anybody, nothing at all, unless it is
3 signed by them. Now, that means that it can't go in unless
4 they have seen it and made a copy of it and signed it.
5 Also they have a contract right which allows them to contest
6 anything that goes into their file. The requirement forcing
7 them to sign it provides them a grievance procedure.

8 Students don't have anything like that. One of
9 the interesting things is teachers have been opposing it
10 for students.

11 You see, you get involved in real power groups
12 in any of these situations where people want to use the
13 records, and the greater you can maintain the wall of
14 obscurity is their first defense.

15 The right to information is the other side of
16 the coin of the right to confidentiality. In other words,
17 the right for you to know what records they are
18 keeping and for you to keep them from showing it to anyone
19 is really part of the same thing and is the most revo-
20 lutionary right there is, and they resist. People
21 managing the situations resist it enormously.

22 That is much more an enabling factor than any
23 substantive piece of information that enables transmission
24 that may not be true.

25 MR. MARTIN: We will continue until 1:15 I

1 think and then break for lunch.

2 Commissioner Hardaway.

3 MRS. HARDAWAY: Let me address this to any one of
4 the three of you who would like to answer it. We have
5 spoken of problems, and you have specified specific things
6 that you know about. And we talked somewhat perhaps in the
7 negative.

8 May I ask what positive suggestions you could
9 give this committee in perhaps a sense of direction of
10 some way that your problems and the problems of the people
11 that you represent and that you work with might be
12 alleviated in the process of gathering of data such as
13 regulatory boards, laws passed by Congress? What positive
14 suggestion can you leave with us?

15 MR. SHATTUCK: I didn't reach, for the sake of
16 time, the part of my statement where generally I outlined
17 our position on what we think needs to be done at least as
18 a minimum. You will find it on pages 7 through 9 of my
19 statement, which I gather will be made available to the
20 committee at its meeting.

21 The leading thing that we propose, at least as an
22 immediate kind of not solution but at least step in the
23 right direction, is a publication of an exhaustive citizens'
24 guide to all the personal information by category maintained
25 by the Federal Government.

1 We don't suggest that would constitute notice to
2 all people who are the subjects of files and dossiers
3 within the Federal Government, but it would be a step in
4 the right direction.

5 That is something that could be done within 6 to
6 8 months, and I think a committee of this kind could move
7 in that direction.

8 I think it would be an exhausting research
9 job, but it would at least let us know where the information
10 within the Government that we are seeking is buried.

11 It wouldn't illustrate the kinds of injury that we have
12 been talking about here. Obviously, notice requirements
13 are different for different kinds of files. There are
14 particular kinds of personal files where we would
15 suggest that notice be sent to the particular person on
16 whom the file is kept, and mere publication of a citizens'
17 guide that says there are such files wouldn't be sufficient.

18 That would be information of the kind that
19 would be kept by agencies granting loans, passport agencies,
20 for example, or medical boards or any agency of government
21 which actually passed upon an application for a social
22 benefit that would be extended to a citizen.

23 In that case it would be necessary to notify
24 that individual personally perhaps through the mail,
25 perhaps otherwise, so that he would have an opportunity to

1 get access to his file and be able to challenge the informa-
2 tion in it not simply by the device that the Fair Credit
3 Reporting Act sets up that Mr. Glasser was disparaging
4 which allows you to put in a contesting notice in your
5 file but actually have a hearing of some kind where you can
6 contest information that was untrue.

7 In other areas information should not be
8 kept at all. And I treat at some length the arrest records
9 problem at the back of our statement.

10 I think that arrest records are perhaps the
11 single most damaging computerized-- I mean they illustrate
12 all the problems that are at issue before the committee,
13 the automated nature of the dissemination system that
14 Dr. Gallati was beginning to touch upon, the failure of
15 most of the reporting agencies with the exception of some
16 of the better ones to indicate the disposition of
17 certain arrests, and the instantaneous dissemination of
18 arrest records to Federal and in many cases non-Federal
19 and law enforcement areas and beyond that to employers.

20 We would suggest that it is necessary for
21 arrest records under perhaps all circumstances not resulting
22 in conviction to be expunged at the time the case is
23 dropped. It may not be possible to reach that kind of a
24 solution. And if the committee happens to be looking into
25 that problem, we have treated that at some length in statements

1 before other committees.

2 But generally I think the positive sides for
3 what we advocate should be done as an immediate step
4 in the direction of controlling these problems you will find
5 in the back of our statement.

6 MRS. HARDAWAY: By what method? -- is what I'm
7 driving at. Are you suggesting a Federal law that --

8 MR. SHATTUCK: Well, I think legislation is
9 probably necessary, yes. As a matter of fact, right
10 now there is legislation pending before Congress introduced
11 by Congressman Koch to provide for access to all personal
12 information maintained by the Federal Government. I don't
13 know if the committee has had the benefit of Congressman
14 Koch's views, but I think they would certainly be valuable
15 in this area.

16 I gather the hearings have been held on that
17 bill and it will be taken up again in the next session of
18 Congress.

19 So, sure, legislation is obviously a necessary
20 feature of the problem, but I would say that the citizens' guide
21 to records in the Federal Government is something that could
22 be compiled perhaps without legislation either by executive
23 order or by an undertaking of a department head in a
24 particular department.

25 Probably legislation would help in that area

1 because it would really compel agencies that weren't
2 interested in compiling information about their files to do
3 so.

4 MR. MARTIN: Professor Allen.

5 PROFESSOR ALLEN: This may be included in the
6 statement that was just distributed, but I would ask you
7 if you would say a little about, from your point of view,
8 what might be done to discourage the keeping of the kinds
9 of records the impacts of which you have been describing,
10 the kinds of costs, penalties, other measures that would
11 keep the information from being compiled in the first
12 place.

13 MR. GLASSER: Well, I think if you are going to
14 prevent it and if you are going to prevent it by legislation,
15 I guess that means there is a law against keeping it or
16 against asking the question.

17 The question of what the penalty should be for
18 violating that law I think really depends on what is
19 supposed to be an effective way.

20 There have been bills introduced in the State
21 Legislature in New York that would make it a misdemeanor,
22 for example, to even ask a question about an arrest as
23 opposed to asking a question about a conviction. I think
24 that will stop most employers. It's not the kind of thing
25 that is going to raise, you know, a problem of trying to

1 get around the law. It wouldn't be worth it to most
2 employers to risk that.

3 I think another way of doing it besides
4 mild criminal penalties may be involved in creating a cause
5 of action to sue for damages on the part of the aggrieved
6 party. That is a problem. It is my opinion -- and we have
7 tried to do that -- without specific authorization for
8 that it is very hard to get judges to award that kind of
9 damages. We have tried in a lot of these cases to do
10 that without success in most instances.

11 Making that easier to do would stop public
12 officials in a hurry. The fact of the matter is the
13 school principal, for example, or the welfare official or
14 the housing authority official insofar as he breaks the
15 law is accountable only to his superiors, and that's a locked
16 system. I mean that's a military system.

17 The basic dynamic that goes on when a bureaucratic
18 official violates his own agency's regulations or some
19 other part of the law is that his superiors back him up.
20 That's the dynamic that happens. You can't get a principal
21 to be disciplined because the assistant superintendent of
22 schools is his friend who is a former principal. You know.
23 They judge each other. They have rotating panels of
24 hearing officers. I mean it's a locked system.

25 You have got to break the system coming in from

1 the outside.

2 This is true I think, if you can take it as a
3 maximum, of bureaucratic organization. You can't get police
4 to police themselves. You have got to introduce
5 some other kind of means.

6 Now, the fact is that the only other kind of
7 means aside from mild criminal penalties is if you make
8 it easy for a person who is so damaged, as some of the people
9 I have described, to get some money out of the official who
10 did it. And I don't mean a lot of money necessarily.

11 But if you socked that principal for \$100 once,
12 you know, I don't think a lot of other principals would
13 do the same thing again.

14 I think that providing the kind of penalties
15 which are not excessive but which are reasonably to be
16 expected to make the risk of violating the law just too
17 great can probably help in a lot of instances.

18 The problem of the Fair Credit Reporting Act,
19 for example. It's impossible for Mr. Meisner to sue because
20 of that information in there. He can only sue if there was
21 some noncompliance with the act. But insofar as the act,
22 it doesn't really provide him any case. All it says is
23 if he asks them to check they have to check again and tell
24 him what they found. They told him they checked again and
25 found out it was true.

1 Then the act says you don't have to show him the
2 record. You just have to disclose to him what is inside.
3 That means you can tell him what is in the record but he
4 never gets to see it. And the act says you don't
5 have to take it out but you can let him put his denial
6 inside. He did that.

7 Because you can only sue them not for the damage
8 that can be done to you because of inaccurate
9 information but only because they didn't comply with the
10 act. And not complying with the act is no problem. He
11 has no recourse.

12 If he had a cause of action whereby he could
13 sue them for damages, if a libel action can be incurred,
14 that might be enough of a -- might introduce enough of
15 a dynamic change to make even mild criminal penalties
16 unnecessary in that case.

17 MR. MARTIN: Commissioner Hardaway will have the
18 last question before we recess for lunch.

19 MRS. HARDAWAY: Your organization nationally and
20 State-affiliated gathers a lot of information on people.
21 How do you safeguard it? What do you do with it after you
22 get it?

23 MR. SHATTUCK: He uses a computer. We don't.
24 We're bigger than he is. (Laughter)

25 MR. GLASSER: Well, there's two kinds of

1 information we gather. The first kind of information is
2 our own members' names.

3 MRS. HARDAWAY: I'm not speaking of --

4 MR. GLASSER: You're really talking about our
5 clients. I think basically the way any law office does.
6 See, the thing that we have is that there are certain
7 areas of the law -- namely, clergymen, doctors, lawyers --
8 where there is established by law a privileged communication
9 area whereby it's very hard to get that kind of information
10 from a lawyer. I mean you can't subpoena it. You can't get
11 it.

12 The lawyer has the right not to give information
13 about his client. So does a doctor. So does a priest.
14 There are very few other categories where that exists.

15 A recent attempt to get the Supreme Court to enun-
16 ciate a privilege between journalist and interviewee was
17 lost. It's very difficult to create that kind of privilege.

18 In New York State there was a law passed this
19 year, vetoed by the Governor, that would have established
20 something of that kind of a privilege between guidance
21 counselors in school and students so that they (1) were not
22 permitted to divulge information and (2) could not be
23 liable if they refused at government request.

24 Those things are very difficult to do.

25 But the basic thing in our office is that since

1 most of our clients function with lawyers, when there is a
2 case that involves issues where the lawyer-client privilege
3 may not be invoked, for example, because I as a nonlawyer
4 talk to somebody, sometimes I just don't talk to them.
5 Sometimes I just don't know, and the lawyer has the con-
6 versation, and no nonlawyer does, precisely in order to
7 protect that kind of confidentiality.

8 Now, there is no protection I suppose --

9 MRS. HARDAWAY: That's not my point, sir. I'm
10 talking about your actual records on these folks that
11 you have mentioned. Where are they? How are you safe-
12 guarding them?

13 MR. GLASSER: They are not safeguarded from
14 theft if that's what you mean. They are in our files, and
15 I suppose if somebody broke in they could get at them.

16 When we testify, when we negotiate with public
17 officials-- For example, I did an 18- or 20-page memorandum
18 for the Board of Examiners in New York that is in the
19 division of the Board of Education which grants licenses
20 to teachers detailing for them a whole variety of anecdotal
21 cases where rights they said publicly they never violated
22 were in fact violated.

23 I blacked out the names and used initials, you
24 know, so that nobody who saw that piece could know
25 immediately who it was.

1 Other than not making information-- For
2 example, the kind of things I used today, I used no real
3 names except those which were made public by the people
4 involved, like Mr. Isaacs who wrote it in the newspaper.

5 Now, there isn't much protection from theft, and
6 I get concerned about that all the time, although it has
7 never happened to my knowledge at the New York Civil Liber-
8 ties Union. I don't know if it has happened elsewhere.

9 MRS. HARDAWAY: Let me ask just one other
10 quick question. I know we have to eat. If I am in your
11 records simply because I have discriminated against someone
12 and let's say I'm the principal, that you have a case
13 against me, would you at some future date if Dr. Gallati
14 wanted to know something about me-- Do you have a policy
15 or is it an administrative judgment that because I would
16 be opposed to your opinion you would then say, "Well, let
17 me tell you about her. Let me show you everything I have
18 got about her because, boy, can I, you know, fill you in"?

19 Is that a matter of written policy that you
20 don't give out that?

21 MR. GLASSER: Yes.

22 MRS. HARDAWAY: Or administrative judgment?

23 MR. GLASSER: We are a little paranoid about
24 confidentiality, so much so when I went to the bank to
25 apply for an automobile loan they called up the office to

1 verify it, and they said that the only one who could verify
2 that was me. And I, of course, wasn't there. (Laughter)

3 We try to be very strict about that. There are
4 cases, for example, where the Board of Education in making
5 the point that frequently in ghetto schools white teachers
6 will indicate their low level of expectation of achievement
7 of black students-- We will get from time to time from a
8 black parent evidence of that in comments that the teacher
9 will make, and we know who the teacher is. We never say
10 who that teacher is. If the black parent who knows who
11 the teacher is wants to suggest the principal be brought up
12 on charges-- But in using that example we don't do that.

13 Sometimes it happens in very amusing circum-
14 stances. We got such a letter from a community group the
15 other day asking us to bring charges against a teacher
16 and the same day we got the appeal from the teacher to
17 defend the teacher.

18 MRS. HARDAWAY: Is that by administrative policy
19 or written policy of your agency?

20 MR. GLASSER: Half and half. There are certain
21 written policies and other things not by written policy.
22 I don't really know the full answer to that.

23 MRS. HARDAWAY: Do you inform people that become a
24 part of your records that it is by half and half, part
25 administrative and part written policy, or do you leave

1 that unsaid?

2 MR. GLASSER: Only if they ask. What happens
3 is that if somebody writes a letter to us and-- I'm not
4 sure I'm understanding what you're driving at.

5 MR. MARTIN: I think what Commissioner Hardaway
6 is reaching for is whether you practice what you preach.
7 (Laughter)

8 MR. GLASSER: Well, yes, I think so, but I didn't
9 think that's what you were reaching for. I thought you
10 were asking how --

11 MRS. HARDAWAY: But you just "think" so? There
12 is no little thing I sign when I, you know, give you
13 information, etc., that guarantees me that you're going to
14 hold it and not share it with Dr. Gallati?

15 MR. SHATTUCK: I think the important thing to
16 stress here is if you came to see us you would be turned
17 over to a lawyer. You would have an interview with a law-
18 yer. And everything you say from that point on and any
19 document you turn over to us if you have discussed it with
20 a lawyer is privileged.

21 The lawyer would be violating that privilege of
22 yours if he were to turn it over to somebody else. And
23 that's something that would cover all lawyers.

24 So in that sense I suppose that's the most
25 formal of the policies we have.

1 MR. GLASSER: The other thing is --

2 MR. MARTIN: I'm going to suggest we continue
3 this over lunch if the Commissioner can catch you. I hope
4 lawyers Shattuck and Donner and nonlawyer Glasser will be
5 able to stick around after lunch if you want. You will be
6 most welcome, and I'm sure there will be opportunities
7 later in the afternoon to continue the dialog if you would
8 like to stay.

9 (Whereupon, at 1:23 p.m., the luncheon recess
10 was taken.)

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AFTERNOON SESSION

2:25 p.m.

MR. MARTIN: We will come to order, please.

The first speaker this afternoon will be Mr. Corbett, a private citizen.

Mr. Corbett, will you go ahead in your own way?

MR. WILLIAM H. CORBETT: Thank you. I didn't realize that a casual remark in a car pool conversation would lead to an invitation such as this, but I am glad to be here, and I suspect that most of us have a favorite story concerning man's struggle with the machine. We started somewhat before the days of Mr. Chaplin in "Modern Times."

Mine is a fairly simple one. It concerns the fact that in about 1957 the members of the armed forces on active duty were brought under the social security system and were issued social security cards.

About a dozen years later, in 1967, about 10 years later, I applied for a social security card for my son, and at that time in discussions with the Social Security Administration local office I found that the same social security number that I held had been assigned to two other people, and since then we have been trying to settle the problems to our mutual satisfaction.

And at the present time the solution has been

1 to give me another social security number and -- rather, to
2 transfer the one which had been issued to my son to me
3 and give him a new one. And that's the way things stand at
4 the moment.

5 Have you any questions, sir?

6 MISS KLEEMAN: Can you describe a little bit more
7 of the circumstances that led you to discover the situation?

8 MR. CORBETT: I got a letter from the Alexandria
9 office in February of 1968 inviting me to come to see
10 them to help them straighten out some apparent incon-
11 sistencies in the records, and I discussed the matter over
12 the telephone and gave them the information they wanted.

13 And then -- let's see -- again in 1970, September
14 of 1970, I received a letter from the office in Falls
15 Church explaining that the Internal Revenue Service
16 discovered that I and another person were using the same
17 social security number and stating that it was originally
18 given to someone else in 1936.

19 In 1956 their records showed that I was given
20 a number which is different from the one which had been
21 issued to me. This number, this different number, was, as
22 they state, later incorrectly given to my son.

23 To correct this error they have assigned him
24 a new number and instructed him to return the card and they
25 have transferred the card which had been issued to him to me

1 In 1971 I began experiencing some confusion in
2 income tax in Internal Revenue Service accounts. For
3 example, in February of 1971 I sent a note to the Director
4 of the Philadelphia Region returning a check in the amount
5 of a little over \$400 which was made out in my name which
6 was not due me since they had already returned my over-
7 payment for that year, considerably less than the \$400.

8 I returned another copy of a form 1099 stating
9 that amount of \$133.48 had been paid to me in interest,
10 presumably on that \$400. This too I returned as not belong-
11 ing to me.

12 And, third, a copy of a form addressed to
13 William and Helen F. Corbett asserting these parties
14 have not paid a balance of \$2,088 in back taxes including
15 interest and penalties. And that did not belong to me.
16 My wife is not named Helen.

17 I informed them that the matter of separating
18 the several accounts now assigned to the same social
19 security number as mine might help them if they would refer
20 to me as William H. Corbett and my wife as Frances R.
21 Corbett and by address rather than just by number.

22 MISS KLEEMAN: Their names were also William H.
23 Corbett?

24 MR. CORBETT: Yes, the two people thus far
25 identified as having the same social security number as mine

1 are also William H. Corbetts.

2 DR. GALLATI: Same dates of birth too?

3 MR. CORBETT: This I don't know.

4 MRS. HARDAWAY: You appear so calm about it. Are
5 you really? (Laughter) I mean has it bothered you?

6 MR. CORBETT: Well, yes, I believe I am. In a
7 system in which there are accounts numbered in the hundreds
8 of millions, one would suspect that there are going to be
9 some mistakes.

10 The fact that the Internal Revenue Service
11 uses a printed form to let me know that somebody else is
12 using the same social security number as I indicates to me
13 that I wouldn't be so grandiose to think I am the only
14 person having this experience.

15 And as I said, the records of man's struggle with
16 the machine are frustrating but often even humorous. I
17 have some othes I could tell about relations with computers
18 and some of the mail order houses. I presume you have too.

19 MR. DOBBS: Mr. Corbett, the contact you have
20 described thus far has been with IRS mainly and with the
21 Social Security Administration -- I presume in terms of
22 trying to verify who belonged to what number. Do you have
23 any information at this date on what your account with the
24 Social Security Administration looks like?

25 MR. CORBETT: Yes. In November of 1971, in

1 their attempts to straighten out the account, they gave me
2 a report of earnings going back to January -- rather, that
3 is, going back to the year 1957 when members of the armed
4 forces were brought under the social security, and asking for
5 my help in furnishing some additional evidence as to
6 earnings back in 1964.

7 I was unable to furnish this information because
8 I didn't maintain my records that far back. I had moved
9 since then and sort of cleaned up my records at the time.

10 So excepting for the one year which they were
11 unable to straighten out, everything appears to be in
12 order.

13 DR. IMPARA: In addition to the IRS and Social
14 Security, has there been any other problem related to this
15 from other agencies, governmental or otherwise, relating
16 to this mixup?

17 MR. CORBETT: The only one that has come to my
18 knowledge so far has been that when the Administration
19 transferred my son's card to me and gave him a new social
20 security number, they also apparently -- I say "apparently"
21 because I don't know this -- gave the information to the
22 State of Virginia as to the tax accounts, and he has been
23 getting some periodic dunnings for not having paid his
24 income tax under his new number, although he paid it
25 under the previous one which as I say was assigned him and

1 then transferred to me.

2 DR. IMPARA: But there hasn't been anything like
3 a credit agency or --

4 MR. CORBETT: No, the only person who regards
5 one of the William H. Corbetts as a poor credit risk to my
6 knowledge is the Federal Government, and that's another
7 one of the William H.'s.

8 MR. MARTIN: Are there any other questions for Mr.
9 Corbett?

10 Mr. Corbett's situation evidently he infers is
11 not unique, judging, he says, from the fact that some of
12 the correspondence he has received relative to the situation
13 is a form letter, which would suggest the occurrence is
14 frequent enough to warrant producing a form letter to
15 communicate about it.

16 It is the first case that we on the staff have
17 encountered of a person who holds the same social security
18 number as has been assigned to other people. We have
19 heard an abundance the other way in which individuals are
20 said to have more than one number, but this was the first
21 real life case that we had stumbled on of someone who had
22 the same number as someone else and some of the consequences
23 thereof.

24 Professor Weizenbaum?

25 PROFESSOR WEIZENBAUM: You mentioned a number of

1 dates, some of them going back to 1936.

2 MR. CORBETT: Yes, sir.

3 PROFESSOR WEIZENBAUM: Just in trying to under-
4 stand what might have happened to you, not as a specific
5 conjecture, would it account for the facts as you know them
6 that the other William H. Corbett at one time or another
7 appealed to the Social Security having said that, "I can't
8 find my number; please tell me what it is," and that
9 then they erroneously gave him your number?

10 Or is it the case which I would consider
11 more serious from a system point of view that the social
12 security system in fact, so to speak, spontaneously spewed
13 out the same number twice?

14 Which fits the facts more closely do you think?

15 MR. CORBETT: According to what I have been
16 informed, one other William H. was given a social security
17 number I had been carrying in 1936, which predated the
18 assignment of that number to me by about 20 years.

19 PROFESSOR WEIZENBAUM: So the conjecture that
20 someone inquired and said, "What is my number?" and that then
21 the Social Security in effect tried to find the
22 number and happened to find the wrong number, that's not
23 a conjecture consistent with the facts as you know them?

24 MR. CORBETT: No. The situation around the
25 assignment of a number to my son more closely resembles

1 that I would think, in which I asked for a number for
2 him, was given a number, which the Social Security Ad-
3 ministration then told me had been assigned to me
4 in accordance with their record beforehand.

5 PROFESSOR WEIZENBAUM: You say you asked for a
6 number for your son?

7 MR. CORBETT: Yes.

8 PROFESSOR WEIZENBAUM: He was a minor?

9 MR. CORBETT: A minor, yes. He was 15 at the
10 time. He was going to do part-time work in the summer.

11 MR. MARTIN: Miss Kleeman tells me that in a
12 conversation which she has had with an official of the
13 Social Security Administration they engaged in some
14 speculation as to how this might have occurred, and this
15 does not constitute Social Security Administration explana-
16 tion based on actual inquiry into your situation, Mr.
17 Corbett, as to how it did occur, but the speculation was
18 that at the time that numbers were being issued to military
19 personnel, including yours apparently, it's possible
20 that in the assignment of a number to you the Social
21 Security Administration did not wish to assign you a
22 second number and misperceived you as the earlier enumerated
23 Mr. Corbett and in a sense just thought it was telling
24 you, "Well, you have a number, and this is it," rather than
25 treating you as a second additional person.

1 Have you had any explanation? Has Social
2 Security tried to figure out how it happened?

3 MR. CORBETT: I do not know, but from the
4 standpoint of conjecture I would say that makes good
5 sense, especially when I would assume that the issuance of
6 social security numbers to a great number of people in the
7 armed forces all at one time would probably have put great
8 overload upon the resources of the Administration at one
9 time.

10 MRS. HARDAWAY: There we get back to Dr. Gallati's
11 fingerprints.

12 MR. CORBETT: I beg your pardon?

13 MRS. HARDAWAY: I'm just making a comment that
14 had the fingerprints gone along with that file that would
15 not have happened. Right?

16 MR. MARTIN: Well, thank you very much for coming,
17 Mr. Corbett. We won't detain you any longer.

18 To the committee I might say that I think what
19 we might try to do for the committee is to request the
20 Social Security Administration to give us a bit more
21 information about this kind of situation and what it
22 regards the increased likelihood of occurrence to be in
23 circumstances where large-scale enumeration is to be under-
24 taken without regard to the immediate administrative
25 purposes of the Social Security Administration in service

1 of secondary objectives dreamed up for other purposes
2 such as the situation of the enumeration of school children
3 which was referred to in this morning's discussions
4 contemplated by the amendment to the Social Security Act
5 provided by H. R. 1, and if there are any other particular
6 features of inquiry which Mr. Corbett's remarks
7 suggest to any member that they would like to have us put to
8 the Social Security Administration I'm sure the Administra-
9 tion would be glad to try to help us.

10 Mr. Siemiller, did you have a comment?

11 MR. SIEMILLER: This testimony is directly in
12 contravention of what we normally find in the
13 issuance of social security numbers. We know of cases
14 where one individual has had as many as eight numbers, but
15 never before have I heard of three people having the same
16 number. It's certainly very unusual.

17 DR. GALLATI: We don't know it's unusual.

18 MR. MARTIN: It may arise from the effort to avoid
19 giving a person a second number.

20 MR. SIEMILLER: We don't know.

21 MR. MARTIN: Our next speakers -- I'm going to
22 suggest that they come to the speaker's table together
23 since they are both from quite different parts of the
24 country but are going to be addressing concerns of
25 veterans -- will be Mr. Otilio Mighty, Director of Veterans'

1 Affairs of the New York Urban League, and Joe Garcia,
2 Director of the Seattle Veterans' Action Center.

3 Would each of you gentlemen proceed in your own
4 way starting with Mr. Mighty?

5 MR. MIGHTY: Thanks for inviting me. I do work
6 for the Urban League in New York City, and primarily my job
7 consists of taking care of veterans who have returned and
8 who are returning to the major metropolitan area which
9 consists of parts of Jersey, all of New York City, Nassau
10 County and Suffolk County, and part of Westchester.

11 In the particular job I have, we deal with
12 problems of the veterans. We take care of their employment
13 requirements, education, housing, drug problems, trying to get
14 undesirable discharges changed to honorable, trying to
15 get them into drug treatment, trying to get the Federal
16 Government to give them rehabilitation and benefits if they
17 have them coming to them, and in some cases we try to give
18 those men who have been refused -- to get them to give
19 benefits to them.

20 We also try to get records all straightened out.
21 We also try to get employers to employ those veterans who
22 they have refused because of certain information on discharge
23 certificates or certain information passed on from the
24 Defense Department to an employer.

25 PROFESSOR WEIZENBAUM: I didn't catch the last

1 part of that sentence. Certain information -- and then you
2 mentioned the Defense Department.

3 MR. MIGHTY: Certain information on the man's
4 record that the employer might have requested from the
5 Defense Department with the consent of the individual.

6 PROFESSOR WEIZENBAUM: I see.

7 MR. MIGHTY: And in most instances the man would
8 have been denied employment because of the information
9 coming back from the Defense Department.

10 PROFESSOR WEIZENBAUM: I see.

11 MR. GARCIA: To give you an example of what
12 Otilio just mentioned, our program in Seattle deals specifi-
13 cally with the returning veteran from Vietnam and more
14 specifically the disadvantaged minority groups that are
15 coming back, the ones that really have fought this war
16 in large numbers in comparison to the population back in the
17 United States, the ones that didn't have draft deferments
18 to go to college, the ones without a high school education,
19 the ones that got drafted out of the ghettos, out of the
20 barrios, out of our Indian reservations in our country,
21 and coming back and trying to make their transition from
22 military to civilian life which is very difficult during the
23 times that we are going through today.

24 One example of what Otilio just mentioned was
25 about a year ago a young Vietnam veteran came to us looking

1 for a job who was married and had two children. He was 23
2 years old. Silver Star. Distinguished Service Medal. Two
3 Purple Hearts. And a bad conduct discharge because of drug
4 involvement while he was in Vietnam.

5 He had been in Seattle for about a year and a
6 half, unable to find a job simply because of his discharge
7 and because of the documentation on his military record of
8 being a drug abuser, and also, you know, the bad conduct
9 discharge.

10 But we found employment. He was on the job for
11 6 months and doing a very good job and was commended by
12 his foreman. But during the process of the personnel
13 office at the firm that he was employed, they soon discovered
14 that he had a bad conduct discharge that was drug-related
15 and he was fired -- not because of the job that he was
16 doing but because he had a bad discharge.

17 Three weeks later, because he couldn't find
18 employment, because he became very discouraged and frus-
19 trated, he got involved with the drug traffic in Seattle,
20 and after a high-speed chase down an interstate highway he
21 crashed and now he's a paraplegic. He's paralyzed from the
22 neck down.

23 This is an example of what, you know, documentation
24 can do to an individual that, you know, stays with him, you
25 know, indefinite amount of time.

1 Another example that comes to mind is that one
2 of my workers on my staff was with the 25th Infantry in Viet-
3 nam. He was a scout. And for those who don't know what
4 a scout is, a very highly trained professional killer.

5 He came back-- Well, he got almost blown apart in
6 Vietnam, spent 6 months in the hospital being put back
7 together. Then when he got back into his community he
8 also had problems with drugs. He got addicted to morphine
9 at Camp Zammom in Japan. So we are taking him through a
10 drug rehab program.

11 And about the first 3 months when he was back
12 home he had a knock at his door and he answered the
13 door and there was a man, you know, at his front door,
14 and the man was very straightforward. He would lay 10,000
15 bucks on him if he would take a contract to kill somebody.

16 Somebody found out that he was a highly trained
17 professional killer and that he had something that the
18 syndicate there needed.

19 And to this day no one knows how that individual
20 got hold of his records to find out everything about what
21 he did in Vietnam, even to the point of how many, you know,
22 kills he made, how many patrols he had been on, and how he
23 ended up in the hospital and he was addicted. And this
24 man had all that information.

25 You know, these kind of cases I can go on and on

1 as far as, you know, how the Department of Defense documents
2 individuals in the military and how that documentation
3 follows that man until he's dead and even beyond that.

4 An interesting story the other day at the elec-
5 tion. You may have heard it. This woman turns up in New
6 Hampshire to vote or some place like that, and, you know,
7 she's ready to sign her registration, and they told her she
8 couldn't vote because she was dead. She had been documented.

9 It may sound absurd, and some of you may think
10 that these are isolated cases, but I don't think so.

11 And I'm quite concerned about how this documentation
12 is going, you know. It can have its merits, but as we
13 see it on a daily occurrence with guys that I have mentioned
14 that we work with daily, especially guys that came back
15 and ended up behind the walls, incarcerated, and then
16 again documented, and then again in the probation system
17 in our penal institutions how that determines how people
18 or how they don't get help-- And it always ends up back
19 to his military record, and, you know, this shadow is con-
20 sistently hanging over his head.

21 And I don't know where it will all end. But I
22 know one thing. When and if the war ends, you know, these
23 problems that I just mentioned won't.

24 MR. MIGHTY: What Joe and I are talking about are
25 things-- I believe people generally are not fully aware of

1 the impact of the amount of people who have been in the
2 military and the amount of information that is kept on them
3 even after they have been out for several years.

4 For instance, if you were a veteran of World
5 War I, I feel confident that we could get all sorts of
6 information on you and very easily.

7 Basically, when I say "easily," what happens
8 is-- And I'm primarily concerned with three things here.
9 I'm concerned with the medical record maintained by the
10 Defense Department. I'm concerned about it because in
11 many instances individuals who have applied for jobs with
12 the Federal Government or with the private sector-- The
13 personnel people will ask the individuals to sign a release
14 which would permit them to get information from the Defense
15 Department from the medical records.

16 In most instances, you as a military member have
17 very little knowledge of what is on your medical record
18 because there's a thing that precludes in many instances
19 them from showing you a medical record. They can tell you
20 what is in the medical record but you are not privileged to
21 read the record.

22 I think this happens in civilian life also,
23 incidentally.

24 Or you might have gone on sick call and com-
25 plained about a particular thing, and the doctor will be

1 sitting there and writing while you're talking, and he might
2 make a diagnosis or a certain statement on your record of
3 which you have no knowledge.

4 Consequently, when you come out of the service,
5 you sign a statement permitting an employer to get
6 information from your medical record. Come to find out, you
7 might have had some type of illness or supposedly had some
8 type of illness that this employer decides that you would
9 not be a good medical risk to be in his employment and
10 you will have not been hired.

11 Now, I have seen at least four or five cases of
12 this nature with specific employers in New York City. As
13 a matter of fact, in New York City yesterday, even though
14 it rained, I had a meeting with them, and the meeting
15 surrounded two people specifically in this same area.

16 That is one.

17 In the area of discharges, even those men who
18 have honorable discharges, there is a code on the 214 --
19 the 214 is a certificate --

20 MISS KLEEMAN: Which you all have in your
21 folders (indicating).

22 MR. MIGHTY: In addition to all of the extraneous
23 information-- I say "extraneous" because I think once an
24 individual goes into the service what you do in the service
25 is really something that should be closed in many instances

1 except your name, your social security number -- which used
2 to be your serial number, the old army service number -- the
3 period of time you served, and address. I think that's
4 sufficient for anybody to know.

5 The fact you served honorably or generally
6 and how much time lost you had and how much insurance you
7 carried and this sort of information is not necessarily
8 going to be important.

9 But in addition to that, on the righthand
10 side, you will find a code they call a reenlistment code,
11 and even though you might have an honorable discharge
12 the various branches of the service will code 1, 2, 3,
13 and then they have a 2A, 2B, 3C, what have you.

14 Personnel people have become so sophisticated
15 that they have in their possession the meaning of those
16 codes, and in many instances the men that I deal with who
17 are in most instances black and Spanish speaking people
18 from the New York area are denied employment even if they
19 had an honorable discharge because there is a code that
20 reads 3A, 3B.

21 And the rationale is this: If the military did
22 not want you to reenlist, there is something wrong with
23 you. Consequently, they don't employ you.

24 This is not a statement that is made just, you
25 know, off the top of my head. This has happened, has

1 happened to thousands of men in the area in which I deal.
2 And I feel confident -- Joe and I exchanged information --
3 it happens in Seattle. And I would take a guess that it is
4 happening all over the country.

5 I think that information should be not available.

6 Let me give you two quick things. One of them
7 involved myself. You see, I did several years in the
8 service. Incidentally, for those of you here, I did
9 quite a bit of time in the service. I spent about 7 years in
10 staff office. I worked 6 years in personnel and ad-
11 ministration keeping thousands of records. I'm a record-
12 keeper. I have kept thousands of records.

13 And the records include evaluation reports,
14 efficiency reports as you might call it, your grandmother's
15 name. And I mean say it and we have had it.

16 And some of the things that we have tried to do
17 to safeguard information of the personal person in the
18 military establishment in the Air Force-- In some instances
19 we used to give all the supervisors the man's personnel
20 record to look at so he would know what type of person
21 he is getting, and in the man's personnel record would be
22 his performance reports.

23 Supervisors are funny. If they look and see
24 that you have a performance report of say outstanding,
25 they're inclined to give you an outstanding report. And,

1 conversely, if they see you have an efficiency report
2 of, say, fair or acceptable person, they will continue to
3 give that regardless of the type of performance on them.

4 What we did in the Air Force is we refused to
5 give the supervisors of men the man's record. We took out
6 certain information. Now, we did this because we were
7 very sensitive to what was going on. But I feel confident
8 other parts of the service are not now doing this.

9 In terms of courts-martial, if an individual
10 has had an (auditor 15) for several years or a special
11 court-martial and if he has to be tried again, there is a
12 thing called a record of previous trial that is submitted
13 to the court. And if it's less than a certain time, once
14 in 3 years, or it happened in a previous enlistment, then
15 it was not listed as a regular trial.

16 Here's what happened. The men who sit on the
17 court are members of the particular unit in many instances
18 on the same base and they do get access to the records,
19 so this again endangers or tends to jeopardize the indi-
20 vidual.

21 Our here in the civilian world in which I am
22 working now, I find that I have a young man who came to me
23 about 6 months ago and what had happened to him was he was
24 adjudged a youthful offender and the judge told him that if
25 he would go into the service he would dismiss the charges.

1 So he went to an army recruiter, joined up, and
2 went in, and did a tremendous job, served some time in the
3 States and several months in Vietnam and won some of the
4 medals that Joe talked about. He received an honorable
5 discharge.

6 Upon separation he applied to the New York State
7 Civil Service Commission for a job as a guard in Sing Sing.

8 Now, when he went to join the service he did not
9 indicate on his enlistment form that he had been involved
10 in a particular offense I previously mentioned. When he
11 applied for the job as a guard he indicated that he was
12 arrested as a youthful offender, he was arrested and
13 adjudged a youthful offender, and the charge was dismissed.

14 What the State did, the State wrote to the
15 military -- this would tend to corroborate what I said
16 before -- asking for his military record. They sent the
17 record, and on his military record they saw where he did
18 not indicate to the military people that he was adjudged
19 a youthful offender.

20 And he had been working at this particular time
21 5 months, had rented an apartment, was trying to become
22 middle class, whatever that is. And they fired him.
23 That's when he came to me.

24 I wrote to Governor Rockefeller, and he was
25 subsequently hired not as a guard at Sing Sing but as an

1 addiction officer. That's one case.

2 In my life I have been arrested. Like most
3 black people, if you live long enough in certain places you
4 will be arrested. I was arrested, but of course I was very
5 young at the time. The charges were reduced radically,
6 and in nineteen -- well, some years ago -- I applied to
7 go to officer candidate school when I was in the service.
8 And after having been in officer candidate school this
9 information came out.

10 Of course, it was the type of thing that did
11 not result in my being eliminated from officer candidate
12 school, but it followed me.

13 Here very recently I was campaigning -- this
14 was after my regular normal working hours -- and I was
15 arrested. This was in June of this year. I had five
16 charges of felony against me. And all I was doing was
17 driving a van that a person had donated to the hopeful
18 Congressman, Congressman-to-be hopefully.

19 And the cop stopped me and checked the number
20 of the car and said it was blah-blah. Anyway, I had
21 five felony charges on me that evening. Of course, it
22 was the evening prior to the election, and I said they did it
23 at a good time because we did not win it.

24 Subsequent to that I applied to take a test to
25 become a notary public because in the job we do we find

1 this is important to have this type of service for the men
2 because many papers need to be notarized. Two of my men
3 are, but if they are not there, then the guy has
4 to go around and pay 50 cents which in many instances they
5 don't have. So I decided I would be one too.

6 Now, incidentally, the charges were all dis-
7 missed. I went to court. We got a lawyer. The Congressman-
8 to-be came down there. The Supreme Court judge came that morning
9 at 2 o'clock and gave me a precinct bond which the cops
10 denied, said it never happened, but it did happen in that
11 case.

12 I applied to take a test for notary public in the
13 city of New York, and that information came up, and by
14 statute I understand that should not have, you know, come
15 into play in my particular case since the charges were
16 thrown out or no basis for them at all.

17 I have another man that went into the Navy,
18 enlisted, and when he enlisted he had asthma, and he so
19 indicated on his enlistment record that he was suffering
20 from asthma, but he was inducted anyway.

21 He served 3 years in the Navy, came out and took
22 the post office test. He made a very high score. He went
23 down to take a medical examination, and they asked him if
24 anything was wrong with him. He said no, you know, nothing
25 was wrong with him at all.

1 They sent for his medical record. The medical
2 record indicated that he had complained of asthma and indi-
3 cated, you know, prior to going into the service he had
4 asthma.

5 He was terminated. I'm talking about the Federal
6 post office. I'm not talking about the private sector.
7 I'm also talking about a veteran.

8 He came to me, and I wrote to the Commissioner
9 of Civil Service and sent letters to Bella Apzug and several
10 other Congressmen and women. Of course, Bella Apzug was the
11 only one who took the bull by the horns. Needless to say,
12 the man was employed.

13 But here's what I'm saying. These are just
14 instances where people came to some man who did something.
15 And what Joe is saying and what I am really corroborating is
16 I feel there are thousands and thousands of people who suffer
17 because of information that is being given out at random
18 and in many instances I would say in complete disregard to
19 certain types of confidentiality that should be placed on
20 these records.

21 One of the errors that the Federal Government is
22 doing that I think should be stopped right away with
23 veterans is they have a list called -- veterans who are
24 discharged -- called the "for hire job." This list floats
25 around, men's names and addresses, to all type of people in

1 the country, and these men are written to, asked to buy
2 insurance, are asked to go to these phony schools that
3 intend only to rip them off. They get very little job as
4 a result of the list. And the Government continues to do
5 this.

6 I am saying that this committee here, if it has
7 any sort of clout, hopefully, that these are some of the
8 areas you should be looking into.

9 And before I close and turn over to Joe, in
10 the area of mechanization, automation or computerization,
11 in the Alaskan Air Command I was a project person that
12 started the mechanization as we called it then in the Air
13 Force for military records. This included leave records,
14 the fitness reports, and the shot records.

15 In the area of promotion, you see, fitness
16 reports in the Air Force are used almost as the sole
17 criteria for promotion. An outstanding report puts you
18 in a certain category. Fifteen of them put you very high.
19 I found many men were deathly afraid of the idea that their
20 promotion would be based on a machine, you see, as opposed
21 to where several people sit on a board and look at the
22 records and make certain determinations.

23 This was a terrible fear, and the fear was not
24 relegated only to enlisted men or to officers. It was a
25 fear that cut across the board where people had a very

1 great distrust, a feeling that we then became some type of
2 inanimate object because a machine would then make the
3 decision whether or not you should move from a staff sergeant
4 to a tech sergeant or from a colonel to a general.

5 That's it.

6 MR. GARCIA: Also it's interesting to see the
7 correlation between -- during the time when there has to be
8 a lot of manpower in the Department of Defense and, you
9 know, a very low incidence of less than honorable
10 discharges. Especially during 1965 to 1968 during the peak
11 years in our involvement in Southeast Asia there was a
12 small percentage of less than honorable discharges because
13 we needed the manpower.

14 But from 1969 to this period there has been a
15 very sharp increase in less than honorable discharges.

16 And not only that, but with the move with the
17 volunteer army, there is a tremendous move to just weed out
18 all the people who aren't good for the military, you know,
19 and these will be documented.

20 I'm glad the NAACP raised a little question
21 in the incident involving those 25 black seamen, you know.
22 I think it was on the Kitty Hawk. "This is one way, you
23 know, where we'll eliminate manpower."

24 Certainly there's a lot of, you know, problems
25 there. But I think it was originally motivated. And I

1 think because of that you are going to see 25 young black
2 men who are going to probably get drummed out of the Navy with
3 some kind of less than honorable discharge that will go
4 back into their communities and have problems, you know,
5 finding a job, getting into school, and living the life,
6 you know, of normalcy.

7 And what is going to happen, and it has happened
8 before, is that these men because of, you know, being listed
9 as a nonemployable person, a troublemaker, will probably
10 end up in our judicial system, end up in our penal system,
11 and, you know, may even end up killing some people in his
12 quest for, you know, shaking that monkey off his back, and
13 that being a less than honorable discharge.

14 This is one area that really needs to be looked
15 into, especially as we are moving toward a volunteer army.

16 I'm really concerned about the Department of
17 Defense documentation in that transition, because, you
18 know, the volunteer army are looking for professionals.
19 In fact, the letters that are pouring in to ex-servicemen
20 right now with the \$2,500 bonus for infantry, armor and
21 artillery, you know, it's just soaring.

22 In fact, Washington State, because of its
23 high unemployment rate, ranks up the highest as far as
24 reenlistments among ex-military men, you know, because there
25 is no other opportunity for a black guy who didn't

1 graduate from high school, ended up in Vietnam shooting or
2 in an armored division, and so forth, came back and can't
3 find a job. You know, he can only deal with that so long,
4 and if somebody throws \$2,500 in cash on him plus free
5 room and board, you're not going to pass that up.

6 MISS KLEEMAN: Joe, can I ask you briefly, since
7 you have experience in your own program with the use of
8 computerized records, to describe very briefly for the
9 committee members what you used in your organization for your
10 program and also the issues you dealt with when the program
11 was being designed?

12 MR. GARCIA: Our program in Seattle is
13 funded-- One of the funding sources is the National League
14 of Cities, U. S. Conference of Mayors that put
15 as a mandate on our grant that we would have to use a
16 form on all our veterans that we contact. It's a very
17 lengthy form. You know, it goes into detail on the
18 individual as far as his military experience, his civilian
19 life and everything.

20 And when they threw that on us back early last
21 year, we were the only project in the country out of 14
22 that raised any kind of stink, because we felt very strongly
23 this was infringing on a man's personal freedom and
24 privacy.

25 So, you know, but they were saying, "Look, you

1 know, you have a contract to fulfill, and if you don't
2 fulfill that, you're going to have problems. We're going
3 to have problems funding you."

4 So we said, "Okay, we'll do it but only
5 if you include at the bottom of the form in a block yes or
6 no to the question, to the veteran, "Do I have your
7 permission to release this information? Yes or No."

8 Not only that, but giving us the total right to
9 release that information on the individual.

10 And about 10 percent of the guys actually say
11 no. The other ones say yes. Because, you know, the only
12 thing they are concerned about is getting a job or getting
13 into school or something. They're not really concerned
14 about what is going to happen with this information.

15 And what happens to the information out of the
16 14 cities? It goes back to Industrial Data Processing
17 Company in Minneapolis, Minnesota and they compute all the
18 statistics and everything like this, and then we get a sample
19 back.

20 But we don't know and we don't have assurances
21 what's going to happen with all those names and addresses
22 and information back in Minneapolis after we are done with
23 that.

24 We also know they have a contract with HUMRO,
25 which is the Human Resources Research Organization out of

1 the Department of Defense. I don't know what is going to
2 happen there, and I don't know why HUMRO wants that informa-
3 tion, but I have a couple of speculations.

4 These are the kind of concerns we voiced
5 very early on that particular issue. Because, you know,
6 we feel very strongly.

7 We have been documented-- I think guys, you
8 know, that went into the service and come out, they are
9 probably the most documented person in the world because
10 you have a number for everything.

11 You know, the people we serve have a lot of
12 hesitation on, you know, their personal lives. And I
13 think it's totally different from other wars. And also,
14 you know, the veteran coming back from this war is totally
15 different from any other veteran who has served his
16 country. He is very, very skeptical of the system and what
17 it has done to him or what he thinks it may do to him
18 again because of his bad experiences, because of his own
19 frustrations and anxieties, his experience in the military
20 and his post-military experience.

21 So, you know, these are the kind of things that we
22 encounter, and we are constantly encountering, daily.

23 MR. MARTIN: Are there any questions for Messrs.
24 Mighty and Garcia, who will be here I think all afternoon,
25 so that if you have no questions now but think of them as time
goes on, that will be all right.

1 MR. DOBBS: I have a question that relates to: Is
2 it the case that the only way that a Department of Defense
3 agency will release information is with the veteran's
4 signature?

5 MR. MIGHTY: I would say generally yes, but, you
6 see, that is a qualified yes.

7 Even if it were true-- And I'm not too sure
8 because I'm almost sure in certain instances based on my
9 lengthy experience with the Department of Defense, if you
10 follow me, that it's issued without it.

11 MR. DOBBS: I understand.

12 MR. MIGHTY: But Joe indicated at one point
13 here, if you say to me, "Sign here," if I'm expecting a job
14 which I need desperately, or anything as a matter of fact,
15 if you say, "Sign here so I can send for your record," and
16 so on, I know if I don't sign, at least it's implied
17 if I don't sign I don't get the job. Then I'm going to sign.
18 Most people.

19 But the answer to the question is that in most
20 cases the individual would have to indicate that he would
21 want this information released.

22 MR. DOBBS: Do you find that employers in your
23 interface in trying to place the veteran require and/or
24 demand access to that information rather than relying on an
25 agency like yours to make some interpretation to them of the

1 guy's military history? Do you understand what I'm saying?

2 MR. GARCIA: Our experience in Seattle has been
3 that private employers don't deal with that right away
4 but their personnel offices do. They have openings. They have
5 to have them filled. And they go through the process. And
6 like I mentioned the case earlier, it took the personnel
7 office 3 or 5 months later to screen this guy's personnel
8 records, his military records, and then fire him.

9 Now, with the Federal Government it's a
10 totally different thing. Once you apply for a job in the
11 Federal system, they'll get you right before you have 2 days
12 on the job, and there's no way around that.

13 But there are a lot of problems because of the
14 Federal Civil Service Commission relying totally on a
15 paper that documents you like he said, you know, your type
16 of reenlistment code and type of discharge. And down here in
17 a box called "Remarks," I think this box can burn you
18 because they can put anything they want there. You know.
19 "We think he's a homosexual. We think." And things like
20 this. "We think he smokes marijuana."

21 Those implications say to an employer, "Okay,
22 I'm not going to deal with that because he must be."

23 MR. MIGHTY: I would just like to give a little
24 answer or put something else there. The question you
25 asked if employers were more likely to check with our agency

1 to decipher certain things in the record. Not necessarily.
2 They used to in the beginning when the world was null and
3 void. But what has happened, the Federal Government has,
4 you know, pulled in many employees. Of course, there's
5 this big romance that goes on between major corporations
6 and the military. So we're all aware of this. There's
7 a very intimate relation to the military.

8 Personnel people in the private sector have
9 even gotten the discharge-- Or there's manuals for every-
10 thing. I know HEW has this too. It says, "If this code
11 is 3,555DN, it means so and so."

12 So most personnel people have this information
13 so they don't need anybody now. They do it themselves.
14 But we would not decipher for them. I have been asked that
15 in the past and I told them I would not. We refuse to
16 go into any detail that was not very clearly spelled out on
17 the man's discharge for any employer. That was our position.

18 MR. DOBBS: What you're saying very specifically
19 is that you would recommend a prohibition of the release of
20 information about a veteran except in a very restricted and
21 circumscribed kind of sense?

22 MR. MIGHTY: Exactly. And to answer that, what
23 I'm saying, in many instances the men don't know what is
24 being released. They don't know what is in the record.
25 I think if they had a chance to see the information first

1 and make decision as to what portion or the questions,
2 information contained in the medical record, it might be
3 helpful. It might be.

4 But I would more lean that unless it's very
5 unusual circumstances requested by the veteran-- Because
6 from my knowledge of what is in the record, it is in most
7 instances detrimental to anybody. This thing I'm talking
8 about, information in military records, doesn't only pertain
9 to black people. So you don't feel safe that you're white
10 or middle class.

11 I did 20 years in the Air Force. My expertise
12 was in personnel and officers' records. And most of the
13 officers -- big generals -- I know them well by their
14 records, you know, and the background investigations. You
15 follow me?

16 So don't get, you know, feeling comfortable.
17 Somebody indicated in here this morning that we might not
18 be informed -- I mean people in the board -- because they
19 are so pure and clean. That's a lie. Big Brother is
20 looking at you too. That's the way it works. Once it
21 was you and her and then it was me.

22 MR. MARTIN: Senator Aronoff?

23 SENATOR ARONOFF: I just have one further
24 question. I listened to your story and Mr. Garcia's story
25 of the man that became an addict and it followed him until

1 it ultimately ended up in a tragic consequence, and I have
2 read the testimony from the Senate subcommittee of Senator
3 Hughes and what happened to that one particular individual
4 there which was different because he was not an addict and
5 the stigma nevertheless followed him. I see the consequences
6 there.

7 But I think we are going to have a continuing
8 problem with people that are coming back from Vietnam. Are
9 you saying, Mr. Mighty, that if someone was an addict,
10 proven an addict, that that should not go on his military
11 record?

12 And if the answer to that question is it should
13 go onto his military record, then what restrictions would
14 you place upon its use?

15 Suppose it was very clear that this was a heroin
16 addict. Suppose that person applied for a very sensitive job.
17 What is your feeling? How do you balance society's needs?

18 MR. MIGHTY: I would say that the information
19 pertaining to an individual who became addicted in the
20 service by necessity would be and should be in his military
21 record. But, you see, I am right now pushing that the
22 veterans who became addicted in the service should be
23 given rehabilitation that is supposed to be being done now,
24 but also be paid pension and disability compensation
25 during the period of his rehabilitative thing. So I'm

1 saying it should be in the record.

2 SENATOR ARONOFF: To make that clear then, I
3 don't think you said that before. I thought you mentioned --

4 MR. MIGHTY: I said two phases. I talked about
5 the discharge certificate, said that should be restricted to
6 basic information. The medical record is another thing.

7 But let me answer the question because it's a
8 beautiful question. Now, once a person becomes addicted
9 or has committed certain offenses or whatever happens,
10 in the case of addiction this individual that you're
11 talking about hopefully is no longer indulging or addicted.
12 I see no reason for this to be dredged up constantly, and
13 I don't see what effect a person who is addicted maybe 20
14 years ago, 10 years ago, would have, you know, on a job
15 that-- Evidently if he's being considered for a job that's
16 so sensitive he has certain qualifications, certain things
17 about him that would cause him to be so considered.

18 I don't see the import of that information any
19 more at all.

20 SENATOR ARONOFF: Well, we could debate it. But
21 suppose somebody had been convicted of a crime. Should
22 that information forever remain -- I'm not talking about
23 drugs --

24 MR. MIGHTY: I want to answer the question. Be-
25 cause I have this all day long, you know.

1 SENATOR ARONOFF: All right. I understand.

2 MR. MIGHTY: I say it depends on the job you're
3 thinking about for this man. But in most instances-- It
4 would depend on the time. There should be some type of
5 statute. If you observed, I mentioned before even in the
6 service there is a statute of limitations. There is a
7 point where information pertinent to offenses that are
8 committed it not considered in your present trial. They
9 put it aside.

10 But I indicated sometimes they get a whiff of
11 it which is because of the closeness of the military.

12 But I don't see where an individual, a person--
13 Let's take me for instance. Many, many years ago I had a
14 gun and I was about 14 years old. I was shooting around
15 at birds. I liked to carry a gun in my belt. It felt
16 beautiful. I lived in a part of the world that the gun was
17 a very important thing, you know, like out in the West,
18 Western Alaska in America.

19 But I happened to cross the Canal Zone. That's
20 where this happened, in Panama. And at Canal Zone these
21 were Americans, you see, and there was a court down there,
22 an American court, and I was arrested on the Canal Zone and
23 tried by an American court in my country. You follow me?

24 Now, what would that have to do with me today in
25 the job that I have? Somebody says, "Oh, the man was

1 arrested for carrying a gun in 1940." You see my point?

2 SENATOR ARONOFF: Yes, I do. I'm sympathetic
3 with the restrictions, but I'm not sure that there aren't
4 certain instances-- Would you feel that a drug addict,
5 a person who let's say on more than one occasion-- Let's
6 make the case he has been rehabilitated but then a second
7 time it occurred, which is not an unusual situation, by the
8 way, I think you'll agree. Let's suppose that that person
9 applied to be a transatlantic pilot in which the lives of a
10 hundred people every X days would be involved. Do you
11 think under those circumstances at all that the fact that
12 this person had been an addict on more than one occasion
13 would be pertinent information that the people that are
14 hiring should know -- whethersafety of a hundred other people
15 should depend on it?

16 MR. MIGHTY: The question to me is-- You see,
17 if he's going to be a pilot in the transatlantic, and let's
18 say he's a very good pilot, he had been a pilot, it would
19 appear then he has the professional qualifications. I
20 think what you're questioning now is the possibility he
21 might go back to taking drugs. I would be more concerned
22 with him transporting.

23 You see, for that information, I might be
24 looking at that information, you know, expecting he might
25 be transporting drugs as opposed to him taking drugs as a

1 person.

2 And I don't believe in the times-- You're
3 speaking of recurrences. There might be. I'd have to
4 deal with the time between the last time he went back to
5 drugs and the time I'm considering him for any job. And
6 this is for any job. Length of time between the occurrences.

7 You're saying should that information be
8 recorded? And I be permitted to have that as an employer?
9 I would prefer not to have it as an employer. That's my
10 position. Because just to worry about one man or a few
11 people who might be addicts or might be alcoholic-- Nobody
12 ever thinks, you know-- Or what have you. I think it's
13 essentially punishing more people than people you might
14 catch.

15 In the military we call it mass punishment, and
16 we did away with it when I got out. I don't know if it
17 came back into being. But it brings to mind the 100 black
18 men who were mass discharged dishonorably from the service
19 in nineteen-something, and after almost 50 years the
20 Defense Department stated they're sorry, they made a
21 mistake.

22 So, you see, I'm very biased in that respect,
23 Senator, so I might not be a good witness for you.

24 MR. MARTIN: Dr. Impara.

25 DR. IMPARA: No, he answered the question. Do

1 you want to make the determination or do you want the
2 military to make the determination of whether or not to send
3 you the information? And you answered that. You said in
4 this particular case you'd rather not have the information.

5 MR. MARTIN: Professor Weizenbaum?

6 PROFESSOR WEIZENBAUM: The question by Senator
7 Aronoff brings to mind a theme that I think has run
8 throughout the testimony and the questioning. This is the
9 question about the transatlantic pilot. I have the strong
10 impression -- I'm sure it's correct -- that the people we
11 have been talking about both this morning in welfare when
12 we were talking about welfare and then later on and again
13 now are not people who are likely to apply to be trans-
14 atlantic pilots. Quite the contrary. They are people who
15 are trying to get back into the stream of life very likely
16 very near the bottom.

17 And the people who may have a chance to get
18 back into the civilian stream somewhere other than the
19 bottom probably don't need our help very much. They may,
20 but they probably don't need our help as much as the
21 people I think we're talking about.

22 And what this suggests in terms of practical
23 measures that might be taken is that it may be useful
24 if an employer who requests information from another
25 employer or from the Department of Defense or from the

1 Social Security Administration or from whoever should
2 perhaps have an obligation to indicate to that agency why
3 that particular information is necessary -- that is, what
4 hinges on it.

5 So that if a young man who is just out of the
6 service is asking for a job as a clerk in a department
7 store, say, then even if it turned out that he has a
8 record of addiction and that there is some likelihood that
9 he might become addicted again, nevertheless, the loss
10 suffered by society or by the department store itself would
11 be very minor compared to the kinds of social losses
12 that you are now talking about where a whole population is
13 subjected to all sorts of indignities and the denial of
14 basic rights, and so on and so forth.

15 So the fundamental suggestion is that perhaps
16 there is the need for some sort of demonstration on the
17 part of the employer of need to know which is balanced
18 against the risks that he might run if he were to hire this
19 person.

20 The other thing that comes to mind here, although
21 this is right off the top of my head, is that perhaps there
22 ought to be some sort of insurance program so that if
23 Macy's, say, is willing to hire a man without asking any
24 questions of the Department of Defense -- all it knows is
25 that he was in fact a soldier and doesn't even look at his

1 discharge -- if that turns out badly, perhaps the Government
2 should have an obligation, being that this man is a
3 veteran, to help Macy's out if Macy's can demonstrate that
4 they suffered a loss on account of him.

5 Perhaps there ought to be some sort of
6 insurance program analogous in some vague ways to, say, the
7 G.I. Bill of Rights in earlier days.

8 MR. MIGHTY: I would just like to make two
9 observations. You said that it appears to you the
10 people we have been talking about mostly are individuals who
11 are most likely not to apply for a job as a transatlantic
12 pilot. You see, the thing about it, in our thing when
13 we're talking about veterans, blacks, Spanish speaking,
14 Indians, and this sort of thing, we do have men who will
15 apply, who have the qualifications to apply.

16 I don't want this panel to believe that we are
17 talking about all drug addicts or talking about all
18 people who are below high school.

19 You see, the most brutal thing to me I have ever
20 had to do in my job was when I had to help place a black
21 Air Force surgeon who was a surgeon for the entire
22 Mediterranean area in the Air Force for 4 years. I had to
23 place him in New York City.

24 You know, this was a time and still a time when
25 doctors were scarce. He was a tremendous individual. The

1 hospital that he did his internship at, which is Flower
2 Fifth Avenue, New York, incidentally, they wouldn't touch
3 him. This sort of thing.

4 So there wasn't anything wrong with him. He had
5 nothing in his record that was bad -- except he was black --
6 and, of course, that's not bad any more. But in those days
7 it was. This was like 4 years ago.

8 So we deal with-- You know, it cuts across the
9 thing. But all suffer. There's a commonality of persecu-
10 tion and prosecution that I have known about myself and
11 find.

12 And we all-- When I say "we all," many black
13 people feel this way. Based on my observations, talking
14 of hundreds of thousands of people, previously, that is, not
15 only this thing but doing my thing. And so what I'm
16 talking about-- I'm also saying though that the fact that
17 black people are bothered by this reminds me of Edgar Allen
18 Poe's "Masque of the Red Death," you know. When that plague
19 was in the valley nobody worried about it -- until the
20 plague got out of the valley.

21 It also brings to my mind the drug problems. I
22 get all sorts of things. I think I'm becoming intellectual.
23 (Laughter) I get all sorts of things going here. But
24 there was no problem about addiction at all, you know, in the
25 outer society until certain Congressmen's and Senators'

1 and probably Presidents' sons and daughters started shooting
2 up, this sort of thing, and then, you know, it's a big
3 problem.

4 Bear in mind that many veterans are not addicted.
5 Many veterans don't have this sort of information in their
6 record. But what I'm saying, on the medical record-- See,
7 keep in mind I'm talking about a medical record where
8 a doctor might say, "This bone formation, the prognosis here
9 is blah-blah-blah," and he writes this down. I'm not talking
10 about any of the social diseases, incidentally.

11 He might say, well, you know, "He might suffer
12 from blah-blah which in 10 years might be so and so."
13 An employer gets this information -- that's what I'm talking
14 about -- from the medical record. Not addiction at all in
15 that instance, if you follow me. And he is not employed.

16 PROFESSOR WEIZENBAUM: What I'm suggesting is
17 that the employer should perhaps have to demonstrate to
18 the Department of Defense that he actually needs that
19 information.

20 MR. MIGHTY: I would be inclined-- I'll have to
21 get-- It sounds so far it might be something that I would
22 probably if it's-- You know, that's reasonable so far.
23 What you're saying, if the employer can demonstrate that
24 he needs it or if he doesn't need it take him and if some-
25 thing happens then the Federal Government picks up the tab.

1 That's one aspect I heard you mention. Or, secondly, he
2 demonstrates he needs it for a specific purpose.

3 PROFESSOR WEIZENBAUM: If it is in fact a
4 transatlantic pilot they're trying to hire, then I think
5 they can demonstrate to the Government they want this man's
6 flying record, ophthalmology record. I understand at the
7 moment they simply get it. They say, "Give me what you have
8 on this man."

9 What I'm suggesting is that there ought to
10 be legitimate reasons such that when a prospective employer
11 asks for the record of a man, whether he's black or white,
12 or transatlantic pilot or addict or not, whatever, you
13 know, that the Government, the Department of Defense, doesn't
14 simply give it to the employer because the employer asks
15 but that the prospective employer may have a positive
16 obligation to first demonstrate his need to know that
17 particular piece of information.

18 MR. MIGHTY: I'm also saying I'm not too sure
19 that the Defense Department gives information to anybody
20 without the consent of the individual.

21 PROFESSOR WEIZENBAUM: But you have already said
22 that if the man is told, "Okay, we think we'll give you the
23 job but you must sign this consent agreement," that he'll
24 sign.

25 MR. MIGHTY: I'm also saying that maybe that

1 individual should get a chance to see it before he turns it
2 over to the employer. He might decide, "Well, hell, I don't
3 want him to have this," and forget the job. That's really
4 what I'm saying.

5 MR. MARTIN: Mr. Davey?

6 MR. DAVEY: You just raised a question that I
7 wanted to ask, and that is: Does the individual have a chance
8 to know what is in his record? Does he have a friend at
9 court, so to speak, who can say, "Look, if this record
10 goes out" --

11 MR. MIGHTY: He doesn't. That's my point.

12 MR. DAVEY: He doesn't have any opportunity
13 whatsoever to see this?

14 MR. MIGHTY: He might have an opportunity. Let
15 me answer this clearly. An "opportunity." You know, the
16 word bothers me. I have an opportunity to see what is
17 in my medical record if I'm going from one doctor to
18 another on the installation. I'm going to sneak in the
19 latrine and read it. You know. I'm going to take a peek.

20 But you'd be surprised how honest people are. I
21 don't know why. Very few people do this. (Laughter)

22 Sometimes we tear things out of the record.
23 You know. If you have been there long enough you get
24 smart. But a lot of guys with 2 or 3 years, they don't do
25 it. They walk around there with this damn thing which could

1 condemn them for life.

2 MR. MARTIN: Mrs. Gaynor?

3 MRS. GAYNOR: To go back to the point really
4 about the employer requesting medical information, there's
5 something a little here that bothers me. For instance,
6 if it's even with the Federal Government for a position
7 like that and there is a prerequisite really for coming on
8 a job to do a preemployment physical, what the heck do they
9 need all that other medical information for? If they're
10 examining a person, they would know if that person is a
11 drug addict.

12 I don't understand why they need it. Because
13 what you're doing is really stigmatizing in a sense a
14 person and you're not even given a chance. You're really
15 not following through on the mechanisms that you have set up
16 in a sense to screen and do preemployment.

17 So what you're really doing is carrying over
18 something like he said maybe for 2 or 3 years. You're not
19 giving the person a chance to say he has been rehabilitated
20 or maybe in a sense he never was a drug addict. Maybe he
21 was an alcoholic and maybe at that point in time somebody
22 decided, "Hell, maybe it is drugs or alcoholic or something.
23 Maybe it's one or the other."

24 The whole thing of that kind kind of disturbs
25 me in a sense that I don't understand why they keep

1 requesting medical information like this and it's available.

2 MR. MIGHTY: Let me give some of the reasons
3 that have been given to me by companies. I know three
4 companies, three of them we are moving into new relation-
5 ships. I won't mention the names here.

6 One of the reasons, the doctor who has been there
7 for a long time-- And I said yesterday that we don't speak
8 with God, you know -- and live anyway. Even personnel
9 people can't talk to him. Once he turns down an individual
10 that's it. He gets the medical record. He spent several
11 years in the Army Medical Corps. What they're looking for
12 is not even drugs. Veterans who might have been wounded
13 and the shrapnel or the projectile might have gone through
14 certain bones, nerve things. And on the surface it would
15 appear that the guy is all right but maybe 5 years from
16 now, that's what this joker is concerned about, that some-
17 thing is going to happen so he can't drive those trucks any
18 more.

19 This is not drugs at all that I'm making reference
20 to. This is just-- Or a broken leg in a football game or
21 a kneecap injury football players get.

22 MRS. GAYNOR: I didn't really mean just drugs per
23 se. I'm saying why would they request medical information?

24 MR. MIGHTY: That's his reasoning.

25 MRS. GAYNOR: That's not true.

1 MRS. HARDAWAY: Not all companies though are set
2 up for preemployment physical exams. Many small companies.

3 MR. MIGHTY: This one I'm talking about has a
4 doctor on the premises.

5 MRS. GAYNOR: I know not all of them, but I'm
6 saying in the area where he was dealing and that he
7 had mentioned that the doctor was requesting this information,
8 I just couldn't understand why.

9 MRS. HARDAWAY: But --

10 MRS. GAYNOR: When I say I don't understand, it
11 means I do understand but I don't. (Laughter)

12 MRS. HARDAWAY: I think we ought to make clear
13 that many employers, the personnel people that you are
14 speaking of, do ask for it and get it as they say and they
15 do not have their own preemployment physical setup.

16 MR. GARCIA: Boeing Aircraft Company in the
17 Seattle area, they do require it.

18 MRS. HARDAWAY: I'm not defending that. I'm
19 saying many small companies are not set up for pre-
20 physicals.

21 MR. MIGHTY: But to make a comment on your
22 statement there, if you are not set up for pre-physical,
23 then I don't really see unless you're looking for chronic
24 sorts of situations, why would you need a man's past medical
25 history? You know. And you don't do this for civilians.

1 See, there's a different discrimination. I was
2 waiting for somebody to raise that. No one has raised
3 this yet. I was waiting to see who would grab this and run
4 with the ball. There's a discrimination against the
5 veteran.

6 Nobody asks the private-- I know because my
7 agency deals with all sorts of people. They don't ask them
8 to bring their doctor's records from their private doctor
9 or from the clinic at all. Only the veterans.

10 So this is definitely discrimination against
11 veterans, and this is not only black veterans, incidentally.

12 MR. MARTIN: I'm going to suggest we recess
13 for 5 minutes for coffee.

14 (Whereupon, a recess was taken.)

15 MR. MARTIN: Our next two speakers are Gordon
16 Manser, Associate Director of the National Assembly for
17 Social Policy and Development, and Eloise Waite, National
18 Director for Services to Military Families of the American
19 Red Cross, who serves also as chairman of a Committee
20 on Confidentiality which has been created by the National
21 Assembly for Social Policy and Development to address its
22 concerns and the concerns of its constituent organizations
23 about confidentiality of records regarding, as I understand
24 it, individuals who are beneficiaries or recipients of
25 social services, social welfare services, largely in the

1 private sector, perhaps exclusively in the private sector.

2 MR. MANSER: That is correct. And we thank you
3 very much for the opportunity to meet with you.

4 Perhaps a word about the National Assembly before
5 we begin. It is an association of national organizations
6 in the social welfare field with a constituency of about
7 65 national organizations, most of which you would recog-
8 nize, such as the American Red Cross which Mrs. Waite
9 happens to represent, YM and YWCA, Family Service, Child
10 Welfare League, and many others which are concerned in the
11 broad field of individual services.

12 Consequently, when we speak with respect to
13 the concerns of these organizations as we do this afternoon,
14 we are speaking about concerns which cover a very wide
15 range of services to children, to aged persons, family
16 counseling, services in the field of corrections, psychiatric
17 and medical social services, services under sectarian
18 auspices, and services to military personnel.

19 I said we were going to attempt to reflect the
20 concerns of our organization and its constituents. Our
21 Committee on Confidentiality, of which Mrs. Waite is the
22 chairman, is in the middle of its inquiry into this problem
23 at the present time so we do not have conclusions, we do
24 not have recommendations, but certainly we do have from a
25 survey which has been made of our organizations what can be

1 called a drift of thinking of these organizations as this
2 problem impinges on them.

3 I think it has been said first that
4 these organizations in giving direct services to people
5 are motivated by certain values and principles which I will
6 mention very briefly.

7 One is a respect for the integrity of people and
8 for people's right to maximum possible feasible control in
9 those decisions which affect their lives.

10 Out of those values arise principles which are
11 inherent in the relationship between any social worker and
12 his client, one of mutual trust which contains within it
13 the implied or stated consent by the client as a prerequi-
14 site to the use of information beyond the immediate
15 purpose for which it is given, and, secondly, responsibility
16 on the part of the agency not only to serve the client but
17 to be responsive to the community from which it derives
18 its mandate and from which it derives its support.

19 And I think recent developments have suggested
20 that these two responsibilities, one to the persons served
21 and one to the community of which the organization is a
22 part, have tended to sharpen inherent conflict in values
23 which has come to surround this particular subject.

24 Let me comment just briefly on some recent
25 developments within the field which touch on this subject.

1 But first a brief word of history.

2 As many of you probably know, many communities
3 had for a period of about 25 to 35 or perhaps 50 years
4 a mechanism which was known as the Social Service Exchange,
5 which, in effect, was a manual data bank in which most
6 agencies participated. It started during the advent of pub-
7 lic responsibility in the field of public assistance and
8 public welfare, and its primary purpose was to avoid
9 duplication, both intentional and unintentional, on the
10 part of persons receiving assistance.

11 I think the Social Service Exchange proved to
12 be much less successful in eliminating duplication of
13 services. For one thing, a good social worker could get
14 most of the information which she needed directly from the
15 client, and information in the manually-maintained files
16 of the Exchange often proved old and outdated when it was
17 received.

18 Then, too, I think the question of duplication of
19 services depends-- Rather, whether it is good or bad
20 depends on how one chooses to define duplication of
21 services. The fact that the same service might exist under
22 public or proprietary or private auspices might appear
23 at first glance to be duplication, but, in fact, it is not
24 because it affords choice of service to the recipient about
25 where he may choose to receive service.

1 Most of the clients are unlikely to receive
2 the same service from two organizations.

3 But to move to some of the current forces which
4 are producing and I think highlighting this conflict in
5 values I mentioned earlier, I'd like to refer to two or
6 three.

7 The first is the great increase in the last 2 or 3
8 years of the use of voluntary organizations by governmental
9 agencies to carry out public purposes usually through a
10 purchase of service contract.

11 Now, as these are applied to the social welfare
12 field, I think at this point in time one would have
13 to say that they contain an inherent problem because
14 they are based on a philosophy of service which
15 places emphasis upon goal orientation, which places emphasis
16 upon monitoring, and which in turn places emphasis on the
17 question of effectiveness of service.

18 The problem at the present time is that there
19 are no measurements which are accepted in the common
20 domain as far as the measurement of effectiveness of service
21 is concerned.

22 Thus, the voluntary organization which finds
23 itself a party to a contract for the purchase of service
24 finds itself in the position of supplying perhaps
25 irrelevant more and more information in an effort to

1 satisfy persons at the other end of the contractual arrange-
2 ment who are concerned with cost-benefits.

3 So that I think at this particular point in
4 time there is this particular hazard.

5 Now, this has produced, beyond the direct agency
6 contractual relationship and the problem that is inherent
7 there in supplying information, and the potential use or
8 misuse of this information, two other new elements. One
9 is a great deal of pressure on the part of organizations as
10 such to compromise with respect to what information shall
11 be supplied and to whom it shall be supplied. And let me
12 give you a concrete example.

13 Agency A in Community B, which doesn't need to
14 be named at this point. Here is a voluntary agency which
15 is having a great deal of difficulty balancing revenue and
16 expenses. Contracts are available from governmental
17 agencies for this voluntary agency.

18 The United Fund, which is responsible for
19 supplying that agency's deficit, is putting a great deal
20 of pressure on that agency to accept a contract.

21 But one of the conditions of the contract is that
22 the information with respect to cases served by the
23 voluntary agency should be provided the public agency and,
24 in turn, should go into a State central computer data bank.

25 Now, what the voluntary agency finds as they pursue

1 this question is that there are no regulations with respect
2 to confidentiality, no definition of confidentiality, and
3 the announced interface of this central Statewide data bank
4 with other systems within the State suggests beyond any
5 question that there could be no preservation of the con-
6 fidentiality which the voluntary agency itself feels is
7 essential to the provision of its own service.

8 One agency in particular has responded in this
9 way, and I think it expresses this conflict in values
10 as well as anything else:

11 "We may have to sacrifice a little confi-
12 dentiality in exchange for funds to serve hundreds of
13 families who would not otherwise be served."

14 I do not at this point know what the solution
15 to that kind of a problem is, but I cite it as one example
16 to reflect and represent many which have come to our
17 attention.

18 Now, in addition to the pressures which are
19 placed on agencies, there are also pressures on staff.
20 And again I would like to refer to a specific situation in
21 which in one State workers have been instructed by
22 their State department to release information they regard
23 as confidential into a computerized central data file.

24 Two workers have taken this matter to court
25 because of the sanctions which presumably may be imposed

1 against them.

2 And again I think this particular case is
3 suggestive and illustrative of the kind of problem which
4 the field is facing and which will increasingly be faced
5 in the future.

6 In the brief which was presented to the lower
7 court, the staff said, these two case workers said, "To
8 release this information would invade the clients' privacy
9 and subject them, the workers, to civil and criminal
10 liability as well as violating their professional ethics."

11 The information which they chose to withhold
12 had to do with psychiatric assessments, with the nature of
13 mental disability, with legal or illegal use of drugs,
14 was concerned with the history or criminal or sex
15 offenses and out-of-wedlock pregnancies and mental retarda-
16 tion.

17 Now, in the brief which was filed with the lower
18 court, these problems were specifically mentioned. They
19 are mentioned as problems, but, conversely, they may be
20 regarded perhaps as solutions:

21 That there was no assurance of confidentiality
22 within the system.

23 There was no definition of those persons having
24 access to the material which was placed in the central file.

25 There were no rules or regulations governing

1 access.

2 There were no means of identifying those who
3 may be given access.

4 There was no means of informing the social worker
5 or the client of the use which would be made of the
6 material.

7 And there were no limitations as to the use of
8 the material in respect to other similar systems.

9 There are two other things I would like to men-
10 tion if I may. One is that in the whole area of
11 accountability to its public, the voluntary sector has in
12 one respect made very substantial strides in the past
13 few years, and that has been the development by the National
14 Health Council and my own organization of uniform
15 standards of accounting and reporting for voluntary
16 organizations.

17 These standards, as we call them, in brief
18 provide for full disclosure to the contributing public,
19 provide for comparability of information to the public,
20 and provide for full accounting of revenue received and
21 disbursed.

22 One other force which I would like to mention
23 which I think has tended to complicate this whole situation
24 for voluntary organizations, of course, is the increased
25 use of paraprofessionals in the direct rendering of

1 service. The paraprofessional, of course, has access to
2 the same information that the professional has access to,
3 but the problem arises because in many States where the
4 relationship of the professional social worker to his or her
5 client is protected by law, the relationship of the
6 paraprofessional to the client is not so protected.

7 In our examination of this, we have raised the
8 question of whether this is indeed a class concern rather
9 than a concern which is one applicable to the general
10 public.

11 Is there a difference or is there not a differ-
12 ence between confidentiality in respect to public mental
13 health services, for example, and that kind of information
14 which is given within the office of a private psychiatrist?

15 Is there or is there not a difference between
16 persons who come to a private agency who are able to
17 pay for the full cost of the service and those persons
18 who come to a private agency who can pay none of the cost?

19 And do they treat them differently?

20 And is there not a difference at the present
21 time in the attitudes of clients themselves?

22 Our judgment would be that there is a different
23 climate at the present time than there used to be 5 or 10
24 years ago, and I'm sure all of us as citizens have perceived
25 this. Hot line programs, Alcoholics Anonymous, encounter

1 groups, Synanon, out-of-wedlock pregnancies which are common
2 and public information now all seem to reflect more a
3 willingness on the part of people being served to have
4 their experience shared within some limitations if not in
5 the public domain itself.

6 And finally I would have to say that the
7 issue may be one of the difference in view on the
8 part of older and newer social workers. I don't know.
9 Certainly some of the people who deliver service today,
10 street workers, indigenous workers, are saying to us, "Let's
11 deliver the service as a first priority and stop
12 this pompous posing around with files and with the ethics
13 with which you are presumably concerned."

14 It may well be that they're right. But again
15 I cite it only to say that it is one in which there is
16 a serious conflict of values in the judgment of those of us
17 who must make these decisions and in which we do not at
18 the moment have guidelines for practice.

19 Now, may I suggest that Mrs. Waite tell you
20 exactly what our committee is doing and some of our
21 specific findings from the organizations concerned.

22 MRS. WAITE: I was asked to talk about three
23 topics. The first one is: What were the considerations
24 that led to the establishment of the National Assembly
25 committee? The consideration was something that happened

1 in my office in National Red Cross Headquarters here in
2 town.

3 A chapter called in and said that the community
4 council in their location was starting a data collection
5 project to inform the community of where the contributors'
6 money was going and who was being served, and they were
7 requesting that all participating agencies furnish the
8 addresses, the social security numbers, the employer's
9 names of all the people they served.

10 And he said, "What should I do about this?"

11 And I said, "Tell them nothing doing, that you
12 won't give them this information."

13 I suggested that it be provided by census
14 tracts, that there is certainly nothing wrong with providing
15 information that universalized the client population
16 served and the services that were given, but that anybody
17 with any enterprise at all could get the criss-cross directory
18 or call the employer and find out quickly who the people
19 were even though the names were not being submitted.

20 But to be of additional help I sat down and wrote
21 some things that I thought might give him ammunition when
22 he was talking about this locally and also to provide a
23 background for a position paper that we were going to send
24 to all of our 3,300 affiliates, and I will read part of
25 the memo that I wrote to him.

1 Both public and voluntary agencies have
2 a responsibility to report to the community on the nature
3 and effectiveness of their programs and to account for
4 funds spent. It is especially important that voluntary
5 agencies do this effectively because they are solely
6 dependent on contributed money, and there is need to
7 broaden the base of community participation.

8 The problem becomes what kind and amount of
9 information should be shared with the public, the decision
10 being whether the good of the community takes precedence
11 over the good of the individual.

12 Problems arise when one agency by agreement
13 gathers information for another. Here the risk is that the
14 gathering agency may not restrict use of the information
15 to the purpose for which it was furnished.

16 The community council properly states that data
17 will be safeguarded in a locked file, access to which will
18 be limited to the coordinator or authorized data clerks.
19 In such an ambitious undertaking as this appears to be, it can
20 be expected that agency case information will be seen by a
21 variety of clerical persons as well as by supervisors,
22 consultants and other staff whose participation is
23 needed in compiling and analyzing the data.

24 One has also to keep in mind the high rate of
25 staff turnover in social agencies and the fact that many

1 may work in this project in its lifetime.

2 Additionally, with increased pressure on agencies
3 to hire indigenous workers, the people who work in this
4 project may well find themselves to be part of the data
5 collected.

6 The motives of the council may be entirely pure
7 and their professional integrity impeccable collectively
8 and right now, but this information agencies are being
9 asked to give is heady stuff and can be used in all sorts
10 of unacceptable ways by unscrupulous individuals in
11 collusion with unscrupulous agencies, business or organiza-
12 tions, including law enforcement.

13 It should also be remembered that some of the
14 agencies in the community council are unconventional in
15 terms of professional posture and business methods.
16 Today's law and order climate and hostility toward the
17 poor and deprived should make us especially careful to
18 protect the privacy and liberty of our clients.

19 My suggestion then is to give the information but
20 by census tracts and not by a means that could be checked
21 with the criss-cross directory or with a telephone call.

22 Well, following this encounter, I called up
23 the National Assembly and suggested that this book which
24 has been our guide since 1958 might need to be reviewed and
25 that we should have a committee to look at it and see if there

1 is need to add a chapter on data collection for computerized
2 data systems.

3 So this committee was formed, and I became the
4 chairman because I made the suggestion, needless to say.

5 The next question I was asked is: What were the
6 results of the sampling?

7 We sent out a very simple five-point questionnaire
8 and said to the agencies, "Just fill this in in narrative
9 form or check off." And we didn't want to make a big
10 project of it because we wanted to get it back quite
11 quickly, but we wanted to sort of see if there were more than
12 a few agencies we knew about who were concerned about this
13 problem.

14 So the results of the sampling I will just tell
15 you briefly.

16 There was far from common-- And this is several
17 hundred samples that came back from the agencies that
18 belonged to the National Assembly. We got from Red Cross
19 about 75 from our own constituency. There was far from
20 common agreement among social agencies on what is meant by
21 confidentiality, although everyone is for it, like God and
22 motherhood.

23 And the second is that there is a feeling that
24 data banks have a potential for assembling a dossier on
25 individuals, on everyone, not just clients.

1 Social agencies may stand to lose both support and
2 services unless some compromise is possible which shares
3 information and offers protection.

4 And the agency that has the commitment to con-
5 fidentiality for its clients will pay personal attention to
6 safeguarding it. The further the information goes from the
7 agency, the more depersonalization and dilution of confi-
8 dentiality there will be.

9 The responses reflected concerns about voluntary
10 agency functioning and funding. Are they going to survive
11 and still do business the way we think is the best for our
12 clients?

13 And the second response reflected a concern about
14 business and money management and the procurement of money
15 and the aspects of client identification in doing this.

16 Well, to discuss now the voluntary agency function-
17 ing and funding, there is the very practical aspect, as
18 Mr. Manser said, of community support. The community really
19 needs to know who is being served, where they are, and how
20 they are being served.

21 There is press and media pressure also. The
22 press wants to know what is going on in the community.

23 Well, on one hand, this offers a very fine
24 opportunity to tell the agency story about what is going on,
25 and it also offers agencies opportunities to correct

1 misconceptions or misstatements about what is happening at
2 the agency and what the agency does.

3 We are seeing more and more client interest in
4 sharing stories. We find much to our surprise that many
5 people who have serious problems, whether they are act of God
6 problems or problems they got themselves into by their own
7 misdoings, are eager to tell people about them.

8 And I guess probably what we are seeing on radio
9 and TV supports this. People get on and tell their most
10 confidential secrets right over the air.

11 So we have come to wonder whose the problem is
12 about the feelings of confidentiality. Is it really the
13 client's or is it the worker's? And there's a variety of
14 opinions about this. But an amazing number of clients don't
15 mind telling what is being done for them and what their
16 problems are.

17 The business and money management aspects of
18 client identification. The public does have a right to
19 know where the tax or contributed dollars go and to whom
20 they are going to help.

21 Then there is agency accountability. When
22 we have a contract for service or when we are getting
23 money from the United Fund, we do have a responsibility to
24 produce a businesslike operation, and one does have to
25 produce some facts to prove this, especially contractual

1 agreements with government agencies or foundations. These
2 people who are giving money need to know if obligations are
3 being fulfilled, if terms of contracts are being fulfilled.

4 Also, what happens to a group of clients who
5 need certain services? Are they going to be deprived
6 of these services if we don't give information about
7 what we are doing and whom we are serving? Are we going to
8 be depriving clients of services they need?

9 We have also to think about research projects
10 and the information that is needed for them. What are
11 the needs of transients? What are the needs of migrant
12 workers and minorities? Social agencies are getting lots of
13 requests for information about people that they serve
14 who have special needs. And also we are getting a lot of
15 pressure from the government about compliance with the
16 Civil Rights Act. And we have to be very certain that we
17 know all about the minority groups and the disadvantaged
18 groups that we are serving.

19 The third question that I was asked to comment
20 on is the suggestions for preventing misuse of confidentiality.
21 Mr. Manser said that our committee has not concluded its
22 deliberations, so I can't speak for the committee, but
23 these are some of the things we have discussed in our
24 meetings and some of the things that I have thought about
25 and discussed with my colleagues in Red Cross.

1 We have suggested in our letter to our chapters
2 that the person who is being asked to furnish information
3 be sure that the information requested is germane to the
4 need and that it is a legal request.

5 When we ask a client to release information
6 are we sure that he really understands what he is releasing?

7 What happens to the services for the client if the
8 information is not forthcoming that we are asking him to
9 release?

10 Is he going to be all of a sudden sitting on
11 the front stoop with no services because he did not want to
12 give the information?

13 Can we within the agency change our recording
14 procedures to protect clients?

15 Now, many case workers, especially beginning
16 ones, get much more information than they need to from the
17 clients. I think they get swept away by curiosity and
18 just intrigued by things that happen to people, and they
19 get all sorts of stuff in the record that doesn't really
20 relate to the presenting problem.

21 We say, "Stop this practice as much as you
22 possibly can. Record briefly. And if you have to put
23 down things that should not meet the public gaze, put
24 them on a record in your righthand desk drawer but don't
25 have them in the official agency record."

1 When an agency is asked to provide information,
2 we feel that there should be a formal contract. How is
3 the information to be used? How is it to be protected?
4 How long is it going to be needed?

5 And that should be an agreement between the
6 receiving agency and the giving agency. This gives the
7 giving agency a basis for contracting with clients to pro-
8 vide the information and to obtain direct permission rather
9 than implied permission. Everybody is on solid ground.
10 The agency knows what they are in for. The client knows
11 what the information is going to be used for, and he knows
12 what the ramifications of his consent are.

13 I will conclude by saying that there is a need
14 for basic standards that will guide individuals who have
15 to make decisions that will cover appropriate client
16 protection.

17 MR. MARTIN: Do the members have any questions
18 for Mrs. Waite or Mr. Manser?

19 Mr. Dobbs.

20 MR. DOBBS: My question really relates back not
21 only to some comments that we have just heard but it also
22 covers something that Mr. Garcia pointed out, and that is
23 that in his situation and in the situation that I hear
24 described here, the consumers of service furnish information
25 essentially under coercion of some kind from their point of

1 view.

2 That is to say, in Mr. Garcia's case the return-
3 ing veteran needs the job and so he signs the release, gives
4 certain information because of the straits that he is in.
5 And I suspect certain consumers and certain clients in the
6 agencies which you represent do the same thing.

7 The thing that is sort of disturbing that I
8 heard in both Mr. Garcia's comments and in your comments
9 is that the agencies are finding themselves under that same
10 kind of economic coercion, that somebody is telling them,
11 "If in fact you don't collect certain kinds of information
12 we aren't going to give you any money," and they find
13 themselves in much the same position as the guy out on the
14 end of the chain.

15 And, you know, I guess the question is who is it
16 up there-- It's like a circular kind of responsibility,
17 and we have been having trouble trying to find out who it is up
18 there that in fact has such a vital need for this kind of
19 information that this kind of economic coercion which seems
20 to be pervasive at least to me in some of the discussion
21 we have heard, you know, seems to filter down and-- It's
22 sort of a commentary, but maybe you can see the kind of
23 question I'm asking and driving at. Do you have any comment?

24 MR. MANSER: I might comment -- and I'm sure
25 Mrs. Waite would like to -- that when you link a purchase of

1 service program with a cost-benefit philosophy and in turn
2 link that to a central data system, you have all the elements
3 of coercion present if the organization in effect, the
4 private organization in effect, desperately needs money.

5 And most private organizations today desperately
6 need money for a variety of reasons which are probably
7 not germane to this inquiry.

8 The case which I cited as an example is one in
9 which there was an extremely high rate of unemployment in
10 the community. The voluntary agency there was virtually
11 at a point of dissolution because of its own problem. So
12 that the pressure on it to participate in a purchase
13 program was almost irresistible.

14 At the same time they took the view that they
15 would not because of the hazards which were involved in
16 the unrestricted use of information given under the
17 purchase program into a central data bank.

18 So indeed I think the point is very well taken.

19 MRS. WAITE: I agree with this, but I certainly
20 can see the practical aspects because when you are
21 using taxpayers' money, really there is more and more
22 pressure on agencies to justify expenditures, and I just
23 can't see how it can be otherwise than they'd want to know
24 who is being served and what is being done to help them.

25 MR. DOBBS: The question is whether that

1 justification is in fact being demanded by the taxpayer
2 or whether in fact there is a bureaucracy which we have
3 established which is trying to make some sort of interpreta-
4 tion of what it thinks is expected and that has built an
5 institution which survives just because it perceives a
6 need to collect data for financial control, you know, etc.,
7 etc.

8 And I have no way of knowing, but I get a deep
9 feeling that a lot of this information which is being
10 collected in the name of program evaluation and in the
11 name of financial accountability is, in fact, not
12 really looked at very carefully and, in fact, from the view-
13 point of the average taxpayer is really not clearly
14 understood.

15 So that argument to me in terms of the taxpayer
16 knowing where his money is going seems to me to not be very
17 solid.

18 MR. MANSER: One reason I mentioned this uniform
19 standard of accounting was because it was deliberately an
20 effort to be able to respond to a very legitimate demand
21 of the public's that voluntary agencies disclose all of
22 their revenue and all of their assets, that they account
23 for the money that they spend for administration, that they
24 account for the money they spend for fund raising, and
25 they account for the money which they spend for service.

1 The problem probably arises not with the objec-
2 tives of persons who have a perfectly legitimate interest
3 in what the cost-benefit of social services is, but in the
4 fact that we simply don't have the instruments at this
5 point in time to do it. And we cannot achieve it except
6 on some kind of a very superficial level.

7 But I think it is a fact -- and I think events
8 in the recent session of Congress proved beyond doubt --
9 that social services have come under very sharp attack,
10 that certainly the revenue sharing bill with its closed end
11 on appropriations will produce very high competition in
12 local communities among organizations both public and
13 voluntary for the money which actually is available.

14 So that if you look toward the future I think there
15 is no doubt but what there will be increasing emphasis on
16 effectiveness and on cost-benefit. And, again, this is a
17 perfectly legitimate objective. Our only problem is we
18 do not have the means of measurement at this particular
19 point in time.

20 MR. DOBBS: I guess just to follow up that parti-
21 cular line of thought -- again this is looking at the
22 future -- as you see revenue sharing becoming a reality
23 in which a good deal of funding process which is now
24 centralized here gets dispersed to local governments
25 without at least in principle the kind of strings that it

1 currently has, which says now that the local agencies
2 presumably have a kind of accountability that is local
3 rather than accountability back here in terms of detailed
4 program operation, do you see any change in the way in
5 which information may be handled and may be used as a result
6 of that?

7 You know, I guess the best or the worst thing
8 that one could imagine is, for example, suppose all of the
9 current HEW requirements on the kind of programs it serves
10 in terms of information which is reported into it as a cen-
11 tral funding agency were no longer required for its manage-
12 ment purposes in the same way and we now look at similar
13 kinds of programs being funded out of revenue sharing
14 money at the local level. Would you envision the require-
15 ment for the same kind of information collection?

16 MR. MANSER: Well, I think that might vary a
17 great deal. I would be more concerned I think myself,
18 looking a fairly long way down the road, about the absence
19 of standards which HEW has insisted upon both by law and
20 also through their own rules and regulations for their own
21 standards with respect to quality of service, their own
22 standards with respect to universality of services within
23 the States.

24 Those are the things that I think would be
25 possibly most seriously lost if services were to be

1 administered entirely locally.

2 MR. MARTIN: Could I go back to Mr. Dobbs' first
3 question, Mr. Manser, and ask you if you can say who you mean
4 when you say "the public's interest" in knowing how
5 effectively it is used. What persons, hat "public" are
6 you alluding to from your position?

7 MR. MANSER: I think we tend to think of -- to
8 use the word "public" kind of generically, but I think we
9 probably mean at least three or four different specifically
10 identifiable groups.

11 One would be those people who are responsible for
12 management of the voluntary enterprise. By that I mean board
13 members, advisory committee members, people who are actively
14 and responsibly concerned. And there are thousands and
15 thousands of these people, of course, throughout the
16 country.

17 Secondly, we would be thinking about those many
18 persons who contribute to the support of the voluntary
19 enterprise.

20 And in the sense that a very large percentage of
21 the voluntary enterprise is supported by United Fund cam-
22 paigns in local communities, you almost transpose from
23 that the concept that the entire community, in effect,
24 all the people in the community, in effect, could be
25 included within that.

1 Since an effort is made to raise funds from
2 everyone in the community, I should say you transpose from
3 that the concept that everyone is your community. But I
4 would limit that to people who are actual contributors.

5 And, of course, again through the medium of the
6 united appeal and united campaigning you do bring again
7 thousands of persons into that kind of a special community.

8 Then, lastly, I think I would say those persons
9 who themselves are served would be another person to whom
10 agencies have again the same character of responsibility that
11 they have to contributors and to persons concerned with
12 management.

13 MR. MARTIN: That as I hear it is a kind of
14 answer of who might legitimately have an interest, but I
15 was reaching for -- I thought it was what Mr. Dobbs was
16 reaching for -- who in fact is wanting to know? Where does
17 the pressure come from?

18 Mr. Dobbs suggested two sort of possible alterna-
19 tives. Is it the public or is it the "bureaucracy," well
20 motivated perhaps, rationally motivated surely, in fact
21 not in theory -- you know, what makes sense to say -- but
22 how in fact do you perceive it factually, if you do? And
23 you may not.

24 MR. MANSER: Just to speak first to the issue
25 of financial accountability, when we developed the

standards we identified the contributing public as the group who had a primary responsibility to know where their money went and literally what it was spent for.

I think the answer to the other part of your question is boards and management of organizations which are concerned with management want to know.

Secondly, I think the governmental organizations, which are concerned through licensing, through cooperative arrangements, through purchase of service, represent the other group who literally want to know.

MR. MARTIN: It sounds like you're saying the bureaucracy.

MR. MANSER: I beg your pardon?

MR. MARTIN: It sounds like you're saying the bureaucracy.

Mrs. Lanphere?

MRS. LANPHERE: I can give you an example of what is going on right this minute in Oklahoma in my office. There is a technical assistant for WIN -- a Department of Labor meeting -- to help us determine how we are going to record the reporting requirements for WIN, which services were authorized by the Department of Labor. Did this child get day care part of the day or the whole day, etc.? These are required.

1 MR. MARTIN: Professor Weizenbaum.

2 PROFESSOR WEIZENBAUM: You're having quite a
3 difficulty answering this question, and I think I see why.
4 Nothing personal. I think it's a difficult question to
5 answer.

6 You mentioned a number of people who want to know.
7 The boards want to know. But if you were to go to those
8 boards and ask them, "Why do you want to know?" each would
9 say, "Because I am going to tell someone else who wants to
10 know."

11 Then you get into the kind of circle we have been
12 trying to explore here.

13 It seems to me the basic problem is contained
14 in what you repeated many times, both of you. You talked
15 about the obviously legitimate need to run a businesslike
16 affair. It's in that business ethic, the legitimacy of it,
17 and so on and so forth.

18 I find an enormous contrast between everything
19 that you have said, much of which I want to applaud -- for
20 example, the letter that you wrote I think was extremely
21 good -- but just the contrast in the language that is used,
22 for example, you know, between you two (to Mr. Manser and
23 Mrs. Waite) and you two (to Mr. Mighty and Mr. Garcia).

24 I want to just say another word about this
25 business aspect. You know, it seems obvious to people

1 who were brought up as most of us were that, of course,
2 one has to run a businesslike affair and there has to be
3 accounting and all that sort of thing. It's perfectly
4 obvious.

5 But it's too obvious. It needs to be questioned.
6 I think if we take a look at programs, for example, that the
7 Red Cross has administered under extreme emergency
8 conditions where nobody asks for an accounting and everybody
9 works anyway-- If we look at the ongoing program, for
10 example, not that I know very much about it personally,
11 but as I read it, such as, for example, the Black Panthers
12 put on with respect to distributing breakfasts, say,
13 where there is an enormous amount of local control, there
14 it seems to be unnecessary to run it in a businesslike way.

15 MR. MARTIN: And it works.

16 PROFESSOR WEIZENBAUM: And it works. Okay.
17 So I think there is really something here about some very
18 fundamental, deeply internalized ethics and values which
19 even under the pressure we are under right this moment
20 we don't dare question but I think which have to be
21 questioned.

22 I don't claim to know any answers. I say there
23 are some important questions we have to ask in this
24 direction.

25 MR. GARCIA: One of the important questions or

1 comments that should be made in relationship to what
2 has been said is that as we force ourselves or are forced
3 to perfect our systems or strive to perfect our systems in
4 an efficient manner to continue operating, we get more
5 concerned and caught up in becoming self-serving rather than
6 serving people.

7 You know, I think that's the big point that has
8 to be brought out.

9 Again it goes back to the question of efficiency
10 versus personal privacy or rights or whatever you want to
11 call it.

12 And look what has happened to many good poverty
13 programs, community action programs, etc. From the
14 inception, you know, they were almost made to fail because
15 they settled down to do some good things in the community,
16 and many occasions they did, but once they got the people
17 going, then the pressures and demands grew upon the
18 community people running those community programs to
19 perfect their systems, not only perfect them but force
20 them to become self-serving rather than serving their
21 clients they were supposed to be advocating for.

22 MR. MIGHTY: I have a question. I'm confused sit-
23 ting back here. I don't know if they are saying they are
24 being asked to give an accounting for money spent or given
25 out or they are being asked to give information pertinent to

1 the clients being serviced.

2 For some reason I have got to hear that they are
3 saying X, Y, Z company or the U. S. Government gives
4 a certain amount of monies to be spent over a period of time
5 and the people are asking for an accounting how it was
6 disbursed. That's what I seem to think they are saying.

7 Hopefully they are not saying they are giving
8 information on Private Jones who the Red Cross might run
9 some type of thing on for emergency leave through their
10 funding source.

11 See, I'm not required to give information pertinent
12 to all the 25,000 people in my files. I wouldn't give it
13 anyway.

14 MR. DOBBS: But Mr. Garcia said specifically,
15 "I have been asked for a certain kind of information, and
16 if I don't give it I don't get the money."

17 MR. MIGHTY: I see. But I'm worried about the
18 Red Cross. I have dealt with the Red Cross a number of
19 years, and the Red Cross is a semi-governmental agency I
20 would say, Federal-semi, some deep, almost incestuous
21 relationship with the Federal Government.

22 And what I hear is: Are they saying, "We try
23 to give information to somebody pertinent to the people
24 being served"? That's what I'd be interested in.

25 MRS. WAITE: Now, I think a lot of this goes

1 back to the amount of money that there is to be raised
2 in communities. There are more agencies developing, and
3 there is just about a certain level of community giving that
4 will prevail. More agencies are competing for money,
5 and it is really important for agencies to interest the
6 public in supporting them.

7 This was the attempt of the community council
8 in this city -- was to say to the community, "We are
9 serving so many people in the inner city because this is
10 where the big emphasis in agency programs has been among the
11 deprived, the disadvantaged, inner city residents. So we
12 want to know who these people are you are serving and
13 what you are doing for them because this will depend upon
14 what kind of funding you are going to get from our
15 collective fund-raising effort."

16 This then becomes a matter of agency survival.

17 Now, this is fine if the information that is
18 given is universalized so we can say, "Yes, we gave in
19 census tract 10 services to so many people, so many unwed
20 mothers, so many people who were sick, so many people who
21 needed emergency leaves."

22 But we don't really want to identify who these
23 people were by social security number, by employer, so they
24 can be tracked down.

25 Now, I don't know-- I would assume that they

1 wouldn't be tracked down. I would hope that the information
2 would remain confidential if we did give out the name, rank
3 and serial number. But this is not a safe assumption.

4 I think that we have to be very careful. But
5 to tell what we did for them and where they live, nothing
6 wrong with this whatever, because this is information that
7 cannot be fastened on any one individual.

8 MR. MIGHTY: I think she answered the question.

9 MRS. WAITE: I haven't answered your question
10 (to Professor Weizenbaum) because it's a very hard one.

11 PROFESSOR WEIZENBAUM: Not really a question any-
12 way.

13 MR. MARTIN: Well, if there are no further ques-
14 tions for Mrs. Waite and Mr. Manser, Mr. Mighty and Mr.
15 Garcia, we will turn now to Kenneth Williams and his
16 colleagues from People Against National Identity Cards,
17 sometimes known as PANIC.

18 For the stenographer's benefit I will say that
19 Mr. Williams is seated on my right, Mary Drabik in the
20 center, and Brother Skip -- is that right?

21 MR. MATTHEWS: Norman Matthews for the record.

22 MR. MARTIN: Fine. Norman Matthews seated on
23 my left.

24 Mr. Williams, Miss Drabik, and Mr. Matthews are
25 from Cambridge, Massachusetts.

1 MR. WILLIAMS: First I'd like to briefly say in
2 view of the way in which the elections went -- and you
3 can understand that we are from Massachusetts -- we along
4 with the people of Washington are right on. (Laughter)

5 DR. GALLATI: The only two civilized communities?
6 (Laughter)

7 MR. WILLIAMS: Right.

8 You know, listening today, there are several
9 things that we will try to go ahead on and try to bring out
10 to you.

11 And first of all, before you go off on any
12 tangents -- because you have been sitting here all day, you
13 know, and I'm looking at the clock myself, comfortable as
14 the chairs are and everything else, but there are other
15 things I'd like to get out and do to get my mind going,
16 get off this whole kind of thing -- our struggle still
17 continues. Our struggle to us is very, very serious.

18 What our struggle is about is about the future.
19 It's about the future of our country. This is supposed
20 to be our country. And this is the thing. This is
21 primarily what we are concerned with.

22 And the future of this country lies with the youth
23 -- not just those who are living today but we are talking
24 in terms of those who are yet unborn. Because what is
25 happening here, in fact, you're talking about a national

1 data system. Then you have to include population control
2 in it.

3 And population control, just to try to institute
4 at this point a serious note, was practiced during the
5 second world war.

6 Now, I'll give you a little bit of my vital
7 statistics so that maybe you can understand where Ken
8 Williams' mind is coming from.

9 I was born on May 13, 1929. I did not finish
10 high school. So if you want to consider me as being a
11 dropout, that's perfectly all right.

12 I spent 5-1/2 years in the merchant marine after
13 I allegedly dropped out of high school. The first place
14 I went to off the West Coast was over to Japan. I have
15 been to China. I have been to Korea. And when I went to
16 Korea aboard the merchant marine it just so happens at
17 that point in time that the only group in there at that
18 time was a group called Korean Military Advisory Group.
19 So you see what I was sailing for at that time was the
20 United States Government out of San Francisco. It was
21 called the Army Transportation Corps. And my Z number was
22 766667. So dig that one.

23 There was a remark made a while ago about
24 fingerprints, and all of us have something to say
25 because of the fact that what we are as PANIC people, we are

1 people who have come together-- At this point we are
2 national in scope and international in idea. Because when
3 it comes down to something such as a national data system,
4 if anyone picked up last week's LONDON TIMES you would have
5 understood that when it comes down to a national data
6 bank all of Europe is in the same danger.

7 Over in England they are fighting the same
8 problem -- okay? -- with the national data system.

9 The national data system that we are talking about
10 here, if in fact we wanted to get any ideas, we could go
11 over to West Germany because of the fact that was the
12 originator of the whole system of a national data system as
13 we see it today whereby every kid at the age of 15 is given
14 an identity card, much less a social security number, and
15 they are trying to revamp that.

16 Now, question was asked about bureaucracy, and
17 I agree because of the fact that that is one of the things
18 that we have had to study and to get down into. And the
19 fact of the matter is that as we see it today, back in
20 1945 after the second world war the United States was at that
21 point the victor in the world. Our country was the victor
22 in the world. And to the victor goes the spoils, which
23 meant that immediately after the war we had no intelligence
24 network until General (Gayland) came over to this country to
25 head up the CIA.

1 And in addition to that, as far as all the multi-
2 national corporations today, let's take a look at what is
3 going on. And if in fact you can understand what is going
4 on with the multinational corporations, and if in fact you
5 can understand what is going on with these banks, and if
6 in fact you can understand what is going on along with all
7 these different mergers and everything like that, and if in
8 fact you can understand the high price of food whereby
9 you're getting less for the dollar, then you can understand
10 that there is a legitimate concern, a concern which at
11 this point the people from the urban communities as well
12 as the outlying communities are in a state of panic.

13 But for some reason or other, people who have,
14 you know, the jobs; and this kind of thing, it does not
15 affect them at this point in time.

16 In fact, whatever we have to say after this
17 little opener let's say -- we're playing cards and these
18 are openers -- then you can understand that for those who
19 came here on airplanes and what not there is a very good
20 reason to have a credit card.

21 For those who got off that airplane and went
22 to Hertz and they put \$50 down and they said, "I'd like to
23 get a car," and the dude behind the thing there said,
24 "I'm sorry, but you must show me some form of identifica-
25 tion, something which is called positive identification,

1 something with a photograph on it and your social security
2 number," and if you reached in your wallet and you
3 pulled out that and you pocketed your money, your \$50, then,
4 okay, you would say there is nothing wrong with identity
5 cards.

6 We coming here from Boston don't have that kind
7 of money. We don't have credit cards. And since in fact
8 this is the Health, Education, and Welfare Building, it
9 would be awful good if we could try to get some bread of
10 some kind to help us to go ahead on and, you know, keep us
11 going.

12 This is kind of an appeal if you will, because
13 of the fact that, as I am saying, for those on the
14 panel, you know, it's like a nice little trip. You go to
15 Washington. It's wholly enjoyable. But for us, I eat beans
16 next week, with maybe fishcakes, but even Groton's fishcakes
17 have gone up, the price of those.

18 There were remarks made today, and all of them
19 are perhaps legitimate to assume, but what I want to
20 speak about very briefly before my colleagues, my comrades,
21 get into this thing is, first of all, are we talking about
22 unique identifiers? Are we talking about universal
23 identifiers?

24 Because if in fact we are talking about a
25 universal identifier, then, naturally, we're talking about

1 some kind of a numbering system.

2 Whether this means, of course, putting a tattoo
3 on a baby when the baby is born or putting a tattoo on
4 somebody's arm or giving them an identity card with a
5 number on it plugged into a computer-- And if, in fact, we
6 are talking about a unique identifier, then let's go one
7 little step further since in fact already it has been
8 pointed out when the gentleman was sitting up here and he
9 said three people had a social security number the same as
10 he-- It was pointed out at that point that if in fact he
11 had his fingerprints on that along with that, then there
12 would be no mistake.

13 Well, it just so happens that when we are talk-
14 ing about unique identifiers and a universal identifier,
15 some of the information which we have been pulling together
16 will come as a big surprise to you -- like, No. 1, for a
17 unique identifier voiceprints to go along with the
18 fingerprints. And how about palm prints? And how about
19 footprints?

20 Now, these are facts that I think you know,
21 that these people on the panel I think you know, that you
22 have read this information probably.

23 This is an article which I have from January 12,
24 1972. This is Dr. Jaffe here in Washington, D. C., who is,
25 in fact, talking about a unique identifier, and he is

1 talking in terms of methadone sales, which brings us around
2 full circle again. Okay?

3 And the controlling factor is that addicts will
4 go in, they will have their footprint taken. This is
5 positive identification. Their social security number
6 will go on it. And it is pointed out that this is a method
7 which is being used in the delivery rooms of some hospitals.

8 So when we are talking in terms of national
9 data banks, let's go back to the very beginning and
10 understand when I'm talking about population control, again
11 I'm talking in terms of even those who are yet unborn.

12 We see this whole system as being, you know,
13 something else.

14 Another thing I would like to speak of is the fact
15 that as far as the whole computer technology is concerned
16 I would like to look at it and use my own terminology. I
17 would like to call it technological fascism, because in
18 a country such as ours I remember the times -- okay? -- when
19 as a youth in school it was very good to go ahead and talk
20 about land of the free and the home of the brave, and I
21 went through the whole mind trip only to discover here
22 later that as far as the bureaucracy is concerned definitely
23 we are in the control of the big banks, the credit houses.

24 Because of the fact that everything in this
25 country even during the election-- The reason as to why

1 Massachusetts did not go the way the rest of the country
2 went was because of the fact that there is a whole different
3 kind of thinking up there. We have looked at the mistakes
4 that have been made consistently throughout the country,
5 and we just didn't want to be included in that mess.

6 I had written down here something which was more
7 or less like a concluding remark so my colleagues can deal.
8 And what I'm saying here is we are trying to build a
9 consciousness amongst the kids, the kids, the children of
10 this country, for they are the ones who will have to pay the
11 piper in 1984, or, better yet, how about at the end of this
12 next four? Okay?

13 We're hoping to build a consciousness to question
14 and reject these things because of the fact that these are
15 detrimental to the best interests of the people of this
16 country.

17 A national data system is something which
18 happens in Russia. It does not happen here. You under-
19 stand? Because the first thing that we do is we build
20 an isolationist attitude. And we have been through this
21 when we have gone to schools and we have heard these remarks
22 about outside agitation, intruders, and things of this
23 sort, you "must know who is there." And this is the
24 reason as to why today you find people with this hue and cry
25 of putting steel locks on the doors and you find women

1 being trained in the use of firearms. That's a free country?
2 Something to be proud of?

3 Thank you.

4 MISS DRABIK: Compulsory social security numbers
5 for welfare recipients may seem to be a convenient device
6 for registering accounts, but the mandatory nature of the
7 law is clear. People are being forced to register under a
8 number so they will fit permanently into a machine age
9 monopoly.

10 Why does the advisory committee on automated,
11 computerized data systems emphasize the necessity of social
12 security numbers? Because the Government under Nixon's
13 present and everlasting administration intends to enforce
14 instant classification of individuals for the purpose of
15 population control.

16 A single number which can hook up information
17 compiled on people by running it through an interchange of
18 data storage computers owned exclusively by government
19 agencies is nothing less than an identification number.

20 The next step in this trap is to make a law
21 requiring that people carry an I.D. card and coded with a
22 social security number on their person at all times. An
23 I.D. card designed to transmit personal information
24 through an automated computer retrieval is in reality a
25 "pass" system. I.D. cards are the missing link between an

1 individual and his all-knowing social security number.

2 Why does section 137 of the Social Security Act
3 include affirmation of a plan to require that all children
4 be assigned a social security number when they enter
5 school? Obviously to condition young minds to equate
6 their identities with one number which bears in code all
7 information pertinent to their school record, behavior, class
8 background, family income and growing interests and activi-
9 ties.

10 High school students all over the country already
11 have to carry student identification cards bearing a number
12 and a photograph. Instructions on the card read that
13 this card must be carried on the person at all times.

14 This is not a student I.D. card. It is an
15 experiment for the national identity system proposed by
16 Nixon in March of 1972. Students enrolled in high schools in
17 Ohio, Illinois, New York, Massachusetts, North Carolina,
18 Georgia, Florida, California, the choice target areas for
19 testing out government programs, have all been required to
20 carry photo I.D. cards, with severe consequences if they
21 refuse.

22 Students are "carded" everywhere, in the halls,
23 in the cafeterias, in the libraries, on public school
24 transportation facilities, in the bathrooms. If a student
25 cannot produce his card on demand, he is suspended or

1 expelled, depending on how much he has violated this sacred
2 rule.

3 Multiple copies of I.D. cards are produced and
4 sent to district police and FBI files. In Miami, Berkeley
5 and Boston, students have reported incidents where they were
6 stopped on the street by police who demanded to see their
7 identity cards. Several times they were arrested because
8 they didn't have positive photo identification.

9 The Youth Services Bureau in Berkeley has
10 proposed a program to help police catch runaways which
11 consists of a card that can be fed into a portable computer
12 installed in the patrol car.

13 Harassment by police is made easier by I.D.
14 cards used as an excuse to get students and young people
15 into trouble.

16 Children of welfare recipients have it bad too. A
17 social security number assigned to children receiving welfare
18 will condemn them to permanent dependence on Federal funds.
19 They will be imprisoned in public housing, denied equal
20 opportunities to education and job training because they
21 come from backgrounds that don't support public schools
22 through taxation.

23 Welfare social security numbers are a method of
24 police state controls extended to include a whole class of
25 people who represent a threat to government security.

1 Poor people have been prostituted by Federal
2 laws imposed on facilities operated by States, cities and
3 towns. These laws are exercised to keep poor people in
4 their place.

5 The Jews in Nazi Germany were regimented by
6 welfare state programs, constant police surveillance and
7 intimidation, all police state methods which succeeded in
8 anesthetizing the Jews to their ultimate social outcome,
9 extermination.

10 Recipients and school children who are unable to
11 fight for their rights are forced to submit to constant
12 monitoring, to social security number restriction to low
13 paying jobs, public housing, bad health care, and lousy
14 education, all falling into categories as a welfare recipi-
15 ent.

16 An official from APA said, "Although poverty is
17 not a situation to be preferred, it has not yet become a crime
18 to be poor." And an I.D. card with a social security
19 number specifically geared to process information on an
20 individual's social and income status makes being poor a
21 curse.

22 Police will use I.D. checks in high density
23 areas where welfare recipients are forced to live in order
24 to maintain continuous control. That is when being poor
25 will become a crime. It's all connected, and it's all

1 intended to repress the population through government
2 control, good business for corporations pushing the buy-in
3 campaign which approves the invasion by technological
4 processing of human lives.

5 MR. MATTHEWS: I guess I'll first make a comment
6 on the whole concept of the national computerized data
7 system. Arthur Miller, who is one of the commissioners
8 here, in 1967 in the ATLANTIC MONTHLY said, "Even the
9 most innocuous of systems provides a foot in the door
10 for the development of individualized computer-based
11 Federal snooper systems."

12 I'm saying that he made one mistake, because the
13 foot in the door is the fact that the government does
14 now in fact collect information on individuals. I mean the
15 fact that you had a dynamics happening here, that you have
16 established a commission to just check into it and other
17 people came in from outside, you know, just to give you some
18 type of insight, that like in itself is like a fact to know
19 something is wrong, you know.

20 And like my own concept of reality, you know,
21 like I have some idea of what I think is wrong, you know,
22 and, you know, like people, everybody talking about the
23 bureaucracy and who wants to know and who wants to have
24 this information, you know, if the information is going to
25 be first gathered, you know, on the mass of the people,

1 that includes you all -- for all of you who think you're
2 going to escape.

3 I'm not even familiar with the book "1984."
4 I just hear quotes dropped here and dropped there. And I
5 know if in fact it all comes about, there ain't nobody going
6 to get away. I mean where are you going to hide?

7 I mean you want to talk in terms of technology.
8 They have a camera that you can be on the inside of your
9 house, you know, and have a light on, and they can be
10 outdoors, and the camera is equipped with a light amplifier,
11 you know, that can magnify the light 300,000 times, and
12 so what you in fact get is like an image of what is
13 happening, you know, on the inside of your house.

14 And I'm saying okay for me like I think that this
15 brings about a state, you know, where the people have
16 absolutely no rights, no sense of justice, that whoever "they"
17 are, you know, are going to recognize.

18 And I mean -- and Arthur Miller, I wish he was
19 here, you know -- I think his whole thing is, you know,
20 he's for accepting though the national computerized data
21 system, but like in reality, you know, like the foot in the
22 door, if you set up the data system, then the body is in the
23 door and it's too late.

24 You know, he's talking about setting up safe-
25 guards, you know. I mean safeguards from who? From what?

1 I mean if the system is there, I mean you as a commission,
2 what can you do to stop this?

3 If, in fact, you know, you get the reality that
4 we are moving toward some type of fascist state, you know,
5 if that in fact is happening -- play with that for a while
6 in your mind -- what power do we have? What can we do to
7 stop it? What can this commission do?

8 Because you already gave them the power. They
9 are collecting information on you every day. So if in
10 fact there is some madman, woman, thing, collection of
11 people, some international conspiracy-- You know, that's
12 a word that seems to be going around now, a conspiracy.
13 If there is in fact a conspiracy to enslave us, you know,
14 not as black people or white people or Chicano or yellow
15 people or red people, but just as people, you know, to
16 control the body-- And to me like I have been digging on
17 a lot of dynamics.

18 You know, what goes down like is the more
19 information you got about people, about your environment,
20 you know, life different variables and how they are going to
21 take and react, the more information you have got about
22 them the better you know how to control them.

23 And so this way, I mean like I listened to some
24 of the people on the commission rap, you know, and like
25 what it gets to is if in fact what I see coming is coming,

1 some of you all is going to have to go. I mean like your
2 ideas are a little bit too progressive.

3 You know, like you're asking questions. If
4 you live in a fascist state, man, like there are no questions
5 that you ask. Yours is not to question why, but yours is
6 but to do or die.

7 And, you know, that's exactly where things are
8 getting to. I mean it's kind of funny, man, to see us all sit-
9 ting here. Some think we are going to get away. Some
10 know you ain't going to get away, you know. I mean what
11 can we do about it?

12 I mean I think it's easier for me. It's real,
13 very real. And people talk about my father and your
14 father and her father and everybody's father. But every-
15 body seems to be two steps removed from any type of
16 reality about it, you know -- "they ain't going to get me."

17 But the thing is if I don't hear any type of
18 outcry, then that reflects, you know, like the attitude and
19 the condition, in fact what people within the society have
20 been accustomed to.

21 I mean people talk about-- You hear the term
22 "Teutonic mentality, Germanic mentality." You know, like
23 I used to say I think it's in the genes, the chromosomes,
24 you know. Like the primary duty of a President, as
25 Abraham Lincoln said, is to preserve the union. And I

1 think that, you know, that holds true here. I mean it's
2 obvious now, man, that they have absolutely no regard for
3 human life because otherwise you could never enter into a
4 war just so you can improve the economy so that the people
5 can continue to take and, you know, have this high standard
6 of living that they are always having, that they are used
7 to.

8 That's one of the main reasons, you know, that
9 the war hasn't ended, because like once you change from a
10 wartime economy to a peacetime economy I mean something
11 has got to go wrong. Something has got to go wrong
12 because everybody still wants to be able to go out to the
13 store and pick up their steak, go shopping, you know.

14 And that is the thing I think, you know, the
15 fear of that type of change, that is what really gave Mr.
16 Nixon that landslide that he got, and that's why the issue
17 of change, you know, as Nixon opposed to McGovern, was so
18 important, you know.

19 Like in the latter parts of the campaign it got
20 to the point where people were saying, "Oh, yeah, I want change
21 too, but McGovern wants change too fast," you know.

22 It's that fear thing that the brothers from the
23 ACLU were talking about. It's that fear thing, man. It's
24 like almost in the concept of death, man. The reason people
25 get so hung up about death is because they fear. They fear

1 the unknown.

2 You know, I wish I had "dynamite" to say it
3 again, but I think when the end gets here it will be dynamite
4 enough, so I can't say it. I mean that's how I feel about
5 it. And I know that a national data system would in fact
6 be the body in the door, you know. The foot is in the door.
7 I mean everybody is concerned.

8 Can I ask a question? Setting on this commission,
9 are you like in the Federal employ? Because the thing is
10 it's like I used to work for the Government, and it's
11 funny, man. They ask you, I mean, like to get a security
12 clearance for the Government, man, they want to know about
13 your uncle, you know, your daddy, your cousins, your
14 nephew even. Man, they just want to know all kind of
15 garbage. And if the cat that sits behind you in the
16 third grade was a homosexual, that even, you know, carries
17 some weight.

18 They may just want to hold your hand, you know.
19 They just don't want no free thinkers out here.

20 Because I think in the truest sense, you know,
21 I'm an American, you know, because I definitely believe in
22 freedom and equality and all of that. But I think somewhere
23 down the line, man, people got hung up on a bunch of
24 materialistic things, getting over the hump and making it.

25 Things look awful dark, I mean. But I don't

1 want to come in here and shake you all up maybe and make you
2 all think tomorrow is going to be the end.

3 In reality, this is my reality, you know,
4 reality only as I perceive it. But what I like to do,
5 man, is throw some light on the subject in my own terms.

6 That's it.

7 MR. WILLIAMS: I think we can answer some questions,
8 you know. I think it would be better because we could
9 deal with the computer thing and show you as to whereby as
10 far as the cashless society is concerned by use of I.D.
11 cards-- This has already been attested to in New York,
12 as Dr. Gallati knows, about the cashless society. Perhaps
13 some other people do.

14 And this is one of the things whereby, by means of
15 an identification card or an identity czrd, whichever you
16 prefer to call the thing, no longer will a person on welfare
17 be able to go into a grocery store, make a purchase, put cash
18 down, and then leave.

19 I think just outside of Washington here they have
20 tested the same system whereby just by using your social
21 security number if you're on welfare, every week, say, \$20
22 is put into your account in the computer, and your rent is
23 going to be paid for, your electric light. This whole kind
24 of thing is going to be done automatically. So A. T. & T.
25 can just keep on going right on up.

1 When you go into the grocery store to make your
2 purchase, he will take your card, he will put it into a
3 cash register which National Cash Register has made already,
4 and automatically if the items that you have purchased
5 comes to \$10, then that will be shifted from underneath
6 your number into the account number of the store. All this
7 is going to be done automatically.

8 The American Banking Association in a book
9 called "The Computerized Society"-- And it also explains
10 about the police force in New York, how in fact they have
11 this whole system worked out. It explains how the American
12 Banking Association has already started moving on an inter-
13 national level so that-- Just to point this out as a means,
14 when we look at the price of gold and how the gold
15 standard went up from \$35 up to close to \$70 and back down
16 again, any time that you can--

17 Well, back in 1968 I believe the South African
18 Financial Minister at that point said that if we can
19 raise the gold standard or anybody who can manipulate the
20 gold standard of the world can definitely kill the whole
21 monetary system, the whole IMF thing. And this is exactly
22 what has happened.

23 This is the reason for the Common Market
24 countries in Europe whereby each little satellite will
25 produce a certain product -- okay? -- which will go into the

1 whole.

2 And if in fact we look at the whole world situa-
3 tion today, we see that with the multinational corporations
4 of today in cahoots, solid cahoots, with the banking
5 interests actually control the world except for one
6 country and this is Africa, but it's slowly working into
7 Africa as well.

8 As a matter of fact, in Boston, Massachusetts
9 on the radio they even had advertisements as to whereby a
10 little boy with a voice that sounds like maybe 4 or 5 years
11 old is saying-- He's supposed to be the President and he
12 wants to know how about, you know, these people in these
13 other countries? And a male voice, grown up, supposed
14 to be the elder, says, "Well, you don't expect for the
15 people in Africa to just give you their land, do you?"

16 "No."

17 He says, "You must take it."

18 So like this is exactly where we are today, whereby
19 we see that the whole system of welfare has been created by
20 multinational corporations going overseas exploiting the
21 people in these different areas, taking over the land,
22 closing down their factories here, talking about the
23 wonderful profits they have. Okay? All because of the
24 fact that this is supposed to be business.

25 Well, all I can say, my personal viewpoint on
that is that these so-called multinational corporations who

1 in the last few years have closed up shop and who have
2 moved textile mills from North to South and now are exploit-
3 ing, using oil to manufacture artificial clothes such as
4 we wear right now, artificial food such as they are
5 using in Brandeis University flavored so that soybeans
6 taste more or less like hamburger-- Well, to my mind this
7 brings me back to the early '30's.

8 Because this is the same thing which was happening
9 in Nazi Germany, the very same thing.

10 So if, in fact, we are talking about computers
11 and controls and a national identity system, it's already
12 here. And this is the reason as to why as far as PANIC
13 is concerned we know that for those who are above the age of
14 25 there's nothing that we can do for you.

15 But our service is to try to give information
16 so that everyone who really wants to dig on it can under-
17 stand what is going on.

18 We do not get paid for it. We do not solicit
19 funds. Those people who worked over the past 2 years, as I
20 say-- I mean donations as far as money is concerned at this
21 point has been something like \$15 in the last 2 years,
22 because we do not make it a practice to go out and ask
23 people for money.

24 We know what has to be done, and we will continue
25 doing it, and there are enough people who are concerned and

1 who do feel the same as we do that the future of this
2 country depends on the kids, and our duty we feel at this
3 point is to try to give you information so that hopefully
4 you can take it to someone else so that hopefully you can
5 help someone else.

6 Because as far as the kids are concerned, we are
7 going to mobilize the kids. Not just in Massachusetts
8 but all over this country. Because of the fact that this
9 country is going to live. This can be a very strong
10 country. Technologically there is no country in the world
11 who can beat this one. The brains are here. The resources
12 are here.

13 The only difference is the people are being
14 misused under the name of business. As far as the
15 bureaucracy is concerned, yes, definitely. And as I said
16 before, and Brother Skip and Sister Mary pointed out, it
17 is a conspiracy against the people of this United States
18 by multinational corporations who are out for world control.

19 MR. MARTIN: Are there any questions from
20 committee members to the representatives of PANIC?

21 Mr. Dobbs.

22 MR. DOBBS: I have a question. I want to try to
23 summarize a couple of things because I think you have made
24 certainly one or two points crystal clear. I want to make
25 sure that I play them back so that I have understood them.

1 It is your feeling and the feeling of your
2 membership, No. 1, that we have a national data bank system
3 existing?

4 MR. WILLIAMS: Definitely.

5 MR. DOBBS: No. 2, that at this stage of the
6 game, that process, however one might debate how we got
7 there, is irreversible?

8 MR. WILLIAMS: Yes.

9 MR. DOBBS: No. 3, that the culture is condition-
10 ing young minds to accept -- I think as you put it or one
11 of you put it, to equate their identity with a number?

12 MR. WILLIAMS: Exactly.

13 MR. DOBBS: And those are three basic kinds of
14 things I think you addressed. And as I understood, one of
15 your major objectives as an organization is that you are
16 trying to build in young people an attitude that would
17 question and/or reject these three notions, if one were to
18 stipulate that that is in fact true?

19 MR. WILLIAMS: Yes.

20 MR. DOBBS: How are you going about doing that?
21 In which ways are you reaching the young people? And what
22 are you telling them?

23 MR. WILLIAMS: Basically we are telling them the
24 same things we are now, that in fact the school system
25 across this country -- okay? -- it has been pointed out

1 time and time again about how the deterioration happens in
2 the school, and we're tired of listening to that as an
3 excuse, because the fact of the matter is that one computer
4 having all of the world's, say, theories or whatever, all
5 of the world's intelligence thrown into it has virtual
6 memory. It can never forget, and you have instant recall
7 for anything.

8 Plus the more information that goes into the
9 computer, the less people you need to solve your problems.

10 This is the reason as far as the SST is concerned,
11 man's knowledge hasn't quite come to the places yet as to
12 whereby it can solve all of the things wrong with the SST.
13 But given another 10 years, as fast as this country is
14 going, the SST is meaningless.

15 Why? Because of the fact that last year Werner
16 von Braun, who has already talked in terms of disemboweling a
17 human being and sending him off into space for 2 years and NASA
18 has created a food as to whereby the body will absorb it
19 completely so that there is no waste material-- Now, these
20 are not the things that are being taught in school, but
21 these are the things that the scientists and the tech-
22 nologists -- okay? -- rely upon the computer for.

23 They are talking to a machine, and they have
24 taught this machine, and now they are going to through the
25 machine answer their questions for them, you see.

1 I forget what your question was. (Laughter)

2 MR. DOBBS: I think I understand. I sympathize
3 with the struggle with describing what technology in its
4 broadest sense and the changes and implications it may have
5 for us means.

6 I guess the difficulty I am having is in how
7 you are articulating that series of problems to the young
8 people.

9 MR. WILLIAMS: Yes. Well, it's more or less basi-
10 cally the same way as which we are here.

11 MR. DOBBS: Do you have seminars and rap sessions?

12 MR. WILLIAMS: Rap sessions. And we go to
13 school committee meetings. This whole kind of thing.

14 MR. DOBBS: Do you invite representatives from
15 business, say? Granted that you believe that they are the
16 culprits, but in order to give a sort of balanced view do
17 you invite representatives from business on the one hand
18 and/or representatives from computer technology on the other
19 hand to share their perceptions, whether or not you agree
20 with them, with these young people?

21 MR. WILLIAMS: No, we are not sufficiently
22 strong enough for that purpose yet. We have to do as the
23 bureaucracy does, such as we are doing here. I mean it's
24 a little bit different because of the fact the input is
25 strictly amongst the kids and the byplay is strictly amongst

1 the kids.

2 But that's the way we have to do it because of the
3 fact that again we don't have the resources.

4 Industry is naturally-- I mean that the kids
5 understand where industry is coming from. It's a good
6 point. At some future date we have always hoped that
7 maybe we could have that kind of a dialog.

8 We have gone up to the State House and hoped
9 Governor Sargent of Massachusetts who endorsed the use of
10 social security cards on driver's licenses back in 1970--
11 In SCIENTIFIC AMERICAN a full double-page spread, one with
12 his picture on the left with his eyes closed, and then on
13 the other side, you know, he had his eyes open, and he
14 said-- This was a Polaroid ad, incidentally, and it
15 said like, "We just wanted you to know what a great State
16 we're in," you know, talking about our Governor.

17 No, we haven't had-- We haven't been able to.
18 We found that to do that -- okay? -- would be self-
19 defeating at this moment as far as the kids are concerned
20 because already there aren't enough kids who even understand
21 that they can resist the I.D. cards.

22 In every school wherever we have gone into these
23 schools, such as in Brockton High School, a brand new
24 high school, over 5,000 students, which was just completed
25 a couple of years ago, by bringing in the identity card --

1 this was because of outside agitation but it's the same
2 excuse which was used in Chicago whereby I mean it's
3 compulsory to have your identity cards in the Chicago
4 system-- Also in many of the schools in New York State.

5 Also right in Boston itself, even in the Catholic
6 schools. And in each instance outside agitation
7 or some other kind of excuse is used.

8 No, what we have to do, as I said before, we
9 are attacking by going to the school committee, asking
10 the school committee to let us speak, and asking them
11 would they please, you know, abort the I.D. cards?

12 Sister Mary can give you an example of where we
13 were last night, and I think that you will find this rather
14 interesting.

15 MISS DRABIK: Well, we were in a Summerville
16 school committee meeting, and we had presented an appeal
17 to the school committee to let us speak on behalf of the
18 students to contest I.D. cards that had been in the school
19 program for about 4 years and the kids had been continually
20 abused by some kind of rules that, you know, accompanied
21 having to carry I.D. cards around.

22 And they were detained after school and had to
23 go through various ritual punishments and stuff like that,
24 all based on making them carry their I.D. cards.

25 And so that we have been sort of working-- And

1 we have been working with the kids who know exactly what we are
2 talking about when we say, you know, we're against I.D.
3 cards.

4 I mean like in Summerville the student council
5 voted them out unanimously and now are trying to organize
6 constituency to go and present that as a suggestion for
7 policy change to the school committee to get it out of the
8 educational system.

9 And we're meeting with all kinds of-- I mean
10 like the kids say it's an education in how their government
11 works, because we can't, you know-- We have to go through
12 all these parliamentary procedures and they won't let
13 us talk for obvious reasons but they refuse to tell us what
14 those reasons are.

15 I mean it's like-- It's something that the
16 kids have been beaten out of. I mean this sort of self-
17 reliance. They have no vehicle to appeal to an educational
18 system that is supposed to be like, you know, controlling,
19 you know, two-thirds of their life.

20 And as you know, more and more sort of regulations
21 and restrictions go down, and they're just-- That whole
22 like spirit of, you know, finding out what is going on and
23 why it is happening and, you know, whether anybody would be
24 willing to listen to whatever suggestions they have, you
25 know, to change it or to improve it, that kind of thing will

1 disappear.

2 And as the kids start realizing people aren't
3 going to be listening to them-- So we have been sort of
4 helping with that. And eventually, you know, maybe we will
5 be able to get around to telling people about the
6 wired cities and coaxial cables connecting up computers with
7 people's homes and with the police station and with the
8 courts and eventually -- and with television stations and
9 radio stations and schools -- and eventually people realize
10 that like all of this, their whole life is like being
11 interconnected for them because they are not allowed to
12 have mobility to go around and have the mobility to find out
13 about police stations and schools and libraries and TV
14 stations.

15 It's going to be all like, you know, wired in
16 with computers that are going to be like transferring
17 information through cables about -- well, into people's
18 homes. Cable television will go into people's homes. And
19 cable television is now being proposed with a stipulation
20 that cable TV have the capacity for two-way reciprocal
21 viewing. And it all depends on how much it costs to the
22 business.

23 There are three forms of two-way capability can
24 happen -- visual, auditory, or just by digital transference
25 of some kind of a signal that, you know, is pressed -- is

1 like transmitted through the receiver's television into the
2 transmitting station.

3 And that's just, you know-- I mean it's like
4 sort of a highly sophisticated thermostat with sensor
5 devices, you know, that can pick up how many people are
6 wandering around in a room, and then like through different
7 changes, you know, transcribe it into an image or a voice.

8 I mean that's what computers are happening.
9 Instead of people like envisioning really useful things for
10 computers, I mean it's, you know-- They're like envisioning
11 things in which people are going to just sort of be trapped
12 in their homes.

13 They don't even have to go outside, you know,
14 in order to tune in to their library or their police station
15 or their school. And the electrical company at the cable
16 TV hearing in Massachusetts was really-- I mean they really
17 thought that was a really far-out idea because
18 then they'd set up switches in the computer cable systems that
19 would regulate how much gas and how much electricity and
20 how much water people were using, and if they were using too
21 much because it was too expensive to start like tapping new
22 sources for electricity and new sources for heat and new
23 sources for water, that they'd just turn it off.

24 I mean what's happening?

25 MR. MARTIN: Dr. Gallati?

1 DR. GALLATI: I recall listening to your
2 statements here tonight the term used by John Shattuck
3 earlier today when he spoke of data prisons, and I sort of
4 get the impression that you feel despair, you feel you're
5 imprisoned by data.

6 And the question I'd like to ask you is-- The
7 depth and profundity of your despair shocks me, and I
8 wonder if perhaps part of that despair is not that you
9 feel that you are a voice crying in the wilderness, that
10 you have no allies, that you have no power, that you are
11 cut off from society, that everyone else is going one
12 direction and you're trying to stop them and you don't have
13 enough resources.

14 I ask you the question are there not other people
15 such as you, the Computer People for Peace and some who are
16 equally concerned-- Have you joined forces with them? To
17 what extent are you allying yourself with these people
18 to make your voice more powerful and perhaps eliminate the
19 terrific despair that I have sensed you now have?

20 MR. WILLIAMS: It's not really despair. And we
21 are aligned with the Computer People for Peace as well as
22 quite a few other groups.

23 One of the things we have never done is to
24 disclose how many people are in PANIC or who they are. No
25 identity.

1 MR. MATTHEWS: Question to the man. You said--
2 You know, it's kind of funny. I like to dig on dynamics,
3 you know, the way people relate to one another. I mean like
4 I like to dig. And it's funny. You say that-- You know,
5 you look at us and say, "You seem like you're in such
6 despair like you're really three lost souls out in the
7 wilderness trying to get up."

8 Do you ever feel like you're in a data prison?
9 I mean aren't you even concerned, you know, that somebody
10 has a lot of information on you?

11 MR. WILLIAMS: He's got control of it. (Laughter)

12 DR. GALLATI: I've got the keys? (Laughter)

13 MR. WILLIAMS: See, there's a perfect example of
14 what we're saying, you see, because as soon as we got the
15 literature who you all were, we did our homework on you too.
16 Only thing is, we don't have the computers.

17 MR. MATTHEWS: Wait a minute. What's your
18 title again? (Laughter) Are you a surveillance and
19 intelligence type cat?

20 DR. GALLATI: I have charge of a fingerprint
21 identification bureau among other things.

22 MR. MATTHEWS: I mean what --

23 SENATOR ARONOFF: And probably the strongest
24 advocate of confidentiality on the entire committee and the
25 protection of individuals' rights, by the way.

1 MISS DRABIK: I wonder if there is anybody like
2 into the technology who might know how that could be done?

3 MR. DeWEESE: Mr. Dobbs or Dr. Weizenbaum.

4 MISS DRABIK: How could it be done so that con-
5 fidentiality would be insured? I mean with all of these
6 propositions happening, you know, how could it be done so
7 that when you feed in information into a computer and you
8 process information, can you like say it's only going to go
9 so far and no farther?

10 MR. DOBBS: As one lone technologist I do not know
11 how to guarantee with today's knowledge that information
12 can be protected 100 percent. Well, I would even say with
13 even reasonable protection. That's only a personal view.
14 It may not be shared by the rest of my colleagues.

15 MR. WILLIAMS: You know, you see, I think again
16 one of the things, if I could just throw this in, is the
17 fact in some of the plans of the future there is going
18 to be a main computer, and that main computer will have
19 slave computers. Okay? And the information that-- Say for
20 instance somebody wants to get certain information, and,
21 you know, say they ask the main computer. The main
22 computer will work the slave computer, have the slave
23 computer go around, you know, tap all the rest of the
24 computers which are around the country, and then when the
25 information comes back to the main computer, then the main

1 computer will lay it out. Okay? I mean regardless of what
2 it is.

3 There is also talk in terms of having information
4 in certain areas so that like a police department will
5 have access to certain information, the credit bureau,
6 the hospitals, and so on and so forth.

7 But here again we are talking in terms of a
8 computer who, you know, just doesn't have any common sense,
9 so like it's just going to get all the information and say,
10 "Okay, man, here it is. Okay. And, you know, you pick
11 out what you want, and what you don't want you can throw
12 away."

13 In addition to that, since we're talking about
14 privacy, I notice that the President of the United States
15 who like 5 years ago was just John Doe walking around the
16 streets-- So, you know, he's Richard Nixon. But all of a
17 sudden, you know, a person can get into government, and all
18 of a sudden he can claim an immunity from privacy, but yet
19 still as soon as he is out of that government office he is
20 a private citizen.

21 So like if in fact-- I mean I would like to know,
22 you know, how this dude all of a sudden got to be a
23 millionaire myself. I mean I have more reason to get
24 that-- I need more information on him than what he needs
25 on me. Do you see what I'm saying?

1 MR. MARTIN: Senator Aronoff:

2 SENATOR ARONOFF: You have the advantage because
3 you did some research on us and I didn't do any on you.
4 But I'm just curious in the dynamics end of it. We can play
5 a little dynamics here. Just out of curiosity, educate the
6 committee. What schools did you go to? You're not going
7 to pretend to me now from some of the language you're using
8 there you're walking in right off the streets either from
9 the ghettos or the bowels of society, are you?

10 MR. WILLIAMS: That's where it's at.

11 SENATOR ARONOFF: Just out of curiosity, did you
12 go to grade school? Did you go to high school?

13 MR. WILLIAMS: Grade school and two years of
14 high school. My father said, "You can either go ahead
15 and continue or you can get out." Okay. So I got into a
16 little trouble so I decided I'd get out. Okay?

17 Like a lot of times-- See, a lot of times like
18 questions are thrown at individuals just to see how-- It's
19 not just for information. This is the reason why you
20 asked that question so you're giving me a chance to lay it
21 on you. It might be different from the kind of answer you
22 expected.

23 SENATOR ARONOFF: I'd like to hear your answer.
24 I'd like you to respond to my question.

25 MR. WILLIAMS: You will be responded to. See, the

1 fact of the matter is that as far as people in public life
2 are concerned, I have talked with many people in public
3 life like who are supposed to be representatives of the
4 people, and in speaking to one just a couple of weeks ago
5 this individual was called into one of the prisons in New
6 York because of the fact that the inmates were having
7 a problem up there or something like that, and then this
8 person, you know, who is supposed to be a public figure,
9 supposed to be looking out for the people, said that they
10 did not know what was going on inside of the prisons.

11 And some little 12-year-old dude who just
12 happened to walk up that moment, some kid off the street,
13 said, "What? You didn't know, man? You ask any kid in
14 the ghetto and he'll tell you what is going on inside
15 those prisons."

16 So like what I'm saying is that there is such a
17 thing, you understand, as, you know, a dude being so-called
18 intellectual until, you see, he never comes down from that
19 ivory tower to go head on and deal with the people.

20 SENATOR ARONOFF: I'm saying you sound like an
21 intellectual to me.

22 MR. WILLIAMS: Oh, I see. Usually what is said
23 is I'm very articulate.

24 SENATOR ARONOFF: You are tremendously articulate

25 MR. WILLIAMS: Thank you.

1 SENATOR ARONOFF: That's really what I'm saying.

2 MR. WILLIAMS: Thank you. What you're saying is
3 I ain't dumb. And you're right.

4 SENATOR ARONOFF: I'm saying you're sharp as hell,
5 and you're right.

6 MR. WILLIAMS: I dig it.

7 SENATOR ARONOFF: As a matter of fact, you sound
8 like an 1896 Republican -- probably one of the strongest
9 defenses of individuality I have ever heard and in many
10 respects condemning the social planners of the '30's.

11 MR. WILLIAMS: Okay. I'll let that pass, man.
12 (Laughter)

13 MR. MATTHEWS: Question. It's funny, you know,
14 you start talking about formal education. I always knew
15 instinctively, man, there's some point where you have got to
16 throw formal education out the door, man, because what in
17 fact happens is like you get into formal education and you
18 begin to read, and the more you read-- I mean, sure, I
19 mean you'll get over-- You learn this factual information,
20 but primarily it's information that don't help you survive,
21 at least not where I'm from. It ain't going to help me
22 survive.

23 So the trip is I think you should take formal edu-
24 cation to the point where you are able to look at a
25 situation, you know, develop new concepts based on new

1 experiences, you know, and know some type of objective
2 reality, and you don't get that in schools, man, because
3 like by the time you get out of four years of college and
4 two years of whatever you dip into, you know, I mean what
5 you got in your mind, man, is all the different theories
6 that you have read about and you can't even deal with
7 reality, you know, even the reality that you create for
8 yourself, because you have got all these theories that
9 conflict. You don't know how to live.

10 You know, the instinctive thing is to survive.
11 That's the name of the game -- is survival. You know. Just
12 to get over.

13 I mean I hate to put it on this level, you
14 know, but it's a funny thing, man, like when I look at the
15 dynamics between like the rate of suicide in black people
16 compared to suicide in terms of white folks. Man, you all
17 do it quicker -- much quicker.

18 You know. Because you've got this thing, you
19 know, and this feeling, you know-- Man, you go through all
20 this conditioning and training and you automatically
21 know that when you get out of high school you're going to
22 college and blah-blah-blah-blah-blah and you're going to
23 make it, you know, and if you want to be a capitalist and
24 make money, you set this goal by the time I'm 35 or 42 I
25 want to have a million dollars, you know, and by the time

1 you're 42 if you have got \$900,900, whatever, if you're
2 a penny away from a million dollars, you cannot cope. You
3 can't cope, man. You just say, "Ah."

4 That's the thing the man is playing on you now.
5 He ain't going to have to put everybody in the oven because
6 times are going to get so tight that you're
7 going to stick your own heads in the oven, you know.

8 That may seem far out, man, but it's real. I
9 mean look at the suicide rate how it's skyrocketing man.
10 Check it out on the facts. I wouldn't give you. I mean it's
11 real. It's happening. Check it out with statistics.
12 It's happening.

13 Every day I hear talking about, "I just can't
14 hold out." Man, it's real. Man, everything seems to be
15 out there. But it's real. Check it out in the books --
16 because people have been conditioned that anything that they
17 see in print is the truth. You know, if you want to see the
18 truth, check out the suicide rate, you know.

19 MR. WILLIAMS: Could I just interject this one
20 word? You know, just like here we are -- okay? -- we're
21 in Washington, D. C., the Nation's capital. And we're
22 broke. Okay? And we're talking to the Government who has
23 all of the money, and they can't even afford to send a
24 ticket to us to bring us up here. We got to go ahead and
25 dig into our own pockets for this kind of thing which comes

1 very hard, you know, not that I'm putting down a plea for
2 money you understand, because if it was my way, since HEW
3 has to operate that way, I would just as soon, you know, ask
4 Brother Nixon, you understand, "Would you mind please
5 giving HEW some money, you understand, so that people who
6 can't afford to come up here who have legitimate gripes
7 from the street, you understand, can come? And then
8 you'll be able to go ahead and see what the people are
9 talking about" -- rather than go head on and figure like,
10 you know, here is something like somebody with a credit
11 card. You ain't going to get the right kind of rap from
12 him.

13 MR. MARTIN: Mr. Williams, I got the message
14 when we spoke about this before the meeting, and I look
15 forward to speaking to you after the meeting.

16 I see that we are coming close to the time which
17 is scheduled for adjournment, and I would like to renew the
18 question that was put to you or the plea or sort of a
19 feeling, a desire to get something positive from you if you
20 have anything to offer.

21 Contrary to your view of the world, which is as I
22 hear it in part a conspiratorial view, a very pessimistic
23 view, --

24 MR. WILLIAMS: The true view I might say.

25 MR. MARTIN: Well, it's a view. I don't know

1 where or how you came to feel that you possess uniquely
2 the insights called truth. Others who I suppose don't
3 agree with you and feel that they also have a capacity to
4 sense truth are at odds with you. And I don't know how one
5 should judge who has the truth.

6 The Secretary of HEW is not as despairing as
7 you. He, however, shares your concerns, as does this
8 committee. This enterprise exists because there is a
9 genuine feeling of concern about many of the things which
10 you and others have spoken of today.

11 And this committee, unlike you, will not I think
12 be able simply to despair and to say the end is coming and
13 there is no hope, there is nothing we can do. I think
14 this committee wants very much-- The Secretary certainly
15 hopes that it will be able to make suggestions which will
16 minimize the likelihood that the worst picture of the
17 future that you paint will in fact occur.

18 Is there anything of a positive nature that
19 you would like to offer before we adjourn? Any positive
20 suggestions for the committee to consider that
21 would in any way meet your concerns? And if each of you would
22 like to take a crack at that, it would be great. Try and
23 be brief.

24 MR. WILLIAMS: Very briefly, I think that we have
25 given a lot of our positive testimony, see, in what I am

1 saying, because like No. 1 what we have said is that the
2 whole testimony seemed to be built around trying to build
3 safeguards for a national identity system, you see, that
4 has already been implemented, and again we are talking about
5 a national data bank which is already in existence, you
6 see.

7 So like what we have done is we have exposed
8 the fact that this committee is wasting its time. Rather
9 than to be talking about trying to build safeguards for
10 something that already is, you should be talking about, you
11 understand, trying to destroy it.

12 MR. MARTIN: Well, if the committee is wasting
13 its time, I take it you are wasting your time, because
14 the committee's task is premised on the assumption that we
15 have not reached the point of desperation or, you know, the
16 condition that you describe. That's the premise on which
17 this enterprise exists.

18 And if you think that that premise is false,
19 then it seems to me you are wasting your time talking to
20 a committee whose role is inutile, cannot come to anything.

21 MR. WILLIAMS: Exactly.

22 MR. MARTIN: Mr. DeWeese?

23 MR. DeWEESE: I don't think the question is really
24 fair. Because in a way we asked these people to come here
25 and tell us how they felt, which they have done, and

1 whether or not they have any positive solutions-- I have
2 been here at these things for 8 months and I don't have any
3 positive solutions. So I think, you know, I really
4 appreciate your coming and telling us just how you feel,
5 which is what we were looking for in the first place.

6 Second of all, I agree basically with everything you
7 have said up to a point, and that is that I don't-- See,
8 where I look at it I don't see the conspiracy that you see,
9 mainly for one reason -- because I have had a chance to
10 talk to these data bank managers for the last 8 months.
11 And they don't have the intellectual capability in some
12 cases, with the exception of Dr. Gallati, to actually form
13 a conspiracy.

14 I mean these people don't know what information is
15 in their system. They don't know why they collect it.
16 They collect it for reasons they can't articulate.

17 It's really a case of a lot of individuals pur-
18 suing their own narrow self-interest. And these people who
19 run the data banks in this country don't really understand
20 what they are doing. They don't understand the kind of
21 mechanism that they are putting into operation that
22 potentially could be taken over by someone with conspiratorial
23 design.

24 In a sense, this is even more frightening than
25 if there was a conspiracy, because you could address the

1 conspiracy, but it's difficult to talk to people who are
2 basically sincere.

3 I mean the people that set up these welfare checks
4 believe honestly that the welfare system is full of people
5 who are robbing the taxpayer, that they are cheaters, that
6 they have got to be caught and that it's just against the
7 law to take money on welfare if you're not entitled to it.
8 And, you know, these people then will turn around and they
9 profess the same concern for individual rights that you
10 yourself have today.

11 So, you know, that's the danger. I don't think
12 in my opinion it is a conspiracy. I think it's a lot of
13 individual self-interest and a failure to look at the broad
14 picture. That's the only thing I disagree with you on
15 basically.

16 MR. WILLIAMS: Could I just say, Mr. DeWeese, in
17 New York State after the welfare I.D. cards were taken
18 from we might as well say 60,000 people and say 180 with the
19 kids, which is an awful lot of people to be cut off from the
20 welfare rolls, Mr. Sugarman himself said it cost more to
21 implement the system, that they lost more money by trying to
22 bring in the system than what they had thought. In other
23 words, as far as fraud was concerned --

24 MR. DeWEESE: No question about that.

25 MR. WILLIAMS: And on top of that, one of his

1 assistants also said as far as civil liberties was concerned
2 he wasn't too concerned about that. That is a fact. That was
3 in the NEW YORK TIMES.

4 So it stands to reason that in a great number
5 of instances naturally-- All right, you as a kid -- okay? --
6 you might have been more honest than I was, but I can
7 remember the time when I had my finger caught in the cookie
8 jar, and when I was asked if I did it, I said no.

9 Have you ever been that way?

10 These are bigger kids these days and stuff. They
11 don't know what, you know, they're doing. They're out to
12 get the world, man. They don't want to know, you know, what
13 is happening.

14 MR. MATTHEWS: I think what it gets down to is,
15 you know, like I say, you know, like no one knows what the
16 absolute truth is. No one knows what absolute reality is.
17 Reality is only as you see it.

18 I don't know, man. I mean sometimes-- I mean
19 like I'm human. I even have doubts, you know. But every
20 day, man, I mean I pick up the paper and I read all these
21 things, man, and it fits together, and I mean I don't even
22 have to let my mind go tripping anywhere. It's there, man.
23 It's real. I mean, you know, it's like reality. I mean
24 it's there.

25 As I say, I mean like if you can dig on the

1 information that we distributed, you know, it's like it's
2 all documented just like those papers you turned out in
3 school, you know. It ain't nothing that we set
4 down and said, "Let's dream up something. Let's dream up
5 this outrageous plan and dream it all." It's all there.

6 MR. MARTIN: Mrs. Gaynor.

7 MRS. GAYNOR: I think that's a message that is
8 coming across -- is that there is a concern and
9 there is a fear. And it has been expressed, I think,
10 through all of the people who have appeared at the hearings
11 today. And people may articulate it in a different kind of
12 way, but it basically comes back to the same point
13 that there is this kind of feeling among people that there
14 is something wrong.

15 No one has the solution. It's like dealing
16 with -- well, fictional finalism in a sense. But there is
17 this kind of "gut" I guess you could say kind of reaction
18 that there is something going on. We don't know what it
19 is but it has to do with computers. We can't get an
20 answer from the intellectuals. We can't get an answer from
21 people in the street. We can't get an answer from anyone.

22 But we do have this sense of feeling from the
23 people who have articulated and appeared here today that
24 there is some concern and that something should start the
25 motion going to do something, whatever that is.

1 MR. WILLIAMS: In PANIC we are moving on that
2 with little things right now.

3 MR. MARTIN: On thatnote, I note that it is
4 6 o'clock, the time of our adjournment, and I would say
5 to the committee, please stay in your seats. As soon as
6 those who are not committee members and staff have found
7 their way out of the room, we will spent about 5 minutes
8 distributing some homework for tomorrow's meetings in which
9 we will all be trying to make progress in a direction of
10 responding to the fears and concerns that we have heard
11 about today.

12 (Whereupon, at 6:00 p.m., the open meeting
13 was adjourned.)

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