Transcript of Proceedings

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SECRETARY'S ADVISORY COMMITTEE

ON

AUTOMATED PERSONAL DATA SYSTEMS

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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
Miss Nancy Kleeman
Mr. John Fanning

Mrs. Lynne Zusman
Mr. Paul Corkery
Mr. John Salasin
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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
meeting will come and may wish, as they are entitled to do, to participate in the meeting -- that is, to speak to the committee.

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

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

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

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

So we have subdivided the committee into three
different groups, each of which will be staffed and each
of which will meet in a different conference room in this
building. The places of meeting, the groups, the staff for
them, and the tasks to be accomplished, and some work papers
to help you get started on those tasks will be distributed
later in the day.

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

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

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

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

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

Professor Miller?

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

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

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

And what about the operation or characteristics of automated data systems do these effects arise from? What
causes them? Or what can be cited as plausible explanations of how these effects might come to be, and to give examples, hopefully real, but since a lot of the harmful effects that one speaks about in relation to automated personal data systems haven't perhaps yet occurred, they may be hypothetical examples. But some examples.

The second task is essentially what to do about those potential harmful effects. What actions of safeguarding nature might be taken? What does the committee want to suggest to the Secretary by way of safeguards to be implemented? And what action should he take to implement those safeguards?

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

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

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

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

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

Does that seem a feasible --

PROFESSOR MILLER: Yes.

MR. MARTIN: I'm speaking as though this is being laid out, you know, and God has spoken, and I certainly don't mean to sound that way. Maybe I should say this is a proposed course of action which we have come up with which
is modifiable at your taste, the object being to avoid
a risk which a number of members, notably, for example, r.
Dobbs, have expressed as a concern, and I think Professor
Burgess -- I note he isn't here yet -- the risk being that
the committee's report will not be the committee's product,
that it will be sort of by default of process or whatever
produced by the staff.

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

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

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

Layman Allen has brought in some material this
morning.

Juan Anglero has brought in some material this
morning.

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

Mr. Siemiller?

MR. SIEMILLER: Did you get any useful information from your questionnaires you sent out or did you get any replies?

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

We have received responses from many. Some of them are quite interesting and helpful, and copies of those will be distributed this afternoon. Many of them were
perfunctory, "Thank you for writing us. We have nothing to offer or suggest," kinds of letters. And a few of them seemed to miss the point of our letter completely and make responses that were either totally inapposite or which were hard to understand.

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

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

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

A copy of that exchange of correspondence, our letters to him and his replies thereto, will be distributed
to all of you.

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

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

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

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

(General assent)

MR. SIEMILLER: And read it.

MR. MARTIN: We have made arrangements -- I
hope we have made arrangements -- with the publisher for
each of you to receive a copy of the Weston Report by mail
directly from the publisher as quickly as copies are avail-
able to be sent out.
We have been told by the publisher that it is scheduled for publication on November 30th. They believe that copies will be available before that date by as much as 10 days, perhaps 2 weeks, and copies will be sent to members of the committee as quickly as they are sent to reviewers I have been promised by the publisher. I think it is an important document for this committee.

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

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

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

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

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

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

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

MRS. HARDWAY: I think it's very necessary -- I agree with that -- that we see that first before coming to
any final conclusions on the draft.

MR. MARTIN: Any other views on that?

(No response)

Is there any dissent from that opinion?

(No response)

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

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

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

Then I would add that I think the committee would look a little silly putting out a report without at least having considered these two documents. I myself having been an adviser to the National Academy of Sciences study have grave doubts about its validity, but I think we
should consider it. And I think the whole Christmas period
is a good time for us to consume these two documents if they
are available.

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

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

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

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

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

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

MR. RALPH ABASCAL: My name is Ralph Abascal. I
am managing attorney of the San Francisco Neighborhood Legal
Assistance Foundation, an OEO-funded legal services program.

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

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

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

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

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

So at any particular time there is a 6-month lag. That information is then sent to the County Welfare Department, and the County Welfare Department then matches that up with earnings reported by the recipient for that particular quarter, although the emphasis on the quarter presents one of the problems because there are problems of reporting periods.

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

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

The first thing, the primary thing, that ought to be kept in mind in terms of this system and its possible generalized use is that the system reports earnings for a
particular quarter on any individual. To then compare the
earnings reported by the welfare recipient to the welfare
department for that quarter-- And then if there is a
discrepancy between those two reports, it does not indicate,
as the California Welfare Department attempted to convince
the public, that there was an apparent fraud.

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

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

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

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

A man works during the month of January of 1972
at some covered employment for which he pays unemployment insurance tax, or his employer does, and he earns $1,000 in the month of January. At the end of January he is laid off.

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

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

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

That's perhaps the most extreme example.

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

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

That's a very common general structure of a specific pay period and a subsequent period of time in which
an employer prepares the payroll, pays the check.

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

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

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

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

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

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

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

Not only does that in itself create a problem, but the welfare system is becoming increasingly complex partly because of anticipation of welfare. Increasing legalization, specification of rights and responsibilities makes the system more complex, makes it more difficult for
case workers to do the job that they had done before, and
at the same time when case loads are increasing very consider-
ably, thus putting fiscal pressures on the States in terms
of just the payments, one of the easiest areas to attempt to
economize is that of staff.

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

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

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

Now, when that happens and you are using a
system of interface between two different reporting systems
that operate on a specific time period-- That is, the
earnings clearance system came from unemployment insurance
earnings reported by quarter. Again let me emphasize that the
report that is received is a composite report for that
quarter. That is one figure, $1,200, $1,310, $741, whatever
it may be. It is reported for that quarter, and it is
reported on the basis of the system by which employers
report.

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

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

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

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

Now, many studies of-- I should say one study I
know of in California in terms of the adequacy or correctness
of eligibility determinations also revealed that there was substantial failure to act upon information provided by recipients. This was particularly a problem in California during the latter part of 1971.

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

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

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

I think another question that is perhaps an unstated premise of major purpose of this committee in the uses of the social security number as an enumerator—I
shouldn't say it's the major purpose but at least one major purpose, that is, in the use of the number in welfare eligibility determinations -- is whether the whole thing is worth it.

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

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

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

Thus, I would think that the committee-- I'm
assuming that the committee would agree with one recommenda-
tion that they thoroughly investigate the earnings clearance
system and that in doing so they also determine the degree
of discrepancy that exists in the other deciles and the
cost and the relative benefit of intensive investigation with
respect to all of those deciles.

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

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

And I would also add if the committee does
initiate some investigation of the earnings clearance system
that they go to the California Taxpayers' Association and
obtain their views as well.

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

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

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

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

In many States the medicaid programs-- There
are two types of medicaid, one which one is automatically
eligible for when one is a categorical recipient, when one
is a recipient of cash welfare, and another closely related
which is available to people who have incomes slightly
above the State welfare standards. I know from my own
experience that most people are unaware of that distinction
and unaware that although they no longer are eligible for cash assistance they may continue to be eligible for Medical assistance, medicaid assistance, in that other category.

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

Both of those factors are very important particularly, I think, in dealing with that top 10 percentile.

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

I'd like to just make a couple of brief comments
on the earnings clearance system with respect to the
general use of the social security number as an enumerator.

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

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

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

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

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

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

And in California, probably the State with the
largest pilot project in social security enumeration, the
State has dealt with that by making the application for a
social security number a condition of eligibility. If one
refuses to apply for a social security number, he doesn't get the benefit.

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

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

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

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

One final point that I would like to make I think is that--Or I'd like to ask the question: Why welfare recipients? Recent reports that I have read in the
newspaper indicate a very increasing degree of income tax evasion on the part of corporations, an increasing degree of income tax evasion on the part of private individuals. One area I believe which is relatively unchecked in terms of income generation is that of the purchase and sale of stocks and bonds, corporate securities.

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

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

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

The arguments made in opposition to that proposition -- it's Proposition 11 -- were primarily with that inclusion of "privacy" as a basic, fundamental right
of California citizens it may deprive the State Welfare Department of the opportunity to investigate thoroughly the earnings of welfare recipients.

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

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

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

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

That's all.

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

Mrs. Gaynor?

MRS. GAYNOR: I pass at the moment.

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

The committee is concerned with the use of data, personal data systems, in HEW. I think that there are some very, very constructive uses of data that can be achieved
through the Department. I think it's really the responsibility of the Department to do so.

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

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

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

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

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

He said income and education were related to anti-welfarism in slightly different ways. The higher a person's income, the more likely he was to take an unfavorable view of welfare. For education, the curve was U-shaped. Respondents with a sixth grade education or less were the least anti-welfare. Those with seventh to twelfth grade
education were the most anti-welfare. The college-educated were in the middle but they were only slightly less anti-welfare than those at the middle levels.

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

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

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

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

But I think it fair to say that HEW took a bit
of a drubbing in Congress this year, and from many of the
statements that I read on the floor of both houses there
seems to be widespread lack of knowledge on the part of
Congressmen.

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

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

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

But that data exists, and HEW can use it, and
that would be a very positive way of utilizing the data
systems available to the Department.
MR. MARTIN: Dr. Gallati?

DR. GALLATI: Pass at this time.

MR. MARTIN: Professor Allen?

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

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

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

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

And that's why I suggest, and it's really not
a contentious suggestion-- I think that difficult questions are often resolved in the sense of crisis or conflict. And what has happened with enumeration, collection of data, is that we have had an accretion, a very slow one over a period of time, and people ask questions about, "How do you protect it?" I think there are a number of ways.

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

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

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

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

MR. MARTIN: Professor Weizenbaum?

PROFESSOR WEIZENBAUM: I'll pass for now.

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

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

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

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

To qualify that, in spite of nearly everyone who looks at the WIN program or the job training, manpower efforts in welfare over the last 10 years since 1962 as relatively unqualified failures, nevertheless, recipients
in spite of that are clamoring to get into the WIN program.

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

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

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

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

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

MR. SIEMILLER: I agree with you.
MR. MARTIN: Dr. Impara?

DR. IMPARA: I pass at this time.

MR. MARTIN: Miss Noreen?

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

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

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

In terms of the mass enumeration at the entry into school, very few people are going to resist that, but some people will.
And I think that the computer technician people because perhaps of the concept of closure would resist the absence of a mandatory requirement.

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

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

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

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

That's why I think universality should be required and it should be required at birth, and those kinds
of recommendations should create that potential for real
consideration in terms of the public mind. Otherwise there
is going to be the continued accretion.

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

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

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

MR. MARTIN: Professor Weizenbaum?

PROFESSOR WEIZENBAUM: Yes.

MR. MARTIN: Before you do, let me just call to
the committee's attention, in case you haven't noted it, the
text of the amendment to the Social Security Act relative
to the issuance of social security account numbers, to which Mr. Abascal referred, is in your folders.

Professor Weizenbaum.

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

MR. ABASCAL: Yes.

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

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

MR. ABASCAL: I think there are two or three problems in terms of picking a time period after birth of mass enumeration. There is one of stigmatization. The other is: Is one going to require that the particular
benefit, speaking generally in terms of benefit, be conditioned upon acquiescence to enumeration?

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

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

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

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

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

MR. ABASCAL: I believe -- my own opinion is -- that it should not be, that there shouldn't be mass
enumeration. There should be the opportunity for some
people to err and have that undiscoverable essentially. An
arrest record in El Centro, California is nevertheless an
arrest record but may not be available to people without
enumeration and collection of data. It's the collection.

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

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

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

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

MR. ABASCAL: Yes.

PROFESSOR WEIZENBAUM: -- but you don't
necessarily believe that it is inevitable, or, in any case,
you don't wish for that conclusion?
MR. ABASCAL: The latter. Right.

PROFESSOR WEIZENBAUM: Okay.

MR. MARTIN: Professor Miller?

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

You should note that section 205 of H. R. 1 simply authorizes the Secretary to take affirmative action to enumerate school children when they enter the rolls.

It doesn't mandate that the Secretary do it. And, therefore, I would disagree to say that the issue has been completely taken out of our hands. It is still within our power to recommend to the Secretary that he not necessarily use the authorization that Congress has given.

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

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

PROFESSOR MILLER: Okay. Let's pursue that. I have great sympathy, as some people around the table, with the astigmatization problem of modern information systems and losses of privacy. But I think it's unfair to say that the social security number and having it is by itself an astigmatizing fact when it is realized that you must in modern society have a social security number to have a
bank account, to pay taxes, to register your vehicle in most States.

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

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

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

MR. ABASCAL: Why?

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

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

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

Probably the only people who don't have social
security numbers by the time they hit the first grade are
I would say lower middle income people.

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

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

If, in fact, that is true that there is relatively widespread possession of social security numbers for
people under the age of 6, then I readily concede my premise
is false.

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

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

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

MR. MARTIN: Mr. Dobbs.

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

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

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

But to the extent that is a false indicator
and to the extent that administrative procedures, not by
malevolence but by just the overwhelming case load that
welfare departments have -- to the extent that it is an invalid indicator of fraud and initiates fraud proceedings, not fraud in the sense of criminal but the collection of presumed overpayments without sufficient investigation is the primary use of that kind of information -- where it is unwarranted-- Ninety-nine percent of the people are not going to resist presumed overpayment reduction for reduction of grant.

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

So I would add one further comment to that: That the committee, if it does conduct an investigation or obtains such information as to the different explanations for discrepancy, should suggest to the Department that if there is going to be widespread use of such systems that
there be an extensive enumeration of the alternate explanations, how they can occur, so that case workers when they are confronted with the basic data, $1,200 in the one system and $1,000 in here, would explore each of those possibilities first before they conclude that there is fraud.

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

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

MR. ABASCAL: Yes.

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

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

Thus far there has been no publicity given to the extent of actual fraud that occurred, the number of
prosecutions, the percentages, and so forth. And, in fact, when the press has asked the department pointedly for that data, they have said that that's not presently available or they haven't analyzed it as of yet.

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

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

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

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

MR. DOBBS: I was interested in your statement that there had been detection of substantial failure in
such systems to act on data furnished by recipients, and
in that connection are you talking about data which was
furnished by recipients as a result of the requirement of
the collection process itself -- that is, those forms -- or are
you talking about other kind of data which was ancillary to
that?

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

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

Now, in terms of the system again, if the
recipient earns income in April but it is not taken into
consideration until June, then the records will show income
in July but none in April or May. Again we have a showing
of a discrepancy and a claim of apparent fraud.
It's the time factors. I think the time factors are the most important in these comparison systems, because the conclusions I think for the most part reveal the time problems and not fraudulent conduct.

MR. MARTIN: Commissioner Hardaway?

MRS. HARDAYW: Mr. Abascal, you spoke of enumerating at birth or enumerating at any given period. Of course, once we do that, we know that the interchange of data becomes easier. And you spoke of collecting data and that we should have an opportunity to correct that data from time to time. And I agree.

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

MR. ABASCAL: I think the correction of records is primarily to be found in the initiation of procedure by the individual affected, and that depends upon the availability of the data that has been collected.

I think a number of agencies perhaps for the data that they are collecting will not be willing to reveal some of the things they are collecting. That's a possibility.

But I think the primary safeguard ought to be access to the information that has been collected and the opportunity to correct it, the opportunity to challenge
particular data.

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

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

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

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

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

MISS COX: Census.

MRS. HARDAWAY: Would you be fearful that if a number was given at birth that at some time in some particular political climate it would make it extremely easy
to track certain segments of the population?

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

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

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

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

MR. ABASCAL: I think that's --

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

MR. ABASCAL: Certainly I think that is both the danger and the benefit of universality, that from its efficiency in the collection of data, efficiency in the
following of people it precludes the possibility of anyone-- I mean there are beneficial results to people assuming new identities. Maybe it's mainly from TV dramas, but I think there are benefits. Some people assume new identities for positive reasons because of problems with their past identities and things they did not want known.

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

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

MR. ABASCAL: I think that's the kind of feeling people have viscerally. I think that that's the kind of feeling reflected in California's what I consider overwhelming approval of the inclusion of privacy into its State Constitution.

I think the people, perhaps irrationally as the technicians would have us believe, believe that there are
great dangers. Conceding that to be irrational, perhaps it is, nonetheless, I think, perhaps a widespread feeling.

MR. MARTIN: Senor Anglero.

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

MR. ABASCAL: Level of what?

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

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

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

MR. ANGLERO: As individuals or statistically?

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

MR. ANGLERO: You have information aggregated to
the national level without any identifiers in the person of individuals. Okay. But having the individual with information, you think it is not proper to have it at the central level, national level?

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

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

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

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

The fact of illegitimacy of a particular illegitimate birth I think is a worthwhile statistic for
collection. The fact that a particular person is a bastard
I think raises another question.

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

MR. ANGLERO: What level should it take place?

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

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

MR. MARTIN: Senator Aronoff?
SENATOR ARONOFF: Thank you.

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

If this committee is at all representative of the public, the fears are far greater among the technicians who know the potentiality of the computer world than among the public, which leads me to my question.

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

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

MR. ABASCAL: Well, in the earnings clearance system we have had instances which I described to you.
MR. MARTIN: Senator Aronoff came in --

SENATOR ARONOFF: I missed apparently 10 critical minutes.

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

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

MR. MARTIN: Miss Cox?

MISS COX: Just a comment before a question.

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

I rather object to the somewhat overemphasis on
the stigma of having a social security number.

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

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

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

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

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

MISS COX: Has what?

MR. ABASCAL: Has worked. Primarily the people
in the past have acquired a social security number when
they began their first employment. So the inference that is
to be drawn by the possession of a social security number
means that sometime in the past you have been employed.
However, --

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

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

MISS COX: For the welfare cases?

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

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

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

MISS COX: I still object to saying being on
welfare is a stigma. I mean I think the whole --
MR. ABASCAL: I wish —

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

MR. ABASCAL: I wish that attitude —

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

That's all.

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

Mrs. Lanphere.

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

MR. ABASCAL: I know what the reaction has been so far. In California there have been a number of instances
where people have refused to apply for social security numbers for their children.

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

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

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

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

We have been advising people that if they wish to-- I mean if they are going to obtain a number, to acquiesce, we have been advising that they obtain the number
by going to a regular social security office and applying on the standard form rather than on the form that is given to them by the welfare department, not because I have any— I don't know why that is done, but in terms of one alternative as opposed to the other it's probably preferable not to have that red tag on the top of your permanent form.

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

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

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

Usually when you're applying for welfare you have no other choice. You're the bottom of the totem pole or barrel and you accept those conditions and you know that's the kind of choice you have. Either you accept it and get the welfare check or you refuse it and somehow make it somehow.
You know, perhaps one of the most egregious examples of the way benefits can be conditioned is what we call the "motel questionnaire" in California, in which there was a very, very extensive questionnaire, very detailed questionnaire, investigation, into the sex life of AFDC applicants, frequency of sexual intercourse, the numbers, the names of people, dates, places, all done on the basis of trying to identify paternity, trying to insure that we make proper identification of paternity where paternity is in question.

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

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

MR. MARTIN: Mrs. Silver?

MRS. SILVER: May I let Mr. Gallati take my turn?

He had a question.

MR. MARTIN: Dr. Gallati.

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

I was very much impressed with the way in which
you described the possible misunderstanding of these
kinds of records within a single department, and when
we get involved in linkages between departments and
between various levels of government the possibilities for
these kind of misunderstandings become, of course, magnified
considerably.

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

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

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

MR. ABASCAL: Well, I think that the social
security number if it is to be used and one is to have a
great deal of faith in it as a prevention of fraud will
perhaps prevent the least clever welfare criminal, but the
person really intent upon borrowing somebody else's children
to establish eligibility can to my surprise in reading
the Social Security Task Force report obtain a multiple
number fairly readily.

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

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

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

MR. MARTIN: Mr. DeWeese?

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

MR. ABASCAL: I don't know the details of it.
But that again is the investigation of the reasons for the
discrepancy.
The fact of discrepancy alone is assumed to indicate a case of possible fraud.

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

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

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

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

I can't really give you an honest figure. I
think that kind of information is absolutely necessary, and
I think that the only entity or agency that can obtain
that information is HEW by extensive investigation of the
earnings clearance system. And I think it's really
absolutely necessary because I think that is the whole
premise, it is a major premise, for the existence of this
committee.

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

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

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

But I think that what has been experienced over
the last 25 or 30 years is constant accretion -- you know, additional elements of enumeration of data collection. And when they occur in small increments, I don't think the impact of the possibilities is fully appreciated by the public.

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

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

MR. MARTIN: Mrs. Gaynor?

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

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

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

MR. ABASCAL: Yes, I do, but I think that everybody
should have access to information.

MRS. GAYNOR: I just went on this point.

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

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

MR. ABASCAL: Partly that and partly lack of information. I think that I'm still quite surprised to find from time to time that people now are completely uninformed about the earnings disregard. I mentioned that earlier.

That is, when you talk about work incentives, when that lack of information exists and people are making decisions as to whether they will work or not. The income disregard has been in existence for 5 years, and many, many people don't know about it.

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

(Whereupon, a recess was taken.)

MR. MARTIN: I'm sure that all the members of the committee are aware of the role and functions of the American Civil Liberties Union as a representative of people asserting their civil rights or liberties.
We are privileged I think this morning to have three lawyers, John Shattuck, Ira Glasser, and Frank Donner, all of whom work in different settings under the auspices of the American Civil Liberties Union, to share views with the committee.

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

Perhaps we will hear from all three of you, and then we will throw the meeting open for questions and discussion.

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

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

I will attempt to present an overview of the ACLU's concern generally with the problems of automated data systems, and my colleague, Mr. Glasser, will describe
in some detail a number of cases where the ACLU or its affiliates are representing various persons who have been in one way or another injured by governmental recordkeeping practices. And Mr. Donner will attempt to summarize our views about the effects of recordkeeping on the individuals who have been injured in other ways than purely legal injuries.

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

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

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

The impact of much of the recordkeeping that we are concerned about particularly -- and that is not to say
that it's not a comprehensive concern about all recordkeeping -- the impact of this particular kind of recordkeeping often falls most heavily upon the poor and upon minority groups.

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

Other examples abound of the racial and economic impact of government data gathering and dissemination practices, including the compilation by the Office of Education of exhaustive personal files on the children of migrant laborers, the saturation of Negro colleges and ghetto communities with FBI "racial informants," and the nationwide dissemination of State and local welfare and medical records.

Data collection and dissemination practices, however, tend to trap any citizen who gets caught in them. And we do not limit our concerns to minority groups. A citizen is often unable to escape from his "record" because allegations of past misdeeds and judgments about him
follow him whenever he seeks a job, a license, credit,
housing, admission to school, or a host of other social
benefits.

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

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

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

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

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

This is not similar to recordkeeping practices
in the past where many records had to be destroyed merely
by the passage of time and the accumulation of records and
the lack of a place to put new ones.

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

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

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

As the report of the Secretary's Task Force pointed
out last year on the social security number, "Unless there
are strong counterbalancing pressures, the use of the
social security number will continue to grow, and... data
collection and exchange built around the social security
number will continue to expand."
The rate of this expansion together with the growth of interfaced computerized data banks have created in our view a very real possibility that a universal identification number for each citizen can be used to combine all existing data about him.

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

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

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

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

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

We don't look at recordkeeping as a simple
invasion of citizen privacy but a specific threat to
particular constitutional rights in a variety of recordkeeping
contexts.

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

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

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

For this reason the Supreme Court has carefully
fashioned, in a series of cases over the past 25 years,
a right to join a controversial social or political
organization without being called upon by the government
to identify yourself as a member of that group or as a
contributor to that group or as a participant in that group
without being a member and that extends to the right to
receive political and social information through the mails
and through other forms of communication without the govern-
ment knowing about it.

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

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

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

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

In fact, we are now challenging that in Federal
Court in two lawsuits.

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

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

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

Almost equally dramatic is the way the Fifth Amendment right to procedural due process is eroded by an automated data system. This occurs notably in the case of school records and employment records where subtle stigmas can develop without the subject's knowledge, causing him injury later when it is too late to do anything about a record compiled years earlier.
Again, the Supreme Court has set down a series of procedural due process decisions in the public employment setting and in the welfare setting and even in more general recordkeeping settings that prevent the government from denying people particular social benefits without hearing.

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

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

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

Six years later, notwithstanding the notation
in his Federal civil service personnel file, the man was disqualified for State employment by the Utah State Civil Service Commission on the basis of a file check which indicated prior "immoral conduct" on his part.

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

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

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

His attempts to challenge the information were to no avail because, in the words of both of the agencies (1) AID security files cannot be expunged, according to AID; (2) AID has no control over information in the files of the FAA; and (3) the FAA does not question security information it receives from other Federal agencies.
Essentially, the man was locked into a dissemination practice which left him with no effective remedy even though under the doctrine of Greene v. McElroy, one of the Supreme Court cases establishing the kind of procedural due process rights I am talking about, he would have been able to challenge the actions of the FAA against him had he known about it at the time those actions were being taken and had he been able to learn about the information about his wife before he left the employ of AID.

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

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

Indeed, he is not in the situation contemplated by the Supreme Court in its classic Fifth Amendment decisions where he has an effective "right to choose between silence and speech!" -- those are Miranda and Escobedo -- even though the Court has held that he has an absolute right
not to "provide the state with evidence of a testimonial
or communicative nature. . .whatever form (the communications)
might take."

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

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

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

The police lieutenant, notwithstanding an excel-
lent overall employment rating, received an evaluation
report from one of his superiors stating that he was an
irresponsible commander, without giving any further details.
Several years later, when he had retired from the Port Authority, the lieutenant was unable to get a job in several private security agencies because his evaluation report, commenting on his First Amendment activity for which he was never disciplined, had been widely disseminated outside the Port Authority to nongovernmental agencies. And he said to his lawyers that had he known that this action would jeopardize his record he would not have associated himself with the picketing, even though he had a right to do so.

A third constitutional right which is circumvented by recordkeeping practices in various contexts is the Fourth Amendment. The Fourth Amendment right to be free from unreasonable searches and seizures has frequently been construed to fall short of protecting against technologically advanced methods of getting information by the government without interfering with a person's property.

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

Once over the property hurdle, however, the protection against unreasonable data searches in my view can be fashioned from a connection between the Fourth Amendment and the Fifth Amendment privilege against self-
incrimination, because the Supreme Court has held in a
certain number of circumstances that the government can't compel
a person to produce information about himself or otherwise
acquire it merely by claiming that the information has been
recorded somewhere and is therefore not testimonial.

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

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

The plaintiffs, however, claim that the property
issue is meaningless because they have a reasonable expecta-
tion of privacy and confidentiality in their banking
activities and because the government has no right to
acquire general information about these activities without
serving a formal search warrant, summons or
subpoena or some other legal process directed at specific
records relevant to a particular crime or regulatory investi-
gation.
One of the courts in the two cases that we have, a three-judge Federal court in California, has recently decided the first round of litigation in our favor and has held briefly as follows, quoting from the court's opinion:

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

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

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

The collection and wide dissemination by the FBI
of records of arrest not resulting in conviction -- one
should remember the distinction between records resulting in
conviction and those not; we don't oppose the collection
of conviction records, to be sure -- result in the
treatment of arrested persons as if they were guilty of a
crime in many cases.

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

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

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

An arrested person, therefore, is even less
accountable for his status as an arrestee than an addict or
a vagrant, while the injury to his opportunities is even
more cruel and unusual than theirs.
I have appended to my statement a rather complete treatment of the subject of arrest records not resulting in conviction. The ACLU has testified before numerous or several congressional committees now considering legislation to limit the dissemination of arrest records, and I think that area is an example of one area where a wholesale cutback in recordkeeping practices is necessary.

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

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

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

Let me first notify you that I am not a lawyer. I state that only because I am consistently introduced as one. And I think that happened first because somebody in a news story so characterized me, and it was picked up, and it has been disseminated around. And it is a good illustration
of the persistence of recordkeeping. I can't shake it or
expunge it or do anything else with it except notify you it's
not true. (Laughter)

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

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

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

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

The other thing to mention at the outset is that
the half a dozen examples I could discuss are really the
tip of an iceberg. I could probably go on at great length
just from memory without even consulting our files in the
office. It is that frequent and that varied.

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

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

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

Now, it turns out that as he had disclosed to
him some material in his file-- And bear in mind that the
credit area is one of the few areas where there is some
attempt at Federal regulation, and, therefore, there is
some reasonable expectation that maybe it's better in that
area. I don't think it is.
But, at any rate, he had a right to certain disclosures under that act, and he found out first of all that there was wholesale wrong facts. I mean the kind of things that were not in themselves damaging but did say something about the general sloppiness and lack of verification that can sometimes get into the file and how difficult it is sometimes to get that out.

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

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

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

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

As far as anybody could tell, the facts were not
true. I mean, to be sure, he did have long hair. What "hippie" means is sort of difficult to define.

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

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

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

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

The high school principal went on local television to defend the kid's character, and his high school principal was no hippie, no radical. He was the subject of lawsuits
for suppressing student rights. So he was not coming at
this from any ideological basis.

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

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

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

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

They wrote him a letter to say they attempted to
verify it and they stand by it. He never found out the
source. There was no way of dealing with it in a fair way,
ever any real chance of rebuttal.

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

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

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

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

(Laughter)

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

At this point this person's file, his wife's
file, his son's file contain this allegation and contain it
in such a way so that it gets exchanged and it's very
difficult to know when he applies for employment whether or
not anything that happens to him in employment, in credit, in insurance is going to come as a result of this or what damage it will do.

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

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

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

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

The opening paragraph is:

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

"Litigation has ensued and in the course of it the
lawyers have obtained David's school records."

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

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

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

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

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

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

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

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

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

Well, it goes on and on.

"Another anonymous comment, 'Refuses to use left
hand. Dislikes being reminded to try.' Of course he
refused. Of course he disliked nagging. He had an
orthopedic problem on his left side and, as a result, there
was a slight limp to his gait, although he could move like a flash, and a lack of agility and strength in his left hand.

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

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

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

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

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

You remember that famous Norman Rockwell SATURDAY EVENING POST cover where one person in a small town is saying something gossipy to another person, the
other person to another, and there is a series of people
talking to each other until the person in the upper lefthand
corner who started the gossip is receiving it at the end of
the series of pictures.

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

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

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

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

Now it lasts a great deal of time and it goes
very far indeed. Twenty-five years later sometimes
you have trouble dealing with that kind of a problem. And
it's that persistence that I think is at the root of a
good deal of the problem, the root of the institutionalization
of gossip as a permanent feature in American life.

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

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

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

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

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

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

A lot of what I have given you in the credit area anecdotal area isn't even accurate. But even where you have an accurate record on a conviction -- I'm not talking about an arrest being a mistake or any kind of error -- an accurate record of conviction, the kind of record everyone would agree ought to be kept, isn't there some period of time for a certain kind of crimes, depending on the crime, the age, subsequent history, whatever -- Shouldn't there be some hearing, some procedure, some floating scale, some
floating standard which for most crimes and most fact
situations would be a cutoff point where they would auto-
matically be sealed or expunged so they would not persist
in time forever to plague somebody, some initial mistake,
no matter what that mistake was, that writes finis to a
person's life and career, that's something you can't get
away from?

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

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

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

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

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

"Are you absolutely sure?"

"Oh, yes. We verify all these."

"Are you absolutely certain about this?"

"Oh, yes, he was here."

Then we pointed out he wasn't there.

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

But the point is there's never any way once you're faced with that record of dealing with it. You can't
verify it. It really is again an example of the persistence of gossip.

These kinds of records get transferred around.

We had one case of a boy who was a foster child. He was suspended for an unarguably illegal reason, although the father wouldn't recognize that and the father took a Federal lawsuit to get him back in school.

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

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

It "wasn't an adversary hearing," they like to
say. It was something that "we'll settle the problem between the child and the school." The crunch comes when
the child and the school disagree as to how the problem
should be settled. Then you find out about power instead of
procedures.

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

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

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

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

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

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

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

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

Somehow that arrest found its way from that small police station into somebody's record so that it could get to the Board of Examiners in New York City. And this teacher was actually denied a license on the basis of that.
This is not years ago. This is just within the last 2-year period.

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

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

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

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

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

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

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

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

Why now when he is in prison?

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

Just when I was prepared to believe-- That one is still in the courts, by the way, still being litigated. That is how resistant they are even when you point out the absurdity of that fact to deal with. Just when I was prepared to believe that was the worst I had seen, 3 weeks later there was another Housing Authority case where a woman was involved in urban renewal and the tenement was
being torn down and she was applying for entrance into the
Housing Authority.

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

They denied her access because of the following
three reasons:

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

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

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

I think unless that happens the increasing
technological capacity to keep, retrieve, restore and
disseminate and make persistent the kind of records I'm
talking about really means we will all soon be living in a
fishbowl and that the slightest mistake anybody ever makes
or the slightest false accusation anybody ever makes
against anyone will plague us forever in the ways that I
have tried to describe.

Thank you.

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

I want to talk to you today about two things.
One is the impact, the objective impact if you will, of
surveillance and recordkeeping in the political area, and
more importantly and more perhaps ambiguously the fact that
in this area as in every other area the impact of data collection
far exceeds its literal reach, that there are overtones and
consequences in the lives of human beings from the fact
that their lives are under surveillance and that the
experiences that they share with each other are being
officially recorded, that are all but ignored in meetings
like this if I may say so and in general discussions of
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.
The second point is that all political intelligence gathering is based on the notion that the sum of the parts is far less than the ultimate subversive whole, that however innocent an act may be, if it's pieced together with some larger whole from the subject's past, if you will, or from his relationships to others, something will come out of it, some puzzle will emerge, the solution to some puzzle, which is very important to the safety of the state.

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

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

We all know that political enthusiasms and interests vary with the passage of time. But for the person who is engaged in political surveillance everything is
relevant. And the reason why everything is relevant is because his assumption proceeds by what I call the politics of deferred recordkeeping -- that a day will come when it is important to know who these people are and all about them because these people may well be poised for a takeover, they may well want to destroy the country, and you can't be too careful.

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

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

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

I suppose you have seen the President's Committee's
report on privacy in behavioral research where they make
the point that the usual examples of privacy are too
gross to convey fully its nuances and strengths, and then they
go on to list various kinds of privacy.

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

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

A year ago I was called in to represent some
workers in Waynesboro, Virginia, a General Electric plant
there. The company wanted to institute closed-circuit
television in order to obviate the necessity for intermediate
supervision. And in exchange -- this was a plant with a
large female work force -- the women were promised other
benefits.

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

They said, "Why not?"

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

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

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

And so they demanded and got rescission of this
agreement.

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

I see it in my own clients, you know, this
tremendous psychic impact of privacy invasion. You know,
this is an age of alienation, an age of tremendous fear of
government. To read people like Richard Slater's "Pursuit
of Loneliness" makes you realize there is something going on out there, that there are people turned off by the society, that are frightened by it, and, what's more, they have a sense of a loss of community.

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

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

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

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

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

"It is evening. Sitting here in the hotel is a person known to me only as Henry. He is apparently armed with a bayonet. From what he says he is a Nazi, Nazi agent, employed by the Soviets. He claims to have been in
the French Foreign Legion for 12 years.

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

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

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

I said, "Who?"

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

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

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

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

There's a lot of that. I have as I say tremendous files of people who are sick with fear.

Incidentally, I have written an article about one
which will appear in HARPER'S next week.

Now, this fear, you can't dismiss it because it's pathological or deviant. You can't say, "Well, obviously, these are sick people." We know enough about paranoid systems to know that this form of sickness merely is a projection of conventional fear, conventional behavior, that we learn a great deal about the obsessions and the preoccupations, hidden though they may be, of the society from the people who have paranoia and whose paranoia embodies the same demons and the same fears as the society of which they are a part.

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

One of the most common is the fear of a crackdown. This whole notion that I described to you on the rights, so to speak, on the part of the intelligence hunters is also duplicated on the part of the hunted. See, they think there's going to be a crackdown and that the day is not far distant when the concentration camps, when something—How frequently have you noticed the tumor of concentration camps?

And, incidentally, while we're talking about that, haven't you noticed the powerful way in which Orwell's imagine of "Big Brother," you know seizes our society. Millions of people who never read Orwell are nevertheless
obessed with his bitter vision, obsessed with a vision of a searchlight society.

Why is that? Because it mirrors their own fears. And I say to you that these are real things, and I hope you know what you're doing, because to me you can't just-- However enticing, you know, the goods that may come out of data collection of persons, the other side, the fears, the evils are so intangible but nevertheless so frightening-- Every individual who is a subject of data collection assumes the data is derogatory. Invariably. And every individual who is the subject of data collection feels stigmatized about it. At least the people I know, the clients I see.

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

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

We must recognize that what we are faced with is
the impact of this kind of thing on those who come after us, on the next generation.

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

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

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

Mr. Dobbs.

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

One of the things that has been a dilemma for me at least is that we have received testimony by the Younger Commission in England, we have heard a representative
from the Canadian Government who had been conducting
similar studies, we have seen a summary of the Weston
report. We have had a parade of bureaucrats and systems
designers and/or operators, all of whom have suggested
that there is no conclusive evidence to indicate that there
is a clear and present danger or threat to individual
privacy. And they overstated that perception deliberately.

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

MR. GLASSER: Well, the victims didn’t write
those reports.

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

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

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

What I’m suggesting here is that the attempt
of theoreticians and bureaucrats to analyze the effect of their searchlight on other people is itself part of the fascination with technology and proof and quantification and all of this what one might call the cult of objectivity, the kind of illusion that by standing as far removed from the passion of the people who are victims of something you can better study it.

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

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

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

A lot of these values are always to protect the relative few who are damaged by the absence of those protections.
Not everybody on Mr. Meisner's block is going
to have a son who is accused of drug abuse. Not everybody
is going to have a kid who accumulates the record that
David Isaacs' kid accumulated.

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

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

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

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

MR. GLASSER: Well, a great deal. I'm one
State branch of the ACLU. There are 47 or 48 others. To
be sure, we're the largest, and we exist in the middle of,
you know, the largest urban concentration in America and I think getting more of this proportionately probably than others.

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

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

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

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

But if that's the kind of thing you find useful,
I could probably multiply it to a large extent.

MR. MARTIN: Professor Miller.

PROFESSOR MILLER: Just a comment on Guy's question and I guess on the response.

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

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

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

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

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

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

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

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

Anyone who has spent any time with any members of
the Younger Commission as I have cannot come to the
conclusion that that was not an establishment group. Members
of Parliament, representatives of various mercantile
interests in Great Britain, so on and so forth. And they
looked at the problem through the eyes of establishment
people and through the eyes of the government and the
organized economy.
Even putting that to one side, the problem in Great Britain is far from the problem of the United States. Great Britain is a much more homogenous nation. It's a much more sophisticated nation in terms of its civil service. There is a much higher level of professionalism and tradition in British civil service. And fundamentally there is a different philosophical attitude toward such rights as the rights of individual privacy as reflected in their law, and as the Younger Commission report itself indicates, it didn't even begin to touch the famous M-7 units or the interni of Scotland Yard.

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

As to the National Academy of Sciences report, that was a picture of 1970 based on reports of interviews with data managers again in establishment units, by and large, in a period of deep economic recession in this nation when the whole imagery of technological advance through the computer was on the downslide because of economic cuts throughout the nation both from the public and
the private sector. And the perceptions generated in 1970 really in my personal view have no relevance for 1972, let alone 1984.

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

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

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

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

And that is the only reason that I wanted to stress this, you know, the differential in the kind of evidence we have heard in the past and the kind we are
MR. MARTIN: Dr. Gallati has a question I think.

PROFESSOR MILLER: Just a little line on this.

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

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

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

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

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

What was touched on by Frank was the fact that you have this question of being able to mix 2 and 2 and
Then I'd like to address one quick question to Frank, and that is in terms of intelligence systems, which is pretty much what you addressed yourself to, suppose we had an intelligence system in an area in which we could agree -- let's forget political for a moment -- but let's say an area in which we agree there should be intelligence and the intelligence system was composed entirely of "public record data," in other words data retrieved from congressional hearings, data assimilated from newspaper articles, magazine articles, and so on.

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

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

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

I know John has a question on the fire. But I really would like to-- You know, I have a feeling in a different sense from Arthur Miller's that you people are
biased. You're biased by the culture. You're biased by the pragmatic liberal values by which you live. And I'm not blaming you for it. So am I.

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

Do you think he would persuade anybody?

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

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

But what invariably happens is that the enthusiasm
institutionalizes the evil and then ultimately fades to ineffectiveness.

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

And now I will promise to keep quiet.

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

I was one of the three lawyers in the case that the Supreme Court decided by a 5 to 4 vote, Laird v. Tatum, which I think so far is the only high-level treatment of the problems that are being discussed today by the courts.

And the courts were consistently persuaded through that case that what was being collected, notwithstanding the fact that it was information on hundreds of thousands of people and notwithstanding the fact that it all related to their First Amendment activities, was similar to the kinds of information that you can read in a newspaper.

The fact that it was similar to the kinds of information that you can read in a newspaper I think is irrelevant, because it was caught up in this whole data system which in and of itself changed the character of the information and made it judgmental about each of the persons who was contained in the Army's data bank.
And I think, you know, in answer to Dr. Gallati's question, I don't think you really can draw neat lines about the kind of information that can be collected generally and the kinds that cannot. I think you have to take each system as it comes, and I wouldn't draw the line at information that might otherwise generally be considered public.

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

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

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

But there was an entry made in his record that he was critical of the school, in his confidential dossier. It was public. It was over the airwaves.
Two comments on that. One, do you think anything
good is going to happen to that kid because of that record?

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

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

MR. MARTIN: Professor Weizenbaum.

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

MR. MARTIN: Mr. Davey?

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

I think you have been able to tell us the kind of
cases that you are familiar with. But as I was going
through, it doesn't seem like many of these cases have to do
automated personal data systems but, rather, overall types of data systems.

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

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

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

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

MR. DAVEY: I agree.

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

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

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

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

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

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

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

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

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

Certain kinds of oversimplifications you introduce really are inaccurate because you can't put in that kind of detail. You can if you keep it personally.

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

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

In the New York Motor Vehicle Bureau after you have run the gauntlet from window to window from green to red to blue, when you finally get to the place where they stamp it and take your money, until last year or 2 years ago you were usually over the hurdle. Now they have all these automatic machines linked up by computer to Albany, and they put it in here and it comes down from Albany that checks your arrest record and all that business to see if you've been speeding and all that.
Because it's all linked up, sometimes like the telephone it gets overloaded. And what happens? The whole thing stops. The entire motor vehicle bureau shuts down, and it takes about half an hour.

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

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

MR. MARTIN: Dr. Impara.

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

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

Let me use the social security number as an example. Is there a constant factor which might facilitate the persistence or the transmission of records from one
source to another?

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

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

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

MR. DONNER: Do you mean, sir, whether the transmitting agency is struck by some salient fact which it includes in the data that is transmitted? Is that what you mean?

DR. IMPARA: Basically, yes. For example, are all of these data collectors keeping something which -- like social security number -- may facilitate going back and forth from one source to another like the case you spoke of
where the student was suspended and the agency paying the
foster parents knew about it? Was there something that would
facilitate that kind of transmission?

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

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

That happens. But I have not noticed that as
yet. What really is the enabling factor I think is the
wall of obscurity behind which that all flourishes.

Nobody ever knows about those records, and they get trans­
mitted around.

In the New York City school system the teachers
by virtue of a right they extracted by contract have an
interesting little device just within that narrow framework
that helps, and it goes right to the question of obscurity.
Their contract provides that nothing can go into their file by anybody, nothing at all, unless it is signed by them. Now, that means that it can't go in unless they have seen it and made a copy of it and signed it. Also they have a contract right which allows them to contest anything that goes into their file. The requirement forcing them to sign it provides them a grievance procedure.

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

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

The right to information is the other side of the coin of the right to confidentiality. In other words, the right for you to know what records they are keeping and for you to keep them from showing it to anyone is really part of the same thing and is the most revolutionary right there is, and they resist. People managing the situations resist it enormously.

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

MR. MARTIN: We will continue until 1:15 I
think and then break for lunch.

Commissioner Hardaway.

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

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

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

The leading thing that we propose, at least as an immediate kind of not solution but at least step in the right direction, is a publication of an exhaustive citizens’ guide to all the personal information by category maintained by the Federal Government.
We don't suggest that would constitute notice to all people who are the subjects of files and dossiers within the Federal Government, but it would be a step in the right direction.

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

I think it would be an exhausting research job, but it would at least let us know where the information within the Government that we are seeking is buried. It wouldn't illustrate the kinds of injury that we have been talking about here. Obviously, notice requirements are different for different kinds of files. There are particular kinds of personal files where we would suggest that notice be sent to the particular person on whom the file is kept, and mere publication of a citizens' guide that says there are such files wouldn't be sufficient.

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

In that case it would be necessary to notify that individual personally perhaps through the mail, perhaps otherwise, so that he would have an opportunity to
get access to his file and be able to challenge the information in it not simply by the device that the Fair Credit Reporting Act sets up that Mr. Glasser was disparaging which allows you to put in a contesting notice in your file but actually have a hearing of some kind where you can contest information that was untrue.

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

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

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

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

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

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

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

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

Probably legislation would help in that area
because it would really compel agencies that weren't interested in compiling information about their files to do so.

MR. MARTIN: Professor Allen.

PROFESSOR ALLEN: This may be included in the statement that was just distributed, but I would ask you if you would say a little about, from your point of view, what might be done to discourage the keeping of the kinds of records the impacts of which you have been describing, the kinds of costs, penalties, other measures that would keep the information from being compiled in the first place.

MR. GLASSER: Well, I think if you are going to prevent it and if you are going to prevent it by legislation, I guess that means there is a law against keeping it or against asking the question.

The question of what the penalty should be for violating that law I think really depends on what is supposed to be an effective way.

There have been bills introduced in the State Legislature in New York that would make it a misdemeanor, for example, to even ask a question about an arrest as opposed to asking a question about a conviction. I think that will stop most employers. It's not the kind of thing that is going to raise, you know, a problem of trying to
get around the law. It wouldn't be worth it to most
employers to risk that.

I think another way of doing it besides
mild criminal penalties may be involved in creating a cause
of action to sue for damages on the part of the aggrieved
party. That is a problem. It is my opinion -- and we have
tried to do that -- without specific authorization for
that it is very hard to get judges to award that kind of
damages. We have tried in a lot of these cases to do
that without success in most instances.

Making that easier to do would stop public
officials in a hurry. The fact of the matter is the
school principal, for example, or the welfare official or
the housing authority official insofar as he breaks the
law is accountable only to his superiors, and that's a locked
system. I mean that's a military system.

The basic dynamic that goes on when a bureaucratic
official violates his own agency's regulations or some
other part of the law is that his superiors back him up.
That's the dynamic that happens. You can't get a principal
to be disciplined because the assistant superintendent of
schools is his friend who is a former principal. You know.
They judge each other. They have rotating panels of
hearing officers. I mean it's a locked system.

You have got to break the system coming in from
the outside.

This is true I think, if you can take it as a maximum, of bureaucratic organization. You can't get police to police themselves. You have got to introduce some other kind of means.

Now, the fact is that the only other kind of means aside from mild criminal penalties is if you make it easy for a person who is so damaged, as some of the people I have described, to get some money out of the official who did it. And I don't mean a lot of money necessarily.

But if you socked that principal for $100 once, you know, I don't think a lot of other principals would do the same thing again.

I think that providing the kind of penalties which are not excessive but which are reasonably to be expected to make the risk of violating the law just too great can probably help in a lot of instances.

The problem of the Fair Credit Reporting Act, for example. It's impossible for Mr. Weisner to sue because of that information in there. He can only sue if there was some noncompliance with the act. But insofar as the act, it doesn't really provide him any case. All it says is if he asks them to check they have to check again and tell him what they found. They told him they checked again and found out is was true.
Then the act says you don't have to show him the record. You just have to disclose to him what is inside. That means you can tell him what is in the record but he never gets to see it. And the act says you don't have to take it out but you can let him put his denial inside. He did that.

Because you can only sue them not for the damages that can be done to you because of inaccurate information but only because they didn't comply with the act. And not complying with the act is no problem. He has no recourse.

If he had a cause of action whereby he could sue them for damages, if a libel action can be incurred, that might be enough of a -- might introduce enough of a dynamic change to make even mild criminal penalties unnecessary in that case.

MR. MARTIN: Commissioner Hardaway will have the last question before we recess for lunch.

MRS. HARDAWAY: Your organization nationally and State-affiliated gathers a lot of information on people. How do you safeguard it? What do you do with it after you get it?

MR. SHATTUCK: He uses a computer. We don't. We're bigger than he is. (Laughter)

MR. GLASSER: Well, there's two kinds of
information we gather. The first kind of information is our own members' names.

MRS. HARDAY: I'm not speaking of --

MR. GLASSER: You're really talking about our clients. I think basically the way any law office does. See, the thing that we have is that there are certain areas of the law -- namely, clergymen, doctors, lawyers -- where there is established by law a privileged communication area whereby it's very hard to get that kind of information from a lawyer. I mean you can't subpoena it. You can't get it.

The lawyer has the right not to give information about his client. So does a doctor. So does a priest. There are very few other categories where that exists.

A recent attempt to get the Supreme Court to enunciate a privilege between journalist and interviewee was lost. It's very difficult to create that kind of privilege.

In New York State there was a law passed this year, vetoed by the Governor, that would have established something of that kind of a privilege between guidance counselors in school and students so that they (1) were not permitted to divulge information and (2) could not be liable if they refused at government request.

Those things are very difficult to do.

But the basic thing in our office is that since
most of our clients function with lawyers, when there is a case that involves issues where the lawyer-client privilege may not be invoked, for example, because I as a nonlawyer talk to somebody, sometimes I just don't talk to them. Sometimes I just don't know, and the lawyer has the conversation, and no nonlawyer does, precisely in order to protect that kind of confidentiality.

Now, there is no protection I suppose --

MRS. HARDAWAY: That's not my point, sir. I'm talking about your actual records on these folks that you have mentioned. Where are they? How are you safeguarding them?

MR. GLASSER: They are not safeguarded from theft if that's what you mean. They are in our files, and I suppose if somebody broke in they could get at them.

When we testify, when we negotiate with public officials-- For example, I did an 18- or 20-page memorandum for the Board of Examiners in New York that is in the division of the Board of Education which grants licenses to teachers detailing for them a whole variety of anecdotal cases where rights they said publicly they never violated were in fact violated.

I blacked out the names and used initials, you know, so that nobody who saw that piece could know immediately who it was.
Other than not making information—For example, the kind of things I used today, I used no real names except those which were made public by the people involved, like Mr. Isaacs who wrote it in the newspaper.

Now, there isn't much protection from theft, and I get concerned about that all the time, although it has never happened to my knowledge at the New York Civil Liberties Union. I don't know if it has happened elsewhere.

MRS. HARDAWAY: Let me ask just one other quick question. I know we have to eat. If I am in your records simply because I have discriminated against someone and let's say I'm the principal, that you have a case against me, would you at some future date if Dr. Gallati wanted to know something about me—Do you have a policy or is it an administrative judgment that because I would be opposed to your opinion you would then say, "Well, let me tell you about her. Let me show you everything I have got about her because, boy, can I, you know, fill you in"?

Is that a matter of written policy that you don't give out that?

MR. GLASSER: Yes.

MRS. HARDAWAY: Or administrative judgment?

MR. GLASSER: We are a little paranoid about confidentiality, so much so when I went to the bank to apply for an automobile loan they called up the office to
verify it, and they said that the only one who could verify that was me. And I, of course, wasn't there. (Laughter)

We try to be very strict about that. There are cases, for example, where the Board of Education in making the point that frequently in ghetto schools white teachers will indicate their low level of expectation of achievement of black students—- We will get from time to time from a black parent evidence of that in comments that the teacher will make, and we know who the teacher is. We never say who that teacher is. If the black parent who knows who the teacher is wants to suggest the principal be brought up on charges—- But in using that example we don't do that.

Sometimes it happens in very amusing circumstances. We got such a letter from a community group the other day asking us to bring charges against a teacher and the same day we got the appeal from the teacher to defend the teacher.

MRS. HARDAY: Is that by administrative policy or written policy of your agency?

MR. GLASSER: Half and half. There are certain written policies and other things not by written policy. I don't really know the full answer to that.

MRS. HARDAY: Do you inform people that become a part of your records that it is by half and half, part administrative and part written policy, or do you leave
that unsaid?

MR. GLASSER: Only if they ask. What happens
is that if somebody writes a letter to us and-- I'm not
sure I'm understanding what you're driving at.

MR. MARTIN: I think what Commissioner Hardaway
is reaching for is whether you practice what you preach.

(Laughter)

MR. GLASSER: Well, yes, I think so, but I didn't
think that's what you were reaching for. I thought you
were asking how--

MRS. HARDAWAY: But you just "think" so? There
is no little thing I sign when I, you know, give you
information, etc., that guarantees me that you're going to
hold it and not share it with Dr. Gallati?

MR. SHATTUCK: I think the important thing to
stress here is if you came to see us you would be turned
over to a lawyer. You would have an interview with a law-
yer. And everything you say from that point on and any
document you turn over to us if you have discussed it with
a lawyer is privileged.

The lawyer would be violating that privilege of
yours if he were to turn it over to somebody else. And
that's something that would cover all lawyers.

So in that sense I suppose that's the most
formal of the policies we have.
MR. GLASSER: The other thing is --

MR. MARTIN: I'm going to suggest we continue this over lunch if the Commissioner can catch you. I hope lawyers Shattuck and Donner and nonlawyer Glasser will be able to stick around after lunch if you want. You will be most welcome, and I'm sure there will be opportunities later in the afternoon to continue the dialog if you would like to stay.

(Whereupon, at 1:23 p.m., the luncheon recess was taken.)
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
to give me another social security number and -- rather, to
transfer the one which had been issued to my son to me
and give him a new one. And that's the way things stand at
the moment.

Have you any questions, sir?

MISS KLEEMAN: Can you describe a little bit more
of the circumstances that led you to discover the situation?

MR. CORBETT: I got a letter from the Alexandria
office in February of 1968 inviting me to come to see
them to help them straighten out some apparent incon-
sistencies in the records, and I discussed the matter over
the telephone and gave them the information they wanted.

And then -- let's see -- again in 1970, September
of 1970, I received a letter from the office in Falls
Church explaining that the Internal Revenue Service
discovered that I and another person were using the same
social security number and stating that it was originally
given to someone else in 1936.

In 1956 their records showed that I was given
a number which is different from the one which had been
issued to me. This number, this different number, was, as
they state, later incorrectly given to my son.

To correct this error they have assigned him
a new number and instructed him to return the card and they
have transferred the card which had been issued to him to me.
In 1971 I began experiencing some confusion in income tax in Internal Revenue Service accounts. For example, in February of 1971 I sent a note to the Director of the Philadelphia Region returning a check in the amount of a little over $400 which was made out in my name which was not due me since they had already returned my over-payment for that year, considerably less than the $400.

I returned another copy of a form 1099 stating that amount of $133.48 had been paid to me in interest, presumably on that $400. This too I returned as not belonging to me.

And, third, a copy of a form addressed to William and Helen F. Corbett asserting these parties have not paid a balance of $2,088 in back taxes including interest and penalties. And that did not belong to me. My wife is not named Helen.

I informed them that the matter of separating the several accounts now assigned to the same social security number as mine might help them if they would refer to me as William H. Corbett and my wife as Frances R. Corbett and by address rather than just by number.

MISS KLEEMAN: Their names were also William H. Corbett?

MR. CORBETT: Yes, the two people thus far identified as having the same social security number as mine
are also William H. Corbetts.

DR. GALLATI: Same dates of birth too?

MR. CORBETT: This I don't know.

MRS. HARDWAY: You appear so calm about it. Are you really? (Laughter) I mean has it bothered you?

MR. CORBETT: Well, yes, I believe I am. In a system in which there are accounts numbered in the hundreds of millions, one would suspect that there are going to be some mistakes.

The fact that the Internal Revenue Service uses a printed form to let me know that somebody else is using the same social security number as I indicates to me that I wouldn't be so grandiose to think I am the only person having this experience.

And as I said, the records of man's struggle with the machine are frustrating but often even humorous. I have some others I could tell about relations with computers and some of the mail order houses. I presume you have too.

MR. DOBBS: Mr. Corbett, the contact you have described thus far has been with IRS mainly and with the Social Security Administration -- I presume in terms of trying to verify who belonged to what number. Do you have any information at this date on what your account with the Social Security Administration looks like?

MR. CORBETT: Yes. In November of 1971, in
their attempts to straighten out the account, they gave me
a report of earnings going back to January -- rather, that
is, going back to the year 1957 when members of the armed
forces were brought under the social security, and asking for
my help in furnishing some additional evidence as to
earnings back in 1964.

I was unable to furnish this information because
I didn't maintain my records that far back. I had moved
since then and sort of cleaned up my records at the time.

So excepting for the one year which they were
unable to straighten out, everything appears to be in
order.

DR. IMPARA: In addition to the IRS and Social
Security, has there been any other problem related to this
from other agencies, governmental or otherwise, relating
to this mixup?

MR. CORBETT: The only one that has come to my
knowledge so far has been that when the Administration
transferred my son's card to me and gave him a new social
security number, they also apparently -- I say "apparently"
because I don't know this -- gave the information to the
State of Virginia as to the tax accounts, and he has been
getting some periodic dunnings for not having paid his
income tax under his new number, although he paid it
under the previous one which as I say was assigned him and
then transferred to me.

DR. IMPARA: But there hasn't been anything like

a credit agency or --

MR. CORBETT: No, the only person who regards

one of the William H. Corbetts as a poor credit risk to my

knowledge is the Federal Government, and that's another

one of the William H.'s.

MR. MARTIN: Are there any other questions for Mr. Corbett?

Mr. Corbett's situation evidently he infers is

not unique, judging, he says, from the fact that some of

the correspondence he has received relative to the situation

is a form letter, which would suggest the occurrence is

frequent enough to warrant producing a form letter to

communicate about it.

It is the first case that we on the staff have

encountered of a person who holds the same social security

number as has been assigned to other people. We have

heard an abundance the other way in which individuals are

said to have more than one number, but this was the first

real life case that we had stumbled on of someone who had

the same number as someone else and some of the consequences

thereof.

Professor Weizenbaum?

PROFESSOR WEIZENBAUM: You mentioned a number of
dates, some of them going back to 1936.

MR. CORBETT: Yes, sir.

PROFESSOR WEIZENBAUM: Just in trying to understand what might have happened to you, not as a specific conjecture, would it account for the facts as you know them that the other William H. Corbett at one time or another appealed to the Social Security having said that, "I can't find my number; please tell me what it is," and that then they erroneously gave him your number?

Or is it the case which I would consider more serious from a system point of view that the social security system in fact, so to speak, spontaneously spewed out the same number twice?

Which fits the facts more closely do you think?

MR. CORBETT: According to what I have been informed, one other William H. was given a social security number I had been carrying in 1936, which predated the assignment of that number to me by about 20 years.

PROFESSOR WEIZENBAUM: So the conjecture that someone inquired and said, "What is my number?" and that then the Social Security in effect tried to find the number and happened to find the wrong number, that's not a conjecture consistent with the facts as you know them?

MR. CORBETT: No. The situation around the assignment of a number to my son more closely resembles
that I would think, in which I asked for a number for him, was given a number, which the Social Security Administra-
tion then told me had been assigned to me in accordance with their record beforehand.

PROFESSOR WEIZENBAUM: You say you asked for a number for your son?

MR. CORBETT: Yes.

PROFESSOR WEIZENBAUM: He was a minor?

MR. CORBETT: A minor, yes. He was 15 at the time. He was going to do part-time work in the summer.

MR. MARTIN: Miss Kleeman tells me that in a conversation which she has had with an official of the Social Security Administration they engaged in some speculation as to how this might have occurred, and this does not constitute Social Security Administration explanation based on actual inquiry into your situation, Mr. Corbett, as to how it did occur, but the speculation was that at the time that numbers were being issued to military personnel, including yours apparently, it's possible that in the assignment of a number to you the Social Security Administration did not wish to assign you a second number and misperceived you as the earlier enumerated Mr. Corbett and in a sense just thought it was telling you, "Well, you have a number, and this is it," rather than treating you as a second additional person.
Have you had any explanation? Has Social Security tried to figure out how it happened?

MR. CORBETT: I do not know, but from the standpoint of conjecture I would say that makes good sense, especially when I would assume that the issuance of social security numbers to a great number of people in the armed forces all at one time would probably have put great overload upon the resources of the Administration at one time.

MRS. HARDWAY: There we get back to Dr. Gallati's fingerprints.

MR. CORBETT: I beg your pardon?

MRS. HARDWAY: I'm just making a comment that had the fingerprints gone along with that file that would not have happened. Right?

MR. MARTIN: Well, thank you very much for coming, Mr. Corbett. We won't detain you any longer.

To the committee I might say that I think what we might try to do for the committee is to request the Social Security Administration to give us a bit more information about this kind of situation and what it regards the increased likelihood of occurrence to be in circumstances where large-scale enumeration is to be undertaken without regard to the immediate administrative purposes of the Social Security Administration in service
of secondary objectives dreamed up for other purposes
such as the situation of the enumeration of school children
which was referred to in this morning's discussions
contemplated by the amendment to the Social Security Act
provided by H. R. 1, and if there are any other particular
features of inquiry which Mr. Corbett's remarks
suggest to any member that they would like to have us put to
the Social Security Administration I'm sure the Administra-
tion would be glad to try to help us.

Mr. Siemiller, did you have a comment?

MR. SIEMILLER: This testimony is directly in
contravention of what we normally find in the
issuance of social security numbers. We know of cases
where one individual has had as many as eight numbers, but
never before have I heard of three people having the same
number. It's certainly very unusual.

DR. GALLATI: We don't know it's unusual.

MR. MARTIN: It may arise from the effort to avoid
giving a person a second number.

MR. SIEMILLER: We don't know.

MR. MARTIN: Our next speakers -- I'm going to
suggest that they come to the speaker's table together
since they are both from quite different parts of the
country but are going to be addressing concerns of
veterans -- will be Mr. Otilio Mighty, Director of Veterans'
Affairs of the New York Urban League, and Joe Garcia, Director of the Seattle Veterans' Action Center.

Would each of you gentlemen proceed in your own way starting with Mr. Mighty?

MR. MIGHTY: Thanks for inviting me. I do work for the Urban League in New York City, and primarily my job consists of taking care of veterans who have returned and who are returning to the major metropolitan area which consists of parts of Jersey, all of New York City, Nassau County and Suffolk County, and part of Westchester.

In the particular job I have, we deal with problems of the veterans. We take care of their employment requirements, education, housing, drug problems, trying to get undesirable discharges changed to honorable, trying to get them into drug treatment, trying to get the Federal Government to give them rehabilitation and benefits if they have them coming to them, and in some cases we try to give those men who have been refused -- to get them to give benefits to them.

We also try to get records all straightened out. We also try to get employers to employ those veterans who they have refused because of certain information on discharge certificates or certain information passed on from the Defense Department to an employer.

PROFESSOR WEIZENBAUM: I didn't catch the last
part of that sentence. Certain information -- and then you mentioned the Defense Department.

MR. MIGHTY: Certain information on the man's record that the employer might have requested from the Defense Department with the consent of the individual.

PROFESSOR WEIZENBAUM: I see.

MR. MIGHTY: And in most instances the man would have been denied employment because of the information coming back from the Defense Department.

PROFESSOR WEIZENBAUM: I see.

MR. GARCIA: To give you an example of what Otilio just mentioned, our program in Seattle deals specifically with the returning veteran from Vietnam and more specifically the disadvantaged minority groups that are coming back, the ones that really have fought this war in large numbers in comparison to the population back in the United States, the ones that didn't have draft deferments to go to college, the ones without a high school education, the ones that got drafted out of the ghettos, out of the barrios, out of our Indian reservations in our country, and coming back and trying to make their transition from military to civilian life which is very difficult during the times that we are going through today.

One example of what Otilio just mentioned was about a year ago a young Vietnam veteran came to us looking
for a job who was married and had two children. He was 23
years old. Silver Star. Distinguished Service Medal. Two
Purple Hearts. And a bad conduct discharge because of drug
involvement while he was in Vietnam.

He had been in Seattle for about a year and a
half, unable to find a job simply because of his discharge
and because of the documentation on his military record of
being a drug abuser, and also, you know, the bad conduct
discharge.

But we found employment. He was on the job for
6 months and doing a very good job and was commended by
his foreman. But during the process of the personnel
office at the firm that he was employed, they soon discovered
that he had a bad conduct discharge that was drug-related
and he was fired -- not because of the job that he was
doing but because he had a bad discharge.

Three weeks later, because he couldn't find
employment, because he became very discouraged and frus-
trated, he got involved with the drug traffic in Seattle,
and after a high-speed chase down an interstate highway he
crashed and now he's a paraplegic. He's paralyzed from the
neck down.

This is an example of what, you know, documentation
can do to an individual that, you know, stays with him, you
know, indefinite amount of time.
Another example that comes to mind is that one of my workers on my staff was with the 25th Infantry in Vietnam. He was a scout. And for those who don't know what a scout is, a very highly trained professional killer.

He came back—Well, he got almost blown apart in Vietnam, spent 6 months in the hospital being put back together. Then when he got back into his community he also had problems with drugs. He got addicted to morphine at Camp Zammon in Japan. So we are taking him through a drug rehab program.

And about the first 3 months when he was back home he had a knock at his door and he answered the door and there was a man, you know, at his front door, and the man was very straightforward. He would lay 10,000 bucks on him if he would take a contract to kill somebody.

Somebody found out that he was a highly trained professional killer and that he had something that the syndicate there needed.

And to this day no one knows how that individual got hold of his records to find out everything about what he did in Vietnam, even to the point of how many, you know, kills he made, how many patrols he had been on, and how he ended up in the hospital and he was addicted. And this man had all that information.

You know, these kind of cases I can go on and on
as far as, you know, how the Department of Defense documents individuals in the military and how that documentation follows that man until he's dead and even beyond that.

An interesting story the other day at the election. You may have heard it. This woman turns up in New Hampshire to vote or some place like that, and, you know, she's ready to sign her registration, and they told her she couldn't vote because she was dead. She had been documented.

It may sound absurd, and some of you may think that these are isolated cases, but I don't think so.

And I'm quite concerned about how this documentation is going, you know. It can have its merits, but as we see it on a daily occurrence with guys that I have mentioned that we work with daily, especially guys that came back and ended up behind the walls, incarcerated, and then again documented, and then again in the probation system in our penal institutions how that determines how people or how they don't get help-- And it always ends up back to his military record, and, you know, this shadow is consistently hanging over his head.

And I don't know where it will all end. But I know one thing. When and if the war ends, you know, these problems that I just mentioned won't.

MR. MIGHTY: What Joe and I are talking about are things-- I believe people generally are not fully aware of
the impact of the amount of people who have been in the military and the amount of information that is kept on them even after they have been out for several years.

For instance, if you were a veteran of World War I, I feel confident that we could get all sorts of information on you and very easily.

Basically, when I say "easily," what happens is-- And I'm primarily concerned with three things here. I'm concerned with the medical record maintained by the Defense Department. I'm concerned about it because in many instances individuals who have applied for jobs with the Federal Government or with the private sector-- The personnel people will ask the individuals to sign a release which would permit them to get information from the Defense Department from the medical records.

In most instances, you as a military member have very little knowledge of what is on your medical record because there's a thing that precludes in many instances them from showing you a medical record. They can tell you what is in the medical record but you are not privileged to read the record.

I think this happens in civilian life also, incidentally.

Or you might have gone on sick call and complained about a particular thing, and the doctor will be
sitting there and writing while you're talking, and he might
make a diagnosis or a certain statement on your record of
which you have no knowledge.

Consequently, when you come out of the service,
you sign a statement permitting an employer to get
information from your medical record. Come to find out, you
might have had some type of illness or supposedly had some
type of illness that this employer decides that you would
not be a good medical risk to be in his employment and
you will have not been hired.

Now, I have seen at least four or five cases of
this nature with specific employers in New York City. As
a matter of fact, in New York City yesterday, even though
it rained, I had a meeting with them, and the meeting
surrounded two people specifically in this same area.

That is one.

In the area of discharges, even those men who
have honorable discharges, there is a code on the 214 --
the 214 is a certificate --

MISS KLEEMAN: Which you all have in your
folders (indicating).

MR. MIGHTY: In addition to all of the extraneous
information-- I say "extraneous" because I think once an
individual goes into the service what you do in the service
is really something that should be closed in many instances
except your name, your social security number -- which used
to be your serial number, the old army service number -- the
period of time you served, and address. I think that's
sufficient for anybody to know.

The fact you served honorably or generally
and how much time lost you had and how much insurance you
carried and this sort of information is not necessarily
going to be important.

But in addition to that, on the righthand
side, you will find a code they call a reenlistment code,
and even though you might have an honorable discharge
the various branches of the service will code 1, 2, 3,
and then they have a 2A, 2B, 3C, what have you.

Personnel people have become so sophisticated
that they have in their possession the meaning of those
codes, and in many instances the men that I deal with who
are in most instances black and Spanish speaking people
from the New York area are denied employment even if they
had an honorable discharge because there is a code that
reads 3A, 3B.

And the rationale is this: If the military did
not want you to reenlist, there is something wrong with
you. Consequently, they don't employ you.

This is not a statement that is made just, you
know, off the top of my head. This has happened, has
happened to thousands of men in the area in which I deal.
And I feel confident -- Joe and I exchanged information --
it happens in Seattle. And I would take a guess that it is
happening all over the country.

I think that information should be not available.

Let me give you two quick things. One of them involved myself. You see, I did several years in the
service. Incidentally, for those of you here, I did
quite a bit of time in the service. I spent about 7 years in
staff office. I worked 6 years in personnel and ad-
ministration keeping thousands of records. I'm a record-
keeper. I have kept thousands of records.

And the records include evaluation reports,
efficiency reports as you might call it, your grandmother's
name. And I mean say it and we have had it.

And some of the things that we have tried to do
to safeguard information of the personal person in the
military establishment in the Air Force-- In some instances
we used to give all the supervisors the man's personnel
record to look at so he would know what type of person
he is getting, and in the man's personnel record would be
his performance reports.

Supervisors are funny. If they look and see
that you have a performance report of say outstanding,
you're inclined to give you an outstanding report. And,
conversely, if they see you have an efficiency report of, say, fair or acceptable person, they will continue to give that regardless of the type of performance on them.

What we did in the Air Force is we refused to give the supervisors of men the man's record. We took out certain information. Now, we did this because we were very sensitive to what was going on. But I feel confident other parts of the service are not now doing this.

In terms of courts-martial, if an individual has had an (auditor 15) for several years or a special court-martial and if he has to be tried again, there is a thing called a record of previous trial that is submitted to the court. And if it's less than a certain time, once in 3 years, or it happened in a previous enlistment, then it was not listed as a regular trial.

Here's what happened. The men who sit on the court are members of the particular unit in many instances on the same base and they do get access to the records, so this again endangers or tends to jeopardize the individual.

Our here in the civilian world in which I am working now, I find that I have a young man who came to me about 6 months ago and what had happened to him was he was adjudged a youthful offender and the judge told him that if he would go into the service he would dismiss the charges.
So he went to an army recruiter, joined up, and went in, and did a tremendous job, served some time in the States and several months in Vietnam and won some of the medals that Joe talked about. He received an honorable discharge.

Upon separation he applied to the New York State Civil Service Commission for a job as a guard in Sing Sing.

Now, when he went to join the service he did not indicate on his enlistment form that he had been involved in a particular offense I previously mentioned. When he applied for the job as a guard he indicated that he was arrested as a youthful offender, he was arrested and adjudged a youthful offender, and the charge was dismissed.

What the State did, the State wrote to the military -- this would tend to corroborate what I said before -- asking for his military record. They sent the record, and on his military record they saw where he did not indicate to the military people that he was adjudged a youthful offender.

And he had been working at this particular time 5 months, had rented an apartment, was trying to become middle class, whatever that is. And they fired him.

That's when he came to me.

I wrote to Governor Rockefeller, and he was subsequently hired not as a guard at Sing Sing but as an
addiction officer. That's one case.

In my life I have been arrested. Like most black people, if you live long enough in certain places you will be arrested. I was arrested, but of course I was very young at the time. The charges were reduced radically, and in nineteen -- well, some years ago -- I applied to go to officer candidate school when I was in the service. And after having been in officer candidate school this information came out.

Of course, it was the type of thing that did not result in my being eliminated from officer candidate school, but it followed me.

Here very recently I was campaigning -- this was after my regular normal working hours -- and I was arrested. This was in June of this year. I had five charges of felony against me. And all I was doing was driving a van that a person had donated to the hopeful Congressman, Congressman-to-be hopefully.

And the cop stopped me and checked the number of the car and said it was blah-blah. Anyway, I had five felony charges on me that evening. Of course, it was the evening prior to the election, and I said they did it at a good time because we did not win it.

Subsequent to that I applied to take a test to become a notary public because in the job we do we find
this is important to have this type of service for the men because many papers need to be notarized. Two of my men are, but if they are not there, then the guy has to go around and pay 50 cents which in many instances they don't have. So I decided I would be one too.

Now, incidentally, the charges were all dismissed. I went to court. We got a lawyer. The Congressman-to-be came down there. The Supreme Court judge came that morning at 2 o'clock and gave me a precinct bond which the cops denied, said it never happened, but it did happen in that case.

I applied to take a test for notary public in the city of New York, and that information came up, and by statute I understand that should not have, you know, come into play in my particular case since the charges were thrown out or no basis for them at all.

I have another man that went into the Navy, enlisted, and when he enlisted he had asthma, and he so indicated on his enlistment record that he was suffering from asthma, but he was inducted anyway.

He served 3 years in the Navy, came out and took the post office test. He made a very high score. He went down to take a medical examination, and they asked him if anything was wrong with him. He said no, you know, nothing was wrong with him at all.
They sent for his medical record. The medical record indicated that he had complained of asthma and indicated, you know, prior to going into the service he had asthma.

He was terminated. I'm talking about the Federal post office. I'm not talking about the private sector. I'm also talking about a veteran.

He came to me, and I wrote to the Commissioner of Civil Service and sent letters to Bella Apzug and several other Congressmen and women. Of course, Bella Apzug was the only one who took the bull by the horns. Needless to say, the man was employed.

But here's what I'm saying. These are just instances where people came to some man who did something. And what Joe is saying and what I am really corroborating is I feel there are thousands and thousands of people who suffer because of information that is being given out at random and in many instances I would say in complete disregard to certain types of confidentiality that should be placed on these records.

One of the errors that the Federal Government is doing that I think should be stopped right away with veterans is they have a list called -- veterans who are discharged -- called the "for hire job." This list floats around, men's names and addresses, to all type of people in
the country, and these men are written to, asked to buy insurance, are asked to go to these phony schools that intend only to rip them off. They get very little job as a result of the list. And the Government continues to do this.

I am saying that this committee here, if it has any sort of clout, hopefully, that these are some of the areas you should be looking into.

And before I close and turn over to Joe, in the area of mechanization, automation or computerization, in the Alaskan Air Command I was a project person that started the mechanization as we called it then in the Air Force for military records. This included leave records, the fitness reports, and the shot records.

In the area of promotion, you see, fitness reports in the Air Force are used almost as the sole criteria for promotion. An outstanding report puts you in a certain category. Fifteen of them put you very high. I found many men were deathly afraid of the idea that their promotion would be based on a machine, you see, as opposed to where several people sit on a board and look at the records and make certain determinations.

This was a terrible fear, and the fear was not relegated only to enlisted men or to officers. It was a fear that cut across the board where people had a very
great distrust, a feeling that we then became some type of inanimate object because a machine would then make the decision whether or not you should move from a staff sergeant to a tech sergeant or from a colonel to a general.

That's it.

MR. GARCIA: Also it's interesting to see the correlation between -- during the time when there has to be a lot of manpower in the Department of Defense and, you know, a very low incidence of less than honorable discharges. Especially during 1965 to 1968 during the peak years in our involvement in Southeast Asia there was a small percentage of less than honorable discharges because we needed the manpower.

But from 1969 to this period there has been a very sharp increase in less than honorable discharges.

And not only that, but with the move with the volunteer army, there is a tremendous move to just weed out all the people who aren't good for the military, you know, and these will be documented.

I'm glad the NAACP raised a little question in the incident involving those 25 black seamen, you know. I think it was on the Kitty Hawk. "This is one way, you know, where we'll eliminate manpower."

Certainly there's a lot of, you know, problems there. But I think it was originally motivated. And I
think because of that you are going to see 25 young black men who are going to probably get drummed out of the Navy with some kind of less than honorable discharge that will go back into their communities and have problems, you know, finding a job, getting into school, and living the life, you know, of normalcy.

And what is going to happen, and it has happened before, is that these men because of, you know, being listed as a nonemployable person, a troublemaker, will probably end up in our judicial system, end up in our penal system, and, you know, may even end up killing some people in his quest for, you know, shaking that monkey off his back, and that being a less than honorable discharge.

This is one area that really needs to be looked into, especially as we are moving toward a volunteer army.

I'm really concerned about the Department of Defense documentation in that transition, because, you know, the volunteer army are looking for professionals. In fact, the letters that are pouring in to ex-servicemen right now with the $2,500 bonus for infantry, armor and artillery, you know, it's just soaring.

In fact, Washington State, because of its high unemployment rate, ranks up the highest as far as reenlistments among ex-military men, you know, because there is no other opportunity for a black guy who didn't
graduate from high school, ended up in Vietnam shooting or in an armored division, and so forth, came back and can't find a job. You know, he can only deal with that so long, and if somebody throws $2,500 in cash on him plus free room and board, you're not going to pass that up.

MISS KLEEMAN: Joe, can I ask you briefly, since you have experience in your own program with the use of computerized records, to describe very briefly for the committee members what you used in your organization for your program and also the issues you dealt with when the program was being designed?

MR. GARCIA: Our program in Seattle is funded-- One of the funding sources is the National League of Cities, U. S. Conference of Mayors that put as a mandate on our grant that we would have to use a form on all our veterans that we contact. It's a very lengthy form. You know, it goes into detail on the individual as far as his military experience, his civilian life and everything.

And when they threw that on us back early last year, we were the only project in the country out of 14 that raised any kind of stink, because we felt very strongly this was infringing on a man's personal freedom and privacy.

So, you know, but they were saying, "Look, you
know, you have a contract to fulfill, and if you don't
fulfill that, you're going to have problems. We're going
to have problems funding you."

So we said, "Okay, we'll do it but only
if you include at the bottom of the form in a block yes or
no to the question, to the veteran, "Do I have your
permission to release this information? Yes or No."

Not only that, but giving us the total right to
release that information on the individual.

And about 10 percent of the guys actually say
no. The other ones say yes. Because, you know, the only
thing they are concerned about is getting a job or getting
into school or something. They're not really concerned
about what is going to happen with this information.

And what happens to the information out of the
14 cities? It goes back to Industrial Data Processing
Company in Minneapolis, Minnesota and they compute all the
statistics and everything like this, and then we get a sample
back.

But we don't know and we don't have assurances
what's going to happen with all those names and addresses
and information back in Minneapolis after we are done with
that.

We also know they have a contract with HUMRO,
which is the Human Resources Research Organization out of
the Department of Defense. I don't know what is going to happen there, and I don't know why HUMRO wants that information, but I have a couple of speculations.

These are the kind of concerns we voiced very early on that particular issue. Because, you know, we feel very strongly.

We have been documented—I think guys, you know, that went into the service and come out, they are probably the most documented person in the world because you have a number for everything.

You know, the people we serve have a lot of hesitation on, you know, their personal lives. And I think it's totally different from other wars. And also, you know, the veteran coming back from this war is totally different from any other veteran who has served his country. He is very, very skeptical of the system and what it has done to him or what he thinks it may do to him again because of his bad experiences, because of his own frustrations and anxieties, his experience in the military and his post-military experience.

So, you know, these are the kind of things that we encounter, and we are constantly encountering, daily.

MR. MARTIN: Are there any questions for Messrs. Mighty and Garcia, who will be here I think all afternoon, so that if you have no questions now but think of them as time goes on, that will be all right.
MR. DOBBS: I have a question that relates to: Is it the case that the only way that a Department of Defense agency will release information is with the veteran's signature?

MR. MIGHTY: I would say generally yes, but, you see, that is a qualified yes.

Even if it were true—And I'm not too sure because I'm almost sure in certain instances based on my lengthy experience with the Department of Defense, if you follow me, that it's issued without it.

MR. DOBBS: I understand.

MR. MIGHTY: But Joe indicated at one point here, if you say to me, "Sign here," if I'm expecting a job which I need desperately, or anything as a matter of fact, if you say, "Sign here so I can send for your record," and so on, I know if I don't sign, at least it's implied if I don't sign I don't get the job. Then I'm going to sign. Most people.

But the answer to the question is that in most cases the individual would have to indicate that he would want this information released.

MR. DOBBS: Do you find that employers in your interface in trying to place the veteran require and/or demand access to that information rather than relying on an agency like yours to make some interpretation to them of the
guy's military history? Do you understand what I'm saying?

MR. GARCIA: Our experience in Seattle has been that private employers don't deal with that right away but their personnel offices do. They have openings. They have to have them filled. And they go through the process. And like I mentioned the case earlier, it took the personnel office 3 or 5 months later to screen this guy's personnel records, his military records, and then fire him.

Now, with the Federal Government it's a totally different thing. Once you apply for a job in the Federal system, they'll get you right before you have 2 days on the job, and there's no way around that.

But there are a lot of problems because of the Federal Civil Service Commission relying totally on a paper that documents you like he said, you know, your type of reenlistment code and type of discharge. And down here in a box called "Remarks," I think this box can burn you because they can put anything they want there. You know. "We think he's a homosexual. We think." And things like this. "We think he smokes marijuana."

Those implications say to an employer, "Okay, I'm not going to deal with that because he must be."

MR. MIGHTY: I would just like to give a little answer or put something else there. The question you asked if employers were more likely to check with our agency
to decipher certain things in the record. Not necessarily. They used to in the beginning when the world was null and void. But what has happened, the Federal Government has, you know, pulled in many employees. Of course, there's this big romance that goes on between major corporations and the military. So we're all aware of this. There's a very intimate relation to the military.

Personnel people in the private sector have even gotten the discharge—Or there's manuals for everything. I know HEW has this too. It says, "If this code is 3,555DN, it means so and so."

So most personnel people have this information so they don't need anybody now. They do it themselves. But we would not decipher for them. I have been asked that in the past and I told them I would not. We refuse to go into any detail that was not very clearly spelled out on the man's discharge for any employer. That was our position.

MR. DOBBS: What you're saying very specifically is that you would recommend a prohibition of the release of information about a veteran except in a very restricted and circumscribed kind of sense?

MR. MIGHTY: Exactly. And to answer that, what I'm saying, in many instances the men don't know what is being released. They don't know what is in the record. I think if they had a chance to see the information first
and make decision as to what portion or the questions, information contained in the medical record, it might be helpful. It might be.

But I would more lean that unless it's very unusual circumstances requested by the veteran—Because from my knowledge of what is in the record, it is in most instances detrimental to anybody. This thing I'm talking about, information in military records, doesn't only pertain to black people. So you don't feel safe that you're white or middle class.

I did 20 years in the Air Force. My expertise was in personnel and officers' records. And most of the officers -- big generals -- I know them well by their records, you know, and the background investigations. You follow me?

So don't get, you know, feeling comfortable. Somebody indicated in here this morning that we might not be informed -- I mean people in the board -- because they are so pure and clean. That's a lie. Big Brother is looking at you too. That's the way it works. Once it was you and her and then it was me.

MR. MARTIN: Senator Aronoff?

SENATOR ARONOFF: I just have one further question. I listened to your story and Mr. Garcia's story of the man that became an addict and it followed him until
it ultimately ended up in a tragic consequence, and I have
read the testimony from the Senate subcommittee of Senator
Hughes and what happened to that one particular individual
there which was different because he was not an addict and
the stigma nevertheless followed him. I see the consequences
there.

But I think we are going to have a continuing
problem with people that are coming back from Vietnam. Are
you saying, Mr. Mighty, that if someone was an addict,
proven an addict, that that should not go on his military
record?

And if the answer to that question is it should
go onto his military record, then what restrictions would
you place upon its use?

Suppose it was very clear that this was a heroin
addict. Suppose that person applied for a very sensitive job.
What is your feeling? How do you balance society's needs?

MR. MIGHTY: I would say that the information
pertaining to an individual who became addicted in the
service by necessity would be and should be in his military
record. But, you see, I am right now pushing that the
veterans who became addicted in the service should be
given rehabilitation that is supposed to be being done now,
but also be paid pension and disability compensation
during the period of his rehabilitative thing. So I'm
saying it should be in the record.

SENATOR ARONOFF: To make that clear then, I
don't think you said that before. I thought you mentioned --

MR. MIGHTY: I said two phases. I talked about
the discharge certificate, said that should be restricted to
basic information. The medical record is another thing.

But let me answer the question because it's a
beautiful question. Now, once a person becomes addicted
or has committed certain offenses or whatever happens,
in the case of addiction this individual that you're
talking about hopefully is no longer indulging or addicted.
I see no reason for this to be dredged up constantly, and
I don't see what effect a person who is addicted maybe 20
years ago, 10 years ago, would have, you know, on a job
that-- Evidently if he's being considered for a job that's
so sensitive he has certain qualifications, certain things
about him that would cause him to be so considered.

I don't see the import of that information any
more at all.

SENATOR ARONOFF: Well, we could debate it. But
suppose somebody had been convicted of a crime. Should
that information forever remain -- I'm not talking about
drugs --

MR. MIGHTY: I want to answer the question. Be-
cause I have this all day long, you know.
SENATOR ARONOFF: All right. I understand.

MR. MIGHTY: I say it depends on the job you're thinking about for this man. But in most instances-- It would depend on the time. There should be some type of statute. If you observed, I mentioned before even in the service there is a statute of limitations. There is a point where information pertinent to offenses that are committed it not considered in your present trial. They put it aside.

But I indicated sometimes they get a whiff of it which is because of the closeness of the military.

But I don't see where an individual, a person-- Let's take me for instance. Many, many years ago I had a gun and I was about 14 years old. I was shooting around at birds. I liked to carry a gun in my belt. It felt beautiful. I lived in a part of the world that the gun was a very important thing, you know, like out in the West, Western Alaska in America.

But I happened to cross the Canal Zone. That's where this happened, in Panama. And at Canal Zone these were Americans, you see, and there was a court down there, an American court, and I was arrested on the Canal Zone and tried by an American court in my country. You follow me?

Now, what would that have to do with me today in the job that I have? Somebody says, "Oh, the man was
arrested for carrying a gun in 1940." You see my point?

SENIOR ARONOFF: Yes, I do. I'm sympathetic
with the restrictions, but I'm not sure that there aren't
certain instances— Would you feel that a drug addict,
a person who let's say on more than one occasion— Let's
make the case he has been rehabilitated but then a second
time it occurred, which is not an unusual situation, by the
way, I think you'll agree. Let's suppose that that person
applied to be a transatlantic pilot in which the lives of a
hundred people every X days would be involved. Do you
think under those circumstances at all that the fact that
this person had been an addict on more than one occasion
would be pertinent information that the people that are
hiring should know -- whether safety of a hundred other people
should depend on it?

MR. MIGHTY: The question to me is— You see, if he's going to be a pilot in the transatlantic, and let's
say he's a very good pilot, he had been a pilot, it would
appear then he has the professional qualifications. I
think what you're questioning now is the possibility he
might go back to taking drugs. I would be more concerned
with him transporting.

You see, for that information, I might be
looking at that information, you know, expecting he might
be transporting drugs as opposed to him taking drugs as a
person.

    And I don't believe in the times--- You're speaking of recurrences. There might be. I'd have to deal with the time between the last time he went back to drugs and the time I'm considering him for any job. And this is for any job. Length of time between the occurrences.

    You're saying should that information be recorded? And I be permitted to have that as an employer? I would prefer not to have it as an employer. That's my position. Because just to worry about one man or a few people who might be addicts or might be alcoholic-- Nobody ever thinks, you know-- Or what have you. I think it's essentially punishing more people than people you might catch.

    In the military we call it mass punishment, and we did away with it when I got out. I don't know if it came back into being. But it brings to mind the 100 black men who were mass discharged dishonorably from the service in nineteen-something, and after almost 50 years the Defense Department stated they're sorry, they made a mistake.

    So, you see, I'm very biased in that respect, Senator, so I might not be a good witness for you.

MR. MARTIN: Dr. Impara.

DR. IMPARA: No, he answered the question. Do
you want to make the determination or do you want the military to make the determination of whether or not to send you the information? And you answered that. You said in this particular case you'd rather not have the information.

MR. MARTIN: Professor Weizenbaum?

PROFESSOR WEIZENBAUM: The question by Senator Aronoff brings to mind a theme that I think has run throughout the testimony and the questioning. This is the question about the transatlantic pilot. I have the strong impression -- I'm sure it's correct -- that the people we have been talking about both this morning in welfare when we were talking about welfare and then later on and again now are not people who are likely to apply to be transatlantic pilots. Quite the contrary. They are people who are trying to get back into the stream of life very likely very near the bottom.

And the people who may have a chance to get back into the civilian stream somewhere other than the bottom probably don't need our help very much. They may, but they probably don't need our help as much as the people I think we're talking about.

And what this suggests in terms of practical measures that might be taken is that it may be useful if an employer who requests information from another employer or from the Department of Defense or from the
Social Security Administration or from whoever should perhaps have an obligation to indicate to that agency why that particular information is necessary -- that is, what hinges on it.

So that if a young man who is just out of the service is asking for a job as a clerk in a department store, say, then even if it turned out that he has a record of addiction and that there is some likelihood that he might become addicted again, nevertheless, the loss suffered by society or by the department store itself would be very minor compared to the kinds of social losses that you are now talking about where a whole population is subjected to all sorts of indignities and the denial of basic rights, and so on and so forth.

So the fundamental suggestion is that perhaps there is the need for some sort of demonstration on the part of the employer of need to know which is balanced against the risks that he might run if he were to hire this person.

The other thing that comes to mind here, although this is right off the top of my head, is that perhaps there ought to be some sort of insurance program so that if Macy's, say, is willing to hire a man without asking any questions of the Department of Defense -- all it knows is that he was in fact a soldier and doesn't even look at his
discharge -- if that turns out badly, perhaps the Government should have an obligation, being that this man is a veteran, to help Macy's out if Macy's can demonstrate that they suffered a loss on account of him.

Perhaps there ought to be some sort of insurance program analogous in some vague ways to, say, the G.I. Bill of Rights in earlier days.

MR. MIGHTY: I would just like to make two observations. You said that it appears to you the people we have been talking about mostly are individuals who are most likely not to apply for a job as a transatlantic pilot. You see, the thing about it, in our thing when we're talking about veterans, blacks, Spanish speaking, Indians, and this sort of thing, we do have men who will apply, who have the qualifications to apply.

I don't want this panel to believe that we are talking about all drug addicts or talking about all people who are below high school.

You see, the most brutal thing to me I have ever had to do in my job was when I had to help place a black Air Force surgeon who was a surgeon for the entire Mediterranean area in the Air Force for 4 years. I had to place him in New York City.

You know, this was a time and still a time when doctors were scarce. He was a tremendous individual. The
hospital that he did his internship at, which is Flower
Fifth Avenue, New York, incidentally, they wouldn't touch
him. This sort of thing.

So there wasn't anything wrong with him. He had
nothing in his record that was bad -- except he was black --
and, of course, that's not bad any more. But in those days
it was. This was like 4 years ago.

So we deal with-- You know, it cuts across the
thing. But all suffer. There's a commonality of persecu-
tion and prosecution that I have known about myself and
find.

And we all-- When I say "we all," many black
people feel this way. Based on my observations, talking
of hundreds of thousands of people, previously, that is, not
only this thing but doing my thing. And so what I'm
talking about-- I'm also saying though that the fact that
black people are bothered by this reminds me of Edgar Allen
Poe's "Masque of the Red Death," you know. When that plague
was in the valley nobody worried about it -- until the
plague got out of the valley.

It also brings to my mind the drug problems. I
get all sorts of things. I think I'm becoming intellectual.
(Laughter) I get all sorts of things going here. But
there was no problem about addiction at all, you know, in the
outer society until certain Congressmen's and Senators'
and probably Presidents' sons and daughters started shooting
up, this sort of thing, and then, you know, it's a big
problem.

Bear in mind that many veterans are not addicted. Many veterans don't have this sort of information in their record. But what I'm saying, on the medical record—See, keep in mind I'm talking about a medical record where a doctor might say, "This bone formation, the prognosis here is blah-blah-blah," and he writes this down. I'm not talking about any of the social diseases, incidentally.

He might say, well, you know, "He might suffer from blah-blah which in 10 years might be so and so."
An employer gets this information — that's what I'm talking about — from the medical record. Not addiction at all in that instance, if you follow me. And he is not employed.

PROFESSOR WEIZENBAUM: What I'm suggesting is that the employer should perhaps have to demonstrate to the Department of Defense that he actually needs that information.

MR. MIGHTY: I would be inclined— I'll have to get— It sounds so far it might be something that I would probably if it's— You know, that's reasonable so far. What you're saying, if the employer can demonstrate that he needs it or if he doesn't need it take him and if something happens then the Federal Government picks up the tab.
That's one aspect I heard you mention. Or, secondly, he demonstrates he needs it for a specific purpose.

PROFESSOR WEIZENBAUM: If it is in fact a transatlantic pilot they're trying to hire, then I think they can demonstrate to the Government they want this man's flying record, ophthalmology record. I understand at the moment they simply get it. They say, "Give me what you have on this man."

What I'm suggesting is that there ought to be legitimate reasons such that when a prospective employer asks for the record of a man, whether he's black or white, or transatlantic pilot or addict or not, whatever, you know, that the Government, the Department of Defense, doesn't simply give it to the employer because the employer asks but that the prospective employer may have a positive obligation to first demonstrate his need to know that particular piece of information.

MR. MIGHTY: I'm also saying I'm not too sure that the Defense Department gives information to anybody without the consent of the individual.

PROFESSOR WEIZENBAUM: But you have already said that if the man is told, "Okay, we think we'll give you the job but you must sign this consent agreement," that he'll sign.

MR. MIGHTY: I'm also saying that maybe that
individual should get a chance to see it before he turns it over to the employer. He might decide, "Well, hell, I don't want him to have this," and forget the job. That's really what I'm saying.

MR. MARTIN: Mr. Davey?

MR. DAVEY: You just raised a question that I wanted to ask, and that is: Does the individual have a chance to know what is in his record? Does he have a friend at court, so to speak, who can say, "Look, if this record goes out" --

MR. MIGHTY: He doesn't. That's my point.

MR. DAVEY: He doesn't have any opportunity whatsoever to see this?

MR. MIGHTY: He might have an opportunity. Let me answer this clearly. An "opportunity." You know, the word bothers me. I have an opportunity to see what is in my medical record if I'm going from one doctor to another on the installation. I'm going to sneak in the latrine and read it. You know, I'm going to take a peek. But you'd be surprised how honest people are. I don't know why. Very few people do this. (Laughter) Sometimes we tear things out of the record. You know. If you have been there long enough you get smart. But a lot of guys with 2 or 3 years, they don't do it. They walk around there with this damn thing which could
condemn them for life.

MR. MARTIN: Mrs. Gaynor?

MRS. GAYNOR: To go back to the point really about the employer requesting medical information, there's something a little here that bothers me. For instance, if it's even with the Federal Government for a position like that and there is a prerequisite really for coming on a job to do a preemployment physical, what the heck do they need all that other medical information for? If they're examining a person, they would know if that person is a drug addict.

I don't understand why they need it. Because what you're doing is really stigmatizing in a sense a person and you're not even given a chance. You're really not following through on the mechanisms that you have set up in a sense to screen and do preemployment.

So what you're really doing is carrying over something like he said maybe for 2 or 3 years. You're not giving the person a chance to say he has been rehabilitated or maybe in a sense he never was a drug addict. Maybe he was an alcoholic and maybe at that point in time somebody decided, "Hell, maybe it is drugs or alcoholic or something. Maybe it's one or the other."

The whole thing of that kind kind of disturbs me in a sense that I don't understand why they keep
MR. MIGHTY: Let me give some of the reasons that have been given to me by companies. I know three companies, three of them we are moving into new relationships. I won't mention the names here.

One of the reasons, the doctor who has been there for a long time-- And I said yesterday that we don't speak with God, you know -- and live anyway. Even personnel people can't talk to him. Once he turns down an individual that's it. He gets the medical record. He spent several years in the Army Medical Corps. What they're looking for is not even drugs. Veterans who might have been wounded and the shrapnel or the projectile might have gone through certain bones, nerve things. And on the surface it would appear that the guy is all right but maybe 5 years from now, that's what this joker is concerned about, that something is going to happen so he can't drive those trucks any more.

This is not drugs at all that I'm making reference to. This is just-- Or a broken leg in a football game or a kneecap injury football players get.

MRS. GAYNOR: I didn't really mean just drugs per se. I'm saying why would they request medical information?

MR. MIGHTY: That's his reasoning.

MRS. GAYNOR: That's not true.
MRS. HARDAWAY: Not all companies though are set up for preemployment physical exams. Many small companies.

MR. MIGHTY: This one I'm talking about has a doctor on the premises.

MRS. GAYNOR: I know not all of them, but I'm saying in the area where he was dealing and that he had mentioned that the doctor was requesting this information, I just couldn't understand why.

MRS. HARDAWAY: But --

MRS. GAYNOR: When I say I don't understand, it means I do understand but I don't. (Laughter)

MRS. HARDAWAY: I think we ought to make clear that many employers, the personnel people that you are speaking of, do ask for it and get it as they say and they do not have their own preemployment physical setup.

MR. GARCIA: Boeing Aircraft Company in the Seattle area, they do require it.

MRS. HARDAWAY: I'm not defending that. I'm saying many small companies are not set up for pre-physicals.

MR. MIGHTY: But to make a comment on your statement there, if you are not set up for pre-physical, then I don't really see unless you're looking for chronic sorts of situations, why would you need a man's past medical history? You know. And you don't do this for civilians.
See, there's a different discrimination. I was waiting for somebody to raise that. No one has raised this yet. I was waiting to see who would grab this and run with the ball. There's a discrimination against the veteran.

Nobody asks the private—I know because my agency deals with all sorts of people. They don't ask them to bring their doctor's records from their private doctor or from the clinic at all. Only the veterans.

So this is definitely discrimination against veterans, and this is not only black veterans, incidentally.

MR. MARTIN: I'm going to suggest we recess for 5 minutes for coffee.

(Whereupon, a recess was taken.)

MR. MARTIN: Our next two speakers are Gordon Manser, Associate Director of the National Assembly for Social Policy and Development, and Eloise Waite, National Director for Services to Military Families of the American Red Cross, who serves also as chairman of a Committee on Confidentiality which has been created by the National Assembly for Social Policy and Development to address its concerns and the concerns of its constituent organizations about confidentiality of records regarding, as I understand it, individuals who are beneficiaries or recipients of social services, social welfare services, largely in the
MR. MANSER: That is correct. And we thank you very much for the opportunity to meet with you.

Perhaps a word about the National Assembly before we begin. It is an association of national organizations in the social welfare field with a constituency of about 65 national organizations, most of which you would recognize, such as the American Red Cross which Mrs. Waite happens to represent, YM and YWCA, Family Service, Child Welfare League, and many others which are concerned in the broad field of individual services.

Consequently, when we speak with respect to the concerns of these organizations as we do this afternoon, we are speaking about concerns which cover a very wide range of services to children, to aged persons, family counseling, services in the field of corrections, psychiatric and medical social services, services under sectarian auspices, and services to military personnel.

I said we were going to attempt to reflect the concerns of our organization and its constituents. Our Committee on Confidentiality, of which Mrs. Waite is the chairman, is in the middle of its inquiry into this problem at the present time so we do not have conclusions, we do not have recommendations, but certainly we do have from a survey which has been made of our organizations what can be
called a drift of thinking of these organizations as this problem impinges on them.

I think it has been said first that these organizations in giving direct services to people are motivated by certain values and principles which I will mention very briefly.

One is a respect for the integrity of people and for people's right to maximum possible feasible control in those decisions which affect their lives.

Out of those values arise principles which are inherent in the relationship between any social worker and his client, one of mutual trust which contains within it the implied or stated consent by the client as a prerequisite to the use of information beyond the immediate purpose for which it is given, and, secondly, responsibility on the part of the agency not only to serve the client but to be responsive to the community from which it derives its mandate and from which it derives its support.

And I think recent developments have suggested that these two responsibilities, one to the persons served and one to the community of which the organization is a part, have tended to sharpen inherent conflict in values which has come to surround this particular subject.

Let me comment just briefly on some recent developments within the field which touch on this subject.
But first a brief word of history.

As many of you probably know, many communities had for a period of about 25 to 35 or perhaps 50 years a mechanism which was known as the Social Service Exchange, which, in effect, was a manual data bank in which most agencies participated. It started during the advent of public responsibility in the field of public assistance and public welfare, and its primary purpose was to avoid duplication, both intentional and unintentional, on the part of persons receiving assistance.

I think the Social Service Exchange proved to be much less successful in eliminating duplication of services. For one thing, a good social worker could get most of the information which she needed directly from the client, and information in the manually-maintained files of the Exchange often proved old and outdated when it was received.

Then, too, I think the question of duplication of services depends-- Rather, whether it is good or bad depends on how one chooses to define duplication of services. The fact that the same service might exist under public or proprietary or private auspices might appear at first glance to be duplication, but, in fact, it is not because it affords choice of service to the recipient about where he may choose to receive service.
Most of the clients are unlikely to receive the same service from two organizations.

But to move to some of the current forces which are producing and I think highlighting this conflict in values I mentioned earlier, I'd like to refer to two or three.

The first is the great increase in the last 2 or 3 years of the use of voluntary organizations by governmental agencies to carry out public purposes usually through a purchase of service contract.

Now, as these are applied to the social welfare field, I think at this point in time one would have to say that they contain an inherent problem because they are based on a philosophy of service which places emphasis upon goal orientation, which places emphasis upon monitoring, and which in turn places emphasis on the question of effectiveness of service.

The problem at the present time is that there are no measurements which are accepted in the common domain as far as the measurement of effectiveness of service is concerned.

Thus, the voluntary organization which finds itself a party to a contract for the purchase of service finds itself in the position of supplying perhaps irrelevant more and more information in an effort to
satisfy persons at the other end of the contractual arrange-
ment who are concerned with cost-benefits.

So that I think at this particular point in
time there is this particular hazard.

Now, this has produced, beyond the direct agency
contractual relationship and the problem that is inherent
there in supplying information, and the potential use or
misuse of this information, two other new elements. One
is a great deal of pressure on the part of organizations as
such to compromise with respect to what information shall
be supplied and to whom it shall be supplied. And let me
give you a concrete example.

Agency A in Community B, which doesn't need to
be named at this point. Here is a voluntary agency which
is having a great deal of difficulty balancing revenue and
expenses. Contracts are available from governmental
agencies for this voluntary agency.

The United Fund, which is responsible for
supplying that agency's deficit, is putting a great deal
of pressure on that agency to accept a contract.

But one of the conditions of the contract is that
the information with respect to cases served by the
voluntary agency should be provided the public agency and,
in turn, should go into a State central computer data bank.

Now, what the voluntary agency finds as they pursue
this question is that there are no regulations with respect
to confidentiality, no definition of confidentiality, and
the announced interface of this central Statewide data bank
with other systems within the State suggests beyond any
question that there could be no preservation of the con-
fidentiality which the voluntary agency itself feels is
essential to the provision of its own service.

One agency in particular has responded in this
way, and I think it expresses this conflict in values
as well as anything else:

"We may have to sacrifice a little confi-
dentiality in exchange for funds to serve hundreds of
families who would not otherwise be served."

I do not at this point know what the solution
to that kind of a problem is, but I cite it as one example
to reflect and represent many which have come to our
attention.

Now, in addition to the pressures which are
placed on agencies, there are also pressures on staff.
And again I would like to refer to a specific situation in
which in one State workers have been instructed by
their State department to release information they regard
as confidential into a computerized central data file.

Two workers have taken this matter to court
because of the sanctions which presumably may be imposed
against them.

And again I think this particular case is suggestive and illustrative of the kind of problem which the field is facing and which will increasingly be faced in the future.

In the brief which was presented to the lower court, the staff said, these two case workers said, "To release this information would invade the clients' privacy and subject them, the workers, to civil and criminal liability as well as violating their professional ethics."

The information which they chose to withhold had to do with psychiatric assessments, with the nature of mental disability, with legal or illegal use of drugs, was concerned with the history or criminal or sex offenses and out-of-wedlock pregnancies and mental retardation.

Now, in the brief which was filed with the lower court, these problems were specifically mentioned. They are mentioned as problems, but, conversely, they may be regarded perhaps as solutions:

That there was no assurance of confidentiality within the system.

There was no definition of those persons having access to the material which was placed in the central file.

There were no rules or regulations governing
access.

There were no means of identifying those who may be given access.

There was no means of informing the social worker or the client of the use which would be made of the material.

And there were no limitations as to the use of the material in respect to other similar systems.

There are two other things I would like to mention if I may. One is that in the whole area of accountability to its public, the voluntary sector has in one respect made very substantial strides in the past few years, and that has been the development by the National Health Council and my own organization of uniform standards of accounting and reporting for voluntary organizations.

These standards, as we call them, in brief provide for full disclosure to the contributing public, provide for comparability of information to the public, and provide for full accounting of revenue received and disbursed.

One other force which I would like to mention which I think has tended to complicate this whole situation for voluntary organizations, of course, is the increased use of paraprofessionals in the direct rendering of
service. The paraprofessional, of course, has access to
the same information that the professional has access to,
but the problem arises because in many States where the
relationship of the professional social worker to his or her
client is protected by law, the relationship of the
paraprofessional to the client is not so protected.

In our examination of this, we have raised the
question of whether this is indeed a class concern rather
than a concern which is one applicable to the general
public.

Is there a difference or is there not a differ-
ence between confidentiality in respect to public mental
health services, for example, and that kind of information
which is given within the office of a private psychiatrist?

Is there or is there not a difference between
persons who come to a private agency who are able to
pay for the full cost of the service and those persons
who come to a private agency who can pay none of the cost?

And do they treat them differently?

And is there not a difference at the present
time in the attitudes of clients themselves?

Our judgment would be that there is a different
climate at the present time than there used to be 5 or 10
years ago, and I'm sure all of us as citizens have perceived
this. Hot line programs, Alcoholics Anonymous, encounter
groups, Synanon, out-of-wedlock pregnancies which are common and public information now all seem to reflect more a willingness on the part of people being served to have their experience shared within some limitations if not in the public domain itself.

And finally I would have to say that the issue may be one of the difference in view on the part of older and newer social workers. I don't know. Certainly some of the people who deliver service today, street workers, indigenous workers, are saying to us, "Let's deliver the service as a first priority and stop this pompous posing around with files and with the ethics with which you are presumably concerned."

It may well be that they're right. But again I cite it only to say that it is one in which there is a serious conflict of values in the judgment of those of us who must make these decisions and in which we do not at the moment have guidelines for practice.

Now, may I suggest that Mrs. Waite tell you exactly what our committee is doing and some of our specific findings from the organizations concerned.

MRS. WAITE: I was asked to talk about three topics. The first one is: What were the considerations that led to the establishment of the National Assembly committee? The consideration was something that happened
in my office in National Red Cross Headquarters here in town.

A chapter called in and said that the community council in their location was starting a data collection project to inform the community of where the contributors' money was going and who was being served, and they were requesting that all participating agencies furnish the addresses, the social security numbers, the employer's names of all the people they served.

And he said, "What should I do about this?"

And I said, "Tell them nothing doing, that you won't give them this information."

I suggested that it be provided by census tracts, that there is certainly nothing wrong with providing information that universalized the client population served and the services that were given, but that anybody with any enterprise at all could get the criss-cross directory or call the employer and find out quickly who the people were even though the names were not being submitted.

But to be of additional help I sat down and wrote some things that I thought might give him ammunition when he was talking about this locally and also to provide a background for a position paper that we were going to send to all of our 3,300 affiliates, and I will read part of the memo that I wrote to him.
Both public and voluntary agencies have a responsibility to report to the community on the nature and effectiveness of their programs and to account for funds spent. It is especially important that voluntary agencies do this effectively because they are solely dependent on contributed money, and there is need to broaden the base of community participation.

The problem becomes what kind and amount of information should be shared with the public, the decision being whether the good of the community takes precedence over the good of the individual.

Problems arise when one agency by agreement gathers information for another. Here the risk is that the gathering agency may not restrict use of the information to the purpose for which it was furnished.

The community council properly states that data will be safeguarded in a locked file, access to which will be limited to the coordinator or authorized data clerks. In such an ambitious undertaking as this appears to be, it can be expected that agency case information will be seen by a variety of clerical persons as well as by supervisors, consultants and other staff whose participation is needed in compiling and analyzing the data.

One has also to keep in mind the high rate of staff turnover in social agencies and the fact that many
may work in this project in its lifetime.

Additionally, with increased pressure on agencies to hire indigenous workers, the people who work in this project may well find themselves to be part of the data collected.

The motives of the council may be entirely pure and their professional integrity impeccable collectively and right now, but this information agencies are being asked to give is heady stuff and can be used in all sorts of unacceptable ways by unscrupulous individuals in collusion with unscrupulous agencies, business or organizations, including law enforcement.

It should also be remembered that some of the agencies in the community council are unconventional in terms of professional posture and business methods. Today's law and order climate and hostility toward the poor and deprived should make us especially careful to protect the privacy and liberty of our clients.

My suggestion then is to give the information but by census tracts and not by a means that could be checked with the criss-cross directory or with a telephone call.

Well, following this encounter, I called up the National Assembly and suggested that this book which has been our guide since 1958 might need to be reviewed and that we should have a committee to look at it and see if there
is need to add a chapter on data collection for computerized data systems.

So this committee was formed, and I became the chairman because I made the suggestion, needless to say.

The next question I was asked is: What were the results of the sampling?

We sent out a very simple five-point questionnaire and said to the agencies, "Just fill this in in narrative form or check off." And we didn't want to make a big project of it because we wanted to get it back quite quickly, but we wanted to sort of see if there were more than a few agencies we knew about who were concerned about this problem.

So the results of the sampling I will just tell you briefly.

There was far from common-- And this is several hundred samples that came back from the agencies that belonged to the National Assembly. We got from Red Cross about 75 from our own constituency. There was far from common agreement among social agencies on what is meant by confidentiality, although everyone is for it, like God and motherhood.

And the second is that there is a feeling that data banks have a potential for assembling a dossier on individuals, on everyone, not just clients.
Social agencies may stand to lose both support and services unless some compromise is possible which shares information and offers protection.

And the agency that has the commitment to confidentiality for its clients will pay personal attention to safeguarding it. The further the information goes from the agency, the more depersonalization and dilution of confidentiality there will be.

The responses reflected concerns about voluntary agency functioning and funding. Are they going to survive and still do business the way we think is the best for our clients?

And the second response reflected a concern about business and money management and the procurement of money and the aspects of client identification in doing this.

Well, to discuss now the voluntary agency functioning and funding, there is the very practical aspect, as Mr. Manser said, of community support. The community really needs to know who is being served, where they are, and how they are being served.

There is press and media pressure also. The press wants to know what is going on in the community.

Well, on one hand, this offers a very fine opportunity to tell the agency story about what is going on, and it also offers agencies opportunities to correct
misconceptions or misstatements about what is happening at
the agency and what the agency does.

We are seeing more and more client interest in
sharing stories. We find much to our surprise that many
people who have serious problems, whether they are act of God
problems or problems they got themselves into by their own
misdoings, are eager to tell people about them.

And I guess probably what we are seeing on radio
and TV supports this. People get on and tell their most
confidential secrets right over the air.

So we have come to wonder whose the problem is
about the feelings of confidentiality. Is it really the
client's or is it the worker's? And there's a variety of
opinions about this. But an amazing number of clients don't
mind telling what is being done for them and what their
problems are.

The business and money management aspects of
client identification. The public does have a right to
know where the tax or contributed dollars go and to whom
they are going to help.

Then there is agency accountability. When
we have a contract for service or when we are getting
money from the United Fund, we do have a responsibility to
produce a businesslike operation, and one does have to
produce some facts to prove this, especially contractual
agreements with government agencies or foundations. These people who are giving money need to know if obligations are being fulfilled, if terms of contracts are being fulfilled.

Also, what happens to a group of clients who need certain services? Are they going to be deprived of these services if we don't give information about what we are doing and whom we are serving? Are we going to be depriving clients of services they need?

We have also to think about research projects and the information that is needed for them. What are the needs of transients? What are the needs of migrant workers and minorities? Social agencies are getting lots of requests for information about people that they serve who have special needs. And also we are getting a lot of pressure from the government about compliance with the Civil Rights Act. And we have to be very certain that we know all about the minority groups and the disadvantaged groups that we are serving.

The third question that I was asked to comment on is the suggestions for preventing misuse of confidentiality. Mr. Manser said that our committee has not concluded its deliberations, so I can't speak for the committee, but these are some of the things we have discussed in our meetings and some of the things that I have thought about and discussed with my colleagues in Red Cross.
We have suggested in our letter to our chapters that the person who is being asked to furnish information be sure that the information requested is germane to the need and that it is a legal request.

When we ask a client to release information are we sure that he really understands what he is releasing?

What happens to the services for the client if the information is not forthcoming that we are asking him to release?

Is he going to be all of a sudden sitting on the front stoop with no services because he did not want to give the information?

Can we within the agency change our recording procedures to protect clients?

Now, many case workers, especially beginning ones, get much more information than they need to from the clients. I think they get swept away by curiosity and just intrigued by things that happen to people, and they get all sorts of stuff in the record that doesn't really relate to the presenting problem.

We say, "Stop this practice as much as you possibly can. Record briefly. And if you have to put down things that should not meet the public gaze, put them on a record in your righthand desk drawer but don't have them in the official agency record."
When an agency is asked to provide information, we feel that there should be a formal contract. How is the information to be used? How is it to be protected? How long is it going to be needed?

And that should be an agreement between the receiving agency and the giving agency. This gives the giving agency a basis for contracting with clients to provide the information and to obtain direct permission rather than implied permission. Everybody is on solid ground. The agency knows what they are in for. The client knows what the information is going to be used for, and he knows what the ramifications of his consent are.

I will conclude by saying that there is a need for basic standards that will guide individuals who have to make decisions that will cover appropriate client protection.

MR. MARTIN: Do the members have any questions for Mrs. Waite or Mr. Manser?

Mr. Dobbs.

MR. DOBBS: My question really relates back not only to some comments that we have just heard but it also covers something that Mr. Garcia pointed out, and that is that in his situation and in the situation that I hear described here, the consumers of service furnish information essentially under coercion of some kind from their point of
That is to say, in Mr. Garcia's case the returning veteran needs the job and so he signs the release, gives certain information because of the straits that he is in. And I suspect certain consumers and certain clients in the agencies which you represent do the same thing.

The thing that is sort of disturbing that I heard in both Mr. Garcia's comments and in your comments is that the agencies are finding themselves under that same kind of economic coercion, that somebody is telling them, "If in fact you don't collect certain kinds of information we aren't going to give you any money," and they find themselves in much the same position as the guy out on the end of the chain.

And, you know, I guess the question is who is it up there-- It's like a circular kind of responsibility, and we have been having trouble trying to find out who it is up there that in fact has such a vital need for this kind of information that this kind of economic coercion which seems to be pervasive at least to me in some of the discussion we have heard, you know, seems to filter down and-- It's sort of a commentary, but maybe you can see the kind of question I'm asking and driving at. Do you have any comment?

MR. MANSER: I might comment -- and I'm sure Mrs. Waite would like to -- that when you link a purchase of
service program with a cost-benefit philosophy and in turn link that to a central data system, you have all the elements of coercion present if the organization in effect, the private organization in effect, desperately needs money.

And most private organizations today desperately need money for a variety of reasons which are probably not germane to this inquiry.

The case which I cited as an example is one in which there was an extremely high rate of unemployment in the community. The voluntary agency there was virtually at a point of dissolution because of its own problem. So that the pressure on it to participate in a purchase program was almost irresistible.

At the same time they took the view that they would not because of the hazards which were involved in the unrestricted use of information given under the purchase program into a central data bank.

So indeed I think the point is very well taken.

MRS. WAITE: I agree with this, but I certainly can see the practical aspects because when you are using taxpayers' money, really there is more and more pressure on agencies to justify expenditures, and I just can't see how it can be otherwise than they'd want to know who is being served and what is being done to help them.

MR. DOBBS: The question is whether that
justification is in fact being demanded by the taxpayer or whether in fact there is a bureaucracy which we have established which is trying to make some sort of interpretation of what it thinks is expected and that has built an institution which survives just because it perceives a need to collect data for financial control, you know, etc., etc.

And I have no way of knowing, but I get a deep feeling that a lot of this information which is being collected in the name of program evaluation and in the name of financial accountability is, in fact, not really looked at very carefully and, in fact, from the viewpoint of the average taxpayer is really not clearly understood.

So that argument to me in terms of the taxpayer knowing where his money is going seems to me to not be very solid.

MR. MANSER: One reason I mentioned this uniform standard of accounting was because it was deliberately an effort to be able to respond to a very legitimate demand of the public's that voluntary agencies disclose all of their revenue and all of their assets, that they account for the money that they spend for administration, that they account for the money they spend for fund raising, and they account for the money which they spend for service.
The problem probably arises not with the objectives of persons who have a perfectly legitimate interest in what the cost-benefit of social services is, but in the fact that we simply don't have the instruments at this point in time to do it. And we cannot achieve it except on some kind of a very superficial level.

But I think it is a fact -- and I think events in the recent session of Congress proved beyond doubt -- that social services have come under very sharp attack, that certainly the revenue sharing bill with its closed end on appropriations will produce very high competition in local communities among organizations both public and voluntary for the money which actually is available.

So that if you look toward the future I think there is no doubt but what there will be increasing emphasis on effectiveness and on cost-benefit. And, again, this is a perfectly legitimate objective. Our only problem is we do not have the means of measurement at this particular point in time.

MR. DOBBS: I guess just to follow up that particular line of thought -- again this is looking at the future -- as you see revenue sharing becoming a reality in which a good deal of funding process which is now centralized here gets dispersed to local governments without at least in principle the kind of strings that it
currently has, which says now that the local agencies presumably have a kind of accountability that is local rather than accountability back here in terms of detailed program operation, do you see any change in the way in which information may be handled and may be used as a result of that?

You know, I guess the best or the worst thing that one could imagine is, for example, suppose all of the current HEW requirements on the kind of programs it serves in terms of information which is reported into it as a central funding agency were no longer required for its management purposes in the same way and we now look at similar kinds of programs being funded out of revenue sharing money, at the local level. Would you envision the requirement for the same kind of information collection?

MR. MANSER: Well, I think that might vary a great deal. I would be more concerned I think myself, looking a fairly long way down the road, about the absence of standards which HEW has insisted upon both by law and also through their own rules and regulations for their own standards with respect to quality of service, their own standards with respect to universality of services within the States.

Those are the things that I think would be possibly most seriously lost if services were to be
administered entirely locally.

MR. MARTIN: Could I go back to Mr. Dobbs' first question, Mr. Manser, and ask you if you can say who you mean when you say "the public's interest" in knowing how effectively it is used. What persons, hat "public" are you alluding to from your position?

MR. MANSER: I think we tend to think of -- to use the word "public" kind of generically, but I think we probably mean at least three or four different specifically identifiable groups.

One would be those people who are responsible for management of the voluntary enterprise. By that I mean board members, advisory committee members, people who are actively and responsibly concerned. And there are thousands and thousands of these people, of course, throughout the country.

Secondly, we would be thinking about those many persons who contribute to the support of the voluntary enterprise.

And in the sense that a very large percentage of the voluntary enterprise is supported by United Fund campaigns in local communities, you almost transpose from that the concept that the entire community, in effect, all the people in the community, in effect, could be included within that.
Since an effort is made to raise funds from everyone in the community, I should say you transpose from that the concept that everyone is your community. But I would limit that to people who are actual contributors.

And, of course, again through the medium of the united appeal and united campaigning you do bring again thousands of persons into that kind of a special community.

Then, lastly, I think I would say those persons who themselves are served would be another person to whom agencies have again the same character of responsibility that they have to contributors and to persons concerned with management.

MR. MARTIN: That as I hear it is a kind of answer of who might legitimately have an interest, but I was reaching for -- I thought it was what Mr. Dobbs was reaching for -- who in fact is wanting to know? Where does the pressure come from?

Mr. Dobbs suggested two sort of possible alternatives. Is it the public or is it the "bureaucracy," well motivated perhaps, rationally motivated surely, in fact not in theory -- you know, what makes sense to say -- but how in fact do you perceive it factually, if you do? And you may not.

MR. MANSER: Just to speak first to the issue 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.
MR. MARTIN: Professor Weizenbaum.

PROFESSOR WEIZENBAUM: You're having quite a difficulty answering this question, and I think I see why. Nothing personal. I think it's a difficult question to answer.

You mentioned a number of people who want to know. The boards want to know. But if you were to go to those boards and ask them, "Why do you want to know?" each would say, "Because I am going to tell someone else who wants to know."

Then you get into the kind of circle we have been trying to explore here. It seems to me the basic problem is contained in what you repeated many times, both of you. You talked about the obviously legitimate need to run a businesslike affair. It's in that business ethic, the legitimacy of it, and so on and so forth.

I find an enormous contrast between everything that you have said, much of which I want to applaud -- for example, the letter that you wrote I think was extremely good -- but just the contrast in the language that is used, for example, you know, between you two (to Mr. Manser and Mrs. Waite) and you two (to Mr. Mighty and Mr. Garcia).

I want to just say another word about this business aspect. You know, it seems obvious to people
who were brought up as most of us were that, of course, one has to run a businesslike affair and there has to be accounting and all that sort of thing. It's perfectly obvious.

But it's too obvious. It needs to be questioned. I think if we take a look at programs, for example, that the Red Cross has administered under extreme emergency conditions where nobody asks for an accounting and everybody works anyway— If we look at the ongoing program, for example, not that I know very much about it personally, but as I read it, such as, for example, the Black Panthers put on with respect to distributing breakfasts, say, where there is an enormous amount of local control, there it seems to be unnecessary to run it in a businesslike way.

MR. MARTIN: And it works.

PROFESSOR WEIZENBAUM: And it works. Okay.

So I think there is really something here about some very fundamental, deeply internalized ethics and values which even under the pressure we are under right this moment we don't dare question but I think which have to be questioned.

I don't claim to know any answers. I say there are some important questions we have to ask in this direction.

MR. GARCIA: One of the important questions or
comments that should be made in relationship to what has been said is that as we force ourselves or are forced to perfect our systems or strive to perfect our systems in an efficient manner to continue operating, we get more concerned and caught up in becoming self-serving rather than serving people.

You know, I think that's the big point that has to be brought out.

Again it goes back to the question of efficiency versus personal privacy or rights or whatever you want to call it.

And look what has happened to many good poverty programs, community action programs, etc. From the inception, you know, they were almost made to fail because they settled down to do some good things in the community, and many occasions they did, but once they got the people going, then the pressures and demands grew upon the community people running those community programs to perfect their systems, not only perfect them but force them to become self-serving rather than serving their clients they were supposed to be advocating for.

MR. MIGHTY: I have a question. I'm confused sitting back here. I don't know if they are saying they are being asked to give an accounting for money spent or given out or they are being asked to give information pertinent to
the clients being serviced.

For some reason I have got to hear that they are saying X, Y, Z company or the U. S. Government gives a certain amount of monies to be spent over a period of time and the people are asking for an accounting how it was disbursed. That's what I seem to think they are saying.

Hopefully they are not saying they are giving information on Private Jones who the Red Cross might run some type of thing on for emergency leave through their funding source.

See, I'm not required to give information pertinent to all the 25,000 people in my files. I wouldn't give it anyway.

MR. DOBBS: But Mr. Garcia said specifically, "I have been asked for a certain kind of information, and if I don't give it I don't get the money."

MR. MIGHTY: I see. But I'm worried about the Red Cross. I have dealt with the Red Cross a number of years, and the Red Cross is a semi-governmental agency I would say, Federal-semi, some deep, almost incestuous relationship with the Federal Government.

And what I hear is: Are they saying, "We try to give information to somebody pertinent to the people being served"? That's what I'd be interested in.

MRS. WAITE: Now, I think a lot of this goes
back to the amount of money that there is to be raised in communities. There are more agencies developing, and there is just about a certain level of community giving that will prevail. More agencies are competing for money, and it is really important for agencies to interest the public in supporting them.

This was the attempt of the community council in this city -- was to say to the community, "We are serving so many people in the inner city because this is where the big emphasis in agency programs has been among the deprived, the disadvantaged, inner city residents. So we want to know who these people are you are serving and what you are doing for them because this will depend upon what kind of funding you are going to get from our collective fund-raising effort."

This then becomes a matter of agency survival.

Now, this is fine if the information that is given is universalized so we can say, "Yes, we gave in census tract 10 services to so many people, so many unwed mothers, so many people who were sick, so many people who needed emergency leaves."

But we don't really want to identify who these people were by social security number, by employer, so they can be tracked down.

Now, I don't know-- I would assume that they
wouldn't be tracked down. I would hope that the information
would remain confidential if we did give out the name, rank
and serial number. But this is not a safe assumption.

I think that we have to be very careful. But
to tell what we did for them and where they live, nothing
wrong with this whatever, because this is information that
cannot be fastened on any one individual.

MR. MIGHTY: I think she answered the question.

MRS. WAITE: I haven't answered your question
(to Professor Weizenbaum) because it's a very hard one.

PROFESSOR WEIZENBAUM: Not really a question any-
way.

MR. MARTIN: Well, if there are no further ques-
tions for Mrs. Waite and Mr. Manser, Mr. Mighty and Mr.
Garcia, we will turn now to Kenneth Williams and his
colleagues from People Against National Identity Cards,
sometimes known as PANIC.

For the stenographer's benefit I will say that
Mr. Williams is seated on my right, Mary Drabik in the
center, and Brother Skip -- is that right?

MR. MATTHEWS: Norman Matthews for the record.

MR. MARTIN: Fine. Norman Matthews seated on
my left.

Mr. Williams, Miss Drabik, and Mr. Matthews are
from Cambridge, Massachusetts.
MR. WILLIAMS: First I'd like to briefly say in view of the way in which the elections went -- and you can understand that we are from Massachusetts -- we along with the people of Washington are right on. (Laughter)

DR. GALLATI: The only two civilized communities?

(Laughter)

MR. WILLIAMS: Right.

You know, listening today, there are several things that we will try to go ahead on and try to bring out to you.

And first of all, before you go off on any tangents -- because you have been sitting here all day, you know, and I'm looking at the clock myself, comfortable as the chairs are and everything else, but there are other things I'd like to get out and do to get my mind going, get off this whole kind of thing -- our struggle still continues. Our struggle to us is very, very serious.

What our struggle is about is about the future. It's about the future of our country. This is supposed to be our country. And this is the thing. This is primarily what we are concerned with.

And the future of this country lies with the youth -- not just those who are living today but we are talking in terms of those who are yet unborn. Because what is happening here, in fact, you're talking about a national
data system. Then you have to include population control in it.

And population control, just to try to institute at this point a serious note, was practiced during the second world war.

Now, I'll give you a little bit of my vital statistics so that maybe you can understand where Ken Williams' mind is coming from.

I was born on May 13, 1929. I did not finish high school. So if you want to consider me as being a dropout, that's perfectly all right.

I spent 5-1/2 years in the merchant marine after I allegedly dropped out of high school. The first place I went to off the West Coast was over to Japan. I have been to China. I have been to Korea. And when I went to Korea aboard the merchant marine it just so happens at that point in time that the only group in there at that time was a group called Korean Military Advisory Group. So you see what I was sailing for at that time was the United States Government out of San Francisco. It was called the Army Transportation Corps. And my Z number was 766667. So dig that one.

There was a remark made a while ago about fingerprints, and all of us have something to say because of the fact that what we are as PANIC people, we are
people who have come together-- At this point we are national in scope and international in idea. Because when it comes down to something such as a national data system, if anyone picked up last week's LONDON TIMES you would have understood that when it comes down to a national data bank all of Europe is in the same danger.

Over in England they are fighting the same problem -- okay? -- with the national data system.

The national data system that we are talking about here, if in fact we wanted to get any ideas, we could go over to West Germany because of the fact that was the originator of the whole system of a national data system as we see it today whereby every kid at the age of 15 is given an identity card, much less a social security number, and they are trying to revamp that.

Now, question was asked about bureaucracy, and I agree because of the fact that that is one of the things that we have had to study and to get down into. And the fact of the matter is that as we see it today, back in 1945 after the second world war the United States was at that point the victor in the world. Our country was the victor in the world. And to the victor goes the spoils, which meant that immediately after the war we had no intelligence network until General (Gayland) came over to this country to head up the CIA.
And in addition to that, as far as all the multinational corporations today, let's take a look at what is going on. And if in fact you can understand what is going on with the multinational corporations, and if in fact you can understand what is going on with these banks, and if in fact you can understand what is going on along with all these different mergers and everything like that, and if in fact you can understand the high price of food whereby you're getting less for the dollar, then you can understand that there is a legitimate concern, a concern which at this point the people from the urban communities as well as the outlying communities are in a state of panic.

But for some reason or other, people who have, you know, the job and this kind of thing, it does not affect them at this point in time.

In fact, whatever we have to say after this little opener let's say -- we're playing cards and these are openers -- then you can understand that for those who came here on airplanes and what not there is a very good reason to have a credit card.

For those who got off that airplane and went to Hertz and they put $50 down and they said, "I'd like to get a car," and the dude behind the thing there said, "I'm sorry, but you must show me some form of identification, something which is called positive identification,
something with a photograph on it and your social security number," and if you reached in your wallet and you pulled out that and you pocketed your money, your $50, then, okay, you would say there is nothing wrong with identity cards.

We coming here from Boston don't have that kind of money. We don't have credit cards. And since in fact this is the Health, Education, and Welfare Building, it would be awful good if we could try to get some bread of some kind to help us to go ahead on and, you know, keep us going.

This is kind of an appeal if you will, because of the fact that, as I am saying, for those on the panel, you know, it's like a nice little trip. You go to Washington. It's wholly enjoyable. But for us, I eat beans next week, with maybe fishcakes, but even Groton's fishcakes have gone up, the price of those.

There were remarks made today, and all of them are perhaps legitimate to assume, but what I want to speak about very briefly before my colleagues, my comrades, get into this thing is, first of all, are we talking about unique identifiers? Are we talking about universal identifiers?

Because if in fact we are talking about a universal identifier, then, naturally, we're talking about
some kind of a numbering system.

Whether this means, of course, putting a tattoo on a baby when the baby is born or putting a tattoo on somebody's arm or giving them an identity card with a number on it plugged into a computer-- And if, in fact, we are talking about a unique identifier, then let's go one little step further since in fact already it has been pointed out when the gentleman was sitting up here and he said three people had a social security number the same as he-- It was pointed out at that point that if in fact he had his fingerprints on that along with that, then there would be no mistake.

Well, it just so happens that when we are talking about unique identifiers and a universal identifier, some of the information which we have been pulling together will come as a big surprise to you -- like, No. 1, for a unique identifier voiceprints to go along with the fingerprints. And how about palm prints? And how about footprints?

Now, these are facts that I think you know, that these people on the panel I think you know, that you have read this information probably.

This is an article which I have from January 12, 1972. This is Dr. Jaffe here in Washington, D. C., who is, in fact, talking about a unique identifier, and he is
talking in terms of methadone sales, which brings us around full circle again. Okay?

And the controlling factor is that addicts will go in, they will have their footprint taken. This is positive identification. Their social security number will go on it. And it is pointed out that this is a method which is being used in the delivery rooms of some hospitals.

So when we are talking in terms of national data banks, let's go back to the very beginning and understand when I'm talking about population control, again I'm talking in terms of even those who are yet unborn.

We see this whole system as being, you know, something else.

Another thing I would like to speak of is the fact that as far as the whole computer technology is concerned I would like to look at it and use my own terminology. I would like to call it technological fascism, because in a country such as ours I remember the times -- okay? -- when as a youth in school it was very good to go ahead and talk about land of the free and the home of the brave, and I went through the whole mind trip only to discover here later that as far as the bureaucracy is concerned definitely we are in the control of the big banks, the credit houses.

Because of the fact that everything in this country even during the election-- The reason as to why
Massachusetts did not go the way the rest of the country went was because of the fact that there is a whole different kind of thinking up there. We have looked at the mistakes that have been made consistently throughout the country, and we just didn't want to be included in that mess.

I had written down here something which was more or less like a concluding remark so my colleagues can deal. And what I'm saying here is we are trying to build a consciousness amongst the kids, the kids, the children of this country, for they are the ones who will have to pay the piper in 1984, or, better yet, how about at the end of this next four? Okay?

We're hoping to build a consciousness to question and reject these things because of the fact that these are detrimental to the best interests of the people of this country.

A national data system is something which happens in Russia. It does not happen here. You understand? Because the first thing that we do is we build an isolationist attitude. And we have been through this when we have gone to schools and we have heard these remarks about outside agitation, intruders, and things of this sort, you "must know who is there." And this is the reason as to why today you find people with this hue and cry of putting steel locks on the doors and you find women
being trained in the use of firearms. That's a free country? Something to be proud of?

Thank you.

MISS DRABI: Compulsory social security numbers for welfare recipients may seem to be a convenient device for registering accounts, but the mandatory nature of the law is clear. People are being forced to register under a number so they will fit permanently into a machine age monopoly.

Why does the advisory committee on automated, computerized data systems emphasize the necessity of social security numbers? Because the Government under Nixon's present and everlasting administration intends to enforce instant classification of individuals for the purpose of population control.

A single number which can hook up information compiled on people by running it through an interchange of data storage computers owned exclusively by government agencies is nothing less than an identification number.

The next step in this trap is to make a law requiring that people carry an I.D. card and coded with a social security number on their person at all times. An I.D. card designed to transmit personal information through an automated computer retrieval is in reality a "pass" system. I.D. cards are the missing link between an
individual and his all-knowing social security number.

Why does section 137 of the Social Security Act include affirmation of a plan to require that all children be assigned a social security number when they enter school? Obviously to condition young minds to equate their identities with one number which bears in code all information pertinent to their school record, behavior, class background, family income and growing interests and activities.

High school students all over the country already have to carry student identification cards bearing a number and a photograph. Instructions on the card read that this card must be carried on the person at all times.

This is not a student I.D. card. It is an experiment for the national identity system proposed by Nixon in March of 1972. Students enrolled in high schools in Ohio, Illinois, New York, Massachusetts, North Carolina, Georgia, Florida, California, the choice target areas for testing out government programs, have all been required to carry photo I.D. cards, with severe consequences if they refuse.

Students are "carded" everywhere, in the halls, in the cafeterias, in the libraries, on public school transportation facilities, in the bathrooms. If a student cannot produce his card on demand, he is suspended or
expelled, depending on how much he has violated this sacred rule.

Multiple copies of I.D. cards are produced and sent to district police and FBI files. In Miami, Berkeley and Boston, students have reported incidents where they were stopped on the street by police who demanded to see their identity cards. Several times they were arrested because they didn't have positive photo identification.

The Youth Services Bureau in Berkeley has proposed a program to help police catch runaways which consists of a card that can be fed into a portable computer installed in the patrol car.

Harassment by police is made easier by I.D. cards used as an excuse to get students and young people into trouble.

Children of welfare recipients have it bad too. A social security number assigned to children receiving welfare will condemn them to permanent dependence on Federal funds. They will be imprisoned in public housing, denied equal opportunities to education and job training because they come from backgrounds that don't support public schools through taxation.

Welfare social security numbers are a method of police state controls extended to include a whole class of people who represent a threat to government security.
Poor people have been prostituted by Federal laws imposed on facilities operated by States, cities and towns. These laws are exercised to keep poor people in their place.

The Jews in Nazi Germany were regimented by welfare state programs, constant police surveillance and intimidation, all police state methods which succeeded in anesthetizing the Jews to their ultimate social outcome, extermination.

Recipients and school children who are unable to fight for their rights are forced to submit to constant monitoring, to social security number restriction to low paying jobs, public housing, bad health care, and lousy education, all falling into categories as a welfare recipient.

An official from APA said, "Although poverty is not a situation to be preferred, it has not yet become a crime to be poor." And an I.D. card with a social security number specifically geared to process information on an individual's social and income status makes being poor a curse.

Police will use I.D. checks in high density areas where welfare recipients are forced to live in order to maintain continuous control. That is when being poor will become a crime. It's all connected, and it's all
intended to repress the population through government control, good business for corporations pushing the buy-in campaign which approves the invasion by technological processing of human lives.

MR. MATTHEWS: I guess I'll first make a comment on the whole concept of the national computerized data system. Arthur Miller, who is one of the commissioners here, in 1967 in the ATLANTIC MONTHLY said, "Even the most innocuous of systems provides a foot in the door for the development of individualized computer-based Federal snooper systems."

I'm saying that he made one mistake, because the foot in the door is the fact that the government does now in fact collect information on individuals. I mean the fact that you had a dynamics happening here, that you have established a commission to just check into it and other people came in from outside, you know, just to give you some type of insight, that like in itself is like a fact to know something is wrong, you know.

And like my own concept of reality, you know, like I have some idea of what I think is wrong, you know, and, you know, like people, everybody talking about the bureaucracy and who wants to know and who wants to have this information, you know, if the information is going to be first gathered, you know, on the mass of the people,
that includes you all -- for all of you who think you're
going to escape.

I'm not even familiar with the book "1984."
I just hear quotes dropped here and dropped there. And I
know if in fact it all comes about, there ain't nobody going
to get away. I mean where are you going to hide?

I mean you want to talk in terms of technology.
They have a camera that you can be on the inside of your
house, you know, and have a light on, and they can be
outdoors, and the camera is equipped with a light amplifier,
you know, that can magnify the light 300,000 times, and
so what you in fact get is like an image of what is
happening, you know, on the inside of your house.

And I'm saying okay for me like I think that this
brings about a state, you know, where the people have
absolutely no rights, no sense of justice, that whoever "they"
are, you know, are going to recognize.

And I mean -- and Arthur Miller, I wish he was
here, you know -- I think his whole thing is, you know,
he's for accepting though the national computerized data
system, but like in reality, you know, like the foot in the
door, if you set up the data system, then the body is in the
door and it's too late.

You know, he's talking about setting up safe-
guards, you know. I mean safeguards from who? From what?
I mean if the system is there, I mean you as a commission, what can you do to stop this?

If, in fact, you know, you get the reality that we are moving toward some type of fascist state, you know, if that in fact is happening -- play with that for a while in your mind -- what power do we have? What can we do to stop it? What can this commission do?

Because you already gave them the power. They are collecting information on you every day. So if in fact there is some madman, woman, thing, collection of people, some international conspiracy-- You know, that's a word that seems to be going around now, a conspiracy. If there is in fact a conspiracy to enslave us, you know, not as black people or white people or Chicano or yellow people or red people, but just as people, you know, to control the body-- And to me like I have been digging on a lot of dynamics.

You know, what goes down like is the more information you got about people, about your environment, you know, life different variables and how they are going to take and react, the more information you have got about them the better you know how to control them.

And so this way, I mean like I listened to some of the people on the commission rap, you know, and like what it gets to is if in fact what I see coming is coming,
some of you all is going to have to go. I mean like your ideas are a little bit too progressive.

You know, like you're asking questions. If you live in a fascist state, man, like there are no questions that you ask. Yours is not to question why, but yours is but to do or die.

And, you know, that's exactly where things are getting to. I mean it's kind of funny, man, to see us all sitting here. Some think we are going to get away. Some know you ain't going to get away, you know. I mean what can we do about it?

I mean I think it's easier for me. It's real, very real. And people talk about my father and your father and her father and everybody's father. But everybody seems to be two steps removed from any type of reality about it, you know -- "they ain't going to get me."

But the thing is if I don't hear any type of outcry, then that reflects, you know, like the attitude and the condition, in fact what people within the society have been accustomed to.

I mean people talk about -- You hear the term "Teutonic mentality, Germanic mentality." You know, like I used to say I think it's in the genes, the chromosomes, you know. Like the primary duty of a President, as Abraham Lincoln said, is to preserve the union. And I
think that, you know, that holds true here. I mean it's
obvious now, man, that they have absolutely no regard for
human life because otherwise you could never enter into a
war just so you can improve the economy so that the people
can continue to take and, you know, have this high standard
of living that they are always having, that they are used
to.

That's one of the main reasons, you know, that
the war hasn't ended, because like once you change from a
wartime economy to a peacetime economy I mean something
has got to go wrong. Something has got to go wrong
because everybody still wants to be able to go out to the
store and pick up their steak, go shopping, you know.

And that is the thing I think, you know, the
fear of that type of change, that is what really gave Mr.
Nixon that landslide that he got, and that's why the issue
of change, you know, as Nixon opposed to McGovern, was so
important, you know.

Like in the latter parts of the campaign it got
to the point where people were saying, "Oh, yeah, I want change
too, but McGovern wants change too fast," you know.

It's that fear thing that the brothers from the
ACLU were talking about. It's that fear thing, man. It's
like almost in the concept of death, man. The reason people
get so hung up about death is because they fear. They fear
the unknown.

You know, I wish I had "dynamite" to say it again, but I think when the end gets here it will be dynamite enough, so I can't say it. I mean that's how I feel about it. And I know that a national data system would in fact be the body in the door, you know. The foot is in the door. I mean everybody is concerned.

Can I ask a question? Setting on this commission, are you like in the Federal employ? Because the thing is it's like I used to work for the Government, and it's funny, man. They ask you, I mean, like to get a security clearance for the Government, man, they want to know about your uncle, you know, your daddy, your cousins, your nephew even. Man, they just want to know all kind of garbage. And if the cat that sits behind you in the third grade was a homosexual, that even, you know, carries some weight.

They may just want to hold your hand, you know. They just don't want no free thinkers out here.

Because I think in the truest sense, you know, I'm an American, you know, because I definitely believe in freedom and equality and all of that. But I think somewhere down the line, man, people got hung up on a bunch of materialistic things, getting over the hump and making it.

Things look awful dark, I mean. But I don't
want to come in here and shake you all up maybe and make you all think tomorrow is going to be the end.

In reality, this is my reality, you know, reality only as I perceive it. But what I like to do, man, is throw some light on the subject in my own terms.

That's it.

MR. WILLIAMS: I think we can answer some questions, you know. I think it would be better because we could deal with the computer thing and show you as to whereby as far as the cashless society is concerned by use of I.D. cards-- This has already been attested to in New York, as Dr. Gallati knows, about the cashless society. Perhaps some other people do.

And this is one of the things whereby, by means of an identification card or an identity card, whichever you prefer to call the thing, no longer will a person on welfare be able to go into a grocery store, make a purchase, put cash down, and then leave.

I think just outside of Washington here they have tested the same system whereby just by using your social security number if you're on welfare, every week, say, $20 is put into your account in the computer, and your rent is going to be paid for, your electric light. This whole kind of thing is going to be done automatically. So A. T. & T. can just keep on going right on up.
When you go into the grocery store to make your purchase, he will take your card, he will put it into a cash register which National Cash Register has made already, and automatically if the items that you have purchased comes to $10, then that will be shifted from underneath your number into the account number of the store. All this is going to be done automatically.

The American Banking Association in a book called "The Computerized Society"—And it also explains about the police force in New York, how in fact they have this whole system worked out. It explains how the American Banking Association has already started moving on an international level so that—Just to point this out as a means, when we look at the price of gold and how the gold standard went up from $35 up to close to $70 and back down again, any time that you can—

Well, back in 1968 I believe the South African Financial Minister at that point said that if we can raise the gold standard or anybody who can manipulate the gold standard of the world can definitely kill the whole monetary system, the whole IMF thing. And this is exactly what has happened.

This is the reason for the Common Market countries in Europe whereby each little satellite will produce a certain product—okay?—which will go into the
And if in fact we look at the whole world situation today, we see that with the multinational corporations of today in cahoots, solid cahoots, with the banking interests actually control the world except for one country and this is Africa, but it's slowly working into Africa as well.

As a matter of fact, in Boston, Massachusetts on the radio they even had advertisements as to whereby a little boy with a voice that sounds like maybe 4 or 5 years old is saying—He's supposed to be the President and he wants to know how about, you know, these people in these other countries? And a male voice, grown up, supposed to be the elder, says, "Well, you don't expect for the people in Africa to just give you their land, do you?"

"No."

He says, "You must take it."

So like this is exactly where we are today, whereby we see that the whole system of welfare has been created by multinational corporations going overseas exploiting the people in these different areas, taking over the land, closing down their factories here, talking about the wonderful profits they have. Okay? All because of the fact that this is supposed to be business.

Well, all I can say, my personal viewpoint on that is that these so-called multinational corporations who
in the last few years have closed up shop and who have
moved textile mills from North to South and now are exploit-
ing, using oil to manufacture artificial clothes such as
we wear right now, artificial food such as they are
using in Brandeis University flavored so that soybeans
taste more or less like hamburger-- Well, to my mind this
brings me back to the early '30's.

Because this is the same thing which was happening
in Nazi Germany, the very same thing.

So if, in fact, we are talking about computers
and controls and a national identity system, it's already
here. And this is the reason as to why as far as PANIC
is concerned we know that for those who are above the age of
25 there's nothing that we can do for you.

But our service is to try to give information
so that everyone who really wants to dig on it can under-
stand what is going on.

We do not get paid for it. We do not solicit
funds. Those people who worked over the past 2 years, as I
say-- I mean donations as far as money is concerned at this
point has been something like $15 in the last 2 years,
because we do not make it a practice to go out and ask
people for money.

We know what has to be done, and we will continue
doing it, and there are enough people who are concerned and
who do feel the same as we do that the future of this country depends on the kids, and our duty we feel at this point is to try to give you information so that hopefully you can take it to someone else so that hopefully you can help someone else.

Because as far as the kids are concerned, we are going to mobilize the kids. Not just in Massachusetts but all over this country. Because of the fact that this country is going to live. This can be a very strong country. Technologically there is no country in the world who can beat this one. The brains are here. The resources are here.

The only difference is the people are being misused under the name of business. As far as the bureaucracy is concerned, yes, definitely. And as I said before, and Brother Skip and Sister Mary pointed out, it is a conspiracy against the people of this United States by multinational corporations who are out for world control.

MR. MARTIN: Are there any questions from committee members to the representatives of PANIC?

Mr. Dobbs.

MR. DOBBS: I have a question. I want to try to summarize a couple of things because I think you have made certainly one or two points crystal clear. I want to make sure that I play them back so that I have understood them.
It is your feeling and the feeling of your membership, No. 1, that we have a national data bank system existing?

MR. WILLIAMS: Definitely.

MR. DOBBS: No. 2, that at this stage of the game, that process, however one might debate how we got there, is irreversible?

MR. WILLIAMS: Yes.

MR. DOBBS: No. 3, that the culture is conditioning young minds to accept -- I think as you put it or one of you put it, to equate their identity with a number?

MR. WILLIAMS: Exactly.

MR. DOBBS: And those are three basic kinds of things I think you addressed. And as I understood, one of your major objectives as an organization is that you are trying to build in young people an attitude that would question and/or reject these three notions, if one were to stipulate that that is in fact true?

MR. WILLIAMS: Yes.

MR. DOBBS: How are you going about doing that? In which ways are you reaching the young people? And what are you telling them?

MR. WILLIAMS: Basically we are telling them the same things we are now, that in fact the school system across this country -- okay? -- it has been pointed out
time and time again about how the deterioration happens in
the school, and we're tired of listening to that as an
excuse, because the fact of the matter is that one computer
having all of the world's, say, theories or whatever, all
of the world's intelligence thrown into it has virtual
memory. It can never forget, and you have instant recall
for anything.

Plus the more information that goes into the
computer, the less people you need to solve your problems.

This is the reason as far as the SST is concerned,
man's knowledge hasn't quite come to the places yet as to
whereby it can solve all of the things wrong with the SST.
But given another 10 years, as fast as this country is
going, the SST is meaningless.

Why? Because of the fact that last year Werner
von Braun, who has already talked in terms of disemboweling a
human being and sending him off into space for 2 years and NASA
has created a food as to whereby the body will absorb it
completely so that there is no waste material-- Now, these
are not the things that are being taught in school, but
these are the things that the scientists and the tech-
nologists -- okay? -- rely upon the computer for.

They are talking to a machine, and they have
taught this machine, and now they are going to through the
machine answer their questions for them, you see.
I forget what your question was. (Laughter)

MR. DOBBS: I think I understand. I sympathize with the struggle with describing what technology in its broadest sense and the changes and implications it may have for us means.

I guess the difficulty I am having is in how you are articulating that series of problems to the young people.

MR. WILLIAMS: Yes. Well, it's more or less basically the same way as which we are here.

MR. DOBBS: Do you have seminars and rap sessions?

MR. WILLIAMS: Rap sessions. And we go to school committee meetings. This whole kind of thing.

MR. DOBBS: Do you invite representatives from business, say? Granted that you believe that they are the culprits, but in order to give a sort of balanced view do you invite representatives from business on the one hand and/or representatives from computer technology on the other hand to share their perceptions, whether or not you agree with them, with these young people?

MR. WILLIAMS: No, we are not sufficiently strong enough for that purpose yet. We have to do as the bureaucracy does, such as we are doing here. I mean it's a little bit different because of the fact the input is strictly amongst the kids and the byplay is strictly amongst
the kids.

But that's the way we have to do it because of the fact that again we don't have the resources.

Industry is naturally-- I mean that the kids understand where industry is coming from. It's a good point. At some future date we have always hoped that maybe we could have that kind of a dialog.

We have gone up to the State House and hoped Governor Sargent of Massachusetts who endorsed the use of social security cards on driver's licenses back in 1970--

In SCIENTIFIC AMERICAN a full double-page spread, one with his picture on the left with his eyes closed, and then on the other side, you know, he had his eyes open, and he said-- This was a Polaroid ad, incidentally, and it said like, "We just wanted you to know what a great State we're in," you know, talking about our Governor.

No, we haven't had-- We haven't been able to. We found that to do that -- okay? -- would be self-defeating at this moment as far as the kids are concerned because already there aren't enough kids who even understand that they can resist the I.D. cards.

In every school wherever we have gone into these schools, such as in Brockton High School, a brand new high school, over 5,000 students, which was just completed a couple of years ago, by bringing in the identity card --
this was because of outside agitation but it's the same
excuse which was used in Chicago whereby I mean it's
compulsory to have your identity cards in the Chicago
system— Also in many of the schools in New York State.
Also right in Boston itself, even in the Catholic
schools. And in each instance outside agitation
or some other kind of excuse is used.

No, what we have to do, as I said before, we
are attacking by going to the school committee, asking
the school committee to let us speak, and asking them
would they please, you know, abort the I.D. cards?

Sister Mary can give you an example of where we
were last night, and I think that you will find this rather
interesting.

MISS DRABIK: Well, we were in a Summerville
school committee meeting, and we had presented an appeal
to the school committee to let us speak on behalf of the
students to contest I.D. cards that had been in the school
program for about 4 years and the kids had been continually
abused by some kind of rules that, you know, accompanied
having to carry I.D. cards around.

And they were detained after school and had to
go through various ritual punishments and stuff like that,
all based on making them carry their I.D. cards.

And so that we have been sort of working— And
we have been working with the kids who know exactly what we are talking about when we say, you know, we're against I.D.
cards.

I mean like in Summerville the student council voted them out unanimously and now are trying to organize constituency to go and present that as a suggestion for policy change to the school committee to get it out of the educational system.

And we're meeting with all kinds of-- I mean like the kids say it's an education in how their government works, because we can't, you know-- We have to go through all these parliamentary procedures and they won't let us talk for obvious reasons but they refuse to tell us what those reasons are.

I mean it's like-- It's something that the kids have been beaten out of. I mean this sort of self-reliance. They have no vehicle to appeal to an educational system that is supposed to be like, you know, controlling, you know, two-thirds of their life.

And as you know, more and more sort of regulations and restrictions go down, and they're just-- That whole like spirit of, you know, finding out what is going on and why it is happening and, you know, whether anybody would be willing to listen to whatever suggestions they have, you know, to change it or to improve it, that kind of thing will
disappear.

And as the kids start realizing people aren't going to be listening to them-- So we have been sort of helping with that. And eventually, you know, maybe we will be able to get around to telling people about the wired cities and coaxial cables connecting up computers with people's homes and with the police station and with the courts and eventually -- and with television stations and radio stations and schools -- and eventually people realize that like all of this, their whole life is like being interconnected for them because they are not allowed to have mobility to go around and have the mobility to find out about police stations and schools and libraries and TV stations.

It's going to be all like, you know, wired in with computers that are going to be like transferring information through cables about -- well, into people's homes. Cable television will go into people's homes. And cable television is now being proposed with a stipulation that cable TV have the capacity for two-way reciprocal viewing. And it all depends on how much it costs to the business.

There are three forms of two-way capability can happen -- visual, auditory, or just by digital transference of some kind of a signal that, you know, is pressed. -- is
like transmitted through the receiver's television into the transmitting station.

And that's just, you know-- I mean it's like sort of a highly sophisticated thermostat with sensor devices, you know, that can pick up how many people are wandering around in a room, and then like through different changes, you know, transcribe it into an image or a voice.

I mean that's what computers are happening. Instead of people like envisioning really useful things for computers, I mean it's, you know-- They're like envisioning things in which people are going to just sort of be trapped in their homes.

They don't even have to go outside, you know, in order to tune in to their library or their police station or their school. And the electrical company at the cable TV hearing in Massachusetts was really-- I mean they really thought that was a really far-out idea because then they'd set up switches in the computer cable systems that would regulate how much gas and how much electricity and how much water people were using, and if they were using too much because it was too expensive to start like tapping new sources for electricity and new sources for heat and new sources for water, that they'd just turn it off.

I mean what's happening?

MR. MARTIN: Dr. Gallati?
DR. GALLATI: I recall listening to your
statements here tonight the term used by John Shattuck
earlier today when he spoke of data prisons, and I sort of
get the impression that you feel despair, you feel you're
imprisoned by data.

And the question I'd like to ask you is-- The
depth and profundity of your despair shocks me, and I
wonder if perhaps part of that despair is not that you
feel that you are a voice crying in the wilderness, that
you have no allies, that you have no power, that you are
cut off from society, that everyone else is going one
direction and you're trying to stop them and you don't have
enough resources.

I ask you the question are there not other people
such as you, the Computer People for Peace and some who are
equally concerned-- Have you joined forces with them? To
what extent are you allying yourself with these people
to make your voice more powerful and perhaps eliminate the
terrific despair that I have sensed you now have?

MR. WILLIAMS: It's not really despair. And we
are aligned with the Computer People for Peace as well as
quite a few other groups.

One of the things we have never done is to
disclose how many people are in PANIC or who they are. No
identity.
MR. MATTHEWS: Question to the man. You said--

You know, it's kind of funny. I like to dig on dynamics,

you know, the way people relate to one another. I mean like

I like to dig. And it's funny. You say that-- You know,

you look at us and say, "You seem like you're in such

despair like you're really three lost souls out in the

wilderness trying to get up."

Do you ever feel like you're in a data prison?

I mean aren't you even concerned, you know, that somebody

has a lot of information on you?

MR. WILLIAMS: He's got control of it. (Laughter)

DR. GALLATI: I've got the keys? (Laughter)

MR. WILLIAMS: See, there's a perfect example of

what we're saying, you see, because as soon as we got the

literature who you all were, we did our homework on you too.

Only thing is, we don't have the computers.

MR. MATTHEWS: Wait a minute. What's your

title again? (Laughter) Are you a surveillance and

intelligence type cat?

DR. GALLATI: I have charge of a fingerprint

identification bureau among other things.

MR. MATTHEWS: I mean what --

SENATOR ARONOFF: And probably the strongest

advocate of confidentiality on the entire committee and the

protection of individuals' rights, by the way.
MISS DRABIK: I wonder if there is anybody like into the technology who might know how that could be done?  

MR. DEWESE: Mr. Dobbs or Dr. Weizenbaum.  

MISS DRABIK: How could it be done so that confidentiality would be insured? I mean with all of these propositions happening, you know, how could it be done so that when you feed in information into a computer and you process information, can you like say it's only going to go so far and no farther?  

MR. DOBBS: As one lone technologist I do not know how to guarantee with today's knowledge that information can be protected 100 percent. Well, I would even say with even reasonable protection. That's only a personal view. It may not be shared by the rest of my colleagues.  

MR. WILLIAMS: You know, you see, I think again one of the things, if I could just throw this in, is the fact in some of the plans of the future there is going to be a main computer, and that main computer will have slave computers. Okay? And the information that-- Say for instance somebody wants to get certain information, and, you know, say they ask the main computer. The main computer will work the slave computer, have the slave computer go around, you know, tap all the rest of the computers which are around the country, and then when the information comes back to the main computer, then the main
computer will lay it out. Okay? I mean regardless of what it is.

There is also talk in terms of having information in certain areas so that like a police department will have access to certain information, the credit bureau, the hospitals, and so on and so forth.

But here again we are talking in terms of a computer who, you know, just doesn't have any common sense, so like it's just going to get all the information and say, "Okay, man, here it is. Okay. And, you know, you pick out what you want, and what you don't want you can throw away."

In addition to that, since we're talking about privacy, I notice that the President of the United States who like 5 years ago was just John Doe walking around the streets-- So, you know, he's Richard Nixon. But all of a sudden, you know, a person can get into government, and all of a sudden he can claim an immunity from privacy, but yet still as soon as he is out of that government office he is a private citizen.

So like if in fact-- I mean I would like to know you know, how this dude all of a sudden got to be a millionaire myself. I mean I have more reason to get that-- I need more information on him than what he needs on me. Do you see what I'm saying?
MR. MARTIN: Senator Aronoff:

SENATOR ARONOFF: You have the advantage because you did some research on us and I didn't do any on you. But I'm just curious in the dynamics end of it. We can play a little dynamics here. Just out of curiosity, educate the committee. What schools did you go to? You're not going to pretend to me now from some of the language you're using there you're walking in right off the streets either from the ghettos or the bowels of society, are you?

MR. WILLIAMS: That's where it's at.

SENATOR ARONOFF: Just out of curiosity, did you go to grade school? Did you go to high school?

MR. WILLIAMS: Grade school and two years of high school. My father said, "You can either go ahead and continue or you can get out." Okay. So I got into a little trouble so I decided I'd get out. Okay?

Like a lot of times-- See, a lot of times like questions are thrown at individuals just to see how-- It's not just for information. This is the reason why you asked that question so you're giving me a chance to lay it on you. It might be different from the kind of answer you expected.

SENATOR ARONOFF: I'd like to hear your answer. I'd like you to respond to my question.

MR. WILLIAMS: You will be responded to. See, the
fact of the matter is that as far as people in public life are concerned, I have talked with many people in public life like who are supposed to be representatives of the people, and in speaking to one just a couple of weeks ago this individual was called into one of the prisons in New York because of the fact that the inmates were having a problem up there or something like that, and then this person, you know, who is supposed to be a public figure, supposed to be looking out for the people, said that they did not know what was going on inside of the prisons.

And some little 12-year-old dude who just happened to walk up that moment, some kid off the street, said, "What? You didn't know, man? You ask any kid in the ghetto and he'll tell you what is going on inside those prisons."

So like what I'm saying is that there is such a thing, you understand, as, you know, a dude being so-called intellectual until, you see, he never comes down from that ivory tower to go head on and deal with the people.

SENATOR ARONOFF: I'm saying you sound like an intellectual to me.

MR. WILLIAMS: Oh, I see. Usually what is said is I'm very articulate.

SENATOR ARONOFF: You are tremendously articulate

MR. WILLIAMS: Thank you.
SENATOR ARONOFF: That's really what I'm saying.

MR. WILLIAMS: Thank you. What you're saying is I ain't dumb. And you're right.

SENATOR ARONOFF: I'm saying you're sharp as hell, and you're right.

MR. WILLIAMS: I dig it.

SENATOR ARONOFF: As a matter of fact, you sound like an 1896 Republican -- probably one of the strongest defenses of individuality I have ever heard and in many respects condemning the social planners of the '30's.

MR. WILLIAMS: Okay. I'll let that pass, man.

(Laughter)

MR. MATTHEWS: Question. It's funny, you know, you start talking about formal education. I always knew instinctively, man, there's some point where you have got to throw formal education out the door, man, because what in fact happens is like you get into formal education and you begin to read, and the more you read-- I mean, sure, I mean you'll get over-- You learn this factual information, but primarily it's information that don't help you survive, at least not where I'm from. It ain't going to help me survive.

So the trip is I think you should take formal education to the point where you are able to look at a situation, you know, develop new concepts based on new
experiences, you know, and know some type of objective reality, and you don't get that in schools, man, because like by the time you get out of four years of college and two years of whatever you dip into, you know, I mean what you got in your mind, man, is all the different theories that you have read about and you can't even deal with reality, you know, even the reality that you create for yourself, because you have got all these theories that conflict. You don't know how to live.

You know, the instinctive thing is to survive. That's the name of the game -- is survival. You know. Just to get over.

I mean I hate to put it on this level, you know, but it's a funny thing, man, like when I look at the dynamics between like the rate of suicide in black people compared to suicide in terms of white folks. Man, you all do it quicker -- much quicker.

You know. Because you've got this thing, you know, and this feeling, you know-- Man, you go through all this conditioning and training and you automatically know that when you get out of high school you're going to college and blah-blah-blah-blah-blah and you're going to make it, you know, and if you want to be a capitalist and make money, you set this goal by the time I'm 35 or 42 I want to have a million dollars, you know, and by the time
you're 42 if you have got $900,900, whatever, if you're
a penny away from a million dollars, you cannot cope. You
can't cope, man. You just say, "Ah."

That's the thing the man is playing on you now.
He ain't going to have to put everybody in the oven because
times are going to get so tight that you're
going to stick your own heads in the oven, you know.

That may seem far out, man, but it's real. I
mean look at the suicide rate how it's skyrocketing man.
Check it out on the facts. I wouldn't jive you. I mean it's
real. It's happening. Check it out with statistics.

It's happening.

Every day I hear talking about, "I just can't
hold out." Man, it's real. Man, everything seems to be
out there. But it's real. Check it out in the books --
because people have been conditioned that anything that they
see in print is the truth. You know, if you want to see the
truth, check out the suicide rate, you know.

MR. WILLIAMS: Could I just interject this one
word? You know, just like here we are -- okay? -- we're
in Washington, D. C., the Nation's capital. And we're
broke. Okay? And we're talking to the Government who has
all of the money, and they can't even afford to send a
ticket to us to bring us up here. We got to go ahead and
dig into our own pockets for this kind of thing which comes
very hard, you know, not that I'm putting down a plea for
money you understand, because if it was my way, since HEW
has to operate that way, I would just as soon, you know, ask
Brother Nixon, you understand, "Would you mind please
giving HEW some money, you understand, so that people who
can't afford to come up here who have legitimate gripes
from the street, you understand, can come? And then
you'll be able to go ahead and see what the people are
talking about" -- rather than go head on and figure like,
you know, here is something like somebody with a credit
card. You ain't going to get the right kind of rap from
him.

MR. MARTIN: Mr. Williams, I got the message
when we spoke about this before the meeting, and I look
forward to speaking to you after the meeting.

I see that we are coming close to the time which
is scheduled for adjournment, and I would like to renew the
question that was put to you or the plea or sort of a
feeling, a desire to get something positive from you if you
have anything to offer.

Contrary to your view of the world, which is as I
hear it in part a conspiratorial view, a very pessimistic
view, --

MR. WILLIAMS: The true view I might say.

MR. MARTIN: Well, it's a view. I don't know
where or how you came to feel that you possess uniquely
the insights called truth. Others who I suppose don't
agree with you and feel that they also have a capacity to
sense truth are at odds with you. And I don't know how one
should judge who has the truth.

The Secretary of HEW is not as despairing as
you. He, however, shares your concerns, as does this
committee. This enterprise exists because there is a
genuine feeling of concern about many of the things which
you and others have spoken of today.

And this committee, unlike you, will not I think
be able simply to despair and to say the end is coming and
there is no hope, there is nothing we can do. I think
this committee wants very much-- The Secretary certainly
hopes that it will be able to make suggestions which will
minimize the likelihood that the worst picture of the
future that you paint will in fact occur.

Is there anything of a positive nature that
you would like to offer before we adjourn? Any positive
suggestions for the committee to consider that
would in any way meet your concerns? And if each of you would
like to take a crack at that, it would be great. Try and
be brief.

MR. WILLIAMS: Very briefly, I think that we have
given a lot of our positive testimony, see, in what I am
saying, because like No. 1 what we have said is that the whole testimony seemed to be built around trying to build safeguards for a national identity system, you see, that has already been implemented, and again we are talking about a national data bank which is already in existence, you see.

So like what we have done is we have exposed the fact that this committee is wasting its time. Rather than to be talking about trying to build safeguards for something that already is, you should be talking about, you understand, trying to destroy it.

MR. MARTIN: Well, if the committee is wasting its time, I take it you are wasting your time, because the committee's task is premised on the assumption that we have not reached the point of desperation or, you know, the condition that you describe. That's the premise on which this enterprise exists.

And if you think that that premise is false, then it seems to me you are wasting your time talking to a committee whose role is inutile, cannot come to anything.

MR. WILLIAMS: Exactly.

MR. MARTIN: Mr. DeWeese?

MR. DeWEES: I don't think the question is really fair. Because in a way we asked these people to come here and tell us how they felt, which they have done, and
whether or not they have any positive solutions-- I have been here at these things for 8 months and I don't have any positive solutions. So I think, you know, I really appreciate your coming and telling us just how you feel, which is what we were looking for in the first place.

Second of all, I agree basically with everything you have said up to a point, and that is that I don't-- See, where I look at it I don't see the conspiracy that you see, mainly for one reason -- because I have had a chance to talk to these data bank managers for the last 8 months. And they don't have the intellectual capability in some cases, with the exception of Dr. Gallati, to actually form a conspiracy.

I mean these people don't know what information is in their system. They don't know why they collect it. They collect it for reasons they can't articulate.

It's really a case of a lot of individuals pursuing their own narrow self-interest. And these people who run the data banks in this country don't really understand what they are doing. They don't understand the kind of mechanism that they are putting into operation that potentially could be taken over by someone with conspiratorial design.

In a sense, this is even more frightening than if there was a conspiracy, because you could address the
conspiracy, but it's difficult to talk to people who are basically sincere.

I mean the people that set up these welfare checks believe honestly that the welfare system is full of people who are robbing the taxpayer, that they are cheaters, that they have got to be caught and that it's just against the law to take money on welfare if you're not entitled to it. And, you know, these people then will turn around and they profess the same concern for individual rights that you yourself have today.

So, you know, that's the danger. I don't think in my opinion it is a conspiracy. I think it's a lot of individual self-interest and a failure to look at the broad picture. That's the only thing I disagree with you on basically.

MR. WILLIAMS: Could I just say, Mr. DeWeese, in New York State after the welfare I.D. cards were taken from we might as well say 60,000 people and say 180 with the kids, which is an awful lot of people to be cut off from the welfare rolls, Mr. Sugarman himself said it cost more to implement the system, that they lost more money by trying to bring in the system than what they had thought. In other words, as far as fraud was concerned --

MR. DeWEES: No question about that.

MR. WILLIAMS: And on top of that, one of his
assistants also said as far as civil liberties was concerned he wasn't too concerned about that. That is a fact. That was in the NEW YORK TIMES.

So it stands to reason that in a great number of instances naturally-- All right, you as a kid -- okay? -- you might have been more honest than I was, but I can remember the time when I had my finger caught in the cookie jar, and when I was asked if I did it, I said no.

Have you ever been that way?

These are bigger kids these days and stuff. They don't know what, you know, they're doing. They're out to get the world, man. They don't want to know, you know, what is happening.

MR. MATTHEWS: I think what it gets down to is, you know, like I say, you know, like no one knows what the absolute truth is. No one knows what absolute reality is. Reality is only as you see it.

I don't know, man. I mean sometimes-- I mean like I'm human. I even have doubts, you know. But every day, man, I mean I pick up the paper and I read all these things, man, and it fits together, and I mean I don't even have to let my mind go tripping anywhere. It's there, man. It's real. I mean, you know, it's like reality. I mean it's there.

As I say, I mean like if you can dig on the
information that we distributed, you know, it's like it's all documented just like those papers you turned out in school, you know. It ain't nothing that we set down and said, "Let's dream up something. Let's dream up this outrageous plan and dream it all." It's all there.

MR. MARTIN: Mrs. Gaynor.

MRS. GAYNOR: I think that's a message that is coming across -- is that there is a concern and there is a fear. And it has been expressed, I think, through all of the people who have appeared at the hearings today. And people may articulate it in a different kind of way, but it basically comes back to the same point that there is this kind of feeling among people that there is something wrong.

No one has the solution. It's like dealing with -- well, fictional finalism in a sense. But there is this kind of "gut" I guess you could say kind of reaction that there is something going on. We don't know what it is but it has to do with computers. We can't get an answer from the intellectuals. We can't get an answer from people in the street. We can't get an answer from anyone.

But we do have this sense of feeling from the people who have articulated and appeared here today that there is some concern and that something should start the motion going to do something, whatever that is,
MR. WILLIAMS: In PANIC we are moving on that with little things right now.

MR. MARTIN: On that note, I note that it is 6 o'clock, the time of our adjournment, and I would say to the committee, please stay in your seats. As soon as those who are not committee members and staff have found their way out of the room, we will spend about 5 minutes distributing some homework for tomorrow's meetings in which we will all be trying to make progress in a direction of responding to the fears and concerns that we have heard about today.

(Whereupon, at 6:00 p.m., the open meeting was adjourned.)

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