MR. MARTIN: May I suggest for the benefit of those of you who have arrived on time that we get started.

Frances Grommers regrets exceedingly that she cannot be present at this meeting, and we will therefore be back in the mode in which we operated at our first meeting, with your Executive Director presiding, if there is no objection to that.

PROFESSOR WEIZENBAUM: Well, no strong objection.

(Laughter.)

MR. MARTIN: A few sort of business announcements first.

As you will have noted in the agenda for this meeting, we have followed the suggestion made by a number of members of the committee at the last meeting that we use the evening sessions, the evening of our meeting for productive work in order to get a full three days work in and still allow members to catch early afternoon planes on the third day.

So tonight we have omitted the cocktail hour, so-called, and will go directly from the end of the presentations this afternoon to dinner, and following dinner there will be some demonstrations of three computer-interactive activities which will be available for members to go to and examine and experience.

Tomorrow evening we are going to move from Stone
House to the Hotel where you are all staying, for the reason that we cannot use Stone House more than one evening during any of our meetings. As you know, Stone House is a residential center for fellows who live here, and when we stay here for dinner we discombobulate their lives. And the Stone House management and the fellows are willing to have that happen from time to time but not a lot, and as a consequence we will meet back at the hotel tomorrow night, where we will have an organized sit-down dinner followed by what should be a very lively set of presentations and discussion of state and municipal information systems.

One or two of you in the course of this week, with whom I have talked on the telephone, have indicated your feeling that we may not have allowed enough time in the schedule for this meeting for discussion of committee business, which is essentially the discussion of the so-called consensus document, the outline of the report which staff prepared and sent out to you. In order to accommodate the feelings of members who would prefer to have more time and all this morning and all Saturday morning for purposes of such discussion, it would seem to me appropriate and quite feasible for small groups of members who would prefer to work on that document to withdraw from the general meeting and perhaps go into the library. Carole Parsons would join you as sort of a staff resource, and there you could work on the report document and any other
matters that you felt were worth working on.

That could also be done this evening, contracting the computer demonstrations to a minimum of time after dinner and we could have a full committee session, a sort of resumption of this morning's session, this evening.

I think it is important, if that procedure is followed, for the number of members remaining here in full session, so to speak, to receive the presentations that have been organized to be substantial. I think it would be unfortunate if everyone went off to work on the report. And I take it that there are many of you who will wish to stay here since the presentations have been organized in response to requests by many of you for the particular presentations that are being made today.

I suggest that we might not take any action on this until later in the morning and see how you feel about time -- and it really doesn't require any formal action. If a group of two or three or four would rather withdraw and go do that, you know, you can do it.

Ron Lett would like me to ask you to raise your hands for a choice of menu for tomorrow night's dinner at the Holiday Inn. Dinner will be in the Versaille Room and the meeting thereafter will be in the Montgomery Room. The choices for dinner appear to be stuffed rockfish St. Louis, and roast sirloin of beef.
Would all who would prefer to have rockfish raise your hands.

(Laughter.)

Well, I will raise my hand.

All who would like roast beef, raise your hands.

Well, by elimination, it is everybody.

The agenda which was sent to you in the mail has experienced one minor significant and unfortunate change, and that is that the presentation which we had expected to have on Friday at 1:45 by Professor Malcolm Jones of the Sloan School of Management at MIT on problems with large-scale software systems has had to be scrubbed, due to a change in Professor Jones' schedule which renders him unable to be with us.

So instead what we will do is to start the banking presentations directly after lunch, and it may enable us to break a little earlier at the end of the day, thereby giving you a little more time to get from here back to the hotel and do anything you care to do before dinner.

I should call your attention now -- so as not to do it when the persons whose names have been misspelled in the agenda are present -- to the misspelling of the names of Andrews Atkinson, one of our presenters this afternoon -- excuse me -- Friday evening. This is on page 5 of the agenda. The first man listed on the presentation of State and Municipal
Information Systems shows as Andrew Atkinson. It should be Andrews.

And then on page 4 in the 2:00 p.m. Financial Institutions presentation, you will see the name of Charles Borson. It should be Borsom, B-o-r-s-o-m, Executive Vice President, National Society of Controllers and Financial Officers.

As a consequence of a new determination, which I trust Secretary Richardson signed last night, all advisory committees of HEW, starting today, are empowered to conduct portions of a meeting in executive session for the purpose of discussing recommendations or reports or matters with respect to which they are considering making advice available to an official or the Secretary of HEW. The original determination which the Secretary issues last July, immediately after the Presidential Executive Order requiring that all advisory committees meet openly, did not provide a comfortable way of closing meetings. It had to be done by an individual secretarial determination for each instance. And it became clear during the summer that this was going to be a very burdensome process administratively because we have hundreds of committees in HEW alone, and if each one has to go, whenever it wants to close itself into executive session, for a specific determination by the Secretary, it would be difficult.

So the Council and the Committee Management
Officer got last night, we hope, to the Secretary a modification of his original determination about advisory committees, which enables us to be properly and lawfully in executive session this morning and on Saturday and at other such times as we may see fit to go into executive session.

In your folders you will find calendars for the months of October, November, and December. I think you have already filled out October and November calendars. You have not filled out December calendars. We would much appreciate your re-doing October and November, not because we have lost them but because we would like an up-date on what days you think you will not be able to meet. If you can indicate on those calendars sometime in the course of the morning and make them available to Ron Lett at the end of the morning, the days in those months when you would not be available for a meeting of the committee or a subcommittee, or just committee business, let's say.

You received in the mail, I trust, the statements by the American Telephone and Telegraph Company and the Internal Revenue Service.

With respect to the first, you were invited to bring in writing any requests for information you would like addressed to the Telephone Company in the wake of its statement. The same request was not explicitly included to you in the sending to you of the IRS statement, but perhaps it was
implicit for you.

As soon as possible, hopefully before we break up these three days of meetings, it would be well for us to receive your requests for further information and/or questions so that we can pursue further the information obtained from the Telephone Company and the Internal Revenue Service.

If anyone has had the opportunity to put down in writing a reaction to the draft proposed outline of a committee report with a view to our being able to collate them for distribution during the course of the meeting, now would be a good time perhaps to pass them up, and we can have them typed up. If you would prefer to keep them and just use them for discussion, that would be fine, too. But if there is anything you would like circulated in the form in which you have prepared it, we could do that this morning.

You will find in your folders a number of sheets of paper which constitute some ideas and suggestions that Willis Ware has prepared and which he sent in recently and which we have reproduced for all of you to have available.

And now to end this over-long broadcast, I would like to call on the members of our staff who are present to be educated by your discussion this morning, and also in some instances to be available as resource people on various aspects of the committee's work in case issues of fact come up which they have become familiar with.
Lynn Zusman -- I will ask each of them to stand.

Lynn Zusman is a lawyer.

Andy Rock is working in Information Systems at NIMH.

Paul Corkery is a writer trained in history and economics at Harvard and Cambridge and has just come from two or three years of writing for the leadership of Harvard University in their times of crisis, and has plans eventually to become a journalist.

John Salasin, you all know. I think you have met him at previous meetings.

John Fanning is a lawyer with the Social and Rehabilitation Service, a member of the General Counsel of HEW who has been working in the Social and Rehabilitation Division of the General Counsel's Office and who we have been able to borrow from the General Counsel's Office for the remainder of the committee's work.

And Leonard Sherp who has joined us recently and has been doing a lot of work investigating the behavior of regulatory agencies of the government as revealed by the literature which has developed over the years commenting on their behavior which has possible relevance to any notions of regulation that the committee may wish to explore in its recommendations.

And Nancy Kleeman, you all know, who has just come
Well, so much for preparatory administrative and similar sorts of comments.

I would now suggest that the meeting is open to discussion by the committee of the document which was prepared by the staff as a vehicle for discussion, out of which hopefully the committee can crystalize its consensus on the scope and content of a report, and on the character and perhaps even specific elements of recommendations.

The more specifically the committee can crystalize a consensus out of the discussions that will be occurring during the course of these three days, the more likely it is that the committee and the staff will be able, by our target date of December, to produce the report which we are aiming to do. Our time is getting short.

MRS. HARDAWAY: David, I did not receive that report and didn't get an agenda for today's meeting. I wonder if I could have a copy of the report. I don't know why I didn't get that. I did not get an agenda of the last meeting, either.

MR. MARTIN: Did you get IT&T and IRS?

MRS. HARDAWAY: Yes, but I did not get this.

(Discussion off the record.)

MRS. HARDAWAY: Let me ask you something, David, if I had had an agenda I probably would have brought somebody with me particularly for tomorrow. Is it too late to do that?
MR. MARTIN: No.

MRS. HARDAY: I will go make a call, then.

MR. MARTIN: Well, the floor is open. I guess it would be useful if we tried to conduct the discussion in such a way that only one person speaks at a time, but I think perhaps it would be also desirable if we had a minimum of reliance on parliamentary practice and procedure. I think what we need is a really good, detailed, open, free discussion.

MR. SIEMILLER: I think you get all over the lot, David, unless you take it seriatim. You come in prepared here and ask about this, this, and this, and you will probably get through it a little faster and if they want to concentrate their fire on any suggested portion, it would all be done at approximately the same time.

MR. MARTIN: Well, Mr. Siemiller suggests that we go through the document from beginning to end. Maybe before we do that there are some reactions to the over-all notion of the document.

Jerry.

MR. DAVEY: Yes. I would like to raise a question as to the form that this particular document took in relation-ship to the request which was made at the end of the last ses-sion. I believe it would be appropriate to indicate why this particular route was taken as compared to what the --

MR. MARTIN: Well, a number of members, including
Phil Burgess, suggested that we try to frame a -- I guess "view" is the word to use -- in such a way as to enable a measurable differential set of responses to a whole series of propositions to be manifested by some kind of weighted scoring process. And we tried a number of approaches to that and found that it was a very difficult and complicated thing to do, and I guess what I have to say is this is what, after many starts at drafting something to be a, quote, consensus document, we came out with. It is not in any sense intended to drive the committee in any particular direction, or it is meant to be an opening-up document.

We have tried, I hope successfully, to include all the ideas which have crystalized out of these meetings. I am sure we have not succeeded in capturing every one. Frances Grommers, with whom I spoke yesterday, indicated that she notes the omission of some things, and I am sure many of you will, too. But the intention was to simply provide an orderly development, with some conceptual unity, of all the ideas and thoughts which have emerged from the committee's meetings and discussions, and also to weave into them things from materials and presentations and available literature which we have had access to.

MR. DAVEY: My over-all comment is that I don't think it was quite as responsive as I would have hoped that it could have been and perhaps it was too difficult -- perhaps
the task was such that it was impossible. But I would like to express my disappointment in not seeing carried through the recommendation which the committee made.

MR. MARTIN: Well, I accept full responsibility for any frustration or disappointment felt by any member, and can tell you that it was not deliberate to frustrate you.

MR. DAVEY: No.

MR. MARTIN: But here is the chance to make over it or something new, whatever you will.

Well, shall we pursue Roy Siemiller's suggestion and go through it, or is there some alternative approach that any member would care to suggest?

MR. DOBBS: Well, I would like to just suggest one which sort of really follows up on Jerry's comment. And perhaps Phil Burgess, who I believe sort of gave birth to the idea, might then comment.

It seems to me that the chapter which comes closest to being responsive to that is the one which contains -- I guess it is entitled "The efforts to address the social implications" and it contains a classification of harmful effects and a series of duties of the institution and right of the individual.

From my point of view, the material which precedes it, which is largely background and explanatory kind of material, is, for me, something that I don't need to quibble with
or deal with in this session. And to the extent that that list of things is one on which we can try to get some consensus, that would be an alternative approach towards trying to focus on some issues.

MR. MARTIN: Layman.

PROFESSOR ALLEN: That was exactly the plea I was going to make, too, to amend Roy's statement, that at some point this morning we get to Chapter 5 because I am not going to be here for Saturday's session and I think that is where the heart of some fruitful discussion can occur, on Chapter 5 -- just so we get to that this morning.

MR. MARTIN: Shall we start with Chapter 5 then?

MR. SIEMILLER: One is as good as the other. My inclination was to feel that up to Chapter 5 was pretty much okay, that there might be a question on some little item or two but here is where the meat would come into it. I thought you would run through the rest of it pretty fast but why don't you start with Chapter 5. One is as good as another, as long as you confine your discussions to the same thing, not get all over the place, or we will lose something.

MR. MARTIN: Jerry.

MR. DAVEY: There is one point in Chapter 4 which I think is, in my experience, not quite correct. In the first point there it says:

"A radical increase in the volume of information
Every experience I have had is just the opposite of this thing. As institutions have brought their records into some type of computerized form, they have usually gone through some kind of procedure in order to format that, and they tend to become more concise as to the kinds of information that can be stored, and they actually store less information. In several cases that I have been involved in personally I have found that that has been the case, that there has been information that has been left out of the computerized system as compared to what was there in the manual system.

It gives a flavor to it —

MR. WARE: Those are not inconsistent.

MR. DAVEY: They are not inconsistent, but I wanted to make that point.

MR. MARTIN: In that connection --

MR. DAVEY: And the cost is a very important element in that particular thing because of the standpoint that when you do have it on some kind of a random access basis or in the file it does tend to cost more in certain respects than in other situations.

MR. MARTIN: In that connection you may recall that it was suggested that the committee would probably wish to define what it means by an automated personal data system.

MR. DAVEY: Uh-huh.

MR. MARTIN: And the suggestion is made that since
the evidence is that any automated data system includes both
information which is, itself, in machine-accessible or machine-
readable, or automated form, also starts out with the informa-
tion in non-machine-readable or non-automated form, in the
form of a paper which has been filled out, or an application
form, or whatever.

Is it reasonable to assume that the committee would
wish to define automated personal data systems in such a way
as to encompass, with respect to any given, quote, system,
all the information-collecting through dissemination or use
activity regardless of the format in which at any point in
time the information exists.

Now, if that is so, would you still make the same
comment that you do, Jerry? Do you think that the impact of
the computer is indifferent or it has no effect on the intake
process?

MR. DAVEY: Yes.

MR. MARTIN: It doesn't tend to induce more informa-
tion to be collected in some form although perhaps not all put
in the computer.

MR. DAVEY: In the cases I am familiar with -- and
I can only speak to those -- it has actually resulted in less
information being taken.

MR. MARTIN: Less.

Phil.
DR. BURGESS: It was interesting to note that we have kind of moved in our deliberations from talking about automated personal data systems, where the systems component was given the primary emphasis, and a great deal of discussion was devoted to computers and computer security and these kinds of things, to, in the last several meetings, discussions of the problem of privacy, to, in the latest document, an organization of ideas and concerns around the functional problem of record keeping.

And I must say that I have a positive reaction to the basic notion that is inherent in the latest document, that is, the focus on the functional problem of record keeping as opposed to computer systems on the one side or the problem of privacy on the other.

But I wondered if there were any series of discussions among staff that led to that outcome, namely, the focus on the functional problem of record keeping, that might be shared with us in view of the progression of the discussion we have had here, and particularly since the record-keeping notion as such has never really been something that we have looked at as explicitly as we have examined some other things.

MR. MARTIN: Well, I think it came from the need to address: How do you define an automated personal data system?
And if you decide that you want to define that broadly enough to include the behavior of the institution or the activity with respect to the treatment of information to encompass not just what is in the computer, but the source documents from which are taken the elements of data that go into the computer, that you then are driven to a definition of automated personal data systems that doesn't confine your attention to the automated form or elements of data in the system.

And once you do that, it seems that you come to realize that maybe the generic problem is record keeping, and that is what computers are doing. They are keeping records of data, and the problems which we have talked about, whether in terms of privacy or whatever other terms, are problems which antedate, in man's experience, the advent of the computer, and that to rationalize or conceptualize a response to the particular significance of computers, you need to put that into a context of recognizing that the generic function that one is talking about, and whose consequences as altered or impacted upon by computers, is record keeping.

Now, if that is not a persuasive rational --

DR. BURGESS: I think it is.

MR. MARTIN: That is how we got to it conceptually.

DR. BURGESS: My personal feeling is it doesn't make a great deal of difference where one hooks into it. I
personally think it is very unproductive to hook in on the
computer side and feel very comfortable and positive about
hooking into the record keeping.

But to follow that up, it seems to me just as you've
got a chapter on the functions of automated personal data
systems and the taxonomy of automated personal data systems,
just as important would be some considerations of the functions
of record keeping.

That is kind of implicit -- it runs implicitly
through many of the chapters. But just reflecting on what has
gone on here the last several months that we have been to-
gether, I feel increasingly that one of the major problems
might be handled best not on the side of computer security and
not on the side of regulating those who manage automated
personal data systems, but perhaps even more importantly on
the side of what records are most appropriately obtained in
the first place, what data are corrected.

And I think the record-keeping organization that
is inherent in here allows that kind of issue to be raised
very neatly and explicitly. Unless I missed that as I read
through it, it seemed to me there might indeed be a chapter
on the history of record keeping, so to speak, that is, the
management functions that records serve, the management
functions and intelligence functions, and so on.

MR. MARTIN: Are you suggesting in effect an
enlargement of the proposed scope of Chapter II, which, as
outlined, was intended to be a sort of a history of the sig-
nificance of record keeping in human social institutions, and
perhaps expanding that in some way?

DR. BURGESS: Yes, I guess that this chapter gets
down to very micro kinds of questions about records and data
and the way they are processed. But the whole notion of
records, themselves -- I think you get into it in the first
chapter or the first part here, where you talk about -- I
don't know where it is, but the phrase -- I thought of this --
from papyrus to Holerith cards or clay tablets to Holerith
cards -- that is in there some place or in the preface some
place. But it seems to me what human societies have done
with respect to knowledge about and practices with regard to
records and record keeping is a critical issue, not just in
terms of filling out the background information, but indeed
in terms of the kinds of recommendations that this committee
might want to consider.

Because if we think about this document, it seems
to me in a sense we ought to go through it backwards, go
from the last chapters to the first chapters because I think
the background chapters ought to lend support for the recom-
mendations in the end.

And I raise this question only because I would hope
that the committee would give consideration to the collection
of data in the first instance, not just its storage and processing and diffusion.

MR. MARTIN: In this connection I call to your attention -- many of you may not -- a book published a few years ago called "On Record," the production of which edited by Stanton Wheeler was sponsored by the Russell Sage Foundation, which to a large extent, Phil, does exactly what you are saying and therefore would provide an easy source from which to draw material which could be incorporated in the committee's report, with perhaps reference for the reader to the ability of reading in more detail about those matters in "On Record."

I think the committee has to face the question at some point: To what extent does it want redundantly to reproduce within the confines of something called its report all the information which is readily available in other sources? It may be that one will want to summarize and refer, rather than to in effect rewrite what others have already done -- which is not in any way to dissent from the suggestion you are making but to indicate a way of implementing it.

MR. WARE: David, I am a little concerned about the passage of time both today and monthly. We haven't done the work yet. The critical chapter in here is VII, a blank, the recommendations. And it seems to me that is the one we had better get at.
MR. MARTIN: Yes, we certainly have to do that. I thought it was important to define what it is that one hopes to accomplish functionally with recommendations before one can address what methodology in the form of particular recommendations will achieve that objective.

MR. WARE: That is right. Chapter VI is essentially a set of design requirements and they are so comprehensive I am not sure Chapter VII can be other than blank if all of Chapter VI stands. Chapter VI says they shouldn't cost any money, they shouldn't impose any trouble on anybody -- they ought to do all these good things. And I am not sure you can have all these good things and achieve any desired improvement in the situation. So we had better debate, I think, some very critical questions.

MR. MARTIN: Well, start the debate.

MR. WARE: In some sense it gets down to: What cost privacy? And I personally feel it will not come at zero cost, either to business or to government. Hopefully, it would come at modest cost or zero cost to the individual.

So I would -- we could start debating by asking which of these design requirements spelled out in Chapter VI we generally agree to or disagree with.

MR. DOBBS: Don't those design requirements again, to avoid beating a dead horse, really derive from Chapter V?

We have implied certain duties of institutions and implied
certain rights of individuals which we have not yet got an agreement or consensus on. They have been suggested. And it seems to me that to the degree we get consensus from that we then can, you know, derive some design requirements which have to be fulfilled.

MR. WARE: So we start with Chapter V.

MR. MARTIN: Layman.

PROFESSOR ALLEN: I think there may be a much larger consensus than is in fact expressed in Chapter V as it is written now.

I think it contains an absolutely fatal flaw, to be asserting a series of rights and duties. I don't know what kind of rights and duties they are unless they are somehow accomplished institutionally, statutorily, or by administrative regulation. And we have expressed in here our favoring a series of rights and duties and concurrently expressed our hesitation to do it by any legal means in our system.

I think that something has to be changed.

My feeling is, as I have heard the members of the group, that we are for a number of the rights and duties that are now expressed here, perhaps more than are currently expressed. And I haven't heard the degree of hesitation that we are expressing in the tentative draft.

I don't think there are any rights or duties unless
we accomplish it by constitutional or statutory or administrative means. It is some other right and duty than one that can be enforced in the legal system.

So that is the beginning part that I think we will need to remedy, either assert that we are not for any such rights and duties, which I don't believe is the feeling of this group, or that we are -- if we are talking about legal rights and duties -- willing to do this by legal means, administratively, statutorily, or constitutionally.

I think also in the statement of the rights and duties there is some clarification that will result in the statement of them. If on page 16 we take off the qualifier, "to a large extent the rights that are proposed for individuals correspond to the duties proposed for institutions," if we stay with a tight definition of rights and duties, they are completely parallel. It is a redundant statement, and a useful redundant statement, to express both the right and the duty.

I can go through these individually and indicate how the blank ones should be filled in, and how some of these statements of rights are really statements of privileges and have omitted the statement of rights which I believe should be added to correspond to the duty statement.

On the matter of remedies, I think another important point that we should discuss is that the damages remedy
is only accorded in the document as articulated now with respect to breaches of the duties with respect to data security. It seems to me that our remedies, if we are really going to be according rights to individuals -- there is no right without some corresponding remedy. And there should be added here a damages remedy, at least, for breaches of any of these rights and duties.

And I think it would be useful for some of our discussion to focus on whether punitive damages in addition to compensatory damages be included in the damages remedies because of some of the difficulties of proving actual compensatory damages.

I do think this is the heart of the matter. To the extent we clarify what our goals are with respect to these rights and duties, I think we are getting articulated our feelings of what the rights of privacy are. And to the extent that our goals are clarified here, I do think then the design requirements of VI and the recommendations of VII will begin to fall into place.

MR. MARTIN: Let me say about V that it was not intended as what the committee was proposing. This is an inventory, if you will, of what anybody has suggested. It may not be a complete inventory, but it was an attempt to inventory all the suggestions by way of rights and duties which have emerged from discussions of the committee, from
the Younger Report, from various other sources.

And there are omissions -- not intentional, but we have discovered omissions since we have sent it off to you. And it may be that the committee will not wish, itself, to recommend every right or duty regardless of how implemented. And I think your suggestion that one go through this in detail is an excellent one, and perhaps that is what was being suggested.

DR. BURGESS: I think if I understand what Layman was saying, I would affirm that. I think it is different from your reaction, Dave.

If one looks on page 18, I think that the issue of the regulatory approach in sentence 1, paragraph 1, is in no way independent of the issue of the individual rights approach at the bottom of page 18. That is, if one thinks about design regulations, it has to be in relation to some definition of a problem unit, and that unit might be an individual or that unit might be a computer system or that unit might be, in a very impractical sense but logically possible, an agency or a department.

But I think it is important not to get these things juxtaposed, because I don't think they are juxtaposed, although there is an interesting issue on whether we focus on the right of the individual as a way to derive criteria for designing the content of a regulatory system, or whether we focus on
automated personal data systems as a way to derive content for the design of a regulatory system.

MR. MARTIN: Well, on the issue of rights and duties and their congruents, when you say, Layman, that if you give a person a right, it is a right against an institution, the institution has a correlative duty, it would be possible -- I am not saying one should do it -- it would be possible to give an institution a duty the enforcement of which did not arise as a matter of individual right. One could say that an institution has obligation to do something and not make its failure to do so actionable as a right by an individual. Or one could say yes, one wants to do both, give the institution a duty and also give the individual a right to sue for the enforcement of that duty.

Or one might say no, we will leave to a public prosecutor or a regulatory body the enforcement on the institution of whatever duty one imposed.

And the only reason for listing them somewhat redundantly in two columns is because of the fact that people who have addressed this problem, including members of this committee, have talked in some instances only of rights for people or only in terms of duties for an institution, or both, or in some instances neither.

We have examples, as in the case of the Lande Hesse in West Germany, which has adopted a statute and
created a data protection commissioner, Willie Bierkelbach, with whom we had the privilege of meeting -- and he has been armed with a list of the committee members and has been told that any one of them would be willing, in his travels with the United States in the next couple of weeks, to respond to his call so if you get a call from him, that is who he is. I know he is going to call Arthur Miller.

He has nothing more than sniffing authority, really. They have no computerized systems in Lande Hesse yet. His right to sniff is confined to public data systems of the Lande Hesse. He has no authority to tell people what to do, to require anything, because they are at the stage of anticipating the onset of the technology there and he in effect has been put in place to anticipate problems, and as a result of his inquiries and sniffing he may come forward with recommendations of rights or duties or both. But they don't have them yet.

So that is a model -- not a model, I suspect that would enchant this committee or many American citizens concerned about this problem, because the technology has arrived here as it has not in the government of Hesse.

PROFESSOR ALLEN: Dave, I think the example you mentioned helps to make clear the usefulness of being clear about duties and rights in a tight sense. What I mean there is specifying the two persons or classes of persons involved in each of those relationships, so when we say there is a duty
of the institution, which is being elliptical for some class of persons in that institution -- it is the duty of the institution to whom? And when you are talking about duty of institution to someone other than the individual, some general duty to the public, you are really talking about a duty that only, say, the Attorney General might enforce.

And our expression of the duties when they are not duties to the individual perhaps should be so expressed as duties to the public.

But all of the ones that are now here listed do have corresponding rights for individuals that can be articulated. And I think it would be useful to focus on whether we want these to be duties to individuals, or whether only duties to public in general, not enforceable by the individual.

MR. MARTIN: Yes. A good example, to illustrate the distinction you are drawing, would be on the very first duty listed, to inform an individual that a record is to be kept.

Now, that duty could be framed in such a way as to mean that an individual as to whom a given institution was going to establish a record must notify that particular individual that the institution is about to create a record.

Or you could frame the duty in such a way as to require the institution to make available to the public in a
generic way the fact that it is going to keep a certain kind of record. And an individual armed with that information would know whether or not he was a person within the class of persons as to whom such records were going to be kept. He would not get personal notification, but he would be able to know. And I think that is a good illustration of the distinction you are drawing between a duty to the public and a duty to an individual.

MR. SIEMILLER: I think first you would have to define thoroughly an institution. Could an institution be an individual that is in business for himself as a credit bureau or something like that, for example?

The general conception of it would be a corporation of some kind or a government, I would think. At least that is where my mind would take me.

MR. MARTIN: Roy raises a vital point. If you are going to talk about duties, on whom are they going to be imposed? Is it going to be limited, as Roy says, to individuals, or individuals and corporations, the government?

MR. DOBBS: Certainly, as far as our charter is concerned, we have one class by definition, that is, all HEW institutions/systems presumably.

MR. MARTIN: I think you can read the charter as giving you absolutely wide-open opportunity --

MR. DOBBS: I believe that but HEW is big enough
to start with.

MR. MARTIN: I think the charter addresses HEW systems, systems of institutions that relate to HEW, or any system that does or could use the Social Security Number as an identifier, which I submit -- and that was the intention in the drafting -- lays open to the committee, if it chooses to, any computerized information system maintained by anything. And as the outline suggests at one point, the committee will presumably wish to define within that totality of scope what, if any, limitation it wishes to adopt.

For example, does it wish to include systems maintained in the intelligence community, the national security intelligence community? Does it wish to address systems in the criminal intelligence community? And so on.

Is there anything you want to leave out, such as church systems, and so on?

John.

MR. GENTILE: David, I would like to make maybe just two comments.

Number one, I think that in my opinion the report, as it has been defined here, is more ambitious than it needs to be and still be termed a report. I think it would be very useful to have an inventory of what is going on in the privacy area, and I know many people who would really benefit from that. But I don't know that that has to be part of the report.
That might be a separate document.

And I think that we should stress in our report specific recommendations, and we have to address how practical they are.

For example, we have on page 16 "Duty of the Institution" second from the bottom:

"To notify an individual of every access or use made of a record."

Now, I propose that that is impossible, so we have to weigh how real are these duties and responsibilities. If they can't be implemented, then we are just speaking an abstract kind of cocktail-hour kind of discussion and not making a useful input at solving the problem.

So after we look at the costs of these things and what people are willing to pay for them, then perhaps we should get into some very specific actions that could be taken to implement certain activities that will enhance the environment to provide a more safe and protective society.

MR. DOBBS: I think I agree with the spirit of what John is suggesting, but I would argue that even though the cost of implementable or practical solutions to some of the problems posed here may be prohibitive, it is extremely important, I believe, for the committee to specify them, to make very clear what we feel these rights and duties are in this report, even though there may not be such a technology
or political force or what have you to effect in our lifetime these changes. By virtue of the fact that you articulate the problem, you may in fact preempt certain kind of actions in the future which are useful.

MR. MARTIN: Jim.

MR. IMPARA: I think I am a little confused. Is it not the case that pages 16 and 17 are simply a description of what either some people on the committee have said or what other authors have said about the rights and duties of either the institution or the individual?

And on page 18 and following would be where the committee would say, "Given this list of potential rights and duties or proposed rights and duties by a variety of sources, these are the ones that we accept or wish to assign a higher priority."

So I think that Layman's and your points are very good relative to: For every duty there is a corresponding right, either of the individual or some other institution or agency.

And if we think there are things missing from the list, we can add to them. But to argue whether there should be in fact a right for every duty listed, or that all the options should be listed, whether we should say that this particular duty of an institution should be enforced by the individual or by some public agency -- either we need to make
this an exhaustive list, for example, to provide for automatic
expunging of stale data in the record. It is the right of
an individual to know whether something has been expunged,
or it could be some Ombudsman or some other agency who goes
around sniffing to find out whether it has been expunged or
not.

We could list them all and make the statement,
"These are things that have been suggested by other authors.
There are alternative courses of action and here is what the
committee wishes to address itself to specifically," recog-
nizing that all of these issues are important ones, but for
whatever reason we wish to limit the scope of the priority
recommendations.

MR. MARTIN: Well, the notion of Chapter V, as it
tries to say, is that when the committee's report comes out
it isn't going to be the first thing that has been said on
this matter. There are already volumes of comment on this
problem and what ought to be done about it, and there will
be two or three visible and highly specific commission reports
issued during the year. The Younger Report is out. We heard
from Richard Gwyn of the Canadian Task Force that his report
is completed and will be out after the election, sometime in
November.

The Westin Report is in press. The notion was
that the committee would not wish to issue a report as though
it were the only game in town, so to speak. We want to say, "We are aware of the fact that X, Y, P. and Q have addressed this problem. We have considered what they have to say, and" -- as you are saying -- "this is our reaction to it," and finally "This is what we think."

And what Chapter V seeks to do, probably not comprehensively, but if you feel there ought to be such a chapter, is to indicate the committee's awareness of what other people have suggested and react to it in some way so if you do not in every respect adopt every other recommendation that others have put forward, that your failure to do so will be persuasive. And in so far as you adopt ideas that others have had for reasons that you think better than the reasons they advanced, that you articulate their own reasons.

It does drive us back, I think, to the need to get specifically into these rights and duties, and someone suggested we do.

Does anybody want to start a "I am for it; I am against it" sort of thing?

As Jerry started, "I think your view is fine." "I think your view is wrong. In my experience the computer, et cetera."

The draft says as many of you have said that one of the consequences of computer systems is that it increases the desire for facts and the amount of data that is on file.
Jerry says it isn't so. Now what is your view on that?

Bill.

MR. BAGLEY: I may be out of context but let me pose a broader issue that may have been already proposed or disposed.

I think it would be more persuasive and refreshing if we didn't try to write a tome. I read this last night, from noon until two -- I read slowly late at night --

(Laughter.)

SENATOR ARONOFF: Are you sure it was night or day?

MR. BAGLEY: It was morning, a.m.. It is obviously no criticism of the work as such. The outline as such is a fairly inclusive outline. But if you conceive filling in in rather elaborate textual form the outline of ideas that has been proposed, we end up with a 300- or 400-page tome. I am not trying to be funny but it will end up in a tomb. Nobody will read it.

Sure you have to have several pages of prefatory materials and then an acknowledgment, a list, if you will, "There is a lot of other work that has been done in the field and we recognize it and we have reviewed it all." That takes a page. And then make a dozen recommendations.

I simply don't see the necessity for -- if somebody wants to have a bibliography, put it on a separate piece of paper. I don't see the necessity.
And I guess my question is this: What does the Secretary want? If I am wrong, I will shift gears 180 degrees.

If the Secretary simply wants some specific recommendations so that he can say "After a year's study, this is what the committee came up with," and you hand them out to the press and send them out to the Congress, I don't know of anybody else who is going to read them other than those two categories.

Correct me or enlighten me.

MR. MARTIN: I don't know if I can offer any enlightenment. A number of you have come to recognize this is a very unusual advisory committee. Advisory committees are often created to lend legitimacy to a course of action, a policy view, which the summoner of the advisory committee had in mind already and wants to have blessed or given some new and more viable status by the laying on of hands of an advisory committee.

That is not what this advisory committee was created for.

This advisory committee was created to break new ground, to get a grip on a problem which in the view of the Secretary and those of us on the staff who have been working on it for the last many months, feel nobody has yet got a good grip on.

MR. BAGLEY: Sure.
MR. MARTIN: So, starting from that premise, I think what the Secretary needs -- I don't think he knows what he wants. If he knew what he wanted, what I just said wouldn't be true. I think what the Secretary needs are some recommendations for a course or courses of action which can be implemented -- not to gainsay Guy Dobbs' point that the committee may wish to include some recommendations which, in its best judgment, it doesn't feel are implementable or at least very soon, in order to set our sights high, but something which can be implemented.

Now, in order to implement recommendations, it seems the Secretary will not have lived through the experience and the thought process that the committee will have gone through, nor will any of the readers of the recommendations -- the recommendations have got to be presented in a form that makes them persuasive. Now, whether that should be 300 pages or ten pages, I am not going to say. I am sure it shouldn't be 8300 pages. Three hundred pages won't be read.

MR. BAGLEY: Hopefully won't be written.

(Laughter.)

MR. MARTIN: You are in a sense as good gaugers of this as anybody. We have a tremendously heterogeneous committee, a tremendous wealth of background and geographical distribution and perceptions. And what from your perspective collectively is necessary to be persuasive. I am sure is
as good an insight on this as the Secretary's.

MR. BAGLEY: Let me make a quick two-paragraph plea, then, for brevity, not just in language but in -- maybe in scope. Maybe we all ought to stop to think that we are not really going to achieve the millenium just because we are all gray people, and most of you very knowledgeable in the field. Maybe all we can do is try to -- maybe it is a palliative, my friends. Maybe we are talking about a palliative. Maybe we are not going to solve the problem for the next 50 years because we don't even know what the technology of the society is going to be in the next 50 years. Maybe all we can do is meet the main social and political problems involved in this field that exist today, offer some solutions, and maybe even solace to the public who are concerned about the invasion of privacy, and not try to achieve the millenium. I honestly think that we would be more persuasive and more effective if we took that tack.

Now, that might be grating to some of you who want to solve all the problems of the world. I submit it is more effective to do it the way I am saying.

MR. MARTIN: I think Stan Aronoff had his hand up first. There are a lot of hands up.

SENATOR ARONOFF: I tend to agree with Bill, and also with a lot of people here, and maybe taking off from the point where I left at the last meeting, just before we
went to catch a plane, I thought the exercise we had when we broke down into groups and each group tried to come up with what its recommendations would do -- which panicked some of the observers -- nevertheless had within it, for the first time, a recognition of a high consensus on the part of this committee which did start out with varying backgrounds and varying expertise in the subject.

And I came away with the feeling that for the first time here, through that exercise, we could come out with some recommendations and they weren't just palliative, but they were really some very strong recommendations, and some recommendations which have been tried on for size in other groups -- at least throwing them out -- and received a relatively high degree of acceptance.

So I think the report ought to dwell strongly on the recommendations that we are making. Even if you do not write the statute, you indicate, for example, that a statute should be passed by Congress on the subject which includes some of the various items within it.

And if you are talking about what the Secretary of HEW can do without Congressional action, then you tell him, "This is what you can do," or "This is what we recommend you do as an advisory committee. Whether you do it or not is up to you." If you are talking about what HEW can do in terms of setting an example for private industry, what the Secretary
can do in terms of molding opinion in industry, itself, on a
countrywide basis, tell him. That is our recommendation.

Now, backing up my legislative friend who probably
throws in the waste can the same amount of the voluminous
reports that I do, if you feel that your recommendations are
worthwhile, then your second function is to try to get some-
body's attention. And I really agree with Bill that the
shorter and the bolder your language, and the restraint from
using too much computerese language would be what we would
try to do, to come forth in the simplest terms with the defin-
iton of the problem as we see it and in the simplest terms
the recommendations.

You then could have a secondary report from the
committee if you want to, for anybody, once you have their
attention -- for anybody that wants the background that led
up to this you then could have a mammoth staff report that
in effect backs up all of the things that we don't want to
put down in our report-in-chief.

MR. BAGLEY: That was my point. It is well said.

MRS. HARDWAY: I agree wholeheartedly.

MR. DAVEY: So do I.

MR. DOBBS: We are all agreeing. I hope that
David was making very clear -- I hope that I am right, David --
that this document was not to pre-condition us in any way in
terms of scope, form, or content.
MR. MARTIN: Right.

MR. DOBBS: The difficulty, having recognized what my colleagues point out in terms of the form that it ought to take, is that we still haven't got to the distillation process of trying to get a consensus on what those issues and recommendations are.

And what I thought this was to partially provide at least is some kind of point of departure. You know, we have cut out the first four chapters from the viewpoint of discussing them in order to get to whatever meat we perceive in Chapters V, VI, and VII, and to begin that distillation and that consensus which gets us to that short piece of paper.

If I am wrong, I would like to hear some response.

Is that where we are at?

MR. MARTIN: Arthur and then Phil.

PROFESSOR MILLER: I haven't, obviously, had the experience of sitting in a Legislature, but I have had the experience on numerous occasions of testifying to a Congressional committee, and working with Executive Branch people. And the problem of getting someone's attention is considerable.

So at the risk of sounding anti-intellectual and book-burning to my academic colleagues on this panel, I would argue that if we are to get the Secretary's ear, or the ear or a portion of the ear of anybody near the Secretary, let alone anybody near a Congressman, it would be unwise in the
extreme to start telling him about the record-keeping practices of the Ottomans and the Chinese censuses in the 11th Century —

MRS. HARDAWAY: Hear, hear.

PROFESSOR MILLER: -- exceeded only by practices of the Meiji Restoration in Japan, all of which strike me as fascinating reading in front of a warm fireplace.

On the other hand, I think we can swing too far in not providing the evidentiary basis for our recommendations, for our punch lines.

Now, it may have to take the form of two documents -- and I think this is what Bill is suggesting.

What you hand to the New York Times is your recommendations. And what you hand to your policy makers are presumably your recommendations and a rational basis justifying your recommendations.

And it seems to me that if this committee has something unique to contribute to the Secretary of this Department, it is the fact that over the months we have created a record that does not exist anywhere else in the world about what is going on inside HEW and HEW-related and funded and inter-related agencies. And therein lies the entire rationalization and evidentiary base for whatever recommendations it is we come up with.

And I personally believe that it is that resource that should be synthesized and distilled -- distilled being
a very important word -- into Chapter III. Indeed, I don't see how you can write Chapters V, VI, VII, et cetera, until we really recollect for ourselves and understand and piece together and look once again at what it is we have been hearing for four or five months. Because I feel that one of the great revelations to me during the past few months has been the inadequacy of the policy-making practices of various groups within this Department with regard to information collection and dissemination.

It is not that people are abusing or misusing or in any sense are evil. It is the fact that nowhere have we built into the mechanism the policy or decision-making processes, check points where people are required to think about the wide range of subjects we have been talking about.

And I think a review of the record would demonstrate that in spades. And that should be in Chapter V, as in a sense your findings of fact before you get over to your conclusions of law, your recommendations.

And if the Secretary really wants to be informed, let's tell him about what is going on in his Department.

Now, that is why I think the Ottoman Empire is irrelevant. And in a real sense, David, I think that most of what we find in the Younger Commission Report, in the Gwyn Commission Report, and in the National Academy Study is irrelevant. I could punch large holes in each of those.
documents. I think we would make a mistake to rely too heavily on them, and particularly make a very grievous mistake if we rely on them or incorporate information from them to studies of a radically different context, character, and political background, and ignore that massive record that we have accumulated here, and try to distill that and get some sense of organization from it.

I think Chapter III, in my view, is absolutely essential before you can really start focusing on V, VI, and VII, and VIII.

MR. MARTIN: Joe.

PROFESSOR WEIZENBAUM: I don't want to dissent from anything Arthur said, but I want to add something.

He used the word "revelation" to him. I think one of the revelations to me in these meetings has been my observation of the formation and the modification of attitudes on the part of my own colleagues here on the committee with respect to the problems that we have seen and talked about.

And I think it is important to attempt to affect the attitudes of the Secretary and indeed of the general public similarly. It would be nice if we could somehow make him a participant in everything that we have done here, and similarly for the general public. Well, we can't do that, so we have to do a distillation.

This brings me to pages 16 and 17 of Chapter V,
where we have the duties and rights.

It occurs to me that among the dangers, some of which Bill mentioned with respect to those, and with respect to the whole report, is not only the danger of not getting the attention and so on and so forth, but the danger of being shot down too easily.

I think we have to recognize that many of these what we have called duties, and the corresponding rights, are to a certain extent conflicting, and even in some cases mutually contradictory.

I think this reflects real life, that in real life there are in fact dilemmas where one has to make a decision favoring one aspect over another.

For example, airlines would certainly like to maximize the speed with which they transport people. On the other hand, there are considerations of safety. So you can't have maximum speed at any cost, nor can you have maximum safety at any cost. You somehow have to compromise the two and get an optimum between them.

In dealing with these things we are in a very, very complicated space.

For example, the duty as we say it -- and I think that is probably a bad word here -- the duty of the institution to maintain records -- we don't say for how long, we don't say what is to be done with the new records that are
generated in the act of maintaining records, and similarly
with respect to the necessity of informing an individual that
a record exists and giving him a right to look at it.

We know, for example, that doesn't apply to psychi-
 atric records under certain conditions and so on.

So there are all sorts of qualifications attached
to this which point to dilemmas similar to the speed-safety
dilemma.

And I think in order that we not be shot down too
easily, it is important that we make a statement of the kind
I am trying to make here, that is, our recognition that this
is a very complicated interplay of various ideas and positions
that are very highly desirable. However, coming back to the
formation of attitudes on the part of this committee, I think
it would be a major -- almost a coup on our part, and I think
for the general public, if in fact we could agree as a com-
mittee on these duties and rights -- perhaps called something
else. I think "duties" and "rights" is too simplistic. We
have to find some other words. But if we could in fact agree
that these are desirable goals that one should attempt to
achieve, that they are perhaps prima facie rights, that
reasons have to be given in every case where these rights or
responsibilities are violated or diminished, then that would
be news. That would be something that I would desire to see
in the report.
I would very much like to ask -- I don't mean at this very moment, but at some time during our discussions, whether in fact we have some general consensus on the desirability of this list that has been put down. If that is so, then I would be very pleased.

There are some other things I would like to see in here that aren't in here which I will address some other time.

MR. MARTIN: Phil.

DR. BURGESS: Let me say that I think Bill and Arthur Miller's points are well taken and I agree with them. With respect to this document, like Guy Dobbs, I didn't read this as preempting either the form or strategies that might be invoked by the committee. And I think that a document like this, no matter how bad or how good or how incomplete, serves a very important function because it requires us to react to it, and one of the most important functions that it serves is it tells us things we don't know, and therefore the kind of information we should seek.

And let me just give my reaction to that in relation to the point that Miller and Bagley and others have raised, and that is the following: That it seems to me -- I agree that it would be useful to have a short report that would, in a few pages, summarize where we have been and what recommendations we make. In fact, I think the report ought to
start out by saying, "Given extensive review of knowledge about and practices with respect to record keeping and automated personal data keeping systems, this committee considered what would happen if we did nothing."

And it seems to me that every committee that is charged with a design problem ought to consider in the beginning what the costs and benefits of doing nothing are.

Now, it seems to me in that regard that we have got good data on trends and practices. We know that there has been a tremendous increase in data collection and data diffusion, and an even more rapid increase in its collection, storage, and diffusion via computers over the past decade, by the federal government and by the private sector.

And we also know from our deliberations here and from documented testimony, the conditions that have sustained those trends. One is technology. That is, it is easy to do these kinds of things. And the other had to do with broadly-shared social values on planning and evaluation and accountability. And when you have a social commitment to planning and evaluation and accountability, you have a corresponding need for information.

And we have got good evidence on that from this committee and from other committees.

The thing we don't have in this committee, as I think about the record that we have amassed, is evidence with
respect to costs and benefits. That is, around this table we have got a variety of approaches to that. Some have kind of absolutist notions about rights and duties, and I think that is a reasonable position. Others of us have pragmatic kinds of considerations with respect to constraints that might have to be faced by those who are charged with responsibilities for delivering services. And others are concerned about the implications of these kinds of systems under certain kind of conditions and so on.

But we really haven't heard testimony from people, asking those people to give us a careful assessment of costs and benefits.

So my feeling is that the last portions of this report are really the gut issues, and indeed in Chapter V we talk about the discretely harmful effects to individuals, to groups, and disruptions of social operations that would have harmful effects, and changes in the character of social operations. Those indeed are the gut issues and we haven't really talked about those among ourselves or heard them from people who come in.

And therefore, to go back to the original point, I would urge that to the extent possible and to the extent that time and resources are available, a valuable function this committee can serve is to synthesize and distill and assess much that has been done by others, and that provides
useful background information for a large number of people. I think Bill Bagley was kidding when he said, "Who is going to read it?"

PROFESSOR WEIZENBAUM: No, he wasn't.

DR. BURGESS: There is a social function to be served by that. The main point is resources ought not be spent on that in my judgment until that time when we have the kind of information required to make recommendations. And my feeling is we don't have that information.

I am disturbed by the fact that we continue to get information on practices and conditions that sustain those practices or encourage them, and we don't seek information with respect to costs and benefits. And I don't see how any recommendations can be forthcoming -- with or without a large amount of background material -- without some attention to that issue.

MR. MARTIN: May I suggest that we break at this point for coffee and be back here in fifteen minutes promptly.

(Whereupon, a short recess was taken.)

MR. MILLER: The meeting will resume. Order, please.

Just before we broke for coffee, as I recall, Phil Burgess was making a point that he felt the information record of the committee to date is deficient in its failure to contain enough information about the costs and benefits
of -- what, Phil?

DR. BURGESS: I think we can establish what trends are with respect to record keeping, automated personal data systems. I think we can establish the technological and social conditions that have led to and sustained those trends. But I think that a committee's function is to say, "What if we do nothing? What if we simply project that trend indefinitely into the future? What are the costs of doing that? Are there any reasons for us to say 'What if we go home for Christmas and send the Secretary a note that everything is all right, the guys are doing a good job creating these automated data systems and give them a little more money and they will do better.'"

But what all of us have private views on -- and those have been expressed over and over again in the committee, but what we don't have testimony on is: What are the costs and what are the benefits to individuals and institutions and to society of simply letting things go on as they are?

And I think before we can seriously consider any set of recommendations we have to come to grips with that issue.

MR. WARE: Or assume it away.

MR. MARTIN: Are you saying, Phil, that you feel the committee ought to re-examine the premise on the basis of which the Secretary acted? And I suppose there is that
much of a premise in the action of creating this committee, that is, that there are social implications of automated personal data systems with respect to which something should be done.

That is the Secretary's premise. And are you saying that premise should be re-examined?

DR. BURGESS: No, no, what those implications are have never been the subject of major presentations before this committee. They have been the subject of a great deal of discussion by members of the committee, but the implications of automated personal data systems have never been the subject of investigation by the committee.

All we have investigated, David, are trends and conditions.

MR. MARTIN: Could you suggest a way in which you feel the committee could explore that? What testimony from what persons would you feel one should summon in order to get a statement of the social implications?

DR. BURGESS: Well, I think -- to start at a very elementary level, we have a member of the committee here who has responsibilities for a statewide information system. I think that we could hear from him about that.

I think we have --

MR. MARTIN: Could you be specific. Who are you speaking of?
DR. BURGESS: John.

MR. MARTIN: I didn’t know whether you meant Bob Gallati or John Gentile. They both run statewide systems.

DR. BURGESS: It seems to me John’s operation, from what I know about it, deals with a range of issues where we could, you know, begin to look at what are the implications of the institutional duties that we have tentatively listed here for example, or we could have Bob and/or -- who is it? -- somebody else who has responsibilities for the welfare system in Oklahoma.

I think that is a beginning point. But I think we could also try to locate people in the United States who have given some thought to these kind of things.

I am sure a lot of thought has been given to what the benefits are. That is the place to start. And when people come in and start talking about -- TWA, for example, talked a great deal about things that would be impossible or things that are possible now that they have the conversational network for reservations. Well, I think from that one can begin to query: What would be the costs of changing that? I am not sure that would be one that we might want to change.

We might want to change practices. What would be the cost of changing the way the thing works, the cost to TWA, the cost to our capacity to change our reservations easily to go from Point A to Point B?
But until these issues are addressed, I am not sure how we can address these other questions.

MR. BAGLEY: Dave, sir.

MR. MARTIN: Bill.

MR. BAGLEY: Let me put a little more practical connotation on what Phil is trying to say and reduce it to dollars and cents.

Forgetting for the moment, you know, the over-all social costs to the nation -- and by that I mean the nation's business community and everybody else -- somebody -- and maybe it is after we draft our recommendations, but I would like to raise the point beforehand -- somebody ought to think about the Bureau of the Budget. Because if we recommend audit trails and corrective access and devices and procedures that all of us are fairly familiar with, at least the words -- if we recommend that this be adopted either by Secretarial or Congressional action, somebody is going to shoot it down by saying "This is going to cost $2 billion." And we ought to have at least an idea as we are going through the recommendations -- and I don't know how we get the idea; it is going to be somebody's guess, maybe somebody on the committee, maybe somebody in the Office of Management and Budget -- somebody's ideas as to what we are talking about in federal dollars and cents.

The specific example that I mentioned very early
in our discussions -- and it is very superficial, but it is also very pointed -- I was indicating how end results are stopped from being attained.

We had this little bill in California which I introduced after a little advisory committee that I guess you recall I chaired, and again it was superficial. We didn't go into all the vast social implications. But we did recommend audit trails for state-owned facilities, for state-owned computers. And we did recommend the right of correction, with some procedure for the corrective process.

We put in a bill, and literally within 15 minutes -- and that is about all any committee is going to give you. Even if you are the chairman you can't take over for three days when you have 25 different proposals pending. Fifteen minutes and a little testimony and the Department of Motor Vehicles of California came forward and peremptorily, as far as I know, and arbitrarily said, "We have analyzed the bill and it will cost our Department $5 million to implement."

That was the end of the bill. Nobody was going to spend $5 million on a couple of little protective devices. Nobody analyzed the problem.

If the mentality of those you are dealing with is such that they shut off when they hear $5 million -- and Willis was a member of our advisory committee. It got shot down simply by one statement by one department. After that
I think I am making Phil's point in a different way. Please have in mind instead of just -- and I get back to my original point an hour ago -- instead of coming up with a beautiful set of recommendations, and tying it in gold ribbon, if you will, which has its attributes and can have its benefits otherwise -- please remember if you have also as a goal the specific implementation of specific recommendations, departmentally or Congressionally, then you have to deal with the dollars and cents. Otherwise you are kidding yourself.

MR. DOBBS: I would like to just as a footnote to Bill's comment say fortunately we are in reasonably good shape in the sense that the degree of precision with which OMB and other federal agencies have been able to estimate costs of implementing these large-scale data systems has been so poor that almost -- however you want to get at those privacy costs -- I suspect they would be hard put to argue that it is too much.

MR. BAGLEY: While I think of it you ought to know that one of the new assistant directors of OMB, Cap Weinberger -- they just brought him back from California where he was Deputy Director of Finance. It's Jim -- I will get his name today -- you ought to know this guy. As part of his duties in California he had EDP as his sphere. And he thinks he knows something about it and he would probably be the guy that would come in and say, "Look, this is going to cost $300 million
and we are not going to do it." I will remember his name later today. Oh, it's Jim Dwight.

MR. DOBBS: To follow up on the same point, there are some examples in commercially available systems, protective kinds of technology, which have a price on it and a cost to the user, and these data I think are relatively easy to come by. I know at least three or four where we can get them.

To follow that up, it turns out in the private sector there have been very few people who have been willing to pay the price for that protection which has in fact been designed in. What implications it would have for us, I don't know.

MR. MARTIN: John.

MR. GENTILE: I would like to point out that earlier I mentioned that the Association of the Fifty States would like to cooperate in sending out a survey to the state information officers and get certain responses to any specific questions. I thought that it would be a good mechanism or device for getting answers to certain questions.

We have not developed the questions and I think it was untimely earlier in the life cycle of this committee, but perhaps it is now time.

So I just throw that out.

In addition, I feel compelled now to point out a
project that some of you might be aware of, where the IBM Corporation has selected three sites in the country to further develop security in the computer environment. The State of Illinois is one of these sites and I am the project director.

The objective of our study is to develop a secure system as best we can -- and the price range of our contract is in the half-million-dollar area -- to develop a secure site in the State of Illinois, a data center that has two large-scale computer systems operating in tandem, with all the problems of on-line and batch processing security.

Then, after we develop this secure site -- and we all know that there is no absolute security -- we are to evaluate the costs for doing this. And we will be keeping very detailed records as to how much it costs.

And then, thirdly, we hope to extrapolate this for more general applicability.

The types of security we are looking into are software in particular for those with computer backgrounds. We will be implementing the resource security system of IBM where, with all the administrative procedure required to go along with it -- which is, for example, to have a security officer appointed in state government who will research the statutes and the regulations of the state government and determine which program sets are supposed to be confidential
and secure and which data sets are secure and classify them so we could limit access to them.

Of course, this has a very great administrative cost associated with it because it branches out into all of our agencies.

So we will be keeping detailed records on this to try to find out and to associate with specific actions that can be implemented how much it costs. Because, as Guy pointed out, people have not been willing to pay the cost. And although we like to, you know, kind of give short shrift to this whole cost -- you know, privacy and rights of people at any cost -- that is not the case. We live in an economic world and we have to consider how far we are moving from where we were before. And cost is a very real consideration.

So as we proceed with our project, which is just starting now, I would be happy to keep the committee updated. But that would be another input on cost.

And I also point out that Jerry Davey's group, who worked on cost, should be coming up with their report in the not-too-distant future.

MR. DAVEY: It should be here in a day or two.

MR. WARE: These should be valuable inputs but whatever they turn out to be it will be a small fraction of the total cost we are trying to get a handle on. You don't have to be all that insightful to make a rough estimate. The
air rates -- do you think ten per cent of the data base is going to be challenged by people and has to be corrected? If that is what you believe, it means a ten per cent difference in the workload and there is no difficulty in getting that cost.

DR. BURGESS: What did you mean a moment ago when you said assume those away.

MR. WARE: I meant either we settle the question you raised or we just assume the answer to that.

DR. BURGESS: It seemed to me you were getting back to the points that Bill Bagley and others have talked about, namely strategy kind of questions, that it would weaken very much any chances for adoption if views that are shared by a large number of people on the committee, for example, about the implications, were not in some way in the document. I am not talking about a 200-page document but some effort to bring to bear on what I think is a fairly widely-shared view about the implications.

MR. ANGLERO: In terms of the previous comments on analyzing the cost implications or the implications of doing nothing, leaving things as they are -- well, this is something that as a planner -- that is the first thing that is done when we are trying to analyze a problem, what would happen if nothing is done. So to us, there is also the cost of doing nothing.
But on the other side, and perhaps in some way the same line of thinking, I cannot say that we have pointed out in a system, in a process, where the problem lies, really. I cannot feel that. We had that at the beginning. In earlier presentations I remember a system design process the speaker presented us, where some percentages of risk were involved in the process of dealing with personal information. And I think that one thing we should do is to try to identify and to really say the basic problem or the basic source of the problem is in this or the other place, or at least assess the relativity of the problems or the percentage or whatever it is. So when we make recommendations, we can say "starting from here in system design or data processing only or the cybernetics involved, we are dealing with a problem."

MR. MARTIN: Bob.

DR. GALLATI: It seems to me there is no question about it, we have to consider costs in terms of this. We can't, perhaps, make specific recommendations without thoroughly considering the cost concerned. But I don't think we should limit our thinking by virtue of the fact that some of these things will perhaps cost some money. Because in some cases it may not cost too much money. The costs will always depend upon a specific application.

And I would also like to point out that actually there are many things related to privacy and security which
will have an inverse effect upon cost.

For example, take the limitation of data, to refrain from collecting certain types of data, which is one of the duties that we would like to impose. The very fact you refrain from it is going to save you money in collecting, storage, retrieval, and so on.

For example, in our own system we have reduced a considerable amount of the data that was retained in the manual system. We used to get state mental hygiene prints which were taken for various reasons, but were taken of every person who entered a state mental hygiene institution.

Now, in looking at this from the standpoint of personal rights and privacy it seemed to be anomalous that a person who went to a private sanitarium would have no record in the state system but a person who went to a state institution would have this record, and this record would frequently be given to people who would use it for purposes inimical to the purposes of the person, himself.

So we stopped retaining these prints. They are no longer in the files. This has saved us money.

And I would go down a whole litany of things we have eliminated from the files on the basis of good security and privacy practices, which had been gotten in the files and retained there because nobody had given this the type of thinking required from the standpoint of privacy and security.
MR. WARE: Could I urge the group to get off the cost kick. We all agree it is important but we can't cost an amorphous thing you can't describe, so the costing is almost the last thing in the process.

PROFESSOR WEIZENBAUM: Two more things on the costing. It should be made clear to everybody that the cost of retrofitting the system is more than the cost of doing it originally. Presumably automated data systems will go on for a long time and new ones will be created, and if we can establish a kind of consciousness of these things, then the cost of designing these things and building them into systems that have not yet been designed is much less than the cost of retrofitting.

The other point is, yes, accountants like to count dollars that they can see. And sometimes that results in a very great waste. Let me give an example.

Suppose you have an automated data system for epidemiological purposes, say that keeps records on people who have some terribly contagious disease, let's say VD, for example.

Now, if the public were certain that the confidentiality and privacy and so on of such records was absolutely guaranteed, then that system might have a very great effect on the health of the nation. If, on the other hand, the compliance of registration and so on and so forth is
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minimal because these guarantees are not obvious, then the entire cost of the system in real dollars is an absolute waste. Not only doesn't it do anything; in fact, it does harm in the sense that it misleads public health officials and so on and so forth.

Those kind of dollars are very, very much harder to count, but they are very, very real.

MR. WARE: And big.

PROFESSOR WEIZENBAUM: And big, yes.

MR. MARTIN: Jerry.

MR. DAVEY: I don't want to get into it now, but as indicated earlier, the report that the group has been working on is completed and should be air-freighted here today or tomorrow.

PROFESSOR WEIZENBAUM: It is that big?

(Laughter.)

The whole Flying Tigers.

MR. DAVEY: Perhaps at that time we can talk a little bit about that in specifics.

MR. MARTIN: Roy.

MR. SIEMILLER: I think we should give some consideration to a little background thought, and people say if we do nothing there is a cost in this and all -- I don't think we can do nothing. I think we have to do something. I am firmly under the impression that this committee would
have never come into existence had it not been for Senator
Ervin and his interest in the subject matter of privacy and
data collecting and storing and dissemination.

I am firmly under the same impression that unless
this committee does a good job and the Secretary implements
something, there is going to be legislation put into the
hopper, and as we know the legislative process in the national
Congress, the cost is not always considered by those that pass
it, and sometimes they even pass it over the President's veto,
regardless of when he vetoes it for a cost process.

So I think that we have to do a job and the more
we implement -- what we are not going to do is not very broad,
but maybe the implementation and the justification for the
recommendations has to be fairly broad as to costs and for
other background information. But whether we do anything or
not -- and perhaps even if we do a good job -- Senator Ervin
is going to introduce legislation because his staff is al-
ready preparing it.

MR. MARTIN: I would like to see if I can tempt
fate and push this committee to apparently what it is resist-
ing hard doing and that is to find consensus on one thing.

Phil Burgess has raised the question, perhaps for
discussion's sake, of the possibility that this committee take
the position that nothing need be done.

Now, is there a consensus on the part of the committee
that that is a policy posture which the committee rejects? Or is there some sentiment for that that we want to explore?

DR. BURGESS: I don't want to be misunderstood on that. I want to say it is a very useful way to establish that indeed there is a wide consensus on this committee.

MR. MARTIN: That is what we are trying to find. Is there a consensus on that proposition; the committee rejects the proposition that nothing should be done?

(Chorus of yeses.)

I take it that is our first decision.

DR. BURGESS: Can the record show September 28 at 11:45 a.m.

(Laughter.)

MR. MARTIN: Let me see if I can crystalize getting our set in it. I have the feeling the committee has a piece of meat and is rolling it around in its mouth and is afraid to bite it. It doesn't know whether it is meat, fat, bone, gristle, or a piece of dough that got in there by mistake.

Let's turn to page 16 and look at the second duty listed:

"To inform an individual of the content of a record to see and/or have a copy of a record."

And the correlative right is:

"To be informed of the content of a record, to see and/or have a copy of a record."
Let me give you a reminder of something you learned from the Social Security Administration. The Social Security Administration, as a matter of discretion, not in response to a duty imposed by either the Secretary of HEW, the Commissioner of Social Security or the Congress, but out of the goodness of the Commissioner of Social Security's heart or maybe the advisor to Social Security has adopted a posture which says, "Any individual who is covered under Social Security may send in a little printed card provided by Social Security for the purpose or write a letter on his own stationery or on his own postcard requesting his wage record to date, since he became covered." And when he mails that card in by whatever slowness of process the postal service produces it, he will get back a communication from the Social Security Administration setting forth his wage record.

Now, there is no duty involved. The Social Security Administration is doing that when requested. There is no right in the sense that Layman and I were talking about rights before. If the Social Security Administration changed its mind tomorrow on the grounds of cost or any other grounds and decided "We are not going to do this any more," there is no way an individual could go to court and say, "I am entitled to know my wage record."

Now, you could make that a duty on the Social Security Administration, and the duty could be framed in two
ways. It could say, "If an individual asks for his record, he is entitled to receive it." Or you could write the duty to say, "You shall periodically, once a year, once every two years, once every six months, provide that information to the individual."

The implications of how you state that duty and the costs of carrying it out will vary greatly.

What do you want to do, if anything, committee, about the right of an individual or the duty of an institution maintaining records to be informed about the content of that record?

Do you feel that it is possibly a recommendation that you want to make, leaving aside how it would be implemented, whether by statute, by regulation, or whatever, to mandate some right or some duty across all the kind of data systems with which you are familiar?

Now, chew that piece of meat. That is the kind of question you have got to be prepared to face.

Put yourself in a situation three months from now. The report is out. Your notoriety has been escalated enormously because you were a member of the committee and the report is throughout the headlines. And a reporter calls you or the TV station and asks you to come down and get on a talk show and explain and defend and advocate the recommendations. And you are asked the question, "We see" -- if that
were the recommendation -- "that your committee has recom-
mended that in any data system maintained by any institution
the institution has an obligation -- whether monthly, weekly,
annually -- to provide the subject a copy of the content of
his record."

How do you justify or advocate that recommendation,
Mr. Allen? How are you going to answer that question? How
are you going to handle that as public personalities advocat-
ing what you recommend to the Secretary, as I presume you
want to do?

PROFESSOR ALLEN: I think we are getting down to
it and ought to begin to chew. I think this is a very good
example for deciding how we want to proceed, in deciding
whether to recommend an unqualified duty and right such as is
articulated here for the second one, or whether we might
want to qualify and make it a duty to inform upon request, as
an alternative, and to commission a study to be done of
what the full cost implications would be for an unqualified
right.

It also may suggest what there is in the record
to justify even a qualified recommendation. It is pushing us
back to Arthur's suggestion of filling out the findings of
fact of what we have confronted here in the committee hearings.

It may be that our conclusion is that we need
more information to justify even a qualified duty to inform
upon request of the individual.

So that going through these one by one and getting some sense of where we now stand with respect to which ones we can take a stand on on the basis of the information that we have already been exposed to and can justify, which ones we want to request further detailed study on, to possibly extending such a right beyond what we now recommend -- I think that going through these, it is going to inevitably interact with the detaining of the factual record that Arthur is pressing for.

MR. DeWEESE: I think what you said points out how difficult it is transforming these general principles into hard, cold regulations.

For example, it seems to me that the and/or proposition in the second sentence, whether the person gets the content of his record or a copy of his record is very important. Because it just occurs to me that this procedure, mailing out the earnings to anybody who submits a postcard to Social Security, is a tremendous invasion of personal privacy.

I have in my files somewhere a list of all the names of every person on this committee and their Social Security Number, with the exception of one which was in error, which is Joe's. I can send a postcard and get everybody's earnings.
MR. GENTILE: You can't unless you forge our name.

MR. DeWEES: You are assuming I want to do something like this. So how you draft the actual regulation is crucial to the whole problem.

MR. MARTIN: Let me remind you of something else you learned when Ken McLean was here reporting on the Fair Credit Reporting Act. You recall the legislation as originally introduced contained a right of individuals to receive a copy of their credit record. You recall he said the credit bureaus opposed that provision of the legislation because they felt it would deprive them of the commercial opportunity of selling a person's record over and over and over if the person, himself, had a copy of it and could provide it directly to the person from whom he was requesting credit. So under the pressure of the credit bureau's suggestion, the legislative proposal was modified and it led to a right which is now provided by law that the person whose credit has been turned down on the basis of a credit bureau report is entitled to know the contents of his record but not have a copy of it.

I think this kind of fine-grained discussion is what we need in order to test the assumption that there is consensus or not or to what extent there is consensus about the possibility of taking any one of these duties or any one of these rights and mandating it by some process or other
on what systems, under what circumstances.

We talk generally and favorably about the notion that a person should be informed or have the right to be informed about the content of his record. What are the doctors going to say if the committee recommends that as a general proposition, when one applies the proposition to the right which would thereby be created, for patients to have whatever is in their records?

I think the prevailing view we have heard expressed from doctors -- not a monolithic view -- our chairman doesn't share the view, for one -- but many, if not most, doctors would say "I want to decide what the patient should know out of his record and don't you give the patient any generic right to know because I will be the best person to know whether the knowledge he has terminal cancer or whatever is hurtful to him and the patient can't be given freedom to determine for himself what is in the record."

PROFESSOR MILLER: David, what you are pointing out is the fact that rational men and women cannot take up any one of these right-duty relationships in isolation.

MR. MARTIN: Right.

PROFESSOR MILLER: That they are interactive. You have pointed to a couple of obvious interactions.

The question of right to know or to have access, whether you call it nature and content or hard copy, is
Obviously not a function solely of cost but a function of many things: Cost, content, sensitivity, legitimacy of the individual's knowing, legitimacy on the part of the data collector, and perhaps most significant of all, the conditions under which the data was originally collected, whether it is from a more than usually reliable source or whether it is hearsay.

And another variable would be the other corrective mechanisms in the system that increase or decrease the probability of content accuracy.

So in the doctor case, although he might not want to allow the patient to see it, if you had an Ombudsman, a professional sniffer, in that case we would say that is enough right-of-shoulder. That is enough looking over the shoulder.

So I think it would be a total abdication of rationality for us to pick them up and lay them down in it one at a time and stick our hands in the air like dumb soldiers. I think we should talk about them inconclusively and go back and see how the things fit together.

MR. MARTIN: Joe.

PROFESSOR WEIZENBAUM: There is clearly a question just underneath this question of an individual having the right to see the content and so on and so forth. Clearly, if he is going to exercise that right, he is going to exercise it for some purpose.
Suppose, for example, that we legislated, if we could, that Social Security does in fact have the obligation to reveal the content of a person's file to the individual.

Suppose the individual doesn't like what he sees there. If there is no ancillary right for him to do something about it, then the first right is empty.

That is one question.

Another question arises which is sort of a version of informed consent. The question is what do we mean by content? We have been talking about, for example, a person's income record. We learn from Mr. Ball that he intends to insert into the Social Security file a bit which indicates whether that person is a welfare client or not. We don't know whether that bit is going to be expunged once he sees he is to be a welfare client and so on. There are complicated questions with respect to that.

But is that part of the content of the file? I think it certainly is.

Now suppose under our rules which we here legislate that we legislate that the client is to be informed that that bit is set or not set.

Okay, if he doesn't know what the meaning of that bit is, there is not much point in informing him. So there is the question of informed consent, in a sense.

And then, suppose that he objects to that and he
says, "That is none of Social Security's business." Again, if we don't at the same time do something about that -- not necessarily that we legislate that he can have it erased, but we have to say something about it. And these things clearly have to be discussed in rather considerable detail.

MR. MARTIN: Phil.

DR. BURGESS: Just to go back to an earlier comment I made about our focus on record keeping and suggesting the need to think about the functions of record keeping, I didn't mean, as understood by some, to say we should have a tome record keeping. What I meant to say is exactly what we are talking about now, namely, for a concrete example, we might want to say that when records have to do with the function of entitlement, that this duty and right that you would ask us to address ourselves to as an example might apply. But where it has to do with operations-management kinds of functions, the right might not apply.

I am not sure of whether everyone will agree with that, but it seems to me the function of the record, itself, is intimately related to the kind of right that might be attached to it, and the kind of duty that might be attached to it.

And my personal feeling on these things is that whenever entitlement issues are involved, these rights that we have talked about here become nearly absolute, and that
for other kinds of record-keeping functions, I would personally be more willing to see modifications in the way these rights and duties are stated.

I think I am saying the same thing that a number of other people said, but I am trying to link it explicitly to how we address the issue.

It seems to me if we can kind of consider a problem of rights on one side and the functions of the records we are talking about on the other, there would be a number of agreements with respect to the fact that access and protection with respect to some kind of records is more important than access and protection with respect to other kinds of records.

In a way, a doctor's record is a management kind of record in a functional sense, and one might be more willing to see variations in how those records are treated with respect to the patient than a record having to do with the wages you have earned or a record having to do with your right to get a student loan.

PROFESSOR MILLER: But many records are multi-functional. That same medical record may be a key in an entitlement proceeding. And the management information system may not deal with entitlement but with qualification and appraisal to qualify.

DR. BURGESS: That is true, Arthur, and I think one of the advantages of thinking about the record keeping in
functional terms might indeed lead to recommendations having to do with diffusion of data. It seems to me that is one of the major problems and, indeed, if records are collected for one purpose, one of the ways to get around this is not computer security and all these kinds of things, but one of the ways to get around the problem is simply to find ways and means to prevent the diffusion of records collected for one purpose from being used for another purpose.

MR. MARTIN: Layman.

PROFESSOR ALLEN: The point that is related to both Phil's and Arthur's -- I think the point of doctors with respect to this second duty is a good example that we will encounter with respect to every one of these other statements, that there will be exceptions that will want to be made.

And in trying to arrive at some specification of our recommendation, we either need to go into detail with respect to each one of those exceptions to each one of these statements of duty-right, or we look to some more general language to encompass all of the kinds of exceptions. And we are really going to need to make some judgment on what degree of detailed specification of the exceptions to each one of these.

Starting at one end of the continuum with the most general sort of exemption, we might have a statement something like "To inform an individual upon request of the content of
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these.

Starting at one end of the continuum with the most
general sort of exemption, we might have a statement something
like "To inform an individual upon request of the content of
his record unless there is some compelling social justification otherwise," or some such very broad general exception language.

With regard to some particular duty statement, we might want to be much more particular, or we might want to be very broad with respect to particular ones because we can see that we can't perceive all the kind of exceptions we would want to have.

MR. MARTIN: Layman, this document is in a sense introduced by a phrase you have used three or four times right now, "we might want to." We have got to get beyond the "we might want to" phase to "We want to."

And I think it has got to become particularized.

What do you think about the duty to disclose or the right to? Do you want to start formulating what you want or do you want to stay in a "we might want to" phase? As someone has observed, time is running out. You have got to bite that bullet, not just think about might wanting to bite that bullet.

John.

MR. GENTILE: I think the committee has already agreed that the committee rejected the concept that nothing need be done. We have agreement on one recommendation.

So going from that extreme to the possible second recommendation, would the committee agree that an institution
is obligated to keep an individual informed that a record is being kept?

MR. SIEMILLER: Define "institution."

MR. GENTILE: Any entity that maintains records.

MR. SIEMILLER: Private or government?

MR. GENTILE: Both.

MR. MARTIN: CIA?

MR. IMPARA: Why not?

MR. MARTIN: IRS?

DR. BURGESS: What if we did this in terms of HEW?

MR. GENTILE: I am not saying in this particular recommendation that we inform the individual what his record is, that we have his earnings at such a rate, et cetera, where he has been registered in hotels and airlines, et cetera, but rather that there is a record on file, because there are many things happening that I know I am on somebody's file, but I don't know where.

MR. DOBBS: Can I try one I think is consistent with what you are saying. If one made the statement that any government form which is a source collection form document for data to be automated said, "The information contained on this record will be held in an automated file and may be exchanged with other data systems" -- is that a level of informing the individual?

MR. GENTILE: If he is willing to sign that statement
with the last part, he has really given you a blank check.

PROFESSOR WEIZENBAUM: Does he have any options.

MR. DOBBS: Ignore the options or whether he is willing to sign. I am simply asking the question whether or not just that step itself, which is currently absent, just informing the individual --

MR. GENTILE: All right. I will agree with you that that in itself would not be adequate, but I am proposing this as perhaps a recommendation that could get us closer to other recommendations that are more controversial, such as: Should we give him the content of that record? Does he have to show identification?

MR. DOBBS: I am not going to let you get past that. As a first step, is it reasonable to simply tell him on the form that the data is being collected to be held in automated data storage files?

MR. GENTILE: As a first step, I think it is. As a first step, I think that is more than he has got now.

MR. DOBBS: That is the point I am trying to get at.

MR. MARTIN: Could I press you just a little bit further, then, Guy. Assume -- I am not sure whether it is true or not -- but assume that the committee management office of HEW maintains a computerized record of the persons who are under consideration for appointment to advisory committees,
Information in that system consists of name, address, I
think, professional status, highest degree held, some rather
basic biographical data that serves to provide a basis for
judgment as to the qualifications for potential service to a
committee of such people; information compiled from public
sources and compiled under circumstances such that the person
about whom the information is compiled is not interacted with.

Is your proposed duty to disclose the existence
of a computerized record intended -- which won't be caught
by what you have suggested, Guy, because there isn't any form
sent out on which you can print a legend saying "What you tell
us may get into a computer" -- do you feel it would be useful,
necessary, desirable, and if so why, to require that the
Committee Management Office of HEW, as it assembles names of
people who might be considered for appointment to advisory
committees, should be told that their names and certain bio-
graphical data have been put into the computerized file for
the purposes of simplifying the process of considering whether
or not to appoint them?

MR. GENTILE: Yes, I would like to know that.

MR. MARTIN: Why? What social harm are you trying
to head off by making such a requirement?

MR. GENTILE: You may have some inaccurate data
in there.

PROFESSOR WEIZENBAUM: Look --
MR. MARTIN: I am not arguing. I am just trying to flush out the reasoning.

PROFESSOR WEIZENBAUM: But you see, there is an example of how the form of a question constrains the answer that might be elicited. You say what social harm might come from that.

MR. MARTIN: Or what individual harm or what good objective might be served by it. I don't mean to constrain the answer at all, Joe.

PROFESSOR WEIZENBAUM: I understand you don't mean to. It is very often in the nature of questions. It isn't that people mean to do that.

But there is another question: Might some good come of it?

And I think in the specific case that you mentioned I can see arguments on either side, that just because someone gets the idea that some individual in Tulsa, Oklahoma might some day be a good resource person for a particular range of committees and writes it down on a piece of paper which ultimately gets stored in a computer -- yes, I can argue that that person need not be necessarily informed of that. And I can argue the other, too.

However, I think what is important is to establish an attitude, especially on the part of government and on the part of the people, an expectation that government record
keeping, and even large corporation record keeping and so on, large institutions -- to get away a little bit from what you mean by institution -- let's say a large institution's record keeping of people -- an expectation that people be informed when such records are initiated and so on. I think that might be good.

As I say, I can argue it either way.

MR. MARTIN: You can't argue it either way if you are going to make a recommendation of one sort or another.

PROFESSOR WEIZENBAUM: Oh, I understand that. I thought for the moment that we were merely talking to one another. I am saying this is an ingredient of the argument that has to be considered.

Whereas, if you ask every question -- and I don't mean to hit you over the head with this --

MR. MARTIN: Feel free; it is hard.

PROFESSOR WEIZENBAUM: If you ask every question in terms of "What harm would it do if we did it or what harm would it do if we didn't do it" --

MR. MARTIN: Or what good.

PROFESSOR WEIZENBAUM: If you simplify questions to that extent I think we might miss some solutions we might otherwise see.

MR. MARTIN: There are a lot of hands.

Bob.
DR. GALLATI: I might point out there are two different kinds of data we are concerned with here. When you talk about informing an individual of data being kept on him, you have an obligation, I would think, without question, where he, himself, has disclosed this data. You don't necessarily have an obligation where you have obtained this data from other sources than disclosure.

In other words, if I look at you and I see you are so many feet tall and approximate weight and color of skin and hair and so on, as you pass by me, and I make a record of this, I would have no obligation to let you know that I keep a record of this or anything else.

MR. MARTIN: Unless the obligation were created as it has been in the credit field, where the information is not obtained by disclosure, but notwithstanding that, the Congress has seen fit -- and I take it most members of this committee applaud the action -- to create a duty of disclosure under certain circumstances.

DR. GALLATIN: Where was the information gotten?

MR. MARTIN: Let me make it a little harder for you. Let's assume that the technology will lead us within two or three years to the point where everybody has a computer terminal in his library and decides, for a variety of reasons, that it is more efficient to maintain his or her own personal records in a computer utility system. And the first thing
that this family decides to computerize is the record of their Christmas card list.

So they store in the computer the name, the address, perhaps the zip code and telephone number, and perhaps a few bits of information about the number of children in the family or the fact this child is a Godchild, or maybe this is a cousin or a niece or nephew.

Now, under the formulation that you were developing, this is a person or someone maintaining a record-keeping system, computerized, and that person then becomes obliged to notify all the persons on the Christmas card list that the record is being kept.

You might say, "Oh, we could build an exception in. If a person gets a Christmas card we will allow the receipt of the Christmas card to be inferential notification of the person's being retained in the system."

But what about the people you decide not to send a card to? Do you say, "Pursuant to our statutory requirement to notify you that we have you on our Christmas card list, although we are not sending you a card, dear friend, we are sending you a notice."

DR. GALLATIN: I don't get the point.

MR. MARTIN: I am taking the discussion and applying it to a realistic hypothetical which I think is just ahead of us on the road in the application of this technology,
and testing whether or not you are serious in the proposal that you are recommending -- not to disagree with it but just to test your own degree of understanding and thoughtfulness about the recommendation that you were flirting with crystalizing on.

DR. BURGESS: This goes back to Bagley's point about solving all the problems of the world.

Let me try a concrete recommendation. What if we were to, between now and the next meeting, have several members of the staff and several members of the committee systematically interview people in HEW, no place else, who maintain personal data systems that have to do with entitlement. In other words, we limit it two ways: By an institution where, if we have any impact at all, it is going to be there, at least in the first instance; and second, it is limited by the function of the data we are talking about, entitlement data. And then these rights become the agenda. That is, they become questions.

Do you now inform an individual on request that a record is being kept? We get an answer. Then we follow that up with another question: What problems would you encounter if you were required to do that?

And we get some answers.

And we follow that up with the third question:

Can you anticipate any benefits that might be obtained if
you were to be authorized or able by some other means to make this information available?

And if we went through each one of those rights and duties, or the duties from the institutional point of view, with respect to HEW entitlement data banks, I think we would begin to get a handle on these things that we are talking about abstractly and generally now.

We might also at the same time have a couple other members of the staff and a couple other members of the committee select institutions in the private sector and talk with them in the same way, that is, take these as a series of questions. And when we meet the next time we would have two very good reports that would give us a handle in a concrete sense on this problem.

It seems to me that if we would concentrate first on HEW and then might decide we want to leave those recommendations there, or may decide to move out, in any case that strategy, it seems to me, is the most efficient one and the one most likely to yield information we need and the one most consistent with our charge.

MR. MARTIN: Are you suggesting that the scope of the committee's attention to systems be limited to HEW?

DR. BURGESS: No, I am not. I am saying as a strategy.

MR. MARTIN: Or entitlement systems generally?
DR. BURGESS: No, I am saying as a strategy for getting this report out and getting the additional information that is required, let's start with entitlement data, and let's start with HEW.

MR. MARTIN: Okay. I think you have had most of the entitlement data from HEW. HEW has very few programs which they administer in which the relationship is between HEW and an individual who applies for and receives a benefit. The Social Security system and Medicare are one --

DR. BURGESS: The Welfare system.

MR. MARTIN: Welfare benefits are not paid by HEW. They are paid by the states and localities and counties that administer the system. You could not look at HEW and learn anything about the system which --

DR. BURGESS: Those are HEW-financed systems.

MR. MARTIN: HEW-related systems.

DR. BURGESS: And those would come within the purview of our report.

MR. MARTIN: I think while it would be practical in the sense that one could do that, in the time between now and December it is totally infeasible to do that.

California, for example, has 58 -- is that right, Bill? -- counties. The welfare system in California is administered at the county level. I don't think the committee could, between now and December, look at the 58 counties in
California to see what these entitlement systems are.

DR. BURGESS: I am not asking that. Look, you were quizzing Layman or Bob or someone "If you really believe this, what about the CIA? What about this and that?"

I am saying none of us are able to answer all those questions with respect to all these hypothetical situations. Let's try to get the views in the first instance of the people who run these entitlement systems with respect to those very questions you were asking. I am not saying it has to be limited to that. And we can sample. We don't have to look at everybody.

MR. MARTIN: I am saying if you limit it to that you will not even complete the evidence-taking process of this committee by the time you are now slated to have a report. Because if you set out just to take Welfare entitlement, and if you want to say just cash benefits -- welfare is a broad term that usually is understood to apply to all the services, vocational services, mental health services, rehabilitation services, job-training services -- systems not administered in Washington, administered out in the state and God knows how many organizations and institutions. If you recall my little talk about HEW and how it relates to its family of organizations, we have something like 80,000 --

DR. BURGESS: So what? Why do we need to talk to more than two or three; you know, you are the lawyer talk
and I am the social scientist talk. And the lawyer wants to get as much evidence as he can for his case. I am saying just sample a few of these and let's inform ourselves with respect to the answers to the very questions you have been asking us. That is all I am saying.

MR. MARTIN: I would submit respectfully that I don't think there is time between now and December for a respectable, from a social science standpoint, sample to be constructed and evidence taken from it in the range of systems that you are talking about. And if you turn to page 9 of this document, you will find that you are talking about systems that fall under 2(c) and only some of those.

DR. BURGESS: I am saying if there is not time between now and December to talk to two or three people, just to run by them their view of the implications of recommendations like we have tentatively stated here -- if there is not time to do that for the items under 2(c) on page 9 or 8 or whatever it is, how in the hell can we do it for the whole thing?

That is my point.

MR. BAGLEY: That was my point earlier.

DR. BURGESS: It is like saying anything worth doing is worth doing badly, I suppose, and there is a lot of truth to that. But I think this raises a question about the function of the report. If the function of the report is to
add to the debate and to the national dialogue and to the national visibility of this issue, then this kind of global approach is useful and important.

But if our mission is to have some impact, however limited, that impact, it seems to me, is most likely to come with respect to the Department over which the Secretary to whom we are an advisory committee presides.

So if there is priority to what we do, given limited time, it seems to me that everything that has been outlined in these 20-some pages might be filled in and elaborated on and all that, but the concrete recommendations I would hope would focus in on HEW, and those might be used as a demonstration of how they might be applied in other agencies. I would hope we wouldn't just add to the debate.

MR. DEWEESE: I believe today Mr. Allen said we should move from these sorts of general rights and duties into sort of regulations in the broadest sense, whether it is statutory regulations or administrative regulations or decrees or edicts or whatever, and I wonder if we could get a consensus on the point of whether we should move -- I don't know how to phrase it, but I mean: Is it the will of the committee to move beyond just outlining these sort of code of ethics of duties and rights into some sort of regulatory structure? And I think if we knew that we could move another step further.
MR. MARTIN: Layman.

PROFESSOR ALLEN: I think the dilemma that is raised by the dialogue between you and Phil is clear. I don't think we are going to be able, in the time constraints imposed, to go into that degree of detail. And the only escape from that, then, is in the generality of the language in which you embody the recommendation.

And as a first step, to get very concrete, on the particular duty that we are talking about, for purposes of seeing what the tentative stance of the group around the table is on this one and to see if we can establish procedure for considering others, let me take a stab at stating it -- to deal with the questions that have been raised -- to refer to the duties of the responsible members of the institution maintaining the personal data system, to deal with one institution, with the individual subject -- so that it is not leaving open the question of whether it is to the public generally or whether to the individual.

Put in the qualification "Unless there is some compelling social justification otherwise" to deal with this and leave open the question of whether the particular one, whether it be CIA, IRS, or otherwise, is within that or some other general language.

"To be informed that a record is being kept on him."

Maybe there is some other language that needs to
be embodied, some other information that we need before recommending this -- what information is in what we have been through to justify that position?

And if we have a procedure for considering the best amended version that we can come up with and see where we stand, and then as further information comes in decide whether we want to include it in as a recommendation to the Secretary, or only a recommendation that a study be done to further gather information to make a decision about whether such a right or duty be included.

MR. MARTIN: Bill.

MR. BAGLEY: Let me respond, hopefully again to set the scene here -- even assuming your words were more accurate and refined. I think that is a too all-encompassing situation and perhaps an example of the type of thing I had in mind earlier when I said please let's not try to solve all the problems of the world.

There are so many implications to giving a right to know that someone is keeping a record -- and Dave, of course, mentioned a rather wild one, but a legitimate one. I would hope that in our discussion time we can defer the broader, the very broad aspects of our discussions for potential recommendations and concentrate now -- because somebody is going to have to determine what the limitation is -- on the more exact protections. And I would say that this is
not one of the more exact protections. It is a very ethereal thing, to let everybody know that somebody else is keeping a record on them. It is much too broad to start with and probably unworkable. And if we were to adopt it, you would have to have that qualifying language which really nobody knows what it means anyway, unless there is social justification to the contrary.

I honestly think -- and we could look at this list here and pick out three or four that are much more specific. The second one in the list on page 16 -- the right to be informed of the content of your record -- is much more easily dealt with, even though there are going to be exceptions there. There are already exceptions by statute where records are, quote unquote, confidential. The right to correct -- and even the word "correct" is too broad. We certainly don't want to set up a judicial or quasi-judicial process to determine whether a record is correct and have a right to administrative hearings in that process. Again, in my opinion, that is much too broad and too esoteric. But there should be some obligation to receive material that you say is correct with a notation on the record that this material is submitted by the subject and he says that it is the correct information and paragraph 3 above is wrong."

There is nothing too difficult in that kind of quote, unquote, right.
So there are two that I think we could zero in on, rather than getting into the fields that are so broad, so tedious that we are going to get embroiled in our own problems and never solve problems.

Maybe I am speaking too long on the subject, but if we can get down to the easier ones first, and if someone will decide what are the easy ones here, I think at least we at least can make some progress.

PROFESSOR WEIZENBAUM: I think Bill, maybe what you think is less general and -- whatever word you used, esoteric or whatever -- is simply what makes you less comfortable than something else.

For example, the last example you mentioned -- certainly we should say something about the duty of the government to receive information that an individual believes ought to be in his record and so on. One could make the argument that that is so broad that we could argue about that, for example.

Suppose, for example, I am an astrological nut and I insist that in my biographical record in this business of being potentially a member of an advisory committee they store my astrological chart with all these funny symbols and so forth and so on. Well, does the government now have a duty to store that?

MR. BAGLEY: Only if they are storing the wrong
astrologic information on you -- and I think they have been.

(Laughter.)

PROFESSOR WEIZENBAUM: There may be a question of personal judgment in here.

However, coming back to something I said earlier, about setting up expectations, both in the head of the Secretary and in the head of the general public, I think that is a very, very important thing to do. And I think we have, as an analogous case, the freedom of information act of the government. Good God, nothing could be more broad. We heard two extremes presented by witnesses here. We heard Mr. Archibald, who told us anything any government official writes down during his working hours must be available to the general public. That is one extreme.

And, on the other hand, you have the President asserting executive privilege where he says that "anything my advisors or their advisors or their secretaries or their assistants do in the Executive Branch which ultimately serves me has to be confidential; otherwise I can't make decisions."

You have these two extremes. Nevertheless, the political and social sentiment among people was there needs to be some expression of principle which was ultimately encoded in the Freedom of Information Act of the government.

There were exceptions written into that and these exceptions are in turn interpreted on the one hand by CBS
news and the newspapers and on the other hand by the courts and the Executive and so on. But it is the beginning of what hopefully will turn out to be a working system.

I think we should follow that analogy, that we should in fact as a committee state rather broad, general positions which we hope will generate expectations on the part of the public of what the government ought and ought not to do.

Now, we should recognize, exactly as with the Freedom of Information Act, that the detailed implementation of the mechanisms which fulfill these expectations may be very, very difficult and very tedious and full of errors and need ultimately to be interpreted by learned Justices of courts of law, and so on and so forth.

We cannot do that whole job. I agree with you there, Bill. Not only would that take 300 pages; it will take 300 volumes, as indeed it should in the next 30 or 40 years as this process goes on.

I think we should look on ourselves as initiators of the process and we are looking at the initiation of the beginning of a rather substantial law library — not one that we write, but one that will be written by the society following the slim lead that we establish here.

MR. MARTIN: Stan.

SENATOR ARONOFF: Don't fall off your chair, Joe,
But I completely agree.

PROFESSOR WEIZENBAUM: I am not surprised.

(Laughter.)

SENIATOR ARONOFF: It is because you are so tan and out of the West Coast now.

PROFESSOR WEIZENBAUM: That is right. I have become a Californian.

MR. BAGLEY: Raise the level of intelligence of both states.

PROFESSOR WEIZENBAUM: I will have to think about that.

(Laughter.)

SENIATOR ARONOFF: Really, this is what I thought we were talking about in the beginning. I can see there was a possible semantic difference between what Bill meant and what I thought he meant.

I think it would be dangerous if this committee tried to put all of its expertise into writing regulations, itself, writing statutes, itself, getting into minute questions of whether everything we have done has been backed up by the nth degree of evidence, although I agree we should try to have enough to back up anything that we have.

But I again think that the setting forth of the principles that we think are important will serve a great purpose here, and a purpose really that no committee that
only has been existence for six months could do more than.

I think we probably have the duty to, in our report, indicate where we are, using a broad brush, and maybe even recommend either this or another advisory council go off and do some further specific work here.

But what I am afraid of is that we will spend more of our time punching holes in the general principles that we agree on and be afraid to state the principle.

You know, the principle here is that we are all concerned -- and I think we have molded each other's opinion and I consider myself a person who has been molded -- but we are concerned with security and confidentiality. And we are concerned with privacy and we are concerned with the Social Security number in the narrowest sense and the dangers of what that could be if that would become universal and right along the line there.

And so I still think that in many respects we are now punching holes in the very kinds of things that we wrote in our little reports not too many weeks ago, that didn't elicit this kind of nit-picking that we are starting to get into now.

I think we are now so sophisticated in the subject matter that you could make a statement from any person here and go around the table and the other 20 that are here will bash it to pieces before it is done. And that may be something
that is good, but if we are then afraid to take positions as a result of it, then we will accomplish nothing. We will be so qualified by the time we are done that we will have one of these incredible documents.

MR. MARTIN: Is your hand up, Phil?

DR. BURGESS: Yes, just to say that with all the gives and takes around here, I have a positive response to it. I think the difference is really between ends and means.

When I spoke a minute ago, I was responding to your series of questions to different people. It seems to me if you want us to be able to answer those kinds of questions, if you want us to be able to respond to those kinds of questions, either in the report or in discussions we might have with people who might come to the last session of the committee from the Secretary's Office, or the Secretary, himself, then all I was saying was that as a means to do this we need to get into examining some of the implications of these in a practical operating environment. And it seems to me that HEW is an easy way to do that.

On the other hand, if we want to talk about the end product, that is, the content and direction of the final report, I think we need to address that question independently.

I was taking for granted that there was some implied consensus with respect to this document that you passed out before the meeting, and that consensus, I assumed, was
that the broad brushes, not the length or the number of chapters, but the broad-brushed approach to stating the problem and the broad-brushed strokes with respect to the scope of the recommendations, was a decision that has to be made and it is implied in here and the fact that nobody objected strongly to that, I think, is taken for granted.

If that is wrong, we ought to address that.

But the question now is: If we are going to do that, in what form is it going to be? And are we going to try to talk about the implications of these things?

If we are not going to, I would go back to: Why do you raise these questions with respect to does it apply to CIA or does it apply to management kind of records like your example of the list of consultants, and so on.

MR. MARTIN: I raised the question in order to try to focus the committee's attention to the choices that are before it.

DR. BURGESS: My point is we can't answer those questions. We don't have that information.

MR. MARTIN: No, but the last discussion has developed a series of statements which I hear saying something like this: "The world of data systems is terribly complicated. Anything that we might want to say about how data systems should operate seems to be hard to say generally because the world of data systems is so pervasive and
complicated. Therefore, let us not try to specify anything in particular that we expect all data systems to do or be, but let's lay down some sort of motherhood notions which we hope other people will keep in mind over time as data systems develop and get applied, and we will have perhaps sensitized people to considerations that they haven't been aware of.

Now, my question at that point would be: Is there a consensus on the committee that that is enough to do, or that that is all the committee can do?

PROFESSOR WEIZENBAUM: I think it is a minimum.

PROFESSOR MILLER: Minimum.

MR. MARTIN: Minimum?

MRS. HARDWAY: Yes.

MR. MARTIN: Is it also a maximum? I mean is that it?

PROFESSOR WEIZENBAUM: I hope not.

MR. MARTIN: And, if not, what more? Earlier in the day, Joe put forward an observation and it would be interesting to know whether there is consensus for that.

He said a revelation for him in the evidence-taking process was that the management attention and process for the design and development and implementation and use of data systems is very weak. He put it more colorfully and at greater length than that. But in essence, I think that was the point.
Is that something which is a shared consensus perception of the committee? If so, that would be perhaps afford the basis for a line of discussion and reasoning leading to a recommendation that in such and such ways the management capability or mode of functioning vis-a-vis data systems in at least the government or in HEW, or maybe everywhere, needs to be improved in the following ways.

Now, that is a possible line I would recommend, which is a little more than motherhood, and perhaps could be refined and made quite discrete.

But to go back to the first question -- go ahead, Tay.

MR. DeWEES: I feel definitely we shouldn't stop with the motherhood type of recommendations, that we have to go beyond that. I don't think we can draft -- it is very possible that we can't draft the regulations ourselves. For one thing, it would be completely impossible to draft one set of specifications or regulations for all the data systems in HEW. That would be impossible. But it seems to me -- I have read most of the things that have been written on this subject and everybody so far, with the one exception of the Project Search Group which did go on -- and even their statute was too general, but when they got to the regulation they had something. But I have never read anything else that went beyond outlining these basic, what you call motherhood type
of principles.

If you put a statute on the books, someone will interpret it. If you create an administrative agency, you can be sure there will be a body of regulations that this produces.

MR. MARTIN: Bob.

DR. GALLATI: I would like to suggest for example, following what Tay is leading into, instead of a broad, general statement in terms of a person's right to see his record, a statement, for example, which would say "The responsibility of the record-holder" and this would be based in this particular instance I would think upon two major categories of records, or rather more particularly, the source of records.

And the first category would be data held by the record-holder which is based upon the disclosure by an individual. Now, this date, I would submit, the person who has disclosed it has an absolute right to see this data wherever it may be held, because he has given it; it is his data. He knows whether it is properly recorded or not or whether it has been recorded to the proper person. And furthermore, he has a right to know to whom this has been disseminated and follow through. He has to have had prior information that it was disseminated to somebody and to see whether or not this person who has this data which was disclosed by the individual has possibly disseminated it to somebody he has not given
permission to.

This is one category and I would like to submit
that we could agree on that.

I would say that the other category of data is all
other information than that disclosed by the individual. This
could consist of public record data; it could consist of
observations. It could consist of material, for example,
from telephone books, et cetera. You could build up a whole
dossier on a person without ever getting any information from
the individual.

Now on this kind of information I don't believe
we could sit down here and really break it down into too
many specifics. But we could develop categories of it, for
example, obviously government and non-government; confidential
types of record holdings; non-confidential types of record
holdings. And then we could make a statement perhaps --
certainly the statement could be made. It depends on the
nature of the individual record-holder whether or not he would
have access to it to see the data. But in any event we could
get some broad categories of types of record-holders which
would have this type of access and others which would not.
The obvious one, of course, is your credit type of informa-
tion. Credit companies should be compelled to disclose
what they have. CIA obviously is at the other end of the
spectrum.
But I think we could get some pretty firm types of break-downs of these motherhood statements and at least have something more than a "wave-the-flag" type of situation.

MR. MARTIN: Arthur.

PROFESSOR MILLER: I want to just make an observation that the lawyers in the room are, of course, familiar with a format of legal writing that I think is a combination of what Tay and Bob are talking about, called restatements. That is where you have a basic proposition, qualified or unqualified, followed by a commentary which might lay out the qualification and the factor analysis that leads to the general propositions.

Then you would have a series of illustrations, in an attempt to apply in concrete factual situations the propositions.

And you have what is generally called caveats, be-wares, watch-outs, or in effect negative illustrations or additional qualifications on the general proposition.

And then, of course, cross references to other milk and motherhood principles and to their internal commentary, illustration, and caveats.

It is a way of graphically presenting the complexity of an issue under sort of a derived general proposition that has a global or cosmic quality to it but is shown not to be as superficial as the so-called black letter would have
the immediate reader see.

   It also avoids the problem that you inevitably get into of feeling obliged to particularize on every conceivable hypothesis and possible application of the general proposition, which no group of people, no matter how smart, could do in a lifetime, let alone in three months. It allows you to illustrate and give the reader some sense of the mentality of the people who drafted the general proposition and how it might be applied.

   MR. MARTIN: On that hopeful note, noting that we have arrived at a little bit after 12:30 when lunch is scheduled, I would suggest that we are going to have to adjourn.

   We are scheduled to resume here at 1:30 for two presentations of computerized medical information systems, one maintained by the Medical Information Bureau for the insurance companies, whose executive director, Joseph C. Wilberding, will be here. This is the system written up in Jack Anderson's column, last July or June and many of you expressed interest in hearing about it and this is the first time we have been able to get him in.

   Then the Medical Technology Company up in Cambridge will be represented by its vice president, Neil Papalardo, who will have a demonstration of their system for accessing and making use of medical records. Unlike the Indian health service, these will be hypothetical records, as
I understand it, not real records.

Then a coffee break.

The latter part of the afternoon is scheduled for a sort of panel discussion of an aspect of this which has occupied some of our attention informally, and that is the opportunities relative to education of Americans about computers and their social implications.

I take it that many of you have suggested that whatever else this committee may wish to recommend or have achieved by its existence and report, one thing would be to enhance the understanding of the American public about the range of issues and topics that we are dealing with.

One way of doing that is to try to use our educational institutions and change the quality of learning experience and perception and understanding of this aspect of the environment of Americans as they come through the educational process. There is also the question of educating the technologists whom Joe Weizenbaum and others are showing us with their insightful questions often do not act with any knowledge of the consequences of their technology.

The latter part of the afternoon is a collection of people who are here for the purpose of helping us explore ways in which the committee might be able to recommend actions be taken to impact on the educational learning opportunity of Americans in this area.
Is anyone besides Layman Allen unable to be here after today? Do we lose any member of the committee after today?

(No response.)

One or two of you, as I said earlier, have indicated that you wished there was more time during these three days to continue the kind of discussion that we have been having this morning. And Guy Dobbs is one such person. Layman, since you are leaving, you may prefer to devote your time during the rest of the day to more of this kind of discussion than to hear these presentations, although the choice is obviously yours.

If there is a small subset of the committee that would like to keep on with this discussion, Carole Parsons will be glad to be your sort of focusing point in the library during all or part of the afternoon while the presentations are occurring in here. And I hope that any of you who feel like doing that will feel free to do so. I hope you won’t all do it because I think we owe it as a matter of courtesy to hear our presenters this afternoon, particularly the second group. The first two are a matter of -- we will go through our usual process of questioning the witnesses after their presentation and we want to have some questioners. The latter part of the afternoon, it seems to me, will be profitable the more minds we have. But anybody who feels urgently the
need or prefers to discuss the report in the library, please feel free to do so.

MR. DOBBS: Why don't you get a show of hands.

MR. MARTIN: Would anybody like to go into the library for all or part of the afternoon, at least, with Guy?

(Show of hands.)

MR. DOBBS: Could we split it in two phases?

MR. MARTIN: Why don't you say you all will do that and use your own judgment about spending some of your time in here, if you don't mind. You may find some of the presentations will intrigue you a little bit.

MR. BAGLEY: What is our schedule for this evening?

MR. MARTIN: The schedule for this evening is to aim to break from the discussion about education and so on around 6:30. The last is a computer interactive demonstration of an educational program which has been developed under the auspices of the Northwest Educational Research Lab of HEW, the Office of Education, which is a course on the social implications of computers.

You received a red pamphlet labeled "React" which is the course material and what you will be getting is a presentation by John Williamson who worked on the development of this program, and sort of a demonstration of it. And after dinner, for a limited time, assuming as I hope many of
you want to do, we will resume this discussion in here, John will be available to permit you to work through his terminal and see exactly how this course operates on the computer.

Mr. Pappalardo also will be here this evening, I think, to demonstrate his system, and Seymour Papert with his colleague, Marvin Minsky, who may or not be here, is doing some interesting work with five-, six-, and seven-year-olds on computers, and will have a program to demonstrate what his work consists of. And that will be available to inspect and experience after supper.

We have to leave here around 9:30. That is when Stone House expects us to leave.

So I would hope we might try to resume this kind of discussion this evening at such time as all of you who have had enough of the demonstrations, which need not occupy you one minute longer than you care to have them, are ready.

SENATOR ARONOFF: Would you give us some idea of the anticipated schedule for the balance of the year before Saturday?

MR. MARTIN: Sure. Right this minute?

SENATOR ARONOFF: No, because we usually get into when the next thing is going to happen and how.

MR. MARTIN: Could we do that Saturday morning? Would that be a good time to do that? We need your calendars. Be sure you finish those and make out those calendars for the
months of October, November, and December and we can get that compiled and that gives us a better idea to see what the possibilities are of getting a substantial part of the committee together.

MR. DOBBS: It would be helpful to me at least if we had a skeleton of what will be the production schedule for the report. I don't know precisely what the due date is for the final copy to the Secretary. But if we could back off from that to see when we really had to have a final draft --

MR. WARE: Last month.

MR. DOBBS: That was the due date?

MR. MARTIN: I think ideally we ought to aim to have a very good draft, close to final draft, by the end of November -- early December at the latest.

Now you know, schedules can be slipped. I do feel that we should not go back to the Secretary and ask for an extension of time, which is obviously a possibility, until we have a fairly good draft. Then we can say to him, if we feel like it, "Mr. Secretary, we are on the right track. We are almost there but we can't go out of business in January. We need a few more months."

So I think we are aiming for a good solid draft at a minimum by the end of November. And our ability to do this is crucially dependent on this meeting crystalizing sufficiently clear specifications so that the task of writing can
begin, whether it is members of the committee who commit
themselves to writing parts of it -- and obviously the staff.
But that task has got to begin, it seems to me, very shortly
after this meeting ends. And the only way for it to do that
is for us to chew and chew and get down to what we want to
specify. We have to make decisions as to scope, what systems
we are talking about. Are we going to do only motherhood?
Can we do a restatement and so on? And there are other ideas
that will emerge before we break up as to what we might do.

I have a couple I will throw out at some point.

Have a good lunch and try not to make it necessary
for the staff to round you up. Try to keep an eye on your
own watches and be back here at 1:30.

(Whereupon, at 12:45 p.m., a luncheon recess was
taken until 1:30 p.m.)