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C.F.

FG 6-15-1

MEMORANDUM OF INFORMATION FOR THE FILE

DATE 10/8/76

LETTER, MEMO, ETC.

TO:

FROM:

SUBJECT: Correspondence from Barry Rath's office dated Aug. 1974 - Aug. 1976 re the Domestic Council Committee on the Right of Privacy

Filed C.F. Overview Attachment #257.

[Large handwritten flourish]



CORRESPONDENCE FILED CENTRAL FILES - CONFIDENTIAL FILE

Privacy Protection Study Commission

Carole Parsons, Executive Director

Ron Plesser

Barker (from Prosecutor's Office)

Susan Bennett (previously worked for Bella Abzug) -- Special Asst. to Carole

James Sander (temporarily assigned to be administrative officer)

((in the area of 21st and L))



DOMESTIC COUNCIL COMMITTEE ON THE RIGHT OF PRIVACY

WASHINGTON, D.C. 20504

December 4, 1974

MEMORANDUM FOR: PHILIP W. BUCHEN
FROM: DOUGLAS W. METZ *DWM*
SUBJECT: Possible Privacy Commission
Compromise

Attached for your reference is our proposed substitute for Senator Ervin's Privacy Protection Commission in S. 3418. This substitute is being discussed with OMB because of reliable reports that Representative Moorhead may offer Senator Ervin the compromise of a study-type commission if the Senate will recede on:

- . Coverage of criminal justice information
- . Objections to the doctrine of routine use of records
- . Partial coverage of the non-Federal sector.

Attachment : Draft language and section
by section analysis.



TITLE I - PRESIDENT'S ADVISORY COMMITTEE [or NATIONAL COMMISSION]
ON THE PROTECTION OF PERSONAL PRIVACY

SEC. 101. (a) There is established the President's Advisory Committee on the Protection of Personal Privacy.

(b) (1) The Committee shall be composed of fifteen members as follows --

(A) the Vice President of the United States who shall serve as Chairman;

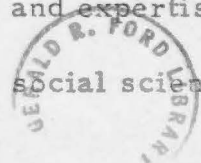
(B) one Member of the House of Representatives appointed by the Speaker of the House upon recommendation made by the majority leader of the House;

(C) one Member of the House of Representatives appointed by the Speaker of the House upon recommendation made by the minority leader of the House;

(D) one Member of the Senate appointed by the President of the Senate upon recommendation made by the majority leader of the Senate;

(E) one Member of the Senate appointed by the President of the Senate upon recommendation made by the minority leader of the Senate;

(F) five appointed by the President from among members of the public at large who, by reason of their knowledge and expertise in areas such as civil liberties and civil rights, law, social science,



computer technology, business, and State and local government, are well qualified for service on the Committee and who are not otherwise officers or employees of the United States;

(G) four appointed by the President from among the heads of executive branch departments and agencies;

(H) the Comptroller General of the United States;

(2) No more than three members of the Committee appointed by the President from among members of the public at large shall be adherents of the same political party.

(c) The Committee shall meet at the call of the Chairman or a majority of its members but in no case shall the Committee meet less than three times each calendar year.

(d) The Chairman shall preside at all meetings of the Committee and a quorum for the transaction of business shall consist of at least seven members and the Chairman. Each member of the Committee, including the Chairman, shall have equal responsibility and authority in all decisions and actions of the Committee and shall have full access to all information relating to the performance of his (or her) duties or responsibilities. The Chairman shall be the official spokesman for the Committee in its relations with the Congress, Federal agencies or instrumentalities, other persons, and the public.

(e) The Committee shall be appointed within three months of the date of enactment of this Act and shall serve for three years.

(f) A vacancy in the Committee shall be filled in the manner in which the original appointment was made.



(g) If any Member of the Congress appointed to the Committee leaves office, or if any member of the Committee appointed from persons who are not officers or employees of any government becomes an officer or employee of a government, he (or she) may continue as a member of the Committee for no longer than the thirty-day period beginning on the date he (or she) ceases to be a Member of Congress or becomes such an officer or employee, as the case may be.

(h) Except for the Chairman, members shall be appointed for the life of the Committee.

(i) Members of the Committee who are full-time officers or employees of the United States or Members of the Congress shall receive no additional pay on account of their services on the Committee.

DUTIES OF THE COMMITTEE

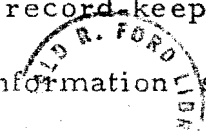
SEC. 102. The Committee shall --

(a) Perform or cause to be performed such research activities as may be necessary to assist Federal agencies in complying with the requirements of this Act; and

(b) to the fullest extent practicable, consult with the heads of appropriate departments, agencies, and instrumentalities of the Federal Government, of State and local governments, and other persons in carrying out the provisions of this title.

COMMITTEE STUDY OF OTHER GOVERNMENTAL AND PRIVATE ORGANIZATIONS

SEC. 103. (a) The Committee shall make a study of the record-keeping policies and practices, automated data processing programs, information systems



and data banks of State, regional and local governments, and private organizations, in order to determine the extent to which the standards and procedures in force for the protection of personal information achieve the purposes of this Act.

(b) (1) In the course of such study, the Committee shall examine

(A) the interstate transfer of information about individuals which is being undertaken through manual, computer, and other electronic or telecommunications means;

(B) automated data processing programs, information systems and data banks, the operation of which significantly affects the privacy and other personal rights of individuals;

(C) the use of license plate numbers, personal characteristics, including the Social Security number, and other identifying numbers or symbols to identify individuals in records and to gain access to, integrate, or centralize record-keeping systems that contain information about individuals; and

(D) the merging and analysis of statistical information, such as Federal census data, with other sources of personal information, such as automobile registries and telephone directories, in order to reconstruct individual responses to statistical questionnaires for commercial or other purposes in a way which results in a violation of the explicitly promised or implied confidentiality of such information.



(2) The Committee shall include in its examination record-keeping activities in the following areas: medical, insurance, education, employment and personnel, credit, banking and financial, consumer reporting, travel, hotel, and entertainment reservations, and electronic funds transfer. The Committee may study such other record-keeping activities as it deems necessary to carry out the congressional policy embodied in this Act, except that the Committee shall not investigate information systems maintained by religious organizations and the news media.

(3) In conducting the study, the Committee shall --

(A) determine what laws, Executive orders, regulations, directives, and judicial decisions govern the activities under study and the extent to which they are consistent with Constitutional guarantees of privacy and due process;

(B) examine the effect of governmental and private record-keeping systems on Federal-State relations and the separation of powers;

(C) examine standards and criteria governing programs, policies, and practices relating to the collection, processing, use, integration, dissemination, and transmission of recorded personal information.

(D) take appropriate account of the findings and recommendations of other public and private organizations, and individuals which pertain to the problems under study by the Committee; and



(E) cause such special studies and experiments to be undertaken as may help to assess the relevance of various types of recorded personal information in making predictive judgments about the behavior of individuals.

REPORTS

SEC. 104. (a) The Committee periodically shall report its findings to the President and to the Congress and shall submit to the President and to the Congress, and make available to the public, a comprehensive report on the results of the study required by this section not later than two years from the date the Committee is appointed.

(b) In its reports, the Committee shall recommend to the President and the Congress the extent, if any, to which the requirements and principles of this Act should be applied to the record-keeping practices of State, regional and local governments, and private organizations by legislation, administrative action, or by voluntary adoption of such requirements and principles. In addition, it shall submit such other legislative recommendations as it may determine to be necessary to protect personal privacy while meeting the legitimate needs of government and society for information about individuals.



POWERS OF THE COMMITTEE

SEC. 105. (a) The Committee may, for the purpose of carrying out its duties under this Act, make such site visits, hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, have such printing and binding done, and make such expenditures as the Committee deems desirable.

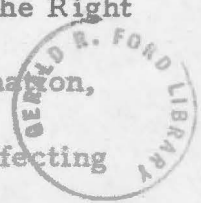
(b) Each Federal agency and instrumentality of the executive branch of the Government, including each independent agency, shall furnish to the Committee, upon request made by the Chairman, such data, reports, and other information as the Committee deems necessary to carry out its functions under the Act.

(c) When so authorized by the Committee, any member or agent of the Committee may take any action which the Committee is authorized to take by this section.

(d) The Committee may delegate any of its functions to such officers and employees of the Office of Information Law and Policy as the Committee may designate.

OFFICE OF INFORMATION LAW AND POLICY

SEC. 106. (a) The President is authorized to establish in the Executive Office of the President an Office of Information Law and Policy to provide staff support to the Committee and to the Domestic Council Committee on the Right of Privacy, and to assist the President in providing guidance, coordination, and oversight on information policy issues arising from or directly affecting legally authorized activities of Federal agencies.



(b) (1) The President is authorized to appoint a Director of the Office who shall also serve as Staff Director for the Committee. Such appointment may be made without regard to the provisions of title 5, United States Code.

(2) The Director shall be compensated at a rate not to exceed the rate of basic pay in effect for level III of the Executive Schedule (5 U. S. C. 5314).

(c) The President is authorized to appoint and fix the compensation of such officers and employees of the Office of Information Law and Policy as may be necessary to carry out the provisions of this Act and such other functions and duties as the President may assign to the Office.

CONFIDENTIALITY OF IDENTIFIABLE PERSONAL INFORMATION

SEC. 107. (a) In carrying out its functions and exercising its powers under this title, the Committee may accept from any Federal agency or instrumentality of the executive branch, including any independent agency, or from any other person, such identifiable personal information as is necessary to carry out its powers and duties. Whenever the Committee accepts any such information, it shall assure that the information is not used for any purpose other than that for which it was provided to the Committee, and upon fulfillment of that purpose the information shall be destroyed or returned to the agency, instrumentality, or person that provided it to the Committee.

(b) No member of the Committee and no person authorized to act for or on behalf of the Committee shall be compelled to disclose in any Federal, State, or local civil, criminal, administrative, legislative or other proceeding

any identifiable personal information about any individual which information has been obtained in the course of performing official duties for the Committee.

(c) Whoever, being a member of the Committee, or authorized to act for or on behalf of the Committee, shall disseminate for any purpose not specifically authorized by law any personal information about any individual, which information has been obtained in the course of performing official duties for the Committee shall be fined not more than \$10,000, or imprisoned not more than one year, or both.

AUTHORIZATION OF APPROPRIATIONS

SEC. 108. There is authorized to be appropriated \$ _____ to carry out the provisions of this title.

EXEMPTION

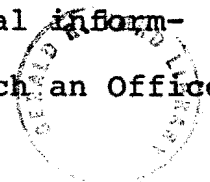
SEC. 109. The Committee shall not be subject to the provisions of the Federal Advisory Committee Act (P. L. 92-463; 86 Stat. 770).



Analysis of Proposed Substitute for Title I of S.3418

The proposed substitute for Title I of S.3418 meets the Administration's principal objections to the Privacy Protection Commission proposed by Senator Ervin. In lieu of an independent agency with quasi-regulatory functions, it would establish a presidential Advisory Committee [or alternatively a National Commission] to initiate and oversee a substantial program of research to assist Federal agencies in carrying out the letter and spirit of Federal privacy legislation, and to aid both the Congress and the President in deciding whether to extend the requirements of such legislation to State, regional and local government agencies, and private organizations.

The proposed substitute would give members of the public and of the Congress a formal advisory role vis-a-vis the President's privacy initiative, while forging a strong link, in the person of the Vice President, between the work of the Advisory Committee [or National Commission] and the work of the Domestic Council Committee on the Right of Privacy. The Office of Information Law and Policy, which the substitute language would establish as staff to both the Advisory Committee [or National Commission] and the Domestic Council Committee would also help to assure continued visibility and institutionalized accountability within the Executive branch on matters related to the recording and dissemination of personal information. Moreover, since the language establishing such an Office



would permit the President to add to the specified duties, the Office could be used as the vehicle for coordinating agency views and actions on a broad range of information policy issues.

As presently worded, Section 101 would establish a broadly based, 15-member Advisory Committee with bipartisan representation from both the House and the Senate, and five public members with special expertise in areas directly related to the protection of personal privacy. The four members from the Executive branch (in addition to the Vice President) could be members of the Domestic Council Committee on the Right of Privacy, or the heads of other agencies whose programs have a substantial impact on personal privacy, or both. Having the Vice President serve as Chairman of both committees would help to bridge the gap between advice and action which so often besets the work of presidential advisory committees.

Subsection 101 (e) limits the term of the Committee to three years. This would allow the President and the Congress to wait until after the 1976 elections to determine whether the life of the Committee should be extended, and would guarantee the Committee an opportunity to participate in whatever action is taken in response to its findings and recommendations.

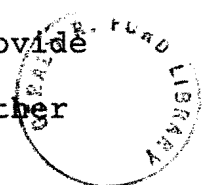


Section 102 endorses the intent of S.3418 that the new entity to be created should not be an olympian study commission but rather should pay close attention to the practical problems encountered in carrying out the requirements of innovative privacy legislation.

Section 103 lays out a research agenda for the Committee similar to that in Title I of S.3418, but it also calls for special studies and experiments to evaluate the utility of recorded personal information in making judgments about the likely future behavior of individuals. By adding this item to the research agenda, the proposed Committee is enjoined to enlist the support of social and behavioral scientists in focussing future privacy legislation on specific record-keeping practices that adversely affect individual rights and opportunities.

Section 104 invites the Committee to report findings and make recommendations to the President and the Congress as frequently as it sees fit, but requires it to make publicly available a comprehensive summary of all its findings and recommendations at the end of two years.

Section 105 authorizes the Committee to gather such evidence as it deems necessary to carry out the studies it undertakes or sponsors, and requires each agency of the Executive branch, and each independent agency, to provide the Committee with pertinent facts, documents, and other



information needed to complete the Committee's studies. Section 105 also allows the Committee to delegate its fact-finding authority to individuals acting for it in a staff capacity.

Section 106 would establish a new Office of Information Law and Policy in the Executive Office of the President to provide technical assistance and staff support to both the Committee and the Domestic Council Committee on the Right of Privacy. The Office would have a Director appointed by the President and could take on such additional responsibilities with regard to information law and policy issues as the President may assign to it. To keep the Office small, and thereby avoid undesirable bureaucratization, Section 106 gives the Office authority to enter into short-term consulting agreements with outside experts, to contract for specialized studies as needed, and to borrow personnel from Executive agencies on a reimbursable basis.

Section 107 requires the Committee and its staff support to be as vigilant about the protection of personal privacy in conducting its own affairs as it seeks to have others be. Any identifiable personal information to which the Committee must have access in order to carry out its functions -- a need which is expected to arise rarely, if at all -- must be used only for the purpose for which the Committee obtains it and thereafter must be returned to the source or destroyed.



Moreover, Section 107 (b) would make any such information immune from compulsory process while in the custody of the Committee, and Section 107 (c) would provide a substantial criminal penalty for unauthorized use or disclosure of personal information by any member of the Committee or anyone providing staff support for the Committee.

Section 108 authorizes the appropriation of funds to carry out the Committee's tasks, while Section 109 exempts the Committee from the provisions of the Federal Advisory Committee Act (P.L. 92-463; 86 Stat. 770).



TITLE I - PRESIDENT'S ADVISORY COMMITTEE [or NATIONAL COMMISSION]
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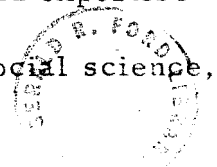
(B) one Member of the House of Representatives appointed by the Speaker of the House upon recommendation made by the majority leader of the House;

(C) one Member of the House of Representatives appointed by the Speaker of the House upon recommendation made by the minority leader of the House;

(D) one Member of the Senate appointed by the President of the Senate upon recommendation made by the majority leader of the Senate;

(E) one Member of the Senate appointed by the President of the Senate upon recommendation made by the minority leader of the Senate;

(F) five appointed by the President from among members of the public at large who, by reason of their knowledge and expertise in areas such as civil liberties and civil rights, law, social science,



computer technology, business, and State and local government, are well qualified for service on the Committee and who are not otherwise officers or employees of the United States;

(G) four appointed by the President from among the heads of executive branch departments and agencies;

(H) the Comptroller General of the United States;

(2) No more than three members of the Committee appointed by the President from among members of the public at large shall be adherents of the same political party.

(c) The Committee shall meet at the call of the Chairman or a majority of its members but in no case shall the Committee meet less than three times each calendar year.

(d) The Chairman shall preside at all meetings of the Committee and a quorum for the transaction of business shall consist of at least seven members and the Chairman. Each member of the Committee, including the Chairman, shall have equal responsibility and authority in all decisions and actions of the Committee and shall have full access to all information relating to the performance of his (or her) duties or responsibilities. The Chairman shall be the official spokesman for the Committee in its relations with the Congress, Federal agencies or instrumentalities, other persons, and the public.

(e) The Committee shall be appointed within three months of the date of enactment of this Act and shall serve for three years.

(f) A vacancy in the Committee shall be filled in the manner which the original appointment was made.



(g) If any Member of the Congress appointed to the Committee leaves office, or if any member of the Committee appointed from persons who are not officers or employees of any government becomes an officer or employee of a government, he (or she) may continue as a member of the Committee for no longer than the thirty-day period beginning on the date he (or she) ceases to be a Member of Congress or becomes such an officer or employee, as the case may be.

(h) Except for the Chairman, members shall be appointed for the life of the Committee.

(i) Members of the Committee who are full-time officers or employees of the United States or Members of the Congress shall receive no additional pay on account of their services on the Committee.

DUTIES OF THE COMMITTEE

SEC. 102. The Committee shall --

(a) Perform or cause to be performed such research activities as may be necessary to assist Federal agencies in complying with the requirements of this Act; and

(b) to the fullest extent practicable, consult with the heads of appropriate departments, agencies, and instrumentalities of the Federal Government, of State and local governments, and other persons in carrying out the provisions of this title.

COMMITTEE STUDY OF OTHER GOVERNMENTAL AND PRIVATE ORGANIZATIONS

SEC. 103. (a) The Committee shall make a study of the record-keeping policies and practices, automated data processing programs, information systems



and data banks of State, regional and local governments, and private organizations, in order to determine the extent to which the standards and procedures in force for the protection of personal information achieve the purposes of this Act.

(b) (1) In the course of such study, the Committee shall examine

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(D) the merging and analysis of statistical information, such as Federal census data, with other sources of personal information, such as automobile registries and telephone directories, in order to reconstruct individual responses to statistical questionnaires for commercial or other purposes in a way which results in a violation of the explicitly promised or implied confidentiality of such information.



(2) The Committee shall include in its examination record-keeping activities in the following areas: medical, insurance, education, employment and personnel, credit, banking and financial, consumer reporting, travel, hotel, and entertainment reservations, and electronic funds transfer. The Committee may study such other record-keeping activities as it deems necessary to carry out the congressional policy embodied in this Act, except that the Committee shall not investigate information systems maintained by religious organizations and the news media.

(3) In conducting the study, the Committee shall --

(A) determine what laws, Executive orders, regulations, directives, and judicial decisions govern the activities under study and the extent to which they are consistent with Constitutional guarantees of privacy and due process;

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(D) take appropriate account of the findings and recommendations of other public and private organizations, and individuals which pertain to the problems under study by the Committee; and



(E) cause such special studies and experiments to be undertaken as may help to assess the relevance of various types of recorded personal information in making predictive judgments about the behavior of individuals.

REPORTS

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(b) In its reports, the Committee shall recommend to the President and the Congress the extent, if any, to which the requirements and principles of this Act should be applied to the record-keeping practices of State, regional and local governments, and private organizations by legislation, administrative action, or by voluntary adoption of such requirements and principles. In addition, it shall submit such other legislative recommendations as it may determine to be necessary to protect personal privacy while meeting the legitimate needs of government and society for information about individuals.



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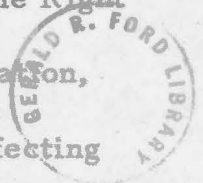
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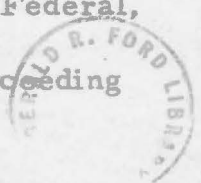
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AUTHORIZATION OF APPROPRIATIONS

SEC. 108. There is authorized to be appropriated \$ _____ to carry out the provisions of this title.

EXEMPTION

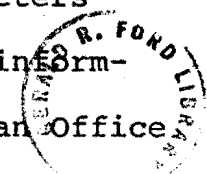
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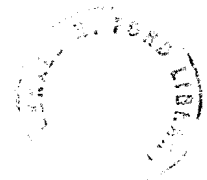
information needed to complete the Committee's studies. Section 105 also allows the Committee to delegate its fact-finding authority to individuals acting for it in a staff capacity.

Section 106 would establish a new Office of Information Law and Policy in the Executive Office of the President to provide technical assistance and staff support to both the Committee and the Domestic Council Committee on the Right of Privacy. The Office would have a Director appointed by the President and could take on such additional responsibilities with regard to information law and policy issues as the President may assign to it. To keep the Office small, and thereby avoid undesirable bureaucratization, Section 106 gives the Office authority to enter into short-term consulting agreements with outside experts, to contract for specialized studies as needed, and to borrow personnel from Executive agencies on a reimbursable basis.

Section 107 requires the Committee and its staff support to be as vigilant about the protection of personal privacy in conducting its own affairs as it seeks to have others be. Any identifiable personal information to which the Committee must have access in order to carry out its functions -- a need which is expected to arise rarely, if at all -- must be used only for the purpose for which the Committee obtains it and thereafter must be returned to the source or destroyed.

Moreover, Section 107 (b) would make any such information immune from compulsory process while in the custody of the Committee, and Section 107 (c) would provide a substantial criminal penalty for unauthorized use or disclosure of personal information by any member of the Committee or anyone providing staff support for the Committee.

Section 108 authorizes the appropriation of funds to carry out the Committee's tasks, while Section 109 exempts the Committee from the provisions of the Federal Advisory Committee Act (P.L. 92-463; 86 Stat. 770).



Privacy

December 6, 1974

Dear Willis:

Thank you very much for your letter of December second. I have passed it on to Mr. William Walker here in the White House, who is in charge of handling suggestions for appointments to commissions and agencies. I have included my personal endorsement to the thoughts expressed in your letter.

Warm personal regards and thanks for continuing to help the staff of the Domestic Council Committee on the Right of Privacy.

Sincerely yours,

Philip W. Buchen
Counsel to the President

Dr. Willis H. Ware
Corporate Research Staff
The Rand Corporation
1700 Main Street
Santa Monica, California 90406

PWBuchen:ed

cc: George Glaser
Douglas Metz
Charles Joyce



25th
Year



WILLIS H. WARE
Corporate Research Staff

December 2, 1974

Mr. Philip Buchen
General Counsel to the President
The White House
Washington, D. C. 20500

Dear Phil:

I'd like to make the following suggestion to you privately. I've seen recent publicity concerning the National Commission to Study the Electronic Fund Transfer System. I'd like to express the following view on it -- which maybe you've heard from me before.

To me, the EFTS proposal by the banking industry is another example of a major decision with intense societal impact that is being made by an industry for its own expedience and convenience, but without adequate consideration of the implications for society and individuals. The information that I have seen on the Commission tends to support this view in that it would appear the Commission will be populated largely by members of the banking and other financial institutions. I do not see any suggestion, for example, that the group will include social psychologists, sociologists, or even data processing people who, as you know, are very concerned about the civil libertarian and privacy consequences of something like an EFTS.

I would ask that you use your good offices to help assure that the Commission reflects a balanced group of people that will produce a study that looks adequately at all aspects of the proposal rather than one that simply looks at the positive attributes of it as seen from the vantage point of the country's financial industry. If you would like suggestions for possible participants from the data processing community, I might suggest that you contact Dr. George



Mr. Philip Buchen
Page Two
December 2, 1974

Glaser at 225 Warren Road, San Mateo, California 94402, whom you met for the first time at lunch with me last May in Chicago. Dr. Glaser is currently President of the American Federation of Information Processing Societies which, as you know, is the major spokesman in this country for the computer people.

I continue to see Doug Metz and Carole Parsons and David Martin at frequent intervals, so I'm well up to date on developments on the privacy front. Let's hope things go through smoothly before the end of the year.

Sincerely,



Willis H. Ware
Corporate Research
Staff

WHW:ph



Privacy

1/10/75

To: Bill Walker

From: Phil Buchen

Kindly note part 4 of this
memo.



DOMESTIC COUNCIL COMMITTEE ON THE RIGHT OF PRIVACY

WASHINGTON, D.C. 20504

January 7, 1975

MEMORANDUM FOR: GEOFF SHEPARD
FROM: DOUG METZ *DM*
SUBJECT: Privacy Protection Study Commission

This memorandum details some of the issues and options in implementing Section 5 of The Privacy Act of 1974 establishing a Privacy Protection Study Commission.

1. BACKGROUND

Section 5 of The Privacy Act of 1974 takes effect immediately. The Commission's principal characteristics are:

- Membership--Seven members: three appointed by President and two each by the Speaker of the House and President of the Senate "from among persons who, by reason of their knowledge and expertise in . . . civil rights and liberties, law, social sciences, computer technology, business, records management, and State and local government" (government officials are not barred from appointment).
- Compensation--at GS18 rate, except Commissioners who are government officials.
- Duration of Commission--Two years, plus 30 days, from date of appointment of members.
- Organization--Commission chooses its chairman from among its members and appoints its staff.
- Financing--Authorization of \$1.5 million for FY 1975, 6, and 7; not more than \$750,000 to be expended in any one Fiscal Year.



Powers and Duties--Commission given broad study and investigative power, including limited subpoena power for general study of "governmental, regional and private" data banks and systems and "... such other personal information activities necessary to carry out Congressional policy in this Act." Commission also mandated to study selected issues, such as mail lists, use of IRS data, punitive damages, and the applicability of the Act's security and confidentiality requirements to recipients (other than agencies) of personal information under the Act.

Permissive duties include provision of technical assistance to Federal, State and local agencies. The Commission also would receive a copy of agency reports on new systems required to be submitted to OMB.

2. METHOD OF APPOINTMENT

The following procedural issues are of major importance:

1. Sources of Appointment

The question of whether the minority leadership of the House and Senate will be sources of two of the four Congressional appointments is unresolved. Senator Ervin, in floor colloquy, indicated that although the bill establishes no limitation on party affiliation of Commissioners, the maximum possible number of Commissioners of one party would be five. This would imply that the leadership of both parties in the Congress could each name two members augmented by three appointees of the President.

2. Timing and Sequence of Appointments

Several Congressional staff have proposed that the President set the pace and tone for the new Commission by making his appointments early in January and asking Congress to take swift action in appointing its members and in funding the Commission. Unless there is adequate assurance that the minority leadership will be able to influence the Congressional appointees, this sequence would risk Congressional domination of the Commission.



3. COMMISSION ROLE AND COMPOSITION AS SEEN BY CONGRESSIONAL STAFF

Several issues are posed based upon perceptions held by Congressional staff who played key roles in drafting The Privacy Act of 1974.

1. Role of the Commission

Senate staff in particular see the Commission as an entity independent of the Congress and the Executive. For them the Commission is the precursor of a permanent independent regulatory Commission of the type envisioned by Ervin in his earlier proposals. House staff tend to view the Commission as essentially a study group.

Specific subcommittee assignments of Congressional oversight responsibilities must await organization of the Government Operations Committees of the Congress. Congressman Brooks and Senator Ribicoff will be the Committee chairmen. Muskie and Moorhead are likely to be chairmen of the oversight subcommittees. Unresolved are questions of the role and relationship of the oversight committees, the Commission and OMB, which will have Executive branch oversight of the Act's administration.

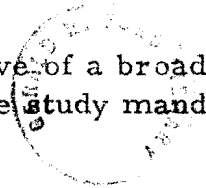
2. Mix of Public and Government Members

The prevailing sentiment among House and Senate staff members who negotiated the final bill is that the Commission should be composed primarily, if not exclusively, of nongovernment members. They do not anticipate appointment of members of Congress, but see a Commission consisting of individuals like Professors Arthur Miller and Alan Westin. They see distinct disadvantages in including members of Congress because of their limited time for participation and their interest in having an outside viewpoint recommended.

4. RECOMMENDED COMMISSION COMPOSITION

It should be the objective of the Administration to exercise a primary role in determining the composition and staffing of the Commission to assure that:

- Its composition is well-balanced and representative of a broad spectrum of interest compatible with the extensive study mandate of the Commission.



- . Its membership consists of competent and respected individuals regardless of political affiliation.
- . Its staff consists of competent individuals with prior experience in privacy concerns.

Accordingly, it is recommended that the Commission be composed as follows:

- o A judge (or former judge) -- preferably from the State bench
- o A Federal official--knowledgeable and involved in privacy protection policy within the Executive branch
- o A Member of Congress--active in advancing privacy concerns (or, in the alternative, an advocate of "open government" to assure that privacy concerns are balanced with interests in freedom of information)
- o A State legislator or official with a progressive record in undertaking privacy initiatives
- o A data processing technologist from the private sector with highly regarded expertise in data security and confidentiality safeguards
- o A distinguished practicing lawyer--with demonstrated privacy protection concerns
- o A professor--preeminent in scholarship and research on the personal privacy issues.

Pursuant to agreement on the composition of the Commission, this office will submit names of qualified individuals for the various categories.

5. PROPOSED RELATIONSHIP BETWEEN THE COMMISSION AND THE PRIVACY COMMITTEE

The Privacy Committee is currently seeking clearance of several legislative proposals for introduction early in the 94th Congress, facilitating implementation of agreed-upon administrative and voluntary privacy initiatives



and overseeing several interagency project studies designed to yield new privacy initiatives in 1975. In short, it is committed to an intensive program for at least the first half or two-thirds of calendar 1975--a period concurrent with start-up of the Commission.

Accordingly, it is recommended that the Commission have the following as its objectives:

- o Study the applicability of the principles and rules of The Privacy Act of 1974 to the non-Federal sector (State, local and private)
- o Review and determine opportunities to institute more effective curbs on the amount and type of information requested of individuals by governments at all levels
- o Conduct special studies mandated by the Act including use of IRS and Census records.

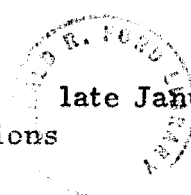
The foregoing represent areas not dealt with in depth by the Privacy Committee in its initial program and are consistent with basic purpose of the Privacy Protection Study Commission.

Later this year a reassessment can be made of the effectiveness of the Commission and its relationship to the Privacy Committee.

6. NEXT STEPS

The following represent some key tasks that constitute next steps:

<u>Task</u>	<u>Responsibility</u>	<u>Timing</u>
1. Decide the categorical composition of the Commission	White House/ Domestic Council	early January
2. Continue dialogue with key Congressional staff and members (e. g. , Erlenborn and Moorhead) to ascertain Congressional intent	Privacy Committee	mid January
3. Discuss methods and sources of appointments with Congressional leadership	White House/ Congressional relations	late January



<u>Task</u>	<u>Responsibility</u>	<u>Timing</u>
4. Issue Presidential statement containing Presidential appointments and recommended role for Commission	White House	early February

cc: ✓ Philip W. Buchen
Ann C. Whitman



Privacy

January 21, 1975

Dear Willis:

Thank you very much for sending me a copy of your letter to the President. I, of course, have already recommended you for consideration as an appointee to the new Privacy Study Commission, and I am sure you will be given full consideration.

Sincerely yours,

Philip W. Buchen
Counsel to the President

Dr. Willis Ware
Corporate Research Staff
The Rand Corporation
1700 Main Street
Santa Monica, California 90406

cc: Douglas Metz

PWBuchen:ed



25th
Year

Rand

SANTA MONICA, CA 90406

WILLIS H. WARI
Corporate Research Staff

December 2, 1974

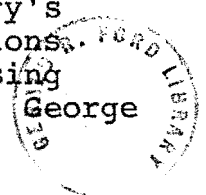
Mr. Philip Buchen
General Counsel to the President
The White House
Washington, D. C. 20500

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Mr. Philip Buchen
Page Two
December 2, 1974

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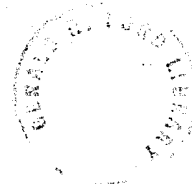
I continue to see Doug Metz and Carole Parsons and David Martin at frequent intervals, so I'm well up to date on developments on the privacy front. Let's hope things go through smoothly before the end of the year.

Sincerely,



Willis H. Ware
Corporate Research
Staff

WHW:ph



Privacy

January 22, 1975

Dear David:

Because the Commission on Privacy will be dominated by appointees of the Congress, I doubt that I will have any influence regarding the staff to be employed by the Commission. Therefore, I suggest you have Mrs. Temko watch for the identity of the persons to be named to the Commission so that she can get in touch with them. However, I am sending a copy of your letter to Douglas Metz, who is Acting Director of the Domestic Council Committee on the Right of Privacy, so that he will be aware of Mrs. Temko's interest and qualifications.

Very best wishes to you and Pat. I look forward to some noon when I can join you and Luke for a renewal of the luncheons we used to have together.

Sincerely yours,

Philip W. Buchen
Counsel to the President

Mr. David C. Acheson
Jones, Day, Reavis & Pogue
1100 Connecticut Avenue, N. W.
Washington, D. C. 20036

cc: Douglas Metz

PWBuchen:ed



JONES, DAY, REAVIS & POGUE

1100 CONNECTICUT AVENUE, N.W.
WASHINGTON, D. C. 20036

TEL. (202) 452-5800

CABLE REPLAY

TELEX DOMESTIC 89-2479

TELEX INTERNATIONAL 64344

IN LOS ANGELES:

1801 CENTURY PARK EAST 90067

(213) 533-3939

IN CLEVELAND:

1700 UNION COMMERCE BUILDING 44115

(216) 696-3939

767-bcp

December 27, 1974

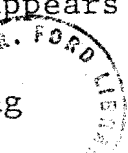
The Honorable Philip W. Buchen
Counsel to the President
The White House
Washington, D. C. 20500

Dear Phil:

At the risk of being overtaken by the well-known fate of the volunteer, I want to call your attention to a very able lawyer friend of mine interested in employment with the Commission on Privacy which I understand is called for by the recent legislation which, in turn, followed from your pioneer efforts in the same field. She is Mrs. Francine Temko. She has recently been heavily involved in the committee work on the legislation, her employment up to now having been as the AA to Mrs. Bella Abzug, the Congresswoman from New York. Francine finds life in that office more hectic than she believes she can sustain over a long period and would like to relinquish it in favor of employment on a matter of substance that she cares and knows a lot about, particularly the Commission authorized by the legislation.

Francine and her husband have been close personal friends of mine and my wife's for over twenty years, and her husband Stanley is one of the senior partners of Covington & Burling, my former firm. She is a most able and responsible lawyer and has worked on and off in a variety of judicial staff positions and other forms of public service between bouts of having children, traveling and the other interruptions of a wife and mother. She attended Columbia Law School where she was on the Law Review. Her politics are Democratic, but she has always shown moderation and constructive good sense about her professional engagements, regardless of partisan considerations. I would guess her age in the mid-fifties.

I think she is interested in the job of head of the staff or General Counsel of the Commission, and the word appears to be out that you will have a crucial role in making that selection. In any case, here is someone of ability who is keenly interested in the subject area and starts by knowing a lot about the legislation, its history, and the problem.

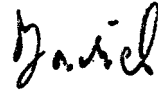


The Honorable Philip W. Buchen
December 27, 1974
Page Two

I hope you take this friendly suggestion as no more than that, and not as an intrusion into the problems of your office. Perhaps you would like to meet Mrs. Temko and talk with her, and if so I would be glad to make those arrangements.

Pat and I wish you and Bunny all the best for 1975 and beyond.

Sincerely yours,



David C. Acheson



Monday 3/3/75

Z Meeting
3/3/75
11 a.m.

10:30 Mr. Buchen will meet with Robin West at 11 a.m.
today (3/3).

Discussion on personnel for Privacy Protection Study Commission.



To: Phil Buchan
Lynn May

Perfell - 1-13-75
Lynn May
is handling
P.

From: Doug Metz:

Subject: Privacy Protection Study Commission

Attached is the information we discussed.
Before final action is taken, I would appreciate
a call to permit me to indicate preferences
and to contribute further background information
which may be helpful with respect to the Commission's
organization.

WDM



LIST OF CANDIDATES FOR PRIVACY
PROTECTION STUDY COMMISSION

(pursuant to The Privacy Act of 1974, P. L. 93-579)

See attachments for background on Commission and categories to be considered in appointments.

FOR APPOINTMENT BY THE PRESIDENT AND THE MINORITY
CONGRESSIONAL LEADERSHIP (Select 5)

State and Local Officials

- | | |
|------------------|---|
| Robert Utter | - Justice of the Washington State Supreme Court; attended recent Privacy Seminar sponsored by the Privacy Committee; ran on nonpartisan ticket; party affiliation not known. |
| Robert C. Finley | - Justice, Washington State Supreme Court; member of FBI's NCIC Policy Advisory Board; ran on nonpartisan ticket; party affiliation not known. |
| William Bagley | - Former California Assemblyman and candidate for Controller; author of California's FoIA law and architect of proposed state privacy act; former member of HEW Advisory Committee on Privacy; Republican. |
| Stanley Aronoff | - Ohio State Senator; former member of HEW Advisory Committee on Privacy; author of proposed state privacy act; Republican |
| Glenn Goodman | - Director, Bureau of Management Sciences, State of Michigan; President, National Association of State Information Systems; participant in Privacy Seminar sponsored by the Privacy Committee; party affiliation unknown. |



- Francis W. Sargent - Former Governor of Massachusetts; active advocate of state action to protect personal privacy; Republican.
- Tom Moody - Mayor, Columbus, Ohio; actively interested in privacy issue; participant in Privacy Seminar sponsored by the Privacy Committee; Republican.
- Warren Rudman - Attorney General, New Hampshire; understood to be President-elect, National Association of Attorneys General; Republican.

Federal Officials

- Director - Office of Telecommunications Policy, Executive Office of the President.
- Executive Director - Domestic Council Committee on the Right of Privacy.
- Staff Member - Domestic Council Staff
- Director or Presidential Advisor - Science and Technology, Executive Office of the President.

Consumer Interest Representatives

- George Meyer - President, Consumers' Federation of America; Republican.
- John Kehoe - President, Consumer Concerns, Inc., Sacramento, California; former Governor Reagan's Director of Consumer Affairs; participant in Privacy Seminar sponsored by Privacy Committee; party affiliation unknown.
- Peter Pryor - Chairman, New York State Consumer Protection Board; participant in Privacy Seminar sponsored by Privacy Committee; Republican.



Data Processing Technologists

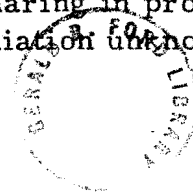
- Willis Ware - Senior Analyst, Rand Corporation, Santa Monica, California; former chairman, HEW Advisory Committee on Privacy; participant in Privacy Seminar sponsored by Privacy Committee; party affiliation unknown.
- Clay T. Whitehead - Fellow, John F. Kennedy School of Public Administration; former Director, Office of Telecommunications Policy; active in supporting establishment and implementation of Privacy Committee; member of Domestic Council Committee on the Right of Privacy; Republican.

Business Community

- Guy H. Dobbs - Vice President, Xerox Corporation; member of HEW Advisory Committee on Privacy; articulate minority representative; Republican.
- George Kozmetsky - Dean of Business Administration, University of Texas, Austin; co-author of Conference Board Report on Information Technology; party affiliation unknown.

Attorneys

- Edward J. Kelly - Attorney, Des Moines, Iowa; chairman, Iowa State Bar Association Special Committee on Traffic Records and Criminal Information; participant in Privacy Seminar sponsored by Privacy Committee; party affiliation unknown.
- Oscar Ruebhausen - Attorney, New York City; former chairman of special committee which studied impact of modern science and technology on privacy; participant at Rockefeller Institute Conference on Law and the Social Role of Science; Democrat.
- Alfred H. Moses - Attorney, Covington and Burling, Washington, D. C.; member of the Board, American Jewish Committee; manifested specific interest in sharing in program of Privacy Committee; party affiliation unknown.



Professors

- Arthur Miller - Professor of Law, Harvard Law School; Chairman, Massachusetts Privacy Commission; former member, HEW Advisory Committee on Privacy; author and lecturer on privacy issues; active in civil libertarian issues; Republican.
- Kent S. Greenawalt - Professor of Law, Columbia University; author of privacy articles; consultant on privacy to Office of Telecommunications Policy; served in Solicitor General's Office under Erwin Griswold; independent Democrat.
- Stanley Wheeler - Professor of Law and Sociology, Yale Law School; Staff Sociologist, Russell Sage Foundation; Editor and contributor to On Record: Files and Dossiers in American Life; party affiliation unknown.

List of Members of Congress (Consistent with understood Congressional intent, no Members of Congress are proposed. However, should there be insistence on the part of the minority leadership, the following Members are proposed):

Senate (in order of preference)

- William V. Roth, Jr. - Member Government Operations Committee; (R. Del) ranking member on Muskie's Subcommittee on Intergovernmental Relations, understood to have oversight under 93rd Congress organization.
- Bill Brock - Member, Government Operations Committee (R. Tenn) (co-sponsor Privacy Act of 1974)
- Charles E. Percy - Ranking member, Government Operations (R. Ill) Committee; co-sponsor of Privacy Act of 1974
- Barry M. Goldwater - Co-sponsor, Privacy Act of 1974 (R. Ariz)



House (in order of preference)

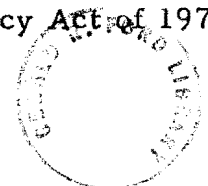
- John N. Erlenborn (R. Ill) - Ranking member, Subcommittee on Foreign Operations and Government Information; co-sponsor of Privacy Act of 1974.
- Frank Horton (R. N. Y.) - Ranking member, Government Operations Committee; co-sponsor of Privacy Act of 1974.
- Barry M. Goldwater, Jr. (R. Ariz) - Co-sponsor of Privacy Act of 1974

RESIDUAL LIST OF PROSPECTIVE CONGRESSIONAL DEMOCRATIC LEADERSHIP APPOINTMENTS

- Alan Westin - Professor of Political Science; lawyer; member of National Wiretap Commission; author and lecturer on privacy issues; Democrat.
- Carol Forman - Executive Director, Consumers' Federation of America; Co-Chairperson, President's WIN Committee; Democrat.
- Sam J. Ervin - Former Senator (D. N. C.); Senate sponsor of Privacy Act of 1974; understood not to be interested in appointment.
- Joseph V. Gartlan, Jr. - Virginia State Senator; Virginia Advisory Legislative Council Committee on Computer Privacy and Security; Democrat.

Members of Congress (should they be considered)

- William S. Moorhead (D. Pa) - Chairman, Subcommittee on Foreign Operations and Government Information, Government Operations Committee; co-sponsor of Privacy Act of 1974.
- Abraham Ribicoff (D. Conn) - Probable new Chairman, Government Operations Committee; co-sponsor of Privacy Act of 1974



BACKGROUND INFORMATION ON
PRIVACY PROTECTION STUDY COMMISSION

Section 5 of The Privacy Act of 1974 takes effect immediately.
The Commission's principal characteristics are:

- Membership--Seven members; three appointed by President and two each by the Speaker of the House and President of the Senate "from among persons who, by reason of their knowledge and expertise in . . . civil rights and liberties, law, social sciences, computer technology, business, records management, and State and local government" (government officials are not barred from appointment).
- Compensation--at GS18 rate, except Commissioners who are government officials, who would receive no compensation.
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- Powers and Duties--Commission given broad study and investigative power, including limited subpoena power for general study of "governmental, regional and private" data banks and systems and "... such other personal information activities necessary to carry out Congressional policy in this Act. "



*Privacy
Study
Comm.*

3/7/75

To: Bill Walker

From: Phil Buchen



3-3-75

DOMESTIC COUNCIL COMMITTEE
ON THE RIGHT OF PRIVACY

WASHINGTON, D.C. 20504

Phil -

This is the person
preferred by a significant
segment of industry for
the Privacy Study Commission.
Doug



Privacy

DAVID J. BLACKWELL

Mr. Blackwell is a native of Maryland. He attended Carnegie Institute of Technology, Yale University, University of Minnesota, and graduated from Haverford College, Haverford, Pennsylvania in 1949 with a B.A. in Political Science.

During World War II he served in the U.S. Army. Most of his service experience was in a Japanese language program and subsequent assignment in post-war Japan.

Mr. Blackwell spent 18 years with the Prudential Insurance Company of America. His early experience there was in clerical systems analysis and development. As computer systems emerged as a business activity, his work specialized in that area. He left the Prudential in 1967 to be Executive Director of data processing for Educational Testing Service in Princeton, New Jersey. In addition to his normal administrative responsibilities in that capacity, he acted as liaison with EDUCOM (inter-university communications council). In 1970 he joined the Massachusetts Mutual Life Insurance Company as a Second Vice President. He became an Executive Officer and Division Vice President of the Information Services Division in 1971.

He is a member of the Life Office Management Association's Systems Research Committee, the Life Insurance Systems Planning Executives Council and the Research Group. He holds membership in the Association for Computing Machinery and the College of Life Underwriters. In public service activities he is a Director and Treasurer of the Springfield Theatre Arts, Inc., a Trustee and member of the Finance Committee of Bay Path Junior College, and a member of the Executive Council of the Pioneer Valley Boy Scouts of America, and a corporator of the Hampden District Mental Health Clinic.



Personnel
Privacy

THE WHITE HOUSE
WASHINGTON

March 11, 1975

Dear George:

Thank you for your letter of March 4.

I know that Willis Ware is being given consideration with respect to the Privacy Protection Study Commission.

Sincerely,



Philip W. Buchen
Counsel to the President

Mr. George Glaser
American Federation of Information
Processing Societies, Inc.
225 Warren Road
San Mateo, California 94402



March 4, 1975

General Electric
Information

Mr. Philip Buchen
General Counsel to the President
The White House
Washington, D. C. 20500

Dear Phil:

I thought you would be interested in receiving a copy of a letter I sent last week to the President, nominating Willis Ware as a candidate for the Privacy Protection Study Commission.

You will note that I refer to you and your acquaintanceship with Willis in my letter. I hope that is not inappropriate.

We obviously would appreciate anything you might do to boost our cause. We think Willis is an ideal candidate, and he is excited about the prospect of being on the Commission.

Sincerely yours,



George Glaser

GG:rlc
encls.



February 24, 1975

The President
The White House
Washington, D. C. 20500

Attention: Mr. William N. Walker

Mr. President:

Once again, the American Federation of Information Processing Societies (AFIPS) respectfully submits the name of one of our volunteers as a candidate for a national commission, this time the Privacy Protection Study Commission.

Our nominee is Dr. Willis H. Ware, a member of the Corporate Research Staff at The RAND Corporation and chairman of the AFIPS Special Committee on the Right of Privacy.

After your address to the National Computer Conference in Chicago last May, Dr. Ware was among those who attended the luncheon afterwards with Philip Buchen. Subsequently, he worked with Mr. Buchen while the latter was executive director of the Domestic Council Committee on the Right of Privacy.

Dr. Ware has long perceived the implications of information technology for society, business and government. He combines an understanding of the privacy issue and a sensitivity to it as a dominant matter of public policy with the knowledge and experience of a technically trained individual. He is keenly aware of the interplay between legislative policy and such details of legislation as costs, operational consequences, and the technical implications for users' record systems.



His major contributions include the following:

- In 1967, he organized a series of papers that presented for the first time to the technical community the importance and complexity of computer security.
- In 1970, he presented a paper that proposed specific privacy guidelines to a conference sponsored by the Canadian government.
- In early 1972, he became a member of the now well-known HEW committee and later that year assumed the chair. Its report, "Records, Computers and the Rights of Citizens," was presented to Secretary Weinberger and Attorney General Richardson in July 1973. It has become the definitive document discussing privacy and proposing solutions.
- In 1974, he participated with Minnesota and California legislators in discussions of proposed legislation.
- He organized a technical session at the 1974 National Computer Conference at which the implications of privacy legislation were discussed.
- Also in 1974, he participated in privacy conferences in Paris, Vienna and Tokyo and presented a key topic at each.

As national legislation has evolved, Dr. Ware has maintained contacts with various Federal and congressional offices. In addition, he has participated in, or contributed to, a variety of private groups and public meetings that included industrialists, technical specialists, lawyers, state legislators, and others.



Dr. Ware is accustomed to functioning in a commission or committee role. As a member or chairman of many such groups, he understand their functioning and appreciates the dynamics that are essential to their success.

We hope you will consider Dr. Ware favorably for appointment to the Commission. We believe he is an outstanding candidate who has demonstrated an informed and thoughtful concern for the right of privacy in numerous ways and who would be an articulate and substantive contributor to the Commission's work.

Respectfully submitted,

George Glaser

GG:rlc

bcc: K. W. Uncapher
W. H. Ware
P. Armer
D. W. Metz
J. Sammet
D. D. McCracken
R. W. Rector



Willis H. Ware

Dr. Willis H. Ware received his B.S. degree from the University of Pennsylvania in 1941, his M.S. degree from the Massachusetts Institute of Technology in 1942, where he was a Tau Beta Pi Fellow. Both degrees are in Electrical Engineering. He received his Ph.D. degree from Princeton University in 1951.

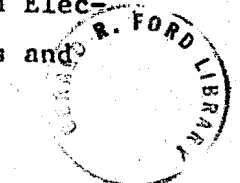
From 1942-46, he was employed by the Hazeltine Electronics Corporation for research and development in radar and IFF. In 1946, he became one of the original members of the staff of the Electronic Computer Project at the Institute for Advanced Study, Princeton, New Jersey. There he worked on the design and development of the large-scale general-purpose electronic digital computer, which later was to set the pattern for the construction of several other "Princeton-class" machines. After receiving his Ph.D. from Princeton in 1951, he joined the North American Aviation Corporation.

In 1952, Dr. Ware joined the staff of The Rand Corporation. He served as Head of the Computer Sciences Department, now the Information Sciences Department, from 1964 to October 1971, when he became Deputy Vice President for Project RAND (USAF). He is presently a member of the Corporate Research Staff.

Dr. Ware has been concerned with the development of large computers and their application to military, scientific and social problems. Recently, he has concentrated on the technical and management problems that the presence of a computing capability raises throughout an organization. In particular, he has spoken, written, and contributed widely to the question of information protection within a computer system, and the related social issue of protecting individual privacy.

In 1972, Dr. Ware was appointed Chairman of the Secretary's Advisory Committee on Automated Personal Data Systems of the Department of Health, Education, and Welfare which issued the landmark report, "Records, Computers, and the Rights of Citizens."

Dr. Ware is a Fellow of the Institute of Electrical and Electronics Engineers (IEEE), and has held the following offices and



appointments in the Institute's Computer Group: Treasurer of Los Angeles Chapter, 1953-1954; Chairman of Los Angeles Chapter, 1954-1955; National Secretary-Treasurer, 1954-1955; National Vice Chairman, 1957-58; National Chairman, 1958-1959; Member of National Administrative Committee, 1957-1960; Chairman, Inter-Society Activities Committee, 1960-1961; Review Board of the Transactions.

Other activities and offices within the IEEE include: Member, Technical Committee 8 on Computers, 1951-1958; Chairman, Technical Committee 8.5 on Computer Terminology, 1951-1958; Professional Groups Coordinator of the Los Angeles Section, 1957; Member Ad Hoc Committee on Professional Group Chapter Planning, Los Angeles Section, 1957-1958; National Ad Hoc Committee to review Professional Group Finances, 1958; Nominations Committee, Los Angeles Section, 1958-1959; Representative to National Joint Computer Committee, 1959-1961; National I.R.E. Institute Activities Committee, 1961.

Dr. Ware is also a member of the Association for Computing Machinery, and the American Association for the Advancement of Science. His other professional society activities have included: Member Technical Program Committee--First International Conference on Information Processing, 1959; Chairman, 1958 Western Joint Computer Conference; Finance Chairman, 1957 Western Joint Computer Conference; and Alternate Chairman Technical Program Committee for WESCON, 1956.

In 1958, Dr. Ware was a member of an eight-man delegation of American scientists who visited the USSR to discuss computers and related matters. He later edited the delegation report and continues to follow the progress of Soviet computing.

In 1961, he was elected as the first Chairman of the American Federation of Information Processing Societies (AFIPS), which sponsors the annual National Computer Conference and includes the IEEE, ACM and other professional societies as members. He was re-elected in 1962. Dr. Ware is currently the Chairman of the AFIPS Special Committee on the Right of Privacy which was created in response to (then) Vice President Ford's request.



Dr. Ware is a member of the honorary societies Tau Beta Pi, Sigma Xi, Eta Kappa Nu, Pi Mu Epsilon, and Sigma Tau. He also participates in a number of governmental advisory committees and scientific advisory boards.

He has held appointments with and is currently active on most of the following committees: Chairman, National Security Agency Scientific Advisory Board; Member, National Security Agency, EDP Panel of Scientific Advisory Board; Member, National Academy of Sciences Advisory Committee to Air Force Systems Command; Member, U.S. Air Force Scientific Advisory Board, Information Processing Panel; Member, U.S. Air Force Scientific Advisory Board, Electronic Systems Division Advisory Group; Member, U.S. Air Force Scientific Advisory Board, Foreign Technology Division Advisory Group; Consultant, Missile Vulnerability Task Force, Defense Science Board, Department of Defense; Member, Advisory Council of the Electrical Engineering Department of Princeton University.

Dr. Ware's publications include:

Computers, Personal Privacy and Human Choice, December 1973, The Rand Corporation.

Data Banks, Privacy and Society, November 1973, The Rand Corporation.

Computers and Society: The Technological Setting, October 1973, The Rand Corporation.

Records, Computers and the Rights of Citizens, Datamation, September 1973. A review of "Records, Computers and the Rights of Citizens", Report of the Secretary's Advisory Committee on Automated Personal Data Systems, chaired by Willis H. Ware, Department of Health, Education and Welfare.

Testimony to the Assembly Committee on Efficiency and Cost Controls, August 1973, The Rand Corporation.

The Ultimate Computer, IEEE Spectrum, March 1972.

Computers in Society's Future, Proceedings of The Royal Society of Canada Symposium on Automation and Mechanization, Carleton University, Ottawa, Canada, June 6-9, 1971. (Published by the Royal Society of Canada in 1972).



Computer Data Banks and Security Controls, Proceedings of the Conference on Computers: Privacy and Freedom of Information, Queen's University, Kingston, Ontario, Canada, May 21-24, 1970.

Testimony Before the Assembly Statewide Information Policy Committee, Los Angeles, California, September 22, 1969, The Rand Corporation.

On Limits In Computing Power, Proceedings of the 1969 Meteorological Technical Exchange Conference, United States Air Force Academy, Colorado, July 14-17, 1969.

The Computer In Your Future, November 1967, The Rand Corporation.

Security and Privacy in Computer Systems, Proceedings of the 1967 Spring Joint Computer Conference, Vol. 30.

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JOHNNIAC Eulogy, Presentation at decommissioning ceremonies for JOHNNIAC, February 18, 1966, The Rand Corporation.

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Soviet Computing Technology - 1959", Transactions of the PGEC, March 1960; Communications of the ACM, March 1960.

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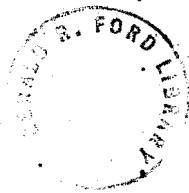
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Reliability and the Computer, Proceedings of the Western Joint Computer Conference, 1957, p. 27.



The Logical Principles of a New Kind of Binary Counter,
Proceedings of the IRE, October 1953.

A Binary Outscriber, Transactions of the PGI-2, June
1953, p. 65.



PRIVACY PROTECTION STUDY COMMISSION

2120 L Street, NW.
Washington, D.C. 20506

Barfield

David F. Linowes, Chairman
Willis H. Ware, Vice Chairman
William O. Bailey
William B. Dickinson
Hon. Barry M. Goldwater, Jr.
Hon. Edward I. Koch
Robert J. Tennesen

December 1, 1976

Carole W. Parsons
Executive Director
Ronald L. Plesser
General Counsel

The Honorable Philip W. Buchen
Counsel to The President
The White House
Washington, D.C. 20500

Dear Phil:

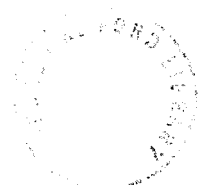
Attached is a copy of our letter of invitation to the Ford Motor Company and the enclosures which I discussed with you this morning. We are particularly desirous of having testimony by Ford because of the attention the company has already given to the privacy issue, because of its size and comparative degree of centralization, and because up until now they have been very cooperative.

My best,

Carpe

Carole W. Parsons
Executive Director

Enclosures



PRIVACY PROTECTION STUDY COMMISSION

2120 L Street, NW.
Washington, D.C. 20506

David F. Linowes, Chairman
Willis H. Ware, Vice Chairman
William O. Bailey
William B. Dickinson
Hon. Barry M. Goldwater, Jr.
Hon. Edward I. Koch
Robert J. Tennesen

November 19, 1976

Carole W. Parsons
Executive Director
Ronald L. Plesser
General Counsel

Mr. Henry Ford II
Chairman
Ford Motor Company
The American Road
Dearborn, Michigan 48121

Dear Mr. Ford:

On behalf of the Privacy Protection Study Commission, I invite Ford Motor Company to appear as a witness at the hearings of the Commission to be held on December 9, 10, 16, and 17, in Room 2318, Rayburn House Office Building, Washington, D.C. The principal topic of these hearings will be employment and personnel record-keeping practices. To complete the difficult task before us in this important area, we believe it is essential to receive testimony from Ford Motor Company concerning its employment and personnel record-keeping practices.

Enclosed is a notice of these hearings that describes the information we seek to obtain in the course of them. Also enclosed please find a copy of the Commission's relevant hearing rules.

The Commission staff is meeting with Mr. C. H. Anderson, Director of Personnel Relations and Research, to discuss matters relating to employment and personnel records. We will continue to be in contact with him regarding preparation of testimony, and the specific time in our hearing schedule at which Ford Motor Company will testify.



If you have any concerns or questions, please contact our General Counsel, Mr. Ronald L. Plessner, or Mrs. Jane Yurow, our Project Manager for Employment and Personnel Records. Thank you for your cooperation.

Sincerely,

David F. Linowes
Chairman

Enclosures

cc: Mr. C.H. Anderson





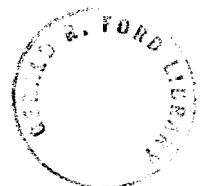
PRIVACY PROTECTION STUDY COMMISSION
2120 L STREET, N.W.
WASHINGTON, D.C. 20506

RULES AND REGULATIONS OF THE PRIVACY PROTECTION
STUDY COMMISSION RELATING TO PUBLIC HEARINGS

The Privacy Protection Study Commission is interested in soliciting the views of interested members of the public, private industry, government, and organizations. Requests to testify before the Commission should be addressed to the General Counsel, Privacy Protection Study Commission, Suite 424, 2120 L Street, N.W., Washington, D.C. 20506.

In order to facilitate appearances at public hearings, the following excerpts from the Rules of Procedure for The Privacy Protection Study Commission are provided for prospective witnesses. A complete set of the Commission's rules and regulations is available on request. Any inquiries concerning the regulations governing hearings should be addressed to the General Counsel of the Commission.

*



Rule No.

- 2 - Hearings for the purpose of taking testimony shall be held only with the approval of the Commission. The Commission shall approve the holding of a hearing at a duly called meeting of the Commission or, in the alternative, the Chairman may notify by telephone or mail, each member of the Commission of a proposed hearing. Such notice should include a description of the subject matter, proposed witnesses, and the time and place of such proposed hearing. It is required that each Commission member submit to the Chairman a written confirmation or objection within seven calendar days of the receipt of the notice for the proposed hearing.
- 3 - The Chairman of the Commission shall chair all meetings and hearings of the Commission. In his absence, the Chairman shall designate the Vice Chairman, or in the absence of the Vice Chairman, another member of the Commission to carry out these duties.
- 4 - Hearings for the purpose of taking testimony shall be open to the public but may be conducted closed to the public if the Commission as a whole, with a quorum of all of its members present, decides by a majority vote (4) of the full Commission that the testimony to be received may tend to defame or discredit a third party; to pose a clearly unwarranted invasion of personal privacy of the witness or a third party; or, to divulge trade secrets or commercial marketing practices, the disclosure of which would cause substantial competitive injury. Hearing testimony taken in closed session, held not open to the public, shall not be disclosed in public session without a majority vote (4) of the full Commission.
- 5 - At least 15 calendar days before a public meeting or hearing of the Commission, appropriate public notice shall be given stating the date, place and subject matter of the hearing or meeting. At this time expected witnesses, if any, that have been scheduled up to the date of the notice shall be listed.

Rule No.

- 6 - Subpoenas for attendance of witnesses, the production of memoranda, documents, and records shall be issued upon affirmative vote of at least four (4) members of the full Commission and under the signature of the Chairman or by any other member of the Commission designated by him, and may be served by any person designated by the Chairman or such designated member.
- 7 - A quorum for the purpose of conducting business of the Commission shall consist of a majority of the members (4), except for the purpose of taking testimony during a hearing, in which case the presence of only two (2) members shall be required to establish a quorum, provided further, that a majority of members (4) must be present to decide whether testimony in a hearing may be taken closed to the public pursuant to the rule covering same above. A majority vote of Commission members present shall carry all matters except in the case of issuing subpoenas, where a majority of all Commission members is required and as otherwise required by the rules.
- 8 - All witnesses who testify to matters of fact in duly constituted Commission hearings shall be sworn.
- 9 - Counsel retained by any witnesses and accompanying such witnesses shall be permitted to be present during the testimony of such witnesses at any public or closed session of any hearing, and to advise such witness of his legal rights while he is testifying. The failure of any witness to secure counsel shall not excuse such witness from attendance in response to subpoena.
- 10 - Any witness desiring to submit a prepared or written statement and/or exhibits in hearings shall file 15 copies of such statement and/or exhibits with the General Counsel of the Commission at such places as designated by him at the close of business five (5) working days prior to the first day of the scheduled hearings at which the statement is to be presented unless the General Counsel of the Commission or a person designated by him waives this requirement. Upon submission the written statement becomes part of the



Rule No.

hearing record. The hearing chairman shall determine whether such statement may be read in its entirety or summarized at the time of the hearing.*

- 11 - The record of any hearing shall remain open for 30 calendar days following the termination of a hearing or series of hearings for the submission of statements, exhibits or additional material, provided however, that the Chairman of the Commission may reasonably extend this period as he may determine.
- 12 - The hearing chairman, for the purpose of conducting an orderly hearing with a minimum of distraction or physical discomfort to a witness, may direct a restricted use of television, motion picture and other cameras and lights so that coverage by these media will be carried out in an unobtrusive manner.
- 13 - An accurate stenographic record shall be kept of the testimony of all witnesses in hearings. The record of his own testimony whether in public or closed session shall be made available for inspection by a witness or his counsel under Commission supervision; a copy of any testimony given in public session or that part of the testimony given by the witness in closed session and subsequently quoted or made part of the record in public session shall be made available to witnesses at their expense if they so request.
- 14 - Questioning of witnesses at hearings shall be conducted by the Commission members and appropriate Commission staff personnel only.
- 15 - To assure each member of the Commission present an opportunity to examine a hearing witness orally, each member present shall be limited to 10 minutes until all the members present who so desire to examine the witness have exercised that prerogative. Questioning should continue in sequence until Commission members have exhausted their inquiries. The appropriate staff will then have a reasonable opportunity to examine the witness.
- 16 - Oral testimony of all witnesses shall be limited to 20 minutes unless extended by the hearing chairman.

Rule No.

17 - Any person who believes that testimony or other evidence presented at a public hearing or comment made by a Commission member in the course of a public hearing in which that person's name is mentioned or in which that person is otherwise specifically identified tends to defame him or otherwise adversely affect his reputation may (a) request to appear personally before the Commission to testify under oath in his own behalf, or in the alternative, (b) file a sworn statement of facts relevant to the testimony or other evidence or comment complained of. Such request and such statement shall be submitted to the Commission for its consideration and action.

18 - Witnesses for a hearing shall be suggested by Commission members and staff and shall be selected by the Chairman of the Commission or the designated chairman of the hearing, if any.

If a person is not considered by the Chairman of the Commission or the designated chairman and is interested in presenting testimony to the Commission, he may be permitted to appear in accordance with the following guidelines:

(a) Any such interested person(s) must receive authorization to make an oral presentation from the Chairman of the Commission. Not later than seven (7) calendar days preceding the start of such hearing, a request for such authorization must be received in writing at the offices of the Commission addressed to the attention of the Executive Director. Such a request shall be accompanied by a concise description of the material such person or persons desire to present.

(b) The Chairman of the Commission shall, within a reasonable period of time from the receipt of such a request, make a determination of the extent that time is available and that the subject matter proposed to be presented by such interested person(s) is timely and appropriate for such hearing, and shall notify such interested person(s) by Certified Mail of the decision.



Rule No.

(c) In the event such interested person or persons is authorized to testify in hearings of the Commission, a prepared written statement of expected presentation may be filed in compliance with the procedure outlined above.

(d) Provided further that any such interested person or persons who feels aggrieved by or takes exception to any determinations made by the Chairman of the Commission that oral testimony will not be permitted shall have the opportunity to present in writing to each member of the Commission the basis for such grievance or exception taken to such ruling by the Chairman and thereafter the decision of the Chairman shall be reconsidered by each member of the Commission at its next regular meeting. Notice by Certified Mail to such interested person or persons shall include the final decision of the full Commission on its reconsideration and shall constitute notification of the action taken by the Commission.

(e) The aforementioned rules may be waived and testimony of the person or persons permitted upon affirmative vote of a majority of the Commission members present at the hearing.

Adopted October 29, 1975.

*As amended by Commission, April 20, 1976.

July 20, 1976



PRIVACY PROTECTION STUDY COMMISSION
2120 L STREET, N.W.
WASHINGTON, D.C. 20506

NOTICE OF HEARINGS

The Privacy Protection Study Commission will hold public hearings on employment and personnel record-keeping practices between 9:30 a.m. and 5:30 p.m. on December 9 and 10, 1976 and December 16 and 17, 1976, in Room 2318, Rayburn House Office Building, Washington, D.C.

These hearings are part of the Commission's consideration of the desirability and feasibility of extending the principles and requirements of the Privacy Act of 1974 to the private sector, and State and local governments.

To assist in the development of this inquiry, the Commission wishes to learn about the experiences and views of all persons, prior to the hearings. Written submissions should be made to the Executive Director, Privacy Protection Study Commission, Suite 424, 2120 L Street, N.W., Washington, D.C., 20506, and should be received in the Commission's office no later than November 29, 1976.

The Commission inquiry is directed at the employment and personnel record-keeping practices of private industry, State and local governments, and private nonprofit organizations, employment agencies, consumer investigative companies, private investigating agencies and labor unions.

The Commission is interested in views and statements about current employment and personnel record-keeping practices incident to the process of hiring, maintaining and terminating an employee. The records



subject to these practices include pre-employment records, personnel records concerned with performance on the job, records of benefits, records required to be kept by Federal and State statutes and regulations, and records kept on an applicant and a terminated employee.

The Commission would like to receive information describing the extent to which employment and personnel record-keeping practices conform to the following five information practice principles:

- There must be no personal data record-keeping system whose very existence is secret;
- There must be a way for an individual to find out what information about him is in a record and how it is used;
- There must be a way for an individual to prevent information about him that was obtained for one purpose from being used or made available for other purposes without his consent;
- There must be a way for an individual to correct or amend a record or identifiable information about him; and
- Any organization creating, maintaining, using, or disseminating records of identifiable personal data must assure the reliability (i.e., accuracy, relevance, timeliness, and completeness) of the data for their intended use and must take precautions to prevent misuse of the data.

The Commission seeks information on the following:

Collection and Maintenance of Information in Records

Are there established policies on the collection and maintenance of personal information about employees and applicants for employment?

Do applicants and employees know about them? What information do outside organizations, such as credit investigating agencies or government background investigators collect in doing background checks on applicants and employees? What information do employment agencies provide employers about an applicant or an employee? Under what circumstances do applicants and employees not know that outside sources are collecting information about them? Are applicants and employees asked to consent to the collection of information about themselves, either by employers or outside sources? How do employers handle reference checks? Do employers collect sensitive information about an applicant or an employee such as criminal history, medical information, military discharge information, or credit information? What are the reasons for collecting this information? What sort of information about an applicant or an employee do employers keep pursuant to benefit programs, insurance claims, Federal statutory or regulatory requirements, and union requirements? Do employers keep information on an applicant or an employee in the course of performing the employer's regular security functions? What is the role of polygraphs and other technological devices in collecting information about employees? How long is each of the various types of applicant and employee records maintained?

Access to and Correction of Records

Can applicants, employees and former employees inspect the records maintained about them by employers, prospective employers or other persons who supply information to employers or prospective employers? Can applicants, employees and former employees correct or amend such records,

or otherwise challenge their accuracy, timeliness, relevance, and completeness? To which records are applicants, employees or former employees denied access? Are employees or former employees allowed access to evaluations of their performance? Is there a regular procedure for informing employees about performance evaluations? Are employees informed of the reasons behind decisions to demote or fire them? Do employees or former employees have access to promotion plans? Are applicants, employees and former employees allowed access to records resulting from investigations of them conducted by security personnel? Do applicants, employees and former employees have access to medical or psychological information about themselves? Do applicants, employees and former employees have access to the results of polygraph tests? Do applicants, employees and former employees have access to information obtained from reference checks? What are the consequences of permitting an applicant, employee or former employee access to employment and personnel records maintained about him?

Disclosure to Third Parties

To which outside sources are employment and personnel records commonly disclosed--labor unions, creditors, law enforcement agencies, auditors or program evaluators, researchers, insurance companies, prospective employers, physicians or hospitals, others not mentioned? To what extent do units within the employing organization, such as auditors, medical staff, security officers, personnel officers, and line supervisors, share personal information about applicants and employees? To what extent is information sharing built into a record-keeping system? Is the applicant or employee informed of what disclosures

are being made and to whom they are being made? Is the applicant or employee's consent always required before a disclosure is made? What information on individually identifiable subjects are employers required by statute or regulation to disclose to Federal and State governments? How are subpoenas for information maintained by employers about applicants, employees and former employees responded to by employers?

Responsibilities of the Employer

Does the employer designate a person or office to oversee the use and disclosure of information in employment and personnel records? What measures do employers take to insure that persons responsible for overseeing the use and disclosure of information in employment and personnel records carry out their duties? Does an applicant or employee have any recourse if injured by failure of the responsible person or office to perform oversight functions adequately? Have organized labor agreements restricted or increased the amount of personnel information collected; or increased the employer's responsibility for accuracy, relevance, completeness or timeliness?

The Commission also wishes to receive information about: 1) how employers have gone about formulating policies concerning the collection, maintenance, use, and disclosure of information in employment and personnel records; 2) the cost of implementing these policies; 3) the limitations on conforming to the five information practice principles set forth above; 4) experiences of employers who have implemented some or all of the five information practice principles set forth above; 5) the extent to which the social security number is used as an identifier



in record systems containing information about employees, applicants, and former employees; and 6) what policies and practices of outside sources, such as insurance companies, have an impact on employers' ability to comply with the five information practice principles set forth above?

David F. Linowes
Chairman

Carole W. Parsons
Executive Director