The original documents are located in Box 56, folder "Privacy - Legislation (2)" of the Philip Buchen Files at the Gerald R. Ford Presidential Library.

THE WHITE HOUSE
WASHINGTON

Tony Skorupski
(212) 697-0980
Exec. Secretary
DKE International

Roy Ash recommends veto

Concerned about Title 9.
Wants President to sign the bill.

DOMESTIC COUNCIL COMMITTEE ON THE RIGHT OF PRIVACY

WASHINGTON, D.C. 20504

December 19, 1974

MEMORANDUM FOR: PHILIP W. BUCHEN

FROM: DOUGLAS W. METZ D.W.M.

SUBJECT: Amendments to the Buckley Amendments

This office, after consultation with HEW and outside interest groups which have previously contacted us, recommends that the President approve Senate Joint Resolution 40 authorizing a White House Conference on Libraries and Information Science plus amendments to the Family Educational Rights and Privacy Act of 1974.

The Resolution contains needed clarification and correction of the so-called Buckley Amendments establishing privacy rights in educational records.

We, HEW, as well as the major educational and student and parent interest groups, despite specific reservations, all believe the President should sign the bill. The alternative would perpetuate an atmosphere of general dissatisfaction with the imperfections in the existing Act.

Lacking the clarifications and compromises of the instant amendments, HEW's implementation task would be barely tolerable at best, and the entirety of the Act, with its many salutary provisions, would be in jeopardy.

Best we settle now for stability.

Phil A:

Here are 2 matters relating to HEW, either of which may call for action while I'm gone if any further calls or memos come in.

P.

DOMESTIC COUNCIL COMMITTEE ON THE RIGHT OF PRIVACY

WASHINGTON, D.C. 20504

November 25, 1974

MEMORANDUM FOR: PHILIP W. BUCHEN

FROM: DOUGLAS W. METZ DWM.

SUBJECT: Buckley Amendments to Family Educational Rights and Privacy Act of 1974

In the next day or two you can expect a call from HEW to solicit your views on three amendments to be offered by Senator Buckley to the Family Educational Rights and Privacy Act of 1974. These amendments would:

(1) Deny student access to all letters of recommendation obtained under pledges of confidentiality prior to a specific date.

(2) Deny student access to parental financial data.

(3) Deny parental access to the records of "financially independent" students.

We do not yet have the precise language of the proposed amendments, but I want to alert you regarding their substance, the probability of a call from HEW, and our position with respect to the amendments as we understand them. Generally, we have supported Buckley's construction of this poorly drafted law. In particular, we favor changes consistent with the apparent consensus of our Committee on July 10 that letters of recommendation be exempted. In addition, I favor support of the other two amendments.

As you know, many groups, including HEW, are eager to open the door to vitiating amendments. We should be very cautious in supporting changes since the Administration is being watched for signs of an eroding commitment to privacy safeguards.

DWM/crs

132B
11/26

November 12, 1974

MEMORANDUM FOR: PHILIP BUCHEN

THROUGH: BILL CASSELMAN

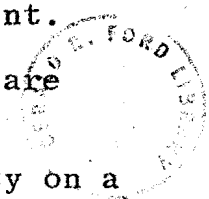
FROM: MICHAEL T. HARRIGAN
STEVEN R. MEAD

SUBJECT: Title IX Regulations on Athletics

Regulations concerning athletics (as well as other areas of potential discrimination against women in education) were prepared by Office of Civil Rights, (OCR), DHEW, to effectuate Title IX of the Education Amendments of 1972. These tentative regulations were released for comment by interested parties in June of this year and the comment period ended October 15.

Probably the most controversial area of the regulations is how and if Title IX's law and regulations apply to athletics and physical education. OCR believes that all aspects of sport, athletics and physical education come under the law but the NCAA and other groups argue strongly that Congress did not intend Title IX to apply to these areas at all. Clearly, this basic issue must be resolved before the problems with the regulations themselves become relevant. The Justice Department or other authoritative source should thoroughly analyze the positions of both parties and render a written, formal opinion upon which administration policy can be based.

The current set of regulations developed by OCR dealing with this subject are generically believed to be too general in nature allowing HEW wide latitude in enforcement and not providing adequate guidance to those who must follow the regulations. Militant women's groups, such powers as the NCAA and OCR itself appear to share this opinion. Unfortunately, agreement among these organizations ceases at that point.



Specific problems with the current set of regulations are summarized as follows:

(1) OCR embraces the concept of "equal opportunity on a sport-by-sport basis" (women's football teams, etc.) rather than equal opportunity to participate in an athletic program as a whole but not necessarily on a sport-by-sport basis.

(2) Revenues which are directly associated with a certain sport cannot be used only to cover costs associated with that sport. In fact, there is no provision to allow revenue producing (and often profit producing) sports to have first rights to that money with profits used to subsidize other sports on the intercollegiate program. Many athletic administrators in our institutions believe that this position could result in the financial weakening or destruction of collegiate athletic programs, both for men and for women.

(3) The requirement currently contained in the regulations of annual determination of student interest in specific sports or sports programs allows insufficient time for proper planning, gives too much power to OCR and is really not germane since it raises the issue of student's rights rather than women's rights.

Presently, DHEW is beginning to rework a new set of regulations. We suggest the strong likelihood that our and the White House's position will be quite different than that arrived at by OCR. The time to get the regulations in proper shape is now -- before they are formally approved by Secretary Weinberger and forwarded to the White House for the President's signature.

By not acting now, a sensitive political and legal problem might be placed in the President's lap. If the regulations are changed to reflect our views after they leave HEW, the irritation felt by the women's groups and others would be directed solely at the President. If some pressure groups are to be dissatisfied with the regulations (and some certainly will be) HEW should bear the brunt of the criticism, not the President.

December 20, 1974

To: Stan Ebner
Jim Cavanaugh

From: Phil Buchen

Would appreciate your consideration
of these recommendations.

Friday 12/20/74

1:05 Carole Parsons would like to talk with you about the attached, which Dave just brought over.

Hand delivered copies of memo to Stan Jones & Jim Cavanaugh with covering note from me requesting their consideration of the recommendations.

THE WHITE HOUSE

WASHINGTON

Eva

Carol Parsons called. They are sending over a memo from Mr. Merz-- they are most anxious that Mr. Buchen take a quick look at it as soon as possible.

Eleanor

12/20

12:20

DOMESTIC COUNCIL COMMITTEE ON THE RIGHT OF PRIVACY

WASHINGTON, D.C. 20504

December 20, 1974

MEMORANDUM FOR: PHILIP W. BUCHEN

FROM: DOUGLAS W. METZ

SUBJECT: Conference Report on H. R. 17045

Sometime today, December 20, 1974, the Senate and House will take up the conference report on H. R. 17045, a bill "to amend the Social Security Act to establish a consolidated program of Federal financial assistance to encourage provision of (social) services by the States." The bill, of great interest to Senator Long, Chairman of the Senate Finance Committee, was sent to conference by the Senate without debate on Wednesday evening, December 18, 1974. As it emerged from conference last night, the bill would amend Title IV of the Social Security Act to provide for hot pursuit of both putative and acknowledged fathers who fail to support their children and particularly those whose children are supported by State programs to assist families with dependent children (the so-called "AFDC" programs).

Specifically, the proposed amendment to Title IV, would:

- Require the Secretary of Health, Education, and Welfare to establish a "Parent Locator Service" authorized to search for information concerning the whereabouts of any absent parent in the files of any department, agency, or instrumentality of the United States or of any State (save the Census Bureau and agencies maintaining such information which if disclosed would "contravene the national policy or security interests of the United States) regardless of any existing Federal or State confidentiality statute to the contrary.

- Explicitly dilute the confidentiality provision (Sec. 1106) of the Social Security Act--a step that Secretary Weinberger agreed to oppose in a letter to me of November 22, 1974.

- Make the Treasury Department responsible for collecting child support obligations referred to it by the Secretary of HEW.

- Make the Bankruptcy Law of the United States inapplicable in child support cases.

- Provide for the garnishment of wages and salaries, including those of Federal employees.

- Require mothers, as a condition of eligibility for AFDC payments to "cooperate with the State (i) in establishing the paternity of a child born out of wedlock with respect to whom aid is claimed, and (ii) in obtaining support payments.

- Require that as a condition of eligibility for AFDC, each applicant disclose his or her Social Security number which shall be used as a means of identification by the State of application, and by inference, every other State since the States would be required to cooperate with one another in tracking down absent parents.

- Provide for HEW enforcement of child support obligations in Federal courts.

- Establish an Assistant Secretary for Child Support in the Department of Health, Education, and Welfare.

- Require the Secretary of Health, Education, and Welfare to establish regional blood analysis laboratories for the purpose of determining paternity.

- Provide no protection whatsoever for the personal privacy interests of any of the individuals involved, which means, in theory at least, every divorced, separated, or otherwise estranged parent in the United States and the children of such unions.

Yesterday, HEW tried unsuccessfully to persuade the conferees to delete all of these provisions but was only able to get the blood analysis laboratories dropped. Moreover, I am told that at an HEW staff conference this morning, the Department agreed not to recommend veto of the bill because (a) the provisions regarding the financial management of social service programs, Parts A, B, and C of the bill, are too important to the former Administration's overall policy on State-Federal responsibility in the management of social welfare programs and (b) because the current Administration's posture on the protection of personal privacy appears to be a concern of lesser priority.

If the bill passes and the President signs it, the latter argument is surely not going to seem unreasonable. The Domestic Council Committee is also bound to lose credibility within the Administration.

The question, put simply, is whether the inherited concerns of this Administration for better management of categorical grant programs are to be satisfied at the price of egregious incursions on the personal privacy of our citizens.

The options, at the moment, appear to be the following:

(1) Do nothing.

(2) Sign the legislation, but promise to seek repeal, or at least substantial modification of the child support provisions as soon as the new Congress convenes.

(3) Veto the bill with a promise to resubmit the unobjectionable provisions as soon as the new Congress convenes.

(4) Seek, vigoriously, to get the bill referred back to conference when it comes up today and work vigoriously to persuade the conferees to eliminate or substantially modify the child support provisions.

In my opinion, options (1) and (2) are extremely risky--(a) because of the inevitable loss of credibility, and (b) because they would automatically expose the President on a complicated and politically ticklish social policy issue.

Option (4) strikes me as worth a try but not likely to be successful. Hence, I would recommend that option (3) be chosen unless the President and the Administration can make a persuasive case--to the public--that the "management" oriented provisions of the measure are of such overriding societal importance as to justify the excesses apparent in the child support provisions.

Monday 12/30/74

5:20 When we advised Doug Metz that there would be no signing ceremony for the Privacy bill, he asked if there might be a possibility of getting pens for the people on the Hill who co-sponsored the bill. Said it would be in the area of 14 -- with a bare minimum of 11 probably. (I'm sure that he, Carole, Janet, and Alice, and George would greatly appreciate a pen also, if possible.)

I checked with Nell Yates and she said that ordinarily they don't give out pens when there's no signing ceremony.

I checked with Jerry Jones' office and the Privacy bill is in Colorado, but has not yet been signed.

If and when the bill does get signed, would you want to send a memo to Jerry Jones requesting signing pens for the people on the Hill who helped get the bill to the President?

No signing pens are available, sorry.

P.

Thursday 12/19/74

11:30 Lynn May said he had been informed by the Scheduling Office that there would be no signing ceremony for the Privacy bill.

Please call Doug & tell him we're sorry about this.

T.

DOMESTIC COUNCIL COMMITTEE ON THE RIGHT OF PRIVACY

WASHINGTON, D.C. 20504

January 7, 1975

MEMORANDUM FOR

Department and Agency Liaison Representatives
Domestic Council Committee on the Right of Privacy

Subject: Privacy Act of 1974

Attached are copies of the Privacy Act of 1974 signed by the President on January 1, 1975, together with a Presidential statement and Fact Sheet.

Since the Act was an Administration backed measure, I believe agencies should seek appropriate opportunities to inform their various publics of the thrust and content of this landmark legislation.

Douglas W. Metz
Acting Executive Director

Attachments

DWM/crs

FOR IMMEDIATE RELEASE JANUARY 1, 1975

Office of the White House Press Secretary
(Vail, Colorado)

THE WHITE HOUSE

STATEMENT BY THE PRESIDENT

The Privacy Act of 1974, S. 3418, represents an initial advance in protecting a right precious to every American-- the right of individual privacy.

I am especially happy to have signed this bill because of my own personal concern in the privacy issue. As Chairman of the Domestic Council Committee on the Right of Privacy, I became increasingly aware of the vital need to provide adequate and uniform privacy safeguards for the vast amounts of personal information collected, recorded and used in our complex society. It was my objective then, as it is today, to seek, first, opportunities to set the Federal house in order before prescribing remedies for State and local government and the private sector.

The Privacy Act of 1974 signified an historic beginning by codifying fundamental principles to safeguard personal privacy in the collection and handling of recorded personal information by Federal agencies. This bill, for the most part, strikes a reasonable balance between the right of the individual to be left alone and the interest of society in open government, national defense, foreign policy, law enforcement and a high quality and trustworthy Federal work force.

No bill of this scope and complexity -- particularly initial legislation of this type -- can be completely free of imperfections. While I am pleased that the Commission created by this law has been limited to purely advisory functions, I am disappointed that the provisions for disclosure of personal information by agencies make no substantive change in the current law. The latter in my opinion does not adequately protect the individual against unnecessary disclosures of personal information.

I want to congratulate the Congressional sponsors of this legislation and their staffs who have forged a strong bipartisan constituency in the interest of protecting the right of individual privacy. Experience under this legislation, as well as further exploration of the complexities of the issue, will no doubt lead to continuing Legislative and Executive efforts to reassess the proper balance between the privacy interests of the individual and those of society. I look forward to a continuation of the same spirit of bipartisan cooperation in the years ahead.

My Administration will act aggressively to protect the right of privacy for every American, and I call on the full support of all Federal personnel in implementing requirements of this legislation.

# # #

JANUARY 1, 1975

Office of the White House Press Secretary
(Vail, Colorado)

NOTICE TO THE PRESS

The President has signed S.3418 the Privacy Act of 1974, the purpose of which is to safeguard individual privacy from misuse of Federal records, provide individual access to records, and establish a Federal Privacy Protection Study Commission.

Background

Concern with the uses and possible abuses of personally identifiable information compiled by governments and other institutions is of long standing. Computers and the increasing size and scope of institutions compiling such information has heightened the concern.

Establishment of the Domestic Council Committee on the Right of Privacy and the President's chairmanship of that Committee, while he was Vice President, highlight the concern of the Administration with this problem.

During the 93rd Congress a number of congressmen played key roles in the development of numerous privacy initiatives and the Administration has been actively engaged with Congress in developing legislation. S. 3418 is a compromise bill reflecting the Administration's position, the position of the Senate in S. 3418 and a key House bill, H.R. 16373.

Provisions of the Bill

The bill, generally, requires agencies to annually identify record keeping systems; establishes minimum standards for all systems which would regulate the process of accumulation of data as well as its security and use; permits an individual to gain access to his record and contest its accuracy; provides administrative and judicial machinery for oversight; and establishes a study commission.

Specifically, S. 3418 requires Federal agencies to:

-- permit an individual to examine records pertaining to him and to correct or amend these records

-- assure accuracy, currency, and security of records and limit record keeping activities to necessary and lawful purposes, and

-- be subject to civil suit for willful or intentional action violating individual rights under the act.

The bill provides that unless an individual otherwise consents, no agency shall disclose records except under specified conditions and only to persons and agencies, or for purposes expressly provided in the bill including:

-- to officers within the agency maintaining the records who need the records in their work

-- purusant to a "routine use" -- a use compatible with the purposes for which the records were collected -- following public notice and comment on the type of "routine use"

-- to the Bureau of the Census to perform their statutory functions

-- to the National Archives where preservation is warranted

-- to other agencies in connection with law enforcement activities under prescribed conditions

-- to individuals when the health and safety of an individual is involved

-- to committees of Congress with jurisdiction

-- to the Comptroller General or pursuant to court order

-- when required by the Freedom of Information Act for statistical purposes if the information is not in a form by which an individual may be identified.

Each agency is required to keep a detailed accounting of all disclosures of records other than disclosures under the Freedom of Information Act, make the accounting available to the individual, inform the person to whom disclosure is made of any corrections made to the records disclosed, and retain the accounting for at least five years.

S. 3418 requires each agency to respond to a request by an individual for correction of a record pertaining to him within prescribed times, to provide procedures for an individual to contest an agency's refusal to correct a record and for noting the portions of records in dispute, and provides for judicial review of agency decisions on requests for correction of records.

S. 3418 further requires each agency to:

-- limit its record keeping to that which is relevant and necessary

-- inform individuals requested to provide information of the authority for the request, the purpose for collecting the record, the uses to which the records will be put, and the legal implications of not providing requested information

-- publish descriptive information on record systems

-- assure such accuracy, relevance, timeliness and completeness of records as is necessary to assure fairness to the individual and make reasonable efforts to meet such standards before each disclosure

-- maintain no record respecting exercise of first amendment rights, and

-- develop procedures to provide notice to individuals concerning certain disclosures, develop rules of conduct for those working with records, establish safeguards, provide notice of system changes, provide for disclosure of records to affected individuals and to facilitate an individual's review of the records on himself.

The bill permits judicial review of an agency's refusal to comply with a request for corrections of an individual's record; refusal to permit examination of a record pertaining to him; and for a failure to comply with the Act if he is injured thereby, and permits judicial in camera court inspection of records, de novo court review, assessment of litigation costs and attorney fees to successful litigants, and actual damages incurred by the individual.

The bill provides for criminal penalties and a fine up to $5,000 against officers and employees of agencies when such people have knowingly and willfully acted in violation of the bill. Exemptions from many of the provisions of the bill are permitted by the bill after promulgation of rules for records:

-- of the CIA and criminal justice agencies

-- comprised of investigatory material for law enforcement purposes

-- maintained for the protective services to the President

-- required to be maintained for statistical purposes

-- for determining eligibility for Federal employment or security clearance if such disclosure would violate confidentiality, and

-- certain testing and examination and evaluatory material

S. 3418 requires the Office of Management and Budget to develop regulations to implement the bill and provide continuing oversight of the implementation of the bill.

S. 3418 establishes a two-year Privacy Protection Study Commission composed of seven members -- three appointed by the President and two each appointed by the Speaker of the House and the President of the Senate.

The Commission is required to conduct a study and review a wide range of public and private record systems and to analyze the relationship of such systems to constitutional rights, potential abuses, and standards established under the bill. The Commission is required to make general recommendations and to propose changes in laws or regulations on certain matters. The Commission is authorized to hold hearings, conduct inspections, issue subpoenas to compel attendance of witnesses or production of books or records, and administer oaths. The Commission may appoint an executive director and other personnel at rates not to exceed GS-18.

The bill restricts the use of Social Security numbers for identification; prohibits an agency from selling a mailing list unless authorized by law; and authorizes appropriation of $1.5 million for fiscal years 1975, 1976, and 1977 except that no more than $750,000 could be spent during any one fiscal year.

Ninety-third Congress of the United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Monday, the twenty-first day of January, one thousand nine hundred and seventy-four

An Act

To amend title 5, United States Code, by adding a section 552a to safeguard individual privacy from the misuse of Federal records, to provide that individuals be granted access to records concerning them which are maintained by Federal agencies, to establish a Privacy Protection Study Commission, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Privacy Act of 1974".

SEC. 2. (a) The Congress finds that—

(1) the privacy of an individual is directly affected by the collection, maintenance, use, and dissemination of personal information by Federal agencies;

(2) the increasing use of computers and sophisticated information technology, while essential to the efficient operations of the Government, has greatly magnified the harm to individual privacy that can occur from any collection, maintenance, use, or dissemination of personal information;

(3) the opportunities for an individual to secure employment, insurance, and credit, and his right to due process, and other legal protections are endangered by the misuse of certain information systems;

(4) the right to privacy is a personal and fundamental right protected by the Constitution of the United States; and

(5) in order to protect the privacy of individuals identified in information systems maintained by Federal agencies, it is necessary and proper for the Congress to regulate the collection, maintenance, use, and dissemination of information by such agencies.

(b) The purpose of this Act is to provide certain safeguards for an individual against an invasion of personal privacy by requiring Federal agencies, except as otherwise provided by law, to—

(1) permit an individual to determine what records pertaining to him are collected, maintained, used, or disseminated by such agencies;

(2) permit an individual to prevent records pertaining to him obtained by such agencies for a particular purpose from being used or made available for another purpose without his consent;

(3) permit an individual to gain access to information pertaining to him in Federal agency records, to have a copy made of all or any portion thereof, and to correct or amend such records;

(4) collect, maintain, use, or disseminate any record of identifiable personal information in a manner that assures that such action is for a necessary and lawful purpose, that the information is current and accurate for its intended use, and that adequate safeguards are provided to prevent misuse of such information;

(5) permit exemptions from the requirements with respect to records provided in this Act only in those cases where there is an important public policy need for such exemption as has been determined by specific statutory authority; and

(6) be subject to civil suit for any damages which occur as a result of willful or intentional action which violates any individual's rights under this Act.

SEC. 3. Title 5, United States Code, is amended by adding after section 552 the following new section:

"§ 552a. Records maintained on individuals

"(a) DEFINITIONS.—For purposes of this section—

"(1) the term 'agency' means agency as defined in section 552(e) of this title;

"(2) the term 'individual' means a citizen of the United States or an alien lawfully admitted for permanent residence;

"(3) the term 'maintain' includes maintain, collect, use, or disseminate;

"(4) the term 'record' means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph;

"(5) the term 'system of records' means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual;

"(6) the term 'statistical record' means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided by section 8 of title 13; and

"(7) the term 'routine use' means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

"(b) CONDITIONS OF DISCLOSURE.—No agency shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record would be—

"(1) to those officers and employees of the agency which maintains the record who have a need for the record in the performance of their duties;

"(2) required under section 552 of this title;

"(3) for a routine use as defined in subsection (a)(7) of this section and described under subsection (e)(4)(D) of this section;

"(4) to the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of title 13;

"(5) to a recipient who has provided the agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

"(6) to the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Administrator of General Services or his designee to determine whether the record has such value;

"(7) to another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the agency which

maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought;

"(8) to a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual;

"(9) to either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee;

"(10) to the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office; or

"(11) pursuant to the order of a court of competent jurisdiction.

"(c) ACCOUNTING OF CERTAIN DISCLOSURES.—Each agency, with respect to each system of records under its control, shall—

"(1) except for disclosures made under subsections (b)(1) or (b)(2) of this section, keep an accurate accounting of—

"(A) the date, nature, and purpose of each disclosure of a record to any person or to another agency made under subsection (b) of this section; and

"(B) the name and address of the person or agency to whom the disclosure is made;

"(2) retain the accounting made under paragraph (1) of this subsection for at least five years or the life of the record, whichever is longer, after the disclosure for which the accounting is made;

"(3) except for disclosures made under subsection (b)(7) of this section, make the accounting made under paragraph (1) of this subsection available to the individual named in the record at his request; and

"(4) inform any person or other agency about any correction or notation of dispute made by the agency in accordance with subsection (d) of this section of any record that has been disclosed to the person or agency if an accounting of the disclosure was made.

"(d) ACCESS TO RECORDS.—Each agency that maintains a system of records shall—

"(1) upon request by any individual to gain access to his record or to any information pertaining to him which is contained in the system, permit him and upon his request, a person of his own choosing to accompany him, to review the record and have a copy made of all or any portion thereof in a form comprehensible to him, except that the agency may require the individual to furnish a written statement authorizing discussion of that individual's record in the accompanying person's presence;

"(2) permit the individual to request amendment of a record pertaining to him and—

"(A) not later than 10 days (excluding Saturdays, Sundays, and legal public holidays) after the date of receipt of such request, acknowledge in writing such receipt; and

"(B) promptly, either—

"(i) make any correction of any portion thereof which the individual believes is not accurate, relevant, timely, or complete; or

"(ii) inform the individual of its refusal to amend the record in accordance with his request, the reason

for the refusal, the procedures established by the agency for the individual to request a review of that refusal by the head of the agency or an officer designated by the head of the agency, and the name and business address of that official;

"(3) permit the individual who disagrees with the refusal of the agency to amend his record to request a review of such refusal, and not later than 30 days (excluding Saturdays, Sundays, and legal public holidays) from the date on which the individual requests such review, complete such review and make a final determination unless, for good cause shown, the head of the agency extends such 30-day period; and if, after his review, the reviewing official also refuses to amend the record in accordance with the request, permit the individual to file with the agency a concise statement setting forth the reasons for his disagreement with the refusal of the agency, and notify the individual of the provisions for judicial review of the reviewing official's determination under subsection (g)(1)(A) of this section;

"(4) in any disclosure, containing information about which the individual has filed a statement of disagreement, occurring after the filing of the statement under paragraph (3) of this subsection, clearly note any portion of the record which is disputed and provide copies of the statement and, if the agency deems it appropriate, copies of a concise statement of the reasons of the agency for not making the amendments requested, to persons or other agencies to whom the disputed record has been disclosed; and

"(5) nothing in this section shall allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding.

"(e) AGENCY REQUIREMENTS.—Each agency that maintains a system of records shall—

"(1) maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or by executive order of the President;

"(2) collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs;

"(3) inform each individual whom it asks to supply information, on the form which it uses to collect the information or on a separate form that can be retained by the individual—

"(A) the authority (whether granted by statute, or by executive order of the President) which authorizes the solicitation of the information and whether disclosure of such information is mandatory or voluntary;

"(B) the principal purpose or purposes for which the information is intended to be used;

"(C) the routine uses which may be made of the information, as published pursuant to paragraph (4)(D) of this subsection; and

"(D) the effects on him, if any, of not providing all or any part of the requested information;

"(4) subject to the provisions of paragraph (11) of this subsection, publish in the Federal Register at least annually a notice of the existence and character of the system of records, which notice shall include—

"(A) the name and location of the system;

"(B) the categories of individuals on whom records are maintained in the system;

"(C) the categories of records maintained in the system;

"(D) each routine use of the records contained in the system, including the categories of users and the purpose of such use;

"(E) the policies and practices of the agency regarding storage, retrievability, access controls, retention, and disposal of the records;

"(F) the title and business address of the agency official who is responsible for the system of records;

"(G) the agency procedures whereby an individual can be notified at his request if the system of records contains a record pertaining to him;

"(H) the agency procedures whereby an individual can be notified at his request how he can gain access to any record pertaining to him contained in the system of records, and how he can contest its content; and

"(I) the categories of sources of records in the system;

"(5) maintain all records which are used by the agency in making any determination about any individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination;

"(6) prior to disseminating any record about an individual to any person other than an agency, unless the dissemination is made pursuant to subsection (b)(2) of this section, make reasonable efforts to assure that such records are accurate, complete, timely, and relevant for agency purposes;

"(7) maintain no record describing how any individual exercises rights guaranteed by the First Amendment unless expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity;

"(8) make reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record;

"(9) establish rules of conduct for persons involved in the design, development, operation, or maintenance of any system of records, or in maintaining any record, and instruct each such person with respect to such rules and the requirements of this section, including any other rules and procedures adopted pursuant to this section and the penalties for noncompliance;

"(10) establish appropriate administrative, technical, and physical safeguards to insure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom information is maintained; and

"(11) at least 30 days prior to publication of information under paragraph (4)(D) of this subsection, publish in the Federal Register notice of any new use or intended use of the information in the system, and provide an opportunity for interested persons to submit written data, views, or arguments to the agency.

"(f) AGENCY RULES.—In order to carry out the provisions of this section, each agency that maintains a system of records shall promulgate rules, in accordance with the requirements (including general notice) of section 553 of this title, which shall—

"(1) establish procedures whereby an individual can be notified

in response to his request if any system of records named by the individual contains a record pertaining to him;

"(2) define reasonable times, places, and requirements for identifying an individual who requests his record or information pertaining to him before the agency shall make the record or information available to the individual;

"(3) establish procedures for the disclosure to an individual upon his request of his record or information pertaining to him, including special procedure, if deemed necessary, for the disclosure to an individual of medical records, including psychological records, pertaining to him;

"(4) establish procedures for reviewing a request from an individual concerning the amendment of any record or information pertaining to the individual, for making a determination on the request, for an appeal within the agency of an initial adverse agency determination, and for whatever additional means may be necessary for each individual to be able to exercise fully his rights under this section; and

"(5) establish fees to be charged, if any, to any individual for making copies of his record, excluding the cost of any search for and review of the record.

The Office of the Federal Register shall annually compile and publish the rules promulgated under this subsection and agency notices published under subsection (e)(4) of this section in a form available to the public at low cost.

"(g)(1) CIVIL REMEDIES.—Whenever any agency

"(A) makes a determination under subsection (d)(3) of this section not to amend an individual's record in accordance with his request, or fails to make such review in conformity with that subsection;

"(B) refuses to comply with an individual request under subsection (d)(1) of this section;

"(C) fails to maintain any record concerning any individual with such accuracy, relevance, timeliness, and completeness as is necessary to assure fairness in any determination relating to the qualifications, character, rights, or opportunities of, or benefits to the individual that may be made on the basis of such record, and consequently a determination is made which is adverse to the individual; or

"(D) fails to comply with any other provision of this section, or any rule promulgated thereunder, in such a way as to have an adverse effect on an individual,

the individual may bring a civil action against the agency, and the district courts of the United States shall have jurisdiction in the matters under the provisions of this subsection.

"(2)(A) In any suit brought under the provisions of subsection (g)(1)(A) of this section, the court may order the agency to amend the individual's record in accordance with his request or in such other way as the court may direct. In such a case the court shall determine the matter de novo.

"(B) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this paragraph in which the complainant has substantially prevailed.

"(3)(A) In any suit brought under the provisions of subsection (g)(1)(B) of this section, the court may enjoin the agency from withholding the records and order the production to the complainant of any agency records improperly withheld from him. In such a case the court shall determine the matter de novo, and may examine the contents of

any agency records in camera to determine whether the records or any portion thereof may be withheld under any of the exemptions set forth in subsection (k) of this section, and the burden is on the agency to sustain its action.

"(B) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this paragraph in which the complainant has substantially prevailed.

"(4) In any suit brought under the provisions of subsection (g)(1)(C) or (D) of this section in which the court determines that the agency acted in a manner which was intentional or willful, the United States shall be liable to the individual in an amount equal to the sum of—

"(A) actual damages sustained by the individual as a result of the refusal or failure, but in no case shall a person entitled to recovery receive less than the sum of $1,000; and

"(B) the costs of the action together with reasonable attorney fees as determined by the court.

"(5) An action to enforce any liability created under this section may be brought in the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, without regard to the amount in controversy, within two years from the date on which the cause of action arises, except that where an agency has materially and willfully misrepresented any information required under this section to be disclosed to an individual and the information so misrepresented is material to establishment of the liability of the agency to the individual under this section, the action may be brought at any time within two years after discovery by the individual of the misrepresentation. Nothing in this section shall be construed to authorize any civil action by reason of any injury sustained as the result of a disclosure of a record prior to the effective date of this section.

"(h) RIGHTS OF LEGAL GUARDIANS.—For the purposes of this section, the parent of any minor, or the legal guardian of any individual who has been declared to be incompetent due to physical or mental incapacity or age by a court of competent jurisdiction, may act on behalf of the individual.

"(i)(1) CRIMINAL PENALTIES.—Any officer or employee of an agency, who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this section or by rules or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than $5,000.

"(2) Any officer or employee of any agency who willfully maintains a system of records without meeting the notice requirements of subsection (e)(4) of this section shall be guilty of a misdemeanor and fined not more than $5,000.

"(3) Any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses shall be guilty of a misdemeanor and fined not more than $5,000.

"(j) GENERAL EXEMPTIONS.—The head of any agency may promulgate rules, in accordance with the requirements (including general notice) of sections 553 (b)(1), (2), and (3), (c), and (e) of this title, to exempt any system of records within the agency from any part of this section except subsections (b), (c)(1) and (2), (e)(4)(A) through

(F), (e)(6), (7), (9), (10), and (11), and (i) if the system of records is—

"(1) maintained by the Central Intelligence Agency; or

"(2) maintained by an agency or component thereof which performs as its principal function any activity pertaining to the enforcement of criminal laws, including police efforts to prevent, control, or reduce crime or to apprehend criminals, and the activities of prosecutors, courts, correctional, probation, pardon, or parole authorities, and which consists of (A) information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; (B) information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or (C) reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision.

At the time rules are adopted under this subsection, the agency shall include in the statement required under section 553(c) of this title, the reasons why the system of records is to be exempted from a provision of this section.

"(k) SPECIFIC EXEMPTIONS.—The head of any agency may promulgate rules, in accordance with the requirements (including general notice) of sections 553(b)(1), (2), and (3), (c), and (e) of this title, to exempt any system of records within the agency from subsections (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I) and (f) of this section if the system of records is—

"(1) subject to the provisions of section 552(b)(1) of this title;

"(2) investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2) of this section: *Provided, however*, That if any individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, or for which he would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence;

"(3) maintained in connection with providing protective services to the President of the United States or other individuals pursuant to section 3056 of title 18;

"(4) required by statute to be maintained and used solely as statistical records;

"(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence;

"(6) testing or examination material used solely to determine individual qualifications for appointment or promotion in the

Federal service the disclosure of which would compromise the objectivity or fairness of the testing or examination process; or

"(7) evaluation material used to determine potential for promotion in the armed services, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

At the time rules are adopted under this subsection, the agency shall include in the statement required under section 553 (c) of this title, the reasons why the system of records is to be exempted from a provision of this section.

"(l)(1) ARCHIVAL RECORDS.—Each agency record which is accepted by the Administrator of General Services for storage, processing, and servicing in accordance with section 3103 of title 44 shall, for the purposes of this section, be considered to be maintained by the agency which deposited the record and shall be subject to the provisions of this section. The Administrator of General Services shall not disclose the record except to the agency which maintains the record, or under rules established by that agency which are not inconsistent with the provisions of this section.

"(2) Each agency record pertaining to an identifiable individual which was transferred to the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, prior to the effective date of this section, shall, for the purposes of this section, be considered to be maintained by the National Archives and shall not be subject to the provisions of this section, except that a statement generally describing such records (modeled after the requirements relating to records subject to subsections (e)(4)(A) through (G) of this section) shall be published in the Federal Register.

"(3) Each agency record pertaining to an identifiable individual which is transferred to the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, on or after the effective date of this section, shall, for the purposes of this section, be considered to be maintained by the National Archives and shall be exempt from the requirements of this section except subsections (e)(4)(A) through (G) and (e)(9) of this section.

"(m) GOVERNMENT CONTRACTORS.—When an agency provides by a contract for the operation by or on behalf of the agency of a system of records to accomplish an agency function, the agency shall, consistent with its authority, cause the requirements of this section to be applied to such system. For purposes of subsection (i) of this section any such contractor and any employee of such contractor, if such contract is agreed to on or after the effective date of this section, shall be considered to be an employee of an agency.

"(n) MAILING LISTS.—An individual's name and address may not be sold or rented by an agency unless such action is specifically authorized by law. This provision shall not be construed to require the withholding of names and addresses otherwise permitted to be made public.

"(o) REPORT ON NEW SYSTEMS.—Each agency shall provide adequate advance notice to Congress and the Office of Management and Budget of any proposal to establish or alter any system of records in order to permit an evaluation of the probable or potential effect of such

proposal on the privacy and other personal or property rights of individuals or the disclosure of information relating to such individuals, and its effect on the preservation of the constitutional principles of federalism and separation of powers.

"(p) ANNUAL REPORT.—The President shall submit to the Speaker of the House and the President of the Senate, by June 30 of each calendar year, a consolidated report, separately listing for each Federal agency the number of records contained in any system of records which were exempted from the application of this section under the provisions of subsections (j) and (k) of this section during the preceding calendar year, and the reasons for the exemptions, and such other information as indicates efforts to administer fully this section.

(q) EFFECT OF OTHER LAWS.—No agency shall rely on any exemption contained in section 552 of this title to withhold from an individual any record which is otherwise accessible to such individual under the provisions of this section.".

SEC. 4. The chapter analysis of chapter 5 of title 5, United States Code, is amended by inserting:

"552a. Records about individuals."

immediately below:

"552. Public information; agency rules, opinions, orders, and proceedings.".

SEC. 5. (a)(1) There is established a Privacy Protection Study Commission (hereinafter referred to as the "Commission") which shall be composed of seven members as follows:

(A) three appointed by the President of the United States,

(B) two appointed by the President of the Senate, and

(C) two appointed by the Speaker of the House of Representatives.

Members of the Commission shall be chosen from among persons who, by reason of their knowledge and expertise in any of the following areas—civil rights and liberties, law, social sciences, computer technology, business, records management, and State and local government—are well qualified for service on the Commission.

(2) The members of the Commission shall elect a Chairman from among themselves.

(3) Any vacancy in the membership of the Commission, as long as there are four members in office, shall not impair the power of the Commission but shall be filled in the same manner in which the original appointment was made.

(4) A quorum of the Commission shall consist of a majority of the members, except that the Commission may establish a lower number as a quorum for the purpose of taking testimony. The Commission is authorized to establish such committees and delegate such authority to them as may be necessary to carry out its functions. Each member of the Commission, including the Chairman, shall have equal responsibility and authority in all decisions and actions of the Commission, shall have full access to all information necessary to the performance of their functions, and shall have one vote. Action of the Commission shall be determined by a majority vote of the members present. The Chairman (or a member designated by the Chairman to be acting Chairman) shall be the official spokesman of the Commission in its relations with the Congress, Government agencies, other persons, and the public, and, on behalf of the Commission, shall see to the faithful execution of the administrative policies and decisions of the Commission, and shall report thereon to the Commission from time to time or as the Commission may direct.

(5) (A) Whenever the Commission submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of that request to Congress.

(B) Whenever the Commission submits any legislative recommendations, or testimony, or comments on legislation to the President or Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations, or testimony, or comments on legislation, to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

(b) The Commission shall—

(1) make a study of the data banks, automated data processing programs, and information systems of governmental, regional, and private organizations, in order to determine the standards and procedures in force for the protection of personal information; and

(2) recommend to the President and the Congress the extent, if any, to which the requirements and principles of section 552a of title 5, United States Code, should be applied to the information practices of those organizations by legislation, administrative action, or voluntary adoption of such requirements and principles, and report on such other legislative recommendations as it may determine to be necessary to protect the privacy of individuals while meeting the legitimate needs of government and society for information.

(c) (1) In the course of conducting the study required under subsection (b) (1) of this section, and in its reports thereon, the Commission may research, examine, and analyze—

(A) interstate transfer of information about individuals that is undertaken through manual files or by computer or other electronic or telecommunications means;

(B) data banks and information programs and systems the operation of which significantly or substantially affect the enjoyment of the privacy and other personal and property rights of individuals;

(C) the use of social security numbers, license plate numbers, universal identifiers, and other symbols to identify individuals in data banks and to gain access to, integrate, or centralize information systems and files; and

(D) the matching and analysis of statistical data, such as Federal census data, with other sources of personal data, 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 implied or explicitly recognized confidentiality of such information.

(2) (A) The Commission may include in its examination personal information activities in the following areas: medical; insurance; education; employment and personnel; credit, banking and financial institutions; credit bureaus; the commercial reporting industry; cable television and other telecommunications media; travel, hotel and entertainment reservations; and electronic check processing.

(B) The Commission shall include in its examination a study of—

(i) whether a person engaged in interstate commerce who maintains a mailing list should be required to remove an individual's name and address from such list upon request of that individual;

(ii) whether the Internal Revenue Service should be prohibited from transfering individually indentifiable data to other agencies and to agencies of State governments;

(iii) whether the Federal Government should be liable for general damages incurred by an individual as the result of a willful or intentional violation of the provisions of sections 552a (g) (1) (C) or (D) of title 5, United States Code; and

(iv) whether and how the standards for security and confidentiality of records required under section 552a (e) (10) of such title should be applied when a record is disclosed to a person other than an agency.

(C) The Commission may study such other personal information activities necessary to carry out the congressional policy embodied in this Act, except that the Commission shall not investigate information systems maintained by religious organizations.

(3) In conducting such study, the Commission 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 the rights of privacy, due process of law, and other guarantees in the Constitution;

(B) determine to what extent governmental and private information systems affect Federal-State relations or the principle of separation of powers;

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

(D) to the maximum extent practicable, collect and utilize findings, reports, studies, hearing transcripts, and recommendations of governmental, legislative and private bodies, institutions, organizations, and individuals which pertain to the problems under study by the Commission.

(d) In addition to its other functions the Commission may—

(1) request assistance of the heads of appropriate departments, agencies, and instrumentalities of the Federal Government, of State and local governments, and other persons in carrying out its functions under this Act;

(2) upon request, assist Federal agencies in complying with the requirements of section 552a of title 5, United States Code;

(3) determine what specific categories of information, the collection of which would violate an individual's right of privacy, should be prohibited by statute from collection by Federal agencies; and

(4) upon request, prepare model legislation for use by State and local governments in establishing procedures for handling, maintaining, and disseminating personal information at the State and local level and provide such technical assistance to State and local governments as they may require in the preparation and implementation of such legislation.

(e) (1) The Commission may, in carrying out its functions under this section, conduct such inspections, sit and act at such times and places, hold such hearings, take such testimony, require by subpena the attendance of such witnesses and the production of such books, records, papers, correspondence, and documents, administer such oaths, have such printing and binding done, and make such expenditures as the Commission deems advisable. A subpena shall be issued only upon an affirmative vote of a majority of all members of the Com-

mission. Subpenas shall be issued under the signature of the Chairman or any member of the Commission designated by the Chairman and shall be served by any person designated by the Chairman or any such member. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(2) (A) Each department, agency, and instrumentality of the executive branch of the Government is authorized to furnish to the Commission, upon request made by the Chairman, such information, data, reports and such other assistance as the Commission deems necessary to carry out its functions under this section. Whenever the head of any such department, agency, or instrumentality submits a report pursuant to section 552a (o) of title 5, United States Code, a copy of such report shall be transmitted to the Commission.

(B) In carrying out its functions and exercising its powers under this section, the Commission may accept from any such department, agency, independent instrumentality, or other person any individually indentifiable data if such data is necessary to carry out such powers and functions. In any case in which the Commission accepts any such information, it shall assure that the information is used only for the purpose for which it is provided, and upon completion of that purpose such information shall be destroyed or returned to such department, agency, independent instrumentality, or person from which it is obtained, as appropriate.

(3) The Commission shall have the power to——

(A) appoint and fix the compensation of an executive director, and such additional staff personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title; and

(B) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code.

The Commission may delegate any of its functions to such personnel of the Commission as the Commission may designate and may authorize such successive redelegations of such functions as it may deem desirable.

(4) The Commission is authorized—

(A) to adopt, amend, and repeal rules and regulations governing the manner of its operations, organization, and personnel;

(B) to enter into contracts or other arrangements or modifications thereof, with any government, any department, agency, or independent instrumentality of the United States, or with any person, firm, association, or corporation, and such contracts or other arrangements, or modifications thereof, may be entered into without legal consideration, without performance or other bonds, and without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5);

(C) to make advance, progress, and other payments which the Commission deems necessary under this Act without regard to the provisions of section 3648 of the Revised Statutes, as amended (31 U.S.C. 529); and

(D) to take such other action as may be necessary to carry out its functions under this section.

(f) (1) Each [the] member of the Commission who is an officer or employee of the United States shall serve without additional compensation, but shall continue to receive the salary of his regular position when engaged in the performance of the duties vested in the Commission.

(2) A member of the Commission other than one to whom paragraph (1) applies shall receive per diem at the maximum daily rate for GS–18 of the General Schedule when engaged in the actual performance of the duties vested in the Commission.

(3) All members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(g) The Commission shall, from time to time, and in an annual report, report to the President and the Congress on its activities in carrying out the provisions of this section. The Commission shall make a final report to the President and to the Congress on its findings pursuant to the study required to be made under subsection (b) (1) of this section not later than two years from the date on which all of the members of the Commission are appointed. The Commission shall cease to exist thirty days after the date on which its final report is submitted to the President and the Congress.

(h) (1) Any member, officer, or employee of the Commission, who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this section, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than $5,000.

(2) Any person who knowingly and willfully requests or obtains any record concerning an individual from the Commission under false pretenses shall be guilty of a misdemeanor and fined not more than $5,000.

SEC. 6. The Office of Management and Budget shall—

(1) develop guidelines and regulations for the use of agencies in implementing the provisions of section 552a of title 5, United States Code, as added by section 3 of this Act; and

(2) provide continuing assistance to and oversight of the implementation of the provisions of such section by agencies.

SEC. 7. (a) (1) It shall be unlawful for any Federal, State or local government agency to deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his social security account number.

(2) the provisions of paragraph (1) of this subsection shall not apply with respect to—

(A) any disclosure which is required by Federal statute, or

(B) the disclosure of a social security number to any Federal, State, or local agency maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted prior to such date to verify the identity of an individual.

(b) Any Federal, State, or local government agency which requests an individual to disclose his social security account number shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it.

SEC. 8. The provisions of this Act shall be effective on and after the date of enactment, except that the amendments made by sections 3 and 4 shall become effective 270 days following the day on which this Act is enacted.

SEC. 9. There is authorized to be appropriated to carry out the provisions of section 5 of this Act for fiscal years 1975, 1976, and 1977 the sum of $1,500,000, except that not more than $750,000 may be expended during any such fiscal year.

Speaker of the House of Representatives.

Vice President of the United States and
President of the Senate.

DOMESTIC COUNCIL COMMITTEE ON THE RIGHT OF PRIVACY

WASHINGTON, D.C. 20504

January 10, 1975

MEMORANDUM FOR: PHIL BUCHEN

FROM: DOUG METZ DWM

SUBJECT: Charge by ACLU's Executive Director of Administration's Repudiation of Privacy Commitment

You may have seen the attached article on Aryeh Neier headlined in the New York Times and other newspapers.

We should not stand by and permit any erosion of the President's credibility on an issue which the Harris poll ranks as second highest in terms of public confidence and support -- particularly in the face of unjustified criticism.

Accordingly, I believe the attached letter to the Editor is a dignified and proper way to set the record straight, in the first instance. Others in the Administration, including the President, thereby have the option, subsequently, of commenting upon a factual and balanced response should it be necessary.

Notwithstanding what others may do, this office will need to have a cogent reply to outside inquiries on Mr. Neier's remarks.

Having your thoughts as soon as possible will be appreciated.

Attachments

DWM/crs

I.A. PANEL SETS MEETING MONDAY

ckefeller Says Colby Will Be Among Those Heard

By LINDA CHARLTON
Special to The New York Times

VASHINGTON, Jan. 7—The t meeting of the eight-mem- Commission on Central In- gence Activities Within the ted States, headed by Vice ident Rockefeller, will be Monday, with the Director Central Intelligence, William Colby, among those sched- to appear during the day- closed session.

nnouncement of the meeting e from Mr. Rockefeller's of- with the release of the text telegram sent by him today he commission's members. commission, which was es- ished by President Ford on day, was directed to inves- te allegations that the A. had violated its charter engaging in domestic sur- ance activities during the nineteen-sixties.

r. Rockefeller, in his tele- n, said that "Mr. Colby and rs will join us during the se of the day" in Mr. Rock- er's office, in the old Exe- ve Office Building across the White House. The ing is scheduled for 10:30 to 4:30 P.M.

other names were giv- by Mr. Rockefeller, but it believed that the "others" ld include Richard Helms,

A.C.L.U. Official Criticizes Ford on Privacy Bills

By WARREN WEAVER Jr.
Special to The New York Times

WASHINGTON, Jan. 7—The executive director of the American Civil Liberties Union charged today that President Ford had broken his promise to press for strict laws to protect the privacy of citizens.

The Ford Administration either actively opposed or did not support a half-dozen major privacy bills during the closing months of the 1974 Congressional session, despite the President's pledge in August of "hot pursuit of tough laws" in the area, Aryeh Neier of the A.C.L.U. said a a news conference.

No Official Text

Mr. Neier maintained that the compromise privacy bill signed by the President last week included "improvements" but was still inadequate. Mr. Ford, in his approval message, called the law "an initial advance" but stated that it did not provide enough protection against unnecessary disclosure of personal information.

In response to questions, Mr. Neier said that he had not read the new law in full because it was approved in the closing hours of the Congressional session, and no official text has been published.

The new law gives citizens access to their own files kept by most Government agencies and the right to have inaccurate information in them corrected. However, as Mr. Neier emphasized, the law does not cover the records of the Fedral Bureau of Investigation or the Central Intelligence Agency.

Among legislation that the President did not support last year, the A.C.L.U. director said, were bills to prohibit the military from spying on civilians, require a court warrant for foreign intelligence wiretapping, limit the collection and dissemination of arrest records and restrict banks' disclosure of the personal transactions of their customers.

Mr. Neier distributed copies of his new book, "Dossier: The Secret Files They Keep on You," which he maintained "makes the case for the tough laws Ford promised to pursue." His news conference was at the National Press Club.

2 Teen-Agers Found in Car Killed by Carbon Monoxide

PAINTED POST, N. Y., Jan. 6 (AP)—Two teen-agers whose bodies were found in a parked car on a rural road here died of accidental carbon monoxide poisoning, a Steuben County coroner has ruled.

The bodies of Betty Ann Doan, 17 years old, of Corning, and Kevin Welty, 19, of Painted Post, were discovered early yesterday, the state police said. Troopers said the ignition in the car had been turned on, but the auto had run out of gasoline.

DRAFT - 1/10/75

The Editor
The New York Times
229 West 43rd Street
New York, New York 10036

To the Editor:

I believe that the remarks of Mr. Aryeh Neier, Executive Director of the ACLU, as reported in The New York Times of January 8, 1975, reflect a position that is neither informed nor helpful to the cause of furthering personal privacy interests. Regrettably, his credibility and that of his organization can only suffer by unqualified criticism of a new law which he admits he has not studied, by blanket indictment of a new Administration whose President, five months in office, has already signed into law two historic privacy bills, and by misrepresentation of its position on numerous privacy bills not yet acted upon by the Congress.

The record is clear, as announced by the ACLU's own Washington Privacy Report, that the Cabinet-level Domestic Council Committee on the Right of Privacy, chaired by then Vice President Ford, endorsed legislative initiatives Mr. Neier claims Mr. Ford opposed or failed to take a position on. Mr. Ford and the Committee explicitly recognized the need for legislation dealing with military surveillance of domestic political activities, collection and dissemination of arrest records and other criminal justice information, and restrictions on banks' disclosure of the financial transactions of their customers. Foreign intelligence wiretapping is currently under review in connection with anticipated Congressional hearings on that subject. Mr. Neier omits mention of Privacy Committee endorsement and Presidential approval

of the Family Educational Rights and Privacy Act of 1974 establishing new protections for student educational records, submission to the Congress of legislation to strengthen privacy protections for IRS tax returns, and to regulate use of criminal justice intelligence, investigative and history information. He fails to cite administrative actions now in process to require privacy safeguard plans for new computer and telecommunications systems and to permit individuals to remove their names from Federal mail lists made available for nongovernmental purposes.

Although The Privacy Act of 1974 is an initial step in a longer range "hot pursuit" program, it is a landmark advance for privacy. No agency, including the FBI and CIA, is exempt from its prohibition against secret record-keeping systems containing personal information. For the most part, criminal justice information, by design, is exempted from the Act's access and disclosure provisions so that the complexities of these records can be more effectively dealt with by separate legislation. Accordingly, the Administration has provided Congress with a comprehensive draft bill to regulate criminal history, intelligence, investigative, and arrest records.

The Privacy Act of 1974, for the first time:

- Prohibits secret record-keeping systems containing personal information by mandating public notices of such systems.
- Limits the information that agencies may maintain about individuals to that needed to accomplish lawful purposes.
- Narrows the circumstances under which agencies may lawfully keep records on how individuals exercise their political, religious and other rights guaranteed under the Constitution.

- Requires individuals when asked for information by agencies to be informed of their options and the consequences, if any, of not furnishing personal information.
- Guarantees the right of an individual to see, challenge and correct, if necessary, an agency record containing information about him.
- Imposes explicit conditions and accountability for the disclosure and transfer of personal information.
- Requires agencies to maintain accurate, relevant, timely and complete personal information in a secure environment.
- Gives the individual strong legal remedies to enforce his rights.
- Places a moratorium on new governmental uses of the Social Security number.
- Forbids Federal agencies to sell or rent individual names and addresses for use on commercial mailing lists.
- Establishes a Privacy Protection Study Commission.

I believe that the advances in behalf of personal privacy made during the last few months are unparalleled considering the need and complexities associated with augmenting privacy protections in today's society. Such progress would have been difficult without a new spirit of bipartisanship, communication, conciliation and compromise between the Legislative and Executive branches. Many groups outside of government, including personnel from the ACLU Washington office, played major roles in assuring accomplishments to date. In my view,

it is a disservice to the cause of privacy and those who have worked so diligently in its behalf to issue broad indictments of such efforts based on incomplete and erroneous information. It is one thing to differ about the effectiveness of a specific piece of legislation in securing a privacy protection objective; it is another to misrepresent commitment and degree of progress toward that objective.

The privacy issue is one of enormous intricacy requiring complex solutions. Simplistic approaches and broadside remedies assume the existence of well-marked demarcation lines that enable public policymakers to balance privacy interests against the diligent advancement of society's interests in open government, strong national defense and foreign policy and vigorous law enforcement. Progress is impeded when a nationally recognized civil libertarian fails to deal in facts in addressing the issue.

Sincerely,

Douglas W. Metz

THE WHITE HOUSE

WASHINGTON

February 12, 1975

MEMORANDUM FOR: KEN LAZARUS

FROM: PHILIP ~~BUCHEN~~ P.W.B.

SUBJECT: Privacy Legislation

Attached is a file on Treasury Proposed Legislation on Privacy of Tax Returns. I would appreciate your taking charge of this project for our office.

I suggest you work closely with Doug Metz of the Domestic Council Privacy Committee staff, who has been following the development of this draft from the beginning and is familiar with the problems you are likely to run into on the Hill.

Attachment

THE GENERAL COUNSEL OF THE TREASURY
WASHINGTON, D.C. 20220

February 6, 1975

MEMORANDUM TO: Mr. Philip Buchen
Executive Director
Domestic Council Committee
on Right of Privacy

FROM: Richard R. Albrecht

SUBJECT: Treasury Proposed Legislation on Privacy of Tax Returns

Attached is a copy of Treasury's proposed tax return privacy bill which is being transmitted to OMB today.

We have incorporated in Section 6103(e), the provisions of the Executive Order dealing with White House access to tax returns.

Rather than attempt to deal with each of the provisions of the Privacy Act of 1974, we have adopted the approach that this legislation should supersede the Privacy Act insofar as that Act deals with tax returns.

Attachment

THE GENERAL COUNSEL OF THE TREASURY
WASHINGTON, D.C. 20220

October 22, 1974

Re: Tax Privacy Legislation--Access to Tax Returns by U.S. Attorneys

Dear Mr. Buchen:

Following our meeting in your office of last Friday, I have had further conversations with Commissioner Alexander and with Meade Whitaker concerning their statements of past abuses by U.S. Attorneys on the privacy of tax returns. Commissioner Alexander has asked that I send to you the enclosed copies of memos which he sent to Secretary Simon and Deputy Secretary Gardner on the subject last month.

Sincerely yours,

Richard R. Albrecht

The Honorable
Philip Buchen
Counsel to the President
The White House

Enclosures

DOMESTIC COUNCIL COMMITTEE ON THE RIGHT OF PRIVACY

WASHINGTON, D.C. 20504

April 17, 1975

MEMORANDUM FOR: DICK ALBRECHT

FROM: DOUG METZ

SUBJECT: Treasury Taxpayer Privacy Legislation

At today's meeting of Treasury and IRS officials with representatives of the Domestic Council, OMB, Vice President and Privacy Committee, it was decided that Treasury should develop several issues and options papers as vehicles for early resolution of questions concerning needed additional confidentiality safeguards for tax returns and tax information to be implemented by way of either administrative or legislative action.

Among the questions identified as candidates for individual papers were:

(1) The utilization of the Privacy Act for collateral attacks on determinations of individual tax liability.

(2) The appropriateness of having Congress alone determine the conditions of 3rd party access to tax returns and tax return information.

(3) The appropriateness of circumscribing taxpayer access to IRS records pertaining to him in a way that narrows the provisions of the Privacy Act, the IRS Code and existing Executive orders and regulations.

(4) The appropriateness of single or separate standards of confidentiality protection for individual and non-individual tax returns and tax return information.

(5) The adequacy of the Privacy Act's "routine use" exception as a vehicle for providing third-party access to income tax returns and return information.

(6) The adequacy of the Privacy Act's criminal penalties and civil sanctions on improper disclosures by agencies which obtain individual tax returns and tax return information from IRS.

(7) Any specific limitations deemed desirable by Treasury on current access by third parties to tax returns and tax return information.

This list should be supplemented by you to assure that all issues of concern to the Treasury and IRS are raised and evaluated.

We can talk further about the list on Monday at 5:00 pm in your office.

As discussed at the meeting we should target receipt of the issue papers by this office by c. o. b. May 1.

DWM/crs

DOMESTIC COUNCIL COMMITTEE
ON THE RIGHT OF PRIVACY

WASHINGTON, D.C. 20504

Phil: FYI

Thought the attached would be of interest to you, reflecting some progress we've made.

Also, the FBI "message switch" issue seems to be under control.

Glad to give you some good news, for a change!! Hope all goes well with you.

George

DOMESTIC COUNCIL COMMITTEE ON THE RIGHT OF PRIVACY

WASHINGTON, D.C. 20504

July 25, 1975

MEMORANDUM FOR: RICHARD PARSONS

FROM: QUINCY RODGERS

SUBJECT: Alternative to S.199 ("Weicker-Litton Bill")

Yesterday we met with Dick Albrecht, General Counsel of Treasury, and some Treasury staff, regarding their alternative to the Weicker-Litton bill on tax information privacy.

We considered the Treasury draft alternative, and we are urging Treasury to put it into the clearance process in a hurry. We believe their bill comports with the Privacy Act, and does not circumvent or vitiate it save in a couple of respects that can be commented on by agencies during the clearance process. We also discussed with them our developing notion that deviations from the Privacy Act must bear the burden of persuasion; a general policy we also anticipate will be the attitude of Congress.

Our discussion with them also resulted in a decision to address to the Justice Department a question arising out of the Privacy Act as regards civil remedies and the extent to which the Act can be used to relitigate issues.

We urge that you do whatever you can on your end to expedite submission and clearance of the Treasury bill, since we think it is important that it be ready to go to the Hill when the Congress returns from summer recess. We know the Administration has been anxious to have this particular matter resolved, and we believe it should be pleased with Treasury's efforts to date.

DOMESTIC COUNCIL COMMITTEE ON THE RIGHT OF PRIVACY

WASHINGTON, D.C. 20504

August 5, 1975

MEMORANDUM FOR: RICHARD PARSONS

FROM: QUINCY RODGERS

SUBJECT: Implementation of the Privacy Act

The effective date of the Privacy Act (Public Law 93-579) is September 27, 1975. On or before that date, each agency that maintains a system of records on individuals must report the existence of the system, descriptive information about it, the rules for gaining access to the system, and the "routine uses" that are made of information contained therein. It is anticipated that these reports will be quite voluminous.

We recommend that on an appropriate day (to be determined after consultation with OMB and others) the President direct that copies of all of the systems notices be delivered to him at a public session and that he make an appropriate statement about them (draft attached). Consideration might be given to inviting appropriate members of Congress.

We anticipate that the publication of these notices will attract considerable media attention. Publication will itself revive interest in all of the issues which prompted passage of the legislation. The magnitude of the material and the number of systems regulated may suggest to some that government records on individuals are out of control. In some cases, objections may be raised to agency programs by reason of the systems maintained for their support or the uses made of them. In any case, as press and private sector groups have an opportunity to digest the published material and point out particular problems that certain systems are creating or could create for individual citizens, the discussion government information systems can be expected to continue for some time.

This process need not be viewed with alarm. Indeed, it provides exactly what was intended by the passage of the Privacy Act -- an opportunity for the government to catalogue systematically its information systems and their uses and an opportunity for government to begin the process of getting its own house in order. The President's message would emphasize this approach and outline an appropriate response to the issues raised by publication of the material. For instance, he might direct that a systematic review of the reports be undertaken to determine where change, consolidation and elimination of systems might be warranted.

Attachment: a/s

QR:mm

DRAFT PRESIDENTIAL STATEMENT

I have today received from the Director of the Office of Management and Budget the systems notices published by Federal agencies under the Privacy Act, passed by Congress and signed by me in December of last year.

The act was a response to a growing concern on the part of many Americans that their government is collecting and disseminating a great deal of information of a personal nature on individual citizens. As Vice-President, I was Chairman of the Domestic Council Committee on the Right of Privacy which started looking into the personal information problem more than a year ago. I have continued to maintain an interest in this matter and am please to see the progress represented by the publication of these notices.

Some will be staggered by the number of systems that have been reported and by the number of agencies that collect personal information. Some may be concerned about the extent of government record-keeping about individual Americans.

We need not view these disclosures with alarm. These disclosures are cause for hope because they are exactly what the Privacy Act was intended to achieve as a necessary first step to correcting any abuses that may exist. Through the process we are now undergoing, we can catalogue systematically the number of record systems on individuals and take the next steps toward putting the Federal government's house in order.

I am today asking the Vice-President, as my successor as Chairman of the Domestic Council Committee on the Right of Privacy to work with the Office of Management and Budget in reviewing the agency systems that have been reported to determine whether any should be eliminated, whether the uses to which they are put are in all cases proper, and whether further steps might be necessary to secure the rights of Americans.

Modern government strives on many fronts to benefit its citizens. It provides services, regulates markets, subsidies commerce and science. It touches upon the lives of individual citizens in many ways. This is an occasion for us to remember that as it does so, government must also be responsible and must exercise due care for the rights of those individuals.

THE WHITE HOUSE
WASHINGTON

Date 8/22/75

TO: Phil Buchen

FROM: Barry Roth

Dave Hoopes has requested guidance concerning Paul O'Neill's memorandum suggesting the WH adopt the Privacy Act.

Ron and Dudley have had input on this memo and agree with it.

Barry

THE WHITE HOUSE

WASHINGTON

Privacy Contd

August 22, 1975

MEMORANDUM FOR: DAVE HOOPES

THROUGH: PHILIP BUCHEN P.W.B.

FROM: BARRY ROTH BR

SUBJECT: Implementation of the Privacy Act

In response to your request, we have reviewed Paul O'Neill's memorandum concerning voluntary compliance with the Privacy Act by the White House and certain other agencies within the Executive Office of the President which are not subject to the Act.

This office shares OMB's concern that the noncoverage of certain agencies by the Act not be construed as a lessening of the President's concern for the protection of individual privacy. However, we believe that the promulgation of meaningful regulations establishing a formal policy for the handling of such requests could raise serious problems with respect to the confidentiality of at least some of the communications within the EOP, and be an undesirable precedent for the erosion of White House confidentiality. It would also be a useless administrative burden. Instead, we would prefer that each request under the Act be considered on an ad hoc basis, as is now done with Freedom of Information Act requests.

If it is felt there is some need to provide reassurance on this subject, a Presidential memorandum or statement limiting the kinds of information on individuals that is kept within the White House would seem preferable to following the statute.

We also recommend that a meeting be held next week at which the OMB General Counsel's office would brief appropriate representatives of the noncovered agencies on the Act's provisions. Such a briefing will enable these agencies to focus on the types of materials covered by the Act and to develop internal mechanisms for voluntarily

handling such requests on an individual basis where possible. Once the types of materials affected by the Act have been identified, we can establish appropriate procedures for preserving the necessary confidentiality of certain documents within the EOP. Ken Lazarus and I should be present at this meeting. By this approach, we will be able to accommodate, at least to some extent, both our concern for privacy and the need for confidentiality of certain Executive communications.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

AUG 8 - 1975

MEMORANDUM FOR JAMES E. CONNOR

Subject: Implementation of the Privacy Act of 1974 in the EXOP

The Privacy Act of 1974 (P.L. 93-579, 5 U.S.C. 552a) establishes a series of requirements governing Federal agency personal record-keeping practices including:

° Publishing notices of the existence of their systems of personal records;

° Permitting individuals to determine what records pertaining to them are being maintained;

° Limiting agency authority to disclose records without the consent of the individual; and

° Allowing individuals to verify the accuracy of those records and petition for correction.

Exemptions from some of these requirements are permitted for certain classified, law enforcement and other sensitive material but the agency head must still publish a public notice of the existence of each system.

Agencies subject to the provisions of the Privacy Act are the same as those subject to the Freedom of Information Act since both use the same definition of "agency". This definition includes all offices in EXOP except those whose sole function is to provide advice and assistance to the President. Offices which are subject to the Act include OTP, OMB, NSC, CEQ, the Council on Wage and Price Stability and the Office of Special Representative for Trade Negotiations. It is the view of the White House Counsel's staff that the White House Office, the Vice President's Office, the Domestic Council, the Federal Property Council, CIEP, and CEA are not "agencies" subject to the Act although there may be some questions as to whether this view will be upheld with respect to CEA and CIEP.

Given the President's commitment to the objectives of the Privacy Act and in light of recent allegation of secret White House computer to computer communications capabilities, it is recommended that consideration be given to voluntary compliance by those offices in EXOP not legally required to comply with the Act. Such voluntary compliance on the part of EXOP would serve two functions - reaffirm public confidence in the President's commitment to the principles of fair record-keeping and set an example for other agencies in the executive branch.

While voluntary compliance would have some positive benefits it would also entail some risks. First, any privacy rules or system notices issued by these offices would have to be structured in a manner which would avoid prejudicing their positions on the question of the applicability of the Freedom of Information Act to them. Second, it would impose some restrictions on personal data collected by these offices.

It would be desirable to make a decision on voluntary compliance at the earliest possible date so that any "voluntary compliance" rules could be published by the August 28 deadline for publication of rules in the Federal Register. Rules already developed by OMB and other agencies could serve as a model for use by the other EXOP offices.

White House Counsel staff (Ken Lazarus and Barry Roth) suggested that your office would be the appropriate one to convene a meeting of those elements of EXOP which are not subject to the Act to consider the merits and problems associated with voluntary compliance. OMB staff is available to provide whatever assistance you deem appropriate. Please contact Fernando Oaxaca (x3423) or Wally Haase (x4745) if you have any questions about this proposal.

Paul H. O'Neill
Acting Director

FOR IMMEDIATE RELEASE September 29, 1975

Office of the White House Press Secretary

THE WHITE HOUSE

FACT SHEET

In a statement, President Ford noted that the Privacy Act, a law intended to constrain government recordkeeping about individuals, took effect on Saturday, September 27, 1975. The Privacy Act (Public Law 93-579) was signed by the President on December 31, 1974. Cooperative efforts by the Congress, Executive Branch, federal agencies and the Domestic Council Committee on the Right of Privacy, which was chaired by Mr. Ford as Vice President, resulted in enactment of this landmark legislation.

Purposes of the Act. The Privacy Act gives Americans a greater say in the way records about them are kept and eliminate needless intrusions on personal privacy through the keeping of extraneous records. It is intended to assure that --

- there are no Federal Government personal record-keeping systems whose very existence is secret.
- Federal personal information files are limited to those which are clearly necessary.
- individuals have an opportunity to see what information about them is kept and to challenge its accuracy.
- personal information collected for one purpose not be used for another purpose without the consent of the individual.

Key Provisions. Federal agencies are required to:

- Limit personal information to that which is "relevant and necessary" to a purpose required by law.
- restrict disclosure of personal data.
- inform individuals from whom it collects information how it is to be used.
- publish in the Federal Register notices of the existence and nature of each personal data system.
- publish in the Federal Register the procedures for complying with the Act (e.g., procedures for an individual to review his records).
- with certain limited exceptions maintain no records respecting individuals' exercise of rights of free speech and expression.

Limitations

- The Act permits certain limited exemptions (e.g., for classified material and certain investigative files) but no system is automatically exempt. The agency head must publish a notice of intent to exempt a system and no system can be exempted from the requirement to publish a public notice.

- The Act applies to Federal government record-keeping systems.

Private Sector and State and Local Records

- While the private sector is not addressed by the Act, certain firms may be subject to the Act if they keep records for a Federal agency under contract.

- The Act establishes a Privacy Protection Study Commission which will be making recommendations to the President and the Congress, in part, on the applicability of the principles of the Act to the private sector and State and local government. The Commission consists of seven members, two each appointed by the House and Senate, and three appointed by the President. They are --

  David Linowes, Chairman
  Willis Ware, Vice Chairman
  William B. Dickinson
  William O. Bailey
  Congressman Edward I. Koch
  Congressman Barry Goldwater, Jr.
  Robert J. Tennsessen

Privacy Act Implementation Actions to Date

- Approximately 90 Federal agencies have published their rules and procedures for complying with the Act.

- More than 6,000 system notices have been published.

- Agencies have conducted extensive training to prepare their staffs for compliance.

Next Steps

- The Office of the Federal Register is preparing a digest and compilation of all of the Federal agency rules and notices for release later this year to make them more useful to the public.

# # # #

FOR IMMEDIATE RELEASE September 29, 1975

Office of the White House Press Secretary

THE WHITE HOUSE

STATEMENT BY THE PRESIDENT

The Privacy Act of 1974 took effect on Saturday, September 27, 1975, a date marking a milestone in the protection of individual privacy for every American.

The reason this Act is important became apparent to me when I was Vice President and chairman of the Domestic Council Committee on the Right of Privacy. Last January, I was pleased to sign this bill as President because it represents a major first step in safeguarding individual privacy.

The need for a Privacy Act is manifestly clear: Over the years, Federal agencies have amassed vast amounts of information about virtually every American citizen. As data-collecting technology increased, it made administrative sense to combine much of this information in computerized data systems where it could be retrieved instantly at the push of a button. This fact in itself raised the possibility that information about individuals could be used for purposes outside the constraints of law and without the prior knowledge or consent of the individuals involved.

The worthwhile programs of human assistance for which this individual information is collected are vital to millions of Americans. They cannot be ended. But at the same time, we have a clear responsibility to erect reasonable safeguards to ensure that information collected is used solely for the purposes intended.

The Privacy Act, though experimental, makes a long overdue start to erect these safeguards. It requires Federal agencies to:

-- Allow individuals to examine records pertaining to them and establish procedures for correcting those records;

-- take steps to ensure the accuracy, timeliness and security of records that concern individuals and to limit records-keeping to necessary and lawful purposes.

This Act also provides special safeguards whenever the rights of citizens to free speech and expression are involved.

Before this Act, even the Federal Government did not know what information it kept about individuals. The Act, therefore, required Federal agencies to first inventory their records-keeping systems and identify those which contained information about individuals and to publish a listing of these systems in the Federal Register. That task is now complete.

more

The magnitude of Federal records-keeping has been far greater than anyone imagined. There are more than 6,000 Federal record systems containing personal data about them.

Compliance with this Act will involve many people. Every Federal official who either creates, keeps or uses personal data has responsibilities under this Act. I urge every member of the Executive Branch to reexamine the record systems in their custody and determine if all are necessary. Keeping only an essential minimum of these records is the most effective protection we have against further incursions by the Federal Government into the private lives of Americans.

# # # #

Privacy

Thursday 5/13/76

9:15 Quincy Rodgers dictated the following:

I thought you should know that there are now in the pipeline to the President memoranda on H. R. 214, the privacy legislation, which deals with bank and other commercial records. That bill is scheduled to be heard by the full House Judiciary Committee on May 18. You may recall that I mentioned it to you when we spoke about the Supreme Court case. The President's support is being sought by members of Congress, some of whom I understand are attempting to telephone the President. I will provide you with any information you desire but I thought you should be alerted to what is happening now.

Mr. B. asked me to send this to Ken