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C.F.

FG 6-15-1

MEMORANDUM OF INFORMATION FOR THE FILE

DATE 10/8/76

LETTER, MEMO, ETC.

TO:

FROM:

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

Filed C.F. Overseas Attachment #257.



CORRESPONDENCE FILED CENTRAL FILES - CONFIDENTIAL FILE

DOMESTIC COUNCIL COMMITTEE ON THE RIGHT OF PRIVACY

WASHINGTON, D.C. 20504

December 19, 1975

MEMORANDUM FOR: EDWARD C. SCHMUTTS
FROM: QUINCY RODGERS
SUBJECT: Attached Material In Information Policy

I thought that you should see the attached memorandum from the Vice-President to the President. I have also included a memorandum which I sent to the Vice-President on November 21, 1975. Both of these memoranda deal with the subject of information policy and represent some of the thinking that we have been doing on this subject. This package has already been forwarded to Phil Buchen from Peter Wallison.

I would welcome the opportunity to discuss this material and the way in which I think it fits into other work with which you are involved.





OFFICE OF THE VICE PRESIDENT
WASHINGTON

December 19, 1975

MEMORANDUM FOR PHIL BUCHEN

FROM: Peter J. Wallison *PJW*

In view of your interest in the area of privacy and information policy, I am attaching a memorandum from the Vice President to the President which I sent to Jim Connor today.

I have also attached a memorandum from Quincy Rodgers to the Vice President which contains backup material on the proposal.

If you have any questions, please let me know.

Attachments





THE VICE PRESIDENT
WASHINGTON

December 17, 1975

MEMORANDUM FOR THE PRESIDENT

FROM: THE VICE PRESIDENT

At my request, the staff of the Domestic Council Committee on the Right of Privacy has analyzed the broad policy implications of the privacy issue. Staff has concluded that privacy is a forerunner of a host of broader information issues which will confront Government throughout the coming decades.

Public awareness of the importance of information policy has been stimulated by three important political issues of recent years:

- privacy;
- freedom of information (the "peoples right to know"); and
- confidentiality of Government processes.

The enactment of the Privacy Act last year, the amendments to the Freedom of Information Act at about the same time, and the steady progress through Congress of the so-called Sunshine Law (opening Government decision-making to public scrutiny) point to considerable pressure from the public at large for progress toward certain generalized objectives, some of them quite laudable.

At the same time, disclosures concerning improper activities of the intelligence agencies and the FBI, coupled with Congressional demands for information used in the Executive Branch decision-making process, have demonstrated that there are complex issues where all these otherwise attractive goals intersect.



My concern is that neither the Federal Government (and particularly the Executive Branch) nor the American people have any comprehensive overview or conceptual framework for addressing these issues.

Information policy now arises in a piecemeal, ad hoc fashion through the actions of numerous Congressional committees, editorials in the press, and uncoordinated decisions by individuals scattered throughout the bureaucracy. The mere fact that there are already ten Federal commissions (see attached list) and at least a score of agencies dealing with pieces of this overall problem is an indication of both growing interest and policy fragmentation in this area.

The result is inconsistency and conflict in which advocates of legislation such as the Sunshine Law or of a drastic reduction in Government information gathering for intelligence or other purposes can attract support by citing laudable goals, without an understanding by the American people of the many countervailing considerations which these proposals involve. Fundamentally, then, this lack of a conceptual framework and a public understanding of the complexity of the issues makes it difficult to resist even the most unworkable proposals in the face of emotional advocacy.

In addition to the importance of balancing the interests involved in current information conflicts, it would be timely for your Administration to begin to consider and anticipate important economic issues in the area of information policy.

I believe that there are many reasons to begin a serious review of these economic issues. Many commentators have noted recently that the United States is increasingly becoming a society which produces and sells information (such as knowledge and technical know-how) rather than goods. This is a key characteristic of what has become known as the Post-Industrial society.

There are many reasons to encourage this trend, since it promises continued economic growth without substantial materials and environmental costs, and opens the



possibility of reducing unemployment by stimulating the development of growth in new areas where we do not face such severe international competition. However, to do this we must anticipate and provide for the economic dislocations, the educational deficiencies and the development of the legal framework which will be required as our economic base shifts from production of tangible goods to the production and manipulation of information.

Recommendations

In view of the foregoing analysis, I recommend:

a. That you devote a section of your State of the Union Address to the importance of these emerging information issues, particularly the need to reconcile privacy, freedom of information and confidentiality of Government processes; and

b. That you reconstitute the Domestic Council Committee on the Right of Privacy as a Committee on Privacy and Information Policy, charging it with the responsibility of developing an information policy for the United States. Its study would focus on

(1) reconciling conflicting claims of privacy, freedom of information and Government confidentiality,

(2) reconciling the Government's need for information, as a regulator and provider of services, in the context of the legitimate privacy rights of individuals and the needs of the private sector for confidentiality, and

(3) those issues of information policy including its economic, political, and social importance, which will require Government attention in coming years.



The present membership of the Domestic Council Privacy Committee includes the major Federal agencies with an interest in these questions and could form the nucleus of such a group. Some expansion of that group might be warranted, particularly the addition of the President's Science Adviser, who in past Administrations had a role in certain aspects of information policy issues. I believe that the staff of the Domestic Council Committee on the Right of Privacy, which has already been working extensively in the privacy area, could appropriately serve as staff for this undertaking.

DECISION

- _____ Approve inclusion in State of the Union Message.
- _____ Approve reconstituting Domestic Council Committee on the Right of Privacy as the Domestic Council Committee on Privacy and Information Policy.
- _____ Disapprove.

Attachment



COMMISSIONS WITH RESPONSIBILITIES IN INFORMATION POLICY

- Electronic Funds Transfer Commission
- Privacy Protection Study Commission
- Federal Paperwork Commission
- National Commission on New Technological Uses of Copyrighted Works
- Commission on CIA Activities
- National Commission on Libraries and Information Science
- Public Documents Commission
- National Historical Publication and Records Commission
- National Commission for Review of Federal and State Laws, Wiretapping and Electronic Surveillance
- National Commission to Review the Confidentiality of Health Records (Private body)



Committee on the Right of Privacy - Staff Members

Quincy Rodgers - Executive Director

William Hermelin - Deputy Director

Timothy Mead - Associate Executive Director

George Trubow - General Counsel

Robert Belair - Assistant General Counsel

Kent Larsen - Director, Public Information

David Milanowski - Research Assistant

Janet Miller - Legislative Assistant

Dawn MacPhee - Staff Attorney



DOMESTIC COUNCIL COMMITTEE ON THE RIGHT OF PRIVACY

WASHINGTON, D.C. 20504

November 21, 1975

MEMORANDUM FOR THE VICE PRESIDENT

FROM: QUINCY RODGERS

SUBJECT: STATE OF THE UNION ADDRESS - INFORMATION POLICY

RECOMMENDATIONS:

(1) That the President in his State of the Union Message highlight the importance of America's emergence as an information-based society to the prosperity and liberties of all Americans. (See TAB A for examples of possible language, and TAB B for further discussion of major issues).

(2) That the President direct a high-level policy review to assess the development of this information-based society and recommend appropriate responses, including considerations of establishing an Office of Information Law and Policy in the Executive Office of the President (some thoughts on the conduct of that review are contained in TAB C).

STATE OF THE UNION

The 1976 State of the Union Address provides a unique opportunity for the President to define the emerging issues that will be of national and global importance over the next ten to twenty years. To be given at the outset of our National Bicentennial year, that address will come at the time many feel will be a watershed in American and world history. It is therefore an occasion for addressing the fundamental developments of American life as we enter our Third Century and confront the new world order. Anything less than such an approach will be inadequate.

In seizing this opportunity, a vital element of such an address would be the growing importance of information issues in a Post-Industrial Society. Indeed, ours is an Information Age (See TAB B, infra.). Information issues, while not receiving the attention given to current energy and food crises, will equal and perhaps exceed them in impact in coming decades. The President can demonstrate foresight and leadership by addressing the challenges posed by this new society.

RECENT DEVELOPMENTS

There has been considerable interest in the Roundtable on Privacy and Information Policy sponsored by this Committee on October 8th and 9th. (TAB D contains a highlighted transcript of the briefing session that concluded the Roundtable).

The memorandum to you of August 25, 1975, (TAB E) which recommended the Roundtable, noted the convergence of a number of events that signalled both the growing importance of information policy questions and the policy fragmentation within government concerning those issues.

Developments since the Roundtable further underscore the emergence of information as a public issue.

(1) The theme of the annual meeting of the American Association of Information Science, held in Boston, was the Information Revolution in the Bicentennial year. The keynote speaker, Daniel Bell (who could not attend the Roundtable as planned due to illness), articulated the development of an emerging post-industrial society (TAB F).

(2) The Office of Telecommunications Policy has asked for a high-level review of its mission. Such a review is now commencing in the Domestic Council.

(3) Within the international Organization for Economic Cooperation and Development, member nations concerned with privacy issues have focused on the political, social and economic benefits to be derived from the information sector of the economy and the importance of access to information.

(4) The American Association for Advancement of Science has scheduled a panel at its annual meeting in February, entitled "America: The First Information Society."



(5) Legislation re-establishing a Presidential Science Adviser has passed the House of Representatives. Historically, such an Adviser has focused primarily on scientific information, but awareness of the emergence of information as an issue would support a broader focus.

(6) Exposures of abuses of information and technology, such as the revelations made by the Senate Special Committee on Intelligence, have sensitized Americans to the negative aspects of the Information Age. The positive aspects are receiving less attention.

We believe that the time is ripe for the Federal Government to acknowledge these developments in the manner set forth in the above recommendations.

IMMEDIATE STEPS

Consistent with the above recommendations, we respectfully request that:

- (1) You include the above recommendations as part of the proposals to the President which you are developing for the State of the Union address;
- (2) We coordinate these proposals with the more comprehensive work on the State of the Union address, now underway in the Domestic Policy review group; and
- (3) We discuss with the Director of the Domestic Council the various approaches that might be taken to programs in this area.

With respect to the recommendations and proposed immediate steps:

Agree _____

Disagree _____

Discuss _____



TAB A



Examples of Possible Language
for Speech

One hundred years ago, in our nation's Centennial year, we were just entering the Industrial Age. The machine was a new found marvel. Steel rails bridged our vast nation and a new pattern of economic life sprang up, promising employment and well being for generations of Americans. Despite the problems and dislocations it brought, the arrival of the industrial society also brought the highest standard of living the world has ever known. And it propelled this Republic to a position of leadership unmatched in the world.

Now, as we celebrate our Bicentennial, we are entering a Post-Industrial Age. We are entering the Information Age. New developments in communications and computer technology, are changing all our lives. Beyond that, the majority of our citizens are now employed in the production and processing of information, not goods.



The prospect of growth in this new sector of the economy promises exciting new jobs and a brighter future. But it may also bring with it economic dislocation, and it threatens to leave some Americans behind in skills and training and to deny other needed access to information. It may also threaten individuality, human dignity, and personal privacy.

This nation must grasp the opportunity presented by the Information Age to enhance individual dignity and the quality of life; it is our duty to anticipate and deal with the social costs of these developments.

*

The United States is the world's first Post-Industrial Society -- where the production and processing of knowledge and information is becoming more predominant than the production of goods. Even the most conservative estimates indicate that roughly one third of our GNP and labor force result from activity in the information sector. And this is already having profound impact upon our national life.



This could be both a curse and a blessing, depending upon our response. It would be a curse if large numbers of Americans are shut out of the new knowledge and information society by inadequate learning and job skills or by a lack of access to information needed for living and for citizenship. It would be a blessing if it creates an economic base for our people without the environmental costs of an industrial society. We must prepare for this aspect of our future by giving attention now to the opportunities and risks the Post-Industrial Society presents.

*

As far as this country is concerned, the Information Age is here. The linking of computer technology with telecommunications technology in the last few years has created the technical capacity for a form of total government unknown outside the pages of science fiction. But along with that new capacity, as we all know, have come abuses -- invasion of privacy, big-brother-like surveillance, improper use of dossiers, and excessive secrecy. This is the negative side of the Information Age we have entered.



In our Bicentennial year we can reflect on much in our democratic tradition of which we can be justly proud. The preservation of this tradition in the new Information Age is one of our major tasks. Can we harness the new technology to the service of democratic principles? Can we have the promise of the new technology -- jobs, economic growth or reduced strains on the environment -- while preserving individuality? If we can, then at our Tricentennial the President will be able to reflect proudly on the tradition of expanded individual liberty we have begun.



TAB B

MAJOR ISSUES TO BE ADDRESSED

The scope of this memorandum does not permit addressing all aspects of the Information Society. The following is a brief review of the major issues that warrant immediate attention.

I. INFORMATION AS A RESOURCE

The enormous impact of the information sector of the economy is only now being realized. Professor Anthony Oettinger of Harvard has said "Information is as vital a resource as energy or matter." In speculating on the Post-Industrial Society, Daniel Bell and Peter Drucker have projected a society where the creation of knowledge and information rather than the creation of goods is the dominant economic activity.

The growing attention paid to this subject by leading economists and analysts suggests that we have already arrived in the Information Age. While an improved definition of terms is needed, the information sector of the economy is, by any standard, significant.

- o Information components make up a substantial portion of our aggregate economy. As long ago as 1967, 25.5% of GNP (Value Added) was generated by the information sector. Another 23% was in internally consumed information services in firms not in the information sector. More recent data indicates that these trends are continuing.
- o While personal consumption expenditures have dropped 5.7% as a proportion of GNP between 1950 and 1971, the proportion allocated to purchases of information goods and services increased by 39%.

Some view the information sector of the economy as having particular importance in a world hampered by a shortage of material and energy resources. Conversely, some economists have suggested that the information sector itself is inherently inflationary and one of the major sources of today's problems in this regard. Despite the obvious impact of these factors on the American Economic picture, very little is known about information as a national resource.



II. THE EFFICIENT USE OF INFORMATION

The world's supply of information is growing at an enormous rate. Despite increases in its production and storage, there is a terrifying short-fall in its application. This is particularly true in government where information creation is a primary activity and where inefficiencies in its use are costly to all segments of society.

The Vice President's program of developing and publishing statistical data generated by the Bureau of Census was a direct response to this problem. Information is a vital resource for assessing developments in society, and for our decision-making and management activities. And yet, although the Information Age is upon us, our skills in these areas remain almost primitive.

III. SOCIAL AND POLITICAL CONSEQUENCES

The Post-Industrial Information Society can be expected to have significant impacts beyond economics. Even if change were only half of that experienced as a result of the Industrial Revolution, its impact would nevertheless be substantial, reaching every aspect of our national life. This is already being felt.

Indicative of this is the growing concern for individual privacy, reflected in the Privacy Act and highlighted by the President's oft-stated interest in the preservation of individual dignity in an age increasingly marked by the technical capacity for big-brother-type surveillance and data exchange.

Another concern, one that goes to the heart of the democratic tradition, deals with access to information in an age in which information is power. Though it has become somewhat commonplace to note the relationship between power and information, very little serious thought has gone into assuring people that they have sufficient access to information to guarantee that they can function effectively as consumers or as citizens. One of the major challenges of the next few years will be to develop public policies that will continue to facilitate democratic participation in the same way that



expansion of educational opportunity, extension of the suffrage, and legislative reapportionment did in earlier periods of American history. Viewed against this backdrop, freedom of information policy as we now know it may be a crude tool indeed.

Some commentators, such as Mary Gardiner Jones, have expressed concern with the adequacy of the response of our legal system to the Information Age. Traditional notions of property, for instance, may be meaningless where information is at issue. New resolutions concerning rights and privileges may be needed to meet the demands of the new era.

Another consequence of the Post-Industrial Society is that change takes place much more rapidly than before; changes that once occurred over generations now take only a few years. The hardships, and dislocations, of rapid change can be enormous, particularly in the Information Age. Paul Armer (a Roundtable participant) has noted that "...individuals often become, over time, uneducated and therefore incompetent at a level at which they once performed quite adequately." The title of his article is "The Individual, His Privacy, Self Image and Obsolescence."



TAB C



POLICY REVIEW - OFFICE OF INFORMATION LAW AND POLICY

Policy analysis and review is fragmented and lacks focus with respect to the issues and developments of the Information Age. As noted in a prior memorandum to the Vice-President (TAB E, infra.):

Information policy is now being developed in a piecemeal, ad hoc fashion by numerous Congressional Committees and by people scattered throughout the bureaucracy. The mere fact that there are already ten Commissions . . . dealing with pieces of this overall problem is an indication of both growing interest and policy fragmentation in this area.

The result is inconsistency and conflict which places anyone not upholding a special interest at a tremendous disadvantage in any debate, since general principles are not available to constrain the impact of specific proposals. Special interest pleading usually prevails when there is no underlying philosophical construct which balances the values and priorities that are in conflict. Further, special interest dominance impairs the development of conceptual underpinning.

This trend must be reversed. The proposal is a modest one, but one that provides a legitimate and appropriate first step: that a review of policy be undertaken under the auspices of the Domestic Council. This review would not undertake to create an information "czar" but would work rather with the existing units within the government and would draw upon the growing community outside of government involved with these issues. The reviewing body would need authority to obtain information and analysis from those components of government involved.

How such a review might best be organized should await further discussion. However, one approach might be to provide two main objectives - developmental, and law and policy. The first would be primarily concerned with economic questions.



It would focus upon better understanding of the consequences of trends outlined in TAB B, supra. Here are a number of specific actions that it might undertake or encourage. Additional suggestions will be forthcoming from within the agencies once high level interest is shown.

1) Further explore new methods of analyzing National Income accounts providing improved understanding of the aggregate impact (i.e., inflationary, deflationary, growth inducing) of the information sector of the economy.

2) Undertake a statistical survey of the current state of information activity in our society - drawing upon Census, OMB material, and other sources.

3) Prepare an analysis, with recommendations, of the role government should play (e.g. regulation, taxation, tax credits, R & D, subsidies, import-export management, standards, etc.) vis-a-vis the emergent information infrastructure, and mechanisms, if any, most appropriate to the role determined.

The second objective of the review body would be to (A) analyze the nature of legal and policy issues in this area and (B) review the proposals, frequently made in recent years, for an Office of Information Law and Policy within the Executive Office of the President or elsewhere in government and to end the existing drift and policy fragmentation.

(A) Examples of Part A, above, would include analysis of the workings of the Privacy Act and Freedom of Information Act, exploration of ground rules for interaction between the public and private sector with respect to the vast amounts of new data which the government is creating and which the private sector desires to market, and explore the range of the continuing increase in information policy legislation.

(B) An end to the fragmentation of responsibility for developing and overseeing information policy requires some new administrative arrangements. Several outside observers have recommended, by various names, the establishment of an Office of Information Law and Policy. In addition to unifying government policies, the creation of an Office of Information Law and Policy would demonstrate the President's understanding of the nature of our economy. Most observers suggest that



the Office should be located within the Executive Office of the President, although Elliott Richardson, as Attorney General considered it as a unit to be housed within the Justice Department. To be effective, the Office should not impose another layer of bureaucracy on a host of other agencies dealing with one aspect or another of information policy. Rather it should provide the President with independent advice and analysis and assist in policy development and oversight. It would be the task of the review body to determine if this proposed Office has merit, and if so, how it should be structured.



TAB D



PRELIMINARY TRANSCRIPT OF
THE DOMESTIC COUNCIL COMMITTEE ON THE RIGHT OF PRIVACY
ROUNDTABLE
ON INFORMATION POLICY

Briefing for the Vice-President and
other Committee Members

Presentations by

Andrew Aines
Paul Armer
Lewis Branscomb
William Carey
Amitai Etzioni
Mary Gardiner, Jones
Edwin Parker
Oscar Ruebhausen

References to work of other Participants

Anthony G. Oettinger
Alan F. Westin

Washington, D.C.

9 October, 1975

(This preliminary transcript is unedited and may contain inaccuracies. Inaudible or unintelligible words or phrases have been indicated by a line inserted in place of the missing words. Transcribed by Stephanie Panos, under the direction of W. T. Durr.)

(Highlighted copy)



QUINCY
RODGERS

Ladies and gentlemen, thank you for coming. I'm Quincy Rodgers, Executive Director of the Domestic Council Committee on the Right of Privacy and I have just been checking with the Vice President's office and he's indicated that he would like us to begin and he'd be down as soon as he can, so I thought in the interest of time we might do that. The purpose of this meeting was to try and begin a dialog on some privacy and the right of access questions that the Vice President has indicated he is interested in. And rather than have a briefing for him by staff people to ask a number of people who have expertise on the privacy and related fields, fields of information policy, to come and sit down for a couple of days and think about what some of the issues that may be facing the nation will be. And they have done that and it is they and not I you will be hearing from.

In accordance with the procedure that we established during these two days of discussion, I have a couple of paragraphs that indicate some of the directions of commonality that people were coming from, and then the participants of the Roundtable will provide you with some of their views about policy issues.

Thus, the short paragraphs that we discussed were:

- 1) Government has a responsibility to attempt to anticipate the problems which will confront society in the short and long term, even though government's role with respect to such problems cannot always be determined at the outset.
- 2) We can anticipate that issues involving information use and importance to society - will be of increasing importance. Although some participants in this Roundtable view privacy as part of a set of broader and difficult policy

problems related to information generally, others see it as the central problem. You will hear from different people about their different perspectives.

- 3) There is a need for high level and broad based attention to the phenomenon of increased importance of information in our society and the social and political issues which it raises. This calls for government and the private sector to serve as a catalyst to
- define the problems,
 - propose policy alternatives.

Also in accordance with the discussions that the people in the Roundtable had, I was asked to read some remarks that were made yesterday afternoon by Professor Alan Westin, who as many of you know is a noted expert in the privacy field and who unfortunately was unable to be here today, but there were many members of the group that were particularly taken with that perspective and thought that it was an important thing to be laid on the table. So I will take just a few minutes to do that at this time.

Professor Westin said,

First, our society has a traditional commitment to knowledge as the basis for policy making in its public sector. This grows out of the kind of ideas that were attendant to the republican tradition of government, and the respect for a useful science that people like Jefferson and others saw as the engine for rational progress in society. I think it helps to remember that the commitment to knowledge as useful information or relevant information is really deep in our society because the alternative to that is decision making about either individuals or about social questions on the basis of factors such as caste and class and race.

The second principle noted is that the commitment was to disseminate knowledge into the public because it was not to be regarded as the exclusive preserve of the savant in the society and that the whole concept of the First Amendment and the freedom of the press was that it was the dissemination of knowledge that

was going to be a major way of making the republic well governed. And that's why we err on the side of open government rather than secret government. There is a heavy commitment to keep even the worst of the free press with all of its abuses rather than trusting to any other way of getting knowledge about the affairs of government and decisions of government out to the people.

The third principle though is that this is in conflict with the idea that the individual operates with a kind of independent sovereignty as to dissemination of information about himself or herself. The ideas of John Locke, so influential in the writing of the American Constitution, tell us that your right to information about yourself is part of that kind of liberty and property which you surrender only to the extent, to the minimal extent, that you needed to, for the purpose of getting back from government on a kind of contract basis, protection against assault. That's not a bad approach because it suggests the individual's control over personal information and then works toward when it can be intruded upon. By contrast, the totalitarian approach assumes that individuals, by act of being in the society, are therefore servants of the interests and information of the institutions that run the society. What has happened in the last decade is that we've moved through acute increasing organizational development in the society. It has become a kind of gatekeeper social system. That is that every, or almost every, kind of benefit, right and opportunity that we all seek as we are growing up in society is controlled by some gatekeeper—by the educational institution, by the employer, by the trade union, by the licensing agencies of government, by the welfare agency, or by the tax agency. It's not a bad figure to imagine individuals presenting themselves at these gates and saying let me in because that suggests that what questions the gatekeeper



asks as to whether you get in or not are extraordinarily important because you don't get through the gates unless you reveal certain things about yourself. Think back just 15 years - what were the questions being asked at the gates? They weren't heavenly questions. They were about your race, your religion, your politics, and your sexual activity and a whole host of things which were legitimate for universities to ask some of them, for corporations to ask some of them, for government to ask some of them. They also involved the loyalty security questions like have you ever signed a nominating petition for the communist party. In the last 15 years the groups that were not being let into the gates and not allowed into the areas of opportunity in the society, found that privacy was a useful term with which to say that they simply demanded that we not use those criteria for excluding us from access from entry. They did so either by saying that it was illegitimate to ask the questions or by saying that if you ask us these questions we want to be very involved in how you use them. So they insisted on rights of knowledge and access to hear data directly affecting the decisions about them.

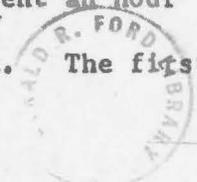
Distrust for the gatekeepers, especially for the gatekeepers of government, is deep in the American republican tradition. The civil rights movement in relation to education is illustrative. It's clear that blacks want to get in to the universities because they understand that they're the place where futures are made. They couldn't get into the universities with the qualifications that were being held to most blacks, so they had to begin to challenge the gatekeeping function. So I would argue, says Westin, that we may very well come out of this process in a few years, let's hope, with the readjustments of the status of women, the status of minorities, the status of cultural and sexual dissenters, etc. Likewise, we were involved in the process of redefining what is appropriate to be asked. This related to a whole host of changing conceptions on social values.



We could then rebuild the confidence in our institutions if we do two things. We openly communicate to people what every organization does in collecting its information and making its judgments on the theory, and I really say this with great conviction, that a great deal of the hiding by institutions is very funny because when they disclose what they think they can't possibly live with disclosing, there's a colossal yawn in the society and they learn that in fact much can be done and that a few proper corrections and their function is really not that controversial or whatever.

Secondly principles of access and redress clearly have to be built in because the information systems that are now incorporating this decision making and gatekeeping function are getting more networked and more national in character. Therefore a mistake anywhere, intentional or accidental, in misjudging people has consequences that are awesome. Information systems are extraordinarily vulnerable and if you get enough people in the population that feel angered that they don't know what's in the systems and feel they are powerless, then they'll pull the plug. I can't think of anything that is more vulnerable than data collection systems to sabotage. So I end by saying that the way to restore confidence in institutions is to continue the process of reexamining the conditions under which people get rewards and benefits in the society.

As I indicated, the group felt that those remarks by Professor Westin were pertinent and what we thought we'd do would be to ask the various people who have been talking here for the last few days about some of these issues to take about five minutes apiece and begin to say what their perspectives on privacy and social implications of it are and what its genuine meaning is. This in keeping with the Vice President's remarks to us the other day when he spent an hour with us in which he said 'No holds barred' on discussion. The first is Professor Paul Armer.



PAUL
ARMER

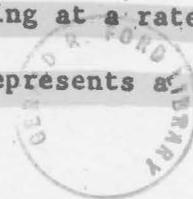
As Mr. Rodgers has mentioned, some of us felt it would be useful to expand the area we were looking at into information policy and so I have agreed to attempt to explain what we mean by that term and then to say a little bit about why we think it is a topic worthy of your attention.

By information policy we mean the policies we decide on as a nation as to how the various pieces of information industry will fit together, who will be regulated and how, what industry and government can and cannot do in the information arena with respect to individuals and organizations, what stances we'll take in international trade concerning information processing, and a variety of other topics, some of which Lewis Branscomb will be enumerating later. We throw the net broadly when we define the information industry to include not only the computer manufacturers, the organizations offering computer services, the communications industry, and the users of information processing and communication, but also TV and radio broadcasters, newspapers, book publishers, the postal service and education. There are a number of others which are contained in a chart in a publication of Harvard's, "Program on Information Technologies and Public Policy" whose director, Professor Oettinger, was with us yesterday but unfortunately could not be here today. It is a document that I recommend you read if you have a few minutes sometime.



We've recently become painfully aware of how dependent we are on energy and the importance of petroleum in that picture. The social consequences of a price change of a factor of four in oil have been tremendous. But our society is equally dependent on information. Information pervades all organized activity. It is all around us, filling our heads, our files, and the memories of our computers. In the past decade, the cost of raw computing power has changed, not by a factor of four but by a factor of a thousand - in this case it has gotten cheaper, not more expensive. In the next decade it's safe to predict that the cost will decline by another factor of a thousand. I must emphasize that while I'm talking about raw computing power, to use it usefully involves other activities which have costs associated with them. It's a bit like a loaf of bread. Even if wheat became free, a loaf of bread would not be free. But if the price of wheat fell by a factor of a thousand in the next decade, we would expect the social consequences to be great. Shouldn't we expect the reduction in the cost of raw computing power to also have important social consequences.

It is also important to realize that much of communications depends on the same microelectronics technology as the computer. Other aspects of communications technology such as satellites are also undergoing large decreases in cost, such that the overall cost of communications have been decreasing by something like 10% per year. These large decreases in the unit cost of information processing are taking place at a time when unit labor costs are increasing at a rate of at least 5% per year and thus information processing represents a



significant opportunity for increased productivity of all the elements of our economy which use information processing. The information industry is already the third largest in our country and there are prognostications saying that it will one day be our largest. Ed Parker of our group has data showing that the dominant labor activity in the U.S. has already become information processing rather than Industrial Production. Jobs in information processing occupations are approaching 50% of the total. We have become an information-rich society - both in the sense that knowledge is increasingly the source of national wealth and that information is increasingly crucial in the allocation of services and benefits to the citizens. We are moving toward a goal of a more humane and egalitarian society and our economy is shifting towards industries that make best use of our citizens' skills while minimizing raw materials imports and environmental degradation.

Yet another reason for the importance of information processing is the national and international trend to bigness, complexity, interdependence, and scale.

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Explicit or not, there's a great deal of information policy already in place. The information industries are subject to government regulation on varying scales and of varying intensities. All of that policy needs to be re-examined in light of the large changes going on in the economics of information processing and the concomitant exponential growth in our use of information processing. The decisions we make will affect not only such things as our privacy and freedom, but also our balance of trade and gross national product.



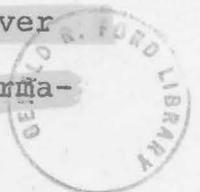
WILLIAM
CAREY

Mr. Vice President, we were all introduced to the assembled dignitaries as experts on information or on related matters. And I'd like to make it clear that I'm in the related matters category. One thing I think it might be helpful to do is to let people know where we're from, and not why we're here because none of us really knows how we got here, but at least who we are.

I'm Bill Carey and I spent 25 years in what used to be called the Bureau of the Budget and then I went into Arthur D. Little for five more, and now I head the American Association for the Advancement of Science. How that qualifies me, I'm not sure, but that's who I am.

Mr. Vice President, there was a young fellow named Harold Enarson who worked with me in those days and he is now president of Ohio State and after he'd been president for a year he had to give a major speech and he titled it, "On a clear day you can see practically nothing." Today isn't very clear, either.

I think we can approach this issue that we're talking about in one of two ways. That the more we proliferate safeguards, the closer we come to a no-decision kind of a society, and that's a problem. The other way to look at it is that the issues of privacy and dignity which brought us here do provide an opportunity to discover some important things about the impact of the informa-



tion revolution on people and on institutions. I think that in a society of advancing interdependence, which is one way to describe it, we can't settle the privacy question, as Dr. Armer has indicated, in an isolated or a disembodied way because it's embedded in all the trends toward growth and bigness and interdependence and complexity. I think we tend to confuse what's called the "right" to privacy with values which we also identify with privacy. If we talk about privacy as an absolute right it troubles me, because we rush to judgment. I think we must view it as a conditional right, like the right to bear arms freely. It relates to other peoples' rights and liberties and I think we have to see it that way, but it's an emotional issue, too. I think that the problems of privacy and the right of access to official records, and the search for principles of accountability in information collection and handling are very unlikely to be solved by any spectacular organizational, legislative, or technological fix. They're going to be with us for a very long while. The itch to look to the federal government to solve all of them is a mistaken itch. I don't think that the federal government has that mandate, and surely it doesn't have the answers. But it does have to put its own house in order, and maybe that's more or less manageable. As we said yesterday, we work in a society that has gotten used to checks and balances of different kinds, and through new kinds of checks



and balances we can begin to hold the fort just a little bit and try to understand what it's all about. In terms of particularizing what these kinds of checks and balances might be, what do you do? We're not entirely sure what you do, but for starters the presidency does need to emphasize policy research on information problems, and it should maintain a continuing oversight commission. Study the questions more. The Congress through the Office of Technology Assessment ought to keep a watching brief. Public interest groups can and ought to act as whistle-blowers. And I think that people ought to have an assured right to bring civil class actions (through an appropriate public service agency) in the courts, for the negotiation of privacy conflicts. I have a strong feeling that in a negotiating society this is the context at which you work things out. People do need remedies, and they need arrangements, and I think these are some of the checks and balances, along with a lively press, that can help to prevent or correct abuses. As time passes maybe we can do better. It's also worth considering whether government ought to apply some specific self-controls on what it does to trigger demand for more information, and the distribution of personally-sensitive kinds of information. We might require that when new legislation comes up and is under consideration, there might be associated or attached with it not only a spending estimate but also an impact assessment of its effects upon individual privacy.



Another step might be to require federal agencies when they announce proposed rules and procedures in the Federal Register for comment, to include a brief statement about privacy impact. Now somebody said that we don't have to have a statement, we could accept a "certification" by the agency head. In 25 years in government I learned something about agency heads' certifications, and it was that they are pro forma. So I lean toward internalizing a trip wire in the process through which the bureaucracy grinds out regulations and policies and procedures; there should be something there to remind them to look at it from the standpoint of privacy and information. These measures wouldn't be failsafe, but they might help to make government a little bit more conscious on a day-to-day basis about what is going on.

I think that reasonableness rather than fiat has to be the way to approach and negotiate these questions. This is why I look not to mandatory legislation defining this or that category of information as in the overriding public interest or totally within the area of privacy. I don't think you can get at it by grossing. There are delicacies and nuances concerned. I tend to look to a referee process and this is why I come in the end, to the process of justice in the courts for remedies and reasonable judgment. These are blurred issues and I think the only way that you can deal with them is through some kind of a referee process. That's where I am.

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LEWIS
BRANSCOMB

Within the context of the larger definition that Paul Armer gave, maybe I'd better introduce myself too. I'll introduce him:

Paul Armer, who is a computer expert, is also a social science expert and is part of the Center for Advanced Studies in the Behavioral Sciences at Palo Alto. That's at least some kind of a beginning. He used to be at Harvard.

I spent 20 years in government myself at National Bureau of Standards, was its director until 1972 under Mr. Nixon, then left and became the chief scientist of IBM. I got into information policy during that time through being a consultant to the Secretary General of the OECD on information policy issues and had some scientific concerns as well. And I'm a physicist.

I'd like to make a proposition which I think is perhaps obvious: that the most valuable renewable resource this country has is the knowledge-producing capability of its population and the knowledge-using capability of our institutions. I think there's a unique advantage to both respects. The questions is:



are we really making good use of that asset? The world is changing; it gets more and more difficult for us to insure that we can import all the raw materials we need; it gets more and more expensive to dispose of pollution; and there are certainly other governments, most notably the Japanese, who have absolutely determined that information based industry is the ground upon which they will challenge us economically. For precisely the same reasons, they need that kind of an economy worse than we do. But I submit we're not making the best use of these resources. There are many unresolved problems of information policy that are pertinent to those impediments. But many of these areas, however, are areas of policy in which the government is, through either regulation or through incentives, trying to promote private investment in the production of knowledge and information services. In other areas the government is subsidizing the production of knowledge in the expectation that this knowledge will prove useful.

Maybe it's useful just to list a bunch of topics which we did not attempt to discuss. We're certainly not experts on these topics. But they give you some feeling for some optimization, if you like, of the way in which many of these policy issues are dealt with.



First is pricing and marketing policy for the results of government funded research and information service. We spend huge amounts of money creating information. We hope and pray that somehow or other it will fall into useful hands.

Second, the government defines regulatory policies for the cable television industry in the hope that if we set those policies early enough we can encourage or incent the industry to provide public services of quality and value. Similar things apply in regulation of other broadcast media.

Third are postal rates, and issues affecting both the economy of print media, questions of joint ownership of print and electronic media, and the like.

Finally there are copyright and patent law as governs the protection of intellectual property. A very difficult area in which it's hard to define just what a property right in information means since the value of information is context-dependent.

The U. S. position on communications and data processing standards at the international level, where traditionally with only a small fraction of our economy in foreign trade is derived, we have set our domestic house in order through a free enterprise voluntary standards process with minimal government interference. We have been very generous to our foreign friends at the international standards table by saying, you people



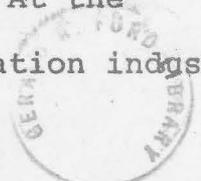
develop your European standards, we'll have our American ones. Now we discover that the rest of the world acts in concert to isolate us, and we're going to have to become tough-minded about it. How do we be tough-minded at the international level of government leadership when we have such a tradition of voluntarism on the domestic scene?

Let us consider the potentialities of new technology such as electronic mail, electronic funds transfer in banking, satellite information services, including the LANDSAT problems mentioned yesterday, the regulation of competition in the communications industry, trade-offs between accelerated technological progress in communications areas versus the maintenance of monopoly which permits the redistribution of wealth internal to that service in order to be sure that telephone services get out to the hinterlands, and similar issues. I think these kinds of things illustrate first the overwhelming necessity of studying information policy. But the government, whatever its limitations in policy-making, has even more limitations in policy implementation. Very tough to do. And therefore one needs very badly to break the problems down so they can be implemented.



This point was made at lunch today by Dr. Ruth Davis, who runs the Computer Institute in the Bureau of Standards. I thought it was an eloquently made point. But having decided that one must break the problem down in manageable pieces, now one is faced with the fact that there are threads of new values and new principles and new technologies that go all through those pieces. And if we deal with the pieces separately we may come out with incompatible principles. And therefore they do have to be looked at the aggregate.

So I would join Mr. Carey in a plea for looking at whatever institutional capability needs to be strengthened for policy research. I think there is already some excellent work being funded by OTP, which I believe is the one place in government that really sees the necessity for this. At the same time we must take a look at the government's internal capacity to advise itself on the proper use of the technology. Here I'll make an unabashed plea for my former institution, the Bureau of Standards, where some forty-two people under the leadership of Ruth Davis and under a mandate from what's commonly called the Brooks Bill, have tried manfully, or womanfully, should I say, for the better part of a decade - to provide that capability with the very minimal resources. At the same time they deal with a very large information industry.



Now threading through those examples I gave are a lot of unresolved questions, one which will be spoken to a little more later has to do with the question of what does the free market in the information field really look like? Do market forces work or don't they work? If you listen to the information industries associations they'll tell you that if you're willing to rely on market forces, information has value and the services will be provided. On the other hand, we've also discussed the importance of information services as a means of distributing opportunity in the society and it's not clear that market forces do that. And indeed if we look at the balance between government tactics regulating or operating government services, versus funding research and subsidizing to some degree private services to go beyond what market forces would justify, I think we can make an argument for some rebalancing there. But it's a very strange world, this world of information, where market value depends on context, depends on ability to use the information, and where buyer and seller of information may have great difficulty in insuring whether they control what happens to it.

I want to make a point about knowledge production and its role. In the past the image that most people have had of the value of research and the knowledge production producing research is that their research



starts at some very fundamental abstract academic level and there's a long thirty year process whereby it evolves into applied research, technology, manufacturing, marketing, and so forth. But increasingly research is used to help somebody make a decision about how to use the technology we've already got. What we need is not only more technological options, but better decisions.

As the society gets more complex and as economics drives us to larger aggregations of institutions, decision authority over a given decision has a bigger effect, is less reversible, has its impact quicker than was true in the past. And as Ruth Davis pointed out at lunch, all of our decision-making has grown up in a world in which the objective was to make a decision in the almost total absence of information. Great executives are very good at that. Today we live in a world where there is an enormous amount of what appears to be information and the question is, are the institutions that are generating and processing information serving the process of decision making as well as they might, both in the public sector and in the private sector? I would submit that the quality of decisions is the point at which these issues I'm describing which have rather more economic impact than the privacy issue; nevertheless there's a connection. And the connection comes down to the citizen who may be a very average American with respect



to the kinds of special social problems Westin was talking about but who nevertheless is very concerned about whether his government, or the companies he deals with, make decent decisions about him and the data these organizations use may have no personal data about him in them at all. It has other kinds of information. But it still matters how well that's done. Increasingly the response of an organization that can't cope with the information seems to be to do less analysis and go out and gather more facts. And that there are many situations in which the amount of fact-gathering seems to greatly exceed the amount of analysis being done. The converse is that the Congress, and to a much less extent the Administration, is becoming disillusioned with federal investments in research-both in-house and grants because of a lack of confidence that the result of that research is being effectively used. I think that if that lack of confidence has the consequence that the federal government doesn't establish clear policies to fund the programs for putting in place the mechanisms for defining what information we need, pulling it, evaluating it, disseminating it, getting it in the right users' hands, then those doubts become self-fulfilling prophecies. Perhaps the proposed Science Advisor or someone can pick up and work on, to



take a more utilitarian approach at the whole
concept of research in government which I believe
will have the consequence of getting a bigger in-
vestment in basic research than the less utilitarian
approach produces today.

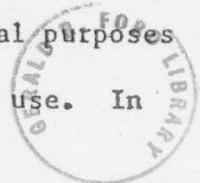


A.
ETZIONI

I see privacy, which is going to be the focus of my brief comments, and I will fight with those who believe that the Administration should put more weight within the balance being sought which is when the concern is privacy, rather than the need to collect information. I've been travelling through this town and listening the last days to hard-working civil servants who talk to each other and I assume to you, telling you about the other side of the balance. The demand for privacy puts new burdens on them and makes their work more difficult and as dedicated civil servants they hate that part of their job. Their job is more difficult and they have no more resources, maybe fewer, and they are surely concerned with the difficulties new privacy requirements may pose. I would like to report to you to the best of my sociological knowledge and evidence available that it is not the way the people out there feel, beyond the boundaries of this town. That the majority of the American people are beginning to look for one source of evidence at the recent Harris poll, but there are many other sources of data. The majority of the American people at this point are disaffected. They are disaffected with government. It's not something generated by a few agitators, it's not a few hippies, it's not a few kids, it's the majority of the American people. Privacy, their concern with privacy has become part of this disaffection. The quick answers that this be handled by two hundred bills before Congress do not leave room for leadership from the Administration. The suggestion that it will be done by some Study Commission, or studying things, does not pay enough attention



to the need for vigorous leadership in this area in the near future. I agree with those who believe that the issue of privacy provides an opportunity - an opportunity to restore confidence in government, which is essential for successful continuation of the work of the society. It has been argued correctly that the _____ measure of distrust of government is part of the American individualism and tradition. I find the distrust at this moment is higher than it has been historically, certainly higher than it has been at any point since 1966 including 1972 and therefore I beg you to consider using this issue on the side of privacy at the cost, deliberate cost, of some increasing inconvenience to the computers and the data collectors. Now how this may be done, we cannot - certainly I cannot go into the details - this is not my job, not my talent - but the basic philosophical approach I suggest should proceed from the assumption that it not be done through another government bureaucracy, but be done through helping implement the philosophical legal concept which should be that information about a person is firstly his private property and all that the _____ to conditions some of their private property may be sliced if they are to be given away, but the starting point should be that just like an acre of land in the good ol' days, now information about his person, his acts and his thoughts is firstly his sovereign property. If that is going to be implemented through the practice of law, or through a law, or maybe, for dramatic purposes, through suggestion of a Constitutional amendment (I choose my words carefully). I don't expect it to be passed right away. That's a more technical question. Once that is established, as a basic philosophical principle, then we of course will say that some of this is to be given up for national purposes such as for the census or a clearly delineated national use. In



other cases, as a person seeks service - if he wants to be admitted to a hospital or to social security or welfare - he may have to yield some of this information only to the authority he deals with. There should be a check-off system on the forms indicating how much further the person will allow that information to travel containing his personal identification marks. For statistical and research purposes, for most of them at least, we do not require his individual identity and once it is removed, once identifying marks are removed, that information should be free to travel. But as long as it carries his personal identity, if he admits to his physician that he's a homosexual, it should not show from there on his insurance and if he admits to the insurance company that he is in financial trouble, that should not show up with his employer. In short, we need segregated area specialized data systems and individuals' consent for transmitting information from one area to the other.

Now, unfortunately we have too many laws and therefore we tend to scoff adding regulations. I don't favor adding many regulations. I favor adding some penalties. The needed measure is not how many laws will be passed for the next twelve months on abuse of privacy. For me the criteria would be, and for the public, how many people will be jailed. There are gross abuses going on - people who have been falsely categorized by some credit agencies for doing this and that. False information is passed on to every area of their life, unable to find a job, unable to get new insurance, unable to be admitted this or that. People are in serious agony out there, and people who are not personally hit know about others who have been hit and they will not be satisfied and their trust in the system will not be restored until they see that not that minor transgressions but that gross abuses are penalized unless people who continue to circulate information proven false to them will face the consequences.



Lastly, privacy has been put, through our two days of meeting, and even in the last hour, as an opposition to an efficient information system. In part this is true. I'd like to suggest though also, that a prerequisite of a better information system is a better guarantee of privacy. That the policy-makers, the law makers, and the public will not stand for instance for a national data base, for better network between computers, for statistical data, for new collection of data, all the things we badly need because we don't have enough information, and we don't have enough positive information unless they feel less fearful of what in their mind is translated into 1984 tinges. So it's not a question of privacy or information, in the practical realities of the next years, I suggest, and I can be as wrong - better wrong- than anybody else, but it's my hypothesis that only with these kinds of guarantees will we be able to move in the direction we need to to have more data collection, better processing, and more nationwide network.

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I believe that a person should have the right to prevent information about one aspect of his life from travelling into the other because- I think Dr. Westin put this best- the information you must divulge in some areas of service concerns precisely information which in



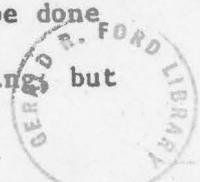
other areas of service triggers prejudice. So if I'm a homosexual and I tell this to my psychiatrist that is where the information should be. Why should it go to my employer? A kind of a right-to-know principle should apply here. Does the employer who is considering hiring me, as just a security matter, need to know that? If social security numbers can be cracked - we notice at Columbia University we no longer post grades with names - we post grades with I.D. numbers to protect visibility. It's very quickly known that 072 is your next door neighbor. So it works better than a name but best, your personal sense of comfort will go the check-off mark that the underlying assumption that unless you've explicitly consented, the information you divulge is yours and you control how far it travels.

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RUEBHAUSEN

I'm a lawyer, and I guess I'm here because a number of years ago I participated in a frolic - an extracurricular frolic, interdisciplinary frolic- under the aegis of the Bar Association of New York City on the general subject of the impact of modern science and technology on privacy.

I'd like to just pick up this last conversation for a second. A number of people have tried to find some way of coding information so as to eliminate the identifying thumbprints as it were from the data. As far as I know no foolproof system has been devised but a lot of imaginative systems have been discussed, including such things as having the code deposited in a Swiss bank which is beyond the reach of our subpoenas and so on. So something might be done and the private sector is working on doing this sort of thing, but to my knowledge, none has been devised.



P.
ARMER

Well in fact you can prove mathematically that this cannot be done in the extreme. Let me, as long as you've brought it up again, respond to that. If a databank has demographic information about the individual in it you can use that demographic information to zero in on the individual that you're concerned with. Suppose a databank has information on me in it. You'd know that. You then look for the people who have a degree from UCLA in Computerology who were born in 1924, who live in Palo Alto, California and if that kind of information is in the bank you do not need to know the name, you do not need to know a number or anything. You can extract information from them. And there's a mathematical proof.

O.
RUEBHAUSEN

I guess my role here is a bridge between what's gone before and what's gone after. I think I'll devote myself to a few simple notions, most of which were covered by the dialog that you had, Mr. Vice President, with Bill Carey. But it seems to me that what we're dealing with here in a discussion of the right of privacy and the right to information on whoever is described are two of the fundamental values of our society. They're both fundamental ones. The right of privacy encompasses such things as individual and human dignity and the sense that each individual has, or must have, I think, for his health, a feeling he, or she, has some measure of control over the extent of sharing or withholding of things about their feelings, about their beliefs, about their thoughts, and perhaps to a lesser extent about their actions. When you deal with



information you deal with a subject that involves the commitment of our entire society to the growth of knowledge which is an article of faith we believe in. It is also importantly related to freedom of speech, another important article of our society and almost equally important, to the sense of public accountability. Without information in a democracy you don't have that kind of public accountability that we should have. Each of these values, as is true with all other values in our society, is frequently in conflict with or competes with other values and has to be a resolution. The political system as you know better than most of us is one of the methods by which competition of values is resolved. And as the Attorney General knows, the legal system is one of the best methods by which competitions and conflicts of values get resolved. So that the fact there is a competition doesn't particularly bother me, nor do I think that the subject is one that is suited for legislation. As Bill Carey said, there is no fix that will do this. There may be some abuses that can be handled effectively by legislation, but I suspect the balance should be struck in some other ways.

The area I think where the balance can be worked out effectively in the interim is through a commitment to development of some standards. Standards in various fields. Standards for example for the acquisition of knowledge- is it necessary, is it sensitive in the personal identity sense, need it be sensitive, have we asserted the proper degree of self control? Standards also for the maintenance of knowledge- how long do we have to keep some of this information? how long do we have to keep it with identifying thumbprints or footprints? when should it be destroyed? what degree of confidentiality should be observed? Also standards on the use of the knowledge, or



access. The kinds of things that Amitai was talking about - who should get it? for what purpose? how do you restrict it for that purpose? when should it be destroyed, how widely should it go? Both of these values, information and privacy, are not absolute values at all. They yield to a supervening, perceived sense of the paramount public interest. In the case of freedom of information, we all know that there are certain areas that are hallowed by privilege established by the law- the doctor-patient one is one. Some states differ on these, but the lawyer-client is another, husband-wife is a possible other. Privacy also yields. There are many areas- the whole law enforcement area is one in which privacy has to yield to a supervening perceived sense of where the public interest lies. So that we're not dealing with absolutes at all and when we are dealing with important values, and I think if both the public and the private sector is aware of the values inherent in both, in information and in privacy, and works out as well as they can some ways of achieving their purposes but with a recognition of both of those values which are valuable, that this is the way we can make progress and enormous progress has been made, I think, in the last two decades.

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I think that the impact of science and technology, from where I sit at least, as a layman in the field, has accentuated the problem and there's an enormous volume of material that's available and the acceleration of the pace with which it's available and can be disseminated. So it can be done more rapidly, it can be done more effectively but some of the breaches and invasions- intolerable



invasions of privacy, non-permissible invasions of privacy- were far greater a decade ago. For example, employer-employee relationships. It was almost a trendy thing at one time to give personality tests of an enormously sophisticated and penetrating in-depth variety, where the unsuspecting employee did not realize the information that was being given and the assessment that was being made about him or her in the course of those tests. And they were required in order to get a job.

Now I'd like to say one other thing which is a digression from what I was trying to do, but I've always thought it was important, I say it because of the presence of the Attorney General. We have talked as a nation and mostly around the table in terms of individual privacy, which is very important and that's what is appealing to most everyone of us here. We're all concerned with it. But there is such a thing, I call it institutional privacy, but what I'm thinking about is the privacy of the decision-making process. The Attorney General made a very provocative, thoughtful, and stimulating address before the Association of the Bar, and I don't know what the reaction has been to that, sir, but I just want you to know that you're not a lonely voice in the event you thought you were a lonely voice. I think it's exceedingly important in _____ and in the study that I did, participated in a decade ago, we did not get to the point of institutional privacy, and I wish we had, because I think we might have made some progress and been of some help.



EDWIN
PARKER

I'm a Professor of Communication at Stanford University and have long standing interest in communication and information policy questions. As an undergraduate I was a philosophy major but I'm not sure that qualifies me to speak to the question you posed to us yesterday, when you asked for some philosophical advice on how we might attempt to reconcile the right to know with the right to privacy.

I think we all understand that privacy in that sense is a global concept that subsumes a lot of different things within it--personal privacy, confidentiality, security, perhaps the ownership of and property rights in information, and so on. There really are a host of things that are encapsulated by that perhaps overly simplistic label.

The disputes over access to or protection of information are just not going to be resolved on a once and for all basis, and ought not to be resolved on a once and for all basis. Because information can be translated into power, the basic conflicts over the distribution of resources in the society in an age of information and information technology will be fought increasingly over the rights of access to or protection of information. I think part of what's going on these days is that in an age where the costs of the technology are declining, as Paul Armer indicated, it's easier to get access to and manipulate information because it's cheaper. If those



tools of more efficient access to information are all in the hands of the large institutions of the society, be they corporate or governmental, what rights does the little guy have to protect his balance of power in this shifting, essentially political power situation? In the case of inequitable access to information, there are two ways that one might attempt to redress that balance. One way is to assert a right of privacy. To build a wall. To say, hey you big guy, you can't take this information from me. The other way to help redress the balance is to make the information that the institution is using - what is it doing, its decision processes - available to the little guy. Then if we begin to use some of our information tools and techniques to increase the citizen access to the information that's being processed and the decision making rules within the institutions of the society, we may be able to have some reconciliation in the direction of more access of citizens to information as well as in the area of privacy.

If there's a larger principle that can help resolve these fundamental and continuing conflicts, and I'm not sure that there is, but if there is a larger principle, it may lie in the effective use of the information resources themselves in order to increase the wealth of the society so that there's more to distribute and so that we pay attention to the equitable distribution that could result.



This is not a novel concept, obviously. In fact, historically, education in the United States has served exactly that role, to effectively increase the wealth and to do something useful about more equitable distribution of economic opportunity. In an age of information the battles between access and privacy may escalate to the level of the historic and continuing debate between free trade and protectionism in industrial societies. Those people who are trying to protect the erosion of what they have may erect and strengthen privacy barriers. Others may argue for a free flow of information because they sense that there could be greater wealth for all through greater sharing of information.

Abuses in the management of information, by both government and the private sector, will obviously have to be curbed, as Amitai Etzioni has indicated, in order to have the public confidence that will permit the kind of benefits that can be obtained. Those abuses will have to be curbed, whether those abuses stem from the invasion of privacy or from thwarting peoples' rights to know. These are questions of fundamental civil rights and they are questions of public confidence in the collective institutions of the society.



In addition to these civil rights kinds of questions, the issue of the impact on the economy of this dispute between access and privacy must be more carefully examined than it has been in the past. We may create or maintain privacy walls that try to protect and conserve existing distributions of wealth and power, but in the process we may inhibit the potential for growth that could make every one better off. I don't want to press too far this analogy of access and privacy with protectionism and free trade because if you press it too far then it doesn't quite fit. The point I'm really trying to make is that the conflict between access and privacy is as fundamental and as significant in our information age as the conflict between protectionism and free trade was in the industrial age. We haven't yet really come to grips with what will become an historic debate. I think to achieve the benefits that could accrue from increased right of access analogous to free trade, it will be necessary to solve two fundamental problems because if we don't solve these fundamental problems we won't be able to get the benefits. One is to ensure that the distribution of benefits is perceived as equitable so there are few incentives to raise the barriers that would inhibit the growth. And secondly, we need to find a way to create better incentives for the original creation and sharing of information than are now obtainable through the legal mechanisms of copyright, patent laws, and various other means. The problem essentially that our whole economic system is geared on the basis



of tangible property. Information is an intangible thing such that when you give it away you still have it, and if you show it to someone else he can freely duplicate it to other people and so on. In order to deal with that kind of intangible, we have had to somehow devise mechanisms to create the incentives for its original production and the incentives for its distribution so that we can all be better off. And as we all know, copyright law, patent law and other legal devices don't really do the job as well as they might to provide the incentives for the original product and the distribution of the information. We need to pay attention to these kinds of basically economic questions in addition to the civil rights questions.



MARY
JONES

Well, background- I practice law in New York, spent nine years on the Federal Trade Commission, spent three years in the academic world and am now in the corporate world as a vice president, so I've worn all kinds of hats. In wearing all those kinds of hats I have inevitably come involved with actual problems of the information policy and the kinds of rights that get in the way of it. My concern and my focus is to ensure that the right to know is some meaningful concept and not just some concept in theory that we talk about. As I see the information industry emerging, I see a real need to ensure that the fruits of that information industry -- the information itself -- is in fact equitably available to all people. Now my primary concern is with the citizen's need for information in order to participate in a very real sense in the democratic process, to participate in the market place, to participate in the health, and educational and other community services that are made available to him. I see no way for that citizen to participate effectively in those services unless he has information to enable him to evaluate the quality of those services, compare them and see what his options are and make meaningful choices between them. Now, with the current economies of scale in the information industry we have at the moment limited the access to information systems primarily to large institutional users. Citizens, individual citizens, do not have the same kind of access to information. Indeed, they don't have the same information being made available to them. I suspect the vendors are there, if the channels and vehicles of distribution were available. I see a real need of government to fill in the cracks, to take up the slack where the private sector cannot

deliver either the information or the mechanisms to make that information available to citizens. I see a role for government to facilitate and make sure that information is in fact available to the individual citizen so I have a very real concern not so much, although I share the concerns that government may in some areas exercise self restraints; I'm much more concerned that government exercise the

leadership to see to it that people have equitable access to information which they need if they are going to be effective citizens and if they are not going to feel alienated and disaffected. I think that's a greater source of their feeling - disaffection - is their feeling of powerlessness. They feel powerless because they can't participate.

* * * * *

In the marketplace, I can't really make the competitive system work unless I can in fact evaluate different products that are being offered to me. Therefore I need information on the durability of products, on their qualities, on their ingredients. If I am going to try and share and participate in health services I need to know if I have a particular kind of problem, what hospitals perform the most operations in this area, what doctors have done this, I can't really participate in health services unless I can evaluate their quality. You can go down your educational systems the same kind of thing. You need this kind of basic information to be able to effectively and intelligently make choices as to which service you're going to use to what extent it has value to you.



THE VICE-

PRESIDENT

Could I just interrupt there for an illustration of trying, as a government agent at one point, to make information that was essential to local communities, not individuals in this case, on categorical grant programs that were available to counties, towns, villages, cities within our state and there were over a thousand and their standards of regulations were so detailed that the application of those to the individual communities and the government had volumes of books, and we found no way that we could make this available meaningfully to a community unless we set up a computer system which would take the community's criteria for eligibility and plot it to the thousands of different categories and that would have cost us 17 million dollars to set up a computer system that would have made the information available just to the community. So government's doing so much, it's very hard to inform even communities, much less citizens, about what's available. So this is a horrendous problem.

M.
JONES

It is a horrendous problem but we are now getting the technology to deliver it. We can have console models which you can punch and ask information and we have the technology of storing the information. We have people who are creating it. My problem is that we are delivering a lot of this kind of information to large users, who can afford it, but the individual citizen, unless we can find a way of



delivering it to them en masse, then it can become profitable. But somewhere, I think, government has to intervene to either create the delivery mechanisms or to subsidize some of the industries who are involved in this in some fashion to get this information. I think it's _____.

The second problem to make the right to know meaningful. I also have to have some assurance that the information I'm getting (and we've now made it available under some hypothesis, under perhaps your leadership) we have to ensure that it's accurate.

It's a real problem. Now, we have lots of models of ensuring accuracy of products and services. The competitive model is one obvious one. Unfortunately in the information area I don't think the competitive model is necessarily going to work because in some instances databanks are going to be natural monopolies. It would be wasteful to have two sets of them. In that sense we've got to then find some other way of assuring quality of the information that's in that databank. Again, there are a lot of ways of doing it. We can do it through a disclosure system, kind of a FCC kind of an approach, of saying that any databank must disclose the source of the information that's in there, of criteria used in selecting it, the methodology used in indexing it and making it available. These are the kinds of standards that have been talked about that I think we can impose on major databank systems which can go in some direction in ensuring quality. There are other models that we can use. Again, I see government playing an important role in setting those standards.



A third problem comes a little bit more directly, Mr. Vice President, in the question you were asking earlier about the tradeoff. I see very strong governmental needs for information about individuals if we are going to not only implement our social programs but do the things being demanded of government now and that is evaluate their effectiveness and demonstrate that they were necessary. In order to do that, we have to follow through on individual life histories. If we are trying to have an educational program, we're trying to compare one program versus another we've got to follow those students through their lives to some extent. Same thing with health programs. We're going to see what happened to them. Same thing with nutritional or any other kind of social welfare program where we're trying to increase the individual's productivity and quality of life we've got to follow it through. All right. That conflicts obviously as we well know with the citizen's concerns about don't tell, don't give any information out about me. I'd like to suggest another approach of trying to solve this tradeoff problem. Not only creating institutions for making the tradeoff but looking at it in terms of giving the citizen some chance to make his own tradeoffs in terms of his own concerns about his personal privacy, also his concerns to have effective educational systems to send his children to. My feeling is government can do a great deal to try and foster the public debate, try and create the forums in which these issues can be discussed. My guess is if we do this the political forum, which is in the last analysis where that tradeoff has to be made in the halls of Congress, will be a more informed tradeoff



because we will have developed a consensus before this. Now this means that government may have to insist that some of our typical communications channels, our TV, has to be devoted to discussion of these kinds of issues. They have to do something to create the leadership to create this kind of consensus because I think that may go a longer way to solving the tradeoff problem by perhaps eliminating it. Then government won't have to make it as often because the individual citizens will have a way of making it all for themselves. This is my concerns of information field and my hope for government leadership to start these kinds of solutions going.

THE VICE-

PRESIDENT

That's a fascinatingly comprehensive approach. There's only one last reaction I have when you talk about the logical place for this to be dealt with in the halls of Congress, and somebody earlier spoke about-maybe you did- the need for information and how do the policy makers get the information on which to make the policy.

* * * * *

M.
JONES

Let me add one footnote to that. I use the halls of Congress because it's at that point that that social goal decision is made. It's when that legislation is passed that we've decided we want to put this program in, so it's at that point that the tradeoffs will be made where people will come in yelling privacy or people will come in yelling social cost or people will come in arguing for the need for the social program and it's exactly what I had in mind that I want to get to the people beforehand so when they come in expressing their points of view they've had more of a chance to at both that short range interest they have and the long range.



The other comment I'd like to make, and I'm sure you know it -- you've been before Congressional committees, but I really have tremendous respect for the work of the Congressional committees. I see those senators and congressmen really well informed. True, their staffs do a great deal of the work. That was one of the first things that impressed me when I came to Washington- how able the staffs were, but on the other hand that's also the measure of the man - or the woman - that he hires able staff, and I really feel that where those bills are whacked up is in those committees and they do work hard.



ANDREW
AINES

If I had to entitle what I'm going to say I think I'd call it "The New Awareness," the fact is that we're all being reprogrammed in the way we handle knowledge-people, institutions, government, all groups. The enormity of the reprogramming unfortunately has not been fully understood or appreciated. For example, consider the hypersensitivity of the media for all matters - dealing with information. Here are a number of headlines appearing in newspapers in the last few days: "8,000 Record Systems Used by the U.S." (Washington Post); "Full House Support of Spy Probe Asked" (L.A. Times); "Mortgage Disclosure Bill Gains" (Washington Post); "FCC Chairman to Support Televised Political Debate" (Washington Post), and on and on. If you look carefully at almost any newspaper, you find at least 5 to 10 items a day dealing with information, one indicator of the sensitivity of the media. This sensitivity perhaps explains some of the critical attitude they've shown about Executive Branch information process in the last few years. Additionally, consider the large number of bills that appear in Congress that deal with information; seemingly, members of Congress no longer trust federal agencies to establish needed information services. Mr. Vice President, when you testified on HR 4461 before the House Committee on Science and Technology, you recall Title Four of that Bill, calling for a Science and Technology Information and Utilization Corporation. This title fortunately disappeared when



the Bill was rewritten to become HR 9058. The revised Bill however was written so that the Science Advisor would be required to focus strongly in the information area. This Bill further indicates the attitude of Congress vis-a-vis information, as does the fact that there are about ten national commissions now in being involved in one way or another with information. I happen to be a member of one of these commissions and recognize the responsibility all commissions share in solving the information problem.

Executive Branch leaders often do not recognize that the federal agencies are the world's largest generators, handlers, and disseminators of knowledge and that this fact argues for special attention to the government wide program and its impacts.

Because of this reality, I'd like to make a few points that I think are important. First, on the proliferation of knowledge. The Anderla study of OECD showed an increase of four to seven fold of literature up to the year 1985. Anderla concluded from his study that no national information system in any country is sophisticated enough to be able to handle that volume of knowledge efficiently.



Second point. Although we are in an age of an extraordinary explosion of knowledge, every decision maker, every problem solver, every policy maker, searches feverishly for requisite information that he cannot easily get. One reason for it is that virtually all information resources today, the ongoing systems, have been designed for specific user groups—chemists, geologists, biologists, to name a few of the groups—rather than for users who must draw from multiple sources. This is a growing community. The information systems now established simply are not yet being brought to the point of precise and rapid delivery that is required. We're moving in the right direction, true, but very slowly.

Another point is that the capital outlay from public and private sources needed to develop and maintain these mechanized information systems, that are now serving larger numbers of users, including the people Mary Jones referred to earlier, those who want or need to be served by the system is not being generated. The users population is increasing rapidly and information charges to use them are zooming. If you want to buy some technical reports from the Government Printing Office or the National Technical Information Service, where just 2,3, or 4 years ago they were in the vicinity of \$3, you'll find some of them now go up to \$30 and \$40 each. It's getting beyond the capability of many individuals to buy



knowledge created by the government. Our policies need to be reviewed. To make the new systems work effectively, more highly trained information managers and specialists are required. Information and library schools are not training people for this new reality. For example, when we undertake a LANDSAT operation, where do people get the kind of requisite education and training to operate such a system successfully, certainly not in our universities. They have to learn as they go along.

What do you do to efficiently operate these large scale computerized systems that are now proliferating if you have to depend on people who come out of library and information science schools who've never been taught management? They have to come from other fields, and that's what's happening. It's regrettable that we're not training people for this purpose. This is another policy issue.

Another point I'd like to make deals with the information and data networks that are proliferating in the United States and abroad, hundreds, perhaps thousands of them. Virtually all international organizations have become hyperactive in the information scene. Most countries in the world have given the development of their information processes extremely high priority at the highest levels. What the implication is for us in the United States has received little attention.



One action we might undertake at a high government level is to establish a council to bring together the major groups involved in information policy activities. I'm not talking about establishing a new commission, but to create a mechanism to enable the active people, the information managers and policy makers in the government and the private sectors, to work together. In a pluralistic society like ours, we simply can't afford to have one information master plan, a blueprint that in effect tries to control the total information process. It would never work, it would never be bought, it would never be sold. The other way then is to follow the course of creating a team effort of all sectors. A growing number of people in the United States have become more aware of the need for information policy at the highest levels. Three Conference Board reports attest to this need. I join them in urging action to bolster our information policy development capability. I'm very pleased to see that the Office of Telecommunications Policy has now entered this arena.

There's one other phenomenon that I'd like to mention, the rapid and sudden growth of the "for-profit" information sector. It should be understood that as we become an information society in a post-industrial society, in effect there will be many people and organizations selling and handling information. Even now there are



major organizations establishing such things as interactive networks through which users can query and get information on line from 50 or more computerized databanks. These are growing rapidly and the number of people using them is also increasing rapidly. Many of these data bases are generated as a result of federal agency programs, one of these is the National Library of Medicine's MEDLARS program, an international databank used throughout the world which has suddenly become very much desired by a private entrepreneur. I see no problem with that aspiration, but I do report that there's a battle going on between the two groups regarding the right of entry and use of the databank. The government, I believe, ought to look at this development very carefully, not in arraying itself against the private sector, but in helping it play a legitimate role in the area. We must make sure that there's sufficient teamwork in the United States so that we're able, on a world wide basis, to sell our information products.

I will end by saying there are two major products the United States has to offer; I call them "grains and brains." The grains, because we're the world's largest grainery. The brains represent our leadership in information and high technology. American made consumer goods are no longer in high demand, it is clear.



If this be true, if the exportation of the products of our huge research and development programs is one key to our national future, then there has to be a wiser, stronger effort made at the highest level to formulate requisite policy and take whatever actions are needed to exploit the information revolution so evident in the United States.



TAB E

DOMESTIC COUNCIL COMMITTEE ON THE RIGHT OF PRIVACY

WASHINGTON, D.C. 20504

August 25, 1975

MEMORANDUM FOR THE VICE PRESIDENT

FROM: QUINCY RODGERS

SUBJECT: Privacy and Information Policy

As we discussed during our conversation about the Privacy Committee in July, privacy is a part of the broader issue of information policy. In this connection, I have considered the extent to which the Domestic Council Committee on the Right of Privacy and the Federal Government as a whole are prepared to provide leadership in this broader area.

This review indicates, not surprisingly, that there is (1) no comprehensive overview and conceptual framework for addressing this subject, and (2) no mechanism for coordinating and guiding program development.

This memorandum will recommend that you authorize a comprehensive study of this issue, including the convening of a briefing conference for you (and perhaps the other members of the Committee) at the earliest convenient date. This conference would begin the process of policy development which should attempt to provide a number of specific options by December 1975, in time for inclusion in the President's State of the Union Message if the President so decides.



BACKGROUND

Privacy is the cutting-edge of the larger problem of information policy. Each effort to formulate policy in the area of personal privacy raises the curtain on some other problem. Often it develops that privacy is only one of many competing values to be served in the use and management of information. Consideration of this larger context is necessary if personal privacy is to have sufficient philosophical and conceptual underpinnings so that policy-makers can comfortably handle the issues and so that fundamental values of privacy will be secure in the face of competing claims.

Questions of information policy are almost limitless. They observe no state or national boundaries. They permeate almost all governmental functions. Today's hot political issues in this field are freedom of information and privacy, but these are only the fore-runners of many more such issues. (See TAB A for a brief overview of the points at which new issues are emerging, either directly or indirectly, from informational privacy).

The importance of information policy will increase as knowledge and information continue to replace more tangible goods as the chief products of the American economy (Peter Drucker, Age of Discontinuity) and as developing technology continues to present new policy problems.

Information policy is now being developed in a piecemeal, ad hoc fashion by numerous Congressional Committees and by people scattered throughout the bureaucracy. The mere fact that there are already ten Commissions (listed in TAB A) dealing with pieces of this overall problem is an indication of both growing interest and policy fragmentation in this area.



The result is inconsistency and conflict which places anyone not upholding a special interest at a tremendous disadvantage in any debate, since general principles are not available to constrain the impact of specific proposals. Special interest pleading usually prevails when there is no underlying philosophical construct which balances the values and priorities that are in conflict. Further, special interest dominance impairs the development of the conceptual underpinning.

This piecemeal approach to information policy has precedent in a similar (and related) area: the transportation infrastructure of the U.S., which is a collection of ad hoc arrangements, many representing the overlay of new technology upon existing systems. The fact that they are interrelated has generally been ignored, and transportation development in the U.S. is in disarray. This precedent demonstrates the risks inherent in government's failure adequately to plan, manage and regulate. We could repeat the same failure here, where the infrastructure is communications and the traffic is information, knowledge and ideas rather than people and goods.

Therefore, we recommend to you at this time that-

- 1) The DCCRP explore in greater depth the issues raised in this memorandum, with an eye to framing appropriate and specific steps for creating information policy-development mechanisms (TAB B contains some options intended to show the range of possible choices), and,
- 2) As a method of commencing this exploration, we can arrange an options briefing for you at the earliest feasible date. This briefing would not be given by the staff of the DCCRP, but rather by a small and select group of experts in the field who first had interacted on the issues. The staff would work with these experts to coordinate the preliminary workshop and prepare the briefing. The out-



come of the workshop and briefing should be additional suggestions as to how the Federal government should proceed in a rational approach to comprehensive information policy.

_____ APPROVE

_____ DISAPPROVE

_____ DISCUSS



DEVELOPMENTS IN INFORMATION POLICY

The use of public policy to shape patterns of access to information and information services is becoming an important economic and social issue in all advanced industrial societies or post industrial societies. The final communique of a recent OECD conference on information policy identified access as one of the most important issues facing the member countries over the next two decades.

It would appear that ... national management of the information and communications resources of modern economies could yield substantial gains and new growth opportunities. At the same time, there are also dangers of disparities within nations as well as between developed and less developed countries, to the point that even developed countries could become economic backwaters. In this environment, a need was identified for governments to actively foster, at national and international levels, a harmonious development of the information sector in the interest of all citizens, and to adopt mechanisms which would ensure general access in both the provision and use of information services.

Information access 1/ issues arise in a variety of contexts and under various guises, such as freedom of information, 2/ patent and copyright reform, 3/ the

1/

The term "access" may seem mechanistic or overly technical to some. Nevertheless, it is coming increasingly into vogue and provides the title for a new trade journal in this field, "Access Reports", which currently emphasizes the implementation of the Privacy and Freedom of Information Acts. For purposes of this discussion, the term generally includes problems of ownership, control, sharing, etc. These concepts in turn suggest that the creation of some new legal concepts of property may be required.

2/

While Federal legislation was first passed during the Johnson Administration, recent amendments to the Act have raised a whole new set of problems by shortening deadlines and enlarging access.

3/

Legislation on both of these subjects is before Congress. Copyright may pass during this Congress. These statutes are important elements of our national policy with respect to knowledge and information because they provide the system of incentive which encourages the exchange of knowledge, among other things.

protection of personal privacy, wiretapping, 4/ and government control of communication facilities and services. Increasingly they are the heart of anti-trust actions, international trade negotiations, 5/ and consumer protection movements.

These broader problems are lurking off-stage. The current focus of attention is on freedom of information and privacy. These issues not only affect large numbers of people, but are susceptible to legislative attention and activity. Thus, legislatures have been in the forefront of forging new access policies; but they have had difficulty in coordinating activity in this field. Indeed, the Congress has experienced frustrations even in coordinating the Privacy and FOI Acts, where the right to know and the right to privacy clash. It has left the ultimate resolution of these issues to the Judiciary without providing much guidance. 6/

4/

Legislation placing further reductions on wiretapping and affecting law enforcement and other governmental access to information is being given serious consideration in the House Judiciary Committee and may be the subject of a floor amendment in the Senate this fall.

5/

Knowledge and information as a commodity in international trade and as a major U.S. export is gaining increasing attention both at the State Department and National Science Foundation.

6/

As yet unclear is the extent to which the Congress will re-examine these issues in the near future. Many feel that time will be allowed to pass so that experience with the Privacy Act and the 1974 FOI Act amendments can be gained. On the other hand, a recent Supreme Court case, FAA v. Robertson, which enlarges the scope of material exempted under FOIA, could mean new Congressional attention to these issues or an opportunity to readjust some competing interests.

To date, ten national commissions and two congressional committees have been created to examine and make recommendations to the President and the Congress on subjects that might be included under the heading of information policy:

- The economic and social implications of electronic banking facilities (Electronic Funds Transfer Commission)
- The protection of personal privacy by State and local government and private sector (Privacy Protection Study Commission)
- Federal and State government data-gathering requirements (Federal Paperwork Commission)
- Copyright reform (National Commission on New Technological Uses of Copyrighted Works)
- Government intelligence activities (Commission on CIA Activities within the United States, Senate Select Committee on Intelligence Activities, House Select Committee on Intelligence)
- Library and information services (National Commission on Libraries and Information Science)
- The preservation and disposition of official documents (Public Documents Commission)
- Historical records (National Historical Publication and Records Commission)
- Wiretapping (National Commission for Review of Federal and State Laws, Wiretapping and Electronic Surveillance)
- Private (National Commission to Review the Confidentiality of Health Records)

The 93rd Congress enacted a score of measures that directly affected the handling of personal information by public and private organizations. These covered legislation on such diverse subjects as:



- . Crime Control (P.L. 93-83)
- . Trans-Alaska Pipeline Authorization, (P.L. 93-153)
- . Comprehensive Employment and Training, (P.L. 93-203)
- . Child Abuse Prevention and Treatment (P.L. 93-246)
- . Sudden Infant Death Syndrome (P.L. 93-270)
- . Federal Energy Administration (P.L. 93-275)
- . Alcohol (and Drug) Abuse and Alcoholism Prevention, Treatment, and Rehabilitation (P.L. 93-282)
- . Congressional Budget (P.L. 93-344)
- . National Research (P.L. 93-348)
- . Health Services Research (P.L. 93-353)
- . Anti-hijacking (P.L. 93-366)
- . Campaign Finance and Conflict of Interest (P.L. 93-376)
- . School Records (P.L. 93-380)
- . Employee Retirement Income Security (P.L. 93-406)
- . Juvenile Justice (P.L. 93-415)
- . Fair Credit Billing (P.L. 93-495)
- . Federal Agency Records (P.L. 93-579)
- . Welfare, Social Services, and Child Support Enforcement (P.L. 93-647)

More than 95 "privacy" bills have already been introduced into the 94th Congress. The administration is readying several more, and still others will no doubt be identified in pending legislation that normally deals with other subjects. At the State level, three privacy statutes have already been enacted this year; some 130 are pending. Seven State-level privacy protection study commissions are currently hard at work.

Finally, a random sample of other activity yields additional examples:

1) The National Science Foundation is funding at least seven university programs on information science, including programs at MIT, Harvard and elsewhere;

2) The Office of Telecommunications Policy, in addition to its considerable operational responsibilities, has attempted to provide policy analysis in this area. The Office is, for instance, currently funding a consultant who is analyzing the impact of international transfers of data and information and its implications for current concepts of sovereignty, in co-operation with the State Department and Harvard University.



3) The President has recently signed legislation authorizing a White House Conference on Library and Information Science to be held in late 1977 or early 1978.

4) The Presidential Science Advisor, now under consideration by the Congress, will have considerable interest in these issues of the use of information.



Range of Options

1) Continue as is: We can continue with our current privacy focus only, leaving it to the initiative of scattered individuals and mechanisms to create additional and separate committees, commissions and study groups to deal with isolated parts of the overall problem. However, judging by past experience, it is unlikely that the various facets of the problem will be dealt with adequately in such a mode; also, the work of these independent efforts will be dissipated. This option appears unsatisfactory.

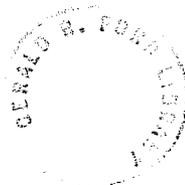
2) Expanded DCCRP focus through funding: While maintaining the general emphasis of DCCRP on privacy, we could use the funding of some specific policy studies to examine the various areas we have touched upon. This would use our current resources (member agency task groups) to be directed at privacy issues, relying on external expertise to flesh out the larger information management policy questions.



3) Joint initiative with Congress: We could meet with appropriate Congressional leaders and urge the establishment of special committees or subcommittees to examine, in league with the DCCRP, the range of issues included within Government's concern for the management and sharing of information.

4) Create an Office of Information Law and Policy: Such an office might serve to develop and coordinate policy planning in these areas, both for the long-range and the more immediate. It might serve as a clearing house for activity, and a source of creativity in this field.

TAB F



Excerpts from the Remarks of

Daniel Bell

at the

American Society for Information Science (ASIS)
Convention

Boston, Massachusetts

October 26-30, 1975

These excerpts were transcribed and edited by the Domestic Council Committee on the Right of Privacy from a tape supplied by ASIS. Dr. Bell has not had an opportunity to review this transcription. No public use of this material should be made without permission of the Domestic Council Committee on the Right of Privacy.

(Highlighted copy)



* * *

The post-industrial society, as I try to think about it, has a number of dimensions and let me single out three because they're central, it seems to me, for the formulation of policy....

The first is essentially a change from a goods-producing society to a service society....

* * *

There is a second dimension of a post-industrial society which seems to me to become more important. And this is the rise of an intellectual technology as against a machine technology.... What you have today is the rise of an intellectual technology.... All of which are involved primarily in gaining an intellectual understanding and using such tools essentially for the direction and control of change.

But perhaps the third dimension is, for me at least, the most important. And this is the centrality of theoretical knowledge as the way in which innovation takes place in a society.... ...it's only...very recently that we've had a situation in which the codification of theoretical knowledge becomes the directive force of the society....

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The first modern industry in one sense is chemistry because you have to have a theoretical knowledge of the property of the macromolecules you are manipulating in order to know what you've got....

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A **pre-industrial society** quite clearly is one which is primarily engaged in extractive work, in which you play a game against nature which is still the lot of about 70% of the world today.... **An industrial society,** which is primarily the countries around the Atlantic littoral on both sides, Japan and the Soviet Union, is a game against fabricated nature. It's therefore, a fabricated society as versus an extractive society. **A post-industrial society is essentially a processing society.** And the question is, then, what is a process, just as, in effect, what comes out of a pre-industrial society and what comes out of an industrial society.

The transforming resource of a pre-industrial is natural power -- wind, water, draft animal power. That of an industrial society is created energy -- electricity, oil. That **of a post-industrial society is information.** Information is the transforming resource essentially in creating that degree of exchanges between persons which allow the economy to function. This is a quantum jump....

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An industrial society doesn't disappear, but you have alongside of it now a whole new set of layers, a whole new principle, a whole new palimpsest which in a sense envelopes it. Here you have, as I say, information playing the key role in a post-industrial society that created energy plays in an industrial society and natural energy in a pre-industrial society.

And if you think of a strategic resource in a pre-industrial society, these are raw materials. In an industrial society, this is financial capital. And in a post-industrial society, this is knowledge....

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Let me turn to some of the consequences of some of these changes. Consequences which we are in the middle of and quite often do not realize.... One of the things that has happened within the last 35 years is that for the first time we've become a national society....

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If there is a crucial sociological theorem, it's the fact that societies fail when they cannot develop institutions to match the scales on which actions take place....

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One of our problems is that we have today few mechanisms to manage a national society. The whole administrative structure of this country is way out of whack....

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And insofar as information has been one of the key ways, through the communications revolution, of creating a national society, we have still no mechanisms, even on this instrumental level, of dealing with the role in which information plays a part in the creation of a national society. And just at the same time we face of course the crucial point of the threshold of becoming a unified global society,

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But you don't have political responses which fundamentally are able to match that kind of economic measure which was taken, in large part by private industry....

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Let me read to you a statement of John Fenoima,...

"Throughout the development of the expansion of scale, increased speed does not so much shorten time requirements of processes as to extend the areas of earth affected by them." The reason is clear. Since most time scales are fixed by human reaction times, habits and other physiological and psychological processes, the effect of increased speed of technological processes was to enhance the size of units, political, organizational, economical, and cultural which were affected by technological operations. That is, instead of performing the same



operations as before in less time, now large scale operations are performed in the same time....

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In effect what's happened is a loss of insulated space....

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Now the focus of all this is what has been called a telecommunications revolution, or if one wanted to be more exact but more awkward it would be a communications revolution, in which you have a hitching of computers with communications, the hitching of information and data with transmission. And this is the basic technological fact of the time.... This gains, of course, a further urgency today on the economic side because with the rising costs of energy, not only for political reasons but again for technological extractive reasons, you begin to find the substitution of transportation by communication....

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So you now find, in part because of the advances in technology, the decline of hardware costs, the rise of transportation costs, the increasing costs of energy, the beginning of a new economic threshold in which the combination of computers and telecommunication systems, would they be telephone, cable TV, telex, dataline transmissions, etc., are now put together and do become a new infrastructure of the society, just as the transportation system of railroads and airplanes is one



infrastructure system, or the electricity system, though not a national grid,...would form a second infrastructure. You have here now information as a third possibility of a major infrastructure system....

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The result of all this adds up to something quite awesome.... And while the estimates are a little vague, at the extreme, if you take the total amount of monies being spent in this country in insurance, banking, schooling, brokerage, advertising, marketing, telephone, it adds up, according to Oettinger's figures, to about 469 billion dollars in 1972, of a total of 1 1/2 trillion or about 40% of GNP.... ...and if you were to take it in an even more limited way, ...it comes down to about 15 to 20% which excludes sort of the peripheries of things which are not directly information in this respect....

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But the key point...is the proposition that information is not easily treated as a physical good to be priced in commodity terms. And since it is more of a character of a public good or an interdependent good, the pricing mechanisms by and large are quite inadequate to reflect the true costs of information. We have therefore the lack of a collective decision mechanism which quite often leads to non optimal uses of information.



...if you talk about a revolution, one has to be clear about the nature of the revolution. In our time there have been two kinds of revolutions, and they now merge into one in this respect: no one voted in the industrial revolution. It's transformed all our lives in the most extraordinary way, but no one ever sat down and said do we want to have it or not. It was a process which began to gather steam and make its way and to transform peoples' lives because it was a highly decentralized set of decisions through the market having certain successes in producing more goods and raising the standard of living. But no one, in effect, as I say, sat down and voted in the industrial revolution. People voted in an American Constitution, people voted in a French Declaration of the Rights of Man, people voted in a Program of the Communist Party. Political revolutions were voted in: industrial revolutions were not voted in. Today that kind of disjunction no longer holds. Votes are being taken on economic matters, as well as on political matters. And the information revolution which has been gathering force surely will come under the scrutiny of people's votes in the sense of saying do we want to have it, in what way, with what effects, with what consequences, and how do we plan for it...

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The first, and it seems to me the most extraordinary problem that's involved here, is the question of the centralization of a society. Because what's been happening increasingly, throughout the world as a whole, is a degree of centralization which becomes now very threatening in its consequences, as well as utilizing in terms of being able to redistribute resources....

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In effect, what you have here, not to put too bleak a picture of it, is the old kind of problem which might be posed in a science fiction course, how do you construct a dictatorship? Because you have here all the ingredients for total surveillance of a society, for control of this sort....

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There is a second problem, of course, which psychologists have tried to deal with, and nobody has a clear answer, which might be called sensory overload....

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There is a third problem, which I shall refer to at the conclusion, of the question of structural organization of an information society....

There's fourth, a very clear problem which we ought to understand and not fool ourselves about, which is the fact that we now face the problem of looking at "a real world,"



and the social sciences of which I try to be a part, we do not know how to map a social system. We don't know how to model a social system. And yet all advances in the end are going to be predicated on the problem of being able to model small systems, small units, whether it be an office, the flow of things in an office, large organizations, and national systems.... Now to some extent, in an odd way, one can say this is not bad. It means, in effect, that people can't be reduced to things, you can't organize them in a kind of neat mechanistic way...

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And finally, of course, you have the problem of increase of multiple demands in the society which get simply involved because of the expansion of scale and the fact that more and more people get involved in the society. One of the curious things is that there's probably today more participation in American society than ever before. It's a myth somehow that people do not participate; there's much more participation. But with a curious paradox. The more people participate, and since each possesses a private interest, you have the multiplication of veto groups in a society. It becomes more difficult to get things done. And then people feel frustrated and say, "I'm alienated," "I'm helpless," "I can't get anything done." What they mean is I can't get it done my way....

These are, it seems to me, a whole set of problems, in the large, looking ahead to the next 20 or 30 years, which we've done very little thinking about and very little thought about how to even approach some of the relevant research to deal with them.

Finally, I come to the more focused question which is the problem of a policy for managing information itself. And here it seems to me what I can only do is to pose four questions... It seems to me the first and obvious question because of the nature of all contemporary society is, "what is the role of government?" We know the government is involved, and yet no one has tried to sit down and say in what way should it be involved....

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...by-in-large we still have very few notions as to what is the exact role of government as a-regulator, as a director, as a funder, or what.

There's equally...the organizational structure of information technology. You have clearly a set of divided situations. You have the transmission systems which are organized largely through large units,.... But the computer industry is largely a system of private oligopoly,.... If one is going to hitch together in this communications revolution the computer with transmission, how do you join this?....

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There is also the question of what policy objectives should be fostered in this way. Are you primarily interested in reducing costs? Are you primarily interested in enhancing on-line communications or what?....

A third kind of question, which it seems to me concerns so many of you here in the room, is the question, Is it worthwhile to have a national library, sort of like..., where everything is all there in that one giant computer, with terminals extended to thousands and thousands of persons? Or should we not?....

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...since these are all private systems which you can't tap into without looking into the particular terminals that are used or the particular lines which are leased, you may lose a basic resource in terms of a larger network through a national system. Perhaps one can have a national system for scholarly purposes, and a private system for marketing pruposes.... But there is fundamentally, as I say, the problem of what kind of, in these infrastructure terms, national information data retrieval system we want..

And finally, of course, there is that thorny question, which we're right now in the midst of in Congress, of the nature of copyright and property....

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And yet there is a very real problem that's involved, that the fate of various scientific journals rest in the fact that you cannot have subscriptions to pay for the cost of these journals, because basically you can have a xerox reproduction system or a data retrieval system which can simply take the information, and very quickly at the expense of the original producers of it, without any fair protections of this....

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I can identify what I assume to be the major questions. In the broad, the role of government. Secondly, the question of organizational structure hitching together the computers, the communications, to create an infrastructure. The third the national information retrieval system question. Fourth, the problem of copyright....

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