



Thus, individuals would be entitled to review information in order to correct errors. (Aetna Life & Casualty Co. has initiated a similar policy, at the urging of William O. Bailey, Aetna Life president, and former Privacy Protection Study Commission member.) It is possible that this right of "ownership" will be incorporated into legislation amending the *Fair Credit Reporting Act*. The proposals would also forbid disclosure of information where there is an expectation of confidentiality." The Committee agreed to exclude a recommendation that would encompass computerized telephone records. The Administration's privacy agenda seems to coincide with that of Rep. Richardson Preyer (D-N.C.) who predicts the Congress will consider measures concerning medical records, banking records and third-party records.

'Administrative Steps. Besides the legislative proposals on privacy, the President is expected to take some "administrative steps," using executive authorization (see *Washington Report*, 12/78, p. 11).

'International Information Issues.' The privacy initiative precedes expected future Administration proposals on so-called "international information issues," such as overseas restrictions on transborder data flow, the transmission of data across international boundaries. Henry Geller, Assistant Secretary of Commerce for Communications & Information, has noted it is time for the U.S. to "bring . . . [its own] house in order" on privacy issues (see *Washington Report*, 12/78, p. 11).

Role of the Computer. Recognizing the role of the computer in facilitating the collection and dissemination of information, Carter officials state that legal protection against the indiscriminate use of data has not developed as rapidly as the technology. In one draft of the report prepared for the President by the Privacy Coordinating Committee, the group noted that, "We are faced by a slow but steady erosion of privacy which if left unreversed, will take us (in another generation) to a position where the extent of our human rights and vitality of our democracy will be jeopardized."

Previous Privacy Legislation. The Presidential Privacy Initiative follows passage of the *Privacy Act of 1974* and the *Right to Financial Privacy Act* (*Washington Report*, 12/78, p. 1). The *Privacy Act* limits Federal agencies' access to personal information held by other Federal agencies. The *Right to Financial Privacy Act* limits Federal access to personal information in the financial sector. Cited as a major achievement by the Carter Administration, the *Financial Privacy Act* has been criticized by certain individuals for increasing the potential number of bank examinations conducted by Federal investigators; for lacking sufficient legal grounds to challenge unreasonable access to data; and for exempting political action groups. [An internal audit, made public recently by the U.S. Postal Service criticizes the Post Office for inadequate implementation of the *Privacy Act of 1974*.]

Effect of Congressional Elections on Privacy Issues. The surprise defeat of Rep. Edward W. Pattison (D-N.Y.) in the November Congressional elections removes a staunch defender of financial privacy legislation from the House Banking Committee. Also, on the Senate side, Sen. Thomas J. McIntyre's (D-N.H.) loss is expected to change the character of the

Financial Institutions Subcommittee which the Senator chaired. However, strong privacy advocates were elected to the House of Representatives in California: a Democrat, Vic Fazio, sponsor of a Fair Information Practice Bill enacted in California in 1977; and a Republican, Jerry Lewis (no relation to the entertainer), sponsor of additional state-wide privacy legislation.

### AFIPS IN WASHINGTON

#### WITNESS STATEMENTS AVAILABLE THROUGH WASHINGTON OFFICE DETAILED

The AFIPS Washington Office has compiled numerous witness statements made before the Executive and Legislative Branches of Government on information policy issues as part of a Witness Statement Exchange initiated last year (*Washington Report*, 11/78, p. 6). For participants in the witness statement exchange (rules for participation described below), the following witness statements may be obtained:

*H.R. 214, The Bill of Rights Procedures Act.* Philip B. Heyman, appearing July 13, 1978, before the House Subcommittee on Courts; Richard J. Davis, Assistant Secretary of the Treasury, Enforcement and Operation, Department of the Treasury, appearing July 20, 1978; and Paul G. Coe, Assistant Chief Postal Inspector, Criminal Investigations, U.S. Postal Service, appearing July 20th.

*H.R. 13015, The Communications Act of 1978.* Tyrone Brown, commissioner, Federal Communications Commission (FCC), appearing July 18, 1978, before the House Subcommittee on Communications; Margita E. White, commissioner, FCC, appearing July 18, 1978; James H. Quello, commissioner, FCC, appearing July 18th; Philip S. Nyborg, vice-president and general counsel Computer & Communications Industry Association (CCIA), appearing August 3, 1978; Charles D. Ferris, chairman, FCC, appearing August 9, 1978; Joseph R. Fogarty, commissioner, FCC, appearing August 9th; Margita E. White, commissioner, FCC, appearing August 9th; L. C. Whitney, president, National Data Corp., appearing August 10, 1978; and Herbert N. Jasper, executive vice president, Ad Hoc Committee for Competitive Telecommunications, appearing August 10th.

*S. 2096, The Right to Financial Privacy Act of 1977, and S. 2293, The Electronic Funds Transfer Act of 1977.* Robert Ellis Smith, publisher, *Privacy Journal*, appearing May 19, 1978, before the Senate Subcommittee on Financial Institutions.

*S. 3270, The Justice System Improvement Act of 1978.* Jeffrey A. Roth, senior economic analyst, Institute for Law & Social Research, appearing August 23, 1978, before the Senate Subcommittee on Criminal Laws & Procedures; also, James Luke Cameron, chairman, Conference of Chief Justices, appearing August 23, 1978; Patrick V. Murphy, president, Police Foundation, appearing August 23rd; and Glen D. King, executive director, International Association of Chiefs of Police, appearing August 23rd.

'Confidentiality of Medical Records.' Richard I. Beattie, deputy general counsel, Department of Health, Education & Welfare, appearing May 23, 1978, before the House Subcommittee on Government Information & Individual Rights.

Exports. Juanita M. Kreps, Secretary of Commerce, appearing September 28, 1978, before the Senate Committee on Commerce, Science & Transportation.

'Future of Small Business in America.' John H. Shenefield, assistant attorney general, Antitrust Division, Department of Justice, appearing July 20, 1978, before the House Subcommittee on Antitrust, Consumers & Employment; and A. G. W. Bidle, president, CCIA, appearing July 20, 1978.

High Technology Businesses. Jean N. Tariot, chairman, Incoterm Corp., appearing July 20, 1978, before the Joint Senate Committee on Small Business and House Subcommittee on Antitrust, Consumers & Employment; and Lester A. Fettig, administrator, Federal Procurement Policy, Office of Management & Budget, appearing August 10, 1978.

Rules for Participation. To participate in the exchange of statements made before the Executive and Legislative Branches of Government on information policy issues, one recent witness statement concerning information policy should be sent to: Pender M. McCarter, Research Associate, AFIPS Washington Office, 1815 North Lynn Street, Suite 805, Arlington, Virginia 22209. Thus enrolled in the program, specific witness statement requests can be made (based on the above list), by mail only, enclosing a stamped, self-addressed envelope. For each requested witness statement, one statement should be included, in addition to the first establishing participation in the program. It is not necessary to be a witness in a hearing; having access to such statements is sufficient. Updated listings of available witness statements will be issued periodically.

### SPECIAL REPORT

#### EUROPEANS SEE 'WIDER CONCERN' IN RESTRICTIONS ON TRANSBORDER DATA FLOW: 'PROTECT PEOPLE AGAINST COMPUTERS & COMPUTERS AGAINST PEOPLE'

Citing a long privacy tradition, concern was expressed for the protection of individuals, not nations, "whoever and wherever they are," in an *International Conference on Data Regulation: European & Third World Realities*, convened in New York City, November 28-30.

'More Than Privacy Interests . . . Involved.' Frits Hondius, chief, Judicial Affairs Directorate, Council of Europe (CE), told the Online Conferences Ltd.-sponsored conference that more than privacy interests are involved in European restrictions on the transmission of data across international boundaries. (The CE is preparing a 1980 treaty concerning transborder data flow.) According to Mr. Hondius, such bodies as the 20-member CE (in which the United States is only a non-voting member) are seeking to protect "people's rights and interests." He added that the European goal is to "protect people against computers and computers



MATT NILSON, DIRECTOR, BUSINESS PLANNING, INTELSAT (LEFT), AND  
BRIAN JUDD, SPECIAL ASSISTANT FOR CCIS, NATO  
(AFIPS/ P. M. McCarter)

against people." Hondius also noted the lack of U.S. Government attendance at a recent CE session as well as at the Online Conference.

Jan Freese, director-general, Data Inspection Board, Sweden, agreed that his country's *Data Protection Act* was designed to insure "the use of computer technology on human terms." Mr. Freese added that it was his philosophy to "try to solve problems before they occur."

General Principles of Data Protection. Cited. Hondius outlined some general principles of data protection laws already in effect in some seven countries. (Approximately seven more nations are expected to follow these countries with their own privacy legislation.)

The three principles are: (1) Publicity: "People should know what is going on in general"; (2) Propriety: "Data systems should be proper"; and (3) Control: "Recordkeeping should observe norms."

U.S. Privacy Policy Criticized. While stating that U.S. laws such as the *Privacy Act of 1974* did represent "a legislative step forward," Professor David F. Linowes, former chairman, Privacy Protection Study Commission, said that the *Privacy Act* provides "no benefits for the general public"; contains too many exceptions and too few penalties; and disregards accountability.

Computer users from large multinational corporations attending the conference criticized the U.S. for a lack of leadership in formulating a position on issues involved in transborder data flow. According to one



PROF. LINOWES, POLITICAL ECONOMY & PUBLIC POLICY, UNIVERSITY OF ILLINOIS  
(AFIPS/ P. M. McCarter)

account of "an informal, not-for attribution meeting," held after one of the conference sessions, the users formed an *ad hoc* committee to lobby on transborder data flow issues.

U.S. Industry Criticized. Administration officials appearing at the conference reiterated their criticism of industry for not becoming involved in the issues, and implored industry to provide specific instances of economic harm caused by restrictions on transborder data flow. Attending the conference and named as primary contacts for industry were: William Fishman, deputy associate administrator for Policy Analysis and Development, National Telecommunications & Information Administration (NTIA), U.S. Department of Commerce; and Morris H. Crawford, Bureau of Oceans & International Environmental & Scientific Affairs, U.S. Department of State.

OECD Drafting Group Meeting Held. The Drafting Group of the Organization of Economic Cooperation & Development (OECD) met December 6-8 in Paris to consider a new draft of Transborder Data Flow Guidelines prepared by Peter Seipel, consultant to the OECD Secretariat (*Washington Report*, January, 1979, p. 1). Attending the meeting as U.S. representatives were: Lucy Hummer, Esq., Department of State; William Fishman, NTIA; and James Howard, NTIA.

Inclusion of Manual Files, 'Legal Persons' Debated. At the OECD meeting, there was substantial disagreement on including manual files as well as computer files in the draft guidelines. In addition, the delegations were divided on extending privacy protection to "legal persons" (*i.e.*, business

corporations and various other organizations) as well as individuals. The Europeans favor a more comprehensive approach to privacy legislation and generally view as ineffectual the selective approach taken by the U.S.

Consensus Said to be Supporting U.S. Position. Despite these recent developments, a consensus is said to be growing in both the OECD and the Council of Europe supporting the U.S. position. For example, the latest Seipel draft has been interpreted by an Administration source as being "very favorable" to the U.S. position.

#### NEWS BRIEFS

A recommendation for a Special Assistant to the President for Information Technology Policy, Plans & Programs, contained in a tentative Discussion Draft of the final *Summary Report on Information Technology & Governmental Reorganization of the President's Federal Data Processing Reorganization Project* (FDPRP) (*Washington Report*, 10/78, p. 5), has been dropped in a final draft; according to the most recent version of the consensus report [now circulating among Cabinet and Office of Management & Budget (OMB) officials], the FDPRP majority view "holds that the . . . [FDPRP] recommendation can and must be implemented through a strong and persevering Presidential initiative through the OMB. . . ."; the OMB is expected to present the consensus report to the President after final revisions.

A formal study "to determine the Administration's policy . . . [on] the future role of the U.S. Postal Service in providing services by electronic communications" is being initiated by the White House under Stuart Eizenstat, the Assistant to the President for Domestic Policy; an Interagency Coordinating Committee, chaired by Mr. Eizenstat, met December 13th to outline electronic communications' issues; the National Telecommunications & Information Administration, designated as "lead staff agency" for the study, is soliciting comments from "interested individuals or organizations" to be considered in the development of the Administration's position; Congress is expected to address the issue this Spring.

In December, the Postal Service Board of Governors authorized temporary implementation of E-COM service, an electronic message service (EMS) for large-volume users (see *Washington Report*, 11/78, p. 3); in November, Postmaster General William F. Bolger approved a four million dollar electronic mail experiment beginning this year; also in November, Xerox Corp. filed a request with the Federal Communications Commission to reallocate a portion of the radio spectrum for EMS.

"[B]etter information is needed . . . to make assessment and evaluation of the policy alternatives regarding CCH [the computerized criminal history file]," according to an Office of Technology Assessment (OTA) study released in January, the first phase of a new OTA assessment of the Social Implications of National Information systems; entitled *A Preliminary Assessment of the National Crime Information Center and the Computerized Criminal History System* (#--enclose \$2.75), the study notes, "Although CCH has been the subject of numerous studies, conferences

and hearings, there is only limited information regarding the ways in which law enforcement and the criminal justice decisionmakers, as well as other government and private individuals and the press make use of criminal history information, its benefits, the value of nationwide access to information, and the value of rapid access."

The General Accounting Office (GAO) is preparing to release a new study entitled *Security of Automated Information Systems of Federal Agencies*; according to a tentative outline of the GAO report, obtained by the AFIPS Washington Office, "organizational structures" are "inadequate" and "comprehensive procedures" are nonexistent in current Federal security precautions.

A research and development project to evaluate the use of data encryption devices in protecting the Federal Reserve System's (FRS) Fedwire operations is expected to be completed this June; Fedwire, a form of electronic funds transfer, links FRS to member banks nationwide.

In December, the Department of Justice said it is considering computer crime involved in counterfeit or stolen securities as well as bribery and kickbacks.

The Federal Communications Commission (FCC) is expected to add the *Computer Inquiry II* to its weekly agenda again, after two previous postponements; the FCC may determine whether AT&T, a regulated communications common carrier, can provide unregulated data processing services.

The Supreme Court is considering whether, under the *Freedom of Information Act*, individuals can obtain confidential business data; in November, the High Court let stand a U.S. Court of Appeals decision (*Washington Report*, 6/78, p. 4) allowing MCI Communications Corp. to use AT&T's local phone connection to implement Execunet, MCI's long distance telephone service providing voice and data communications.

In December, the Office of Management & Budget (OMB) issued for comment a directive which would require Federal agency data processing users to account for the future cost of their DP systems; also in December, OMB issued an annotated bibliography (#) of current laws, policies, regulations, and "guidance documents" which are relevant to the acquisition, management, and use of Federal data processing and related telecommunications resources; finally, in December, OMB issued a list (#) of Federal policies, regulations, standards, guidelines, and other reference documents pertaining to computer security.

The "basic philosophy" of the Communications Act Rewrite "will remain the same," according to former Rep. Louis Frey (R-Fla.), until this year ranking member of the House Communications Subcommittee; predictions have also been made that "significant changes" will be incorporated in the legislation this year, previously known as the *Communications Act of 1978* (*Washington Report*, 10/78, p. 3).

A new subcommittee on "Professionalism & Malpractice of Computer Specialists" has been formed by the Committee on Law Relating to Computers of the American Bar Association's Science & Technology Section; heading the subcommittee is J.T. Westermeier, Jr., member of a Washington, D.C. law firm.

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# AFIPS Washington Report

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## WASHINGTON DEVELOPMENTS

### PRESIDENT, CONGRESS ADDRESS INFORMATION POLICY ISSUES

Amidst predictions that the 96th Congress is concentrating on oversight of existing Government programs, there is no dearth of information policy-related legislation on the Congressional Calendar, sustaining the momentum of the 95th Congress which enacted 74 new laws affecting U.S. information policy. [Editor's Note: A House of Representatives' Committee Print describing these laws is available on request to the AFIPS Washington Office.]

Privacy Legislation. Much of the information policy-related legislation centers on privacy issues. President Carter referred to planned privacy legislation affecting Government access to records in the medical and financial sectors (see *Washington Report*, 12/78, p. 1) in his Supplemental State of the Union Address delivered to the Congress on January 25th.

Under the heading of "Civil Liberties: Privacy," the President said:

Government and private institutions collect increasingly large amounts of personal data and use them to make many crucial decisions about individuals. Much of this information is needed to enforce laws, deliver benefits, provide credit, and conduct similar, important services. However, these interests must be balanced against the individuals right to privacy and against the harm that unfair uses of information can cause. Individuals should be able to know what information organizations collect and maintain about them; they should be able to correct inaccurate records; and there should be limits on the disclosure of particularly sensitive personal information.

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Mr. Carter concluded defining planned administrative measures implementing privacy protections (see *Washington Report*, 2/79, p. 2), as follows:

My Administration is developing a comprehensive privacy policy to address these concerns. Last year, legislation was enacted which established restrictions on . . . Government access to financial records. Early in 1979, I will propose privacy legislation to cover medical, financial, and other sensitive personal records. I will also take administrative actions to strengthen privacy controls for Federal agencies' records.

NTIA Proposals. The National Telecommunications & Information Administration (NTIA) is said to be preparing legislation for introduction this month (in March), implementing what is being called the President's Privacy Initiative. A principle underlying the legislation, according to an NTIA staff member, is that information collected for research and statistical purposes "should not be used [by Government] to make decisions about people."

HEW Bill. The Department of Health, Education & Welfare (HEW) is also reported to be drafting legislation on Government access to medical records. Rep. Richardson Preyer (D-N.C.), chairman of the House Subcommittee on Government Information & Individual Rights, has previously expressed interest in considering privacy measures concerning medical records (see *Washington Report*, 2/79, p. 2).

Goldwater Legislation. On January 18th Rep. Barry M. Goldwater, Jr. (R-Calif.) reintroduced privacy legislation implementing recommendations of the Privacy Protection Study Commission (*Washington Report*, 8/77, p. 1), including a bill to amend the *Fair Credit Reporting Act*. Mr. Goldwater's legislation is listed as follows:

H.R. 344. A bill to amend the *Fair Credit Reporting Act* dealing with depository institutions and privacy, and for other purposes; to the Committee on Banking, Finance & Urban Affairs.

H.R. 345. A bill to amend the *Fair Credit Reporting Act* dealing with consumer credit and privacy; to the Committee on Banking, Finance & Urban Affairs.

H.R. 346. A bill to amend the *Fair Credit Reporting Act* dealing with insurance institutions and privacy; to the Committee on Banking, Finance & Urban Affairs.

H.R. 347. A bill to amend the *Family Educational Rights and Privacy Act* to provide for the protection of the privacy of personal information, and for other purposes; to the Committee on Education & Labor.

H.R. 349. A bill to amend the *Privacy Act of 1974*; to the Committee on Government Operations.

H.R. 350. A bill to establish a Federal Information Practices Board to review and report on fair information and privacy practices of Governmental and nongovernmental entities; to the Committee on Government Operations.

H.R. 354. A bill to amend the *Internal Revenue Code of 1954* dealing with privacy; to the Committee on Ways & Means.

H.R. 358. A bill to restrict the use of *Social Security Act* account numbers as Governmental or universal personal identifiers; to the Committee on Ways & Means.

H.R. 359. A bill to provide for the privacy of certain public assistance and social service records used or maintained by state and private agencies under programs receiving Federal financial assistance; jointly, to the Committees on Agriculture, Interstate & Foreign Commerce, and Ways & Means.

H.R. 360. A bill to amend Title XI of the *Social Security Act* to provide for the confidentiality of personal medical information created or maintained by medical care institutions providing services under the Medicare or Medicaid programs, and for other purposes; jointly, to the Committees on Interstate & Foreign Commerce, and Ways & Means.

H.R. 361. A bill to amend the *Social Security Act* to provide for the protection of the privacy of personal medical information maintained by certain medical care institutions; jointly, to the Committees on Ways & Means, and Interstate & Foreign Commerce.

The California Congressman has been quoted as saying that Congress must legislate in the privacy area whenever private enterprise fails to act. Goldwater has served as a member of the Privacy Protection Study Commission

Chances for Passage of Privacy Legislation. Chances for passage of privacy legislation are unpredictable given the customary, formidable Congressional procedures as well as preoccupation with foreign relations and the domestic economy. Among the scores of privacy-related bills introduced in the 95th Congress, only the *Right to Financial Privacy Act* (see *Washington Report*, 12/78, p. 1) passed in the early morning hours of the last day of Congress. A bemused Carter official recently noted that a bill affecting Government access to medical records may originate in as many as four different Congressional subcommittees. Similarly, one Congressional staffer stated that information policy is "made in disparate environments." Harry M. (Chip) Shooshan III, chief counsel, House Communications Subcommittee, told a January meeting of the American Library Association that this disparity results in "contrary policies."

[At least some Congressmen are reconsidering support for one section of the *Right to Financial Privacy Act* following a Citibank survey which estimates that compliance with the bill's notice requirements by financial institutions could cost as much as one billion dollars, recalling similar high (and, according to some privacy advocates, ultimately incorrect) estimates of costs to implement the *Privacy Act of 1974*. Sen. William Proxmire (D-Wisc.), for example, has introduced S. 37 repealing Section 1104(d) of the *Act* which states that, "All financial institutions shall promptly notify all of their customers of their rights under this title." A similar bill, H.R. 1777, has been introduced in the House, inserting "active" after "notify all of their." S. 37 passed the Senate last month.]

Additional Information Policy-Related Legislation. Other legislation introduced this year in the information policy area includes, at press time:

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Communications Act' Rewrite. A new bill is scheduled to be introduced the first of this month (in March) with the "basic philosophy" intact. [Editor's Note: At least one bill is being considered, H.R. 1580, that would "reaffirm the authority of the states to regulate terminal and station equipment used for telephone exchange service in certain instances . . .," recalling the *Consumer Communications Reform Act*, also known in the 95th Congress as the "Bell Bill."]

Federal Computer Systems Protection Act. Reintroduced January 25th by Sen. Abraham A. Ribicoff (D-Conn.), S. 240 (#) provides for a stricter financial penalty for computer crime than the previous version, stipulating that a fine could amount to as much as two and one-half times that of the theft. In short, the bill would make it a Federal crime to access a computer for fraudulent purposes such as theft, sabotage or embezzlement.

EFT Legislation. Introduced January 23rd as S. 108 (#) and H.R. 1289 (#), the *Truth in Lending Simplification and Reform Act* provides that all of the provisions of the EFT Act (see *Washington Report*, 12/78, p. 1) would become effective this June instead of May, 1980, as provided in the EFT Act. Supporters in the House and Senate are predicting early passage with the President's approval expected in "late Spring." In addition, H.R. 852 would implement additional EFT privacy legislation.

Electronic Mail. In his Supplementary State of the Union Message, President Carter alluded to "proposals on the role of the Postal Service in providing electronic mail services." The House Committee on Post Office & Civil Service is planning hearings on electronic mail, though not in connection with any legislation, according to Michael F. Cavanagh, staff assistant, House Subcommittee on Postal Personnel Modernization.

Copyright Protection H.R. 1007 would amend the *Copyright Act of 1976* to provide copyright protection for imprinted design patterns on semiconductor chips.

Unsolicited Commercial Telephone Calls. H.R. 377 would amend the *Communications Act of 1934* to "prohibit making unsolicited commercial telephone calls to persons who have indicated they do not wish to receive such calls."

NSF Science Education Functions. S. 210, a bill to establish a separate Department of Education, would transfer to the new secretary of the proposed department "all programs relating to science education of the NSF or the director of the NSF." The legislation would exempt such functions and programs as those relating to "ethical, value, and science policy issues" or "communicating science information to nonscientists."

Oversight Hearings. Consistent with the observation that the 96th Congress is concentrating on oversight of existing Government programs, budget hearings on the NTIA, the Office of Science & Technology Policy, the National Bureau of Standards, and the Office of Technology Assessment have been scheduled through this month.

'Contentious' Session. Overall, a "contentious" session is predicted for the 96th Congress. Majority leader James C. Wright (D-Tex.) has been quoted as saying, the President "still hasn't learned to consult [with] Congressional leaders." Primary emphasis is expected to be on the budget and related legislation. [Editor's Note: DP aspects of the Fiscal Year 1980 budget will be analyzed in next month's *AFIPS Washington Report*.]

AFIPS IN WASHINGTON

Standards Do Not Cover Recent Developments  
in Information Processing, AFIPS Panel Says

CIVIL SERVICE SHOULD REVISE  
PROPOSED STANDARDS FOR COMPUTER-RELATED OCCUPATIONS

Proposed Civil Service standards (#) affecting Government recruitment of employees in computer-related occupations, first announced in 1978, are already several years out of date and should be revised, according to comments (#) released last month by an AFIPS panel.

(AFIPS/ P.M. McCarter)



AFIPS PANEL MEMBERS JOHN HAMBLLEN (L), EDMUND SAWYER (R)

Recent Developments in Information Processing. According to the AFIPS panel, the proposed standards do not cover such recent developments in the information processing field as the creation of distributive networks, advances in telecommunications the use of intelligent terminals the widespread application of minicomputers and microcomputers, and the existence of on-line numeric and bibliographic data bases.

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Panel Recommendations. The AFIPS panel recommended that the OPM (1) consult with outside sources to update computer occupation standards; (2) revise classification standards for computer-related occupations at least every five years until at least 1990; and (3) insure that the proposed standards conform with [existing] Civil Service law and regulations. The group notes the pervasiveness of computer technology in Government, the interaction of citizens with computers employed by the U.S. in various programs, and the need for highly skilled and motivated personnel to exploit the technology.

Panel Organization. The AFIPS Civil Service Standards Review Panel was formed in response to a special invitation by the U.S. Civil Service Commission, now the Office of Personnel Management (OPM), to comment on tentative standards for the Computer Specialist Series (GS-334) and the Computer Clerk and Assistant Series (GS-335). The Federal government employs standards to classify employees in pay levels according to the difficulty, responsibility, and qualifications required for the work.

The panel reflects a variety of backgrounds including curricular work in computer science, analysis of computer occupations for personnel purposes, and computer usage. Comments reflect the views of the panel members, not necessarily those of AFIPS, the Federation's constituent societies, or the employers of the individuals involved.

Panel Members. Members of the panel were: Dr. Frances Berger, Psychometrics Los Angeles; Dr. Karen Duncan, Mitre Corp., McLean, Va.; Dr. John Hamblen, University of Missouri-Rolla; Charles D. LaBelle, Manufacturers Hanover Trust Co., New York; William P. LaPlant, Jr., U.S. Air Force, Arlington, Va.; Alexander D. Roth, Esq., AFIPS, Arlington, Va.; Dr. Terry Straeter, NASA, Hampton, Va.; Edmund Sawyer, U.S. General Accounting Office, Washington, D.C.; and Sidney Weinstein, Association for Computing Machinery, New York.

New Draft. OPM is expected to issue another draft of its proposed standards incorporating comments from groups such as AFIPS.

#### AFIPS Subcommittee Presents Comments to Fed on 'EFT Act'

##### CONSUMER LIABILITY COULD BE LIMITED TO \$500 IN ALL EFT TRANSACTIONS

Proposed regulations (#) of the Board of Governors of the Federal Reserve System (FRS) may misconstrue the *Electronic Funds Transfer (EFT) Act* (#) to provide unlimited consumer liability in cases of unauthorized EFT transfer, according to comments (#) released last month by an AFIPS EFT Subcommittee. Passed by Congress last year, two sections of the *EFT Act* pertaining to liability became effective February 8th. The Subcommittee comments reflect the views of the panel members and not necessarily those of AFIPS, the Federation's constituent societies, the AFIPS Washington Office, or the employers of the participants.

Unlimited Liability Questioned. According to two AFIPS Subcommittee members, a "thorough reading" of the law "gives the impression that consumer liability in any case is limited to \$500.00." The Board interpretation, contained in regulations published last December in the *Federal Register*, states, "If the consumer fails to report within 60 days of transmittal of the periodic statement any unauthorized electronic fund transfer which appears on the statement, the consumer may be liable for the amount of any unauthorized transfer which the financial institution establishes would not have occurred but for the failure of the consumer to notify the financial institution."

Subcommittee Recommendations. Citing "adverse economic consequences of unauthorized use," a Subcommittee majority recommended that a demand deposit account should be established for the "express purpose" of EFT. The majority also held that the provisions of the regulations interpreting the consumer's liability section of the *EFT Act* should require actual notice to the consumer before any debiting in excess of \$500.00. According to the AFIPS Subcommittee majority, "Evolving constitutional doctrines affecting prehearing remedies for creditors suggest that in . . . [extreme cases] there may be a constitutional requirement of prehearing notice and an opportunity for a hearing to contest the proposed debiting before such a 'taking' may be effected." Finally, the Subcommittee recommended that the issuance of "access devices" which serve as combined debit or credit cards should be prohibited, recognizing the increased risk of technical failure in the transaction terminal.

Subcommittee Members. The Ad Hoc Subcommittee consists of four members chosen by the chairman of the AFIPS Special Committee on EFTS, William Fenwick, Esq., of Davis, Stafford, Kellman & Fenwick, Palo Alto, Calif. Subcommittee chairman is Malcolm M. Jones, First National Bank of Denver. Members are: Dr. John L. King, University of California, Irvine; John C. Lautsch, Esq., Davis, Stafford, Kellman & Fenwick, Palo Alto, Calif.; and Pender M. McCarter. AFIPS, Arlington, Va.

(AFIPS/ P.M. Mc Carter)



AFIPS SUBCOMMITTEE MEMBER JOHN L. KING

NEWS BRIEFS

Obligations for general-purpose data processing activities of Executive Branch agencies are expected to increase \$651.4 million (up 15.8 per cent) from Fiscal Year (FY) 1978 to FY 1979 and \$492.4 million (up 10.3 per cent) from FY 1979 to FY 1980, according to the Office of Management & Budget (OMB); using the OMB estimate, in the two-year period from FY 1979 to FY 1980, the largest "absolute growth" in data processing and telecommunications resources is expected in the Department of Defense (up 34.4 per cent), followed by the Department of Health, Education & Welfare, and the Department of Energy.

Following the White House's lead (see *Washington Report*, 2/78, p. 7), the Federal Communications Commission (FCC) has initiated an inquiry into the legal and policy issues raised by a consideration of the U.S. Postal Service's Electronic Computer Originated Mail (ECOM); initial comments are due February 25th, oppositions by March 11th, and replies by March 18th; also, in January, the Commission, as part of its Zero-Based Regulatory Studies, has agreed to fund a report on "Privacy and Communications Security: the FCC's Role."

The Departments of Justice and Treasury are proposing regulations which would authorize the departments to require financial records from a financial institution pursuant to the formal written request procedure established by the Right to Financial Privacy Act of 1978 (see *Washington Report*, 12/78, p. 1); deadline for comments to Justice is March 2nd; Treasury, March 5th; the Federal Reserve System also sought similar comment by February 16th.

In January, the Federal Telecommunications Standards Committee, with representatives from numerous Government agencies, approved the Advanced Data Communications Control Procedures (ADCCP) protocol; also, the National Bureau of Standards is reported to be planning to recommend interface standards for small computers and peripheral equipment; finally, the Federal Trade Commission is also seeking comment on a proposed trade regulation rule which reportedly would affect the development and implementation of standards or certification procedures adopted by groups such as the American National Standards Institute.

In January, the Federal Trade Commission adopted rules which would give a *pro rata* refund to students who drop out of vocational schools offering data processing-related courses; the rules become effective next January, 1980.

Senate confirmation hearings on Anne Jones, named by President Carter to succeed Margita White as member of the Federal Communications Commission, are scheduled February 23rd; Ms. White is now expected to resign her post February 28th unless Ms. Jones is confirmed beforehand.

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# AFIPS Washington Report



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## Executive Branch Plans for DP Acquisitions Outlined

### FY '80 BUDGET REQUESTS IN COMPUTER AREA CONTINUE TO RISE; ARPA, ADTS, NSF, NTIA REQUESTS SUMMARIZED

Despite a nearly 10 per cent drop in the overall Fiscal Year 1980 U.S. Budget proposed by President Carter in January (from \$588 billion to \$532 billion), the Administration's budget requests in the computer area continue to rise. Nevertheless, concern has been expressed by some professional groups, such as the Council of Scientific Society Presidents, that scientific research budgets are "vulnerable" and that many will not survive Congressional scrutiny.

Specific Requests. The Budget seeks \$48 million for the Information Processing Techniques Office of the Defense Department's Advanced Research Projects Agency, reflecting a \$6.2 million increase over the FY '79 budget request of \$41.8 million. The Automated Data & Telecommunications Service of the General Services Administration is asking for \$8.97 million in FY '80, also representing an increase. \$19.3 million is requested for "Computer Research" by the National Science Foundation, up from FY '79. The Commerce Department's National Bureau of Standards is seeking \$12.09 million in the area of "Computer science & Technology," an increase over FY '79. The Science & Education Administration within

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the Department of Agriculture is asking for \$9.86 million to cover "Technical Information Systems," reflecting an increase over FY '79. In "Information Technology & Policy," Commerce's National Telecommunications & Information Administration has requested \$3.9 million, slightly less than the previous fiscal year.

Executive Branch DP Plans. On January 30th, the Office of Management & Budget (OMB) released estimates compiling Executive Branch plans for major acquisitions of general purpose data processing from FY 1979 through FY 1980. These plans are outlined in the following chart.

**Preliminary OMB Estimates of General Purpose Data Processing Resources  
in the FY 1980 Budget (Dollars in Millions)**

	FY 78	FY 79 (est)	FY 80 (est)
Department of Agriculture	94.3	111.5	118.3
Department of Commerce	107.7	125.8	140.4
Department of Defense	1,936.0	2,278.6	2,602.7
Department of Energy	277.0	306.9	351.6
Department of HEW	430.0	492.2	529.0
Department of HUD	18.8	23.8	29.0
Department of the Interior	52.0	63.1	67.9
Department of Justice	39.9	47.2	50.1
Department of Labor	44.9	56.6	59.5
Department of State	12.4	18.6	21.0
Department of Transportation	69.4	85.5	98.5
Department of the Treasury	520.9	557.8	586.2
Environmental Protection Agency	35.2	38.5	40.9
General Services Administration	60.7	53.5	55.2
National Aeronautics and Space Adm	184.9	202.7	210.2
Veterans Administration	80.5	113.4	174.9
Corps of Engineers	29.1	39.3	40.6
National Science Foundation	14.2	17.4	17.9
Office of Personnel Management	12.5	11.9	12.0
Other Agencies	95.9	123.4	154.2
	<b>4,116.3</b>	<b>4,767.7</b>	<b>5,260.1</b>

Bill L. Hornmedeu

TRANSBORDER DATA FLOWS SUBCOMMITTEE  
DISCUSSES INCLUSION OF MANUAL FILES, LEGAL PERSONS  
IN OECD GUIDELINES

The Subcommittee on Transborder Data Flows of the State Department Advisory Committee on International Investment, Technology & Development met at the State Department on January 29. (The Advisory Committee has recently changed its name from the Advisory Committee on Transnational Enterprises.)

Thomas Pickering, Assistant Secretary of State for Oceans & International Environmental & Scientific Affairs, told the gathering that the State Department would publish internal papers on transborder data flow issues (issues relating to the international transmission of computer data) after the President's Privacy Initiative has been approved and announced. The papers were scheduled to be released by the Government Printing Office in early March. The State Department was also scheduled to convene a one-day seminar on transborder data flows last month.

Ambassador Herbert Salzman, of the U.S. Mission to the Organization for Economic Cooperation and Development (OECD), said that the most important unresolved issues before the OECD Drafting and Expert Groups are the inclusion of manual files, inclusion or exclusion of legal persons (*i.e.*, corporations and certain other legal entities), handling of sensitive data, and establishment of a mechanism for the resolution of disputes.

Coverage of Manual Files. According to William Fishman, of the National Telecommunications and Information Administration (NTIA), the U.S. has taken the position that it is conceptually unsound to distinguish between automatic and manual processing when working to insure privacy protection. In some technical areas (such as microfiche technology), it is impossible to say whether the processing is manual or automatic, since it includes aspects of both. U.S. domestic law does not draw the distinction. Fishman noted that distinguishing between automatic and manual processing would weaken the "moral authority" of the guidelines. Finally, he said that restricting the guidelines to automatic processing would cause governments to retreat to manual files to evade the effect of the guidelines.

Fishman noted, on the other hand, that most European legislation only affects automatic processing. The Europeans also point out that the origin of these privacy concerns comes from computer developments. They also claim that it would be difficult for their data inspection boards to cover the many sensitive uses of manual files.

Inclusion of Legal Persons (Corporations) as Protected Parties. Fishman observed that privacy protection is a civil rights issue in the U.S. and not an issue of corporate regulation. In the U.S. view, limiting protection to natural persons would make the guidelines relate more clearly to privacy issues. The U.S. believes that the OECD is not in any event in a position to broaden the guidelines to include legal persons until it has studied the area.

Fishman conceded that some European laws cover legal persons (with some variation among them). In some cases, "smaller" legal persons would be excluded from coverage. He noted that the draft treaty of the Council of Europe would cover legal persons.

U.S. Sees Privacy Motivations, Not Trade Protection. Fishman emphasized that the U.S. sees the current effort as motivated largely by privacy concerns -- civil rights, democratic concerns. While some nations clearly want to limit foreign data processing from their markets, Fishman said that that interest is not significant in the current OECD effort.

Another Meeting Scheduled; Subcommittee Expanded. The State Department scheduled another meeting of the subcommittee for March 9th to consider the next draft of the guidelines, so public comment can be provided to the U.S. delegation for a March 12th Drafting Group meeting.

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Subcommittee Chairman Hugh Donaghue announced that the subcommittee membership has been expanded by the addition of seven members. In the near future the subcommittee will form subgroups to consider economic, tariff, employment, and other issues in more detail.

-- Alexander D. Roth

### AFIPS IN WASHINGTON

#### AFIPS PANEL FORMING ON PROPOSED NATIONAL COMMISSION ON USE OF COMPUTERS

An AFIPS Panel is being formed to study the implications of a pending proposal for a National Commission the the Use of Computers in Education (see *Washington Report*, 11/78, pp. 5-6), Alexander D. Roth, director of the AFIPS Washington Office, announced last month. Co-chairing the AFIPS Panel are Dr E. Ronald Carruth, director for District Services, Minnesota School Districts, St. Paul; and Prof. A.A.J. Hoffman, Computer Science Program, Texas Christian University, Fort Worth. Individuals interested in serving on the panel should contact Mr. Roth at (703) 243-3000. A bill to establish the commission, introduced at the close of the last Congress (see *Washington Report*, 12/78 p. 4), is expected to be reintroduced this year.

### NEWS BRIEFS

The 1956 Justice Department Consent Decree with AT&T should be modified to permit the telephone company to engage in data communications, according to legislation introduced March 12th by Sen. Ernest F. Hollings (D-S.C.); the bill, amending the *Communications Act of 1934*, will be detailed in next month's *AFIPS Washington Report*.

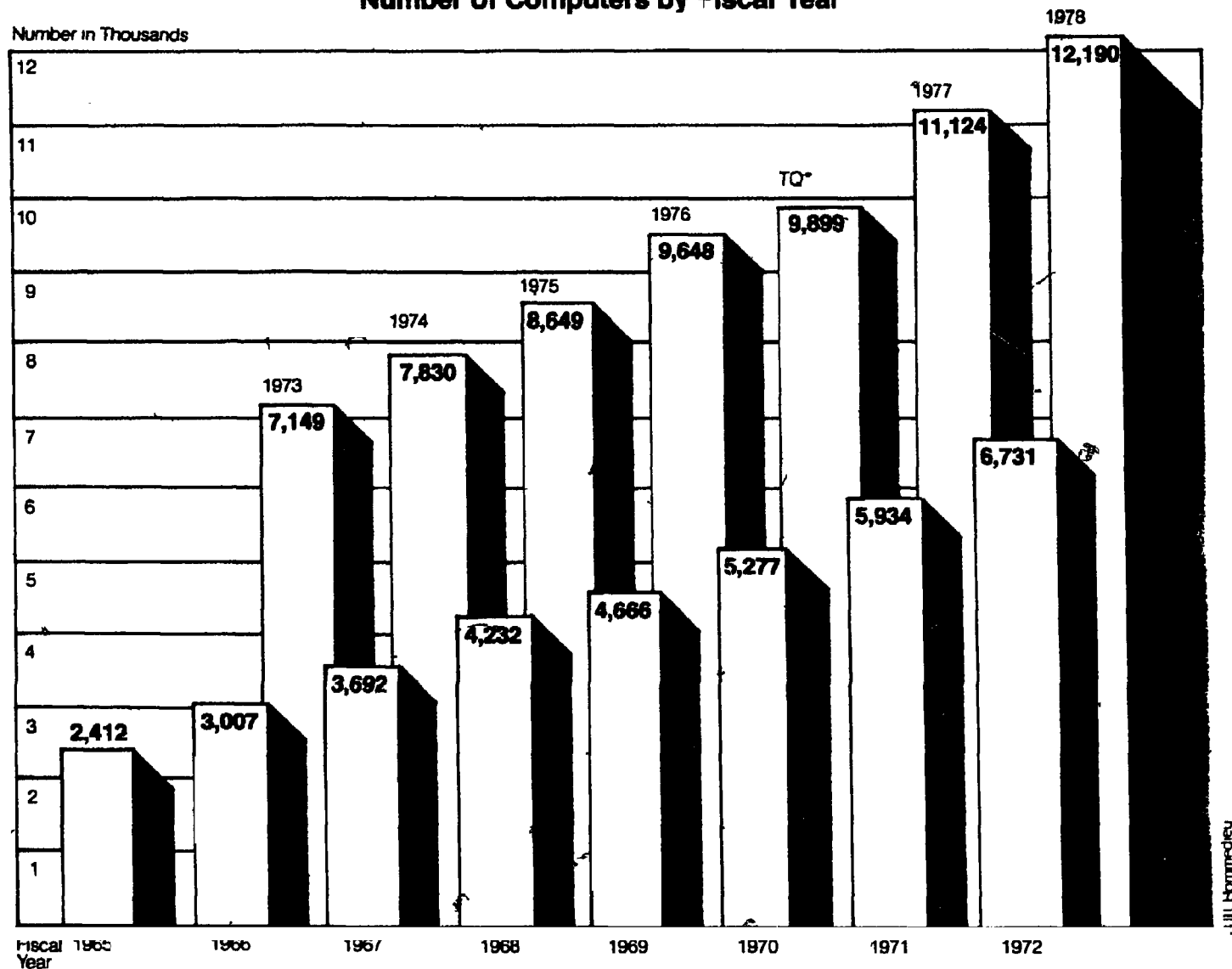
In February, the House joined the Senate in passing *S. 37* (see *Washington Report*, 3/79, p. 3) repealing the notice requirement of the *Right to Financial Privacy Act*; also, in February, Rep. Richardson Preyer (D-N.C.) introduced the *Omnibus Right to Privacy Act of 1979*, H.R. 2465 (#), identical to legislation he introduced in the last Congress with the exception of a title concerning confidentiality of medical records.

In February, Secretary of Commerce Juanita M. Kreps approved adoption of the *I/O Channel Level Interface*, the *Power Control Interface*, and the *Channel Level Operational Specifications for Magnetic Tape* as Federal Information Processing Standards (FIPS); a fourth FIPS, the standard for rotating mass storage subsystems (#) was proposed by the National Bureau of Standards in January (see *Washington Report*, 10/78, p. 1).

"[T]he software development program for ACS [the Advanced Communications Service] will require a significant future effort previously unforeseen," AT&T told the Federal Communications Commission in February, postponing its plans to file ACS tariffs this June as previously announced (see *Washington Report*, 12/78/ p. 6); however, AT&T repeated its request for a declaratory ruling which would permit the Bell System to offer ACS over the telephone company's existing digital facilities.

The number of Federal government computer installations (*i.e.*, including general-purpose computer systems and minicomputers) has risen 9.6 per cent from 11,124 in FY 1977 to 12,190 in FY 1978, as shown in the accompanying chart, according to the General Service Administration's (GSA) *Inventory of Automatic Data Processing Equipment in the United States Government*, released last month by the GSA's Automated Data & Telecommunications Service; total value of Federal computer installations rose from \$4.77 billion in FY 1977 to \$4.89 billion in FY 1978.

Number of Computers by Fiscal Year



TQ Transition Quarter (July 1 1976—September 30 1976)

September 30 1978

In February, the Social Security Administration promulgated new rules (#) to "protect the integrity of the social security number (SSN) by reducing its misuse"; the rules require additional identification for issuing cards with SSNs as well as for issuing duplicates or corrected cards.

In February, the National Association of Trade & Technical Schools filed suit to contest the Federal Trade Commission's (FTC) rules (See Washington Report; 3/79, p. 8) which will give a *pro rata* refund to students who drop out of vocational schools; the association contends the FTC has used outdated information in formulating the rules which become effective next year.

Dr. Leland Johnson, formerly associate administrator for Policy Analysis & Development, National Telecommunications & Information Administration (NTIA), has been named chief economist, NTIA; Date Hatfield, head of the Federal Communications Commission's Office of Plans & Policies, succeeds Dr. Johnson as associate administrator; William Fishman, formerly deputy associate administrator for Policy Analysis & Development, NTIA, has been named director of the NTIA Office of Planning & Policy Coordination.

Rep. Morris K. Udall (D-Ariz.) and newly-elected Sen. Ted Stevens (R-Ala.) succeed Sen. Edward M. Kennedy (D-Mass.) and Rep. Larry Winn, Jr. (R-Kan.), respectively, as chairman and vice-chairman of the Congressional Board of the Office of Technology Assessment (OTA); Dr. Eric H. Willis, a nuclear physicist, has been appointed assistant director of OTA; Dr. Willis also heads OTA's Science, Information & Transportation Division.

In January, the President named three new members of the National Commission on Libraries & Information Science (NCLIS): Francis Keppel, director, Aspen Institute Program in Education for a Changing Society; Bessie B. Moore, executive director, Arkansas State Council of Economic Education; and Philip A. Sprague, consultant, Milton Roy Co.

Steven J. Jost, former Congressional aide, has been named director of the DPMA Washington Office.

"[T]he lack of knowledge about the dimension of the real and potential restraints on transborder data flow" is the "most serious constraint" on U.S. policymaking, according to a Carter Administration report filed with the House International Operations Committee and the Senate Commerce, Science & Transportation Committee, as required by the Foreign Relations Authorization Act of 1979 (see Washington Report, 12/78, p. 2).

"[F]ederal law should allow . . . [electronic funds transfer (EFT)] to develop in an aura of consumer confidence, a pro-EFT mood rather than a negative, anti-environment, a situation which financial institutions might never be able to overcome," according to an American Bar Association (ABA) Subcommittee on EFT; in a report, completed in February, the Subcommittee on EFT of the Law and Computer Committee, ABA Section on Law & Technology, concluded that "at this stage in the development of EFT, most consumers, and even financial institution customers, do not appear to perceive statutory safeguards as a key factor in persuading them to use EFT."

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