COMPUTER SCIENCE & TECHNOLOGY

COMPUTERS, PERSONNEL ADMINISTRATION, AND CITIZEN RIGHTS

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Reports on Computer Science and Technology

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EXECUTIVE SUMMARY

Background

This study of computer use and privacy issues in personnel administration follows an earlier NBS-sponsored study, Computers, Health Records, and Citizen Rights, directed by the same author and published by NBS in December of 1976. The current study was jointly sponsored by the Institute for Computer Sciences and Technology of NBS and the U.S. Privacy Protection Study Commission. It was conducted between 1975 and 1977, with final revisions in 1978.

Objectives

The study's objectives were (1) to examine pre-computer patterns of employer information collection and record-keeping about job applicants, employees, and former employees, and to note the prevailing rules of organizational policy and law that governed the use of such data before computerization began; (2) to examine where and how EDP systems have been used during the past two decades for personnel administration in government, business, and the nonprofit sector; (3) to identify the impact of EDP uses on employee rights of privacy, confidentiality, and individual access; (4) to analyze current policy issues involving use of employee data, especially in automated systems; and (5) to present alternative policy options to the organizational leaders, computer managers, regulatory bodies, legislators, judges, and public interest groups concerned with this field.

Methodology

The study's methodology was a multi-faceted research effort. It included analyses of published literature and reports; interviews with a wide range of organizational managers, specialists in personnel, computer software and systems developers, public-interest and civil liberties groups, regulatory-agency officials, labor union representatives, and others; detailed on-site examinations of three major organizations (the U.S. Civil Service Commission, U.S. Air Force, and Bank of America); and a draft-review conference with representative academic experts, organization managers, technologists, and public interest groups.

PART ONE: EMPLOYMENT AND INDIVIDUAL RIGHTS

The Changing Status of the Employment Relationship

The report opens by outlining the central importance of work in the lives of most adult Americans, ranging from work's direct effects on income and social status to indirect effects such as providing access to health insurance and affecting psychological well-being.

The report describes the changing character and complex mosaic of occupations in contemporary America, and thus the need to recognize the diversity of employment settings and occupational specialties when considering personnel policy and employee rights. As for the legal setting,

the report notes that while American law still gives employers very broad rights to hire, manage, discipline, and discharge employees, a growing body of employee-protection laws over the past half century, and especially the past decade, have set important limits on employer prerogatives. These interventions range from Federal and state statutes guaranteeing employees the right to organize unions, bargain collectively, and have formal grievance procedures under labor contracts to laws protecting equal employment opportunity, occupational safety and health, and employee pension rights. The report also traces a major shift in American employer oversight of employee lives, from the moral-censor and paternalistic role that prevailed from the rise of modern corporate and government employment in the post-Civil War decades through the late 1950s to the new atmosphere of the 1960s and '70s, in which both private and government employers have been led by various social trends to sharply curtail inquiries and judgments based upon matters of religion, race, sex, political ideology, off-the-job life style, and sexual behavior.

Current Employer Practices in Personnel Work

Drawing on several recent surveys into personnel selection and employment record-keeping procedures, the report documents major changes taking place in the current era. These have been generated primarily by equal employment opportunity (EEO) laws and regulations, but other government record-keeping regulations imposed by law have also contributed. These include regulations on occupational safety and health (OSHA), pension rights (ERISA), and new privacy-protection laws (for Federal agencies, in the Privacy Act of 1974; for state agencies, in similar acts passed by 9 states as of 1978 ; and, for private employers, in state laws such as those giving employees a right of access to their personnel files, as four states now do). Summarizing the current situation, the report finds that while most large employers no longer collect as negative data the kinds of religious, racial, political, life-style, and similar personal information once widely used, new developments such as government record-keeping requirements, medical and health-insurance programs, occupational health surveillance monitoring, alcohol and drug rehabilitation programs for employees, use of employee-appraisal systems and other aspects of personnel administration have generated the collection and storage of much sensitive personal data today in employee files. Surveys conducted while the study was in progress show that a substantial number of government and private employers are engaged in reviewing their policies on privacy of personnel data but, except for Federal or state agencies under new privacy acts, only a small minority of employers in the country have installed comprehensive policies governing privacy, confidentiality and employee access rights in their personnel files.

PART TWO: PATTERNS OF COMPUTER USE IN THE PERSONNEL AREA

The report traces the main phases that computer uses have followed
in personnel administration since the middle 1950s, when EDP (electronic
data processing) first moved into organizational affairs. Between 1955
and 1965, EDP was used in personnel primarily to process payroll files
and to produce statistical reports. Between 1966 and 1970, leaders in
the use of EDP in personnel developed more specialized applications (such
as benefits management, manpower planning, personnel profiles, and labor
relations) as well as experiments with integrated personnel data bases.
The period from 1971 until 1978 has seen more sophisticated EDP appli-
cations for government reporting duties and internal personnel adminis-
tration (absentee controls, skills inventories, etc.), as well as de-
velopment of the database-oriented approach generally known as Human
Resources Information Systems. In the current period, companies are
sometimes developing customized personnel data systems themselves, some-
times having these developed for them by software firms specializing in
the personnel field, and sometimes buying "off-the-shelf" packages of
personnel applications.

Analyses of these three phases show that both the mainstream uses
and the leading-edge developments in each period have responded to
factors such as changes in EDP technological capabilities (successive
"generations" of computer systems, the arrival of mini-computers, etc.);
government regulatory duties that create major demands for complex,
individualized informational reporting; and changing organizational needs
and opportunities in the personnel field.

On the whole, automation in the personnel area developed more slowly
and was until recently less extensive than automation in large organi-
zations for customer or client service functions. However, with the
growing potential liabilities and personnel costs generated by Equal
Employment Opportunity programs, employee pension rights laws such as
ERISA, occupational health and safety programs such as OSHA, and handi-
capped-worker protection programs, the personnel function has grown much
more important within organizations, personnel budgets are up, and per-
sonnel EDP systems are experiencing a major growth.

Just how cost-effective the new personnel data systems are to
organizations and what the real effects of these systems are on the
nature and techniques of personnel administration are issues that this
report found have not been systematically analyzed or empirically studied
as yet. Basically, the report found that EDP in personnel has become so
critical in meeting government reporting duties and trying to control
heavy employee benefits costs (as in health programs) that pure cost-
benefit considerations have not been controlling.

As for privacy considerations in personnel EDP operations, these
surfaced for the first time lightly during the 1965-70 period, then
became part of the general social debate over record-keeping and citizen
rights in the 1970s. While many software firms and organizational EDP
specialists stress the privacy-protection measures that their systems

supply, privacy considerations were not found by the study to have had a significant impact as yet on the <u>design</u> or <u>general formats</u> of personnel data systems. (More specific privacy effects are treated in Part Four.)

PART THREE: COMPUTERIZING ORGANIZATIONS IN PRACTICE

To examine concretely how organizational policies, computerization efforts, and socio-legal trends have affected citizen rights in the personnel area, the report presents detailed studies of three organizations, as well as shorter sketches of other representative business, governmental, and non-profit organizations.

A.   The U.S. Civil Service Commission, the chief personnel agency of the Federal Government, has been struggling for over a decade to standardize and automate a central personnel file of federal employees to improve the operations of Federal personnel administration. However, because of the Commission's limited powers over Federal personnel decisions and its essentially shared authority in personnel management with the individual agencies and departments (which have their own automated files, often quite extensive and sophisticated), the Commission's Federal Personnel Management Information System project (FPMIS) has been recast from its ambitious, central-data-base design of the late 1960s into a more modest, gradual, and modular set of plans, to be developed through tests of data standardization and exchange with several Federal agencies during 1977-1980 and then, hopefully, implemented gradually in the Federal establishment during 1980-1983. Otherwise, the Commission now has only limited automated files containing personal data on Federal employees, with most of the sensitive information either still in manual files or only partially automated.

In terms of citizen rights issues, the Commission has been deeply involved in reshaping its part in the application, investigation, and appeals processes of Federal employment from the social consensus and legal rules about employee loyalty and suitability and concepts of fair procedure that prevailed in the 1950s and early 1960s to the new social and legal climate of the Seventies. In addition to its own notions of good practice, the Commission has been strongly affected by three forces: protests by minority, union, and civil liberties groups that it liberalize what is acceptable personal, social and political conduct on the part of Federal employees; Federal court rulings applying expanded constitutional rights of privacy and due process to Commission rules and procedures; and new rules set by the Federal Privacy Act of 1974 and the Freedom of Information Act Amendments of 1974.

The primary effects of the Privacy Act on the Commission have been to expand applicant and employee access to their own files, especially suitability investigation records, and also to set First Amendment limitations on what files can be maintained by the Commission, what areas of personal and political affairs can be investigated, and what information is used by the Commission or passed on to individual agencies to make suitability determinations. The study found that considerable changes have taken place since 1974 in the questions asked by the

Commission on Federal application forms, the way suitability inquiries are conducted, the way existing files are examined for First Amendment limitations before information is supplied from them, and how personnel information is released to third parties. Overall, the Commission itself believes that the requirements of the Privacy Act have not significantly impaired the suitability investigation process, have not placed unreasonable costs on the Commission, and have had important positive effects on the morale and satisfaction of Federal employees. Looking at the use of the Privacy Act by Federal employees to obtain access to their own records and bring court suits if they feel the Commission has violated Privacy Act standards, the report concludes that Federal employees enjoy more effective rights of fair information practice today than most state or local government employees or most employees of private organizations.

B. The U.S. Air Force was selected for investigation because it is the most advanced military user of EDP for personnel administration; it also offers an opportunity to examine the effects of the Federal Privacy Act on a military service. The study found that advanced automation was adopted by the Air Force to facilitate its top-level policy decision to achieve greater centralization of personnel administration. In terms of EDP impact, the centralized data base, over 200 field terminals, and over 25 personnel subsystems that have been created were found to be having more effect on personnel decisions and the ways that Air Force personnel perceived them than we could observe in most other government organizations with advanced computer systems in the personnel field.

Among the personnel processes strongly affected by EDP were job-matching in recruitment, assignment decisions, promotions, discharge and separation processing, and record reviews and appeals. For example, several personnel subsystems gave Air Force people printouts of their own records for review, correction and/or appeal before key decisions were made in reliance on such records, producing a procedure that was more open and visible than previously, and increasing personnel morale. However, factors such as limited promotion opportunities and limited desirable job assignments still mean that some decisions will be made more or less arbitrarily, or on the basis of criteria that do not always seem relevant or reasonable to persons passed over. Thus the automated systems do not (and probably cannot be expected to) transcend the structural problems of personnel administration in a military-service environment, or the "whole person" approach that considers as relevant for personnel judgments many aspects of personal life that are no longer considered in civilian employment.

Overall, the Air Force's computerized personnel system seems to be producing more complete and up-to-date records on its people, "richer" management reports, faster personnel actions relying on record preparation, better monitoring of how informational items are actually being used, and more effective compliance with Privacy Act requirements to log disclosures from files and assure service-wide correction of personnel records.

As for Air Force experience with the Federal Privacy Act, there has been little change in terms of individual access (since this was permitted previously under DOD regulations), in the definitions of "relevant" data, or in the patterns of data-sharing and release within the Federal establishment. There has been some tightening up of procedures for releasing personal data outside the Federal Government, and some more careful destruction of discarded records. Overall, we found dutiful acceptance but little genuine enthusiasm for the Federal Privacy Act among Air Force officials. This was not only a matter of the substantial costs and effort involved but also because few real benefits to Air Force personnel were believed by officials we interviewed to arise from the Act's requirements.

C. The Bank of America represents a large employer (65,000 employees) with many employment locations (1200 branches and offices in California and worldwide) which has been an advanced user of EDP systems for customer services and personnel administration as well as a pioneer in creating new employee privacy policies.

In terms of computerization, the Bank developed a Personnel Data System between 1969-71 that automated basic employee data collection and update and set up an expanded Career Profile for about a fourth of its employees, basically its management personnel. In 1974, the Bank installed a Personnel Information Center, with local files but administered by a central department; this expanded the Bank's capacities to do complex and timely reporting of employee data for both external and internal purposes. A Skills Inventory subsystem was developed which is used extensively for promotion and assignment decisions. The main positive effects of EDP for personnel functions have been the ease and speed of updating employee files and in the use of the Skills Inventory for candidate searches in management. The Bank is still expanding its EDP personnel applications, in areas such as medical claims and unemployment claims payments and its pension system.

As for its employee privacy policies, the initiative for innovation here did not come from employee demands, or from any union pressures (since the Bank is entirely nonunionized), or from any enacted state or Federal legislation. Rather, the changes were management-initiated, reflecting a leadership style that seeks to anticipate changing social values and innovate desirable policy changes ahead of regulatory measures. Beginning in 1968 with the decision to open most personnel records to inspection by the employee, the Bank has steadily pursued new privacy-oriented policies during the past decade: cutting back substantially on irrelevant personal information in its employment application forms; limiting its rules for outside conduct and liberalizing its dress code; strengthening rules of confidentiality for circulation of personnel data within the Bank; curtailing releases to outside sources; and enlarging the scope of employee access to his or her own file. Extensive Bank-wide reviews of policies and practices were made throughout the 1970s, and are still going on today. Bank officials note that the filing of broad Federal and state bills that would set detailed privacy rules for the private sector strengthened the Bank's decision to spend substantial time and money to make its own major privacy-policy changes. This was

not only to keep the Bank ahead on desirable privacy-policy changes but
also to test out how costly in efficiency and dollars various proposed
laws would be for the Bank, and thus to enable the Bank to take better
informed legislative positions on the proposed laws.

In terms of both EDP uses for corporate personnel administration
and voluntary privacy policies, the Bank of America ranks as a front-
runner with a handful of other major corporations. That its innovations
have proved feasible in cost, efficient for personnel management, and
valuable for the Bank's public image provide a powerful example of the
consistency of citizen rights policies with effective corporate personnel
management.

Beyond these three organizations studied in detail, the report pre-
sents sketches of five additional business firms in diverse industries
-- J. C. Penney, Rockwell International, Manufacturers Hanover Bank,
Cummins Engine, and IBM. While there are significant variations in the
substance of their employee privacy policies, the five firms exemplify
companies that have undertaken extensive management privacy reviews,
initiated new policies of employee access and confidentiality of data
handling, and are continuing to reshape their personnel data systems in
response to these issues.

The report also presents an analysis of EDP uses and privacy poli-
cies in 37 state governments surveyed by the project, with a detailed
description of one state personnel system advanced on both fronts, the
California Personnel Information Management System. Turning to county
and city governments, these were found by the study, on the whole, to
have less well formulated privacy policies for their personnel systems
than either Federal or state governments. A project survey of non-
profit organizations found these to have the least developed policies
of all the types of organizations studied.

PART FOUR: THE INTERPLAY OF TECHNOLOGY AND POLICY

Effects of Personnel Data Systems on Individual Rights

The report looked at the overall effects of using EDP in personnel
administration on four key dimensions of employee rights. As for the
scope of data collection, we found that automated files generally se-
lected items from more extensive manual personnel files and were not
therefore increasing the kinds or amounts of personal information col-
lected about employees. The one exception is in those personnel data
systems that have developed elaborate Skills Inventories or Career
Profiles for their management ranks. As for employee access, there has
been a general trend toward giving employees a periodic printout of
their automated record, primarily to insure accuracy and obtain updated
information. However, it remains a matter of organization or legal policy
rather than technological imperative whether any specific item of man-
agement evaluation is excluded from such employee review in automated
files. As for protecting the confidentiality of data within the

organization, EDP systems can accommodate whatever rules organizations have about sharing or compartmentalizing employee data within the organization (e.g., medical records, pension beneficiaries, etc.). When it comes to releasing employee data to third parties, EDP has had far less impact than the legal rules governing regulatory program reporting duties to government, public-record access under freedom of information laws, new organizational privacy policies, and similar factors. However, the availability of automated employee files has stimulated some government demands for matching corporate and government-agency job rosters against files of persons on welfare or in other government benefit programs, to detect fraud. Since this matching would not have been feasible with manual files, this trend has drawn criticism from some sectors on the ground that it compromises the assumptions of confidentiality under which the employment data were originally collected, and threatens the willingness of employees to give detailed personal data voluntarily.

In terms of EDP effects on personnel administration itself, the study found that the pre-employment or hiring process has been only marginally affected by EDP. It is essentially the record-keeping and decision-making on current employees on which EDP has had some discernible effects, primarily on assignments, promotions, benefits administration, regulatory reporting, labor negotiations, and manpower planning. The impact of EDP on discharge or third-party release of employee data has been slight (with the exception of welfare-employment file matching already noted). Overall, compared to EDP effects on customer services or program management in fields such as banking, credit-reporting, or law enforcement, EDP impact on the quality of personnel administration in organizations was found still to be weak, essentially because of the weak linkage that exists between recordable indicators or predictors and actual job success, as well as the gap that exists between professed "merit" objectives in personnel administration and the structural and political realities of personnel decision-making in all kinds of organizations. This suggests that EDP in personnel may be cost-justifiable in terms of meeting reporting and legal duties and improving certain kinds of personnel decisions but that EDP is not likely to have in the near future the kind of major effect on the quality or character of personnel work that some EDP enthusiasts have believed it could and will have.

Impact of the Federal Privacy Act on Federal Personnel Practices

The study also made an assessment of the impact that the Federal Privacy Act of 1974 has had on employee citizen rights interests and Federal personnel administration since the Act went into effect in September of 1975. Our observations were based on responses to a project survey of 64 Federal bureaus and agencies; reports about Privacy Act experience by the Office of Management and Budget (OMB); interviews with union, minority rights, civil liberties, and similar groups; the

report of the Privacy Protection Study Commission in 1977; and our on-site visits to two Federal agencies.

We concluded that Federal employees have been the most active class of users of the access rights provided by the Act and its guarantees have strengthened both their rights to inspect and correct Federal personnel records, especially investigatory files and medical records. Overall, employee satisfaction with their privacy rights has been increased somewhat; the amount and frankness of adverse information supplied in suitability investigations has declined somewhat but not to the point that it has materially impaired investigations; and there has been a useful purging of biased or inappropriate information from files in some agencies but not yet in others, for reasons of cost and time.

We noted that automated personnel systems in some Federal agencies have made it easier, as with the Air Force's Privacy Act Tracking System, to keep an accounting of non-routine uses of information from individual personnel records, and to make this rapidly available to employees who ask to know about such uses.

The report summed up experience with the Privacy Act in these words:

"Given the fact that the Act was a pioneering first venture in defining principles of fair information practice for the entire Federal establishment, and has been in operation for only three years, experience to date seems to us to represent a promising start. If not quite enough to justify cheers of final victory over the dark forces of Big Brother, neither is the record a sound basis for despair over the ability to have the Federal Government operate in conformity with the Bill of Rights. As employees claim their rights under the Act, guardian-groups support them where necessary, the Federal courts apply Privacy Act standards to disputed matters, and Congress has the opportunity to consider and enact perfecting amendments. The Federal Privacy Act should develop into a highly effective set of principles and procedures for assuring adherence to basic citizen rights in the conduct of Federal personnel affairs."

PART FIVE: POLICY PERSPECTIVES

Attitudes of Employees and Executives Toward Job Privacy Issues

As an aid to the consideration of policy measures, and on the assumption that what people think are significant problems is a relevant inquiry for policy makers in a democratic society, the project director conducted a pilot survey of employee and executive attitudes toward workplace privacy issues. Though not a scientific national survey, the nationally-distributed sample of 240 respondents was roughly equivalent to the American work force in key features such as sex, occupation, type of organizational employer, union membership, etc. The responses were also consistent with recent professional surveys of national opinion on general privacy matters.

The main findings of the pilot survey were as follows:

1. Half of these workers and executives consider the personal records kept by their employers to be "very important" in terms of privacy, and almost 60% regard a general right to see their personnel records as _very_ important.

2. Almost a third of these workers don't know whether they could see their personnel records or not, or whether they could see their performance appraisal.

3. Almost a quarter of these people feel their employer's current policies on confidentiality or employee access are poor or could be improved; over a third feel their employer does _not_ generally hire, promote, or fire people "in a fair way."

4. By overwhelming majorities, these respondents favor enacting laws to give employees a right of access to their personnel records and to written "promotability" ratings, and a right to notification before their personal information is given up in answer to subpoena.

5. Majorities favor passage of laws to _forbid_ employers to require polygraph tests for job applicants, inquire about arrest records that have not led to convictions, and inquire about a job applicant's homosexuality.

6. Almost half the respondents are more worried about the confidentiality of employee records because these are computerized.

7. Though they favor the creation of employee privacy rights, almost two-thirds of the respondents are _opposed_ to establishing a government supervisory agency to enforce such privacy rights against their employers.

Policy Analysis and Recommendations

The report opens its policy analysis with the judgment that measures do need to be taken to assure that citizen rights are effectively provided in the use of personal data in the employment process. While this is true for both manual and automated record systems, it is especially important where automated data systems contain substantial amounts of sensitive information that are capable of rapid access and extensive dissemination.

Drawing on public discussions, organizational policies, and legal enactments during the past decade, the report identifies six principles that have been widely accepted as goals for organizations that collect and use personal information. These principles are then analyzed in terms of how they apply in the employment context, and what the empirical results of the study suggest might be their application to employers in the governmental, business, and non-profit settings.

The six principles are:

1. Decisions about an individual's rights, benefits, and opportunities in society should not be made by organizations on the basis of secret files, or of record-based procedures about which individuals are not informed.

2. Only information relevant to the organization's legitimate purposes should be collected and stored, and the definition of relevance must respect both guarantees of privacy and legislative prohibitions against making improper racial, sexual, cultural, and similar discriminatory decisions.

3. Managers of a data system should take reasonable steps to insure that the records they keep are accurate, timely, and complete, as measured by the kinds of uses made of the data and the social impact of their use.

4. Detailed rules of confidentiality should govern who within the organization maintaining the data system has access to a record, and this should be based on a need-to-know principle.

5. Disclosure of personal data outside the organization that collected it should be made only with the informed and voluntary consent of the individual, obtained at the time of collection or by subsequent query, or under a constitutionally-valid legal order.

6. An individual should have a right to see his or her record, and have an effective procedure for contesting the accuracy, timeliness, and pertinency of the information in it. There may be some exceptions to this right of inspection, as in the interests of protecting confidential law enforcement sources, but these should be rare.

Assuming that these are sound principles that ought to be applied in personnel administration (and are already in operation in Federal employment), the report notes that there are three main positions today as to what, if anything, needs to be done about such issues in the private sector and in state and local government.

The first position, that nothing is required, assumes that employee privacy is not really a pressing issue in these organizations, that these employers are already under enough legal controls to protect various employee rights, and that organizational managers should be left alone to improve records administration as they think best in their own enterprises.

The second position is that private employers and state and local government agencies should be encouraged to take voluntary action. The assumption here is that employment and occupational settings are so diverse, the difficulties of enforcing employee privacy rights would be so great, and government regulatory programs would be so costly and cumbersome that legal regulation should be rejected. The best approach

today is to encourage employers to follow the examples of those leading corporations and innovative state and local governments that have voluntarily instituted new privacy policies. If not enough employers do this in the next few years, it would be time enough then to consider legal interventions.

The third position is that <u>some legislation is needed to insure momentum and distribute costs.</u> This view holds that some kind of statutory definition of rights and some kinds of employee-centered remedies, whether by state or Federal law, are necessary to bring more than the small minority of progressive corporate managements and state and local governments into compliance with fair employee information practice principles. Otherwise, the pace of reform will be excessively slow, policies inadequate, and the employers that voluntarily adopt such policies may be put at a cost disadvantage compared to organizations that choose to ignore this matter.

The report of the Privacy Protection Study Commission, issued in July of 1977, adopted essentially the second position above, with a few recommendations for legal intervention in special areas, such as use of polygraphs by employers and strengthening of the Fair Credit Reporting Act's provisions dealing with pre-employment investigations. The Commission's 34 specific recommendations in the employment field (most of these calling for voluntary employer action) are summarized in our report, as well as reproduced in full in Appendix One.

While recognizing the care and thoughtfulness with which the Privacy Commission reached its conclusions, our report adopts the third position as the one that seems best suited to continuing progress toward general observance of fair employee information practices. It calls for enactment of "first-stage" legislation that would cover maintenance of personnel information (especially rights of employee access and limitation on the collection of irrelevant private data) and release of employee data to outsiders. State legislation covering private and public employers is recommended as the ideal instrument, with the Michigan Employee Right to Know Act of 1978 as a good example of what might be generally adopted. That Act gives employees of private and public agencies in Michigan not only a right to inspect and copy their personnel records but also a right to put their version of disputed items into the file and have this disseminated to anyone who gets the personnel record. The Act creates eight exceptions to employee access that were felt to protect legitimate confidentiality interests of other employees, references, and managements. The Act forbids collecting and keeping information about any employee's political activities, associations, publications, or communications in matters of "non-employment activities" unless the employee gives written authorization for their recording. Special procedures are set for notification about and access to security investigation reports. Enforcement of the Act is by the employee through suit in state court, with penalties of actual damages, $200 in penalty, court costs, and attorney's fees. No state agency is designated to oversee or enforce the Act.

While some states may prefer the briefer, more declaratory approach taken in three other states (California, Oregon, and Maine), the report predicts that many more states in the next few years, especially sister industrial states, will adopt the Michigan law, and that this would provide the momentum for adoption of new privacy policies by almost any employer operating on a nationwide basis. It would also help produce the development of Model Legislation, so that requirements for interstate employers would be as uniform as possible.

As for possible Federal legislation, the report notes that the Carter Administration's response to the Privacy Commission's recommendations had not been issued when this report was completed. However, if there were to be Federal legislation, the report suggests that employee access rights and third-party disclosure rules for companies doing business in interstate commerce represent the kind of Federal law that would be most suitable.

The report also observes that software and systems consultants involved in marketing Human Resources Information Systems and pre-packaged personnel data modules could be a significant force for enhancing citizen rights in personnel EDP systems in the next decade. This is because they have built up considerable experience with the kinds of privacy and confidentiality problems that arise in personnel work, the costs of various kinds of privacy measures, and the ways to install such protections with the least possible disruption to ongoing personnel affairs.

In its closing section the report states:

"This report has ranged widely across the landscape of American employment. It has documented the increased recording by employers of personal employee data - for reporting duties in equal employment, pension rights, handicapped opportunities, and occupational safety and health; for current programs in human resource utilization and employee fair-hearing procedures; and for very wide-ranging employee benefit and education programs. Employers have not always sought to collect such data, but they now have it in their files, and increasingly, it is going into automated data systems. More and more, employees have been shown to be concerned about the uses of their data, not so much because they hate or fear the employer but because of our era's general awareness that sensitive personal information needs to be safeguarded from potential abuse.

"In this situation, it is not employer motives or good intentions that matter but the implementation of sound principles and practices of fair information handling. Employers who do this have much to gain and little to lose in their personnel relations, as the examples of IBM, Bank of America, Ford and many other progressive companies indicate, as well as that of innovative state and local civil service systems.

"The key issue is probably one of convincing employers that this is a genuine issue, and one that can be dealt with in a progressive way. Creating such an awareness in managements, by advocacy, publicity, and

the kind of first-stage legislation recommended here, is a major task of all those who wish to see personnel data systems function, not only efficiently but also with fairness to employees and responsivenes to social concerns about privacy in a high-technology age. Pursuing such an objective is a major way in which societies with regard for individual rights can shape the future uses of computer technology by powerful organizations, rather than to allow machine and bureaucratic efficiencies to misshape organizational life along non-democratic pathways. Much is at stake for the quality of life in our electronic civilization."

The report also contains a 52-page Selected Bibliography, two Appendices, and an Acknowledgements section mentioning persons who gave valuable aid to the project.