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w/let to privacy

 Mary L. Smith
05/12/98 07:09:46 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP
cc: Laura Emmett/WHO/EOP, Thomas L. Freedman/OPD/EOP
Subject: Draft Privacy Executive Memorandum



Below is a draft privacy executive memo that the VP plans on announcing on Thursday. The memo basically directs the agencies to do what they are already supposed to be doing pursuant to the Privacy Act. More specifically, the memo (1) establishes a policy on privacy throughout the federal government; (2) has agencies review their use of the Privacy Act procedures, particularly the "routine use" exemption which allows the information to be disseminated; and (3) provides for OMB to do a report on privacy within the federal government.
----- Forwarded by Mary L. Smith/OPD/EOP on 05/12/98 06:31 PM -----

 Thomas L. Freedman
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Record Type: Record

To: Mary L. Smith/OPD/EOP
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Subject: Draft Privacy Executive Memorandum

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 **Thomas A. Kalil**
05/12/98 02:35:05 PM 

Record Type: Record

To: Thomas L. Freedman/OPD/EOP, Mickey Ibarra/WHO/EOP, Phillip Caplan/WHO/EOP, John Podesta/WHO/EOP
cc:
Subject: Draft Privacy Executive Memorandum

This still has to be circulated to the agencies -- but since we are trying to get this signed tomorrow - I thought people should take a look at it today.

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND
AGENCIES

SUBJECT: Privacy

Privacy is a cherished American value, closely linked to our concepts of personal freedom and well-being. At the same time, fundamental principles like the First Amendment, perhaps the most important hallmark of American democracy, protect the free flow of information in our society.

The government's collection of appropriate information about its activities and about the activities of its citizens is necessary to allow it to carry out its diverse missions mandated by the Constitution. Long mindful of the potential for misuse of Federal records on individuals, the United States has adopted a comprehensive approach to limiting the government's collection, use and disclosure of personal information. Among the protections afforded information is the Privacy Act of 1974 and the *Principles for Providing and Using Personal Information*, published in 1995.

Increased computerization of Federal records permits this data to be used and analyzed in new ways that could diminish individual privacy in the absence of data protection safeguards. As development and implementation of new information technologies creates new possibilities for the management of personal information, it is appropriate to reexamine the Federal Government's contribution to accommodating the interests of a democratic society in the free flow of information and personal privacy.

Accordingly, I hereby direct executive agency heads, as follows:

Section 1. Policy.

It shall be the policy of the executive branch that agencies shall:

(a) ensure that new information technologies enhance, and do not erode, the protections of the Privacy Act of 1974, the Computer Matching and Privacy Protection Act of 1988, the Paperwork Reduction Act, and all other statutes relating to agency use, collection and disclosure of personal information;

(1) As used in this order, "agency" and "agencies" shall be defined in accordance with the definition set forth in 5 U.S.C. 552(f);

(b) assure that personal information contained in Privacy Act systems of records be handled in full compliance with fair information practices as set out in Section (e) of the Privacy Act of 1974;

(c) assure that all personally identifiable information not covered by the

Privacy Act be handled in a manner consistent with the *Principles for Providing and Using Personal Information* (Privacy Principles) to the extent permitted by law;

(d) evaluate new legislation and legislative proposals involving collection, use and disclosure of personal information by the Federal government for consistency with the Privacy Act of 1974.

(e) evaluate new legislation and legislative proposals involving the collection, use and disclosure of personal information by any entity, public or private, for consistency with the Privacy Principles.

Section 2. Responsibilities of Agency Heads.

All agency heads shall:

(a) within 30 days, designate a senior official within the agency to assume primary responsibility for privacy policy;

(b) within one year of the date of this directive, conduct a thorough review of its Privacy Act systems of records in accordance with instructions to be issued.

Agencies shall, in particular:

(1) review systems of records notices for accuracy and completeness, paying special attention to changes in technology, function, and organization that may have made the notices out-of-date, including its routine use disclosures under 5 U.S.C. 552a(b)(3) to ensure they continue to be necessary and compatible with the purpose for which the information was collected;

(2) identify any systems of records that may not have been described in a published notice, paying special attention to Internet and other electronic communications activities that may involve the collection, use or disclosure of personal information;

(c) where appropriate, promptly publish notice in the *Federal Register* to add or amend any systems of records, in accordance with the procedures in OMB Circular A-130, Appendix I;

(d) conduct a review of agency practices regarding collection or disclosure of personal information between the agency and State, local, and tribal governments in accordance with instructions to be issued by OMB;

(e) within one year of the date of this directive report to the Office of Management

and Budget on the results of the foregoing reviews in accordance with instructions to be issued by OMB.

Section 3. Responsibilities of the Office of Management and Budget.

The Director of the Office of Management and Budget shall:

- (a) within <X days>, issue instructions to heads of agencies on conducting and reporting on the reviews required by Section 2;
- (b) after considering the agency reports required by Section 2 of this directive, issue a summary of the results of the agency reports;
- (c) issue guidance on agency disclosure of personal information via the routine use exception to the Privacy Act (5 U.S.C. 552a(b)(3)), including sharing of data by agencies with State, local and tribal governments.

Section 4. Judicial Review.

This Executive order is intended only to improve the internal management of the executive branch and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, or instrumentalities, its officer or employees, or any other person.

William J. Clinton

THE WHITE HOUSE
May 14, 1998