

Epilogue

This report has called for a national policy to guide the way public and private organizations make, use, and disclose records about individuals. It looks toward a national policy on personal-data record keeping that minimizes intrusiveness, maximizes fairness, and defines obligations with respect to the uses and disclosures that will be made of recorded information about an individual. It does not address many privacy protection problems that have been the focus of legal controversy during the last decade. It is not concerned with wiretapping, abortion, or the advertising and sale of contraceptives. Nor does it specifically address misleading publication and defamation, actions that form the heart of the torts of privacy and libel. While the constitutional questions raised by specific court cases helped to direct the Commission's inquiry, the study and deliberations culminating in this report had a broader context.

The Commission has not been concerned simply with limiting *government* actions that impinge on personal privacy. Recognizing that private institutions have also become big enough and powerful enough to diminish personal privacy, many of the problems the Commission has addressed stem from actions of private organizations. Throughout the report, the Commission has tried to fashion a structure within which privacy protection problems of a nongovernmental nature can be considered and balances between the interests of the individual and the needs of social and economic organizations can be achieved. Although the framework the Commission offers provides for continuing attention to privacy issues from a broad public-policy perspective, it relies at its base on strengthening the social relationships between individuals and record-keeping organizations by articulating enforceable rights and responsibilities. This reliance grows from the realization that the intrusiveness, unfairness, and unrestricted disclosure characteristic of so much organizational record keeping today is largely the result of weaknesses in the relationship between the individual and those who need to know intimate details of his life.

The Commission recognizes the delicate nature of the balance of interests it has sought to achieve. It is aware that information is emerging as a basic currency of social, political, and economic relationships in American society. Thus, as information continues to become more valuable, public and private organizations may increasingly argue that the impact of allowing individuals to participate in deciding what organizations do with personal information are greater than society can bear. Rather than expecting organizations to justify their activities, the individual may have to bear the burden of justifying any restrictions on the collection, use, or disclosure of the information they keep about him.

The Commission's studies made it quite clear that developments in computer and telecommunications technology provide both the means and the impetus for the creation of information services that challenge assumptions implicit in existing law and regulation. In many of the chapters of this report, there is evidence that the lines that historically have separated record-keeping relationships can be blurred—easily, rapidly, and unobtrusively. The advent of compliance monitoring in public assistance programs and the merging of that function with more traditional law enforcement roles is one example. The expansion of the employee-employer relationship to include insurance and medical-care relationships is another. As the lines demarcating the record-keeping relationships individuals have with organizations blur, new balances between the individual's interest and the organization's must be forged.

To understand the focus and direction of the Commission's work, one must appreciate the moment in time at which this report is written. Portions of the area of public-policy concern labeled "privacy" have been charted; fundamental questions, such as the individual's relationship with government, have been recast. The Commission took this earlier work into account in framing its recommendations, but believes it has also presented a structure within which protections for personal privacy can be greatly strengthened.

Nonetheless, the Commission's resolution of particular issues should not be taken as answers for all time. Though the structure proposed for resolving problems is designed to survive, changes in technology and social organization may by-pass particular solutions recommended in this report. As long as America believes, as more than a matter of rhetoric, in the worth of the individual citizen, it must constantly reaffirm and reinforce its protections for the privacy, and ultimately the autonomy, of the individual.