

headed by Martin Abrams, privacy-policy coordinator for TRW, which owns both a major national credit bureau and a major defense contractor that will be competing for intelligent-highway contract work.

At a meeting as part of the Transportation Research Board's annual conference in Washington Jan. 27, the task group issued a final draft of its privacy principles. They provide easier access to personal information in ITS for commercial use than for law enforcement use.

"The information may have value in both ITS and non-ITS applications," the principles say. . . . "Absent consent, government authority, or appropriate legal process, information identifying individuals will not be disclosed to law enforcement." However, the task group declined to adopt the customary privacy principle that personal information used for one purpose ought not be used for a different purpose without the further consent of the individual. Instead, it said, "Other unrelated uses of ITS information with personal identifiers may be permissible if individuals receive effective disclosure and have a user friendly means of opting out."

The text of the principles is available from Craig Roberts, ITS America, 400 Virginia Ave. N.W., Ste. 800, Washington, D.C. 20024-2730, 202/484-2895, e-mail crober00@reach.com.

ON-LINE EMPLOYEE CHECKPOINT? By Simson Garfinkel

The Clinton Administration is backing a proposal from the U.S. Commission on Immigration Reform to build a computerized registry with the name of every U.S. citizen and legal immigrant eligible to work in the U. S.

The purpose of the registry, the commission says, is to remove the discrimination and other excesses that have resulted from the 1986 Immigration Reform and Control Act, which mandated sanctions against employers who hire illegal aliens. Under the 1986 law, employers are required to ask employees after they are hired for identification that proves their right-to-work.

Currently, 29 different forms of identification are acceptable, and this has created a large

underground market for forged identification. The law has become a pretext for discrimination on the part of some companies, studies have found: Caucasians are frequently not asked for their ID documents, while valid documents presented by Latino and Asian Americans are sometimes rejected.

The commission's plan is to do away with these problems entirely, by creating a national registry keyed on Social Security numbers.

Details are shaky. One possibility envisioned by the commission is a toll-free number that would put employers into a verification computer set up by the Social Security Administration and the Immigration and Naturalization Service. On your first day at a new job, your boss would call the number, then enter your Social Security number. To cut down on fraud, your boss would then hand the phone to you, so that you could dial your mother's maiden name as a "PIN number." As with a credit card authorization, your boss would get an authorization code, or a rejection. By requiring employers to report the authorization codes along with Social Security numbers on monthly or quarterly tax returns, the government could monitor that the system was being uniformly used.

"An employer could make one telephone call and know immediately if the person just hired is eligible to work in the United States," says Cassie Boothe, a spokesperson for the Immigration and Naturalization Service.

Nobody is sure whether a national system would work. There are, after all, 50 million people who get new jobs every year in the U.S. So the administration wants a series of trials in the five states with the highest levels of illegal immigration: California, Texas, Florida, New York, and Illinois.

"The pilots could begin this calendar year," says Phil Gambino, a press officer with the Social Security Administration. Employers might access the registry by telephone, computer, or by sending computer tapes to a special processing office.

Numerous groups have attacked the proposal, including the American Civil Liberties Union and the National Council of La Raza, a Latino advocacy group. One point of at-

tack is the INS registry itself: last year, the ACLU filed suit against INS for "losing" 60,000 immigration applications. "As many as 650,000 files have serious errors in them," says Cecilia Munoz, a policy analyst with La Raza in Washington.

Another fear is that the registry might be used as a new tool for discrimination against legal aliens who simply don't have the right to work in this country, such as students. "What is to prevent an employer who owns a grocery store from using the system to screen out his customers?" asks Munoz.

Others fear that the registry would lead to a national identification card. That's because, without a national system for positive identification, the registry would simply replace today's underground market for identification cards with an underground market for Social Security numbers and mother's maiden names. For this reason, House Majority Leader Dick Arme, R-Tex. opposed the plan last year, shortly after the defeat of the Clinton Administration's national health plan.

"A computerized registry system will lead inexorably to a government-issued national identification card," said Arme. "Whether to administer government health care or stop immigration, a national ID card is a radical expansion of government power. All who oppose Big Government should oppose this very dangerous idea."

Other conservative groups are lining up to oppose the plan as well, including the Cato Institute, a Washington think-tank.

GOVERNMENT AT ITS BEST

Confidential plans to impose a national identity card on citizens of the United Kingdom were discovered last month in a government-surplus file cabinet bought for about \$55 in a junk shop.

The cabinet contained a confidential memo to Prime Minister John Major along with the proposed design of the smart card and a 17-page report describing implementation by the year 2000.

The leaked papers showed that the Home Secretary is eager to introduce a compulsory ID card despite a Gallup Poll released Jan. 16

showing widespread public worry about the security of the cards and their capacity for gathering more personal information. Still, a majority of the public favors the cards, as a way of combatting fraud and crime. Prominent police leaders are opposed.

ANALYSIS ON PUBLIC RADIO



Robert Ellis Smith, publisher of PRIVACY JOURNAL, is a regular commentator on Marketplace, public radio's daily magazine of business and

finance. Tune to Marketplace, heard in the early evening on 150 public radio stations across the nation.

IN THE COURTS - Sexuality

A Nashville attorney who once headed a national gay legal defense organization is devising an effort to chip away at the U.S. Supreme Court's 1986 decision saying that the constitutional right to privacy does not extend to consensual sex between gay couples (*Bowers v. Hardwick*). Abby R. Rubinfeld represents two lesbians and three gay men who challenged Tennessee's law punishing homosexual (but not heterosexual) sodomy as a crime. In the *Hardwick* case, the Supreme Court upheld such a statute in Georgia. In December Nashville Circuit Judge Walter Kurtz denied the state's motion to dismiss the challenge. He said, "Private sexual activity ~~between consenting adults~~ of the same sex is protected by the state constitutional right to privacy [established in a 1992 case]. The right to privacy . . . includes the right of sexual expression with another consenting adult regardless of the gender of the sex partner." On Feb. 2 the judge issued a summary judgment for the plaintiffs, who argued that their careers would be threatened if charged under the sodomy law. *Campbell v. McWherter (Sundquist)*, 93-C-1547.

□ The District of Columbia's denial of a marriage license to a same-sex couple does not violate the marriage statute or the Fifth Amendment right to due process, according to the D.C. Court of Appeals. *Dean v. District of Columbia*, 92-CV-737 (Jan. 19, 1995).