

Lawmakers Begin to Heed Calls to Protect Privacy And Civil Liberties as Computer Usage Explodes

By MICHAEL W. MILLER

Staff Reporter of THE WALL STREET JOURNAL

Is the computer explosion weakening civil rights and liberties?

Some computer entrepreneurs, public-interest groups, a rock-music lyricist and influential lawmakers think so. They are drawing up an ambitious battle plan to bring legal rights into the computer age.

Their agenda ranges from protecting privacy in an era of ballooning data bases of personal information to assuring public access to government records as they become electronic. Alarmed by recent police raids on electronic bulletin boards run by "hackers," they are also pressing for new curbs on searches and seizures of computers.

Some businesses and government officials worry that this new campaign will make computing less efficient and more expensive. The campaign is even stirring debate within the ranks of civil libertarians. The American Civil Liberties Union is leading the fight for privacy of computer data and pushing for expanded access to government computer files. But ACLU leaders are also struggling to make sure those two missions don't undermine each other.

Some media groups also fear that the emotional privacy issue will lead to new restrictions that could make it harder for reporters to expose bureaucratic malfeasance.

Still, the move toward a high-tech view of constitutional rights is gathering momentum in Washington.

"Our major information statutes were crafted in an era when records were maintained on paper almost exclusively," says Robert Veeder, the Office of Management and Budget's acting chief of information policy. Now, he says, they "need revision to bring them in line with the way we do business today."

Sensitive Data

Congressmen this year have introduced bills to keep the credit-reporting industry from selling its sensitive data to junk mailers and to protect telephone users from having their phone numbers flashed to everybody they call.

Another bill, by Rep. Robert Wise (D., W.Va.), would create a new federal "data-protection board" to oversee government and businesses as they gallop into new ways of using electronic information. Multinational companies are watching that bill closely, because a new European Commu-

Life, Liberty and Computers

Lawmakers and courts are debating three complex questions about whether technology is eroding traditional rights:

PRIVACY

Are electronic data bases of personal information becoming a threat to privacy?

SEARCHES AND SEIZURES

Are law enforcers curtailing free speech when they seize computers used to run electronic bulletin boards and newsletters?

FREEDOM OF INFORMATION

Does the public have adequate access to government records as they become computerized?

nity proposal would prohibit member nations from moving computer files into any nation that doesn't have "adequate" privacy protection.

Earlier this year, Rep. Andy Jacobs (D., Ind.) held hearings about the spreading use of Social Security numbers to link an individual's multiple files in far-flung computers.

And in the Senate, Patrick Leahy (D., Vt.) is preparing a bill to apply the Freedom of Information Act to electronic files as well as paper. Sen. Leahy also has set up a government and industry "privacy and technology task force" to study whether wiretap laws have been outdated by such new communications tools as cordless phones and electronic mail.

Earlier Technologies

All of these areas raise tangled questions that can't easily be answered by laws written for earlier technologies.

For instance: Exactly what free-speech rights apply in the flourishing world of computer bulletin boards, where thousands of hobbyists post public notes and send each other private messages?

"The government should not be able to seize [a computer running a bulletin board] any more easily than they can seize a printing press," says Mitch Kapor, who founded software maker Lotus Development Corp.

Mr. Kapor today helps run a new advocacy group called the Electronic Frontier Foundation, along with Apple Computer Inc. co-founder Steve Wozniak and John Perry Barlow, a computer hobbyist who wrote the words to "Hell in a Bucket" and

several other Grateful Dead songs. The group recently proposed new guidelines for courts that issue search warrants, warning that seizing computers may violate the First Amendment by posing a "prior restraint" to speech.

Landmark Trial

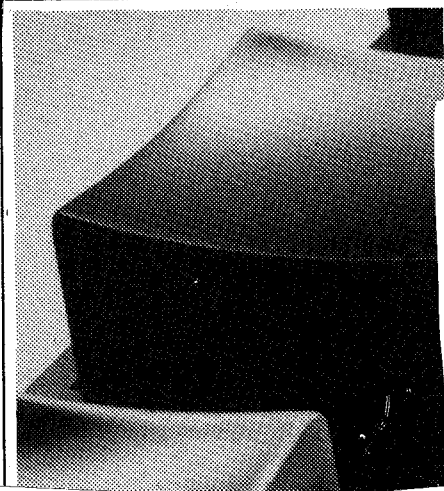
Some law enforcers call this argument overly broad. "Not everything transmitted electronically is a publication," says Mark Rasch, the Department of Justice prosecutor in last year's computer-virus trial of Robert Morris. "You can't hand a bank teller a note saying, 'Give me all your money, I have a gun,' and then argue: 'That's a publication, I have the right to free speech.'"

The privacy debate is equally thorny. Virtually every big company and government agency today keeps electronic data bases of their customers and constituents, and many of them do a brisk business selling this information.

The U.S. has a patchwork of privacy laws protecting such areas as video rentals and cable TV. But more-important subjects, such as medical and financial records, are still largely unregulated.

Fears about privacy are turning into a potent political issue. "The privacy movement is becoming more and more mainstream, and the average legislator is hearing about more privacy problems from constituents," says Rep. Charles Schumer (D., N.Y.). "You can't sit down and eat a meal at home without somebody calling you up from some list."

Mr. Schumer is one of four congressmen who introduced bills this year to reform the credit-reporting industry. It's currently regulated by a 20-year-old law, writ-



& POLICY

ten long before computers let the industry send personal-credit files instantaneously to any desk with a PC.

But the privacy movement also faces some slippery debates about whether the movement itself threatens other important rights.

In 1986, privacy advocates successfully pushed for a law that made it illegal to eavesdrop on conversations sent through the airwaves by cellular phones. The law has drawn howls of protest from radio hobbyists, who argue that it should be legal to put up an antenna and pick up any signal that happens to be in the air. Confusingly, the 1986 law partly accepted this logic by making it legal to eavesdrop on cordless phones.

Business groups argue that banning the sale of customer data violates their traditional property rights. "Businesses have constitutionally protected rights to protect their own assets, and customer lists are as traditional an asset as there is," says Ronald Plesser, a Washington lawyer who represents the Direct Marketing Association.

Harassment Calls

The debate over "Caller ID," the phone service that identifies callers' numbers, is especially subtle, pitting one kind of privacy advocate against another. Supporters of the service think that it could help them filter out telemarketers and harassment calls. But opponents think callers should be able to choose to remain anonymous.

Finally, some media advocates are nervous about a political push that could make government data bases less open to scrutiny by outsiders.

"In the zeal to protect personal privacy, we're creating one of the most marvelous opportunities for governments to enact sweeping confidentiality provisions—with the hearty support of the public," says Jane Kirtley, executive director of the Reporters Committee for Freedom of the Press, a Washington nonprofit group. "The underlying supposition is that somehow it's

safe in the hands of the government, but it's not safe in the hands of the public."

The ACLU wound up in the unusual position of opposing the media group in a Supreme Court case involving freedom-of-information access to an FBI data base of police arrest records. The ACLU argued that the FBI's move to computerize and cross-reference nationwide police files

raised troubling questions about suspects' rights.

"We think that both the First Amendment and privacy are fundamental," says Jerry Berman, director of the ACLU's information-technology project. "But there is tension at the edges when you're dealing with personal information that's not clearly private and not clearly public."

FIXED INCOME INVESTING FOR TAX SENSITIVE INVESTORS

- ☐ **MANAGE FOR AFTER-TAX TOTAL RETURN:**
*Maturity Structure/Sector Selection of Treasuries,
Municipals, Mortgage-Backed and Corporates*
- ☐ **INDIVIDUAL PORTFOLIO CONSTRUCTION:**
*Consider Income Requirements, Risk Tolerance,
and Federal/State Taxes*
- ☐ **CREDIT ANALYSIS:**
Fundamental Research Clarifies Spread Relationships
- ☐ **BOND COVENANTS:**
Assess Values of Put, Call and Sinking Fund Provisions
- ☐ **SEPARATE ACCOUNT ADMINISTRATION:**
Clarity of Accounting/Reporting of Securities and Cash

OFFITBANK

The Investment Management Bank

Manhattan Tower 101 East 52nd Street New York, NY 10022 (212) 758-9600 Fax (212) 319-6148

