THE RIGHT TO PRIVACY IN THE
EMPLOYMENT SETTING**

I. An Overview of the Problem and Proposals for Action


In response to recommendations made by the Federal Privacy Protection Study Commission, this policy paper advocates a "voluntary compliance" period of three to five years during which industry assign high priority to active development and implementation of fair information practices to monitor and control routine accumulation and use of employee records. Areas earmarked for review and revision include: use of arrest records; lie detector practices; record security; and the creation of written company guidelines.


This interview with IBM's Chairman of the Board and chief executive focuses on an employee information policy developed at IBM which is designed to protect employees at all levels from accumulation of unnecessary personal data and from the improper use or dissemination of information from employee files. Issues discussed include: the interpretation of privacy; employee reaction to IBM's privacy code; penalties imposed for violation of company guidelines in this area; and management rights and responsibilities.


Ewing examines a number of company guidelines designed to balance and safeguard employee rights to privacy with employer needs with respect to the accumulation of employee data and the use of information already collected. Ewing also surveys legal trends addressing the privacy of information issue to the questions of employee dress, manners and life style.


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** Items from this list should be ordered directly from the publisher. Addresses are given in connection with each reference.
Gerlin defines employee privacy and then examines: the employee's "right-to-know"; privacy in common law and in legislation; principles of fair information practices; state regulations; hearings and study groups; private sector views; results of a survey of 34 businesses regarding their privacy policies; and recommendations of the Privacy Protection Study Commission.

Hayden, Trudy. "How much does the boss need to know?" *Civil Liberties Review* (Subscription Office, P.O. Box 995, Farmingdale, N.Y. 11735), August-September, 1976. pp. 23-43. $3.00.

Hayden explores the justifications given for investigating employees; the kinds of information actually acquired; the Fair Credit Reporting Act; the Federal Trade Commission; judicial remedies; arrest records; polygraphs; medical and psychiatric records; and reform efforts.


The author offers a variety of potential legal remedies and courses of corrective action to take toward elimination of abuse of personnel information. He cites several instances in which inquirers like insurance companies, credit bureaus, government and union officials, and others have been granted access by employers to confidential employee data without the knowledge or consent of the individual or individuals involved.


This briefing sheds light on the political, ethical, and legal concerns a company confronts when assessing its personal information privacy policies. A history of the privacy issue is presented; the recommendations of the Privacy Protection Study Commission examined; and the overall privacy concerns of the workplace managers explored. Included are case studies of current practices in several industries; legislative recommendations; financial considerations for adopting privacy practices; and employee attitudinal data.


In an issue devoted completely to discussions of privacy as a behavioral phenomenon, topics in Schein's article include: principles of privacy; reasons for increased concern over privacy; privacy protection in the employment setting; and company practices and research needs in the area. She suggests a more active involvement among personnel psychologists and others in legislative activities and encourages professional interest in the matter.


This collection of information includes testimony and reports from numerous government agencies, independent organizations like the American Civil Liberties Union, church groups, labor unions, and corporations. Several Senate bills are explained by their sponsors.


The Commission's report contains a comprehensive examination of the effects of record-keeping on personal privacy in the context of the employment relationship. Thirty-four policy recommendations are arrived at and fully explained. A separate appendix entitled *Employment Records* (Appendix #3, 100 pp., $2.10) supplements this report. The appendix offers a detailed description and analysis of personnel record-keeping practices as an aid to companies and unions intending to launch new policies and programs to prevent abuse of confidential employee files.

2. Public Opinion on the Issue of Employee Privacy


Ewing reports that when 2000 subscribers to *HBR* were asked to express disagreement or agreement with varying degrees of privacy protection and principles as laid down by four sets of guidelines, great majority responded in support of employee right to privacy and related rights, in spite of the fact that a shift in business emphasis toward the rights of the individual might threaten business stability. The guidelines are presented in detail, and the responses are analyzed.


This survey lends credence to the growing public concern over a perceived erosion of personal privacy resulting in a fear of both government and business. A representative cross-section of 1513 American adults and 618 representatives from selected "leadership groups" in the public and private sector were interviewed. Problem areas examined include: the personal dimension of privacy; the employee-employer relationship; the privacy-intensive industries; government and privacy; and future policies and the business community.


Based on characteristic responses from 250 employees to a questionnaire initially distributed to 750 workers selected at random from a number of cities and suburbs, Westin reports that protection of personal privacy is an issue of significant importance to many employees and executives. In general, survey respondents indicate support for stricter controls on
employer use of confidential personal data, a guarantee of legal access to their own personnel records, and a review and enhancement of current company policy and practice with respect to privacy.

3. USE OF THE POLYGRAPH: A CONTROVERSY


In a discussion of various deception detection devices available to employers seeking to verify application forms or to curb employee theft (e.g. voice stress detectors, polygraphs, and the Psychological Stress Evaluator) the authors examine research which casts doubts on the reliability and desirability of both machine and interpreter to determine employee veracity.


This article examines the negative impact of the polygraph and other less intrusive tests used as background checks of employees and job applicants on worker morale and integrity. Kahn calls for strict limitation or prohibition of the use of these devices which organized labor maintains are violators of the worker’s right to privacy.


On request.

This report deals with the concept of privacy, the history of polygraph use in the United States, reliability of polygraphs, constitutionality of the polygraph test, and current status of the test. Use of other lie detector devices are discussed, and relevant philosophical issues are summarized.


On request.

A variety of company officials, academics, special interest groups and private citizens testify before the Senate in support of or in opposition to legislation aimed at protecting individuals from unwarranted invasion of privacy by putting a stop to the use of polygraphs for certain purposes. Several prepared statements are submitted from both sides of the issue. Those heard from include a representative from the American Polygraph Association presenting the positive features of polygraph performance and application under proper conditions, and a professor of psychiatry and psychology explaining “why lie test results may have zero (or negative) accuracy in employee screening or when used in court.”