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MICROFICHE

Introducing The Privacy Committee

To Contact the Committee:

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1. The Privacy Committee

The Committee is possibly the only permanent body in the world responsible for the whole range of privacy issues in both the public and the private sector. It is set up under the Privacy Committee Act, 1975 (N.S.W.).

The Committee consists of fourteen members appointed by the Governor and selected in accordance with the formula set out in the Act. In particular it includes a member of each of the Government and Opposition, two Public Servants, two members of universities and five persons having special knowledge in the areas of education, law, sociology, trade unions, computers and the media.

The Ombudsman is ex officio a member and there is a full-time member known as the Executive Member who heads a small staff of research and complaints officers. A full list of Committee members is attached.

2. Why a Privacy Committee?

Attempts have been made elsewhere to introduce a general legislative 'right of privacy'.

A general privacy law could cause uncertainty until a large body of supplementary case law developed. The result could be a law offering spasmodic and uneven protection. Other problems are that the social context of many privacy problems are little understood, the proper boundaries of privacy are open to debate, and the field of privacy is subject to rapid social and technological change.

The majority of privacy issues can be resolved by the Committee without recourse to legal proceedings which may be costly and lengthy.

For reasons such as these, New South Wales has adopted an alternative remedy to a general right of privacy, by creating a permanent Privacy Committee to investigate, mediate and recommend.

3. Functions of the Committee

The Act gives the Committee four major functions:

- * *Research:* to research and develop a general policy toward privacy and advise on particular issues.
- * *Complaints:* to mediate in complaints of unjustifiable invasions of privacy.
- * *Public Education:* to act as a "clearing house" for information on privacy issues, and to stimulate informed public debate on, and research into, privacy issues.
- * *Recommendation:* to recommend changes in the law and administrative and business practices.

In considering privacy the Committee is always conscious that there is a need to balance the rights of the individual to reasonable privacy against other competing community rights.

The Committee also has a function of publicly defending people who are unfairly considered to be invaders of privacy.

4. Research

The Committee is conducting three major research projects in 1978-79:

- * *Personal Data Systems Study*: Commencing with a survey of personal data systems in the N.S.W. public sector, and an identification of possible privacy problems caused by such systems, the study will later be extended to the private sector. Already completed in the first stage of the study are the Totalizator Agency Board (BP 28), the Medical Examination Centre (BP 36), the Electoral Office (BP 38) and the Department of Motor Transport (BP 43). The study will now focus on both specific departmental systems and the interlinkage and overlap of personal data between departments. Pupil privacy in the Education Department is already being considered along those lines.
- * *Criminal Records Study*: All storages and uses of criminal record information in N.S.W. are being covered in this study, with emphasis on the use of such records in the public sector for employment, licensing and administrative purposes. The first report released was on the uses of criminal records in the Public Sector (BP 41), followed by one on the Police Special Branch (BP 45).
- * *Privacy Aspects of Employment Practices Study*: This study covers such matters as personnel records, psychological testing, dismissal practices and reference giving, in both the public and private sectors. A lengthy discussion paper was issued in November 1977 (BP 39). The Committee will be testing its principles with employers' policies in practice. Included in this study will be a survey of Public Service Board practices.

Other privacy issues which have been, or are being, considered by the Committee include credit reporting (the subject of a major study in 1975-6), the Census, Press Councils, medical records, direct mail and telephone selling, sick leave certificates, mandatory reporting of child abuse, debt collection practices, rehabilitation of criminal offenders proposals, market research methods, and confidentiality and privilege.

5. Complaints

In its three years the Committee received 3,000 complaints. This function services four purposes:

- (i) to solve real grievances;
- (ii) to dispel real but unjustified fears;

- (iii) to identify new areas where improvements in practices and laws relating to privacy are needed; and
- (iv) to draw to the attention of invaders of privacy problems of which they might not otherwise have been aware.

The Committee receives complaints with a minimum of formality, in many instances by telephone. There is no charge.

By basing its recommendation on thorough fact-finding, good research and sound evaluation the Committee has resolved most complaints. Where there has been a reluctance to change a practice the Committee has suggested the issues be discussed publicly so that the public can be aware of the facts and issues. Rarely has this offer been accepted as in most instances the practice has been amended.

6. Public Education

The Committee is carrying out its public education function in the following ways:

- * *Public Speaking Engagements:* The Executive Member and the Committee's Research Officers are available to address groups and organisations on privacy issues. Over 300 addresses have been given by the Committee.
- * *Background Papers and Submissions:* Background Papers prepared for Committee discussions by its Research Staff, and submissions made by the Committee to other people and organisations are, in general, available to interested persons. Materials currently available are listed under Item 10.
- * *Bibliographies and Source Materials:* A bibliography of research materials held by the Committee is available.
- * *Research Facilities:* The research materials collected by the Committee are available to any person interested in researching privacy issues and may be inspected at the Committee's office.

7. Changes in Practices (Recommendations)

The Committee has achieved considerable success through voluntary change in administrative and business practices, particularly in the areas of credit, criminal, medical and employment records.

Legislation creating "rights" often creates aggressive and defensive stances which impede mutually acceptable solutions being found. It is more productive to emphasise the obligations of potential privacy invaders to deal fairly with privacy problems than to stress the rights of the individual. Self-regulation emphasises moral obligations rather than rights, and the Committee thinks this is often the best way to protect the individual's interests. This approach has already been adopted in such areas as credit bureaus, criminal records, medical records and employment practices.

One of the obligations of self-regulation is to give, wherever possible, the reasons for adverse decisions. The person affected then has the opportunity to correct inaccurate and incomplete information and present other relevant material. There are adequate protections against defamation.

Our experience shows that the person who insists on acting in secret frequently does so for fear that scrutiny will reveal the inadequacy of the basis of his decision or its unfairness. The person who is satisfied his decision is fair rarely hides behind the shield, "I do not discuss reasons".

Where decisions are made based on policy rather than because of any "third party" information received, the Committee does not attempt to force the disclosure of refusal reasons, as such reasons do not generally involve privacy issues.

However, the Committee's experience is that where policy reasons are explained an otherwise dissatisfied person accepts them.

If there were more openness, the Committee believes it would receive fewer complaints.

8. Powers and Protections

The Committee's powers extend over the whole community both Government and private. It can require any person to give information or produce documents.

In respect of complaints it is empowered to mediate and recommend solutions. It has no power to enforce its recommendations. It can, however, make public statements and issue reports to Parliament. It has found its powers most effective.

Each week government departments and private organisations contact the Committee to discuss proposed data storages, surveys, application forms and various other practices which could invade privacy. Our experience in dealing with all aspects of privacy often gives us an insight which can help those who contact us. There is also a growing awareness that it is in an organisation's own interests to uphold fair information practices in order to maintain sales, improve employee relations and obtain the best data from surveys.

The Committee's proven capacity to resolve the majority of problems which come to it primarily depends on it having the confidence of all parties. To give it power to enforce its views could well reduce this confidence.

Information furnished to the Committee and statements by it have absolute privilege against defamation proceedings.

9. Subcommittees

To carry out its functions the Committee has divided itself into three working Subcommittees - Personal Data Systems, Criminal Records, and Employment. These are conducting the Committee's three main research programmes for 1978. Any other privacy issue which is being dealt with by the Committee is allocated to one of these Subcommittees according to its work load.

Each Subcommittee is delegated full authority to act in the name of the Committee. Subcommittees meet approximately each six weeks with the full Committee meeting after each group of Subcommittee meetings.

10. Materials Currently Available from the Committee (free of charge)

- * *Introducing the Privacy Committee* (this pamphlet): available in bulk to interested organisations.
- * *The Privacy Committee Annual Report January-December 1977*: available to anyone requesting copies. A compilation report 1975-78 is also available on request.
- * *Library*: The Committee's library of relevant books, articles, press clippings and research files is open at the Committee's offices.
- * *Background Papers (BP), Submissions (S), Bibliographies (BI), Source Materials (SM), Research Programmes (RP)*: Particular background papers are freely available to individuals with an interest in that area, but complete sets of all background papers are only available to libraries and like bodies.
- * *Information Bulletins*: Brief information on particular topics. Available in bulk to interested organisations.

No.	Title	Date
2	Destruction of fingerprints where a person is not convicted.	May 1977
3	Guidelines for the use of debt collection	April 1977
4	Obtaining a copy of your own criminal record	July 1976
5	Access to credit bureaus.	September 1976
6	Medical Practitioners Investigating Committee.	September 1976
7	How to have your name removed from a mailing list.	September 1976

- 8 Privacy Committee position with respect to **October 1976**
 termination of pregnancy
 - 9 **November 1976**
 Electronic detection systems as a shoplifting deterrent
 - 10 **April 1977**
 Data banks - guidelines for operators
 - 11 **August 1977**
 Guidelines on verification of identity before taking debt collection action
 - 12 **August 1978**
 Guidelines for the use of the telephone for unsolicited calls
- | No. | Title | Date |
|---------|---|--------------------------------|
| BP 1 | Integrated Data Systems (Clith. Crisp Report) | May 1975 |
| BP 3 | Australian Criminal Information Centre | May 1975 |
| BP 4 | Criminal Information Systems Submission to Australian Law Reform Commission (NR also BP 33) | July 1975 (rev. November 1975) |
| BP 6 | National Compensation Bill 1975 | August 1975 |
| S 7 | Medibank Privacy Issues (Submissions Relating to the Health Insurance No. 2 Bill 1975) | August 1975 |
| BP 8 | Defamation and the Granting of Credit | August 1975 |
| BP 9 | Press Councils | September 1975 |
| BP/S 11 | Enforcement of Money Judgments (includes Submission to the N.S.W. Law Reform Commission) | October 1975 |
| S 12 | Submission to the Royal Commission on Intelligence and Security | January 1976 |
| BP 14 | A Report on Consumer Access to Credit Bureau Records in New South Wales | April 1976 |
| BP 15 | Personal Data Systems | February 1976 |
| BP 16 | Overseas Proposals Relating to the Regulation of Personal Data Systems | April 1976 |
| SM 2201 | A Summary of the Morison Report on the Law of Privacy (Tabled April 1973) | April 1976 |
| BP 24 | Individual Identification | September 1976 |
| BP 25 | Mandatory Reporting of Child Abuse | September 1976 |
| BP 26 | Unsolicited Mail and Leaflets | September 1976 |
| BP 27 | Report on the Public Service Board Criminal Checks in Employment | November 1976 |

BP 28	Totalizator Agency Board - Personal Data Systems in the N.S.W. Public Sector	November 1976
BP 29	Unsolicited Telephone Calls	September 1978
BP 30	Survey of Personal Data Systems in the N.S.W. Public Sector	January 1977
BP 31	Guidelines for the Operation of Personal Data Systems	April 1977
S 32	Census - Submission to the Australian Law Reform Commission	April 1977
S 33	Criminal Investigation Bill 1977 (Clth) - Submission to Federal Attorney General (Also BP3)	May 1977
S 34	Does the Privacy Committee Consider that a Register of Pecuniary Interests should be Introduced? Submission to the Joint Committee of the Legislative Council and Legislative Assembly upon Pecuniary Interests	June 1977
BP 35	Research and Confidential Data: Guidelines for Access	(rev.) September 1978
BP 36	Medical Examination Centre - Personal Data Systems in the N.S.W. Public Sector	October 1977
S 37	Defamation and Privacy - Submission of the N.S.W. Privacy Committee on the Proposals of the Australian Law Reform Commission	August 1977
BP 38	N.S.W. State Electoral Office - Personal Data Systems in the N.S.W. Public Sector	December 1977
BP 39	Privacy Aspects of Employment Practices	December 1977
BP 40	Consumer Affairs Motor Dealers Inspectors Access to DMV Motor Vehicle Registration Records	November 1977
BP 41	The Use of Criminal Records in the Public Sector	November 1977
BP 42	Guidelines for Surveys	January 1978
BP 43	The Department of Motor Transport - Personal Data Systems in the N.S.W. Public Sector	April 1978
BP 44	Blacklists: Finding a Fair Balance of Interests	January 1978
BP 45	The Special Branch - Criminal Records in N.S.W.	March 1978
BP 46	International Legislation for Privacy Protection in Data Systems (Implications for Australia)	June 1978
BP 47	Lie Detectors: The Privacy Implications of the Use of Polygraphs and Psychological Stress Evaluators	September 1978
BP 48	The Collection, Storage & Dissemination of Criminal Records by the Police	November 1978
BP 49	Privacy Aspects of Debt Collection	October 1978



PRIVACY COMMITTEE

as at 1 December 1978

Members - Mr. A. Deamer,
Solicitor.

Mr. J. Dowd, M.P.,
Opposition Member.

Mr. L. K. Downs,
Acting Commissioner for Corrective Services.

Dr. G. A. Edwards,
Medical Superintendent, Parramatta Psychiatric Hospital.

Mr. J. R. Face, M.P.,
Government Member.

Mr. J. B. Holliday,
Under Secretary, Department of Services.

Mr. P. Holmes a'Court,
Director of External Affairs, IBM Australia Ltd.

Dr. A. Lacey, O.A.,
Senior Lecturer in Law, Faculty of Commerce, University of N.S.W.

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Lecturer in Sociology, University of N.S.W.

Jocelyn McGirr,
Solicitor.

Professor W. L. Morison,
Professor of Law, Sydney University Law School.

Mr. W. J. Orme,
Executive Member.

Mr. K. Smithers, C.B.E.,
Ombudsman.

Mr. P. Toplis,
Labor Council of N.S.W.

Complaints/
Research Officers

Christine Doemling, B.A., Dip. Ed. - Complaints
John Misto, B.A., LL.B. - Criminal/Credit
Penny Goode, LL.B., (Hons) - Employment/Medical/Media
Tony Krouk, B.A. (Hons) - Personal Data Systems/Government

Secretary - Janet Byrnes

Typist - Megan Whitley

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