FOREWORD

I am pleased to present this report of the proceedings of the first Secretary's National Conference on Fraud, Abuse, and Error which we convened in December 1978.

The Conference assembled more than twelve-hundred representatives of local, State, and Federal program offices, investigative and law enforcement organizations, private institutions, executive and legislative bodies, and client advocacy organizations.

As the workshop and discussion group summaries in this report show, the Conference provided a forum for a wide range of viewpoints and the exchange of vital information on ways to improve efficiency and integrity in HEW programs, while continuing and enhancing the compassionate ends these programs are designed to serve.

There is no better symbol of the importance of the Conference than our keynote speakers: the President of the United States, the Attorney General, the Comptroller General, the Majority Leader of the U.S. House of Representatives, Governor George Busbee of Georgia, and Mayor Richard Hatcher of Gary, Indiana.

The Conference gave life and force to a strong conviction of mine: that we must demonstrate that social programs can be managed efficiently—that we must strive to give every citizen the benefits to which he or she is entitled—no more, but no less. I believe that the Conference and the proceedings in this report will help assure that taxpayers' dollars are not misused, that the quest for program efficiency is combined with compassion for the most vulnerable and disadvantaged among us, and that public confidence in government integrity will steadily grow in the years to come.

JOSEPH A. CALIFANO, JR.
Secretary of Health, Education, and Welfare
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I'm happy to welcome you. This National Conference on Fraud, Abuse, and Error is, in my judgment, an historic event: the first time a Federal agency has sponsored a meeting on such a scale, with an audience so diverse, to discuss new ways of protecting the taxpayer's dollar.

It is especially significant, I think, that the agency is HEW—a Department whose budget is the third largest in the world, ranking behind only the budgets of The United States and the Soviet Union: a Department too often associated with free spending, but limited efficiency.

We meet at a moment when the taxpayers of this nation are demanding that the Government become a better steward of public programs and public funds. The American people deserve to hear about the efforts of Government to improve public management—efforts of states, counties, cities and efforts underway at HEW for the past 23 months.

Some of those efforts are by now so far along that we can count the savings to the taxpayers of America. I will be announcing some of those savings in my remarks tomorrow.

I believe that the story of those efforts is one of the most exciting stories in government. Indeed, the fact of this Conference itself is a profoundly positive story:

- It highlights the efforts of government at every level—and service providers who deal with government—to render themselves accountable.
- It underscores our efforts, in Washington and across the nation, to attract the best people to program management, and to put them to work cutting back waste, uncovering abuses and monitoring how funds are spent—using modern tools like computers.
- Finally, this Conference gives us an opportunity to point out to the Congress, the State legislatures and the American people ways of curbing "legislated waste." For it is a plain fact that much waste in public programs could be cut down or cut out by intelligent legislation: legislation to curb hospital-cost inflation, for example:

All of us are aware of one overwhelming reason for rooting out waste: the plain economic reason of scarce resources and the eroding effects of inflation.

But there are at least three other reasons that such efforts are important:

First: The programs we are concerned with are good programs; they serve millions of Americans well.

Federally insured student loans, for example, have helped more than ten million students and their families to meet the costs of education after high school. Ninety percent of students getting this kind of help pay back their loans, fully and dependably. By tightening the management of these programs, we make more funds available for more students.

The medicaid program of health care for poor families has played a role in reducing this nation's infant mortality rate from 24.7 per thousand live births in 1965 to 14.0 per thousand in 1977. To let a few unscrupulous practitioners escape undetected is to squander resources that could be helping poor children.

Our system of welfare, for all its faults, helps 7.4 million children and 4.5 million blind, aged and disabled people who cannot work to meet their needs for basic subsistence. We cannot let a relatively few cheats and chiselers rob the truly needy of the help they need.

So we intend to discipline these and other programs—while we fight those who would dismantle them. Why? Because we see efficient management as an act of compassion—an act that unlocks scarce resources to be used for human ends.

Second: We need to restore the trust and confidence of our fellow citizens in the competence of government.

A recent Gallup Poll revealed that nearly half of the American public believe that 48 cents of every Federal tax dollar is wasted. This reflects a serious exaggeration on the part of the public about the extent of waste and mismanagement—an exaggeration that all of us must work to correct. But at the same time, if such an attitude exists, right or wrong, it may not be long before the public seeks to cut back social programs in an undiscriminating way.

We must not, in our concern about management, lose our sense of perspective. But as long as there is public concern, we have an obligation
to earn public confidence by putting our house in order. Unless we do, our programs will suffer unfairly—and many people will suffer unfairly.

Finally: There is the simple fact that we who spend public funds serve as trustees. The responsibilities that trust implies are something less than the wellspring of our democratic institutions. If we ignore that trust, not only faith in government—but the actual institutions of government—will falter and fail.

So I think that it is important that we answer this call for accountability; that we seek to serve not only the poor and vulnerable, not only the handicapped and disadvantaged people who are our clients, but also the taxpayers and voters who place their trust in us.

I have high hopes for this Conference. If it succeeds, I believe we can look forward to several hopeful developments:

- All of us here will go home, whether to Washington, D.C. or more distant places, not only with renewed commitment, but with new knowledge and new techniques to use in the programs we manage.
- We may see the Congress, the state legislatures, and other jurisdictions, establishing new instrumentalities to combat fraud and abuse—or passing new cost-saving measures.
- The public will have a sense, not only of the problems we face, but of our progress in solving them. For real progress is under way—progress that deserves attention. I intend to expand on this progress in my formal remarks tomorrow.
- Finally, this Conference gives us an opportunity to renew and strengthen the sense of partnership between the Federal Government, State and local governments, and service providers involved in federal programs. Strengthening that partnership will go a long way, in my judgment, toward making our clients and in people think of their democracy as "We, the people" instead of "They, the government."

So let us get to work.

We have an impressive, richly diverse group assembled—and a crowded agenda. Our plenary speakers include a Governor, a Mayor, a Cabinet Officer, a Congressman, the chief federal auditors, and the President of the United States.

In these two days, this Conference will feature 25 separate workshops, seminars and discussion groups in addition to the open sessions. Their topics will range from new computer techniques to criminal prosecution; from financial management to the right of privacy. Well over a hundred experts from all over the nation will serve as panelists or discussion leaders.

Ladies and gentlemen, I welcome you. I'm eager to learn from you. And I'm grateful to you for joining in this demonstration that government can work—if those who serve in government will work.

And so—to quote some ringing words of John F. Kennedy—let us begin.

INTRODUCTION OF GOVERNOR BUSBEE

By the Honorable Joseph A. Califano, Jr., Secretary of Health, Education, and Welfare

Ladies, and gentlemen, our first speaker, according to his biography, is the second of five children in a pioneer Georgia family. His father, we are told, was a farmer, a housebuilder—and a mule trader. With a background like that, it was inevitable that he would go into politics.

So successfully has he gone into politics—in the finest sense of that word—that just last month, Governor George Busbee was reelected Governor of Georgia with 80 percent of the vote.

To earn such ringing approval a public figure must display not only political skill, but administrative achievement. And Governor Busbee has done that:

- As an "education Governor" he has pioneered a statewide kindergarten program for Georgia's schools; expanded job-training efforts and built a new system of teacher-sides to help teachers in the primary grades.
- He has established a State consumer protection agency and has led Georgia in protecting its coastline and other natural resources.
- And most to the point for this Conference, Governor Busbee has led a significant reform of Georgia's Medicaid system—determined that the system should serve all of those who were eligible, but only those who were eligible.

Governor Busbee's administrative achievements in the field of human services—and his stature as one of the outstanding governors in the Nation today—give him notable authority as our opening speaker today.

Ladies and gentlemen, Governor George Busbee of Georgia.

REMARKS

Honorable George D. Busbee, Governor of Georgia

Thank you, Mr. Secretary, both for your fine introduction and for the opportunity to speak to this distinguished group.

I can assure you that the problems of fraud, abuse and error in government programs are not foreign to me. In fact, one of the first acts I took after being elected Governor of Georgia, and prior to taking the oath of office, was to request from then-Governor Carter the funds necessary for an analysis of Medicaid provider payments in order to detect any potential program abuses.

Based on such in-depth study and with the help of our legislature, we in Georgia haven't been timid about attacking the problems we found.

A new procedure was developed and implemented to prohibit Medicaid payments for over-the-counter or non-prescription drugs in outpatient hospitals, because we found cases in which the State had been charged $80 for a bottle of 100 aspirin tablets or $80 for 1000 costs worth of drugs. I appointed a drug formulary commission which developed maximum allowable costs for certain high-volume prescription drugs, and the resulting savings promise to be substantial.

We conducted comprehensive audits of dental statements against actual work performed, and were one of the first states in the Southeast to gain certification of a Medicaid Management Information System (MMIS).

We now have standardized policies and procedures manuals statewide, and have doubled the number of lawyers working in fraud and abuse prosecution. In order to constrain overutilization, I instituted a co-payment on drugs and applied for and received approval of a waiver from the Secretary of HEW to implement a system of co-payments on hospital and physician services in Medicaid.

During this time, I also chaired an intensive effort—a Task Force on Medicaid Reform—for the National Governors' Association. This group, composed of Governors and experts from 12 states, received advice and suggestions from all 50 states through 10 regional hearings and produced a comprehensive policy statement and detailed report which was adopted unanimously by the Governors. Because of the excellent cooperation of the Congress and the Administration, many of the reforms we suggested have already been implemented or responded to.

For example, federal health care financing and related quality control programs have been con-
solidified in the Health Care Financing Administration, thus reducing much of the confusion and duplication of effort heretofore experienced by the State and HEW. In this area, HEW has also created the Institute for Medicaid Management to address the need we identified in providing better training and technical assistance to State Medicaid program managers.

A comprehensive recording of Medicaid regulations is underway to address our desire to see simpler and more usable Medicaid rules and regulations. And as a final point among many, several bills have been introduced in Congress to significantly strengthen the capabilities of both State and Federal governments to detect, prosecute and punish fraud and abuse like the Medicaid program. But, obviously, the problems of fraud, abuse and error haven't all been solved. All I've touched on thus far is simply Medicaid, and we still have a long way to go there, too.

Although Georgia has been able to alleviate many of the symptoms I haven't found a cure for the basic problem. However, many of the people we've heard have experienced great fraud and abuse and error haven't even found the problem.

Of course, it's easy enough to single out the welfare recipients, social workers, doctors, dentists, educators and accountants for the runaway costs which characterize these programs. It's easy, but not true. The vast majority who are involved in these programs: are good, honest, caring people.

The basic problem is between and among the levels of governments trying to administer these programs. Let me give you some examples.

Remember the waiver on a co-payment for certain hospital and physicians services I told you I got approved? After gaining the Secretary's blessing, I was sued in Federal Court along with him. We received several conflicting opinions from within HEW on what we could or could not do. And finally the waiver was disapproved by a HEW official. We received several conflicting opinions from within HEW on what we could or could not do, and finally the waiver was disapproved by a HEW official.

There are other examples of the same thing in regulations that have nothing but the best intent and often have the opposite effect.

In the nursing home program Congress requires states to pay "reasonable costs" for nursing homes. One advocates a "reasonable cost" translation into a requirement to pay whatever the operators think they need, which amounts to an open ceiling on inflation. I have a request in HEW right now to institute a negotiated fee system for physicians, in order to address this type of problem, but it looks as if it will be denied.

Unless we take steps such as this, we will continue to experience gross overutilization of our system, and over-utilization—according to our estimates—of fraud and abuse.

As another deterrent to this problem, we developed and received approval on a demonstration project called "Cost Effective Alternatives to Nursing Home Institutionalization." The project has developed a system of community-based foster and daycare programs for the elderly poor and afflicted as an alternative to the more costly and often debilitating nursing homes.

We must develop alternatives to institutionalized health care in hospitals, nursing homes and institutions.

It is programs such as this, if adopted as a national policy, which can help not only reduce overutilization, but also help bring skyrocketing costs down, while providing more humane care.

Regarding costs, I referred earlier to a comprehensive dental audit we conducted which gained the state of several million in savings. And finally the waiver was disapproved by a State Institutional Review Board which was created and operated under guidelines promulgated by HEW.

Ironically, the Medicare program recognizes the value of requiring individuals to share in the cost of their medical care. No $144 deductible per person on outpatient hospital services, and for outpatient hospital and physician services, they charge $60 per year deductible and require a 20 percent coinsurance. Because of cost sharing, Medicare does not have overutilization and abuse like the Medicaid program.

But in Medicaid, regulations don't permit co-payments for required services.

However, in this age of limits, we must have some constraints in Medicaid. If co-payments can work for the elderly, there is no reason to suspect they won't work for the economically-deprived. I—and I believe the nation's taxpayers—believe the government must find ways to stretch its dollars, to temper its largesse with good sense, and to end the abuse of fiscal integrity by arbitrary regulation.

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turned with the President's initiatives on guideline simplification. Better, simpler, and clearer guidance is a must. But I would caution that simply understanding more clearly who is the final decision-maker is no solution if that decision-maker is at the wrong level of government.

Finally, the last key to constructive change is better prior consultation, and this can only be addressed by the federal government under the current rules. Legislation, regulation, guidelines—all are only going to be as effective as the consultation on the front end is with those who are expected to administer and live within them.

I believe the time has come when we need to add to our vocabulary the term "sunrise legislation" as a corollary to "sunset legislation."

What we need more of is federal legislation which is well-thought-out, designed, and drafted in a joint effort with the states and local governments before its enactment into law. Following legislative action, sufficient "sunrise" time should be allowed for the adoption and review of all necessary rules, regulations and procedures before the date on which such legislation shall become effective. And finally, the administering agency ought to be required to promulgate the regulations within the required time period. In other words, we must allow time for the "sunrise" so that the dawning of any major legislation enacted can come about in an orderly and efficient manner.

If we would take a little more time in the front end, we might all better avoid the criticism of fraud, abuse and error in the final end.

Thank you.

INTRODUCTION OF MAYOR HATCHER

By the Honorable Joseph A. Califano, Jr., Secretary of Health, Education, and Welfare

Our next speaker long ago grew accustomed to being first. He was the first freshman councilman in the history of his city to be elected city Council President. He was the first black mayor of Gary, and one of the first black mayors among America's largest cities.

But in one important area, he ranks only twelfth: Mayor Richard Hatcher of Gary was number 12 among his parents' 13 children. Perhaps having come along so late helps explain why Dick Hatcher has always run so fast and worked so hard.

He worked his way through Indiana University waiting tables—then worked his way through law school by serving an eight-hour shift each day in a hospital.

By the time he was 29, Dick Hatcher was Deputy Prosecuting Attorney in the Lake County Criminal Court. Before he was 35, he was the Mayor of Gary.

America's cities today are the critical front lines in our effort to provide adequate human services and a better quality of life to people who need help and opportunity. Dick Hatcher comes to us fresh from the front lines. We all know it is not easy to get Richard Hatcher to come to Washington. Today we have succeeded in getting him to come.

Ladies and gentlemen, Mayor Richard Hatcher.

REMARKS

Honoroble Richard G. Hatcher, Mayor of Gary, Indiana

WILL, SKILL AND MORAL FIBER—SIMPLIFY AND END ABUSES

Secretary Califano, Attorney General Bell, Comptroller-General Stuarts, Governor Babbie, fellow participants in this conference.

I am pleased and honored to have been chosen to address you today, at this important conference on a most important subject. On second thought, maybe I am no more honored or pleased than is a man invited most cordially to attend his own hanging. However that may be, it is certainly true that whatever comes out of this conference, we will surely echo Ben Franklin's famous and probably apocryphal dictum—that is, we must all hang together, or we shall surely hang separately. And hang we will, it would appear, unless we can find a way to convince the voter of the nation that funds expended for various federal programs which benefit the poor, the inner cities, the disadvantaged are spent because they must be. And that they are spent wisely and well. When Secretary Califano called this conference, he wrote to participants:

"In an era when budgets are expanding, when the public is resistant to new taxes, and when there is skepticism about the ability of government to function effectively, public officials face a critical challenge—to demonstrate that social programs can be managed responsibly and effectively."

"If we seek additional funding to meet pressing human needs, we must also prove that existing resources are not misused."

The Secretary puts the issue well—expanding budgets, skepticism on the part of the electorate as to efficiency and responsibility.

The problem, of course, is very real. Error, fraud and other abuses apparently account for some 7 billion dollars in the HEW budget—and that's enough to rebuild downtown Gary and have enough left over for rebuilding Newark, and several other cities. The figures cited in testimony before the Congress are intriguing. Speaking to the House during debate on the HEW and Labor Department budgets, on June 8 of this year, Illinois Representative O'Brien had the following to say; I quote:
"The HBW Inspector General reports, apparently concurred in by the Secretary, showed some $7 billion of losses in the Department of Health, Education, and Welfare alone. The largest part of these losses, $2 to $3 billion, was associated with health care outlays; but the remainder is attributable to errors, fraud and abuse in the welfare, income security, education, and social services programs, a sum approximating $2 to $3 billion.

About 50 percent of the losses is attributable to errors, made in the Department or by the state or local personnel, and through human error in the eligibility determination process, or through improper payments resulting from mistakes in the paying of bills or claims, all mainly due to plain carelessness.

That is a startling set of figures indeed, and one which cries out loud for corrections. Certainly all of us must agree that such waste—whether it be intentionally fraudulent or merely the result of ineptitude—must be addressed and eliminated. But of course it is all too easy to agree that there is a problem, and to agree that we must do something about it. It is more difficult, and indeed almost impossible, to determine how to correct it. That is, it is more difficult, and how the problem arises. One reason is in part due to the difficulty of determining who the losses are and how much they are due to. For example, how much of the welfare, income security, education, and social services programs, a sum approximating $2 to $3 billion, is due to errors, made in the Department or by the state or local personnel, and through human error in the eligibility determination process, or through improper payments resulting from mistakes in the paying of bills or claims, all mainly due to plain carelessness.

"The results of the New Jersey graduated work incentive experiment...clearly indicate that a negative tax type plan with a basic benefit as high as the official poverty line will not trigger large scale reductions in work effort among male heads of families...Thus, there is no respectable body of evidence laying to rest a fear that often seemed to dominate earlier welfare reform debates: that primary wage earners would significantly reduce their work effort if they were given a tax credit for wage earnings during a cash assistance period."

A similar experiment conducted in my own city, in Gary, indicates similar results. But there is not yet enough to create such income maintenance programs, or any others, which would reduce the complexity of welfare and other human services programs to a level where adequate supervision and policing could significantly reduce fraud, error, and abuse.

But the problem of welfare reform is very difficult, and is deepened by the fact that there are problems which require rather trivial solutions. For example, there is not enough about Professor Lynn's paper at the same conference, Lester Thawrow, Professor of Economics at M.I.T. says: "The war on poverty started as a war on white poverty in the late 1960's, but it has become, and was perceived as, a war on black poverty and less relative incomes by the middle of the 1980's. This perception has both its strengths and its weaknesses. The need to do something about blacks led to the passage of many of the programs, but many of the programs failed to reach their families goals because they were seen as programs that aided blacks and not whites. One cannot understand the problems with AFDC mothers unless one understands that the public generally thinks of this program as one that adds "black mothers.""

Politicians of all convictions have been convinced that you can be beaten if you publicly advocate general welfare reform. To be fair, we have only ourselves to blame for the welfare reform problems.
word. There is no doubt in my mind that much of the "taxpayer revolt" characterized by Proposition 13's passage in California is fueled by a conviction that those blacks are getting all sorts of government money they shouldn't be getting. Given the response to the taxpayer's revolt by politicians in the last few months, it seems unlikely that any serious welfare reform will come about. Given the fact that, as Professor Thurow says, welfare is perceived as black welfare, it is unlikely that the same political forces who have thrust the Bakke decision upon us, who have passed a variety of Proposition 13's in various localities, and who are more than willing to spend for weapons but less than willing to spend for welfare, will help bring about welfare reform.

In light of these political facts—facts based on race as well as on class—I confess that I see little hope for substantial reduction in welfare and other human services fraud, error and abuses. I would like to have such hope. I am more than willing to join those who wish to exhort us all to be honest, to condemn carelessness and crime, to elected officials—those responsible for such aid efficiently and honestly, seriously, and thus to repay from the beginning and take away from the poor is why it has been used very effectively against the rest of us. I agree with the Secretary, if that is his intent. It will appear self-serving if I say that in my own administration I have used the toughest possible clubs available to me to assure that honesty and efficiency are the rule, and fraud and error the exception, but I will say it nonetheless. Moreover, I suspect the same is true of most of those officials, at the municipal level at least, who have been talking about welfare in general. In fact, I have suggested elsewhere that we have little choice about that, since especially black leaders in our country continue to be watched most carefully by law enforcement officials and get in trouble if they even look like they're doing wrong, much less if they actually do wrong.

I join the Secretary, then, in saying that all of us must bend every effort of our will, every ounce of our political skills, every atom of our moral fiber to assurances that the services we provide are as efficient, as honest, as legal as is humanly possible. I also will gladly endorse any practical notions which come from this conference which will help us in Gary and which will help other officials in my state and in the nation to make such efforts of will, skill and moral fiber a reality.

But I cannot end this address to so distinguished an audience without also saying that it will take some significant reversal of priorities before these efforts will pay off very much. We will have to assure, first of all, that not only human services programs, but Defense Department and all other programs exercise the same efforts of will, skill and moral fiber towards honesty as we are prepared to exercise. Secondly, we will have to find ways of changing the notion that fraud and error will abate. Second, if we can create an atmosphere of crusade for and against the poor and the disadvantaged, then I believe will, skill and moral fiber will begin to take hold, and fraud, error and abuse will abate. I wish I had simpler answers to offer here, but I do not. I hope this conference succeeds in creating a new atmosphere, a new approach, and a new era in the welfare system as a whole, and that fraud, error and abuse will be things of the past for certain, of course, if we end the extensive need for welfare, and bend our wills, skills and moral fiber towards the massive reduction of poverty, as well.

Thank you.

NOTES: The Citation from Congressman O'Brien can be found in Congressional Record, June 6, 1978, p. H 5159.

INTRODUCTION OF THE COMPTROLLER GENERAL

By the Honorable Joseph A. Califano, Jr., Secretary of Health, Education, and Welfare

As Jove sat in judgment on the activities around Olympus, so does our next speaker sit in judgment on all the activities around Washington.

That is a heavy—and heavy—responsibility, but Elmer Staats, as Comptroller General of the United States, handles it superbly. The General Accounting Office which he heads since 1966, is a model of the Federal, impartial, non-partisan inquiry into the integrity and effectiveness of Government programs.

It is the world’s most powerful audit organization.

Some government officials view an unsolicited letter from GAO with the same enthusiasm most of us feel for little green envelopes with the initials “IRS” in the corner. In fact, GAO is the single most potent source of knowledge on how effectively Federal programs are being carried out. GAO produces about 1,000 significant reports a year; the Comptroller General personally approves those that are submitted to the Congress.

But Elmer Staats is more—far more—than a public servant who oversees and important agency, he is a scholar and philosopher of government—and a living symbol of unselfish public service. His 40 years of Government service also include distinguished tenure in the Bureau of Budget, which he joined in 1939. He became Deputy Director by appointment of President Truman in 1950 and served under four successive Presidents. I think it is fair to say that he has had a longer and more sustained impact on Federal budget policy than any other official in history. He is also one of the most diligent and even-tempered officials with whom I have been privileged to work. Near his desk he has a sign that each of us might do well to copy. It reads: “If a man likes to work, he can have a hell of a good time in this office.”

Ladies and gentlemen, Elmer Staats.

REMARKS

Honorable Elmer B. Staats, Comptroller General of the United States

PREVENTING FRAUD AND ERROR AND INCREASING PUBLIC CONFIDENCE IN FEDERAL PROGRAMS—TOP PRIORITIES

I welcome the opportunity to be present this morning to underscore the concern of the General Accounting Office with the critical branch of the Federal Government—in the critical subject which will be addressed by this group over the next two days. While the term “Fraud, Abuse, and Error” may strike some as being somewhat negative in tone, certainly the subtitle, “Protecting the Taxpayer’s Dollar,” is appropriate and one to which all can subscribe without reservation. My congratulations therefore go to Secretary Califano and his associates in the Department of Health, Education, and Welfare for this constructive initiative. We will all derive much from this conference which should strengthen public confidence that the Government is actively pursuing ways to deal with these problems.

Much has been said and written in recent months—possibly too much—about the loss of confidence in Government. These statements come not only from political leaders, the investigative press, and the investigative branch of American society. “Proposition 18” and similar actions taken by voters in many States attest to this fact. Public opinion polls support this conclusion. Summarizing those polls, a writer in the current issue of Fortune magazine concludes that “Not since the days of the Great Depression have Americans been so complaining or skeptical about the quality and character of their country’s public performance.” He states that Americans have lost “confidence that Government can and should do all that it is doing—but much more efficiently.” The call, he says, is “not for less Government but for better Government.” That is what this Conference is about.

It is often stated that no one knows the extent of fraud, abuse and error in carrying out Federal programs—and that, of course, is true. But whatever the amount, it nevertheless is a matter of wide public concern just as fraud and abuse in the private sector is a concern.

I know that you will join me in the conjecture that thorough investigation of those public trust to a tiny fraction of the three million Federal employees who work conscientiously and honestly day in and day out; observing the highest standards of ethics in all that they do. Their reputation is damaged—and the public confidence in Government is damaged—when a tiny minority commit fraud, where serious waste and mismanagement occur, or the Government is not able to protect itself against those who would defraud it.

Important as the detection of fraud, abuse and errors is, detection should not be our primary concern as Government managers. Our prime concern should be directed toward constructing systems of management control that will prevent fraud and abuse, make it more difficult, and decrease the likelihood of error and waste. When it comes to fraud, abuse and error, the old axiom that “an ounce of prevention is worth a pound of cure” fits well.

For a moment let us examine some of the benefits of preventing rather than detecting and punishing fraud, abuse and errors. The first thing is the obvious advantage of reducing expenditures. Fraud, abuses and errors all result in the outflow of Federal dollars that Government managers are supposed to use sparingly. To the extent we prevent fraud, abuses and errors by good management systems, we stem this source of unauthorized expenditures and thus can put our stewardship responsibilities more effectively.

However, the loss of dollars—important as that may be—is not the only cost of fraud, abuse and error. Equally important is the toll in human suffering that occurs when the perpetrators of fraud and abuse, or even sometimes errors, are discovered. While it is true that some perpetrators of fraud and abuses are hardened criminals, a great many of them are made criminals by opportunities presented to them which they are not strong enough to resist. These opportunities usually occur because the management controls that should eliminate such opportunities have not been established; or, if established, have fallen into disuse. When these programs were caught, they suffer humiliation, loss of jobs and income, and frequently alienation from friends and family. Their lives are ruined. Often, they go to prison and that has not only a high cost in human suffering but a high cost in dollars as well. Our jails are full enough.

If we can prevent some people from committing fraud or abuses by removing temptation, we have not only served the Government but we may have saved some fellow employees from himself or herself. Even errors can cause extreme embarrassment and if serious enough, may threaten a person’s employment.

GAO Study of Fraud Potential

With this in mind, the General Accounting Office undertook in mid-1976 an effort to ascertain whether Federal agencies had instituted effective policies and procedures for combating fraud that might exist in their programs, whether committed by Federal employees, by recipients of Federal assistance, or by others. In doing this, we had to formulate criteria regarding the composition of an effective antifraud effort. It seemed to us that the essential elements of such an effort would include:

- a set of procedures to assess the vulnerability of the programs in question. We wanted to learn if agencies had thought through the type of fraudulent schemes to which their programs were susceptible.
- the comprehensive collection and analysis of information on known incidents of fraud. The question here was whether the agencies were alert to identifying patterns or trends in the types of fraud being perpetrated.
- an aggressive effort to follow-up on instances of fraud that may have surfaced, not only to react but also actively seek out fraudulent schemes. We wanted to know whether the agencies were “policing” as well as “investigating”.
- strong leadership on the part of the Department of Justice in bringing its expertise to bear on the overall problem. Our intent here was to find out if Justice was doing what it could in assisting the agencies to combat fraud.

Our next step—arduous and time-consuming—was to identify and gather evidence needed to confirm or deny the existence of the postulated problems. We reviewed activities at the Departments of Agriculture; Labor; Transportation; and Housing and Urban Development, and the Veterans Administration, General Services Administration, and Small Business Administration.

We examined these agencies’ policies, procedures, and records and held discussions with their offi-
reviewed were not doing fraud, however, are tremendous when you constructively legitimate undertakings, it usually is not against the Government. Hidden within audit coverage, are essential first steps to combating and preventing them. Yet the agencies we reviewed were not doing nearly enough to identify fraud.

Federal programs involving grants, contracts, and loan guarantees are exploited through such means as:
- false claims for benefits or services,
- false statements to induce contracts or secure goods or services,
- bribery or corruption of public employees and officials,
- false payment claims for goods and services not delivered, and,
- collusion involving contractors.

How Much Fraud is There?

As I said, no one knows the magnitude of fraud against the Government. Hidden within apparently legitimate undertakings, it usually is unreported and/or undetected. Opportunities for fraud, however, are tremendous when you consider the magnitude of some Government disbursements. For example,
- The Veterans Administration has annual outlays of approximately $18 billion in support of veterans benefits,
- The Department of Health, Education and Welfare has annual outlays of approximately:
  - $109 billion in Federal and trust funds in support of the Social Security system,
  - $10.5 billion in welfare payments
  - $10 billion in grants to States for Medi­care
  - $3 billion for student assistance.
- Federal procurements in FY-1977 were almost $60 billion, including GSA procurements for supplies and services, and DOD procurements of major weapons systems.

We found that agencies have not established management information systems to deal with the fraud problem. They do not know the amount of identified fraud in their programs. They cannot estimate the potential amount of unknown fraud.

Some of our findings bear repeating to illustrate the magnitude of the problem:

The Government's financial assistance programs are vulnerable targets of fraud and related white-collar crimes. Identifying the nature, and frequency of these illegal acts, to take a reactive, rather than active, approach is inadequate for detecting fraud, since they generally take a reactive, rather than active, approach to fraud detection. However, a reactive approach is inadequate for detecting fraud, since there is often no specific incident to react to.

Agency investigations often do not have the background, experience, and training needed to effectively detect and identify fraud. About 70 percent of the staff involved in agencies we reviewed had no prior experience in fraud investigations, and about 80 percent had no formal training in investigating fraud. Where investigators have such training, it was generally limited to procurement fraud. Most investigators have also lacked the education in finance and accounting-related subjects often needed to identify fraud. Since fraud against the Government often involves examining financial documents, absence of a financial background could be detrimental to effective fraud investigations.

The Department of Justice needs to provide guidance to agencies on combating fraud. It has met extensively with agency officials and has assisted agencies in carrying out several successful projects demonstrating the existence of fraud in their programs. However, the effectiveness of this "outreach" function relies on the receptivity of the agencies to Justice's encouragement and the availability of resources Justice can devote to it. From a recent conversation with the Deputy Attorney General, I am much encouraged that the Department recognizes the need for a more active role by the Department.

Agency Recognition of Agency Action

But overall, a more positive, systematic approach to identifying fraud is needed. Our report on this subject was issued in September of this year. It contains specific recommendations to assist Federal agencies in their efforts to address comprehensively the fraud and abuse problem. I am hopeful that agencies will respond by following up on reports of General Accounting Office and internal auditors.

I am happy to report to this conference that aggressive action has been taken:

- Before passage of legislation establishing Inspector Generals, several agencies such as Agriculture, HUD, VA, and Labor, administratively set-up an Inspector General type operation.
- The White Collar Crime Seminar sponsored by Inspector Generals from the Departments of HEW, HUD, and Agriculture.
- Among the agencies we reviewed, HUD's operational surveys are the most ambitious systematic mechanism aimed at actively seeking out and identifying fraud. The operational survey combines HUD investigators and auditors in a team which concentrates its programs and efforts on a single HUD office. The surveys are aimed at uncovering deficiencies in program management and identifying specific irregularities, which indicate possible fraud, for investigation.

Establishment of a GAO Task Force

As a follow-up on our report, I have established a Special Task Force for the Prevention of Fraud and have allocated substantial staff resources to assist the Task Force. The major responsibility of this group will be to:

- evaluate the adequacy of the management control systems in Federal agencies that are necessary for the prevention of fraud, and
- assess the adequacy of the follow-up and corrective actions taken on reports of auditors and investigators.

When systems have been properly developed and are functioning as planned, the possibility for fraud, theft, or error is greatly diminished. Where the systems do not exist, or are not being used properly, the opportunities to defraud the Government and the possibilities of error increase dramatically.

I intend to have the Task Force concentrate on agency controls over cash and receivables, inventories and supplies, and anything else of value that might be stolen or misappropriated if controls are weak. Since computer systems offer many possibilities for fraud, we will identify weaknesses in computer controls over payroll, payments to vendors, and cash disbursements for other purposes. We will also be looking at the controls in effect to ensure that the Government gets what it pays for, and that work set out in contracts is actually performed.

We will review the reports of internal auditors in each agency it reviews, giving particular attention to indications of fraud or error the auditors have uncovered. Where these reports or our reviews show that controls are weak, we will search for potentially fraudulent situations, using our own computerized data retrieval and analysis packages where practical. At the conclusion of our work at each agency, we will prepare a report to the Congress and the agency involved, with particular emphasis on any weaknesses in management controls that would permit fraud, theft, or error to occur.

Based on our findings to date, we are assigning the highest priority to fraud and abuse reviews. In fact, we will pull people off other high priority work, and as our work progresses, we may find it necessary to allocate even more staff. With the Task Force acting as the central focal point,
all our work on fraud and abuse will be brought under the umbrella of the Task Force. This procedure permits us to deal with new combinations very quickly. Task Force members are already working to coordinate fraud and abuse type reviews planned or on-going within all our divisions. By mid-January, we expect to have our first list of recommendations.

Since prevention will merit top priority in the fight against fraud at GAO, our work will concentrate on fixing or strengthening control weaknesses found in agency systems that permit fraud to occur. One of the best ways to prevent fraud and abuse is a series of checks and balances. For example, when these controls operate effectively, one employee's work is usually checked by another in a way that no one employee can abscond with agency assets without detection. The system also tends to identify error. Although no system is entirely foolproof, a number of series of checks and balances greatly decreases the likelihood that fraud and abuse will occur.

As we uncover potential fraud and abuse, we will be looking for patterns that can be explored in other agency systems. Identification of instances of potential fraud and abuse are disclosed, we plan to work closely with staff of the newly established Inspector General, and the Department of Justice to assist in conducting investigations necessary for prosecution. We are working out detailed procedures that will provide GAO periodic status reports on all cases referred to the Inspector General or Justice. Generally, we view our role as one of prevention rather than criminal investigation and prosecution.

Importance of Agency Accounting Controls

As most of you know, the General Accounting Office is responsible for approving agency accounting systems. We approve the design of such systems, in many cases before they are installed. In performing our work, we give a great deal of consideration to what controls are provided for and how they will be implemented. We are frequently appalled when we return to audit such systems after they have been installed because we find that many of the controls we considered important have been dropped.

Let me give you two simple illustrations. A "hash total", for example, is a very important control over card input to computers. This is simply a total of some number from all the cards and is used to be sure that all the cards go into processing. If a card is lost, the total will be wrong and the operator will know something is wrong. Similarly if some one introduces an extra card, the total will also be wrong and the operator again alerted. In our audits we find time and time again that this simple control is not operating although the system design called for it. When we inquire as to why the procedure was dropped, we receive answers like "It took too long to check out all the cases where the totals did not agree" or "Our workload increased so much we had to drop something".

A second control that we find is frequently overlooked is the "limit check." This control is usually used in payroll systems. Limit checks should not be denied any employee, but if these systems are not correctly set, they can be a major control approach to computers. Frankly, much remains to be done to get the internal controls in such systems to a level that we can feel comfortable about them. Moreover, a system of verification is needed to see that the controls we have do not fall into disuse.

If these control systems are to function effectively, top management must take a direct interest in the design of the systems and audits. Accounting and auditors are, of course, key people in this process, but if these systems are to be kept in repair and a visible protection against fraud, abuse and error, management also need be concerned. The needed controls must be programmed so they cannot be be performed outside the accountant's area of responsibility and therefore may extend beyond his purview. Due to other priorities, the auditor's work may not be done with sufficient regard to see that controls are kept up-to-date. Management must see that all the responsible officials cooperate in setting up the necessary controls and that the personnel resources necessary to keep the system working properly are available.

Lest I be accused of not considering cost, I want to add here that--all controls have to be weighed in the cost-effectiveness scale. We call the risk analysis at GAO and by it we mean assessing the potential damage the lack of control might permit and comparing the cost of the control with that potential damage. It is possible to overcontrol; however, from what our audits are disclosed, I doubt that Government agencies have too much to worry about in that regard—at least for the immediate future.

Growing Congressional Interest

The Congress has recognized the need for better control in the private sector in the Foreign Corrupt Practices Act. The section of the act also contains a less well known section requiring affected corporations to devise and maintain an adequate system of internal controls sufficient to ensure that transactions are executed in accordance with management's authorizations, that transactions are properly recorded, that access to corporate assets is controlled, and that assets are accounted for and reconciled in reasonable intervals. Such a system is a goal all Federal agencies might well strive for.

For over 50 years, experience in both the executive and legislative branches of the Federal Government, I have seen the value of audits and investigations and the changes they can bring. Frankly, we do not downplay their significance in any way but for a day by day, audit and investigations will be a big help, but alone, they will not be enough. Federal auditors and investigators have many priorities, they do not ordinarily perform detailed audits of procedures to see that they are working on a routine, periodic basis. Unless they, or someone else, does make such reviews, it will be hard to keep effective and ethical accounting systems going.

Unfortunately, auditing and investigative staffs have had low priority. Accounting and auditing have generally received little attention until and unless something goes wrong. This situation is changing rapidly, with the newly enacted legislation which created Inspectors General in 14 major Departments and Agencies, reporting directly to the agency head or his deputy and given a specific statutory mandate by law. Of particular interest to us is the provision authorizing us to set audit standards to be followed by the Inspectors General in carrying out the functions assigned to them by the Act. As many of you know, standards for Governmental audits since 1972. These standards are entitled, Standards for Audit of Governmental Organizations, Programs, Activities in an adequate way, they are usually called the yellow book because their formality is so long. We will be reviewing these standards during the next year to see if they should be supplemented to give more emphasis to the need to prevent and detect against fraud, abuse of fraud and error. We welcome the suggestions which I hope and believe this conference will bring about.

Ethical Standards are Basic

Before concluding, I would like to say just a word to stress the importance of high ethical standards for Federal employees. Again, we should remind ourselves that fraud abuse, and
error have two origins. One is with Federal employees themselves and the other with those outside of Government who take advantage of employees themselves and the other with those in the Government's financial controls to obtain personal profit for themselves. However, there are a great many cases where both elements are involved. A strong ethical awareness among Federal employees will do much to remove the temptation for these employees to violate the trust which has been vested in them and to make them more aware and sensitive to the violation of such standards by others.

President Carter has had much to say on the subject of ethics and his leadership has undoubtedly had much to do with interest on this subject in the Congress itself. And I might add that the General Accounting Office has given very high priority to the review of financial disclosure systems, ethical standards, and, in the end, the monitoring of these standards by the executive agencies. We recommended and the Congress established an Office of Ethics to administer the Executive Branch program in the Ethics in Government Act of 1978. I believe this Act will do much to enhance employee conduct and add to the integrity of the Federal Government's operations. It is an important step in preventing temptation, conflict of Interest, fraud and other abuses.

Last week, I attended a program celebrating the 100th anniversary of the establishment of the Office of Auditor General of Canada and heard a leading British Member of Parliament give a brilliant address on the importance of audit and accountability in government. He observed that democracy, like love, will withstand our attacks except indifference and neglect. He concluded that the role of the auditor serves to remind us that “if we do not learn the lessons of history we will be condemned to relive it.” In this Conference, we need to remind ourselves of the public trust we hold and to act—and to act visibly—to do whatever we can to demonstrate to the entire Nation that we can act responsibly and responsibly in protecting the taxpayer’s dollar.

INTRODUCTION OF THE ATTORNEY GENERAL

By the Honorable Joseph A. Califano, Jr., Secretary of Health, Education, and Welfare

Our next speaker endeared himself to me when—at one of the first meetings of President Carter’s cabinet—he told the following story from his long and distinguished legal career:

A defendant was haled into court in Georgia, charged with being drunk and with setting his bed on fire.

“How do you plead?”, the judge asked.

“GUILTY to the first charge, your Honor,” the defendant replied, “but innocent of the second.”

When the judge looked puzzled, the man explained, “It’s true that I was drunk, your Honor. But the bed was already on fire when I got into it.”

That story expresses the feeling of all of us who find ourselves facing difficult public problems: we know the feeling of having climbed into a burning bed. And nowhere are things hotter than where Griffin Bell sits. Nowhere are keen judgment, unswerving integrity and deep wisdom more essential.

And no one in Government displays those qualities more prominently than the Attorney General. I have worked closely with Judge Bell on several controversial issues involving our two Departments. He and his staff have provided us legal judgment on some highly complicated questions such as abortion, the rights of handicapped citizens, alcohol and drug abuse problems.

In the process, I have learned that Griffin Bell sees things as they are—and calls them as they are, with impregnable courage and integrity.

I admire him as a lawyer.

I respect him as a colleague—and I value him as a friend.

Ladies and gentlemen, the Attorney General of the United States, Judge Griffin Bell.

REMARKS

Honorable Griffin Bell, Attorney General of the United States.

Shortly after I became Attorney General, Secretary Califano told me that he had instituted two antifraud programs and explained some of the things that are being done in HEW. To the best of my knowledge, he was the first person in the new Administration to decide to do something about program fraud—that is, fraud in the Government. Since then, the Labor Department has been doing some of the same things with their programs. You all read about the GSA investigations, you read about the SBA investigation, and there are others.

But I want to give Joe Califano credit for starting all this. He is the person who offered the leadership to do something about fraud in Government. He had the feeling and the knowledge that in the last fifteen or twenty years in this country we have had a loosening of discipline. That is nowhere more true than in Government programs where you give money away. Many people set out now to steal from the Government. Twenty years ago, if you stole from the Government, it would be considered a high crime. Today, many people seem to condone it. I don’t condone it. I’m doing everything I can to stop such stealing from the Government. I don’t think that the taxpayers will suffer that sort of conduct much longer.

And we are doing a great deal. My initial problem was to decide how to accommodate a really vigorous program against white collar crime, including Government fraud, into a system where the government had been doing things in a different way for a long time. So what we did at the Justice Department was to set priorities—this was early in 1977.

The priorities for Justice and for the FBI are white collar crime, organized crime, public corruption, and drug trafficking. Of course, the FBI has one category of business that’s even higher than those four, and that’s foreign counterintelligence.

White collar crime includes program fraud, which is the subject of this Conference. Public corruption includes investigations of public officials—local, State, and Federal—who are involved in some form of stealing—bribery, payoffs, that sort of thing. The last figure I saw indicated that there are about 700 public corruption investigations going on in this country. Now that

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doesn't mean that suddenly everyone has become more corrupt. It means we are investigating more than we ever have before.

After setting these priorities, we decided that we would have to take one more step, and this eventually will have to be taken throughout the Government. We decided that we ought to study the allocation of resources. We live in a system which we call Federalism, encompassing local, State and Federal governments. We decided to look at who ought to be investigating certain types of crimes and who ought to be prosecuting. I instructed the U. S. Attorneys to begin to meet with all the local prosecutors in their districts, started meeting with the State Attorneys General; Mr. Civiletti, my Deputy, meets with them now on a quarterly basis. We are shifting over to the States some of the things that we used to do. Some things we can do better than the States, but we have studied the allocation of resources carefully. This eventually will have to be done in all government programs.

We've made great progress. We are vigorously investigating and prosecuting white collar fraud cases. We know they are more complex, and the investigations are tedious. We have only 800 accountants in the FBI out of 8,000 agents. We need more accountants. We need people who understand computers and data retrieval systems, people who can compete with the law breakers. That's what it really gets down to. Are we good enough to compete with those who understand how to commit sophisticated fraud? I think we are good. I think we're going to win. The main reason we're going to win is because we're set up for the battle, we're set up to win.

For one thing, we are getting great assistance from the agencies. The agency investigators know a great deal more about what's going on in the agency than we knew at the FBI or in the U. S. Attorneys' offices or in the litigating divisions at the Department. We are there to help, we are there to prosecute, but we have to have some assistance from the agencies. We are getting a lot of help from the agencies and we are giving assistance, too. In 1975, so far, we have trained 600 agency investigators at seminars.

We're setting some new standards of reference—when do you refer a case from the agency to us for investigation based on criminal activity.

I see good spirit on the part of all agency heads, the general counsel, the chief investigators. We're going into the next Congress with an omnibus white collar crime bill, which is needed. We'll have to continue to work on an interagency apparatus, particularly since we're getting all the new inspectors general.

We stand ready at the Justice Department to help in any way. If you have an investigation where you need us and we're not already in the case, call us. That's all you have to do. We're the lawyers for the Government, and we're the lawyers for the American people. That's what I perceive our role to be. As lawyers, just as if we were in the private sector, when our clients need us, we are available.

Someone wrote in a play about 400 years ago that the world seemed to be out of square. Well, our system of Government sometimes seems to be out of square, but I think we're putting it back in square. It's a good time to be Attorney General, and it's a good time to have a person like Joe Califano as Secretary of HEW—he's really good at his job. It's a pleasure to work with him. I think all of us working together will put our system back in square. It's not much cut, but we're working to put it back in.

Thank you very much.

LUNCHEON SESSION, WEDNESDAY, DECEMBER 13

INTRODUCTION OF THE PRESIDENT

By the Honorable Joseph A. Califano, Jr., Secretary of Health, Education, and Welfare

Ladies and gentlemen: It is the happy fate of the best American Presidents to become identified with a great idea. For Abraham Lincoln, that idea was union for this nation and freedom for all people. For Franklin Roosevelt, that idea was economic justice and security for every American family. For Lyndon Johnson, it was the idea of equal opportunity for the dispossessed, whether they were black or poor or old.

Our next speaker embraces all those ideas of his predecessors. But already, in less than two years in the White House, he has become identified with a great idea of his own: the idea that the people's government should serve the people; and that it should work with maximum integrity and excellence.

When he campaigned for office and when he came to office, that idea was in eclipse: the American people had lost faith in their leadership and their institutions.

Jimmy Carter promised to restore the trust of the American People. I believe he has already accomplished that. Through his leadership, this nation's government has been restored to its rightful owners—the American people.

Ladies and gentlemen: the President of the United States.

REMARKS

The President of the United States

I am delighted to join you today for this crucial conference. I want to commend Joe Califano for once again taking the lead in the efforts of my Administration to root out fraud and waste and abuse of taxpayers' money from government.

This Administration has declared war on waste and fraud in government programs. With your help we will win that war.

We are concerned with more than saving dollars, crucial as that is today. We must restore, and rebuild the trust that must exist in a democracy between a free people and their government.

My Administration took office after a painful and difficult period in American history, as you well know. The experience of Vietnam, of Watergate, revelations of wrongdoing by intelligence agencies, the resignations of a Vice President and President, the indictment and conviction of top government officials—these hit the American people like hammer blows, over and over again. Each shattered, a little more, the trust and confidence of the American people in their government and their elected officials.

Cynicism and distrust eat away at the vitality of a democratic nation. Lincoln once said, "With public confidence everything is possible; without it nothing is possible."

Over the past two years, slowly and steadily, we've begun to restore the trust and confidence of the American people.

But it is not enough for people to have confidence in the good intentions and personal integrity of those who hold public office. The American people must also know that government is capable of doing its job. Fraud and abuse and waste undermine that precious confidence.

Those who rob from government rob from every steel worker, teacher, store clerk and truck driver in America. Under this Administration, those who rob from the American people will be prosecuted to the full extent of the law.

I do not believe that Americans want to go back on the promise of a better life and a fairer society. The heart of America is too big for that. The American people will not accept callousness toward those among us who are aged or sick or jobless or lacking in education or opportunity. But neither will the American people accept a massive bureaucracy that is too clumsy or too poorly managed to do its job.

Most of the funds we spend in Federal programs benefit the people for whom they are in-
tended. As a known or suspected part of the total Federal budget, losses through fraud, abuse and waste may be small. But compared to the tax bill of the average American, those losses are huge—and demoralizing.

The real damage of fraud and abuse cannot be measured in dollars and cents. For it is riddled with waste and fraud—the victims are shut out of a job—the senior citizen deprived of a nutritious meal—the taxpayer whose hard-earned dollars goes down the drain. When I lived in Plains after retiring from my job, I was able to start a small business processing peanuts because I obtained an SBA loan when I could not raise private funds. There are thousands of Americans, many of them members of the low-income segment, starting a business of their own, and seeing it grow and thrive and having that pride of personal independence. It is a cruel hoax to these Americans to see those dreams destroyed by those who abuse and defraud the SBA.

Some of us believe that our society has an obligation toward its weakest members have the greatest stake in improving the management and efficiency of the programs that are designed to meet that obligation. This is especially true when the battle against inflation makes it impossible to bring vast new resources to bear on our social problems. At such a time—indeed, at any time—efficient management is in itself an act of compassion, for it unlocks new resources to be used for human ends.

There is a second myth—the myth that it is somehow more compassionate, more committed to appropriate another billion dollars of the taxpayers' money than to start an existing program so that it delivers an extra billion dollars' worth of service.

In fact, the latter is preferable in every way. It saves money, of course. It does more than that.

Efficient management increases political support for a program among those whose taxes pay for it. It gives the lie to those who prefer to believe that programs that meet human needs cannot work. It inspires and boosts the morale of government employees who are deeply frustrated when their work is frustrated through waste or fraud.

I did not select that one-billion-dollar figure at random. This is the amount that Joe Califano has vowed to save in fiscal '80 by cutting deeply into waste and fraud in the Department of Health, Education and Welfare.

Project Match is sifting out those on the Federal payroll who are illegally receiving welfare benefits. The project is very new, but it has already repaid its million-dollar cost twice over.

Project Integrity is nailing the thieves and con-artists among health care providers.

Thanks to tough management of the student financial aid program, the number of student deferments is falling at the fastest rate in the program's ten-year history—and the backlog, which hit 400,000 last March, is projected to be at zero by the end of 1980.

The credit for these successes belongs to an active partnership between the Federal government and the states and localities. Similar efforts are underway in other parts of the Federal government.

The new Department of Health, Education, and Welfare is fighting illegal trafficking in Food Stamps. At the Small Business Administration and the General Services Administration, we are cracking down on fraud and theft. At the Department of Justice, the prosecution of fraud within the government is now a high priority.

The headlines generated by these activities do not always make for pleasant reading. But those headlines are a sign not that things are getting worse, but that they are improving.

When I campaigned for the Presidency, I promised the American people a compassionate and competent government. I have not swerved from that goal. Our expanding attack on waste and fraud is just one facet of a long-term effort that began the day that I took office.

Many have attacked my efforts on the ground that it is unfair to single out particular departments and agencies. But I believe that in these areas, it is the most fair way to implement my campaign pledge to build a kinder, more compassionate government.

I have embarked on reorganization of the Federal government to eliminate the waste caused by duplication and bureaucratic overlap.

I submitted, and the Congress passed, the first sweeping reform of the Civil Service system in its century-long history. Civil Service Reform gives the departments and agencies a chance to strengthen their total management systems. It gives us the ability to deal firmly with those few who are dishonest or incompetent, and it increases the rewards for efficiency, fairness and accountability. It is a major step toward building a Federal workforce dedicated to competence and integrity at every level.

A year ago, we launched a program of special recognition for Federal personnel at all levels who suggested improvements that brought savings of $5,000 or more. The results were astounding. In one year, 1,380 people in 29 departments and agencies contributed improvements that brought savings of over $210 million—more than the total average income taxes of 95,000 Americans.

These results show that good management and effective use of incentives are as effective in reducing waste and fraud as enforcement and punishment.

The Civil Service Reform Act provides greatly increased cash awards, both from agencies and from the President, for employees who make significant suggestions, improve government operations, reduce paperwork, or perform special acts or services in the public interest.

We have waded into the thicket of pointless red tape and regulations that waste the time of citizens and state and local officials. For example, we inherited more than 1,700 separate planning requirements in various grant and aid programs. We are chopping away at these overlapping requirements and have eliminated or consolidated more than 300 of them in the past year. We're still at it, and OEWS is sitting up and singing.

Last year, I asked the heads of the departments and agencies to improve their audit coordination and increase their reliance on state and local audits wherever possible. A government-wide effort led by OMB and the General Accounting Office has now come up with a breakthrough in auditing Federally-assisted programs—a simple guide to replace the almost one hundred now in use.

We need to bring the same kind of simplicity to our public assistance programs.

Today the welfare system of one state eats up 3 billion pieces of paper each year and a thousand different forms. This economic aid in another state had to spend 300 hours in one year filling out paperwork documenting her need.

For this reason I am today asking Jim McIntyre and Joe Califano to head a major effort to simplify and streamline the hundreds of complex eligibility requirements which contribute $3 billion each year to the cost of public assistance and other human services programs—an administration and its counterparts in other agencies and the recipients. We will move to simplify these procedures where it really counts—at the State and local level.

Wherever they have the tools to root out fraud and abuse, we have put them to work. Where they did not exist, we are creating them.

Perhaps the most important new tools in the fight against fraud are the Inspectors General created by the Federal government by an act of Congress I signed eight weeks ago. The Inspectors General will be a powerful new tool for the discovery and elimination of fraud. They have broad powers and a significant degree of independence.

I will choose these Inspectors General carefully. I want them to match the high standard set by Tom Morris, the first Inspector General I appointed at HEW, who has helped give the American taxpayer back a billion dollars since the beginning of 1977.

I have already directed Jim McIntyre to oversee the work of the Inspectors General. I will want to be sure that in each department covered by the law, the auditing and investigative functions are meshed in a smooth and effective way.

Today I am taking a further step. I am directing that significant features of the Inspectors General program be extended throughout the Federal government. Each agency and department will prepare a plan for eliminating waste and fraud in its own activities, and will designate a single official to oversee the preparation and implementation of that plan. I have assigned the Office of Management and Budget responsibility for overseeing this effort.

I am looking to the Attorney General to assure that investigations by Inspectors General and their counterparts are effectively coordinated with other investigative and prosecutorial activities, so that criminal matters receive immediate and efficient attention.

The fight against waste and fraud will require the best efforts of us all. New programs and better enforcement will help. But our most important weapon in this struggle is the vigilance and dedication we bring to it. I call on all who work in government—Federal, State and local—to join me in this effort.

The stakes are high. If we succeed—as I believe we will—we will have kept faith with the
millions of men, women and children whose hu-
man needs our society has pledged to meet. And
we will have kept faith with ourselves. For the
ultimate beneficiary will be democratic self-
government in this America that all of us love.

CONCURRENT WORKSHOPS—WEDNESDAY, DECEMBER 13

I. HEALTH WORKSHOP

Moderator
Leonard D. Schaeffer
Administrator
Health Care Financing Administration, HEW

Panelists
Charles J. Hynes
Deputy Attorney General
Office of the Special Prosecutor
State of New York
William C. White, C.L.U.
Vice President
The Prudential Insurance Company of America
Judith LaVor
Office of Policy, Planning, & Research
Health Care Financing Administration, HEW
Paul Allen
Deputy Director for Medical Services
Administration
Michigan Department of Social Services
William H. Stewart, M.D.
Acting Head
Department of Preventive Medicine and
Public Health
Louisiana State University School of Medicine

Staff Reporters
Barbara Hoffman
Office of Public Affairs
Health Care Financing Administration, HEW
Carol Rosean
Office of Public Affairs
Health Care Financing Administration, HEW

REMARKS—“FRAUD INVESTIGATION AND PROSECUTION”

By Charles J. Hynes, Deputy Attorney General, Office of the Special Prosecutor, State of New York

The well-being of any system is dependent upon
the full participation of all of its constituents. Over
the last few decades, Government has in-
creasingly acknowledged its responsibility to pro-
vide a program of health care and to equalize the
economic extremes that are at the source of social
injustice.

Hard figures on the cost of quality health care
don’t exist, yet we are continually being made
aware of the mounting inflation of these costs.
The department of Labor reported in August
1978, that rising medical costs were a major fac-
tor this year in driving up the cost of living for
retired couples by seven per cent.

There have been hidden within the costs of health care. They
are not as easy to identify as a finger on a scale,
because buying health care is obviously not the
same as buying apples.

For nearly four years, my office has dealt with
the problems of Medicaid fraud and mismanage-
ment in New York State and while we have been
reasonably successful in identifying and solving
many of the problems, it is clear that lasting
improvement will require a major overhaul of
the program of delivering and paying for health
care in this country.

Until we design and implement long term re-
forms in our health delivery system the crisis
will continue.

In the past year, the President and the Con-
gress have given us for the first time since the
advent of Medicaid and Medicare the opportunity
for reform.

Many of you know that on October 25, 1977,
President Carter signed a bill which gives to each
state the resources to contain health care fraud.
The basic purpose of the law commonly referred
to as HR 3 is to improve the capacity of State
and Federal governments to detect, prosecute,
punish and discourage fraud and abuse by providing participating in the Medicare and Medicaid programs. Congress has wisely concluded that without meaningful state programs of criminal prosecution, health fraud cannot and will not be controlled.

The legislation contains funding incentives for states to establish Medicaid Fraud Units with statewide investigative and prosecutorial powers over the entire Medicaid system. Such units, if they meet the Federal standards, receive Federal reimbursement of 90% of their costs over the next three years.

It should be the goals of this investigation to substantially eliminate health care fraud, to work with the Health and Social Services agencies on the problems of mismanagement and then finally, to discover what has never been previously known—the real costs of health care. But let no one be overly optimistic. We in New York who have spent four years searching for this solution—still have much to go.

Let me review briefly the New York experience: What led to the nursing home scandals of the early ’70s—What has happened since 1975.

The ancient Greeks judged whether a nation was civilized by the way it treated its elderly and by that test. During the media in 1974 and early 1975 shocked all of us.

From August of 1974 through the early days of 1975, our eyes and our ears were pounded daily with horror stories of squalid conditions in nursing homes across the state. These stories were a wholesale rape of the State and Federal Treasuries. A representative of the New York, point to more

And we were further outraged to discover that this scandal was nothing new—that thirteen years before in New York City the same thing had occurred and worse—many of the same people we read about in 1974 were involved in 1961. We learned that in 1961 no one was prosecuted and that restitution was limited to 10-20 cents on the dollar and in 1961, those thieves were permitted to remain in business.

On the 10th day of his new Administration in 1975, Governor Hugh L. Carey created a Moreland Commission under the direction of a distinguished lawyer, the former President of Brandeis University Morris B. Abram, and he directed that my office be established.

Because of the enormous media exposure concerning allegations of poor care in our nursing homes, particularly in the urban centers of New York State, we concluded that there would be an intense effort by the owners to clean up the homes and control the audits. We immediately instituted a joint program with the Department of Health of unannounced on-site inspections of nursing homes throughout the state, our primary focus was to work with the help of inflated bills and subsequent Medicaid reimbursement.

Of course, few investigations of fraud can begin without first obtaining books and records. From the beginning of the investigation, we were barraged with motions to quash our subpoenas. To give you some idea, we have litigated more than 400 subpoenas. The fact that we have been successful in more than 95% of these cases is attributable in all candor to a combination of the competence of our auditors and the frivolousness of the challenges to our subpoenas. Fortunately, we have dealt in the main with reputable lawyers and in most cases, we have been able to obtain most of the books and records but there have been some instances and more plague the lawyers who have visited on the Egyptians to frustrate us. There have been claims of destruction of books and records through fire, flood, burglary, and embezzlement. What we do not have is any unexplained disappearances. The history of one subpoena litigation will give you some understanding of that problem.

On April 8, 1975, we subpoenaed the books and records of a nursing home. A motion to quash our subpoena was promptly brought in the lower court. We were told there and in the Appellate Division and finally, in December of 1975, in the New York State Court of Appeals, which is the highest state court—the nursing home operator then went into the Federal District Court, then to the Circuit Court of Appeals and finally, to the United States Supreme Court. At all stages we were successful. But, it took us until the fall of 1977 when, for the first time, the nursing home operator appeared in the lower State Court and said he could not find his books and records. The judge, holding the operator in contempt, said eloquently, "Boys and records, unlike some vessels asking for the Bermuda triangle, do not disappear without explanation upon the presentation of a subpoena from a Special Prosecutor." Now held in contempt, the defendant appealed the contempt citation—first, to the Appellate Division, then, to the Court of Appeals and up through the Federal system, losing all the while, and finally on April 10, 1978, more than three years after the service of the first subpoena, he was incarcerated and ordered to appear in court on a contempt citation.

In the petition, he raised the issue that his constitutional right was being violated because he had testified under oath that he simply did not know where the books and records were. The petition was dismissed but the Court released him from the jail to permit him to appeal that decision. The defendant is currently on bail awaiting a decision from the Appellate Division. He will undoubtedly go to the Court of Appeals and to the Federal system once again and we have still not obtained the books and records.

This kind of delay is not unique to the criminal side of our investigation. We have had, for more than a year, a civil recovery component in our office operating statewide. This was as a result of our belief which has been translated into HR-3 that criminal prosecutions alone do not satisfy the needs of a successful health care delivery system.

On the one hand, deterrents for white collar criminals and expulsions from the business of health care is obviously a desired result. It is every bit as important to exact restitution from convicted operators and to pursue recovery of State and Federal money which has been or paid to operators against whom a successful prosecution will not lie.

So it was in the early part of our investigation, we moved to the DDD and Medicaid agency's administrative hearing process to recover overpayments. When it became clear that the system was not working, that delay made it impossible for even a small number of health care funds, we obtained, with the cooperation of the Attorney General and the Legislature, the necessary authority to set up a Civil Recovery Unit. The unit has already brought lawsuits which total more than $12 million. The combined efforts have resulted in the recovery, by either cash or absolute assessment of assets, of nearly $7 million.

Our audit report to date, which represent an indepth review of all private proprietary nursing homes in the State of New York, point to more than $63 million in overpayments. It will be the task of the Civil Recovery Division to pursue the return of these funds.

On the criminal side to date, we have indicted 147 individuals and of the 109 completed cases 8 have had their cases dismissed, 7 have been acquitted and 94 people have been convicted.
We look back today on a health care system in New York which, while not perfect, is on the sure road to the successful containment, if not total elimination of fraud, which is often considered critical in the New York which, while not only problem. This nation has been talking about of our entire health present predictions. total annual health bill, currently totalling consumers have virtually no chance to directly unless some uncontrollably rising health care costs. current system. including careful compilation of facts about our exist. We have seen coverage in the press and some 88 million more Americans have line and some 8 million of the un institutionalized elderly poor, to where our desire to get to the disenfranchised the benefit of a free society was not tempered by a simple and empirical fact that there are enough parasites abounding in this nation to wreck any social welfare program. But we have the capability to contribute sig­ nificant information needed to formulate an economically feasible national health insurance policy. In order to be most consequential we must not define ourselves from a narrow point of view, because we have the chance to not only rid this field of fraud and abuse, but also to determine the true cost of health care. Oliver Wendell Holmes, Jr., wrote "The life of the law has not been logic, it has been experi­ ence." In the case of health care, it will be our experience that serves as a foundation for national planning.

HR–8 affords us this opportunity. For make no mistake about it, unless we succeed in deter­ mining the cost of quality care minus fraud and mismanagement, we cannot have a successful na­ tional health insurance policy in this country. A person who has had experience investigating Medicaid fraud for any period of time knows that the uninstitutionalized elderly poor, to name one group, desperately need some form of national health insurance. And when we realize that 24 million Americans have no public or private health insurance programs, and that 8 million of these Americans have incomes below the poverty line and some 86 million more Americans have no insurance protection against catastrophic medical expenses, it is obvious that we need some form of national health insurance. But no responsible public official can seriously call for wholesale national health insurance with­ out addressing himself to the need for effective fraud, waste and management control. The trag­ edy of Medicaid-Medicare in my judgment is that our humanitarian was not accompanied by healthy cynicism. That our desire to give to the disenfranchised the benefit of a free society was not tempered by a simple and empirical fact that there are enough parasites abounding in this nation to wreck any social welfare program. But we have the capability to contribute sig­ nificant information needed to formulate an economically feasible national health insurance policy. In order to be most consequential we must not define ourselves from a narrow point of view, because we have the chance to not only rid this field of fraud and abuse, but also to determine the true cost of health care. Oliver Wendell Holmes, Jr., wrote "The life of the law has not been logic, it has been experi­ ence." In the case of health care, it will be our experience that serves as a foundation for national planning.

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MARKS—"MODEL SYSTEMS—ABUSE DETECTION CONTROL"

By William C. White, C.L.U., Vice President, The Prudential Insurance Company of America

For many of us working in the health care industry, a new "catch phrase" has now infiltrated our daily language in the last few years called "Fraud and Abuse." It is spoken almost as one word, almost always with its detection and investigation, it seems to be an appropriate and correct linkage, since they frequently co­ exist. We have all seen coverage in the press and on television about the numerous ways in which the health care dollar can be obtained unethically. Interspersed among these sensational stories have been others, featured in a lower key, citing prosecutions, fines, sentencing and loss of licenses for those obtaining Medicare and Medicaid funds fraudulently. Further behind the scene are other largely unknown story of Intermediary, Carrier, Contractor, and State case investigations which have denied, reduced, or recaptured mil­ lion of Program dollars. It is one which the general public knows little about, and yet one which comprises our continuing concern with ob­ taining fair and equitable medical care for the Federal and State tax dollars invested in these increasingly complex programs.

Improved tools have also been developed in the form of upgraded penalties for fraudulent acts in both programs contained in the Anti-Fraud and Abuse Amendments enacted last year, and by the continuing improvement of computer de­ tection and screening systems for the enormous volumes of claims flowing through the Medicare and Medicaid Programs. Other panel members will discuss the aspect of Program fraud and I will cover what is often the beginning of the whole process—overutilization and abuse de­ tection.

Computer analysis and screening techniques for various medical services have existed for a number of years in comparatively low volume processing environments. Recognizing the need for high capacity claims processing and man­ agement systems, HEO has fostered the long range development of the Model Systems concept which has resulted in several integrated claims management systems.

Under Medicare, the claim processing concepts are known as the Model A and Model B Systems and in Medicaid the system is known as MMS or Medicaid Management Information System. Built into the Model B System are pre and post payment modules which trigger the initial case rejection or begin the careful accumulation of abnormal or unusual patient care statistics in a medical practice. MMS uses similar techniques.

Currently, Medicare has measures, frequencies and meaningful utilization ratios produced by the re­ spective computer systems, I want to touch upon the basic problem of Program abuse. In its sim­ plest form, abuse represents the provision of services and supplies in excess of those which are considered medically necessary. In my view and experience, abuse has different characteris­ tics and patterns in each Program with only a small overlap. What is common form of abuse in either Program is overutilization of services. Overutilization is a profound subject in itself and a difficult one to resolve. In attempting to have ten health care providers define it, you may get ten answers. Control measures include not only pre and post-payment controls but, also, monitor and patient education, law and regula­ tion. Doctors will differ strongly on what they consider overutilization of services. It may de­ pend upon the setting, age, care, availability of services, and many other variables. Its definition under Medicare can justifiably differ from the yardstick applied to the Medicaid patient. The "cure" in an individual case of overutilization, assuming the absence of fraud, may be worse than the "problem." If the physician is in an underserved area, which is commonly the case in Medicaid, punitive actions resulting in his re­ moval from the area could result in a less per­ sonal type of service being rendered at a higher cost to the State. These former patients may seek treatment in the hospital setting at greatly increased Program cost. In many cases, there are significant differences in overutilization factors between the Programs. In Medicare, the problem may be that the patient is receiving very high quality care, perhaps at a higher level than en­ visioned by the law. Since Medicaid reimbursement per service is generally much lower, it leads in some cases to a different type of overutilization phenomena. Abuse characteristics present in Medicaid data include:

1. Low average time spent with patients per day.
2. Family visits. All members are examined at each doctor visit whether necessary or not.
3. Ping-ponging. High frequency doctor re­ ferrals within a group or between other specialists on Program patients.
4. Consecutive daily visits with no appoint­ ments.
5. Services rendered which are not related to the physician's specialty.
6. Symptoms rather than diagnoses are sub­ mitted on a claim.
7. A variety of diagnoses are given varying from visit to visit on the same patient.
8. A pattern of seeing more than one physi­ cian on the same date.
9. A doctor with an unusual number of teen age patients.

Medicare characteristics are generally different and tend to reflect the financial restraints im­ posed by the deductible and coinsurance payment features built into this Program. Medicare data reveal more abuse in the hospital setting in terms of excessive stays and billings for daily and concurrent specialty care. Some problems also exist in the office and the Nursing Home set­ ting with little or no documentation to support high frequency and acute care visits.

Overutilization is a highly sensitive issue and one which administrative edicts will not resolve and one where the Program can negatively affect the patient with the delivery system. As always, there is a fine line between overutilization
and abuse which requires the use of human judgment, an element which is necessarily missing in all the massive arrays of computer data.

How do we pull together the whole clues which are now difficult for the individual case reviewer to associate when manually reviewing recipient and beneficiary case files? Old approaches and methods of review can no longer work in this environment. The introduction of high volume data detailing service, diagnoses, procedures and types and places of service must be categorized and organized into a meaningful format. As more claims data is fed into computer networks, data management techniques become important and must furnish an environment in which both the individual patient activity and provider or physician treatment patterns can be more adequately monitored. Computer studies can cover practice patterns over both short and long periods of time and permit the selection of unique or exceptional variations in the delivery of services within areas or peer groups.

In the Model B Medicare System, both pre and post-payment techniques are used as devices to control the utilization of services. Some of the commonly used pre-payment screens are:

**Provider Flags**—These can be broad enough in scope to include all of a physician's patients or can be tailored to select only certain procedures. They are usually inserted into the monitoring system as a by-product of individual claims referred by the claims processing staff which appear above a certain dollar amount. Some of the procedures are as follows:

1. Drug Type—This is used to automatically screen or reject those claims whose trend is abnormal. Some of the drugs involved are analgesics, psychotherapeutic agents, tranquilizers, or sedatives.
2. Claims History—This is used to identify the historic claims patterns of individual physicians and places of service. It is often based on the payment history of the physician or provider.
3. High Frequency of Use—This is used to identify those physicians or providers whose high frequency of claims is in the Medicare program.
4. High Volumes on Patients—This is used to identify those patients who are receiving services at a high frequency.
5. High Volumes on Services—This is used to identify those services which are being provided at a high frequency.
6. Payment Review—This is used to identify those claims which are being paid at a high frequency.

**Claims Processing**—This is used to identify those claims which are being paid at a high frequency.

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of its information network, budgetary and systems operations reports. Other fiscal and program status reports are made provision for the creation of separate Medicaid Fraud Control Units under the Attorney General with, again, the Anti-Fraud and Abuse Amendments last year. A systems they will expand upon existing services in an operating operations reports. It assists in the statistical documentation of claim screening system just mentioned. The system provides the mechanisms and information necessary for reviewing lengths of stay and medical services in the institutional setting. Growing concern over hospital costs and the need to reduce the rate of growth in per diem charges will draw increased attention to PSRO activities on behalf of both Programs.

I mentioned earlier the millions of dollars which are presently being denied by Carriers, Intermediaries and Contractors through systems of abuse detection and control. In a small way, I think our Prudential experience illustrates the national potential for control of Medicaid and Medicare abuse. Our responsibilities include New Jersey, North Carolina and Georgia Medicare. Part B, a portion of Part A in New Jersey and New Mexico Medicaid noninstitutional services excluding drugs. We share the contracting role for Medicaid institutional service with New Jersey Blue Cross. In the fiscal year of 1978, just completed, we denied $2,500,000 for excessive stays in our portion of New Jersey Part A hospitals. Part B denials for overutilization in our three states were almost $8,000,000 and denials on Medicaid institutional and non-institutional claims were $1,250,000.

I have touched in some detail upon the problems of utilization control, its complexities and conflicting applications in each Program. Abuse can be detected and screened even in claims processing systems of this magnitude discussed, by the use of data mining and statistical techniques coupled with the judgment and accumulated experience of claims personnel. Further refinement of the Model Systems concept and application of stronger peer review mechanisms will produce even greater control by the Federal and State Governments in the future management of the Medicare and Medicaid Programs.

I believe it is perfectly feasible and practical to assure high quality care for participants while reducing or eliminating the problems of Program abuse through the use of the data techniques described.

REMARKS—"ADMINISTRATIVE REMEDIES"

By Paul M. Allen, Deputy Director for Medical Services Administration, Michigan Department of Social Services

I was most flattered when asked to speak at this meeting but must admit my ego was deflated somewhat when I learned the subject of my participation concerned the use of administrative remedies in controlling abuse in the Medicaid program. Frankly in my experience in applying administrative remedies I have considered the sensatin to be a series of ups and downs akin to riding a roller coaster. Before I explore the subject further let me digress a bit and describe briefly the scope of the Michigan Medicaid program and outline our approach to controlling fraud, abuse and errors.

The Medicaid Program in Michigan is the single largest state program in terms of allocation of funding, representing over 50% of the total State budget in the current fiscal year. Michigan’s program alone accounts for over 5% of total Federal funds appropriated for Medicaid. Since the beginning of Michigan’s program in 1966, expenditures for Medicare and Medicaid have increased from $87 million to a projected expenditure of nearly $950 million for the fiscal year which began on October 1, 1978. The program provides services to some 900,000 eligible individuals or nearly 10% of the State’s population. The Michigan program is one of the nation’s most liberal in terms of the scope of benefits provided. We have enrolled over 25,000 individual providers, representing nearly every field of medical service to make these benefits readily available. These providers submit to the Department of Social Services an average of over 75,000 bills representing some 160,000 services every working day of the year. Because the state is its own fiscal agent, observation and evaluation of the management processes of a program of this magnitude represent a microcosm of national health issues, initiatives and problems.

As most of you are aware there are many conflicts of interest based on any public program. However, because of the many disciplines within the health services professions, all of which impact on the life of the affected beneficiaries, these conflicting pressures are more numerous in Medicaid programs than in any other government program area. To say the least, this makes Medicaid administration difficult and, more importantly, Medicaid management practices more difficult to implement and evaluate in a consistent and uniform manner.

Regardless of the myriad of administrative complexities there are two significant but opposing forces at work in the management of the Medicaid program. On the one hand, it is crucial that we review, adjudicate and pay claims in a timely and equitable manner. If we don’t we will not be able to obtain the participation of health services providers. Without their participation we deny the indigent, particularly aged and children, access to the mainstream of quality health care. On the other hand, since we are spending in excess of $2 million a day in public funds, it is essential that all claims are carefully scrutinized to ensure that they are valid and proper and that the possibility of program abuse is minimized.

This dilemma, the conflict between the need to keep provider participation at a maximum while intensifying efforts to eliminate inappropriate payments, is common to all state Medicaid programs. We believe that Michigan’s approach to the management of the program and particularly to the detection of potential fraud and abuse represents one of the most effective systems among state programs for resolving these conflicts.

To accomplish our objectives we have been using the Medicaid Management Information System (MMIS), the State dollar match, and state-of-the-art data entry and data processing techniques to rapidly and accurately process the seemingly overwhelming volume of paper received daily. Our average turnaround time for a request for payment for services provided under the program is 1.45 days. That is the average time it takes us from the date of receipt in our mail room to the date of payment for all 75,000 bills received daily including those penned for any of a variety of causes. This rapid payment cycle contributes significantly to the high level of acceptance of the program by providers in Michigan. While insuring rapid payment, this advanced data processing system and its complementary selective manual review processes allows us to quickly validate obligations prior to payment and provides the mechanisms and information necessary for post-payment review and analysis. The claim payment system contains nearly 400 checks and bills weekly at any given time. This is the beginning of Michigan's Medicaid program which was implemented rapidly in 1966 when Title XIX of the Social Security Act was enacted. As such, it was not immediately possible to fully develop
the sophisticated systems essential for program management and control. In fact, it was not generally recognized at that time, that the program would grow as rapidly as has been the case and become such a major force in the allocation and expenditure of state resources. By 1971, however, the Executive and Legislative branches of State government, recognizing the need for an existing system, operated through a contracted fiscal intermediary, did not provide the control mechanisms or the information required for effective management. Accordingly, the Legislature and Governor approved financing for the design of a new Medicaid Management Information System and the state, in 1972, decided to become its own fiscal agent, assigning the administration of the new Medicaid Division to the Medical Services Administration (then the Bureau of Medical Assistance) of the Department of Social Services. As an aside, many of the processes developed in Michigan, served as the prototype for that which ultimately was adopted by the Department of HEW as a national MMIS.

I provide this bit of historical perspective to show that there was early concern in Michigan over the direction the Medicaid program was taking and a need for feedback on the direction of State government to take early remedial action to tighten program control. The inclusion of fraud and abuse detection and prevention systems in these early efforts (Michigan was one of the first states to implement an MMIS as a national program integrity effort) was instrumental in preventing the occurrence of many of the abusive practices which are evident in other programs and has given us several years of experience in developing and refining program integrity processes.

The current Medicaid Program integrity efforts in Michigan represent a cooperative system involving the Department of the Attorney General, the Office of the Inspector General (OIG), the Medicaid Recovery Division and the Health Services Review Bureau (the latter three units are within the Department of Social Services). Although each unit has a defined responsibility for a portion of the problem, they are in constant communication and coordinate activities through regular review meetings using their common data base the outputs of MMIS. The Attorney General is charged with the investigation and prosecution of Medicaid provider fraud pursuant to the provisions of PL 95-142, while the OIG within Social Services has parallel responsibility for allegations of recipient fraud. The Medicaid Recovery Division of Medical Services Administration is responsible for the investigation and resolution of all cases involving program abuse, that is, those cases which do not warrant report and are not evidence of criminal basis. The Health Services Review Bureau of the Medical Services Administration is responsible for the professional evaluation of health care data generated by the system. Since the information on potentially fraudulent or abusive situations may come from a variety of sources, the Medicaid Recovery unit acts as a focal point for the entry of these cases into the system and for tracking the status of cases in process.

 Allegations may originate from a number of sources. Individuals, providers or other agencies may report suspicions of inappropriate practice, either by provider or recipient. Management reports generated on a regular basis from the claims processing system provide information on unusual billing or utilization patterns. The SUR system develops information on longer term patterns of practice or utilization which deviate from preestablished parameters based on "normal" utilization or practice. Once each week, a review committee meets to review all potential cases. Those with obvious indicia of possible fraud are immediately referred to the Attorney General for further action. Even if, all cases are subject to initial review by the Attorney General. Those potential fraud cases are retained by the Attorney General while others are returned to the Medicaid Recovery unit for investigation. Any case may be referred to the Attorney General whenever developments may indicate the existence of fraudulent practices. Since we are primarily concerned here with the treatment of cases of abuse which do not seem suitable for criminal prosecution, I intend to emphasize several cases in the remainder of this presentation.

All cases accepted by the Medicaid Recovery unit are referred to the Bureau of Health Services Review (the SUR unit). There, comprehensive profiles of historical, financial and analytical data are generated and analyzed through desk audit by a staff of health care analysts and medical professionals. Following analysis a memorandum of findings is prepared which is supported by as much testable data as is available. This represents a sampling of what is needed to render a determination of program integrity, and is put to the best system they had seen. In 1976, the Subcommittee on Long Term Care of the U.S. Senate Special Commission on Aging concluded that "In (Michigan), some abuses still exist, but blatant wrongdoing is rare and when it is discovered the best system they had seen."

In spite of these successes the program is not without its difficulties. Our initial efforts in this area produced a large return on a relatively small investment in staff and supporting resources. However, as our administrative efforts increased, a curious phenomenon occurred . . . our recoveries actually declined. This can be attributed, I believe, to several factors. First, our early efforts were effective in detecting and eliminating obvious offenses but, as these efforts came known among the provider community some providers, most certainly, ceased questionable practices. It was not uncommon, in fact, during the early years to receive and mail unsolicited refunds to our recovery unit on the basis of self-discovered billing "errors." Thus the "easy money" dried up.

Second, the increasing experience and sophistication of program efforts were accompanied by a corresponding increase in the sophistication of providers. That is, providers knowledge of program policies, rules and regulations increased to the point that those inclined to abuse the program utilized more and more subtle methods and means which are more difficult to detect and which are more difficult to prove and resolve when detected.

A third factor bearing on this situation is a shift in emphasis from the detection and recovery of inappropriately claimed funds through administrative processes to an emphasis on investigation of fraud and prosecution. This immediately increased the time required in resolving cases and the complexity of the proceedings surrounding them as well as the legal maneuverings of the providers involved.

Another problem area has occurred: As the confrontation between program and provider becomes more sophisticated, it becomes more diffi

Once in any event, as indicated previously, all such cases are referred to the Attorney General for evaluation and, if fraud still is not evident, returned to the Medicaid Recovery unit for further administrative action as may be appropriate.

In those cases where corrective action is indicated, an overpayment amount is calculated, contact is made with the provider, and the repayment process is initiated. Those cases are those which primarily involve billing errors or misunderstandings of program policy. Upon completion of recovery activity, these cases are referred to the provider's provider relations unit which contains the provider involved either thru letter, phone or a staff of field representatives to explain the problems encountered and to discuss changes in billing procedures necessary to prevent their recurrences.

In the more flagrant cases where large sums of money may be involved a field audit is conducted by the Medicaid Recovery unit. This is done by pulling a sample of paid claims as determined by the sample review committee. Field staff then make a visit to the provider's place of business and obtain copies of medical records and documentation supporting these claims. This information is then returned to the medical and analytical staff along with any explanatory reports or other information available and pertinent, for evaluation. This evaluation may, at this point, involve review by professional peer groups or by contracted medical consultants as appropriate.

The results of this evaluation are returned to the Medicaid Recovery unit. If the evaluation indicates that the practice observed is, in fact, legitimate, the provider is notified and the case is closed. If, however, aberrant practices are confirmed an overpayment amount is calculated and communicated to the provider with findings. If the provider concurs, a reimbursement agreement is entered and the case is closed. Note that prior to closing any case, the Attorney General is informed. If the Attorney General objects for any reason, i.e. the case may be under review there, the case is held in suspense. If the provider disagrees, any findings and the amount of refund due, the process continues through a system of informal conferences, to administrative hearings procedures and to court if necessary until the issue is resolved.

As discussed earlier, the sophistication of Michigan's payment system with its series of automated edits and the existence, for several years, of an active program of intensive post-payment analysis have discouraged many abusive practices. Our system has been the subject of several reviews. In 1974, the General Accounting Office reviewed our payment system and procedures for curbing fraud and abuse, and concluded it to be the best system they had seen. In 1976, the Sub

Committee on Long Term Care of the U.S. Senate Special Commission on Aging concluded that "In (Michigan), some abuses still exist, but blatant wrongdoing is rare and when it is discovered the best system they had seen.

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Another problem area has occurred: As the confrontation between program and provider becomes more sophisticated, it becomes more diffi
cult to differentiate between fraud and abuse, as perceived by the program, and the provider's interpretation of legitimate medical practice as reflected in the provision of services, which in his professional judgement are necessary. In this area, it becomes clear that the practice of medicine is as much an art as a science is not just another cliché. Michigan has achieved some success in interpreting this area through the use of Peer Review Committees and independent professional evaluators. However, I would be less than candid if I told you that our performance in these gray areas was acceptable to us as administrators. As a case in point, in 1975 the Michigan program identified, through post-payment review, a physician in the Detroit area who consistently billed the program for large daily numbers of home visits. The physician, in fact, billed for services provided to 149 individuals during home visits in one day and over a period of several weeks oftentimes averaged 100 a day. Investigations showed that the physician had no established office, but had an answering service which took calls and scheduled visits, and that he operated from his car. He visited inner city housing projects seeing several recipients, usually all members of the same family, at each stop. The physician billed for a limited number of diagnoses, providing similar services to each recipient at the full cost of a home visit for each. After completion of our investigation and discussions with the physician, during which he insisted his practice was appropriate and service adequate, a request for peer review was made to the appropriate state professional association. The physician's peers, including one of our staff doctors, accompanied him on his rounds, and reported that he did indeed see the patients and provide the services requested. The physician did not necessarily concur with his mode of practice, they were not willing to pronounce it illegitimate or even inadequate.

As a result, the physician's claims were paid. The program did, however, after this incident modify its reimbursement policy to limit payment for services provided to multiple recipients in a single home visit. Similar situations have risen. This case is only one that, although the peer group did not necessarily concur with his mode of practice, they were not willing to pronounce it illegitimate or even inadequate.

In spite of the difficulties in resolving these issues, the existence of a coordinated, comprehensive and aggressive approach to abuse detection and prevention can both directly and indirectly decrease the incidence of such practices.

Although it is virtually impossible to eliminate all opportunity for fraud and abuse in a program of the size and complexity of Medicaid, we believe that the Michigan approach minimizes the opportunity for such practices. Although our reviews are intended to be of use to the assistance of providers and consequent referral to provide services to beneficiaries by taking maximum advantage of state of the art data processing systems to ensure prompt, equitable and valid payment. The Michigan's response to this problem, in effect, closes the loop. An important factor in the success of the Medicaid program in Michigan, both from a programmatic viewpoint and in terms of accountability, is the role of professional associations of providers. The Michigan program enjoys extremely good relationships with these associations and consults with them regularly on issues of program policy. The cooperation of the Michigan State Medical Society and the Michigan Association of Osteopathic Physicians, in particular, has contributed significantly from an administrative perspective to our fraud and abuse control efforts.

The proof of such practices remains a difficult and lengthy process. Administrative remedies may be hard to apply. Michigan's experience, however, indicates that in spite of the prevailing popular attitude to the contrary, it is possible to make a publically funded program as large, expensive, and as complex as Medicaid with a minimum of fraud and abuse.

REMARKS—"EXCESS CAPACITY AND OVERUTILIZATION OF SHORT TERM HOSPITALS IN THE UNITED STATES"

By William H. Stewart, M.D., Acting Head, Department of Preventive Medicine and Public Health, Louisiana State University School of Medicine

Public Law 93–641 mandates the Secretary of Health, Education, and Welfare to issue a series of planning guides for the use of Health Systems Agencies as they develop the health service plans for their service areas. Among the standards issued by the Secretary is a maximum of four acute care hospital beds per 1,000 persons at a level of 80 per cent occupancy, and a series of standards for utilization of certain specific types of hospital beds. The latter begin to form a rationale for the efficient use of hospital beds in a service area.

The determination by the Secretary that there is considerable excess of acute general hospital beds in the country and that there is inefficient and wasteful use of some beds is a very significant and extremely important finding. It signals a structure of national priority in health care fields for which no national planning policy has been designed.

It has been that a more equitable distribution of health services could be accomplished by greatly increasing the resources available in the country. Most effort was directed into getting more physicians, developing facilities, particularly hospitals, and more purchasing power for consumers. Now the policy rests on the premise, that with few exceptions, the nation has enough resources. The new policy goal is a more equitable distribution and efficient use of existing resources through a much more structured system of allocation of resources and a more rational utilization of these resources. The lack of this rationale lends to charges of overutilization, misutilization, inefficiency and waste in the utilization of acute hospital services. Attempts to reduce overutilization of hospital beds require respect and hospital by hospital, through utilization review and the activities of PSROs, may have some success in reducing the more gross patterns of overutilization. But it will have little effect on eliminating or modifying the basic forces in the communities and in the nation which are the principle architect of the excess bed capacity and sometimes irrational utilization pattern of the short term general hospitals.

It is the purpose of this paper to examine some of the impediments to accomplishment of the planning goals of the Secretary including identification of some of the basic problems in the health care system which cause excess hospital capacity and overutilization of hospital services.

The determination that there is excess capacity in the acute general hospitals and that proper and more rational use of beds would lend to considerable savings in total hospital expenditures is based on interpretation of national hospital data tempered by specific studies of hospital utilization in varying populations in more delimited geographic settings.

It is beyond the scope of this paper to review the extensive literature on hospital capacity and hospital utilization of short-term hospitals in the United States. The number of short-term hospital beds per 1,000 persons has increased steadily over the past several decades. Of particular note is the fact that the expansion of these hospitals has not been accomplished by putting into place more of the same beds that existed in 1930. In terms of personnel required to provide hospital services per bed and the hospital assets required to provide those services, a bed in 1975 is not the same bed of 1930. The capital outlay and the number of medical personnel required per bed have greatly expanded since 1930 and it shows no sign of abating.

Not only has the intensity of care provided per bed been rising since 1960, the use of the beds has also increased. In 1960 there were 926 patient days per 1,000 persons in acute general hospitals. In 1970 this rate stood at 1262.

The Institute of Medicine of the National Academy of Sciences in a policy statement entitled Controlling the Supply of Hospital Beds, concluded after extensively reviewing the national data on hospital bed supply: "Although the accuracy of various aggregate national estimates of hospital bed surpluses is debatable, the evidence clearly indicates that significant surpluses of short-term general hospital beds exist or are developing in many areas of the United

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States and that these are contributing significantly to rising hospital care costs." They went on to recommend "a national planning goal be established to achieve an overall reduction of at least 10 percent in the ratio of short-term general hospital beds to the population within the next five years."

There is strong evidence to support the determination by the Secretary that significant surpluses of hospital beds exist. However, implementation of a national program to reduce the excess beds from the acute general hospitals and to rationalize the use of the inpatient hospital capacity will be difficult. It will require across the country decision-making and action by countless numbers of state and local decision-making bodies, both governmental and non-governmental, including the more than seven thousand acute general hospitals.

One major impediment to a reduction of the acute hospital bed capacity is the difficulty of answering the question: How will it be determined, hospital by hospital, which specific beds are in excess and should be abolished? While it is possible to arrive at some total number of beds in a community or health service area and it is possible to roughly divide those beds into general purpose and special purpose beds and to measure their utilization over time, such data, diligently collected by the Health Systems Agency, will not determine, hospital by hospital, which specific beds are in excess and should be abolished. And it is very doubtful that any hospital will volunteer to abolish itself or cut back on its bed capacity.

Hospitals are independent institutions. Each hospital in a community has a history and tradition of service which strongly influences the amount and types of services provided by that hospital. The Board of Trustees and medical staff of the hospital are perpetuators of that history and tradition of service. These are not easily discarded or transferred to another hospital in some other location in the community.

Each hospital has its own medical staff. It is the medical staff which determines the use of the beds of a hospital. The availability of beds and supporting technical and nursing services in that hospital are essential for the conduct of the practice of each member of the staff for his livelihood. It would be most unfair for the government to consider the resources he uses at his hospital for the care of his patient as shareable with other similar hospital resources in the community.

Some hospitals have developed cooperative arrangements to increase the use of the beds of a hospital. In some communities, there has been a trend toward merging of hospitals to better control costs, and there are indications those trends are increasing. However, the majority of hospitals in any given service area are in competition with one another on the revenue side of the ledger. A good hospital administrator, having received a chorus of complaints from the medical staff of lack of beds or lack of the latest diagnostic or therapeutic technology, will be before his Board with a capital outlay proposal at the earliest possible moment. His justification will be based on the possible loss of key medical staff members in the face of present inadequacies of his institution which could seriously jeopardize the revenue side of the hospital ledger.

Conversely, it is a good hospital administrator who will report to the medical staff at its monthly meeting his horror over the fact that even on an average census day the hospital in the face of continuing or rising costs because the admission and occupancy rates have declined below a certain level.

There are few, if any, national service areas of the country where the hospitals of the area are considered by the physicians, board members, or public as parts of a common whole, to be shared equitably by all. In many instances, hospitals are identified with a neighborhood or a subcommunity within the larger community. In some instances they are the major employer of that area.

The application of a program to abolish excess beds on the community without the acceptance of the rational plan of closure of certain beds, and without the presence of clear cut authority by some decision-making body to make the decision that these beds are excess and those are not could lead to great inequities which are not unique to this situation. The Institute of Medicine pointed out that the decision-making processes in the health care industry virtually guarantees the wide-spread development of excess hospital bed capacity for short term general care. They further pointed out that the financing system under which the adverse consequences are avoided is not based on the principles of the nation's health care. Moreover, powerful community interests are so aligned that they have the ability to control the policy of the hospitals in the face of continuing or rising costs because the admission and occupancy rates have declined below a certain level.

It is not clear at all who picks up the ball once the Secretary signs. The decision-making processes and powers of the health care system are diffuse and fragmented. This is not intended to be a pointing of the finger of failure at any one segment of the health care system. Rather it is intended to point out that the institutions, private and public, which have developed over the years to increase the purchasing power of the people for modern hospital and medical care and to develop the resources to be purchased are not organized for or charged with the responsibility and authority to regulate the nation's health care services. Nor has the responsibility been assumed by State or local government, although many State governments have moved in that direction.

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For example, in the annual summary of The Utilization of Short Stay Hospitals for 1976 published by the National Center for Health Statistics the average length of stay for all people who were discharged from a short stay hospital in 1976 was 7.6 days. While that figure is very useful in describing hospital use from a national standpoint, it masks a regional situation in which there is a wide range in the length of stay. The length of stay is also affected by the average length of stay of patients who stayed more than ten days in the hospital, they accounted for about 10% of the hospital stays. When one examines hospital use by measuring patient days used by those individuals who stayed less than ten days in each of the 7,000 hospitals, there is a more significant picture emerging. Calculations based on Table 3 of the 1976 report of the National Center for Health Statistics show that while only 20% of discharges from short-term hospitals stayed longer than 10 days in the hospital, they accounted for about 65% of the patient days used by all hospitalized persons. And who are these long stayers in the hospitals? As you would suspect, it is the older popula-
tion who are more likely to have a long term chronic illness. Using the population figures given in the same 1976 report, calculations from Table 3 show there were 2341 hospital days/1000 persons over 45 years of age and 326 hospital days/1000 persons under 45 years of age; just over 4 times more days for the older population than the younger one.

Most hospital use data for individual hospitals in a service area is not population based since hospitals do not have a definable population they serve. Some of the variation in hospital utilization in a service area depends on the variation in the characteristics of the population served by the physicians who are on the staff of the particular hospital. This will tend to obscure the meaningful excess beds when applied to any one hospital.

The data on the use of short term hospitals by age groups assume national importance when they are related to the population projections by age groups for the next two decades. Significant growth is centered in the older age groups. Hence, given present hospital utilization patterns without the development of satisfactory alternatives to short term hospitalization, the demographic pressure will be to increase hospital use substantially.

There are many other forces in a community which shape hospital utilization. The financing system for hospital care, the method of reimbursement of hospital costs and the benefit structures of the health insurance prevalent in that community are strong incentives for hospitalization. As such they are disincentives to the development and use of alternatives to hospitalization which might be quite appropriate to the needs of the patient. The degree of cost uncertainty to the patient is much higher outside the hospital than in it. Moreover, the non-hospital based services are incompletely developed and scattered throughout the community, making use of them difficult for the patient and the physician. These limitations are aggravated for persons with chronic illness with some limitations in their usual functional capacity. And this group is bound to grow in the future as longevity increases. Unless reasonable alternatives to hospitalization in short term general hospitals are developed which satisfy the requirements of the person in need of health services and the physician providing the services to meet that need, the pressure to increase hospitalization will continue.

In addition, accommodation must be made for the entire range of community based social services needed to enable the long term illness patient to cope with illness in lieu of prolonged hospitalization and to function with the least loss of independence. For the most part, these services are poorly understood, poorly financed, fragmented and of limited value to provide a satisfactory alternative to hospitalization or early discharge from the hospital.

It is not possible to visualize the implementation of a national plan for the rational use of acute general hospitals in this country without a major effort to develop and organize the health and social services into some kind of balanced whole at the level where services are received. There is no existing institution at that level, private or public, clearly charged with the responsibility to develop and organize the health and social services into some kind of balanced structure which permits the appropriate use of these services in meeting the health needs of the people in the most efficient manner.

If the national policy is adopted that health resources, health services and health related social services will be distributed and rationed on some basis other than purchasing power, and this appears to be the significance of the policy decision of the Secretary, then there will have to be developed an organization for the delivery of health services at the local level which recognizes the changing character of the health problems of the people, the need for organizational change in the delivery of health services, and the growing limitation of available financial resources. The lack of such an organization serves as one of the major impediments to implementation of a program to control the supply and use of acute hospital beds in the United States.
Over the past 9 years there have been very few prosecutions of home health agencies for fraud, only seven cases have to date been referred to the U.S. Attorney for prosecution. Guilty verdicts have been reached in only two cases, and the rest were either closed or settled out of court. However, with the creation of the Healt...
have different definitions of what constitutes overutilization. Physicians, for example, differ among themselves in defining "overutilization." Differences also exist in overutilization as defined by health programs managed by HEW. Data management techniques furnish an environment in which both patient and provider treatment patterns can be monitored. Computer studies permit the selection of unique or exceptional variations in the delivery of services within geographic areas or peer groups.

Some of the pre-payment screens used in the Model B Medicare System are:

- Provider flags
- Duplicate Bills
- Concurrent Care

In addition, some carriers are now using a Post Payment Utilization System which has the following objectives:

1. Monitor Medicare claims experience of all providers and acquire statistical data on them and their specialty groups.
2. Identify physicians by locality and specialty whose utilization patterns differ from medically recognized norms.
3. Correct program abuse or overutilization of services by recovering overpayments.
4. Educate providers to prevent further abuse.

Abuse detection is aided by screening, checking and cross-referencing of computer systems. The Medicaid Management Information System (MMIS) uses five basic files:

1. Recipient
2. Provider
3. Claims Processing
4. Medicare Acceptance Reporting System (MARS)—Shows usage of services.
5. Surveillance Utilization Review Systems (SURE)—Identifies possible overutilization

Abuse control aided by statistical analysis is necessary if beneficiaries are to receive quality care and essential services, and if taxpayers are to obtain maximum return for their dollars.

Paul Allen, Deputy Director for Medical Services Administration, Michigan, Department of Social Services, (Prepared text on page 37) discussed the Michigan Medicaid program's activities in controlling fraud, abuse and errors. Of the total Federal funds appropriated for Medicaid, five percent are used in Michigan and the program provides services to ten percent of the State's population. All State Medicaid programs have the same dilemma: keeping provider participation at a maximum while intensifying efforts to eliminate inappropriate payments.

Michigan has been using the Medicaid Management Information System (MMIS). The average payment time for services is 14.6 days and 70,000 bills are received daily. Key items in the improvement of administrative management include a systematized Medicaid management process, a reliance on automation, and the use of the State Department of Social Services as a fiscal agent to achieve equitable and rapid payment while controlling overpayments.

A review committee meets weekly to review potential fraud cases. Determinations of fraud are referred to the State Attorney General for action. If fraud is not evident, the case is referred to the Medicaid Recovery unit for further administrative action.

Mr. Allen concluded by indicating that Michigan's experience shows it is possible to manage the Medicaid program with a minimum of fraud and abuse. He further indicated that a desired outcome of the Secretary's National Conference would be a national effort to identify more effective administrative and legal remedies for the elimination of abuses.

Dr. William H. Stewart, Acting Head of the Department of Preventive Medicine and Public Health at the Louisiana State University School of Medicine, (Prepared text on page 37) discussed excess capacity and overutilization of short-term general hospitals. He cited P.L. 93-641 and the regulations issued thereunder by the Secretary, which allow four acute care hospital beds per 1,000 persons at an 80 percent occupancy level, and provide standards for the utilization of certain types of hospital beds.

Abuse determination by the Secretary that there is inefficient and wasteful use of some hospital beds is an important finding, and creates a new major national policy in the health field. In the past, the national policy was that more equitable distribution of health services could be accomplished by increasing available resources. The new goal is more equitable distribution of health resources through a much more structured system of allocating resources and more rational utilization of existing resources. Lack of this rationale leads to charges of overutilization, mistreatment, inefficiency and waste in the provision of acute care hospital services.

Dr. Stewart pointed out that the number of short-term beds per 1,000 persons has increased over the past several decades. Moreover, the capital outlay, the number of skilled personnel required per bed, and the total use of beds have greatly expanded since 1960.

Dr. Stewart concluded by asserting that it will be extremely difficult to delete excess beds from acute general hospitals. It will require action by State and local bodies, both governmental and nongovernmental, including the more than 7,000 acute general hospitals themselves.

Judith LaVor of the Office of Policy, Planning and Research, Health Care Financing Administration, (Prepared text on page 41) discussed issues of fraud and abuse with relation to providers of home health services. Many Home Health providers believe that they have been singled out as being abusive; thus, discussion of this issue was felt to be especially appropriate for the Conference.

Reimbursement for home health care has created some special problems. Services delivered in the patient's home are difficult to scrutinize. One-to-one relationships between providers and clients, who are often very old and alone, create special problems which are compounded by the increased rate of home health expenditures.

Medicare expenditures for home health care have risen from $80 million in 1973 to $425 million in 1977, and the number of patients served now exceeds half a million. Medicaid expenditures have doubled in three years to $179 million in 1977, and served over 200,000 people. Title XX, which provides for a combination of social and health related services, adds another $450 million to home care expenditures.

To date, only seven cases against home health providers have been referred for prosecution, and guilty verdicts have been returned in only two cases. The creation of the Office of Program Integrity in HCFA and the Inspector General's Office in HEW, and increased authority under the Medicare-Medicaid Anti-Fraud and Abuse Act should lead to increasingly more numerous and more effective investigations and prosecutions in this area.

Ms. LaVor concluded by stating that many of the current problems in home health care are the result of opportunism rather than fraud. With three different funding programs for home health care, unscrupulous switching of services for reporting purposes has been possible. As a result: 1) HCFA will issue new regulations under Section 223 of the 1972 Social Security Amendments by the end of this year which will limit reimbursement for home health costs; and 2) under Section 10 of the Medicare-Medicaid Anti-Fraud and Abuse Act, HCFA will establish and require common cost allocation and reporting procedures.
II. WELFARE WORKSHOP

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Stanford G. Ross
Commissioner of Social Security
HEW

Panelists
John T. Dempsey
Director
Michigan Department of Social Services

Blanche Bernstein
Administrator
Human Resources Administration
New York City

Samuel K. Skinner
Chairman, Illinois Fraud Prevention Commission

Kyle S. McKinsey
Deputy Director
California State Department of Social Services

Honorables Forrest Campbell
Chairman
Board of County Commissioners
Guilford County, North Carolina

Richard B. Harron
Social Insurance Policy Specialist
Welfare Reform Planning Group
HEW

Mike Rock
State Operations Specialist
Welfare Reform Planning Group
HEW

Welfare Workshop—Summary of Discussion

Mr. Ross welcomed the participants to the workshop and introduced the panelists. He then proceeded with an opening statement and indicated that the Social Security Administration has now become the income security agency of the Federal Government with responsibility for the Retirement, Survivor’s, and Disability Insurance programs; the Supplemental Security Income (SSI) program; and the Aid to Families with Dependent Children (AFDC) program. In administering programs involving large amounts of funds, where even a slight error can result in a huge magnitude of misspent dollars, the challenge is to protect taxpayers and recipients by paying out the right amount—no more, no less.

Mr. Ross stated that this workshop was convened to discuss and search for solutions to a major and unacceptable problem in SSI and AFDC: the 1.2 billion State and Federal tax dollars lost annually through incorrect and improper payments. Why are these funds being lost? The reasons are many and varied, including the complexity of the programs, and fraud which robs the programs of public support and needed dollars. Most of the dollar losses are not the result of fraud; rather, they stem from inadequate program management at all levels of government. It is the impetus to improve management, Mr. Ross noted, that underlies the convening of this conference by Secretary Califano. While some of the changes necessary to program simplification will require legislation, Mr. Ross stated that the commitment and will of managers at all levels are critical factors in achieving improved efficiency and integrity in the income security programs.

John T. Dempsey, Director of the Michigan Department of Social Services, spoke of the programs that has been made in his State—a reduction in AFDC payment errors in Michigan in the last 4 years, from 16 percent to 7.3 percent. Even with this progress, however, 60 million dollars a year are still being misspent in Michigan. What are the causes of such errors? One cause is human error; a program administered by people will never be perfect. Another cause is the failure of government to actively prosecute those who cheat. In the few instances where prosecution has been vigorously and regularly pursued, it has had a deterrent effect. Yet another cause is the complexity of the AFDC program; the burden of this complexity is increased when one considers that numerous complicated programs are frequently administered by the same State agency. For example, major increases in AFDC caseloads between 1965 and 1975, coupled with the addition of responsibility for administering the Food Stamp program has resulted in a 50-fold increase in the Michigan Department of Social Services. At the same time, resource constraints have permitted only a three-fold increase in staff. What can be done? The Michigan approach has been to simplify, standardize, systematize and humanize, including the use of technology where machines can do the work more quickly, more accurately, and more economically. Targeting efforts on primary locations and categories of error is the next step in reducing errors. Using this approach, Michigan hopes to reduce its error rate to 4 percent over the next two years.

Samuel K. Skinner, Chairman of the Illinois Fraud Prevention Commission, and a former U.S. Attorney, emphasized that his remarks were from the perspective of a private citizen. Citing a recent poll of Illinois citizens on government issues, Mr. Skinner noted that 78 percent of those responding favored steps to control costs, with 84 percent of that group ranking the prosecution of fraud as the highest priority. In Mr. Skinner’s opinion, this result is to some degree an indictment of the system and those who manage it. Action is needed to improve the system, including removal of incentives (like the failure to apply the 30% rule to those with low-paying jobs who are applying for benefits); increasing prosecutorial efforts, particularly toward public employers wrongfully on the AFDC Rolls; and changing the rules, regulations, and laws that have created the current situation. Mr. Skinner concluded by urging a massive lobbying effort to bring about the necessary legislative and regulatory changes.

Forrest Campbell, Chairman of the Guilford County, North Carolina, Board of Commissioners, disagreed with the notion that the primary cause of error was mismanagement. In his opinion, the county is the proper locus for program administration; but the county must have a voice in how the programs are to be managed, rather than being caught between Federal and State regulations. Fiscal relationships between the three levels of government must be addressed. More funding should be provided for staff training. Incentives should also be provided to cover the cost of prosecuting fraud at the local level.

Blanche Bernstein, Administrator of the New York City Human Resources Administration, cited unreported income as one of the major sources of fraud and error. New York City’s experience has been that one must look to mass-production techniques to obtain information on income in a large urban setting. Since 1974, the City of New York has been using computer matches of payrolls. Beginning with a match of the city payroll, this program was later expanded to include the State payroll and those of quasi-government agencies such as the Board of Education. By 1978, 23 different types of matches had been established. The estimated annual savings from case closings and budget reductions are estimated at $50 million annually. The operational cost of the program is approximately $780,000 per year. To date, there has been little success in developing matches with private employers. In 1973, however, the New York legislature passed wage reporting legislation so that records of all wage earners will be available through the unemployment insurance system. Mailing of these records will begin in January, 1979.

Kyle McKinsey, Deputy Director of the California Department of Social Services, spoke briefly on four points. First, he stated that he hoped the Secretary’s Conference would establish an environment for increased action to reduce fraud and error. Second, he urged a balanced measurement of the program, California, has a model which examines effectiveness, efficiency and equity. Management information systems are used to obtain measures on these dimensions, and to portray local-level conditions so that accountability and opportunities for appropriate corrective action are increased. As his third point, Mr. McKinsey cited the error rates for California, currently about 3 percent, which he believed the effectiveness of this approach. Finally, Mr. McKinsey described monthly reporting and retrospective budgeting as effective tools in reducing error.

Mr. Ross concluded the session by expressing the hope that a spirit of mutual support and understanding would lead to solutions for the problems confronting income security programs.
III. SOCIAL SERVICES WORKSHOP

Moderator

T. M. Jim Parham
Deputy Assistant Secretary
for Human Development Services
HEW

Panelists

Philip Toia
Deputy Mayor for Finance
New York City

Lou Glasse
Director, Office of Aging
State of New York

Honorable Alfredo Gutierrez
Majority Leader
Arizona State Senate

Staff Reporters

Charleen M. Tompkins
Administration for Public Services
Office of Human Development Services
HEW

James E. Huddleston
Administration for Public Services
Office of Human Development Services
HEW

Summary of Discussion

Philip Toia, New York City Deputy Mayor for Finance, opened the session. He asserted that HEW has changed from a professional and client-oriented approach to one centered on the legal and management aspects of its programs. In his opinion, this movement toward more efficient management is the result of: public outrage at expenditures; scarce dollars; and the activity of some outside advocacy groups.

Although much attention has been paid to fraud in nursing homes, fraud in social service programs has been overlooked. Hidden ownership, vendor kickbacks, and improper billing practices have been noted in the provision of social services. Ineligibility of some clients and expensive facility leases increase the cost and reduce the quality of day care services financed by public dollars. In some neighborhood social service centers, there have been reports of diversion of funds to improper uses, inappropriate and excessive reliance on sole source contracts, and instances of kickbacks.

Mr. Toia also noted instances of abuse in social service programs: laxity in regulating child and adult residential facilities because there is often nowhere else to place clients; overutilization of services because they are available; and lack of placement goals which results in the maintenance of children in foster care status for longer than necessary.

Another aspect of the problem involves poor management in establishing and enforcing eligibility, need, evaluation, contracting, and accounting procedures. Inadequate information systems can lead to error. Another form of error results from agency or worker bias, which screens out eligibles but admits ineligible into programs.

Mr. Toia continued by stating that although the credibility of social service programs is at stake, effective program justification is difficult because ordinary productivity methods do not apply, unit cost measures are not always applicable, and evaluation measures that embrace both objective and subjective criteria do not exist.

Mr. Toia stated that in order to find solutions and exert management control over social services, the environment in which services are provided must be examined and understood.

Public welfare departments have often sought the experienced, old-line agencies from which to purchase social services even if those agencies are sometimes unable to deal with shifting State and Federal priorities. Welfare agencies also purchased services from emerging community, neighborhood, and "grass-roots" providers. The welfare agencies sometimes expected too much but accepted too little from these entities, providing classic examples of patronizing minority ventures but applying different standards of performance. The complex environment of the welfare agency also includes citizens' groups, public institutions, profit-making institutions and a constituency of clients with differing and highly individualistic goals.

Mr. Toia urged that initiatives against fraud, abuse and error must take this diversity into account if they are to succeed. He suggested that the following points should be considered in efforts to avoid social service fraud, abuse, and error: (1) whether social services should be delivered as an entitlement, similar to those of a public utility; (2) the role of data processing equipment and the danger of the servant becoming master; (3) the difficulty presented by the limits of subjective measurement and the imperfect validity of objective measurement; (4) whether goals announced for a service program still exist when the program is in operation; and (5) whether the service system can adapt to change.

Lou Glasse, Director of the New York State Office of Aging, noted that waste sometimes occurs because sufficient time to plan the best use of newly available funds is not available. Without adequate planning, there is a temptation to initiate a service in a manner which might not be most efficient or effective. Laws and regulations sometimes favor the use of expensive, readily identified services, rather than fostering development of a more effective service network. An example is the open-end funding available for child foster care compared to the limited funds available for services to strengthen children's own homes or to make other permanent plans for them. Another example is the greater availability of funding for nursing home care compared to that for in-home services for the elderly.

Ms. Glasse suggested that current management controls might be adequate for perhaps 90 percent of an agency's clients, a much more sophisticated system might be required. Since some newly created agencies serving the elderly do not have the sophisticated management experience of long-established agencies, technical assistance would need to be provided in order to help new agencies minimize the potential for loss of funds through abuse.

Alfredo Gutierrez, Majority Leader of the Arizona State Senate, commented that public demand for reduced expenditures, as shown by "Proposition 13" type actions, was a forerunner of the pressures that will affect social services. He urged that we look at the phenomena which contribute to fraud, abuse and waste, noting that most fraud associated with medical care costs was committed by providers and not patients. Yet the political process rewards the contributions of providers by favoring their viewpoints. Senator Gutierrez also stated that inflexibility of Federal regulations limits the capabilities of local managers to direct resources and solve local problems.

Comments and Questions

Comment from Gerald J. Reilly, Deputy Secretary, New Jersey Department of Human Services.

Mr. Reilly noted that some non-profit residential agencies used public funds to acquire property worth millions of dollars. He suggested that there be a recognition of the legitimacy of profit but effective public control of rates.

Mr. Toia responded that there are current attempts to incorporate business practices in social services.

Ms. Glasse suggested cost effective controls which might include samples of expenditures.

Mr. Parham responded that sample audits covering both fiscal and program goals were useful. There is difficulty in determining if program goals are met, however, when traditional audit approaches are used.

Comment from Mary Ellen Preusser, City Councilor, Cambridge, Massachusetts.

Ms. Preusser emphasized that local elected officials should be included in planning for social services.

Mr. Parham responded that the Administration had proposed legislation requiring local involvement in Title XX planning, but the legislation failed to pass.

Question from Paul Dahlstrom, Administration on Aging, HEW, Washington, D.C.

He asked if the administration was serious in assuring protection for "whistle-blowers" who reveal fraud, abuse, or error on the part of Federal agencies.

Mr. Parham replied "Yes."
IV. STUDENT FINANCIAL ASSISTANCE WORKSHOP

Moderator

Ernest L. Boyer
U.S. Commissioner of Education
HEW

Panelists

Dr. John G. Kemeny
President
Dartmouth College

Dallas Martin
Executive Secretary
National Association of Student Financial Aid Administrators

Charles C. Teamer
Vice President
Dillard University

Joel Packer
Legislative Director
U.S. Students Association

Leo L. Kernfeld
Deputy Commissioner for Student Financial Assistance
U.S. Office of Education
HEW

Staff Reporter

Patricia Dorn
Office of the Deputy Commissioner
U.S. Office of Education
HEW

Dr. Boyer opened the session by stating that fraud, abuse, and error are unacceptable in the administration of student financial assistance programs. Practically every college benefits from student aid funds, and these programs can and must be run efficiently. Access to higher education is a policy of this Administration and we must find ways to assure such access.

Dr. Boyer then discussed several specific problems with student aid programs and solutions to those problems:

Problem: The administration of student financial aid programs was fragmented.

Solution: The Office of Education (OE) was reorganized. All student aid programs were reorganized into a new Bureau of Student Financial Assistance.

Problem: Prior to this year, there were no procedures for validating eligibility in the Basic Grant program. As a result, many students who were ineligible for the program were able to submit false information in order to meet eligibility criteria or to receive larger Basic Grant awards than they were entitled to.

Solution: OE initiated a computer screening program to detect and reject Basic Grant applications which are incomplete or contain inconsistent information.

Problem: The 1977 default rate in the Guaranteed Student Loan program was 13 percent. (More than 200,000 loans in default, involving more than $300 million.) Many defaulters were never regularly billed by the Federal Government because there was no effective billing system. Lenders were not making aggressive efforts to collect delinquent loans.

Solution: OE contracted with a private collection agency to assist in collecting from defaulted borrowers, and is also offering preclaims assistance to lenders. This new service permits early identification of student borrowers who are unlocatable, delinquent on their accounts, and those who are potential or actual defaulters. As of October, 1978, the default rate had been reduced to 10.5 percent. By the end of the fiscal year it will be 9 percent.

Problem: In the National Direct Student Loan (NDSL) program, there was a default rate of 18 to 20 percent; and 90 percent or more of the NDSL borrowers at some schools were in default. Many institutions had done little or nothing to collect on these loans.

Solution: OE is working with institutions to bring down the default rate, and has begun enforcing provisions in the 1972 Education Amendments as they apply to this program.

Dr. Boyer closed by reiterating the importance of student financial aid programs in providing access to post-secondary education and OE's determination to eliminate fraud, abuse, and error so that the programs can effectively serve those they are intended to serve.

Dr. John G. Kemeny, President of Dartmouth College, began his remarks by stating that student financial aid programs are vital for the success of higher education. In his opinion, error exceeds abuse in the administration of these programs. Dr. Kemeny asserted that the regulations for these programs are too complex and too difficult to read: Just when you reach the point where you understand them, he said, they change. He recommended that the regulations be written in simpler language, and that there be a 5-year moratorium on changes.

Dr. Kemeny then cited some specific aspects of student aid programs:

- The application forms in the Basic Grant program are too complex. They should be redesigned, simplified and made as easy to complete as the short Federal Income Tax Return. In addition, the Basic Grant program should be totally administered by the Federal Government and validation should be the joint responsibility of HEW and the Internal Revenue Service.
- Because students must select an educational institution before they know the amount of the Basic Grant award, Dr. Kemeny recommended more flexibility in the repayment schedule for both the NDSL and GSL programs. He noted that the default rates of the NDSL and GSL programs should not be compared because post-secondary institutions cannot be compared with banks.

Dr. Kemeny concluded his remarks by saying that the student financial aid programs were intended to provide educational opportunities for the underprivileged, and that he hoped HEW would not lose sight of this goal in efforts to eliminate fraud and abuse.

Dr. Dallas Martin, Executive Secretary of the National Association of Student Financial Aid Administrators, emphasized the need for close coordination between Federal, State, and local governments—a partnership. OE must see that funds go to those they are intended for, and effective delivery of the programs is essential if we are to prevent fraud, abuse, and error.

Dr. Martin recommended that student financial aid regulations be published on a timely basis, and that they be flexible and consistent.

Charles C. Teamer, Vice President of Dillard University, said that in order to deal with the problems of abuse and error, institutions must make management improvements. OE and institutions must use audits realistically to make improvements in the programs.

Mr. Teamer stated that the Basic Grant program has, in reality, become a campus-based program because individual institutions are responsible for validation, audits, and a number of other aspects of the program's administration. Institutions need financial support to correctly administer all of these elements. The current four percent administrative allowance is not adequate.

Mr. Teamer concluded his remarks by urging the Administration to recognize the need for increased financial support for institutions, so that campus-based student aid programs will be managed correctly and efficiently.

Joel Packer, Legislative Director for the U.S. Students Association, made several recommendations:

- OE and educational institutions should make financial aid information understandable and available to students;
- Students should be permitted to participate in the development of program regulations;
- OE should prevent mismanagement, balance program integrity, and assure that
funds go to the students for whom they are intended;
• OE should protect students from the abuses of shoddy institution policies; and,
• The student aid reauthorization legislation should require campus-based student grievance procedures as a condition for institutional participation.

Leo L. Kornfeld, Deputy Commissioner of the Bureau of Student Financial Assistance, OE, summed up the session by stating that student financial assistance programs can be better managed. He stated that the problem has not been fraud, but rather sloppiness of program administration. Students, he said, are not rip-off artists—the programs were just not being run well. Because the programs are so complex, they invite abuse. For example, if the NDSL program had been administered properly, instead of the 800,000 loans made this year, institutions would have been able to lend funds to approximately 1.6 million students.

Mr. Kornfeld concluded the session by noting that all student financial aid programs are being carefully reexamined and changes will be made. Validation and simplicity are essential to the elimination of abuse and error.
sharing features in Medicaid tend to result in overutilization of services and, therefore, present a temptation to providers who are motivated by fear of malpractice, or simply greed. He cautioned the audience as to the possible adverse impact of P.L. 95-142 on public perceptions of the Medicaid agency and program, particularly as the number of fraud prosecutions increases.

Edwina Anderson (Chief of the Consumer Protection and Economic Crime Division of the Genesee County, Michigan, Prosecutor's Office) discussed the difficult problems her office faced as it moved into fraud and abuse in health care programs. She cited the major obstacles as:

1. Lack of easy access to provider records.
2. Lack of adequate funds or available expertise in health care fraud.
3. The absence of sufficient statutory authority to prosecute fraudulent or abusive practices uncovered in her State.

Ms. Anderson appealed to HEW to consider funding local prosecutors to enable them to join the effort against fraud and abuse. Mr. Zerendow (Chief, Massachusetts Medicaid Fraud Control Unit) prefaced his remarks by observing that the problems of fraud, abuse, and error in Medicaid and other health care programs are largely the result of the absence of a policing body until now. Even with the establishment of Medicaid Fraud Control Units, the larger responsibility accrues to the program agencies in improving their financing and reimbursement systems. Mr. Zerendow also reminded the audience that the fraud control units have the difficult responsibility of investigating and prosecuting instances of physical abuse and neglect of Medicaid patients. This responsibility will require many of the Units to seek legislative tools to effectively pursue such cases, since many States presently lack adequate statutory provisions in this area.

George Wilson (Assistant U.S. Attorney for the Southern District of New York) encouraged those involved in prosecuting health care fraud to initiate and maintain relationships with the Department of Justice because of the greater statutory latitude of the Federal prosecutor.

Mr. Wilson emphasized that Federal statutes in the areas of conspiracy, filing false claims and making false statements, mail fraud, racketeering and corruption, as well as the civil damages leverage, are not encumbered by State boundaries. In addition, resources at the U.S. Attorney's disposal may be extremely helpful to State and local prosecutors in difficult cases. He also emphasized that the ideal mix of investigative resources would include prosecutors and audit personnel experienced in health care fraud, and program specialists who can detail criminal circumventions or violations of program provisions.

The last speaker, Barry Sax (Assistant District Attorney for Los Angeles County), dramatically depicted the magnitude of fraud and abuse in California. Mr. Sax estimated that 20 percent of the 3.5 billion dollar medi-Cal budget may be lost as a result of fraud or abuse. He emphasized that the Medicaid fraud units alone are not the answer, but that regulations have to be clarified, streamlined and vastly improved. In addition, he echoed the comments of Ms. Anderson by suggesting the funding of local efforts to pursue violations in health care programs.

Mr. Sax concluded the discussion by urging that fraud, abuse, and error not be allowed to continue unabated for they tend to discourage legislators from expanding needed programs, and to encourage collusion in various sectors of the health care delivery community, and, most distressingly, deprive beneficiaries of needed health care.

### HEALTH DISCUSSION GROUP B: “MODEL SYSTEMS—ABUSE DETECTION AND CONTROL”

**Leader**

William C. White, C.L.U.
Vice President
The Prudential Insurance Company of America

**Panelists**

**Thomas Gaylord**
Director, Surveillance and Utilization Review Division
State of Minnesota

**Janice Caldwell, Ed.D.**
Director, Division of Long Term Care
Health Care Financing Administration, HEW

**Philip Natcharian**
Director, Bureau of Medicaid Fraud and Abuse
Department of Social Services
State of New York

**Eleanore Rothenberg, Ph.D.**
Executive Director
New York County Health Services Review Organizations

**Barbara Hoffman**
Office of Public Affairs
Health Care Financing Administration, HEW

**Carol Rosen**
Office of Public Affairs
Health Care Financing Administration, HEW

### Summary of Discussion

The overall theme of this discussion group concerned the role of computer systems utilized in various settings for the identification and control of fraud, abuse and error. A companion theme, voiced by several panelists, concerned potential negative effects on innocent program beneficiaries resulting from computer detection of “fraud, abuse, or error.”

William C. White, Vice-President, The Prudential Insurance Company of America, discussed the role of the Medicare and Medicaid fiscal contractor in fraud detection and money recovery during the Health Workshop (See Page 28).

The first discussion group panelist, Thomas Gaylord, Director of the Surveillance and Utilization Review Division, State of Minnesota, echoed Mr. White's remarks by discussing the role played by the Surveillance and Utilization Review System (SURS) in the Medicaid State Agency.

In Minnesota, SURS is the primary tool for post payment review. Information captured by SURS on 111,000 eligible Medicaid beneficiaries and 14,000 health care providers is subjected to a quality review, with emphasis placed on the detection of potential provider fraud or abuse. Health care professionals or social workers analyze the data, and follow-up field audits are scheduled to verify the computer findings. If fraud and/or abuse is verified, prosecution can then begin. This process of identification, analysis, investigation, and prosecution can be done entirely by the State Medicaid Agency. In Mr. Gaylord's opinion, such continuity of activity aids efficiency and credibility to their efforts.

Mr. Gaylord noted several problems relating
to the privacy law (signing of consent forms), the confidentiality of medical records, and time delays caused by the required involvement of Regional Health Financing Administration offices in the State Agency's interactions with Medicare providers.

Mr. Gaylord concluded his remarks with several recommended Federal actions for improving the handling of fraud/abuse and error cases by States:

1. Development of guidelines for effective abuse case presentations to peer review groups.
2. Drafting and passage of a model legislative package.
3. Development of guidelines for handling other forms of identified problems.

Steward Uhler, Director of the Utilization Division, Pennsylvania Blue Shield, described the utilization review process used by his organization.

Pennsylvania Blue Shield has developed a system combining both pre- and post-payment utilization review. This system provides a means of detecting providers who may be overutilizing services or of avoiding repeat utilization of reviewing each claim prior to payment.

The pre-payment system is beneficial and claim-oriented. Each time a claim is received, the pre-payment screen or blue screen examination, is applied. Screens may be applied in such categories as medical necessity, non-covered services, diagnostic tests, durable medical equipment, etc. The screens establish parameters which, when exceeded, will cause a claim to be suspended and subjected to individual pre-payment review by professional and non-professional personnel.

In 1977, over $1 million dollars in claims were denied as a result of pre-payment utilization review for medical necessity alone.

Because some claims do pass through the pre-payment screens, a post-payment utilization review system has also been developed. The post-payment system is essentially the same as the pre-payment system but with a practice pattern orientation: an individual provider's pattern of practice is compared to the practices of providers within his peer group (peer group is defined in terms of locality and medical specialty).

A statistical formula (ratio analysis) was devised to resolve the inequity of comparing low to high volume providers within a peer group. The practitioner practice pattern analysis is used to identify unexplained variances and those individuals who exceed the norms.

Suspect Information is forwarded to a Blue Shield Medical Advisor who examines the data for possible over-utilization. If indicated, a Blue Shield utilization review team meets with the physician under review. If necessary, the case may be referred to the peer review committee of the appropriate professional society.

In summary, Mr. Uhler stated that Pennsylvania Blue Shield's pre- and post-payment utilization review system, involvement of medical professionals in the review process, and strong emphasis on provider education, have produced an effective pre- and post-payment utilization review system.

Dr. Eleanor Rothenberg, Executive Director, New York County Health Services Review Organization, discussed the role of peer review in abuse detection and control. The New York County Professional Standards Review Organization (PSRO) has a membership of over 5,400 including professionals from five medical centers, over twenty teaching hospitals, several community hospitals, and public health organizations.

PSRO review of the quality of acute hospital care given to Medicare and Medicaid hospital patients has produced some shocking findings:

- In one hospital, patients were admitted to a 72-bed acute detoxification unit which had never been licensed by the State. Moreover, patients were discharged without being drug-free: they were merely given other (non-alcoholic) drugs, and discharged while still in a drug-dependent state.

The PSRO assembled a task force of psychiatrists and internists skilled in the treatment of alcoholics. The task force established criteria and standards for care of alcoholics related to:

- hospital admission
- detoxification treatment
- post-detoxification treatment

In another acute care hospital, it was found that 40% of those admitted for alcohol detoxification could have been treated in a non-acute care (and less costly) setting. Payments will be recovered.

A hospital in an underserved area admitted patients for services that could not be provided on a timely basis, or at all.

Cases of cost over-utilization were examined and erroneous over-payments will be recovered.

One hospital was found to have submitted multiple bills for payments for the same patient, for the same day, during the same week. As a result of the PSRO's investigation, the hospital was withdrawn from Medicare and Medicaid eligibility, and subsequently closed.

Dr. Rothenberg ended her presentation by noting that the identification of some problems and the design of detection, fraud, abuse, waste, and overutilization. The verification of the actual existence of these problems may require the cooperation of a well-organized and well-structured peer review organization such as the PSRO. In addition, Dr. Rothenberg urged that the PSRO's be contacted in connection with efforts to reduce fraud, abuse, and error in the Medicare and Medicaid programs.

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Philip Natscharian, Director, Bureau of Medicaid Fraud and Abuse, Department of Social Services, State of New York, was the final panelist.

Mr. Natscharian noted that in early 1977, Governor Hugh Carey announced his intent to concentrate on the problems of fraud and abuse in the New York Medicaid program. The Governor subsequently obtained authority and appropriations to establish an Office of Medicaid Fraud and Abuse Unit within the Department of Social Services. In addition, computer capability was...
developed to capture information needed for investigative purposes.

The information now includes records of payments made over a five-year period. This database has been subjected to computer reviews to help detect defrauding or abusive providers. These reviews have revealed much duplication of payments, excessive numbers of visits, "ping-ponging" (same beneficiary seen by numerous providers within a short time span), and "family ganging" (where a number of members of the same family are seen by the same provider on the same day). This information has been useful in the detection of some providers whose practices are aberrant, and in developing provider profiles. Where warranted, detailed reviews of these profiles are made, and such reviews may lead to further investigation and subsequent prosecution or administrative sanctions.

Mr. Natcharian then briefly described a fraud case involving a medical laboratory which ultimately resulted in referral for prosecution. He concluded by referring to New York State's recognition of a massive fraud, abuse, and error problem and the strong commitment to resolve the problem through the use of historical payment data, the installation of a newly approved Medicaid Management Information System, and the development of pre-payment controls and improved post-payment detection capabilities.

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Mr. Natcharian then briefly described a fraud case involving a medical laboratory which ultimately resulted in referral for prosecution. He concluded by referring to New York State's recognition of a massive fraud, abuse, and error problem and the strong commitment to resolve the problem through the use of historical payment data, the installation of a newly approved Medicaid Management Information System, and the development of pre-payment controls and improved post-payment detection capabilities.
AMA seeks to actively assist in the detection, resolution, and control of fraud and abuse in medical care. Dr. Camalier identified the need for resolution of the current conflict between the position of HEW (which is encouraging medical care) and control of fraud determinations as to whether services conform to appropriate professional standards and are delivered in the most effective, efficient, and economical manner possible, may constitute restraints of trade or price fixing; this conflict may undermine AMA efforts to eliminate fraud and abuse.

Dr. Fred Lucas (Medical Director, National Heritage Insurance Company/E.D.S.F.) reasserted the need for a coordinated approach to fraud, abuse, and error detection and resolution, which would include: (1) an effective postpayment review process to identify problems; (2) a provider-education effort when problems are detected; and (3) additional prepayment monitoring of future claims. He noted the state-to-state variations in Medicaid Management Information Systems, and the difficulty of identifying “fraud” through claims processing. He also noted (with the acknowledgment of other panel members) that provider abuse occurs as frequently in Medicare as in Medicaid.

Michael Tristano (Chief, Bureau of Program Integrity, Illinois Department of Public Aid), echoed previous panelists in his emphasis on the need for comprehensive fraud and abuse detection/resolution systems. He particularly noted the importance of: (1) suspensions/terminations to eliminate abusive providers from the program as quickly as possible; (2) recoupment of overpayments; (3) providing for administrative fines (civil money penalties) for violations; (4) effective legislation and regulations; and (5) computer systems to detect fraudulent or abusive practices. Mr. Tristano indicated that administrative remedies are effective, quick, in-house measures which can be taken to resolve fraud and abuse; while other remedies (e.g., criminal and civil prosecution) are more cumbersome and time consuming, and are not within the control of the agency which administers the program.

Questions and comments raised during the group discussion which followed focused on: (1) the need to integrate the medical community more fully into processes designed to identify fraudulent and abusive practices; (2) the need to simplify procedures, and establish common forms and definitions in connection with Federal health care programs; and (3) the need to more aggressively identify and resolve recipient fraud/abuse (e.g., through educational programs; Medicaid cost sharing/copayment for services; recipient lock-in to one doctor, drugstore, etc., to prevent overutilization of services; and financial incentive programs to promote recipient responsibility in utilizing health care).

**Summary of Discussion**

Anthony Mott, President of the American Health Planning Association, presented the perspective of the health planning community. He indicated that excess capacity and overutilization had, in part, stimulated the passage of Federal legislation (P.L. 88-541) which supports the current health planning structure. While earlier health planning efforts were focused largely on resource development or capacity building, the present approach is more related to data gathering, problem identification, priority setting, and plan development. The current emphasis is upon cost containment, a major portion of which relates to reduction of excess capacity. Health planning agencies are or should be deeply involved in these issues.

The average hospital bed to population ratio in the United States is 4.5 beds per thousand population. The range extends from 3 to 10 beds per thousand. The new National Guidelines suggest an upper limit of 4 beds per thousand. Capacity in excess of real need, which may vary from place to place (e.g., rural or urban settings) has a major impact on service delivery costs. These costs are borne by governmental and private third-party payors.

In the Rochester, New York, area (served by the Health Systems Agency (HSA) in which Mr. Mott is Executive Director), the bed to population ratio is 3.5 beds per thousand and services are provided at 18 percent below the national average cost for hospital services. Even with this relatively low bed capacity, hospital leaders in Rochester are in agreement that another 300-500 beds can be removed from the system.

In Mr. Mott’s opinion, the present hospital system in the United States is too big and its growth is supported by “all the wrong incentives.” He noted that the issues involved are primarily political rather than technical, and
that technical capacity to find solutions already exists or be developed in a relatively short period of time. While there is general support for cost containment, there is little support for specific actions to reduce capacity.

Mr. Mott disagreed with Dr. Stewart's contention that no structure presently exists which can effectively reduce excess capacity and overutilization. In Mr. Mott's view, Health Systems Agencies and State Health Planning and Development Agencies can have an impact. The question is whether or not they will. Their ability to be effective is currently hampered by limited funding and inadequate Federal direction. Although hospital closures can be viewed in a context similar to those closures that there are fewer incentives for hospitals to stop operations. Until there are increased governmental incentives at Federal, State, and local levels, the health planning process will have little positive impact on excess capacity.

Dr. John M. Eisenberg, Assistant Professor of Medicine at the University of Pennsylvania School of Medicine, stated that the problems of excess hospital capacity are similar to those of energy conservation. These problems relate to the size of the engine and the speed at which the engine runs.

Costs generated by hospitals are only a partial concern, since 70 percent of costs for health services are generated by physicians. Physicians are responsible for decisions which affect the utilization of health care resources. The Roemer effect (i.e., increased supply of physicians as a result of increased demand for service) indicates an "error" in the system. Major problems relate to the maldistribution of medical manpower and the oversupply of specialists such as surgeons and internists. The new emphasis on primary care needs to be evaluated in terms of cost effectiveness. In addition, reimbursement policies and procedures must ensure that primary care providers are in work that is commensurate with the rewards now received by specialists. These factors will influence the "size of the engine."

The "speed of the engine" is affected more directly by technological considerations. While it has been suggested that increased use of technology is the result of physician concern about possible malpractices, some evidence suggests that this hypothesis is not true. More important factors may relate to the fact that both physicians and patients are poorly informed about the cost effectiveness of various medical procedures. This lack of knowledge is compounded by the reduncancy of the funds needed for assessing the efficacy of new technologies. Although such reductions may be appropriate in a short-range basis, they could present serious long-range problems. Dr. Eisenberg noted that there are currently no incentives to control utilization in fee-for-service settings. He suggested that perhaps reimbursement penalties need to be introduced for PSRO's and third-party payers have the ability to apply such penalties, but they are often infrequently used.

Dr. Eisenberg concluded by stating that in addressing questions of excess capacity and overutilization, the role of physicians as well as that of hospital bed supply must be considered. As to the role of physicians, it will be important to try to influence the "speed of the engine" through:

1. Decreased fear of malpractice;
2. Increased physician knowledge of cost effectiveness;
3. Increased patient knowledge of cost effectiveness;
4. Increased incentives for physicians to decrease utilization.

Neil Hollander, Vice President for Health Services, Blue Cross and Blue Shield Association, noted that hospitals are growing, self-perpetuating, and maximizing institutions. These phenomena concern the public interest and the interest of individual hospitals are not synonymous in every instance. Until recently, public policy has encouraged growth, and this policy has led to excess supply and inappropriate utilization. Mr. Hollander indicated the specific issues of controls needs to be addressed. He then raised several questions about Dr. Stewart's proposal for a locally-based regulatory authority:

1. Who should be the authority?
2. To whom would it be accountable?
3. How would it relate to other key actors?
4. How would inter-area differences be resolved?

Mr. Hollander asserted that we often create new institutions as a means for circumventing existing structures; we already have HSA's, SHPDA's, SHCC's and other State agencies with regulatory powers. The problem seems to be how we can increase the effectiveness of these bodies. One way would be to increase the involvement of business, labor, and third-party payers. In Mr. Hollander's view, the pluralistic approach is sound; this is not an argument for the status quo, but rather a plea to strengths which is presently being built. Blue Cross-Blue Shield Plans have been implementing approaches to increased effectiveness and have stood in arrears support of health planning agencies.

Robert Flanagan, Vice President of the American Hospital Association, stated that there is a distinction between excess capacity and overutilization, and we need to understand the difference. Excess capacity basically represents an increase in fixed costs, and has largely resulted from overresponse to programs such as Hill-Burton. Appropriate utilization can induce increased demand, and this situation mainly results from quirk in the reimbursement system. Excess capacity and overutilization overlap but each has distinguishing characteristics.

Excess capacity should not be considered a static situation. For example, capacity must be viewed in relation to population changes.

Mr. Flanagan noted that government-managed programs immediately provoke resistance because "It's come down from Big Brother." Such resistance hampers implementation, and also raises Constitutional rights questions. In Mr. Flanagan's view, a better approach would be for Government to provide incentives which would encourage the private sector to reduce excess capacity (e.g., more flexible anti-trust provisions).

Mr. Flanagan noted that most health facility closures to date have resulted from economic pressures or involved outdated facilities. Other aspects of reducing excess capacity include:

- Changes in physician behavior, since physicians are responsible for demand;
- Community involvement and support; and
- Possible use of the Medicare "Conditions of Participation" as leverage to close facilities and/or reduce costs. Currently, there are no incentives to close.

Mr. Flanagan concluded his remarks by urging that, in undertaking reduction of excess capacity and overutilization, the following elements be considered:

- Availability
- Access
- Quality
- Cost

The Reverend A. Gene Parks, Consumer Representative, Florida Statewide Health Coordination Council, opened his remarks by noting that the forces for perpetuating the status quo are very strong. The integration of health and health-related services (as suggested in Dr. Stewart's paper) is a utopian concept. Experience in some settings suggest it will be a long time in coming. Therefore, we must use the mechanisms at hand. Reverend Parks stated that his experience in working with agencies created under P.L. 95-641 had led to the following observations:

- Within the planning agencies, there is a high level of hard work and commitment.
- Ninety-two percent of proposals for maintenance, creation, or expansion of health resources are approved. Health Systems Agency Certificate-of-Need approvals are more related to "extenuating circumstances" than to planning objectives.
- Persuasive arguments by providers sway decisions, especially in the absence of hard data or arguments to the contrary.

The only way to overcome these difficulties is through establishment of a cap on expenditures.

- Criteria such as Medicare conditions of participation should be part of the planning process to ensure that adequate services are available.
- Tradeoffs related to closure need to be examined on the basis of:
  a) analysis of unmet needs;
  b) analysis of excess capacity;
  c) conversion to new uses.
- Background data ought to support health planning decisions and should be made available to the public.

In response to comments related to his integrated services concept, Dr. William Stewart indicated that what he had in mind was "a rather modest approach."

Summary of Questions and Answers

Q. Dr. Ritter, Cape Girard, Missouri, PSRO—Are the top ten medical schools pushing the training of primary care physicians? When you are ill (this question was addressed to Dr. Eisenberg), do you see a primary care physician or a specialist?

A. Dr. Eisenberg—In answer to the first question, the response is largely yes. The training of primary care physicians is a rather universal trend. With regard to your second question, it is not unreasonable for any American to go to a general practitioner. The training for general practice has now become a specialty and these individuals serve as an appropri-
A. Dr. Eisenberg—There is evidence to indicate that increases in the provision of ambulatory care services create increases in the utilization of hospital care. If we have a program of national health insurance, perhaps we will have less hospitalization, provided that ambulatory care is given in group practice settings.

Q. Dr. Bixby, Philadelphia PSRO Member—The insurance approach to coverage for health services has operated to increase hospitalization. Poor record keeping and inadequate filing systems make it difficult to detect and control over-utilization or abuse. Can't there be a common identification number, such as a Social Security number, which would assist in implementing necessary controls? (Dr. Bixby also made reference to the fact that it has been estimated that it costs hospitals approximately $20 per bed to carry out responsibilities imposed by regulatory agencies.)

Q. Carl Showalter, Colorado State Legislator—The most expensive health care is generally provided to the elderly population. Do you favor legislation related to the right to die? In connection with his question, Mr. Showalter cited statistics related to the saving of premature infants at great expense.

A. Dr. Stewart—Some States have "living will" provisions. With regard to premature infants, the saving of children's lives has not generally been looked upon as a waste.

Q. J. Rankin—P.D.A.—A recent conference on medical malpractice suggested that the fear of malpractice suits will have an impact on increasing use of x-ray and other radiologic procedures.

A. Dr. Eisenberg—I know of no studies which support that conclusion.

Q. A New Hampshire HSA Representative—Is the single State HSA concept causing problems in the implementation of Public Law 93-641?

A. Mr. Mott—Yes, it is a problem for which I do not have a solution. (A member of the audience then expressed the opinion that there should be no States with single Statewide HSAs but rather such States should be permitted to come in under Section 1536 of the law.)

Comment by: Dr. Long, PSRO of Los Angeles—There needs to be improved understanding of the legal implications of medical practice. Dr. Eisenberg does a dis-service by minimizing the impact of the legal profession on the practice of defensive medicine.

Q. Mr. B. Henry, New York City Medicaid Program—There appears to be excessive utilization by Medicaid patients who are simply testing the system to find out what is available. Doesn't the second opinion stimulate currently being introduced by third-party payors encourage overutilization?

A. Mr. Hollander—There have been indications of overutilization by the Medicaid population. However, when Medicaid patients become members of HMO's, this tends to moderate. Also, the health of the poor who now receive care under Medicaid appears to be improving with the consequent lessening of utilization. With regard to second opinions, the cost for the second opinion is much lower than the potential cost of surgery which may not be necessary.

Q. Dick Klinger, Blue Cross of Ohio—Where has health planning succeeded? How was its success achieved? How can a capital expenditure limit be put on local areas?

A. Mr. Mott—Data currently being analyzed by the American Health Planning Association indicate a savings of approximately $8 billion in a three-year period related to certificate-of-need decisions by health planning agencies. Other than this information, there is little hard data to support a claim of success. However, anecdotal evidence suggests that progress is being made. Ohio is probably as good a place as any with regard to the impact of its planning system.

Q. Reverend Parks—With regard to limitations on capital expenditures, there are no good answers; however, I believe the decision should be made locally by a representative community group.
WELFARE DISCUSSION GROUP A: “MONTHLY REPORTING AND RETROSPECTIVE BUDGETING”

Leader
Michael C. Barth
Deputy Assistant Secretary for Income Security Policy, HEW

Panelists
John T. Dempsey
Director, Michigan Department of Social Services

Kyle S. Mckinsey
Deputy Director, California Department of Social Services

Adele Blong
Attorney, Center on Social Welfare Policy and Law

Edith Schoech
Director, Boulder County Department of Social Services

Lynn Feender
Social Science Analyst, Office of the Deputy Assistant Secretary for Income Security Policy, HEW

JOHN BAYNE
Office of the Deputy Assistant Secretary for Income Security Policy, HEW

INTRODUCTORY REMARKS
Michael C. Barth

Good afternoon and welcome to the Discussion Group on “Monthly Reporting and Retrospective Budgeting” of The Secretary’s National Conference on Fraud, Abuse, and Error. Secretary Califano convened this conference to broaden the discussion of how to manage programs that help people in the most efficient way possible.

This conference is the place for:

- HEW to inform you of what we are doing to protect the taxpayer’s dollar, while still defending the least fortunate; and for
- you to give us your ideas on how we can do a better job. What works and doesn’t work? What other procedures do you believe should be tried?

To manage programs efficiently is the compassionate way to manage the public’s money for it enhances the public’s confidence that assistance dollars are going where they are most needed. The American people are willing to help the less fortunate among us, but only through programs that are, and appear to be, efficiently, effectively, and equitably administered. If we want to help the poor, the sick, the unemployed, and the families, we have to pay more attention to public management than has been done in the past.

Fraud, even committed by a few, is very serious because, by impugning the veracity of the many, it makes people reluctant to commit additional fraud, thus laboring against the very purpose for which they were supposed to have paid more attention to public management than has been done in the past.

But the big dollar problem is error, sloppiness, and inattention to management. Much of this is caused by program designs and rules that render efficient management difficult. Where government is the problem, we need to know and then to make efficient management possible through simpler, comprehensible regulation or legislation.

The subject of this Discussion Group combines elements of all of these points. Monthly reporting and retrospective budgeting

- bases benefit calculation on actual income rather than the more error-prone concept of projected income
- gives both client and eligibility worker a clear understanding of their respective responsibilities
- improves the quality and timeliness of program information provided to management
- provides a record of income reports that can be used if fraud is suspected.

Monthly reporting and retrospective budgeting are perhaps best defined in terms of how they compare with current practice.

- Instead of basing eligibility and benefit determinations on projected income, retrospective budgeting bases it on actual income.
- Instead of six month redetermination of eligibility and benefit, with client reporting of changes, a monthly reporting system sends the client each month a simple mailback form that allows changes in income and family circumstances to be made and taken into account.
- Finally, such a system requires automation. Altogether, this provides a device to organize more rapidly the flow of information into and through the administrative system.

Monthly reporting and retrospective budgeting is a concept that grew out of the income maintenance experiments. In those experiments, monthly client report forms based on actual income were used to calculate the bi-monthly payments to be made to recipients of an experimental cash assistance plan. Among the volumes of research and analyses conducted on these experiments was a comparative analysis which taught us that the accuracy of income and family circumstance information was much higher with a regular monthly reporting system than with the usual irregular, less-frequent reporting. Somewhat predictably, we also learned that recall of last month’s circumstances is more accurate than projections over a future period.

The State of Colorado submitted a grant proposal to HEW to test the same administrative approach in the regular AFDC program. The results were significant reduction in outlays, even after factoring out the increased administrative costs for computer support from the benefit payment savings.

These findings have recently led other States to submit grant proposals to conduct additional tests of monthly reporting and retrospective budgeting. We have funded planning activities for pilot tests in Boston, Massachusetts; Detroit, Michigan; Peoria, Illinois; and New York City. In addition, we have funded statewide conversion to Monthly Reporting and Retrospective budgeting in Colorado and Vermont.

While I have emphasized the genesis of our interest in a highly automated retrospective budgeting and reporting system, the monthly reporting concept has also been developed by individual States. The best known case is California which initiated monthly retrospective reporting in 1976. More recently, several other States (among them are Oregon, Washington, Iowa, and Nevada) have adopted retrospective reporting systems that vary in the nature of the reporting requirement and the rapidity with which payments are made.

In the face of this growing interest in retrospective budgeting and the general diversity in evidence in State budgeting procedures, the Department recently drafted proposed regulations designed to clarify the budgeting procedures which States may use in their AFDC programs. The proposed regulations would permit States either to use prospective budgeting or to adopt a retrospective budgeting approach.

The comment period on the proposed regulations has just closed. We shall be revising the proposed regulations in light of the comments, prior to final publication sometime early next year.

To discuss this concept today, we have a distinguished panel of experts, all of whom have been working for the last few years with this afternoon’s subject.

THE FORMAT FOR THIS DISCUSSION WILL BE AS FOLLOWS: Each panelist will speak for ten minutes, telling us of their interest in and relation to the concept of Monthly Reporting and Retrospective Budgeting. There will then be a few minutes for an exchange among the panelists. This should leave ample time for comments and questions from the floor.

SUMMARY OF DISCUSSION

Eddie Schoech, Director of the Boulder County, Colorado, Department of Social Services, stated that the primary reason for his Department’s involvement in the HEW-funded Monthly Reporting Demonstration in its AFDC program stemmed from the desire to find an administrative system for income maintenance.
programs which would maximize financial integrity and accountability as well as service delivery. He then summarized the essential components of the system now operating in Boulder (and Denver) county: 1) a Monthly Status Report to be completed by the client and agency in a timely manner; 2) a retrospective accounting period which bases benefit payments on actual information; and 3) a high degree of automation, including cross-checks with other systems (which has led the County Department to propose integrating the Medicaid and Food Stamp programs into their system).

Mr. Schoech then summarized the first year research results, which showed a 6.1 percent net payments saving under monthly reporting with retrospective accounting, compared to payments under the conventional system of six-month redeterminations. In addition, three times as many status changes were recorded under monthly reporting as under conventional reporting; retrospective benefit adjustments decreased by 68 percent; check cancellations decreased by 79 percent; and recoveries by 78 percent. The evidence on clients’ ability to handle the new system is less consistent. While 90 percent file by the first deadline of the month and 83 percent more file by the second deadline, only 40 percent of the reports filed are complete and correct. The remaining 60 percent require review by a worker, and, of those, 10 percent require follow-up with recipients.

In concluding, Mr. Schoech warned that a major problem in any monthly reporting system is the transition from the old to new system, because the change is intimidating to both clients and staff. He urged that implementation be phased slowly.

Adele Blong, Attorney, Center on Social Welfare Policy and Law, declined to debate Mr. Schoech’s presentation of Colorado’s experimental results, but suggested, instead, that the audience ask themselves the following question: “If my kids are hungry today, can I feed them by telling them what they ate two months ago?” The essential point, she asserted, is that we must distinguish between retrospective accounting, on the one hand, and monthly reporting and automated systems, on the other. The inclusion of retrospective accounting in the Conference agenda is symptomatic of the confusion between reporting system changes to improve information flows—an appropriate goal—and accounting period changes. She took issue with Dr. Barth’s statement that voluntary reporting is the cause of breakdowns in current AFDC information systems and submitted, instead, that the breakdowns result from the inability of clients to break through systems barriers and give the necessary information to agencies.

Ms. Blong offered some advice and warnings to those who might be considering adoption of a monthly reporting system: 1) consider the need for safeguards so that the new reporting system does not become a new procedural hurdle where those who fail to file are removed from the program (though still eligible) and spend several months trying to get reinstated; 2) take time to break in the new system slowly, assure that lack of reporting is truly unwillingness and not inability to cope with the new form; and 3) avoid adopting a retrospective budgeting period because no matter how it is constructed, client families will perceive that the money provided for the upcoming month will not necessarily reflect need or even the State standard. Finally, Ms. Blong stated that there is an awful irony in the fact that while welfare programs are moving toward modern technology to achieve efficiency and responsiveness, they are simultaneously encouraging unresponsiveness by looking backward in their accounting systems.

Kyle S. McKinsey, Deputy Director of the California Department of Social Services, related the genesis and experiences of California’s four-year-old monthly reporting and retrospective accounting system. He noted that while most would agree there is no perfect budgeting system, one has to look at the range of options and the actual or projected error rates under each, in order to choose the most accurate system. The California Department determined that actual income was the most accurate determinant of a grant payment because it produces the least opportunity for over- and under-payments and less recoveries are required. Mr. McKinsey pointed out that the only cases of real concern are clients with earned income—a very small percentage of the total caseload. For those clients with no earned income, the choice between a prospective or retrospective budgeting period makes no difference.

Mr. McKinsey concluded by stating his belief that the new system is the substantial reason for a marked reduction in error rates in California. He also echoed Mr. Schoech’s and Ms. Blong’s admonition to phase in a new system slowly, with initial pilot tests and willingness to make continual refinements.

John T. Dempsey, Director of the Michigan Department of Social Services, stated that he is a firm, but frustrated, supporter of monthly reporting. He supports the system because the major reasons for error are either failure of a client to report, or failure of the agency to act. Monthly reporting solves both problems. Retrospective budgeting is the most accurate, but not always the fairest or most sensitive, accounting approach. He said he favors retrospective budgeting for the vast majority of clients with a good supplementation program (which Michigan has) for the remainder. Mr. Dempsey then described the source of his frustration: three years ago Michigan began a monthly retrospective reporting system for all AFDC cases in two pilot counties (Ingham and Genesee); but because of complaints from legal services, the legislature proscribed expansion to additional counties until the cost-effectiveness of the system could be adequately demonstrated. Mr. Dempsey concluded by expressing regret that monthly reporting and retrospective accounting does not exist on a statewide basis. He expressed confidence that such a system could result in millions of dollars in payment savings, which could then be used to increase benefit levels for clients.
WELFARE DISCUSSION GROUP B: “COMPUTER MATCHING TO DETECT/PREVENT INCORRECT PAYMENTS”

Leader
Blanche Bernstein
Administrator, Human Resources Administration
New York City

Panelists

John Allen
Office of the Inspector General
SSA/HEW

Wayne Carpenter
Manager, State and Local Branch
Tymshare Corporation

Marvin Sammon
Bureau Chief
Bureau of Collections
Iowa Department of Social Services

John J. Gallagher
Chief, Systems Development Branch
Office of Family Assistance
SSA/HEW

Ronald J. Lents
Acting Chief, Development Section
Office of Family Assistance
SSA/HEW

Staff Reporters

Richard L. Boge
Chief, Systems Approval Section
Office of Family Assistance
SSA/HEW

Summary of Discussion

Blanche Bernstein, Administrator of the New York City Human Resources Administration, opened the session by introducing the panel members.

John Allen, of the HEW Inspector General’s Office, began his presentation by reviewing the status of HEW’s computer match programs. He also noted the availability of two publications: “A Summary of Computer Matching Programs Underway” produced by the DHEW Office of the Inspector General; and the Office of Family Assistance “Report on the Use of Wage Data in the Administration of the AFDC Program.” He encouraged everyone to use these publications as resource materials.

Mr. Allen described HEW matching programs in six areas:

1. Project Match I identified Federal employees receiving AFDC payments. Although States are currently matching AFDC files against wage data maintained by State Departments of Employment Security, Federal employee wage data are not included in the State data base. Thus, Project Match I was undertaken.

Project Match I identified 38,000 individual cases which warranted further study. Of those cases, 18,000 are currently under review by States. Based on an initial review, States report finding 1,966 over-payments and 1,875 ineligibles.

Estimated annual savings for Project Match I are $12 million (half of the savings are State funds and the remaining half are Federal funds). The Federal processing cost is $1 million. The estimated savings described above do not include indirect savings which may be realized by other welfare programs whose basic eligibility is derived from the AFDC program.

2. Project Match II (SSI) Compares Federal civilian employee wage data with the Supplemental Security Income (SSI) file. Results of this match will be announced in the near future.

3. Interjurisdictional Matching (AFDC) Phase I of this match compared 26 State and jurisdictional files to identify individuals who appear in more than one jurisdictional welfare file. The files compared were of active AFDC adult recipients as of August 31, 1977. The match identified about 5,154 cases with possible duplicate payments. Review of these cases indicated 4,462 instances of legitimate eligibility, 658 cases involved overpayments, and 222 cases of total ineligibility. Phase II of this match compared 50 State and jurisdictional files in the same manner as Phase I. The results of this phase will be available in the near future.

4. The Summary Earnings Record (SER) Match (AFDC) Compares State AFDC files with the SER file maintained by the Social Security Administration (SSA). The SSA has processed 33 State AFDC tapes thus far, and 8 additional State AFDC tapes await processing. In addition, 9 other States have expressed interest in this matching process. Reports on the effects of the match have been received from Franklin County, Ohio, and New York City. New York City estimates annual savings of $9.6 million and Franklin County’s estimate of annual savings is $2 million.

5. Project Cross Check Phase I matches HEW employees with Guaranteed Student Loan default files. Phase II matches active Federal civil service files against student loan default files, and Phase III matches active military personnel files against defaulted guaranteed student loans. Estimates of Phase I savings are in the range of $500,000 to $300,000, and Phase II savings are estimated at over $7.5 million. Phase III results will be announced in the near future.

6. Project Integrity I (Medicaid) Selective review of pharmaceutical and physician Title XIX (Medicaid) claims resulted in savings in excess of $6.4 million.

Marvin Sammon, Chief of the Bureau of Collections, Iowa Social Services Department, described the Iowa automated fraud referral, investigation, and collection system, and the process which is used when a client is suspected of fraud and is referred for criminal investigation and possible prosecution. Fraud sanctions include either recoupment or imprisonment, or both. About 1,036 referrals are made annually (240 AFDC, 400 food stamps, 360 Title XIX providers and 26 nursing homes). These referrals result in collections of approximately $21,000 per year, at a cost of about $120,000. Despite the fact that program costs currently exceed collections, Mr. Sammon noted that the deterrent value of the system probably "scares off" thousands who would otherwise be tempted to commit fraud.

Mr. Sammon concluded by stating that his Department has a goal of savings and collections of $340,000 per year through increasing referrals and the introduction of computerized tracking and matching techniques.

Wayne Carpenter, Manager, State and Local Branch, Tymshare Corporation, commented on the supporting role that his company has played in AFDC/QC, Food Stamp/QC, Medicaid/QC, and a variety of automated tracking systems. These activities have been carried out over the last five years in 35 States.

Mr. Carpenter said that, as a citizen, he agreed with DHEW’s objectives to detect, correct and prevent error, fraud and abuse in social programs. He recognized the Department’s initiatives in computer matching, but noted that large volumes of data are being processed under current matching techniques. He suggested that methods must be found to reduce the size of files which must be reviewed. An approach would be to reduce file size by the use of error prone profiles constructed from Quality Control sample data. Mr. Carpenter recommended that consideration be given to using customized criteria to select small files of cases which are likely to have a high probability of matching, when compared against files like the Summary Earnings Record.

Summary of Questions, Answers and Comments

Q. John Horan, formerly with the welfare Inspector General’s Office in New York, questioned the integrity of the social security number and suggested that a real problem was one of "multiple registra-
A. Mr. Allen acknowledged that the problem did exist and that his office was attempting to determine the significance of the problem by computer matching using AFDC Quality Control data.

Comment: Dick Bakely of the Camden, New Jersey Welfare Department, commented on the difficulty in coordinating DHEW interjurisdictional data with county offices and other State agencies. Mr. Matt Marsiglia, Pennsylvania Department of Public Welfare, responded by saying that in Pennsylvania an initial review is performed at the Headquarters level. This review eliminates approximately 60 percent of the cases before they are submitted to County Offices. Mr. Allen noted that OIG is attempting to streamline interjurisdictional matches to reduce the incidence of duplicate reviews by States (lead State concept).

B. Utah has had success in matching Family Assistance numbers.

Comment: Richard Jensen, Utah State Auditor, said that his office has attempted to recover funds from persons who are identified as having unreported income, defaults on student loans, etc. He noted that Utah has had success in matching State income tax refunds against files of persons who owe the State money with a 16-to-1 benefit/cost ratio.

Comment: Judith Brundidge, Office of Family Assistance, commented that it is easier to get on welfare than to get off welfare; therefore, a preventive technique of concentrating manpower and skills at the point of intake has been developed. The County initiated a Corrective Action Project which involved subjecting approximately 25 percent of the intake caseload to a conventional rather than a simplified application method. Analysis of quality assurance findings demonstrated that five characteristics were common to most erroneous applications. As a result, all new cases with these characteristics must undergo a conventional application process requiring full verification of all eligibility information. The five characteristics are:

- an unexplained lack of resources prior to application
- a recent separation from a spouse
- inability to verify birth or school attendance
- the presence of unrelated persons in the home
- the presence of support payments or income

In order to implement this corrective action, and develop proper staff attitudes, extensive intake staff training was undertaken. This training concentrated on review of the "prudent person"
concept, dealing with inconsistencies in information, and examining data comprehensively. The success of the county's Corrective Action Project has been demonstrated by a more than 50 percent reduction of the ineligibility rate, and by an error rate which is substantially lower than the state average. The Ohio Department of Public Welfare has accepted the Cuyahoga County technique for statewide application.

Sally Richardson, Deputy Commissioner for Planning and Evaluation, West Virginia Department of Welfare, discussed the value of utilizing an error prone profile system at the State level. In the early 1970's, the West Virginia Department of Welfare began working to reduce fraud and abuse in the programs it administers. After nine years of analysis, development, testing, and application, the State has produced an error prone profile which has been proposed for Federal use in connection with corrective action in the AFDC program. The West Virginia Department developed a profile of those AFDC case characteristics which are most likely to be present in error cases. The profile also identifies those case characteristics which are likely to be present in non-error prone cases. The State's corrective action planning group utilizes these case profiles to define specific error correction actions. Corrective actions steps are then formulated as desk guides for eligibility workers to use as supplements to AFDC handbooks.

Ms. Richardson noted that utilization of such profiles is invaluable as a corrective action and as a management tool. By concentrating extra worker effort on error prone cases, welfare dollars can be saved without a significant increase in administrative costs. Ms. Richardson pointed out that there are some problems with this system, however. The success of the process depends on selective activity. In addition, the cost effectiveness of the system cannot be assessed unless specific corrective actions are identified and case workers implement only those specific actions.

Pat Livears, Director of the HEW's Bureau of Supplemental Security Income (SSI), reviewed the use of an error prone profile at the Federal level. From 1976 to 1977, the Social Security Administration (SSA) viewed all SSI recipients as equal. With limited staff and a large caseload, a "shotgun" approach to reviewing cases for eligibility was ineffective. In order to determine where best to concentrate review efforts, SSA turned to its quality assurance system to develop a regional error prone profile. Under this system, cases with a high probability for error will be personally reviewed in one of SSA's 1300 district offices. Those with low error probability will be subject to a mail review from SSA's central office in Baltimore. The results of these mail contacts will be sampled and checked for accuracy. To reinforce the effectiveness of this selective system of concentrated review, several other data collection techniques are used to check on the accuracy of decisions:

- an "end-of-the-line" sample review of all SSI initial claims to verify the accuracy of decisions by claims representatives;
- a review of overpayment resolutions to determine the validity of decisions; and
- a review of retroactive payments of over $5,000.

In addition, in 1978, a special staff was assigned to deal with SSI recipients only. Ms. Livears concluded her remarks by stating that these corrective action techniques, along with the implementation of the error prone profile system in SSI, should enhance Federal program integrity.

Bert Smith, Director of the Support and Fraud Division, Vermont Department of Social Services, discussed how State fraud units can make unique contributions to the elimination of fraud and abuse in the AFDC program. Such units contribute both in the prevention and elimination of client errors, and they can work in three distinct ways toward improved program integrity:

- they lend credibility to the fact that the system works and actions will be taken to protect program integrity;
- they make direct contributions to the corrective action process through participation on the State's Corrective Action Panel and through review of proposed policy changes; and
- they participate in the training of eligibility workers in recognition and reporting of fraud, and in developing evidence necessary to prove willful withholding of information.

Mr. Smith noted that some limitations must be recognized and overcome in this area of fraud detection and prevention. Quality assurance activities will not always reveal willful withholding of information by clients. In many cases, this type of fraud is only discovered if there is an effective interface between fraud unit staff and eligibility workers. Joint training of fraud unit and eligibility staff can contribute to the creation of a team effort and the reduction of duplicated effort.
to Illinois voters. It ranked higher than controlling government costs, increased state aid to education and reducing property tax. Eighty-four percent of the people surveyed rated this issue the highest priority. I am sure that if a similar survey was taken in any large state in the Nation, the results would be the same. This result is tantamount to an indictment of the entire welfare program and those that manage it. It demonstrates clearly that the people's confidence in the administration of the welfare programs is at the lowest point in history of our Nation. It is also an indicator that unless some drastic changes are made in our current welfare systems, the people will no longer accept the concept of these programs and want their own take drastic actions. It would not be surprising to me to see the Proposition 13 fever that runs throughout this Nation be expanded to the problems of welfare fraud. I suggest that unless something is done, and done now, by those in this room and their counterparts throughout the country, we will see a rash of binding referenda limiting Federal and State welfare spending before the end of the next decade. This action will substantially hamper the ability of any administration to deal with these very difficult problems.

I do not have enough time to discuss with you in depth the reasons that this issue is of such great concern. It is the result of many years of deficient planning, an absence of program testing, an absence of criminal and civil prosecution, as well as an unfair and inequitable administration of benefits. The inequities of our system can be best demonstrated by a story told me by one of the employees of the Illinois Department of Public Aid.

He told me of a small factory in his county which employs approximately 150 people. He told me that all eligible families were receiving the same wage yet some were also receiving several thousand dollars of additional funds from AFDC as well as food stamps and medical assistance. A number of others working at the same salary and who had more dependent children received no aid at all. The only difference between these two groups of people who worked side by side on the production line was that the group receiving aid had applied for a period of time prior to obtaining their current job. The other group had been gainfully employed for most of their adult life. In other words, we rewarded those who didn't work and penalized those who did. The mandated Federal 50% incentive program had created this inequitable situation. I have been told that similar situations exist in small factories and companies throughout the United States. While changes to this program have been discussed for years, no action has been taken. Similar inequity is present throughout government and industry. The group of people forming the public's dissatisfaction with the program.

The American people have demonstrated over the years their willingness to share their resources with the needy. There have only asked that their tax dollars be administered in an efficient manner and on an equitable basis. Their desire for efficiency has never been greater than it is today because of their lack of confidence has also never been so high.

As a Federal prosecutor who led an office which many people believe was a model for our Nation in the period of welfare prosecution, I assure you that an examination of the AFDC program shows clearly that many people within government do not understand the need for and role of criminal prosecution. It is impossible for the criminal system to locate and prosecute every single welfare recipient who is guilty of fraud. There is no question, however, that those who commit fraud in many cases do so knowing full well that they will go undetected. That is even of greater concern to me and to the people is that even when a recipient is caught, the chances for indictment are small and the chances that the recipient will still receive a jail sentence are even more remote.

In Chicago over the last several years several hundred welfare recipients have been indicted for wholesale fraud on the welfare system. Last year over 90 indictments were returned in one day after a four-month investigation. Estimates have been made that the fraud detected in these cases alone amounted to several million dollars annually.

This effort was a result of a joint program between the Illinois Department of Public Aid and the United States Attorney's Office. Over 2,000 public employees were found to be illegally mismanaging welfare. In addition several thousand private sector employees were also uncovered.

One of the best ways to insure you have an effective prosecutorial effort is through the establishment of a joint Federal, local task force for the prosecution of welfare fraud. Much of the funding for such a program is available currently from the Federal government. The task force should include those in the welfare system who have the responsibilities for fraud and abuse detection. The effort in Chicago was only successful because a task force was formed with active participation of the Illinois Department of Public Aid employees whose full-time assignment was the development of case histories and quality evaluation for those cases detected by computer. Local prosecutors also joined this county-by-county basis. The results in Illinois were astounding because prosecution had become a reality. An examination of some of the cases shows that some had been involved in welfare fraud for as long as ten years.

Prosecutors within your district can assist you in establishing this effort. The resources available to them are many and varied. He can communicate effectively with law enforcement officials who must in the long run assume the major responsibility for welfare fraud. The resources available to local police and prosecutors is substantially greater than the resources available to the Federal government.

Today with the accompanying publicity and massive prosecutorial effort that has occurred, there is no longer any excuse for the system to remain. The public should know that in Illinois there is at least a possibility they will be detected and punished—and the fear of punishment is the real deterrent. If those of you within the State and local systems have not taken the opportunity to meet with your local prosecutors or United States Attorneys, I encourage you to do so. I am sure he will welcome your assistance in this very difficult area and will assist you and will provide leadership in your effort to obtain a meaningful prosecutorial program.

I must remind you, however, that prosecutorial efforts alone will not solve the problems of welfare fraud and abuse. They are merely a stop gap measure until those legislators and executives at the State and Federal level recognize that many of the welfare programs they have designed have created as many problems as they have solved. I believe they need to reexamine the chances of this country, if we are to solve the problem. I am convinced that many of these people have no idea as to the magnitude of the problem. Because if they did they would have taken substantial action already.

I am sure I share the frustrations of many of you concerning this failure of Congress and the Federal agencies to recognize the inadequacies of the welfare programs in this country and to take appropriate action. I am hopeful that as this conference continues, those here in Washington will become fully aware of your concerns. They must learn that it is no longer enough for the Federal government to mandate the programs, and to provide funding. They have the responsibility to make sure that the programs they mandate are effective programs which can be administered efficiently and on an equitable and fair basis so that all those of you who are employed by municipal and State government are truly the men and women in the trenches. It is important, however, that as you perform your work on a day-to-day basis you point out to your colleagues and inefficiencies within these programs and lobby vigorously at all levels possible for change.

When you see a program which is poorly designed and managed, take note. Use your employee and management groups as a lobbying force in Washington to make Congress and HEW take notice. From time to time veterans, farmers, and businessmen can assist you in stimulating this effort. The Federal government to mandate programs and will on their own take drastic actions. I am sure he will welcome your assistance in this very difficult area and will assist you and will provide leadership in your effort to obtain a meaningful prosecutorial program.

In introducing the panel discussion, Mr. Skinner indicated that its purpose was practical in nature. The panelists hoped to provide useful guidance in prosecutorial theories and practical applications.

Ellen Chestnutt, Chief Deputy District Attorney, El Paso County, Colorado, addressed the highlights of the organizational structure of her office. She expressed hope that this structure could serve as a model of an effective way to deal with fraud investigation and prosecution at the county level. Within the El Paso County District Attorney's office there is a separate Division that handles both the investigation and prosecution of welfare fraud and non-support allegations. The staff includes four employees of the local welfare department, some of whom are skilled eligibility technicians. Such organizational structure allows for specialization and expertise at all levels. Within the offices of the Federal agencies that handle the investigation and prosecution. This unit handles recipient, provider, and employee fraud, in addition to non-support cases.

The second area discussed by Ms. Chestnutt concerned the type of dispositions which might be expected in various types of cases. Only if...
A case is very weak—witnesses out of State for instance, is restitution sought in lieu of filing. In a few instances where cases have been filed the case has been dismissed, but restitution ordered. In the majority of cases where the accused has either been found guilty or has pleaded guilty, probation is usually imposed only in cases where previous probation has been violated.

Ms. Chestnutt noted that restitution ordered and paid in this way is the most effective. In a few flagrant cases a short period of imprisonment in the county jail has been ordered in addition to probation and restitution. Such time may be served either on consecutive days or perhaps on weekends. Incarceration in the State penitentiary is rare and usually imposed only in cases where previous probation has been violated.

Ms. Chestnutt's concluding comment indicated that, throughout this range of case dispositions, the primary goal is law enforcement. She noted that her office has found that their operation is cost-effective, with restitutions exceeding the unit's operating costs.

Robert Neilson, Director of Special Investigations, Washington Department of Social and Health Services, briefly described the organization and operation of his office. The key element in establishing an effective operation, according to Mr. Neilson, is the support of top State officials. The support of the Governor and the Department Director in Washington have set the tone for a strong campaign against fraud and abuse in that State's welfare programs.

Another key factor in Washington's aggressive campaign against welfare fraud is the fact that such crimes are felonies in that State. In addition, if the defendant is found guilty, probation and restitution are ordered. Ms. Chestnutt noted that restitution orders and payments are made through the court, and Ms. Chestnutt's concluding comment indicated that, throughout this range of case dispositions, the primary goal is law enforcement. She noted that her office has found that their operation is cost-effective, with restitutions exceeding the unit's operating costs.

As a representative of recipients, Jaime Carron, an attorney with the Legal Aid Foundation of Los Angeles, reflected on the impact of different legal strategies. He noted that no one is more outraged over blatant abuse, such as California's "Welfare Queen," than legal services attorneys; such abuses reflect badly on the people they regularly represent. Mr. Carron explained that what is needed is a system that allows the victim to have the strong support of the Governor's office and the protection of personal rights.

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Summary of Questions and Answers

Q. What do you think of indictments brought against public officials in the District of Columbia lately where there was a great deal of publicity, but the charges in many instances were ultimately dropped? Where do you draw the line between publicity and the protection of personal rights?

A. Mr. Kramer: We try to be sure of the cases that we present to the grand jury. We do not bring cases simply to bring cases. It is probably better to hold publicity until after conviction rather than after indictment.

Q. Is it desirable to have Federal cases tried before a U.S. Magistrate as opposed to a full court trial?

A. Mr. Kramer: In the case of misdemeanors it is normal to faster to have the cases heard by a U.S. Magistrate. Because of this the defendant may well agree to appear before a magistrate as opposed to waiting for a full trial.

Q. Are employees in your State's unemployment and do this require or allow union representation at hearings involving employee fraud?

A. Ms. Chestnutt: To my knowledge our employees are not unionized. This has never been a problem for us.

A. Mr. Neilson: The set of rules that my office must follow in these cases is established in the union management agreement. Representation is allowed.

Follow-up Comment from Questioner: In Pennsylvania the required grievance procedure can actually interfere with prosecution.

Q. Please give more details on the lower limit of $10,000 that some Federal prosecutors set for prosecution.

A. Mr. Skinner: This is simply one way to set priorities because of heavy workloads in U.S. Attorney's offices.

Q. Who makes the best investigator, someone who is a law enforcement officer and receives special welfare training, or someone who is a welfare worker and receives investigator training?

A. Ms. Chestnutt: Either one is equally good; the real secret is a specialized unit that handles welfare cases only.

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Is there fraud, abuse, and error in social services programs? Mr. Springer said: "Yes, probably greater than we know. He added, however, that we should strengthen efforts to minimize what is probably the largest problem area, that of error or mismanagement. He suggested the following approaches:

1. Acquire individuals with skills to develop policies and procedures, to work closely with requests for proposals, to manage contracts, to improve the audit function, and to investigate fraud and abuse. Mr. Springer said that his Department uses investigators to look into fraud and abuse, and although some are sensitive to this approach, when used widely, such investigators are of real value.
2. Improve information systems. For example, a "providers register" designed to furnish such information as names of provider organizations, types of services, unit costs, funding sources, etc., would be very helpful to State agencies. The level of sophistication of information systems varies widely from provider-to-provider. States need fiscal and management technical assistance in this area. Mr. Springer emphasized that technical assistance should be separated from auditing efforts designed to identify weaknesses which could threaten Federal funding.
3. Broaden Title XX regulations in the area of training. In particular, service providers need training on how to be better managers.
4. Encourage technology transfer; that is, the sharing of what works well in one community with other communities having the same goals.

Orlando Romero, Director of the Denver County, Colorado, Department of Social Services, stated that their program is county-administered. He noted that the entire area of contracting for services is very complicated. Problems result from involvement of many levels of government and many individual parties. Vendors and providers are subjected to too many conditions and restrictions imposed by various levels of government, and this situation alienates good providers. Mr. Romero suggested that the contracting process be simplified. He remarked that one contract with which he had been involved took twelve months to negotiate. He also cited a day care center which should have been closed for serious licensing violations; one child served by the center died. Because of a technicality in the contract, however, the center is still operating.

Mr. Romero noted that the present system does not afford enough local participation in the beginning stages of program development. Local communities have a variety of interest groups, and while not all groups may be satisfactorily accommodated, all should be heard.

Colorado has well defined statutes on fraud and abuse in relation to money assistance programs, but not in relation to social services programs. Such programs are so subjective that it is often difficult to judge whether or not fraud or abuse is occurring. Intent is one of many factors which must be examined. Precisely when, for example, is a child in a foster home ready to be returned to his or her natural home?

Mr. Romero concluded his remarks by urging that Incentives be provided to Administrators to stimulate better management. Currently, Administrators are faced with the constant threat of funding cuts. More and better solutions should be made available, and soon.

Geraldine Aronin, Assistant Secretary for Program Planning and Evaluation, Maryland Department of Human Resources, questioned how much "profit fraud" exists under Title XX. In Maryland, the social services program is State administered, and $22 million of the $48 million Federal allotment is spent on purchase of services. Most of the services are purchased from other State agencies; only $1.2 million are used to purchase services from non-profit organizations. Ms. Aronin listed the offices or units directly involved in the management of the purchase program: Legal, Compliance, Contracts, Negotiation and Monitoring (including sub-contracting), Evaluation, Research and Analysis, Fiscal and Audit. All of the above offices or units are involved in the negotiation process. In addition to Federal contracting requirements, State requirements must also be satisfied. Sub-contractors are subject to all of the requirements of first-tier contractors. Providers are required to submit quarterly statistical program and fiscal reports. When problems are indicated, the cooperation of vendors is sought. Many of the offices Ms. Aronin listed are involved in this process as well.

Ms. Aronin noted that, although it is encouraging that Maryland's information systems are well developed, administrative costs appear to be climbing with the increased demand for information. Accounting systems are complicated because many providers have several sources of funding. Ms. Aronin suggested that Maryland must become more involved in aiding providers in establishing these systems. She indicated that...
fees for services is an area closely watched by her State. Currently Maryland is involved with HEW in sensitive negotiations over the "declaration" method of eligibility, where verbal statements offered by clients are accepted. HEW has asked that Maryland conduct a quality control check on the validity of individual client eligibility. Mr. Aronin noted that Maryland is resisting this request because of uncertainty as to whether a massive quality control effort would be cost effective.

Summary of Questions Answers and Comments

Q. Ray Willis, Special Assistant on Health and Welfare, Governor's Office, New Jersey. Mr. Willis expressed disappointment at not hearing, throughout the conference, more examples of fraud and abuse and how these situations are handled. He said an auditing effort in New Jersey several years ago turned up problems with eight day care providers. He said his State prosecuted several caregivers who received payments for foster children who were not in their care. Mr. Willis asked: "Just where does most of the fraud and abuse take place?" He suggested that possibly accounting systems are not sophisticated enough to discourage this type of activity.

A. Mr. Springer commented that in Texas there have been some prosecutions in the area of homemaker services, but they have not.

A. Peter Bion from Kansas said that his State is investigating some Title XX providers who appear to have deliberately inflated costs, and may have engaged in deceptive practices involving the switching of funds.

Q. Gerald J. Reilly, New Jersey Department of Human Resources, said that his State has not turned up deliberate fraud or abuse, but has encountered sloppy practices. He said that when a State audits, and shares its findings with the Federal government, States are then asked to return funds to the Federal level which they often cannot recover from providers. This situation acts as a disincentive to State-level audit activity. Mr. Reilly stated his belief that the Federal government should share such losses with a State that demonstrates a good faith effort to recover funds from providers.

A. Mr. St. John said that we, on the Federal level, are presently looking at legislation on this very matter.

Q. Jim Smith, State Representative from Missouri, said that in Missouri fraud has been uncovered in nursing homes where recipients are not receiving services to which they are entitled. Moreover, many such recipients have had their Supplemental Security Income checks stolen from them. He added that many of the providers are arrogant and that some States have chosen to take over these programs. Mr. Smith asked Mr. Springer if they investigate errors in Texas? Mr. Springer answered, "Yes."

Comment: Lou Glase, Director, Office of Aging, State of New York, expanded on the concern expressed by Mr. Reilly of New Jersey that the Federal government penalizes States for improving systems which identify errors.

Comment: Mr. St. John stated that a more equitable system calling for the recovery of a median figure, rather than the total amount, is being considered.

Comment: Michio Suzuki, Deputy Commissioner, Administration for Public Services, HEW, commented that where States have demonstrated a good faith effort to meet eligibility requirements under Title XX, the Federal government does not attempt to recover funds. He added, however, that for whatever reason eligibility a State may use, there must be a system designed to check on and control it. In situations where a State discovers that providers did not meet requirements, monies should be recovered.

Comment: Ernest L. Osborne, Commissioner, Administration for Public Services (APS), HEW, commented on an earlier remark regarding training. Mr. Osborne said that APS is presently in the process of revising its training regulations. Attempts are being made to improve them, in general, at the same time examining the regulations with a realistic eye on provisions likely to raise costs. Mr. Osborne anticipated that this work would be completed within a couple of weeks.

Summary of Discussion

Alain Roman, Director of the HEW-OMB Eligibility Simplification Project, which was announced by the President during the Conference Luncheon Session, described how the eligibility determination process is the major culprit contributing to fraud, errors, and "monstrous" government waste in welfare and social services programs. Almost $3 billion is spent each year to determine who gets what and how much—yet old people, blind or disabled people, and people who can’t speak English or read, simply drop out because they can’t cope with all the red tape and paperwork.

Mr. Roman pointed out that since the same rates of error of fraud and abuse continue, the problem lies with the process. The administration of welfare and social services programs is so complex and incomprehensible that applicants and workers alike are faced with almost unmanageable situations.

In order to rectify the situation, Mr. Roman said that we must simplify the process. Simplicity and compassion are not mutually exclusive, however. In Mr. Roman’s view, the following actions must be taken:

- Establish eligibility with simple, consistent and reasonable questions.
- Find out what the applicants’ real and total needs are and link them to services without red tape and wasted motions.
- Simplify and standardize terms and definitions; define a consistent accounting period for reporting income, and consolidate intake, verification, and pre-screening procedures.
- Provide incentives for improved use of automated data processing to improve efficiency and to cross-check to eliminate errors and fraud; and finally,
- Develop a clear, concise Federal policy to ensure that all agencies comply with these improved and available procedures.

Mr. Roman pointed out that the review of Federal procedures affecting eligibility for public assistance programs will be arduous and frustrating. Federal codes and regulations are not only complex and confusing; they are also subject to varying interpretations by more than 100 programs operated by 10 Departments and 60 States, with oversight, budget and program legislative responsibility vested in 21 Congressional committees.
In Mr. Roman's opinion, the task is gargantuan, but doable. The HEW-OMB Project has three basic objectives: (1) to standardize Federal eligibility requirements; (2) to simplify the process for clients; and (3) to assure government-wide implementation. Policy recommendations are due to the President in July. Following the President's review and approval, OMB will develop Federal policy on standard terms, definitions, and procedures for eligibility determination. In Fiscal Year 1980, agency rulemaking will begin to bring program requirements into conformity with the established Federal policy.

Mr. Roman then introduced Gordon Bourne, Director, SPAARS Division, Colorado Office for Human Resources, who described the Single Purpose Application with Automated Referral Service (SPAARS) project. The SPAARS project produced some of the basic research which the Office of Management and Budget used to design the Eligibility Simplification Project. The Community Services Administration (CSA) funded the SPAARS project in 1974 to examine the feasibility of a "single purpose application with automated referral service." A related study of Legal Constraints was conducted in 1977, and concluded that a single application was not feasible. The study found that myriad legal constraints compound the eligibility process and result in multiple interpretations in related, but administratively disjointed, human services programs, including: AFDC, SSI, Medicaid, Section 8 Housing Assistance, Food Stamps, CETA Employment Services, and Title XX Social Services.

The SPAARS Project is currently engaged in a multi-State effort to draft language options for terms and definitions found most troublesome by the Legal Constraints Study. In addition, a Human Development Services Simplification Study will describe the legal constraints affecting Human Development Services programs for older persons, handicapped persons, Native Americans, and children, youth and families.

Juanita Wills, Acting Director, Program Analysis Branch, Administration on Aging, reported on preliminary analyses comparing eligibility requirements of various Office of Human Development Services programs against each other and against Title XX social services eligibility requirements.

These analyses found that large generic programs (social security, SSI, Medicaid, Medicare, etc.), and not the categorical programs in the Administration on Aging, account for most Federal spending for older persons. She illustrated how generic and categorical programs, sharing similar purposes and objectives, inhibit coordination of aging services and make it difficult for persons in need to participate. Another problem encountered is that "services" are so broadly defined that two or more major programs may provide the same services to older persons but require different eligibility standards. This problem is not unique to aging programs. "Youth" are defined as "aged 4-12," "aged 8-13," "aged 16-22," etc. "Income" is defined through CSA poverty guidelines in one program, as "economically disadvantaged" under another, and as from "an economically disadvantaged family according to poverty guidelines established by OMB." It is still another.

Jeanne P. Johnson, Administrative Coordinator, Allied Community Services, Gainesville, Georgia, offered a local perspective on the eligibility problem. Local communities must make application to multiple funding sources in order to provide needed services. Differing eligibility requirements impose hardships on both clients and staff, and perpetuate errors. For example, Head Start eligibility is based on the poverty guideline established by the Community Services Administration. The guideline is actually lower than the minimum wage, and that fact alone causes error and abuse in determining eligibility. DHEW has not updated the poverty guideline in years. The Department has indicated that updating the guidelines is the responsibility of the Community Services Administration (CSA), but CSA claims it has been too busy to do so.

Ms. Johnson stated that another part of the problem is the need for standardized poverty or income guidelines to determine eligibility. Primarily, local communities must use various Federal poverty guidelines which differ considerably. She indicated that there is no way staff can be expected to deal with numerous, varying guidelines to determine eligibility without error, and no way to justify the resulting client confusion and humiliation.

Summary of Questions, Answers and Comments

Comment: Clarence Olsen, Grand Forks Social Services, North Dakota, indicated that directives from Washington would defy a good lawyer. "Food Stamps are a good example, and SSI gets the booby prize for being a program which doesn't help people in need."

Q. Frank Roddy, President, Macro Systems, Silver Spring, Maryland, said that most regulations restrict entitlement. "Changing them may mean an expanded pool of eligibles and increased costs—how can this simplification be done without expanding funds?"

A. Mr. Roman stated that savings from administrative cost cuts could be shifted to take up some increase in services.

Comment: Dr. Doris Fraiser, Office of Administration and Management, State House, Boston, Massachusetts, commented that the old philosophy of the English dole must be changed. Welfare assistance should be seen as just another system of money transfers and used as a economic development tool. She indicated that the dollar expenditure for welfare assistance makes it the biggest business in her community and this fact should be used as a positive asset. It is in the interest of the taxpayers to have everyone participating, and might also help the value of the dollar. She also related that some States, such as hers, have the tried and tested technology to interrelate services and that this interrelation can be done administratively.

Comment: Mr. Roman closed the session by stating that the President's Reorganization Project recognizes the legitimate responsibilities of State and local governments who have the primary responsibility for administering our welfare and social services programs. Hence, a conscious effort will be made to consult with State and local officials and representatives of public and special interest groups, to gain the experience and knowledge so necessary to the Project's success. As policy options are developed, outside comments and criticisms will be solicited. Without active participation by all interested parties, the project will fail.

Mr. Roman concluded: "We have the public commitment of the President that this undertaking is important to him. The rest is up to us."
CONTINUED

1 OF 3
SOCIAL SERVICES DISCUSSION GROUP C: "STATE AND LOCAL FINANCIAL MANAGEMENT SYSTEMS"

Leader
James A. Johnson
President
State Welfare Finance Officers Association;
Assistant Deputy Director for Fiscal and Administrative Operations
Illinois Department of Public Aid

Panelists
Catherine Williams
Deputy Commissioner
Iowa Department of Social Services
Charles F. McDermott
Controller, Department of Institutions, Social and Rehabilitative Services
State of Oklahoma

Staff Reporters
Agnes Magnino
Grants Management Specialist
Rehabilitation Services
Administration
OHDS/HEW

John Eger
Grants Management Officer
Rehabilitation Services
Administration
OHDS/HEW

Summary of Discussion
James A. Johnson, President of the State Welfare Finance Officers Association, and Assistant Deputy Director for Fiscal and Administrative Operations, Illinois Department of Public Aid, opened the session by stressing the need for changing current confidentiality regulations to allow for more unrestricted exchange of income and employment information among the States, Federal Government, and private agencies. Without access to this type of information to prove or disprove client eligibility, the States have no choice but to honor assistance claims. The current lack of access frequently results in the payment of illegal claims over long periods of time until other means are discovered to determine claim validity. Mr. Johnson indicated his belief that as much as 60 percent of his Department's clients may have unreported income which might affect their eligibility for services. He then described various attempts at working with the U.S. Attorney's Office, Department of Law Enforcement, FBI, Post Office, IRS, Bureau of Education, City of Chicago, Illinois Municipal Retirement Fund, U.S. Steel, etc., to uncover fraud and abuse.

Mr. Johnson described the Illinois "direct delivery system" and highly recommended it for adoption by other States. This system provides for State warrants which are issued to financial institutions eleven times a month for cash assistance grants. The financial institutions retain the warrants for five days—during which time, clients with proper identification can pick them up. This system eliminated the problem of duplicate claims being made by clients who claimed that they never received their checks.

Ninety-four percent of the Illinois Department's total caseload is enrolled in this system. In three years, there has not been a duplicate claim case.

Catherine Williams, Deputy Commissioner, Iowa Department of Social Services, described her State's management control system and recommended its implementation by other States, volunteering technical assistance to all who were interested.

The system involves the development and distribution of three books:
- Gold Book (Goal Book)—Published monthly, covering items selected by Division Directors, Institutional Superintendents, and Deputy Commissioner which reflect movement toward objectives.
- Green Book—Contains plan for action and monitoring of stated objectives for the 16 Districts which plan, organize, and control the delivery of services at the local level.
- Red Book (Dictionary)—Explanation of the programs and items which are reported in the Gold Book.

This system provides managers with heightened awareness of expenditures of dollars and manpower efforts in accomplishing responsibilities of the Iowa social service programs. It also provides a means for the Social Services Commissioner to hold managers and staff accountable for their respective areas of responsibility.

Charles F. McDermott, Commissioner of the Oklahoma Department of Institutions, Social and Rehabilitative Services, stressed the need for accountability—being able to show that dollars being spent are valid expenditures, that service costs are reasonable (as related to fee schedules, other vendors' fees), and that payment does not duplicate a previous payment.

Mr. McDermott warned that there are vendors who will try to take advantage of weaknesses in audit systems if they can get away with it, and will bill for excessive fees or duplicative services. A management system must be in place which prevents vendors from taking such advantage.

Den McClure, Director of Human Resources, Jacksonville, Florida, noted that cities could lose funds to the States and Feds if they award contracts to non-profit community agencies. He described the importance of an internal audit section, such as the one in Jacksonville—citing the need for checking two main points:
- Eligibility as to service, and
- The capability of the individuals providing services.

Mr. McClure then described Florida's form of "government in the sunshine," introduced by Lawton Chiles. Under this system, every document (or working paper) is open to the public; every meeting or conference of two or more people is open to the media; the press have constant access to public offices (including the Mayor's office). "An interesting management situation" which keeps you on your toes, Mr. McClure stated.

Mr. McClure believes that there should be incentives for doing a good job in detecting fraud, and feels that some officials are now being penalized for "cleaning up their act." He noted that something is wrong with a system which punishes for unearthing fraudulent claims, and indicated that he's at least interested in making funds available to alert officials to those who may be cheating.

Mr. McClure also urged that public officials be made aware that service delivery organizations must demonstrate management competence before funds are awarded to them. He noted, however, that there can be considerable community pressure to award funds to a particular organization regardless of its management ability. Hence, officials must find ways to encourage community based organizations to develop the management ability to do an effective and responsible job.

Mr. Pritchett responded by expressing his belief that public officials have some responsibility for assisting in the development of management capability by community-based organizations.

Mr. McClure agreed that assistance should be
provided, but questioned whether such assistance should precede or follow an award of funds. He noted that if the award of funds preceded or followed the development of management capacity, the organization may be in financial difficulty by the time the necessary staff training has been provided to the organization.

Mr. Pritchett noted that requiring demonstrated management capability prior to an award of funds results in situations where community-based organizations will never be able to develop their capacity.

Mr. McClure suggested that such organizations could be awarded funds and provided a grace period before strict accountability is required.

Mr.东盟t agreed that the purchase of services from community-based organizations involves difficult decisions.

Lewis A. Harris, Director of Fiscal Services, Tennessee Department of Human Services, noted that his State has been a leader in the purchase of social services. About five or six years ago, an audit staff was developed which has grown to about 20 people. Originally, the audit staff primarily conducted audits of agencies. The first audits conducted projected an assessment of agencies across the State and found that possibly 60 to 70 percent of the funds being expended in those agencies were misused either for ineligible clients, undocumented expenditures, etc. Since then, the Tennessee Department has taken a different approach in that the audit staff provides technical assistance on the front end of contracts, especially new contracts. As a result of this approach, there are agencies which are today "models" of fiscal responsibility, where fraud and abuse had been found in early audits.

Mr. Harris concluded by noting that his Department is now developing a staff which will be primarily assigned to provide technical assistance upon the initiation of a contract. In Mr. Harris' opinion, the provision of technical assistance has been the most effective tool in improving the integrity and management of social services.

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**STUDENT FINANCIAL ASSISTANCE DISCUSSION GROUP A: "STUDENT PROTECTION AGAINST FRAUD AND ABUSE"**

**Leader**

Rosemary Pooler
Executive Director
Consumer Protection Board
State of New York

**Panelists**

Stephen Blair
Assistant to the Deputy Commissioner
Bureau of Student Financial Assistance
OE/HEW

Terry Latanich
Bureau of Consumer Protection
Federal Trade Commission

**Staff Reporter**

Lynn Trundle
Editor-Writer
Office of the Deputy Commissioner
OE/HEW

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**Summary of Discussion**

Rosemary Pooler, Executive Director of the New York State Consumer Protection Board, opened the session by summarizing the Board's recent report, "The Profits of Failure: The Proprietary Vocational School Industry in New York State." The report concludes that many vocational schools in New York use deceptive advertising, misrepresented potential job markets, enroll ill-prepared or ineligible students, and offer poor courses taught by unqualified teachers. The Board's position is that easy access to student financial assistance has made systematic deception of students not only possible but highly profitable.

Ms. Pooler then stated her belief that the U.S. Office of Education (OE) should take greater responsibility for eliminating fraudulent practices. In her opinion, OE is more concerned with "maintaining the flow of dollars" and collecting defaulted loans than it is with eliminating practices that often cause students to default. Ms. Pooler recommended that OE increase audits and take stronger disciplinary action against schools using unethical or illegal methods. This action might include regulating schools' promotional techniques, barring or suspending fraudulent institutions from participating in OE programs, and requiring institutions to pay a penalty for enrolling improperly certified students or for failing to repay funds owed to students.

Ms. Pooler concluded her opening remarks by stating that HEW should "raise questions publicly about the wisdom of funding, so-called education that fails to deliver what it promises"—that is, jobs, or at least specific training in a career field. She reiterated her belief that OE must take much stronger initiative to supervise the practices of the vocational school industry.
He alleged that the New York State Consumer Protection Board's report was misleading, sometimes inaccurate, and was polarizing the educational community, rather than encouraging all sectors to work together on common problems and stop bad practices. John Esposito, author of the Board's report, then joined the debate. Mr. Esposito asserted that the report did acknowledge that both public and proprietary schools share the same problems and suggested that the report had not been read thoroughly and carefully. The discussion continued, but was inconclusive, with Mr. Esposito defending the report and Mr. Blair questioning the validity of its data.

Terry Lanatich of the Federal Trade Commission's (FTC) Bureau of Consumer Protection, discussed possible Federal Government actions to help protect students against fraud and abuse. Mr. Lanatich described a forthcoming FTC regulation aimed at controlling some vocational school practices. The regulation covers four areas of student protection:

1. Vocational institutions must provide dropout and graduation rates to students.
2. These schools must provide placement data to prospective students, that is, the percentage of a school's graduates who are successful in obtaining jobs. (Mr. Lanatich noted that even graduates presently unavailable for placement must be included in this data.)
3. The use of sales personnel to promote a school's course will be regulated to help ensure the honesty of these persons. Included in this provision is a controversial pro rata refund policy: a student would pay only for the portion of the course completed; the rest of the tuition would be refunded to the student.
4. Before a contract with a vocational school becomes binding, there will be a 14-day "cooling off period," during which a student may withdraw if he or she chooses.

Dr. Kauffman urged student and educational organizations and OE to develop a joint statement of principles on student financial assistance. He suggested a statement that encompasses the rights, responsibilities, and resources for students, including student rights to: 1) accurate and timely information, 2) humane and responsive treatment; student responsibilities to: 1) submit accurate information, and 2) discharge all legal obligations; and student recourse to: 1) institutional grievance procedures, and 2) governmental adjudication processes.

Mr. Jackalone recommended increased student involvement in accreditation and in the governing bodies of institutions. He noted that students must believe that they can obtain answers from their institutions about financial aid, especially since many financial aid application forms are confusing. Finally, Mr. Jacksonone recommended establishing an appeals mechanism to act on the grievances of students who believe they have been cheated.

The discussion continued, but was inconclusive, with the response from Mr. Jackalone summarized above.

In response to Mr. Pooler's remarks, Stephen Blair, Assistant to the Deputy Commissioner for Student Financial Assistance, OE, noted that there should be "truth in education" just as we have "truth in lending," but this concept must be applied equally to all educational institutions, not just to one sector. Even-handed treatment must be given public and proprietary schools—it does little good to point a finger at one segment of education, when all are guilty of a certain measure of deception. For example, public institutions are offering careers, just as are proprietary schools. Yet, when students enroll in public institutions, they are not told about the often poor job prospects for teachers, journalists, or any other career. Why is there no requirement that placement statistics be made available for these training areas? If a student enrolls at a public institution and then cannot attend or withdraws shortly after classes begin, be or she must still pay a considerable portion of the tuition and, in some extreme cases, must pay for the entire year. Why aren't refund policies required for public schools? Why shouldn't standards of conduct be applied to both types of institutions?

Mr. Blair continued by stating that the Federal Government cannot protect students from the results of their own choices but it can ensure the honesty of these institutions. He suggested that institutions need to provide information on job prospects, the institution's retention and placement rates, its refund policies, and the availability of student aid. Students should also be told about a school's facilities, curriculum, and faculty. The Government can also ensure that its own programs are administered correctly.

Mr. Blair concluded his remarks by suggesting that the education industry must do its part to eliminate fraud and abuse by policing itself. The industry must establish and enforce standards for "truth in education," and the Government will be forced to take over more of this responsibility—and the Government's rules may be heavy-handed.

Following Mr. Blair's remarks, there was considerable debate between him and Mr. Pooler. Ms. Pooler stated her belief that "even-handed treatment" was merely an excuse for OE not supervising more vigorously the fraudulent practices of proprietary schools. Mr. Blair replied that Ms. Pooler's interpretation was not his description of "evenhandedness."

Summary of Questions, Answers, and Comments

Q. Bernard Erlich, legal counsel for a number of proprietary school associations, asked Mr. Lanatich if the problems found in proprietary schools were not also found in public schools.

A. Mr. Lanatich replied that both sectors shared similar problems, but there was less abuse in public schools. He said that, although the regulations currently applied only to vocational schools, he hoped they would eventually cover public schools.

Q. Joel Packer, Legislative Director of the U.S. Students Association, asked Mr. Lanatich if the upcoming reauthorization of higher education legislation should include the FTC's reforms among its requirements.

A. Mr. Lanatich stated that he was not involved in that area, but including the reforms might be a good idea.

Q. The Director of Vocational Schools for New York asked whether the FTC excluded public schools from its regulation because it has no authority to control them.

A. Mr. Lanatich replied that this was one consideration, but not the primary one; the FTC simply believed the two types of schools were different.
STUDENT FINANCIAL ASSISTANCE
DISCUSSION GROUP B:
"INSTITUTIONAL ACCOUNTABILITY"

Lender
Dr. Robert M. O'Neill
Vice President
University of Indiana—Bloomington

Panellists
Dr. Francis Finn
Executive Vice President
National Association of College
and University Business Officers

Lawrence E. Braxton
Director of Student Administrative
Services
Charles R. Drew Medical School
Los Angeles, California

Staff Reporter
Keith Stanford
Program Analyst
Bureau of Student Financial
Assistance
OE/HEW

REMARKS
Lawrence E. Braxton, Director of Student Administrative Services, Charles R. Drew Medical School, Los Angeles, California

Good afternoon, I am Larry Braxton, Director of Student Administrative Services at the Charles R. Drew Postgraduate Medical School in Los Angeles, California. Among the responsibilities of that job is the direct supervision of the Financial Aid Office. I am the current President of the California Association of Student Financial Aid Administrators and a member of the Executive Council of Western Association of Student Financial Aid Administrators. These two associations boast of a combined membership of more than one thousand committed, concerned and active financial aid administrators and I have received their approval of the remarks I will deliver here this afternoon.

By entitling this group of discussions, "The Secretary's National Conference on Fraud, Abuse and Error," the ones for these conditions is placed directly on the heads of educational institutions and upon the heads of those who, in this instance, administer financial aid programs. Briefly, I will attempt to refocus some issues concerning the matter of Institutional Accountability.

I would be the last person to deny that there have been some instances of the maladministration of the federal financial aid programs by institutions of higher education. But so have there been such instances of maladministration within the Office of Education, within the executive branch, within the legislative branch and within the judicial branch of our government as well. Causes of maladministration are numerous; however, I would like to share with you my perceptions of a few of those causes.

First, nearly all of us from time to time hear about or read about some institution which is either in the process of being disqualified from participating in the programs, or has been disqualified from such participation. However, many institutions adopt the attitude that "it could never happen to us." Unfortunately, given the history of OE follow-up on program problem, program reviews and audits, that attitude may have some validity. Many of us who consider ourselves to be competent financial aid administrators have heard of cases of abuse and fraud where we, as peers, would have disqualified some institutions from participation in federal financial aid programs. However, we also hear that those institutions still receive more funds that will probably be similarly misused or misdirected, or institutions are given the opportunity to "negotiate" repayment. Being allowed to negotiate a $10,000 settlement when hundreds of thousands of dollars have been misspent hardly encourages other institutions to try the line.

Second, educational institutions, though they are a lot of other things, are a business. Each year, just like United States Steel and General Motors, they have to balance their books and make a report to the shareholders, whether those shareholders are a corporate board or the residents of some statewide system. One of the forfeitable costs of operating any business is the cost of labor.

It is sometimes out of consideration of cost that institutions hire barely qualified and totally untrained persons to administer those functions not considered "essential" to the academic excellence of the institutions. By so doing, labor costs are minimized. Among those "unessential" positions often falls the institutional financial aid administrator. We all know that, year after year, the financial aid director is listed either second from the bottom or third from the bottom when it comes to salaries paid to administrators. Staff are published in the Chronicle of Higher Education. Hiring an unskilled and untrained employee to administer programs as complicated and as complex as federal financial aid programs is itself an injustice. But that injustice is twice cursed when either the person is not even trained or the government allocates funds to the financial aid office so that these persons can swallow themselves of meaningful training experiences and attendance at conferences where their skills may be enhanced.

Much of the problem surrounding this phenomenon of using unskilled labor bears directly with the cost of administering these programs and the amounts and manner in which the administrative allowance is paid to institutions to help offset the cost of such administration. As you might be aware, institutions receive an administrative expense allowance that is equal to 4% of the dollars loaned, awarded or earned by students participating in the National Direct Student Loan Program, the Supplemental Educational Opportunity Grant Program, or the College Work Study Program. This amount, no matter what the dollar volume is that an institution handles, is woefully inadequate. It is of particular concern to financial aid administrators that the Congress has not seen fit to appropriate funds for administrative expense allowances for the Basic Grant Program and the Guaranteed Student Loan Program. Has anyone from the Office of Education ever tried to approximate the real cost, from the shareholder's point of view, of administering the BEOG Program? Though the administrative burden may be less at a "typical" four year undergraduate university which only enrolls full-time students during quarters, semesters or trimesters, the administrative burden is increased geometrically when "be institution is a community college which charges no tuition or low tuition and which must monitor enrollment for thousands of students, on, sometimes, a monthly basis to escape the possibility of having to collect vast sums of money in overpayments. Is that burden any less for the proprietary school that enrolls students in programs of six months, nine months, and 15 months duration, and enrolls a new class each month? What about the Guaranteed Student Loan Program which recently included in its regulations a statement that individuals must be counseled about the benefits and obligations incurred prior to the making of a loan? How much does that cost?

Let us take a look at the cost of operating a well administered financial aid program in 1975-1976 at a California public four-year college with an enrollment of 3500 students, 1248 students received federal campus based funds in that year and the dollar volume was $1,581,408. Total expenditures for all financial aid programs including state, federal, institutional and private sources of funds totaled $7,800,000. Administrators at the institution sense that no less than 85% of the time spent in administering all financial aid programs was spent admin-
The financial aid community has just this past week, in addition, finalized family contributions that are to be used in the formulas which are not even included in the November 8th publication. This type of regulatory procedure must certainly be changed if we are not to be uncompromising in the spirit of this gathering, that being to determine processes and procedures that will minimize the opportunities for maladministration of taxpayer dollars, my specific interest being in the area of federal financial aid programs. In summation, I would like to make a general statement about the beleaguered Financial Aid Administrator, and I would like to offer recommendations directed at the four points that I have raised concerning not only institutional accountability but OE accountability as well.

Sometimes it appears that those members of the federal bureaucracy whose duty it is to regulate the field of the Congress seem to forget the various roles of the institutional financial aid administrator. He must, first, be an advocate for the student. He must be a representative of the Office of Education. He must be an employee of the Office of Education. He must be the representative of his state that he has its own financial aid programs. He must be a counselor. He must be an accountant, and above all he must be able to see clearly through the fog and see at least twelve months into the future. So many of the regulations they must effectively work within are directed at particular institutions where there is fraud, and there is abuse, and this manner of "worst case" regulation requires all kinds of extra and unnecessary work to be imposed on the conscientious institution where these problems do not now and never have existed.

I leave you with four recommendations:

1. If and when all legal processes have been exhausted and it is determined that an institution or an individual has criminally maladministered federal funds, then that individual should be punished to the fullest extent provided by law.

2. Pay a reasonable administrative expense allowance. We appreciated the increase from 4% to 5%, but we have a long way to go.

3. Stop legislating and regulating against the worst possible instances of maladministration. Prior to beginning the regulatory process, sit down with some of us who are just as concerned as you are about maladministration. Share with us which is it that you wish to accomplish through the regulations. Maybe we have some workable ideas that can be used to meet your need without creating excessive burdens on the 50 plus percent of institutions who honestly carry out the intent of the regulations to the best of their abilities. You might use the NASFFA Title IV Committee for such liaison.

4. Do whatever it is that you can so that the public is not presented with an image that "many" or "most" educational institutions are guilty of fraud, abuse and error. The problems are with a few, and it would be in the best interest of all of us that people really get presented to the public. And, last but not least, make whatever real, reasonable, honest and meaningful attempts that you can to put your own house in order.

**Summary of Discussion**

Dr. Robert M. O'Neill, Vice President of the University of Indiana-Bloomington, opened the session by characterizing the present student financial aid community mood on campus as "a time of anxiety." He noted that because of the rapid changes taking place in financial aid programs, student aid administrators often are apprehensive and even paranoid about government. It is, therefore, important to distinguish which of these procedures are ephemeral and which are more substantial.

Dr. O'Neill pointed out that tension between government and academia over academic autonomy is not new. The Dartmouth College case of 160 years ago, for example, resulted in the legal establishment of academic independence. The higher education community's response to outside requirements also has longstanding historical precedents: the founding of the accrediting associations was cited as an example.

Dr. O'Neill continued, citing the importance of situations where demands had been placed on academic institutions for accountability. The McFarland Act was an early instance of the establishment of the concept that some obligations may require institutional and financial aid programs, student aid administrators often are apprehensive and even paranoid about government. It is, therefore, important to distinguish which of these procedures are ephemeral and which are more substantial.

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Dr. O'Neill continued, citing the importance of situations where demands had been placed on academic institutions for accountability. The McFarland Act was an early instance of the establishment of the concept that some obligations may require information in the Guaranteed Student Loan Program.

3. Stop legislating and regulating against the worst possible instances of maladministration. Prior to beginning the regulatory process, sit down with some of us who are just as concerned as you are about maladministration. Share with us which is it that you wish to accomplish through the regulations. Maybe we have some workable ideas that can be used to meet your need without creating excessive burdens on the 50 plus percent of institutions who honestly carry out the intent of the regulations to the best of their abilities. You might use the NASFFA Title IV Committee for such liaison.

4. Do whatever it is that you can so that the public is not presented with an image that "many" or "most" educational institutions are guilty of fraud, abuse and error. The problems are with a few, and it would be in the best interest of all of us that people really get presented to the public. And, last but not least, make whatever real, reasonable, honest and meaningful attempts that you can to put your own house in order.
legitimately be imposed on campus from outside.

Dr. O'Neill stressed the great fragility of academic independence, however, since academic institutions frequently lack the power of other institutions to resist unwarranted intrusions. He noted that there are Constitutional limits applicable to some cases of illegitimate pressures for accountability. Pressure to reveal names of students who had participated in "civil disturbances" was cited. Dr. O'Neill commented that demands for accountability were now coming from students and parents, and not merely from government. As an example, he mentioned demands for refunds during school closings at the time of the Cambodian invasion. Dr. O'Neill also cited as noteworthy the proposals now being circulated by educational institutions for increased self-regulation. He stressed the irony that it was now conflict between academic institutions and government which demanded creative resolution, rather than the conflicts between campus officials and students which were commonplace during the 1960's. Dr. O'Neill concluded his remarks by urging the clarification of methods, strategies and, to some extent, expectations as government and academia move toward closer cooperation over student financial assistance.

D. Francis Finn, Executive Vice President, National Association of College and University Business Officers (NACUBO), stressed the importance of management training and good management data for financial aid personnel. Mr. Finn stated that many have forgotten the enormous size of financial aid programs and the speed with which they have mushroomed. He cited efforts by his own association—the NACUBO accounting guides and their manual on loan collection—as examples of personnel training and data provision tools. Mr. Finn added that his Association is developing a financial aid guide to be published in the spring of 1978 which will be aimed at presidents and vice-presidents of educational institutions.

The discussion group audience responded strongly when Mr. Finn stated that campus decisions making a college student official in campus student financial aid is no longer a minor subject which can be shuffled to subordinates. He concluded his remarks with observations on some specific cases of Federal unreasonableness. He urged that Federal officials consider the 99 percent of schools which are honest, rather than the 1 percent which are not, in preparing regulations. The regulatory requirement of separate bank accounts for certain student financial aid funds was cited as an example of Federal concentration on "worst possible cases." Mr. Finn urged greater sharing of accountability by Federal officials and stressed the importance of regular meetings with campus student aid officers.

Lawrence E. Braxton, Director of Student Administrative Services, Charles R. Drew Medical School, Los Angeles (prepared remarks on Page 92), stressed that his work with the California association of student financial aid officers (over 800) had provided him with considerable "firing line" experience. He then questioned the assumption that financial aid officers are mainly at fault for all of the problems in student financial aid. Mr. Braxton saw his position as one to re-focus blame and cited conditions which should be noted in assessing difficulties in the financial aid community:

- First, criminal acts must not be "forgiven," but prosecuted fully.

Mr. Braxton cited instances of government officials making settlements with certain schools of large amounts of money owed to the government.

- Second, an administrative allowance of at least 8 percent must be paid, as opposed to the present 4 percent limit in some aid programs. In addition, administrative allowances must be paid for the BEOG and the Guaranteed Student Loan Programs.

Mr. Braxton cited data from his institution as evidence of the administrative expense of student aid programs and as proof that current administrative allowances are too low. The serious consequences of inadequate administrative allowances include the invariably low salaries paid to financial aid officers and the resultant inability to recruit experienced and skilled persons for those positions.

- Third, regulations must be published with far greater regularity from student aid personnel, with greater attention to timely publication and with greater access to policy guidance once regulations have been published.

Mr. Braxton cited as inexcusable a two-month delay by the Office of the Secretary in approving recent proposed regulations. He noted, for example, that the telephone numbers of OE and HEW officials from whom student aid officers might seek policy guidance were badly out of date and/or wrong. Mr. Braxton stressed that, above all, regulations must not be drawn up with the "worst possible cases" in mind.

- Fourth, Mr. Braxton lamented the tendency of government and the media to imply that all, or even many, schools are participants in fraud and abuse. He stressed that the opposite was, in fact, the case and that the public should be informed that the vast majority of schools perform well.

Peter Voigt, Director of the Division of Policy and Program Development in OE's Bureau of Student Financial Assistance, remarked on the amazing extent of agreement about what constitutes the problems in student aid. He noted the major future increases in the flow of monies and students which will take place in financial aid offices as the student aid program comes into effect. Projections have shown that as much as 70 and 80 percent of some student bodies will be recipients of student financial aid. Mr. Voigt emphasized that this coming quantum increase in student aid programs means putting the student financial aid house in order on every level—from educating campus decision-makers on the magnitude and importance of the problem, to allocating funds for sufficient office equipment and supplies.

Mr. Voigt also touched on numerous areas which had been cited as problems. He emphasized that while the regulations process was still far from perfect, it has been shortened and simplified. He noted that instances of consultation with financial aid associations and pointed out that public comments were being aggressively sought and carefully considered. In fact, the regulatory comment process led the Office of Education to reconsider its requirement of separate bank accounts for certain student aid funds. Mr. Voigt also cited instances where program regulations were being consolidated and simplified. He commented on the widespread experience and ability of student aid officers and the resultant ability to recruit experienced and skilled persons for those positions. He observed that to be a general consensus that it was a very worthwhile effort, though one that must be streamlined and improved. Mr. Voigt concluded by observing that much has been accomplished about what student financial aid scandals have, in effect, become public insistence on academic quality; and that dropouts incidences of 80 percent, as have been the case in some schools, simply have to be recognized through self-policing by educational institutions.

Dr. Guadalupe Quintanilla, Assistant Provost, University of Houston, presented some of the results of a study she had conducted among 17 institutions of higher education in Texas. Her study touched on such questions as: how financial aid officers define institutional accountability to the Federal government, who should set standards of institutional accountability, and who should have main responsibility for enforcement of accountability standards. In addition, operational questions such as aid program changes and regulations on campuses were posed, including: whether upper level administrators were aware of the importance of aid programs and responsive to the programs' needs; whether management problems were receiving adequate attention on campus; and whether adequate resources were being provided to the financial aid offices. The results of Dr. Quintanilla's survey revealed almost total confusion about what "institutional accountability" was, although there was agreement that accountability had thus far been defined too much by the government. The aid officers felt that the schools themselves should play a much stronger role in defining accountability standards. The responses to questions about the operational adequacy of aid programs were distinctly unfavorable. The lack of qualified financial aid officers and lack of administrative funds were often cited, as were more prosaic problems with inadequate space and supplies. Dr. Quintanilla stressed that the study revealed that upper-level administrators of the 17 surveyed programs did not know about financial aid programs. The survey also revealed strong feelings among student aid officers against the small minority of actual fraud and abuse cases and a consensus among aid officers that these cases should be left to the Department of Justice.

Summary of Questions, Answers, and Comments

Comment: Thom Brown of the Illinois Student Financial Aid Association, said that the aid officers felt abused, and his comment drew widespread audience agreement. He supported his claim with a detailed elaboration of problems he had experienced with staggering numbers of student eligibility reports. He strongly recommended that government consider alternative methods of verifying income; including new legislation, if necessary, to obtain the information intergovernmentally, i.e., directly from the Internal Revenue Service.

Response: Mr. Voigt responded that it was indeed useful that the legislation for the student aid programs was expiring, so that new suggestions could be considered in recommendations for new legislation.
Comment: A representative of the Ohio Student Financial Aid Officers Association suggested a high-level letter to top administrative officials to cue them on the enormous importance of the new student financial aid legislation.

Response: Mr. Voigt responded that just such a letter was being drafted, and pointed out that a "President's Column" had been created in the BSFA Bulletin. He also stressed that top BSFA officials had been speaking regularly at appropriate meetings of school officials.

Comment: Bob Pike of the Nebraska Student Financial Aid Officers Association laid additional stress on the need for administrative funds.

Comment: Dr. Quintanilla suggested the tables in the November 6 Bulletin of the National Association of Financial Aid Administrators as excellent data for convincing school administrators of the impact of the new legislation.

Mr. Voigt stressed a commitment to work with student aid associations and recapitulated accomplishments which have already taken place.

Mr. Braxton cited the general sense of futility which aid administrators had experienced with the Basic Educational Opportunity Grant program during the past year. He suggested that the Office of Education needed to carefully develop planning models as the student financial aid community—government and schools alike—takes on new programs or activities.

Mr. Finn stressed that his Association's publication list of 10,000 (as well as his own personal participation at such places as ACE) would convey the messages discussed during the session.

Dr. O'Neill noted that the discussion had been useful and had sharpened some issues. He discussed the session by observing that the Conference had perhaps been called the "Secretary's Conference on Fraud, Abuse, Error and Penury."

Summary of Panelists' Concluding Remarks

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Summary of Discussion

Dr. Lloyd Elliott, President of George Washington University, opened the discussion with a brief historical summary of the development of accrediting organizations. From the time of establishment of the American colonies, an informal exchange of information occurred among them. Through general, unstructured exchanges, the particular strengths and weaknesses of each were known to all. By the nineteenth century, several hundred colleges had been founded in the United States, and a need was perceived for more formalized means of exchanging information. The result of this need was the establishment of regional accrediting organizations, with member institutions located in specific areas of the country. In addition, other accrediting agencies were established for institutions in specific fields, such as medicine or law; and these agencies might have a national membership rather than one limited to a particular area of the country. Currently, the activities of the modern multi-purpose university may come under the supervision of a number of accrediting agencies.

Self-policing through accrediting agencies developed in the United States because there is no centralized ministry of education to perform this function. As a result, we have a great diversity of educational institutions, and these institutions have had the opportunity to grow and expand without the restraint of rules emanating from a centralized governmental agency.

Charles B. Saunders, Jr., Vice President for Governmental Relations of the American Council on Education, emphasized that institutions must act vigorously to strengthen self-policing mechanisms for preventing fraud and abuse. Institu-
tions have a fundamental interest in maintaining the accreditation process and in keeping it free of Federal intervention.

Thet idea that the Office of Education should assume a more dominant role in policing institutions is a Federal response to concern about massive amounts of funds institutions receive through various Federal programs, and the need to ensure that these funds are properly used. The Office of Education does not know all of the programs that exist in the abuse of student aid programs. Despite offers by the higher education community to assist in defining problems and seeking solutions, the Office of Education has not sought much assistance from that source. The Office of Education has had the tendency to use the bad examples of a few institutions as the basis for regulations governing all institutions. Thus, the Office of Education's response to the bad actions of a few has been the creation of an administrative burden for all. This type of Federal response could become unnecessary if institutions would vigorously police themselves. Thus, the higher education community should resist Federal efforts to establish policies on fraud and abuse; rather, such policies should be established by institutions themselves through the accrediting agencies.

Mr. Alfred L. Moye, Office of Education, Deputy Commissioner for Higher and Continuing Education, noted that there is a triad of agencies which share interest in the prevention of fraud and abuse. The triad includes: State approval agencies, accrediting agencies, and the U.S. Office of Education. Dr. Moye pointed out that the basic thrust in fraud and abuse prevention must be self-policing by each individual institution. The more actions taken by individual institutions, the less action necessary by the triad of agencies. The Education Amendments of 1976 gave the Office of Education the authority to limit, suspend or terminate student aid institutions programs which fail to comply with program regulations. However, the Office of Education first encourages institutions to regulate themselves. In this connection, the Office of Education stands ready to assist accrediting agencies in developing institutional self-regulating procedures.

William Goddard, Executive Secretary of the National Association of Trade and Technical Schools, stressed that the best prevention of fraud, abuse, and error is achieved through a cooperative effort by institutional accrediting agencies, State licensing agencies and Federal agencies. Full implementation of such a cooperative effort requires better communications among these three components than currently exists.

For example, State agencies need a greater degree of involvement.

Mr. Goddard concluded by stating that in dealing with fraud, abuse, and error, more guidance needs to be provided to institutions in preventing error. In his view, if error could be reduced, reductions in the incidence of fraud and abuse would follow.

Dr. Thurston E. Manning, Director of the North Central Association of Colleges and Schools, noted that in attempting to correct abuse, care must be taken to ensure that the correcting mechanism does not itself cause abuse. As an example, he cited a new Federal Trade Commission regulation on tuition refunds. This regulation, in Dr. Manning's view, will ultimately make it harder by resulting in increased tuition charges for students who do not drop out. Thus, sanctions in regulations may ultimately harm the wrong party. As a further example, the Office of Education's Limitation, Suspension, and Termination regulations may lend sanctions against institutions, but may ultimately harm students.

Dr. Manning asserted that the determination of educational quality is a professional judgment and cannot be made through pre-established criteria contained in a regulation. He noted that the rapid growth of Federal student financial aid programs has had a significant impact on American higher education. More than 50 percent of students currently enrolled in postsecondary education programs depend on a single financing source for their educational costs. With this point in mind, it is important that self-policing be strengthened, or, the aid source may assume the policing role.

**Summary of Questions, Answers, and Comments**

**Comment**: Richard Stillwagen, of the Missouri State Department of Education, noted that a problem of program abuse arises when an "otherwise reputable institution" establishes a program of questionable educational merit such as a "life experience program." He felt there was a need for careful examination of new programs by accrediting agencies.

**Response**: Dr. Manning responded, agreeing that accrediting agencies should be apprised of all programs offered by member institutions and should determine if they meet the general standards maintained by the institution.

**Questions and Answers**

Q. Mr. Saunders asked what trigger mechanism would cause an accrediting agency to begin an investigation of an institutional program.

A. Mr. Goddard responded by saying that some accrediting agencies require notification by member institutions of each new program and the accrediting agency then conducts an on-site review.

Q. There was a general agreement among the panelists, however, that given the number of institutions and the rate at which new programs may be established, accrediting agencies have difficulty in responding in a timely manner.

A. Mr. Goddard pointed out that the Office of Education has had the tendency to police itself. In his view, if error could be reduced, reductions in the incidence of fraud and abuse would follow. Mr. Goddard added that lack of sophistication, not incompetence, is the issue involved. He urged that student financial aid administration should not be seen as a new profession requiring certain entry-level qualifications. Rather, emphasis should be placed on providing more and better training for the existing financial aid office staff.

A. Mr. Manning agreed, noting that the financial aid programs have grown dramatically in a relatively few years, and people who formerly held other posts in college administration are now administering large amounts of financial aid funds.
STUDENT FINANCIAL ASSISTANCE DISCUSSION GROUP D:
“STATE FEDERAL COOPERATIVE RELATIONSHIPS—ROLE OF STATE POSTSECONDARY LICENSING AGENCIES”

Leader
Dr. T. Edward Hollander
Chancellor
State Department of Higher Education
State of New Jersey

Panelists
George Arnstein
Education Consultant
Veterans Administration
Ernest E. Smith, Jr.
Executive Director
Florida Student Financial Assistance Commission
John R. Proffitt
Director, Division of Eligibility
and Agency Evaluation
OE/HEW
Steven B. Friedheim
Executive Vice President
Association of Independent Colleges and Schools

Staff Reporter
Norman B. Brooks
Chief, Policy Section
Division of Policy and Program Development
OE/HEW

Summary of Discussion

Dr. T. Edward Hollander, Chancellor of the New Jersey State Department of Higher Education, began the discussion by noting that although the prevention of fraud and abuse is important, it is less important than assuring the overall good health of postsecondary institutions. In this context, the principal importance of fraud and abuse is to protect the credibility of higher education, because credibility is linked with taxpayer willingness to pay.

Fraud and abuse extend into areas other than financial. Among these are:

1. Offering substandard programs (e.g. a master’s degree in clinical psychology in States where a doctorate is required for licensure).
2. Encouraging enrollments in programs of study for which job market opportunities are limited (e.g. teaching).

Dr. Hollander suggested that better consumer protection should be developed to help prevent abuses in these areas, as well as those in purely financial areas such as refunds.

Requiring institutions to offer full and complete disclosures of information is one approach to the needed protection.

Disclosure of information cannot, however, assure minimum levels of quality. Quality assurance is a job that the States can do; it is within their constitutional powers. While some States are currently exercising these powers, others are not.

Dr. Hollander concluded his remarks by noting that the American Institutes for Research (AIR) had recently issued a report on various State practices in this area, and a number of the recommendations deserve support. Among those recommendations is one that the Federal Government should provide financial support to State agencies which have legal authority to license institutions. The States and the Federal Government have a mutual interest in protecting their financial investments in higher education, and the States still make the major resource commitment to the support of such education. Hence, the Federal Government can most effectively provide its financial interest by helping the States protect theirs. Institutions cannot provide high-quality educational programs without also practicing financial accountability. The States have the constitutional authority to require that educational programs be of high quality. By helping them do so, the Federal Government will be helping to protect its own financial interests.

George Arnstein, Education Consultant to the Veterans Administration (VA), began his remarks with a quotation from Max Cleland, the Administrator of Veterans Affairs. The quotation stated, in effect, that VA has helped more students and disbursed more education funds than anybody. It also dealt with more fraud.

Mr. Arnstein then noted that problems with fraud in the original (World War II) GI bill led to some of the changes enacted in the Korean GI bill.

He stated that nobody knows the dimensions of fraud and abuse. The diversity and pluralism in higher education, and the deliberate policy of encouraging their continuance, make it difficult to establish standards which will prevent fraud and abuse. Such diversity and pluralism also prevent outside agencies from interfering in the internal affairs of colleges.

Mr. Arnstein listed several lines of defense against fraud and abuse:

- State licensing (which is variable, as the AIR report shows).
- Private voluntary accreditation.
- State approval, which can be combined with State licensing. The VA provides financial support to States to help them operate their approval systems.

He noted that none of these three has been very effective. To help improve their effectiveness, we need:

1. Training. Courses and workshops should be developed.
2. Better communications.

4. Leadership. Who’s in charge? Nobody currently has an explicit mandate.

Mr. Arnstein concluded by observing that what appears to be fraud is frequently nothing but error based on misunderstanding.

Ernest E. Smith, Jr., Executive Director of the Florida Student Financial Assistance Commission, noted that all institutions are eligible for OE and VA programs, implying that eligibility criteria do not screen out undesirables.

Mr. Smith then stated that Florida first began licensing postsecondary schools five years ago. At first, efforts were primarily devoted to enumeration; merely compiling lists of schools in operation. Lately, standards have been raised, and inadequate schools have been closed. At present, however, licensure is no guarantee of quality or honesty.

Mr. Smith commented that a double standard is something used in dealing with proprietary schools. Public and private nonprofit schools are given preferential treatment.

Mr. Smith asserted that, from an investment standpoint, we should not finance training in oversupplied occupations, such as teaching. Investors such as States and lenders wish to minimize risks; hence, effective State licensure which assures quality education in fields for which there is a demand could stimulate the supply of GSL funds.

Finally, Mr. Smith observed that the Federal Government has been inconsistent in delegating responsibilities to States. It should not delegate and forget; rather, it should require the States to do the job right.

John R. Proffitt, Director of the Office of Education, Division of Eligibility and Agency Evaluation, distinguished between accreditation and legal authorization. Both are conditions of institutional eligibility.

In the past, because of great variance in State laws the Office of Education has not been able to place sufficient reliance on the State authorizing function. Mr. Proffitt indicated that OE plans to work more closely with the States to bring about changes which would justify increased reliance on State law in determining institutional eligibility. It is necessary to know whether the institution has integrity and quality.

Of the 7800 U.S. institutions eligible to participate in OE programs, 7000 are accredited or hold pre-accreditation status. The other 800 comply with statutory alternatives which are equivalent to accreditation. All 7800 are legally authorized to operate in a State, but State requirements for granting legal authorization to operate vary.

Mr. Proffitt asked how the Federal Government
could best assist States in improving their licensing requirements. Should grants be awarded to State licensing agencies, as recommended by AIR? Should States be encouraged to evaluate both the academic quality and the fiscal integrity of institutions? These two characteristics are inseparable.

Mr. Profitt observed that States generally say that they do not want Federal funds with strings attached. However, they generally accept the proposition that they need help to do a better job.

To improve Federal/State cooperation in assuring quality, Mr. Profitt suggested that new relationships are needed. In addition, grants are needed for training, development, demonstration, information systems, and specialized needs.

Steven B. Friedheim, Executive Vice President of the Association of Independent Colleges and Schools, stated that, from an institutional standpoint, student financial aid programs are complicated to administer. His association turns to Dallas Martin for counsel when it needs assistance. (Mr. Martin is Executive Secretary of the National Association of Student Financial Aid Administrators.)

He noted that part of the problem of fraud and abuse is the fact that student financial aid officers turn over too fast. Institutions don't pay enough to get and keep people of the quality needed.

Mr. Friedheim asserted that simplistic approaches to the problem are often the wrong ones. For example, the dropout rate is not necessarily a good measure of an institution's output—the dropout rate of an innercity community college does not measure the same underlying factors as the dropout rate of Dartmouth.

Mr. Friedheim agreed with previous speakers that most of the problem of fraud, abuse, and error is error. However, fraud and abuse capture headlines; error does not.

He also agreed with Mr. Smith's observation that there is prejudice against proprietary institutions and their accrediting agencies.

Mr. Friedheim concluded by expressing concern that the FTC's new regulations may be difficult to comply with.

Summary of Questions, Answers, and Comments

Q. Harold Orleans, Senior Research Associate at the National Academy of Public Administration, raised the question of how much "Fraud, abuse and error" is error.

A. Richard Hastings, Acting Deputy Director of the Division of Certification and Program Review in the Bureau of Student Financial Assistance in OE, offered figures based on reviews of 460 institutions. All 460 institutions were selected for review because of known problems. About 25 to 30 percent involved abuse. Mr. Hastings defined "abuse" as intentional error which is not indictable.

Q. Mr. Hastings' comments caused a lively audience response. Several additional questioners sought clarification. One questioner asked for examples of abuse.

A. Mr. Hastings replied that it is hard to give examples of abuse, because it is difficult to determine exactly where to draw the line. One example offered was misuse of restricted Federal funds.

Q. Other questioners asked whether Mr. Hastings' figures show that 60 to 65 percent of cases of error were based on misunderstandings, rather than fraud or abuse.

A. Mr. Hastings replied that they did.

Q. Al Reynolds, Inspector General for the Veterans Administration, stated that a number of vocational technical schools have been successfully brought to prosecution in the last two years. The source of knowledge about the problems in these schools was not the regular licensing process. He asked whether we have 4 to 5 years to preclude some of these schools from operating.

A. Dr. Hollander replied that we've created our own problems. States have created a diversity of licensing agencies. OE recognizes too many accrediting agencies. No clearly defined accountability is placed on the States. We should pinpoint responsibility. The Federal Government could establish standards that States would have to meet. If a State did not do so, institutions in that State would not be eligible to receive Federal funds.

Comment: One commenter stated that the bulk of the abuse that has been identified has been in public junior colleges.

Q. There was considerable discussion of statements by two of the panelists to the effect that insufficient use has been made of the statutory requirement for licensure. That requirement has been in the VA statute since 1964. (A comparable requirement was in OE's original student aid statute, which was Title II of the National Defense Education Act of 1958.)

A. Dr. Hollander replied that the real issue is that of guaranteeing that students receive an academically adequate education, and preparation for a viable career. With reference to proprietary schools, those which offer well-established, high-quality programs should be supported. Others should not be. The Federal Government should demand that the States be accountable for exercising their legal authority to permit institutions to offer programs of post-secondary education.

Q. Mr. Friedheim asked Dr. Hollander whether his statement concerning preparation for a viable career implied restricting course offerings when labor market demand declines. If so, Mr. Friedheim said, that should also apply to teacher training.

A. Dr. Hollander agreed emphatically that it should.

Q. Mr. Profitt was asked several technical questions concerning the eligibility of various schools. One concerned the eligibility of foreign schools. The questioner noted that American students attending foreign schools can be found eligible for a Guaranteed Student Loan if the school is comparable to an eligible school within the U.S.

A. Mr. Profitt described the procedures used for determining comparability and referred to forthcoming regulations concerning foreign medical schools. Those regulations are being jointly developed by OE and PHS.
Introduction of the Honorable Jim Wright

By the Honorable Joseph A. Califano, Jr., Secretary of Health, Education, and Welfare

Ladies and gentlemen, the Dallas-Fort Worth Metroplex has produced two great institutions well-known for their power over Washington: the Dallas Cowboys—and Jim Wright.

And Jim Wright's won-loss record is better.

Indeed, as Majority Leader in the House of Representatives, Jim Wright is to Speaker Tip O'Neill what Roger Staubach is to Tom Landry. The only difference is—Jim Wright gets to call his own plays. It is especially fitting that Jim Wright should be our speaker this evening.

For not only does he bring to the platform the wit and sparkle and story-telling skill that we associate with his region; he also brings the insights of a public servant with a deep interest in human well-being.

Jim Wright came to the Congress as a Progressive, devoted to liberal goals and programs that help people; he has pursued these goals in a tough-minded, prudent way. He combines compassion and intelligence—a worthy goal for us all.

I'm sure I'm not telling you anything you don't already know about power in Washington. But when Jim Wright accepted our invitation to give the keynote address of this Conference, the President of the United States had to settle for speaking at lunch.

Ladies and gentlemen, the Majority Leader of the House, Jim Wright.

Remarks

Honorable Jim Wright, Majority Leader, U.S. House of Representatives

After an introduction like that I think any lawyer worth his salt would be well advised just to rest his case. It has been observed, and appropriately, I think, that there are only two kinds of people in the whole world who appreciate irony... that's men and women! Undeserved great interest in what it is that you're doing public, and, therefore, those of us in the Congress are vitally concerned and greatly interested in what he's doing, and in the Congress who represent the American public, have a vital and personal interest.

I'm tempted to tell of an episode that occurred a few years back. Jere Cooper of Tennessee was Chairman of the House Committee on Ways and Means, the tax writing committee, the tariff writing committee, the committee that has to do with Social Security, and that has something to do with hospital cost containment and legislation that tightly the most the House post in the House. And, there was a fellow who will remain nameless because he later came to Congress, though not on that particular occasion, who ran against Jere Cooper in the Democratic Primary in Tennessee. And his standard speech as he made it up and down the byways of small country towns in Tennessee went something like this. He said, 'Now everybody knows that the way a Congressman helps his people is to get himself put on a committee where he can render service to the District. Yea, Jere went up there to Congress... he could have got himself on a committee to help you get out down here in Tennessee... but what did Jere do? Did he get himself put on a public works committee... where he could build you all some dams, and some roads, and build some public buildings to help out the economy of this region? No sir, he didn't get himself on no public works committee. Jere could've got himself put on a agriculture committee, done something to help your own farmers get a better price for your crops. Jere didn't get on a agriculture committee. You know what Jere got himself put on? Jere got himself put on what they call a Ways and Means Committee! That's the committee that figures up all the new ways and means to get in your pocket and raise your taxes! And Jere, he was so good at it, they made him the Chairman of the Committee!'

Well, I'll tell you, when Secretary Joe Califano spoke up publicly last March about the subject of waste and abuse in his own Department, he committed an act as courageous as it was unusual in these parts... almost as though McNamara had invited the public to find out about all the great savings they could find available at Gimbel's. Almost as though the Cowboys had offered to the Redskins their book of plays the week before the game.

Will Clayton once told me a story that occurred when he was Director of Lend Lease during World War II. He and his Russian counterpart came into his office in a very stern way one day and announced, 'I have come to tell you, you are behind in your shipment of jeeps; you're behind in your shipment of tanks; and we want it corrected.' And Will Clayton said, Well, I'm glad you brought that up because we have a report that says there are 75 tanks on the boat landing at Murmansk, there are 150 jeeps that haven't even uncrated from the rail yards at Leningrad, and it's you who are behind; it isn't we who are behind. The Russian drew himself to his full height and said, 'I did not come to talk of our behind, I came to talk of your behind.'

I don't think every one, in my recollection, has a Cabinet officer of our government suggested the possibility that six-billion dollars a year could be saved by tightening up the controls against fraud, waste and abuse in his department. You know, a lot of people are awfully good about talking about savings that could be made in other programs... but very few of us can speak of savings that might come about in our own department. Well, let me put the economy in the annals of administrative government.

Well, the news, of course, had an electrifying effect upon the public. Many, of course, quickly forgot that it was Califano who had brought this disclosure to them initially and remembered only vaguely that some reliable source had revealed six-billion dollars of waste and fraud in the Department of Health, Education, and Welfare, and pretty soon some of them were blaming it on Califano. A few even began to demand his resignation because of this great waste that was said to go on in his Department.

And it wasn't very many months then before Congress, certain members of Congress, at least, were proposing broad, deep, across-the-board cuts in appropriations. The Secretary has identified some two-billion dollars which he believes as capable of being saved by tightening up administrative procedures... without changes in the law and he thinks that it is a matter of an application of effort at this juncture might save one-billion one-hundred-million dollars this year. Fiscal 1979. Well, it's to begin the implementation of that that he's called this Conference. If the effort is to succeed, I'm convinced that it has to have the voluntary and innovative help of State and local agencies through the country, learning from each other, and not expecting each to submerge its individuality, its identity, so that it is no more than a pale carbon copy of all the others, nor to be only sort of a cynical competitor in a game of grantsmanship. It will take the efforts of all of us.

Now the hotbed of waste from my State of Texas are not really noted for our modesty, though we're very proud of our humility down there. I suppose I ought to correct a gross misimpression that's abroad in the land; a lot of people have a wrong idea about Texas — a lot of people, anyway. All Texans are rich, uncoch, swaggering braggart; and, it isn't true at all. We're not all rich, by any manner or means. But, I do think that we can take justifiable pride in an effort begun by the Texas Department of Human Resources in 1974, a pioneer effort at rooting out waste and fraud and abuse in the welfare program.

Since that effort began in July of 1974, the Department in Texas has succeeded in recovering more than one-billion dollars, and more than eight-million dollars in payments obtained under fraudulent circumstances; has channeled up some 1,000 criminal convictions; and 4,000 restitutions from people who attempted to defraud the Department of Human Resources. And I am delighted to report that the Department has strong and heartily co-operates with Dependent Children program. And in the Food Stamp program there have been more than 1,000 convictions and 7,000 restitutions. There have also been convictions against two doctors, 17 pharmacies, and one nursing home.

I am very pleased with the able professional who heads that Department. Jerry Chapman is here with us this evening, and I want to take this occasion to salute him and those who have worked diligently with him in that Department, they hadn't, we hadn't and still haven't... brought those changes into effect... not many of them have.

Well, certainly, most emphatically, if it is possible to save six-billion dollars a year, or any substantial part of it, all of us, Congress and the Administration together certainly owe it to the Nation to do whatever is necessary to bring those changes into effect.

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and others in other Departments throughout the country who already have begun on what I think, one of the major prospects for the American taxpayer and public administration.

Addressing a Conference of this kind has got to be a pleasure because I know that I am talking with people who are committed to the idea of making America work. I know that each of you is committed to the proposition expressed so well by President Carter, to the end that we can have a humane welfare program that is both compassionate and competent, and that we can prove that it is possible to eliminate waste and abuse without eliminating 50 years of social progress.

In hardly any other function of our government are the strengths and weaknesses of the American public better seen or thrown into such bold relief as they are in the programs that many of you administer.

Here we see the greatness and generosity of the American character... and we see the beginnings of a self-destructive rot which must be arrested.

It reveals a stingy meanness at the economic top when national banks absolutely protected against loss refuse to extend government-guaranteed student loans because they can get higher interest rates from the Federal government.

It reveals widespread retreat from responsibility, an alarming thing to me, when students in wholesale numbers assume bankruptcy to avoid repaying those guaranteed loans.

Something is grossly wrong when a small community is penalized for asserting civic responsibility, raising money by a local subscription to begin work on a badly needed hospital, rather than waiting passively for a Federal grant.

Something is fundamentally amiss in the American public when one sees or has seen in an ad that gives rise to all the great promise that lies with a combination of opportunity and discipline.

I think that President Carter does recognize this in working with the Congress. He hopes to enact a welfare program that will be equitable to welfare recipients; give relief to State and local governments; provide job training and economic incentive to get people off the unemployment rolls and onto private payrolls; and reassure those who want to see an end to fraud, waste and abuse in the existing welfare program.

Of course, you are familiar with his proposal; can you imagine the development of those who are unable to work; jobs for those who can, training to transform as many as possible of the former into the latter.

It has been my experience in Congress that the biggest and most alarming thing to me, when students in six percent of the work force.

Here we see the greatness and generosity of the American public... and the creeping in of a self-destructive rot which must be arrested.

I think in many ways the American dream was different from that of any other major country. Unlike other civilizations, we set out from the beginning neither to bring down the nobility nor to install a proletariat, or health or disability or family requirements simply cannot be expected to work.

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In 1969, as part of Federal dollars, those programs we identify strictly as welfare programs accounted for about 21½ cents of each taxpayer's dollar. In Fiscal 1970 they amounted to 6.2 cents out of every taxpayer's dollar. Now, what I'm suggesting is that the Nation simply cannot afford to perpetuate chronic unemployment, nor can we afford a hodgepodge system which in some cases makes it even more attractive for a person not to work, than to work.

Every percentage point of unemployment generates an adverse impact upon the Federal budget, in the equivalent now of about 22-billion dollars. Let me say that again—every time we tolerate an increase of unemployment in the Nation's work force, we automatically add some 22-billion dollars to the National debt.

The reason for that isn't too hard to fathom if you just stop and realize that first of all people who are not working are not paying taxes. And every time unemployment goes up by 1 percentage point, the Government loses approximately 17½-billion dollars that it otherwise would receive. In addition, the Government assumes responsibility for paying about 4½-billion dollars in unemployment compensation and related welfare costs.

The taxpayers' public is entitled to the assurance that their money is not being used to keep people out of the mainstream of American life.

That's why I think we have the responsibility to put together a combination of packages: we've got to support job training to make every able-bodied American employable; we must restructure the welfare program to make it more financially attractive for every employable American to work and to learn the dignity and self-respect that comes from making a contribution in this society. That would help us to afford the truly compassionate and humane assistance which a civilized society owes to those of its member who for reasons of age or health or disability or family requirements simply cannot be expected to work.

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locked up inside the humbliest human creature.
Any welfare system that ignores man's spirit
and his potential for self-esteem is doomed to
failure.

Vachel Lindsey said it well when he wrote:
"Let not young souls be smothered out before
They do quaint deeds and fully naunt their
PI'ide,
It is the world's one crime its babes grow
dull,
Its poor are ox-like, limp and leaden-eyed.
Not that they
starve,
but starve
dream­
lessly,
Not that they
BOW,
but that they seldom
reap,
Not that they serve, but have no gods to
serve,
Not that they die, but that they die like
sheep."

May we find wisdom in the ancient Chinese
proverb which says, "If you give a man a fish,
you've given him a life.
And in this season when we celebrate the birth
of one who came
that
we might have
and
have it. more abundantly, may we find the
grace
to do justice, and to love mercy, and to walk
humbly with our God.

1. THE ROLE OF AUDITING AND
ACCOUNTABILITY — PANEL A: “ACCOUNTING
SYSTEMS AND INTERNAL AUDITING: THEIR ROLE
IN THE PREVENTION OF FRAUD AND ABUSE”

Moderator
Edward W. Steppnick
Assistant Inspector General for Auditing
OIG/HEW

Chairperson
Donald L. Scantlebury
Director, Financial and General Management
Studies Division
U.S. General Accounting Office

Panelists
Robert J. Freeman
Professor of Accounting
University of Alabama

James Harmeyer
President
Institute of Internal Auditors

Martin Ives
First Deputy Comptroller
New York City

Staff Reporters
Tom Robertson
HEW Audit Agency—Region III
Philadelphia, Pennsylvania

Frank Zuraf
HEW Audit Agency
Washington, D.C.

Summary of Discussion

Edward W. Steppnick welcomed the audience,
brieifly described the general purpose of the
Workshop, and introduced the members of Panel
1 on “Accounting Systems and Internal Auditing:
Their Roles in the Prevention of Fraud and
Abuse.”

Donald L. Scantlebury, Chairperson of Panel
1 then announced that a number of prepared
questions would be passed to each panel member.
Following the responses of the panelists to these
questions, discussion would be opened to the
audience.

Before beginning the questions and answers,
Mr. Scantlebury reiterated two key points which
were contained in Comptroller General Blount's
remarks on December 13 (see P. 12):

1. It is more beneficiai to prevent fraud
through front-end controls than to at­
tempt to catch a thief or abuser after
the fact.
2. Auditors have not devoted enough effort
in the past to fraud and abuse matters.

Mr. Scantlebury then began the question/an­
swer period. (Since the following questions and
answers deal largely with internal controls, it
might be helpful, for those who may not be
familiar with accounting theory, to reprint the
following textbook definition of internal control:

"Internal control comprises the plan of or­
ganization and all of the coordinate methods
and measures adopted within an entity to
safeguard its assets, check the accuracy and
reliability of its accounting data, promote
operational efficiency, and encourage adherence to prescribed managerial policies.”

Question 1: What is wrong with existing accounting controls? Is Government as far along as the private sector in this area?

Answers:
- (Mr. Ives): It's not all right. The government is behind in the private sector. Many government audits are done by contractors, not by the government itself.
- (Professor Freeman): There is a lack of understanding of the systems and a lack of internal control systems.

Question 2: Do we need new internal controls in the computer age?

Answers:
- (Mr. Harmeyer): No—computer systems may be complicated, but a better understanding of the systems would make internal controls more workable.
- (Mr. Ives): Audit needs to recruit persons with understanding of computers. This would help audit to understand computer systems.

Question 3: What about collusion? Can anything be done by management to prevent two or more employees from conspiring to defraud?

Answers:
- (Professor Freeman): With computers we don't need two or more perpetrators—one person can pull off a theft.
- (Mr. Harmeyer): There is no easy approach to this problem. Two possible solutions include 1) rotation of personnel in sensitive areas such as procurement, and 2) team purchasing (which, in effect, allows for a peer review of actions).

Question 4: What can be done to tighten existing internal control systems?

Answers:
- (Mr. Ives): We might hire specialists, e.g., engineers, who can help with evaluations by physical observation of end products.
- (Professor Freeman): In the past, management would react to a crisis situation and after a number of crises we wound up with a patchwork internal control system. We need to change this, start over and develop new well-thought-out systems.

Question 5: As auditors, do we need to perform more surprise audit tests?

Answers:
- (Mr. Harmeyer): As internal auditors—yes. As external—no. Because of adversary relationship between external auditor and client this would not be healthy. (Mr. Scantlebury added that GAO requires notification of the auditee 10 days prior to start of audits.)

Summary of Additional Questions, Answers, and Comments

Comments: Art Gordon, an auditor with the State of New York, noted in New York comparative analysis and physical observations are used as audit techniques. That is, by observation and using good common sense, an auditor can detect potential abuses of government programs.

Q. Tom Tully, of the Office of Program Integrity in New York, asked Mr. Ives, “What do you do to encourage management in New York City to establish internal audit groups?”

A. Other than through Mr. Ives’ office, which he considers the City’s internal audit group, there is little or no review of this type at the various Departments. There is a danger that certain units within a State or local government may not have as many auditors, but overall the use of this review mechanism is encouraged.

Q. Bill Wilkerson, of the HEW Audit Agency, asked what role computer programs play in the occurrence of fraud and abuse.

A. Mr. Ives warned that we shouldn’t be overawed by complex programs. They are often not that difficult to attack, if taken one piece at a time. This approach requires a familiarity with and understanding of programs.

A. Mr. Harmeyer added that although internal control systems were generally more adequate in the private sector, the Federal and State Government auditing groups are the ones who are developing sophisticated new audit techniques. They’ve had to be innovative, he said, in order to attack the complex problems they face.

In concluding the discussion, Mr. Scantlebury noted two points which, in his view, were quite clear:
1. There is a need for more emphasis on auditing international controls. Particularly, auditors need to think more about fraud and abuse, and its prevention, when performing audits.
2. Managers should be made more accountable for maintaining sound internal control systems and practices, an important aspect of responsible management.
I. THE ROLE OF AUDITING AND ACCOUNTABILITY—PANEL B. "THE AUDITOR’S RESPONSIBILITY FOR THE DETECTION OF FRAUD"

Moderator
Edward W. Stepnick
Assistant Inspector General for Auditing OIG/HEW

Chairperson
Frank Greathouse
Director of Audits State of Tennessee

Panelists
Donald E. Ziegler
Chairman, Subcommittee on Perpetration and Detection of Fraud American Institute of Certified Public Accountants

Edward W. Stepnick
Assistant Inspector General for Auditing OIG/HEW

Staff Reporters
Ray Lazorchak
OIG/HEW
HEW Audit Agency

REMARKS
Frank L. Greathouse, Director of Audits State of Tennessee

In order to properly understand the position of accountants and auditors as they face their responsibility for the detection of fraud, one must take a look into history to discern how the accounting profession has faced the problem historically. It is necessary that we look at the practice of public accounting in order to determine where, perhaps, we as government accountants and auditors should proceed from here. Early on, the public accountant in the private sector, was aware that the unlimited publicity that misleading financial statements contained was viewed as a potential cause of widespread reliance and loss. At some early point in time, a determination was made as to whether public accountants were public only in the sense that their services were offered to anyone who chose to employ them, that is, whether the 'Public' in public accounting was akin to the 'Public' in public stonographer, the contrary being that the public in public accounting meant that the accountant and the auditor had an overriding responsibility to the general public welfare.

Even in the 1920’s, accountants and auditors were solely responsible to those who paid their fees. They have since then sold their wares to publicly held corporations, not only on the basis of being available to the public for hire, but also on the basis of being responsible to the public investors in the audited companies. Virtually every pronouncement on the subject of the accounting profession either expressly states the public responsibility of accountants or takes it for granted. Let us examine the very first sentence of the American Institute of Certified Public Accountants’ code of ethics, and I quote: "A distinguishing mark of a professional is his acceptance of responsibility to the public." On that same page is this reference, and I quote: "The ethical code of the American Institute emphasizes the professional’s responsibility to the public, a responsibility that has grown as the number of investors has grown, as the relationship between corporate members and stockholders has become more impersonal, and as government increasingly relies on accounting information." The remainder of the quote reads in a similar vein.

The preface to the 1963 statement of accounting research bulletin also refers to the "increasing interest by the public in financial reporting". John Cary, in his recent historical study of the accounting profession, provides more details to the same effect, that accountants and auditors believe and advertise that they have a duty to the public. Today, as all of us here know, the public accounting profession is once again re-examining its position in relationship not only to the discovery of, but also to the disclosure of, fraud.

Over the years, the public accountant/auditor has grown to rely upon the fairness of the presentation as the prevailing factor to which the audit report is addressed. Whether or not fraud is discovered in the process of audit has been an issue which was not considered significant as related to the fairness of presentation. Questions have arisen as to whether or not the auditor had a responsibility to disclose fraud where the client had no duty to disclose. The profession considered it inappropriate to require any higher duty from the auditor than the client had.

Even when the accountant is aware of facts, the American courts so far uniformly have held that no duty is required of accountants to police their clients beyond their duties in connection with auditory or "associated with" financial statements which they have reason to believe will reach the investing public.

The bases for court decisions have not included any suggestion that the auditor’s ethical duty to maintain client confidences is relevant. Perhaps, this is as it should be. The general opinion, however, seems to be that fraud should be fairly clear. The precise status of an accountant’s ethical code may differ from that for attorney’s although in some states ethical rules of conduct for public accountants have been enacted into law.

The problem is that we accountants and auditors in the public sector have an overriding responsibility for the detection of fraud that is above and beyond that of the public accountant practicing in the private sector. We have a responsibility to detect fraud and to disclose fraud. What is that responsibility? How do we live up to that responsibility? And what can we do if we have detected fraud or abuse and disclose the same only to have the products of our endeavor buried in a bureaucratic pile of muck? Apparently, in the public sector, the auditor has in most cases the authority to audit governmental organizations in the depth that is necessary to detect abuse, fraud, irregularities and lack of program performance. It is certain that the profession’s standards, as established by both the American Institute of Certified Public Accountants and the General Accounting Office in the “yellow book,” would demand that the auditor use his competence in carrying out his duties, not only to report on the financial condition and operations, but also to detect abuse and even fraud. This by no means would indicate that every time an audit is performed, even where the standards are adhered to and adequate audit procedures are followed, fraud may be detected. However, where fraud or program abuse is detected, the auditor has the responsibility of seeing that full disclosure is made, not only to the head of that organization, but also to the legislative body and to the general public.

When, in the sequence of events, the audit findings concerning fraud and abuse or lack of program integrity are not followed up by the head of the organization or the proper authorities, then the auditor has the responsibility of reporting to the judicial authorities or the legislature directly. To do otherwise would be an abnegation of the auditor’s responsibility.

A question often arises as to where audit ceases and investigation begins. It is apparent that when the auditor discovers a crime has been committed, a fraud exists, or that when abuse is flagrant, he must immediately advise the person who has the authority to investigate and build a case for prosecution. This in no way would indicate that audit should stop pending the results of investigation.

How they get and how sick I am of those investigators advising auditors to cease auditing for fear that their prosecution will be screwed up. In fact, most of the time the shoe fits the other foot—investigation screws up a case which has been perfectly developed through properly
documented evidentiary matter produced by auditors. Certainly, the auditor should proceed, with the advice of counsel and most certainly, the auditor should not wash his hands of the audit.

Historically, those programs which have been eminently successful, which have adequately used funds provided by the taxpayers, and which have accomplished the process for which the legislative body intended, have been those programs which were properly factually managed and against which audits were prepared in a timely, expeditious, adequate manner. Audit is a tool and, used properly, is the most effective tool to prevent fraud and program abuse.

REMARKS
Edward W. Stepniak, Assistant Inspector General for Auditing, OIG/HEW

In 1976 I was among several HEW representatives asked to testify before the House Intergovernmental Relations and Human Resources Subcommittee on HEW, a committee of interest for prevention and detection of fraud and program abuse. These hearings laid the groundwork for later consideration and enactment by the Congress of Inspector General Legislation for HEW, later followed as you know by similar legislation in the field of economy and efficiency. The testimonies of the HEW witnesses laid the groundwork for the legislation. The HEW able to discuss the history of the objectives of auditing and to outline how the changing of these objectives affected the auditor's perception of his responsibilities. The detection of errors and irregularities—otherwise known as fraud—would then like to discuss briefly the activities and objectives of the committee which I am presently chairing, which was formed by the American Institute of Certified Public Accountants to study methods by which frauds have been perpetuated and means by which they have been detected. Because of the charge of my committee, my remarks today will be directed primarily to the auditor's responsibility to detect material fraud in connection with his ordinary examination of financial statements. I expect that many of the techniques, after playing their part in special anti-fraud initiatives, will eventually join the auditor's arsenal of normal audit assignments and management's accounting or administrative systems. In short, the "special" things we are doing today will become institutionalized and commonplace tomorrow.

In general, auditing in an inspector general environment has significantly influenced our attitude toward auditing. We must regard our contribution to anti-fraud activities as secondary—or simply a by-product of normal audits—but rather as a major active product to respectably line up alongside our other work. While every individual auditor does not at this time have the responsibility to detect fraud in every audit assignment, our organization as a whole has accepted the responsibility to devise and apply special techniques that will eventually help him so do.

REMARKS
Donald R. Zeigler, Chairman, Subcommittee on Perpetration and Detection of Fraud, American Institute of Certified Public Accountants

In my presentation today I would first like to briefly discuss the history of the objectives of auditing and to outline how the changing of these objectives affected the auditor's perception of his responsibilities. The detection of errors and irregularities—other known as fraud—would then like to discuss briefly the activities and objectives of the committee which I am presently chairing, which was formed by the American Institute of Certified Public Accountants to study methods by which frauds have been perpetuated and means by which they have been detected. Because of the charge of my committee, my remarks today will be directed primarily to the auditor's responsibility to detect material fraud in connection with his ordinary examination of financial statements, rather than to fraud and abuse related to government agencies and government programs. Although my remarks may touch somewhat on the subject.

The question as whether an independent auditor should be held responsible for his ordinary examination of financial statements falls to detect a material fraud concealed in those statements cannot be answered unequivocally; but that does not prevent it from being asked. An article several years ago in Dun's Review, for example, asked:

"Who is to blame for corporate fraud? That is, who should foot the bill when stockholders suffer a loss because a company's inventory is stolen, or its assets turn out to be phony or its profits turn into mysterious losses? Right now, nobody knows for sure."

That there should be any doubt about the answers sometimes puzzles financial writers and many of their readers. The same article stated:

"To many sophisticated business executives as well as ordinary stockholders, the idea that auditors could not be responsible seems incredible. What else are auditors for, they ask, if not to vet, the accuracy of a company's books? So it may shock them to learn that the auditor's responsibility for uncovering corporate fraud is given none of the attention books at Enron's, D&L, or Whitey's are accorded."

If an audit then is not meant to uncover major fraud, its usefulness to those who rely on audited financial statements is considerably reduced. The problem is the distinction between "meant to uncover" and the actual uncovering. Some fraud should be detected in any ordinary examination. Other frauds, however, would be so difficult to detect that assumption of responsibility for their detection would be an impossible burden for independent auditors to bear. Between these two extremes are a number of gradations that make up the large "gray" area within which most
frauds would fail. Obviously, it is this "gray" area that is of most concern to the independent auditor.

While the objectives of auditing prior to the 1900's are of some historical interest, they are not relevant enough to the current interest in the responsibility for the detection of fraud to warrant detailed consideration. From its distant origins, auditing has always been considered as an independent check on stewardship; that is—an objective review of the activities of individuals entrusted with scarce resources or important responsibilities.

The auditor's concern with detecting fraud was clearly expressed by a leading auditing textbook in the early 1900's in which the object of an audit was said to be to detect defalcations; the detection of technical errors; and the detection of errors of principle. Audits at that time were focused on the examination of the cash records with the primary purpose of the examination being to give a sort of clearance to the treasurer or cashier, or whoever was acting in a position of trust in respect to the funds of the concern, so that the owners might be assured in that point.

Over the next three decades, the importance of the detection of fraud as an audit objective decreased steadily. The objective of the ordinary examination changed from being primarily concerned with providing a "clearance" to being concerned with the fair presentation of financial statements in conformity with generally accepted accounting principles.

The decrease in emphasis on the importance of detecting fraud is illustrated in the descriptions of audit objectives in the successive editions of Montgomery's auditing and in the professional standards. In the early editions (1912-1928), Montgomery indicated that in the early days of auditing the detection or prevention of fraud and the detection and prevention of errors were the chief object of an audit. Subsequent editions gave less and less emphasis to the detection of fraud until in the later editions it is described as "responsibility not assumed" and that "if an auditor were to attempt to discover defalcations and similar irregularities, he would have to extend his work to a point where its cost would be prohibitive."

Some of the more important reasons for the de-emphasis of attempting to detect fraud in an ordinary examination were:

1. As absentee ownership of corporations expanded, the need for a stewardship check was diminished by the fact that the ownership was too diffuse and small to support well-managed and safe stewardship reports—the financial statement.
2. The rapid growth in the size and complexity of business enterprises necessitated changing an audit to an examination of selected items rather than an examination of all transactions in a period. Accordingly, the likelihood of detecting defalcations and similar irregularities was reduced.
3. As the significance of an adequate internal control system became generally recognized, good internal accounting controls were relied upon for the prevention and detection of defalcations and similar irregularities and clerical and computational errors were reduced.
4. As the growing complexity of business transactions made the appropriate selection of accounting principles more difficult, they became a more likely source of material misstatement of financial statements, thus requiring increased attention by the independent auditor.
5. The developments in the areas of new accounting principles, uncertainties and the expanding requirements of regulatory and other agencies such as the SEC and New York Stock Exchange made the evaluation of the adequacy of disclosure an important consideration.
6. In recognition of the difficulty or impossibility of detecting frauds involving collusion, forgery, and unrecorded transactions, the auditors started to emphasize the inability of an audit to provide absolute assurance that material frauds would be detected.

These factors, among others, led the AICPA to adopt the position on the auditor's responsibility for the detection of fraud set forth in the codification of statements on auditing procedure published in 1951, which stated:

"The ordinary examination incident to the issuance of an auditor's report respecting financial statements is not designed and cannot be relied upon to disclose defalcations and other similar irregularities, although their discovery frequently results."

The codification goes on to say:

"...if an auditor were to attempt to discover defalcations and similar irregularities he would have to extend his work to a point where its cost would be prohibitive. It is generally recognized that good internal control and surety bonds provide protection much more cheaply. . ."
that when the auditor expresses an opinion on the financial statements of an enterprise that contains financial statement fraud, the auditor is exercising limited audit responsibility. The extent of examination cannot provide absolute assurance that no fraud exists. If the fraud is not detected, the audit report is invalid. Also, the auditor cannot be expected to detect all frauds that might exist. He can only provide limited assurance that the fraud has not been committed. Auditing standards require that the auditor express an opinion on the financial statements only if he is satisfied that the examination was made in accordance with generally accepted auditing standards. With this in mind, SAS 16 does not really impose a new level of responsibility, but only acknowledges in writing what the auditor presently perceives and has accepted his responsibilities to be.

SAS 16 goes on to explain that even the most extensive examination cannot provide adequate assurance that no fraud exists if the fraud is accomplished by management's override of internal controls, collusion, forgery, or unrecorded transactions. It reminds the reader that the auditor is not an insurer or guarantor and concludes that "if his examination was made in accordance with generally accepted auditing standards, he has fulfilled his professional responsibility."

While AUDSEQ was issuing statements on auditing standards, the Auditing Standards Board formed the AICPA's Committee on Auditor's Responsibilities, chaired by Manny Cohen, was established by the AICPA to develop conclusions and recommendations regarding the appropriate responsibilities of independent auditors whose reports were issued in June 1968. By 1978, as you probably know, a number of recommendations have been made with respect to the entire audit process. Section 4 of the report presents recommendations with respect to the need for "clarifying responsibility for the detection of fraud." This section discusses, to some extent, certain of the matters I've already covered today as to the changing responsibilities of the independent auditor over the years for the detection of fraud.

The report suggests that an audit should be designed to provide reasonable assurance that the financial statements are not affected by material fraud. Limited assurance is desirable and will enable assurance on the accountability of management for material amounts of corporate assets. The report goes on to state that an "audit of financial statements should be expected to detect those frauds that the exercise of professional skill and care would normally uncover." It concludes, however, that "an auditor cannot be expected to detect all frauds. He cannot detect certain types of fraud, such as collusion between management and other parties with whom he has no reason to suspect of duplicity."
standing committee on fraud, we have a long way
to go and a lot of work to do if we are to accom-
plish our overall objective of determining
whether there is a need for new or revised audit
ning standards with respect to the detection of
material management fraud.
I would like to leave you with one final thought
and that is we need all of the information, co-
operation and assistance we can get. If any of
you are willing to supply the Fraud Committee
with educational or training materials, articles
or disguised descriptions of cases you may have
encountered, please forward them to the Stand-
ing Committee on Perpetration and Detection of
Fraud in care of George Zuber of the AICPA
at 1211 Avenue of the Americas, New York, New
York
10036 or to me. I'll take this opportunity
to thank you in advance for any information you
may forward us.

Summary of Discussion

The session considered two major issues: first,
the role of internal auditors (city, State and
Federal) in the detection and reporting of fraud
and abuse situations; and, second, the independ-
ent public accountants' perceptions of their re-
sponsibility for the detection of fraud.
In considering the first issue, discussion cen-
tered around the question whether the primary
role of Government internal audit units is econ-
omy and efficiency and whether prevention and
detection of fraud and program abuse are of
secondary importance. Are the auditor's anti-

fraud efforts more than "secondary" or "by-
products" aspects of normal audits?
The consensus of public sector auditors was
that Government internal audit organizations
have an overriding responsibility for detection
and disclosure of fraud that is above and beyond
that of the public accountant practicing in the
private sector. Moreover, it was agreed that such
effort is more than a "secondary" or "by-product"
aspect of normal audits; rather, it is a major
active product of audits. It was noted that audi-
tors should play a more active role in anti-fraud
activities, work with others in extending the
"state-of-the-art" of fraud detection, and recog-
nize that as a result of taking on this new "pro-
duct line" the value of the total audit effort will be
significantly enhanced.
While not every audit can be "fraud-oriented"
to the same degree, every Government internal
audit organization must devise special techniques
for 1) assessing the relative risks of its State,
city, or Federal agencies' programs to fraud and
abuse; and 2) searching for fraud and abuse in
the most vulnerable areas. Where fraud or pro-
gram abuse is detected, the auditor has the re-
sponsibility of seeing that full disclosure is
made, not only to the head of that organization,
but also to the appropriate Federal, State and
city officials, legislative bodies, and the general
public.
The panel members concurred that audit is
potentially the most effective tool to deter, de-
tect, and prevent fraudulent practices.
As to the second major issue, Donald R.
Ziegler, Chairman of the subcommittee on Per-
etration and Detection of Fraud, American In-
stitute of Certified Public Accountants (AIC-
PA), discussed the history of auditing objec-
tives and outlined how changes in these objec-
tives have affected the auditor's perception of
responsibility for the detection of fraud. (See
prepared remarks on P. 117)
Mr. Ziegler noted that today's independent
auditor is extremely concerned with the possi-
ble existence of fraud, since financial statements
might be materially and fraudulently misstated.
The auditor is not concerned with fraud as such,
but with the potential material misstatement of
the financial statements.
In light of several notorious and highly publi-
cized cases in recent years, and the increased
incidence of litigation against accountants, the
profession has received significant pressure to ac-
cept more and more responsibility for the detec-
tion of errors and irregularities.
Therefore, the AICPA formed a Committee to
study and publish analyses of methods by which
frauds have been perpetrated and means by which
they have been detected. The Committee also
publishes the results of their studies insofar as
they indicate a need for new or revised "auditing
standards."

The Committee's efforts are directed primarily
at the auditor's responsibility to detect material
management fraud in connection with the ordi-
ary examination of financial statements, and
not to fraud and abuse related to Government
agencies and Government programs.
The Committee has been in existence for about
one year, and during that time it has been or-
ganizing and developing a plan of action.
After outlining the activities of the Commit-
tee, Mr. Ziegler concluded that there is much to
be done to accomplish the objective of determin-
ing the need for new or revised auditing stan-
dards with respect to the detection of material
management fraud. Mr. Ziegler concluded his re-
marks by soliciting any information, cooperation
and assistance in the form of educational or
training materials, and articles or disguised de-
scription of cases. Such information may be for-
warded to the Committee on Perpetration and
Detection of Fraud, in care of George Zuber of
the AICPA, at 1211 Avenue of the Americas,
New York, New York 10036.
II. THE ROLE OF INVESTIGATION AND PROSECUTION—PANEL A—"THE PROSECUTOR AND INVESTIGATOR—THEIR COMPLEMENTARY ROLES IN THE PREVENTION, DETECTION, AND PROSECUTION OF PROGRAM FRAUD"

Moderator
Lawrence Lippe
Assistant Inspector General for Investigations
OIG/HEW

Chairperson
Philip Heymann
Assistant Attorney General, Criminal Division
U. S. Department of Justice

Panelists

Dale Tooley
District Attorney
City and County of Denver, Colorado

Joseph Henchel
Chief, White Collar Crime Unit
Criminal Investigative Unit
Federal Bureau of Investigation
U. S. Department of Justice

Stanley N. Lupkin
Commissioner, Department of Investigations
New York City

Staff Reporter
Buford M. Mosely
Special Agent in Charge
Atlanta Office
OIG/HEW

Summary of Discussion

Lawrence Lippe, Assistant Inspector General for Investigations, U. S. Department of Health, Education, and Welfare, opened the session by describing the historical growth of HEW's "war" on economic crime and fraud. He outlined the Inspector General concept at both Federal and the State level, and discussed the establishment of the State Medicaid Fraud Control Units.

Philip Heymann, Assistant Attorney General, Criminal Division, U. S. Department of Justice, and the Chairperson of the panel, stated that the principal guideline for effective and efficient prevention, detection and prosecution of fraud is the coordination of all resources. Mr. Heymann outlined the detection and prosecution phases as: auditors following paper trails and making third party verifications; investigators directing auditors as to what signals to look for in the records; investigators pursuing leads disclosed by audit activity; early investigative case review with prosecuting attorneys to explain cases and to utilize grand juries. Mr. Heymann warned that premature administrative action could destroy prosecutive potential. He also counseled that the "case agent" (which could be the principal investigator or auditor) must be involved with the prosecutors at the trial.

Dale Tooley, District Attorney, Denver, Colorado, emphasized early and regular communication between the auditor, investigator and prose-
II. THE ROLE OF INVESTIGATION AND PROSECUTION: PANEL B—"THE FEDERAL, STATE, AND LOCAL PROSECUTOR—THEIR COMPLEMENTARY ROLES IN THE PREVENTION, DETECTION, AND PROSECUTION OF PROGRAM FRAUD"

Moderator
Lee Anne Lippa
Assistant Inspector General for Investigations
OIG/HHS

Chairperson
John J. Degan
Attorney General
State of New Jersey

Panelists
Russell T. Baker, Jr.
U. S. Attorney
Maryland District

Margorie W. Parker
Deputy Attorney General
Chief, Medi-Cal Fraud Control Unit
California Department of Justice

Staff Reporter
Joseph A. Roche
Special Agent in Charge
Baltimore Office
OIG/HHS

REMARKS

John K. Van de Kamp, District Attorney, County of Los Angeles, California

This conference which provides a national focus on welfare fraud and the need to protect the taxpayer's dollar comes at a most appropriate time.

As a prosecutor from California—the state that started the taxpayer's revolt—I can assure you that people are watching very closely how their tax dollars are spent. And, no function of government is under greater scrutiny today than the welfare system.

In the short time allotted for formal remarks, I will concentrate on what we consider to be the prime welfare fraud problem—multiple aid and conspiracy frauds.

The cases involving this type of fraud which come to our office for investigation and prosecution involve losses of hundreds of thousands of dollars in each case. And, because of the scope of the losses, they are the most visible examples to the taxpayers of how their tax dollars are being ripped off.

Let me cite a few examples from our own case files:

Case No. 1: A case still under Investigation involves the loss of at least $400,000. Out-of-state fictitious birth certificates and California driver's licenses in different names were used to establish at least 58 fictitious identities and at least 58 fraudulent welfare cases were opened.

Case No. 2: Two weeks ago, our office convicted a person who became nicknamed the "Queen of Welfare." She was accused of bilking the county out of $320,000. The defendant received aid for more than 70 children. Only four (her own) really existed. She used false birth certificates to establish the existence of the children. When our office moved in with a search warrant, we discovered an expensive copying machine which was apparently used for the production of false documents in her $170,000 house.

Case No. 3: One suspect and several associates submitted phony California birth certificates to welfare offices in Los Angeles and Ventura counties to establish the existence of minor children. Estimated amount of fraudulent payment $140,000.

The common thread running through these typical cases is the use of false documents to establish fictitious identities to obtain welfare payments. How do we cope with this problem?

First of all, a computerized fingerprint comparison system would greatly reduce the possibility of individuals entering the welfare system more than once.

The technology exists to develop a computer-based system that stores fingerprints and provides a continued cross-check to insure that duplicates do not get into the system. This will require the fingerprinting of every welfare applicant. The potential which this system holds for halting multiple aid fraud clearly indicates that its feasibility must be explored at the federal, state and local levels.

Basically, once a welfare applicant was fingerprinted and that fingerprint was coded into the computer, any future application bearing that fingerprint would trigger the computer to produce the prior application. People who go from welfare office to welfare office using false documents to obtain welfare payments would be easily spotted.

A second priority, should be the development of a national computer system linking local welfare offices with the Social Security Administration. I understand that such a system is in the initial stages and it should be given top priority. It would insure the validation of social security numbers and provide a check on people who are seeking welfare in more than one jurisdiction.

Coupled with a fingerprint system, this computer check on social security numbers would go far in stopping multiple aid frauds.

A corollary of this social security check which can be implemented now by local welfare departments is a system to automatically reject invalid social security numbers which may be used in welfare applications.

Welfare department computers can be programmed to reject social security numbers which are higher than those currently issued by the Social Security Administration.

In our office's investigations, we have discovered that such fraudulent social security numbers are frequently used in multiple aid fraud cases.

Another system which must be developed involves document verification. One of the keys to multiple aid fraud cases has been the requirement that easily forged documents, such as family bibles, baptismal certificates or photocopies of photocopies of birth certificates, must be accepted by welfare departments to verify birth.

The most accurate form of birth verification is through a registered or certified birth certificate. Welfare departments should automatically obtain these documents to verify birth and to verify any other documents presented to the department in a case application.

Los Angeles County currently has a new birth record verification program underway.

Once again, a computer system which could automatically make such checks when applications are filed would greatly enhance this effort to detect the use of false documents.

In our Los Angeles investigations of welfare fraud, we have discovered another pattern which may help catch welfare cheats. Frequently, welfare cheats give the same telephone number when they open multiple cases.

The computerized storage and comparison of applicant phone numbers would catch people who are using the same number for multiple welfare applications. When such an application was received, the computer would provide immediate notification that a comparison must be made between cases.

This telephone comparison should be coupled with an address match system. In Los Angeles, the address match system has proved to be one of the most effective tools in locating multiple frauds.

These steps will go far toward halting multiple aid frauds and taking the profit out of welfare cheating. Threat of quick discovery and prosecution is the best way to convince cheats that cheating doesn't pay.

Finally, I would briefly like to address another problem which is akin to multiple aid and which
ranks high in the amount of money lost. That is, fraudulent applications for loans to replace allegedly stolen checks.

We have uncovered highly organized operations involving applications for emergency loans on the basis that welfare warrants had been lost or stolen in the postal system.

One such operation which is still under investigation involves an estimated loss of at least $200,000. A single district office lost was at least $80,000.

Such losses could be greatly diminished, if welfare recipients are required to have a bank account in which the check will be directly deposited by the welfare agency or the checks will only be available at the welfare office for pick up by the recipient.

I understand that such a system has saved Philadelphia about $8 million annually.

These are a few ideas for improving the investigation and prosecution of welfare fraud.

I am anxious to hear the experience of other jurisdictions in these areas and your comments on these proposals.

I am sure that our panel today will be rewarding for us all—and ultimately rewarding for the taxpayers, whose money we are trying to save.

Summary of Discussion

A major commitment to fight the war on white collar crime needs implementation at all levels of government. That is the principal reason for the Secretary's Conference and the issue addressed by this panel. It is basic that delivery of health services and other benefits to the taxpayers be made at the least possible cost while providing quality of care and efficiency in operation.

The burden is on the law enforcement community to ensure cost-effective programs. Frequently, law enforcement officers become involved only when scandalous activity erupts; however, it is incumbent upon Federal, State and local government to prepare today for the prevention and detection of fraud in government programs tomorrow.

Program administrators and audit workers need to recognize the potential for fraud and be more vigilant in their routine duties.

Cooperative efforts at all levels in law enforcement agencies can prevent duplication, thus conserving taxpayer's money. The degree of productivity, however, is dependent upon established relationships. Joint investigations not only increase productivity, but also promote greater efficiency.

To develop true cooperative relationships, participants need to overcome negative attitudes commonly seen in "turf battles." There is a need, however, to recognize legal restrictions or constraints which may be imposed upon law enforcement officials, and which may be misinterpreted as refusal to cooperate. Therefore, the law enforcement community must not only be sensitive to and tolerant of each other, but also a clear understanding of realities must be developed. For example, some information cannot be shared legally. The human factor is always present—people deal with people who establish rapport, trust, confidence and recognize mutual objectives.

The searching question—do we really know how much fraud and abuse exists? Agencies' impressively low percentages of fraud/abuse are not complete and accurate—as demonstrated when sensational cases come to public attention.

Public confidence in the integrity of money-paying or service-providing is paramount today.

Wrongful payment of benefits is a common occurrence resulting from use of false/fraudulent Social Security Numbers (SSN) and various personal identification documents, National Identification (fingerprinting) of all program applicants has been proposed as a means of insuring against improper disbursement of multiple benefits. Although this proposal is controversial, it may be construed by some as demeaning, it is less intrusive than some existing welfare inquiries relating to eligibility. Another proposal would involve a national computer system linking fingerprint classifications and Social Security data for identification, verification/elimination.

The Department of Justice sponsors joint training of investigators and recognizes the need for the law enforcement community to have continuing dialogue and to establish priorities. Joint investigation can resolve jurisdictional problems in many cases. Moreover, it reduces severe competition between agencies and increases the competency of the investigative team.

It is an honor to be here to preside over this Workshop which has such distinguished panel members. I have been fortunate enough to know each of them for many years and my admiration for them has grown steadily as their contributions to computer usage and the health of computers have multiplied.

I deem it inappropriate to publicly announce my pleasure at being involved with a tool for fraud commission—even if we later recognize that we are speaking of the computer as such an instrument. Such a statement would surely call to mind a presumed hidden desire of us all to be law-breakers, albeit as honorable a set of law-breakers as our early Boston tea party ancestors and our Western cowboy heroes.

Nevertheless, this Workshop with its intentionally ambivalent title does purposefully suggest to us that a device—in this case, a computer—can be an instrument for good as well as for evil. And, what is so challenging about computers is that they can be both simultaneously lurking and disarmingly responsive.

The single understanding that is so important to reach is that reliable computer systems are the only resources available to us for responsible and responsive large funds disbursement and record-keeping operations. The key words here
are “reliable”, responsible, responsive and large. These adjectives, of course, apply to most of DHEW’s financial assistance, welfare, and health care programs. There is no agency in the government, and I would surmise that there is no agency in the country, which surpasses HEW in motivation and need for championing computer technology as the single most important technology on which its usefulness depends.

As natural corollaries then:

- DHEW should not allow itself to be an unwilling captive of a hostile arrogant technology.
- DHEW should take its place as a singularly important, demanding, and knowledgeable customer for reliable, responsible and responsive computer system.
- DHEW should champion the cause of innovation in the computer and software industries in areas of security and reliability.
- DHEW should be a demanding consumer through setting-up criteria and standards for its acceptance from the marketplace vendor of computer products and service, and
- DHEW should be the leader in government for defining, preventing, detecting and correcting fraud and abuse involving the use of accomplice computer systems.

What do all these seemingly arbitrary dictates mean to responsible management in DHEW? First and foremost there needs to be an explicit policy statement that computer system management is an integral function of responsible management in DHEW fund disbursement and policy statement that computer systems must be secure and responsible in the use of accomplice computer systems. Management doctrine must contain the characteristics of the computer.

**These changes are reflected in the problems auditors have in evaluating the reliability of computerized applications. Without established internal control mechanisms, auditors are turning to external measures to control computerized applications. This is because data processing personnel have not spent enough time identifying, generating exposed risks and risks to their organizations or developing adequate internal control systems or monitoring computer functions. Weaknesses are particularly evident where manual and computerized system are needed for the control of different portions of an application interface.”**

In high risk organizations there must be unrelenting attention to the reliability of computer systems. Management doctrine must contain the precept that it is a management responsibility to know:

1. When a computer system is not performing its intended function and
2. When a computer system is performing a function which was not intended.

This balanced equation for computer reliability needs to be applied not only when the computer system begins to perform a new task but throughout the life cycle of the computer system operation. It is here that computer audit becomes potentially very effective.

We do not find this Computer Reliability Equation in widespread use today. We find “band-aid” solutions and “quick-fix” approaches to specific problems as they occur. Until we come to grips with the risks inherent with computer systems and with the application of the above cited Computer Reliability Equation, we will lose out in its continuing credibility gap.

There are those who with sincerity point out that dealing with computers in terms of risks involved may provide one-sided negative indicators of computer worth. I do not think this to be the case. Rather, I think that coming to grips with the risks involved with computers is a very beneficial way of discussing the problems of computers. The beneficial aspects of dealing with computers in terms of risks are two-fold: first of all, it is possible to be a healthy counter-measure to 25 years of selling computers based on a somewhat naive approach that any use of computers is an improvement to existing ways of doing functions. Secondly, looking in a very pragmatic way at what risks are involved in using computers, should enable us to highlight whatever the benefits of computers, and also to compare the relative utility of computers to other alternatives and the risks associated with performing functions using computers with the risks associated with performing the same functions by other means. It is in the context then of attempting to pursue a realistic approach to computers and to highlight the relative benefits and disadvantages of computer that discussions of risks and risk-taking with computer systems become very attractive.

There is also something very appealing about the concept of risks. Through its use, we can delineate the various responsibilities of the several levels of management that are concerned with computers and computer use. For example, the commonly found fears of the public can most easily be expressed by public representative and managers if they are translated into the kinds of risks that the public fears from computer systems. If fears cannot be translated into something as legitimate as risks, then they remain amorphous and free-floating anxieties to which it is very difficult for responsible managers and for responsible scientists to respond.

Secondly, the concept of risk allows one to describe vulnerabilities of computer systems and the dangers associated with their use. Then, again translating these into risks, one can ascribe safeguards that can be used to combat or to avoid vulnerabilities or dangers. Another most important factor in discussing problems of computer systems in terms of risks is that one can associate risks with costs. The cost of alleviating the risks of computer systems through the use of safeguards can be compared with the cost to the public or to individuals if the risks cannot be alleviated through applying safeguards to computer systems.

Again, most importantly, it is going to be extremely essential to come up with acceptable levels of risk in using computer systems for the performance of particular functions. The idea of deciding on acceptable levels of risks may not be as difficult as realized at the computer professional is in no way new to scientists or to the public. It is indeed comfortable to most people in other fields of science, economics, and law to talk in terms of risks. Furthermore, it appears to be a very useful may to bridge the present communications gap between computer science and management if one can use a terminology which is comfortable to all concerned.

I would highlight then as summary key points in our planning to reduce computer risks to acceptable levels that:

1. Computer risks can be dealt with realistically by drawing upon such resources as computer technology, auditing, good management practice and legal and regulatory knowledge.
2. Fraud, abuse and error are common manifestations of possible unacceptable levels of risk.
3. High risk organizations include large funds disbursing and fund records-keeping activities.
4. Management policy in high risk organizations requiring the use of computers must identify management as a most important integral component of the management function.
5. Large funds disbursing and record-keeping activities are dependent upon computer systems for reliable, responsible and responsive operations, and
6. DHEW is perhaps the single, largest high-risk funds disbursing and record-keeping activity in the country.

I am looking forward, as I know you are, to hear our eminent speakers relate to us their ideas and experiences. Let us turn now to them.

**Summary of Discussion**

Moderator Thomas S. McFee, HEW Assistant Secretary for Personnel Administration, summarized the conference theme and expanded on the role of computers as a tool used both to commit and deter fraud. He noted the effects of Proposition 13 which has placed added responsibilities on agencies. There is a need to "get tough" and to demonstrate the ability to manage computer systems which are vital to large fund disbursements. HEW fund disbursements now exceed those of the Department of Defense. Mr. McFee then introduced the Overview Panel Chairperson, Dr. Ruth M. Davis, Deputy Under
Secretary of Defense for Research and Advanced Technology.

Dr. Davis began her remarks (text on p.129) by noting that computers have the capability for both the commission and prevention of fraud. In utilizing computers, it is extremely important to recognize that reliable computer systems are the only resources available for responsible and responsive large funds disbursement and recordkeeping. Both DOD and HEW depend on these resources.

Dr. Davis observed that the DOD's management of computer systems has increased at an increasing rate. This increase is due not only to increased computer usage, but also to changes in business methods, leaving users with inadequate controls over their operations.

In high-risk organizations, there must be an understanding of these two issues. Rather, they apply "band-aid" solutions to risk problems as they occur. Until this situation is changed and the inherent risks in computer systems are recognized, the credibility gap associated with computer systems will continue.

Dr. Davis concluded her remarks by stating that contrary to some opinion, addressing the risk issue will have a beneficial effect, by providing a useful way of discussing computer problems. This approach will assist in the development of a computer system that is always an improvement. Also, computing resources and associated risks will be more effectively compared with other methods of doing business. Other benefits resulting from a risk evaluation approach include:

- Clear articulation of public fears regarding risks associated with computers which will assist in the development of responses.
- Development of safeguards to combat vulnerabilities or dangers.
- Comparison of safeguard costs with the cost of potential harm resulting from an absence of safeguards.
- Development of better communications between computer science and management, through use of mutually understandable terminology.

In Mr. Brown's view, the many ills include:

- Inadequate audit capability.
- Inconsistent practices (reinforcing the "squeaky-wheel" syndrome).
- An excess of privileged computer access.
- The "squeaky-wheel" syndrome.
- The fighting of the wrong security fire.
- Security personnel having other, sometimes conflicting, duties.
- An excess of emotion.
- A reliance on ignorance ("No one can cheat us because it is too complex.")

Mr. Brown then listed several steps toward fraud prevention:

1) Top management statement of security objectives.
2) Identification or assignment of security responsibility.
3) Assessment of assets and risks.
4) Segmentation of threats and countermeasures.
5) Development of a technology-intensive security plan.
6) Commitment of sufficient resources to implement plan.

The session concluded with a detailed explanation of methodology, including:

- Segmentation of security requirements by function.
- Enforcement techniques.
- Opportunities to install security during a system's life cycle.
III. COMPUTER TECHNOLOGY—PANEL A—
"COMPUTER CRIMES: CASE HISTORIES AND PROPOSED LEGISLATION"

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Chairperson
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This paper is a summary of the nature of computer crime based on our research over the past eight years and an analysis of proposed computer crime legislation.

Computer Abuse

We use the term computer abuse for all intentional, computer-related acts in which perpetrators made or could have made gain and victims suffered or could have suffered loss. Crimes in which the perpetrator is criminally convicted represent only one type of computer abuse. This definition includes a broad spectrum of acts including those in which the alleged perpetrator was not convicted, but a loss was proved even though the perpetrator was only fired or reprimanded. This spectrum also includes cases that arise from management disputes in which civil cases may or may not be litigated. Many of the cases have come to the Federal government and the banking industry worldwide.

The primary purpose of our study of computer abuse is to learn an organization is vulnerable in its use of computers, then develop controls and safeguards that can ensure safety and security in computer use. The legal aspects and inadequacy of the law have also been studied.

The methodology for the computer abuse study entails the collection of reported cases of computer abuse, field investigation of selected cases, analyses of the collected data to determine types of vulnerabilities of computers, the identification of potential perpetrators, the unauthorized methods used, the types of losses, inadequacy of criminal laws, and failures in control and prevention.

The Nature of Computer Abuse

The conditions that give rise to computer abuse today are a rapidly advancing use of computer technology and applications and lagging supportive functions that could make the technology safer to use. These supportive functions include having mature and knowledgeable management, an informed public, a knowledgeable justice system, and adequate laws. Knowledge of the nature of computer abuse enhances the understanding of this problem.

Four types of computer abuse have been identified in the collection and study of 640 cases: vandalism against computer hardware and facilities or against the data and computer programs stored in them; theft of information or property (hardware and programs); financial fraud or theft; and unauthorized sale, use, or denial of use of services. Cases include international and business espionage and sabotage, whitecollar crime, organized crime, and employee and consumer misbehavior. The abuses go by the familiar names of fraud, theft, larceny, embezzlement, substantion, and espionage. However, new circumstances associated with automation have created a new kind of crime. Occupations of the perpetrators, environments, modi operandi, time scale, geographic constraints, and forms of assets are all new. This is causing different problems and challenges for potential victims, law enforcement agencies, prosecutors, the judiciary, and legislators.

We have not determined whether financial fraud and embezzlement are increasing. The methods of fraud and embezzlement are changing as the activities in which they exist are automated. It is also clear that crime involving computers is increasing.

This conclusion is based on analyses of 640 cases. About seventy-five percent of the cases have been verified. The remainder have not been investigated and include reports for which sufficient data such as the name of the victim or prosecutor have not been reported. Sources of case information include newspapers and other public media, law enforcement agency reports, and questionnaires prepared as part of the study and distributed to victims.

Computer-abuse losses are probably less than losses associated with natural disasters such as fire and are often the result of poorly designed systems, errors and omissions in computer programming, and faulty data input. We have been fighting the types of computer problems for 30 years, and solutions are well known although not sufficiently applied. Nevertheless, computer abuse is a new problem and has emerged only recently as computers proliferated into sensitive functions in society. New approaches to prevention and control and are needed to protect against intentional acts of computer abuse. There are still types of abuses that defy solution.

These control needs can be better understood by considering the nature of computer abuses. One or more of the following four roles of computers apply.

1. A computer can be the object of an abusive act. In four cases, computers have allegedly been shot with guns. The computer as an object of abuse exists in twenty-eight percent of the sample cases, although in many of the cases other roles may also have existed.

2. The computer can either be the basis or the source for unique forms of assets. For example, computer programs, unique products of computer technology, represent entirely new types of assets subject to loss. About sixty-one percent of the sample cases concerned the unique nature of computers although many may have the following two roles (3 and 4) present as well.

3. A computer can be the instrument of an act. For example, in one reported case, a computer was used by an embezzler to simulate the operations of his company to plan and regulate his embez-
element. Only three percent of the sample included this type of role exclusively.

(4) A computer can be used as a symbol to intimidate or deceive. Dating services have employed the use of "giant computers" in matching people for dates. Only nine percent of the sample cases included this role exclusively.

New types of acts may be discovered that have not been anticipated, especially with the rapid advancement of the technology. For example, electronic funds transfer systems and organizations that use computers consider most rapid advancement of the technology. For example, electronic funds transfer systems and organizations that use computers consider most rapid advancement of the technology.

One of the most crucial to their business activities as being from his employer for their withholding the victim's own programs as a look. The computer abuse study revealed... that bankers in Chicago have stated that organized crime is engaged in unauthorized activity in banks through fraud. In 1976, the study from the computer abuse file of 42 computer-related bank frauds and embezzlements in the period of 1962 to 1975, the average loss per case is $450,000 (total $18-million, range $200 to $6.8-million). The average loss per case of bank fraud and embezzlement of all types reported by the Controller of the Currency in 1971 was less than $100,000 (based on cases over $100,000). In another study from the computer abuse file, the average loss over all reported computer abuse cases in which dollar losses are stated (144 cases not including the Equity Funding Insurance fraud) is $450,000 per case. All banks represent only twenty percent of the computer abuse cases in the SRI study.

Larger losses in computer-related cases could be explained in several ways. There might be bias in the sample, because cases with larger losses might be reported in the public media more than cases with smaller losses. White-collar crime losses may be larger when they entail computers because the assets are more concentrated. Once a system is compromised, it is as easy to steal large amounts as small amounts (the automation of theft), and the danger of detection and greater efforts needed forces the perpetrators to look for a larger return on their investment in crime.

Perpetrators

A profile of perpetrators based on extensive interviewing of 24 people engaged in computer abuse and acts provides some insight into the type of people who might be guilty of the crime. The perpetrators tend to be young—19 to 30 years old. However, a few of the embroiled are older. The perpetrators are highly motivated, intelligent, and personable, making them among the most desirable employees from a hiring point of view. Many are overqualified for their positions. None of the perpetrators entered their jobs with a plan of perpetrating computer abuse, and most of them had been in their jobs for several years with no record of difficulties before they perpetrated the crime.

The high incidence of collusion in computer abuse—compared with that in general white-collar crime—leads to the conclusion that when a crime is committed in a technical EDP environment, more skill and access are required than are possessed by any one perpetrator.
Better security measures and auditing practices would discourage collusion and therefore be of great benefit in reducing computer abuse. An alternative conjecture on collusion is that the high incidence of collusion in the reported cases is the result of collusion being easier to detect and more likely to be publicly reported. Lone perpetrators would be more likely to be successful, and thus, their acts would not be reported and included in the data base. In contradistinction to this latter conjecture, auditors have noted a marked increase in the incidence of data communication wire tapping. A study of computer abuse cases, by noting the occupations of the perpetrators and the methods they used, indicates that most perpetrators have performed their unauthorized acts within their own work environments using their own specialized capabilities. This indicates that the most likely potential perpetrators are workers in positions of trust. This indicates that the more effective types of controls and safeguards are journaling, monitoring, separation of responsibilities, and dual controls over the work activities of the employees.

The most common vulnerability in cases studied is in the least likely handling of data in human-readable form before it enters the computer. The vulnerability of the computers to computer program changes and acts during processing inside computers is of only sixth-level importance by frequency of reported use. Only one case of data communications wire tapping has been discovered in the SRI study. The logical conclusion is that manual data handling is far more attractive for fraud than the complex, technical environment of the computer or data communications circuits. However, when the more technical acts are perpetrated, the losses tend to be much larger in each case.

The Future

The future of computer abuse can be anticipated on the basis of known experience. Massive fraud, organized crime activity, physical and mental harm to people, violation of personal and corporate privacy, tapping of data communications, violation of intellectual property, terrorism attacks, computer output hoaxes, time-accelerated fraud, and geographically independent fraud must be anticipated to produce adequate legislation.

Computer Security

The value of computer-related crime legislation can be appreciated by realizing the high positions of trust that computer technologists occupy. Such position is attributable in part to the lack of sufficient safeguard in computer usage. Although advanced computer security is reducing the potential crime threats among large numbers of people who lack sufficient computer skills and knowledge, it is putting far greater trust into the hands and minds of the few who have sufficient skills and knowledge to compromise systems.

The design of commercially available computers is not yet technically secure from these highly skilled people, and sufficient security is not expected for at least eight to ten years. Safe in their realization that they cannot be prevented or detected if they are careful enough, these technologists can do anything they please in sensitive business systems. Most of the 640 known computer abuse cases have been discovered only accidentally because of perpetrator errors.

This is not meant to imply that the computer manifestations are at fault in general. They are making significant efforts to impede criminal activity in their products—even beyond what their customers are willing to use or pay for. Progress in research to design and develop provably secure computer systems in the national defense environment is accelerating. Significant effort, motivation and time will be required to transfer this technology to other sectors. A more important problem today, however, is the insecure physical environments in which users place computer systems and the lack of operational, administrative, and personnel security. This makes significant computer crime legislation all the more important.

Massive Fraud. High incidence, low-loss fraud such as credit card fraud is of minor concern, because it can be closely tracked and adequately controlled with known, powerful detection methods in computers. However, we have few solutions to the situation highly automated fraud that happens infrequently, but that has high loss in the $10-million to billions range. Study of the few large cases such as Equity Funding ($2-bilion), the alleged Conco Instruments fraud ($40-million), and the recent alleged Fisco Insurance fraud reveals that similar conditions in the use of computers exist in many other businesses, government agencies, and industries. Therefore, even more massive frauds are bound to happen as we concentrate more assets in computer systems and networks.

Organized Crime. Only a few, unpatterned computer-related crimes have occurred that involved organized Mafia type criminals. However, there are some clues of their increasing interest. For example, the knowledge that increasing assets are stored in computers where highly technical crime can be relatively undetected and the increasing opportunity for career criminal to gain data processing capabilities through training programs now offered in many major prisons make this a likely new problem area.

Human Losses. Increase use of computers to control processes where human life and well-being are at stake make murder and injury of people through computers a possibility. Computers are used to schedule surface and air traffic, landing and navigation of aircraft, monitoring patients in intensive care wards, and controlling industrial processes and military weapons. These are a few of the applications that are hazards to human life and safety.

Terrorism. A number of computers have been physically attacked and destroyed in the United States in antiterrorist demonstrations. Eleven computer centers have been attacked with automatic weapons, Molotov cocktails, and plastic explosives by terrorists in Italy in the past 18 months. The FBI has been warning of increasing international terrorism in this country and computers can be anticipated as likely targets. Businesses and government must be becoming so dependent on continuous availability of EDP services that a few days can make the difference between survival or total loss and unrecoverability.

Legal Acts. Unauthorized modification, destruction, disclosure, or use of personal or corporate information for criminal purposes will increase as more of this type of information is stored, processed, and disseminated in computer systems and networks. Increasing legislative action is indicative of already anticipated future problems.

Data Communication Tapping. There is only one known but unverified case of wire tapping a data communication circuit.
Problems of State Law

Acts of theft of and damage to computer programs may or may not be a crime in the various states. The laws vary widely and the presence of a crime turns on whether the program is characterized as property within the meaning of the statute. Some states such as California and Texas already have case law interpreting computer programs as such property, the value of which is measured by the value of the program rather than the medium on which it resides. Other states such as Virginia, Maryland, and until the passage of its Computer Crime Act last year, Florida, hold to a common law tangibility test of what constitutes personal property. These laws do not readily encompass computer programs whether or not such programs are stored in a computer. It is important to note here that if the perpetrator who was convicted of wire fraud, a federal crime, for stealing a computer program by use of interstate telephone facilities, had perpetrated his act totally in the state of Maryland so that federal jurisdiction did not attach and the wire fraud statute was inapplicable, he might have been held to have committed no crime.

Similarly, alteration or destruction of computer programs may or may not be sanctioned by state malicious mischief statutes. Particularly troublesome is the law of New York which requires damage to tangible or physical property. Unfortunately, it is quite possible, and it has been done in New York, to obliterate or alter software without injuring the media on which it resides. Unauthorized use of services may or may not be a crime in the several states.

Problems of Federal Law

At the federal level, acts of theft of or damage to computer programs may at present be sanctioned by statutes (18 U.S.C. 411) is broad enough to cover both computer programs and services. Acts of destruction or damage to government property are a crime and the relevant statute (18 U.S.C. 1361) has also been construed broadly and should include injury to software. In addition, the federal crime of wire fraud and mail fraud are existing and useful sanctions for perpetrators of fraud involving the media.

Notably absent, however, are existing sanctions in the federal or state jurisdictions against unauthorized transferance of electrical impulses. Also absent are clear sanctions against unauthorized use of debit cards, or other instru-

 Definitions in the Senate Bill

Efficient effort has been expended for an in-depth analysis of the definitions in the bill. Nevertheless, examples of some problems and the suggested corrections provide an indication of what must be done. The name of the proposed article §1028, Computer Fraud, is incorrect. The bill covers theft, forgery, counterfeiting, and even to the perpetrator who may be unaware of the crime. For example, if the perpetrator who performs the meaning of computer fraud would include a growing number of devices containing micro-processors such as automatic teller machines and other computer devices. At the same time, the definitions would exclude important nonelectronic computers, such as fluidic computers and in the future computers based on the behavior of molecular, atomic, and subatomic particles. In addition, the term “software” should not be used because it is a jargon word that has several different meanings and implies that it represents a different and a different class from another new term, “firmware”. The suggested definitions below preclude the need for these terms. They should not be considered final until suggestions from other technologists have been carefully considered.

(1) “Computer” means an internally-programmed, general-purpose, digital device that automatically processes data. (2) “Computer network” includes, but is not limited to, a set of connected devices including a computer and possibly other devices such as data input and output and storage devices, data communication circuits, and operating system computer programs that make the system capable of performing special-purpose, data processing functions for which it is specified.

(3) “Computer program” means a set of two or more computer programs that automatically transmit data over communication circuits connecting them.

(4) “Computer program” means an ordered set of instructions or statements that when executed by a computer cause the computer to process data.

(5) “Property” includes, but is not limited to, financial instruments, data, computer programs, documentation associated with data and computer systems and programs, all in machine- or human-readable form, and any other tangible or intangible item of value. (6) “Services” includes, but is not limited to, providing a computer system to perform tasks.

(7) Eliminate “software” as a term not needed.

Impact

The impact of this legislation must be considered. If it is to result in appropriate law. One effect from passage of this bill would be to make serious felony crimes of many pervasive practices among computer personnel. It is common practice for programmers, computer operators, and other computer users to make unauthorized use of computers for such activities as game playing, printing Snappy calendars, calculating bowling scores, and maintaining church mailing lists. Under the proposed law, these practices would no longer be ethical issues, winked at or ignored by management, but would result in fines of up to 10 years in prison and $50,000 fine. Moreover, high school and university students are encouraged to attack campus computer systems and attempt to compromise them as an educational exercise; thus, future felons would be in training under this proposed law.

Many computer programmers still believe in the tradition created early in computer history that the author of a computer program has rights that are independent of current and changing technology. Thus, new crimes would result from passage of this bill 

Notably absent, however, are existing sanctions in the federal or state jurisdictions against unauthorized transferance of electrical impulses. Also absent are clear sanctions against unauthorized use of debit cards, or other instru-

Definitions in the Senate Bill

Efficient effort has been expended for an in-depth analysis of the definitions in the bill. Nevertheless, examples of some problems and the suggested corrections provide an indication of what must be done. The name of the proposed article §1028, Computer Fraud, is incorrect. The bill covers theft, forgery, counterfeiting, and even to the perpetrator who may be unaware of the crime. For example, if the perpetrator who performs the meaning of computer fraud would include a growing number of devices containing micro-processors such as automatic teller machines and other computer devices. At the same time, the definitions would exclude important nonelectronic computers, such as fluidic computers and in the future computers based on the behavior of molecular, atomic, and subatomic particles. In addition, the term “software” should not be used because it is a jargon word that has several different meanings and implies that it represents a different and a different class from another new term, “firmware”. The suggested definitions below preclude the need for these terms. They should not be considered final until suggestions from other technologists have been carefully considered.

(1) “Computer” means an internally-programmed, general-purpose, digital device that automatically processes data. (2) “Computer network” includes, but is not limited to, a set of connected devices including a computer and possibly other devices such as data input and output and storage devices, data communication circuits, and operating system computer programs that make the system capable of performing special-purpose, data processing functions for which it is specified.

(3) “Computer program” means a set of two or more computer programs that automatically transmit data over communication circuits connecting them.

(4) “Computer program” means an ordered set of instructions or statements that when executed by a computer cause the computer to process data.

(5) “Property” includes, but is not limited to, financial instruments, data, computer programs, documentation associated with data and computer systems and programs, all in machine- or human-readable form, and any other tangible or intangible item of value. (6) “Services” includes, but is not limited to, providing a computer system to perform tasks.

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ities are authorized and not authorized in their work
and to enforce adherence to thesespecifications.
This will require a period of time
for intensive exposure of the concepts in this
bill in trade literature, professional society
and trade association meetings, discussions, and
debates to swing practice in line with proposed
law. Otherwise, we make potential criminals
of a large minority of otherwise honest and
dedicated computer personnel.

The current penalty provision of 15 years in
prison and $50,000 fine is certainly commensurate
with the seriousness of the crimes of the
Equity Funding perpetrators. But this penalty
would also attach to the maker of an illicit
computer-program, and would subject the
employee who balances his checkbook using
a company computer program and computer
time. It can apply equally to the theft of a ten
dollar pocket calculator as to the theft of a
multi-thousand dollar minicomputer.

Second, certain actions which are covered by
this bill are already a crime under existing
federal legislation. Moreover, the penalties are
considerably less severe than existing civil law.

For example, infringement of a copyright by
unauthorized copying of a copyrighted
computer program or computerized data currently
subjects the perpetrator to a $10,000 fine and,
crime-one year imprisonment under the Copy-
right Act (17 U.S.C. 506). Similarly, the un-
authorized knowing and willful requesting or
obtaining of personal information from a fed-
ERAL agency system of records by false pre-
tenses makes the perpetrator guilty of a mis-
demeanor and subjects him to a $50,000 fine
under the provisions of the Privacy Act of 1974
(5 U.S.C. 552a(1)); it is suggested that these
and other disparities be identified and
resolved.

With respect to further drafting questions, we
are critical of the use of the term “approach” as
used to define “access”. This word is not in
general use with respect to computers
or computer systems and gives no additional
meaning to the term “access” in this context.
More importantly, the present draft should be
limited in applicability by the addition of
words such as “for the purpose of causing in-
jury thereby”. There are occasions at the
present state of rapid development of comput-
ing when a person may make an unauthorized
intentional change to a computer or computer
system with no intent or expectation of harm
resulting, but instead to accomplish a positive
result. These acts should not be crimes.

In another dimension, it must also be real-
ized that this ‘bill, with its current definitions
and the even the proposed definitions, would extend
to unauthorized use of many government-sup-
plied programmable pocket calculators or di-
gital wrist watches and clocks as well as to
giant multimillion dollar computers. It would
be difficult, if not impossible, to produce def-
nitions that would differentiate these devices in
light of rapidly changing technology. Ulti-
ately, a large share of the whole universe of
machines and processes will be encompassed by the
definitions of this bill.

As we understand the purpose of the bill, it
is to encompass an omnibus measure all of
the generally recognized forms of computer
related abuse. For this testimony, we reexamined representative case his-
torics from the computer abuse study file to
ascertain how $1766 would apply to such
cases.

The category of abuses related to oblitera-
tion, alteration or theft of computer programs
stored in machine-readable form or human-
readable form but not “in” a computer does not
apply to the bill. Further-
more, existing state law already
applies. So that a real void may remain unless the bill is
to be changed to include these acts.

The category of abuses related to unautho-
ized disclosure of computerized data or com-
puter programs for other than fraud pur-
poses does not appear to be sanctioned by the
bill. (If the data is personal data, existing
department of privacy or credit reporting laws may apply.)

The statute could not be used to prosecute
when the threat is never
harm to computer facilities when the threat is never
carried out could not be prosecuted under the
proposed law. Similarly, acts of extortion pre-
dicated on threats of misuse of computer sys-
tems that are not consumed are not within
the purview of this bill.

The category of abuse involving computers
where such computer does not exist or was
improperly installed, as for example a data-
bank being sued for failure to use a computer in
the computerized, is not covered by the
bill. The proposed statute only applies when a
scheme to defraud actually uses a computer.

The bill, if it is to be used to prosecute when
the scheme entails the failure to use a
computer.

Civil rights and discrimination cases in
which, for example, a computer program is used
to screen out minorities, do not appear to be covered.

Our review of reported abuses prompts the
query as to how pervasive the coverage of the
bill is intended to be. As the foregoing points
out, certain acts which are acts of acts
computer abuse are not covered by the bill or
existing law, yet some acts covered by the bill are
also sanctioned by existing law and finally
some acts not covered by the bill are covered
elsewhere in the existing law. If the intent is
for “plug loopholes” in existing law, certain
amendments should be considered. If the intent is
to broadly encompassing, certain amend-
ments should be considered.

Finally, it is hoped that interest and progress
in this criminal legislation will not lead too
rapidly to the development of licensing or cer-
tifying of computer systems or the personnel
which work directly with them. Although the ultimate benefits to society are obvious, the
technology, accepted practices, and job require-
ments are too new, undefined, and changing too
rapidly to have enough standards or generally
accepted practices against which to cer-
tify or qualify for licensing. Nonetheless, this
bill will provide significant impetus in acceler-
ing the needed maturing of the computer field
for this to happen.

Summary of Discussion

Discussion topics included recent cases
of computer crime; investigation of computer
crimes; proposed legislation and problems as-
associated with these subjects. Each panelist
made a presentation followed by a brief period
of open discussion.

Robert F. Abbott, President, EDP Audit Con-
trols, Inc., discussed the problem of computer
systems penetrations and offered the following
observations:

- Computers are vulnerable. While work-

ing with Livermore Laboratories, Mr. Ab-
bot investigated and proved methods of
penetrating systems at the Department of
Defense. He never failed to penetrate,
ev- even after technical staff had an oppor-
tunity to increase the system's security to
the maximum of their capabilities.

- An expert can accomplish an undetected
penetration through careful timing. An
unannounced and unaccounted for tem-
ination of services can result in a tem-
eration being masked. Causing a com-
puter to operate at less than full speed
can have serious impact on the timeli-
ness of operations. A penetrator who
uses these techniques can usually go undetected, for it is very difficult to
determine the cause of the termination or slow speed.

- Statutory provisions are currently inade-
quately or not existent for computer-
related crimes. The Ribicoff Bill (S 1766)
is a step in the right direction (if en-
acted), but it does not apply to the
States.

William A. Bayse, Deputy Assistant Director,
Technical Services Division, Federal Bureau of
Investigation, addressed three basic problems
in the area of investigation of computer crimes:

1) Analytical examination of computer
related crimes.
2) Current and possible future computer
crime technology.
3) Legislation and law enforce-
ment aspects.

Mr. Bayse estimated that the FBI has a
statistical data base consisting of 600-700 com-
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puter crime discoveries; they occur when
managers weigh the loss in public image against the loss of dollars, and decide whether or not to engage an investigator.

Mr. Bayse cited a publication by Charlie Lex, "The Waves of Change," which points out that by 1980, over 85 percent of all computer systems will have at least one remote terminal on-line; by 1985 there will be 240,000 computer sites (80,000 more than estimated for 1980); and by 1985 there will be over 650,000 general purpose computers and 8-10 million terminals. Mr. Bayse suggested that some form of matrix will be needed to determine the effects of the future scale of computer technology on the incidence of computer-related crimes.

Mr. Bayse also recommended Lance Hoffman's book on Computer Security. This volume encompasses problems associated with threats in networks, terminals, automated offices, telephone services, and word processing. It also addresses the complexity of investigation and prosecution of computer crimes.

As a closing note, Mr. Bayse said that there is a need for additional investigators at local, State and Federal levels; and a need to resolve the jurisdictional boundaries associated with most computer crime cases. In Mr. Bequai's opinion, the chances of convictions under the Ribicoff legislation: "are small step toward, but a long shot from what is needed. The need for a conference on fraud detection, however. The need for criminal prosecution, and this practice may continue.

2) The definition of a "computer system" is not clear for purposes of criminal prosecution.

3) What will be the impact of computer crime laws, once they are enacted?

Summary of Questions and Answers

Q. Frank Riley: Who gets blamed for a crime when several offices are involved in changing a system to cause losses?

A. Mr. Bequai: If the company is a publicly held company, the courts have taken the position that computer security is a highly specialized field and that the computer manager is responsible if he or she should have been aware of the crime. The law is already clear that it's not whether you actually knew of the crime, but whether you should have known. If you should have known, then you are a negligent manager. However, these cases usually will not go to criminal court.

A. Mr. Abbott: Policies do not usually exist in companies, corporations, and other entities. Statements of awareness should be given to employees. Policies should be established. Procedures need to be written.

A. Mr. Parker: Managers must establish what is authorized and what is not.

Q. Michael Kreuger, UCLA, asked about the role of encryption as a defensive measure.

A. Mr. Parker: Encryption safeguards provide one form of security, but open new vulnerabilities associated with safeguarding the encryption keys.

III. COMPUTER TECHNOLOGY—PANEL B—"THE ROLE OF COMPUTER TECHNOLOGY IN FRAUD DETECTION"

Moderator
Bryan R. Mitchell
Assistant Inspector General
for Health Care and Systems
Review
HEW

Chairperson
Peter S. Browne
President
Computer Resource Controls, Inc.

Panelists

Robert H. Courtney
IBM Corporation

Joseph L. Boyd
Assistant Director
Financial and General Management
Studies Division
U.S. General Accounting Office

Jerry Hammett
Deputy Director
Ohio Department of
Administrative Services

REMARKS

Peter S. Browne, President, Computer Resource Controls, Inc.

BACKGROUND

We live in an era of dynamic technical, economic, and social change. A dominant factor in causing the change has been computer technology. Through the power of this technology we have put men on the moon, we can transfer monetary funds instantaneously, we are playing exciting new video games, automating the supermarket, and are building even more elaborate and effective social programs.

The benefits of this change do not come without costs, however. The need for a conference on fraud, waste and abuse serves as a grim reminder of these costs. Computer and communications technology has provided an environment of complex systems, operated with insufficient personnel and management resources, and with little concern for controls. In such an environment, fraud and embezzlement flourish. There are numerous, well-publicized cases where the computer has been used as a tool for committing or covering up a fraud. In addition, such an environment is conducive to waste and mismanagement. As a result, computer security and EDP auditing are now very current and important subjects.

On the other hand, commercial and governmental organizations are just beginning to use the power of the computer as a positive tool on the never-ending battle against white-collar crime. Also, the audit profession and security professionals are now becoming interested and knowledgeable in computer system controls.

There are two areas of focus for consideration.
The first question to answer is how is the computer actually used? For years, the audit profession has been looking at files, records, changes, controls and security in and around an ADP environment. Some of the results have been spectacular; some of the failures equally horrifying. The investigative use of computers has been growing quietly. It is quite common to see computer applications like HEW’s Project Match, or some of the state welfare or medical service computerized searches for fraud. In the case where crimes are committed through the manipulation of computer systems, usually the only clues are found through reviewing the audit data provided by the system accounting data. This has been invaluable in conducting investigations.

The second question is what can computer technology do for the auditor, investigator or program manager. It is important to know both the capabilities and limitations of this (somewhat) new tool. That computer analysis of transactions, data records and output is rarely seen, is a factor of education and management, not of technology. However, the technologists have not given as much help in this area as they could. This subject will be explored in more detail in this paper.

THE ROLE OF COMPUTER TECHNOLOGY

Current Practices

The situation is late 1978 in regard to the use of computers for detecting fraud can be best described as immature adolescence. For a number of years, many large companies and agencies have indeed implemented an EDP audit function. Judging by the volume of current trade literature, the function is not always well supported or well stocked with people deeply knowledgeable in computer technology. A recent study conducted for the Institute of Internal Auditors1 pointed out numerous deficiencies in the state of the art. A comprehensive survey revealed many organizations are not adequately auditing in the EDP environment and that few current EDP audit tools and techniques are adequate. Some twenty-eight of these techniques were described in detail; many of them relate to second generation, batch processing concepts totally irrelevant in a situation where computer systems are linked via communications, data is distributed to small computers or intelligent terminals, and data is shared among many diverse users.

A more recent survey by EDIACS2 has resulted in a deeper insight into actual practices. Most commercial organizations use generalized audit programs (software) to check the validity and relationships between data; most government auditors do not. Public accountants do not generally use an integrated test facility or special purpose audit software. Even though this survey shows increased use of audit practices in a computer environment, it is the experience of the author that such practices are too often inconsistently implemented and usually insufficient. Some searches have been reported of the use of computers in detecting fraud by social service recipients. A computerized search for fraud and errors by New York City medical practitioners revealed over $31 million in overbillings. A computer audit of Adverse Los Angeles officials to a single welfare fraud of $89,000. HEW’s Project Match related computerized files of District of Columbia employees with the Aid to Families with Dependent Children data base. Fifteen persons were indicted. But even among those organizations and agencies that are aware of the risks and that have a program to deal with fraud and waste, experience has shown that implementation generally suffers because of insufficient attention or application of resources.

- Recent Office of Management and Budget and General Accounting Office surveys have shown that ADP auditing is insufficient in most federal agencies.
- Any study that evaluates ADP security or management controls can find numerous discrepancies in procedures, physical security, organizational responsibilities and technical controls.
- Resources are spent emotionally or incompletely. GAO was able to bypass a $500,000 physical security system by removing hinges in a door.

Technology

In order to use the computer as an audit tool, three things have to be done. Data and information must be collected, analyzed and then utilized as a detection tool.

In terms of collection, the greater the amount of information, the better. Suffice to say, all transactions in which personal or financial records are added, changed or deleted must have a complete log record written. This means that:
- Date and time;
- Transaction type;
- Nature of changes/additions/deletions; and
- Who was responsible for the change

need to be collected and retained in a tamper-proof file. The critical issue becomes who will review this data.

In terms of today’s computer systems, audit data is available from a number of sources, to include:
- Computer system accounting records provided by the manufacturer.
- System accounting records provided by the communications processor, transaction processor or data base management system.
- Accounting records provided by the individual computer application.
- Audit records designed specifically for logging audit, access and control information.
- Control records designed for data integrity and backup purposes.

Data can be analyzed either manually or by automatic means. Whichever, the analysis must take into account the volume, frequency and amount of non-relevant or spurious (for audit use) material. Normative guidelines must be established for each review in order that “red herrings” or false violations be minimized. In addition, statistical data can be generated from the analysis in order to provide increasingly valid normative guidelines. The following diagram shows this process.

The more traditional audit tools can be used to detect variances between input records and output, as well as to verify transactions. Generalized or specifically written software can be applied on an application basis, linked to determine variances, unusual transactions, suspended items and other anomalies. Comparison of data records from two or more sources, as used in Project Match, is another valid technique.

Even a good analysis will not be useful or cost-effective unless it can be used to detect fraud and deal with the very real problem of too much data and not enough people to look at it. One way to help is by collecting all the relevant data in one place, and separating it from the normal accounting records. This is especially true when the “footprints” are in many places within a single or distributed set of computer systems. The second approach is to develop a unique, case-by-case abnormality pattern analysis to allow the author to deal with exception information only, rather than wade through a mass of detailed, uninspiring records, usually in an incomprehensible format. A third approach is to allow the detection capability to be very selective—to only look at a small population of transactions or individuals, or to review only selective times, places or amounts.

REQUIREMENTS

Given the need and the existence of adequate tools for auditing computer activities or using the computer to audit other activities, what needs to be done? How can the promise of reducing waste and fraud be translated into concrete action? Is it even technically feasible? The answers to these questions require organizational commitment, big-stick funds and technical understanding. Agencies cannot expect to institute these important control mechanisms without changing their approach to managing complex systems.

There are two main thrusts of action. One deals with the technology of detection and the other its management.

Technical Requirements

Manufacturers and system designers need to make audit and detection tools available, usable and cost-effective. With the wealth of data available in the contemporary computer’s billing or accounting system, it would seem quite easy to utilize this data for more than charge-back to
system users. However, very few systems of this nature are used by the auditor. Part of the reason is due to the fact that collecting and logging data requires considerable system overhead. Another reason is that many designers and users have not appreciated what good audit data can mean to them in terms of management.

Therefore, systems designers must understand the technical requirements and provide mechanisms to:

- Log the right data, to include detailed records of data change or access to system resources.
- Put the data in a convenient place, so that it may be used by more than one person or for purposes of review and control.
- Protect the audit data from tampering, so that malicious or playful internal personnel cannot easily "turn off" the log, destroy the data or change it to camouflage intent.
- Instrument applications systems to detect anomalies in events, transactions, data or processes.
- Provide mechanisms to instrument systems on a selective basis or be able to turn the audit trails on or off. Thus, samples may be taken, or 100% auditing allowed.

All of these technical needs can be satisfied in the design phase of any system. The problems occur when, poorly designed systems are to be retrofitted.

Management Requirements

The second set of problems relates to the need for administration and education. Given the availability of technical tools and skilled people to use them, there are some needs still to be met. Too often Agencies do not have people who understand the security, privacy, data integrity and management problems in dealing with computer systems. Thus, the problem is one of education. A short course in computer science is insufficient to brief managers on-system complexity and possible loop-holes. Thus, there is a crucial need to provide highly skilled, technically trained personnel in positions where they can work closely with auditors, security personnel and users of ADP services. These technicians would then be able to advise on audit trails, on needed controls, and can then use the computer as an investigative device.

The second management problem is lack of awareness, leading to application of insufficient control resources. It must be recognized that to properly audit takes time and painstaking attention to detail. In nearly every case, the payoff can be very high, but resources must be committed first. A few more examples of large savings in program costs through the application of computer-assisted detection or a computer system control audit will certainly help this problem of awareness.

The third management issue is how to allocate resources for management control purposes. All such efforts must consider the trade-offs of cost, potential savings and levels of risk. Thus, there is a need to explicitly consider risks. One tool for doing this is a formal risk analysis of computer applications, where the loss potentials are clearly analyzed and the propensity for damage determined.

Conclusion

This paper has presented an overall view of some major considerations in detection of fraud and waste. It has focused on ADP technology as well as management, and has attempted to look at the following questions:

- What are the problems?
- How has the computer been used for detection?
- How can it be used?
- How can the problem be managed?

In short, we have defined an overall strategy or approach. What is needed now is a concerted effort by federal, state and local government agencies to come to terms with the issues, and the need to organize resources to deal with the very real problems of complexity and inconsistent control.

Summary of Discussion

Moderator Bryan Mitchell, Assistant HEW Inspector General for Health Care and Systems Review, introduced the session panelists and noted that the technology and tools are quickly becoming available to detect and deter computer fraud. Analyses of transactions and data base usage are not only feasible, but being usefully performed in many installations. He observed that the panelists would describe a few of these successes.

Mr. Mitchell concluded by stating that the tools are available and that the key is for installing more extensive controls on the machines upon which we are so dependent.

Mr. Boyd also described a technical assistance group in GAO which is actively involved in evaluating agency usage of computers, including controls, security, and reliability. He remarked that the skills needed for computer auditing cannot be purchased, but must be developed.

At GAO, the needed computer audit expertise was developed by:

- Identifying in-house personnel with financial investigation background.
- Training them in computer and reliability assessment.
- Having them work while learning.

The GAO Task Force on Fraud will concentrate on two areas: controls and prevention. An examination will be made of the adequacy of management controls. In addition, the Task Force will assess and followup on auditor's reports. Little consideration will be given to fraud investigation and prosecution per se. The Task Force will be working closely with the newly established Executive Branch Inspector General offices.

Robert H. Courtney, IBM Corporation, noted that losses due to fraud and abuse are tiny compared to those due to errors and omissions (dishonesty will never be a match for ignorance). This fact must be recognized before security safeguards can be taken. It is usually not possible to justify the cost of safeguards against fraud and abuse alone; detection of errors and omissions must also be considered.

In Mr. Courtney's view, detection and prevention of computer crime are almost synonymous. Well-publicized detection is the best prevention, since people have a great fear of being caught. Punishment is not a great deterrent.

Mr. Courney urged that computer security safeguards not be installed unless their cost is justified. Consideration of the amount of potential loss and the probability of such loss are vital in the justification. Too many security safeguards are taken intuitively (locks, guards) and for the sake of appearance. In some instances, a $100 problem may be of greater significance than a $10 million problem because of its frequency.

In this connection, Mr. Courtney described the case of a bank which lost millions from an unauthorized transaction sent by telecommunications lines. The bank lost additional money and time investigating what it thought to be a wiretap problem. It was finally discovered that a key operator had entered the transaction because her fiancée had asked her to send a coded message to a friend on his birthday. The key operator had been working an extra shift to receive a note that her fiancée had sent and given a promise of marriage for the sole purpose of having her make an
Mr. Courtney concluded his remarks by noting that raw computer output can only be useful for fraud detection if it is drastically summarized and analyzed. As an example, he cited an incident which occurred on IBM's internal administrative system which has 22,000 users. Users are scrupulously identified and are held accountable for their transactions. Analysis of a summary of terminal transactions disclosed a mere 12 percent above-average rate by one employee. An ensuing investigation of this apparently innocuous situation uncovered a fraudulent scheme, and resulted in prosecution, conviction, and imposition of a prison term on the perpetrator.

In summary, the message emerging from this panel was that the technology is available to extract the data needed to detect and prevent fraud. It is time that systems were designed so that we can mine the gold that is available in the database.

III. COMPUTER TECHNOLOGY—PANEL C—
"THE ROLE OF COMPUTER TECHNOLOGY IN FRAUD PREVENTION"

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Chairperson
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REMARKS
Clark Weissman, Deputy Manager and Chief Technologist, Research and Development Division, System Development Corporation

Introduction
It is the thesis of this paper that "computer technology is the mechanism for security policy enforcement." We live in a technologically complex society which is vulnerable to abuse. One of the major technologies; advances of this society is the digital computer; thus, the computer becomes both an object of and a tool for fraud. However, the computer also represents the best mechanism for its own protection. The challenge to employing this protection is to find a balance among the three interdependent computer security issues: (1) security policy to be obeyed by the computer system (2) computer enforcement mechanisms of hardware, software, facilities and procedures, and (3) assurance and confidence that the enforcement mechanisms are correctly and exclusively obeying the chosen policy.

1.1 Computer Systems are Flawed, Complex Clockwork Mechanisms
Clumsy and ignorant use of computer technology may encourage fraud. Today we find an
increasingly educated technical population capable of exploiting weaknesses and imperfections in computer systems. The small size of the criminal element among this technical population can increase their payoff by the leverage that the computer affords for fraud. This threat obtains through their ever increasing payoffs by the lever that the system. Such systems are the end product of the architecture of such systems gives omnipotent authority for good or evil to the computer's operating system and data management software; principal components are derived system-wide. The implementation of the system, not just at the last operational stage. This is paramount, since attacks against the enforcement mechanisms are the most serious methods for frauds against computer systems, and the institutions they serve.

2.2 Security Requirements for Data Transmission

The best data transmission security can be obtained with encryption technology, such as the National Bureau of Standards Data Encryption Standard. In planning for future systems, a message-based transmission system appears optimal. Such a system would segregate traffic-control and test fields in each message. Encryption of selected data fields, or even the total message is possible. Error and tampering-detection protocols are required to uncover accidental or intentional message modification. Although link encryption (i.e., encryption of text flowing between two specifically connected points) is a simple and well understood requirement, it has weaknesses; for example, clear text is exposure at the communications nodes. End-to-end encryption, a newer technique, is a requirement offering a considerably higher degree of protection, and for large networks, at competitive overall cost compared to link encryption. Encryption is only as secure as the safety with which the encryption keys are managed. Frequent key changing is an important security requirement. However, manual key changing is both expensive and subject to abuse. Automated encryption key management is the preferred security requirement.

2.3 Security Requirement for Data Storage and Retrieval

The data management software (e.g., the management information system) is the principal vehicle for data storage and retrieval. As with all aspects of the management system, the security system is dependent for its security on the operating system software. However, the data management system can provide additional security as extensions and refinements to that offered by the operating system. The data management system can provide finer data granularity, possibly to the item level, over that available to the operating system. The data management system must provide data security labeling of all sensitive data under its control. Access control and access logging can be provided by both the...
operating system and the data management system. They must coordinate with one another. Lastly, the data management system should satisfy requirements for "reasonableness" enforcement; that is, the data management system can perform checks on the semantic legality of data, on threshold limits, and on the frequency or timeliness of information. Such checks are powerful countermeasures to fraud and a quality control measure for error and accident detection.

2.4 Security Requirements for Data Processing and Control

The security policy must segregate data according to "sensitivity." A requirement for the data processing element, is access control to that sensitive data. A corollary requirement is that mixing data of multiple sensitivities must be performed by a trusted system. In the absence of such a trusted system, the computer must be dedicated in its use to a single type of sensitive data. The computer should never be used concurrently for program development and operations. Current technology for trusted systems depends on an access and audit control mechanism (ACM). The ACM must also provide protection for itself if high degrees of trust are to be expected.

A requirement exists for a data base of security information necessary for the operating system and data management systems to function correctly. This data base would contain user identities, passwords, access authorizations, etc., and a requirement exists for a data management system to handle the security data base. An information system security officer (ISSO) is required as the interface between the off-line procedural controls and the on-line ACM controls. Lastly, there must exist a variety of applications level security countermeasures to support the system-level security protocols for user authentication and message protection, as described above.

2.5 Security Requirements for Facility and Operations

A fundamental security requirement is a physical perimeter to protect all computer and communications equipment. Requirements must exist for trusted personnel and procedures to support the computer operation. Foremost among these requirements is the need for, and job description of, the ISSO. The ISSO is responsible for the creation, update, and management of the security data base.

Requirements for hardware and software configuration control ensures responsibility for changes in the physical hardware configuration of computer and communications equipments, and for all software and data base modifications. Finally, there needs to exist a review procedure of all transaction audit logs, structured by security object. The "owner" of the object is responsible for reviewing those logs.

3. Computer Security Enforcement System

Computer security policy is enforced by the total information system, which is composed of the hardware, operating system, network, data base management and application software, user, and facilities. Vulnerabilities in each of these system elements have been demonstrated in current systems. The foremost class of vulnerabilities are those which enable users to make unauthorized modifications to the enforcement mechanisms. Such corruption of the enforcement control mechanisms can then be employed to subvert sensitive application's data. Modern computer technology has derived information system architectures which improve our confidence that the system can protect itself. Assurance that the information system countermeasures are trustworthy obtains from both the system architecture and the implementation methods for realizing that architecture. We will dwell in this section on an overview of architectural sound approaches for security enforcement mechanisms. Security assurance of the implementation will be discussed in the next section.

Figure 2 presents an overview of current research and development approaches to secure enforcement mechanisms for Department of Defense (DoD) applications. These mechanisms are broadly categorized into one of two classes: dedicating a computer to a given level of sensitive information, or sharing a machine concurrently among users with data of mixed sensitivities. The shared machine approach has been called the "multi-level" security approach. Characteristics for each of these architectural enforcement alternatives is briefly described below.

3.1 Periods Processing

Periods processing is the term used for processing a given type of sensitive information on a computer, exclusively, for a limited period of time. All other applications and data uses are prohibited during that given time period. Processing of other sensitive data requires a shutdown of the computer, and a careful sanitization of all memory and printer devices. This transition is called a "color change." It is labor intensive, slow (in order of 30 to 60 minutes) to effect, breaks operational continuity, and often underutilizes computer resources, since the machine cannot be shared. However, it is current practice, offers little security or technical risk, and has no run-time overhead.

3.2 Automated Periods Processing

The objective of this solution is to reduce the manual efforts and attendant time lost in color change between processing of data of different sensitivities. Two approaches have been designed for effecting this automatic switch over; the Job Stream Separator (JSS) and the Crypto Switch. Both schemes involve the use of an auxiliary mini computer to effect and control the color change operation. The auxiliary computer is a shared mechanism between the two time periods and, hence, requires considerable trustworthiness. It is a simpler mechanism than the larger computer it controls and is within the technological state of the art. DoD development of these approaches is currently in progress.

3.3 Secure Distributed Processing

The architectural strategy is to use a computer network to tie together a collection of computers, each of which is dedicated to the processing of a different level of sensitive data. Users could then view the network as a multi-level or mixed-data sensitive "supra-computer." Access control functions within the network restrict users to only those dedicated computers to which they have authorized access rights. The fundamental technology to make secure distributed processing possible is that of End-to-End Encryption (i.e., EP). End-to-end encryption guarantees that message text remains enciphered regardless of the communications path from.
systems. Furthermore, from user terminal to recipient; e.g., from user terminal to dedicated computer resources, and for authentication of users and computer hosts. Various trusted devices and processors are needed to make secure distributed processing a reality. These devices include smart encryption boxes, secure terminal handlers, and network front ends. This technology is moving very rapidly and various devices are already in being.

3.4 Secure Subsystems

Given an untrusted operating system, this approach employs the use of a trusted transaction data management system (i.e., TDMS) in concert with facility and procedural constraints which limit the population of users to the TDMS. This solution combines trusted software and trusted procedures, and is an expedient until development of completely trusted operating systems is more widely available. Secure systems development for the Department of Defense in limited transaction applications is currently under development.

3.5 Security Kernel Based Operating Systems

Vulnerabilities have been demonstrated to exist in current operating systems. Furthermore, flaw-by-flaw repair of such systems have also been demonstrated to be untrustworthy because, introducing the repair often creates additional flaws, and because repair does not affect yet undetected flaws. The best architectural strategy for future secure operating systems is based on a security kernel. The security kernel enforces the security policy on every subject access to a security object. The kernel is always invoked, self-protection, and a trusted mechanism. The bulk of the operating system, that is, the non-kernel software, need not be trusted, making the attainment of a kernel-based operating system well within the state of the art. By next year, at least three different kernel-based operating systems on commercially available equipment, will be existent. These include the MULTICS systems on the Honeywell 6190, KVM on the IBM 370, and KSOS on the DEC 11/70.

3.6 Capability Based Security

More advanced security architectures will be based on computers different than those now existent. Such hardware will support software hierarchy and capability "tags" on all computer objects, distinguishing their permissible uses. Burroughs computers and those of the Plessey Corporation typify such structures. The Department of Defense Provable Secure Operating System, i.e., PSOS, is a design that will explore the use of capability machines for secure, trusted, multi-level security enforcement.

4. Security Accreditation

Selection among the options for employing protection or enforcement mechanisms increases with the lead time before the solution must be deployed for secure operation. As noted earlier, information systems have a life cycle, from conception, requirements definition, development, and operation, that can span more than five years. A security plan that reaches forward five years can improve the trustworthiness of the countermeasure solutions by increasing the number of options from which the solution is chosen.

Words like "trustworthiness," "certification," "accreditation," must be given substance. In Department of Defense applications, certification is a technical process that examines risks, expected losses that might obtain from a given set of threats, and the effectiveness of the enforcement mechanism to counter those threats. The security policy defines which threats are relevant for the given environment. These technical assessments generate a set of "evidence" documents which may include risk assessment tradeoffs, security architectures, program debugging and testing, and formal proofs of correctness.

Accreditation is a management judgment that the evidence is credible, and sufficient to support the contention, that the enforcement mechanism counters the known threats. The mechanism is then deemed trustworthy and approved to operate in the specified manner. Accreditation involves technology for generating credible evidence, and the adequacy of the technical measures employed. It also involves establishing policy regarding acceptable levels of risk. In non-DoD government activities, such as those of HEW, a most serious weakness exists in the absence of sound, technical security policy. For example, no grading system exists for identifying differences in data sensitivity or types of confidentiality of information. By contrast, the Department of Defense classification system is the bulwark of all trustworthy security enforcement mechanisms.

Figure 3 shows that technical confidence increases with improved methods for generating technical evidence. Today's existing systems essentially employ good practice in system construction. New designs are now employing improved security testing and penetrations analysis. Designs are in progress for future systems utilizing more formal methods of specification and proof by formal verification.

![Figure 3: System Accreditation: Confidence that Security Policy is Acceptably Enforced](image)

![Figure 4: System Life Cycle Opportunities](image)
5. Caveat Emptor

Without a market a product will never be realized. If users do not demand good security, they must live with what they get! The key problem is articulating what you want to the technical community. In Figures 4 and 5, we show opportunities for the buyer to demand security at different phases in the system life cycle. The generic life cycle phases are concept development, requirements definition, system request for purchase (RFP), system development, system initial operating capability (IOC), and enhancement. The opportunities available to the procurement agency begin in the early concept phases to perform the risk and threat analysis, move through serious requirements for security, employ competent enforcement architectures, and utilize development techniques which permit the generation of good certification evidence.

Caveat Emptor: "Let the buyer beware." The benefit of our democratic, competitive society is that the users get the systems they deserve!

Summary of Discussion

L. David Taylor, HEW Deputy Assistant Secretary for Management Analysis and Systems, briefly introduced the subject, referred to some of the discussion during the overview panel session and provided a resume of the panelists' backgrounds. He emphasized that it is particularly important to incorporate fraud controls at the systems design stage in order to prevent many costly corrections at a later stage. Mr. Taylor referred to Dr. Ruth Davis' challenge to HEW to go a more demanding customer for computer reliability and security by establishing criteria and standards for acceptance.

The Panel's Chairperson, Clark Weissman, Deputy Manager and Chief Technologist, Research and Development Division, System Development Corporation, limited his remarks to a reference to his earlier talk during the overview panel session. He noted that his presentation was made available as part of the report of these meetings (See P. 151).

Dr. Dennis K. Branstad, Institute for Computer Sciences and Technology, National Bureau of Standards, noted that there are many euphemisms used to avoid calling people poor; instead, they are referred to as "economically deprived" or "economically disadvantaged." There is a similar tendency to call fraud by other names. Dr. Branstad stated that "computer fraud" is a bad term. People commit fraud, not computers. There should be a strong commitment to fight fraud, since fraud controls must be used to be effective. There are tools available today to prevent and detect fraud, but they need to be used.

Daniel B. Magraw, Assistant Commissioner, Bureau of Management, Minnesota Department of Administration, urged HEW to take a stronger role in the design of State welfare computer systems by imposing computer security standards on the States. In Mr. Magraw's view, it is unconscionable for the Federal Government to continue to permit the States' control over this vital area.

Mr. Magraw also noted that systems users must solve their own security problems because it is the users who are at risk, and not computer personnel. Users must ask for readily available techniques, not for "blue sky" technology which is still under development. He suggested that users insist on answers to the following questions:

1) Is there a layman's description of what the computer does and does not do to preserve security?
2) Is there visible proof that security features perform as claimed—are they doing what they should?
3) Is there a follow-up system to insure that information about fraud, abuse, errors or omissions is acted upon—when something is found, is appropriate follow-up action taken?
4) Is there a security manual and are the procedures being followed? Do audits verify this fact?
5) Is there a security budget, and is it used for this purpose?

John T. Panagacos, Research Consultant with the Equitable Life Assurance Society of the United States, observed that impediments to absolute computer security must be recognized. These impediments include legal and social issues that bear on privacy and the right of individuals to due process of law. Mr. Panagacos re-counted that his attempts to establish absolute computer security for his company ended in the preparation of a policy statement on individual legal and social rights, including very important customer rights.

Mr. Panagacos then stressed the importance of establishing priorities in the building of systems. In government, in particular, there are often constraints resulting from the passage of legislation without adequate time or funds for effective implementation, i.e., the Supplemental Security Income Program. He pointed out that when these constraints develop, security and systems documentation are frequently ignored.

Mr. Panagacos concluded his remarks by observing that good fraud controls exist, through current technology, which could be 90 percent effective.

Summary of Questions, Answers, and Comments

Q. With the time/money constraints, what can be done to get the job done?
A. Dr. Branstad: President Carter has stated a commitment to eliminating fraud and abuse. Now there is hope that Federal managers will allow enough time to incorporate better design and audit tools into the systems and will not allow programs to become operational until they are ready. Technology has improved so that programming and other aspects of system development can be speeded up, but it is important that implementation be delayed until adequate testing has been done, and the system is verified and certified as being secure. We cannot afford to have fraud, abuse, errors and omissions because of premature implementation.

A. Mr. Taylor: Most HEW systems security requirements are not costly. When security requires money, usually a high risk is involved. It still costs more to go back and fix an existing system than to include the proper tools in the first place.

A. Mr. Weissman: Systems have a life of roughly six years. It is cost-effective to build security features in the system in the first phase of the six years, and not wait until the end of the system's life. Good design anticipates the problems while incomplete design leaves the system with gaps which make it vulnerable to fraud.

Q. How do fraud and abuse controls apply to errors and omissions?
A. Mr. Weissman: There is a key principle that good systems design attempts to explore all problems in advance. A well-made, well-designed system is responsive to all types of errors, including dumb input. A secure system is efficient and cost-effective, because testing and implementation goes better. There is also a containment of errors—mistakes do not propagate additional errors.
A. Dr. Branstad: Checks for reasonability should be built into systems, and are excellent tools to prevent errors such as paying for seven hysterectomies for one woman. The necessary checks are simple to build into an application program.

Q. Is prevention less susceptible to social/legal issues than detection? (Asked by Mr. Weissman of Mr. Panagacos.)

A. Dr. Branstad: One is before the fact, and the other is after the fact. By using systems standards and properly designing the system, we hope to prevent fraud, abuse, or error. If tools are available for either prevention or detection, they should be used. It is difficult to separate prevention from detection.

A. Mr. Weissman: With reference to detection versus prevention, we may have to rethink what fraud means in terms of timing. Some of the techniques for detecting fraud that have been around for a long time, e.g., double entry bookkeeping, auditing techniques, etc., are directed at long-time or slowly occurring frauds. We now have to think of fraud prevention in terms of transactions happening in microseconds. New approaches are needed.

Closing Comment: Mr. Taylor thanked the panelists and summarized the session by restating the recurring themes mentioned during the discussion. He noted that it is clear that technology now exists substantially to prevent fraud, abuse, and error. It is particularly important to incorporate system security features at the design stage. We have the tools, but need to go beyond talking about them and get started using them.

A. Mr. Panagacos: Although some security breaches are hidden, bonding companies do provide fraud statistics. My own company vigorously prosecutes anyone committing fraud.

Q. Duplicates were mentioned as a problem in using Social Security Numbers as a universal identifier. Is there a more useful identifier?

A. Mr. Panagacos: A Federal Commission on Privacy recommended against the use of universal identifiers. The Social Security Number may be duplicative, or some persons may not have a number. Social Security Numbers were considered to lack the controls necessary for an accurate universal identifier.

Q. Are detection or prevention controls better?

A. Dr. Branstad: One is before the fact, and the other is after the fact. By using systems standards and properly designing the system, we hope to prevent fraud, abuse, or error. If tools are available for either prevention or detection, they should be used. It is difficult to separate prevention from detection.

A. Mr. Weissman: With reference to detection versus prevention, we may have to rethink what fraud means in terms of timing. Some of the techniques for detecting fraud that have been around for a long time, e.g., double entry bookkeeping, auditing techniques, etc., are directed at long-time or slowly occurring frauds. We now have to think of fraud prevention in terms of transactions happening in microseconds. New approaches are needed.

Summary of Discussion

E. T. Rhodes, Deputy Assistant Secretary for Grants and Procurement, HEW, and the Workshop Moderator, opened the session by emphasizing the magnitude and seriousness of fraud, abuse, and error.

- The HEW Inspector General identified $6.5 to $6.5 billion lost through fraud, abuse, and error in his 1977 report.
- These losses involve Federal student loan defaulters, Federal employees who improperly receive welfare benefits, and physicians and pharmacists who file improper bills.
- Fraud and abuse account for only 1/6 of the funds lost; the bulk of the losses result from waste and error.

Mr. Rhodes stated that a number of actions have been taken to correct these deficiencies. He stressed the need to be tough in taking corrective action, so that resources to meet unmet needs can be conserved and so that public support for programs which serve poor, disadvantaged, vulnerable, and often powerless citizens, can be maintained.
Mr. Rhodes observed that the Congress could help deal forcefully with many of these issues, and pointed out that much of the waste is "legislated waste." In this connection, he noted that legislation is needed to tighten programs and provide needed resources to manage, audit, and investigate them. Mr. Rhodes stated that about $4 billion in waste could be eliminated in Fiscal Year 1981, if Congress took appropriate action.

Mr. Rhodes concluded his remarks by stating that the Workshop would focus on the elimination of fraud, abuse and waste in contract and grant programs, and that the panel members would provide Federal, University, State, and local perspectives. However, the discussion would include the Model Procurement Code which could be used as a basis for upgrading State and local procurement processes.

Lester A. Fettig, Administrator for Federal Procurement Policy, OMB, Executive Office of the President, noted that the establishment of the Office of Federal Procurement Policy in 1974, symbolized the beginning of a trend toward greater concern with efficient management of Federal programs. The Federal Government expends about $90 billion dollars annually through contracts; and of $130 billion in Federal assistance grants awarded yearly, about $40 billion is used by States, localities, and other institutions to contract for various goods and services.

Mr. Fettig stated that the basic problem in reforming Federal contracting procedures involves the reconstruction of an antiquated system: the basic Federal procurement laws are up to 30 years old, and fostered the development of rigid, narrow, and highly detailed design specifications in place of efficient, useful or necessary specifications. Mr. Fettig noted that, as a result of the Military Meat Procurement investigation, detailed, rigid specifications were converted to standards commonly used by restaurants and other commercial purchasers. Use of commercial standards resulted in the substitution of equipment by six new companies, including large commercial meat processors. As a consequence of increased competition, the cost of meat procurement declined by 6 percent.

Mr. Fettig then described several major Federal procurement activities which are currently under way:

- Review of procurement specifications and requirements. Since specifications and requirements are major determinants of competition, a review has been undertaken with the goal of substituting functional or performance specifications in place of rigid, detailed design requirements. Mr. Fettig noted that there are cases, however, in which detailed design requirements are necessary and appropriate. He also noted that advantage can be taken of functional or performance specifications if they are not carefully written.

- Overt stimulation of competition. Agreements for sole source contract awards will be more difficult to obtain. Mr. Fettig noted that, although the Federal government does have, a need for some exotic goods, which makes a good case for sole source awards, nevertheless there is considerable opportunity for stimulating increased competition through use of formal Requests for Proposals and sealed bids, and through competitive negotiation.

- Emphasis on cost competition between Federal "honesty" and contractor performance. Mr. Fettig cited this activity as stimulating another form of competition. Competitive pressure from potential outside vendors can result in increased "inestible" and cost savings.

- Streamlining of the regulatory environment. Mr. Fettig noted that various Federal Departments, Agencies, and Major Bureaus currently have 51 separate sets of procurement regulations—totaling about 60,000 pages! Many of these regulations are merely duplicative or interpretive of those issued at a higher level. The current regulations will be replaced with Federal Acquisition Regulation—basic regulations which may be supplemented with special instructions, where needed. Unnecessary layers of such instructions will be eliminated.

- Establishment of an overall Federal Supply System. Currently there are 45,000 separate Federal specifications for various items which have been issued by different Departments and Agencies (including 5 different specifications for Band-Aids). In addition, there are duplicative purchasing, stocking, and distributing processes and facilities. The goal is to eliminate and consolidate duplicative purchasing, stocking and distributing operations and facilities, where possible.

- Emphasis on Penalties; Suspensions and Debarments. Increased emphasis will be placed on clear and strict standards of performance, and the imposition of severe penalties where such standards are not met. Mr. Fettig noted that too often in the past a gentle "wrist slapping" was the only sanction used, and that confusing standards and general mitigating circumstances were used to suspend penalties such as suspension or debarment.

- Enhanced Professionalism and Recognition of the Federal Procurement Workforce. The Federal Acquisition Institute is providing additional training and career development courses for procurement officials.

- Procurement Under Grants. The possibility of "de-Federalizing" procurements by Federal grantees will be investigated. Standards will be developed for the evaluation and certification of improved indigenous procurement systems, rather than imposing detailed Federal standards and requirements on grantees.

Mr. Fettig concluded his presentation by reiterating the President's goal of assuring competent and efficient, and noted the importance of improved Federal management in regaining public confidence in Federal programs.

Charles Miller, HEW Deputy Assistant Secretary for Health Operations, described the Department's role in performance management through grants and contracts. He noted that Secretary Califano had selected grants and contracts administration as a major management matter requiring his personal attention.

In May, 1977, the Secretary announced an initiative designed to correct the following deficiencies:

- Failure to schedule grant and procurement awards (60 percent of awards were made in the last Quarter of Fiscal Year 1977; more than 40 percent were in June—the last two months of the fiscal year) in this failure had significantly undermined good grant contract practices in that there was insufficient time for adequate competition, and grant and contracting offices were severely overloaded.

- Failure to limit non-competitive procurement. In FY 1977, more than 60 percent of DHEW contracts were non-competitive.

- Failure to assure proper monitoring of granting and contracting activities.

- Favoritism, conflicts of interest, and other types of subjectivity in the award of grants and contracts.

- Inadequate price and cost analysis.

Mr. Miller then described the Department's Major Initiatives Tracking System (MITS), which measures operating progress of programs and management practices. The MITS is being used to track the progress of the grants and contracts initiatives. In addition, an attempt is being made to relate the Department's employee performance evaluation program to achievements under MITS.

The grants and contracts initiative includes additional training for appropriate staff. A three-year certification program is being undertaken—all grants and contracts officials will be formally certified. In addition, training for key program managers is being held to review the impact of the initiative.
Managers have also been initiated.

Problems thus far include:

- In Fiscal Year 1978, fourth quarter grant and contract awards decreased from 65 percent to 39 percent.
- There has been only a one percent increase in competitive contracts—from 48 percent to 49 percent. Mr. Miller noted, however, that a rule designates specific recipients of funds. Moreover, in some programs, the universe is so small that competition is very difficult (e.g., the Indian Health Service, which is restricted to dealing only with tribes on particular reservations). Considerable attention is being given to ways of stimulating further increases in competitive contracts.
- The targets for training and certifying personnel are on schedule.
- As to subjectivity in contract and grant awards, Mr. Miller noted that a pilot project is being developed which will involve certification of the absence of conflicts of interest by grant and contract personnel and awardees.

Mr. Houston then described what he termed a "crisis of credibility" between the Federal Government and the university community. Elements of this crisis include:

- The lack of a well-articulated and accepted concept of postsecondary education.
- Lack of understanding of the college environment by the Federal Government. The "products" of colleges and universities are not susceptible to precise cost accounting systems. Mr. Houston compared the "products" of an industrial concern with those of universities:
  - While in industry, the timekeeping function is a centralized, full-time job, at a college it is not.
  - Output measurement is relatively easy in industry; in universities it is very difficult—the outcome may not be known for generations.
- While industry can easily standardize to achieve economy and remain competitive, standardization in the university community interferes with academic freedom.

Mr. Houston noted that higher education institutions are conscious of waste, and have a strong interest in financial integrity. Very few institutions are totally reimbursed for their costs; hence, the university is also hurt by falsification of records.

- Lack of understanding of the Locus of Control. Mr. Houston suggested that if rules and regulations are to be successful, academic administrators must understand, endorse, and enforce them. In the higher education community, grant reliance must be placed on the intellectual integrity of faculty members.
- National preoccupation with scandal. Congressional Committee reports critical of the accounting profession; the GAO study of the quality of DHEW audits; and the "horror stories" within GSA, were cited by Mr. Houston as examples of a preoccupation with scandal in the private and public sectors. He suggested that we shouldn't lose sight of the accomplishments of institutions.

Mr. Houston then discussed several points related to auditing versus control:

- Universities are not in an adversary position with the Federal Government on the subject of audit and control. Both want projects completed successfully at reasonable cost. The University must see that the principal investigator does the research contracted or granted for, that he or she keep records; and that necessary reports are filed on a timely and accurate basis. The Government must be responsive and keep the University informed.
- College and University accounting systems have improved in recent years, and these improvements have required major outlays of institution funds for computers, etc.
- The cost of accountability must be compared with the benefits. University priorities will alter research and academic activities, and not strict accounting. In Mr. Houston's view, the solution to current problems does not lie with more auditors or accountants (he noted that at Georgetown, audits have been performed by 6 separate entities); rather, what is needed is improvement in existing auditing or regulations changing the responsibility for audits.

Mr. Houston recommended that direct cost audits and indirect cost audit responsibility be shifted to the independent auditor of each institution. He cited the National Direct Student Loan Program, the College Work Program, and an experiment involving Coopers & Lybrand and the University of Pennsylvania as examples.

Such an approach is recommended because it involves a true systems audit; independent auditors are more comprehensive; since independent auditors perform systems audits in connection with the institution's financial statement audit, minimal added cost to the institution is involved; and, such audits would be performed on an annual basis as opposed to the sporadic audits now performed by HEW.

- Another problem is presented by "grey areas" which are not questioned during an initial audit, but are questioned by a subsequent audit. When several years elapse between direct cost audits, the potential for disallowances increases significantly, especially in these "grey areas." Since Government resources will not permit an "all-at-once" audit, Government and universities should make full disclosure when irregularities are discovered or are developing. There must be mutual trust between Federal program officials and university administrators. Mr. Houston noted that sometimes universities fail in their efforts to enforce Federal regulations because those efforts are undercut by Federal officials.

- Mr. Houston also recommended that universities prosecute fraud to the fullest. He suggested that this approach will serve as a significant deterrent.
- Complexities in auditing requirements often result from the need to apply differing sets of regulations where a project is supported by several Federal funding sources.

Mr. Houston concluded by stating his view that the occurrence of fraud in higher education institutions is infrequent and rare; abuse is more frequent but occasional; and error is more frequent than abuse. In his opinion, most errors are honest or unintentional, and result from changes in Federal attitudes. Mr. Houston urged that identification of individual instances of fraud, abuse, and error not result in the indictment of entire institutions.

Dr. John Reiss, Assistant Commissioner of the New Jersey Department of Health, discussed the role of program incentives in preventing fraud, abuse, and error. He noted that a basic concern should be whether fraud and error lead to greater government expenditures than would otherwise be the case: "If we are really concerned about the effects of fraud, abuse, and error on the Government budget, we must be concerned about the status of health care and the proper role of enforcement bureaucracies to deal with the problems the system has generated.

Program criteria, and standards for eligibility, payments, and review can make fraud, abuse, or error more or less easy. The scope of these problems is potentially enormous; it ranges from appropriate eligibility definitions, through identification of appropriate service providers; it ranges from payment to individuals to payment to providers, including institutions, and the administration of programs by all levels of Government. Opportunities for fraud, abuse, or error exist at all of these points.

If the definition of "eligibility" encourages misrepresentation of financial status, it is an in-
centive for fraud. The method of making payment for services may also encourage fraud by enabling providers to maximize payments through various devices. Abuse can be encouraged by not establishing appropriate limitations on services. Error can be reduced by properly designed administrative systems.

Dr. Reiss noted that while controls and enforcement of some kind are necessary (e.g., Medicaid Management Information Systems), such need can be reduced by designing appropriate system incentives.

As an example, Dr. Reiss described long-term care industry problems which resulted from reimbursement of facility cost on an actual historic cost basis. "Historic cost" is defined as the last purchase price, made capital manipulation very profitable. Dr. Reiss noted that changing the basis of reimbursement to current appraised value helped resolve the problem.

While Federal regulations insist that historic cost or appraised values, whichever is lower, be used as the basis for reimbursement, if the continued existence of nursing homes is to be encouraged, it must recognize the "opportunity cost" of the facility. Appraised value is likely to be closer to the "opportunity cost" than is the historic cost of facilities which are still held by the original owner at the initial purchase price.

Dr. Reiss stated that cost reimbursement systems are more likely to be the subject of abuse than systems which pay for appropriate resource use in the treatment of an admission or a case. Payment rate reimbursement encourages use of more services and more days. A system which pays for resources necessary for the care of specific patients is more likely to lead to appropriate, new programs which must recognize the "opportunity cost" of the facility. Appraised value is likely to be closer to the "opportunity cost" than is the historic cost of facilities which are still held by the original owner at the initial purchase price.

Dr. Reiss also suggested that a system which allows providers to share in cost savings is more likely to stimulate productivity increases than are the penalties inherent in actual cost reimbursement.

Dr. Reiss described some additional examples of inappropriate incentives in Section 184.604 of the proposed Hill Burton regulations (on provision of uncompensated services) which had recently been issued by the Public Health Service.

Dr. Reiss concluded by citing two major issues which require public discussion:

1. What is an appropriate allocation of total resources to the health care delivery system? Unless we have an idea how much we want to spend, it is very difficult to determine the proportion of these expenditures which should be spent on cost-effective controls on fraud, abuse and errors.

2. Should controls be oriented toward punitive, as past reviews; or, to the creation of positive incentives for appropriate behavior? In Dr. Reiss' view, systems will be much more effective if they encourage rather than penalize; penalties should be a measure of last resort, not the primary tools.

Dr. Reiss urged that current system incentives be reviewed, and that changes be made in those which lead to inappropriate behavior.

Daniel Paul, Baltimore City Auditor, described some of the cases of fraud found by his office, and also discussed some problem areas in grant administration.

The first problem Mr. Paul identified pertained to attempts to increase competition in hiring consultants in situations where individual consultants have already been hired at the Federal level as sole source providers of services.

Mr. Paul noted that consulting firms which have sole source Federal contracts are frequently unwilling to compete for contracts at any level.

Another problem arises in the interpretation of grant regulations as to budgets, documentation and reporting. Many local grant administration officials do not have proper background in accounting, etc., to be able to interpret regulations correctly. Mr. Paul suggested that concise summaries of grant requirements be prepared in a general circular form.

Yet another problem is presented by regulations which permit an excessive time period for the completion of reports (e.g., Title I allows up to 18 months for completion of accounting reports). Such excessive periods result in procrastination in the preparation of reports and leave inadequate time for a proper audit. Mr. Paul suggested that 120 days would be a more practical time period for reporting and auditing reports. He noted, however, that exceptions could be granted where special circumstances warrant.

Grants require audits, yet grant budgets frequently do not include adequate amounts to cover the cost of a proper audit. Mr. Paul urged that adequate funds be included in the grant budget or by the granting agency.

Mr. Paul then described the organization and functions of the Baltimore City Auditor's Office, and discussed a new prequalification procedure for contractors and subcontractors who wish to bid on city contracts. The essence of the procedure involves annual proof of qualification for work to be performed before a contractor is permitted to submit a bid. Mr. Paul cited an example of abuse which led to the development of the prequalification procedure:

- A contract for a recreation area included a subcontract for a fence. The fence was found to be substandard; there had been improper substitution of materials; the fence mesh was of improper size, etc.

Mr. Paul concluded with some examples of his office's findings in education and health programs:

- An audit of food services at the city hospitals revealed the quantity of food purchased exceeded the amount which could have been consumed by patients and staff. Further investigation resulted in the apprehension and conviction of the Director of Food Services, who had been ordering excess food and selling it to a fencing company.

- A social services certification officer for the city hospitals obtained a book of receipts. He gave receipts to patients in return for cash, certifying to the hospital that the patients were unable to pay, and pocketed the cash. The individual was arrested. Mr. Paul urged that strict controls be maintained over receipts.

- An audit of hospital blood donor program found that a hospital employee was being paid out of blood collection funds for blood which had never been collected. An investigation revealed that the grant administrator had paid the employee as a donor, in order to compensate her for extra work effort.

- A hospital cost accounting supervisor was found to be preparing petty cash reimbursement slips and submitting phony receipts in order to obtain payment for non-existent purchases. The supervisor also forged the signature of an authorizing official. Mr. Paul urged careful scrutiny of petty cash reimbursements.

- An audit of handicapped children's program found a $69,000 overcharge by a cab company which had contracted to provide transportation. A restitution action resulted in recovery of about $55,000 from the company and termination of the contract.

Mr. Paul concluded by recommending that effective internal controls and a capable audit organization can contribute much to the prevention and detection of losses through fraud, abuse, and errors.

Willa Holding, Jr., Former State Purchasing Director for the State of North Carolina, discussed procurement under Federal systems. He noted that there is an apparent lack of familiarity on the part of Federal agencies with the laws and methods of State and local buying.

He asserted that, for the most part, State and local purchasing is characterized by openness, fairness, impartiality, competence, and accountability. It is important to note, however, that all of these elements can be in place without conformity to some basic standards of quality and accuracy.

Mr. Holding expressed concern with Mr. Fettig's suggestion regarding certification of State and local procurement systems, and recommended that State and local entities be maintained as laboratories for the development of new and innovative ideas and the testing of such ideas with minimum risk. Disparity, rather than conformity, should be encouraged.

The value of a variety of approaches has been demonstrated by the number of innovations that have arisen in State and local purchasing over the past twenty years. Three significant examination of State and local purchasing have been made since 1970. The report revealed that the general health of State and local purchasing is good, although there is some unevenness.

Mr. Holding noted that it is important to distinguish between purchasing and procurement: purchasing concerns buying, while procurement encompasses acquisition, warehousing and distribution, transfer, disposition, and possibly utilization. Mr. Holding then described the genesis of the Model State and Local Procurement Code and discussed how the code would further strengthen State and local purchasing.

Among the probable salutary effects of the Model Code, Mr. Holding cited the following:

- Reducing undue political or other outside influence on purchasing decisions;
- Placing responsibility for procurement policies and procedures in one place;
- Defining the fundamentals to be employed in the competitive process;
- Specifying extensive documentation;
- Requiring cost and price analyses, where appropriate;
- Guarding against conflict of interest;
- Providing mechanisms for resolving vendor protests and contractor disputes; and,
- Encouraging surveillance against price-
Mr. Holding noted that more general benefits will derive from the attention the Model Code will bring to the importance of the procurement function and from the focus on correct principles which will be required of legislative, executive, and administrative leaders.

Another ongoing program for strengthening State and local purchasing consists of a nationwide series of training seminars being conducted by the National Institute of Governmental Purchasing. These seminars are not only enhancing skills, they are also leading to formal testing and certification of competence.

Mr. Holding asserted that the Model Code, if adopted, will add assurances that procurements under Federal grants are resulting in effective and efficient use of funds. He described problem areas which currently plague procurements under Federal grants:

- Grantor imposed procedures and reporting requirements which range from impractical to impossible.
- Grant procurement provisions are couched in Federal terms and based on Federal concepts, but State and local purchasing can be more imaginative, innovative, and productive than the Federal system. In this connection, although most Federal purchases are not made under sealed, competitive bidding, this method is the rule and a legal requirement for State and local purchases.
- Failure of Federal grantee to coordinate procurement provisions with the Office of Federal Procurement Policy makes it difficult for State and local purchasing officers to ascertain the correct requirements.

Mr. Holding concluded his remarks by asserting that public funds should be treated alike, once they are in the Treasury. Such funds should receive the same care and stewardship, regardless of source. The Model Code, and the regulations to be developed thereunder, will include safeguards against fraud, and reduce chances for abuse and error. They will help assure the integrity of purchasing procedures and decision making, thereby fostering the proper utilization of Federal grant funds.
Mr. Thompson noted that private corporations are not necessarily better managed than are public agencies, in his view the management systems in most public agencies are antiquated. Where profit-making organizations are able to measure success by dollar profit, nonprofit organizations cannot. Therefore, nonprofit organizations have to work much harder to demonstrate success. Dr. Anthony outlined three technical points which characterize good management systems: 1) they are expense based, enabling good cost/benefit analyses; 2) accounting and budgetary processes are tied together; and 3) they have good output measures, which serve as a substitute for profit in nonprofit or public organizations. The management-by-objective (MBO) approach must be used to educate program planners and operators. Professor Anthony noted that the implementation and success of systems improvements depends, above all, on the active support of top management in the organization. Without such support, no systems changes, no matter how innovative, will be effective.

John F. Briggs, Consultant to the Economic Development Council of New York City and the New York City Mayor's Office of Management, discussed the role of management controls in administering health care systems. He urged that systems be viewed as tools which assist the manager in completing tasks. Mr. Briggs defined management as the art of motivating someone else to do what you want done. The problem is knowing what you want done, and setting goals and performance objectives. He cited the Health and Hospital Corporation of New York City as a case study, and stressed that the objective of management controls needs to be improved management and not the reduction of costs. In connection with reducing fraud and abuse, Mr. Briggs recommended looking at new techniques and ideas, and cautioned that technologically based systems could become the biggest barrier to improved management due to reluctance to lose money invested in them. He concluded his remarks by stating that management needs to have leeway to experiment and perform; where it doesn't perform it should be replaced.

Alvin M. Thacker, Jr., Former Director of the West Virginia Welfare Department's Office of Administrative Review, discussed how States can use data generated by federally required reporting systems (i.e., Quality Control System) to reduce fraud, abuse, and waste in the programs they administer. Referring to Dr. Anthony's comment on the need for a management-by-objectives approach, Mr. Thacker noted that in public agencies the system tended to break down after progress was measured against performance indicators. To eliminate errors, the causes of error must be determined and goals must be set which recognize the constraints of the system. Appropriate corrective action has to be undertaken. Based on his review of Quality Control (QC) data, Mr. Thacker considers it illegitimate to place all blame for fraud, abuse, and error on the client. In actuality, he stated, "less than one-half the errors resulted from willful misrepresentation by the client."

In conclusion, Mr. Thacker stressed the need to standardize and simplify Federal requirements of the diverse "welfare" programs. Those federal changes would, in addition to facilitating the efficient management of programs, also increase the utility of quality control data in reducing fraud, abuse, and waste in the welfare system.

Barbara Wamsley, Director, Office of Program Integrity, HEW/OMAS, described the Department's utilization of the management-by-objectives approach to track performance outcomes and the reduction of fraud, abuse, and errors in programs. Specifically, she outlined the Management Initiatives Tracking System (MITS) and the new fraud, abuse, and waste tracking system (FAW) within the Office of Management Analysis and Systems. Examples of initiatives within each system were provided, in addition to a description of the processes involved. Ms. Wamsley reiterated Dr. Anthony's observation that top management support was an essential precondition of effective organizational change. Ms. Wamsley noted that Secretary Califano has given his full support to both the MITS and FAW initiatives, and these initiatives have been extremely successful in accomplishing their missions. Ms. Wamsley remarked, however, that the success of HEW's use of management control systems results, in part, from the fact that these systems are flexible and selective, stressing only those issues or areas of major concern to the Secretary.

With regard to the FAW system, Ms. Wamsley acknowledged that the potential had yet to be realized. Ultimate achievement of the $1.1 billion savings goal, through the reduction of fraud, abuse, and waste, will depend upon the cooperation and assistance of States and localities. Ms. Wamsley ended her remarks by requesting and urging that assistance.

Mr. Bohen closed the session by reiterating the need for accountability in public programs. Organizational deficiencies require new ideas and a more effective use of management control systems. Yet, he cautioned, no system is a substitute for the commitment of top-level leadership and the recruitment of good, competent staff.
V. WORKSHOP—"THE ROLE OF MANAGEMENT SYSTEMS IN CONTROLLING FRAUD, ABUSE, AND ERROR"

Panel B
Leader
David St. John
Assistant Deputy Under Secretary for Intergovernmental Affairs
HEW

Panelists
David Pingree
Assistant Secretary for Administrative Services
Florida Department of Health and Rehabilitative Services

Peter Wynn
Deputy Commissioner for Administration
New York State Department of Social Services

Alvin M. Thacker, Jr.
Former Director
Office of Administrative Review
West Virginia Department of Welfare

Staff Reporter
Harry A. Hadd
Office of the Assistant Secretary for Management and Budget
HEW

Summary of Discussion

David St. John, Assistant Deputy Under Secretary for Intergovernmental Affairs, HEW, opened the second panel discussion of the workshop. He introduced two panelists who briefly described management organizations/systems used in their states to control fraud, abuse and error.

David Pingree, Assistant Secretary for Administrative Services, Florida State Department of Health and Rehabilitative Services, outlined how Florida had developed appropriate plans to eliminate problem areas. Through close coordination among the three components, aided by active interest from the Secretary of the Department, this approach to handling fraud and abuse has worked well in Florida.

Peter Wynn, Deputy Commissioner for Administration, New York Department of Social Services, briefly described his Department's seamless efforts to implement a Medicaid management information system in New York City. He also discussed the merits of front-end edit checks versus back-end audits. He noted that his unit's emphasis on back-end audits was probably wrong. However, he observed that it is easier to obtain authorization to hire 60 investigators, accountants, etc., for audit quality control for a Medicaid fraud and abuse audit, than it is to obtain authorization to hire 10 persons to properly train income maintenance intake workers and thereby reduce incorrect payments at the front end. Mr. Wynn noted that the reporting of large-dollar savings through back-end audits tends to highlight these activities to the detriment of front-end efforts.

Summary of Questions, Answers, and Comments

Comment: Philip Laven, HCFA, Office of Integrity, endorsed the need for more emphasis on edit checks and other payment activities. He also said that organizations should not concentrate solely on the dollars recovered but should attempt to find out why money was paid out incorrectly in the first place.

Q. Dr. Karameti, Nassau County, asked Mr. Wynn whether New York City was disqualifying providers who provided poor care, noting that in Nassau County much of the recoupment effort revolved around the question of quality of care.

A. Mr. Wynn replied that New York City was not adequately addressing this problem and had no coherent, careful program to monitor the quality of care. He added that currently the City was disqualifying providers only in the most blatant cases.

Q. Dr. Hayes stated that in Virginia, PSROs were monitoring quality of care. He then asked Mr. Wynn to describe his fraud unit's relationship to New York's Office of Special Counsel.

A. Mr. Wynn said that his organization was working closely with the Special Prosecutor. His department concentrated on detection and investigation, and when prosecution appeared appropriate, cases were turned over to the Special Prosecutor. He noted that, prior to the Special Prosecutor, his unit turned cases over to local county prosecutors, and these prosecutors did not always aggressively follow-up on cases. He felt that the advantage of a

Special Prosecutor was that this Office is an available resource ready to prosecute cases.

Comment: Marvin Renglin, Counsel for Nassau County, explained that his fraud unit and Special Prosecutor use a joint team concept. Both units pool their resources (e.g., computers, personnel) and work together in processing cases from the initial detection through prosecution.

In comments on front-end versus back-end activities, Mr. Renglin said that, philosophically, the front end made a good deal of sense but was doomed to failure. He noted that computer edits were effective but if the process held up the payment of claims for too long a period of time, political pressure would force by-passing the edits. He also noted that when institutional providers were operating on the edge of bankruptcy, agencies had to concentrate on reducing the number of days required to process claims and this limited the effectiveness of front-end edit activities.

Mr. Pingree said his department had had to periodically shut off its edits to get payments to providers and noted that this was one reason why back-end audits were necessary.

Q. Jim Parham, HEW Deputy Assistant Secretary for Human Development Services, inquired if Florida's umbrella organization had led to improved management of social service programs, increased productivity, and better identification of actual costs.

A. Mr. Pingree replied that the Department had moved away from front-end edits to concentrate on reducing paper work and the bulk of procrastination. He added that Florida had developed a single fee structure and an unduplicated count of clients served by the Department's social service programs, and that these advances had proved beneficial.

Q. Dr. Karameti raised a problem of clients entering Medicaid through the Medicare program.

A. Mr. Parham pointed out that the Health Care Financing Administration (HCFA) was formed to bring these two programs...
closer together, and he suggested that Dr. Karameti contact HCFA's Administrator, Leonard D. Schaeffer, and outline the problem in greater detail.

VI. ACCESS TO INFORMATION WORKSHOP

Chairperson
Alan F. Westin
Professor of Law
Columbia University

Panelists
Richard Neustadt
Assistant Director
Domestic Policy Staff
The White House

Charles F. C. Ruff
Associate Deputy Attorney General
U.S. Department of Justice

Trudy Hayden
Director of Public Information
Office of the Deputy Mayor for Criminal Justice
New York City
(Former Director—American Civil Liberties Union Privacy Project)

Staff Reporter
Susan Callahan
Attorney—Advisor
Inspector General Division
OGC/HEW

Summary of Discussion
Dr. Alan F. Westin, Professor of Law, Columbia University, and Chairperson of the Panel, opened the discussion by summarizing the characteristics of individual record information systems. He stated that the two key characteristics of these information systems are that they reveal sensitive personal aspects about individuals, and that there is an expectation by persons whose records are contained in the system that the data collector has a fiduciary duty to protect that information. People will not give accurate information about themselves if they believe that this fiduciary duty will be breached; he termed this phenomenon as “an information strike.” In our technological age, there is a tendency to try to collect a wide range of information about an individual. This information gives a picture of a “whole person.” Dr. Westin noted that some argue that an information system containing information on a “whole person” assists government agencies in treating problems of individuals. However, the definition of personal privacy is that individuals select what they reveal to others; the “whole person” concept is antithetical to this. Rather, the “whole person” concept is, in essence, the basis for an authoritarian society. Dr. Westin concluded by cautioning that the courts should not be relied upon to resist demands for use of information beyond the purposes for which the information was collected.

Charles F. C. Ruff, Associate Deputy U. S. Attorney General, stated that current analysis of the issue of government access to individual records should be focused on creating a rational process for decision-making. It is difficult to define the precise boundary of a person’s right to privacy, and the Fourth Amendment provides only the vaguest guidance on this issue. In Mr. Ruff’s view, the traditional perception of the right to privacy is flexible. He indicated that the Right to Financial Privacy Act of 1978 may be a model for other areas where decisions are
needed concerning the relationship between individual rights and the needs of government access to records of individuals. He noted that a balance must be struck between these two interests. In reaching this balance, each side should try to avoid attributing evil motives to the opposite side. The rhetoric which has characterized debate on this issue should also be avoided.

Trudy Hayden, Director of Public Information, Office of the New York City Deputy Mayor for Criminal Justice, stated that it may already be too late to discuss individual privacy issues in the traditional manner. While the discussion so far has been based on the assumption that record systems have definable hour "vires, the advent of computer matching and scanning has caused record systems to lose their traditional boundaries. Using computer techniques, information can be obtained without identifying the name of the persons whose records are being sought. This type of computer search is invisible to those whose records are involved. Ms Hayden foresees a time when this technique will abolish the traditional boundary between government record systems and private record systems. Although she did not offer any alternatives for accomplishing the results obtained from computer matching, Ms Hayden noted that this computer technique will eventually be used in every aspect of our life, particularly when electronic fund transfers become operational. She urged that legislators be more aware of this potential for invasion of privacy when they draft legislation. Finally, Ms Hayden indicated that the draconian aspects of computer matching and scanning techniques might be reduced if government programs are simplified, thereby reducing the need for extensive files of information on individuals.

Richard Neustadt, Assistant Director of the White House Domestic Policy Staff, observed that people are becoming increasingly apprehensive about the power of recorded data. He also noted that, as a general rule, people are not willing to cripple law enforcement. However, on this issue we can "have our cake and eat it too," by three means: (1) formalizing the process of access to government information files; (2) requiring use of formal legal process to obtain access to these files; and (3) where possible, giving the individual the right to challenge access by a third party. Mr. Neustadt remarked that while, for cost reasons, it might not be possible to institute these procedures for all record systems, the procedures can be implemented for the most important government record systems. He cited the Right to Financial Privacy Act of 1978 and the OMB Proposed Guidelines on Computer Matching Programs, as exemplifying the procedures he believes can be established to protect the rights of individuals without crippling the interests of law enforcement.

Summary of Discussion

Panelists represented a spectrum of opinion on reconciling the conflict between the press's and the public's right to know about information held by government on the one hand, and government's inclination to protect information about investigations and the privacy rights of individuals involved.

Timothy H. Ingram, Staff Director of the Subcommittee on Government Information and Individual Rights, cited the conflict between press interest and the need to protect investigative files which often contain the names of informants, unverified allegations, and sometimes false speculation. He noted that while the press often checks the accuracy of "leaked" information with agency officials, there seems to be an assumption that "officially" released investigative information is accurate. Hence, additional verification of such information is seldom requested.

Mr. Ingram concluded that government should do more to assure the accuracy of individual's records before releasing them to the public. He noted that it might be time for Congressional examination of the accuracy of agency records and that the Subcommittee on Government Information and Individual Rights planned to study the impact of Exemption 7, that provision of the Freedom of Information Act which deals with investigatory records compiled for law enforcement purposes. Finally, he commented that there are no Federal guidelines on release of arrest records, an area in which agencies exercise great discretion.

Ronald Pleassor, former General Counsel for the Privacy Protection Study Commission, and currently practicing law in Washington, provided another point of view in citing the Freedom of Information Act as the primary tool for instilling public confidence in government and in guarding against secret government activities. He noted that citizens are better prepared to make decisions about their own lives if government is open. The hard questions, he felt, involve determining which levels of government and related agencies...
are covered by the Freedom of Information Act; which materials should be disclosed; and when to exercise the exemptions to disclosing information. Mr. Pleiser cited a recent court decision, which permitted a newspaper access to FBI logs on a criminal figure, as evidence that public interest in disclosure of information can be more important than an individual's privacy interest. He noted that the courts have led the way in increased disclosure under the Freedom of Information Act.

Earl J. Silbert, U.S. Attorney for the District of Columbia, raised another issue which results from increasing reliance on the criminal justice process to resolve allegations of fraud and abuse of public trust. Conflicts with public and press interest in disclosure of information can be more than insurmountable. For example, the news media has uncovered examples of official lying, such as Watergate and COINTELPRO. He suggested that prosecutors assist the press to get accurate information to the public. He also noted that compliance with the Freedom of Information Act varies among government agencies, and many roadblocks such as time delays, travel to copy material, etc., are presented to reporters. Mr. Nelson noted that President Carter, in an interview, had stated that the news media ought to do more to detect fraud and abuse in government, and that the attitude in government should be that those with information will come forward.

In closing the session, Eileen Shanahan, HEW Assistant Secretary for Public Affairs and Chairperson of the Panel, advised government officials at all levels to consider, in advance of a press query, how to deal with questions at any stage of an investigation, in order to respond to the public's right to know.

**LUNCHEON SESSION—THURSDAY, DECEMBER 14**

**Introduction of Secretary Califano**


Several members of the head table submitted a petition yesterday asking the planning committee, headed by Dan Meltzer, to yield us 90 seconds to thank Secretary Califano for this Conference. I think I speak for most of you, if not all of you, in this room when I say that the past day and a half have indeed been a remarkable experience. Never in my memory have so many significant officials, including the very top of our Federal Government, and officials from the States, come together to talk about a subject which is too often considered mundane, namely better management. The interest which you have shown here today is, first, a tribute to the importance of this subject to the public interest (i.e., greater economy and efficiency), and to the interest of our clients (i.e., greater effectiveness). It also is a tribute to the remarkable leadership of Secretary Califano.

To introduce Mr. Califano to this audience would be an empty gesture. You know his background as well as I—his great experience in the Defense Department, then as President Johnson's architect of the Great Society, then as an eminently successful lawyer. But those events do not explain why he has been able to gather about him at HEW so many superb people, such as those you have met here in the past two days, the leaders of HEW. The reason is Mr. Califano's determination and ability to truly manage HEW programs. You may recall that shortly after he came into office, he said, "I'd like to demonstrate to the American people that HEW can be managed. The importance of that is to show that we can make investments in social services and social programs for the most vulnerable in society in an efficient way." And he's made believers of all of us!

So it's with great pleasure that I introduce to you the leader whom we all admire and want to work harder for, Secretary Califano.

**REMARKS**

Honorable Joseph A. Califano, Jr., Secretary of Health, Education, and Welfare

With this luncheon, we reach the end of this Conference. We have, in these two days, taxed not only your intellects—but your ears, your patience and your capacity to sit for long periods. Accordingly, I intend to be brief.

But I do think it is fitting that we have a summing up: that we assess, in Abraham Lincoln's words, "how far we have come and whither we are tending."

What have we achieved in these two days? Four things I hope.

First, I hope this Conference has succeeded in underscoring the progress we are making nationwide—often dramatic progress—in overcoming fraud, abuse and error.

Many states and localities have done well in the welfare field; to take one example:

- San Francisco County, by vigorously tightening up the management of its welfare program, reduced overpayment and ineligible-payment error rates from 29 percent in early 1970 to 1.5 percent in early 1977.

- Kent County, Michigan slashed welfare-payment errors to 1.6 percent, less than one-fifth the national average—largely by making it easier for workers and clients to find the right answers to frequently-asked questions about various programs.

- West Virginia, in the past few years, has pioneered in improving AFDC error rates—and has cut its error rates by more than half, from 19.5 percent in late 1976 to 4.9 percent in late 1977.

Many other states and localities have taken equally impressive steps, in AFDC and other programs. Their successful efforts have been the models for several efforts at the Federal level:

- Project MATCH, for example, HEW's computer-matching program to monitor improper welfare payments has been an impressive success. As of mid-November, we had turned over to the states more than 18,000 cases for investigation. More than 3,300 individuals have already been
found ineligible or overpaid. Project MATCH, which has cost the Federal government only $1 million, will yield $12 million in direct savings to the states and Washington, plus additional savings in the Food Stamp and Medicaid programs.

- Project INTEGRITY, the computerized search for dishonest Medicaid doctors and drugstores, has yielded $2 million in convictions, and nearly $3 million in claims for restitution of Government funds, plus other savings.

- Since we began reforming the government's systems, we have dramatically increased the number of defaults who have begun or completed repayment; the repayment rate for the final quarter of fiscal 1978 was 6 times the rate for the same quarter in 1977. Collections are now running at an annual rate of $25 million—up from $20 million only a month ago. And the backlog of defaulted loans in going down, not up, for the first time in history.

- All told, through these and other efforts in the past two years—reducing error rates, increasing competitive procurements, simplifying paperwork, improving the productivity of people and programs—we have achieved savings conservatively estimated at half a billion dollars.

Last February, we launched a new system for validating information submitted by students seeking Basic Educational Opportunity Grants. This program awards grants for college expenses to students from low and middle-income families; a student's eligibility, and the size of his grant, depend upon his family's income and a variety of related data. This is one of our largest education programs—it spends over $2 billion dollars, and handles 4 million applications, each year. But for years, there was no effective screening system to ensure that these massive sums were being spent only for eligible students.

Today I can announce a major achievement in our effort to reform that system. Preliminary results from the new system we put in place 10 months ago—are, in my judgment, astounding. They suggest that 600,000 applicants, as of now, were rejected, while many others were approved only for smaller grants. These applicants have until March to prove that they are entitled to participate in the program, or to obtain larger grants. But our best estimates suggest that this new system will reduce costs by $300 to $500 million in this school year. This is a staggering saving—and a saving in addition to the 600 million dollars we have already saved by other management improvements.

Such achievements as these have significance far deeper than the numbers game of dollars saved or indications handed down. They mean that we are freeing resources to help the truly needy. They mean that investments in better management pay off handsomely. Above all, they mean that government—local, State and Federal government—can aim for high quality and achieve it; that government can work. The real dividends are increased human wellbeing and restored public trust in some very worthwhile programs.

But we cannot rest on our laurels—not even half a billion dollars' worth.

So my second hope as I contemplate the contributions of this Conference is that it will prove to be a breeding-ground for new initiatives, new techniques, new programs across the nation to sharpen management and guard integrity.

When we were planning this Conference, I admonished my staff at HEW to listen, not just talk. They tell me they have done that; I hope so. For I remember Mr. Justice Brandeis' observation, years ago, that one glory of the American Federal system is that it provides a multitude of laboratories for social and political innovation. We in Washington have become increasingly modest about our ability to impose solutions from above; and we are becoming more willing to accept programs that originate in the states and cities and counties.

One initiative announced at this Conference is an effort to streamline and simplify application procedures, which the President discussed yesterday. This initiative is a direct response to complaints and suggestions that have come to us from citizens and officials at the State and local levels.

In one city, an average case file contains 700 application documents. If you need public assistance, you may fill out 60 separate forms.

This situation truly adds insult to injury—and we intend to improve things: for your sake, for our sake, and for the sake of needy people. Our goal is to devise, if we can, uniform standards of eligibility for programs of public assistance.

Very briefly today—as we prepare to go home from the breathing-ground—I want to announce several other new efforts. They are Federal initiatives—but each responds to ideas we have gathered from State and local officials, from clients and service providers. Each should interest you—and each promises to save the American taxpayer many millions of dollars:

- The Social Security Administration is launching an important new management initiative, dealing with a large but little-known Federal program—benefits paid by the Social Security system to students who are children of dead or disabled Social Security beneficiaries. Though this provision of the Social Security law is not well-known, it is hardly insignificant: at present, $1.6 billion a year to more than 900,000 young people. In order to qualify, these young people must be enrolled as full-time students. But because reporting and monitoring systems have been seriously inadequate, the system has been unable to verify whether students who continue to receive benefits are still in school full-time.

We are therefore creating a new system designed to provide accurate, up-to-date information on enrollment status—and to ensure that only students who qualify for benefits receive them.

The potential savings from this initiative, once the system is fully operational, could reach $100 million or more.

This system also highlights the opportunity for improved management through joint efforts by different programs. The Social Security Administration will rely on enrollment information provided by the Office of Education, which collects this information, to check that students are enrolled. I intend to look for more and more of these kinds of joint ventures, and I hope you will do the same.

- A major problem in the administration of the AFDC program has been that states and localities lack vital information they need to make proper eligibility determinations. There is no systematic way, for example, for the city of New York to learn whether a welfare client is also obtaining benefits in Newark, New Jersey, or in lower Connecticut. Moreover, states and localities often lack accurate information to verify how much actual income a welfare recipient receives, and from what sources.

To meet these needs, I can announce today that by next September, we will have laid the foundations for a new National Recipient System. Under this new system, States will supply HEW with identifying information on every AFDC recipient; HEW will use this information to determine whether a recipient is receiving payments in more than one jurisdiction. We will also give basic identifying information, such as date of birth or social security number, to Federal agencies so that they can tell the states whether a recipient is obtaining Federal benefits.

This system will not create a comprehensive computer file that collects voluminous data on every welfare recipient. It will operate very differently, with built-in safeguards to protect the right of privacy. But the system will work.

We expect it, once it is fully operational, to eliminate millions of dollars of erroneous welfare payments.

- I can also announce today a new program to help banks and educational institutions collect from student loan recipients before these students default on their loans. Under this new "Pre-Claims Assistance Service," which we tested in San Francisco last summer, the Office of Education will help locate "lost" borrowers whose notes are 60 days or past due; the Office of Education will then send these "lost" borrowers a notice warning that unless they contact their bank or college and begin repaying the loan, Federal collection efforts may follow. After another 30 days, we will send a second, more forceful warning. There too, we have designed the system to safeguard individual privacy.

This experiment had impressive results in San Francisco. We believe that when operating nationwide, it can have major impact on reducing student default rates.

Third, I hope we have managed to put the problem of fraud, abuse and error in proper perspective.

This is highly important, and there are several points that need to be emphasized for the American people if they are to understand this issue:

- As the President pointed out yesterday the political system: it is "legislated waste"—waste created by the failure or refusal of Congress or State legislatures to pass laws we are urging them to pass. If Congress, for example, had passed the President's Hospital Cost Containment legislation this year, the nation could save between fiscal 1979 and 1981, $19 billion in hospital costs—the most rapidly rising item in the cost of living index.

Certainly great achievements are possible when legislatures and program agencies work together.
One striking example of this kind of partnership is in the new State Medicaid Fraud Control Units. Working with the states, 19 State units have already been set up to monitor the program. Nearly 800 attorneys, investigators, auditors and other professionals are already at work. Eight more states are in the process of setting up these units, with the states providing 10 percent of the money.

* We should remember that the goal of reducing error is not only to weed out those who are ineligible for our programs. It is also to make our programs available to all who truly need them. Some very poor people who are eligible for welfare help, for example, are mistakenly barred from getting the help they need; we need to apply our management skills to help them get on the rolls while we remove others who are not eligible. Helping those people is very much our aim.

And on this matter of putting things in perspective, we need to make another point ringingly, unmistakably clear: This Administration has no intention of singling out human service programs in its attack on fraud and abuse. That attack ranges across all government programs, as the President has said.

We are attacking fraud and abuse in the Small Business Administration, in employment programs, in defense contracting and in the tax system. We believe that poor and vulnerable people will be the beneficiaries of this effort—not its victims.

Fourth and finally, in addition to celebrating our achievements, generating new initiatives, and putting the issue in perspective, I hope this conference has heightened your enthusiasm for our work ahead.

Our job, after all, is far from over—and the most difficult efforts may lie ahead. If the early, most dramatic successes are also the easiest to achieve, what remains is to solve the most persistent, unyielding problems.

We face the fact, for example, that we cannot act to correct a deficiency until we know what it is and how serious. Our information and reporting systems badly need improvement—but not the kind of improvement that choke agencies and providers in red tape.

And by no means least, we face the fact of simple human inertia: the fact that programs—and people—begin with a flurry of enthusiasm only to grow weak and stale.

We must not let that happen.

We at HEW want to do what we can toward keeping enthusiasm high. And so today, in closing, I want to announce a new national award, honoring high achievement in conquering fraud, error and abuse.

In honor of a former HEW Secretary who is himself a symbol of distinguished public service and sterling integrity, we have chosen to name it the John W. Gardner Program Integrity Award. The presentations will be made yearly to employees of HEW—who have made exceptional contributions to protecting the integrity of HEW programs.

I hope that the next time we meet, it will be when I present the first Gardner Awards. And I hope that the first awards will be to someone in this room today, for an idea born at this conference.

So we come to the end of our deliberations. I congratulate you for your powers of endurance—and I'm grateful to you for contributing to this gathering.

No contribution could mean more to the cause of helping needy people—or to restoring public faith in our Democratic system.

By your efforts, you have helped ensure that we will inform our national compassion with competence; that we will match our generous instincts with intelligence and integrity.

We will do these things because the American people are demanding it. But we will act for another reason also: Because it is right.

Thank you.

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* Indicates Program Speaker or Panelist
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<td>Mastrocasasq, Dominic J., Dr.</td>
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<td>Mead, Polly</td>
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<td>*Moye, Alfred L., Dr.</td>
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