STATE OF MARYLAND

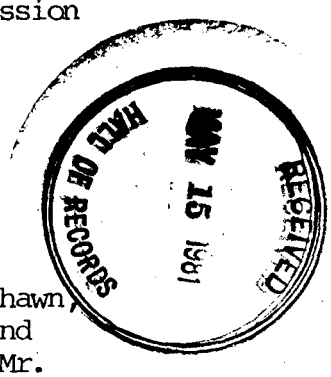
EXECUTIVE DEPARTMENT

ANNAPOLIS, MARYLAND 21404

HARRY HUGHES
GOVERNOR

810631

Governor's Information Practices Commission
State House- Room H-4
(301)-269-2810



Governor's Information Practices Commission

Minutes of Commission meeting- January 19, 1981

The Commission convened with all present except Mr. E. Roy Shawn, Mr. John E. Donahue, Ms. Florence B. Isbell, Dr. Harriet Trader and Mr. Wayne Heckrotte. The meeting began with the introduction of Mr. John Clinton, the new representative from the Comptroller's Office. Mr. Arthur S. Drea, Jr. presented a flyer on a book entitled, Guidebook to Freedom of Information and Privacy Acts. It was decided that libraries would be checked to see if the book was currently available.

Mr. Drea asked if there were any additions to the minutes from the previous meeting. Delegate Nancy Kopp said that it had been her impression that the Commission had not decided that the issue of confidentiality of bill drafts was beyond its jurisdiction as indicated in the minutes of the meeting of December 15, 1980, but would be dealt with later if time allowed. Delegate Kopp requested that the minutes be corrected to reflect this fact. The minutes were adopted with this change.

Mr. Drea discussed the scheduling of the two public hearings. One is to be held in Annapolis for the general public early in the legislative session,perhaps the third week of February. The second is to be held in Baltimore and will be structured for agencies. Delegate Kopp added that the Commission might want a public hearing in Baltimore for state employees. Mr. Drea stressed that the Baltimore hearing will be open to all but if another hearing was necessary, one could be scheduled. Mr. Dennis Hanratty stated that it would be desireable for him to meet with the representatives from agencies before the hearings.

Discussion commenced on the proposed Interim Report. Delegate Kopp said that in the Introduction there appeared to be a confusion between the records of private organizations and those of governmental organizations. In addition, the report needed a more explicit recognition of the right of citizens to gain access to the public records of government. She suggested the insertion of a statement reflecting the growing concern in this area. Mr. Dennis Sweeney agreed, stating that current legislation dealing with openess in records and privacy had been underscrutinized but that the report seemed to put a greater emphasis on privacy. Mr. Drea concurred that the Introduction should be modified, but nonetheless stated that the emphasis of work would probably be in the privacy area. It was discussed and decided that a paragraph would be added to detail the public's right to know more explicitly.

Mr. Albert Gardner requested clarification of the following statement that appeared in the first page of the report: " Today, companies throughout the world rather routinely engage in transactions that would have been impossible before the 1950s". Mr. Hanratty responded by providing an example of a foreign physician contacting the U.S. National Library of Medicine and receiving almost instantaneous assistance in diagnosis. Mr. Gardner stated that it was his understanding that computers affect the speed of transactions but not the type of transactions that could be conducted. Mr. Hanratty answered that certain transactions became feasible only as a consequence of computerization. Mr. Robin Zee felt that the key word of the sentence was "routinely". It was suggested that the sentence be modified to read: "Today, companies throughout the world rather routinely engage in transactions in a manner that would have been impossible before the 1950s".

A number of comments and questions were clarified rather quickly. Mr. Drea, Delegate Kopp and Mr. Clinton felt that the report should be footnoted; the other members concurred. Delegate Kopp asked if the use of "personal records" rather than "personnel records" in the first paragraph of Section IV had been intentional. Mr. Hanratty replied that the term "personal" was meant to include "personnel". Finally, Mr. Zee asked if the statement of the second paragraph of page 3- "...the expansion of our information-gathering ability has far outstripped the ability of individuals to determine what type of personal information is released and for what purposes"- was in reference to the ability to collect information. Mr. Hanratty responded affirmatively.

Considerable discussion ensued over the statement on page 5 of the report asserting the need for the enactment of comprehensive privacy legislation. Delegate Kopp maintained that though there was certainly a need for a thorough examination of the issues involved, it was too early to conclude that legislation was required. Mr. Hanratty noted that Mr. Wayne Heckrotte had called him and raised essentially the same objection. At the same time, a number of members requested clarification of the word "comprehensive". Mr. Sweeney observed that comprehensive privacy protection might be provided through the enactment of categorical, rather than omnibus, legislation. Mr. Hanratty stated that it had been his impression that the Commission supported the development of omnibus legislation; Commission members felt, however, that his point remained an open question. Mr. Zee suggested that it was probably premature to conclude that we needed a comprehensive privacy act. After deliberating on these points, the Commission instructed Mr. Hanratty to eliminate all statements in the report calling for comprehensive legislation and to state instead that the Commission would examine the suitability of such legislation.

Discussion was again held on the need for a balance in the report between privacy issues and public access issues. Delegate Kopp recommended the inclusion of a new section that would deal with matters affecting the right of citizens to gain access to the public records of government. Mr. Sweeney agreed, noting that the report gives the impression that privacy was by far and away the principal concern. Unless the emphasis on privacy was tempered somewhat, he suggested, the Commission would not receive substantial input from citizens on the issue of access to public records. Mr. Zee supported this position, noting that the report could, and should not be so biased as to eliminate the public records side of the question altogether.

Senator Timothy Hickman raised the issue of the development of adequate security of personal records in the possession of state government. He suggested that it might be helpful to expand and strengthen those sections of the report dealing with security, noting in particular the need for risk analysis assessment. A consensus was reached to add a paragraph that would address these points.

Various comments were made concerning the section of the report noting the Consumer Council's survey of record-keeping practices of Maryland hospitals. Senator Hickman asked whether the Consumer Council had surveyed state hospitals only, or included both state and private hospitals; Mr. Hanratty responded that the survey covered both types. Mr. Drea felt that this point should be noted in the report. Mr. Hanratty stated that a comprehensive survey examining hospital procedures was being designed by Ms. Thea Cunningham, and asked for guidance regarding to whom the survey should be sent. Delegate Kopp pointed out that the Executive Order establishing the Commission only authorized that body to consider the practices of state institutions. It was Mr. Sweeney's opinion, however, that access to hospital records was such a sensitive and important issue that the Commission should consider including private institutions as well. The Commission decided to send the survey to both public and private institutions; in the letter addressed to private institutions, however, the Commission would simply ask for their cooperation.

Mr. Sweeney suggested the utility of including an Appendix to the report listing those sections of the Maryland Annotated Code pertaining to the protection of personal records. In response Mr. Hanratty felt that such a list might be incomplete since there could be articles of the Annotated Code of which he might be unaware. He also recounted difficulties in receiving information on the subject from various Assistant Attorneys General. Mr. Sweeney offered to be of assistance to Mr. Hanratty in this regard. The Commission concluded that a list of privacy statutes would be attached to the report, though the list would be selected, not comprehensive.

Mr. Drea solicited the opinions of Commission members on Section III entitled "A Privacy Bill of Rights." It was agreed, first of all, that the section should be tentatively retitled, "General Issues of Privacy." As in the case of the report examining the current status of privacy policy in Maryland, the Commission felt that the language introducing Section III should be moderated. Rather than imply that the Commission had already endorsed the list of principles in that section, it was felt that the introductory statement should be rephrased indicating that these were merely issues to be considered. Delegate Kopp read a suggested introduction to which the members agreed.

Comments were requested from the members regarding the twenty-one issues that were listed in the report. Mr. Sweeney expressed concern that there was insufficient attention given to the cost of enacting comprehensive privacy protection. Mr. Hanratty replied that, in his opinion, costs were adequately mentioned on page 12 of Section IV. In addition, Mr. Drea observed that most of the issues contained disclaimers such as "to the greatest extent possible." It was decided to leave references to the cost of privacy protection as they appeared in the proposed report. One issue was modified at the request of Mr. Zee. Issue #21 was changed to read: "An agency which is authorized in accordance with state law and regulation to destroy records involving personal facts of an individual's life should ensure that records are destroyed in a secure and thorough manner."

Commission members agreed that the format used in Section III was an appropriate one in order to receive comments from agency officials and the general public. By listing issues numerically, readers would be able to make comments to specific items in the report. Mr. Zee noted that the Commission might want to invite groups to add issues that possibly were overlooked in the report. In this regard, Mr. Hanratty read a copy of a letter to be sent to agency officials along with the Interim Report. The members supported the content of the letter; Delegate Kopp felt, however, that the letter should come from Mr. Drea as Chairman of the Commission. This position was supported by the other members and adopted. Mr. Donald Tynes urged the inclusion in the letter of a date by which agency officials should respond to Commission requests; this position was also adopted.

Discussion then focused on the timing of the report. Mr. Drea suggested that the Interim Report be given to the Governor and the members of the General Assembly first, and then to agencies and interest groups. Delegate Kopp observed that the Information Practices Commission was a gubernatorial rather than legislative body and therefore protocol required that the Governor receive the report before anyone else. This position was seconded by Mr. Zee. It was decided to send the report to the Governor first; then, after waiting several days, the Commission would contact the Governor's Office and ask if there were any major objections before distributing it.

Senator Hickman inquired whether the staff had completed the personal record-keeping survey to be sent to agency officals. Mr. Hanratty showed him a copy of the proposed survey and stated that he felt that it would be better to delay distribution of the survey until agency officials had designated their liaisons to the Commission.

Commission members proceeded to discuss the new Section IV pertaining to access to public records. Delegate Kopp suggested the inclusion in the report of problems that citizens may have experienced in gaining access to such records. Mr. Hanratty agreed and asked Mr. Sweeney whether there existed any report summarizing problems encountered in this regard. Mr. Sweeney responded that such a report did not exist but offered to provide assistance to the Commission in delineating these problems. In order to provide a better sense of balance to the report, Commission members decided to change the part examining status of access to public information in Maryland to Section III and made Section IV cover issues regarding privacy. The plan of the Commission would then follow as Section V.

Two principal modifications were requested in the section of the proposed Interim Report specifying the plan of the Information Practices Commission. Delegate Kopp and Mr. Zee asked Mr. Hanratty to look at that section and modify any language obligating the Commission to design comprehensive privacy legislation. Mr. Clinton noted that the section discussed public hearings for agency officials and citizen groups and inquired as to where state employees fit into this general plan. Mr. Hanratty conceded that this was an oversight of the report and agreed to include a statement requesting the participation of state employees at the Commission's public hearings.

Members turned to a discussion of a number of administrative matters associated with the Interim Report. Mr. Drea suggested that the report should include the names of all Commission members. Mr. Drea distributed a list of interest groups to be considered as recipients of the report; any additions or deletions would be referred to Mr. Hanratty. Commission members considered the publishing of the Interim Report in the Maryland Register and other publicity

through newspaper articles. Mr. Drea stated that after the report was delivered to the Governor, Mr. Hanratty would contact Mr. Gene Oishi regarding a possible press release.

Two final points were covered before the meeting was concluded. Delegate Kopp asked that in the future the minutes be stamped "DRAFT" until adopted by the Commission members and that the minutes from the previous meeting be corrected. Mr. Sweeney asked whether bills were being reviewed to determine whether they should be deferred. Mr. Drea responded that he was handling it himself and would send letters regarding bills that the Commission would like deferred.

FINAL COPY

MINUTES OF PUBLIC HEARING-FEBRUARY 23, 1981

The first Public Hearing of the Governor's Information Practices Commission was held February 23, 1981 at 10 A.M. in the Montgomery County Delegation Room of the Lowe House Office Building in Annapolis, Maryland. The following Commission members were in attendance: Mr. Arthur S. Drea, Jr, Chairman, Mr. Dennis Sweeney, Mr. John Clinton, Mr. Donald Tynes, Dr. Harriet Trader, Delegate Nancy Kopp, Senator Timothy Hickman, Mr. Robin Zee, Mr. Albert Gardner and Mr. John Donahue.

Mr. Arthur S. Drea opened the hearing by explaining that the Commission had been charged with the responsibility of examining the record-keeping practices of state government and balancing the individual's right to privacy with the public's right to know.

The first speaker, Ms. Pat Doane, Aide to Delegate Judith Toth, related the case of an individual licensed to hunt in Maryland. The individual enlisted Delegate Toth's assistance when he found that his name had been given by the State of Maryland to the National Rifle Association. Delegate Toth discovered that current statute allows the State list to be sold. This policy is contrary to her belief that the confidentiality of personal information submitted to obtain a license should be protected. To this end, Delegate Toth introduced House Bill 1366 which would affect the sale of the Motor Vehicle Administration's List for car registration or personal licenses and House Bill 1368 which covers all state licensed individuals and prohibits the sale of their personal information for political or commercial purposes. Ms. Doane asked for the support of the Commission in this legislation.

Ms. Doane additionally discussed the State Information Referral Service. Due to the fact that Maryland has existing referral services, Ms. Doane maintained that the cost for a centralized service would be less for Maryland than other states. She noted that as a temporary stopgap measure, the state is helping citizens contact government by

functionalizing and using color-coded pages in the telephone book. This does not serve another function of the Information Referral Service however, which is to discover the needs of the citizens. Delegate Kopp and Ms. Doane discussed the state wide toll-free number and its funding. There was some confusion as to whether or not the current service was responsible for referral of all services.

In reference to the dissemination of personal information through state lists, Mr. Drea and Ms. Doane discussed the difficulties involved in providing information needed by the public-such as verification that an individual is a licensed physician-and at the same time limiting the information disseminated. This balance was not addressed in the bill.

The next witness was Mr. Basil Wisner from the Comptroller's Office. Accompanying Mr. Wisner were Mr. George Spriggs (Director-Income Tax Division) and Mr. Philip Martin (Director-Data Processing Division). Mr. Wisner presented written testimony (copy attached) in resonse to an incident cited in the Interim Report. Mr. Wisner discussed the incident and procedures employed in the Comptroller's Office to guarantee the security of personal records.

Mr. Clinton asked about the availability of tax information to other state agencies. Mr. Spriggs responded, citing Article 81, Section 300, which places limitations on the dissemination of tax return information. He stated that in regards to state agency requests, two cases existed where legislation allowed information to be shared with other state agencies-The Absent Parent Tracer Program (Department of Human Resources) and the Property Tax Circuit Breaker Program (Department of Assessments and Taxation). Any other requests from other state agencies for tax information would be referred to the Attorney General for an opinion. Mr. Spriggs responded to three questions posed by Mr. Dennis Hanratty concerning the disclosure of information to other state agencies. Mr. Spriggs informed the Commission that, first, the taxpayer is not notified regarding disclosure; second,

that the accuracy of information is not verified; and third, the taxpayer does not have the opportunity to prohibit such a disclosure. Mr. Wisner added that instances involving the disclosure of information to another state agency primarily evolve when information the taxpayer has supplied to one agency needs to be verified.

Senator Hickman asked if a catalogue of information systems was available at the present time. Mr. Martin explained that there is not a "master" list, noting that each department designed its own system. Mr. Martin observed that the data center functioned as a service area to the other agencies, running systems at the direction of the other agencies through the different procedures that those agencies have established. In response to a question from Senator Hickman, Mr. Martin stated that the Data Processing Division also encompassed the Baltimore Data Center and handled welfare, unemployment and retired employees' checks and food stamps.

Senator Hickman inquired about security measures in the Baltimore facility. Mr. Martin cited the study of security measures conducted in Annapolis mentioned in Mr. Wisner's testimony. A similar check of security was conducted at the Baltimore facility. Both centers had the same type of software and security requirements; however, the building in Baltimore is open to the public. Mr. Martin noted that additional security is provided in the Baltimore facility at the doors to the various rooms housing personal information.

A discussion followed concerning the security measures at terminals for Social Services around the state. Mr. Martin responded that each agency determined its own security levels and that a Security Officer is identified in each agency. In addition, Mr. Martin observed that state legislative auditors examine security procedures in the course of conducting their audits.

Mr. Drea returned to the topic of notifying the taxpayer of record dissemination. Mr. Spriggs stated that to his knowledge there is no law prohibiting the Income Tax Division

from notifying an individual that his tax information is being divulged. To date, the Division has never received complaints from individuals protesting the disclosure of this information.

According to the representatives of the Comptroller's office, Income Tax Information can be released to the State Police conducting a criminal investigation only upon receipt of a court order signed by a judge. In addition, it was noted that information is exchanged between Maryland and the Internal Revenue Service (in accordance with specific federal security regulations) and other states when such states have enacted security measures similar to those in Maryland.

Mr. Zee requested examples of problems the Division may have had in the realm of privacy of personal information. Mr. Spriggs noted that the Division receives requests for tax information pertaining to prominent individuals from members of the press. In addition, requests are received occasionally by telephone where the identity of the individual cannot be verified. Mr. Wisner also mentioned cases involving divorce settlements where a court order is required for the release of income tax information.

Mr. Drea asked if Federal security regulations governing the exchange of information between Maryland and the Internal Revenue Service (IRS) were available to the public. Mr. Spriggs thought that this was the case but stated he would have to check to be certain. In the discussion that followed it became clear that although the Comptroller's Division has its own Security Manual for its Income Tax data, federal regulations govern the release of information obtained from the IRS. Information obtained from the IRS cannot be released by Maryland to another state agency, a criminal investigation (without prior approval) or another division of the Comptroller's office. Mr. Clinton pointed out that Maryland and Minnesota are two states that have been used as models for a national training program on security procedures by the IRS.

Mr. Hanratty asked if Mr. Spriggs had any objections to placing stricter statutory limitations on the disclosure of Income Tax information similar to the language governing public assistance records. Mr. Spriggs commented that the Comptroller's Office would not object to additional limitations and noted that the preference of the department is to limit dissemination as much as possible.

In response to a question posed by Mr. Clinton, Mr. Spriggs elaborated on situations where Income Tax information might be shared with other tax divisions. Mr. Spriggs noted that this usually occurs in joint audits or joint collection efforts. Mr. Wisner added that another incident where information might be shared would be between Sales Tax and Income Tax to verify gross sales upon which to apply sales tax liability.

Mr. Sweeney returned to the issue of inter-state agreements and asked if these agreements were in writing. Mr. Spriggs responded affirmatively and observed that they limit the use that other states can make of records they receive. He agreed to provide samples of such agreements to the Commission.

Mr. Zee requested input in terms of any changes the Comptroller's Office would like to see in the current area of privacy or public information. Mr. Wisner responded that he favored as little dissemination of personal information as possible. In this way, the Comptroller's office could guarantee the confidentiality of such information. Mr. Wisner expressed the view that the privacy of the individual's tax return should be protected to the greatest extent possible.

Mr. Drea inquired as to the number of states with which Maryland had agreements governing the exchange of information. Mr. Spriggs replied that currently there were agreements with 8 to 10 states. The majority of cases necessitating the exchange of information between states occurred between continguous states and involved a person living in one state while working in another. Mr. Drea then asked whether there might not evolve

a need for the exchange of information in cases where an individual had moved and declared taxes paid in another state. Mr. Wisner agreed but stated that the border states made up the bulk of the cases necessitating inter-state agreements. Mr. Spriggs added that if an agreement did not exist at the current time, one could be made up and, if signed by both parties, would become effective for all subsequent requests.

Mr. Drea asked if there was any document outlining the results of the security system used in the Comptroller's Division. Mr. Wisner responded that he could probably review security documents and extract this information for the Commission. Mr. Martin added that computer software security gives regular reports on attempts to breach the system, and errors in accessing information are distinguished from actual unauthorized attempts to access the system.

Mr. Drea concluded by expressing the Commission's wish to cooperate with the Comptroller's Office when Mr. Hanratty visited them and assured Mr. Wisner that the Commission had not intended to single out the Comptroller's Office. Mr. Drea noted that the specific incident in the Interim Report was mentioned because of its wide publicity in the press and the conclusion was drawn that security of personal records of state agencies should be reviewed.

The public hearing closed with a notice that the next hearing would be held on March 16th in Baltimore at 201 West Preston Street, Room L-3 at 10 A.M.

A short Commission meeting followed. The survey on record-keeping practices of state and private hospitals was distributed to Commission members. No major changes were made.

Discussion covered the meetings that Mr. Hanratty has been scheduling with state agencies. He informed members that responses had been favorable, with the liaison appointed in each agency varying from the Public Affairs Officer to the Executive Assistant to the Secretary.

Mr. Drea brought up the intention of the Commission to request deferment of bills (without taking a position) which directly impacted on the work of the Commission-such as the one introduced by Delegate Toth. Those bills of a clarifying nature would not be affected.

In conclusion, Commission members requested that Mr. Hanratty contact the Departments of Health and Mental Hygiene, Human Resources, Public Safety and Education and inform them that the Commission would like to have a representative from their departments testify at the next public hearing. Mr. Hanratty added that the Department of Transportation would be sending a representative. Mr. Tynes stated that representatives from the Department of Personnel would attend and Mr. Zee informed Mr. Hanratty that the State Archivist would also be there.

NOTE: Copies of testimony presented have not been included due to the volume. If you would like to receive a copy of any particular testimony, please contact our office.

FINAL COPY

MINUTES OF THE PUBLIC HEARING HELD MARCH 16, 1981

The second Public Hearing of the Governor's Information Practices Commission was held March 16, 1981 in Room L-3, 201 West Preston Street, Baltimore, Maryland. Members in attendance were: Mr. Arthur S. Drea, Jr., Chairman, Mr. John Clinton, Mr. Donald Tynes, Mr. Robin Zee, Dr. Harriet Trader, Senator Timothy Hickman, Mr. Albert Gardner, Mr. Dennis Sweeney and Mr. Wayne Heckrotte. Mr. Drea opened the Public Hearing with an explanation of the purpose and goals of the Information Practices Commission.

The first witness to testify was Mr. John Bertak, Public Affairs Officer for the Department of Transportation (testimony attached). He was followed by Mr. William Long of the Motor Vehicle Administration (MVA) (testimony attached).

After Mr. Bertak presented his testimony, discussion followed on the Interim Report. Mr. Bertak objected to issue number 7 in the report. This issue dealt with the proposal that an agency publish annually a report of all record systems maintained by that agency. Mr. Bertak felt that this would be a significant administrative burden requiring the Department to hire at least two additional personnel.

In response to a question of the Commission, Mr. Long stated that certified copies of driver records are given to the police/law enforcement free of charge. Members of the public and insurance companies are charged $1 per copy.

Mr. Long stated that any individual can request a copy of another individual's record. In order to illustrate the range of information available on an individual's record, Mr. Long and Ms. Carol Shipley, another Motor Vehicle Admistration representative, called the Commission's attention to a sample record. Contained in that

record were the following items: soundex number, full name, address, personal description, class license, expiration date, convictions and address changes, etc. On the back of the form is an explanation of the abbreviations. Mr. Long added that MVA also has computerized vehicle registration records which include name, soundex number, and street address of the registrant, as well as tag number, title number, ID number and other vehicle information. Insurance records are not maintained on computer and thus require a manual search; the information is available for a $1 fee. Mr. Long explained that Maryland does not have the equipment that would allow the Department to give accessibility to insurance companies. This would require over $100,000 in modifications to existing equipment (not inclusive of costs of security measures).

Mr. Drea asked if this was the same information that a district court could pull up on a computer. Mr. Long replied that a district court can pull up a complete history. In the discussion that followed, the point was made that the record was not limited to three years unless the record had been expunged.

In response to a question from Mr. Tynes, Mr. Long explained that it is not necessary to have a driver's license number to get a copy of someone's record. The Department has search capability using the full name via the soundex system. Such a capability is primarily for law enforcement purposes.

Mr. Zee requested the conditions governing the written agreement used in the sale of certain computer tapes. Mr. Long responded that when a request for tapes is received by the MVA, the Administration sends a contract specifying the following: 1) the reason why the tape is being requested; 2) restrictions against resale; 3) requirement that the Administration be sent a copy of the material mailed; 5) requirement that names and addresses of any individuals be deleted upon request.

Mr. Long was then asked if MVA conducts follow-ups to make sure that tapes are being used in an appropriate manner. Although no specific procedure is followed requiring spot checks, Mr. Long stated that the Administration does receive copies of the mailings; furthermore, he noted that in the three years he has worked at MVA no request had ever been denied and no contract had ever been breached. The point was also made that lists are not often sold because of the cost (a complete copy of the registration list runs $20,000).

Mr. Bertak added that many companies could do better by obtaining lists from mailing houses. He also pointed out that the accessibility of information on drivers records has a beneficial side-recall notices on defective automobiles being one example. Mr. Drea asked if the title registration would contain information on a specific automobile where drivers license lists would not. Mr. Bertak responded affirmatively.

In the case of an automobile recall, Mr. Long explained that automobile manufacturers can supply to the MVA a tape input listing of the soundex numbers of the individuals whose records are requested. The Department can process this and return to the manufacturers the requested records on a computer tape. It is a print tape and in this sense allows a degree of security. The recipient of this tape cannot maintain this information by loading it into his own data base. In order to put this information into his own system, the recipient would have to print the tape and then key punch the information again. It would be feasible to do but the work involved serves as more of a deterrent.

Mr. Drea asked if specific information could be supplied upon request (e.g. a list of all drivers between 30 and 40 years of age). Mr. Long responded that such information could be provided but that such a request would require more time and therefore be more expensive.

Mr. Dennis Hanratty asked if an individual can request permanent deletion of his name. This could be done, Mr. Long said, as the names of the individuals requesting deletion would be placed on a separate list. However, in the case of a recall, the individual would be included on the list.

Mr. Sweeney asked whether there were other good reasons (besides recall notices) for allowing access to drivers records. Mr. Long cited the case of an accident where a need to obtain insurance information on the other vehicle involved exists or the case where an employer (e. g. a trucking company) needed to check the driving record of its drivers.

Mr. Hanratty asked for clarification of the "#9-Alcohol" designation on the back of the Maryland Drivers license. Ms. Shipley explained that it was used if an individual's driving privilege was revoked and that it was seldom used anymore. When licenses are renewed now, individuals must sign a consent statement on their application. In the past, the person being reinstated signed at that time that he was willing to take an alcohol test. The information would appear on an individual's record as a Number 9 restriction and the reason behind it would not show.

Mr. Drea referred to Section 16-119 which states that all medical information submitted is confidential and cannot be released in the absence of a court order. He asked if there were any exceptions to this provision. Mr. Long replied that this information was not included as part of the computerized record. Instead, a case file was maintained at the Medical Advisory Board. An individual can see his own file and can grant permission to an attorney representing him to view it. A law enforcement agency would need a court order.

It was observed that while criminal records are available for public access, medical records were regarded as confidential. Mr. Drea felt that both records could

contain damaging information. Mr. Bertak stated that convictions were a necessary part of the driving record. Medical information, in his opinion, was a more personal matter and there was no necessity that it be available at all. Mr. Bertak noted that conviction information was not arbitrary information put on the record by the MVA, the State Police or the Department of Transportation, but was added by the courts. The point was also made that a conviction record was required in order to assess points.

In response to a question from Mr. Drea citing the Public Information Act, 76-A, which requires that there be a designated custodian of the records, Mr. Long indicated that he thought at MVA Mr. William T.S. Bricker was official custodian; Mr. Bertak stated that Mr. Rhett Barkley was the records custodian for the Department of Transportation.

Mr. Sweeney asked if the driving record would show that a case was referred to the Medical Advisory Board. Ms. Shipley said that this would only be shown if the individual was suspended.

There were no further questions and the next witness, Mr. Lee D. Hoshall, was introduced. (Testimony attached)

Following Mr. Hoshall's testimony, Mr. Drea proposed that the State Archivist be heard out of order so that he could attend a hearing in Annapolis. Mr. Papenfuse, State Archivist, presented his testimony (attached).

Discussion followed on the ideal guidelines for striking a balance between personal privacy and the historical preservation of records. At what point would publication of records not be an embarassment or invasion of privacy? Mr. Papenfuse explained that by the time records are turned over to the Archives (usually 20 years

after the generation of the record), there should be very little that could not be opened immediately. If something was sensitive beyond the 20 years, Mr. Papenfuse indicated, then restrictions could be placed on it. Mr. Papenfuse added that under Maryland statute there are no restrictions unless they are legally mandated restrictions with respect to certain kinds of records. Decisions were developed through the scheduling process in relationship to the agency and in relationship to existing law. Mr. Papenfuse felt that it was more preferable to have a review panel to help promulgate rules and regulations rather than to set arbitrary time limits for certain categories of records. There are records, he believes, that should not be disclosed.

Mr. Papenfuse stated that the Archives operate under the Hall of Records Commission umbrella and has established guidelines to the records in its control. If an individual requests a sensitive record, the Archives has statutory authority under Article 54 to refuse disclosure.

Mr. Papenfuse noted divorce records before 1960 are located in the Archives, while after 1960, access is obtained through the courts. Senator Hickman wondered if statutory bases on which decisions were made could be defended in court. Mr. Papenfuse responded that if the scheduling process is done properly and records are assessed properly the Archives knows what restrictions are placed on them. He explained that the Hall of Records Commission-set up to represent all three branches of the government-has the discretion to open or close records turned over to the Archivist.

Senator Hickman asked if Mr. Papenfuse had a list of record systems. Mr. Papenfuse responded that the list would probably not be as complete as Senator Hickman would want, but that most departments have schedules.

Mr. Sweeney asked if Mr. Papenfuse or the Assistant Attorney General review requests under the Public Information Act as to whether access should be allowed. Mr. Papenfuse responded that this was not done routinely and that the issue had not arisen. Mr. Papenfuse noted that eleven thousand people use the Archives each year and 8,000 letters are answered. All deal with personal information. To date, he has not received a single complaint about invasion of privacy. Mr. Papenfuse said that records should be looked at series by series to determine at what point information should be available to the public if at all.

After Mr. Papenfuse completed his testimony, the Commission recessed for a short break.

Mr. Jay Kaplan, Chief Solicitor and Mr. David Young, Assistant City Solicitor, of the Baltimore City Solicitor's Office next appeared to respond to remarks made by Mr. Hoshall. They indicated that copies of the opinions sent to Mr. Hoshall would be forwarded to Mr. Hanratty. Mr. Kaplan thanked the Commission for stating its intention not to act as arbitrator. Mr. Hoshall, Mr. Kaplan stated, has a recourse under the law if he felt he was denied information. Mr. Kaplan emphasized that the City Solicitor has complied with the law in responding to Mr. Hoshall's requests. Mr. Kaplan referred to the estimate of costs which was sent to Mr. Hoshall (costs to provide the material Mr. Hosall had requested from the Police Department). Mr. Kaplan stated that the custodian of the records is allowed to set costs and that the City Solicitor's Office had no idea that an estimate had been quoted by the City Solicitor representing the Police Department.

Mr. Kaplan set forth the following dates concerning Mr. Hoshall's case:

May 8, 1980 Date of initial request to the Head of the Community Relations Commission.

May 13, 1980 Request referred to the City Solicitor's Office for response.

Oct 10, 1980	Mr. Benjamin Brown, City Solicitor, wrote to Mr. Hoshall apologizing for the delay and stating that Mr. Hoshall would have an opinion on the 14th.
Oct 14, 1980	The Opinion was delivered to Mr. Hoshall.
Nov 15, 1980	Letter from Mr. Hoshall addressed to Mr. Brown.
Dec 9, 1980	Response from the Deputy City Solicitor's office to Mr. Hoshall.
Dec 12, 1980	Follow-up letter by Mr. Young.

Mr. Young added that a letter was also sent January 7, 1981 in response to one from Mr. Hoshall dated December 24, 1980.

Mr. Young stated that the response of the City Solicitor's Office was based on an interpretation of the law and that there was no intent to deny Mr. Hoshall the information. Mr. Young stated that Section 3A of the Public Information Act sets forth certain exemptions to the availability of public records. Their office issued the opinion letter under 3A-4 which provides an exemption from disclosure where such public records are privileged or confidential by law. The opinion was also based on Mr. Young's reading of the Code of Baltimore City-Article 4, Section 18-E, which applies to complaints filed with the Baltimore City Community Relations Commission. Mr. Young stated that Mr. Hoshall had asserted that this article applied only to the investigation of acts of discrimination filed with the City Commission. In response, Mr. Young explained to the Information Practices Commission that the article was first adopted in 1966 and provisions of the code setting up the Police Complaint Evaluation Board were not adopted until 1975.

Mr. Young stated that it was his belief that the jurisdiction of the Community Relations Commission was expanded in 1975 to include investigation of alleged police brutality; furthermore, he felt that there is no such indication from the Code that Section 18 was intended to apply only to the investigation of acts of discrimination.

Mr. Young cited Section 18-E of the Baltimore City Code: "neither the Commission nor its staff shall disclose what has transpired during the course of any investigation nor shall the publicity be given to any negotiations or to the fact that complaints have been filed". Based on this, the City Solicitor's Office felt that the information Mr. Hoshall sought was exempted from disclosure.

Mr. Young added that Section 3B-1 of Article 76-A (Annotated Code of Maryland) provides for a right of denial to inspection by the record custodian if he believed that disclosure to the applicant would be contrary to the public interest. The City Solicitor's Office, Mr. Young maintained, held that disclosure of the Community Relations Commission records would be contrary to the public interst and would have a "chilling" effect on persons who might want to come forward and file a complaint alleging acts of police brutality.

Since the Commission had not had the opportunity to ask questions of Mr. Hoshall, Mr. Drea recalled Mr. Hoshall to respond to questions.

In response to Mr. Clinton's question concerning the topic of the research, Mr. Hoshall explained that it covered two levels. The first involved the interactions on the street between officers and citizens. More specifically, Mr. Hoshall indicated that he was interested in discovering the factors leading to the filing of complaints. The second level dealt with understanding the factors used by the Baltimore City Police Department to determine the outcome of the investigation. Mr. Hoshall indicated an interest in discovering the evidentiary factors that seemed to determine the outcomes of investigations 95% of the time in favor of the police. Mr. Hoshall stated that he had requested records disclosed not contain names, addresses and identifying information regarding the persons involved. Mr. Hoshall added that the argument used by Mr. Young citing the chilling effect resulting from

disclosure was an old and fallacious technique and that its only relevance was prior to a trial when leakages of information could prejudice an investigation. He added that the cases he had requested were all closed.

Mr. Drea and Mr. Hoshall discussed the time period which elapsed between Mr. Hoshall's initial request for information and the date he received a definitive response. Mr. Drea referred to the Proposal #1 in Mr. Hoshall's written testimony pertaing to a definite time limit in which agencies should respond to requests for information under the Public Information Act. Mr. Drea asked if Mr. Hoshall would agree with a proposal requiring an acknowledgement to a request for information in a brief period(5-7 days) followed by a definitive response (30-60 days). Mr. Hoshall agreed that that would be satisfactory.

Mr. Drea referred to Mr. Hoshall's testimony and the statement that the city had told him he would have to pay the hourly services (as part of the costs) of a sergeant to cull out personal information. Mr. Hoshall asserted that the Police Department is represented by the Baltimore City Solicitor's Office but that the person representing the Department does not appear to communicate with the rest of the City Solicitor's Office. He felt that the representatives present at the hearing probably didn't know that this was occuring. He agreed to furnish a copy of the letter from the Baltimore City Solicitor's Office delineating costs to the Commission. Mr. Hoshall added that there is obviously no uniform application of charges since other data requiring indirect cost to the department is often given to citizens free of charge.

In response to a final question from Mr. Drea, Mr. Hoshall affirmed that he had informed the City Solicitor's Office that his interest in obtaining the material was for a bona fide research project and added that the project was approved by the Graduate School of Criminal Justice at the University of Baltimore. The study

was to be conducted under the supervision of the department.

Mr. Kaplan and Mr. Young were asked to return to respond to questions from the Commission.

In response to Mr. Clinton, Mr. Kaplan remarked that he had no knowledge regarding who sent the estimate of costs out to Mr. Hoshall. Costs, he indicated, were left up to the individual departments. He acknowledged that some information was probably given out at no cost. Mr. Kaplan added that the "chilling" effect Mr. Hoshall had referred to was language taken from a decision by a United States Federal district judge. Mr. Drea asked Mr. Kaplan's opinion of the proposal he had made earlier that an acknowledgment to a Public Information Act request be sent out within 5 to 7 days and a definite response be issued within 30 to 60 days. Mr. Kaplan stated that he had no disagreement with such a proposal. If the proposal was part of the law, Mr. Kaplan stated that the city would comply.

Mr. Drea maintained that as he understood the legal position of the City Solicitor, the denial had been made on two bases: 1) as a requried denial because of a Baltimore statute holding the record to be confidential by law; 2) as a discretionary denial because the record fell under the adverse public interest section with regard to police investigations. Mr. Drea then asked Mr. Young the following hypothetical question: if he was only bound by the discretionary denial provision and the request was clearly for a bonifide research project, would his decision have been the same? Mr. Young answered that there was a good probability that his decision would have been the same.

Mr. Sweeney asked where the chilling effect entered if all identifying characteristics were eliminated from the records. Mr. Kaplan responded that even if an individual knew that his name and address would be deleted from a record, he would

be reluctant to testify if such records were made public.

Mr. Sweeney questioned whether reports were available to the officers who were the subjects of the investigations. Mr. Kaplan responded that he did not know.

In response to a question from Dr. Trader concerning where the responsibility of the City Solicitor's Office ended and the researcher's responsibility began in terms of protecting the public and confidentiality, Mr. Kaplan stated that the city's responsibility ended where the law tells it.

Mr. Young made the final point that Mr. Hoshall has a remedy under the law. The function of the City Solicitor's office was only to interpret the law.

The next witness was Mr. Luther Starnes, Executive Assistant to the Secretary, Department of Human Resources. He presented a package of materials on issues of relevance to the hearing (attached). In addition to Mr. Starnes, Mr. Joe Farkas, Division of Data Processing; Ms. Lois Lapidus, Assistant Attorney General; and Mr. Ed McGarry, Division of General Services, attended from the Department of Human Resources.

Mr. Starnes explained that the Department provides benefits and services to low income persons. As a rough estimate, Mr. Starnes stated that the Department has between 350,000 and 400,000 case records containing personal information.

Senator Hickman asked if the Department had a catalog of record systems including information on the nature of the subjects, security, etc. Mr. Starnes replied that this question was among a list of 27 questions sent by Mr. Hanratty and indicated that answers would be ready by April 15th. He added that the department is in the process of computerizing the Welfare Eligibility Process State-wide. Mr. Starnes

indicated that eighteen of the Department's records were now computerized. He noted that there are several forms within each program which contain some personal information. They are being compiled and a catalog of the forms will be provided to the Commission.

In response to Mr. Heckrotte's inquiry as to whether the welfare system is locally administered, Mr. Starnes explained that while there are local departments of social services, the employees are all state employees. Mr. Starnes stated that there is a local Social Service Board which appoints a director, and that, in most cases, there is no local money involved. The state, he indicated, is responsible for regulations and guidelines on records; each local unit may have its own variation of a record system but it must meet the guidelines of the state.

Discussion followed on the subject of automation and whether this would cut down on repetition and inconsistencies in data. Mr. Starnes cited the Automated Income Maintenance System (AIMS). Using Social Security numbers of an applicant, the department can now access employment security wage records and verify information right in the computer terminal. He felt that automation would cut down on the duplication of forms but would provide additional information to the Commission.

Senator Hickman inquired about security measures at individual terminals and the number of these terminals. Mr. Farkas could not supply a specific number. He explained that the security system now requires two things: a password and (unintelligible). There are currently two password systems, only one of which is changed. Mr. Farkas was sure that a user ID was also required. Mr. Starnes added that the legislative auditor had just finished an audit of the department that addressed security questions, and that this audit was available.

Senator Hickman asked if the Secretary's Office had received complaints about

the misuse of information. Mr. Starnes responded that it had not and he then explained that the department is steadfast in not sharing particular information on welfare recipients. Mr. Starnes stated that many people believe that large numbers of recipients cheat and that therefore the Department gets welfare fraud allegations on a regular basis. He indicated that the allegations are investigated, but that the results were not shared with anyone. Indeed, he said, the Department does not even state no fraud occurred because that would indicate that a person was a welfare recipient.

Senator Hickman explained that constituents often come into his office disagreeing with the Social Services rulings. Senator Hickman asked if the Department has guidelines governing the release of information to elected representatives. Mr. Starnes responded that if a client goes to an elected representative and lays out the facts of his case, the Social Services Office will discuss the case with the representative. Anyone who goes to a public official, Mr. Starnes maintained, has for that specific purpose waived his desire for confidentiality. Mr. Starnes added there was no written opinion covering this scenario.

In response to a question from Mr. Sweeney, Mr. Starnes stated that he did not think that a state police officer with appropriate identification could examine welfare records. Ms. Lapidus added that under Federal regulations, the Department could only disclose information to other agencies that administer funds on a needs basis. Mr. Starnes stated that if a person applied for welfare after having lost his job, it first has to be determined if he is eligible for unemployment before he would obtain welfare assistance. Mr. Sweeney asked if the interchange of information between state agencies was a problem. Mr. Starnes replied that he was not aware of any such problems.

In response to a question posed by Mr. Sweeney, Mr. Starnes stated that the

Department does not actively review the local offices to insure that their record systems comply with Federal and State law. Mr. Starnes indicated that the Department does perform quality control reviews on error rates in the local offices.

Mr. Clinton brought up the topic of adoption records. Mr. Starnes stated that at the moment adoptees do not have access to records pertaining to information on their natural family. He noted that the General Assembly was examining currently a bill that would authorize access.

Discussion followed on the child abuse registry. Mr. Starnes expressed his feeling that concern exists that reports can get into the registry without investigation. Mr. Starnes indicated that the report of a private citizen would not necessarily enter the registry, but that reports from a physician, school official, or police agency would be entered. Ms. Lapidus explained that not all names involved in a child abuse incident enter the registry. Access to the list is provided to social service personnel, education personnel and others in that general nature. An educator can call and get a name if it is on the confirmed abuse list or on the list of incidents where it was impossible to ascertain what actually happened. Ms. Lapidus also indicated that in cases of confirmed abuse, the individual can appeal and discover whether he can seek judicial review on the determination by the agency.

Mr. Tynes noted that the Department of Human Resources received considerable federal funding and asked about the normal federal reporting requirements. Mr. Starnes replied that statistical reporting was done on a quarterly basis and that the Department is reimbursed retroactively from the Federal Government. He indicated that Quality Control reporting is conducted every 6 months. Mr. Starnes elaborated on the issue-stating that a list of recipients is not required to support expenditures. He stated that the only occasion an individual's case is seen is if a case is pulled out as a sample for Quality Control.

Mr. Clinton asked about employee training in the use of the Citizen Response Plan. Mr. Starnes replied that it was a new plan. Due to the size of the Department, the administrative setup provides for direct organizational feed. Everything goes through the Executive Staff for discussion and the heads of each agency are charged with implementation. Mr. Starnes stated that because the department deals directly with the delivery of services to citizens, it is not difficult to notice a division that may not be following too closely their responses.

Mr. Gardner asked if the Department gets any requests for personal information from the Federal Government. Mr. Starnes replied that the only request involves review of the Department's Quality Control sample.

Mr. Heckrotte asked about data exchanged with Social Security under BENDEX, such as a record of people receiving Welfare Payments or Social Security. Mr. Starnes explained that Social Security only gets involved in that situation as a benefit agency. He indicated that the department shares information with Social Security but that Social Security has nothing to do with the supervision of the Department's program.

A five minute break was held.

Ms. Caroline Stellman, Executive Director of the Consumer Council of Maryland, was the next witness to testify. Mr. Stellman advocated patients in State medical facilities being permitted to examine and copy their own records. Ms. Stellman quoted the 1980 survey conducted by the Health Research Group of Washington, D.C., which discovered that all but seven states allow some access, generally through a mental health statute, to patient records by the person in interest. She indicated that Federal facilities allow the right to access and copy (for a fee) and have not found it to be a problem. In fact, Ms. Stellman said, Federal facilities studies with

mental health patients have shown anxieties and tensions lessened by the ability to look at health care records.

Ms. Stellman stated the Consumer Council's position that there would be a more open patient-physician relationship if patient access was granted. The patient would be able to see if his record was accurate, immediate emergency information would be available if necessary, there would be more continuity of care, and the patient could moderate the costs of health care.

Ms. Stellman added that there are four bills in the General Assembly to modify patient access to health care records in Maryland. She noted that the Council also maintained that if a patient has the right to examine his own records then he should have the right to correct and ammend them. The Council also supported the position that a patient should be permitted to insert a dissenting comment in the record if the health facility refuses to amend the record. Ms. Stellman expressed the Council's view that the patient should be notified of the right to access and of the necessity for a charge if he uses that right. She stated that, if a statute is passed, hospitals should have a definite time frame for responding to a patient query and a mechanism should be set up so that if there is a problem, the complaint can be handled in a uniform manner.

In response to a question raised by Mr. Heckrotte, Ms. Stellman stated the reasons given by health care facilities for not providing access and her responses to these reasons as the following:

-Patients won't understand their records. (This is in opposition to the principles of informed consent.)

-Potential harm. (Has not been documented.)

-Increase in malpractice suits. (HEW Secretary's Commission on Medical Malpractice

)

found that there were fewer suits with open records.)

-Frequency of requests. (Hasn't happened in Federal facilities or states that allow access.)

-Cost (Appropriate charge-it pays for itself.)

-Quality and value of records-records won't reflect the true thoughts. (If the records aren't accurate-the physician is more open to malpractice suits and records might be written more carefully with open records.)

Mr. Drea asked if the Consumer Council's Report addressed the distinction between hospital records and attending physicians' records. Ms. Stellman responded affirmatevely. She noted that two current bills deal only with health care facility records as these were thought to be easier to open. Ms. Stellman expressed the view that both types should be open and stated that this was reflected in the Council's report. However, she added, no distinction was made in the report between public and private medical care facilities. Ms. Stellman stated that she would like to see the Commission include both public and private institutions, as a full health care record probably goes beyond the state institution.

The next witness was Ms. Beatrice Weitzel, Executive Assistant to the Secretary, Department of Health and Mental Hygiene. Ms Weitzel stated that a written reply would be forwarded to the Commission. Ms. Weitzel said that the Department was governed by the Maryland Code, a number of rules and regulations, policies developed within the Department, various acts and guidelines (NIDA-National Institute of Drug Abuse) and also by a number of court decisions. She stated that the major areas in the Department where the Interim Report of the Commission impacts involved patient/client records, vital records for state residents, licensing and permit records, medical assistance program information, laboratory tests and inspections, and inspections and surveys of hospitals, nursing homes and related institutions and public health information.

In the area of Medical Records, Ms. Weitzel said that according to information received from the Assistant Secretary for Mental Health and Addictions, there is currently no problem with making information available to patients. However, the Department does have reservations regarding copying of this information. There is concern that certain items in medical records not be available to the patient, such as comments of counselors and decisions by the medical director as to patient care or prognostics. It is felt that disclosure of this information would be counter-productive to the patient's progress and should be kept in file for use in treatment.

Ms. Weitzel added that the Department has information relative to persons in programs such as drug abuse, alcoholism, and quarter-way and half-way houses. Many use local health departments for clinic services-preliminary help in drug abuse/ alcoholism or information for family planning. She stated that the personal records of these programs are all confidential. The Department also has records of persons who were detained by court order in institutions and are covered under very specific areas through Supreme Court decisions and specific guidelines.

In the area of Vital Records, Ms. Weitzel stated that the Department maintained information on births, marriages, adoptions and deaths, and that these records are covered in the Code and in Departmental regulations. Regarding birth records, Ms. Weitzel said that the information is available only to the individual or to either parent if their name appears on the original certificate. On the state level, marriage information is available upon written request only to both parties involved. On the county levels, marriage information is covered under Clerk of Court orders and varies from County to County. Death information is available to the immediate family, to the persons designated to act, or to a person with a court order. Ms. Weitzel indicated that this information is only mailed to a proper address and is not handed to someone visiting the office.

Ms. Weitzel stated that information pertaining to medical care recipients was shared with the Department of Human Resources. She stated that Human Resources determined eligibility while the Department of Health and Mental Hygiene administers the care and handles bill paying. This information, she asserted, is computerized and security is ensured. Ms. Weitzel stated that the computer facility is supervised and identification codes are used. Password codes are at various levels- certain information is available to the person entering additional information. There is other information available only to another person with the proper password. In addition, a great deal of the information is in code and even if access to a printout sheet was available, it would mean very little.

The Department has a number of licensing boards which maintain information on a number of professional people. Ms. Weitzel stated that this information is controlled by the respective boards. Some supply rosters for public use at a charge which they determine. Some of the information is not public such as grades and information on allegations of investigations (until a determination has been made of the charges).

Ms. Weitzel indicated that the Department laboratories are privy to sensitive information. Such information can only be given out to the submitter of information. The Department does not give out information on labs licensed by them, locations, number of tests and other related facts.

Ms. Weitzel stated that hospital and nursing home inspections conducted by the Department of Licensing and Certification are public information with the exception of any personal patient information that is in the records.

The Department has tried through not only the Citizen Response Plan but through individually developed procedures to determine that proper care is taken to ensure

that personal information is protected while at the same time permitting access to public information.

Ms. Weitzel indicated that the Department currently is reviewing its policies regarding the retention, distribution, and destruction of records. She stated that the Department would provide a list detailing points of disagreement with the Interim Report. Ms. Weitzel asserted that in general, the Department was pleased with the Interim Report and felt it does address a need.

Mr. Drea asked if there were written Departmental policies covering the areas addressed by Ms. Weitzel. Ms. Weitzel indicated that such written policies did exist and that they would be sent to the Commission with the other materials.

Mr. Sweeney asked if the Department thought that there was a need or that the law should be changed to allow the use of information for legitimate public health research.efforts. Ms. Weitzell replied that she did not know, but would find out. Secondly, Mr. Sweeney questioned if it made sense on the state level to deny access to marriage license records when one can go to the county and get access. Mr. Sweeney asked if this policy should not be consistent. Ms. Whitzell responded that the Department feels its regulations are consistent. She indicated that throughout regulations, persons of primary interest should be allowed access. Mr. Sweeney summarized the Department's position as being the maintenance of consistency between different types of records in the possession of the Department even though counties may be following different policies.

Mr. Gardner asked if Ms. Weitzel was addressing information collected and retained in a central location. Ms. Whitzell replied that there is one central collection point for Vital Records. That information is completely separate from information collected for medical care programs.

Ms. Weitzel stated information pertaining for patient records is maintained at each hospital. She added that Department regulations pertain to whatever the area is and to anything within the Department. These regulations may overlap into another agency. In such a situation, she asserted, that agency has the opportunity to add input at the time of promulgation. When a regulation is published in the Maryland Register and becomes part of operating procedure, it applies department-wide. The regulation doesn't apply to parties providing information to the Department but only to those over which the Department has jurisdiction - such as marriage license information. The Department does not have jurisdiction over clerks of the counties.

Mr. Sweeney questioned if the Department's policy regarding medical records at state institutions is in writing. Ms. Weitzel replied that these policies were not in writing and were being examined at the present time.

Mr. Sweeney asked if the compensation paid by the State to doctors was regarded as public information. Ms. Weitzel replied that reports are prepared at the end of each year which give the total amounts to the providers. If inquiries are received as to individual providers they normally are handled with the Assistant Attorney General in that area. Such information is available to the public.

In response to a question from Mr. Drea, Ms. Weitzel indicated that all licensing boards have regulations in written form and that copies would be sent to the Commission within a week.

Discussion followed over the issue of patient access to comments in records and concern over the copying of records. Ms. Weitzel explained that it is often difficult to pinpoint the problem with, for example, patients suffering from mental disorders. As a consequence, some comments are highly speculative. Access to these comments might restrict what was put in a patient's file. At the same time, a physician might

not want a patient to examine a record if the outlook was not favorable. Mr. Drea questioned the difference between the medical patient whose prognosis was unfavorable and the mental health patient with a similar prognosis. Ms. Weitzel suggested that the issue should be dealt with by the psychiatrists themselves who could spell out their objections to the Commission.

Mr. Heckrotte wondered if any studies had been done to see how many patients are actually interested in looking at their records. This, he suggested, might be relevant to the cost objection mentioned by Ms. Stellman. Ms. Weitzel responded that she did not know. The Department had run into situations, however, where the cost of reproducing records requested in class action suits was a problem.

Mr. Sweeney asked if there was a policy regarding access to personal records by law enforcement personnel with proper identification. Ms. Weitzel answered that in certain situations, personal records could be available. If a charge of patient abuse had been made, the State Police would be asked to investigate. Investigators would be allowed access to the person's file with the person's knowledge. There may be instances of other allegations or incidents pertaining to the investigation. However, Ms. Weitzel added, for release of any other information other than that on the Department's own personnel, a court order would be required.

There were no further questions and the Public Hearing was concluded.

Mr. Drea held a short Commission meeting. The next meeting was set for April 20, 1981. (This has since been changed to April 27, 1981.)