

of law or policy" is not applicable if such documents deal with law or policy in the context of specific facts. This argument would convert such work product of the professional staff of the Commission, and of the Commissioners themselves, into public documents. We do not see what purpose would be served by giving the general public access to such material or to such other memorandums as those recording conferences among the Commissioners, between the Commission and the staff, or between representatives of this and those of other agencies, such as the Department of Justice, relating to specific factual situations. We can see no reason why such memorandums exchanged between Commissioners and the staff should be treated differently from those between Federal judges and their assistants.

The proposed amendments also would authorize district courts to order the production of information improperly withheld from any person. We assume no change is intended in the normal requirement of exhaustion of administrative remedies, for surely a refusal by the staff where Commission review is available but not invoked should not support interference by a district court.

We also assume that the provision entitling a person to a district court trial de novo of the propriety of an agency's withholding of requested material is not to be construed to defeat confidential treatment where properly given. Thus, we would suppose that any examination of the information sought would consist of an in-camera inspection by the judge.

Finally, we suggest that subsection (a) of the bill be amended by inserting the words "and Agency" immediately after "Department" in the first line thereof (line 5, p. 1 of the bill) and inserting the words "or Agency" immediately after "Department" in the third line thereof (line 7, p. 1). This suggestion is made on the assumption that subsection (c) is intended to permit agencies as well as departments to maintain the confidentiality of material in the exempted categories. The present structure of the bill may give rise to arguments that the authority for nondisclosure provided in subsection (c) relates only to governmental bodies to which subsection (a) applies.

Should the foregoing views not be adopted, the Commission would feel constrained to oppose the bill in its present form.

REPLY FROM SELECTIVE SERVICE SYSTEM

SELECTIVE SERVICE SYSTEM,
Washington, D.C., May 7, 1965.

Hon. JOHN E. MOSS,
*Chairman, Foreign Operations and Government Information Subcommittee of the
Committee on Government Operations, Rayburn House Office Building,
Washington, D.C.*

DEAR MR. CHAIRMAN: I am pleased to furnish my comments as you requested in your letter of March 25, 1965, on H.R. 5012, a bill to amend section 161 of the Revised Statutes with respect to the authority of Federal officers and agencies to withhold information and limit the availability of records.

The Selective Service System has in the past pointed out that legislation in this area would jeopardize Selective Service operations unless it contained an exception for the material in the files of registrants obtained in confidence and heretofore protected from disclosure by law or regulation.

H.R. 5012 includes an exception from disclosure of personnel and medical files and similar matters the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. That language appears to assure the confidentiality of registrant files essential to the continued operation of Selective Service.

With that exception included, the bill, if it became law, would permit the Selective Service System to continue to obtain from registrants the information necessary for their proper classification which is basic to the proper selection of individuals for service in the Armed Forces as needed.

In another respect, however, a provision of the bill would so adversely affect the operations of the System that I have to oppose its enactment. The bill would protect from disclosure only those internal agency working papers which are interagency or intraagency memorandums or letters dealing solely with matters of law or policy. This restriction is far too narrow. It would leave available to the public practically everything reduced to writing other than such