# Matches Hit Civil Servants Hardest

By Eric Fredell
GCN Staff

Their names are regularly run through government computers, which have instructions to search the available data for addresses, financial information, specific

### First in a Series

personal identifiers and various irregularities. The results are analyzed, and sometimes individuals are arrested.

This scenario might describe an FBI operation to capture orga- nized crime suspects, potential drug smugglers or the country's 10 most wanted criminals. Fre- quently, however, it is aimed at civil servants.

Through a process known as
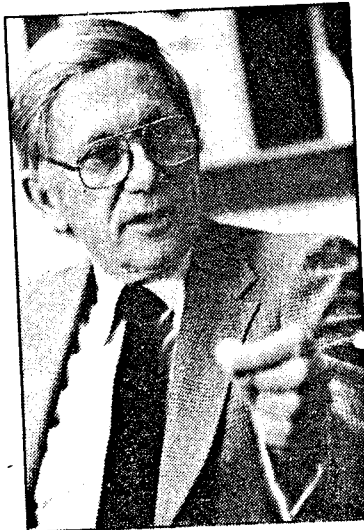


Rep. Don Edwards (D-Calif.):
". . . It's almost an avalanche."

computer matching, the govern- ment can almost painlessly inves- tigate its employees to ensure they are not biting the hand that feeds them. The result is one of the "cleanest" work forces in the country.

Computer matching is a process by which one set of computerized records is compared with another set. For example, one typical match compares federal employee personnel records with the names of individuals receiving Veterans Administration compensation, looking for those who have mis- stated their income to receive higher benefit payments.

Within minutes, a computer can run through millions of records and spit out a "hit" list — the names and other identifying information about individuals common to both data files. These individuals become prime sus- pects in further investigations for fraud or abuse of government pro- grams.

The result, according to govern- ment officials, is an effective au- diting technique for uncovering welfare queens, double dippers, loan defaulters and others who have taken the government's lar-

gess one step beyond the legal limit, whether government employees or not.

These same officials note that federal employees are not mistrusted any more than anyone else, though the first federal match, known simply as Project Match, involved federal employee records, and computers continue to shuffle through federal government personnel files regularly.

### 'Mass and Class' Searches

A recent congressional Office of Technology Assessment report, *Electronic Record Systems and Individual Privacy*, put it this way: "Computer matches are inherently mass or class investigations, as they are conducted on a category of people rather than on specific individuals. In theory, no one is free from these computer searches; in practice, welfare recipients and federal employees are most often targets."

Jerry Berman, chief legislative counsel for the American Civil Liberties Union in Washington, D.C., agreed, noting that this apparent bias toward government employees is "wrong." But he said it is easy to get away with because "there's not that much public sympathy . . . for federal employees and for people on welfare."

This "start at home" attitude has been justified by arguments that it would be hypocritical to send cheaters after cheaters. Robert Veeder, a desk officer in the Information Policy Branch of the Office of Information and Regulatory Affairs (part of the Office of Management and Budget), said there is "no question" that federal employees are frequent targets of matching, adding that "the operative assumption is that we better clean our own house before we go after other people."

An official with one major federal employees union, the American Federation of Government Employees, said the union does not find matching of federal employee records particularly disturbing. John Harris, special assistant to the president of the union, said in a telephone interview, "We have not experienced anything alarming," adding that "there are a number of protections" for employees.

### Concerns About Matching

But checking up on the government's own employees has been significantly facilitated by the simple fact that it has easy access to the necessary data — Social Security number, date of birth, name, etc. — collected when the employees are hired.

While such treatment raises questions about equal treatment under the law, matching in general is considered by many to be an egregious breach of personal privacy, with such views fueling an often-acerbic debate.

These concerns culminated in 1982 when a computer match in Massachusetts resulted in disaster, erroneously knocking more than a hundred people off the welfare rolls.

Today, such horror stories have dissipated, and the debate has quieted as those opposed to matching admit it is here to stay, while those in favor of it have shown a willingness to add some safeguards to ensure individual rights.

But a new, more subtle debate appears to be emerging on the issue. While privacy protection is still the premier concern, a new emphasis has been placed on the technique's cost-effectiveness. Also today's reform efforts are aimed at placing tighter controls on matching through stronger oversight.

This is the first in a series of articles about matching that will delineate the history and debate surrounding the use of computers by the government to audit assistance and other programs and, as some argue, police its own employees and its citizens in general.

> ## "There's not much public sympathy . . . for federal employees and for people on welfare."

Although matching has been done for years in some corners of the public sector, it was not a widely used technique when the government launched Project Match, its first large-scale matching program. Consequently, that effort and the matches that followed touched off an initial round of struggle, pitting efficiency-minded auditors in the government against privacy-minded groups and individuals in and out of the government.

## Privacy v. Efficiency

Privacy advocates sought to discredit matching, arguing the benefits were few while the procedure significantly eroded traditional values that could be traced to the Constitution.

Proponents tended to assume matching's efficiency and cost-effectiveness. Some argued frauds and cheats should be caught at any price. Their biggest quandary was finding the legal justification to continue matching regularly.

The most significant obstacle was the 1974 Privacy Act, which sought, among other things, to ensure the privacy of the millions of records the government maintained on its citizens. One of the provisions of that act prohibited agencies from disclosing personal information without the individual's consent.

There were exceptions to this rule, including a "routine use" provision that allowed the information to be disclosed only for "a purpose which is compatible with the purpose for which it was collected."

Joseph A. Califano Jr., President Carter's secretary of the then-Department of Health, Education and Welfare, pointed to this provision for initiating Project Match, which compared computer tapes of welfare rolls in 18 states with federal payroll files. But the Defense Department and the Civil Service Commission (now the Office of Personnel Management) — the two agencies with the necessary personnel records — and some HEW officials were reluctant to follow through because of Privacy Act restrictions.

In one revealing memorandum, CSC general counsel Carl F. Goodman wrote to the HEW acting deputy inspector general, "It is evident that this information on employees was not collected with a view toward detecting welfare abuses," and its release could not be justified as a "routine use."

But the commission did eventually provide the necessary data, arguing the information was available through the Freedom of Information Act. DOD eventually relented as well, justifying its transfer as a "routine use" under the Privacy Act, opening what is today a floodgate for the flow of personal information among agencies.

Project Match was initiated in late 1977, but it was not until August 1978 that the Office of Management and Budget issued draft guidelines in the *Federal Register*, with final guidelines published in March 1979. Those guidelines left the door open to agencies to disclose records under the routine-use provision of the Privacy Act.

This was clear when the Veterans Administration proposed a match using Office of Personnel Management records to check the accreditation of its hospital employees. OPM justified the routine-use transfer — as required by the OMB guidelines — on the grounds that "an integral part of the reason that these records are maintained is to protect the legitimate interests of the government and, therefore, such a disclosure is compatible with the purposes for maintaining these records."

Although the 1979 guidelines seemed to play an important role in opening federal employee personnel files — and other government data files — to computer searches, matching failed to take off. One reason was the various administrative requirements contained in those same guidelines, including the written justification for routine-use matches, a cost-benefit analysis, prior public announcement (in the *Federal Register*), a comment period and reports to Congress and OMB. These strict rules tended to have a chilling effect within the bureaucracy.

## New Guidelines

But, by 1982, there was a new president who took a dim view of government beneficence in general and who was eager to wage a campaign against fraud and abuse in government programs. And there were new matching guidelines, which removed some of the administrative roadblocks. Gone were the detailed explanations for a given match and the need to show the match's cost-effectiveness.

OMB's Veeder said the new guidelines were needed because older regulations were burdensome. "The 1979 guidelines were much more onerous. There was a cost-benefit analysis, a lot of management steps that were not particularly Privacy Act-oriented. ... The meanings were not clear, and we were kind of working them out as we went."

The changes paved the way for full-fledged acceptance and use of matching throughout the government. By 1984 Congress required states to conduct matches of numerous benefit recipient files, and plans were on the drawing board within the Reagan administration to extend the requirement to a variety of other programs.

## Growing Fast

Since the new regulations were approved, matching has become a fast-growing technique to uncover fraud and abuse in the government. Rep. Don Edwards (D-Calif.), who has been watching matching closely for several years from his position as chairman of the House Judiciary Subcommittee on Civil and Constitutional Rights, said the increase is comparable to "a snowball gathering more snow. ... It's almost an avalanche."

Results of a survey conducted by OTA

ACLU's Jerry Berman

GCN Photo by Rudi Williams
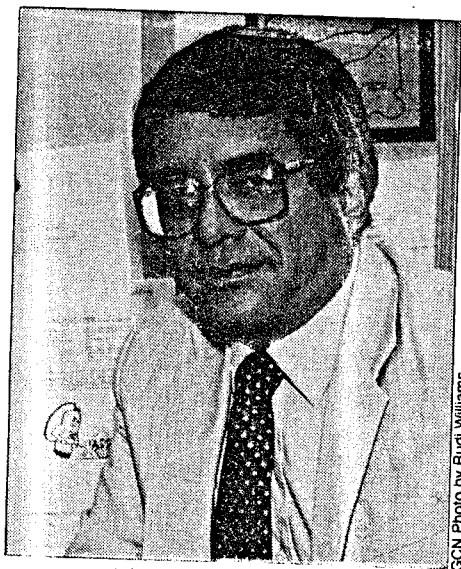
and contained in its recent report found the number of computer matches tripled between 1980 and 1985. Despite this finding, the report, in one of its major findings, said "it is difficult to determine how much computer matching is being done by federal agencies."

Comprehensive figures detailing the number of matches conducted by federal and state governments, the frequency of matches or even their costs and benefits are hard to find. Data that is available tends to be sketchy and anecdotal, fueling privacy advocates' concerns about the inadequacy of controls and oversight.

For example, the President's Council on Integrity and Efficiency, which has a study group devoted to promoting computer matching, said in a series of reports that the federal government conducted 162 computer matches in 1984 and 108 in 1986.

A General Accounting Office study estimated there were 126 federal benefit-related matches occurring as of May 1984. And OTA estimates there were 123 federal matches in 1984 and 127 as of April 1985.

## Computerized Records

Advances in matching are also evident in the rapid shift the government has made to computerized record systems. The OTA survey found that within 12 Cabinet-level departments and 13 independent agencies, there are 229 fully computerized systems of records covered by the Privacy Act. These files hold almost 2.5 billion individual records.

OTA found that another 96 record systems, containing 303 million records, were partially computerized. Another 214 record systems with 700 million records were maintained on paper. OTA asked agencies to include in the survey only their 10 largest record systems.

What regulation and oversight there is comes not from OMB, but the President's Council on Integrity and Efficiency, a panel of executive agency inspector generals. Although the council has been active in producing matching inventories, a checklist and other helpful guides, it has no direct authority over agency matching programs.

While it is difficult to determine how many of these matches involve public employees, it appears certain that they will continue to be frequent targets. As Richard P. Kusserow, inspector general of the Department of Health and Human Services, puts it: "You don't have to apply for a government job. But one of the conditions of getting that government job . . . is that you must have your records checked and have verification of employment and education."

## Unfairness Seen

To emphasize what he views as the unfairness of many of these matches, the ACLU's Berman has argued against his own beliefs. He once suggested at a meeting that the government could require its contractors to provide a list of its employees on computer tape as part of doing business. These tapes could then be used to check for frauds and cheats, like matches using federal employee records.

"The room was silent," he recalled. "People were upset. That was different. They weren't working for the government. I said, 'But they are; they are taking government money under federal contract.' I see no distinction in law or in practicality for treating them [a contractor's employees] differently."

Although he may sound it, Berman is not simply being facetious, as he explained in a later interview. "It's time that the middle class [and] business community of America start thinking about computer matching because it's coming their way."