

# Privacy Act of 1974

Biometric Research Databases and the Privacy Act of 1974

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**Do you recognize this man?**



**Sam J. Ervin, Jr.**

# In 1974 . . .

- The Internet did not exist
- Cellular telephones did not exist
  - Much less smart phones
- NIST, as NIST, did not exist  
(It was the Bureau of Standards)

# However, In 1974,

- **Biometrics** did exist
  - Privacy Act referred to
    - Finger prints
    - “Voice prints”
    - Photographsas personal identifiers
- **Databases** existed
  - In fact, there were about 863 federal agency “data banks” that maintained records containing personal information about millions of individuals.

# Privacy Act 1974 focused on Databases – data banks

- US Senate Judiciary Subcommittee on Constitutional Rights study of federal agency data banks that contained personal information about individuals
  - Federal Data Banks and Constitutional Rights
  - Part of the Privacy Act's legislative background
- I was privacy counsel to the Constitutional Rights Subcommittee
  - My boss was Senator Sam Ervin, chairman of the subcommittee
  - Part of my work included completing and publishing the study of just how many and what kinds of federal agency data banks were collecting personally identifiable information about individuals

# Privacy Act of 1974

- Federal executive branch agencies, including the Executive Office of the President
- Restricts personally identifiable information disclosure
- Restricts "matching programs"
- Requires fair information practices in maintenance of systems of records containing personal information
  - Individual notice and consent before collection and disclosure
- Provides for individual access to that individual's personal data
- Restricts records of First Amendment activities
- Restricts use of Social Security Numbers as personal identifiers
- Requires Transparency through Federal Register publication of Systems of Records retrievable by personal identifiers, including biometrics
- Provides Civil and Criminal penalties for violations
  - Private court actions by individuals

5 USC 552a - Effective September 27, 1975



# Why should those who work with Biometric Research Datasets care about the Privacy Act of 1974?

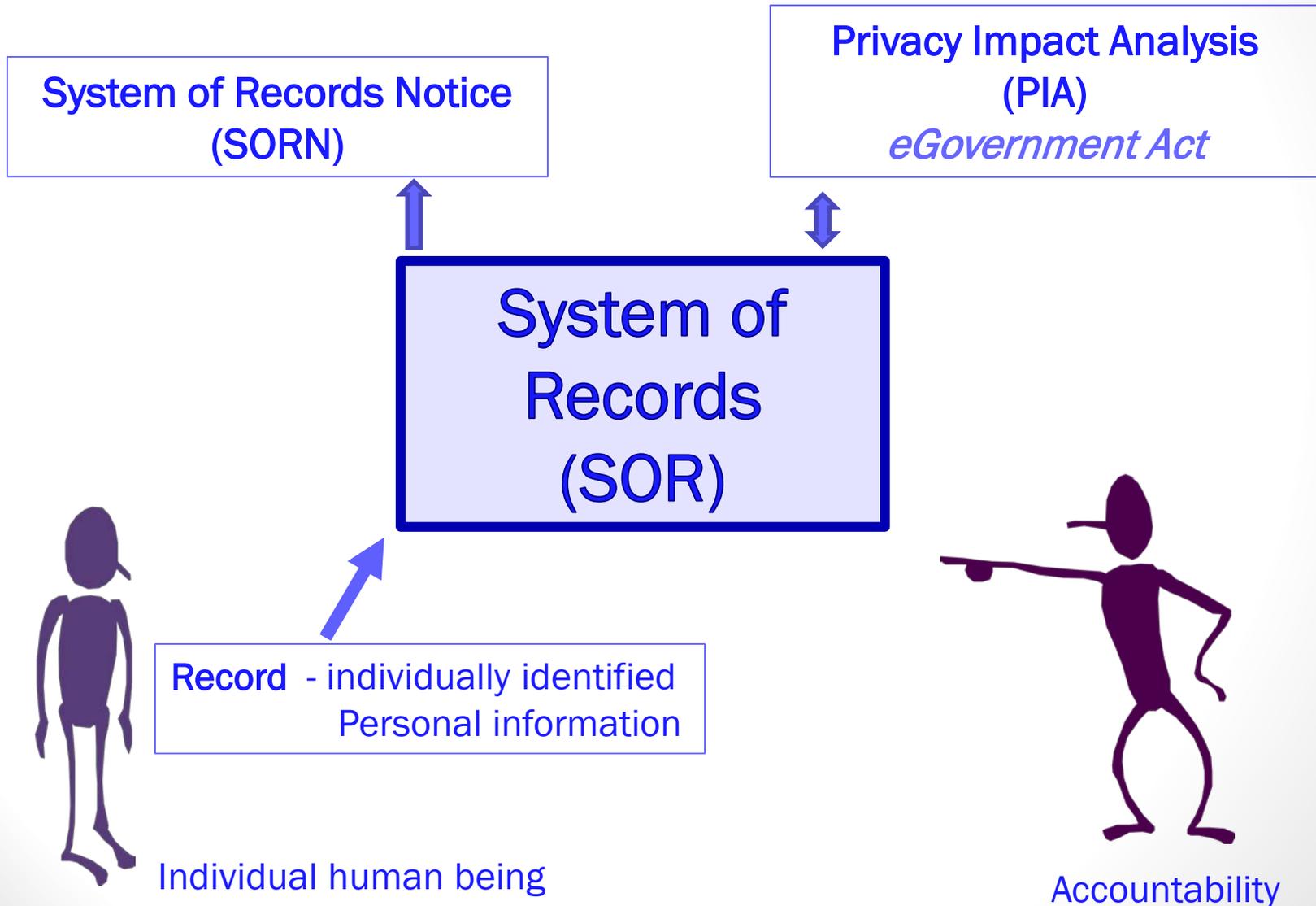
- Calls out biometric identifiers for particular privacy concern
- Created Personally Identifiable Information (PII) concept
- Recognized
  - Scale of Big Data systems matters
  - Matching matters (Computer Matching Act, 1988)
  - Disclosure requires notice to and consent by individual data subjects
- Published Systems of Personal Information Records
- Led to Privacy Impact Analysis (eGovernment Act of 2002)

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## 5 USC §552a(b) Disclosure and Matching Provisions

- "No agency shall disclose any record ... to any person, or to another agency, except ... with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record would be --
  - ... used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable" [*not defined*]
- Restriction on "matching programs"
  - Any computerized comparison of-- (i) two or more automated systems of records ... [*certain exceptions*]

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# Thank you!

## Looking forward to your questions . . .

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