

A NATIONAL ID CARD: BIG GOVERNMENT AT ITS WORST OR TECHNOLOGICAL EFFICIENCY?

HEARING

BEFORE THE

SUBCOMMITTEE ON NATIONAL ECONOMIC GROWTH,
NATURAL RESOURCES, AND REGULATORY AFFAIRS
OF THE

COMMITTEE ON GOVERNMENT
REFORM AND OVERSIGHT
HOUSE OF REPRESENTATIVES

ONE HUNDRED FIFTH CONGRESS

SECOND SESSION

SEPTEMBER 17, 1998

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A NATIONAL ID CARD: BIG GOVERNMENT AT ITS WORST OR TECHNOLOGICAL EFFICIENCY?

THURSDAY, SEPTEMBER 17, 1998

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON NATIONAL ECONOMIC GROWTH,
NATURAL RESOURCES, AND REGULATORY AFFAIRS,
COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:15 a.m., in room 2247, Rayburn House Office Building, Hon. David M. McIntosh (chairman of the subcommittee) presiding.

Present: Representatives McIntosh and Kucinich.

Also present: Mr. Davis of Virginia.

Staff present: Mildred Webber, staff director; Karen Barnes, professional staff member; Andrew Wilder, clerk; and Alys Campaigne, minority professional staff member.

Mr. MCINTOSH. The subcommittee will come to order.

Today the subcommittee will examine several recent steps taken by Congress and the Clinton administration toward establishing a national ID card. These measures which include a medical ID requirement for uniform driver's licenses containing Social Security numbers, and a national data base of all newly hired employees, among others, move in exactly the wrong direction, threatening the privacy and security of all American citizens.

The new law, which requires the Department of Health and Human Services to create a unique health identifier, or medical ID card, for all Americans would expose an individual's personal medical records to public scrutiny. As a result, individuals would be vulnerable to discrimination. Based on their medical history, they may be turned down for jobs, and turned down for insurance and important benefits. A medical history is one of an individual's most private records and it merits the greatest degree of privacy protection.

Vice President Gore has indicated that the administration does not intend to move forward on establishing a medical ID until the proper privacy protections are in place. Now, we in Congress need to make sure that the privacy legislation enacted truly is adequate.

One of the National Highway Traffic Safety Administration's latest proposals appears to create a de facto national ID card. This regulation says that a Federal agency may only accept, as proof of identity, a State-issued driver's license which conforms to certain standards, including, it must contain a Social Security number or,

at least, a Social Security number that is verified for each applicant.

The privacy concerns surrounding this requirement are clear. All a thief needs to do is take someone's Social Security number, open credit card accounts and bank accounts in someone's name, and ruin his or her credit for life. With a Social Security number, anyone can find out almost anything about an individual on the Internet, including where he or she lives, the type of bank accounts he has, his credit history, the type of purchases he makes—some of the most private information about an individual. This technology gives stalkers and abusers easy access to their victims.

Many States are aware of these privacy concerns and are now changing their laws so that citizens do not have to include their Social Security numbers on their driver's licenses. And I am proud to say Indiana has such a system where it is optional if you want to put that Social Security number on your driver's licenses.

This regulation is moving in the opposite direction. And I do not fault NHTSA for proposing the regulation. In fact, they have largely simply complied with the law and what is required of them. NHTSA submitted a statement to us for our hearing in which they state, and I will quote,

We have no programmatic interest in whether a final rule is developed. We issued the proposal because we were directed by the act to do so. The use of the Social Security number, which has proven highly controversial, has little bearing on the safety mission of the agency.

Let me digress for just a second here from the prepared remarks. I have complained a lot about different agencies and the regulations that they make over the last 10 years and oftentimes agencies do have a defense: "Congress made us do it." And in this particular case, I think this is a legitimate point.

Therefore, it is important that we investigate the possible consequences of these regulations and make our colleagues aware here in Congress of the need to take action to change those requirements and remove any requirements that threaten individual privacy.

NHTSA asked Congress to reconsider the statutory requirement for the rule, and I will quote again,

To the extent that the controversy over the proposal is requiring us to address thousands of components from angry members of the public, we would welcome the Congress's reassessment of subsection 656(b).

I pledged to work with them to see what we can do about that.

I do not fault the authors of the law. They did not intend it to create a national ID, but unfortunately it does. Now Congress must deal with the very real, unintended consequences of this regulation. That may mean going back into the law and changing it, as I have said.

Other measures, such as a recently implemented data base of all newly hired individuals for the purpose of tracking deadbeat parents, raise more concerns about exposing private, personal information to the public. This data base includes people's names, Social Security numbers, and wages. All these measures and others like them show a disturbing pattern of government invasion of individuals' privacy.

This morning we will hear from two individuals who have already suffered dire consequences from having their Social Security numbers stolen—an invasion of privacy which is likely to become much more prevalent if a national ID card is established.

Celene Cross and Marvin Young traveled across the country so they could warn others of the dangers of identity theft. I want to thank them and all of our witnesses for being here today. I look forward to your insight, and hope through this hearing we can determine constructive solutions to the privacy problems that these government policies present.

Let me mention, my colleagues on the minority side are not able to be here yet. We are hoping that they will arrive later but, as I understand it, they are very supportive of this hearing as well. This is, in fact, something that does not cut across party lines, Republican and Democrat, but I think does bring the value of individual liberty and privacy into focus and requires all of us to look and see how the effects of some—I am sure well-meaning—provisions in the law have led to results which none of us would like to see in this country.

So let us move now to the first panel. I would ask them to come forward. Celene Cross, Marvin Young, Greg Nojeim, Solange Bitol, and Grover Norquist. Please come forward.

[The prepared statement of Hon. David M. McIntosh follows:]

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A National ID Card: Big Government at its Worst or Technological Efficiency?

Opening Statement of Chairman David McIntosh
 Subcommittee on National Economic Growth,
 Natural Resources, and Regulatory Affairs
 September 17, 1998

Today the Subcommittee will examine several recent steps, taken by the Congress and the Clinton Administration, toward establishment of a national ID card. These measures -- which include a medical ID, requirements for uniform driver's licenses containing Social Security numbers, and a national database of all newly hired employees, among others -- move in exactly the wrong direction, threatening the privacy and security of all American citizens.

The new law which requires the Department of Health and Human Services to create a unique health identifier, or medical ID number, for all Americans would expose an individual's personal medical records to public scrutiny. As a result, individuals would be vulnerable to discrimination based on their medical histories -- they may be turned down for jobs, insurance, and important benefits. A medical history is one of an individual's most private records, and it merits the greatest degree of privacy protection. Vice President Gore has indicated that the Administration does not intend to move forward on establishing a medical ID until the proper privacy protections are in place. Now we in Congress need to make sure that the privacy legislation enacted is truly adequate.

One of the National Highway Traffic Safety Administration's latest proposals appears to create a de facto national ID card. This regulation says that a federal agency may only accept as proof of identity a state-issued driver's license which conforms to certain standards, including that it must contain a Social Security number or at least that a Social Security number is verified for each applicant. The privacy concerns surrounding this requirement are clear -- all a thief needs is a Social Security number to open credit card accounts and bank accounts in someone's name and ruin his or her credit rating for life. With a Social Security number, anyone can find out almost anything about an individual on the Internet, including where he or she lives. This technology gives stalkers and abusers easy access to their victims.

Many states are aware of these privacy concerns and are now changing their laws so that their citizens do not have to include their Social Security numbers on their driver's licenses. This regulation is moving in the opposite direction.

I don't fault NHTSA for proposing this regulation. In fact, they have largely just complied with what the law requires them to do. NHTSA submitted a statement to us for our hearing record in which they state: "We . . . have no programmatic interest in whether a final rule is developed. We issued the proposal because we were directed by the Act to do so. The use of the social security number, which has proven highly controversial, has little bearing on the safety mission of the agency." They ask Congress to reconsider the statutory requirement for the rule: "To the extent that the controversy over the proposal is requiring us to address thousands of comments from angry members of the public, we would welcome the Congress's reassessment of subsection 656 (b) [the statute]."

I don't fault the authors of the law -- they did not intend this law to create a national ID card. But, unfortunately, it does. Now Congress must deal with the very real, unintended consequences of this regulation, and that may mean going back to the law and changing it.

Other measures, such as a recently implemented database of all newly hired individuals for the purpose of tracking deadbeat parents, raise more concerns about exposing private, personal information to the public. This database includes people's names, Social Security numbers, and wages.

All these measures and others like them show a disturbing pattern of government invasion of individuals' privacy. This morning we will hear from two individuals who have already suffered the dire consequences of having their Social Security numbers stolen -- an invasion of privacy which is likely to become much more prevalent if a national ID card is established. Celene Cross and Marvin Young have traveled across the country so that they can warn others of the dangers of identity theft. I want to thank them and all our witnesses for being here today.

I look forward to your insights, and I hope that, through this hearing, we can determine some constructive solutions to the privacy problems that these government policies present.

plus \$25 court costs and restitution. He paid his fine and his probation period is over. I called this bank, AFSCI, after his prosecution, which had initially refused to prosecute him and refused to take my name off of the account. I told them to take my name off the account, that he had been prosecuted and asked if they wanted the case number. I was told, "No, I do not want the case number and no, we will not take your name off of this account." About a year and half later, and after his employment at that agency, I was able to have my name removed from the account, but it had been passed onto another agency at that point and was not an easy task.

I suppose the point of my trying to get him prosecuted was so that I could prove the accounts were fraudulent and my credit reports could be cleared completely of these accounts. I have come to find that his prosecution has had little to do with the state of my credit reports. When A.J. Woodson filled out the credit applications, the only identification he needed was my name and social security number. The address, previous address, mother's maiden name, birth date, phone numbers, and place of employment were listed erroneously on the credit card applications, but he was still granted the credit. I thought that the banks would be liable since they did not verify this information, but verifying this information is optional by law, which relieves them of any responsibility.

I also had problems with all of the banks having these accounts removed from my credit reports, even after A.J. Woodson fully confessed in writing to all of the banks involved and all three credit reporting agencies that he took these accounts out without my consent or knowledge, that he wanted to take full responsibility for their balances, and he had no affiliation with me.

I have a low to moderate income. I do not know how far people in my income bracket pursue these cases. I had heard horror stories about people hiring an attorney to clean up a mess like this, but all they would end up with was a fat bill from an attorney who was not able to resolve a thing so that is why I pursued it myself. I ran into so many brick walls that I think most people would have given up long before now yet I continue to fight this losing battle. Every piece of personal data on my credit reports has been incorrect at one point or another since this began. Accounts that have been taken off later came back as "disputed". My birthdate, place of employment, address, previous address, spelling of my name and my social security number have been incorrect on them at one time or another. I have documented nearly every phone call and every correspondence made throughout this ordeal and resented it every step of the way, not to mention the emotional turmoil it has caused me.

This has been going on for four and a half years and my files are now divided into years. Since the Fair Credit Reporting Act was amended in September 1997, I have had two credit reports come back entirely clean and one report come back with one mistake. I have not double-checked to see if these reports are still clean, but in the past whenever 30 days had passed, a bunch of fraudulent data would return which I did not understand. I probably have around 30 copies of incorrect credit reports. I was finally told that the banks send tapes to the credit reporting agencies every 30 days so the reason why incorrect data kept popping back up on my credit reports was because one or more of the banks had not entirely remove my name from their databases. When I asked the credit reporting agency which bank/s the false information was coming from, they could not tell me. They also told me that there was information on my credit report that showed up on their computer, like "ghost accounts", which would not show up on my copy of the credit report.

In addition, I have had to deal with the type of personality that would steal

responsible for prosecuting the person who stole my identity. And since they have no—there is no—they are not going to gain anything from doing this, none of them did it.

One of the accounts that he took out was a live loan, which is a check. I do not know if anyone has gotten these in the mail. It is a live loan check, and you sign the check and you make payments back to that check. Well, he had signed a thousand dollar live loan check; and I was able to get a copy of this check and file a police report and have him charged with forgery.

However, dealing with the kind of personality that would steal someone's identity to begin with, he claimed that he had a sister named Celene Cross, that her Social Security number was different by one number, and that he had signed the check in good faith. And it took a year and a half to have him prosecuted.

After 6 months of his writing sort of notarized letters to the banks stating that there is another Celene Cross whose Social Security number was different by one number, and the reason why everything was going through him was because her ex-husband was stalking her, the police and the postal inspector tracked him down at his employment and told him that he needed to produce this person. A few days later he went into the police department and told them, no, the real story was he had run a Sears credit card up and that he had met a woman at a bowling alley who claimed to be a stripper and paid her to take her name, to use her name and Social Security number.

I don't know if he knows what I look like or not. But apparently the information that he gave the police and my appearance are enough alike that the police did not believe me, and I was accused by the postal inspector of basically lying. I remember distinctly the phone call, "Look, lady, we don't have time to pursue things that we are not going to prosecute. And if it comes right down to it, you are going to have to submit to a polygraph if this person convinces enough people that he is telling the truth."

To which, at that point, after going through it for however long, a year and a half at that point, I was astonished. And he has since admitted that he didn't meet anyone. He has changed his story again. I do not know what the true story is.

I contacted several agencies for assistance. I have mentioned some of them already. The local police, State's attorney, the postal inspectors, U.S. Secret Service, Illinois Attorney General's Office, U.S. Attorney General's Office, the FTC, the Social Security Administration, my State rep, and my U.S. Congressman.

And, by the way, I don't think it is an accident that I am the one that is kind of representing my income here today. I just think that I have pursued this much farther than anyone would. I had hit brick walls over and over again, and I am still not done. I have done all this myself, since I have heard horror stories of people paying money to attorneys to get nowhere, and I think I have probably accomplished more than any attorney could have done.

I think there is one thing that you need to know, I suppose. When I contacted the U.S. Attorney's Office, because he had forged my name on these credit card applications and it is Federal fraud to use my Social Security number, they advised me that they don't

my store with their social security number on their check and advise them never to do that again. A.J. Woodson used my identification in ATM machines and over the phone. He is a black man and I am a white woman. I was a single new mother of a nine-month-old daughter running my own business when this came to my attention. It has consumed and continues to consume a tremendous amount of energy that I have not and do not have to expend. It has stunted my ability to establish independence. My daughter is now three-and-a-half years old.

On September 15, 1998 I called the bank which sent me the live loan check for \$2,500 dated June 1998 to ask them where they had gotten the address on the check which was Woodson's. They told me they purchase so many mailing lists there was no way they could track down that information. I went to the post office to change my address from his to mine again, which I do about every six months, and realized this could go on indefinitely.

TESTIMONY OF
CELENE CROSS
BEFORE THE
SUBCOMMITTEE ON NATIONAL ECONOMIC
GROWTH, NATURAL RESOURCES, AND
REGULATORY AFFAIRS

SEPTEMBER 17, 1998

My name is Celene Cross and I am a victim of identity theft. This is my story.

In September 1995, I received a phone call from a collection agency telling me I owed \$4,500 on a Citibank Visa to which I responded, "What Citibank Visa?" As it turns out, I was listed as the primary person on this account of which I was not aware and a man by the name of A.J. Woodson was listed as the secondary person which he had opened a year earlier. I was given his address and phone number and was advised to contact Citibank Visa and fill out a fraud affidavit, which I did. Citibank Visa suggested I get a copy of my credit report to find out if there were any more fraudulent accounts, which I did. I discovered he took out three other accounts using my name and social security number. I contacted the three other banks, First USA, Star Bank and AFSCI and filled out fraud affidavits with them as well.

To this day I have never met this person and have racked my brain trying to think of how he could have gotten my name and social security number since I am quite cautious with it. The only connections we seem to have is that we both attended Western Illinois University at the same time while he was a freshman and I was a Graduate student and he is from Springfield, Illinois and I lived there for a year. All in all, he used approximately \$17,000 worth of credit using my name and social security number.

I thought this was a clear cut case of forgery since he had forged my name on the credit applications and so proceeded to contact the U.S. Secret Service, the Postal Inspectors in Macomb and Springfield and the Social Security Administration for resolution to no avail. Upon further investigation I learned that the banks, not me, were the victims and that they were responsible for prosecuting him, not me. I further learned that none of the banks were willing to prosecute him; after all, what would they gain by doing so? I also learned that the U.S. Attorney's Office will not pursue cases in which less than \$100,000 worth of credit has been used. I filed a report with my local police department in Macomb, Illinois, which told me I would have to press charges in the jurisdictions where the credit had been used. When I tried to get copies of the accounts from the banks, they told me they could not release that information since I had all ready reported it fraudulent.

I spoke to the State's Attorney in my local county, McDonough, who referred me to the Sangamon County State's Attorney, where A.J. Woodson lived. Since one of the accounts was a live loan for \$1,000 and A.J. Woodson had forged my name on the back of this check I filed a report of forgery against him with the Springfield Police Department. About a year and a half later, the Sangamon County State's Attorney charged Woodson with a misdemeanor theft under \$300 and fined him \$101

plus \$25 court costs and restitution. He paid his fine and his probation period is over. I called this bank, AFSCI, after his prosecution, which had initially refused to prosecute him and refused to take my name off of the account. I told them to take my name off the account, that he had been prosecuted and asked if they wanted the case number. I was told, "No, I do not want the case number and no, we will not take your name off of this account." About a year and half later, and after his employment at that agency, I was able to have my name removed from the account, but it had been passed onto another agency at that point and was not an easy task.

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I also had problems with all of the banks having these accounts removed from my credit reports, even after A.J. Woodson fully confessed in writing to all of the banks involved and all three credit reporting agencies that he took these accounts out without my consent or knowledge, that he wanted to take full responsibility for their balances, and he had no affiliation with me.

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This has been going on for four and a half years and my files are now divided into years. Since the Fair Credit Reporting Act was amended in September 1997, I have had two credit reports come back entirely clean and one report come back with one mistake. I have not double-checked to see if these reports are still clean, but in the past whenever 30 days had passed, a bunch of fraudulent data would return which I did not understand. I probably have around 30 copies of incorrect credit reports. I was finally told that the banks send tapes to the credit reporting agencies every 30 days so the reason why incorrect data kept popping back up on my credit reports was because one or more of the banks had not entirely remove my name from their databases. When I asked the credit reporting agency which bank/s the false information was coming from, they could not tell me. They also told me that there was information on my credit report that showed up on their computer, like "ghost accounts", which would not show up on my copy of the credit report.

In addition, I have had to deal with the type of personality that would steal

someone's identity. According to one of the collection agencies, A.J. Woodson had credit reports under five separate names, which he had ruined. And the reason it took so long to prosecute him was because when the Springfield Police Department contacted him about the forgery, he told them that he had a sister named Celene Cross with a social security number different by one number than mine and that he had signed the check in good faith. He sent notarized letters to the banks stating that the reason Celene Cross had to be contacted through him was because her ex-husband (whose name changed a couple of times) was stalking her. After about six months of this run-around, a Detective from the Springfield Police Department and the Postal Inspector from Springfield caught him at work and told him he was going to have to produce his sister.

A few days later A.J. Woodson, who cooperated with the police throughout this ordeal, went into the police station and told them the "real" story. He told them he met a stripper who called herself "Sherry" at a bowling alley who sold him the use her name and social security number to take out credit since he had ruined his with a Sears credit card for \$500 to \$2,000, depending on who you talk to.

Apparently, the description he gave them was close to mine. When I talked to the Postal Inspector he said to me, "Look lady, we only have time to pursue those cases we think are worth prosecuting and if he convinces the right people that he's telling the truth, YOU'RE going to have to submit to a polygraph." Woodson later wrote a letter to me stating a friend gave him my name and social security number.

The only types of credit card applications I receive in the mail now are secured credit which state, "regardless of your past credit history" on them. His address with my name on it is now part of God only knows how many mailing lists which are sold to God only knows who. For example, on September 15, 1998 I had a \$2,500 live loan check thumbtacked to my bulletin board which I was thinking about cashing since I had wanted to expand my business, but had no credit with which to do so. As I looked more closely at the check, which was dated June 1998, it had A.J. Woodson's (wrong) address on it.

For a while I tried applying for credit every six months and would get denied for obviously bogus reasons such as "length of residence too short". Even after I accepted my credit was bad and realized I was going to have to reestablish it even though I did not ruin it to begin with; I tried to get a credit card using my dad as a co-signer. I then learned that credit card companies won't do that unless you're a college student. I have quit applying for credit. When Andrew Wilder was making travel arrangements for me to come and testify, he asked me if I had a credit card to pay for my food and lodging and told me that I would be reimbursed. I told him I had bad credit reports so, therefore, I did not have a credit card.

I recently purchased a business to expand my own which I would have done sooner, but I had to resort to borrowing money from my mother and am fortunate that my family has the resources to help me. I also recently purchased a house, which I also would have done sooner for which my father is co-signing the loan. It effects my business because I have to make orders COD.

I strongly advise against a national identification card. It appears that one with good credit is at risk for someone stealing his or her identity the way it is. There are so many databases, which exist all ready that you never know in whose hands your social security number will fall. It seems to me to have a picture, name and social security number on an ID card just makes it more easily accessible, like those which are used at Western Illinois University. I cringe whenever a student comes into

my store with their social security number on their check and advise them never to do that again. A.J. Woodson used my identification in ATM machines and over the phone. He is a black man and I am a white woman. I was a single new mother of a nine-month-old daughter running my own business when this came to my attention. It has consumed and continues to consume a tremendous amount of energy that I have not and do not have to expend. It has stunted my ability to establish independence. My daughter is now three-and-a-half years old.

On September 15, 1998 I called the bank which sent me the live loan check for \$2,500 dated June 1998 to ask them where they had gotten the address on the check which was Woodson's. They told me they purchase so many mailing lists there was no way they could track down that information. I went to the post office to change my address from his to mine again, which I do about every six months, and realized this could go on indefinitely.

Mr. MCINTOSH. Thank you.

What I will do is ask each of the witnesses to give their testimony, and then I would like to explore even more, some of the problems you have had. That is just incredible. And it sounds like you ran into brick wall after brick wall both from the private sector and the Government.

Our next witness is Mr. Marvin Young, who traveled here from Oakland, CA. Thank you, Mr. Young.

Mr. YOUNG. Hi, how are you?

Mr. MCINTOSH. Good, thank you. Share with us a summary of your testimony. As I said, your written remarks will be put in the record in their entirety. But what happened in your case with the identify theft?

Mr. YOUNG. I am originally from Mississippi, and in Mississippi they put your Social Security number and date of birth on your driver's license. I don't know if they still do, but back then they did.

In 1989, I moved to Oakland, CA, where I live now. I moved in with a roommate who promised to help me find a job. I didn't have a job when I moved out. And that sounded really good, that he was going to help me find a job. So, he wanted some of my personal information, and I refused to give it to him because I really didn't know him that well at the time. But I did show him my Mississippi driver's license and from that he took my information off my Mississippi driver's license. He sent back to Mississippi and requested a copy of my birth certificate, and they actually sent it to him. And from that, my life has been really a living hell.

He opened up over 40 different accounts in my name. I have had warrants out for my arrest. I work for a bank called Bank of America back in Oakland. And it was really hard getting a job because they didn't believe I was the person I said I was. But when I got home one day, I received a certified letter from Sacramento, CA, saying I had a warrant out for my arrest for check fraud.

I did not even have a checking account myself. So what he did, he had actually taken my name and my Social Security number and date of birth and he rigged up some kind of fake driver's license where he was able to get a checking account in my name. He wrote over 150 checks, ranging from \$5,000 up to \$10,000. He opened up different businesses in my name in Oakland, CA. He went to Atlanta. He opened up businesses in Pensacola, FL. He had a condo there in my name. He bought a car in my name. And this goes on and on and on.

I bought a house in 1994, and I sold the house just recently and tried to buy another house. And I cannot even buy another house because they will not even give me credit. Back in 1993, I applied for a job at the Federal Reserve Bank in San Francisco, and it was really hard getting the job. I got the job. I worked there for 3½ years. But they just took me through hell wanting to know who I was and all this.

And the only way I got the job is that the last job I had, working at the Bank of America, the manager had to write a letter saying this is really Marvin Young and, you know, I had to answer so many questions it was just so hard.

And even to this day, you know, applying for different credit cards and wanting different things, never been late making a pay-

ment on anything, is just so hard. And I just hate to see this happen to anybody else because it is really not fun.

A month ago, I was on my way to work. I work for a company now called Tiffany & Co. And I was pulled over for speeding. The highway patrolman did a check on my California driver's license and she came back to the car and said, "I am sorry but I have to take you in." And I said, "Why? I was only speeding." And she said, "Well you have a warrant in Pensacola, FL, you have an outstanding driver's license back here and this is not going to work."

I had on a suit and my tie and everything and I said, "Could you please call my job and let them know that I am here and you are ready to take me in?" And she said, sure. So she called and they verified that it was really me and the car that I was driving and my license plate. So she warned me and told me I should really get this thing back in Pensacola, FL, cleared up.

And even where I live now, I have gotten letters from my landlord saying that, you know, I might have to move because they did extra background checks on me and things just do not look good right now. So, it is just really hard.

[The prepared statement of Mr. Young follows:]

STOLEN IDENTITY

Testimony of Marvin Young, Jr.

Before the Subcommittee on National Economic Growth, Natural Resources,
and Regulatory Affairs

September 17, 1998

I lost my credit record and my good name, but at least managed to avoid being arrested for crimes committed by an imposter. In one month, my imposter opened up 40 accounts in my name. It's a year later and I still can't get a drop of credit. I came home from work one evening and found a certified letter from the Sacramento police that changed my life. There was a warrant for my arrest for check fraud. I nearly fainted. That was in 1991. Seven years later, I'm still fighting to clear my name, allegedly stolen by a former housemate. I'm having trouble explaining who I am. He took over my life. I just sold my house and I can't buy another one. I've worked hard and never made a late payment in my life, but this other guy has just messed up everything for me.

The person who stole my identity has been arrested several times, but apparently finds my name too useful to resist. In the Sacramento case, I could prove that I was at work at a San Francisco bank the day the fraudulent checks were written. But my problems were far from over. Anthony Maurice Phillips, 34, who was my housemate for a few months in 1989, had allegedly stolen my identity and run up debts around the nation. My case began in 1989, shortly after I moved to the Bay Area from Mississippi. Phillips, my housemate, allegedly asked to see my Mississippi driver's license photo and covertly copied some of my personal information, including my social security number and date of birth.

From 1991 to 1993, I worked to clear my name, writing more than 100 letters and checking my credit report regularly. He was quiet until August of 1997, then he went on a rampage. In one month, he opened up 40 accounts in my name. He was all over Atlanta, Florida, Washington, D.C. and Minnesota. Phillips was finally arrested in Robbinsdale, Minnesota.

Mr. MCINTOSH. Have you had any success in clearing up the Florida or the Sacramento arrest warrants?

Mr. YOUNG. Well, I got a letter from Sacramento saying that I am the real Marvin Young. And at this time when they stopped this person, they didn't take fingerprints. I don't know what they did. But they found out later that this was not the real Marvin Young. But I got a lot of things cleared up and paid out a lot of money, certified letters, copies, and just spent a whole bunch of money that I could really use right now on myself to get a lot of these things cleared up.

Mr. MCINTOSH. Thank you for coming today, especially for traveling all the way from California.

Let's hear now from a couple of witnesses who have worked in this area in the policy questions involved. I appreciate you coming today. The first will be Mr. Greg Nojeim. Mr. Nojeim is with the American Civil Liberties Union.

Share with us a summary of your testimony, Mr. Nojeim.

Mr. NOJEIM. Thank you, Mr. Chairman. I appreciate the opportunity to testify before you about national ID on behalf the ACLU. We are a nationwide, nonprofit, nonpartisan organization of more than 275,000 members, devoted to protecting the principles of freedom set forth in the Bill of Rights.

The ACLU has always vigorously opposed the creation of a national ID card. And, Ms. Cross and Mr. Young, you inspire us to work harder on this issue. The stories that you have told us are extremely troubling and they really tell us that personal privacy is at risk today more than ever in the past.

Over the past few decades, proposals for a national identification card or a national ID system have appeared a tempting—but ultimately ineffective quick fix to a national problem of tracking one segment of the population or another. Lately these proposals have accelerated.

In 1996, Congress enacted welfare legislation establishing nationwide data bases of new hires to promote the payment of child support. Also in 1996, Congress enacted immigration legislation that tests a national worker verification scheme to prevent undocumented people from working. However, the tide against national ID may be turning.

This year, Congress rejected a proposal to create a national data base of registered voters and it held up a nationwide patient identifier number that would put patients' sensitive medical records at risk of disclosure. My colleague, Ms. Bitol, will discuss that proposal in some detail.

We believe that national ID systems and nationalized ID cards that would support them are incompatible with a free society. This is not Checkpoint America.

These solutions lead inevitably to violation of the most basic of American liberties: the right to be left alone. Unlike children and workers in Nazi Germany or Soviet Russia, apartheid South Africa, Castro's Cuba, or Saddam's Iraq, no American need fear the demand for identity papers from their Government. We cherish our right to be individuals, to be left alone, to start over, free from prying eyes and the grasping hands of Big Brother bureaucrats and snooping commercial interests.

Some believe that the way to deal with the problem of undocumented aliens who seek work is for the Federal Government to threaten the privacy rights of every U.S. citizen. We believe that Big Brother and bigger government are not the answers to this problem or to other problems.

One of our greatest fears is governmental misuse of records gathered for innocent purposes. For example, the confidentiality and Census Bureau information was violated during World War II to help the War Department locate Japanese Americans so they could be forcibly interned in camps.

During the Vietnam war, the FBI secretly operated the Stop Index by using its computerized National Crime Information Center to track and monitor the activities of people opposed to the United States's involvement in the war. "Trust us with your personal information, we are the government." That is not a theme that resonates well with the American people.

Now we ask you to enact legislation to reject the statutory authority for a rule proposed by the Department of Transportation. The rule would require the States to conform their driver's licenses to a Federal ID standard and to obtain a physical description, photograph or image, and Social Security number from every driver.

To our knowledge, implementation of the statute would mark the first time in history that the Federal Government mandated that the Social Security number of virtually every adult in the country be tied to a physical description or photograph of the person in records that are unprotected by the Privacy Act.

This threat to personal privacy is not mitigated by the Driver's Privacy Protection Act of 1994. The act, which became effective 1 year ago, includes many exceptions that allow for disclosure of drivers' Social Security numbers and other personal information, and the act itself has been the subject of a number of successful challenges under the 10th amendment.

Some will argue that State compliance with the statute to which we object, section 656(b) of the 1996 immigration law, is voluntary. This is a myth. The States will issue nationalized identification cards that meet the Federal standard because if they fail to do so, residents of the State will have no ID with which to secure Federal benefits.

Imagine going to the post office to get a passport so you could travel to Europe on your honeymoon and being told that the Federal Government will not accept your State-issued driver's license as ID. No resident would stand for it. No State would risk it.

Worse still, the statute to which we object coerces States to actually facilitate ID theft by putting drivers' Social Security numbers on driver's licenses. The statute purports to give the States a choice, either put the Social Security number on the driver's license or verify it with the Social Security Administration and put it in the State DMV records.

But to avoid the cost of verifying the Social Security number as well as the ire of drivers sent to the Social Security Administration to correct faulty Government records about them, many States will simply put the number on the license.

The cure for these ills is not to tinker with the Department of Transportation's proposed rule. Rather, the underlying statutory

authority for the rule must be repealed. We urge you to take that step by supporting and enacting the Citizen's Privacy Protection Act. Say no to big brother and no to the national ID card.

Thank you.

[The prepared statement of Mr. Nojeim follows:]

Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to testify before the Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs of the House Committee on Government Reform and Oversight about national ID on behalf of the American Civil Liberties Union (ACLU). The ACLU is a nationwide, non-profit, non-partisan organization of more than 275,000 members devoted to protecting the principles of freedom set forth in the Bill of Rights. The ACLU has not received any grants or contracts from the federal government in the current fiscal year.

A NATIONAL SYSTEM OF IDENTIFICATION

The ACLU vigorously opposes the creation of a national ID card, whether the card is embodied in plastic, or whether the "card" is intangible -- sort of a "virtual reality" card consisting instead of a government-mandated computerized data base containing information linked by a government-issued identifier about most people in the United States. A national ID card or system of identification would substantially infringe upon the privacy rights of all U.S. citizens and is unnecessary to administer programs of the federal government.

Over the past few decades, proposals for a national identification card or national ID system have appeared a tempting (but ultimately ineffective) "quick fix" to a national problem of tracking one segment of the population or another. Lately, these proposals have accelerated.

In 1996 Congress enacted welfare and immigration "reform" legislation establishing nationwide data bases of workers to track parents who have not paid child support and to prevent undocumented people from working. This year, we applauded when Congress rejected a proposal to create a national data base of registered voters. A nation-wide patient identifier number was proposed to facilitate the matching of sensitive medical records to patients, and is currently on hold for privacy reasons. My colleague, Ms. Solange Bitol, will discuss that proposal in some detail.

Now, Congress considers a proposal by the Department of Transportation that the federal government require states to obtain a social security number ("SSN") from every driver, as well as a physical description and photograph of the driver that could be referenced to the SSN. To our knowledge, this would be the first time in history that the federal government mandated that the SSN of virtually every adult in the nation be tied to a physical description or photograph of the person in records unprotected by the Privacy Act of 1974. Worse still, the statutory mandate on which the proposed rule is based would coerce states to facilitate ID theft by putting drivers' SSNs on driving licenses.

The ACLU believes this an unfortunate proposal to federalize all state identification documents and tie them to one identifying number, the SSN. In essence, it requires states to issue federalized, national ID cards. The cure to this ill is not a tinker with the DOT's proposed rule; but rather repeal of the underlying statutory authority for the rule.

THE PROPOSED ID SYSTEM AND CARD

Background. Section 656(b) of the Illegal Immigration and Immigrant Responsibility Reform Act of 1996 requires the Department of Transportation to issue regulations that would effectively coerce every state to place every driver's social security number on the license or other identification card the state issues. Any state that did not comply with this federal mandate would be required to verify the social security number with the Social Security Administration ("SSA"), or, in the alternative, the driver's license or other ID card the state issues would not be acceptable for federal identification purposes. Section 656(b) also requires that these state-issued driver's licenses and ID cards follow a "form" dictated by the federal government. The DOT has proposed that the "form" of the document include a physical description of person to whom it pertains, which may include gender, height, weight, eye and hair color, a color photograph or image of the person, and his or her address.

Make no mistake. This statute requires states to issue ID cards that conform to an exacting federal standard including a photograph and physical description, and which would be supported by systems of records that would be linked or matched to other records by reference to the SSN of the driver. This is a national ID system. It is supported by state-issued identification documents that are federalized because they must comport with the federal standard. Section 656(b) reduces states to mere tools of federal government for purposes of issuing ID documents because the content and form of documents they issue are dictated by the federal government. Because the federal government dictates what goes on the ID card, and because it effectively requires that records of the identifying data be tied to a federal identifying number, states would henceforth issue what are in essence national ID cards.

Coercing the States to Comply, and To Threaten Privacy. States have no real choice but to issue documents that meet the federal standard. If they fail to do so, their drivers will be unable to secure federal benefits including Social Security, enter many federal buildings, sit for the civil service exam, serve on a jury in a federal case, register for the Selective Service, or obtain passports that allow them to exercise their right to travel. Imagine going to the Post Office to get a passport so you can travel to Europe on your honeymoon, and being told that the federal government will not accept your state-issued driver's license as ID. No resident would stand for it; no state would risk it. To avoid citizen complaints, all states will issue documents that conform to the federal mandate and procedures.

In addition, many states will be coerced into putting the SSN on every driver's license and identification card. In various comments the states have filed with the Department of Transportation, state departments of motor vehicles ("DMVs") have made it clear that verifying the SSN would inconvenience drivers and cost millions of dollars to the states. States would have to hire data entry clerks tasked with verifying SSNs. Many drivers would be compelled to wait in line at the state DMV, then go to the nearest office of federal Social Security Administration to wait in line again because their SSN did not exactly match their name. Then they would have to go back to the DMV to wait in line again, in the hopes that now their SSN would be verified. Lines at DMVs

would lengthen and drivers' tempers would flare. DMVs would have to serve many drivers twice during the renewal process. It would be less expensive for the states, and more convenient for drivers and for the states, if the SSN was simply put on the driver's license.

The statute thus builds in an incentive for the states to do what most of them have recently decided not to do: compromise privacy interests by putting drivers' SSNs on driver's licenses. Currently, only six states require SSNs on the driver's licenses they issue. Most of the large states have moved away from such a requirement in order to protect their drivers' privacy, reduce fraud, and inhibit ID theft. Section 656(b) would effectively require many states to change course.

It is not difficult to anticipate the next federal demands on the federalized driver's licenses. Soon, the Federal Aviation Administration, which already requires air carriers to solicit state-issued ID from air passengers, will tell air carriers that only state-issued ID's meeting the Transportation Department's standard are sufficient and that anyone who produces anything else should be treated as a potential terrorist. (This is how the FAA currently directs carriers to treat passengers who produce no ID.) Then, the Department of Health and Human Services will tell state agencies that distribute federally-funded benefits that only the federalized-ID's will do. Then, the Department of Justice will tell employers that they cannot hire any employee who presents a state-issued ID document that does not meet the federal standard. This is not a fanciful jump; it is a logical application of the mandate of Section 656(b) to existing federal identification mandates. In no time, Americans would have to produce the federalized ID to engage in everyday life activities that should not be subject to federal governmental interference, such as getting on an airplane, obtaining a benefit from their state, or getting a job.

Some believe that the way to deal with the problem of undocumented aliens who seek work is for the federal government to threaten the privacy rights of every U.S. citizen. The ACLU believes that Big Brother, and bigger government, are not the answers to this problem.

PROBLEMS WITH THE NATIONAL ID SCHEME

A national ID system and the nationalized identification cards that would support it would inevitably violate the most basic of American liberties: the right to be left alone. Unlike children and workers in Nazi Germany, Soviet Russia, apartheid South Africa, Castro's Cuba or Saddam's Iraq, no American need fear the demand, "Identity papers!" We are a free people who cherish our right to be individuals, to be left alone, and to start over, free from the prying eyes (and grasping hands) of both Big Brother bureaucrats and snooping commercial interests.

Existing Privacy Protections, Including the Driver's Privacy Protection Act. It is important that the Subcommittee step back and measure Section 656(b) against the existing privacy regime -- such as it is -- in the United States. The Fourth Amendment is the cornerstone of personal privacy in this country. It prohibits the government for conducting a search without probable cause, and in most cases, a judicial warrant. But the Fourth Amendment does nothing to protect personal privacy in this context. When a person "voluntarily" divulges personal information to a state DMV in order to

secure a driver's license, there is no governmental seizure to be prohibited or controlled by the warrant or probable cause requirements. Any privacy protection must therefore be statutory.

Twenty-five years ago, a Democratic Congress enacted, and a Republican President signed into law, the Privacy Act of 1974. Congress feared that if the "use of the SSN as an identifier continues to expand, the incentives to link records and broaden access are likely to increase."

The Senate Committee report described the growing use of the SSN as "one of the most serious manifestations of privacy concerns in the nation," including the risk that "the number may become a means of violating civil liberties by easing the way for indexing or locating the person." Senator Barry Goldwater (R-AZ) spoke on the Senate floor in vehement opposition to the increasing use of the SSN, calling on his colleagues "to stop this drift toward reducing each person to a number."

For the most part, the Privacy Act only applies to threats to privacy by *federal agencies* and does not stop state agencies and commercial interests from threatening personal privacy. In a sense, Section 656(b) makes an end run around the Privacy Act by parking the personal information that would be disclosed at the state, instead of at the federal level. In fact, Section 656(b) would apparently represent the first time that the federal government had ever mandated that the SSN of virtually every adult in the nation be tied to a physical description or photograph of the person in records unprotected by the Privacy Act.

Twenty years after the it passed the Privacy Act, Congress became troubled that state DMVs were selling to commercial interests personal information about drivers for as little as \$20 per inquiry. In one case, a stalker used information in state DMV records to find his victim. In 1994, Congress enacted the Driver's Privacy Protection Act to establish rules to protect the privacy of the wealth of information drivers license applicants submit to their states in order to obtain a license to drive. 18 U.S.C. Sections 2721-5.

The Driver's Privacy Protection Act cannot be relied upon to protect the privacy of drivers' personal information, such as their SSNs. Though it would bar DMVs from disclosing certain personal information (SSN, photo, address, name, phone number, medical information, but not physical description) about the driver, and threatens violators with civil and criminal fines and creates a civil cause of action for anyone whose privacy is violated, the statute lists 14 exceptions to its protective provisions. It gives law enforcement at all levels of government, and insurance companies and private investigators blanket exceptions, allows states to provide personal information to mass marketers and solicitors unless the driver affirmatively requests that it do not, and it allows any legitimate business to obtain a driver's personal information to verify the accuracy of information the business claims the individual submitted to it.

More importantly, the statute has been successfully challenged on 10th Amendment grounds in at least three jurisdictions. Two weeks ago, a three-judge panel of the Fourth Circuit struck the Driver's Privacy Protection Act as an invalid exercise of Congress's power under the Commerce

Clause in violation of the Tenth Amendment Condon v. Reno, 97-2554, U.S. App. LEXIS 21557 (4th Cir. September 3, 1998). The federal government argued that drivers possess a right to privacy in the information maintained in state motor vehicle records that Congress can secure under the 14th Amendment. The court rejected the federal government's privacy argument because: (i) the Supreme Court has never found a constitutional right to privacy with respect to the type of information found in motor vehicle records, which traditionally have been open to the public; (ii) the type of information in motor vehicle records is available from other public records such as property tax records; and (iii) the information in the records is commonly put on the driver's license and provided to strangers when a person cashes a check, boards an airplane, or purchases alcohol. Federal courts reached similar conclusions in Wisconsin (Travis v. Reno, No. 97-C-701-C, U.S. Dist. LEXIS 8570 (W.D. Wisc. June 9, 1998) (appeal pending)) and in Oklahoma (State of Oklahoma v. U.S., 994 F. Supp. 1358 (W.D. Okla. 1997)), and reached the opposite conclusion in Alabama (Pryor v. Reno, 998 F. Supp. 1317 (M.D. Ala. 1998)).

In many states, the state "open government" laws permit disclosure of personal information in the state driver's data base to a great degree. ACLU is a strong proponent of openness in government and favors many such laws because openness sheds light on secret governmental activity that could violate civil liberties. Suppression of information of public interest infringes on First Amendment rights by narrowing the range of information that enters the marketplace of ideas.

The Driver's Privacy Protection Act cannot be relied upon to protect the privacy of drivers' SSNs in state DMV data bases. But it does illustrate that the best way to protect the privacy of such information is to prohibit (or to remove incentives to) collection of the SSN in the first place, rather than to control and punish disclosure after the SSN has already been put in a system of records maintained by a state. Section 7 of the Privacy Act originally prohibited states that did not already do so in 1974 from denying drivers licenses to applicants who refused to provide their SSN. This protection was reversed in 1976. 42 U.S.C. Section 405(c)(2)(C)(i). Section 656(b) does much more than permit states to demand the SSN of their drivers for their DMV records; it coerces states to put the SSN on the license itself.

Potential for Misuse. Using the SSN as an identifier on federalized drivers licenses, as is contemplated in Section 656(b), would subject people to privacy intrusions, such as government surveillance and increased data collection and sharing.

There are clear examples of how government-collected information has been used for a purpose other than that for which it was initially intended. Call these "cases of authorized misuse" to distinguish these abuses from criminal activity, such as fraudulent activity from ID theft.

For instance, the confidentiality of Census Bureau information was violated during World War II to help the War Department locate Japanese-Americans so they could be forcibly moved to internment camps. During the Vietnam War, the FBI secretly operated the "Stop Index" by using its computerized National Crime Information Center (NCIC) to track and monitor the activities of people opposed to the United States' involvement in the war. The government's thirst for personal

data tied to the SSN cannot be quenched. "Trust us with your personal information. We're the government," is not a theme that resonates well with the American people.

Moreover, the government has facilitated private sector abuse of data tied to the SSN. It was discovered nine years ago that the Social Security Administration used to disclose SSNs to the private sector until public outcry halted the activity. Following the public disclosures, the SSA Commissioner announced in April, 1989 that the SSA had decided not to process magnetic tapes containing 140 million names and SSNs submitted by TRW Credit Data, a credit reporting company that has been succeeded by Experian Information Systems. The Senate conducted hearings and learned that the SSA had conducted three million SSN verifications for Citibank and other firms in past years.

The private sector's use of the SSN to access information about individuals has evolved to a point never envisioned by its creators. For example, in a 1990 advertising brochure, Experian (then TRW), which held itself out as the nation's largest provider of consumer credit information and claims to maintain information on nearly 170 million consumers nationwide, advertised a service called Social Search:

In pursuit of those who have disappeared - former customers, college alumni or missing shareholders - TRW brings you Social Search: A state-of-the-art locating tool that puts our expansive databases to work for you . . . All you need are the social security numbers of those you're attempting to locate and you can reach those hard-to-find individuals who may have moved or changed their names.

This history shows the enormity of the temptation to expand the uses of data linked by a common identifier like the SSN, far beyond the purpose for which the data was originally given up. But having succumbed to this temptation in the past is no reason to facilitate such invasions in the future by effectively requiring that states put drivers' SSNs on their licenses.

ID Fraud. Ironically, the more the SSN is used as a personal identifier, the less useful it becomes as an identifier. This is because unscrupulous criminals can steal a person's identity by appropriating their SSN. "ID Fraud" -- the process of obtaining another person's personal identifying information such as the SSN, date of birth and mothers' maiden name, then using that information to fraudulently establish credit, run up debt, or take over existing financial accounts is a growing problem. According to a recent GAO report, there has been a significant increase in identity theft in recent years. GAO, *Identity Fraud*, GAO/GGD-98-100BR (May 1998). It is estimated that 40,000 victims of identity theft must struggle each year to clear their names and fix their credit histories. Consequently, more and more people are trying to protect the privacy of their SSN.

By coercing states to place drivers' SSNs on driver's licenses, Section 656(b) promotes ID theft. Many times when a person cashes a check at the grocery store, boards an airplane, or buys a beer, they show their license to a stranger who could sell the personal information on it to an ID thief.

Insecure Data. Little needs to be said about how insecure even the most protected systems of data have become. Computer hackers have achieved access even to sensitive defense files. In 1997, the Social Security Administration itself was forced to shut down a service it offered on its web site after reports that it may have provided unauthorized access to information about individuals' personal income and retirement benefits on the Internet.

In fact, the SSN is used as a key to unlock all manner of personal information about consumers. An internet-based industry has sprung up to harvest and sell personal information accessed through the SSN: auto ownership, creditors, criminal records, driving records, bank accounts and work histories are all alleged to be accessible. Since Section 656(b) would make drivers' SSNs more accessible to state workers harvest the number, and to every person who sees the number on a state-issued identification document, it will make this problem of protecting personal privacy much more difficult.

CONCLUSION

The SSN was never intended to be relied upon as an identifier. Historically, SSNs have been easy to obtain because there was no need for a secure card for purposes of administering the Social Security program. The number was used only to track payments into the Social Security Account. Many duplicate and inaccurate social security numbers are in use.

A national ID system based on the SSN, and the nationalized ID cards that Section 656(b) would require, pose a direct threat to personal privacy and to the security of personal information. To forestall such a threat, we urge members of Congress to support H.R. 4197, the Citizen's Privacy Protection Act of 1998. It would repeal Section 656(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. We believe that the Big Brother proposal which is represented by Section 656(b) should be stopped now so that further damage to the cause of privacy, and liberty, is contained.

I will be happy to entertain any questions you might have.

Concerning the definition of a rule, we recognize that determining the precise scope of the definition as it applies to the widely varying rulemaking practices of the agencies involves questions of legal interpretation. For these reasons, we would welcome the participation of the agencies and the Department of Justice in developing a guidance that identifies the precise contours of the definition in a manner that will best facilitate full compliance with the law.

As OIRA's authorizing and oversight committee, we expect to participate in this process at each step in the development of the guidance. We would prefer to begin this process of consultation by the second week of October and would like to receive a proposed draft of the guidance by the end of November. We believe that the end of March 1999 would be a reasonable target date for issuing a final guidance, allowing the agencies a fair opportunity to submit comments.

I would appreciate it very much if you could send me a written confirmation of the understandings set forth in this letter by the close of business on Friday. If you have questions, please call me at 225-4407.

Sincerely,

Mildred Webber
Staff Director
Subcommittee on National Economic Growth,
Natural Resources, and Regulatory Affairs

cc: Michelle Mrdeza
Subcommittee on Treasury, Postal Services,
and General Government Appropriations

Mr. MCINTOSH. Thank you, Mr. Nojeim. I want to explore with you those recommendations during the questions and answers.

Ms. Bitol, thank you for coming today. You are also with the American Civil Liberties Union, and I appreciate your work. Share with us a summary of your testimony.

Ms. BITOL. Thank you, Mr. Chairman.

On behalf of the American Civil Liberties Union and more than 275,000 members nationwide, I appreciate the opportunity to testify before you on the narrow issues of the problems concerning establishing a unique patient identifier which is mandated under the Kassebaum-Kennedy Health Insurance Portability and Accountability Act of 1996.

The dangers posed by a unique patient identifier are no different than those dangers posed by a national ID. Both will allow unfettered access to personally identifying information to anyone with the proper keys. Besides information about physical health, medical records may include information about family relationships, sexual behavior, substance abuse, and even the private thoughts and feelings that come with psychotherapy. This information is often keyed to a Social Security number.

Because of a lack of consistent privacy protection and the pervasive use of Social Security numbers, individuals' information may be easily accessible. In fact, any private investigator will tell you, if you have a Social Security number of an individual, you can have access to almost any information about them.

Currently, there is no comprehensive Federal law to protect the privacy of health care records. Our educational records receive protection. Even our video records remain private. However, public perception is that there is Federal privacy law to safeguard medical records and that there is Federal law that gives patients the right to access, review, and comment on those medical records. Unfortunately, this perception is false.

The danger with this one-way system is that once personal information is collected for one purpose, the temptation to use it for another is often irresistible. The unauthorized use and abuse of this confidential information is already widespread. Most Americans would be alarmed to learn how many pairs of eyes are scanning what they thought was privileged communication with their doctor.

According to a recent Time Magazine article, trading of health information has already become a \$40 billion industry. A report by the Institute of Medicine noted that the roster of parties claiming a "need to know" what is in an individual's medical records was too numerous to list.

The problem of protecting privacy, especially medical privacy, is that many perceive the need for a balancing test, balancing privacy with the needs of industry research and technology. While technological advances bring tremendous benefits to society, this quid pro quo should not and need not be the loss of control over our own personal information.

It is the position of the ACLU that strong Federal regulation which establishes enforceable privacy protection for personal health information is critical. The ACLU supports Federal legislation that provides individuals with meaningful control over who may have

access to their records, including limiting some persons to specified information only.

Additionally, redisclosures should be prohibited except with specific permission or, with very narrow circumstances, upon expressed statutory authorization.

We support Federal privacy protection in this area for three primary reasons: First, staggering technological innovations which allow for the easy transfer of personal health information over great distances; second, the expansion of managed care, which will necessarily expose confidential information to a wider network of people; and third, the unevenness of privacy protection provided by current State law to medical records where they are kept on paper-based or computerized information systems.

As more and more companies merge and interact with each other, the ability for a company to run a data base storage for medical records and house a credit reporting data base is not only a potential but a reality. Our objections focus on the unrestricted access to private information by nonhealth-care providers, the potentials for abuse, and the governmental implementation of a program that, from all indications, it does not have a successful track record in managing.

One need only look at the Social Security number fiasco and the uniform driver's license requirement, which makes it almost mandatory for States to use Social Security numbers as driver's license identifiers, and other breaches of privacy facilitated by the Federal Government.

Further, with regard to the massive data base industry where patient information has been cross-referenced with credit report information, as we in Washington, DC, recently found out this year, when drugstores where we purchased our prescriptions were utilizing these data bases to target people as potential marketing prospects for new drugs or refills. It is this unrestrained access to patient information that is the problem, the result of an unrestricted arena in which patients are the losers.

One need only look at the concerns that I have stated today, that have been echoed by so many, to see the potential dangers posed by implementing a national ID.

I submit, finally, that the national ID system, like the unique patient identifier, poses a direct threat to personal privacy and to security of personal information of all Americans. I urge you to consider the fact that not only my privacy will be infringed upon but your privacy as well.

I just want to shift gears for 1 second and say something personal, which is the fact that 7 years ago I adopted a daughter and, like most teenagers, when she turned 17, I allowed her to get her driver's license here in Washington, DC, where we live.

As a protector of privacy, I know firsthand the dangers of putting your Social Security number on your driver's license—in fact, as a lawyer, I am frightened because I actually have a client named Marvin Young and he doesn't look like the gentleman sitting next to me.

But the steps that I had to go through to have my daughter's Social Security number not used as her identifier—I had to have three things notarized, I had to take time off of work, I had to go

to the Department of Motor Vehicles, I had to get a birth certificate, I had to show her adoption papers. I had to get an order from the California court showing that I was her mother, because we had two birth certificates. "Unbelievable" is the only word I can use to describe this situation. And, we are talking about the steps taken to protect her privacy. We are not even talking about identity theft.

Mr. MCINTOSH. So, all the pressure was for you to just say, yes, go ahead and use the Social Security number?

Ms. BITOL. Yes, right here in Washington, DC, those are the steps you have to go through. In fact, after all that, both she and I had to sign something to issue a random number. On top of all that, try going to the grocery store or any store here and try writing a check, they look at the number and say, "Well this isn't your Social Security number. Why don't you have a Social Security number? Who are you? This is a fake ID." It is unbelievable.

Mr. MCINTOSH. Because the community is used to looking for Social Security numbers.

Ms. BITOL. That's right. Most people don't even realize saying you don't want to use your Social Security number is an option.

Mr. MCINTOSH. That is amazing. I am blessed in Indiana. They allow you to use a different number, and the Social Security number is an option to put on there if you want to.

Ms. BITOL. That's the way it is in California where we are from, but in Washington, DC, it is a different story.

[The prepared statement of Ms. Bitol follows:]

STATEMENT
OF
SOLANGE E. BITOL
LEGISLATIVE COUNSEL

AMERICAN CIVIL LIBERTIES UNION
WASHINGTON NATIONAL OFFICE
ON
A NATIONAL ID CARD – PATIENT IDENTIFIERS

BEFORE THE
HOUSE OF REPRESENTATIVES
COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT
SUBCOMMITTEE ON NATIONAL ECONOMIC GROWTH, NATURAL RESOURCES AND
REGULATORY AFFAIRS

September 17, 1998

The American Civil Liberties Union is a nationwide, non-partisan organization of more than 275,000 members devoted to protecting the principles of freedom set forth in the Bill of Rights. On behalf of the ACLU, appreciate the opportunity to testify before you today about personal privacy, especially medical privacy, and the threat that a national ID poses on the privacy rights of all US citizens.

From using the telephone to seeking medical treatment or applying for a job or sending e-mail over the Internet, Americans' right to privacy is in jeopardy. The reason: our personal and business information is being

digitized through an ever-expanding number of computer networks in formats that allow data to be linked, transferred, shared and sold -- usually without our knowledge or consent. Regarding medical records, many Americans may not realize how comprehensive their medical records are.

Contents of Medical Records

- patients name, address, age, next of kin, social security number
- name of parents, date and place of birth
- marital status, religion and military service
- medical, social and family history
- treatments, medications and diagnosis
- findings, reactions, incidents
- use/abuse of alcohol and tobacco

A complete medical record may contain more intimate details about an individual than can be found in any other single document. The risks of misuse are tremendous.

Risk of Misuse of Medical Data

- improper treatment
- loss of employment
- loss of insurance
- loss of privacy
- reluctance to obtain medical care

Besides information about physical health, medical records may include information about family relationships, sexual behavior, substance abuse, and even the private thoughts and feelings that come with psychotherapy. This information is often keyed to a social security number. Because of a lack of consistent privacy protection in the use of social security numbers the information may be easily accessible, in fact, any private investigator will tell you if you have a social security number of an individual, you can have access to any information about them. The dangers posed by a unique patient identifier are no different than the dangers posed by a national ID, both will allow unfettered access to personally identifying information, to anyone with the proper keys.

Currently, there is no comprehensive federal law to protect the privacy of health care records. Our educational records receive protection -- even our video rental records are protected, however, public perception is that there is federal privacy law to safeguard their medical records, and that there is federal law that gives patients a right to access, review and

comment on their own medical records. Unfortunately, this perception is false. The danger with this one-way system is that once personal information is collected for one purpose, the temptation to use it for another is often irresistible.

Health privacy is one of the most important privacy issues facing our nation. Protecting patient privacy is critical to improving health care, and fostering valuable public health initiatives. The need to protect patient records is urgent, notably, due to the time limit in the Health Insurance Portability and Accountability Act of 1996 (otherwise known as the Kennedy-Kassenbaum bill) which requires Congress to pass health privacy legislation by August 1999, and if Congress fails to act, the law directs the Secretary of Health and Human Services to promulgate rules of enforcement. This requirement was mandated under a provision called "Administrative Simplification," which was, until it made the front page of the New York Times in July 1998, a little-known amendment to the 1996 Act. Last year the Secretary issued her proposed regulations which had several alarming features. Most disturbing is that the proposal will allow law enforcement officials to obtain unfettered access to patient medical records, without first getting patients' permission.

Additionally, there are three aspects of the Secretary's proposed regulations that pose the gravest threat to medical privacy:

- *Computerization:* Citizens may be denied the option of a "paper only" patient record without risking denial of insurance or loss of benefits, forcing everyone to participate in a huge computerized network. The model for computerization of patient records is the credit bureau industry, whose mammoth database for consumers financial information have been plagued by inaccuracy, unauthorized access, and fraud.
- *No informed consent:* Secretary Shalala has said that privacy rights are not absolute, claiming that "it's not always possible to ask for permission" to use a patient's record. But Americans think differently. According to a Time/CNN poll, 87 percent of Americans demand to be asked for permission every time medical information about them is being used.
- *National I.D. Number:* The regulations include a tacit or explicit endorsement of the establishment of a "unique health identifier" -- a de facto national I.D. assigned by the government or business and

used to link all medical records from cradle to grave.

Under our laws, what you tell your lawyer is generally protected against government intrusion, and arguably, what you tell your doctor is certainly as important as what you tell your lawyer. Most Americans would agree that our medical information deserves to be as well protected. In fact, many people don't realize how public their medical record really is. While state laws differ depending on the state, your doctor, the people working in your doctor's office of course have access to your records, but also employees at your HMO office, your employer including your human resource manager and supervisor all potentially have access to your medical information. The fact that someone has an abortion or suffers from depression or is being tested for a genetic illness is simply not something that they would want to necessarily share with anyone other than their doctor.

The unauthorized use and abuse of this confidential information is already widespread. Most Americans would be alarmed to learn how many pairs of eyes are scanning what they thought was a privileged communication with their doctor. According to TIME Magazine, trading of health information has already become a \$40 billion industry. A report by the Institute of Medicine (1997) noted that the roster of parties claiming a "need to know" what is in an individual's medical record was too numerous to list.

The problem with protecting privacy, especially medical privacy, is that many perceive the need for a balancing test, balancing privacy with the needs of industry, research and technology. While technological advances bring tremendous benefits to society, the quid pro quo should not, and need not, be the loss of control over our own personal information.

It is the position of the ACLU that strong federal legislation which establishes enforceable privacy protection for personal health information is critical. The ACLU supports federal legislation that provides individuals with meaningful control over who may have access to their records, including limiting some persons to specified information only. Re-disclosure should be prohibited except with specific permission or, in very narrow circumstances, upon express statutory authorization. We support federal privacy protection in this area for three primary reasons: first, staggering technological innovations which allow for easy transfer of personal health information over great distances; second, the expansion of managed

care, which will necessarily expose confidential information to a wider network of people; and third, the unevenness of privacy protection provided by current state laws to medical records whether kept on paper-based or computerized information systems.

As more and more companies merge and interact with each other, the ability for a company to run a database storage for medical records and house a credit reporting database is not only a potential but a reality. Our objections focus on the unrestricted access to private information by non-health care providers, the potentials for abuse, and the government implementation of a program that, from all indications, it does not have a successful track record in managing. One need only look at the social security number fiasco, the uniform drivers license requirement which makes it almost mandatory for states to use social security numbers as drivers license identifiers and other breaches of privacy facilitated by the federal government.

Further with respect to the massive database industry, where patient information has been cross-referenced with credit report header information as we in Washington, DC found out earlier this year, when the drugstores where we purchased our prescriptions were utilizing these databases to target people as potential marketing prospects for new drugs or refills. It is this unrestrained access to patient information that is the problem, the result of an unrestricted arena in which patients are the losers.

I submit finally that a national ID system, like a unique patient identifier, poses a direct threat to personal privacy and to the security of personal information. This Congress should focus on a solution to the overall need for comprehensive personal privacy, not a way for Big Brother to further ruin the personal, financial and medical lives of Americans.

Statement Prepared by:

Solange E. Bitol, Legislative Counsel

ACLU Washington National Office

In compliance with US House Representative Rule XI, clause 2(g) (4) the American Civil Liberties Union receives no federal grant funding, and has not received any federal grant funding in the two preceding years.

Mr. MCINTOSH. Our final witness on this panel is Mr. Grover Norquist, who is president of Americans for Tax Reform. Mr. Norquist.

Mr. NORQUIST. Thank you. I have prepared remarks which I have shared in writing. I will just open up by saying when I got my driver's license in Washington, DC, and said, "I would like, as I understand is my right, to give you a different number than Social Security." The lady said, "You want a driver's license or what?" I waited for a while, and I eventually gave up and gave her my Social Security number because I sort of, at some point, wanted the driver's license. I was not told there was an option. I was told I was wrong in thinking that this was an option.

I serve as president of Americans for Tax Reform. We are a national tax bureau organization and we try to reduce the size and scope of government at both the Federal and State level. But over the last 12 years, we have been actively involved in opposing all efforts to move toward national ID cards or national ID systems.

It seems to me there is sort of a bad game of jeopardy going on. The answer always seems to be the same even though the questions change. Immigration law, let's have a national ID card. Health care, let's have a national ID card with all sorts of information. Tax policy, let's have Social Security numbers on dependents. Deadbeat dads is another reason for a national ID card. Now driver's licenses. There is always a new reason. It is always the same answer. And the answer is more power and information flowing to Washington.

I think it is important to remember that when you hand the government more information and more control, they don't necessarily use it in the way that they first sold it to you. The withholding tax was a temporary measure to fight World War II and it has been used to expand State power in the United States. The value-added tax in Europe was sold as a way to rationalize a whole series of excise taxes, and became an engine for government growth and a vacuum cleaner for resources.

In Europe, even the Brady bill and the effort at Instant Check, which we were assured was the way to move away from keeping data, the government actually temporarily will have data on who buys a gun. And now they want to keep that data. The whole thing was set up so the government wouldn't ever have it. There is a fleeting moment when they do have it. And now the Clinton administration is coming back and saying they want to hold on to it for months. Somehow, I guess months will turn into a longer period.

This is in keeping with a couple of threats to American privacy. We have seen Janet Reno suggesting to the group of eight justice ministers last December that we put a unique identifying tag on over a packet of data on the Internet so that the police can track things as they go through the Internet, quote, "the same way we tag explosives."

The FCC has turned down a Reno request to do what other countries have done.

Mr. MCINTOSH. What is a packet of data? Is that e-mail?

Mr. NORQUIST. It is e-mail. It is the whole kit and kaboodle. Of course, the present legislation that the Clinton administration has

been pushing for to not allow inscription domestically would allow them to read e-mail. Tagging would be a step beyond that.

The FCC has turned down an effort that Reno suggested to follow where Japan and Switzerland have already gone. In Japan, the National Telephone Co., NTT, maintains a Web site where it is possible to get the exact location of anyone carrying a cell phone in Tokyo. Because these things emit little beepers when they are on, you can tell where a cell phone is.

In Switzerland, the location of every cell phone is logged every 3 hours and the data is kept for 6 months. So, you can find out where somebody is by where they are keeping their cell phone, and it is possible to keep that information.

Now, if you take the post office, in order to fight fraud, wants to have a to and from address that can be read technologically on every letter, so that the post office could keep and maintain a list of every letter that went to and from you, indefinitely into the future, and hold onto it. It becomes easier to store data. You keep that stuff indefinitely into the future.

Put that together with efforts toward a national ID card and you have really got a tremendous web of the government expanding the data that it can have. And the challenge is, when you have data like that, there is a tremendous temptation to do something with it. And people are constantly coming up with new ideas. "Gee, if we have an ID card, why don't we put everybody's health stuff in a little chip in the middle of the ID card?" Well, if you are going to do that, why not put their tax data on it?

There are going to be a number of arguments, each of them to make life simpler and easier. And people like me who stand there and are told, "Do you want to get your driver's license or what," will surrender each day a little of their privacy.

And even what you may promise people in law, you will never have to give your Social Security number, well, the bureaucrat who wouldn't let me have my driver's license without it may or may not have read your law, but at some point that protection did not matter, and people do trade.

The only good that I can see that comes out of this effort by the transportation people is it might put an end to the enemies of the second amendment who always say, "Oh, you shouldn't worry about licensing guns. No one has ever had trouble with licensing cars and driver's licenses." Now they are going to be using that as an argument for a national ID card, and I think there are some potential dangers there.

I would certainly support the efforts by Congressman Barr to undo this, and certainly Ron Paul's efforts to make it clearer legislatively that Social Security numbers cannot be used for other purposes.

Thank you.

[The prepared statement of Mr. Norquist follows:]

**“A National ID Card:
Big Government at its Worst or Technological Efficiency?”**

**Hearings before the House Committee on Government Reform and Oversight
Subcommittee on National Economic Growth, Natural Resources, and Regulatory
Affairs**

**Testimony of Grover G. Norquist
President, Americans for Tax Reform**

September 17, 1998

Mr. Chairman, my name is Grover Norquist and I am President of Americans for Tax Reform (ATR), a national coalition of taxpayer organizations with a strong interest in lower taxes, smaller government, and taxpayers' rights. ATR is particularly concerned with taxpayer privacy in the era of electronic commerce. I might also add that ATR receives no government funding and strongly opposes the use of taxpayer dollars to lobby Congress.

ATR sponsors the Taxpayer Protection Pledge which is a written pledge by candidates for office not to raise taxes once elected. In the House and Senate, 207 Representatives and 42 Senators are Pledge signers. Aside from our work in electronic commerce and encryption, another ATR program that is highly relevant here is called "In Half." ATR supports the goal of cutting the size of government as measured by the share of national income it consumes in half over the next twenty years. In a forthcoming book I will present a detailed plan explaining how to do this. Here I mention it because it foreshadows my single most important policy recommendation: if you don't want big government to become Big Brother, you should not let government get big in the first place.

Let me start by thanking you, Mr. Chairman, for holding this very important hearing today on the theme of "A National ID Card: Big Government at Its Worst or Technological Efficiency." You have chosen a title that shows you well understand the problem before us today. I firmly believe that because of this grave subject matter the small hearing we hold today will in fact be one of the most important such meetings held in the 105th Congress.

I also thank and salute Rep. Bob Barr of Georgia for having had the insight and wisdom to recommend that you hold this hearing. I will do my best this morning to validate Rep. Barr's very worthy concerns and I will do him one better by urging you to make to make

the dangerous drift toward federal identity verification and tracking systems in a variety of forms—not just smart ID cards with embedded silicon chips and biometric identifiers—part of your ongoing work in regulatory oversight. I argue below that unless we consciously monitor and check this drift, not just one I.D. card but more likely a whole complex of identity tracking systems will result from the normal course of operations by government agencies that act in the way that naturally makes most sense to government agencies.

To use a phrase I have borrowed before Professor Lance Hoffman of George Washington University: the size of government and the development of technology have reached a critical stage. We can and must choose every time we make a regulatory policy decision that has a technological component: Do we build Big Brother in, or do we build Big Brother out? I favor building Big Brother out. However, as our nation progresses and society becomes more complex, this choice to limit the future options for expansive government and violation of basic civil and constitutional liberties is a choice we must constantly make anew.

Let me proceed to the substance of my comments. The immediate topics at hand are (1) the proposed standards for a drivers licenses that are tantamount to national ID card that were issued by the Department of Transportation pursuant to its interpretation of last years' immigration bill and (2) standards being being develop by the Department of Health and Human Services for a unique healthcare identifier for individuals as mandated by the Kennedy-Kassebaum Health Insurance Portability Act of 1996.

Like the other witnesses I will touch on these matters to some extent, but at the request of this Committee I will devote the bulk of my remarks to a broad overview of the forces driving this country toward a national ID card or similar identity verification system. Further, I outline the dire implications such a system would have for the cause of liberty in this country. And finally, I present a series of legislative steps Congress could take in order to put a national ID card permanently off limits or at least eliminate ways in which minor policy errors could accumulate over time and allow such a system to come into being through sheer inattention to detail by you, the people's representatives in Congress.

I would summarize the points I make as follows:

- First, a national ID card system, if enacted, would result in dramatic and arguably irreversible expansion of the regulatory-welfare state.
- Second, it is particularly dangerous in this era of networked computers and unlimited, cheap computing power to let government agencies take upon themselves the business of regulating networks and setting technical standards for any reason whatsoever.
- Third, the DOT/NHTSA Standards for drivers licenses, the Kennedy-Kassebaum healthcare identifier, and the "new hires database" in are the tip of the iceberg in terms of federal programs driving the nation toward some type of national ID

verification system. Even agencies as seemingly mundane as the General Services Administration and the U.S. Postal Service are embarking on programs with regard to digital signature standards that should undergo close scrutiny by Congress and probably be terminated immediately.

- Fourth, government policy should presume in favor of individuals managing their own personal information in response to market incentives. For instance, parental control of education obviates much of the supposed "need" for national educational databases. Medical savings accounts for individuals make a unique health care identification code for each American much less attractive as a way to stop fraud in government-financed healthcare.

There is simply too much "information pollution" that goes on in Washington. The all-too-obvious bias of a national capital is to implement policy by creating centralized databases and credentialing systems that control citizens rather than letting them manage their own affairs. If this taxpayer-friendly Congress wants to do future Americans a favor, it will systematically design its policies in such a way that they require little or no personal information from citizens to implement. A sensible place to start doing this is the tax code. Just as America's great industrial companies have learned to engineer waste out of manufacturing processes that once produced toxic by-products, so too Congress must engineer the decentralized, voucher-based systems of the future to operate without invading citizens' privacy.

I. National ID Card Systems: A Public Choice Perspective

Public choice theory powerfully illuminates the reason why the United States finds itself on the verge of implementing a national I.D. card through the DOT regulations almost by accident and without any serious debate of the consequences. The historical record shows that seemingly simple policy changes made by bureaucrats with no goal but their own, short-term administrative convenience in mind can have profound results.

I cite you the case of income-tax withholding, adopted as an expedient measure to finance World War II. All that money flowing to Washington certainly helped win the war, but the spigots once opened were never turned off, and over the long term the result has been an enormously larger government and burden of taxation that we are only now beginning to constructively reverse. Similarly, in the 1970's, European governments began adopting the value-added tax as a supplement to their existing tax systems. As a result, European governments have grown from rough parity with the United States in relative size to being roughly half again as large. Today, all levels of government absorb about 35 percentage points of gross domestic product in the United States—far from Socialism but not comfortable either. Had the United States chosen a European tax policy, we might be in the same position as statist France, with government absorbing more than half of all economic output and reaching for more.

I founded Americans for Tax Reform as an organization that opposes any tax increase for any reason whatsoever as a matter of principle. In 1986, the most straightforward way to limit government power was to limit the amount of money government took in. This is a very real check on government growth. Today, I still very much support this approach, but I am adding a second component: in the information economy, money and information are much the same thing. My good friend Richard Rahn made much the same point in a forthcoming book on electronic currency and financial privacy called *The End of Money*. If we are to limit the size and scope of government in the future, we must limit government's ability to coercively require information of its citizens.

The basic premise of public choice theory is that any large organization, whether public or private, will naturally seek to expand its own power and influence. Public sector bureaucracies, however, often confuse their own institutional interests with the public good they are supposed to serve. Moreover, public sector bureaucracies do not face the same market discipline private sector agencies experience. The public sector is often at best indirectly exposed to market forces and more likely than not completely shielded from the reality check that immersion in the market can provide. As elected representatives of the people, Congress and the President are really the only force that does provide a check on the self-aggrandizing tendencies of any government agency. Congress in particular should take this responsibility seriously.

The movement we have seen of late toward a single, universal personal identifier reflects the natural bias of large, centralized bureaucracies that find it convenient to track and regulate their citizen-subjects that way. Congress needs to question this impulse by any bureaucracy whenever it appears.

II. The Particular Dangers of Government Standards-Setting for ID's and Electronic Communication

The humorist P.J. O'Rourke has a line about the danger of giving money to big government: perhaps somewhat crudely, he compares it to giving whisky and car keys to teenage boys. One could make a similar argument about information technology and the possibility of letting government agencies impose themselves on the business of setting technical standards for communications networks and network-enable communications devices. There are three things to consider here:

First, a marvelous thing about today's computers is that they make the creation and management of infinitely scalable large databases not only easy and feasible but actually somewhat cheap.

Second, today's networked communications create transaction streams that can be collected and monitored in real or near-real time. In practical terms, this means that whenever one sends email, accesses a website, carries around a cell phone, or does any number of ordinary things, one creates records that show exactly what happened.

It is only a matter of time before our computer-controlled cars cruising smart highways send continuous reports on their movement to some centralized traffic manager. Likewise, spending electronic currency from our digital wallets is something that could theoretically be monitored as it happens. There are very bright people in the Treasury Department imagining ways to do this even as I speak—indeed, many forward-looking people in Treasury fear that electronic currency could render large portions of the tax code unenforceable. So, instead of simply adopting a flat tax or retail sales tax that would be more likely to work in the digital economy, these well intentioned people at Treasury propose massive and unconstitutional violations of privacy instead.

Now, third, we have the real problem, which explains why governments should be out of the identity-verification business and not involved in setting standards for digital signatures, certificate authorities, payment evidencing systems, and the like. The reality is that governments and private-sector business are very different in what constitutes, for their purposes, useful verification systems.

- Governments are coercive institutions in the business of applying force against particular people. Hence they have a paramount interest in obtaining personal identifying information, in unlimited quantity and detail, which is balanced by no economic consideration or other restraint.
- By contrast, markets and civil society are voluntary associations governed by property rights and the law of contract. What matters to them is aggregate outcomes. Personal identifying information about an individual has value primarily to the extent it identifies a potential customer as a sales prospect or credit risk.

At this point, it is not my intention to defend certain private sector practices with regard to customer or consumer databases. ATR is still developing its position in this area, and among other things we are greatly concerned at the attempt by certain health insurance companies to lobby for government assistance in amassing huge files of personal medical records which they ought not to have and have no legitimate reason to collect. I would refer you to the excellent work done by the American Association of Physicians and Surgeons (AAPS) in this regard, which is available at www.AAPSONline.org

What I will point out is what over-reliance on centralized bureaucracies gets us. In his classic work, *The Road to Serfdom*, F.A. Hayek explains that the failure of regulatory interventionism simply begets more interventionism. As government attempts to micromanage our lives become more pervasive, and these attempts fail, the answer will always be to use the National ID card system at an every higher level of detail and to apply it to more things. If a national ID card exists, government agencies will use every type of leverage they have from regulatory coercion to industrial policy in order to use the national ID card as a tool to regulate more and more things.

Other people giving testimony this morning will probably touch on the fact that a national ID card creates an infrastructure for applying more stringent regulation to just about any

type of transaction that is regulated already. Such areas include healthcare, education, financial services, telecommunications, employment, transportation and more. Thus if you go to the doctor, send your child to school, cash a check, carry a cell phone, get a job, or buy a plane ticket, Big Brother will know about it and attempt to limit your choices or ration you access to any of these items.

To give an example of how far government agencies are willing to go in terms of micromanagement, I would like to give a few examples:

- In a press conference with the Group of Eight Justice Ministers last December, Attorney General Janet Reno seriously proposed putting a unique identifying tag on every packet of data on the Internet, so that police agencies could track the flow of information on the Internet "the same way we tag explosives."
- Just last week, the Federal Communications Commission gave the American public a temporary reprieve from another Reno plan to turn every cell phone in America into a personal locator device. However bizarre this sounds, it is already a serious problem in many countries. In Japan, for instance, the national telephone company NTT maintains a website at which it is possible to get the exact location of anyone carrying a cellphone in Tokyo by typing in that person's cellphone number. In Switzerland, the location of every cellphone is logged every three hours and the location data on every person is archived for six months.
- In order to combat minute amounts of alleged postage stamp fraud, the U.S. Postal Service has decreed that payment evidencing systems for first class mail must include the from-to address information on letters in a scannable bar code form so that the Postal Service will be able to log and monitor all first class deliveries the way Federal Express tracks the location of overnight packages.

Clearly, the combination of such transactional record databases with the regulatory infrastructure provided by a national ID card would go far in creating the type of police state that hitherto has been the province only of science fiction writers.

III. DOT Standards are the Tip of the Iceberg

The proposed focus of this hearing is to address the Department of Transportation/NHTSA Rule "State Issued Drivers Licenses and Comparable Identification Documents" (23 CFR Part 1331) that was proposed on June 17, 1998 as an implementation of Section 656(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1998 passed last year as part of the FY 1997 Omnibus Consolidated Appropriations Act.

This rule would require states to collect and verify social security numbers in the process of assigning drivers licenses and would require in most cases that social security number be placed on drivers licenses in most cases in a way that could be read visually or in

electronic form. Drivers licenses would also have to include security measures such as a hologram and other devices. Clearly, the ultimate result of this rule would be to move all drivers licenses in the direction of the recently defeated New Jersey proposal to issue all citizens smart cards with embedded silicon chips capable of storing copious amounts of detailed personal information. What is most astonishing about this rule, however, is not that DOT followed Congressional instructions in drafting it but rather that Congress passed authorizing legislation that could be interpreted in this way with such little debate.

Other national ID card measures worthy of consideration is the unique national healthcare identifier for individuals established as part of the Kennedy-Kassebaum Health Insurance Portability Act of 1996 and the so-called "new hires" database established by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The Committee is correct to identify these measures as significant first steps toward the creation of a national ID card system.

The Kennedy-Kassebaum provisions are particularly troubling not only in that they lay the groundwork for a national healthcare ID card system but also in that they dilute the Fourth Amendment protection of medical records, giving federal agencies access to personal records without need of a judicially approved search warrant. As in telecommunications issues, the degradation of Fourth Amendment protections here proceeds in tandem with the creation of new national database programs.

However, other proposals, many also already enacted into law, also deserve scrutiny by this committee. Some examples include:

- A hardened or "tamperproof" Social Security card.
- A possible national worker registry to verify employment eligibility in the United States.
- A national voter registration system based on Social Security numbers, possibly linked to a national voter registration card.
- Children's health and immunization databases maintained the Center for Disease Control.
- Educational and vocational training databases including extensive local databases on school-age children that are gradually being linked together on a national scale.
- Firearms registration proposals.
- A so-called "public-key infrastructure," deployed worldwide through reciprocal treaty obligations, that would link allow government-appointed, government-regulated trustees to keep on file the encryption keys used by citizens to encrypt their personal financial transactions and other information communicated over the Internet. Each

key would linked to an identity verification system called "certificate authority" Fourth Amendment protections of the keys and other confidential information stored this way would be greatly curtailed if not completely eliminated in some draft legislation, such as the original McCain-Kerrey "Secure Public Networks Act," introduced in the Senate last year as S. 909 and fortunately since amended to be slightly less offensive.

Incredibly, the exact dimensions of the problem are not entirely clear. A search of the Library of Congress Information System conducted by Americans for Tax Reform Research Director James Lucier almost two years ago discovered up to 300 bills considered in the 104th Congress that would have created, modified, or expanded databases on U.S. citizens. However, research on the topic is complicated by the fact that current Library of Congress classification systems for legislation do not include a well-defined category for bills that deal primarily with federal databases. This is certainly an area where this Committee should recommend appropriate action.

Two additional programs that deserve immediate scrutiny by this Committee are the ACES digital signature standards-setting program underway at the General Services Administration and the announced plans by the U.S. Postal Service to take over administration of the Internet country code high level domain designation for the United States, which is the so-called ".us extension" (pronounced dot-u.s.-extension.)

Many civil libertarians believe that government-set standards for digital signatures will require excessive, centralized collection of personal information and that federal standards for digital signatures, whether set by the GSA, the Postal Service, or the Department of Commerce will have exactly the same effect as creating a formal national ID card system, since digital signatures will soon become the ubiquitous requirement for doing any kind of serious business on the Internet. This is the point I was driving at when I noted earlier that government-set standards for identity verification are generally much stricter than those necessary for commercial purposes. The cause of liberty is better served by multiple, competing, privately set, commercial digital signature standards that offer varying levels of security and allow the public to choose what standards they will use and participate in.

The Postal Service's designs on the .us extension are particularly troubling because they would involve assigning every American and every mailing address a unique email address that would correspond to a physical location. Again, the record keeping requirements are exactly the same as those that would go into a national ID card system. More troubling still are the Postal Services intentions to being offering non-postal services should as certificate authority, digital signatures, secure email, and electronic "bill-paying" or presentment services.

The Postal Service has no business venturing into these areas. As a quasi-governmental institution which maintains close links to government agencies, its entry into these areas poses potential serious challenges to civil liberties. Also, in purely economic terms, the

Postal Service is a regulated monopoly which still receives extensive indirect taxpayer subsidies although it is now theoretically financially independent of the federal government. The Postal Service should not be permitted to use its privileged monopoly status and monopoly rents to cross-subsidize its move into competitive markets that are already well-served by private enterprise. The Postal Service should deliver the mail, period. They should get out of e-commerce and indeed, not be permitted by Congress to attempt entry in the first place.

IV. Policy Recommendations

Time permits me only briefly to suggest some legislative approaches that might be helpful in stemming tide toward a national ID card system however implemented. I would recommend first of all a comprehensive annual or biennial review by this Committee with supporting research as needed by the Government Accounting Service or some other research arm of Congress to better document the problem. Other possibilities include:

- Legislation by Rep. Barr to clarify the Immigration Law which DOT misapplied to the create the NHTSA Rule setting standards on drivers's licenses.
- Legislation by Rep. Ron Paul prohibiting the use of Social Security legislation for purposes other than Social Security.
- Amending digital signatures legislation now being considered by the House Commerce committee to prevent federal agencies including the U.S. Postal Service from establishing digital signatures standards of their own and attempting to impose them through various forms of industrial policy and regulatory mandate.
- Pass Rep. Bob Goodlatte's "Security and Freedom through Encryption (SAFE) Act," H.R. 695, to scale back outdated export controls on encryption. Today these serve no purpose but to give government regulators leverage to attempt back-door industrial policies invidious to personal privacy such as those contained in the original S. 909 and still pending before the House in various substitute amendments to H.R. 695.

In the long run, though, as I noted, the way to prevent Big Government from becoming Big Brother is to start dismantling Big Government now and systematically reducing the amount of the personal information the federal government needs to implement its policies.

An excellent place to start this is in the tax code, where the tax code provisions most invasive of personal privacy could be targeted for immediate reform. A huge step toward improved privacy protections could be made simply by abolishing the death tax, which accounts for less than one percent of federal revenues and yet requires the most extensive personal information of any tax provision to enforce.

On top of this there is great progress to be made in blunting the drive toward socialized medicine through establishing more widespread availability of medical savings accounts. As the years go on, there will be many more such opportunities to reduce the role of centralized administration by voucherizing programs such as direct educational assistance, and failing that, converting federal programs to block grants administered by the states.

Mr. MCINTOSH. Great. In fact, let me take off from that and ask—and it was Congressman Barr's bill, I guess it is H.R. 4197—Is that the one you were referring to, Mr. Nojeim, that would repeal the section related to ID numbers on the driver's license?

Mr. NOJEIM. Yes.

Mr. MCINTOSH. And then for any of you, Congressman Shadegg has a bill that may come up next week on the suspension calendar on identity theft that would actually make it a Federal crime to steal someone's identity, which Mr. Young and Ms. Cross had happen to them. Do you all support that type of legislation?

Ms. BITOL. Yes; actually we do. But our concerns are that there is no pending legislation that goes far enough in terms of what to do. We can criminalize ID theft, but what do you do once your identity has been stolen?

Mr. MCINTOSH. How do you have restitution?

Ms. BITOL. Exactly. It is complicated to get a new Social Security number, if not almost impossible. Plus all of your good credit and everything that you had behind you, how do you transfer that information over? That plus restitution, it is not OK to just make it illegal, but you have to have something that goes further, to help victims really to get their lives back together.

Mr. MCINTOSH. Ms. Cross pointed out that the law considers the credit card company or the person who had the money stolen, the victim, not the person who had the identity stolen. I am not a big fan of creating liability. But, obviously, nobody has the incentive to monitor this other than the credit card company. Well, the credit card company has a pretty good incentive. They don't want to have somebody ripping them off if they have to pay for it. But nobody has incentive for the restitution for the victims like Ms. Cross and Mr. Young.

Would it be a good idea to put that liability onto the credit agencies, the ones that report individuals?

Ms. BITOL. I guess that is assuming that there is some monetary, you know, amount that could assist. But we are talking about—you know, she is relatively young—we are talking about potentially 60, 70 years into the future where her bad credit could continue to haunt her, and I am not sure that there is an amount that you could place on that.

I think that there has to be some type of governmental method for assisting victims with their Social Security numbers, with their credit reports; not only that, but making it—I mean the liability with the credit card companies is one thing, but what about liability with the credit bureau giving out that type of header information, for changing addresses?

Citibank sits in North Dakota or South Dakota. It is easy enough to call somebody's office, "Does that person work there?" "Yes." It is difficult to verify employment. It is difficult to verify all of those things. But once there is some type of victim identified, helping that victim sort of reclaim their life back, I mean that is of paramount importance and not so much punishing the person that does it. To us, we see the victim that really needs services.

Mr. MCINTOSH. What do you think, Ms. Cross?

Ms. CROSS. It seems to me that the banks, I know they check. I know my sister had a credit card and she is in Illinois, and they

found something was charged in California and someone had been using the credit card. This man was using my credit for a year and a half before I ever found out. So, he was keeping the payments up, taking out from other accounts and paying off those accounts. And when it was finally found fraudulent, I'm not sure it wasn't worth it to the credit card company to go ahead and grant the credit.

It was just a simple phone call. I called where he said I worked. He said that I worked in Chicago and that I lived in Springfield. And I made the phone call to see, is there anybody there by the name of Celene Cross? Is there anybody there with this Social Security number? It was a phone call. And to require that of a credit card company, I don't think that is, you know, such a—I don't think that is very extreme at all.

Mr. MCINTOSH. And the question for us would be, is it better to lay out those detailed requirements in Federal law or would it be better to place liability on a private party and let them figure out the best way to try to prevent that from happening? And those of you who have had experience in this area, let me know what you think about that.

Mr. NOJEM. I don't know what the answer to that is at the Federal Government level. But there may be an answer developing at the private level.

In fact, one victim of identity theft has actually started a business of helping other victims of identity theft. He or she has put together a "how to reclaim your identity" publication, a kit, and they sell it for about \$90.

Mr. MCINTOSH. And from the examples that you gave us, Ms. Cross and Mr. Young, you all sort of had to find out one step at a time what is next. It sounds like you are fearful it is not over yet. It would be helpful to get that information out.

Let me ask one other question. What steps have you taken, Ms. Cross or Mr. Young, to protect your Social Security number in the future? And I guess, therefore, what advice would you give others to protect it?

Mr. YOUNG. Well I have had warnings put on my credit report, don't issue out this credit until you contact me at work or at home. And I had that on my credit report, on all three major credit report agencies, before this happened to me and they violated my rights. They didn't call me at work or at home to verify who I was or anything. They just issued this person credit. So, I don't know if that would help.

Mr. MCINTOSH. So that was not effective in stopping the issuing of credit.

Mr. YOUNG. No.

Mr. MCINTOSH. Ms. Cross.

Ms. CROSS. As I said before, the accounts are off. And, in fact, I had heard that having the warning on your credit report was harmful. So, I had them on at one point and then I took them off. And I am still getting credit applications that are saying that I have a prior bad credit history. Well, if it is supposedly cleared up, then why I am getting these card applications? And I do think a lot of the liability lies with the credit reporting agencies because I have had tremendous problems with them.

Another interesting aspect of my case is that I wrote letters for A.J. Woodson to sign, taking full responsibility and liability, saying he had no affiliation with me, he took the account out without my authorization. And they were sent to the credit report agencies and to the banks, and the banks sent in credit forms to the credit reporting agencies, sometimes more than once, and the information was still not removed.

Mr. MCINTOSH. So there are not adequate incentives for the reporting agencies to have an accurate record?

Ms. CROSS. No. It has changed since the Fair Credit Reporting Act was amended in September 1997. The last thing I did was write to the three credit reporting agencies, and two were completely cleared up and the other one, the place of employment wasn't correct. And I haven't followed those up.

Before, when they became corrected, it is my understanding that the creditors send tapes in every 30 days. So I could have my credit report cleaned up, and 30 days later even if the accounts weren't on it, it would have the wrong address on it or wrong place of employment or different information would come back, and it was very hard for the credit reporting agencies to track where that information was coming from.

Mr. MCINTOSH. Because of the massive volumes they have of updating the information?

Ms. CROSS. They just do not seem very organized.

Mr. MCINTOSH. Well, let me say thank you to all of you for coming. This is very helpful to us. What I would like to do is take this information and make it available to my colleagues and some of the committees of jurisdiction in this area. And I am also asking unanimous consent, which will be easy to get right now, that we hold the record open for an additional 10 days. And if you have other information that you think would be helpful to us, please submit that to the record.

Thank you all very, very much for coming.

Our second panel is a panel of government representatives who have been active in this area. The first is a State representative from Connecticut, Brian Flaherty. The second is a State representative from Georgia, George Grindley. And then the third is Commissioner Richard Holcomb of the Virginia Department of Motor Vehicles.

I appreciate all of you coming. As I mentioned earlier, it is the policy of the full committee that we ask each of our witnesses to be sworn. So, if you would please rise and take the oath with me.

[Witnesses sworn.]

Mr. MCINTOSH. Let the record show each of the witnesses answered in the affirmative.

Our first witness is State Representative Brian Flaherty of Connecticut. Mr. Flaherty, feel free to summarize your testimony. We will put the entire written remarks into the record.

STATEMENTS OF BRIAN FLAHERTY, CONNECTICUT STATE REPRESENTATIVE; GEORGE GRINDLEY, GEORGIA STATE REPRESENTATIVE; AND RICHARD D. HOLCOMB, COMMISSIONER, VIRGINIA DEPARTMENT OF MOTOR VEHICLES

Mr. FLAHERTY. Thank you very much Mr. Chairman. Good morning. My name is Brian Flaherty. I am a State representative from Connecticut. I serve as the deputy house minority leader. I also serve and appear today on behalf of the National Conference of State Legislatures. I am vice chairman of the Assembly on Federal Issues, which is NCSL's forum for forming policies that we then advocate in the Nation's Capital.

NCSL represents the legislatures of 50 States and the Nation's commonwealths and territories, and our organization has been an outspoken and a firm believer in the Federal system of government. We consistently defend State authority, resist preemption, and certainly resist unfunded mandates, and we have always sought balance and flexibility in the delivery of services through State and Federal partnerships.

Mr. Chairman, just about 2 years ago, a letter was sent to the House and Senate leadership on a then-pending conference committee on an illegal immigration reform bill. Part of that letter stated:

We write to you today to express our strong belief that the House should not accept the extremely ill-advised provisions of the Senate bill that would Federalize driver's licenses and birth certificates. These provisions are antithetical to the basic principles of federalism and would impose new unfunded mandates on State and local governments.

The letter goes on to say that, "By forcing States to implement or verify Social Security numbers with driver's licenses, the Federal Government would be scorning the considerate judgment of 37 States that for reasons of crime prevention and personal privacy," some of which you heard just a while ago, "choose not to use Social Security numbers as all-purpose identifiers."

Mr. Chairman, that letter was signed by you and several of your colleagues.

Mr. MCINTOSH. I remember.

Mr. FLAHERTY. My message today on behalf of the National Conference of State Legislatures, Mr. Chairman, is quite simple and you referred to it in your opening remarks, that section 656(b) of the 1996 act must be repealed immediately. It is a gross usurpation of State authority. It is an unfunded mandate. It federalizes an activity that fundamentally should remain with the States and, as such, is preemption at its worse. And because the section requires Federal regulations and is a flawed section, it is thereby, in our opinion, creating or leading to the creation of flawed and bad regulations.

And if I could be so bold, as a State lawmaker to a Federal lawmaker, I am sure we know very well that sometimes when you have a legislation or a law that is drafted in a certain way you can't help but get the regulations to follow. That is why, rather than a fix of the regulations, we are seeking the repeal of that section of the law outright.

Mr. Chairman, NCSL has submitted when those regulations came out, we submitted comments and basically centered on three

things. One, the regulation states a driver's license or identification document shall contain a Social Security number that can be read visually or by electronic means. Yet the movement of the States, which are often called "laboratories of democracy," has been in the other direction.

The regulation also talks about that the States have to verify the validity of those Social Security numbers. Without an on-line or an easy verification process available nationwide, therein lies a very, very costly mandate.

And third, it talks about the application process for driver's licenses shall include the presentation of such identity as required by regulations promulgated by the Department of Transportation. What this really essentially leads to is a federally dictated, "one-size-fits-all," "the heck with what the State experience is" document. And some States may end up with a Federal-accepted policy and six States have chosen to have Social Security numbers on their driver's licenses. Others would not meet those standards and it sets up a very difficult situation indeed.

This is the second time I have had the opportunity to testify on Capitol Hill on NCSL, particularly where we think the Unfunded Mandates Reform Act has been, certainly if not violated, outright not followed in its spirit. Since its enactment, the Unfunded Mandates Reform Act has certainly stemmed the tide of unfunded mandates and it was certainly not meant to block them all; rather, to serve as an early warning system. And it was certainly dismaying that in the Senate's consideration of this and the spreading out implementation, the cost figure did not trigger UMRA, as we feel it should have.

And we are not suggesting, Mr. Chairman, that there is something that the Congress should not be concerned with, the various validity of the data, the proof of identity that is available across the country. But if there is a need to assess the practices, perhaps the GAO could be directed to look at where those actual deficiencies lie. I am not aware that it has been said that the deficiencies lie within the States and within our issuance of driver's licenses.

Mr. Chairman, this subcommittee has certainly been very supportive and very receptive to NCSL. Our president appeared here not long ago on the subject of Executive orders on federalism. We see this in a very similar light. And we certainly thank you for the opportunity to come here and tell our story.

[The prepared statement of Mr. Flaherty follows:]

Mr. Chairman, members of the Subcommittee. My name is Brian Flaherty. I am a state representative from Connecticut. I serve as the Deputy Minority Leader in the Connecticut House of Representatives. I appear before you here today on behalf of the National Conference of State Legislatures. I am vice-chair of NCSL's Assembly on Federal Issues. The Assembly formulates NCSL's state-federal policies that serve as the foundation for our organization's advocacy activities in Washington, D.C.

The National Conference of State Legislatures represents the legislatures of the fifty states and the nation's commonwealths and territories. This organization is an outspoken and firm believer in our federal system of government. We consistently defend state authority, resist preemption and unfunded mandates, seek balance and flexibility in the delivery of services through state-federal partnerships and act to protect the intergovernmental fiscal system.

Just over two years ago, a letter sent to the House and Senate leadership on a pending conference committee on an illegal immigration reform bill stated: "...we write you to you today to express our strong belief that the House should not accept the extremely ill-advised provisions of the Senate bill that would federalize driver's licenses and birth certificates. These provision...are antithetical to basic principles of federalism and would impose new unfunded mandates on state and local governments." The letter goes on to say that "...by forcing states to imprint (or verify) Social Security numbers for driver's licenses, the federal government would be scorning the considered judgement of 37 states that for reasons of crime prevention and personal privacy choose not to use Social Security numbers as all-purpose identifiers." Mr. Chairman, that letter was one that you and fourteen of your House colleagues signed. Yet, the conference committee

unfortunately went on to accept this Senate provision that ultimately became Section 656 (b) of the 1996 Illegal Immigration Reform and Immigrant Responsibility Act.

REPEAL SECTION 656 (b).

My message to you today, Mr. Chairman and members of the Subcommittee, is quite simple. Section 656 (b) of that 1996 act must be repealed immediately. That section is a gross usurpation of state authority. It is an unfunded mandate. It is preemption at its worst. It is counter-devolutionary. It contradicts state experience. It federalizes an activity that fundamentally should remain with states. And, because that section requires federal regulations to implement, it is about to breed bad and misguided regulations.

PASS H.R. 4179.

The answer to this dilemma is also simple. We need quick enactment of H.R. 4179, sponsored by Mr. Barr, who sits on this subcommittee, and a bipartisan group of cosponsors. While I realize that you are in the waning days of this session, this section of the law is so egregious that it merits an expeditious repeal. H.R. 4179, when passed, will produce two immediate benefits: (1) it will rid us of an absolutely unnecessary preemptive section of the law and return the driver's license issuance process entirely to the states, where it belongs, and (2) it will prevent the situation from worsening through the promulgation of regulations.

AVOID PREEMPTION.

When Congress considers an issue that may include preemption, there is typically a debate, sparked by the presentation of competing arguments, as to why or why not federalization of what is a traditional state activity ought to pursue. Nonetheless, state capability to issue driver's licenses was never the subject of debate. No Member of Congress, to my recollection, charged the states with ineptness. No one suggested that the federal government could accomplish issuance and production tasks more effectively. Therefore, unlike disagreements NCSL has had over takings, internet tax, financial services modernization, product liability and health insurance regulation initiatives, the contents of those disagreements were absolutely non-existent when Congress considered federalization of the driver's license issuance process. Yet, the end result of the law is preemption and activity that counters state experiences.

BAD SECTIONS OF LAW CAN ONLY PRODUCE BAD REGULATIONS.

Some would argue that a "fix" to the federal regulations would tame the counter-revolutionary content of 656 (b). Let me make it perfectly clear that a bad, misguided section of law will only produce bad, misguided regulations. The problem is the law!

The National Highway Traffic Safety Administration has received thousands of comments on its proposed regulations for implementation of Section 656 (b). It is not surprising to me that the overwhelming preponderance of the comments are negative, both toward the section of law generally and toward the regulations specifically. The first round of comments was so

unquestionably negative that the comment period was extended. My sense is that the extended comment period, through October 2 of this year, is just going to give you more evidence that only a repeal of Section 656 (b) will cure the situation.

NCSL submitted its comments on the regulations on August 3. Several state legislators have also submitted comments that mirror our organization's general concerns. While I have no intention of going into all of our comments, a sampling of the problems cited in the regulation include the following: (1) the regulation states that "the driver's license or identification document shall contain a social security number that can be read visually or by electronic means..." The movement among states regarding driver's licenses is against mandatory use of social security numbers and instead assignment of a random identification number (or allowing the driver the option of using his/her social security number). The bottom line is this: there is no compelling reason for forcing states to retreat to mandatory use of social security numbers. It defies our experience and opens the door to concerns regarding privacy and security that are best left closed.

(2) The regulations state: "...that all states shall verify the validity of each applicant's social security number with the Social Security Administration..." The overwhelming number of states do not have centralized driver's license issuance. Therefore, all local and regional motor vehicle offices would require installation of equipment making such verification possible. Some states do not use social security numbers in the application process. For them, this is a major, compulsory turnaround on their chosen public policy. Perhaps a larger problem is the matter of turnaround time on license applications. Getting a driver's license is one of those moments when

citizens come into direct, face-to-face contact with government. There have certainly been problems with long lines. Progress has been made in several states to remedy these situations. It is certainly not in my interest, and I would assume not in yours, to entertain ideas that will extend the wait at motor vehicle license offices. However, section 656 (b) and its regulations are not likely to help. NCSL only sees more complication, therefore more time, as a result of the "federal" presence in the "state's" business.

Thirdly, the regulation states that "the application process for the driver's license or identification document shall include the presentation of such identity as required by regulations promulgated by the Department of Transportation...and the agency proposes to list acceptable primary and secondary documents." The result here is obvious - a federally dictated, one size fits all, the heck-with-what-the-state-experience-is document. States become nothing more than a commandeered administrator of federal policy. Also, you ultimately end up with licenses that "meet federal standards" or those that are likely not to be accepted for federal identification purposes because they do not have social security numbers or meet other federally-desired guidelines.

I could go on and on. Instead, I will submit for the record NCSL's comments on the proposed regulation. I also want to repeat that we can sit here all day long and beat up on the regulators and their proposed regulations. We could also discuss modifying the law in hopes that more reasonable regulations would follow. However, the only way we can bring common sense and reasonableness to this issue is to agree to repeal Section 656 (b).

ABUSING THE UNFUNDED MANDATE REFORM ACT

I would be quite remiss, Mr. Chairman and Subcommittee Members, not to mention the Unfunded Mandates Reform Act. I believe that UMRA has been a positive influence on the legislative process. None of us ever believed that UMRA would halt, forever, any unfunded federal mandate. For the most part since its enactment, the tide of unfunded federal mandates has ebbed significantly. There are a few notable exceptions, and perhaps, not surprisingly, they deal with the subject of today's hearing. When Section 656 (b) was adopted, Senate sponsors of the language, in order to skirt the UMRA point of order, spread out the implementation time of the proposed law. In doing so, they were able to undercut a cost estimate that easily took this section over the \$50 million threshold. NHTSA has taken similar action in determining the cost estimate for the proposed regulatory charge in relying on data from a non-representative group of states to bring the estimate under \$100 million. NCSL's estimates indicate that implementing 656 (b) and its corresponding regulations will place a substantial cost on state governments that will exceed the \$50 million threshold set in UMRA. But there is yet more insult here. In preparing its regulations, NHTSA completely ignored its mandated responsibility to consult with elected state and local officials and their organizations when preparing the proposed regulations. Had they done so, we could have discussed cost estimate methodology and assumptions. I cannot help but reiterate that a bad section of law can only produce bad regulations, and in this specific instance, improper regulatory processes.

CONDUCT A STUDY, IF THERE IS A NEED.

The federal government can access various data as proof of identity, legal status or lawful presence in the United States. The Immigration and Naturalization Service alone has 26 different documents that prove lawful presence. Federalizing the state driver's license process and essentially requiring imprints of and/or verification of social security numbers seems like document overkill.

If there is a need to assess best practices states use to verify identity-related information in the driver's license issuance and production process, I urge you to direct the General Accounting Office to conduct a study.

If, on the other hand, the real issue driving this bad section of law is the need for a national identification card, then NCSL's suggestion is for both houses of Congress to call for a vote on such. I would not urge you to pass it for the very same reasons we in Connecticut do not collect social security numbers for use on driver's licenses.

FEDERALISM REVISITED

Less than two months ago, this subcommittee explored the topic of federalism and the issuance of a new executive order, E.O. 13083, on federalism and intergovernmental relations. NCSL's President, Representative Dan Blue, testified before you that day to ensure the reinstatement of Executive Orders 12612 (President Reagan) and 12875 (President Clinton). In the aftermath of

that hearing, bipartisan legislation, H R 4422 was introduced on the House side proposing to codify E.O. 12612 and 12875. Somewhat similar legislation, S. 2422 was introduced on the Senate side. Executive Order 13083 was suspended indefinitely. NCSL thanks you Mr. Chairman, and members of the subcommittee, for giving federalism the kind of attention it deserves.

My point, however, is that section 656 (b), when placed beside any of the aforementioned executive orders or legislation, woefully fails the federalism test. Given that most of you have indicated support for one or more of these executive orders or bills, I suggest that you, therefore, have more than a foundation for urging passage of H.R. 4179 immediately.

Thank you for this opportunity to testify. I would be glad to respond to any questions that you may have.

Mr. MCINTOSH. Thank you, Mr. Flaherty. Let me mention one thing triggered by your testimony. I think Mr. Barr's statute would be an outright repeal and it would be the preferred solution. But, if we for some reason have that blocked for whoever wanted this provision in the beginning in the Senate and the House, another option to keep in mind, and a less good option because it is not as definitive, when the final regulation—if it is promulgated—comes up, is that the Congressional Review Act gives Congress the option of nullifying it. And one interpretation, it is a new area, so we are plowing new ground, but one interpretation of that act, if the agency says we have no choice but to issue this regulation and then Congress nullifies it, is to have it effectively repeal the requirement for that rule.

It is not as good, as I say, as an outright repeal but it is something to keep in mind, and you may want to take that back and have the National Council of State Legislatures take a look at that. Our staff has a fair amount of expertise on the Congressional Review Act and would be glad to work with you on the legal questions it might present.

Mr. FLAHERTY. I will certainly do that, Mr. Chairman. We have a similar mechanism in the State of Connecticut.

Mr. MCINTOSH. In fact, ours is a less good one than many of the States which can more easily nullify regulations, but we try to model it on those. It is an example of an instance in which Congress looked to the States for guidance and found a good thing.

Mr. FLAHERTY. We recommend that at all times.

Mr. MCINTOSH. Before I turn to the rest of our panel, let me welcome to the hearing one of my good colleagues, Mr. Davis, who serves on the Government Reform and Oversight Committee with us. Thank you for coming by, Tom. Would you like to add any remarks?

Mr. DAVIS. Not at this point. When Mr. Holcomb speaks I would like to give him a formal introduction.

Mr. MCINTOSH. While we are at a breaking point, I noticed my good friend Mr. Kucinich has come in. Do you have any remarks, Dennis, you want in the record?

Mr. KUCINICH. I do have a statement for the record, and I do support your efforts and concerns about the national ID card.

Mr. MCINTOSH. I appreciate you coming by.

[The prepared statement of Hon. Dennis J. Kucinich follows:]

to the Department of Motor Vehicles, I had to get a birth certificate, I had to show her adoption papers. I had to get an order from the California court showing that I was her mother, because we had two birth certificates. "Unbelievable" is the only word I can use to describe this situation. And, we are talking about the steps taken to protect her privacy. We are not even talking about identity theft.

Mr. MCINTOSH. So, all the pressure was for you to just say, yes, go ahead and use the Social Security number?

Ms. BITOL. Yes, right here in Washington, DC, those are the steps you have to go through. In fact, after all that, both she and I had to sign something to issue a random number. On top of all that, try going to the grocery store or any store here and try writing a check, they look at the number and say, "Well this isn't your Social Security number. Why don't you have a Social Security number? Who are you? This is a fake ID." It is unbelievable.

Mr. MCINTOSH. Because the community is used to looking for Social Security numbers.

Ms. BITOL. That's right. Most people don't even realize saying you don't want to use your Social Security number is an option.

Mr. MCINTOSH. That is amazing. I am blessed in Indiana. They allow you to use a different number, and the Social Security number is an option to put on there if you want to.

Ms. BITOL. That's the way it is in California where we are from, but in Washington, DC, it is a different story.

[The prepared statement of Ms. Bitol follows:]

Statement of Dennis J. Kucinich

September 17, 1998

"A National ID Card: Big Government at its worst or Technological Efficiency?"

Mr. Chairman, I welcome our Subcommittee's hearing on national identifiers and their implications on the privacy rights of the individual. Innovations in information technologies have made possible increased efficiency in the handling of data. Credit lines, banking accounts, and other personal information can all be accessed at the click of a button. However, while this information technology may save time and allow for easier access, it may also compromise personal privacy.

In particular, Mr. Chairman, I would like to take a close look at the National Highway Traffic Safety Administration's proposed rule concerning state-issued driver's licenses. This rule, which is a product of a bill passed by Congress in 1995, raises issues of cost and constitutionality. State officials question whether the rule constitutes an unfunded mandate. State interest groups regard it as an usurpation of states' rights by the federal government. Most troubling to me is the rule's use of the Social Security number as a de-facto national identifier. Depending on where you're standing, Mr. Chairman, this rule can be interpreted as nothing less than an accomplice to "identity theft."

In the midst of an information revolution, it is critical that we establish effective methods to protect citizens' privacy. Until we do so, any national identifier, de facto or otherwise, is a risky proposition. Mr. Chairman, I am pleased with the Subcommittee's attention to this matter and I look forward to today's discussion.

Mr. MCINTOSH. Our second witness on this panel is Mr. Grindley from Georgia. Thank you for coming. Share with us a summary of your testimony.

Mr. GRINDLEY. Thank you, Mr. Chairman, and members of the subcommittee. I would like to take this opportunity to thank you for inviting me here to testify about this very important issue that affects every American citizen.

I am a member of the Georgia General Assembly. I have been there two terms. And over the last couple years, I have been very interested in issues of privacy and I have passed some legislation regarding it. I recently pushed through the Georgia House legislation that would remove Social Security numbers from driver's licenses. I went first to the head of the State Patrol, and got his authorization. He said, it would be no problem. It passed overwhelmingly. After we left the session, he wrote a letter to the Governor, urging him to veto it under some guise.

It turned out that the reason for this urged veto was he found out that if he didn't place Social Security numbers on the driver's licenses by the year 2000, there would be Federal money taken from the State of Georgia. Luckily, through the media we raised public concern about my proposed legislation and the Governor did sign the bill.

In a nutshell, Mr. Chairman, I introduced this legislation because millions of Americans realize that the use of the information superhighway has continued to expand and there is a new type of fraud that is available. With just a few pieces of information, like what has already been expounded on here, people are able to transfer money from your bank account. With only the last four digits of your Social Security number, crooks can authorize credit cards and so on.

The key to unlocking all these doors is through the Social Security number. Through my research I found out that in the State of Georgia, if you have someone's Social Security number, name and address, it is worth \$50 on the street. You can see the multiplier here. On one hand, \$50 isn't a lot, but it can quickly ruin someone's life.

There is something else that you need to be aware of that I just found out about yesterday. There is an Internet address of www.iqdata.com where I went yesterday and signed up. I was going to try to get your Social Security number for this meeting but it takes a couple of days. For only \$12.50 I can get the most personal information that you can imagine, including your Social Security number. There is another data-base that for \$30 I can get your mother's maiden name. What possible use would you have for this information other than to verify and to use this for fraudulent activities?

There are some 10th amendment questions here. Probably the biggest concern I get from my constituents is about encroachment on the States by the Federal Government. You all know, no offense, it seems like you are making a huge power grab. Over and over my constituents are saying, "Can we do something?" And, you know, the folks I talked to said, well, you can't start a lawsuit until you can demonstrate that somebody has been personally damaged, be-

cause it is kind of a roundrobin type thing. But I think we will get to that.

I had someone hand me a training manual from Nigeria that explained how to come to the United States, how to assume someone's birth certificate that has died within 10 years of your age how to assume their identity, and get Social Security numbers.

From that, I did a little research in my own State and I found out that the State did not mark "deceased" on birth certificates. I asked why and they said, no one had ever asked them to. I passed legislation subsequently that requires the State of Georgia now to stamp "deceased" on birth certificates, and they have said it will save millions of dollars from fraud cost simply from that one word.

I am not one that is going to propose national data-bases, but if you were going to have one, maybe a national data-base of deceased would be the appropriate way to go.

Mr. MCINTOSH. Maybe the private sector will create that as well.

Mr. GRINDLEY. Maybe. But I think that is an important safeguard.

Mr. MCINTOSH. Have you ever had anybody in your State held liable for identity theft after the person had died?

Mr. GRINDLEY. Not to my knowledge.

Mr. MCINTOSH. Thank you, Mr. Grindley. I appreciate it. Thank you for your good efforts at the State level. By the way, do you still have that training manual?

Mr. GRINDLEY. I do in my files at home.

Mr. MCINTOSH. If it is not difficult, please send us a copy of that, I would like to put it in the record.

Mr. GRINDLEY. I can do that.

[The information referred to follows:]

BIRTH CERTIFICATES

ALL I.D. STARTS WITH A BIRTH CERTIFICATE: WITH THIS DOCUMENT ISSUED BY THE STATE ITSELF, YOU CAN OBTAIN ALL THE OTHER FORMS OF OFFICIAL I.D. SUCH AS SOCIAL SECURITY CARDS, DRIVERS LICENSES, NEW DRIVER POLICE I.D. AND PASSPORTS. THE ENDING SECRET TO CREATING AN ALTERNATE I.D. AND IDENTITY IS TO OBTAIN A BIRTH CERTIFICATE IN ANOTHER NAME. I WILL GIVE YOU THREE DIFFERENT METHODS FOR OBTAINING A USABLE BIRTH CERTIFICATE DIRECTLY FROM THE STATE ITSELF; THEREBY, IT'S REGISTERED WITH THE COUNTY AND STATE ON THEIR COMPUTERS AND CAN BE CHECKED BY ANY POLICE OFFICIAL OR GOVERNMENT AGENCY WITHOUT ANY DANGER TO THE ONE WHO IS OBTAINING IT.

NEVER USE ANY I.D. THAT IS NOT ISSUED BY THE VARIOUS AGENCIES THEMSELVES. ANY I.D. THAT IS DOCTORED OR PRODUCED IS ABSOLUTELY WORTHLESS AND NOT WORTH THE PAPER IT IS PRINTED ON. THE TRICK IS TO HAVE THE STATE OR GOVERNMENT ISSUE YOU DIRECTLY THE VARIOUS FORMS OF I.D. YOU NEED. ALL YOU NEED IS THE REGULAR BIRTH CERTIFICATE - SOMEONE ELSE'S - THAT IS: FOLLOW THE BELOW LISTED INSTRUCTIONS EXACTLY AS THEY ARE WRITTEN AND YOU WILL HAVE NO PROBLEMS. REMEMBER, THESE HAVE BEEN TRIED AND THEY WORK.

BUT WHO IS SOMEONE ELSE'S?

OBVIOUSLY IT CANNOT BE SOMEONE WHO IS NOW LIVING, SINCE YOU WOULD BE DUPLICATING AN EXISTING SET OF I.D. WHICH WOULD LEAD TO AN EARLY AND EASY DETECTION BY SOMEONE WHO JUST MIGHT CHECK YOUR I.D.. THE SOMEONE ELSE MUST BE THEN:

- (A) A PERSON OF YOUR SEX
- (B) A PERSON OF YOUR RACE
- (C) A PERSON OF YOUR APPROXIMATE AGE AT PRESENT TIME IF HE OR SHE WAS LIVING (WHICH I MUST ADD IS NO LONGER LIVING AND THUS HAS NO FURTHER NEED OF I.D. UNDER HIS NAME. THE PROBLEM THEN LIES IN FINDING SUCH A PERSON AND ULTIMATELY OBTAINING HIS BIRTH CERTIFICATE.

I WILL NOW EXPLAIN THE THREE SUCCESSFUL METHODS, ALL OF WHICH ENABLE YOU TO RECEIVE AN UNQUESTIONABLE VALID "BIRTH CERTIFICATE" FROM ANY COUNTY RECORDER. ALL BIRTH CERTIFICATE AND DEATH CERTIFICATE RECORDS ARE KEPT BY THE COUNTY RECORDER AND THEY WILL BE IN THE COUNTY WHERE YOU CHOOSE TO USE THE DECEASED PERSON'S NAME. ALWAYS REMEMBER THIS - IT WILL BE FOUND FILED IN THE COUNTY ARCHIVES AND A COPY MARKED "REGISTERED", "VERIFIED", AND/OR "CERTIFIED" WILL BE SENT DIRECTLY TO YOU IN THE MAIL IF YOU WANT IT THIS WAY.

FIRST METHOD - OBITUARY METHOD

THIS FIRST METHOD LETS YOU TAKE OVER "LOVING" FOR A PERSON WHO HAS JUST RECENTLY DIED. TAKE ANY NEWSPAPER AND SCAN THE OBITUARY COLUMNS, LOOK FOR A PERSON WHO HAS DIED WITHIN A FEW YEARS OF YOUR PRESENT AGE, AND OUT OF STATE PAPER IS RECOMMENDED DEPENDING UPON WHERE YOU LIVE AT PRESENT. IF THE STATE IS SMALL, THEN AN OUT OF STATE PAPER IS THE BEST METHOD. MANY SUCH PAPERS CAN BE FOUND AT THE LOCAL LIBRARY. ONCE YOU HAVE LOCATED A GOOD PROSPECT, YOU SHOULD FEEL COMFORTABLE ABOUT THE SITUATION. PLACE ANY POSSIBLE FAMILY CONNECTIONS BEFORE GOING AFTER HIS BIRTH CERTIFICATE.

THE NEXT STEP IS TO WRITE THE FUNERAL HOME, CEMETARY, OR EVEN THE FAMILY, EXPRESSING REGRET THAT YOUR OLD FRIEND, SERVICE BUDDY OR BOYHOOD PAL HAS PASSED AWAY, AND THAT YOU WOULD LIKE TO BE SURE IT WAS HIM. IF THEY WOULD BE SO KIND AS TO SEND YOU HIS BIRTHDATE AND PLACE OF BIRTH, IT WOULD BRING YOU A GREATER PEACE OF MIND. ANY FACTS GLEANED FROM THE OBITUARY NOTICE WOULD BE EXCELLENT POINTS OF REFERENCE. USING YOUR IMAGINATION IN YOUR LETTER OF INQUIRY WILL GAIN YOU EVEN MORE INFORMATION REGARDING THE PERSON'S BACKGROUND, LIFE SITUATION, ETC. WHEN YOU GET THE FACTS YOU NEED, SIMPLY WRITE TO THE CLERK OF THE COUNTY WHERE THE PERSON WAS BORN, USING AN APPROPRIATE TITLE WHEN YOU WRITE, SUCH AS "OFFICE" OR "DEPARTMENT OF VITAL RECORDS", "BIRTH REGISTRATIONS", ETC., AND REQUEST A "CERTIFIED COPY OF YOUR BIRTH CERTIFICATE". BE SURE TO ENCLOSE \$5.00 (THE MOST COMMON FEE), AND YOU SHOULD RECEIVE IT IN A FEW DAYS IN THE MAIL. INCIDENTALLY, THE COUNTY CLERK OR RECORDER WILL

HAVE HIS OFFICE AND FILES AT THE COUNTY SEAT. A QUICK CHECK OF THE ATLAS OR GOOD ENCYCLOPEDIA WILL TELL YOU WHICH CITY OR TOWN THIS IS. NOW, IF ASSUMING YOUR NEW NAME SEEMS TOO DIRECT OR "UP FRONT", THEN USE A LETTERHEAD, SUCH AS THAT OF AN ATTORNEY OR AN INVESTIGATING AGENCY, TELLING THEM YOU WANT A CERTIFIED COPY OF THE BIRTH CERTIFICATE FOR YOUR COMPANY'S GROUP LIFE INSURANCE POLICY OR YOU ARE REQUESTING A COPY CERTIFIED OF SO-AND-SO'S BIRTH CERTIFICATE FOR A SECURITY CLEARANCE. ALWAYS INCLUDE THE FEE, YOU WILL GET IT FAST, NO QUESTIONS ASKED. PUBLIC DOCUMENTS ARE ALWAYS AVAILABLE. OF COURSE, YOU CAN REQUEST AND RECEIVE THE DOCUMENT IN PERSON, PARTICULARLY IF THE BIRTH CERTIFICATE IS REGISTERED IN A LARGE COUNTY. YOU WILL RECEIVE IT MUCH FASTER THIS WAY. ALTHOUGH I WOULD RECOMMEND AVOIDING THE PERSONAL APPEARANCE, IF YOU ARE GOING AFTER SOMEONE WHO WAS FROM A RURAL AREA, THERE IS ALWAYS A GOOD CHANCE THE CLERK MIGHT HAVE KNOWN THE PERSON OR HAVE HEARD OF HIS RECENT DEATH. REASON AND GOOD COMMON SENSE ON YOUR PART MUST ALWAYS PREVAIL.

IN THE CERTUARY METHOD YOU HAVE TO REMEMBER THAT IF YOU USE THE BIRTH CERTIFICATE OF SOMEONE WHO HAD ALREADY ENTERED "ADULT LIFE", HE MORE THAN LIKELY HAD CONTACTED DEPARTMENTS, HAD A SOCIAL SECURITY NUMBER, AND AT SOME TIME, REGISTERED FOR THE DRAFT. HE MIGHT HAVE BEEN MARRIED, HAD A POLICE RECORD, OR EVEN POSSIBLY HAD A FEW OUTSTANDING WARRANTS. THE FIRST TYPE OF BIRTH CERTIFICATE IS STRICTLY "LIGHTWEIGHT" IN THAT YOU DON'T HAVE MUCH ASSURANCE OF REMAINING HIDDEN VERY LONG. IT IS GOOD THOUGH, ESPECIALLY FOR A "CHECK RUN" OR "CREDIT GAME" OR A WILD WEEKEND OR FOR DISAPPEARING IN A HURRY. BY THAT TIME YOU ARE READY FOR THE "MASTER TYPE OF BIRTH CERTIFICATE", AND MIGHT HAVE ALREADY RECEIVED IT IN THE FIRST PLACE ON THIS FIRST TYPE OF BIRTH CERTIFICATE. I DON'T RECOMMEND USING THIS OTHER THAN FOR RUNNING CHECKS OR TEMPORARY I.D., BUT KEEP IT FOR REFERENCE, OR THAT EMERGENCY YOU MIGHT HAVE.

SECOND METHOD - OLD NEWSPAPER METHOD

THE BIRTH CERTIFICATE YOU OBTAIN USING THIS METHOD ENABLES YOU TO ACTUALLY BECOME A PERSON WHO DIED LONG BEFORE HE GOT ENTANGLED IN THE PAPER MESS YOU ARE TRYING TO ESCAPE FROM. AGAIN, HIS BIRTHDATE

SHOULD BE AROUND YOUR OWN (A FEW YEARS YOUNGER OR A FEW YEARS OLDER), BUT YOU DON'T NEED TO GO THROUGH THE GRAVEYARDS LOOKING HIM UP. IT'S BEEN DONE THIS WAY AND IT WORKS, BUT THERE IS AN EASIER WAY. GO TO THE MAIN LIBRARY OF ANY LARGE CITY, UNIVERSITY OR COLLEGE OR TO A PRINCIPLE NEWSPAPER OFFICE AND TAKE A LOOK AT THE OLD NEWSPAPERS RECORDED ON MICROFILM. CHOOSE A YEAR IN WHICH YOU WOULD HAVE BEEN NO OLDER THAN TEN (10), USING YOUR AGE AS A GUIDE AND YOUR BIRTHDATE, AND BEGIN LOOKING FOR ARTICLES IN WHICH A YOUNG CHILD OF YOUR SEX, RACE AND PRESENT AGE WAS KILLED IN SOME KIND OF ACCIDENT, LIKE FIRE, AUTO OR DROWNING. THE VERY BEST POSSIBILITIES WOULD BE THOSE IN WHICH THE ENTIRE FAMILY WAS WIPED OUT, AS THERE WOULD BE LITTLE REMEMBERED OF THEM BY NOW.

NOTE: FOR SPANISH TYPE BIRTH CERTIFICATES, IT'S RECOMMENDED THAT CITIES SUCH AS HOUSTON, BROWNSVILLE, SAN ANTONIO, LAREDO OR CORPUS CHRISTI BE USED, AGAIN USING THE SPANISH PERSON'S GENERAL DESCRIPTION, AGE, AND BE SURE TO FIND A SPANISH RACE CHILD FOR THEM.

ALSO, CHECK THE OBITUARIES TOO, ESPECIALLY FOR DEATHS OF CHILDREN UNDER THE AGE OF FIVE (5). UNDER THIS AGE, AT LEAST 90% OF THOSE WHO DIED DID SO IN THE SAME COUNTY THEY WERE BORN IN. MAKE SURE THE DATE OF THE NEWSPAPER IS SUCH THAT THE AGE OF THE DECEASED AND YOUR AGE OR THE SPANISH PERSON'S AGE AT THE TIME OF HIS DEATH REFLECTS YOUR AGE NOW.

IN WRITING FOR THE BIRTH CERTIFICATE, UNLESS THE ARTICLE OR OBITUARY STATES WHERE THE CHILD WAS BORN, ASSUME THAT HE WAS BORN IN THE SAME COUNTY WHERE HE DIED. REQUEST A CERTIFIED COPY EITHER AS THAT PERSON OF THE BIRTH CERTIFICATE, OR AN EMPLOYER OR INVESTIGATOR WHO REQUIRES IT IN ORDER THAT YOU MIGHT HIRE THAT PERSON, APPROVE HIM FOR A SPECIAL TYPE OF CLEARANCE OR WHATEVER. NOW: IF THAT COUNTY HAS NO RECORD OF THE BIRTH WHEN YOU WRITE, TRY EITHER A LARGE NEIGHBORING COUNTY OR JUST SUBMIT ANOTHER NAME. YOU WILL FIND THOUGH THAT MANY NEWSPAPERS, PARTICULARLY IN RURAL AREAS, ARE AMAZINGLY COMPLETE IN THEIR DETAILS OF TRAGEDIES IN WHICH A SPECTACULAR ACCIDENT KILLED SEVERAL OR ALL THE MEMBERS OF A FAMILY. EVERYTHING YOU NEED TO KNOW WILL BE RIGHT THERE IN FRONT OF YOU.

WHILE YOU ARE LOOKING OVER THE MICROFILM IT WOULD BE A GOOD IDEA TO COMPILE A LIST OF AT LEAST SEVERAL GOOD POSSIBILITIES. A FEW JUST MIGHT PROVE USELESS TO YOU. FOR EXAMPLE, WRONG RACE, OR YOU MIGHT WANT TO CONSTRUCT SEVERAL I.D.'S FOR WHATEVER REASON.

NOTE: WHEN YOU GO TO THE NEWSPAPER OFFICE, JUST ASK THEM WHERE YOU CAN SEE THE "DEATHS MICROFILM". YOU NEVER NEED TO WORRY ABOUT ANY QUESTIONS CONCERNING THE ABOVE PROCEDURES. DO IT BY MAIL IF YOU WANT TO, AND HAVE IT MAILED TO A RENTED P. O. BOX NUMBER, OR BETTER YET, TO A MAIL FORWARDING ADDRESS. YOU VERY WELL CAN FIND AND LOCATE THE MAIL FORWARDING COMPANIES IN THE NEWSPAPERS AND MAGAZINE ADS ALSO.

THE NEXT STEP - GOVERNMENT ISSUED I.D. SOCIAL SECURITY CARD

THIS IS THE NEXT STEP IN THE PROCESS OF OBTAINING QUALITY I.D. FOR YOUR NEW IDENTITY. JUST FOLLOW THE INSTRUCTIONS CAREFULLY AND READ THIS SEVERAL TIMES BEFORE ATTEMPTING TO RECEIVE YOUR SOCIAL SECURITY CARD.

ONCE YOU HAVE THE BIRTH CERTIFICATE YOU NEED, THERE IS THE FURTHER PROCESS OF YOUR OBTAINING A SOCIAL SECURITY CARD AND NOW IS THE TIME TO APPLY FOR THIS CARD. YOU, OF COURSE, NEED TO GO TO ANY SOCIAL SECURITY OFFICE IN THE CITY WHERE YOU ARE OBTAINING NEW I.D.. ALL THE INFORMATION YOU NEED TO COMPLETE THE APPLICATION CARD IS RIGHT ON THE CERTIFICATE, SO MERELY FILL IN THE APPROPRIATE BLANKS. THEN APPLICATION CAN THEN BE MAILED IN TO THE OFFICE WHOSE ADDRESS IS PRINTED ON THE BACK SIDE OF THE APPLICATION, AND YOUR CARD SHOULD ARRIVE IN A WEEK OR SO. THERE IS NO FEE FOR THIS CARD. (NOTE) FOR SPANISH SPEAKING PERSON, HE OR SHE PROBABLY NEEDS TO SPEAK SOME SPANISH AND ENGLISH BEFORE TRYING TO OBTAIN A SOCIAL SECURITY CARD, ALSO, MUST HAVE SOME I.D., IE, BIRTH CERTIFICATE OR DRIVERS LICENSE BEFORE APPLYING. THIS ALSO APPLIES TO ANYONE WANTING TO GET A SOCIAL SECURITY CARD - A DRIVERS LICENSE IS A MUST.

I WOULD NOT RECOMMEND THAT A SPANISH PERSON WHO SPEAKS NO ENGLISH APPLY IN PERSON FOR A CARD. THIS CAN BE DONE BETTER THROUGH THE MAIL.

IF YOU APPLY IN PERSON AND ARE QUESTIONED AS TO WHY YOU HAVE NEVER HAD A SOCIAL SECURITY CARD IN THE PAST, JUST TELL THEM THAT YOU HAVE ALWAYS EARNED YOUR LIVING BY WORKING ON A COMMISSION BASIS, SUCH AS SALESMEN. THEY ARE EXEMPT FROM HAVING A SOCIAL SECURITY CARD. REMEMBER TOO, THAT IF YOU ARE ASSUMING IDENTITY OF SOMEONE WHO DIED RECENTLY, YOU WILL THEN BE APPLYING FOR A DUPLICATE CARD, NOT A NEW ONE.

NOTE: ON THE SOCIAL SECURITY CARD APPLICATION IN (BOOK 13) THAT THE QUESTIONS ARE DETERMINED TO DETERMINE THE DIFFERENCE. SINCE YOU MAY BE UNCERTAIN ABOUT APPROPRIATE ANSWERS, INDICATE EITHER "UNKNOWN" OR JUST TAKE A STAB AT IT, THE RESULT WILL BE THE SAME, YOUR CARD WILL ARRIVE IN THE MAIL IN A SHORT TIME. THE REASON FOR GETTING THE SOCIAL SECURITY CARD BEFORE THE DRIVERS LICENSE IS THAT NOW A LOT OF STATES PUT THE SOCIAL SECURITY CARD NUMBER ON DRIVERS LICENSES.

FOURTH METHOD - DRIVERS LICENSE

THE DRIVERS LICENSE HAS BECOME THE MOST COMMONLY AND ACCEPTED FORM OF I.D. IN THE WHOLE UNITED STATES. EACH STATE HAS ITS OWN ADMINISTRATION FOR OBTAINING THEM UNDER SUCH TITLES AS "DEPARTMENT OF MOTOR VEHICLES", "DEPARTMENT OF TRANSPORTATION", OR "DEPARTMENT OF PUBLIC SAFETY", AND THEIR ONLY REQUIREMENT IS PROOF OF AGE FOR MINORS. A CERTIFICATE OF BIRTH OR BAPTISM IS ALWAYS ACCEPTABLE. EVEN IF YOU HAVE NO I.D., TELL THE CLERK YOU HAVE LOST YOUR WALLET, OR SIMPLY NEVER HAD A DRIVERS LICENSE BEFORE, OR THAT YOU HAD A DRIVERS LICENSE PREVIOUSLY IN THAT STATE, BUT IT WAS OVER TEN (10) YEARS BEFORE AND THAT YOU HAVE BEEN OVERSEAS FOR THE PAST NINE (9) YEARS. BE SURE TO CHECK THE STATE REQUIREMENTS BEFORE YOU APPLY AND HAVE THE NECESSARY PAPERS AND ANSWERS READY BEFORE APPLYING. THERE ARE SEVERAL STATES THAT USE THE SOCIAL SECURITY CARD NUMBER ON THEIR LICENSES. BE SURE TO CHECK THIS FIRST BY GETTING A COPY OF THE STATE'S "DRIVERS LICENSE MANUAL" BOOKLET. THE STATES THAT ARE USING SOCIAL SECURITY NUMBERS ARE TOO NUMEROUS TO MENTION, SO CHECK FIRST.

NOTE: I MIGHT MENTION HERE THAT I PERSONALLY KNOW OF TWO (2) STATES WHERE YOU CAN APPLY FOR A DRIVERS LICENSE AND RECEIVE IT THE SAME DAY WHILE YOU WAIT. THE FIRST STATE IF YOU NEED A LICENSE IN A HURRY IS NEW MEXICO, THE SECOND STATE IS KANSAS. I ALSO BELIEVE THERE ARE OTHERS AND SOME RESEARCH ON THIS WOULD PROVIDE THE ANSWERS YOU NEED.

NEVER USE A STATE THAT ISSUES A DRIVERS LICENSE WITHOUT A PICTURE UNLESS YOU INTEND TO TRANSFER TO A STATE THAT DOES HAVE A PICTURE LICENSE. VERY FEW OFFICIALS REGARD THE NON-PICTURE AS GOOD I.O., BUT YOU CAN EASILY OBTAIN ONE WITHOUT A PICTURE AND THEN GO TO THE STATE THAT ISSUES PICTURE DRIVERS LICENSES WITHOUT ANY PROBLEMS.

NOTE: AN EXCELLENT REFERENCE BOOK TO HAVE IS "THE DRIVERS LICENSE GUIDE" - \$3.95, WHICH CAN BE PURCHASED BY MAIL FROM THE DRIVERS LICENSE GUIDE BOOK COMPANY - 1492 GEDSTAD DRIVE, REDWOOD CITY, CALIFORNIA 94063. TO PURCHASE THIS BOOK, WHICH IS MADE FOR POLICE DEPARTMENTS AND BUSINESSMEN, YOU NEED TO WRITE A LETTER ON A COMPANY LETTER-HEAD STATING THAT YOUR COMPANY CASHES A GREAT AMOUNT OF "OUT OF STATE CHECKS" AND THEIR GUIDE WOULD VERIFY THE STATES LICENSES IN QUESTION FOR YOU. THE GENERAL PUBLIC CANNOT PURCHASE THIS BOOK. IT WOULD BE MUCH BETTER IF YOU HAD SOMEONE WHO DOES OWN A COMPANY WHO YOU TRUST AND HAVE THEM ORDER IT FOR YOU IN THEIR NAME. IT IS ALSO RECOMMENDED THAT YOU SECURE SEVERAL DIFFERENT DRIVERS LICENSES AND KEEP ONE FOR SOMETHING BUT THE LEGAL NAME THAT YOU WILL FINALLY SETTLE DOWN TO.

OTE: TRY TO SET UP A COMPLETE SET OF (1) BIRTH CERTIFICATE, (2) SOCIAL SECURITY CARD, (3) DRIVERS LICENSE, AND (4) CREDIT CARDS FOR THE NAME YOU PLAN TO USE TO LIVE ON AND NEVER USE THIS SET FOR ANYTHING ILLEGAL.

CREDIT CARDS

PROFESSIONAL I.O. SHOULD ALWAYS INCLUDE A FULL RANGE OF CREDIT CARDS, BOTH PAPER AND PLASTIC, ALTHOUGH A FEW COMPANIES ARE BEGINNING TO USE

A CUSTOMER'S PHOTO ON THE CARDS, AS A CLASS, THEY GENERALLY HAVE NO PERSONAL I.D. INFORMATION WHATSOEVER, YOUR NAME, SIGNATURE, ACCOUNT NUMBER, AND STATES THE DATE FOR WHICH THE CARD IS VALID. THAT IS ABOUT THE ONLY INFORMATION INDICATED ON THE CARD IN PROVING INDIVIDUAL DATA. THE REST IS STORED IN THEIR COMPUTER FILE BASED ON YOUR ORIGINAL CREDIT APPLICATION.

IN TODAY'S INCREASINGLY CASHLESS SOCIETY, CREDIT CARDS ARE BECOMING THE CONTROLLABLE LINK BETWEEN PEOPLE, INCOME AND PROPERTY. THEY ARE IMMEDIATELY ACCEPTED FOR A MULTITUDE OF SPECIFIC FINANCIAL JOBS AND IN MOST TRANSACTIONS, THEY ARE THE ONLY I.D. REQUIRED. HERE IS HOW TO OBTAIN THEM AFTER YOU HAVE A SET OF I.D. TO WORK WITH. THE FIRST RULE: DO NOT USE SOMEONE ELSE'S CREDIT CARD. TOO DANGEROUS AND ALSO CRIMINAL, RIGHT? INFINITELY BETTER IS TO GET THE CREDIT CARD COMPANIES THEMSELVES TO SEND YOU THEIR CREDIT CARDS, BUT UNDER THE NAME THAT YOU CHOOSE. THE CREDIT COMPANIES AND BANKS ALSO ISSUE THESE CARDS AND ARE ANXIOUS FOR YOUR TRADE, AND EQUALLY ANXIOUS TO ISSUE THE REAL CARD TO ALL THOSE WHO QUALIFY: SO, THE SECRET IS OBTAIN YOUR OWN CARDS LEGITIMATELY. YOU DO THIS BY STUDYING THEIR BROCHURES AND APPLICATIONS TO DETERMINE MORE OR LESS WHAT THEY EXPECT EVEN THOUGH YOUR NEW NAME WILL HAVE NO EXISTING CREDIT RECORD. A \$400 MINIMUM DEPOSIT AT A LARGE BANK WILL PUT YOU ON THE ROAD TO A GEOMETRICALLY EXPANDING CREDIT RATING. (THIS WILL BE DISCUSSED IN DETAIL ON A SEPARATE PAGE AND HEADING AS TO EXACTLY HOW TO SET UP A CREDIT RATING LEGALLY.)

THERE IS A BOOK I STRONGLY RECOMMEND THAT YOU READ BEFORE YOU ATTEMPT TO OBTAIN A CREDIT RATING. IT'S ABSOLUTELY THE VERY BEST THERE IS AND I HAVE USED IT AS IT STATES AND RECEIVED A TRIPLE A CREDIT RATING WHICH IS THE BEST YOU CAN HAVE IN THE UNITED STATES. THE BOOK IS "HOW TO HAVE TRIPLE A CREDIT RATING WITHIN THIRTY (30) DAYS". GET THIS BOOK FROM CONTINENTAL ADVISOR MANUALS, P. O. BOX J-1000, HALLENDALE, FLORIDA 33009. THE COST OF THIS BOOK IS \$8.98 BY MAIL AND \$2.00 FOR FAST DELIVERY.

COMPANY NAME AND ON YOUR APPLICATION, LIST YOURSELF AS "THE GENERAL SALES MANAGER". THIS WILL TELL THE PERSON WHO IS CHECKING YOUR APPLICATION THAT YOU ARE ON A SALARY WHICH IS VERY GOOD. ALL THE PERSON HAS TO DO WHO ANSWERS THIS PHONE IS ANSWER THE PHONE BY THE COMPANY NAME, TELL WHOEVER CALLS THAT YOU HAVE WORKED THERE FOR FIVE (5) YEARS AND THAT YOU ARE THE SALES MANAGER. THE CREDIT PHONE WILL BE ANSWERED WITH A COMPANY NAME THAT YOU HAVE CHOSEN, STATING THAT YOU HAVE HAD AN ACCOUNT WITH THEM FOR QUITE SOME TIME, ALWAYS PAY YOUR BILL ON TIME AND MANY TIMES BEFORE IT IS DUE, AND THAT'S IT. JUST HAVE SOMEONE ANSWER THESE PHONES WITH SOME COMMON SENSE AND GOOD RAP.

AFTER THE CALLS FROM THE LENDER TO VERIFY YOUR EMPLOYMENT AND CREDIT HISTORY YOU HAVE, THE RESULT WILL BE APPROVAL OF ANY CARD THAT YOU WANT: DEPARTMENT STORES, FURNITURE STORES, OIL COMPANIES, MASTER CHARGE, BANK AMERICARD, AMERICAN EXPRESS, DINERS CLUB CARD, CARTE BLANCHE. THEY WILL ALL SEND YOU THEIR CARDS TO PURCHASE WHATEVER YOU DESIRE ON TIME. REMEMBER, YOU CAN MAKE THOUSANDS OF DOLLARS FROM THESE CARDS UNDER THE ASSUMED IDENTITY WITH NO DANGER WHATSOEVER TO YOU. WHEN YOU FINISH WITH A SET, DESTROY THEM AND GET ANOTHER SET UNDER ANOTHER NAME.

ANOTHER REQUIREMENT THEY SOMETIMES REQUIRE IS RESIDENCE. PREPARE TO SUPPLY THEM WITH A RESIDENCE PREFERABLY IN YOUR OWN HOUSE, AT WORST NO MORE THAN TWO (2) MOVES IN THE LAST FIVE (5) YEARS.

NOTE: PLACE OF RESIDENCE IS NEVER CHECKED: SO, USE AN ADDRESS WHERE YOU KNOW THAT YOU CAN PICK UP THE MAIL OR A FRIEND'S HOME OR AN APARTMENT ADDRESS, WHERE YOU RENT AN APARTMENT. REMEMBER IT'S NEVER CHECKED. JUST NEVER USE AN APARTMENT NUMBER. JUST THE ADDRESS. ON ALL APPLICATIONS YOUR AGE SHOULD BE BETWEEN 25 AND 35. 35 TO 65 IS THE VERY BEST FOR AGE REQUIREMENTS.

YOUR OCCUPATION IS AND SHOULD BE IN A "PROFESSIONAL CATEGORY", IE, EXECUTIVE, DOCTOR, SALARIED SALES MANAGER, PROPRIETOR, MINISTER. ALL OF THESE ARE VERY GOOD. THEN WHEN YOU HAVE SOMEONE ANSWERING THE PHONES FOR YOU, YOU ARE COMPLETELY COVERED. IN OTHER WORDS, GIVE THEM WHAT THEY REQUIRE TO APPROVE YOUR APPLICATION AND THEY WILL APPROVE IT.

REMEMBER: PLACE OF RESIDENCY IS NEVER CHECKED SO GIVE A GOOD ONE WHERE YOU CAN RECEIVE YOUR MAIL. DO NOT USE A P.O. BOX NUMBER FOR A RESIDENCE ADDRESS.

ON THE APPLICATION FORMS THERE WILL BE A PLACE FOR PERSONAL REFERENCES. AGAIN, DO NOT CONCERN YOURSELF, BECAUSE THESE TOO ARE NEVER CHECKED. THE ONLY REASON THEY ASK YOU FOR THEM IS TO MAKE YOU FEEL RESPONSIBLE FOR YOUR ACTIONS; A PLAY ON THEIR PART. BUT DO PROVIDE THEM PERSONAL REFERENCES; GIVE THEM A DOCTOR, MINISTER. YOU CAN GET THEIR NAMES FROM THE PHONE BOOK IF NECESSARY BECAUSE THEY DO NOT CHECK THEM.

MOST CREDIT CARD APPLICATIONS CAN BE HANDLED BY MAIL, WHICH IS ALMOST MORE THAN YOU CAN ASK FOR. SUPPLY THE REQUIRED INFORMATION ON PAPER, AND THEY WILL BE DELIGHTED TO GIVE YOU THE CARDS. BELOW ARE A FEW FACTS TO REMEMBER USING CREDIT CARDS FOR PURCHASES OF WHATEVER YOU WANT TO BUY.

1. WHEN A CLERK ACCEPTS YOUR CARD THAT YOU PRESENT FOR PAYMENT OF ANY MERCHANDISE, THE TITLE TO THE GOODS BELONG TO YOU. LEGALLY, YOU ARE PAYING IN FULL, NOT REQUESTING A LOAN. WHAT THIS MEANS IS IMPORTANT - YOU CAN NOW SELL, TRADE OR EVEN BORROW AGAINST YOUR NEW PURCHASES OR PROPERTY WITHOUT ONE WORD TO THE CREDIT COMPANY. THEY HAVE EXTENDED YOU CREDIT ON THE BASIS OF YOUR ABILITY TO REPAY, NOT ON THE NATURE OF THE PURCHASE OR AMOUNT OF THE PROPERTY YOU OWN.
2. IN THE CASE OF MASTER CARD AND BANK AMERICARD, YOU CAN OWN AS MANY OF THESE CARDS UNDER THE SAME NAME, AS THERE ARE BANKS TO ISSUE THEM TO YOU; HOWEVER, THEY MUST BE DIFFERENT BANKS AND NOT BRANCHES OF THE SAME BANK. IF YOU QUALIFY AT ONE BANK FOR THE ABOVE CARDS, COMMON SENSE WILL TELL YOU THAT YOU CAN APPLY AT ALL THE OTHER ONES YOU WANT TO AND GET THE CARDS. ALL THEY WANT IS YOUR BUSINESS AND BY HAVING FOUR (4) SUCH CARDS, WILL DO THIS. WITH BILLING DATES A WEEK APART, YOU CAN EASILY GET (90) DAYS FREE CREDIT, ADD ANOTHER (4) AND THE BANKS WILL CARRY YOU FREE FOR (90) DAYS. THE TRICK IS IN USING THE CARD WITH THE MOST

DIETANT BILLING DATE, AS WELL AS TAKING ADVANTAGE OF THE CARD'S "CASH LOAN FEATURES". JUST ASK YOUR FRIENDLY BANKER ABOUT THIS SERVICE AND HE WILL BE GLAD TO TELL YOU.

REMEMBER: YOU ARE USING "GOOD I.D.", AND THE MONEY YOU MAKE DEPENDS UPON THE USE OF THE CARDS. ALSO, CHECK WITH EACH INDIVIDUAL CREDIT CARD YOU GET AND SEE WHAT YOUR "FLOOR LIMIT" IS. THIS IS THE AMOUNT YOU CAN SPEND IN A STORE WITHOUT THEM CALLING IN FOR AN APPROVAL FROM THE CREDIT CARD COMPANY. YOU CAN USE YOUR IMAGINATION AS HOW TO USE YOUR CARDS. IF YOU REMAIN BELOW THE FLOOR LIMIT, YOU CAN REALLY CLEAN UP IN MERCHANDISE AND THEN WHEN YOU ARE READY TO DISPOSE OF THE CARD, SEE WHAT YOUR MAXIMUM LIMIT IS AND BE SURE TO USE IT ALL THE WAY. THE CREDIT CARDS AND THE COMPANY WILL NOTIFY YOU WHEN YOU HAVE REACHED YOUR LIMIT.

THE CREDIT CARDS AND CREDIT ARE EASY TO GET. THEY ARE ALSO AN IMPRESSIVE I.D. AS BACKUP. JUST KEEP THIS IN MIND, ALWAYS GO BY THE RULES AND THERE IS NO POSSIBLE WAY ANYONE DISTINGUISHING YOU BETWEEN THE REAL AND UNREAL. AFTER ALL, THEY ARE IN YOUR NAME, RIGHT? ONLY WHEN YOU DISAPPEAR DOES THE REALITY OF WHAT HAS HAPPENED BECOME APPARENT TO THOSE WHO PUSHED IT ON YOU THE MOST. BY THEN, OF COURSE YOU WILL ALREADY HAVE BEEN NOTIFIED THAT YOUR "NEW NAME CREDIT APPLICATION" HAS BEEN APPROVED AND YOUR NEW CARDS ARE ON THEIR WAY TO YOU SHORTLY. THEN IT'S ANOTHER BALL GAME. JUST REPEAT THE PROCESS OVER AGAIN.

IN SUPPLYING REFERENCES BEYOND THE ONES WHICH YOUR FRIEND WILL VERIFY OVER THE PHONE, YOU SHOULD REMEMBER THAT SOME FIRMS, ESPECIALLY DEPARTMENT STORES AND CREDIT UNIONS WILL NOT GIVE OUT THEIR CREDIT RATINGS TO ANYBODY. SO, IF YOU SUPPLY ONE OR SEVERAL OF THESE REFERENCES, YOU CAN BE CERTAIN THAT THEY WILL NOT BE CHECKED OUT. THE LENDER KNOWS HE CANNOT VERIFY YOUR REFERENCES BUT HE WILL DEFINITELY NOT TELL YOU THIS. HE WILL BASE HIS LENDING DECISION ON THE ASSUMPTION OF YOUR HONESTY.

ALSO REMEMBER: YOU CAN USE YOUR CREDIT CARDS FOR RENTING CARS, TRUCKS, BOATS, HOTELS, AIRPLANE TICKETS, BUS TICKETS, MEALS, GAS, BATTERIES, EQUIPMENT, CLOTHES, JUST ABOUT ANYTHING YOU CAN THINK OF AND THE RETURN IS GREAT FOR YOU.

NOTE: AFTER YOU ARE THROUGH PLAYING WITH THE CARDS, YOU CAN ALSO THIS SAME CREDIT RATING UP FOR YOURSELF UNDER THE NAME YOU INTEND KEEPING AND REAP THE SAME BENEFITS AS ABOVE. THE ONLY DIFFERENCE WOULD BE THAT WITH THE LAST CARD FOR YOURSELF, YOU WOULD HAVE TO PAY BILLS AND KEEP EVERYTHING LEGAL, BUT YOU WOULD STILL GET ANYTHING YOU MIGHT NEED. THIS PROCEDURE OF GETTING CREDIT AND CREDIT CARDS IS NOT ILLEGAL. REMEMBER THIS.

REMEMBER: BUY THE BOOK MENTIONED PREVIOUSLY ON CREDIT WITHIN (30) DAYS AND FOLLOW THE INSTRUCTIONS TO THE LETTER AND YOU WILL HAVE EVERYTHING YOU WANT.

BIRTH CERTIFICATES: (NEVER APPLY FOR MORE THAN ONE CERTIFICATE IN THE SAME NAME)

1. ONLY IN A FEW STATES ARE BIRTH CERTIFICATES ISSUED AT THE STATE LEVEL. APPROXIMATELY 10 MILLION CERTIFIED COPIES OF BIRTH CERTIFICATES ARE ISSUED EACH YEAR AND OVER 80% OF THESE ARE REQUESTED, PROCESSED, AND ISSUED BY MAIL. THIS WAS THE ESTIMATE IN 1976. IT'S NOW WELL OVER 15 MILLION EACH YEAR PROCESSED. NAME AND ADDRESS ARE USUALLY THE ONLY IDENTIFICATION REQUIRED BY THE AGENCIES.

THE STATES, INCLUDING WASHINGTON, D.C., REGARD ALL "VITAL RECORDS" AS PUBLIC DOCUMENTS. A COPY WHICH MUST BE SUPPLIED TO ANY INTERESTED PERSON. OTHER STATES ONLY REQUIRE THAT THE PERSON WHO IS REQUESTING THE BIRTH CERTIFICATE BE RELATED, OR HAVE A LEGITIMATE REASON AND NEED FOR THE DOCUMENT. THE IDI METHOD (INFANT DEATH IDENTITY) IS THE BEST TO OBTAIN A NEW IDENTITY THAT WILL BE SAFE AND SECURE. IT'S ALSO EXTREMELY DIFFICULT TO DETECT BY ANY LAW ENFORCEMENT AGENCY.

TO APPLY FOR A BIRTH CERTIFICATE, ALL THAT IS REALLY NEEDED IS THE PLACE OF BIRTH AND NAMES OF THE DECEASED PARENTS, AND OF COURSE, CAN BE OBTAINED FROM THE NEWSPAPERS DEAD FILES OF DEATHS. THE ORDER OF EVENTS IS AS FOLLOWS, AND THIS APPLIES TO THE ILLEGAL ALIEN AS WELL.

PASSPORTS:

1. PASSPORTS WHICH ARE ESSENTIAL FOR INTERNATIONAL TRAVEL CAN BE USED FOR EITHER LEGAL AND/OR ILLEGAL PURPOSES. BY DEFINITION, THE PASSPORT ASSISTS THE TRAVELER AND ATTEST TO THE FACT OF YOUR IDENTITY AND CITIZENSHIP OF ITS BEARER; THEREFORE, SPECIFIC EVIDENCE OF IDENTITY AND CITIZENSHIP IS REQUIRED FROM ANYONE WHO APPLIES FOR A PASSPORT. A BIRTH CERTIFICATE IS USUALLY THE ACCEPTABLE PROOF OF CITIZENSHIP. IDENTITY CAN BE ESTABLISHED EITHER BY A GOVERNMENT ISSUED PHOTO I.D. (SUCH AS DRIVERS LICENSE) OR BY AN AFFIDAVIT OF A WITNESS WHO KNOWS THE APPLICANT PERSONALLY. APPLICATIONS MUST BE SUBMITTED IN PERSON BEFORE A PASSPORT AGENT OR OTHER AUTHORIZED OFFICIAL. AFTER A WAITING PERIOD OF SEVERAL DAYS, THE COMPLETED PASSPORT IS DELIVERED OR PICKED UP BY THE APPLICANT.

SOCIAL SECURITY CARD:

4. PRIOR TO 1974, SS NUMBERS WERE ISSUED IN THE NAME OF ANY INDIVIDUAL UPON SUBMISSION OF AN APPLICATION FORM, IN PERSON, OR BY MAIL, WITHOUT ANY PROOF OF IDENTITY. IT IS NOW REQUIRED THAT A DRIVERS LICENSE, BIRTH CERTIFICATE, BAPTISMAL CERTIFICATE OR VOTER REGISTRATION CARD BE PRESENTED BEFORE THE ISSUING OF A SS CARD.

FORMALLY, THERE IS NO USE OF A SS NUMBER FOR I.D. PURPOSES, BUT IT DOES SUPPORT OTHER FORMS OF I.D. IF IT IS NEEDED.

SELECTIVE SERVICE DRAFT CARD:

THIS DOCUMENT IS ISSUED TO, OF COURSE, MILITARY STATUS PERSONNEL OR YOUNG MEN ELIGIBLE FOR THE DRAFT SYSTEM. THERE ARE NO SERIAL NUMBERS, PICTURE AND THIS CARD COULD BETTER BE USED AS BACKUP I.D. TO SUPPORT IF YOU ALREADY HAVE AVAILABLE IF YOUR AGE BRACKET IS BETWEEN 18 AND WHERE BY LAW EVERY MALE IS SUPPOSED TO REGISTER. THEN YOU DEFINITELY HAVE ONE OF THESE BUT IT IS NOT ESSENTIAL.

VOTER REGISTRATION AND

6. VOTER REGISTRATION CARDS ARE ISSUED BY THE LOCAL BOARDS OF ELECTION, AND ARE USED BY THEIR HOLDERS AS EVIDENCE OF AGE AND CITIZENSHIP FOR LIMITED PURPOSES. OFTEN, THESE CARDS ARE USED FREQUENTLY TO SUPPORT THEIR CLAIM OF U.S. RESIDENCY FOR RE-ENTRY TO THE U.S. FROM CANADA AND MEXICO.

BUT THEY ARE OF NO USE WHEN APPLYING FOR A PASSPORT AND NOT USUALLY ACCEPTED WHEN APPLYING FOR A DRIVERS LICENSE. REGISTRATION FOR A VOTER REGISTRATION CARD IS PERMITTED BY MAIL IN MANY JURISDICTIONS; AND EVEN WHEN A PERSONAL APPEARANCE IS REQUIRED, THE ONLY EVIDENCE OF AGE, CITIZENSHIP, RESIDENCE AND IDENTITY OF THE ONE REGISTERING THAT CAN BE DEMANDED BY THE LOCAL OFFICIALS IS A VERBAL DECLARATION GIVEN UNDER PENALTY OF LAW AND PERJURY. THE CHECKS MADE FOR THIS DOCUMENT ARE ONLY CONCERNING THE LOCAL BOARDS CHECKING ANYTHING FOR VERIFICATION.

CREDIT CARDS:

7. ALTHOUGH CREDIT CARDS CONTAIN CERTAIN PRINTED AND EMBOSSED INFORMATION WHICH WHEN CHECKED BY A MERCHANT OR RETAILER, HE MAY CONFIRM THE VALIDITY OF THE CARD, BUT THE PRIMARY MEANS OF CARDHOLDER AUTHENTICATION IS THE SIGNATURE ON THE CARD ITSELF. NORMALLY, NO OTHER I.D. IS REQUIRED TO CHARGE GOODS OR SERVICES AT A WIDE VARIETY OF RETAIL OUTLETS, UNLESS A QUESTION ARISES AS TO THE VALIDITY OF THE CARD OR THE HOLDER, AND WILL BE DETERMINED BY HOW YOU PRESENT YOURSELF AND KNOWING THE LIMITS OF THE CARD, YOU KNOW THIS BY THE PRE-CHECK YOU MADE WHEN YOU FIRST RECEIVED THE CARD. BANK CARDS SUCH AS MASTER CARD AND BANK AMERICARD CAN EVEN BE USED TO OBTAIN ACTUAL CASH. THE LIMITATIONS AND THE USE OF THESE CARDS ARE UNBELIEVABLE.

WHEN OBTAINING CREDIT CARDS UNDER A LEGAL IDENTIFICATION SYSTEM, THERE ARE NO LIMITS TO THE PURCHASE POWER YOU POSSESS. I PERSONALLY KNOW OF ONE INDIVIDUAL WHO OBTAINED OVER 1,000 CARDS USING 300 DIFFERENT NAMES AND FALSE IDENTITIES.

HE WAS FINALLY CAUGHT BECAUSE OF ONE WORD "CREED". HE WENT BEYOND THE LIMITS OF COMMON SENSE AND ACCOUNTABILITY AND THOUGHT HE WAS THE ACTUAL OWNER OF THE CREDIT CARD COMPANIES. SO RESTRAINT IS ADVISED, THOUSANDS OF DOLLARS ARE THERE FOR YOUR PLEASURE, BUT ONCE THE LIMITS ARE REACHED, DESTROY THE CARD AND REUSE THE IDENTITY PROCESS AND YOU WILL FIND THAT YOU WILL NEVER HAVE ANY PROBLEMS.

NOTE: AGAIN, USING A FORWARDING ADDRESS AGENCY, YOU SAFEGUARD THE PRIVACY OF YOUR OWN PERMANENT ADDRESS AND I.D. USE OF SEVERAL OF THESE FORWARDING AGENCIES FROM VARIOUS STATES IS NEEDED. COMMON SENSE PREVAILS ALWAYS.

REMEMBER: THE STATE OF FLORIDA FILES ARE CLOSED TO THE GENERAL PUBLIC, SO DO NOT TRY FOR A BIRTH CERTIFICATE UNLESS YOU FOLLOW THE USE OF AN OFFICIAL LETTER FROM AN ATTORNEY OR BUSINESSMAN OR INVESTIGATING AGENCY, BECAUSE IT WON'T WORK. THERE ARE A TOTAL OF (40) STATES THAT RESTRICT ACCESS TO THEIR VITAL STATISTICS FILES. IT REALLY DOES NOT MATTER BECAUSE YOU CAN ALWAYS USE THE NEWSPAPER SYSTEM FOR THE DEATH SECTION AND STILL GAIN THE PROPER CERTIFICATE. ALWAYS DOUBLE CHECK EVERYTHING BEFORE YOU ATTEMPT TO GET THE NECESSARY DOCUMENTS TO OBTAIN IDENTIFICATION.

REMEMBER:

1. FIRST GO TO THE NEWSPAPER OFFICE OR LIBRARY
2. FIND SEVERAL GOOD PROSPECTS YOU CAN USE
3. APPLY FOR THE BIRTH CERTIFICATE (WAIT FOR ITS ARRIVAL IN THE MAIL)
4. APPLY FOR THE SOCIAL SECURITY CARD (WAIT UNTIL IT ARRIVES THEN GET DRIVERS LICENSE)
5. APPLY FOR DRIVERS LICENSE (NEW MEXICO & KANSAS - SAME DAY SERVICE)
6. OPEN THE BANK ACCOUNTS (3) NEED \$500 TOTAL
7. MAKE YOUR PAYMENTS ACCORDING TO THE BOOKLET (TRIPLE AAA RATING IN 30 DAYS)

8. RENT THE OFFICE AND INSTALL TWO (2) PHONES, 1-EMPLOYMENT, 1-CREDIT RATING
9. MAKE APPLICATIONS FOR CREDIT CARDS USING BANKS AS REFERENCES AND STORES PER PHONE
10. MAKE SURE YOU HAVE GOOD REFERENCES (THESE ARE NOT CHECKED)
11. HAVE A HOME ADDRESS FOR THE LENDER WHERE YOU CAN GET YOUR MAIL (NOT CHECKED)
12. WAIT FOR YOUR CREDIT CARDS TO ARRIVE
13. CHECK PURCHASE LIMITS ON EVERY CARD (FLOOR LIMITS AND MAXIMUM LIMIT)
14. CHECK WITH BANK ON MASTER CARD LOANS -BANK AMERICARD LOANS (THEY WILL TELL YOU)
15. APPLY FOR BANK CARDS AT SEVERAL BANKS IN YOUR NAME
16. GO TO WORK AND KEEP PACE (TRACK) OF EVERY STORE THAT YOU GO TO AND WHAT YOU SPEND, ESPECIALLY WHAT CARDS YOU USE - DO NOT PUSH YOUR LUCK, BE CAREFUL AND SPEND TO THE LIMITS

AN ANALYTICAL STUDY OF THE NIGERIAN PROBLEM
IN
ATLANTA, GEORGIA

This report was written by Special Agents _____ and _____ of the Atlanta District Office of the Immigration and Naturalization Service.

BACKGROUND

In April of 1989 a Nigerian Task Force (NTF) consisting of Special Agents of the Federal Bureau of Investigation, Secret Service, U.S. Postal Service and Immigration and Naturalization was formed at Atlanta, Georgia. The purpose of NTF was to pool the resources of all the Federal Agencies involved and come up with a method to combat white collar crimes being perpetrated upon the banking and insurance industries by Nigerian nationals.

This report attempts to show the correlation between the high white collar crime rate in the Atlanta area and the Nigerian population. The report deals solely with Nigerian fraud in spite of the fact that other West African nationals are "copying" the "art" of financial transaction fraud and insurance fraud from the Nigerians.

DETAILS

The Nigerian problem is not restricted to Atlanta. In fact, many large metropolitan areas throughout the continental U.S. are also experiencing problems associated with Nigerians and white collar crime. For example, in 1986, the New York League of Savings Institutions discovered that there was an organized fraud ring in the New York area. This ring later became known as the "Nigerian Crime Network" (NCN).¹ The NCN is a very well organized and clever ring. The typical perpetrator is a well educated black male between the ages of 20 and 40 years old.¹ The type of fraud utilized by the NCN which is the cornerstone of the fraud used in the Atlanta area will be discussed in detail later in this report. The success of the NCN is based upon their accessibility to false identities (See Exhibit A).

Nigeria was once a colony of Great Britain. Because of the British accent that Nigerians possess, they often attempt to pass themselves off as American Virgin Islanders. This claim is seldom challenged by officials of financial and insurance institutions.

The Nigerian culture rarely utilizes birth certificates. Back in Nigeria, a person simply declares their name and date of birth and are provided with documentation to that effect. There are no controls in Nigeria as to how many declarations an individual can make. Thus it is possible for individuals from Nigeria to enter the United States with passports based on these declarations. In Atlanta for example, Special Agents arrested

, a deportable resident alien in possession of three Nigerian passports. Two of the three passports were in different names, passport #1119917 was issued in the name of Felix Ayoto OSHINOWO and passport #0502232 was in the name of Abdulai Sheu KARATU, the third passport was in his real name. All three passports were legally issued from Nigeria, all having his photograph. These passports enabled Mr. to re-enter the U.S. without detection after having been deported.

In the U.S. Nigerians accumulate false identities by assuming the identity of a real person and then acquiring a driver's license in that individual's name. In April of 1989, Special Agents from Atlanta arrested and

in possession of six stolen credit cards and six Georgia driver's licenses in the names of the card holders. Nigerian "White Collar" crime in the Atlanta area ironically has its origins in many of the financial institutions. Nigerians hold jobs in financial institutions and assist Nigerian "customers" in defrauding the same institutions that they are employed in. In addition many Nigerians work in the security or janitorial fields which allows them access to personnel files, which in turn is used to secure false identities and secure credit ratings. In Atlanta for example, a Nigerian by the name of was employed by a local janitorial company.

Mr. through methods unknown to Investigations, assumed the identity of a U.S. Internal Revenue Agent and was able to accumulate approximately \$24,000.00 of credit before being apprehended. Mr. is presently serving 24 months for Financial Transaction Card Fraud and 12 months for Re-entry After Deportation.

The 24 month sentence received by Mr. for Financial Transaction (FTC) Fraud is the exception rather than the rule in the Federal, State and Local jurisdictions within the Atlanta Metropolitan area. FTC Fraud in the Atlanta area will be discussed at length later in this report. What should be noted here is that the overburdened criminal justice system appears to be the precursor rather than the panacea to this problem.

Even though the criminal justice system, (specifically the lenient sentences imposed on these perpetrators) appears to be the culprit, it would be a grave error to lay total blame or responsibility for solving this problem on the shoulders of government agencies. Financial institutions, insurance companies, and credit card companies all share equally in the formation and ultimately in the resolve of this problem. Financial communities, in their reluctance to divulge their liberal lending practices to their investors, are more likely to "write" the loss off to their investors rather than pursue criminal prosecution.

The statistics are frightening. Of the 30,000 - 50,000 Nigerians in the United States, it is estimated that a majority are involved in criminal activity. Of those, a scanty 10 - 15 percent are prosecuted for their fraudulent activities.² In order to fully appreciate the extent of the crimes committed by Nigerians two underlying causes; the economic conditions in Nigeria, and the mind-set of Nigerians should be explored.

In dealing with the former element first, a brief history of Nigeria is in order. Nigeria is the most populous country in Africa with a population of 80 - 100 million people constituting approximately 250 tribes. These tribal groups include the HAUSA and FULANI in the North, YORUBA in the South and IBO in the East. Many of the problem Nigerians come from the south, mainly BENDEL State, ONDO State, CYO State and LAGOS States. Many come from the YORUBA and IBO tribes. It should be noted that Nigerians are very tribal and thus organize their criminal activities in the United States along these tribal lines. Nigeria is about the size of California, Arizona and Nevada combined, occupying 356,700 square miles.² The primary language of Nigeria is English, however each tribe speaks their own dialect. The religions are muslims, primarily in the North and christians in the South.

The primary source of revenue for the Nigerian government is petroleum. In fact, 80% of the revenues received by the government comes from oil. Nigeria is second only to Saudi Arabia as the most important supplier of oil to the United States.

On the surface it would appear that Nigeria is a very affluent country, unfortunately this is not the case. Greed and corruption at the upper echelons of society prevent any trickling down of revenue to the majority of Nigerians.

Nigeria, like most third world countries, consist of two socio-economic groups; the upper and lower class, the latter constituting the majority. Black Market is a way of life in Nigeria. Children are taught about the intricacies of the Black Market before they are taught about math, science or history.

It is because of these economic conditions that many Nigerians opt to venture to more affluent countries to reap the rewards unobtainable in their country.

In May of this year Special Agents from the U.S. Immigration Service Atlanta District Office, while on a deportation detail to Lagos, obtained some useful information concerning the mind-set of the criminal Nigerians in the United States. Nigerians see the United States as the most affluent country in the world. This is portrayed to them by Nigerians who have returned from the U.S. with the "bounty" of their criminal endeavors. Nigerians see the U.S. through rose colored glasses, with streets lined with gold, there for the taking. It is because of this perception that many unscrupulous organizations prey on immigrants and nonimmigrants bound for the U.S. One organization in particular,

the Celestial Church of God, with affiliates in the U.S. recruit individuals to travel to the U.S. for the sole purpose of committing criminal acts. This type of venture is reminiscent of the indenture servant era. It is unknown whether the recruitment is prior to or after the issuance of the visa, but what is known is that the sole purpose of this church is to school individuals in the intricacies of "white collar" crime in the U.S. The exact specifics of each transaction between the church and client are not known. What is known is that a "contract" is made between both parties whereby the church instructs the individual on U.S. laws specifically laws dealing with "white collar" crime and ways to circumvent them. In some instances, the church also pays for passage to the U.S. and in return for this service, the church demands 10% on everything that the individual steals in the U.S. These "contracts" are enforced through their affiliates in the U.S. Most of the U.S. cities that are experiencing problems with Nigerians have an affiliate of the Celestial Church of God somewhere in their area. In the Atlanta metropolitan area the church is located on Sylvan Street in Southwest Atlanta, attempts to infiltrate this church have proven unsuccessful.

As stated earlier in this report, fraud is the cornerstone of the Nigerian Crime Network's criminal structure. The exact amount lost in dollars is an elusive figure, primarily due to the reluctance of financial institutions releasing that information for fear of reprisals from investors. But a conservative estimate would put the loss in the excess of millions of dollars per year.

FINANCIAL TRANSACTION CARD FRAUD

Financial Transaction Card (FTC) Fraud and theft is by far the most serious criminal activity encountered by Special Agents in the Atlanta Metropolitan area. Since inception of the Nigerian Task Force (NTF) in Atlanta, 19 of the 39 cases opened have been FTC related. That equates to 48%. Almost half of all the cases involving Nigerians have been associated with some type of credit card fraud. It should be noted that many of the cases opened by U.S. IN&S are cases in which the individuals have been convicted and have come to our attention due to their deportability. There are numerous cases still pending whereby Nigerian resident aliens have been arrested for F.T.C. by federal, state and local jurisdictions and who have not been deported based on Section 241(a)(4) of the Immigration and Nationality Act. Due to the lack of manpower in the Atlanta District Office, some individuals have avoided deportation based on the inability to "track" every resident alien awaiting conviction. Immigration holds cannot be placed on resident aliens until after sentencing. It should also be noted that a vast majority of the FTC cases involve resident aliens. One individual in particular, _____, a resident alien was convicted in 1988 for FTC Fraud in Gwinnett County, Georgia. He was sentenced to 2 years in jail, but

served only 3 months. He was brought to our attention in September of 1989 after it was learned that Mr. [redacted] was wanted by Scotland Yard, for international conspiracy involving credit cards stolen in the U.S. and then shipped to England for use.

* The methods used by Nigerians to obtain credit cards are extensive, but the common denominator in all of the cases is the availability of false identification cards. Some individuals obtained false I.D. cards to obtain the credit cards, while others obtained the false I.D.'s after they stole the cards. One individual apprehended by IN&S, [redacted], was found in possession of sixteen (16) different I.D.'s all in different names all bearing his picture.

* One of the most common ways Nigerians perpetrate FTC fraud is simply to assume the identity of a respected citizen and then file credit applications in that name. Once the cards are received the subject has approximately thirty days to use the card before the next billing date.

Another common procedure which was used by [redacted], a Nigerian convicted in 1986, for FTC and deported by the Atlanta District Office in July 1989, was a little more complicated. Mr. [redacted] was employed by a local accountant firm as a data processor, and had access to numerous credit card numbers. It was easy for [redacted] to transact business with credit card companies over the telephone with merely the credit card number. Mr. [redacted] would simply telephone the credit card company and request an "Add-on" card.

To avoid suspicion, Mr. [redacted] would telephone the credit card company a few days later and request a change of address on the new "Add-on" card. Mr. [redacted] would give the address as a "drop-box" known only to himself. Once the card(s) arrived, Mr. [redacted], knowing the credit limit on the card, would then charge the card to the limit. Once the limit was reached, Mr. [redacted] would send the credit card company a "bogus" check printed in the card holder's name. When the credit card company received the check it would automatically raise the credit limit to the amount of the "bogus" check. This procedure was repeated two or three times, accumulating as much as \$50,000.00 of credit before Mr. [redacted] would stop using that card. Mr. [redacted] would then begin the whole process again. Mr. [redacted] was convicted on 14 counts of FTC and sentenced to 3 years probation.

Most of the other cases involving FTC in Atlanta involve stealing credit cards from mail boxes. A couple of cases have involved individuals working inside the post office stealing the cards and then selling them to friends.

The methods used to perpetrate FTC fraud and theft is inexhaustive. Many Nigerians that are involved in this particular type of crime are college educated individuals majoring primarily in business. It is for this reason that they are adept in defrauding various financial institutions.¹

BANK FRAUD

According to FBI statistics, the losses from bank fraud have doubled each year for the last three years. The losses for bank fraud in 1988 totaled over \$2,000,000,000.00, as compared to the gross losses attributed to robbery which totaled less than \$47,000,000.00 nationwide.⁵ These, of course, are figures compiled from cases actually reported and do not represent total industry losses.

Nigerian aliens have been associated with bank fraud since the early 1970's. It was then that banks in New York uncovered a series of fraudulent loan applications being submitted by students from Nigeria. The loans were in the names of legitimate college professors, whose names were obtained from college yearbooks.⁷ In 1986, the New York League of Savings Institutions uncovered an organized fraud ring which they called the "Nigerian Crime Network". This ring defrauded savings and loans, banks, and other businesses in the New York area. In 1988, seven S & L's in Texas were defrauded by a group of Nigerians using a very similar modus operandi to that which was used by the Nigerian Crime Network in New York.

The activities of the Nigerian Crime Network are by no means limited to the states of New York and Texas. The states of Georgia, Alabama, North Carolina, and South Carolina have also been targeted by this organization.

There are several thousand Nigerian nationals living in the Atlanta Metropolitan area alone. There is also a large concentration of Nigerians living in the vicinity of Huntsville, Alabama. Since April 1989, Atlanta LNS has arrested 42 Nigerian nationals in both proactive and reactive operations. Of those 42 Nigerians, roughly 25% had received or subsequently received convictions for bank fraud or forgery. It is believed that these figures only represent a drop in the bucket as far as the total bank fraud activity in the Atlanta District. Due to manpower restrictions, we have been unable to keep up with the enormous influx of investigative leads received from numerous sources.

The success of the Nigerian Crime Network is largely related to their ability to procure fraudulent identification documents and thereby establish accounts under virtually any name that suits their needs. The examples of Nigerians arrested in the Atlanta District in possession of multiple identity documents are too numerous to mention. Suffice it to say that dozens of counterfeit driver's licenses, birth certificates and state issued driver's licenses obtained fraudulently have been seized. Also seized are blank birth and baptismal certificates, a dry seal stamp machine, and blank gold seals. In addition, a fraud manual used by the Nigerian Crime Network has been obtained. It describes the step by step procedures necessary to obtain fraudulent identification. (Exhibit A).

Once the false identity has been established, the typical scenario is for the individual to open an account at a bank or S & L. Generally, a large check is then deposited in the account almost immediately. The checks are often a payroll check or an insurance settlement check (insurance scams). These checks are usually written on fictitious companies or non-existent people.

Due to new regulations which restrict the amount of time a bank can hold a deposited check, these individuals can start drawing money from their accounts almost immediately. This is almost always done before the check is returned to the institution as being bogus. In addition to making large cash withdrawals, the individuals will write checks to merchants for very expensive items such as jewelry, clothing, stereo equipment, etc.

The Nigerians involved in bank fraud are by no means novices or solitary entrepreneurs. They are highly trained in their craft, either before leaving Nigeria or after arriving in the U.S. They are often college graduates, many of whom hold Masters degrees in business or accounting. Most importantly, these individuals are organized and controlled by the ruthless leadership of the Network. Some of the leaders in the Atlanta area have been identified by confidential informants. One such leader, a Nigerian resident alien, has not yet been convicted of any crimes since he is highly cautious and delegates tasks to his underlings. According to sources, he is dangerous and keeps his troops in line with threats of violence. He is purported to carry an UZI submachine gun in the trunk of his car.

It is believed that some of the proceeds earned from bank fraud, FTC fraud, and other frauds are sent to Nigeria in exchange for drugs (heroin) and guns, which are then smuggled elsewhere.

NARCOTICS SMUGGLING

Nigerian nationals are playing an ever-increasing role in narcotics trafficking worldwide. They are particularly involved with smuggling heroin. According to the Chicago, Illinois Office on National Drug Control Policy (ONDCP), Nigerians played an insignificant role in drug smuggling up until 1983. That year, only 17 Nigerians were intercepted at airports in the U.S.⁶ Since 1983, however, there has been a rapid increase in Nigerian involvement in drug smuggling as evidenced by a steady increase in apprehensions and seizures. The ONDCP estimates that over 600 Nigerian heroin couriers were intercepted worldwide during 1988, with little effect on Nigerian smuggling organizations.⁴ INTERPOL statistics show that over 500 Nigerians were arrested for drug trafficking between September 1988 and March 1989 in different parts of Europe.³

Here in the Atlanta District, this trend was recently evidenced by the arrest of four Nigerian heroin traffickers at the Atlanta Hartsfield International Airport within a three week period in May and June 1989. All four of these individuals were heroin "swallowers": ie - they packaged the heroin in balloons or condoms and then secured the end with dental floss and superglue before swallowing. The record for this internal concealment method is 1432 grams (227 packages) and is held by a Nigerian arrested at JFK.⁹ The individuals arrested in Atlanta this year had swallowed an average of about 100 packages.

Another worrisome trend was also evidenced by the recent Atlanta arrests. Of the four Nigerian individuals, two (2) were resident aliens (I-551's) and two (2) held work authorization cards (I-688A's). This corresponds to an ONDCP report dated 6/13/89 which states that "Nigerian LPRs may be traveling to Nigeria to carry the drugs back to the United States".⁴ A large percentage of the Nigerian LPRs encountered by this office after conviction for CDM's (ie: credit card fraud) have also been shown to have traveled to Nigeria frequently (3-4 times/year).

The reason for the trend in using Nigerians who are U.S. resident aliens to traffic heroin is primarily due to the increasing difficulty in obtaining U.S. visas. U.S. Embassy officials in Lagos, Nigeria advise that approximately 80%-90% of Nigerian visa applicants are rejected due to fraud. A fraudulent U.S. visa can be obtained at Oluwole/Oshofin, a sprawling slum in the heart of Lagos, but can cost over N15,000.00 (approximately \$2,000.00 U.S.).³

The factors contributing to the growth of the Nigerian Heroin trafficking organizations are primarily economic. Nigeria is the most populous nation in Africa and has been suffering huge losses in revenue due to the worldwide drop in oil prices several years ago. As an illustration of the severity of this crisis, the Nigerian government closed the Nigerian consulate in Atlanta this spring. A consular officer stated this was due to financial difficulties and that all consulates would be closed except for New York and the Embassy in Washington. Furthermore, a Nigerian can make the equivalent of ten years annual salary in one heroin smuggling trip to the U.S. Added to this is the fact that Nigerians are told that there is little or no chance of being detected with the use of the ingesting (swallowing) techniques. Furthermore travel to the U.S. from Nigeria is facilitated by the Nigerian government, which subsidizes air travel. A Nigerian can travel to the U.S. from Nigeria for about \$400.00 as opposed to a fare of \$3,000.00 if purchased in the U.S.

It is difficult to profile the Nigerian drug trafficker. Couriers are recruited from all social levels in Nigeria. Children as young as ten years old, as well as pregnant women have been used to smuggle heroin. In 1987, Captain John Billy EKO, a former top pilot of Nigeria Airways, was arrested for smuggling cocaine at JFK and was sentenced to seven years confinement.³ In April of this year, a former senator from Nigeria, Ademola ADEGOKE was also arrested at JFK with luggage containing 5,300 kilos of heroin valued at \$2,000,000.00.³ It is easy to see that drug trafficking permeates every echelon of Nigerian society.

INSURANCE SCAMS

Of all the fraud being conducted by Nigerians in the Atlanta District, the area of insurance fraud seems to be the fastest growing. Our office has been besieged with requests for help from numerous insurance companies looking for quick solutions to the huge economic losses they are suffering due to the fraud activities of the Nigerian community. The prevalent insurance fraud activities are property damage (vehicular), bodily injury, home-owner theft, business theft, and life insurance. Insurance industry investigators in the Atlanta area claim that as much as 50% of the fraudulent claims being filed can be attributed to Nigerians.

In one local scenario, an insurance company has identified a "property damage ring" involving a number of Nigerians. Beginning in 1987, this Atlanta insurer paid out 30 claims to two Nigerian individuals, with an average pay out of \$5,000.00 per claim. Of course, these individuals went through numerous identity changes in an attempt to evade detection. These individuals would stage numerous accidents with the same vehicle and file claims on the same insurance company, often reporting the same damage. The Nigerians are so adept at insurance fraud that they often are familiar with the companies enough to know which companies do not have a local fraud investigator. They then pray upon those that don't, and are often given a check on the spot at the drive-up claim windows.

In a variation of the property damage scams, Nigerians often purchase an expensive car (ie - BMW) and insure the vehicle with numerous agencies. They then stage an accident, often with the help of Nigerian accomplices in another vehicle, and then file claims with all the companies. Many companies pay off such claims immediately, with average settlements around \$3,000.00. It is easy to see how quickly a sum of \$15,000.00 + can be made in one day in this manner.

Another popular fraud involves feigning bodily injury after an automobile accident is staged. Nigerians will load up 3-4 people in one car and drive down the interstate, according to a local insurance investigator. The driver will get in front of an unsuspecting motorist and then slam-on the brakes, causing a collision. These individuals have no concern for the safety of the other motorist nor the extent of damage that results. All of the Nigerians will then claim bodily injuries and will file against their own insurer as well as against the victim motorist's insurer. This is because Georgia is a no-fault state in which the insured's own carrier pays for injuries. The average pay-off is \$7,500.00 per person, or \$30,000.00 per accident. The claims are most often handled by mail, which makes detection of fraud difficult. The Nigerian usually takes the policy out under an alias, which he substantiates with a driver's license (fraudulently obtained). The accident normally takes place before the policy goes to the underwriter for clearance.

Another popular and very lucrative insurance fraud involves life insurance policies. Recently a Nigerian tourist came to the Atlanta area to visit his wife, who resides here. While here, he took out a \$200,000.00 life insurance policy. He then allegedly went back to Nigeria and died shortly thereafter. His widow then filed for her claim, and as proof of his death, she submitted a photocopy of her husband's Nigerian death certificate (without official seal) and a photo of the deceased laying in a casket. Obviously, the potential for fraud of this nature is great, since any documentation originating in Nigeria is suspect.

Other frauds include home-owners insurance and business theft insurance. Some Nigerian business owners, according to one insurance company, have been found submitting fraudulent stock invoices following an alleged burglary. Home burglaries are also staged, with large quantities of jewelry, audio equipment, etc. being reportedly stolen.

Unfortunately, most insurance fraud is not reported to law enforcement officials. Most insurance companies pay-off the claims and count them as business losses. One insurance company puts their losses at \$3,000,000.00/year nationwide in these types of frauds, and adds that this is just the "tip of the iceberg". Due to the lack of criminal prosecution for insurance fraud, many Nigerian LPR's find this to be easy and risk-free money. In addition, many Nigerian status-violators (B-2's, F-1's) are able to conduct these frauds without the risk of being jailed by Immigration authorities, since District or Regional policy is to detain only aliens convicted of crimes.

There have been several instances in the Atlanta District where such aliens have been repeatedly arrested and released due to lack of a criminal conviction. These aliens subsequently go back into the community and continue to file fraudulent insurance claims to support themselves. The only lesson they learn is that insurance fraud is a very easy, lucrative business and that there is no effective system in place to deal with such violations. They also discover that as long as they avoid being convicted, the Immigration and Naturalization Service will be very limited in its ability to act effectively against them.

ADMINISTRATIVE VIOLATIONS

In addition to the aforementioned criminal activities, many Nigerian nationals also are found to be in violation of the administrative codes and regulations of the United States. This is especially true when speaking of immigration violations, since many Nigerians come to the United States not for legitimate pursuits but instead come here to pursue less than legal activities. The following is a breakdown of the most often encountered administrative violations as experienced in the Atlanta District. These figures are compiled from data relating to arrests made by the Nigerian Task Force of the Immigration and Naturalization Service in Atlanta, Georgia since April 1989.

OVERSTAYS

An "overstay" is what immigration officers commonly call an individual who is legally admitted into the United States but who then remains in the country longer than he is permitted. Examples are visitors for pleasure (B-2's), who are generally admitted for a period of six months and visitors for business (B-1's) who are admitted for up to one year. Of the 42 Nigerians arrested in Atlanta since April 1989, 25 (59%) are classified as being overstays. The amount of time overstayed varies greatly, but is generally over one year.

Of these overstays, three individuals had been able to obtain a visitors visa and re-enter the country even though they had been previously deported from the U.S. They accomplished this by first obtaining a new Nigerian passport under a different name - an easy task by all accounts. The Nigerian government reported to U.S. authorities that over 50,000 blank Nigerian passports have been stolen since 1980.⁷ With new passports, these individuals can then go to the U.S. Embassy in Lagos and obtain a visitors visa. On some occasions, a Nigerian enters the U.S. using a passport and visa belonging to another Nigerian. The passport is altered prior to arriving in the U.S. by making a photo substitution. The individual then claims the identity on the passport.

STUDENTS OUT OF STATUS

An out of status student is simply a foreign student (F-1) who fails to comply with the regulations necessary to maintain their status. This is most often a student who quits school and then remains in the United States, or a student who has already graduated from school and fails to depart the country. Of the Nigerians arrested in the above mentioned operation, 31% were classified as being out of status students. Some of these individuals had actually never attended any college or approved school. Most had attended for a while and then dropped out. Many of these claimed financial difficulties kept them from graduating. It is, however, incumbent upon all foreign students to prove financial solvency prior to coming to study in the U.S. and financial hardship is not a defense against this administrative charge.

To enter the U.S., many Nigerian students obtain fraudulent immigration forms such as the I-20, which indicates the foreign student has been accepted at a U.S. college or university. The cost for such forms is usually between 100-200 U.S. dollars. These forms are either counterfeited, obtained from unscrupulous college administrators or from other Nigerians. After obtaining the I-20, the Nigerian takes the document to the US Embassy in Nigeria and is usually given a visa to enter the U.S.

SPECIAL AGRICULTURAL WORKER PROGRAM FRAUD

In 1986, the Congress passed the Immigration Reform and Control Act in an attempt to address and alleviate the problems associated with an enormous and ever-increasing illegal alien population within the U.S. As part of the solution, the Congress passed the Special Agricultural Worker Program (SAW), which made it possible for many illegal aliens who had worked in certain agricultural jobs to become legal residents of the U.S. through a gradual process. This process included the presentation by the alien of proof that he/she had performed such agricultural work (such as picking crops) in the form of documentation.

This documentation usually consists of a notarized letter from a farmer stating that the alien performed such work on his farm during a specified time period. As has been encountered in other areas of fraud, Nigerians have shown themselves to be experts in counterfeiting and otherwise procuring fraudulent documents. The area of SAW fraud seems to be no exception.

During the operation of the Nigerian Task Force, a SAW fraud ring involving West Africans was discovered in the Atlanta District. Three Liberian females were arrested on separate occasions, all in the possession of SAW cards (I-688a's). All three gave statements that they had obtained the cards fraudulently. One of the females is currently being charged criminally and has given statements to the effect that there are a lot of people who obtained similar documentation through a Liberian national in the Atlanta area.

CRIMES INVOLVING MORAL TURPITUDE (CIMT)

If an alien is convicted of a crime involving moral turpitude (ie: theft, murder, forgery, etc), he/she is subject to separate administrative violations in addition to any criminal penalties. For example, a lawful permanent resident alien who is convicted of a CIMT can be charged administratively and deported from the U.S., depending on the circumstances.

Of the Nigerians included in this report, over 60% had been convicted of CIMT's or were convicted subsequent to their arrest by this office. Of those, a majority had multiple convictions. Some of those arrested are in custody and are pending trial. Of course, a large number of Nigerians in this study have been implicated in crimes but never stood trial due to a lack of evidence in their cases. On occasion, prosecution is declined because local, state, or federal prosecutors opt for deportation of the alien from the U.S. instead of criminal conviction.

The reason for this undesirable situation can be attributed to the overburdened criminal justice system in the U.S. Until this problem is addressed, Nigerians and other aliens can come to this country and perpetrate crimes with little risk of serving time in the country's penal institutions. When they are caught, they are merely deported and can be back in business within weeks.

CONCLUSION

The solution to this formidable problem is not a simplistic one. There has been considerable confusion and little agreement as to what the answer is. At one end of the spectrum there are individuals advocating more proactive law enforcement techniques, while at the other end there are those who advocate a more reactive approach. In the financial community there are those who favor stricter controls on lending practices and then there are those who favor less. Within the legal arenas there are law makers who propose tougher sentences and then there are those who argue that building more prisons just isn't feasible. Some will propose that if we just stopped Nigerians from entering our country then the problem would be alleviated, but then you have the problem of politics and oil.

As one can see, there is no single solution to this financial nightmare. If the criminal justice system is to play a role in the solution, then deterrence must be paramount. Deterrence however, is based on three fundamental factors; certainty that the punishment will be imposed, the severity of the punishment, and the sureness that the punishment will be imposed fairly every time. This is something that has yet been a factor in any crime especially "white collar" crime.

If the financial and business communities are going to contribute anything to this dilemma then they must address the problem for what it is and accept their responsibility in the problem's origins. They must actively pursue criminal prosecutions on these individuals and not merely acquiesce.

The legal arenas must realize that the short range cost of building more correctional institutions will be outweighed by the long-range goal of reducing the exorbitant cost of "white collar" crime."

Finally and possibly the most important element in solving this multi-faceted problem is oil. As long as Nigeria remains one of this country's leading oil producers, then politics will mandate the 15% approval rate of visas from Nigeria. With approximately 300 individuals applying for visas on a daily basis then approximately 45 individuals a day, are receiving visas to enter the U.S. Many of these individuals become involved in fraud once they arrive in the U.S.

One more interesting fact. Recently, the Atlanta District Office of INS began a liaison with Scotland Yard. According to Scotland Yard officials, approximately 25% of all bank fraud in Great Britain is being conducted by Nigerians. There is direct evidence that many of the Nigerians in Great Britain travel to and from the United States committing the same crimes in both countries.

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Mr. GRINDLEY. One other thing I forgot that I had here, I got a copy from Popular Science, it is the January 1997 issue, it is "Internet Spying: What They Know About You." And it goes into great detail about what sites are out there, what someone can know, and that currently all 50 States currently sell their driver's license information, which I was shocked to find out. But it is a very in-depth article.

Mr. MCINTOSH. I would like to also ask unanimous consent that that be put in the record. Thank you very much.

[The prepared statement of Mr. Grindley and the information referred to follows:]

Mr. Chairman and members of the subcommittee, I want to take this opportunity to thank you for inviting me to here today to testify about a very important issue affecting every American citizen. My name is George Grindley and I am member of the Georgia House of Representatives. Over the last several years I have been focusing on concerns about privacy. In addition, I recently pushed through the Georgia House legislation to prevent Social Security numbers from being placed on the state's driver licenses.

In a nutshell, Mr. Chairman, I introduced this legislation, because I and millions of Americans realize the use of the information superhighway has continued to expand and a new type of fraud has suddenly emerged. With just a few pieces of critical information, a clever crook can order fraudulent credit cards, issue money order transfers from your personal account to theirs, or just generally snoop through your business.

The key to unlock all of those doors is your social security number, birth date, and address. However, the social security number works like a skeleton key. The nine digit number can open numerous doors to a person's private life. In Georgia, I did a little research and found those three pieces of information currently sell on the street for about fifty dollars. For fifty dollars, a person's identity can be taken from them.

Mr. Chairman, last year, I pushed through the in Georgia State General Assembly legislation which specifically required that social security numbers be removed from driver licenses in the state. Prior to this law being passed, the state of Georgia placed Social Security numbers on driver licenses unless an individual specifically asked to do otherwise.

During the consideration of this legislation by the Governor, the Georgia State Police requested that the bill be vetoed. Their only reason was by the year 2000, they were going to require social security information on each individual's driver's license. I have found their argument very contradictory -- that the agency who is sworn to protect the rights of the citizens was so willing to readily give those rights away.

On June 17, 1998, the National Highway Transportation Safety Administration issued regulations to establish a national identification system that will mandate a National Identification Card no later than October 2000. The provisions of the law will require each and every American to produce a state driver's license that conforms to specifications established by the federal government -- and based on the Social Security number -- to be eligible for virtually every government or commercial service.

I believe these proposed rules are a travesty. It is a travesty based on how easy it is to

get this information on the Internet and how readily this information is used in today's society. For example, I am required to give the last four digits of my social security number to transfer money from my account, to verify a credit card, or to do most other sensitive types of financial business.

If someone illegally obtains this information and this number, they basically have access and control to do as much damage as possible to a person's life. Currently, there are many sites on the Internet where you can get this information, one of them is IQDATA.com. Mr. Chairman for as little as \$12.50 I can pull your social security number off of the Internet. There needs to be some restraint on the use of the social security number. We do not need to go the other way, making a person's social security number more publicly available.

Credit card fraud and bank fraud are rampant. This type of fraud stems from the illegal possession of an individual's social security number. I would request that this subcommittee take whatever steps necessary to stop to National Highway Safety Administration from implementing this rule.

Mr. Chairman, I would also like to touch upon how this proposed rule violates the principles of the Tenth Amendment to the Constitution. As the members of this committee are aware, states have all authority other than those specifically authorized and delegated to the federal government by the Constitution. I ask that this subcommittee and this Congress remember that the NHTSA proposed rule is an unfunded mandate. We in the General Assembly are getting tired of being told what we have to do -- while not being provided the money to do it.

As a member of the Georgia State House, my constituents repeatedly tell me to protect their privacy. They feel the federal government has gotten way too big and way too intrusive in our lives. Every day they come to me and say -- keep them out of our private business.

Mr. Chairman, I would like to ask you and the members of this subcommittee take every necessary step to stop the establishment of a national identification card. The federal government has a duty to protect the privacy of its citizens.

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Welcome to a small town called the Internet,

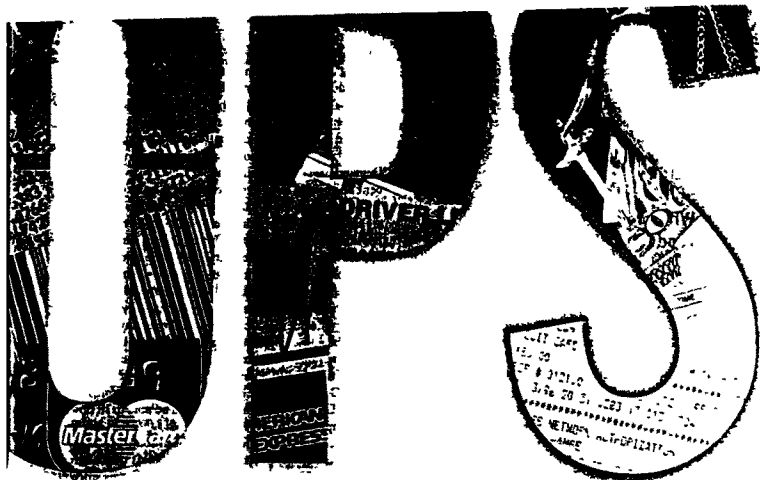
ORDINARILY, I'm hardly what you'd call a nosy neighbor—each to his own is my credo. Yet, without moving from my desk, I've learned what my neighbors paid for their houses, whether they've refinanced, how many bathrooms they have, and what

By Chris O'Malley

their median income is. I know their birth dates, social security numbers, and driving records. And with a bit more digging, I could unearth many of their legal and business dealings.

PHOTO-ILLUSTRATION BY JOHN B. CARNETT

Do you find this unsettling? You might. But consider this: None of this information is considered private. All of it, and much more, is available online to anyone with a computer and a modem.



where everyone knows your business.

What does the online world know about you? Plenty—whether you're online or not. Using a pseudonym (*handsome@service.com*) won't help, either. That's because most of the information about you isn't coming from you, at least not directly. It's coming from myriad government records and business transactions, which are being digitized, linked, packaged, sold, and re-sold. All of this is legal, or at least it is not clearly illegal.

In one sense, the availability of "public records" online is merely an electronic extension of how things have always worked. With a few dollars and a trip to the right city, county, or state agency, you can get copies of many publicly filed records, such as real estate transactions or birth certificates. But a funny thing happened on the way to city hall in the 1990s. Actually, it's a confluence of four factors: PCs are everywhere, the Internet is connecting millions of them, business and government records are now routinely stored on computers, and government agencies (especially at the state and local levels) are desperately seeking new sources of revenue. In short, the marketplace for online information, and the ability or desire to

deliver it, are gelling at roughly the same moment in time.

Who wants this personal information? Private investigators performing background checks or searching for deadbeat parents want it. Lawyers want it to track down court records and personal assets. So do prospective employers and landlords, to give you an electronic once-over before rolling out the welcome mat. And before you feel too affronted, it's worth noting that you might want it, too, whether it's to find a missing branch in the family tree or to check out a child-care worker.

Naturally, marketers want it as well—preferably in large quantities—to try to do what they always do: sell you stuff. They are using cyberspace to snap up e-mail lists and demographics databases to send solicitations to your onscreen in-box, as well as your postal mailbox. And as shopping by computer takes off, they'll want to know more about your online buying habits as well. One compromise in the works: CommerceNet and the Electronic Frontier Foundation are testing a system called eTrust that displays standard symbols informing you prior to buying anything online whether information

about the transaction will be anonymous, customer to merchant only, or shared with others.

To be sure, the online arena is not the only place where your personal information is being collected and passed along. Smart cards and bar codes are being used to learn more about you in places as diverse as your state

Data Shopping While You Food Shop

NEVER MIND THE "paper or plastic" dilemma. Your supermarket check-out clerk may soon be asking you questions like this: "Mr. Kowalski, the computer says you normally buy Yirvikies and Diet Coke on Fridays—did you forget them?"

It's not very far-fetched. In fact, many supermarkets are only one step away from such personalized service, as they see it. Most supermarkets use bar code scanners, which not only ring up a price but also track what's being sold (and when) so that stores can replenish their inventories in timely fashion. Now, they also want to know who's doing the buying.

The tools to identify you are already in place in many supermarkets. Many stores let you pay for your purchases electronically with credit cards or debit cards, for example, or use check-cashing or frequent-shopper cards with bar codes or magnetic strips that identify who you are. Some are experimenting with electronic smart cards. By matching the product scanning data with identities, stores can create customer profiles and more finely target their marketing directly at you.

Some of the supermarket efforts to get to know you better are insidiously appealing. Many frequent-shopper cards entitle you to discounts or extra coupons. One store chain offers coupons for free birthday cakes in exchange for information. Another mails out a free "newsletter" (with ads) to its best customers. Eventually, this sort of "customer intimacy," as some in the retail business refer to it, could lead to supermarkets printing out personalized shopping lists for you as you enter the store, or mailing you customized coupon flyers.

Some envision this data being used online, too, perhaps to make online grocery shopping more convenient. And while few if any grocery chains are yet sharing the information they gather, the temptation to do so is clearly present. A luxury carmaker such as Mercedes or Lexus would no doubt love to know who's buying gourmet coffee and macadamia nuts at the supermarket.

Of course, you can still pay cash and remain anonymous—at least for now.—C.C.

government and your local supermarket. Often, they will share the knowledge they gather with others. But nothing is spreading the information, or fueling the demand for it, faster than online connections.

This demand, coupled with a delivery vehicle of unprecedented efficiency and reach called the Internet, has spawned a booming market for services offering to help you find out more about other people (or them about you). Demand has also spawned a number of new privacy groups bent on curbing, or at least keeping close tabs on, the online information-for-sale industry. Many of these groups are themselves rooted online, and, somewhat ironically, are populated by the same band of free thinkers who routinely oppose any attempts to regulate cyberspace or censor the electronic exchange of information. But for many, the sale of personal information hits a little too close to home.

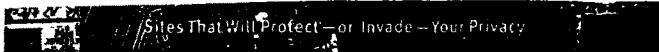
"I think public information should be widely disseminated on the Internet, but the difficult question is, what should be public information and what should be private?" asks Marc Rotenberg, director of the Electronic Privacy Information Center, a watchdog group based in Washington, D.C. "When people began storing public records in town halls, no one imagined that you'd be able to sit down at a computer and access it all."

There are ongoing efforts to establish some privacy shelters amidst the information hurricane. At the congressional level, which has not seen any major reforms since the Electronic Communications Privacy Act of 1986 (requiring a court order to "wiztap" your e-mail), several bills

State and local are finding to sell informa

have been introduced to limit the sale of personal information. One proposed bill, for example, would ban the sale of social security numbers, which often are the keys that open other records. More recently, the Senate Commerce Committee has asked the Federal Trade Commission to conduct a study on the broader issue of selling personal data, and perhaps recommend legislative action.

Many state governments are taking a hard look at the free flow of information, too. Minnesota's legislature, for example, has been debating an online privacy bill, which


 Sites That Will Protect—or Invade—Your Privacy
PRIVACY CONCERN GROUPS:

American Civil Liberties Union
<http://www.aclu.org>
 Computer Professionals for Social
 Responsibility
<http://www.cpsr.org/cpsr>
 Electronic Frontier Foundation
<http://www EFF.org>
 Electronic Privacy Information Center
<http://epic.org/>

INFORMATION SERVICES:

American Information Network
<http://www.amer.com>

CDB Infotek

<http://www.cdb.com>
 Database America
<http://www.databaseamerica.com>
 Four11
<http://www.four11.com>
 Information America
<http://www.infoam.com>
 Lexis-Nexis
<http://www.lexis-nexis.com>
 National Locator & Data
<http://www.nl.net/hodges/>
 Switchboard
<http://www.switchboard.com>

Westlaw

<http://www.westpub.com/WLAW>
<http://www.westhome.htm>

PRIVACY TOOLS:

The Anonymizer
 (anonymous Web surfing)
<http://www.anonymizer.com/>
 Community Connection
 (e-mail remailers)
<http://www.c2.net/remail/>
 International PGP Home Page
 (encrypting e-mail)
<http://www.ifl.usa.net/pgp/>

would make that state the first in the nation to broadly regulate the use of "personally identifiable information" via online services. But mostly, state and local governments are finding new ways to sell information about you, not protect it. Revenue from online services is expected to top \$30 billion by 2000, according to a study by Simba Information, and more than 88 percent of that money will come from research services, not more general services such as America Online. Cash-strapped state and local governments

governments new ways tion about you.

that are being forced to do more with less federal funding are looking for ways to tap into this revenue pipeline, not shut it off. And it is a pervasive trend: All 50 states sell driver's license records to information resellers, for instance.

There are a few privacy taboos, even online. Few, if any, services will supply mother's maiden names for fear of assisting in fraud. (Many banks and credit-card companies use this information as an authenticator for supplying information over the phone.) Medical records are typically not available online, though some related records, such as

workmen's compensation claims, are. And arguably the most revealing piece of information about your financial health, your credit report, is off-limits without a "permissible purpose" as defined by the Fair Credit Reporting Act. These purposes include not only extensions of credit, but also employment screening and "legitimate business needs." For those latter two reasons, primarily, credit reports are widely available online, but generally require some proof or promise of legitimacy. Some states also require that the consumer grant his consent first, or be notified of the inquiry.

But for now, at least, that's where your privacy ends and the free flow of information online begins. And the flow is definitely getting freer and easier. Until recently, a kind of pragmatic wall has existed between the public and so-called public records. The data was available online, but only through professional or legal online research services like CDB Infotek, Database America, Information America, Lexis-Nexis, and Westlaw. In this case, "professional" means sophisticated, but also costly, complex, and for members only. Typically, anyone can join, but signing up alone may cost you \$50 to \$200, and there are often monthly service fees of \$25 to \$75 and stiff per-minute connection charges—all this before you even begin the sometimes labyrinthine process of conducting a search for information, which incurs additional charges.

These services are still being widely used, but the deep well of information they offer is trickling down to much more consumer-friendly services on the Web. Some of them are fairly innocuous. Web sites such as Four11 and Switchboard, for example, enable you to scour their online nationwide directories for people, addresses, phone numbers, or e-mail addresses—for free. (Several digital directories are also available on CD-ROM.) They make searching for information much faster, but they play by paper phonebook rules: Private numbers do not appear in these directories.

But Web purveyors of more in-depth personal data are

A License to Pry?

AFTER YEARS of proclaiming the dawn of "smart" electronic cards for your wallet, the first card to actually get there may be nothing as newfangled as a digital cash card or as ominous as a national ID card. Rather, it may be a new form of something you're carrying already: your driver's license.

Several states are now in hot pursuit of high-tech driver's licenses. New Jersey is studying an ambitious new "smart driver's license" with an embedded chip that would not only serve as a more tamper-proof license to drive, but could be used for electronic toll-taking, vehicle inspection data, and bus and train fare. Eventually, the card might also be used for electronic payments for auto and medical insurance, and for obtaining other state licenses, such as a firearms permit. The card might also be used for electronic benefits transfers, such as welfare and food stamp payments.

Initially, New Jersey hoped to begin issuing such licenses by mid-1997. But the early phases of its development have been delayed—partly by debate over the broad scope of such a license—so it may be 1998 or later before any form of smart licenses appear.

Utah is also on the road toward multifunctional smart licenses. State officials say the cards will have a bar code on the front and a chip embedded on the back, and could be used for a wide range of financial applications. Utah is actively seeking corporate sponsors to help offset the cost of development, thus creating a link to a designated merchant.

Texas and Pennsylvania have already begun issuing more modest versions of the digital license. In Texas, a new electronic licensing system captures a variety of personal information, including signatures, fingerprints, and digital portraits. The license itself has a magnetic strip that stores a small amount of personal data and can be swiped through standard card readers and cash registers for verifying identity.

Privacy advocates worry that states are steering into dangerous territory. Electronically endowed licenses, they warn, could spell the end of anonymous transactions. Worked with electronic tolls, these cards could effectively track your movements and perhaps monitor your highway speed.—C.G.



rapidly catching up with the professional suppliers—and in many cases buying information from them to repackaging for a broader audience. American Information Network (AIN), which proudly proclaims on its Web site that it intends to "put the public back into public records," runs what is probably the most inviting and least intimidating of these search sites. There is no sign-up process or commitment, and all of its services are offered individually, for a flat fee that typically ranges from \$20 to \$40, which you can pay for online with a credit card.

Not coincidentally, AIN manages one of this emerging category's better known resellers of public record services: the official-sounding Internet Department of Motor Vehicles, or I-DMV. You can't renew your own driver's license at the I-DMV, but you can take a peek at someone else's, along with his or her driving history. For a \$20 fee, you can search any one of the 50 state (plus District of Columbia) motor vehicles databases. Many states require that you know the driver's license number to conduct a search, and some require a date of birth. But you may be able to get both of these pieces of information at the I-DMV, too, with a \$35 license plate search, which requires only a tag number to retrieve all vehicle registration information. (The amount and type of information varies by state.)

Unlike the professional services, AIN makes executing a search profoundly simple. You fill out a short form online, which includes your name and phone number—you're not

Hundreds of researchers on the Web will gather information for you—or on you.

anonymous as the searches, either. Searches generally take one to four days to complete, and the results are sent to you via e-mail or fax. It's not fast, but there are no waiting lines.

The driver's license search returns the kind of information you may have assumed is only available to police department computers. All of the identifying data that's normally on a license is included—right down to eye-glass

Seven Ways to Guard Your Online Privacy

THERE IS NO WAY to stop the flow of personal information about you that's available online. Much of it comes from "public records" that can legally be sold or distributed. But there are ways to minimize the type and amount of your personal data that appears online, if you're so inclined. Here are seven suggestions, culled from a variety of privacy groups and experts:

- ① Get an unlisted phone number, and get out of the phone book. Public phone listings are the primary source of information for online directories, and the secondary source for many other online services. Generally, phone companies will not release any information about you if you have an unlisted number. Put "none" when asked for your phone number on forms, or ask to have your phone number kept separate from official records.
- ② Keep your Social Security number close to the vest. Some business and government dealings require that you supply it, but many do not—yet they'll ask for it anyway. Ask if it's really necessary, and if you suspect it isn't, use an innocuous fake one. Numbers in the 987-65-4320 to 987-65-4329 range are safe choices, since they're used for advertising purposes and won't interfere with anyone else's number.
- ③ Request that all personal information be removed from mailing lists and databases. This sounds too easy and may not always work, but several services we contacted indicated they would do so if they were asked. What that you

are considering legal action, or have an attorney send out a form letter. There are many gray areas here, and some services would rather drop you than risk a fight.

- ④ Use a variation of your real name when signing up for a service or subscribing to a publication. For example, using John T. Jones for one, John Z. Jones for another. That way, you can keep track of who's selling your name to whom, or ensure they're keeping their promise not to sell your name.
- ⑤ Check your own credit report regularly. Order a copy once a year from one or more of the big three credit bureaus: Equifax (800-685-1111), TRW (800-682-7654), and Trans Union (316-636-6100). You can not only check for errors, which are common, but also see who's requested a copy of your report recently.
- ⑥ Secure your Internet connections. Several software tools and services are available online to help protect your privacy, including ones that enable you to encrypt your e-mail or send it through "proxies" so it can't be traced back to you. Others let you surf the Web anonymously, without letting site operators know your identity. [See "Sites That Will Protect—or Inevitably—Your Privacy" for a sampling.]
- ⑦ Make your friends know. Groups like the Electronic Privacy Information Center and the Electronic Frontier Foundation often welcome participation.—C.G.

restrictions and organ donor status—and so are any black marks on one's driving record. This can include speeding tickets, accidents, and the dates and locations of these violations. It may also include drug or alcohol-related convictions, and court pleadings and penalties.

ADN takes the same sort of easy, piecemeal approach to the rest of its more than two dozen search services, including consumer credit, criminal record, professional license, education verification, and corporate records databases. A service called Sherlock combines its public record resources to help find missing persons, lost relatives, or dead-beat spouses. Some services provide more information than it would appear at first glance. The National Surname Scan service can sometimes return social security numbers and driver's license numbers if requested, for example.

But ADN is hardly alone in dishing out small portions of personal data to anyone with a Visa card. At least a dozen Web-based services will take credit-card orders online for such information, and many more that advertise their services on the Web will do so by phone or fax. National Locator & Data, for example, claims to have access to 950 million records and lets you order more than 40 "information brokering" services from its Web site. One data-

base will retrieve a Social Security number if given a name and address, while another finds information on the nine nearest neighbors to an address.

Such services seem to have taken on a quiet popularity. ADN reports that its Web site receives about 80,000 "page views" per day—a very busy pace even by inflated Internet measures—with as many as 40 percent of daily visitors taking advantage of one or more of its services. Not inclined to do it yourself? For a small fee, hundreds of private investigators, public records researchers, and credit-checking services on the Web are willing to do the hunting and gathering for you...or on you.

Where does all of this leave your sense of privacy? Probably a little more fragile, and understandably so. There are ways to minimize your exposure, including requesting that your name be removed from certain online mailing lists and databases. But until lawmakers make some fundamental changes about who can sell what to whom, it seems unlikely that the tide of personal information washing up on the Internet's shores will be stemmed. And in the process, much of the privacy we've enjoyed because it was simply too inconvenient to invade it will be eroded.

Welcome to the information age. ♦

Mr. MCINTOSH. I turn to Mr. Davis to introduce Mr. Holcomb.

Mr. DAVIS. Thank you very much. Let me say it is a pleasure to have Rick Holcomb here. He is our commissioner of the Department of Motor Vehicles in Virginia. This is a State agency that serves approximately 37,000 customers a day in its 73 customer service centers across the State. In addition, he oversees the collection of approximately \$1.4 billion in revenue annually for the Commonwealth.

While he served at DMV, he has implemented a number of projects that have increased agency efficiency and produced positive results for customers: for example, installation of the Knowledge Automated Testing System; transformed DMV's driver testing by replacing the paper and pencil test with computerized testing. My son flunked this last year when he went up for the first time. But he flunked right away. I mean, he knew it very quickly. He passed it the second time; straight A student. It was a tough test. The system enables DMV to provide effective testing and faster service for customers.

Under Mr. Holcomb's guidance, motor carrier functions were consolidated at DMV providing, for the first time, one-stop shopping for Virginia's truckers. Motor carriers can now obtain all operating credentials and permits at a single location. Plus his plan has reduced duplication of functions such as auditing and accounting between different State agencies. One of his major initiatives cut the process for driver's license applicants from two steps to one, and annually reduced agency transactions for original driver's licenses by almost half.

By processing licenses for new drivers at the headquarters site, Holcomb has reduced traffic in DMV offices by at least 4,000 transactions per month. That is saving money for the Commonwealth and making speedier service for the customers.

I just note that prior to coming to DMV and putting such an outstanding record there, he had a distinguished career on Capitol Hill. He was chief of staff to John Linder, to French Slaughter who was from Culpeper, VA, and to Craig James from the Daytona area in Florida. He gained legislative experience when he served as general counsel of the Senate Judiciary Subcommittee on Security and Terrorism from 1983 to 1987, where he assisted Senator Jeremiah Denton in drafting legislation ranging from bills on nuclear terrorism to child abuse and child support.

Before that, he practiced law in Charlottesville and he was also a member of the Virginia and D.C. Supreme Court bars, numerous bars. He is also a native Richmonder and in 1976 graduated from Hampden-Sydney College, in 1979 from T.C. Williams School of Law at the University of Richmond.

We are pleased to have you here today, Rick. Go ahead.

Mr. MCINTOSH. Thank you, Tom. I appreciate Mr. Holcomb coming by today. And I can tell you that Mr. Davis does a great job of representing your State and your district.

Mr. Holcomb, please share with us a summary of your testimony.

Mr. HOLCOMB. Thank you, Mr. Chairman. And thank you, Congressman Davis, for that very generous introduction.

I would like to take my few moments to talk about the impact that this legislation and the proposed rulemaking will have on Vir-

ginia's ability to deliver driver's licenses to our customers in a quick and efficient manner.

Over the past 5 years, we worked very hard and I think have been successful in achieving a national reputation as well as an international reputation for service delivery that rivals and even exceeds service delivery in the private sector. We have raised the bar for delivery of government services, emphasizing service that is fast, convenient, and efficient. And neither our Governor, Jim Gilmore, nor I, would daresay that any of our 5 million drivers would like to see this reputation damaged or diminished as a result of this unfunded Federal mandate.

First, in regards to Social Security numbers, I am pleased, Mr. Chairman, that our State is 1 of those progressive States that you referenced in your opening statement. Back in 1995, under the leadership of then-Governor George Allen, Virginia legislation was offered and approved, removing the Social Security number from the licenses. It is now optional; and since that time, 9 percent of our drivers have selected that option and have had their Social Security numbers removed.

Obviously, to comply with this Federal mandate—because we will resist any mandate that will put that number back onto our license—but to comply with it, we will capture it in the bar code; which still means it will be accessible to anyone who has a scanner that can read a bar code, and we will verify it with the Social Security Administration.

And, Mr. Chairman, that is where the nightmare will begin. Using state-of-the-art technology, we currently are able to issue our driver's license in 1 of our 73 customer centers or even our 3 mobile units. With an average wait time of 9 minutes, we are able to provide our license service in phenomenally fast order. During this last fiscal year, we issued over 1.4 million original, renewal, or duplicate driver's licenses.

Under this proposed regulation, at best we would add several minutes to that process, and at worst we would have to revolutionize our process and centralize it so that no one would be able to leave one of our offices with a driver's license.

Certainly if you look at the speed with which that can be done, that is a tremendous concern. There are other national programs that have commitments to on-line checking time of 7 seconds or 3 seconds.

We also are concerned that the Social Security Administration has seven potential responses, only one of which would be viewed as a positive verification. And our question is: What do we do to these Virginia citizens who, because of some bureaucratic snafu, cannot have that number verified? Does it mean that they cannot have their license issued or even renewed?

The other concern that we have got is trying to get our current databank verified by Social Security. We have been trying to do that for the last several years, to no avail, and would hope that certainly Social Security would be more willing to assist the States in looking at the current databank and getting that in order before this mandate would go into place.

We also think that the Social Security Administration would need to be more user friendly and have a more comprehensive list

of data fields. For instance, instead of only verifying on full name and Social Security number, we would hope that maybe they would be flexible enough to accept such variables as last name and Social Security number, or match on a first name, last name, with a middle initial and having that matched with one that has the middle name spelled out.

We also have some concerns about the concept of legal presence. While in Virginia we require identity and Virginia residency, we do not require legal presence, and that will certainly change the way we approach things in Virginia. But even so, if you look at what appears on their appendix D, for instance, someone who only possesses a B2 tourist visa under the proposed rulemaking would be allowed to get a Virginia license; while, on the other hand, someone who may be a lawful refugee or a person lawfully seeking asylum in this country may not be able to. So, we think at a minimum that list needs to be looked at.

In conclusion, our major concern, however, is that this is an unfunded Federal mandate. We note that the proposed rule states that the President has included a measly \$325,000 in the 1999 budget for the grants to assist the States. But, Mr. Chairman, I will tell you that our cost to implement this unfunded Federal mandate will exceed \$1 million, and that includes what we anticipate to be \$60,000 to \$90,000 that will be paid to the Social Security Administration to verify our existing file, as well as \$18,000 a year to continue to verify.

Mr. Chairman, this burden does become significant when taken in conjunction with the weight of another unfunded Federal mandate that the DMVs have, and that is the National Voter Registration Act, or the Motor Voter Act.

So in conclusion, Mr. Chairman, I do appreciate the leadership that this subcommittee has taken in looking at an area and do appreciate being given the opportunity to tell you what impact this would have on our State. Thank you.

[The prepared statement of Mr. Holcomb follows:]

**Testimony of
Richard D. Holcomb, Commissioner
Virginia Department of Motor Vehicles
Before the National Economic Growth,
Natural Resources,
And Regulatory Affairs Subcommittee
September 17, 1998**

Good morning, Members of the subcommittee. I appreciate the opportunity to comment on the topic of a national ID card.

While Virginia does not take a position on a national standardized ID, we are concerned that proposed rule making from the National Highway Traffic Safety Administration will seriously impact Virginia's ability to deliver driver's licenses to our customers in a quick and efficient manner. During the past five years, Virginia has earned a national and international reputation for service delivery standards that rival and even exceed service delivery in the private sector. Within our own state and across the nation, we have raised the bar for delivery of government services, emphasizing service that's fast, convenient and efficient. Neither we nor our customers would care to see this reputation diminished at the cost of an unfunded federal mandate.

I would like to respond today to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 as well as the National Highway Traffic Safety Administration's proposed rule making.

Virginia already meets many requirements

Regarding the statutory requirements of Section 656(b),¹ Virginia already complies with the application process and the format of the license itself, including features to limit tampering and counterfeiting.

¹ All Sections referenced in this document are Sections of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

Virginia, however, does not require that the social security number appear on the license. Customers may opt for a randomly selected control number instead. We do require proof of a social security number before we issue a driver's license or photo identification card (assuming the customer has a social security number). We retain the social security number of each customer on his or her customer record.

Virginia lawmakers first offered customers this choice in 1995 in response to a national public outcry over stalkings and murders made possible by unrestricted access to individuals' social security numbers and street addresses. Since 1995, nine percent of driver's license applicants have chosen not to display their social security number on their driver's license.

Indeed, Virginia's privacy laws rank among the strictest in the country and even exceed federal requirements.

NHTSA's proposals to verify SSNs and Virginia's concerns

NHTSA proposes that, beginning October 1, 2000, every state will verify each application for a new, duplicate, or renewal driver's license or identification document electronically with the Social Security Administration, unless previously validated. Technologically, electronic verification with SSA poses no problem to Virginia's DMV. Instead, our concerns center around three issues. First, we are concerned about the speed of verification with SSA; second, we question what will happen when the system is down at SSA or when, for some other reason, Virginia is unable to receive an immediate response from SSA; and third, how will we handle social security number non-matches with SSA.

Additionally, we are concerned about the concept of lawful presence, wording in Section 1331.6 of the procedures, and Virginia's implementation costs.

Speed of Verification

Virginia uses state-of-the-art technology to issue driver's licenses to customers during their visit to one of our 72 customer service centers or three mobile customer service centers. With an average wait time of only nine minutes

per customer, Virginia's driver's license issuance process is phenomenally fast. During fiscal years 1997 and 1998, Virginia issued approximately 1.4 million original, renewal and duplicate driver's licenses.

With implementation of Q-Matic,² our automated queuing system, we established an average service goal of 15 minutes; however, our employees routinely beat this average by several minutes. Our first full month of Q-Matic statistics showed an average wait time of 13 minutes. The same month a year later, wait time had plummeted to an average of eight minutes.

The proposed rules could add significant delays to issuing driver's licenses. We calculate that verifying with SSA will add an extra minute of processing time for each driver's license transaction. As a result, to maintain our current customer service time, DMV will need to add additional employees to handle the processing volume.

The proposed rules could also require centralization of our driver's license issuance process, thereby increasing costs, decreasing customer service, and destroying our mission of offering customers one-stop shopping at any one of our 72 customer service centers and three mobile customer service centers.

We understand the response time in the National Motor Vehicle Titling Information System pilot is seven seconds per transaction. Even faster, the current response time for the National Driver Register averages approximately three seconds. Virginia believes that the response time from SSA should certainly be as fast or faster than either of these two systems.

Therefore, we respectfully request that the proposed rules provide for a guaranteed minimum response time from SSA. If SSA's system does not respond

² Q-Matic first appeared in DMV customer service centers in 1996 and made standing in line a thing of the past. When entering a CSC, all customers are issued a numbered ticket within a designated service category, based on the transaction. Customers then sit comfortably in lobby chairs and listen for their number to be called to a service window or watch the electronic message board which flashes their ticket number and alerts them to proceed to the appropriate service window. Categories are set up by the complexity and amount of time required to process the transaction. One of the key benefits of the queuing system is the capability it gives managers to prioritize certain service categories at specific teller windows during peak times (e.g., lunch times and the beginning and end of the month). We often give priority to the simple transactions, such as vehicle registration renewals, during peak times. This approach is similar to an express line in a grocery store. Prioritizing the quicker transactions moves these customers through the office more efficiently and reduces the overall waiting times in offices.

within that time frame, then states should be allowed to issue a driver's license without verification of social security number. Alternatively, we request that the states be allowed to issue a temporary document when the SSA system is down or falls below the guaranteed response time.

Non-matches with SSA

With regard to matches of social security numbers, we understand SSA provides seven responses, only one of which is a positive verification of the social security number. Does this mean then, that this agency would be unable to issue a license in the case of the remaining six non-match responses? Or, will the rules allow us to issue a temporary document in some of these cases.

Virginia wholeheartedly supports the concept of social security number verification and we recognize the advantageousness of not issuing driver's licenses to customers with potentially fraudulent documents. However, in order for this proposal to work successfully for the states and our individual citizens, it is critical that we validate social security numbers for existing records well in advance of the October 1, 2000 deadline. Furthermore, it is essential that SSA provide us with some sort of remedy for customers who visit one of our customer service centers but whose valid social security number somehow turns up as a non-match.

In order to keep non-matches to an absolute minimum, we request that SSA select a comprehensive range of data fields. For example, we believe that it will not be adequate to simply compare the full name and social security number. The SSA system should be flexible enough to accept variables, such as last name and social security number, or a match on first and last names with the middle initial in one record and the middle name spelled out in full in the other record. SSA's system should also be able to use other fields such as birth date, city and state of residence.

Further, we believe that SSA should be ready to receive our files as soon as possible in order for us to compare social security numbers in existing records by means of batch transmissions. We suggest that this happen long before October 1, 2000. In Virginia, customers will soon be able to renew their driver's license by mail and by telephone. Therefore, it is critical that our current records match with

SSA records to avoid unnecessary delays in our mail and telephone renewal processes as well as for our walk-in customers.

Pre-validation of our existing records is the key to successful implementation of social security number validation. On the other hand, DMV's system and, I suspect, SSA's system will grind to a halt if we must validate every customer's social security number when they come in to conduct a driver's license transaction. Finally, the idea of turning away a customer and not completing his or her transaction because we cannot validate the social security number or even make contact with SSA is unacceptable.

Lawful Presence

Virginia is also troubled by the concept of lawful presence in the proposed rules. Presently, we require applicants to prove identity and residency in Virginia. The proposed requirement that citizens prove legal presence in the United States or U.S. citizenship in order to obtain a driver's license or a photo identification card is a radical departure from current Virginia law.

We understand the purpose of the Immigration Reform Act is to deter illegal immigration into the U.S.; however, this should not be unduly burdensome on legal residents, many of whom have held their driver's license all their adult lives. We suggest that the rules clearly define eligibility requirements for a social security number.

The rules should define what documents a person may provide to show eligibility for a social security number, such as a U.S. birth certificate or a U.S. passport. Once the rules clearly identify who is eligible, it will be the states' responsibility to obtain proof of lawful presence from individuals who are not eligible to obtain a social security number.

In addition, we respectfully suggest a further examination of the list of lawful presence documents in Appendix D. In our opinion, this list is overly inclusive in some areas.

For example, a B2 tourist (visitor for pleasure) in the U.S. could obtain a driver's license by showing: a primary document such as an arrival-departure record in a valid foreign passport; a secondary document such as a foreign

passport, and proof of lawful presence, which again may be the arrival-departure record (I-94) with a B2 visa. We do not believe that a temporary visitor to the U.S. should receive a state-issued driver's license.

There are also areas where the list is not sufficiently inclusive. For example, we believe a lawful refugee or a person lawfully seeking asylum in the U.S. should be able to obtain a driver's license if they can produce the appropriate primary and secondary documents.

Wording in Section 1331.6

We also have questions with regard to Section 1331.6 of the procedures. Section 1331.6 (a) states that "before issuing a license or document each state shall: require the submission of the social security number by every applicant for a license or document." We assume that this is not true when the applicant does not have a social security number and signs a certifying statement to that effect, pursuant to Section 1331.6 (2) (d). If this is correct, then Section 1331.6 (a) (1) should state "unless the applicant does not have a social security number and signs a certifying statement to that effect, pursuant to Section 1331.6 (2) (d)."

Further, the procedures are unclear as to the process that states should follow after the applicant signs the certifying statement. We assume that after the applicant signs the certifying statement, states are to issue a license without a social security number. If this is true, this should be specified in the procedures.

We do not believe it is reasonable that states be familiar with the numerous INS documents listed in the appendices. We suggest, therefore, that the rules provide for INS to train states on an on-going basis at federal expense. The training should instruct states to identify recent and current INS documents, as well as possible forgeries.

In addition, INS should provide states with a current version of each INS document mentioned. Lastly, INS should supply the states with a new version whenever they modify their documents.

Implementation Costs

Virginia notes that the proposed rules state that the President included a request for \$325,000 in his fiscal year 1999 budget for grants to assist the states. Virginia is certainly interested in participating in any grant program; however, we calculate our costs for the new driver's license to be in excess of \$1 million. This includes the cost to add a bar code to the driver's license, as well as bar code readers and personal computers to support the bar code readers.

We estimate that it will cost Virginia approximately \$60,000 to \$90,000 to match all existing records with SSA. In addition, there will be further continuing on-line costs of approximately \$18,000 per year to match applications for new driver's licenses. These costs are significant, especially when you consider that we are shouldering the weight of another unfunded federal mandate—the National Voter Registration Act, also known as motor-voter.³

I appreciate the opportunity to comment on the proposed rules. I am confident that the proposals can work with prompt and guaranteed response time from SSA, variable matching criteria, an established remedy for customers whose social security number comes up as a non-match, pre-validation of existing social security numbers through batch transmissions, clarification of the requirements for lawful presence as well as language in Section 1331.6 along with adequate funding for the states. At both the state and federal levels, we are working toward the same goals—protection of our citizens' interests and the prompt, convenient and efficient delivery of government services.

Again, thank you.

³ DMV is very proud of the record of success in implementing the National Voter Registration Act (NVRA). Since implementing this program in March 1996, DMV has assisted in the voter registration of 449,058 persons and handled the name and address changes for 106,416 persons. The costs of this successful record of achievement has been absorbed by DMV.

Mr. MCINTOSH. Thank you. I appreciate your coming and your testimony. Let me make sure I understood. Your preference would be to repeal the requirement. But if we leave it there, those are the changes that you think need to be made.

Mr. HOLCOMB. Yes, sir.

Mr. MCINTOSH. Have you submitted those comments to NHTSA?

Mr. HOLCOMB. Yes, sir. We have filed our comments as part of the proposed rulemaking, and I can provide those for the record should you so desire.

Mr. MCINTOSH. That would be great. Thank you.

[The information referred to follows:]



COMMONWEALTH of VIRGINIA
 Department of Motor Vehicles
 2300 West Broad Street

Richard D. Holcomb
 Commissioner

Post Office Box 13411
 Richmond, VA 23269-0011
 (804) 367-0538

July 31, 1998

Docket Management, Room PL-401
 National Highway Traffic Safety Administration
 Nassif Building
 400 Seventh Street, S.W.
 Washington D.C. 20590

Dear Sirs:

Re: Docket No. NHTSA-98-3945
 State-Issued Driver's Licenses and Comparable Identification Documents

We write with Virginia's comments in response to the proposed rules implementing the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, which appeared in the Federal Register, Volume 63, Number 116, on Wednesday June 17, 1998. We appreciate the opportunity to respond.

Virginia already complies with the statutory requirements of Section 656 (b), with regard to the application process, and the form of the license itself, including features to limit tampering and counterfeiting. With regard to the social security number, Virginia does not require that the social security number appear on the license, but we do require that proof of the social security number be submitted by every applicant for a driver's license and photo identification card (assuming the applicant has a social security number). The applicant may opt to use a control number that appears on the face of the license, but the social security number is retained on the person's record.

We note that NHTSA proposes that, beginning October 1, 2000, each State shall verify each application for a new, duplicate or renewal driver's license or identification document electronically with the Social Security Administration (SSA), unless previously validated. We are sure that Virginia will have the technical capability to verify electronically; however, we are concerned with the following: (i) the speed of verification by SSA; (ii) how non-matches will be handled; and (iii) what happens when the system is down at the SSA, or when for some other reason, we are unable to obtain an immediate response to a verification from SSA.

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With regard to non-matches, we have been advised that there will be seven possible responses from SSA on a non-match. Is it intended that all non-match responses are to result in no license being issued, or will the rules allow for a temporary document to be issued to the customer in some instances?

Another concern in relation to the verification from SSA is the response time. In Virginia, we issue driver's licenses directly to the customer during his or her visit to one of our customer service centers. Our system is state of the art and has been built to provide the ultimate in customer service. The Virginia driver's license issuance process is almost instantaneous, with an average wait time of only twenty minutes per customer. In FY 1994 and 1995, DMV issued over 1.8 million driver's licenses per year. We are concerned that these rules will add significant additional delays to the driver's license issuance process and may require centralization of driver's license issuance, thereby destroying DMV's mission of de-centralization through 72 customer service centers statewide. Further, we wish to make sure that the rules are not written in such a way as to effectively prevent over the counter issuance of a permanent driver's license, thereby dramatically increasing costs and decreasing customer service.

We request, therefore, that the rules provide for a minimum guaranteed response time from SSA and that if the system is not responding within that time frame, then the states be at liberty to issue a driver's license without verification of the social security number. Alternatively, that the states be permitted to issue a temporary document when the SSA system is down or falls below the guaranteed response time. We believe that the guaranteed response time should certainly be no less than the current response time for the National Driver Registry (NDR). We understand that the response time in the NMVTIS pilot was seven seconds per transaction and we propose that this should be the guaranteed minimum response time for the SSA system.

Further, we believe it is essential that SSA is ready to receive our files as soon as possible in order for us to compare social security numbers in existing records by means of batch transmissions. We respectfully suggest that this should be done long before October 1, 2000. In Virginia, customers will be able to renew their driver's licenses by mail and by telephone and it is crucial that our current records be matched with SSA records in order to avoid unnecessary delays in our mail and telephone renewal process.

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We believe that SSA must be comprehensive in the data fields that the agency selects in order to keep "no matches" to an absolute minimum. We suggest that it will not be adequate to simply compare the full name and social security number. The SSA system must be flexible enough to except variables, for example, that the last name and the social security number match, or that the names match except for a middle initial in one record and the middle name spelled out in full in the other record. Other fields should also be entered to obtain a match, such as birth date, and city and state of residence.

We are also troubled by the concept of lawful presence in the proposed rules. The requirement that citizens prove legal presence in the United States, or US citizenship, in order to obtain a driver's license or a photo identification card is a radical departure from current Virginia law. Presently, applicants are required to prove identity and residency in Virginia. We understand the purpose of the Immigration Reform Act is to provide deterrence to illegal immigration into the US; however, it should not be unduly burdensome on lawful residents, many of whom have held their driver's license all their adult lives. We suggest, therefore, that the rules clearly define who is eligible, and who is not eligible, to obtain a social security number (see Appendix D).

The rules should define what documentation is required to show a person is eligible for a social security number, but has not obtained one; examples of such documents may be a US birth certificate or a US passport. Once the eligible group has been clearly identified, then the states will know which individuals do not have a social security number and are ineligible to obtain one. The states will then be required to obtain proof of lawful presence documentation from these individuals who are not eligible to obtain a social security number.

We respectfully suggest that the list of lawful presence documents in Appendix D should be examined further. There are areas in which the list is overly inclusive, for example, a B2 (visitor for pleasure) tourist in the US could obtain a driver's license by showing: (i) a primary document such as an arrival-departure record in a valid foreign passport; (ii) a secondary document such as a foreign passport; and (iii) proof of lawful presence, which again may be the arrival-departure record (I-94) with a B2 visa. We do not think that a temporary visitor to the US should be given a state-issued driver's license. There are also areas where the list may not be sufficiently inclusive, for example, we believe a lawful refugee or a person lawfully seeking asylum in the US should be able to obtain a driver's license if they are able to produce the appropriate primary and secondary documents.

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We also have questions with regard to §1331.6 of the procedures. §1331.6 (a) states that "before issuing a license or document each state shall (1) require the submission of the social security number by every applicant for a license or document." We assume that the above statement is not true when the applicant does not have a social security number and signs a certifying statement to that effect, pursuant to §1331.6 (2) (d). If this is correct, then §1331.6 (a) (1) should state "unless the applicant does not have a social security number and signs a certifying statement to that effect, pursuant to §1331.6 (2) (d)."

Further, the procedures are unclear as to the process to be followed after the applicant signs the certifying statement. We assume the intent is to allow the issuance of a license without a social security number once the certifying statement is signed; however, this should be specified in the procedures.

While there are variations between Virginia's present list of acceptable documentation and the proposed lists of documents in Appendices A through D of the rules, we do see that there is merit in a uniform, national list of acceptable documents to prove identity and residency. We would, however, refer the reader to our earlier comments regarding Appendix D. Furthermore, we do not believe it is reasonable to impose upon the states a requirement that they be familiar with all of the numerous INS documents listed in the appendices. We suggest, therefore, that (i) the rules provide for training for the states on an on-going basis at federal expense, to be given by DNS. The training should, at a minimum, include instruction on the current version as well as recent versions of each document, and instruction on recognizing a genuine document as well as possible forgeries; (ii) the INS be responsible for providing the states with a current version of each INS document mentioned; and (iii) the INS be responsible for supplying the states with a new version whenever changes are made to a particular document.

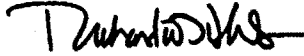
We note that the proposed rules state that the President included a request for \$325,000 in his fiscal year 1999 budget for grants to assist the states. Virginia would certainly be interested in participating in any grant program; however, we calculate our costs for the new driver's license to be in excess of \$1 million. This cost includes the cost to add a bar code to the driver's license, as well as bar code readers and personal computers to support the bar code readers. In addition, we estimate that it will cost Virginia approximately \$60,000 to \$90,000 to match all existing records with SSA and there will be further continuing on-line costs of approximately \$18,000 per year to match applications for new driver's licenses.

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We appreciate this opportunity to comment on the proposed rules and hope you will incorporate our suggestions into the final rule.

With kindest regards.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard D. Holcomb", written in a cursive style.

Richard D. Holcomb

RDH:ajs

Mr. MCINTOSH. Mr. Grindley, you mentioned that all 50 States sell their driver's license information. And apparently there was a statute that Congress passed that has been struck down by the courts as being in violation of the 10th amendment that prohibited that.

What is your experience in Georgia—and I was going to ask Mr. Holcomb also in Virginia—can the States be prevailed upon to limit that themselves, or what is the dynamic in your State for the decision to do that?

Mr. GRINDLEY. It needs to be a State issue, but it seems to be driven from a Federal guideline. I got that information again out of this Popular Science that said all 50 States.

In Georgia, we are in the minority party, unfortunately, but until that changes we do not have a lot of—that is just the way it has always been, and that is the way it will always be until something changes in that regard.

Mr. MCINTOSH. Is it a fiscal benefit? I mean, presumably if they are selling the information, there are some receipts.

Mr. GRINDLEY. They are kind of tight-lipped on that, I guess is what I am saying without saying it. They are not anxious to share that. And now I have a little controversial relationship with the head of the State Patrol since I blasted him on TV for trying to veto it after he promised me it was no problem. So, we are not on talking terms.

Mr. MCINTOSH. Been there, done that with different officials. Well, if you find out anything more when you return, let us know.

Mr. GRINDLEY. Sure.

Mr. MCINTOSH. Mr. Holcomb, how about in Virginia?

Mr. HOLCOMB. Mr. Chairman, this may surprise you, but you should not believe everything you read. Virginia does not make their private information commercially available. We have certain limited circumstances; for instance, someone who is verifying for employment or insurance companies. There are certain ways that you can get that information, but it is not commercially available. It cannot be used for marketing.

Virginia's privacy statutes are probably stronger than even the Federal statutes, and we will fight to continue to protect the privacy of our individual drivers.

Mr. MCINTOSH. So, let me make sure I understand how that will work. If an insurance company wanted that information, would they contact you, or have you transferred it to a private company that provides it on a limited basis for that use?

Mr. HOLCOMB. Mr. Chairman, the insurance companies would have a use agreement with us. In Virginia, the same as Indiana, we have a vendor or a third party. Ours is called VIPnet. I am not sure what it is called in Indiana. I think it is Indiana Interactive. But there is a use agreement which they sign and they are told what restrictions are on the use and the redistribution of that information, and should they violate that, they lose their right to get that information.

But they get that information to determine insurability. Primarily, they look at the person's driving record, determine if this person should be insured or not; as well as law enforcement, obviously, has access to these records.

Mr. MCINTOSH. Now, what would happen if someone like Ms. Cross came back—and they probably do not even know that is happening—but suppose one did, and said, “Can you guarantee that my driver’s license information has not been misused?” Would you investigate?

Mr. HOLCOMB. Yes, sir, Mr. Chairman. And we have had those occasions where the information that has been made available lawfully has then been redistributed and we do a thorough investigation. And there have been occasions where some of our users have been removed from the list because they were not protective enough of the information.

Mr. MCINTOSH. I am, unfortunately, going to have to go vote. But one last question, Mr. Flaherty. Has your committee, with the National Council of State Legislatures, taken a look at, say, a uniform State bill on privacy rights like the Virginia one, or is that a project that you all might want to take up?

Mr. FLAHERTY. It is something I am not aware that we have done at this point. But our committees are all somewhat patterned on the committees in Congress, and the times that we meet, three times a year probably, it may be something that one of them may be going into. I am not aware that we have done that just at this point.

Mr. MCINTOSH. Mr. Holcomb, I wanted to also ask, the Vice President has said that he agrees with us that the national medical ID should not go forward until there are adequate privacy protections. Is that possible, to have adequate privacy protections, or should we just drop that entire idea of a national medical ID? Any views on that? Including Mr. Nojeim, if you have anything you want to say on that. I understand Ms. Bitol was the one who addressed that, but if the ACLU has any comments on that, let me know.

Mr. NOJEIM. In our experience, and this is unfortunate, when privacy protections are built in, over the years, sometimes over the months, they are taken away one at a time because somebody comes up with a new use for the data that has been gathered. So I rather doubt that there would be a way to put in place privacy protections that would actually work for good.

The problem is that there needs to be a way, though, when a person is, for example, unconscious and somebody wants to do something, they need to know what medicine that they are taking, that kind of thing. There are going to be emergencies where that information is going to be needed. So the problem is to respond to the emergencies but without setting up this whole data base system that has been proposed and is now on hold.

Mr. MCINTOSH. So it does not need to be centralized.

Mr. NOJEIM. It does not need to be centralized.

Mr. MCINTOSH. Any comments from any of the other panel members on whether privacy protections are adequate, so at the Federal level we should go ahead with some of these data bases?

Mr. FLAHERTY. I would only point out, it is interesting to note the juxtaposition of when there has been debate on the national—the medical ID card, it has centered around the debate, should we do this, this is a good thing to do, yes or no. In contrast to what we have been talking about, with the driver’s licenses, where it just

more or less happened, there was not a debate on the Federal level at all.

As far as the privacy, I think people have raised concerns that, you know, you may already be able to obtain, quite easily, Social Security numbers. I would think that overarching it may be something more for Congress to look into. Certainly something we are concerned with in the States and in Connecticut, we are considering whether or not we may privatize the State technology. Privacy has become a main part of that debate.

Mr. GRINDLEY. Mr. Chairman, I would simply bring to you the fact that 17-year-olds are breaking into our Pentagon systems, into their data bases. If they have this capability, if there is a pool of knowledge that has a monetary benefit in any way, shape, form, or fashion, it will be compromised. And I think that is too important. There are some valid points, that if someone is unconscious and you need to know what they are allergic to. It is a slippery slope. How far are we going to go?

Mr. MCINTOSH. Thank you all for coming. I appreciate it. This has been of tremendous benefit to us, and we will make this available to the committees of jurisdiction in these areas. The committee stands in adjournment.

[The prepared statement of NHTSA follows:]

Statement by the
National Highway Traffic Safety Administration
to the
Subcommittee on National Economic Growth, Natural Resources, and
Regulatory Affairs
of the
Committee on Government Reform and Oversight

September 17, 1998

Mr. Chairman and Members of the Subcommittee:

We are pleased to respond to your request to testify on the National Highway Traffic Safety Administration's (NHTSA) proposed rule on "State-Issued Driver's Licenses and Comparable Identification Documents." You have asked that we address the proposed rule and provide an overview of the comments that we have received.

Our proposed rule is intended to implement one subsection of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, P.L. 104-208, legislation intended by Congress to provide more effective measures to prevent illegal immigration to the United States and to detect and return persons who have entered the country illegally. Subsection 656(b) of the Act is intended to prevent the use of State driver's licenses and other identification documents by illegal immigrants seeking to obtain benefits under Federal programs.

Subsection 656(b) seeks to ensure that Federal agencies verify that persons applying for benefits under Federal or Federally funded programs are lawful residents of the United States. State-issued documents such as driver's licenses are among the means by which an applicant's status can be verified.

The Act reflects Congress's concern that these documents are often falsified. The subsection accordingly prohibits Federal agencies from accepting, for any identification-related purpose, a driver's license or other comparable identification document issued by a State unless the license or document satisfies certain requirements.

Subsection 656(b) establishes three requirements that State-issued driver's licenses or other comparable identification documents must meet before Federal agencies can accept them as proof of identity. We will address each requirement in turn and explain how our notice proposes to implement the requirement.

The first requirement concerns the application process for these documents. §656(b)(1)(A) provides that:

(i) APPLICATION PROCESS.-- The application process for the driver's license or identification document shall include the presentation of such evidence of identity as is required by regulations promulgated by the Secretary of Transportation, after consultation with the American Association of Motor Vehicle Administrators.

The notice accordingly proposes a process under which applicants for a new or duplicate license or document would be required to submit two identification documents. Applicants for a renewal would be required only to submit their current license or document. The notice proposes a list of primary and secondary documents from which the State could select two documents for identification purposes. The primary document list consists of 24 documents, including such documents as a State or Canadian photo driver's license that has been expired for less than a

year. The secondary document list includes an additional 22 documents that serve to confirm the applicant's identity, including a photo driver's license that has been expired for more than one year. Together the documents would establish the applicant's identity, as required by §656(b).

The second requirement concerns the use of social security numbers, either on the documents or as part of the application process. §656(b)(1)(A) provides that

(ii) SOCIAL SECURITY NUMBER.-- Except as provided in subparagraph (B), the license or document shall contain a social security account number that can be read visually or by electronic means.

* * * * *

(B) EXCEPTION.-- The requirement in subparagraph (A)(ii) shall not apply with respect to a driver's license or other comparable identification document issued by a State, if the State-

(i) does not require the license or document to contain a social security account number and

(ii) requires-

(I) every applicant for a driver's license, or other comparable identification document, to submit the applicant's social security account number; and

(II) an agency of the State to verify with the Social Security Administration that such account number is valid.

The proposal would not require a State to place the social security number on driver's licenses and identification documents. A State may do so, but need not. The notice proposes that a State shall require an applicant to submit a social security number and that the State shall verify that number with the Social Security Administration. The verification requirement would apply to States that use the social security number on

their licenses and documents as well as to States that do not. The proposal also provides that aliens lawfully in the country but not able to obtain a social security number may instead present documentation showing their lawful presence.

The third requirement in §656(b)(1)(A) concerns the form of the documents, and provides that:

(iii) FORM.-- The license or document otherwise shall be in a form consistent with requirements set forth in regulations promulgated by the Secretary of Transportation after consultation with the American Association of Motor Vehicle Administrators. The form shall contain security features designed to limit tampering, counterfeiting, photocopying, or otherwise duplicating, the license or document for fraudulent purposes and to limit use of the license or document by impostors.

The notice correspondingly proposes that the license or identification document contain such information as the jurisdiction of issuance; the full name of the applicant; the applicant's date of birth; the applicant's signature; and a physical description of the applicant, which may include sex, height, weight, and eye and hair color. The document would be required to have one or more security features drawn from a list of 19 such features, including ghost images, ghost graphics, holograms, optical variable devices, and so on.

The agency reviewed the potential costs of this regulation, using estimates it received from five States, and estimated that the total national cost associated with the regulation would be between \$24.8 million and \$72.6 million in the first year and between \$7.7 million and \$51.7 million in each subsequent year.

Our purpose in quoting at length from the Act and the

corresponding portions of the proposal is to emphasize that the notice follows the requirements set forth in the Act.

To ensure that the rule would be compatible with State systems, Congress directed the agency to develop the rule in consultation with the American Association of Motor Vehicle Administrators (AAMVA), the organization representing the State driver's licensing agencies. In developing its proposal to implement these requirements, the agency consulted with AAMVA at every step of the way. The appendices to the proposal, in which the agency lists a variety of documents for use in identifying applicants, are derived from a model program developed by AAMVA.

The agency is now receiving comments on the proposal, having reopened the comment period in response to a request from Representative Barr. As of this date, the agency has received more than 2,000 comments, and anticipates receiving many more. Since we are still receiving comments on the proposal, we will not be able to address the agency's response in this statement. However, we can give you a brief description of the comments we have received to date. The AAMVA, with whom we developed the proposal, affirms in its comment that the proposal reflects the recommendations AAMVA made at the various stages of the proposal's development and that the proposal accords with the needs of State driver licensing agencies.

We received comments from individual State agencies, State legislative organizations, and other organizations familiar with the driver licensing process, as well as organizations with an

interest in issues of privacy. Some suggested changes to various details of the proposal. Four States objected to the proposal that all States must verify social security numbers, not just those States that do not use the number on their licenses and documents, on the grounds that this would exceed the agency's authority under the Act. Several comments objected to the entire proposal because of its costs, which they believe greatly exceed the agency's estimates, and because these costs, without Federal reimbursement, could represent an unfunded mandate. Other comments objected to the process on privacy grounds, fearing that more widespread use of the social security number could lead to easier access to personal information and to identity fraud.

The great majority of comments from the general public were extremely negative. Almost all of these comments object to the proposal in the strongest terms. The thrust of their objection is that they oppose the use of the social security number and what they uniformly regard as a proposal for a "national identification card."

The Administration had itself expressed concerns along these lines during the consideration of the Act, at a point where the legislation would have required the social security number to be placed on the license. The Department of Justice, in commenting for the Administration, expressed its strong reservations about this requirement, which it believed could lead to licenses becoming "tantamount to a universal identification card." It also suggested that the Act could create an unfunded mandate.

As we have stated earlier, subsection 656(b), as enacted, provides that the social security number need not appear on the license. The proposal accordingly does not propose that the social security number must appear on State driver's licenses and documents. It would appear that, for many commenters, any proposed use of the social security number raises the prospect of a national identification card, even if a State uses the number only to verify the identity of an applicant and does not use the social security number on State documents.

It is not our purpose to address the merits of Section 656(b), but only to state that in executing its requirements we sought to be faithful to the provisions of the Act.

The publication of the proposal gives the public the ability to see whether they agree with the underlying law. Insofar as all the provisions that have provoked public opposition are in fact required by the law, the Subcommittee has an opportunity to assess the public reaction directly. If it is the view of the Subcommittee that Subsection 656(b) has potential consequences that were not intended, we would be glad to work with the Subcommittee to devise alternative legislative means of addressing the purposes of the Act while ensuring the integrity of driver's licenses.

We want to state clearly that we have no programmatic interest in whether a final rule is issued. We issued the proposal because we were directed by the Act to do so. The use

of the social security number, which has proven highly controversial, has little bearing on the safety mission of the agency. Whatever the outcome of the rulemaking, the effect on our safety programs will be marginal. Yet we do not have the authority to amend the controversial aspects of the proposal or to terminate rulemaking.

To the extent that the controversy over the proposal is requiring us to address thousands of comments from angry members of the public, we would welcome the Congress's reassessment of subsection 656(b). Whether you choose to reaffirm its current requirements, amend it to achieve its purpose more precisely, or repeal it, we will execute your decision accordingly.

This concludes our statement. Thank you for the opportunity to submit our views.

[Whereupon, at 11:38 a.m., the subcommittee was adjourned.]
[Additional information submitted for the hearing record follows:]

**STATEMENT BY
CONGRESSMAN BOB BARR (R-GA)
BEFORE
THE HOUSE OF REPRESENTATIVES
COMMITTEE ON
GOVERNMENT REFORM AND OVERSIGHT
SUBCOMMITTEE ON NATIONAL ECONOMIC
GROWTH, NATURAL RESOURCES, AND
REGULATORY AFFAIRS
ON SEPTEMBER 17, 1998**

NATIONAL CITIZENS IDENTIFICATION CARD

I would like to thank the subcommittee for holding today's hearings on the establishment of a national identification card. I believe today's hearing will sharply focus the American people's attention on an issue which may have major consequences for each and every citizen now and for many decades to come.

In 1996, the House of Representatives had a lengthy debate on the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). As passed by the House of Representatives and sent to the U.S. Senate, the IIRIRA did not contain any provision for federal mandates to implement a National Identification Card.

The Senate added a provision to the immigration legislation -- Section 656 -- in the Conference Committee that very explicitly provides for National ID Card Program to begin moving forward and to be completed in October 2000. This provision was never debated in the Senate or the House, in fact, it was never discussed publicly. The House never voted on this provision with full debate on the constitutional and other legal implications of developing a national identification card.

Eventually, the Immigration Bill, including Section 656, was placed in the Omnibus Consolidate Appropriation Bill for Fiscal Year 1997, which was passed just prior to adjournment in the fall of 1996.

The National Highway Traffic Safety Administration (NHTSA) of the Department of Transportation proposed rules that were published in the Federal Register on June 17, 1998. These proposed regulations explicitly set forth a plan, now underway, directing that only identification cards with the data in the form and substance specified will not be acceptable for any federal programs and benefits.

The process of developing this national identification card is predicted not only on what will be necessary for a "federal benefit cards," but also tells the states they must also, for their driver's licenses or similar identification cards, include a list of specific information and a form acceptable to the federal regulators. The heart of this identification system will be Social Security numbers.

Recently, the Department of Transportation has promulgated a rule to provide the basis for a national identification card. It does this in part by directing that

all federal agencies may accept as proof of identity only a driver's license or identification document that conforms strictly to certain, specific and uniform requirements; and that if a state driver's license issued by any state fails in any respect to conform to such requirements, it shall not be acceptable for any federal purpose or by any federal agency. The proposed rule also requires that all driver's licenses or identification cards contain a Social Security number. Individuals applying for driver's licenses will be required to provide a Social Security number which will be verified with the Social Security Administration. The number will be placed on the driver's license.

The extended use of Social Security numbers in this manner could then justify state and federal proposals to link even more private information, such as health, education, banking, travel or firearm purchase records. While this apparently was not the intention of that provision in the 1996 law, it will be its result

Mr. Chairman, I want to take a moment to specifically state the proposed rule by the NHTSA violates the basic principles of the Tenth Amendment of the Constitution. Every state in this nation follows basic rules of the road when it comes to qualifying for the privilege of driving. A stop sign in Georgia looks like a stop sign in Indiana. However, driver's test are administered by each state, and the license is issued by that state. Driver's licenses are documents issued by the states under their own purview, and their regulation has never been placed in the hands of the federal government. The majority in Congress have taken numerous steps to stop the encroachment of federal agencies on the rights of the states. These NHTSA proposed rules are a clear example of the federal government mandating to the states how to deliver basic needs to its citizens.

In addition, there is the belief the NHTSA has underestimated the cost of this proposed rule which prevents it from coming under the provisions of the Unfunded Mandates Reform Act of 1996 (P.L. 104-4). Documents show the NHTSA's estimates are drawn from only five states which are not a representative sample of the United States. Information demonstrates that the cost for one state could be as high as \$25 million. In turn, the cost for all 50 states to comply will far exceed the \$100 million cap established under the Unfunded Mandates Act. Mr. Chairman, you and I, both support the Unfunded Mandates Act because we were both sent to Washington with the message "Let the states govern themselves, without the heavy hand of the federal government

showing them the way.”

Mr. Chairman, I want to take a moment to discuss the Citizen’s Protection Act of 1998, H.R. 4197. When I first learned about the proposed rule by NHTSA, I introduced legislation which would revoke Section 656 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. H.R. 4197 would provide general prohibitory language that no federal agency may construe any law as authorizing, directly or indirectly, the issuance or use of a National Identification Card.

I and many others, including millions of citizens, do not favor a national identification card and are very concerned with the moves in this direction, as well as with the method whereby this provision of law was implemented. When I introduced my legislation, I held a press conference in my home state of Georgia. Joining me at that event, were grassroots organizations as diverse as the Christian Coalition and the American Civil Liberties Union (ACLU). They pledged their support for this legislation, and stressed their opposition to a national identification card. Since that press conference, groups such as Eagle Forum, Americans for Tax Reform, the CATO Institute, the Coalition for Constitutional Liberties, and others have raised their opposition to NHTSA about the proposed rule and their support for individual constitutional liberties.

The Illegal Immigration Reform and Immigrant Responsibility Act was written to assist in dealing with the increase in illegal immigration in the United States. I believe the United States needs to take steps to protect our borders and provide the necessary resources to stop the spread of illegal immigration throughout this nation. Some have argued Section 656 does just that.

These individuals say Section 656 was written to help employers identify illegal aliens. However, each one of us here today knows that illegal aliens will be able to obtain inexpensive fraudulent documents, which some businesses will use as a way to justify that the individuals in question are legal while knowing there is high probability the person is an illegal alien. These sweeping and far-reaching proposed rules place the burden of compliance with a national identification system on law-abiding citizens, and no real obstacle for an illegal worker to obtain a fraudulent document.

The Clinton Administration recently proposed the establishment of a health

identification card. As each of us are aware, that proposal was almost immediately withdrawn by Vice President Al Gore because of the far reaching consequences of the proposal.

Mr. Chairman, the NHTSA proposed rule could lead the federal government to obtain information and develop a database which can include medical, economic, and personal information on each and every citizen. This type of database clearly poses a threat to the liberties embodied in the Constitution.

The NHTSA has extended the period of public comment but only to October 2, 1998. I appreciate this, but it is not sufficient. It does not allow us to fairly address this issue. I urge the NHTSA to rescind these proposed rules so Congress can debate this important issue, and then provide an informed response to illegal alien identification fraud.

Once again, I thank you for holding today's hearing and look forward to hearing the testimony of today's witness.

RON PAUL
14TH DISTRICT TEXAS

BANKING AND
FINANCE COMMITTEE

SUBCOMMITTEES
FINANCIAL INSTITUTIONS
AND CONSUMER CREDIT

DOMESTIC AND INTERNATIONAL
MONETARY POLICY

EDUCATION AND
WORKFORCE COMMITTEE

SUBCOMMITTEES
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Washington, DC 20515-4314

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9121 516-1231

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5121 396-1400

200 WEST 2ND STREET
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FRENDSHIP, TX 77541
4091 230-0000

MOBILE OFFICE
15121 753-5533

Statement of Hon. Ron Paul

Before the House Subcommittee on National Economic Growth,

Natural Resources, and Regulatory Affairs

Hearing on National Identifiers

9-17-98

Mr. Chairman, I appreciate the opportunity to present my views regarding the Federal Government's plan to create a national ID card, assign every American a uniform health identifier, as well as the trend toward transforming the Social Security number into a uniform numeric identifier. The creation of these identifiers represent perhaps the greatest threat to liberty facing Americans today. When one closely examines the details of these schemes it becomes clear that the proponents of Big Government wish to forbid Americans from going to work, getting a job, boarding a plane, seeing a doctor or conducting any other major life activity without their federally-approved identifier.

Such a system is incompatible with American liberty. If history teaches us anything, it is that when government gains the power to monitor the actions of the people, it eventually uses that power to impose totalitarian controls on the populace. American could very well come to resemble Nazi Germany or Soviet Russia, where state officials could arbitrarily punish innocent citizens for failure to produce the correct "papers!"

However, Congress does not need to look at this century's totalitarian societies for a clear view of the dangers of national identifiers. Just consider the numerous cases of IRS abuses that have been brought before Congress in the past few months, the history of abuse of FBI files and the case of a Medicaid clerk in Maryland who accessed a computerized data base and sold patients' names to an HMO.

I have introduced three pieces of legislation to protect the American people: the Freedom and Privacy Restoration Act (HR 4217) which repeals those sections of the 1996 Immigration Act that established federal standards for state drivers' licenses; the Patient Privacy Act (HR 4281)

which repeals those sections of the Health Insurance Portability and Accountability Act of 1996 that require the Department of Health and Human Services to establish a uniform standard health identifier, and the Privacy Protection Act (HR 3261), which forbids the federal and state governments from using the Social Security number for purposes unrelated to Social Security. HR 3261 and HR 4217 are currently pending before the Government Reform Committee.

Mr. Chairman, while I do not question the sincerity of those members who suggest that Congress can ensure citizens' rights are protected through legislation restricting access to personal information, the fact is the only solution to the threat to liberty created by the national drivers' licenses and the medical ID proposal is simply to repeal the provisions of law authorizing those identifiers. Legislative "privacy protections" are inadequate to protect the liberty of Americans for several reasons. First, federal laws have not stopped unscrupulous government officials from accessing personal information. Did laws stop the permanent violation of privacy by the IRS, or the FBI abuses by the Clinton and Nixon administrations?

Secondly, the federal government has been creating property interests in private information for certain state-favored third parties. For example, a little-noticed provision in the Patient Protection Act established a property right for insurance companies to access personal health care information. Congress also authorized private individuals to receive personal information from government data bases in the recent copyright bill. The Clinton Administration has even endorsed allowing law enforcement officials' access to health care information, in complete disregard of the fifth amendment. Obviously, "privacy protection" laws are inadequate to protect personal information when the government is the one providing the information!

The primary reason why actions short of the repeal of laws authorizing privacy protection is insufficient is because the federal government lacks constitutional authority to force citizens to adopt a universal identifier for health care, employment, or any reason. Any federal action that oversteps constitutional limitations violates liberty for it ratifies the principle that the federal government, not the Constitution, is the ultimate judge of its own jurisdiction over the people. The only effective protection of the rights of citizens is for Congress to follow Thomas Jefferson's advice and "bind (the federal government) down with the chains of the Constitution."

Mr. Chairman, those members who are unpersuaded by the moral and constitutional reasons for embracing my privacy package should consider the overwhelming opposition of the American people toward national ID cards and medical IDs. My office has been inundated with calls from around the country protesting the movement toward a national ID card and encouraging my efforts to thwart this scheme. Imagine the public reaction if we do nothing and Americans are forced to accept a federal ID and a uniform health identifier.

I need not remind the members of the Committee of the public outcry over the federally-approved drivers' licenses and uniform health identifier. All defenders of liberty must be heartened by the public outcry against these plans. I am also pleased that many other members of Congress, particularly Mr. Barr, have been working to reverse this scheme. Mr. Chairman, I hope to continue working with the members of this Subcommittee and all members of Congress to stop implementation of the federally-approved drivers' license and the uniform health identifier.

However, I also hope this Committee, and other members of Congress who are concerned about privacy, will join my efforts to stop the use of the Social Security number as an identifier. While it has not gotten as much attention as the attempt to nationalize drivers' licenses or assigning each American a unique health identifier, the abuse of the Social Security number may pose an even more immediate threat to American liberty. For all intents and purposes, the Social Security number is already a national identification number. Today, in the majority of states, no American can get a job, open a bank account, get a drivers' license, or even receive a birth certificate for one's child without presenting their Social Security number. So widespread has the use of the Social Security number become that a member of my staff recently had to produce a Social Security number in order to get a fishing license!

Perhaps the most disturbing abuse of the Social Security number is the congressionally-authorized rule forcing parents to get a Social Security number for their newborn children in order to claim them as dependents. Forcing parents to register their children with the state is more like something out of the nightmare of George Orwell than the dreams of a free republic that inspired the nation's founders.

Since the creation of the Social Security number in 1935, there have been almost 40 congressionally-authorized uses of the Social Security number as an identification number for non-Social Security programs! Many of these uses, such as the requirement that employers report the Social Security number of new employees to the "new hires data base" have been enacted in the past few years. In fact, just last spring, 210 of members of Congress voted to allow states to require citizens to allow states to force citizens to produce a Social Security number before they could exercise their right to vote.

In conclusion, Mr. Chairman, I once again thank the members of the subcommittee for their interest in this vital issue. I hope that the members will work with me to pass the Freedom and Privacy Restoration Act (HR 4217) and the Patient Privacy Act (HR 4281). It is also my sincere hope that after Congress has indeed stopped the national ID card and the medical ID we are not fooled into thinking that we have addressed all threats to the privacy of the American people. Only when Congress stops the use of the Social Security number as a de facto national ID number by passing my Privacy Protection Act (HR 3261), will Congress have done its constitutional and moral duty to protect the privacy of the American people.

federal register

Wednesday
June 17, 1998

Part V

Department of Transportation

National Highway Traffic Safety
Administration

23 CFR Part 1331
State-Issued Driver's Licenses and
Comparable Identification Documents;
Proposed Rule

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

23 CFR Part 1331

[Docket No. NHTSA-98-3948]

RM 2127-AQ-91

State-Issued Driver's Licenses and Comparable Identification Documents

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.
ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes regulations to implement the requirements contained in section 656(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. Section 656(b) of the Act, entitled State-Issued Driver's Licenses and Comparable Identification Documents, provides that a Federal agency may only accept as proof of identity a driver's license or identification document that conforms to specific requirements. In accordance with regulations issued by the Secretary of Transportation. This Notice of Proposed Rulemaking requests those regulations. The agency proposes comments on its proposal.

DATES: Comments must be received by August 3, 1998.

ADDRESSES: Written comments should refer to the docket number and the number of this notice, and be submitted (preferably two copies) to: Docket Management, Room PL-401, National Highway Traffic Safety Administration, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. (Docket hours are Monday-Friday, 10 a.m. to 5 p.m., excluding Federal holidays.)

FOR FURTHER INFORMATION CONTACT: Mr. William Holden, Chief, Driver Register and Traffic Records Division, NTS-32, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590; telephone (202) 366-4800, or Ms. Heidi L. Coleman, Assistant Chief Counsel for General Law, NCC-30, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590; telephone (202) 366-1834.

SUPPLEMENTARY INFORMATION: On September 30, 1996, the Omnibus Consolidated Appropriations Act for Fiscal Year 1997, P.L. 104-208, was signed into law. Included in the Omnibus Act were the provisions of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (hereinafter, the "Immigration Reform Act"). The purpose of the Immigration Reform Act was to improve deterrence of illegal immigration into the United States.

Section 656(b) of the Act, entitled State-Issued Driver's Licenses and Comparable Identification Documents, provides that, after October 1, 2000, Federal agencies may not accept as proof of identity driver's licenses or other comparable identification documents, issued by a State, unless the driver's license or identification document conforms to certain requirements.

A. Statutory Requirements

Section 656(b) establishes three requirements that State-issued driver's licenses or other comparable identification documents must meet, to be acceptable as proof of identity:

1. **Application Process**—The application process for the driver's license or identification document shall include the presentation of such evidence of identity as is required by regulations promulgated by the Secretary of Transportation, after consultation with the American Association of Motor Vehicle Administrators (AAMVA).

2. **Form**—The driver's license or identification document shall be in a form consistent with requirements set forth in regulations promulgated by the Secretary of Transportation, after consultation with AAMVA. The form shall contain security features designed to limit tampering, counterfeiting, photocopying, or otherwise duplicating the driver's license or identification document for fraudulent purposes and to limit the use of the driver's license or identification document by imposters.

3. **Social Security Number**—The driver's license or identification document shall contain a social security number that can be read visually or by electronic means, unless the State issuing such driver's license or identification document meets certain conditions:

To meet the conditions, the State must not require the driver's license or identification document to contain a social security number and the State must require the submission of the social security number by every applicant for a driver's license or identification document. The State must also require that a State agency verify the validity of the social security number with the Social Security Administration (SSA).

B. Promulgation of Regulations, After Consultation With AAMVA

The Immigration Reform Act requires that the Secretary of Transportation issue regulations governing State-issued driver's licenses and comparable identification documents. The Act

provides, however, that the Department must first consult with the American Association of Motor Vehicle Administrators.

AAMVA is a voluntary, nonprofit, membership organization that represents the State and provincial officials (generally, referred to as motor vehicle administrators) in the United States and Canada who are responsible for the administration and enforcement of laws pertaining to motor vehicles and their use. The issue of fraudulent driver's licenses and identification documents has been of concern to AAMVA for many years. In an effort to address this problem, AAMVA formed a Uniform Identification Working Group to establish uniform identification procedures. In May 1996, the working group published the Uniform Identification Practices Model Program (hereinafter, the "model program").

In accordance with the dictates of the Immigration Reform Act, NHTSA consulted with AAMVA prior to issuing this Notice of Proposed Rulemaking and it considered carefully the contents of the working group's model program. Although not directed to by the legislation, NHTSA also consulted with officials of interested Federal agencies, including the Social Security Administration and the Immigration and Naturalization Service (INS).

C. Requirements in Proposed Regulation

This Notice of Proposed Rulemaking (NPRM) proposes a regulation that would implement the requirements of Section 656(b) of the Immigration Reform Act. The requirements being proposed are discussed below.

1. Evidence of Identity

As explained above, Section 656(b) provides that driver's licenses or other comparable identification documents issued by a State will not, after October 1, 2000, be accepted by a Federal agency for any identification-related purpose unless the application process for the driver's license or identification document shall include the presentation of such evidence of identity as is required by regulations promulgated by the Secretary of Transportation.

Consistent with the working group's model program, NHTSA proposes that identical identification standards be followed for both driver's licenses and identification documents. The proposed rule provides that an applicant would be required to submit one primary and one secondary document for a new or duplicate driver's license or identification document. Renewal applicants would be required to show

only their current driver's license or identification document. If the current driver's license or identification document is unavailable, the applicant would be required to submit instead a primary and secondary document.

The purpose of the primary document is to establish identity. As proposed in this NPRM, the primary document would need to contain the applicant's full legal name (including middle name) and date of birth, and it would need to be verifiable. The purpose of the secondary document is to assist in confirming identity. As proposed in this NPRM, the secondary document would need to contain the applicant's name, plus sufficient substantiating information for all or part of the information contained on the primary document, to confirm the identity of the individual.

The agency proposes to list acceptable primary and secondary documents in appendices to the final rule. As needed, the agency would publish subsequent documents in the Federal Register, updating these appendices. Proposed lists of acceptable primary and secondary documents are attached to today's NPRM as Appendix A and Appendix B to part 1331. The proposed rule provides that exceptions to the published lists of acceptable documents could be made by States, provided the exceptions are made in accordance with established procedures and on an infrequent basis and only in extreme circumstances, such as a fire or natural disaster.

2. Form and Security Features

To be acceptable after October 1, 2000, driver's licenses or identification documents shall also be in a form consistent with requirements set forth in regulations promulgated by the Secretary of Transportation. The statute requires that the form shall contain security features designed to limit tampering with, counterfeiting, photocopying, or otherwise duplicating, the driver's license or identification document for fraudulent purposes and to limit the use of the driver's license or identification document by imposters.

Consistent with the working group's model program, NHTSA proposes that, as a minimum, certain features shall be included on both driver's licenses and identification documents. The proposed list of features is included in the proposed regulation. The agency believes that some of the features included on the proposed list will help to limit the use of the driver's license or identification document by imposters, such as the applicant's date of birth and

signature, and a color photograph or image.

"Security features" is also included as an item on the proposed list. The incorporation of security features into a driver's license and identification document will make it more difficult for persons to tamper with, counterfeit, photocopy, or otherwise duplicate, a driver's license or identification document for fraudulent purposes. Various techniques and technologies are currently available to State licensing agencies that are effective at deterring these practices. The proposed rule requires States to include one or more security features on driver's licenses and identification documents. The agency urges States, however, to adopt as many such features as is practicable, because the more features a State includes on its driver's licenses and identification documents, the more difficult it would be for individuals to counterfeit or otherwise misuse these documents.

The agency proposes to provide a list of suggested security features in an appendix to the final rule. As needed, the agency would publish subsequent documents in the Federal Register, updating this appendix. A proposed list of such features is attached as Appendix C to part 1331 in today's NPRM.

3. Social Security Number

The Immigration Reform Act provides that, to be acceptable after October 1, 2000, driver's licenses or identification documents shall contain a social security number that can be read visually or by electronic means, except in States that meet certain conditions.

As stated previously, States meet the conditions if they require the submission of the social security number by every applicant for a driver's license or identification document, but do not require that the social security number be included on the driver's license or identification document. The State must also require that an agency of the State verify the validity of the social security number with the Social Security Administration. The NPRM implements this provision by indicating that States may include social security numbers on driver's licenses and identification documents, but must require all applicants to submit their social security number and must verify each applicant's social security number as described below.

a. Validation

The proposed regulation specifies that, with one exception described below, all States shall verify the validity of each applicant's social security

number with the Social Security Administration, whether or not the social security number is to be included on the driver's license or identification document, unless previously validated.

The working group's model program recommended that "key" information, such as social security numbers, should be verified for each transaction. The model program, which was published in May 1996, stated, "Electronic verification with the Social Security Administration is now possible," and the model program urged all States to "take advantage of the electronic access and verify [social security numbers] with the SSA."

For those States that were not capable at that time of performing electronic verification, the model program stated that "manual verification should be required." It was recommended that certain documents could be used to verify social security numbers manually, such as social security cards (but not metal cards), letters from the Social Security Administration, IRS/State tax forms (but not a W-2 form), financial statements containing social security numbers, payroll stubs containing social security numbers or military ID's containing social security numbers.

The agency hopes that, by October 1, 2000, each State will be capable of verifying social security numbers electronically, rather than manually. Therefore, the agency has proposed in the NPRM that, beginning October 1, 2000, each State shall verify each application for a new, duplicate or renewal driver's license or identification document electronically with the Social Security Administration, unless previously validated.

The agency requests comments on this proposed requirement. In particular, the agency seeks comments regarding whether States do not expect to be capable of verifying the social security numbers for all driver's license and identification document applicants by October 1, 2000. If it is expected that any State may not have such a capability by that date, the agency requests that comments include a prediction of the date by which such State may have this capability.

b. Individuals Unable to Obtain Social Security Numbers

The Immigration Reform Act requires all States to request the social security number from every applicant for a driver's license or identification document.

It has been brought to the agency's attention, however, that some individuals who may wish to apply for

a driver's license or identification document may not have a social security number. Many nonimmigrant aliens (such as foreign students) are lawfully present in the United States long enough to need to obtain a State issued driver's license, but may not have INS work authorization or any other reason to be eligible to obtain a social security number. Some States have sought guidance from the agency on how they can comply with the Immigration Reform Act without having to deny a driver's license to "legal aliens" who are prevented by their status from obtaining a social security number.

The Immigration Reform Act was not enacted into law to prevent individuals who are legally in the United States from holding valid driver's licenses or identification documents. Rather, the statute was enacted to deter illegal immigration into the United States.

The agency proposes to permit States to continue processing applications for driver's licenses and identification documents for individuals legally in the United States. At the time of application for a new or duplicate driver's license or identification document, such individuals would be required under the proposed rule to submit (in addition to primary and secondary documents) a document demonstrating their lawful presence in the United States. This "proof of lawful presence" document would need to be verified by confirming that the document reasonably appears on its face to be genuine as it relates to the applicant.

The agency proposes to list acceptable "proof of lawful presence" documents in an appendix to the final rule. As needed, the agency would publish subsequent documents in the Federal Register, updating this appendix. A proposed list of acceptable "proof of lawful presence" documents is attached to today's NPRM as Appendix D to part 1331.

States that include an individual's social security number on driver's licenses and identification documents may choose to include instead on documents for individuals who do not have a social security number an alternative numeric identifier. An alternative numeric identifier is a unique identification number issued by a State driver licensing agency to an individual who does not have a social security number. The alternative numeric identifier should not contain the same number sequence as a social security number to protect against confusion with or duplication of a social security number. In addition, the agency proposes that States must require

applicants who claim not to hold social security numbers to sign certifying statements to that effect.

4. Certification of Compliance

The proposed rule provides that States must demonstrate compliance with the requirements of the regulation by submitting a certification to the National Highway Traffic Safety Administration. The certification shall contain a statement by an appropriate State official, that the State's driver's licenses and identification documents conform to the requirements contained in the regulation.

The agency seeks comments regarding whether States expect to be able to meet all requirements of the regulation by October 1, 2006. If it is expected that any State may not be able to meet all requirements by that date, the agency requests comments about whether the regulation should contain a provision setting forth a procedure to allow States to request an extension of time to comply with the requirements of the regulation. If such a provision should be included, the agency seeks comments about what criteria should be used to determine when an extension should be granted.

5. Grants

Section 656(b)(2) requires the Secretary of Transportation to make grants available to the States to assist them in issuing driver's licenses and comparable identification documents that satisfy the requirements of the law. The President included a request for \$225,000 in his fiscal year 1999 budget for these grants. The Department of Transportation is still developing its fiscal year 2000 budget.

Written Comments

Interested persons are invited to comment on this Notice of Proposed Rulemaking. If such a provision should be included, the agency seeks comments about what criteria should be used to determine when an extension should be granted.

All comments must be limited to 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. (49 CFR 553.21.) This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

Written comments to the public docket must be received by August 3, 1998. All comments received before the close of business on the comment closing date will be considered and will be available for examination in the docket at the above address before and after that date. To the extent possible, comments received after the closing date will also be considered. However, the rulemaking action may proceed at

any time after that date. NHTSA will continue to file relevant material in the docket as they become available after the closing date, and it is recommended that interested persons continue to examine the docket for new materials. To expedite submission of comments, simultaneous with the issuance of this notice NHTSA will mail copies to all Governor's Representatives for Highway Safety and to the motor vehicle administrators for each State.

Those persons desiring to be notified upon receipt of their comments in the docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Copies of all documents will be placed in Docket No. NHTSA-98-3945; in Docket Management, Room PL-401, Nassif Building, 400 Seventh Street, SW, Washington, DC 20590.

Regulatory Analyses and Notice

Executive Order 12778 (Civil Justice Reform)

This proposed rule would not have any preemptive or retroactive effect. The enabling legislation does not establish a procedure for judicial review of rules promulgated under its provisions. There is no requirement that individuals submit a petition for reconsideration or other administrative proceedings before they may file suit in court.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The agency has examined the impact of the proposed action and has determined that the proposed action is not significant under Executive Order 12866 and the Department of Transportation's Regulatory Policies and Procedures.

The action will not have an annual effect on the economy of \$100 million or more or adversely affect in a material way a sector of the economy, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities. It will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency, and it will not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof. Nor does it raise novel legal or policy issues.

To estimate the costs and benefits of the proposed action, NHTSA prepared a Preliminary Regulatory Evaluation (PRE), assessing the costs and benefits. It has been placed in the docket for this

proceeding and is available for public inspection. Based on the analysis contained in the PRE, NHTSA predicts that States will incur costs to comply with the requirements of the regulation. The costs will be associated with redesigning driver's licenses and identification documents to include social security numbers, adding security and other features to these documents, computer programming changes, verifying social security numbers, revising forms and training employees. Based on estimates that it received from five States (Delaware, Iowa, Montana, Utah and Wisconsin), the agency estimates the total national first year costs associated with the regulation to range from \$24,848,852 to \$72,568,998. The total annual estimated national costs thereafter range from \$7,687,984 to \$51,713,028. The primary benefits of the proposed rule is that it will help limit tampering with, counterfeiting, photocopying, or otherwise duplicating driver's licenses or identification documents for fraudulent purposes. It will also help limit the use of driver's licenses or identification documents by imposters.

The proposed action is not significant under the Department's Regulatory Policies and Procedures because it does not involve important Departmental policies; rather it is being proposed for the purpose of implementing the provisions contained in Public Law 104-208.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601-612), the agency has evaluated the effects of this proposed action on small entities. Based on the evaluation, we certify that this action will not have a significant impact on a substantial number of small entities. Accordingly, the preparation of a Regulatory Flexibility Analysis is unnecessary.

Paperwork Reduction Act

This notice contains information collection requirements that have been submitted to the Office of Management and Budget for review under the provisions of the Paperwork Reduction Act. The title, description, and respondent description of the information collection are shown below with an estimate of the annual burden.

Title: Improvements in Identification Related Documents—State-Issued Driver's Licenses and Comparable Identification Documents.

OMB Clearance number: Not assigned.

Description of the need for the information and proposed use of the

information: In order to ensure that States comply with the Act and regulations, NHTSA is proposing to require each State to certify its compliance. Once the State has made the necessary modifications to its procedures and systems and has begun to carry out the requirements of the Act, it would submit to NHTSA a letter certifying that it complies with the regulations.

Description of likely respondents (including estimate of proposed frequency of response to the collection of information): The respondents are the State driver licensing agencies. All respondents would submit to NHTSA a letter certifying compliance with the regulations one time only.

Estimate of total annual reporting and record keeping burden resulting from the collection of information: NHTSA estimates that each respondent will incur 15 minutes in preparing and submitting the certification letter for a total of 13.5 hours (15 minutes x 54 respondents) x \$36.00 per hour employee cost, for a total cost of \$513.00.

Individuals and organizations may submit comments on the information collection requirements by August 3, 1998, and should direct them to the docket for this proceeding and the Office of Management and Budget, New Executive Office Building, Room 10202, Washington D.C. 20503. Attention: Desk Officer for DOT/OST. Persons are not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

The agency has analyzed this proposed action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and has determined that it would not have any significant impact on the quality of the human environment.

The Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (Public Law 104-4) requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually. This proposed rule does not meet the definition of a Federal mandate, because the resulting annual expenditures will not exceed the \$100 million threshold.

Executive Order 12612 (Federalism Assessment)

This proposed action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this proposed action would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

In consideration of the foregoing, a new Part 1331 is added to chapter III of Title 23 of the Code of Federal Regulations to read as follows:

Part 1331—State-Issued Driver's Licenses and Comparable Identification Documents

Subpart A—General

§ 1331.1 Scope.
§ 1331.2 Purpose.
§ 1331.3 Definitions.

Subpart B—Procedures

Sec.
§ 1331.4 Application process.
§ 1331.5 Form and security features.
§ 1331.6 Social security number.
§ 1331.7 Effective date.
§ 1331.8 Certification.

Appendix to Part 1331

Appendix A—Privacy documents.
Appendix B—Secondary documents.
Appendix C—Security features.
Appendix D—Proof of lawful presence documents.

Authority: Pub. L. 104-208, 110 Stat. 3008-718 (5 U.S.C. 301) delegation of authority at 49 CFR 1.301.

Subpart A—General

§ 1331.1 Scope.

This part provides procedures for States to comply with the provisions of section 854 (Improvements in Identification—Related Documents) of Title VI (Miscellaneous provisions) of the Omnibus Consolidated Appropriations Act for Fiscal Year 1997 (Public Law 104-208) relating to the acceptance by Federal agencies for identification purposes of a driver's license, or other comparable identification document, issued by a State.

§ 1331.2 Purpose.

The purpose of this part is to implement the provisions of section 854(a) of the Illegal Immigration Reform and Immigrant Responsibility Act, 5 U.S.C. 301.

§ 1331.3 Definitions.

(a) State means all fifty States and the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

(b) *Federal agency* means any of the following:

- (1) An executive agency (as defined in 5 U.S.C. 105).
- (2) A military department (as defined in 5 U.S.C. 102).
- (3) An agency in the legislative branch of the Government of the United States.
- (4) An agency in the judicial branch of the Government of the United States.

(c) *Driver's license* means a license issued by a State to any individual that authorizes the individual to operate a motor vehicle on highways.

(d) *Other comparable identification document* means a personal identification card issued by a State to non-drivers for identification purposes.

(e) *Primary document* means a verifiable document used to provide evidence of identity which contains an applicant's full legal name (including middle name) and date of birth.

(f) *Secondary document* means a document used to provide additional evidence of identity which contains an applicant's name plus sufficient substantiating information for all or part of the information contained on the primary document.

(g) *Proof of lawful presence document* means a verifiable document used to establish the identity and lawful presence of an individual who does not have and is ineligible to obtain a social security number.

(h) *Valid social security number* means a unique identification number issued by the Social Security Administration to every individual who meets the Agency's requirements to receive a number.

(i) *Alternative numeric identifier* means a unique identification number issued by a driver licensing agency to an individual who does not have a social security number.

Subpart B—Procedures

§ 1331.4 Application process.

A Federal agency may not accept for any identification related purpose a driver's license or other comparable identification document issued by a State, unless the license or document satisfies the following requirements.

(a)(1) The application process for an original or duplicate license or document shall include presentation of one primary and one secondary document. Lists of acceptable primary and secondary documents are attached to this part as Appendix A and Appendix B, respectively.

(2) States may accept documents that are not listed in Appendix A or Appendix B of this part at their discretion in cases where an applicant

cannot submit the required documents. Such exceptions shall be made only in accordance with established procedures and on an infrequent basis and only in extreme circumstances, such as a fire or natural disaster.

(b) The application process for a renewal license or document shall include presentation of an applicant's current license or document. If the current license or document is unavailable the applicant would be required to submit instead a primary and secondary document.

§ 1331.5 Form and security features.

The license or document shall contain the following features:

- (a) Jurisdiction of issuance;
- (b) Indicator that the document is a driver's license or identification card, whichever is applicable;
- (c) Driver license/ID card number;
- (d) Full name of the applicant;
- (e) Date of birth;
- (f) The license classification, restriction(s), or endorsement(s) (if a driver license);
- (g) Color photograph or image;
- (h) Expiration date;
- (i) Signature;
- (j) Address (mailing or residential, as determined by the issuing agency);
- (k) Issuance date;
- (l) Physical description, which may include sex, height, weight, eye and hair color, and
- (m) One or more security features—A list of suggested security features is included in Appendix C of this part.

§ 1331.6 Social security number.

(a) Before issuing a license or document each State shall:

- (1) Require the submission of the social security number by every applicant for a license or document.
- (2) Verify electronically the validity of each applicant's social security number with the Social Security Administration.

(b) States may require licenses and documents to contain social security numbers that can be read visually or by electronic means.

(c) Before issuing a license or document to an alien individual who does not possess and is ineligible to obtain a social security number, each State shall:

- (1) Require the applicant to present, in addition to the documents required to be presented under § 1331.4 (a) and (b), a document demonstrating lawful presence in the United States in a status in which the applicant may be ineligible to obtain a social security number. A list of acceptable "proof of lawful presence" documents is attached to this part as Appendix D.

(2) Verify the validity of each applicant's "proof of lawful presence" document by confirming that the document reasonably appears on its face to be genuine as it relates to the applicant.

(d) States shall require each applicant who claims not to hold a social security number to sign a certifying statement to that effect.

(e) States may require licenses and documents issued to individuals who do not possess social security numbers to contain an alternative numeric identifier that can be read visually or by electronic means.

§ 1331.7 Effective date.

Sections 1331.4 through 1331.6 shall take effect beginning on October 1, 2000, but shall apply only to licenses or documents issued to an individual for the first time and to replacement or renewal licenses or documents issued according to State law.

§ 1331.8 Certification.

(a) To demonstrate compliance with this part, a State shall certify that its licenses and documents conform to the requirements contained in this regulation. The certification should be submitted by September 30, 2000, to the National Highway Traffic Safety Administration, 400 Seventh St., S.W. Washington D.C. 20590.

(b) The certification shall contain a statement by an appropriate State official, that the State's licenses and documents conform to the requirements of this part.

Appendices to Part 1331

Appendix A—Primary Documents

A primary document must contain the full name and date of birth of the individual, and must be verifiable, i.e., the State must be able to contact the issuing agency to determine the authenticity of the document. Primary documents include:

- (1) State issued or Canadian photo driver's license that has not been expired for more than one year.
- (2) State issued or Canadian issued photo identification card that has not been expired for more than one year.
- (3) Microfilm/copy of a State issued or Canadian driver's license or identification card that has not been expired for more than one year that is certified by the issuing agency.
- (4) Original or certified copy of a United States or Canadian birth certificate. The certificate must have a raised seal and be issued by an authorized government agency such as the Bureau of Vital Statistics or State Board of Health. Hospital issued certificates and baptismal certificates are not acceptable.
- (5) The following immigration and Naturalization Service (INS) documents are also acceptable, as long as they are original and unexpired:
 - (a) Certificate of Naturalization.
 - (b) Certificate of Citizenship.
 - (c) Certificate of Permanent Residence.
 - (d) Certificate of Temporary Residence.
 - (e) Certificate of Naturalization (expired).
 - (f) Certificate of Citizenship (expired).
 - (g) Certificate of Permanent Residence (expired).
 - (h) Certificate of Temporary Residence (expired).

(a) Certificate of Naturalization (N-550, N-570, or N-578).

(b) Certificate of Citizenship (N-580, N-581, or N-645).

(c) Northern Marianas Card.

(d) American Indian Card.

(e) United States Citizen Identification Card (I-178 or I-197).

(f) Resident Alien Card or Permanent Resident Card (I-551).

(g) Temporary Resident Card (I-688).

(h) Arrival-Departure Record (in a valid foreign passport) (I-94).

(i) Valid foreign passport containing an I-551 stamp.

(j) U.S. Re-entry Permit (I-327).

(k) Exchange Treaty Document (I-571).

(l) Employment Authorization Card or Employment Authorization Document (I-688A, I-688B, I-768).

(m) Arrival-Departure Record stamped "refugee (I-94) (I-94's stamp not likely to be in a foreign passport).

(n) Canadian Immigration Record and Visa or Record of Landing (IMM 100).

(o) Report of Birth Abroad by a Citizen of the United States, issued by a United States consular officer.

(p) Court order which must contain the individual's full name, date of birth and court seal. Some examples include an adoption document, a name change document, gender change document, etc. It does not include an abstract of criminal or civil conviction.

(q) Active duty, retiree or reservist military identification card.

(10) Valid U.S. or Canadian passport.

(11) State-issued driver's learner permit with a photograph that has not been expired for more than one year.

(12) Canadian Department of Indian Affairs issued Identification card. Tribal issued card is not acceptable. A U.S. issued Department of Indian Affairs card is not acceptable.

Appendix B—Secondary Documents

Secondary documents must contain the applicant's name and sufficient substantiating information for all or part of the information contained on the primary document. Foreign documents are acceptable only as specifically authorized. Secondary documents include:

- (1) All primary documents.
- (2) Bureau of Indian Affairs card or an Indian Treaty card. A Tribal identification card is not acceptable. (Note: Some Tribal identification cards are actually more reliable than Bureau of Indian Affairs cards. Department of Motor Vehicle Agencies should make a determination about whether to accept a card based on their own research of what is or is not acceptable.)

(3) Driver's license or an identification card that has expired for more than one year.

(4) Court order that does not contain the applicant's date of birth.

(5) Photographic employer identification card.

(6) Foreign birth certificate. It must be translated by an approved translator.

(7) Foreign passport.

(8) Health insurance card, i.e., Blue Cross/Blue Shield, Kaiser, or a health maintenance organization (HMO).

(9) Internal Revenue Service (IRS) or State tax form. A W-2 is not acceptable.

(10) Marriage certificate or license.

(11) Individual's medical records from a doctor or hospital.

(12) Military dependent identification.

(13) Military discharge or separation papers.

(14) Parent or guardian affidavit. The parent or guardian must appear in person and prove their identity and submit a certified or notarized affidavit regarding the child's identity. This policy is only applicable to minors.

(15) Gun permit.

(16) Pilot's license.

(17) Certified school record or transcript.

(18) Social security card. A mail card is not acceptable.

(19) Photographic student identification card.

(20) Vehicle title. A vehicle registration is not acceptable.

(21) Welfare card.

(22) Prison release document.

Appendix C—Security Features

States must use one or more security features on their driver's licenses and identification cards to prevent alteration and tampering of their documents. Suggested security features include, but are not limited to, the following:

- (1) Ghost image.
- (2) Ghost graphic.
- (3) Hologram.
- (4) Optical variable device.
- (5) Microline printing.
- (6) State seal or a signature which overlaps the individual's photograph or information.
- (7) Security laminate.
- (8) Background consisting color, pattern, line or design.
- (9) Rainbow printing.
- (10) Guilloché pattern or design.
- (11) Opacity mark.
- (12) Out of gamut colors (i.e., pastel print).
- (13) Optical variable ultra-high-resolution lines.
- (14) Block graphics.
- (15) Security fonts and graphics with known hidden flaws.

(16) Card stock, layer with colors.

(17) Micro-graphics.

(18) Retroreflective security logos.

(19) Machine readable technologies such as magnetic strips, a ID bar code or a 2D bar code.

Appendix D—Proof of lawful presence documents

States must require individuals who do not have and are not eligible to obtain, social security numbers to submit, in addition to primary and secondary documents, a "proof of lawful presence" document when applying for a driver's license or comparable identification documents. Acceptable "proof of lawful presence" documents include the following documents as long as they are original and unexpired.

The INS documents listed in Appendix A are not acceptable except for certain Forms I-94 as described below. Note that Appendix D includes documents (such as I-186 Nonresident Alien Mexican Border Crossing Card) that normally are issued to short-term nonresident visitors. States should continue to apply their existing laws and policies regarding requirements and proof of State residence.

(1) Arrival-Departure Record (I-94) (Class A-1, A-2, A-3, B-1, B-2, C-1, C-2, C-3, E-1, E-2, F-1, F-2, G-1, G-2, G-3, G-4, G-5, H-4, I, J-2, K-2, L-2, M-1, M-2, NATO 1-7, O-3, P-4, R-2, S-5, S-8, S-7, TC, TD, Cuban/Haitian Entrant, Parolee).

The form I-94 cannot state "Employment Authorized." If a foreign passport and Form I-94 have been presented as primary or secondary evidence, that Form I-94 is also an acceptable Appendix D document, but only if it fits the Appendix D description.

(2) Visa Waiver Arrival-Departure Record (I-94W) (Class WB, WT).

(3) Crewman's Landing Permit (I-95A).

(4) Alien Crewman Landing Permit and Identification Card (I-184).

(5) Nonresident Alien Canadian Border Crossing Card (I-183).

(6) Nonresident Alien Mexican Border Crossing Card (I-186).

(7) Nonresident Alien Border Crossing Card (I-589).

(8) B-1/B-2 Visa/BCC (DSP-150).

Issued on: June 12, 1998.

Philip R. Recht,

Deputy Administrator, National Highway

Traffic Safety Administration.

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BLSING CODE 9810-00-P

(II) whose birth is registered in the United States; and

(B) that—

(i) is a copy, issued by a State or local authorized custodian of record, of an original certificate of birth issued by such custodian of record; or

(ii) was issued by a State or local authorized custodian of record and was produced from birth records maintained by such custodian of record.

(b) STATE-ISSUED DRIVERS LICENSES AND COMPARABLE IDENTIFICATION DOCUMENTS.—

(1) STANDARDS FOR ACCEPTANCE BY FEDERAL AGENCIES.—

(A) IN GENERAL.—A Federal agency may not accept for any identification-related purpose a driver's license, or other comparable identification document, issued by a State, unless the license or document satisfies the following requirements:

(i) **APPLICATION PROCESS.—**The application process for the license or document shall include the presentation of such evidence of identity as is required by regulations promulgated by the Secretary of Transportation after consultation with the American Association of Motor Vehicle Administrators.

(ii) **SOCIAL SECURITY NUMBER.—**Except as provided in subparagraph (B), the license or document shall contain a social security account number that can be read visually or by electronic means.

(iii) **FORM.—**The license or document otherwise shall be in a form consistent with requirements set forth in regulations promulgated by the Secretary of Transportation after consultation with the American Association of Motor Vehicle Administrators. The form shall contain security features designed to limit tampering, counterfeiting, photocopying, or otherwise duplicating, the license or document for fraudulent purposes and to limit use of the license or document by impostors.

(B) EXCEPTION.—The requirement in subparagraph (A)(ii) shall not apply with respect to a driver's license or other comparable identification document issued by a State, if the State—

(i) does not require the license or document to contain a social security account number; and

(ii) requires—

(I) every applicant for a driver's license, or other comparable identification document, to submit the applicant's social security account number; and

(II) an agency of the State to verify with the Social Security Administration that such account number is valid.

(C) DEADLINE.—The Secretary of Transportation shall promulgate the regulations referred to in clauses (i) and (iii) of subparagraph (A) not later than 1 year after the date of the enactment of this Act.

(2) GRANTS TO STATES.—Beginning on the date final regulations are promulgated under paragraph (1), the Secretary of

110 STAT. 3009-719 PUBLIC LAW 104-208—SEPT 30, 1996

Transportation shall make grants to States to assist them in issuing driver's licenses and other comparable identification documents that satisfy the requirements under such paragraph.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, this subsection shall take effect on the date of the enactment of this Act.

(B) PROHIBITION ON FEDERAL AGENCIES.—Subparagraphs (A) and (B) of paragraph (1) shall take effect beginning on October 1, 2000, but shall apply only to licenses or documents issued to an individual for the first time and to replacement or renewal licenses or documents issued according to State law.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report to the Congress on ways to reduce the fraudulent obtaining and the fraudulent use of birth certificates, including any such use to obtain a social security account number or a State or Federal document related to identification or immigration.

(d) FEDERAL AGENCY DEFINED.—For purposes of this section, the term "Federal agency" means any of the following:

- (1) An Executive agency (as defined in section 105 of title 5, United States Code).
- (2) A military department (as defined in section 102 of such title).
- (3) An agency in the legislative branch of the Government of the United States.
- (4) An agency in the judicial branch of the Government of the United States.

"(1) IN GENERAL.—The Secretary shall adopt standards for transactions, and data elements for such transactions, to enable health information to be exchanged electronically, that are appropriate for—

"(A) the financial and administrative transactions described in paragraph (2); and

"(B) other financial and administrative transactions determined appropriate by the Secretary, consistent with the goals of improving the operation of the health care system and reducing administrative costs.

"(2) TRANSACTIONS.—The transactions referred to in paragraph (1)(A) are transactions with respect to the following:

"(A) Health claims or equivalent encounter information.

"(B) Health claims attachments.

"(C) Enrollment and disenrollment in a health plan.

"(D) Eligibility for a health plan.

"(E) Health care payment and remittance advice.

"(F) Health plan premium payments.

"(G) First report of injury.

"(H) Health claim status.

"(I) Referral certification and authorization.

"(3) ACCOMMODATION OF SPECIFIC PROVIDERS.—The standards adopted by the Secretary under paragraph (1) shall accommodate the needs of different types of health care providers.

"(b) UNIQUE HEALTH IDENTIFIERS.—

"(1) IN GENERAL.—The Secretary shall adopt standards providing for a standard unique health identifier for each individual employer, health plan, and health care provider for use in the health care system. In carrying out the preceding sentence for each health plan and health care provider, the Secretary shall take into account multiple uses for identifiers and multiple locations and specialty classifications for health care providers.

"(2) USE OF IDENTIFIERS.—The standards adopted under paragraph (1) shall specify the purposes for which a unique health identifier may be used.

"(c) CODE SETS.—

"(1) IN GENERAL.—The Secretary shall adopt standards that—

"(A) select code sets for appropriate data elements for the transactions referred to in subsection (a)(1) from among the code sets that have been developed by private and public entities; or

"(B) establish code sets for such data elements if no code sets for the data elements have been developed.

"(2) DISTRIBUTION.—The Secretary shall establish efficient and low-cost procedures for distribution (including electronic distribution) of code sets and modifications made to such code sets under section 1174(b).

"(d) SECURITY STANDARDS FOR HEALTH INFORMATION.—

"(1) SECURITY STANDARDS.—The Secretary shall adopt security standards that—

"(A) take into account—

"(i) the technical capabilities of record systems used to maintain health information;

"(ii) the costs of security measures;
 "(iii) the need for training persons who have access to health information;

"(iv) the value of audit trails in computerized record systems; and

"(v) the needs and capabilities of small health care providers and rural health care providers (as such providers are defined by the Secretary); and

"(B) ensure that a health care clearinghouse, if it is part of a larger organization, has policies and security procedures which isolate the activities of the health care clearinghouse with respect to processing information in a manner that prevents unauthorized access to such information by such larger organization.

"(2) SAFEGUARDS.—Each person described in section 1172(a) who maintains or transmits health information shall maintain reasonable and appropriate administrative, technical, and physical safeguards—

"(A) to ensure the integrity and confidentiality of the information;

"(B) to protect against any reasonably anticipated—

"(i) threats or hazards to the security or integrity of the information; and

"(ii) unauthorized uses or disclosures of the information; and

"(C) otherwise to ensure compliance with this part by the officers and employees of such person.

"(e) ELECTRONIC SIGNATURE.—

"(1) STANDARDS.—The Secretary, in coordination with the Secretary of Commerce, shall adopt standards specifying procedures for the electronic transmission and authentication of signatures with respect to the transactions referred to in subsection (a)(1).

"(2) EFFECT OF COMPLIANCE.—Compliance with the standards adopted under paragraph (1) shall be deemed to satisfy Federal and State statutory requirements for written signatures with respect to the transactions referred to in subsection (a)(1).

"(f) TRANSFER OF INFORMATION AMONG HEALTH PLANS.—The Secretary shall adopt standards for transferring among health plans appropriate standard data elements needed for the coordination of benefits, the sequential processing of claims, and other data elements for individuals who have more than one health plan.

"TIMETABLES FOR ADOPTION OF STANDARDS

42 USC 1320d-3.

"SEC. 1174. (a) INITIAL STANDARDS.—The Secretary shall carry out section 1173 not later than 18 months after the date of the enactment of the Health Insurance Portability and Accountability Act of 1996, except that standards relating to claims attachments shall be adopted not later than 30 months after such date.

"(b) ADDITIONS AND MODIFICATIONS TO STANDARDS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall review the standards adopted under section 1173, and shall adopt modifications to the standards (including additions to the standards), as determined appropriate, but not more frequently than once every 12 months. Any addition or modification to a standard shall be completed in a manner which minimizes the disruption and cost of compliance.



DEPARTMENT OF HEALTH & HUMAN SERVICES

**Statement for the Record
by**

William R. Braithwaite, M.D., Ph.D.

Senior Advisor on Health Information Policy

Office of the Assistant Secretary for Planning and Evaluation

U.S. Department of Health and Human Services

for the

Subcommittee on National Economic Growth, Natural Resources, and

Regulatory Affairs

of the

House Committee on Government Reform and Oversight

September 17, 1998

Thank you for the opportunity to present the testimony of the Department of Health and Human Services (HHS) on the topic of the Unique Health Identifier (UHI) for individuals. The Administration believes that a UHI for individuals is important to the improving the quality of care patients receive by reducing medical errors and improving the efficiency and effectiveness of the health care system by standardizing the exchange of administrative and financial data sent electronically. The UHI also has potential for improving the privacy of health care records. Today, any health record bearing an individual's name makes it "open" to anyone who deliberately or accidentally sees the record. A health record using only a unique health identifier, would display no such 'identifying' information and therefore would be anonymous. Since 1993, this Administration has emphasized the need to ensure individuals have greater protection of their health information. The Secretary and the Vice President have recently reiterated that message in light of public discussions on privacy concerns regarding the UHI. However, the Administration has an obligation to help bring the many clinical and administrative advantages of electronic medical records to the American people. We look forward to working with Congress to achieve this goal.

Background

The UHI is one of a larger set of national standards for electronic exchange of health information that HHS is required to adopt pursuant to the administrative simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). These provisions were enacted with the widespread support of the health care industry, and bipartisan support in Congress. They require HHS to adopt a number of uniform, national standards for the electronic interchange of health information for a specified set of administrative transactions, including:

- health claims or equivalent "encounter" information
- enrollment and disenrollment in a health plan
- eligibility for a health plan
- health care payment and remittance advice

health plan premium payments

The goals of these provisions are to improve the efficiency and effectiveness of the health care system by standardizing the electronic exchange of administrative and financial data and to protect the security of transmitted information. The industry estimates that billions of dollars can be saved each year by moving from paper forms to uniform electronic transactions.

Among the standards that HIPAA directs the Secretary to adopt are four unique identifier for use in the health care system, one each for: health care providers, health plans, employers, and individuals. HIPAA also requires HHS to promulgate security standards for organizations that maintain and transmit health information electronically. HIPAA instructs the Secretary to adopt existing standards developed by the industry through an open, consensus process whenever possible.

The privacy implications of enabling electronic exchange of health information and of national identifiers were recognized when these provisions were being drafted. At that time, Congress envisioned enacting omnibus privacy legislation prior to the effective date of the standards. Congress also included a contingency plan in HIPAA. If a Federal privacy law is not enacted by August 1999, HIPAA requires the Secretary to issue regulations to protect the confidentiality of information maintained or transmitted in connection with the standardized transactions listed in the statute. The Department has no intention of implementing the UHI standard before comprehensive privacy protections are in place.

To adopt the health care transaction standards required by HIPAA, HHS is in the process of issuing notices of proposed rule making (NPRMs) for public comment in the Federal Register. (Addendum). Where industry standards don't already exist, HHS has been working in close cooperation with industry to develop such standards. In each NPRM, HHS has proposed standards supported by broad consensus.

Advantages of the UHI

As privacy concerns have assumed center stage, the many compelling advantages of the UHI – including aspects of a UHI that will promote privacy – are getting lost in the debate. A unique identifier would allow for more rapid and accurate identification and integration of the proper patient records, so patients can receive safer and higher quality health care. Every aspect of health care – from making sure the right person gets the right blood transfusion to making sure the right insurance company pays for care – requires accurate identification of individuals. A unique identifier is desirable because the identifier used today is a person's name. Since names are not unique we have to collect additional information to identify an individual such as birth date, gender, SSN, and mother's maiden name. As more information is collected error rates increase. It is currently estimated that there is an error rate of 5 to 8 percent in identifying patients. In addition, the information many people have an opportunity to see personally identifiable information. Replacing a name with an identifier could reduce errors and provide greater privacy protection.

A UHI can improve confidentiality, by providing accurate identification without unnecessarily disclosing a patient's identity. For example, it can eliminate the need to use names on many claims forms and clinical records. It can replace the multiple pieces of identifying information (e.g., name, birth date, gender, SSN) about a patient that today must accompany clinical and financial information to ensure positive identification.

Being able to accurately and rapidly identify information about a patient, regardless of the health care environment in which it was generated, would make the detection of health care fraud more effective. In investigations focused on providers, use of the UHI would permit the patients' identities to remain anonymous. The added accuracy of the UHI would also be helpful for research and public health activities.

Concerns About the UHI

Opinion about a standard for the unique health identifier for individuals, however, is deeply divided. The UHI has become a lightning rod for a set of privacy concerns that stem from many sources. Even without this identifier, there are legitimate reasons to be concerned that sensitive health information is not adequately protected. While the administrative simplification standards, including the UHI, are intended to increase the accuracy and efficiency with which health information can be exchanged, having access to the UHI can lead to serious privacy concerns.

The media has reported that the unique individual identifier will be used to create a national database containing everyone's medical records. Even immigration advocates have been involved, out of concern that a health identifier could become a de facto national identification number. There is no intent to tie the UHI to a national database or to use it as a national identifier, and we intend to address this issue in the context of privacy legislation.

Among those who do not oppose adoption of a UHI, there is significant disagreement about which potential UHI would be the most appropriate for individuals. The different UHI options – the SSN, an encrypted or enhanced SSN, and a new number – each have different cost and privacy implications. They would function equally well as identifiers, so the choice will be based on these cost and privacy concerns.

Some people believe that the choice of identifier will have no effect on privacy. Others believe that privacy can be enhanced by choosing a UHI with certain characteristics. For example, using an identifier unrelated to the SSN could improve privacy protection (but would be more costly). Because the SSN is already ubiquitous, opponents of the SSN stress how it could be used to link financial, consumer behavior, employment, law enforcement, *and* health care records by those who wish to violate our privacy. Another significant fear is that, if we create a new, non-SSN

identifier for health care, Congress will later enact legislation requiring it to be used for purposes other than health care, as it has many times with the SSN.

Others are concerned about any identifier that requires a trusted third party for administration, because they fear the administrator will be the government, and that the government will thereby have open access to everyone's medical records. While we are sensitive to this issue, it will be critical for the public to understand that, like bank records, a single administrator is not required. Biometric identifiers, while often viewed as still in the realm of fantasy, are rapidly becoming more accurate and cheaper, and would not require a trusted third party. HHS intends to publish a "Notice of Intent" (NOI) which would discuss these and other technical issues in considerable detail to get public feedback before proceeding further on a standard for the UHI.

The Administration's Response

In September 1997, the National Committee on Vital and Health Statistics (NCVHS), an advisory committee to HHS, recommended that the agency not adopt a standard for a unique identifier for individuals until after privacy legislation is enacted. In light of this recommendation and in response to the lack of consensus, HHS decided against issuing an NPRM for the individual identifier, and instead opted for lengthening the public process for discussion of the issues surrounding the UHI. Instead of a proposed rule, HHS is preparing a Notice of Intent (NOI). The NOI would not make any recommendations or proposals. It would describe the UHI options, including their administrative, cost and privacy implications, and ask for public input on concerns, possible approaches, and alternatives. We will publish the NOI in the Federal Register with a 60-day public comment period.

In addition, HHS asked the NCVHS to hold a series of public hearings on the individual identifier and its associated issues. Three to four public meetings are planned. The first hearing was held in Chicago on July 20-21, accompanied by national media attention. Based on its

hearings, the NCVHS plans to make recommendations to the Secretary regarding the unique health identifier for individuals.

Secretary Shalala has been at the forefront urging Congress to enact privacy legislation. More recently, Vice President Gore announced in July that the Administration would not implement the UHI for individuals until Congress has enacted comprehensive medical information privacy legislation. "[A]cting on this requirement before Congress has enacted strong, tough, meaningful medical records privacy legislation could compromise the privacy of Americans in many ways. Therefore, on behalf of President Clinton, I am announcing that we will not put this new provision into place until we are certain that Americans' basic privacy is absolutely protected."

Next Steps

We believe that the best approach is to find a way to address industry's desire that we move forward with technical standards for the UHI and to obtain more public input and build consensus about the technical standard while we work with Congress to develop comprehensive federal privacy legislation. By setting technical standards for the UHI but waiting until appropriate privacy protections are in place to assign numbers, we can achieve both goals of this legislation: enhanced efficiency for the health care system and enhanced privacy for individuals.

Addendum

**Status of HIPAA Administrative Simplification Regulations
(As of September 17, 1998)**

National Provider Identifier (NPI) – HCFA-0045P

- * NPRM published in the Federal Register on May 7, 1998. Comment period ended on July 6.

Transaction and Coding Sets -- HCFA-0149P

- * NPRM published in the Federal Register on May 7, 1998. Comment period ended on July 6.

Employer Identifier -- HCFA-0047P

- * NPRM published in the Federal Register on June 16, 1998. Comment period ended on August 17.

Security--HCFA-0049P

- * NPRM published in the Federal Register on August 12, 1998. Comment period ends on Oct 13.

Plan Identifier (PAYERID)--HCFA-4145P

- * NPRM in Departmental Clearance.

STATEMENT OF
JAMES L. KOLSTAD
VICE PRESIDENT, PUBLIC AND GOVERNMENT RELATIONS
AAA

To the Subcommittee on National Economic Growth,
Natural Resources and Regulatory Affairs
Hearing on Repealing Section 656(b) of the Illegal Immigration Reform Act

September 17, 1998

On behalf of the 41 million members of AAA, I am pleased to offer our comments about the requirements imposed on state motor vehicle agencies as a result of passage of the Illegal Immigration Reform Act, and specifically Section 656 (b), which is now the subject of proposed rulemaking by the National Highway Traffic Safety Administration (NHTSA).

AAA believes that Congress should seek a delay in implementing this section of the law until its impact on states can be carefully analyzed and a determination made whether state motor vehicle agencies should be or are appropriately prepared to act as a checkpoint on illegal immigration.

The purpose of the Immigration Reform Act was to improve deterrence of illegal immigration into the United States. The issue before this subcommittee, however, is whether a specific section of the law, Section 656 (b), will impose additional and unmanageable burdens on state motor vehicle agencies which, in many cases, are already stressed seeking to fulfill their primary mission.

AAA views the right to drive as a fundamental right and also recognizes that "driving is a privilege based upon qualifications and satisfactory driving record." Our policy goes further to state: "The grounds for issuance, suspension or revocation of driver licenses should be strictly limited to motor vehicle operating offenses, physical impairments, or other reasons related to **motor vehicle operations, as determined by the state legislature.**" (emphasis added)

No matter how well-intentioned the cause or purpose, AAA questions whether the driver's license is the appropriate vehicle to attack every societal problem. A policy that assumes "one size fits all" is likewise short-sighted and intrudes on the prerogatives of individual states.

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AAA policy is clear: We view driver licensing as the proper function of state government. We generally resist federal government intrusion into this state function, except for such rare, safety-related goals as commercial driver license standards. Although we encourage adoption by all states and localities of motor vehicle laws and ordinances which are uniform to the greatest extent possible, this does not rise to the level of federally-mandated standards.

For example, we encourage studies to develop driver examination licensing standards which will "effectively and efficiently" select those persons qualified to drive. We encourage states to improve the vision and knowledge tests for driver licensing to more accurately measure real-world functions that are directly related to crashes. We recommend that driver examinations be appropriate for each vehicle class and that each licensed driver hold a single license which identifies the type (s) of vehicle (s) the person is authorized to drive. And, in one of our newest national initiatives, AAA is working with all 50 states to enact graduated driver licensing programs for teen drivers, for whom the proportion of deadly accidents has reached alarming levels.

My point in restating these policies is that AAA believes the primary purpose of DMV agencies is one of administering, regulating and monitoring traffic and driver safety laws within their respective jurisdictions. While some states have opted to expand these authorities to facilitate tracking of parents failing to meet their child care responsibilities, voter registration, and other responsibilities, it is quite different from a federal mandate imposed on all states.

We have already witnessed some resistance by state DMV officials to our efforts to enact state graduated drivers licenses (GDL) because of their concern that they do not have the staff or resources to implement a system that would require a three-step licensing process for teen drivers. This past year we lost GDL bills in several states because of DMV opposition and are working hard to address those concerns in the coming legislative sessions. New Jersey recently passed a very good bill, but it will not be effective until 2001 because of state DMV concern that they need more time to implement the system.

The issue of who pays the additional costs associated with implementing the proposed system also concerns AAA. If additional state resources are not made available, then other important DMV services will be slighted or fees will be increased – passing on to drivers the cost of a program -- deterring illegal immigration -- that bears no relationship to driving.

In response to delays at DMV's, states have sought ways to remove hassles and shorten the time it takes to secure or renew a license. Technology and use of the internet has offered promising solutions. Congestion at the DMV can be just as frustrating to the motorist as sitting in a traffic jam. To further complicate the licensing process for reasons

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unrelated to driving is likely to cause motorists -- your constituents and AAA members --
- to voice their objections.

We commend Congress for holding a hearing on this issue, and we urge the
subcommittee to recommend a delay implementation of Section 656 (b) until sufficient
study can determine whether the costs (in time and money) outweigh the benefits.

AMERICAN ASSOCIATION OF MOTOR VEHICLE ADMINISTRATORS



JOHN H. STRANDQUIST, CAE
President & CEO

JAY DULANY, Chairman of the Board
Director, Division of Motor Vehicles
Alaska

OPEN LETTER TO THE HOUSE GOVERNMENT REFORM & OVERSIGHT SUBCOMMITTEE ON NATIONAL ECONOMIC GROWTH, NATURAL RESOURCES, AND REGULATORY AFFAIRS CONCERNING THE USE OF STATE-ISSUED DRIVER'S LICENSES AS A NATIONAL I.D. CARD

September 15, 1998

Dear Subcommittee Members:

The American Association of Motor Vehicle Administrators (AAMVA) is pleased to provide the Subcommittee with its comments concerning the current debate over the use of driver's licenses as a de facto "National I.D. Card."

In recent months, the Department of Transportation's regulations to implement Section 656 of the Illegal Immigration Reform and Immigrant Responsibility Act ("the Act") have drawn the ire of media outlets and privacy advocates across the nation. The common perception about Section 656 and the implementing regulations is that they will require the states to develop a national i.d. card to be used to track individual's movements in all facets of life. *Nothing could be further from the truth.* Section 656 does not require states to develop a national i.d. card, and in no way does the Association condone or support the use of the driver's license to establish such a document. Rather, Section 656 and the DOT's regulations are geared toward helping the states ensure that driver's licenses are the most secure, tamper-resistant documents they possibly can be. Toward this end, AAMVA is in full support of the law.

Much of the concern from individuals across the country has centered around the requirement that license and i.d. card applicants present, and the state DMVs verify, social security numbers for every applicant. The fear is that by requiring the SSN to appear on the license, individuals will be subject to greater risks of having their identities stolen.

In reality, the requirement that individuals present a SSN is part of a larger emphasis in the Act to verify the applicant's identity. In this respect, the regulations will help state motor vehicle officials prevent the issuance of fraudulent drivers' licenses and protect individuals' identities. Unless the states are able to maintain the integrity of a state-issued license, they will not be able to prevent individuals from stealing the identities of anyone they want. The association stands firm on the principle that fraudulent driver's licenses threaten the lives and identity of everyone.

"Exploring Global Solutions"

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Government Reform & Oversight Committee
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There is no law requiring a state-issued driver's license to be the principal form of identification. But today, businesses, industry, and the American public have come to accept the license as a valid and reliable document. What other segments of the American public do with state-issued driver's licenses is not under the control of the DMVs. Rest assured that the goal of the DMVs is to keep unsafe drivers off the road—not to create a "paper trail" of every individual's comings and goings. However, a state-issued driver's license offers two guarantees: that the individual is qualified to operate a motor vehicle in that jurisdiction, and that the individual holding the license has substantiated his or her identity.

The Association would appreciate the opportunity to participate in any further discussions focusing on the use of the driver's licenses as a national i.d. card. If there is any additional information we can provide the Committee, or should you have any questions, please feel free to contact Linda Lewis, Director of Public and Legislative Affairs, at (703) 522-4200.

Sincerely,



John H. Strandquist, CAI
President & CEO

cc: The Honorable Rodney Slater
Secretary of Transportation

STATEMENT OF
DAN STEIN
EXECUTIVE DIRECTOR
FEDERATION FOR AMERICAN IMMIGRATION REFORM
FOR THE
NATIONAL ECONOMIC GROWTH, NATURAL RESOURCES
AND REGULATORY AFFAIRS SUBCOMMITTEE
OF THE HOUSE COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

Hearing on
Thursday, September 17, 1998

Summary: This statement is for a hearing on improving driver's license security and underlying data to prevent illegal immigration and welfare fraud. FAIR strongly supports Section 656 of IIRAIRA and the proposed implementing rule of the National Highway Traffic Safety Administration. Both are designed to help achieve greater drivers license security. Moving forward expeditiously with this process is in the national interest. Failure to do so would be a cave-in to interests that seek to smuggle and exploit illegal cheap labor at the expense of local communities and taxpayers.

INTRODUCTION

Mr. Chairman, thank you for the opportunity to present this statement for the record. My name is Dan Stein, and I am executive director of the Federation for American Immigration Reform. FAIR is a national public interest organization, a citizens' watchdog organization, working for comprehensive immigration law reform in general, and for proposals to stem the tide of illegal immigration in particular.

Mr. Chairman, we are deeply disturbed by the manner in which this important issue is being mischaracterized and overblown by interests that oppose efforts to eliminate document fraud. This hearing is billed as "Oversight of a Proposal to Create a National Identity Card." Respectfully, Mr. Chairman, we are not aware of any proposal to create a national identity card, and the use of such inaccurate language will certainly inflame passions at the expense of clarity. Mr. Chairman, the purpose of this law is to stop illegal aliens from getting jobs and welfare. There is no proposal to create a national identity card.

In 1986, the Immigration Reform and Control Act (IRCA) contained provisions that for the first time fined employers who knowingly hired illegal and unauthorized aliens. Sanctions were provided for punishing willful violators of this law. Congress acted decisively to cut off the jobs magnet because the number of illegal immigrants had swelled into the millions, and neither resources of the Border Patrol nor of INS inspectors in the interior of the country were adequate to control the problem.

Very swiftly, however, the flood of illegal aliens resumed as sophisticated smuggling operations and street vendors dealing phony documents learned that the U.S. had no ready verification techniques for information contained in birth records, alienage documents and applications for employment. They learned that false identification, such as counterfeit Social Security cards and driver's licenses, could be purchased inexpensively, and employers of illegal aliens learned that they would not be held accountable for distinguishing between counterfeit and valid documents. This failure in the IRCA employer sanctions provisions led two national, bipartisan commissions (the Commission on Agricultural Workers and the Commission on Immigration Reform) to recommend that Congress adopt a system of a worker identity verification on a mandatory national basis in order to make the sanctions an effective means for deterring illegal aliens from coming to this country in search of employment.

In the meantime, employers across America work with labor contractors who, in turn, work with smugglers and other purveyors to attract a steady and growing stream of illegal workers displacing American workers from entire industries.

STOPPING WELFARE FRAUD

From 1991 through early 1996, there was a great deal of public concern over the growing evidence of welfare fraud by illegal immigrants. California voters expressed their concerns in 1994 by passing state Proposition 187 that sought to improve the documents required for aliens to obtain state benefits. In 1996, the Illegal Immigrant Reform and Immigrant Responsibility Act (IIRAIRA) responded to these expressions of alarm in two ways. 1) Limited identity verification in employment applications was adopted for testing as a pilot program with a decision deferred on adoption of a new system. 2) Separately, IIRAIRA specified in section 656(b) that state-issued driver's licenses, to be recognized by the federal government, must

incorporate security features against counterfeiting and incorporate the applicant's Social Security account number (SSN). *However, it is important to recognize that the requirement was not for the display of the SSN on the driver's license.* The states, if they choose to do so, may simply collect the SSN—most states already do so—and simply archive that information after verifying with the Social Security Administration that the number was valid and issued to the driver's license applicant. The point is to try to stop the use of fraudulently-obtained drivers license.

The new regulations proposed by the National Highway Traffic Safety Administration to implement this provision are intended to provide for adoption of the new secure driver's licenses by October 1, 2000, the date specified by IIRAIRA section 656(b).

WHY DOCUMENT SECURITY IS NECESSARY

The Immigration and Naturalization Service (INS) conservatively estimated the number of illegal aliens resident in the United States in October 1996 at 5 million and the annual net increase in that number to be about 275,000 per year. This suggests that the current number would be about 5,825,000 illegal alien residents. Further, the INS estimates that four out of ten new illegal alien residents enter the country legally and then remain illegally, while the other six in ten enter the country illegally.

Those enormous numbers understate the problem. The fact is that the illegal alien population would be much greater if the Congress had not enacted the IRCA amnesty for illegal aliens in 1986. That made nearly three million illegal aliens in to legal once when they were given the chance to apply for legal residence. Congress promised this would be a one-time amnesty in exchange for meaningful deterrents to illegal immigration. This process of wiping the slate clean was intended as a fresh start to a period in which further illegal aliens would be discouraged from coming by the absence of job prospects. Secondly, the number is understated because it does not include illegal aliens who have been in the country for less than a year or all those who are in the country for periods shorter than a year. Yet those aliens have an impact on wages, on emergency medical services, on police work and schools, to name just a few aspects.

The problems associated with illegal immigration are numerous. They include not just violation of our immigration law but also harm to our citizens and legal residents. Some of the more serious aspects include wage depression and deteriorating working conditions for our poorest citizens, drug trafficking, violent crime and sweat shop exploitation. In addition, unless we have control over our immigration policy, we have lost a major element in shaping the future country that we will leave to our children.

HOW WILL SECURE IDENTIFICATION HELP?

Illegal immigrants continue to pour into the country because they anticipate that they can find jobs and benefits that will pay them much more than they were able to make at home. They may also anticipate the opportunity to raise a family in a society of greater opportunity, but that depends on their being able to find work.

If they are denied work by an effective system of identity verification, as intended by the IRCA legislation in 1986 and as called for by subsequent national commissions, they will be discouraged from setting out on a journey expected to result in failure. When that occurs, illegal

entry, whether by sneaking across the border or violating the visa status will steeply diminish. Then the resources of the Border Patrol and the INS inspectors will be concentrated on employers who knowingly continue to exploit illegal aliens, and the sanctions in the law can be applied in full measure against them.

The adoption of new security features in the driver's license is a major step in that direction. The driver's license is the primary identity document in our society, and it has been a primary target for document forgers who are supplying illegal aliens with the counterfeit documents that may be shown to a new employer to meet the screening provisions of the IRCA employer sanctions system. A false Social Security card is similarly illegally manufactured and sold to illegal aliens. The false cards may be created with imaginary account numbers or they may use the account number of someone else. By incorporating the verified SSN into the records of the driver's license file, we will curtail the opportunity for document forgers to be able to sell their customers documents that will stand up to normal scrutiny. This will be a major step toward regaining control over our immigration policy.

WHY SECURE DRIVER'S LICENSES WILL NOT BE A NATIONAL ID

As I mentioned earlier, we believe that the term "national identity card" is an inaccurate and alarmist characterization. Americans do not have the experience of Europeans and others who do have national ID systems, so they may not realize that a national ID is one issued by national authorities and is required to be presented by persons regularly for a range of services and investigatory processes. It also harkens back to imagery of governments demanding documents from citizens on the street without probable cause or other procedural process. This differs from a secure driver's license not only in that it would not be a national document, but also in that it *would not be required for any additional purposes that a driver's license is required for now*. However, in cashing checks, giving proof of age or residence as well as for demonstrating competency to operate a motor vehicle, the driver's license will have greater reliability when the new security features are incorporated.

Those are the primary reasons that FAIR strongly supports implementation of the provisions of INA Section 656 and the proposed rule of the National Highway Traffic Safety Administration to begin implementing the steps necessary to make driver's licenses more secure. FAIR believes that it is clearly in the national interest that we move forward expeditiously with this process.

Mr. Chairman, FAIR's interest in this law is that it will help improve interior immigration law enforcement to stem the tide of illegal immigration. We know there is strong public support to curtail illegal immigration. We also know that there are other interests who oppose this law for reasons completely unrelated to immigration law enforcement. That is there right, of course. But let the record show that if Congress does move to repeal Section 656 of the INA from federal law, it will be striking out one of the most important initiatives to cut off the magnet of illegal immigration enacted in 1996. We urge that this committee vote for the control of illegal immigration, and against the welfare cheats, international smugglers and abusive employers who exploit illegal labor. Retain Section 656 of the INA and allow the Department of Transportation regulations to take effect as proposed.

Thank you for this opportunity to submit testimony.

