

May 22, 2001

Hearing before the House Ways and Means Social Security Subcommittee

Protecting Privacy and Preventing Misuse of Social Security Numbers

I wish to thank the subcommittee on Social Security of the Ways and Means Committee for holding this hearing on the misuse of the Social Security number. The transformation of the Social Security number into a *de facto* uniform identifier is a subject of increasing concern to the American people. This is, in large part, because the use of the Social Security number as a standard identifier facilitates the crime of identity theft. Today, all an unscrupulous person needs to do is obtain someone's Social Security number in order to access that person's bank accounts, credit cards, and other financial assets. Many Americans have lost their life savings and have had their credit destroyed as a result of identity theft.

The responsibility for the misuse of the Social Security number and the corresponding vulnerability of the American people to identity crimes lies squarely with the Congress. Since the creation of the Social Security number, Congress has authorized over 40 uses of the Social Security number. Thanks to Congress, today no American can get a job, open a bank account, get a professional license, or even get a drivers' license without presenting their Social Security number. So widespread has the use of the Social Security number become that a member of my staff had to produce a Social Security number in order to get a fishing license!

Because it was Congress which transformed the Social Security number into a national identifier, Congress has a moral responsibility to address this problem. In order to protect the American people from government-mandated uniform identifiers which facilitate identity crimes,

I have introduced the Identity Theft Prevention Act (HR 220). The major provision of the Identity Theft Prevention Act halts the practice of using the Social Security number as an identifier by requiring the Social Security Administration to issue all Americans new Social Security numbers within five years after the enactment of the bill. These new numbers will be the sole legal property of the recipient and the Social Security Administration shall be forbidden to divulge the numbers for any purposes not related to the Social Security program. Social Security numbers issued before implementation of this bill shall no longer be considered valid federal identifiers. Of course, the Social Security Administration shall be able to use an individual's original Social Security number to ensure efficient transition of the Social Security system.

This act also forbids the federal government from creating national ID cards or establishing any identifiers for the purpose of investigating, monitoring, overseeing, or regulating private transactions between American citizens, as well as repealing 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. By putting an end to government-mandated uniform IDs, the Identity Theft Prevention Act will prevent millions of Americans from having their liberty, property and privacy violated by private-and-public sector criminals.

In addition to forbidding the federal government from creating national identifiers, this legislation forbids the federal government from blackmailing states into adopting uniform standard identifiers by withholding federal funds. One of the most onerous practices of Congress is the use of federal funds illegitimately taken from the American people to bribe states into obeying federal dictates.

Many of our colleagues will claim that the federal government needs these powers to protect against fraud or some other criminal activities. However, monitoring the transactions of every American in order to catch those few who are involved in some sort of illegal activity turns one of the great bulwarks of our liberty, the presumption of innocence, on its head. The federal government has no right to treat all Americans as criminals by spying on their relationship with their doctors, employers, or bankers. In fact, criminal law enforcement is reserved to the state and local governments by the Constitution's Tenth Amendment.

Other members of Congress will claim that the federal government needs the power to monitor Americans in order to allow the government to operate more efficiently. I would remind my colleagues that in a constitutional republic the people are never asked to sacrifice their liberties to make the job of government officials a little bit easier. We are here to protect the freedom of the American people, not to make privacy invasion more efficient.

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 only effective privacy protection is to forbid the federal government from mandating national identifiers. Legislative "privacy protections" are inadequate to protect the liberty of Americans for several reasons. First, it is simply common sense that repealing those federal laws that promote identity theft is a more effective in protecting the public than expanding the power of the federal police force. Federal punishment of identity thieves provides old comfort to those who have suffered financial losses and the destruction of their good reputation as a result of identity theft.

Federal laws are not only ineffective in stopping private criminals, they have not even stopped unscrupulous government officials from accessing personal information. Did laws purporting to restrict the use of personal information stop the well-publicized violation of privacy by IRS officials or the FBI abuses by the Clinton and Nixon administrations? !

The primary reason why any action short of the repeal of laws authorizing privacy violation is insufficient is because the federal government lacks constitutional authority to force citizens to adopt a universal identifier for health care, employment, or any other reason. Any federal action that oversteps constitutional limitations violates liberty because 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 the Identity Theft Prevention Act should consider the overwhelming opposition of the American people toward national identifiers. The overwhelming public opposition to the various "Know-Your-Customer" schemes, the attempt to turn drivers' licenses into National ID cards, HHS's misnamed "medical privacy" proposal, as well as the numerous complaints over the ever-growing uses of the Social Security number show that American people want Congress to stop invading their privacy. Congress risks provoking a voter backlash if we fail to halt the growth of the surveillance state.

In conclusion, Mr. Chairman, I once again thank you and the other members of the subcommittee for holding a hearing on this important issue. I hope this hearing would lead to serious Congressional action to end to the federal government's unconstitutional use of national identifiers which facilitate identity theft by passing Hr 220, the Identify Theft Prevention Act.