

Government Reform and Oversight Committee: May 18, 2000

Statement of Ron Paul on the Freedom and Privacy Restoration Act (HR 220) Before the Subcommittee on Government Management, Information and Technology of the Government Reform and Oversight Committee

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Statement of HON. RON PAUL OF TEXAS

Mr. Chairman, thank you for holding this hearing on my legislation, HR 220, the Freedom and Privacy Restoration Act. I greatly appreciate your commitment to the issue of personal privacy. Protecting privacy is of increasing importance to the American people. Since I have introduced this bill, my office has received countless calls of support from Americans all across the country who are opposed to the use of uniform identifiers. I have also worked with a bipartisan coalition of members on various efforts to protect Americans from the surveillance state, such as the banking regulators' "know your customer" scheme, and the attempt by the Post Office to violate the privacy of all Americans who use Commercial Mail Receiving Agencies (CMRAs). The Freedom and Privacy Restoration Act represents a comprehensive attempt to protect the privacy of individual citizens from government surveillance via the use of standard identifiers. Among the provisions of the legislation is one repealing those sections of the 1996 Immigration Act that established federal standards for state drivers' licenses and 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. As I am sure my colleagues know, the language authorizing a national ID card was repealed in last year's Transportation Appropriations bill and language prohibiting the expenditure of funds to develop a personal medical identifier has been included in the past two Labor-HHS-Education Appropriations bills. These victories were made possible by the thousands of Americans who let their elected representatives know that they were opposed to federally-mandated identifiers. Perhaps the most significant portion of HR 220 prohibits the use of the Social Security number

for purposes not related to Social Security. 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, 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 had to produce a Social Security number in order to get a fishing license! As a test of citizen resistance, the Census bureau asked 21,000 households to report their Social Security number on their census form. One of the reasons the Census bureau is interested in the Social Security number is as a key to unlock information held by other government agencies. 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. Such Congressional actions do not reflect the intent of the Congress that created the Social Security system as that Congress in no way intended to create a national identifier. In fact, Congress never directly authorized the creation of the Social Security number -- they simply authorized the creation of an "appropriate record keeping and identification scheme." The Social Security number was actually the creation of the Internal Revenue Service! The Social Security number did not become a popular identifier until the 1960s. In response to concerns about the use of the Social Security number, Congress passed the Privacy Act of 1974, because, as stated within the act itself, "The Congress finds the opportunities for an individual to secure employment, insurance and credit and his right to due process and other legal protections are endangered by the misuse of certain information systems." The Privacy Act of 1974 states that "It shall be unlawful for any Federal, State or local government agency to deny any individual any right, benefit or privilege provided by law because of such individual's refusal to disclose his Social Security number." This is a good and necessary step toward protecting individual liberty. Unfortunately, the language of the Privacy Act allows Congress to require the use of the Social Security number at will. In fact, just two years after the passage of the Privacy Act, Congress explicitly allowed state governments to use the Social Security number as an identifier for tax collection, motor vehicle registration and drivers' license identification. When one considers the trend toward the use of the Social Security number as an identifier, the need for HR 220 becomes clear. The Freedom and Privacy Restoration Act also contains a blanket prohibition on the use of identifiers to "investigate, monitor, oversee, or otherwise regulate" American citizens. Mr. Chairman, prohibiting the Federal Government from using standard identifiers will ensure that American liberty is protected from the "surveillance state." Allowing the federal government to use standard identifiers to oversee private transactions present tremendous potential for abuse of civil liberties by unscrupulous government officials. I am sure I need not remind the members of this Committee of the sad history of government officials of both parties using personal information contained in IRS or FBI files against their political enemies. Imagine the potential for abuse if an unscrupulous government official is able to access one's complete medical, credit, and employment history by simply typing the citizens' "uniform identifier" into a database. This history of abuse of personal information by government officials demonstrates that the only effective means of guaranteeing American's privacy is to limit the ability of the government to collect and store information regarding a citizen's personal matters. The only way to prevent the government from knowing this information is preventing them from using standard identifiers. 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. Certain members of Congress are focusing on the use of the Social Security number and other identifiers by private businesses. However, this ignores the fact that the private sector was only following the lead of the federal government in using the Social Security number as an ID. In many cases, the use of the Social Security number by private business is directly mandated by the government, for example, banks use Social Security numbers as an identifier for their customers because the federal government required them to use the Social Security number for tax reporting purposes. Once the federal government stops using the Social Security number as an identifier, the majority of private businesses, whose livelihood depends on pleasing consumers, will respond to their customers demands and stop using the Social Security number and other standard identifiers in dealing with them. I hope that we in Congress would not once again allow a problem Congress created to become an excuse for disregarding the constitutional limitations of federal police powers or imposing new mandates on businesses in the name of "protecting privacy." Federal mandates on private businesses may harm consumers by preventing business from offering improved services such as the ability to bring new products that consumers would be interested in immediately to the consumers' attention. These mandates will also further interfere with matters that should be resolved by private contracts. Furthermore, as we have seen with the administration's so-called "medical privacy protection" proposal, federal "privacy protection laws" can actually undermine privacy by granting certain state-favored interests access to one's personal information. Some may claim that the federal government needs expanded surveillance 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. Others may claim that the federal government needs the power to monitor Americans in order to allow the government to operate more efficiently. However, 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. The main reason Congress should take action to stop the use of standard identifiers 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." I once again extend my sincere appreciation to Chairman Horn and the other members of the Subcommittee for holding this hearing and express my hope that this hearing begins the process of protecting the rights of all citizens to conduct their lives free from government intrusion.