

October 19, 2004

**An Open Letter to the Conference Committee on Intelligence Reform:
Remove National-ID Related Provisions Now!**

Re: Conference on S. 2845 and H.R. 10

Dear Conferee:

The undersigned groups hereby urge you to strip the McCain amendment standardizing driver's licenses from S. 2845 and similar provisions in H.R. 10. Standardizing driver's licenses and state identification cards is a back-door attempt to institute a national identification card program. Although proponents have consistently claimed that this does not create a national ID, even the apolitical National Research Council has recognized that standardized driver's licenses would be a "nationwide identity system." Additionally, federal mandates in this area raise concerns about state flexibility, privacy, and unfunded mandates that have been insufficiently explored during this process. The possibility of adding technology such as radio frequency identification chips (RFID) to the driver's license would enable the government to track every movement a licensee makes.

While the 9/11 Commission recommended that the "federal government should set standards for the issuance of birth certificates and sources of identification, such as driver's licenses," there was little discussion of why this should be a federal effort imposed upon the states, or how this would make us safer. Because this proposal vastly increases the power of the federal government over its residents and citizens, there should be a full and fair debate over whether such a proposal is necessary and whether it would be successful in preventing terrorism.

Both bills provide minimum standards for driver's licenses, and give the states either two years (Senate version) or three years (House version) in which to comply. If, after that time, a state does not comply, both bills prohibit the use of such driver's license for any federal purpose, such as flying on airlines, obtaining federal benefits, etc. Thus, while the bill is not "mandatory," no state wants its residents to have to undergo the inconvenience of carrying other identification that meets federal standards.

H.R. 10 requires linking of all state drivers' databases, specifically states what must be on the license, and requires a "machine-readable" identifier. S. 2845 is less specific about what must be on the license, deferring many of those decisions to a negotiated rulemaking. It also requires a "unique identifier" and requires authentication of the documents that a driver uses to obtain a license.

Neither S. 2845 or H.R. 10 provide much in the way of privacy protection. Neither protects against mission creep. Neither provides penalties for intentionally disclosing

confidential information, nor is there any guarantee that the resulting databases will not be sold to private sector groups.

We urge you to reject these ill-advised proposals as well because:

A national ID will not prevent terrorism in the United States. According to Privacy International, of the top 25 terrorist targets since 1986, 80% have long-standing national identity card programs, and one-third of those countries have cards with biometric identifiers. In fact, the top target, Israel, has a national ID card that uses biometric identifiers on the card.

Furthermore, identity cards tell nothing about an individual's intentions. Timothy McVeigh and the beltway stalker would both have qualified for a national ID card.

Any form of identification can be counterfeited. Despite best efforts and anti-counterfeiting technology, the new \$20 bill has been counterfeited. Even assuming a national ID card that is counterfeit-resistant, terrorists and criminals will spend any amount of money to either counterfeit the documents, or corrupt a government employee to issue a fraudulent identification. Creating a single national identification makes it much easier to counterfeit and steal someone's identity.

A national ID system would divert resources from more productive counter-terrorism measures. One estimate of the initial cost of such a program goes as high as \$25 to \$30 billion dollars, with another \$3 billion to \$6 billion per year to run it. Our limited resources could be better spent on increasing border security and dealing with the two-year backlog of intelligence needing to be translated at the FBI.

A national ID would depend on a massive bureaucracy that would limit our basic freedoms. A national ID system would depend on both the issuance of an ID card and the integration of huge amounts of personal information included in state and federal government databases. One employee mistake, an underlying database error rate, or common fraud such as identity theft, now rampant in the U.S., could take away an individual's ability to move freely from place to place or even make them unemployable until the government fixed their "file." Anyone who has attempted to fix errors in their credit report can imagine the difficulty of causing an over-extended government agency such as the department of motor vehicles to correct a mistake that precludes a person from getting a valid ID.

A national ID would both contribute to identity fraud and make it more difficult to remedy. Americans have consistently rejected the idea of a national ID and limited the uses of data collected by the government. In the 1970s, both the Nixon and Carter Administrations rejected the use of social security numbers as a uniform identifier because of privacy concerns. A national ID would be "one stop shopping" for perpetrators of identity theft who usually use social security numbers and birth certificates for false IDs (not drivers' licenses). Even with a biometric identifier, such as a fingerprint, on each and every ID, there is no guarantee that individuals won't be

identified - or misidentified - in error. The accuracy of biometric technology varies depending on the type and implementation. And, it would be even more difficult to remedy identity fraud when a thief has a National ID card with your name on it, but his biometric identifier.

A national ID could require all Americans to carry an internal passport at all times, compromising our privacy, limiting our freedom, and exposing us to unfair discrimination based on national origin or religion. Once government databases are integrated through a uniform ID, access to and uses of sensitive personal information would inevitably expand. Libraries could be pressured to use the ID instead of, or in addition to, library cards. Law enforcement, tax collectors, and other government agencies would want use of the data. Employers, landlords, insurers, credit agencies, mortgage brokers, direct mailers, private investigators, civil litigants, and a long list of other private parties would also begin using the ID and even the database, further eroding the privacy that Americans rightly expect in their personal lives. It would take us even further toward a surveillance society that would significantly diminish the freedom and privacy of law-abiding people in the United States. A national ID would foster new forms of discrimination and harassment. The ID could be used to stop, question, or challenge anyone perceived as looking or sounding "foreign" or individuals of a certain religious affiliation.

At the Republican National Convention in 2004, Gov. Arnold Schwarzenegger spoke of his fearfulness when going through Austrian checkpoints, and how thankful he was to be able to flee such a country and come to America. Unfortunately, the driver's license standardization provisions in these two bills usher in such a scheme in the United States.

As the national ID becomes more and more the "gold" standard for identity documents, it is likely that it will be coupled with a radio frequency identification tag, allowing the information to be read at a distance. This is already being tested for use in U.S. passports. With the addition of this chip, the holder of a document containing an RFID chip will continuously be broadcasting his information to anyone with a receiver. When that occurs, the government will be able to track every person who holds an ID card, virtually anywhere they may be. And it won't only be the government tracking people: anyone with a reader, including criminals and terrorists can read the information contained on the chip, creating threats to privacy and safety.

Standardizing of driver's licenses has long been recognized as little more than a back-door attempt to create a national identification system. Americans of all political persuasions are resistant to eventual demands to "show your papers," and we urge you to strip these provisions from the bills.

Sincerely,

American Civil Liberties Union
American Library Association
American Policy Center

American Psychoanalytic Association
Asian American Legal Defense and Education Fund
Association of American Physicians and Surgeons
Brazilian Immigrant Center
Catholic Charities, Diocese of Des Moines, IA
Center for Cognitive Liberty and Ethics
Central American Resource Center
Church of the Brethren Witness/Washington Office
Coalicion de Derechos Humanos
Council for Citizens Against Government Waste
Doctors for Disaster Preparedness
EdWatch
El Centro, Inc.
El Pueblo
Electronic Frontier Foundation
Fairfax County Privacy Council
FaithAction International House
Florida Immigrant Advocacy Center
Gun Owners of America
Hispanic Community Outreach Program, Catholic Charities of Des Moines
Humphrey & Whidden Insurance Agency, Inc.
Idaho Community Action Network
Irish Immigration Center
Jewish Community Action in Minnesota
Lutheran Family Services in the Carolinas
Marijuana Policy Project
Missourians for Safer Roads
National Council of La Raza
National Employment Law Project
National Immigration Law Center
National Motorists Association
National Network for Immigrant and Refugee Rights
National Taxpayers Union
NC Farmworkers Project, Inc.
North Carolina Justice Center
Pain Relief Network
Physicians for Civil Defense
Privacilla.org
Privacy Rights Clearinghouse
Privacy Times
Private Citizen, Inc.
Republican Liberty Caucus
Rights for All People
Somos un Pueblo Unido
South Asian Network
Southwest Workers Union

Taxpayers for Common Sense
Unitarian Universalist Association of Congregations
World Privacy Forum