



ELECTRONIC FRONTIER FOUNDATION

September 14, 2010

Sent via U.S. Mail, Email, & Facsimile

Daniel R. Levinson
Inspector General
U. S. Department of Health and Human Services
Room 5541 Cohen Building
330 Independence Avenue, S.W.
Washington, D.C. 20201

Joe Valentine
Director
Employment and Human Services Department
Contra Costa County
40 Douglas Drive
Martinez, California 94553

Re: RFID Student Tracking System in Richmond, California Head Start Program

Dear Inspector General Levinson and Director Valentine:

The American Civil Liberties Union of Northern California (ACLU-NC) and the Electronic Frontier Foundation (EFF) are extremely concerned about the privacy and safety of preschool students being tracked by a new Radio Frequency Identification (RFID) program at George Miller III Head Start program in Richmond, California. We have many questions about this RFID program funded by federal American Recovery and Reinvestment Act (ARRA) funds and what process, if any, was implemented by Contra Costa County, the U.S. Department of Health and Human Services, and Head Start to ensure that this new system properly protects the privacy and safety of young children.

Concerns about RFID privacy and safety in California schools came up just five years ago, when an elementary school in Sutter, California, attempted to require students to wear identification badges that contained RFID tags. Also touted as a cost-saving measure to replace manual attendance procedures, this program was dismantled when parents realized the risk it posed to their children.¹

The Sutter situation attracted national attention and California lawmakers in 2007 overwhelmingly passed a bill requiring that any RFID program in schools include education campaigns for parents

¹ See generally Nicole A. Ozer, *Rights "Chipped" Away: RFID in Identification Documents*, 2008 STAN. TECH. L. REV. 1 (2008), <http://str.stanford.edu/pdf/ozar-rights-chipped-away.pdf>; Kim Zetter, *School RFID Plan Gets an F*, WIRE (Feb. 10, 2005), <http://www.wired.com/politics/security/news/2005/02/66554>.

and be completely voluntary.² While Governor Arnold Schwarzenegger did not sign this bill into law, it is clear that there is widespread concern about this technology among California politicians and parents alike. The Richmond RFID program has already drawn national attention: an editorial in the New York Times on Tuesday, September 7 said the plans “seem to go too far” and questioned tracking kids “like cattle or warehouse inventory.”³

We have seen time and time again that RFID systems can be insecure, such as when the RFID chips in U.S. Passport cards were cracked and copied last year from a distance of 30 feet using just \$250 worth of parts.⁴ The Real Time Location Service (RTLS) Active RFID chips embedded in these preschoolers’ jerseys can be read from up to 300 feet away.⁵ Children wearing these powerful tracking devices in school, on the playground, and off campus during field trips may be more vulnerable to stalking and kidnapping. If this system is insecure, someone could sit in a car the length of a football field away and track the children without anyone ever knowing that any information had been read. Once read, that information could then be copied to a duplicate chip -- allowing someone to take a child off campus while RFID readers potentially show the child is still safely in school.

Nor does a child have to face stalking or abduction to be endangered by RFID tracking data. These RFID chips provide constant monitoring, potentially creating a detailed portrait of a child’s movements that could loom large over a youngster’s life, particularly if the chips replace direct adult monitoring and judgment. If RFID records show a child moving around a lot, might she be tagged as hyperactive? How long could this data -- and the conclusions rightly or wrongly drawn from it -- be stored in school records? Might the records be subpoenaed for use in family court or a custody battle?

The County, DHHS, and Head Start need to address critical questions about this system’s safety and security, including:

- Why and how did the government decide that it was appropriate to track children? Does the government intend to expand such tracking?
- How and when were privacy and security issues considered by the County, Head Start, and DHHS?
- How and why was this particular RFID system selected?
- What technical security measures, such as encryption and authentication, are utilized by the system?
- How were parents notified about the system, were they told about any privacy and security concerns related to RFID technology, and did they have the opportunity to opt-out?
- What data is collected, how long is it retained, who has access to this information, and how can it be accessed?

² SB 29: *Prohibition of RFID tags for the purpose of taking attendance in public schools*, ACLU OF NORTHERN CALIFORNIA, http://www.aclunc.org/issues/technology/sb_29_prohibition_of_rfid_tags_for_the_purpose_of_taking_attendance_in_public_schools.shtml (last visited Sept. 9, 2010).

³ Editorial, *Keeping Track of the Kids*, N.Y. TIMES, Sept. 7, 2010, <http://www.nytimes.com/2010/09/08/opinion/08wed4.html>.

⁴ Hugh D’Andrade, *RFID PASScards Easily Cloned*, ELECTRONIC FRONTIER FOUNDATION (Feb. 5, 2009), <http://www.eff.org/deeplinks/2009/02/rfid-passports-scanned-car>; Nicole Ozer, *“Chipping” Students Creates More Problems Than It Solves*, ACLU OF NORTHERN CALIFORNIA (Sept. 1, 2010, 9:00 AM), http://www.aclunc.org/issues/technology/blog/chipping_students_creates_more_problems_than_it_solves.shtml.

⁵ Contra Costa County staff confirmed that RTLS/Active RFID chips can be read from up to 300 feet away.

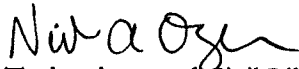
ACLU-NC and EFF are also calling on the DHHS and Head Start to ensure that: (1) a process is in place to protect the privacy and safety of schoolchildren; (2) parents are informed about privacy and security issues related to RFID technology and what safeguards have been employed; and (3) the system is voluntary, and concerned parents can opt-out of RFID programs for any reason.

At this point, we have significant concerns about the RFID system in use in Richmond and about the guidance and oversight in place on a federal level regarding proper evaluation of privacy and security risks of new school technology programs. Contra Costa County, DHHS and Head Start need to answer these important questions publicly, and to reconsider the use of this insecure, risky technology. It is simply unfair to make the young children of Head Start into guinea pigs for an ill-considered surveillance system.

Thank you for your attention to this important issue. We look forward to your response, and to working together to protect the children in America's Head Start programs.

Sincerely,

Nicole A. Ozer



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cc: Contra Costa County Supervisors John Gioia, Gayle B. Uilkema, Mary N. Piepho, Susan A. Bonilla, Federal D. Glover