

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
January 26, 1983

The fifteenth meeting of the Senate Judiciary Committee was called to order by Chairman Jean A. Turnage on January 26, 1983 at 10:02 a.m. in Room 325, State Capitol.

ROLL CALL: All members were present, except for Senator Galt who was excused.

CONSIDERATION OF SENATE BILL 165: Senator Lee, co-sponsor of this bill, explained to the Committee that the Driver Services Bureau is currently using social security numbers for identification purposes when issuing drivers' licenses. It is his opinion that this is a violation of the constitutional right to privacy.

There being no proponents present, the hearing was opened to the opponents.

Duane Tooley, Chief of the Driver Services Bureau, spoke as an opponent to the bill. He explained that the Bureau uses social security numbers when issuing drivers' licenses as this is the most effective way to identify a driver and the number is more unique than the previously used numbering system. His department has looked to other states for numbering systems and he has found that 31 states currently use social security numbers. Four of these states use the number mandatorily, while the others use it on a voluntary basis. He stated Montana is currently using this number on a voluntary basis and it has been an effective method for deterring criminal use of false identifications and it is used to more efficiently obtain information from other states pertaining to driving records. Mr. Tooley distributed a report on criminal use of drivers' identification (Exhibit "B").

There being no further opponents, the hearing was opened to questions from the Committee.

Senator Crippen asked Senator Lee if he objects to the using of social security numbers on a voluntary basis. Senator Lee felt this was still an infringement of an individual's right to privacy.

Invasion of privacy and the use of the social security number as a universal identifier was discussed by the Committee. Mr. Tooley advised that even when the use of the social security was implemented on a voluntary basis, 95% of the drivers still provided it.

Senator Lee closed by saying a license is to be used to drive a car in the State of Montana -- not to be used as a universal identifier.

CONSIDERATION OF HOUSE BILL 74: Representative Fabrega, sponsor of this bill, advised the Committee that the current statute prescribing legal interest rates should be amended to provide that the 10% rate should accrue from the date of obligation to make this rate of interest the same as interest payable from the date a court makes its judgment.

There being no proponents or opponents present, the hearing was closed.

CONSIDERATION OF HOUSE BILL 45: Senator Waldron, sponsor of this bill, informed the Committee that there is a need to establish a fee for declarations of marriage without solemnization which would be allocated in the same manner as marriage license fees. The major purpose of this fee is to provide support to the battered spouse program. Senator Waldron feels declarations of marriage should be consistent with the other marriage license fees.

Celinda Lake of the Women's Lobbyist Fund, appeared as a proponent and expressed her support for the battered spouse program and the necessity that they receive funds (Exhibit "B").

There being no further proponents, and no opponents, the hearing on HB45 was closed.

CONSIDERATION OF SENATE BILL 155: Senator McCallum, sponsor of this bill, advised that it is being introduced due to a property dispute in Sanders County. SB155 would allow the owner of land contiguous to property acquired from a railroad, the right to meet the high bid for that property when it is sold by the state. It would also provide the purchaser a sufficient time to pay for such land.

Howard Prouty, Chairman for the White Pine Landowners, expressed his support for this bill. He then explained how the Highway Department has refused to recognize the White Pine Landowners' deeds, abstracts and homestead acts and he further explained that the Highway Department is trying to sell state land which it is not even sure if the state has title to.

An inaudible man spoke in support of SB155 as he felt it would establish a fair market value for the White Pine land.

Bessie Kline, a White Pine Landowner and proponent to this bill, expressed her desire to have fair appraisals and surveys made of land acquired by the state.

Fred Choin, White Pine Landowner, voiced his support for SB155 and questioned why he must repurchase his own land if railroad abandoned ownership reverts back to the county.

Wayne Sunday, White Pine Landowner, supported this bill and advised the Committee that it is his opinion that the White Pine Landowners have been victims of a potential money making deal.

Jim Beck, representing the Highway Department, appeared before the Committee as a neutral party. He indicated that he does not feel this bill will accomplish what its sponsor intends it to. He felt that the particular problem the White Pine Landowners have described will have to be dealt with through federal court. He advised the Committee that if the railroad abandons property, this property reverts back to the United States by virtue of the terms of an 1864 act of congress.

George McCallum agreed that the White Pine Landowners' problem will probably need to be solved in court, but he felt adoption of SB155 into the statutes would give the landowners' grounds in court. He urged the Committee to give the bill favorable consideration.

There being no further proponents or opponents, the hearing was opened to questions from the Committee.

The problems which the White Pine Landowners encountered were discussed at length and Jim Beck was questioned extensively to get more insight into the situation. Jim Beck was specifically asked to supply the Committee with the name of the land speculator involved in this situation. Chairman Turnage did not feel the Committee was in a position to legislate a federal problem, but advised the landowners he would keep them posted on any developments. Mrs. Kline advised they could be reached at Star Route 1, Box 112, Trout Creek, Montana 59874.

There being no further discussion, the hearing on SB155 was closed.

The Chairman announced that the Committee was now ready to take executive action on bills previously heard.

ACTION ON SENATE BILL 30: Chairman Turnage read a letter from Senator Hager (Exhibit "C") in which the water courts requested to have SB30 tabled. This request was approved unanimously.

DISPOSITION OF HOUSE BILL 45: Chairman Turnage felt that HB45 was a legitimate request and moved that it BE CONCURRED IN. This motion carried unanimously.

DISPOSITION OF HOUSE BILL 74: The Committee discussed the purpose of this bill, the types of contracts it would deal with, the fluctuating interest rates and the fact that judgments usually establish an interest rate. The Committee felt that this bill would only encourage higher rates. Senator Shaw moved that HB74 BE NOT CONCURRED IN. A roll-call vote was taken and this motion carried five to three with Senators Berg, Halligan and Mazurek voting in opposition.

DISPOSITION OF SENATE BILL 165: Senator Daniels moved that SB165 DO NOT PASS. Chairman Turnage advised the Committee that there are further House bill which will more broadly deal with the licensing issue. Senator Brown felt the bill was good and perhaps it could be amended to prohibit mandatory use of social security numbers. Senator Daniels then withdrew his original motion and moved that SB165 be TABLED. A roll-call vote was taken and this motion passed five to three with Senators Crippen, Shaw and Turnage voting in opposition.

DISPOSITION OF SENATE BILL 114: Staff counsel explained the amendments he had prepared at the Committee's request. After a lengthy discussion Senator Crippen moved to adopt the amendments as prepared. This motion passed unanimously. Senator Crippen then moved that SB114 DO PASS AS AMENDED. This motion also passed unanimously.

ADJOURN: There being no further business before the Committee, the hearing was adjourned at 11:35 a.m.


JEAN A. TURNAGE
Chairman, Judiciary Committee

DATE January 26, 1983

COMMITTEE ON Judiciary

BILL NO. ⁵¹³ 155

105

HB 45 + 74

VISITOR'S REGISTER

NAME

REPRESENTING

Check One

Support Oppose

G. Underwood Mont. Farm Bureau

Mr. & Mrs. Wayne Sunday

Fred Chace T. H. Lawrence

Bessie J. Ellis Philippine Landowners

Celesta Lake Women's Lobbyist Fund HB 45 ✓

Thos. Prouty Big Fork MT

Thos. Prouty

John Maynard Attorney General

Jim Beck Highway

Sarah Power Motor Vehicles SB 165

Dana Tooley Driver Services Bureau SB 165

Kerrin A. Davis

Orlene J. Davis

(Please leave prepared statement with Secretary)

EXHIBIT "A"
1-26-83

EXCERPTS
FROM
THE CRIMINAL USE OF
FALSE IDENTIFICATION

NOVEMBER 1976

THE REPORT OF THE FEDERAL ADVISORY
COMMITTEE ON FALSE IDENTIFICATION

UNITED STATES DEPARTMENT OF JUSTICE

SECTION 2

THE SCOPE OF THE PROBLEM

The work of the FACFI represents the first serious study of the illegal use of both bona fide and counterfeit documents. We have, therefore, extended our investigation in as much breadth and depth as possible in order to reveal the full impact of the problem in the U.S. Questions of the economic, social and legal effects on the populace were addressed with a view to protecting society from criminal abuse and to making recommendations for safeguards against further abuse. The Committee in this undertaking was dealing with the delicate relationship of Federal and state jurisdictions as well as Privacy Acts [5] and the underlying principle of maintaining the freedoms of an open society. We wished to find answers to such questions as:

- Who is affected by false ID use?
- How big is the problem?
- Where are financial losses incurred as a result of false identification?
- Which are the most significant problem areas?
- Are crimes of violence as well as those of an economic nature aided by false identification?
To what extent?

- What state and Federal laws now exist regarding ID use?
- What state, Federal, or technical safeguards against false ID use already exist? How effective are they?
- What are possible solutions to the problem?
- Which solutions do we recommend?

In finding answers to these questions, the FACFI has begun to uncover a serious problem of considerable import.

EFFECT ON SOCIETY

The criminal use of false identification documents represents a multibillion dollar problem in the United States. False identification is costing American business well over \$1 billion per year. Most of this loss is related to check fraud and counterfeiting, but significant additional losses occur in the areas of credit card fraud and theft of securities and other negotiable instruments. Our estimates of the extent of the effects on business are based on the best available data but should not be considered as complete. The individual citizen pays for the cost of false ID crime against business, primarily in increased cost of goods and services. When small businesses fail because of the particularly severe fraud losses they encounter the consumer also suffers in terms of loss of choice.

The use of a false ID to obtain welfare or other social benefits, to import illegal drugs, or to maintain one's status as an illegal alien or fugitive has a devastating dollar impact on government at

all levels. The success of such activities not only results in direct and indirect costs to taxpayers but also undermines public confidence in government.

Our findings indicate that an individual in our society, in addition to his legal tax burden, pays an additional illegal tax in the form of fraudulent payments and services to users of false IDs committing fraud against government. In New York City, for example, the cost of providing welfare benefits and municipal services has exceeded the resources available from taxpayers. The Immigration and Naturalization Service has estimated that over 10% of New York's population -- about one million persons -- are illegal aliens.^[6] Through the use of false identification, it is probable that these aliens are enjoying either employment or welfare benefits to which they are not entitled. While we cannot yet make accurate estimates of the national impact of these crimes on the individual taxpayer, we would emphasize that the burden of this type of crime is felt by citizens nationwide.

Congress has already been apprised of the false identification problem. The Congressional Record of June 28, 1973, March 5, 1974, and most recently of December 5, 1975 carried warnings of false ID fraud, especially as it is perpetrated in the receipt of welfare benefits and illegal entry into the U.S. Frances Knight, Director of the Passport Office sees investigation of and action on the problem as long overdue. She states that "The Passport Office has been ringing the alarm on passport and identification fraud for 43 years."^[7]

Although false identification has been an area of concern for a long time, current incidents point to growing abuse. Not only have the statistics proven to be extensive in scope, but individual cases have demonstrated blatant and expensive abuse. For example, Miss Knight continues:

Investigators probing Chicago welfare frauds uncovered one case which must be near the top in sheer gall and ingenuity: a thirty-one count fraud indictment charged a welfare recipient with the receipt of illegal welfare benefits, medical assistance, food stamps, in addition to Social Security and Veterans benefits from four non-existent spouses.... The recipient of all these benefits used 80 different names; 30 different addresses and 15 different telephone numbers. The total annual benefits received by this one person was estimated at a minimum of \$150,000 annually in cash assistance alone. [7]

Added to such losses are those connected with false ID use in other areas. False IDs can be used to:

- Illegally enter institutions of higher learning.
- Collect re-enlistment bonuses from the military services.
- Take entrance exams and tests for unqualified students.
- Escape prosecution or apprehension.
- Gain entry into homes for robbery or crimes of violence.
- Practice a profession under false credentials.

The public is the true victim of the growing menace of false ID use.

SECTION 4

FRAUDULENT ID USE

Crimes assisted by the use of one or several false IDs represent a significant national problem. Directly or indirectly, this problem affects every American household in terms of the cost of government benefits paid to imposters, the cost of fraud against business that is passed on to consumers, and the threat to public health and safety from drug smugglers and fugitives.

Possession of false identification documents gives a criminal, or someone intent on committing a crime, the means to appear and disappear almost at will and without a trace. Attempts in FACFI surveys to profile the typical user of false IDs were largely unsuccessful. As in the case of many types of fraud, successful perpetrators of false identification fraud are quite indistinguishable from the groups they pretend to represent. Thus, a request for a profile of the typical suspect of welfare fraud using false identification yielded the description of a young, unmarried, unemployed woman resident of a metropolitan area, which is in fact a description of a typical legitimate welfare mother as well. Similarly, the typical check forger^[21] can be described as a middle-aged male, which also describes a large percentage of legitimate check users.

The only exception we have found to the "invisibility" of false identification suspects occurs in passport fraud.^[10] Here the typical offender is usually an international traveler, 18 to 40 years of age, who does not travel with a family group or on government-related

business. Since this description fits only 40% of the passport holders, the possibility exists of decreasing passport fraud to some degree by screening for user type in review of passport applications.

One further distinguishing characteristic has emerged of those involved in false identification fraud; suspects are more likely to be repeat offenders than is the average for criminals apprehended. For example, 76% of those arrested for forgery and counterfeiting in 1971 had previously been arrested for the same crime at least once;^[21] this compares with a recidivism rate of only 68% for overall crime.

The universality of the use of false IDs by criminals is unquestionable. A random sampling^[22] of 500 cases in which a fugitive was being sought by the FBI showed that in every case the fugitive was known to have used at least one alias. In 75 of these cases, the fugitives had previously been identified under five or more aliases, and in one case the subject is known to have used more than 30 different false identities.

Besides aiding drug smuggling, illegal immigration and fugitives from justice, the use of false IDs materially assists fraud involving stolen checks, credit cards, securities, and welfare and Social Security benefit checks. Although we cannot provide firm figures on the scope of government benefit checks stolen from the mails and subsequently cashed by forgery, the experience of state and local welfare departments suggests that such losses are in the order of hundreds of millions of dollars annually.

The U.S. Postal Inspection Service during FY 1974 received reports of 140,864 checks with a total face value of over \$22 million stolen from the mails and subsequently cashed. A sampling of almost 6,000 of these checks was undertaken by postal inspectors

to determine the type of false ID used to cash the checks. [20]
 About 25% of the sampled cases were definitely determined to involve the use of a false ID other than the forged check itself (which becomes a false ID upon forgery). When cashing of a stolen check was supported by another ID, the one most commonly used was the commercial photo ID, followed in frequency by a stolen welfare ID and state driver's license.

This section presents data on the significant fraudulent uses nationally of false IDs. These findings are probably conservative because our studies are based only on those cases of false identification that have been detected. The crimes we illustrate would be much more difficult to commit if criminals did not have such easy access to false identification documents. Table 2 summarizes the extent of the problem in the six problem areas, discussed in more detail below, and lists the sources of information for this estimate.

Table 2
 Summary of Scope and Impact of
 National False Identification Problem

Problem Area	Scope of Problem	Extent of False ID Use	Sources of Data
Drug Smuggling	> \$1 billion/yr.	80% of hard drugs smuggled	Customs Service, Drug Enforcement Administration, Transport Office
Illegal Immigration	> \$12 billion/yr.*	Unknown; used in entry, employment, welfare application	Immigration & Naturalization Service, independent studies
Fugitives From Justice	> 300,000 fugitives/yr.	> 100% of Federal cases	FBI, sheriffs and police surveys
Fraud Against Business	> \$2 billion/yr.†	> \$1 billion/yr.	American Bankers' Assoc., independent studies
Fraud Against Government	Unknown	Unknown	Surveys of welfare officials, published studies
Other Criminal Activity	Unknown	Very common	FBI, sheriffs and police surveys

- * More than
- † Estimated U.S. tax burden
- ‡ Includes out-of-pocket losses and cost of collection attempts

DRUG SMUGGLING

False identification is indispensable to the well-organized smuggling rings that carry in the bulk of the hard drugs supplied to U.S. addicts. Statistics compiled by the U.S. Customs Service and the Drug Enforcement Administration^[23] show that 80% of all hard drugs are imported by rings making extensive use of false IDs. One such group whose smuggling activities have been carefully studied is the Brotherhood of Eternal Love.^[24] Between 1968 and 1973, this group alone is estimated to have smuggled 24 tons of hashish into the U.S. The principal means by which this group avoided detection was by securing documents, such as U.S. passports, under false names.

The activities of the Brotherhood of Eternal Love indicate the extensiveness of false ID use for a solitary smuggling group. As of October 1973, 130 separate passport frauds had been attributed to members of this group; fifty-one of these frauds were accomplished with counterfeit birth certificates. Indictments were obtained against 25 individuals. The individual who was considered to be the leader of the LSD operation was arrested on four separate occasions under four different false identities; on each occasion he escaped by posting and forfeiting relatively small bonds before his true identity was discovered.

Accurate records of seizures of dangerous drugs by the U.S. Customs Service were obtained for fiscal years 1967 through 1973.^[23] In FY 1973, seizures involving well-organized rings using false IDs totalled \$100 million ("street value" at time of seizure). From statements obtained by captured members of these rings, the value of drugs successfully smuggled by these groups was estimated as \$1 billion

The number of fugitives from justice is considerable. Between 1973 and 1975 an average of approximately 160,000 "criminal wanted" records each year were entered into the National Crime Information Center (NCIC), but not all persons sought under fugitive warrants are entered into the NCIC. The Federal Bureau of Investigation in fiscal 1974 located 37,891 fugitives indicted on Federal offenses or for crimes involving interstate travel.^[31]

The major impact of the use of false identification by criminal fugitives cannot, however, be measured in the number of offenders or dollar losses. Its impact is felt more in the loss of public confidence in law enforcement caused by the success of notorious fugitives in maintaining their covert status and in the danger such fugitives pose to society. We have found that their success is critically dependent on the availability of false IDs. While we cannot estimate the cost of the use of false IDs by fugitives, we emphasize that the ability of dangerous criminals to move freely and undetected in society is a serious threat to public safety and police morale.

FRAUD AGAINST BUSINESS

Check Forgery and Fraud

In a nationwide survey of police and sheriff's departments fraudulent cashing of checks, either stolen from the mails or drawn on accounts bearing false names, was cited as the most common criminal use of false IDs. Bad checks have become a major cause of financial loss to banks, far exceeding the loss from robbery and burglary combined.^[32] This loss is due in great measure to the successful use of one or more complete sets of false IDs that are part of the

usual working equipment of the experienced forger or check fraud artist. See Figure 5. A recently arrested check forger had in his possession 30 different birth certificates with which he had already obtained 15 driver's licenses, 17 Social Security cards, 11 checking accounts, 4 credit cards, and 10 miscellaneous IDs.^[30]

In 1973, about 25 billion checks were written in the United States; of these, approximately 0.65% (one out of 150) failed to clear and were returned to the depositor. These "return items" amounted to 169 million checks returned in 1973,^[33] 25 million of which proved to be counterfeit or forged, representing false identification fraud. Since the average dollar amount of all bad checks is estimated to be around \$30, total out-of-pocket losses from counterfeit or forged checks amounts to over \$750 million.^[21] The cost of attempting to collect on these checks, which averages about \$10 per check, must be added to this total. Thus, we estimate that the losses due to counterfeit and forged checks totalled approximately \$1 billion in 1973. Since the number of checks written is increasing rapidly from year to year, these losses may be expected to increase, even if the rate of forgery and counterfeiting does not.

Check fraud hits particularly hard at retail food stores and small businesses. The U.S. Department of Commerce estimates that bad check losses for food transactions exceeded \$450 million in 1974.^[34] The typical food store receives checks for 85% to 90% of its total sales and in addition often acts as a "bank" to cash payroll and government checks for customers. Bad check losses have been reported by members of the National Association of Food Chains and the Super Market Institute^[35] at about 0.04% of total sales; therefore, a single average food store, with an estimated sales volume of \$60,000 per week, puts \$240 per week or \$12,500 per year in the hands

of check thieves. About 60% of these losses appear to involve false identification fraud (forgery and counterfeiting), while 40% are uncollectible "not-sufficient-funds" cases. We do not count as losses the much larger number of returned checks on which collection is ultimately made.

According to a study conducted by the Small Business Administration, ^[36] bad checks accounted for about 13% of all crime-related losses to business in 1967-1968. The small business suffers a loss rate (in percentage of profits) over 3 times the average of business in general and 35 times that reported for large businesses.

Banks take the loss on only about 5% to 7% of all bad checks; however, the dollar losses tend to average considerably higher than in other businesses. The principal form of fraud affecting banks is forgery of stolen checks, with counterfeit checks contributing significantly also. ^[37] The American Bankers Association estimates bank losses due to forgeries in 1974 at \$50 million. Even though the direct loss is suffered by the first acceptor of the check rather than the bank, banks and their depositors suffer indirect losses as the result of bad checks, such as the cost of investigating incidents.

A survey conducted of 1974 losses to banks resulting from individuals presenting false identification for various bank activities revealed significant losses per crime. The average loss to the banks from checks cashed through the use of false IDs was \$216, while the average for cashing savings bonds was \$643. However, banks were much harder hit by the use of false IDs in opening new checking and/or savings accounts; total funds lost in this activity were \$3,734,521 with an average per crime of \$6,586. Most of these crimes were committed with falsified driver's licenses, the form of identification

most often used in bank transactions. The Insurance and Protection Division of the American Bankers Association believes this survey "has verified the long-held belief of bankers and law enforcement officials that phony driver's licenses are the most prevalent means of false identification used to defraud banks."^[38]

Credit Card Fraud

Credit card transactions have continued to grow in volume; the gross billings of the two largest bank credit card associations (Bank Americard and Master Charge) reached \$17.6 billion in 1974.^[37] Losses to business can occur as a result of three types of false identification fraud using such cards: misuse of a lost or stolen card by an imposter, use of a counterfeit card, or application for a card by a person with criminal intent. These losses may affect either the issuer of the card or the merchant accepting it, depending on circumstances.

A 1974 U.S. Department of Commerce publication placed losses on bank credit cards from all sources at approximately \$500 million per year.^[36] Sources of specific estimates on credit card fraud losses have been limited, but the Committee has received helpful information in the application area from the Fraud Application Section of the Western States Bankcard Association. (Their letter to the FACFI is included as Appendix E2 of this report.) Formed in January 1975, the Association's unit may be the only investigative one of its kind devoted exclusively to identifying and combatting fraudulent applications in the credit card industry.

Embezzlement

Embezzlement is another area in which fraud against business may be perpetrated. While the majority of embezzlers operate under their true name, the potential of infiltration of business firms by employees hired under false identities should not be overlooked. In 1974, the Washington, D.C. Metropolitan Police Department investigated twenty-two cases of embezzlement in which the suspect was found to be using a false ID.^[43] These cases represented 15% of all complaints for embezzlement handled by the Department in 1974. The average loss to business from each reported incident was about \$3,000.

Banks and other credit grantors are also subjected to large losses through embezzlement by persons making loans with false identification. Typically, this type of fraud involves a dishonest bank officer who processes loans for a confederate posing as a legitimate borrower. However, the "borrower" cannot be located when the loan falls due.

Another type of loan fraud is accomplished by a criminal's creating excellent credit ratings in the names of fictitious persons through the internal manipulation of the data banks of credit-reporting services. Participants in these loan fraud schemes acquire complete sets of false IDs to match their bogus credit ratings. A single bank victimized by one such scheme lost \$200,000 in loans on nonexistent cars made to borrowers with false identification.^[44]

These "nonexistent borrower" schemes have been blamed for a major part of the \$188 million fraud and embezzlement losses reported by financial institutions in fiscal year 1975.^[45] Total losses to all credit grantors from false ID credit swindles may never be known

stolen" were subsequently cashed by forgers. The annual loss in both cities from this kind of fraud reaches multimillion dollar proportions.

Welfare Fraud

Our surveys have shown that, due to the lack of identification standards for welfare recipients, neither Federal nor state agencies have a very good idea who is receiving almost \$37 billion per year in public assistance and Social Security payments. (See Appendix A1.) We have, therefore, no way to accurately estimate the scope of multiple collection of benefits by individuals using several identities. In fact, several welfare officials have admitted that there is no organized procedure for detecting such fraud; however, we have noted that institution of a photo ID program for welfare recipients in New York City in 1973 resulted in the closing of about 3,000 cases of ineligibility.^[47] These closings produced a saving of \$7.2 million per year, which represented about 0.6% of all New York City assistance payments for FY 1974. It seems likely that a large portion of these cases represented multiple payments, since the only major change in procedure was the issuance of a photo ID to recipients.

Although many attempts at false identification fraud may have been discouraged by the photo ID program, the problem has not been eliminated. For example, after the Queens County (New York City) District Attorney found several cases of multiple applications for benefits under false names in a single welfare center, he declared in early 1975 that this type of fraud is "...the most serious problem faced in the administration of Public Assistance and one for which there are no present adequate safeguards...".^[48]

EXECUTIVE SUMMARY

The criminal use of false identification is a multibillion dollar national problem. A growing army of criminals and fugitives is using a screen of false credentials in welfare fraud, illegal immigration, drug trafficking, passing bad checks and phony credit cards, and in hundreds of other crimes. These crimes have one thing in common: the taxpayer picks up the tab. Every American man, woman and child pays the price in taxes, the cost of goods, and in the human suffering and tragedy caused by the success of false identification crimes.

False identification is a criminal's best friend. With it, criminals can appear and disappear at will by creating fictitious "paper people." Often victims are not even aware they have been victimized. The exploding use of false identification must be stopped.

The purpose of this report is to unmask false identification crimes and to provide a comprehensive, commonsense plan which Federal, state and local agencies, the commercial sector and the public can use to prevent such crimes. This plan is designed to increase personal privacy while giving law enforcement agencies the necessary tools to fight false ID use. But action must begin now.

I. THE FEDERAL ADVISORY COMMITTEE ON FALSE IDENTIFICATION

The Federal Advisory Committee on False Identification (FACFI) was established by the Attorney General in November, 1974 to: (1) study the nature and scope of the criminal use of false identification; and (2) recommend steps to combat it consistent with every citizen's right to privacy. The Committee consists of some 75 volunteers representing 50 Federal, state and local agencies, the commercial sector and the public. The Committee's 18-month

effort was supported by a \$200,000 grant from the Department of Justice to the MITRE Corporation for staff support to the Committee.

II. HOW FALSE IDs ARE OBTAINED

False identification documents can be obtained readily and inexpensively anywhere in the United States or neighboring countries from a variety of commercial sources or by "do-it-yourself" techniques. In any large city one can find photo studios that provide customers with photo ID cards replete with official-looking signatures and seals in any name, address or birthdate of the customer's choice—no questions asked. Thriving mail-order businesses, which advertise their services nationally through "underground" newspapers and magazines, supply blank birth certificates and baptismal certificate forms and mount customer-supplied photographs on counterfeit "state ID" cards. Dozens of document vendors south of the U.S. border sell counterfeit U.S. immigration documents and border crossing cards for whatever the traffic will bear. Most of these activities are beyond the reach of current Federal or state laws.

But the enterprising imposter need not risk counterfeit or stolen documents; he can obtain genuine IDs of living or dead persons from the legal issuing offices themselves. This process begins when a criminal obtains a certified copy of another person's birth certificate by filing a false application at one of 7,000 vital records offices. In the "Infant Death Identity," or IDI process, the names of deceased infants gleaned from obituary columns or tombstones are frequently used. This "breeder document," the certified copy, is then used to obtain a driver's license, Social Security card and other documents until one or more identities are created. With them the criminal can destroy the personal privacy of those living persons whose names he uses and commit virtually any type of crime.

III. THE SCOPE OF THE FALSE ID PROBLEM

Because false identification is a *modus operandi* and not a separate category of crime, firm statistics on it are virtually impossible to obtain. This report reveals only the tip of a vast criminal iceberg of unknown dimensions. False identification impacts nationally in the six major problem areas summarized below.

Problem Area	Scope of Problem	Extent of False ID Use	Sources of Data
Drug Smuggling	> \$1 billion/yr.	80% of hard drugs smuggled	Customs Service, Drug Enforcement Administration, Passport Office
Illegal Immigration	> \$12 billion/yr. *	Unknown; used in entry, employment, welfare application	Immigration & Naturalization Service, independent studies
Fugitives From Justice	> 300,000 fugitives/yr.	~ 100% of Federal cases	FBI, sheriffs and police survey
Fraud Against Business	> \$3 billion/yr. †	> \$1 billion/yr.	American Bankers Assoc., independent studies
Fraud Against Government	Unknown	Unknown	Surveys of Welfare officials, published studies
Other Criminal Activity	Unknown	Very common	FBI, sheriffs and police survey

> More than

* Estimated U.S. tax burden

† Includes out-of-pocket losses and cost of collection attempts

— Approximately

1. *Drug Smuggling*—Approximately 80% of the hard drugs entering the United States, with an estimated street value of \$1 billion, is smuggled by organized rings that make extensive use of false identification. Passports obtained through false IDs facilitate the flow of drugs and illegal aliens across U.S. borders.

2. *Illegal Immigration*—The tax burden caused by illegal aliens has been estimated by the Immigration and Naturalization Service to be in excess of \$12 billion per year. Many illegal aliens use false identification and obtain welfare and other benefits at taxpayer's expense. Some alien smugglers are so confident of their false IDs that they offer a money back guarantee: if you get caught within five days of entry, you get your money back.

3. *Fugitives From Justice*—Escaped prisoners and other dangerous fugitives almost always obtain false IDs to avoid detection and capture. In a recent FBI survey of 500 names of wanted persons chosen at random, all had active aliases and some had more than 30 identities. James Earl Ray, Patty Hearst and countless other fugitives used false identification.

4. *Fraud Against Business*—The use of false IDs is costing American businesses well over \$1 billion each year through check and credit card fraud, securities fraud, and embezzlement. The average food store is estimated to suffer losses of over \$7,000 per year through false ID fraud. One New Jersey engineer got 1,000 credit cards and \$660,000 in loans by creating 300 phony IDs.

Banks suffer losses primarily through forgery of stolen checks—

estimated by the American Bankers Association at \$50 million for 1974. False IDs play a substantial role in losses on bank credit cards that total approximately \$500 million each year.

5. *Fraud Against Government*—Surveys conducted among state and Federal welfare officials by the FACFI revealed that there are no uniform standards for the identification of welfare recipients. Thus, we have no way to estimate the scope of multiple collection of benefits by individuals using several identities. Losses from false identification are uncontrolled and could well number in the billions of dollars. A New York District Attorney who found several cases of such fraud in a single welfare center concluded that illegal multiple entitlement is "the most serious problem faced in the administration of Public Assistance and one for which there are no present adequate safeguards."* Significant evidence of the use of false IDs in obtaining illegal benefits was also uncovered in an investigation of the food stamp program in Arkansas. In Chicago, authorities nabbed a "welfare queen" who used 250 aliases in 16 stores to steal more than \$150,000 from social welfare programs. She used 31 different addresses, three Social Security numbers, and records of eight "deceased husbands;" at a preliminary hearing her true name remained a mystery. Further investigation of false identification welfare fraud in many more locations is necessary, however, before the national impact of this problem can be accurately estimated.

In Philadelphia, before a serious effort was made in 1974 to reduce the mailing of welfare checks, an average of 10,000 replacements for checks reported "lost or stolen" were issued each month. About 41% of the lost or stolen checks were subsequently forged, resulting in an annual loss of \$4.8 million. A similar audit of lost or stolen checks conducted in New York City found forgery losses to be in excess of \$8 million during the year ending October 1973. In Federal Social Security programs forgery of stolen benefit checks—amounting to approximately \$10 million during 1975—also appears to be a major source of loss.

6. *Other Criminal Activity*—The usefulness of false IDs has not been lost on the common criminal engaging in crimes from con-

*N. Ferraro, "Report on Investigation of Welfare Fraud for 1974," Queens County, N.Y., 1975.

fidence games to burglary. In his response to the FACFI survey a Dayton, Ohio sheriff sums it up:

The growing and thriving business in underworld sale of false identification and related items has become so standard that not only does the common thief have ready access to any type of false ID he wishes, but also he finds the going street price within easy reach of his budget.*

IV. RESPONSE TO THE PROBLEM

The FACFI has been charged not only with documenting the problem of criminal use of false identification, but also with developing written proposals for dealing with it at all levels of government as well as informing the public of ways to reduce such crimes. To accomplish these goals, the FACFI has been holding regular sessions in Washington, D.C. since November 1974. All meetings have been announced in advance in the Federal Register and have been open to the public. The FACFI and its staff have examined a large number of potential solutions to false ID problems received from FACFI members, survey respondents, and members of the general public. Other ideas for solutions were gleaned from newspaper and magazine articles, testimony before Congress, and the experience of other democratic societies in dealing with problems of identification. Information was also requested from vendors of fraud-resistant identity verification devices and techniques through a solicitation published in the *Commerce Business Daily*.

Members of the FACFI evaluated potential solutions through a formal procedure and then ranked them with respect to criteria that included an assessment of effectiveness and potential impact on public convenience and privacy. We recognize the legal and implied rights to privacy and the threat to those rights by excessive government interference. Thus, FACFI has attempted to maintain a careful balance in formulating recommendations for dealing with the national false identification problem: we have considered both *protection against crime* and *protection of privacy* to be guarantees provided to all in a free society.

*"Survey of Police Departments and Sheriff's Offices," *Report to Fugitives Task Force of the FACFI*, May 1975.

V. PROPOSED FINDINGS AND RECOMMENDATIONS

1. REJECTION OF A NATIONAL IDENTIFICATION DOCUMENT

The concept of a uniform personal identification document, to be issued and secured by Federal or state government, has occasionally been proposed as a sweeping solution to the problems of false identification. National IDs are in fact used by a number of nations with democratic traditions as well as those under other forms of government. The FACFI considered it necessary and advisable to study the national ID concept as carefully and rationally as possible in order to illuminate the advantages and problems inherent in such an approach.

Three different approaches to a system of uniform personal identification were evaluated by FACFI members. One approach proposed a federally-issued document designed specifically for personal identification within the U.S. This document would be available to citizens on a voluntary basis and would incorporate application procedures and security features similar to those used in the U.S. passport. The second suggestion envisioned a complete national identification system in which citizens would be registered at birth. This proposal included an automated verification system—a data base containing only identity information—that could be accessed only by the registered individual to verify his identity to government agencies. The third proposal suggested the use of present state driver's licenses (and non-driver state IDs) as recognized and required personal identification. Application for such a document would be required of all citizens at age 16. Safeguards against counterfeiting, alteration, and use by imposters would have to be included in all such state documents.

Similar arguments can be brought to bear in favor of and against all these proposals. Arguments in favor of a single standardized ID include the beliefs that:

- a. Such a document could be more easily recognized, controlled and protected against abuse.
- b. Document systems that include everybody would thereby be "foolproof."
- c. Government has an obligation to provide a reliable means of personal identification for public and private transactions among its citizens.

Arguments against a standardized national ID include the beliefs that such documentation is in opposition to American tradition and would represent an invasion of personal privacy, and that data required for citizen identification could be abused by government or private interests.

It is certain that any new system designed to verify and store identity information on over 200 million people would be extremely expensive and require a major national effort. It is highly probable that proposals for such a system would be opposed politically. If such a system were implemented despite these difficulties, it would be subject to defeat by imposters or counterfeiters taking advantage of careless inspection of documents or through corruption of officials. Occasional errors would also occur in such a system that could adversely affect innocent people. Organized crime would take advantage of any national ID system because of the presumption of validity surrounding such a large system. Criminals could reap benefits far greater than they obtain under the current multifaceted system of identification.

The FACFI therefore strongly opposes any new type of state, or local government-issued ID intended to supersede existing documents. In short, FACFI opposes any so called "National ID card."

The FACFI instead recommends that the security of existing state document systems be increased, particularly for breeder documents such as the birth certificate and the driver's license. Security must be increased both in the *application phase* (during which documents are issued) and in the *use phase* (when the documents are used).

Thus, the goals of FACFI's recommended actions are to insure the increased security and privacy of existing state identification documents in state, interstate, and Federal transactions, and to insure swift prosecution of criminals who obtain and use false IDs. The following recommendations are designed to accomplish these goals. Specific steps to implement them are found in Sections 9-11 of this report.

2. RIGHT TO PRIVACY

The FACFI finds that the criminal use of false identification often invades personal privacy; that innocent citizens are victimized when their good names and credit are used in criminal transactions; and that the protection of personal privacy is an essential right, fully

consistent with sound law enforcement efforts to reduce false identification crimes.

The FACFI therefore recommends that individual privacy rights be given the fullest consideration in the formulation and implementation of the following legislative and administrative proposals to counter the criminal use of false identification.

3. BIRTH CERTIFICATES

The FACFI finds that certified copies of birth certificates have frequently been abused by imposters and counterfeiters because:

- a. Unsigned requests by mail for such documents are usually honored.
- b. The birth certificates of deceased persons are not usually so designated and there is almost no correlation of birth and death records.
- c. Records of deaths and births in many states are open for "browsing" by persons seeking false identification.
- d. Minimum standards are not available for issuance security and document security of birth certifications.
- e. Many of the 7,000 local vital records offices are autonomous, which results in a wide variety of formats, seals, and safeguards provided for certifications, making it difficult to confirm or control the validity of local certifications.
- f. Information on the abuse of birth certificates is often not given to the proper state authorities.
- g. Abuse of birth certificates is not sufficiently covered by legislation at either the state or Federal level.

The FACFI therefore recommends that:

- a. Fraudulent application be discouraged by use of state-issued standard application forms requiring the applicant's signature, justification of request, and items of personal history not generally available to imposters that can be used to detect false applications.
- b. A system be implemented for intrastate and interstate matching of birth and death records to note the fact of death on the

birth certificates of all persons aged 55 years or less at the time of death.

- c. State laws to protect individual privacy by limiting public access to birth and death records be enacted in all states lacking such legislation.
- d. Minimum standards be established for security of certified copies against theft, alteration and counterfeiting for adoption by states. (See Appendix D1.)
- e. Federal agencies that require personal identification in application for privileges or benefits accept as primary evidence of age and place of birth only those U.S. birth certifications issued by a state or state-controlled records office.
- f. Formal notification of the abuse of a birth certification be given by state and Federal law enforcement agencies to the appropriate state registry officials. The information exchange might be facilitated through the establishment of a clearing-house for false ID information.
- g. Wherever practical, requests for birth certificates be retained by the issuing office to assist in the detection and tracing of fraudulent requests.
- h. Appropriate state and Federal legislation be enacted to prohibit the fraudulent application for, possession, sale, and transfer of birth certifications for the purpose of establishing a false identification.

4. DRIVER'S LICENSES

The FACFI finds that state driver's licenses (and nondriver state ID or age-of-majority cards) are frequently abused by counterfeiting, imposture, or fraudulent application because:

- a. They are used as personal ID for commercial transactions and dealings with government agencies although this use was not intended by issuing authorities.
- b. The security of issuance procedures and of the document itself varies widely among the states.
- c. Driver's licenses and other state identification documents are not sufficiently protected by Federal legislation against interstate abuse.

The FACFI therefore recommends that:

- a. The state-issued driver's license (or state-issued ID) be recognized as the primary form of personal ID for use in commerce and in general transactions between individuals and government.
- b. Guidelines be drafted by the Federal government providing minimum standards for the identification of applicants for original, replacement, or interstate exchange of driver's licenses and state IDs, and for security of those documents against counterfeiting, alteration, and use by imposters.
- c. Voluntary compliance by all states with these guidelines be encouraged by appropriate Federal funding or other incentives and/or sanctions.
- d. An analysis and implementation plan for improvement in the security of state ID systems be developed by the Law Enforcement Assistance Administration (LEAA) for consideration by the states.
- e. Federal legislation be enacted to prohibit counterfeiting in any state of personal IDs issued by any other state, and to prohibit use of the channels of interstate commerce to assist fraudulent application for state IDs.

5. DRUG SMUGGLING

The FACFI finds that smuggling of narcotics and other dangerous drugs by criminal organizations is aided materially by extensive use of false U.S. and foreign passports and other documents.

The FACFI therefore recommends that:

- a. Birth certificates and state-issued IDs, as the primary documents used in U.S. passport application procedures, be secured in accordance with FACFI recommendations.
- b. Federal agencies concerned with the activities of drug smuggling (including the Immigration and Naturalization Service, Drug Enforcement Administration, Customs Service, Passport Office, and Visa Office) provide coordinated training programs for the detection of false IDs used by smugglers and communicate frequently with each other and state and local authorities on the observed patterns of such false ID use.

- c. Interpol be encouraged to coordinate international law enforcement efforts in the detection of passport and other document fraud.

6. ILLEGAL IMMIGRATION

The FACFI finds that illegal aliens routinely use false IDs such as stolen or counterfeit immigration documents and border crossing cards, and U.S. birth certificates and voter registration cards obtained under false pretenses, to enter and remain in the United States. By obtaining Social Security accounts, they are able to secure employment to which they are not entitled, made easier because knowing employment of illegal aliens is not prohibited under Federal law.

The FACFI therefore recommends that:

- a. The Immigration and Naturalization Service (INS) be provided with sufficient funds to develop and implement an improved system for registration of legal aliens that will resist attempts at forgery, counterfeiting, and use of INS documents by imposters.
- b. Birth certificates and secondary evidence of U.S. citizenship be secured in accordance with FACFI recommendations.
- c. Identification and citizenship of applicants for new Social Security accounts be verified by stricter evidentiary requirements or other appropriate means.
- d. Federal legislation be enacted to counteract knowing employment of illegal aliens.

7. FUGITIVES FROM JUSTICE

The FACFI finds that dangerous fugitives are able to avoid apprehension through the use of false identification and that, when arrested, they may be released before their identity and criminal history are confirmed.

The FACFI therefore recommends that:

- a. State and Federal document systems be protected from abuse by fugitives through enactment of FACFI recommendations for birth certificates and driver's licenses.

- b. Laws be enacted requiring verification of the identity of all persons arrested, prior to their release on bond.
- c. To meet such identification requirements without endangering arrestees' rights, appropriate equipment be used for high-speed transmission of fingerprints and other identifying data between local or Federal law enforcement offices and identification bureaus.

8. FRAUD AGAINST BUSINESS

The FACFI finds that American business is subjected to billion-dollar losses each year from false identification fraud through forgery and counterfeiting of personal and corporate checks, impersonation based on stolen credit cards, negotiation of lost or stolen securities, and unauthorized intrusion into data banks and computer facilities.

The FACFI therefore recommends that:

- a. The business community incorporate into its operations measures to prevent false identification crimes; preserve evidence of such crimes; prosecute those who commit them; train employees in preventative measures; and assist the public in understanding the need for these measures.
- b. The business community make use of improved technological safeguards against false ID fraud.
- c. The business community participate in the increasing development and use of electronic funds transfer systems, which have the potential of reducing false ID fraud by reducing the amount of negotiable paper in circulation. The potential for privacy abuses and significant false ID fraud via electronic manipulation must be addressed in the design of such systems.
- d. The security of driver's licenses and other state IDs, which are widely used in commercial transactions, be improved through implementation of FACFI recommendations.
- e. The business community consider unauthorized intrusion into data banks as "white collar crime of the future," and take steps to analyze, detect, and prevent such intrusions.

9. FRAUD AGAINST GOVERNMENT

The FACFI finds that government public assistance programs such as food stamps and Social Security are subjected to outrageous annual losses through false identification fraud and that such fraud results principally from the use of false IDs in applying for welfare IDs, welfare benefits and in the cashing of stolen benefit and payroll checks.

The FACFI therefore recommends that:

- a. The Federal government upgrade existing standards for the identification of applicants for federally-supported or cost-shared public assistance programs.
- b. Mailing of welfare and payroll checks to individual addresses be superseded by mailing or direct deposit to banks and thrift institutions to the extent that such depositing is beneficial to recipients and is practical.
- c. The identity of applicants for new Social Security accounts be verified by stricter evidentiary requirements or other appropriate means and that the Social Security card be made resistant to alteration, counterfeiting and forgery.
- d. Cooperative programs be instituted for the training of welfare and Social Security employees in techniques for detection and reporting of the use of false identification.
- e. The security of birth certificates and driver's licenses, which are frequently used in application for government payments, be improved through implementation of FACFI recommendations.

10. FALSE IDENTIFICATION DATA

The FACFI finds:

- a. That many government agencies and companies who regularly are being defrauded by false identification schemes are not aware that they are being victimized because false identification crimes are often not detected until long after the crime has been committed.
- b. That there is an almost total lack of meaningful statistics concerning false identification crimes both in government agencies and the commercial sector; there is great reluctance by organizations to reveal these crimes even when they are dis-

covered because such losses are embarrassing to the organizations concerned; and that such failure to expose the criminal use of false identification has contributed to the proliferation and success of this criminal technique.

The FACFI therefore recommends that:

- a. Federal, state and local agencies and the commercial sector develop increased awareness of the nature of false identification crimes, compile statistics on those crimes that are committed within their organizations, and affirmatively seek methods of preventing the commission of such crimes both in the application stage and in the use stage.
- b. Federal, state and local law enforcement agencies and firms in the commercial sector establish a statistical base line by which to measure the increase or decrease in false identification crimes; and that other data on false identification be compiled including the type of crime, *modus operandi*, and a profile of the user and victim of false identification. Finally, FACFI recommends that the FBI gather statistics relating to false identification crimes to be published in Uniform Crime Reports. Such statistical base lines can then be used to measure the effectiveness of the countermeasures recommended by the FACFI as they are being implemented.

11. LEGISLATIVE LOOPHOLES

A. Federal Legislation

The FACFI finds that maintaining and upgrading the integrity of state identification documents, particularly the birth certificate and driver's license, is the key to reducing false identification crimes at both the Federal and state level.

There are approximately 350 Federal statutes relating to false identification, false applications and related subjects, but many Federal laws are ineffective in deterring false identification crimes because:

- a. Most identification documents are issued and regulated solely by the states. Federal statutes only come into play when the criminal applies for a federally-issued document such as a passport. By this time the criminal has built up such a variety of state-issued documents that false application is difficult to detect and likely to succeed. Indeed, a criminal's false identification may be more persuasive and complete than an honest person's valid identification.

- b. The Federal government does not collect and maintain information to verify a person's identity; only the states have that information. Therefore, the Federal government is totally dependent on state information and documents such as the birth certificate and driver's license, and those are often weak links in the identification chain.
- c. Federal statutes regulate only those documents issued by the Federal government and states regulate only documents which they issue; thus, there remains a substantial enforcement gap between these jurisdictions. This gap permits nationwide counterfeiting and selling of false identification documents.
- d. There are loopholes in some of the Federal statutes regulating specific documents such as the Social Security card and others.
- e. Even where Federal statutes are specific and well drafted, enforcement and prosecution is often given a low priority. The crime usually appears more innocuous than it actually is.
- f. In some cases, penalties for false statements on applications are sufficient. Other statutes require only revocation of licenses. Civil fines are imposed in other instances. There is little uniformity of treatment for false ID crimes.

The FACEI therefore recommends that:

- a. S.2131, legislation introduced in the 94th Congress, be enacted. S.2131 would close most existing loopholes in Federal legislation dealing with false identification. This bill:
 - 1. Prohibits false applications for Federal documents by prohibiting the knowing use or supplying of false information or falsified documentation when obtaining Federal identification documents;
 - 2. Prohibits the knowing use of the mails or other channels of interstate commerce for transporting any false information or documents for the purpose of obtaining state identification documents;
 - 3. Prohibits the unauthorized making or altering of any Federal identification documents;
 - 4. Prohibits the unauthorized making or altering of any state identification document when there is knowledge that such document will be used to obtain any document issued by the Federal government; and prohibits the sale or delivery of any such state identification document; and

5. Prohibits using the channels of interstate commerce or the mails to transmit any false Federal or state identification document or one intended to be used improperly.
- b. Federal false identification statutes be enforced with renewed vigor by prosecutors; and that judges be made aware of the importance of false identification crimes so that sentences may more accurately reflect the seriousness of these crimes.

B. State Legislation

The FACFI finds that the primary thrust of state statutes dealing with false identification is prohibitive not preventive. Criminal penalties are invoked upon fraudulent use of a false identity rather than the mere possession of fraudulent identification documents. Laws are totally inoperative until the criminal, in his new identity, commits a crime. By this time it is often too late. The criminal may have assumed another identity and disappeared.

In most states there is no comprehensive law against establishing a fraudulent identity. Statutes that purport to deal with the problem only deal with parts of it.

State laws governing the issuance of certified copies of birth and death certificates and access to such records do not adequately protect the public's right to privacy because certified copies of birth certificates are freely (though unknowingly) handed to criminals by all states. In some states it is not even illegal to lie on an application for a certified copy of a birth certificate.

The problem is national in scope, but states are powerless to protect any but their own identification documents. States cannot control the manufacture, counterfeiting and criminal use of their own IDs outside their borders.

The wide variety in document format and authenticating seals encourages the passing of counterfeit state documents.

Laws regulating specific documents, such as the birth certificate, are not comprehensive enough to allow effective enforcement. These laws never make reference to *all* of the following acts involving false identification:

- a. Illegal manufacture
- b. Sale
- c. Possession
- d. Alteration
- e. Transferring

- f. Transporting
- g. Advertising for sale
- h. Obtaining
- i. Receiving
- j. Use or display
- k. Use after expiration, suspension, or revocation
- l. False or misleading statements or use of false documents in an application for such documents.

Without this degree of comprehensiveness, criminals can use and supply others with false identification documents without fear of prosecution.

Many documents which can be used for identification purposes or to obtain other documents are not regulated at all. None of the states investigated by the Committee had laws regulating private ID cards and documents not issued by state agencies. These private ID cards can be used to purchase firearms or dangerous drugs that are not traceable to the real purchaser.

Prosecutors place low priorities on prosecution of false ID crimes because of a lack of awareness of the potential seriousness of the crime. Altering a document does not look nearly as serious as a murder or rape case until one realizes that the use of false IDs prevents many murder, rape and other cases from being solved.

In most states citizens have the common law right to change their name without any formal legal proceedings. In these states it is more difficult for prosecutors to prove fraudulent intent to violate false ID laws.

The FACFI therefore recommends that:

- a. States enact Model State Legislation proposed by the Committee entitled the "Identity Protection Act." This Act:
 - 1. Protects the public health and welfare and the right of privacy and security in one's own identity by penalizing the manufacture, alteration, transfer, sale, possession or use of any false identification document or any document obtained by use of false statements or false identification in the application process.
 - 2. Will specifically protect the integrity of the use and possession of birth certificates and driver's licenses.
 - 3. Establishes stricter criminal penalties for false identification crimes and requires them to be served consecutively with any other sentence arising out of the same crime.

4. Prevents fraud by private ID vendors and prohibits spurious documents issued by criminals in other states.
- b. States enact the most recent amendments to the Model State Vital Statistics Act prepared under the auspices of the National Center for Health Statistics of the Department of Health Education and Welfare (HEW). These are designed to protect the integrity of the birth certificate issuing system. These amendments also upgrade criminal penalties for false identification crimes.
- c. State educational programs be established to facilitate implementation of the Model Identity Protection Act and the Model State Vital Statistics Act and to assist officials in improved methods of document fraud detection.

12. USE OF IDENTIFICATION DOCUMENTS FOR UNDERCOVER PURPOSES

The FACFI finds that a study of the means by which Federal, state and local agencies obtain and use undercover documents for law enforcement and intelligence purposes is outside the charter of the Committee and thus has not been explored; the Committee notes, however, that some people have questioned the adequacy of controls on obtaining and using such documents.

The FACFI therefore recommends that:

- a. Government agencies not obtain or provide "alias identification" in violation of any local, state, or Federal laws.
- b. Agencies review their laws, regulations and procedures for obtaining such credentials to insure that they are lawfully obtained and that their use is adequately controlled.

13. PUBLIC SUPPORT

The FACFI finds it essential to obtain public recognition of the scope and impact of crimes committed with the aid of false IDs and to solicit informed support of measures designed to reduce the use of false IDs in the United States.

The FACFI therefore recommends that the Department of Justice and all other concerned organizations encourage public support for the measures recommended by the FACFI.

DRIVER'S LICENSE

Driver's licenses^[9] are issued by all 50 states and the District of Columbia. The popularity of the license as a credential for business transactions is due in part to the fact that a driver's license always carries the bearer's signature, address, birth date, and some type of physical description. A photograph of the legal bearer is used on 36 of the 51 types of U.S. license; 46 carry the bearer's height, 40 weight, 36 color of eyes, and 18 color of hair. The bearer's Social Security number (SSN) is collected and maintained in the Motor Vehicle Administration's record system in 31 states. In eleven jurisdictions the SSN serves as the license number;

Forty-four jurisdictions claim to seek positive proof of full name, date, and birthplace of an applicant prior to issuance of an initial driver's license; however, such proof may be waived if the

applicant presents a valid license from another state. A birth certificate is always accepted as proof; some states, however, accept school records, military ID, or a baptismal certificate as well. Thirty-three states presently issue an identification card (usually in the same form as a driver's license) to non-drivers; in four of these states, a birth certificate or similar proof of age and birthplace is not required to obtain such a card.

Since the birth certificate is accepted as "proof" of identity in applying for a driver's license, a false birth certificate can be used to obtain a license in the same false name. Counterfeit documents that are often good enough to pass close visual inspection are also legally available from "underground" sources. Because the form and content of a driver's license varies, detection of a counterfeit out-of-state license by merchants or local police is extremely difficult. False application and counterfeiting appear to be the most common forms of abuse of driver's licenses. Twenty-nine types of driver's licenses incorporate measures that resist attempts at alteration; however, none are foolproof and some are still too easily altered.

U.S. PASSPORT

Passports^[10], which are essential for international travel, can be used for either legitimate purposes or such illegal purposes as drug smuggling. By definition, a passport attests to the identity and citizenship of its bearer; therefore, specific evidence of identity and citizenship is required from a passport applicant. A birth certificate is usually the accepted proof of citizenship; identity can be established either by a government-issued photo ID (such as a driver's license) or by affidavit of a witness who knows the applicant personally. Applications must be submitted in person

SECTION IV

DOCUMENT TYPES AND ISSUANCE PROCEDURES

CHARACTERISTICS OF EXISTING STATE-ISSUED DRIVER'S LICENSES

The following list accounts for the data that can be found on various state-issued driver's licenses.

- Full name is included in all states.
- Present address is included in all states but Kentucky.
- Date of birth is included in all states.
- Driver's license number is included in all states.
- Signature is included in all states.
- Expiration date is included in all states (renewal period 2-4 years).
- Sex is included in all states but Massachusetts, Pennsylvania, Missouri, New Mexico and Minnesota.
- Height is included in all states but Michigan, North Carolina and Pennsylvania.
- Weight is included in 41 states.
- Eye color is included in 38 states.
- Hair color is included in 20 states.
- Fingerprint is not included in any state.
- Race is no longer used in any state.
- Thirty states list the Social Security number; in 11 of these states, the SSN becomes the license number.

SECTION VI
INFORMATION EXCHANGE

DRIVER'S LICENSE CONTROL AND NATIONAL DRIVER REGISTER

Driver's License Control

Both interstate cooperation and Federal guidelines have established legal controls in the issuance process to verify that the license is actually issued in the true name of the applicant. The National Highway Traffic Safety Administration (NHTSA) Highway Safety Program Standard No. 5, Driver Licensing,⁶ requests the states to seek positive proof of full name, date and place of birth prior to issuance of the initial driver's license. Currently 47 states⁶ claim to comply with this provision, but inadequate computer storage capacity sometimes restricts the retention of place of birth.

Another interstate control of licensed drivers available to the states is in the form of the Driver License Compact (DLC) authorized by Congress in 1958. Twenty-nine states presently are members of the Compact,⁶ which requires member states to forward records of out-of-state traffic violation convictions to the driver records agency in the home state of the driver. Upon issuance of a driver's license in any state, the Compact requires that all previous current valid licenses be surrendered to the new state of issuance and returned by the driver licensing officials to the previous state of issuance. Section 6-101(c) of the Uniform Vehicle Code (UVC) also provides that out-of-state drivers surrender their old licenses. Eight additional states claim compliance with this section of the UVC. It is likely, however, that some states do not comply totally with the DLC and UVC provisions.

Many states have formed local regional agreements with respect to driver violations. In some cases, if a driver receives a speeding ticket while driving out-of-state, this violation is forwarded to his home state and entered in his computer record. Other agreements restrict these actions to more serious violations such as drunken or reckless driving. All of these control features are desirable and should be retained.

In Section III, we pointed out that applications for interstate transfer of driving privilege are particularly vulnerable to false ID fraud. A person presenting a stolen or counterfeit out-of-state license as identification can obtain a new and valid license through such a transfer application. To detect such a fraudulent transaction, it is necessary to check the license files of the state which purportedly issued the old license. At present, such fraud is detected some time after the fact (if at all), when the transferred license is returned by mail to the state of origin. To check all transfer applications for validity by interstate mailing before issuing new licenses would require a substantial increase in effort by the licensing agencies, would increase significantly their cost of operation, and would introduce new and undesirable delays in the licensing process. In order to increase the security of the license transfer process without introducing these problems, we propose a system through which computerized inquiries could be made by a license examiner in one state to the driver's license files in any other state. This would permit validation of transfer applications in a matter of seconds. A great deal of the hardware required to implement this proposal is already in operation. The license files are computerized in all states; as discussed in the last section, most states either have or are planning to obtain the on-line terminals which are also required for "instant" verification of license transfer applications. The remaining major element that would be required is a nationwide data communication system linking state DMV offices. The cost of such a system would be decreased greatly if it were made an "add-on" to an existing data system. The following subsections describe three operational nationwide data systems that could conceivably be adapted to this purpose: the National Driver Register, the National Crime Information Center, and the National Law Enforcement Telecommunications System.

National Driver Register (NDR)

The United States Congress established the National Driver Register (NDR) to assist each state in locating the records of drivers who had violated certain laws and had their licenses taken away regardless of where in the U.S. the violations occurred. The NDR provides a central driver records data base containing the names of drivers whose licenses have been denied, suspended, or revoked for any reason (except denial or withdrawal for less than six months due to a series of non-moving violations).

EXHIBIT "B"
January 26, 1983

TESTIMONY OF CELINDA C. LAKE, WOMEN'S LOBBYIST FUND LOBBYIST, ON JANUARY 26, 1983,
BEFORE THE SENATE JUDICIARY COMMITTEE REGARDING HB 45.

The Women's Lobbyist Fund, representing a broad coalition of women's groups in Montana, supports the passage of HB 45 to establish a fee for declaration of marriage without solemnization, allocating it in the same manner as a marriage license fee. We are particularly interested in that portion of the marriage license fee which goes to fund battered spouse programs.

Battered women constitute a sizeable group within our population and it is estimated that this type of violence is generally on the increase. The rise in battering is particularly acute during bad economic times such as we face now. It is also in these times that many women have the least resources to leave battering situations. According to the survey done by the Women's Bureau entitled "Women and Work", an estimated 7%-8% of Montana's women are in regular battering situations and many have argued that figure drastically underestimates the true incidence of battering in this state. In fiscal year 1982 3448 men, women, and children were service recipients of the domestic violence aid, provided by state government, according to the Domestic Violence Program Reporting Service of the Evaluation Bureau of SRS. At the same time 250 battering incidents were being reported per month to county officials across Montana -- again a figure which underestimates the actual incidence of battering.

These statistics give some idea of the potential demand for services for domestic violence programs in Montana. The need for these services adds urgency to the desire to have a loop-hole closed which would provide more money for these programs and would treat marriage applicants more equitably. For these reasons we again urge this committee to pass HB 45.

NAME :

DATE: 1/25/83

ADDRESS :

PHONE :

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

COMMENTS :

James A. Davis

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Whiteline Landowners DATE: 1-26-83

ADDRESS: Liont Creek SW.

PHONE: 827-4800

REPRESENTING WHOM? _____

APPEARING ON WHICH PROPOSAL: _____

DO YOU: SUPPORT? X AMEND? X OPPOSE? ~~X~~

COMMENTS: Bill #155

TO: Senator Jean Turnage
FROM: James R. Beck
RE: Senate Bill 155
DATE: January 27, 1983

During the hearing on S.B. 155 you inquired as to the name of the person who first requested that a portion of the highway right of way be sold. The Department was contacted by Dave Bennett of Bennett Homes and Realty. This contact was followed by a letter from his attorney, Robert L. Fletcher.

EXHIBIT "C"
January 26, 1983

The Big Sky Country



MONTANA STATE SENATE

SENATOR TOM HAGER
SENATE DISTRICT 30

HELENA ADDRESS:
P. O. BOX 44
CAPITOL STATION
HELENA, MONTANA 59620

HOME ADDRESS:
150 NORRIS COURT
BILLINGS, MONTANA 59105

COMMITTEES:

PUBLIC HEALTH, CHM.
HIGHWAY & TRANSPORTATION, VICE CHM.
TAXATION
INTERIM WATER OVERSIGHT, CHM.

January 25, 1983

Jean A. Turnage
Chairman
Senate Judiciary Committee
State Capitol Building
Room 325
Helena, MT 59620

Dear Senator Turnage:

The Water Courts have requested that Senate Bill
No. 30 be tabled.

As chief sponsor of the bill, I concur and request
that the committee table the bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Hager".

Senator Tom Hager
Chairman
Public Health

TH/cdf

SENATE COMMITTEE JUDICIARY

Date January 26, 1983 Bill No. SB165 Time 11:17

NAME	YES	NO
Berg, Harry K.	✓	
Brown, Bob	✓	
Crippen, Bruce D.		✓
Daniels, M.K.	✓	
Galt, Jack E.		
Halligan, Mike	✓	
Hazelbaker, Frank W.		
Mazurek, Joseph P.	✓	
Shaw, James N.		✓
Turnage, Jean A.		✓

Wicki Nordhuet Jean A. Turnage
Secretary Chairman

Motion: Senator Daniel's motion to TABLE SB165.

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE JUDICIARY

Date January 26, 1983

Bill No. HB74 Time 11:13

NAME	YES	NO
Berg, Harry K.		✓
Brown, Bob	✓	
Crippen, Bruce D.	✓	
Daniels, M.K.	✓	
Galt, Jack E.		
Halligan, Mike		✓
Hazelbaker, Frank W.		
Mazurek, Joseph P.		✓
Shaw, James N.	✓	
Turnage, Jean A.	✓	

Wicki Nordlund
Secretary

Jean A. Turnage
Chairman

Motion: Senator Shaw's motion that HB74 BE NOT CONCURRED IN.

(include enough information on motion--put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

January 26, 19 83

MR. **PRESIDENT**

We, your committee on **Judiciary**

having had under consideration **House** Bill No. **45**

Waldron (Halligan)

Respectfully report as follows: That **House** Bill No. **45**

(Third Reading)

BE CONCURRED IN

~~XXXX~~

STANDING COMMITTEE REPORT

.....January 26,..... 19 83.....

MR. **PRESIDENT**.....

We, your committee on **Judiciary**.....

having had under consideration **House**..... Bill No. **74**.....

Fabrega (Crippen)

Respectfully report as follows: That..... **House**..... Bill No. **74**.....

(Third Reading)

BE NOT CONCURRED IN

NOBODY

STANDING COMMITTEE REPORT

January 26, 19 83

PRESIDENT

MR.

Judiciary

We, your committee on

Senate

114

having had under consideration Bill No.

Thomas

Respectfully report as follows: That **Senate** Bill No. **114**

introduced bill, be amended as follows:

1. Title, line 6.

Strike: "FAMILY OR OTHER PERSON ENTITLED THERETO"

Insert: "PERSONAL REPRESENTATIVE OR TO THE PUBLIC ADMINISTRATOR,
EXCEPT WHEN THE PROPERTY OR NOTE ARE CONSIDERED BY THE
COUNTY ATTORNEY TO BE EVIDENCE OF A CRIME"

2. Page 1, line 19 and 20.

Strike: "state" through "person" in line 20.

Insert: "investigating agency"

3. Page 2, line 1.

Following: "death is"

Insert: "to be"

4. Page 2, line 2.

Following: "made"

Insert: "or is in progress"

XXXXXX
DO PASS

(continued on page 2)

5. Page 2, line 2.
Following: "suicide note"
Insert: "considered to be evidence by the county attorney"
6. Page 2, line 3.
Strike: "state medical examiner or a coronor"
Insert: "investigating agency"
7. Page 2, lines 4 and 5.
Strike: "or a 90-day" through "first" in line 5.
8. Page 2, line 8.
Strike: "90-day period"
Insert: "investigation"
9. Page 2, lines 11 through 13.
Following: "(3)"
Strike: the remainder of line 11 and all of lines 12 and 13.
Insert: "For the purposes of this section and [section 2],
"investigating agency" means any county coronor or
county attorney, the state medical examiner, and
any law enforcement agency of this state and any
political subdivision of this state having
jurisdiction of the death.""
10. Page 2, line 15.
Strike: "Any"
Insert: "(1) Except as provided in subsection (2), any"
11. Page 2, lines 18 and 19.
Strike: "state medical" through "person" on line 19.
Insert: "investigating agency"
12. Page 2, line 19.
Following: "must"
Strike: ",."
13. Page 2, line 20.
Strike: "within 30 days after October 1, 1983,"
Following: "be given"
Insert: "by January 1, 1984"
14. Page 2, line 24.
Following: "15."
Insert: "(2)"

(continued on page 3)

15. Page 3, line 1.
Following: "note"
Insert: "considered to be evidence by the county attorney"
Strike: "state medical examiner"
16. Page 3, line 2.
Strike: "or a coroner"
Insert: "investigating agency"
17. Page 3, lines 2 and 3.
Strike: "or until" through "first" on line 3.
18. Page 3, line 6.
Strike: "90-day period"
Insert: "investigation"
19. Page 3, lines 8 through 10.
Strike: "At all times" through "subpoena." on line 10.

And, as so amended,

DO PASS

5/6-