



# The Phyllis Schlafly Report

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## Big Brother Is Monitoring Us by Databases

The hottest issue in America today is our discovery that the Federal Government is trying to tag, track and monitor our health care records through national databases and personal identification numbers. This is a priority election issue, and every Congressional and Senatorial candidate should be ready to answer questions from his constituents.

Americans are accustomed to enjoying the freedom to go about our daily lives without telling government what we are doing. The idea of having Big Brother monitor our life and activities, as forecast in George Orwell's great book *1984*, is not acceptable in America.

Unfortunately, the liberals, who always seek control over how we live our lives and how we spend our money, are using terrorists, criminals, illegal aliens, welfare cheats, and deadbeat dads as excuses to impose oppressive government surveillance over our private lives. It is typical of the liberals to go after law-abiding citizens rather than just the law-violators.

Modern technology has made it possible to build a file on every American, and to record and track our comings and goings. Computers can now collect and store immense databases, with detailed records about individual Americans' health status and treatment, job status and applications, automobiles and driving, financial transactions, credit, banking, school and college performance, and travels within and without the country.

In the novel *1984*, an omnipresent Big Brother watched every citizen at home and work from a giant television screen. Databases can now accomplish the same surveillance and tracking much more efficiently. In the novel *1984*, Big Brother was able to read the individual's secret diary hidden in his home. The Clinton Administration and the FBI are right now demanding the right to read our e-mail and computer files, listen in on our phone conversations, and track the whereabouts of our cell phone calls.

Some of these databases are under the direct control of the government (e.g., Internal Revenue, Social

Security, and the Department of Education, which has amassed 15 national databases), and some are privately owned but give access to the government. These databases convey enormous power to whoever controls them. In government hands, they are the power to control our very life, our health care, our access to a job, our financial transactions, and our entry to school and college. In private hands, these databases are immensely profitable to the companies that own them and market them for commercial purposes.

The Clinton Administration, Congress, big corporations that funnel million of dollars of soft money into political coffers, and some powerful foundations have cooperated in seeking federal legislation to establish a property right in these databases. So much power and money are involved in accessing and controlling personal information that the Washington lobbyists are moving rapidly to lock in the extraordinary powers Congress has already conferred on those who build databases and to build a wall of federal protection around them.

If we want to preserve American freedom, it's time to stop government access to these databases. Let's look at some of the ways that Clinton and Congress have cooperated in the building of databases that tag, track and monitor our daily lives.

**1. The 1996 Kennedy-Kassebaum law** (the Health Insurance Portability and Accountability Act) gives the Department of Health and Human Services (HHS) the power to create "unique health care identifiers" so that government can electronically tag, track and monitor every citizen's personal medical records. The plan is that everyone must submit an identification document with a unique number in order to receive health care, or the provider will not be paid. A database containing every American's medical records, identified by a unique number, was a central feature of Clinton's defeated 1994 health care bill, but it reemerged in the Kennedy-Kassebaum bill. Bill Clinton, Ted Kennedy, and Bob Dole all bragged about passing this law.

**2. H.R. 4250, the 1998 Patient Protection Act**, passed by the House on July 24, 1998, will allow anyone who maintains personal medical records to gather, exchange and distribute them. The only condition on distribution is that the information be used for "health care operations," which is vague and meaningless.

Even worse, H.R. 4250 preempts state laws that currently protect patients from unauthorized distribution of their medical records. There are several exemptions to the gathering of information that reveal the liberal bias of the drafters of this bill: The bill exempts from the gathering of medical records any information about abortions performed on minors. That provision is a sure sign of the kind of control of health care that this bill opens up.

**3. The Collections of Information Antipiracy Act** (which originally had another number) was added (just before House passage) to **H.R. 2281**, the 1998 WIPO Copyright Treaties Implementation Act and the Internet Copyright Infringement Liability Clarification Act. No one, of course, is in favor of "piracy," but this bill goes far beyond any reasonable definition of piracy.

This Collections of Information bill, in effect, creates a new federal property right to own, manage and control personal information about you, including your name, address, telephone number, medical records, and "any other intangible material capable of being collected and organized in a systematic way." This bill provides a powerful incentive for corporations to build nationwide databases of the personal medical information envisioned by the Kennedy-Kassebaum law and the Patient Protection bill. This bill will encourage health care corporations to assign a unique national health identifier to each patient. The government can then simply agree to use a privately-assigned national identifier, and Clinton's longtime goal of government control of health care will be achieved.

Under the Collections of Information bill, any information about you can be owned and controlled by others under protection of Federal law. Your medical chart detailing your visits to your doctor, for example, would suddenly become the federally protected property of other persons or corporations, and their rights would be protected by Federal police power. This bill creates a new Federal crime that penalizes a first offense by a fine of up to \$250,000 or imprisonment for up to five years, or both, for interfering with this new property right. It even authorizes Federal judges to order seizure of property before a finding of wrongdoing.

H.R. 2281 grants these new Federal rights only to private databases, and pretends to exclude the government's own efforts to collect information about citizens. But a loophole in the bill permits private firms to share their federally protected data with the government

so long as the information is not collected under a specific government agency or license agreement. This loophole will encourage corporations, foundations, Washington insiders and political donors to build massive databases of citizens' medical and other personal records, and then share that data with the government.

**4. The 1993 Comprehensive Child Immunization Act** authorized the Department of Health and Human Services "to establish state registry systems to monitor the immunization status of all children." HHS and the Robert Wood Johnson Foundation have since sent hundreds of millions of dollars to states to set up these databases (often without parental knowledge or consent).

The Centers for Disease Control (CDC) is aggressively trying to convert these state databases into a national database of all children's medical records. The CDC is using the tracking of immunizations as a ruse to build a national patient information system. The government is already demanding that all newborns and all children who enter school be given the controversial Hepatitis B vaccine. This is just the start of government control of our health care made possible by databases of medical records.

**5. The 1996 Illegal Immigration Reform and Immigrant Responsibility Act** (especially Section 656(b)) prohibits the use of state driver's licenses after Oct. 1, 2000 unless they contain Social Security numbers as the unique numeric identifier "that can be read visually or by electronic means." The act requires all driver's licenses to conform to regulations promulgated by the Secretary of Transportation, and it is clearly an attempt to convert driver's licenses into national I.D. Cards. This law also orders the Transportation Department to engage in "consultation" with the American Association of Motor Vehicle Administrators, which has long urged using driver's licenses, with Social Security numbers and digital fingerprinting, as a de facto national ID card that would enable the government to track everyone's movements throughout North America.

When Social Security was started, the government made a contract with the American people that the Social Security number would never be used for identification. Call this another broken promise.

Meanwhile, many states are already trying to legislate driver's licenses that are actually a "smart card" with a magnetic strip that contains a digitized fingerprint, retina scan, DNA print, voice print, or other biometric identifiers. These smart cards will leave an electronic trail every time you use it. New Jersey's proposed smart card would even track your payment of bridge and highway tolls and loans of books from the library, as well as credit card purchases and visits to your doctor.

**6. The 1996 Welfare Reform Act** (the Personal Responsibility and Work Opportunity Reform Act) sets up the Directory of New Hires. All employers are now required to send the government the name, address and Social Security number of every new worker and every employee who is promoted. This will eventually be a massive database, tracking nearly every worker in America.

**7. Public-private partnerships.** An example of how databases and copyrights, in partnerships with the government, can be used for private gain and control over millions of people is the way the American Medical Association (AMA) worked out an exclusive contract with the Health Care Financing Administration (HCFA), a division of the Department of Health and Human Services (HHS). The AMA developed and copyrighted a database of 6,000 medical procedures and treatments to use as a billing system. The AMA then contracted with HCFA to force the entire health care industry (including all doctors) to buy and use the AMA's system.

A federal Court of Appeals reviewed this peculiar AMA/HCFA arrangement and, in August 1997, held that the AMA had "misused its copyright by licensing the [payment coding system] to HCFA in exchange for HCFA's agreement not to use a competing coding system." The court stated, "The plain language of the AMA's licensing agreement requires HCFA to use the AMA's copyrighted coding system and prohibits HCFA from using any other."

This exclusive government-granted monopoly is worth tens of millions of dollars annually to the AMA, and it ensures the AMA's support of any Clinton health care proposal, no matter how socialistic. This type of public-private partnership, often concealed from public scrutiny, is becoming the preferred technique to advance the liberal agenda.

The American people do not want their private life and activities monitored by Big Brother. Tell your Congressman and Senator to repeal all these provisions which protect the building of databases that track our daily activities.

### ***'Rethinking' the Internet***

When asked by reporters whether she favors curbs on the Internet, which has played a key role in breaking the news about the President's scandals, Hillary Clinton ominously replied: "We are all going to have to rethink how we deal with this, because there are all these competing values." According to a Reuters dispatch, she went on to deplore the fact that the Internet lacks "any kind of editing function or gatekeeping function."

The now famous appearance of Matt Drudge at the National Press Club showed that Mrs. Clinton is not alone in attacking the notion that a website, such as the Drudge Report, without any supervisory editor, can

compete with established news sources.

The copyright bill now racing through Congress, H.R. 2281, appears to emanate out of the mindset that we should rethink our laws about freedom of the Internet. This is the same bill to which the Collections of Information Act (referred to in #3 above) was attached, and the other sections of the bill are just as ominous.

**H.R. 2281, the WIPO Copyright Treaties Implementation Act and the Internet Copyright Infringement Liability Clarification Act**, would significantly change U.S. copyright law at the behest of the big corporations. Copyrights are, of course, a good thing. But the lobbyists for Hollywood, cable, software and publishing industries are exploiting temporary confusion on Capitol Hill over high-tech issues.

H.R. 2281 has many provisions that are unacceptable in a free society. It sets up a procedure that effectively turns Internet service providers into gatekeepers. A competitor, asserting that you are infringing his copyright, can demand that your service provider delete your website, file or link. H.R. 2281 makes it almost sure that your service provider will punch the Delete button, no matter how insubstantial or frivolous the complaint, because the bill promises that "a service provider shall not be liable for monetary relief . . . for infringement . . . if the provider . . . responds expeditiously to remove or disable the reference or link upon notification of claimed infringement."

It doesn't take a rocket scientist to figure out that, when a service provider receives an intimidating letter on legal letterhead demanding X, and he knows that if he expeditiously does X he is immune from a lawsuit, most service providers will do X. And presto, your website, file or link — the private property of the future — is taken from you without due process.

H.R. 2281 enables a bully (a corporation or special-interest lobby) to eliminate future Drudges and others by merely intimidating the Internet service provider. Neither a court order nor even a registered copyright is necessary for a competitor to demand removal of material from the Internet.

The advocates of H.R. 2281 assert that the bill is designed to prohibit "black box" descramblers for cable TV, but the language of the bill goes far beyond this excuse. The bill will allow seizure of your computer or VCR without advance notice and without any finding of wrongdoing. This bill imposes prison sentences of up to five years if a Federal court determines that you were using a computer, VCR or website contrary to the rights of a copyright owner. H.R. 2281 empowers a Federal judge to order the seizure of your personal computer or VCR without any finding of wrongdoing.

A proposed change to allow for 72-hour advance notice was rejected, even though prior notice of a deprivation of property is a constitutional right of due process. It could take you years of litigation to get your computer returned, and meanwhile your business is

ruined just because of an alleged copyright infringement. The bill provides for a replacement of seized property, but only under certain conditions and only after the damage has already been done.

Microsoft, Time Warner, Hollywood and the publishing industry, the chief backers of H.R. 2281, should be able to protect themselves against unauthorized users without new legislation. Big corporations should not be permitted to use Federal prosecutors and judges, spending taxpayer dollars, to defend corporate interests against competitors.

As Silicon Valley engineers know, the computer industry was developed by the use of reverse engineering of competitors' products for the purpose of copying interfaces and discovering unpatented features. The Internet itself is built on widespread copying and unfettered competition, with enormous benefit to the public. H.R. 2281 includes an exemption for reverse engineering, but it is limited to having a "sole purpose" of engineering "necessary" for interoperability. That is so narrow that it is almost meaningless, and a competitor faces five years in jail if the court disagrees about the necessity or if the engineer could have learned the same information through a different, perhaps costlier, means.

Congress will be making an enormous mistake if it empowers Federal judges and gatekeepers to control the Internet.

### ***Hang Up on the Gore Phone Tax***

Vice President Al Gore has staked his political reputation on allying himself with radical environmentalism and government manipulation of the Internet. His schemes usually involve higher and hidden taxes, oppressive federal or even global regulations, and payoffs to political pals.

The Gore phone tax involves all these elements and burdens everyone who uses a telephone. There are no exemptions, no deductions, no credits, no cap or floor, no way to escape the obnoxious Gore phone tax that is added to everyone's monthly long-distance phone bill. Of course, your phone bill must be paid monthly or your service is cut off, an even more effective technique than demands from the IRS.

The proper name for the Gore phone tax is the "E-rate" for education rate. It came out of the 1996 Telecommunications Act, which requires telecommunications companies to provide the lowest possible rates to schools and libraries, and to subsidize their installation of Internet connections and telecommunications services. It's been dubbed the Gore tax because the Vice President is a chief proponent of this telephone tax.

The Gore phone tax was initially planned to be levied secretly so that the public wouldn't be aware of paying it, and the FCC pressured phone companies not to disclose the tax to their customers. But competition

for phone rates has gotten so intense that the phone companies are refusing to take the hit of raising their rates without identifying the federal mandate that forced the increase. AT&T has added a 93-cent charge to every residential monthly phone bill, while other long-distance carriers have added a 5 percent charge.

The Gore tax is being challenged both in court and in Congress on the constitutional ground that the FCC has no authority to impose a tax, the taxing power being in the exclusive domain of Congress. Supporters of the tax say, "no problem; just call it a fee."

This Gore tax on every phone customer has already started producing a billion dollars in new federal tax receipts. The public school administrators and consultants know a cash cow when they see one. They are now engaged in a grant-writing frenzy and have already submitted 30,000 grant applications requesting more than \$2 billion, much of it for school services only distantly related to Internet connections. Most schools are already Internet connected anyway.

Reacting to political pressure, the FCC reduced the 18-month budget for the Internet program from \$3.35 billion to \$1.9 billion. Schools have not received any money yet. This tax-and-spend boondoggle was slated to pay a salary of \$200,000 to a Gore fundraiser, Ira Fishman. Congress reacted to this revelation by reducing his tax-paid salary to "only" \$151,000, and Fishman subsequently resigned, citing "personal reasons."

When the government imposes more taxes, the public loses at both ends. It costs our hard-earned money when the tax is collected, and it does all kinds of mischief when the bureaucrats spend it. Letting the feds finance the Internet connection to all public schools is an efficient means of controlling the curriculum, a major objective of the Clinton-Gore Administration. Of course, none of these new tax revenues will go to teach schoolchildren the basics. Students are not going to learn reading, writing and arithmetic by surfing the Internet.

Ever since the landslide repudiation of Big Government in 1994, politicians have been afraid to raise taxes again. The Gore tax (like the tobacco tax) is just another way to raise taxes but call it by another name.

*Note: Further information about government monitoring of individuals is contained in the July Phyllis Schlafly Report called "Liberty vs. Totalitarianism, Clinton-Style."*

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