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February 17, 2004

The Honorable Don Young  
Chairman  
The Honorable James Oberstar  
Ranking Member  
House Committee on Transportation and Infrastructure  
2251 Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Young and Rep. Oberstar:

On behalf of the diverse group of Americans we represent, we write to respectfully request that you hold a committee hearing on the threat to privacy and civil liberties posed by government collection and use of airline passenger name records (PNRs). We are particularly concerned about the Computer Assisted Passenger Prescreening System (CAPPS II) being developed by the Transportation Security Administration (TSA), but in the wake of the JetBlue and Northwest Airlines scandals, it has become clear that there are too many unanswered questions generally about the government's use of PNR data and the state of our travel privacy. In the interest of transparency, hearings held by your committee will shed some light on this important issue and answer the following questions:

- What passenger information is collected, how is it shared and with whom?
- How long is the information retained?
- What are the names and numbers of government contractors (Torch), data-brokers and other third parties as well as their level of involvement in the PNR process?
- What rights do passengers have to correct information, as they do their credit reports?
- What rights do passengers have to view their personal data, as they do their medical records?
- What recourse do passengers have if they believe they have been wrongly "flagged"?
- Will CAPPS II be effective for identifying individuals who pose a threat to aviation security?
- How much will it cost the travel industry as a whole to comply with requirements to provide TSA with data not currently collected by the agency?

It has been widely reported that TSA plans to unveil CAPPS II later this year, with testing beginning as early as this month. Despite the number of questions that have so far gone unanswered, the agency has not provided adequate assurances to the public that serious

consideration is being given to individual privacy. In fact, TSA's most recent public explanation of CAPPS II (a Privacy Act notice issued in August 2003) showed that there has been a significant expansion in the scope of the program and confirmed our fear that CAPPSS II would be used for purposes other than aviation security.

A report to Congress on CAPPSS II released on February 12, 2004 by the General Accounting Office confirms that TSA does not have adequate answers to any of the above questions. The report, "Aviation Security: Computer-Assisted Passenger Prescreening System Faces Significant Implementation Challenges," states that TSA has failed to address Congress' concerns about the CAPPSS II program's accuracy, effectiveness, and impact on privacy. Furthermore, the GAO shares our concern that the mission of CAPPSS II may be expanded beyond its original purpose of combating international terrorism.

Private information initially gathered for one purpose should not be used for other, completely unrelated purposes, and without the knowledge or consent of the person to whom the data relates. Yet it is widely known that despite objections by privacy advocates, the content and uses of many databases authorized by Congress over the years have been expanded without Congressional or public debate.

Mr. Chairman, the American people have watched federal databases containing our most personal information proliferate with virtually no privacy safeguards in place to protect our privacy and civil liberties. Before federal agencies further determine uses for our personal information, Congress itself needs to examine the issue, beginning with the collection of PNR data and the threat it poses to personal privacy. Your committee is in an ideal position to spearhead this critically important examination. By holding hearings on CAPPSS II and other government uses of PNR data now, Congress can help answer our more fundamental questions, such as those above, provide appropriate transparency, and greatly enhance our current understanding of the situation.

This is why we respectfully request that your committee examine the plans for CAPPSS II, the federal government's use of PNRs more generally, the abuses that have already occurred, and the potential for future abuse. We believe that such a hearing would be both informative to a public that is becoming increasingly aware of personal privacy and beneficial to policymakers who continually are under pressure to find more efficient methods of protecting our security.

Thank you for considering our request on this most important issue. Please respond directly to Lisa Dean at the Electronic Frontier Foundation and she will share your response with the other organizations listed below. Lisa can be reached at 202.675.6976.

Sincerely,

Lisa Dean  
Electronic Frontier Foundation

Steve Lilienthal  
Free Congress Foundation

David Sobel  
Electronic Privacy Information Center

Jim Dempsey  
Center for Democracy and Technology

David Keene  
American Conservative Union

Grover Norquist  
Americans for Tax Reform

Laura W. Murphy  
American Civil Liberties Union

Kevin Mitchell  
Business Travel Coalition

Ralph G. Neas  
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Common Cause