

Statement of

The Honorable Russ Feingold

United States Senator

Wisconsin

July 10, 2008

Statement of U.S. Senator Russ Feingold

Senate Judiciary Committee Hearing

"Passport Files: Privacy Protection Needed For All Americans"

July 10, 2008

Thank you, Mr. Chairman. I think the Report of the Inspector General raises some very important issues, and I'm pleased that you're putting some much-needed attention on those issues.

It is both shocking and shameful that State Department employees and private contractors were able to access the passport files of Senators Obama, Clinton, and McCain without any legitimate reason. Like all Americans, these Senators have a right to know that their personal information is safe and secure in the hands of the federal government, and will not be subject to unauthorized snooping and prying.

But what's even more disturbing to me is what the Inspector General's Report may mean for Americans we didn't read about in the news. The reason we learned about the unauthorized access to the three candidates' files is that the State Department has a system for monitoring access to the records of high-profile individuals. But if you're not on that list of high-profile Americans, your records could be accessed a dozen times a day, and - based on what's in this Report - it's likely no one would ever know. I fear that the high-profile cases are just the tip of the iceberg, and that the real victims of the State Department's failures are ordinary Americans across the country, who had little choice but to entrust their personal information to an agency that wasn't protecting it.

And there's an even larger issue at stake. As many of our witnesses have pointed out, a perfect storm of factors has combined in recent years to create an unprecedented threat to the privacy of Americans' personal information. There has been a dramatic increase in the amount of personal information about Americans that the federal government collects and retains. There has also been a marked increase in information-sharing across government agencies. And the federal government has increasingly relied on

private contractors, both to manage this information and to perform jobs that require access to it. Each of these factors carries with it a heightened risk of unauthorized access and disclosure.

Against that backdrop, the Inspector General's Report is particularly sobering. At a time when the risk of privacy violations is higher than ever before, at least some of our agencies continue to operate without even the most basic privacy protections in place. While federal laws like the Privacy Act of 1974 and the E-Government Act of 2002 provide some protection, they don't go nearly far enough - and, as the passport incidents show, they are only as effective as the means in place to enforce compliance. We need stronger laws and better implementation - and we need them before, not after, any significant further expansion in the universe of personal information that the federal government keeps and shares. At a minimum, Congress should act quickly to pass the Personal Data Privacy and Security Act, a bill that we reported out of this committee last year and that I was pleased to cosponsor.

There's another issue that bears mention. The Inspector General's Report was publicly issued in heavily redacted form, although it is not classified. The apparent justification for the redactions was that some of the information relates to internal personnel rules of no real public interest, or that revealing the information could enable the evasion of agency rules. Based on a review of a redacted version and an unredacted version of this report, there appears to be no legitimate justification for many of these redactions. In some cases, it seems clear that the purpose of the redactions was to shield information that could be embarrassing to the government. If only the administration were as intent on protecting the personal information of Americans - information that truly should be private - as it is on shielding information about the workings of government, which every American has a right to know.

I hope that the passport file incidents and the Inspector General's Report serve as a wake-up call, and that we refer back to this hearing and the recommendations of the witnesses before putting our seal of approval on any additional administration proposals to expand federal collection, retention, and sharing of Americans' personal information.