
The Voluntaryist

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"If one takes care of the means, the end will take care of itself."

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"Your Papers, Please!": The Origin and Evolution of Official Identity in the United States

By Carl Watner

The chief principle of a well-regulated police state is this: *That each citizen shall be at all times and places ... recognized as this or that particular person.* No one must remain unknown to the police. This can be attained with certainty only in the following manner: Each one must always carry a pass with him, signed by his immediate government official, in which his person is accurately described. There must be no exception to this rule.

—Johann G. Fichte, *THE SCIENCE OF RIGHTS*. Originally published 1796. Translated from the German by A. E. Kroeger. London: Trubner and Co., 1889, pp. 378-379 [1].

We need to create an atmosphere such that each citizen feels that without [his government papers] he will be unable to travel anywhere, that the single document confirming his identity is [his government paperwork]. The first question you must ask a detained citizen is - show me your [government id].

—Genrikh Yagoda, the People's Commissar of Internal Affairs, in a top-secret speech of April 16, 1935 at a conference convened by the People's Commissariat of Internal Affairs (NKVD) [2].

Why introduce the topic of "official identity" in the United States with quotes from a late-18th Century German philosopher and a 20th Century commissar of the Soviet secret police? The short answer is that government identification practices in the United States have been profoundly affected by foreign influences, especially by the development of police identification practices in other countries. The long response, and purpose of this article, is to describe both the chronology and internal logic of "official identity" as that concept developed in the United States.

The predominant way of identifying people in this country, at least until the beginning of the 20th Century, was voluntaryist in nature. Individuals chose to identify themselves in whatever manner chosen by their parents, or themselves in adult life. Family Bibles, church registries, baptismal registries, or simply informal community acknowledgement were some of the methods used to establish names. Individuals could change their names whenever they wished, so long as they had no fraudulent purpose in mind. Local, state, and federal governments were left out of the picture. Home births were common, driver's licenses were non-existent, passports were usually not required for foreign travel, Social Security num-

bers were unknown, and numerous states had no laws requiring the issuance of birth certificates. People had no need for government identification because there were so few interactions (at least compared to our situation today) with the government. In many instances, they neither paid taxes directly to the government (as in income taxes) or received any direct monetary assistance from the government (as in Social Security benefits), and therefore there were no requirements to prove "who you were" to the authorities.

Why Does the State Need to Know Who We Are?

The need for "official identities" stems from the expanding power and scope of the modern nation-state. Pamela Sankar elaborates on this thesis in her 1992 Ph.D. dissertation "State Power and Record-Keeping: The History of Individualized Surveillance in the United States, 1790-1935." She points out that the modern nation-state must maintain "direct, continual, and specific contact" between its ruling bureaucracy and its citizenry. "This allows the state to exert forceful and precise control over its population, and 'provides a critical source of the modern state's power.'" [3] However, in order for this to occur, the state must be able to fix the identity of each and every person in its territory. [4]

The concept of official identity epitomizes governments' "fundamental purpose, which is to maintain conquest." [5] How better to exercise control than to assign each human being a permanent, indelible identity: "lasting, unchangeable, and always recognizable, [and] easily proved." [6] The function of an "official identity" is to establish documentary evidence and bureaucratic records which enable the government to recognize unique and specific individuals. It is the identity through which the individual must conduct all of his or her affairs with the government, and the identity by which the state monitors, regulates, and directs personal conduct. One's official identity serves as the basis for the claim to be an American citizen, mother or father to one's children, automobile driver, discharged soldier, recipient of government largess, etc. The threat of various penalties for the refusal to use one's official identity serves as an example of the carrot and stick approach that government uses towards its citizens. No one can be legally born, work, drive, or leave and re-enter the country without government id, and many quasi-public institutions have adopted government id requirements (try cashing a check or renting a car without an official identity). [7] No one who lacks an official id may receive money from the government, send their children to government schools, or become a government employee (soldier, policeman, clerk, bureaucrat, schoolteacher), or enter into any sort of licensed profession (doctor, lawyer, general contractor, etc.).

Historically, in nearly every nation-state, the idea of government identities was first thought of and used by police, prison, and judicial officials. A judge or warden or

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Potpourri from the Editor's Desk

No. 1 "The Brain Tap: A Prediction from THE MATCH"

"The Facial Action Coding System, or FACS, is supposedly going to teach government terrorism experts how to assign values to the minor and transient micro-expressions that flit across a person's face. Various exhibitions of action by facial muscles are claimed to indicate corresponding mental states. [See Malcolm Gladwell, "The Naked Face: Can you read people's thoughts just by looking at them?" THE NEW YORKER, August 5, 2002.] ...

"[Based on these pseudo-scientific advances,] THE MATCH herewith predicts that within 25 years a way will be found to tap and decode the neural circuits of the brain.

...

"[S]ome social consternation will arise because the ability of the State to listen to a person's ... thoughts will mean that the last insulation one has from authoritarian prying and investigation has broken down. Prior legal rulings, perhaps from the facial-coding situations just described, will say that there are situations in which it is in the interests of society and the State to overcome the barriers of ultimate human privacy.

"In some criminal cases in which a person refuses to give vital evidence, or in trials where no other means of arriving at the truth will serve, the brain-tap will blare to selected examiners the jumble of words that stream uncontrollably through that self-aware structure known as the mind. ...

"Legal opinions granting the State the right to take sample of a person's blood, and later his DNA ... will provide the logical basis for extension to his innermost thoughts."

—Fred Woodworth in THE MATCH, No. 99, Winter 2002-2003, pp. 13-14.

No. 2 "We the People"

[M]ost government projects could be - should be - funded and built voluntarily by private investors, foundation grants, and the like. A free people will do what is necessary and more; they do not need to be forced by pharaohs or politicians. For example, private funds are underwriting the Chief Crazy Horse Memorial in South Dakota; when completed, it'll dwarf Mt. Rushmore. Project founder and sculptor Korczak Ziolkowski believed if people accepted the goals of the Crazy Horse Memorial they would support it privately.

We, the People, can and do build monuments and create real jobs - privately, voluntarily. Good ideas do not require government force or slaves to be fulfilled. When politicians take our money, there is less money for private medical research, for entrepreneurs to fund their ideas and create jobs, for charities to help the needy, for groceries. People freely deciding how to live their lives without government interference - that's diversity, that's liberty.

—Kurt Weber, CASCADE [Policy Institute] UPDATE, Summer 2003, p. 2.

No. 3 "Taxation: Important Precedents"

There was a strong prejudice against taxation in medieval Europe, but the crusades could not be supported without taxes. By the end of the twelfth century the pope was encouraging the kings of France and England to tax their subjects for expenses of the Third Crusade. A little later, Innocent III imposed a tax on the clergy of Europe, and gave the proceeds to the crusade leaders.

These were important precedents. Taxation brought in more money than rulers could derive from any other source, especially when the clergy, who were exempt from almost all other services, were forced to contribute. The king of England almost immediately began to ask similar taxes for his own purposes and the king of France eventually followed his example. The transition was made easier by drawing an analogy between the crusade tax for the defense of Christendom and the royal tax for defense of the realm. There were resistance and resentment; there were long periods when no taxes of any kind could be collected, but in the end the kings gained their point. By the end of the thirteenth century national taxation, based on the tax for the crusade, was firmly established in both France and England. Even more surprising, the Western kings succeeded in forcing their clergy to pay them the equivalent of the crusading tax to support their private wars. Pope Boniface VIII protested vehemently against this abuse in his famous bull, *Clerico laicos*, but he was forced to back down by Edward I of England and Philip IV of France. In the end he admitted the clergy, like all other subjects, were bound to pay taxes for the defense of the kingdom in which they lived.

This growth of taxation laid the foundations of the modern national state. The power and institutions of the modern state are based on its ability to tax - on the fact that, in the last analysis, it can raise more money than any competing social group. And the acceptance of the principle that all subjects must pay taxes for defense of the state, whatever their other loyalties and obligations, was a long step toward nationalism. It meant that the primary loyalty of all inhabitants of a kingdom must be to that kingdom, and that supranational or subnational organizations were of less importance.

—Joseph Strayer, MEDIEVAL STATECRAFT AND THE PERSPECTIVES OF HISTORY (1971), pp. 339-340.

No. 4 "On the History of European State-Making"

Joseph Strayer tells us that the first powerful precedent for general taxation by the crown came from the pope's promotion of forced contributions to finance the Third Crusade. Kings were not slow in adapting that newly legitimized procedure to their own secular military needs. Up to our own time, dramatic increases in national budgets, national debts, numbers of governmental employees,

or any other indicator of governmental scale in European countries have occurred almost exclusively as a consequence of preparations for [and waging of] war. The general rule, furthermore, has been for some contraction in governmental scale to occur after a war - but almost never a return to the prewar scale. Preparation for war [and war, itself] has been the great state-building activity. The process has been going on more or less continuously for at least five hundred years.

—Charles Tilly, *THE FORMATION OF NATIONAL STATES IN WESTERN EUROPE* (1975), p. 74.

No. 5 “SOMALIA: From Statelessness to Statelessness”

With regard to the inevitability of the state the Somali experience has further revealed that, considering the matter internally, a society does not necessarily need a state in order to keep law and order, exercise a certain degree of control over the use of violence, achieve social security and economic recovery. ... I still consider the collapse of the Somali state as a liberation for Somali society. ... The major conclusion that I draw from the Somali experience of statehood and statelessness is that it is society and people that come first.

—Maria Brons, *SOCIETY, SECURITY, SOVEREIGNTY AND THE STATE IN SOMALIA* (Utrecht: International Books, 2001), pp. 283, 285, and 291.

No. 6 “The Right to Kill”

If the State did not have the right to kill, then it could not exist. Without that ability, in the long run, to kill, how would a State impose itself upon other States, or protect itself against them, or even remain sovereign over citizens? The absolute essence of State power, from its ability to collect taxes to its ability to fend off invasion, depends without equivocation on its ability (its ‘right’) to assign its agents to kill someone. The greatest ‘good’ that it does (say, solace the sick with services paid by taxes) is based on the State’s power to punish, and if need be, kill anyone who resists.

—Karl Hess in *THE ANARCHIST PAPERS 2* (Montreal: Black Rose Books, 1989), p. 177.

No. 7 “Kings and Swineherds”

[I]n the eleventh century, Manegold von Lautenbach declared that the state was nothing but the work of man. Kingship, he asserted, was an institution that arose neither naturally nor in consequence of the inherent merit of the person elevated to the throne. The authority vested in the king was given to him by the people as part of the compact they concluded with him; he was made their ruler so that he should defend against their oppressors and so that he might establish good order in society by compelling the evil men among them to live in conformity with its mores. However, should the king betray this trust and assume the role of tyrant, Manegold considers him to have broken the compact upon which his authority rests and therefore to be unworthy of further obedience by the people. *Manegold compared the tyrant king to a swineherd who was hired to attend to one’s pigs, and who was discovered to be butchering them instead of caring for them. In such a case, there would be no question about whether the swineherd should be fired in disgrace, as there should be no question about the appropriate disposition of the ty-*

rannical king. Since the state was based on a contract, a violation of its terms by the king brought about its termination and all obligations on the part of the people similarly came to an end.

—Martin Sicker, *THE GENESIS OF THE STATE* (Praeger, 1991), pp. 8.

No. 8 “The Fight Against the State”

The fight against the State is not merely a fight against naked power - the battle would be much easier if that were so. The essence of the State is not aggression *per se*, but legitimized aggression. The State uses the sanction of law to legitimize its criminal acts. This is what distinguishes it from the average criminal in the street.

Unfortunately, the reality of the State - what it is in fact - is not how it is perceived by most Americans. To put it bluntly, the vast majority of Americans disagree with the libertarian view of the State. We may get some agreement on particular points, but the vision of the State as, in essence, a criminal gang, is far more radical than most American are willing to accept.

This defines our ultimate educational goal. We must strip the State of its legitimacy in the public eye. We must persuade people to apply the same moral standards to the State as they apply to anyone else. We need not convince people that theft is wrong; we need to convince them that theft, when committed by the State in the name of taxation, does not differ from theft when committed by an individual. We need not persuade people that murder is wrong; we need to persuade them that murder, when committed by the State in the name of war or national defense, does not differ from murder when committed by an individual.

—George H. Smith, “Party Dialogue,” in *NEITHER BULLETS NOR BALLOTS* (1983), pp. 18-19.

No. 9 “Consent of the Governed”

The Dominican Hervaeus Natalis was a theologian of Paris who became master-general of his Order. In 1323, he presented a systematic argument that all licit government must be based on the consent of the governed. How could a ruling authority [such as a king] licitly arise, Hervaeus asked. He explained that it could not pertain to any person by nature for by nature all were equal. If it were imposed by violence on an unwilling people then it would not be licit power, for violent possession conferred no right. There remained only one possible answer; legitimate ruling authority, Hervaeus declared, came ‘only from the consent of the people’.

—Brian Tierney, “Freedom and the Medieval Church,” in R. W. Davis, *THE ORIGINS OF MODERN FREEDOM IN THE WEST*, Stanford: Stanford University Press, 1995, pp. 64-100 at pp. 81-82.

“They [the farmers] sought always to make the government irrelevant, and so, to a perfectly astonishing degree they did. The motto has not been ‘We appeal to the state for help,’ but rather ‘Let the state get out of the way.’ Damn the cadres, full speed ahead.”

—Kate Xiao Zhou,
HOW THE FARMERS CHANGED CHINA, pp. 240-241.

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policeman wanted to know about the man before them, and the truth about a prisoner's background. Was the man in the docket a first time offender or a degenerate recidivist deserving harsh treatment? Since arrested suspects and persons charged with crimes were often personally unknown to state officials, such detainees had every incentive to falsify their identities in order to avoid being labeled as repeat offenders. (As they knew, repeat offenders were often treated more harshly and received longer prison sentences, if convicted.) How else, other than relying on an officially-imposed identity, were government officials to know who was the person before them? (This is one of the reasons that some convicts, at different times and different places, have been branded, or even tattooed.)

In the United States, during the first third of the Twentieth Century, it was chiefs of police, detectives, prison wardens, and FBI functionaries who spear-headed a long-term campaign to have every person under their jurisdiction receive an "official identity." The military requirements of World War I, the alien registration undertaken in 1918, the advent of Social Security in 1935, and the increasing trend toward licensing drivers of motor vehicles all contributed to the creation of official identities and government monopolization of the means of identification in the United States.

The first specifically American attempts to catalog and identify criminal offenders occurred in the late 18th Century. Some of the earliest evidence of state-recordkeeping is found at Philadelphia's Walnut Street Jail, whose construction was authorized in 1773, and which became Pennsylvania's first state penitentiary in 1794. The names of convicted offenders were entered in a prisoner's log, along with a description of physical characteristics, age, and any special peculiarities. It was not until a century later that the scientific method, known as anthropometry, was applied to criminal record-keeping.

Using Body Measurements to Identify Criminals

Anthropometry is the branch of science that deals with bodily measurements and was developed into a method of identifying criminals by Alphonse Bertillon (1853-1914). Bertillon was chief of criminal identification for the Paris police for a number of decades during the late 1800s and early 1900s. In 1882 he developed an identification system that relied upon a series of bodily measurements, physical descriptions, and photographs. Anthropometry was based on the fact that the skeletal system of most adults was stabilized and fixed by the age of twenty. Bertillon used the great diversity of bone dimensions among adults, and the relative ease with which such diversity could be measured, as the basis for two cross files: one anthropometric and one alphabetic (or phonetic). If a person's name was known and in the files, his identity could be confirmed by verifying that his bodily measurements were the same as recorded in his anthropometric file; or if a person refused to give his name, his bodily measurements could be taken and located in the anthropometric file and his name determined. Bertillon's historic contributions to police science rest upon his application of the scientific method to personal identification, as well as to his strenuous efforts to create the first scientific police laboratory.

Promoters of the Bertillon system envisioned a requirement that all adult citizens report to measuring centers for recording their anthropometric dimensions. Bertillon was already familiar with the co-ordinated system of passports, residential registration, and centralized reporting of criminal convictions which had given France one of "the most extensive state-run surveillance system[s], up to that time." [8] When he and Louis Herbette, Director of Penitentiaries in France, attended the International Penal Congress in Rome, Italy in 1885, they both delivered speeches advocating centralized "state-run, *national*, identification systems." [9] As Sankar describes it:

Herbette related some of the more dramatic incidents where Bertillon's new method had aided police, but he concluded by redirecting attention to the method's basic contribution: that police could create a documentary version of individuals that police could use to identify people despite resistance on their part. Herbette pointed out that there was nothing intrinsic to the method which confined its use to criminals. ... [H]e exhorted his listeners to consider the method's "extended aim," which was, [to] fix the human personality ... to give each human being an identity, a certain individuality, lasting, unchangeable, always recognizable, [and] easily proved Herbette emphasized that this "fixing" could be useful beyond the narrow confines of penitentiaries and police. But to whom, precisely?

Was Herbette concerned that kin recognize one another, that neighbors always know neighbor, that a mother always recognizes her son, ... ? No. As the full text of Bertillon and Herbette's speeches clarified, their concern was neither local nor personal. It was, instead, national and international: that the state should be able to fix the identity of each and every person living within or moving across its territory. Herbette envisioned Bertillon's method as the center of a universal identification system storing and verifying the identities of criminals and law-abiding citizens alike. [10]

Both Bertillon and Herbette realized that anthropometric measurements can verify someone's identity if they are already in the files, but to be absolutely effective such a system must include everyone in a given population area. The internal logic of their, and any other, identification system demands that more and more people be included, thus making the identification system more and more effective. Only "a universal system" allows government authorities "to discover," not just verify, identities." [11]

Anthropometry in the United States

The history of criminal and civilian identification practices in the United States demonstrates how this principle was applied by various groups of police and judicial bureaucrats. Although neither the United States Congress or state legislatures have ever mandated such a universally-inclusive system, various federal and state laws have gradually extended separate identification "requirements to so many sub-groups within the nation's population that, over time," it has resulted in "a *de facto* national identification system." [12] Whereas state and local officials were at first interested in labeling and knowing the names and identities of criminals and criminal suspects, they now demand - as a matter of right - that every person within

their jurisdictions carry and be able to produce a state-issued identity document. Failure to do so is often considered a crime.

The first prison official in the United States to adopt the Bertillon system was R. W. McClaughry, in 1887, at the Joliet State Prison in Illinois. McClaughry had been exposed to the French system of criminal identification by E. C. Wines, corresponding secretary of the National Prison Association. In the same year he adopted bertillonage at Joliet. McClaughry was also instrumental in founding the Warden's Association for the Registration of Criminals. Soon thereafter, the Warden's Association approved the establishment of a criminal identification system based on monthly submissions of photographs and written descriptions of the physical appearances of newly arrived prisoners at their respective institutions. "In so doing, they established the first centralized identification system in the U.S. which, while not fully national at its inception, was national in intent." [13] McClaughry was an avid advocate of anthropometry, and edited the 1896 translation of Bertillon's book, *SIGNALÉTIQUE INSTRUCTIONS INCLUANT LA THÉORIE ET LA PRATIQUE DE L'ANTHROPOMÉTRIQUE IDENTIFICATION*. McClaughry was not satisfied with identifying only criminals. He wanted everyone identified. In the "Publisher's Preface" to Bertillon's book, McClaughry wrote:

According to the theory of the system, and in order for society to reap its full benefit, every human being should be partially signalized [measured anthropometrically] ... at the age of ten years, and completely so at the age of maturity; and every country should have a national signaletic office where all the signalments of its inhabitants should be filed. The process of signalments would take the place of passports at every national frontier, and signalments would appear on all life insurance policies, permits and other papers whose value depends upon the establishment of personal identity. It would then be possible to find any person at once whenever desired, whether for his own good or that of society at large, in whatever place he might be and however he might alter his appearance or his name. Crime could thus be rooted out, elections purified, immigration laws effectively enforced, innumerable misunderstandings and much injustice prevented and all business relations greatly facilitated. [14]

After McClaughry's introduction of anthropometry in the United States, other police organizations were formed and soon embraced Bertillon's system. The National Chiefs of Police was born in 1893, after a meeting of police executives in Chicago. In 1902, this group decided to change its name to the International Association of Chiefs of Police, and one of its first actions was to establish a central clearinghouse for criminal identification records. In 1897, the National Chiefs of Police Union, headed by Phil Deitsch of Cincinnati, was founded, and it, too, began its own National Police Bureau of Identification. The U. S. Department of Justice created its own Bureau of Criminal Identification in 1905. "By 1896, the Bertillon system had been adopted by 20 prisons and seven police departments in the United States alone." [15] Use of the anthropometric system of identification by police agencies in France, Bel-

gium, Switzerland, Russia, British India, and many of the South American republics resulted in the resolution of numerous criminal cases. [16]

The Advent of Dactyloscopy or Fingerprinting

Although some sharing of Bertillon records took place among police identification bureaus, there was essentially little cooperation (domestically or internationally) between them until fingerprint identification superseded Bertillon's anthropometric system. Fingerprinting has an ancient history, but it did not attract Bertillon's attention as a scientific method because there was no precise way of cataloging and filing all the diversities of different fingerprints until nearly 1900. Modern fingerprinting can be traced back to four Englishmen: Dr. Henry Faulds (1843-1930), Sir William James Herschel (1833-1917), Sir Francis Galton (1822-1911), Sir Edward Richard Henry (1850-1931); and one Argentinean (born in Austria): Juan Vucetich (1858-1925). [17] Galton was the first to direct his attention to setting up a classification system for fingerprints, and where he failed, Sir Edward Henry was successful. Henry made the breakthrough which made possible the cataloging of millions of fingerprints and the "almost instant location of any one record for comparison." [18] Henry's system was first introduced in Bengal, and then throughout India in 1897. By 1901, Scotland Yard had rejected Bertillonage in favor of fingerprint files. "Within the decade, Henry's system of fingerprint identification had been extended to most countries in Europe and to the United States." [19]

"But if we have learned anything from history it is that violence breeds violence and leads to deep and lasting hatreds."

—John Herbers in Graham & Gurr (eds.), *THE HISTORY OF VIOLENCE IN AMERICA* (1969), p. xviii

Anthropometry was discarded, not because it failed to accomplish what it promised, but because fingerprinting was "easier to implement, required less training and expertise in making and accessing criminal records," and was generally a far less expensive and simpler method. [20] The new "science of dactyloscopy" (from the Greek and Latin roots for 'finger') was first introduced into the United States when the New York Civil Service Commission began fingerprinting candidates taking civil service examinations in 1902. Shortly thereafter, the movement toward fingerprinting gained momentum: in 1904 the U.S. military began collecting fingerprints of enlistees; in 1905 the New York City Police Department established its own identification bureau charged with collecting fingerprints; in 1908 the Department of Interior Office of Indian Affairs instituted thumbprinting of Native Americans to help deter fraud in their financial transactions; and by 1911, the first criminal conviction based solely on fingerprint evidence took place in the United States. Despite a watertight alibi, Caesar Cella was found guilty in a New York City court based on the presence of his fingerprints, which were the only evidence connecting him with the crime.

The advent of World War I familiarized millions of Americans with fingerprinting as a system of government id. Every one of the millions of Americans entering the military was fingerprinted. [21] Hundreds of thousands of

alien enemies were also subjected to government registration in 1918. Such persons were required to "execute in triplicate a registration affidavit ... including fingerprint identifications." Failure to carry their registration card on their persons was punishable by a fine of up to \$2000 and imprisonment for up to five years [22]. The German-American alien registration was administered by the federal government's Bureau of Investigation of the Department of Justice. It was here that J. Edgar Hoover became a law clerk on July 26, 1917, and a few months later was assigned to John Lord O'Brian, newly named assistant to the Attorney General for war work. "Hoover's job was the registering of more than one million enemy aliens" and it was here he observed the powerful potential of all-inclusive government fingerprinting. [23]

The year 1924 was a pivotal year for the Bureau of Investigation. On May 10th, J. Edgar Hoover was appointed as Acting Director of the Bureau. In July, Congress adopted a law that created the Identification Division of the Bureau. The fingerprint records of the National Bureau of Identification (established by the International Association of Chiefs of Police) and the federal fingerprint files at the Leavenworth Penitentiary Bureau were consolidated into one national repository located in Washington D.C. housing about 800,000 records. Hoover ultimately embarked on a propaganda campaign to expand the fingerprint files of the Bureau (which officially became the FBI or Federal Bureau of Investigation on July 1, 1935). Ultimately, the FBI came to house "the world's largest collection of fingerprints." [24] Nevertheless, Americans never completely accepted universal fingerprinting. However, a 1956 statistic demonstrates how far fingerprinting encompassed the civilian population. "Of the total of 141,231,713 fingerprint sheets on file with the FBI, no less than 112,096,777 were not those of criminals, but of respectable permanent or temporary residents of the United States who never had any brushes with the law." [25]

Panoptic Surveillance or Free Market Identification?

As one historian of criminal identification has noted, the story of fingerprinting after the mid-1920s is the record of taking "criminal identification systems to the next level of panoptic surveillance, to allow law enforcement authorities to follow criminals across greater expanses of time and space, and to draw more tightly the web of state-sponsored surveillance." [26] In 1925, New York City Police Chief Richard Enright called for the mandatory fingerprinting of all New York City residents. In 1929, the federal government began fingerprinting all civil servants. In 1931, the U.S. Supreme Court decided that the police could fingerprint all suspects (in advance of their trial and conviction) without any specific statutory authority. In 1932, the kidnapping of the Lindbergh baby gave credibility to the claims of government officials wanting to fingerprint all children. In 1936, the City of Berkeley, California inaugurated a voluntary city-wide fingerprint campaign of residents. In 1937 the FBI received the prints of the members of the Civilian Conservation Corps; in 1939 prints of all aliens, as well as workers of the Works Progress Administration were turned over to the FBI. During the mid-1930s, the armed forces began turning over fingerprints of enlistees to the FBI. As the American Civil Liberties Union asserted in 1938, "[F]ar from being

an innocent means of identification, the fingerprint drive is an early - and effective - move in the direction of a general regimentation of the population." [27] "By incorporating millions of prints collected typically as a condition of employment, the FBI dramatically improved its ability to identify criminal suspects by increasing the number of prints against which it could compare new, unidentified prints. In so doing, it altered the function of these prints from fulfilling a one-time, work-eligibility requirement into providing an enduring identity record with which officials could monitor the" geographic movement, economic activities, and social and political deviance of many people residing in the United States. [28]

To Hoover and other government officials, the national fingerprint system he developed "represents an impressive resource for state surveillance" and power. "Through this system the state has extended its eyes and ears over a vast territorial expanse and provided itself with a depth of memory unmatched by recollections of individual bureaucrats." Fingerprint records, birth certificates and social security numbers all "constitute a critical element of the state's power base." [29] With the successful fingerprinting of aliens during World War I, fingerprinting "took on a new connotation of conformity," which belied its earlier connections to the criminal population. Government programs to collect the fingerprints of military enlistees, government employees, and immigrants "established the expectation that *all* people - not just criminals - should be fingerprinted and assigned official identities that would permanently inscribe them in a centralized, national record-keeping system." [30]

Would there be demands for universal fingerprinting, id cards, or id databases in a voluntarist society? Probably not. The main reason for their existence is the political urge to conquer and control. It could be argued that governments have used their roles in regulating health care, providing police, protective services, and the roadways as a way of "requiring" that all their citizens be identified. By licensing the doctors and midwives who provide birth and death care, by effectively monopolizing provision of roads, and by being the primary provider of prisons, governments leave practically no alternatives to escape from their identification processes. However, it is reasonable that whoever operates medical, protection, and/or transportation services must have some system for identifying valid users, violators, and wrongdoers. If private organizations were responsible for these services, it would be up to them to develop viable identification systems - but such systems would be subject to competition from other providers and suppliers. There would be no drive to have universal identification, or to make it compulsory that everyone have a government number. Only a coercive government - that outlaws all competition and survives by taxation - could demand that everyone have an official state identity.

Undoubtedly there would be a myriad of ways that people would be identified in a free society. The "bad apples," or wrongdoers, would not necessarily spoil the barrel for the innocents, as happens in a statist society. Public sentiment against civilian fingerprinting was right, for it rested on the common law presumption that a person was innocent until proven guilty. Competitive businesses that exist by satisfying customers would find ways to isolate the "bad apples," without arousing the ill-will of

their lawful patrons. Just as there is no single, universal, mandatory credit card (as there would be if government were responsible for issuing credit cards), there would be no single, universal id requirement. Entrants to Disney World would be identified one way; entrants to Busch Gardens probably another; entrants to the Super Bowl another. We have no way of knowing what alternatives to official State id might be generated on the competitive market. All we can say is that the State entered the identification business because most people mistakenly accepted the assumption that the State should operate the roads, the police, and prisons. So while the demand "Your papers, please" might arise in a voluntarist society, it would more likely be in the form "Your landowner's contract, pass, or ticket, please" to validate one's right to be present upon a given piece of property or to demonstrate one's right to be using a privately-owned roadway. It would not be a demand from the police that would land you in jail if you did not comply. [31] ☐

Endnotes

- [1] Jane Caplan and John Torpey, eds., *DOCUMENTING INDIVIDUAL IDENTITY*, Princeton: Princeton University Press, p. 49.
- [2] For the complete reference and citation see *ibid.*, p. 89.
- [3] Pamela, Sankar, "State Power and Record-Keeping: The History of Individualized Surveillance in the United States, 1790-1935," Ph.D. diss., University of Pennsylvania, 1992. Call No. P 002 1992 S 227, pp. 4-5.
- [4] *ibid.*, p. 19.
- [5] Theodore Lowi, *INCOMPLETE CONQUEST*, 1981, p. 13.
- [6] *op. cit.*, Sankar, pp. 19 and 245.
- [7] Imagine what would happen if the IRS had an up-to-date list of every person in the country: It could immediately establish from its taxpayer database, who was not filing and paying taxes. It could then investigate the non-payers in an effort to increase government revenues.
- [8] *ibid.*, p. 119. Sankar points out that the United States lacked "centralized record-keeping facilities, not only in penitentiaries, but also for most legal affairs," well into the 20th Century.
- [9] *ibid.*, p. 18.
- [10] *ibid.*, pp. 18-19.
- [11] *ibid.*, p. 282.
- [12] *ibid.*, pp. 2-3.
- [13] *ibid.*, pp. 155-156.
- [14] Alphonse Bertillon, *SIGNALETIC INSTRUCTIONS*, Chicago: The Werner Company, 1896, p. viii. Also cited in Simson Garfinkel, *DATABASE NATION*, Sebastopol: O'Reilly, 2000, pp. 40-41.
- [15] *ibid.*, p. 40.
- [16] Henri Souchon, "Alphonse Bertillon," in John Philip Stead ed., *PIONEERS IN POLICING*, Montclair: Patterson Smith, 1977, pp. 121-147 at p. 139.
- [17] See John J. Cronin, "The Fingerprinters: Identification as the Basic Police Science," in John Philip Stead, ed., *PIONEERS IN POLICING*, Montclair: Patterson Smith, 1977, pp. 159-176.
- [18] *ibid.*, p. 172.
- [19] *ibid.*, p. 173.
- [20] Simon Cole, *SUSPECT IDENTITIES: A History of Fingerprinting and Criminal Identification*, Cambridge: Harvard University Press, 2001, p. 152.
- [21] Edward H. Murphy and James E. Murphy, *FINGER PRINTS FOR COMMERCIAL AND PERSONAL IDENTIFICATION*, Detroit: International Title and Recording and Identification Bureau, 1922, p. 6.
- [22] *op. cit.*, Sankar, p. 264.
- [23] Unable to verify location of this quote from my notes, but may possibly be in Patrick V. Murphy, "John Edgar Hoover," in John Philip Stead, ed., *PIONEERS IN POLICING*, Montclair: Patterson Smith, 1977.
- [24] *op. cit.*, Cole, pp. 236 and 249.
- [25] Jurgen Thorwald, *THE CENTURY OF THE DETECTIVE*, New York: Harcourt, Brace & World, Inc., 1956, p. 110.
- [26] *op. cit.*, Cole, p. 223.
- [27] *ibid.*, p. 248 citing *THUMBS DOWN! The Fingerprint Menace to Civil Liberties*, New York: American Civil Liberties Union, 1938, p. 18.
- [28] Pamela Sankar, "DNA-Typing: Galton's Eugenic Dream Realized," in Jane Caplan and John Torpey, eds., *DOCUMENTING INDIVIDUAL IDENTITY*, Princeton: Princeton University Press, 2001, p. 279.
- [29] *op. cit.*, Sankar, "State Power and Record-Keeping," pp. 315-316.
- [30] *ibid.*, p. 268.
- [31] An interesting exchange is found the Appendix to Opinion of the Court in *Brown v. Texas* (443 U.S. 47 [1979]). *Brown* refused to identify

himself and was "arrested for violation of a Texas statute which" made "it a criminal act for a person to refuse to give his name and address to" a police officer:

THE COURT: ... I'm asking ... why should the State put [someone] in jail because [he doesn't] want to say anything.

MR. PATTON [Prosecutor]: Well, I think there's certain interests that have to be viewed.

THE COURT: Okay, I'd like to tell me what those are.

MR. PATTON: Well, the Governmental interest to maintain the safety and security of the society and the citizens to live in the society ... outweigh the interests of an individual for a certain amount of intrusion upon his personal liberty. I think these Governmental interests outweigh the individual's interest in [443 U.S. 47, 54] this respect, as far as simply asking an individual for his name and address under the proper circumstances.

THE COURT: But why should it be a crime to not answer?

MR. PATTON: Again, I can only contend that if an answer is not given, it tends to disrupt.

THE COURT: What does it disrupt?

MR. PATTON: I think it tends to disrupt the goal of this society to maintain security over its citizens to make sure they are secure in their gains and their homes.

THE COURT: How does that secure anybody by forcing them ... to give their name and address ... ?

MR. PATTON: ... [I]t's presumed that perhaps this individual is up to something [illegal] ...

THE COURT: ... I'm not asking whether the officer shouldn't ask questions. I'm sure they should ask everything they could possibly find out. What I'm asking is what's the State's interest in putting a man in jail because he doesn't want to answer something. I realize lots of times an officer will give a defendant a Miranda warning which means a defendant doesn't have to make a statement. Lots of defendants go ahead and confess, which is fine if they want to do that. But if they don't confess, you can't put them in jail, can you, for refusing to confess to a crime?

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