

**COMMONWEALTH OF VIRGINIA**  
**JOINT COMMISSION OF TECHNOLOGY AND SCIENCE**  
**PRIVACY ADVISORY COMMITTEE**

**PUBLIC COMMENT**  
**(October 9, 2004)**

**House Bill No. 543 GOVERNMENT DATA COLLECTION & DISSEMINATION PRACTICES ACT; use of unique identifying numbers limited on public records.**

**House Bill No. 753 TRADE AND COMMERCE: Social Security Number Misuse**

**Courts of Record: § 17.1-227. Documents to be recorded in deed books; social security numbers.**

**Risk of creating an unidentifiable society outweighs  
perceived benefits of identity theft protection**

**Prepared**

**By**

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**THE PRIVATE INVESTIGATORS ASSOCIATION OF VIRGINIA, INC.**

Mr. Chairman, The Honorable Joe T. May:

On behalf of the members of the Private Investigators Association of Virginia, I commend the legislature for taking action against the growing problem of identity theft and misuse of Social Security Numbers (SSN). As part of the private security services industry in Virginia, private investigators are often on the front lines of responding to victims of identity theft, identifying perpetrators of identity theft and their potential targets, as well as conducting investigations into allegations of identify fraud.

Moreover, private security personnel play an important role in homeland security, protecting government and private facilities and are likely first-responders to incidents of crime and acts of terrorism. To be effective, private security must often use SSNs and other unique personal identifiers to conduct background investigations, positively verify individual's identity for access to facilities and a number of other important security functions.

For example, in the Commonwealth, a private investigator is an individual who gathers information on crimes or civil wrongs, stolen property, accidents, fires, damages or injuries to property or persons, or evidence to be used before any court, board, officer or investigative committee. *Code of Virginia* §9,1-138.

Members of PIAVA firmly believe that rushing to pass privacy legislation without a complete understanding of all the unintended and adverse consequences will result in risks to citizens and businesses of the Commonwealth. We offer the following example of well-intended privacy legislation subsequently wreaking havoc in the workplace.

### **FAIR CREDIT REPORTING ACT AMMENDMENT SHELTERED CRIMINALS**

In 1996, an amendment to the *Fair Credit Reporting Act* was enacted. An unintended consequence of the bill barred many employers from conducting third-party, impartial investigations into allegations of employee wrongdoing because they were required to notify and gain permission from alleged suspects before third party investigations could commence. Employers could not resort to in-house investigations, as the results may not be considered objective. The bill gave alleged suspects the right to obtain a copy of the investigative report in its entirety often containing the full names of informants, undercover investigators, witnesses and their confidential statements. Witnesses learning of this fact refused to cooperate and as a result, theft, fraud, violence, and sexual harassment flourished in the workplace. The damage was incalculable and victims, in most cases, were left without legal recourse.

It was not until 2003 that the serious defects of the amendments were remedied. It took nine long years, annual and copious amounts of testimony before professional investigators could (once again) properly conduct workplace wrongdoing investigations.

### **FEDERAL IDENTITY THEFT LEGISLATION ALREADY ENACTED**

Congress enacted the *Identity Theft and Assumption Deterrence Act* in 1998 that impose criminal sanctions for those creating a false identity or misappropriating the identity of someone else. *The Internet False Identification Prevention Act*, was adopted in 2000 addressing the sale of

counterfeit Social Security cards. Other laws already in place protect against and establish criminal penalties for persons committing the crimes of identity theft and financial fraud, they are the *Gramm-Leach-Bliley Act*, *Fair Credit Reporting Act* and the *Fair and Accurate Credit Transactions Act of 2003*.

We believe these laws must be allowed sufficient time to become effective in the prevention of identity theft and fraud before additional legislation is enacted.

**Title 59.1 TRADE AND COMMERCE, §443.2. Restricted use of social security numbers.  
Item 1.**

Examining HB 753 *Social Security Number Misuse*, private sector investigative professionals became concerned with language that, unless otherwise provided by law, would prohibit the intentional communication of SSNs to the general public,

On October 6, 2004, I testified before your committee and raised concerns about Item No.1 on behalf of investigative professionals citing the need to communicate SSNs to others for legitimate business purposes.

Regarding proposed language prohibiting the communication of SSNs by individuals engaged in commerce, if enacted, it would be a violation of law to: “*Intentionally communicate, in any manner, an individual’s social security number to the general public.*”

Before your committee, I asked Mr. Mitchell Goldstein (author of the proposed modification) the following question “Would it be a violation of the law if an individual’s SSN was communicated by an investigator to another investigator or an attorney?” to which Mr. Goldstein responded that it would not. However, I humbly disagree and subsequently consulted *Black’s Law Dictionary* that defines: **public**, *n.* 1. The people of a nation or community as a whole.

The investigative community wholeheartedly agrees that an individual’s SSN must never be communicated to “the community as a whole” in any manner, such as posted on websites, student or patient identification cards or mailing envelopes and should be prohibited by law. However, there is the concern that this item could be interpreted as meaning: Intentionally communicate, in any manner, an individual’s social security number to “the people of a nation.”

*Miriam Webster’s Dictionary* defines **public** as: A group of people having common interests or characteristics: specifically: the group at which a particular activity or enterprises aims. Therefore, would not the activity of ‘communicating an individual’s SSN in any manner to the general public i.e. “the group at which a particular activity or enterprises aims” include investigators, attorneys, process servers, researchers, fugitive apprehension specialists, private security officers and others having legitimate business use of SSNs? And could not these responsible users of unique personal identifiers [as a group] be considered the people of a nation, or the public in general?

## EXCEPTION RECOMMENDATIONS

Because the term ‘general public’ can be interpreted as meaning a group of individuals engaged in providing legal support and other private security services, we submit for your committee’s consideration the following exception language that would provide for the lawful communication of an individual’s SSN for legitimate business purposes (in italics).

- (a) Intentionally communicate, in any manner, an individual’s social security number to the general public; *except individuals having legitimate business purposes for communicating an individual’s social security number in any manner.*

Failing the Committee’s interest in a broad exception for legitimate business use, we recommend a specific exception for private security services personnel comprising:

- Armed and unarmed security officers
- Armored car personnel
- Couriers
- Personal protection specialists
- Private investigators
- Special conservators of the peace
- Electronic security
- Security canine handlers
- Alarm respondents
- Central station dispatchers
- Private crime prevention practitioners
- Please note that we anticipate process servers and bail enforcement agents will soon come under DCJS’S regulatory jurisdiction.

To assure private security professionals’ lawful communication of an individual’s SSN to others, and in the name of administration of justice, public safety and homeland security, we recommend the following italicized language be included:

*Intentionally communicate, in any manner, an individual’s social security number to the general public; except registered and/or certified private security services personnel as defined in § 9.1-138, who are regulated in accordance with § 9.1-139 and acting in the course of legitimate business*

Please note that this exception language is similar to an exception for private investigators contained in § 18.2-60.3. *Stalking*; penalty.:

A. Any person, except a law-enforcement officer, as defined in § 9.1-101, and acting in the performance of his official duties, and a registered private investigator, as defined in § 9.1-138, who is regulated in accordance with § 9.1-139 and acting in the course of his legitimate business, who on more than one occasion engages in conduct directed at another person with the intent to place, or when he knows or reasonably should know that

the conduct places that other person in reasonable fear of death, criminal sexual assault, or bodily injury to that other person or to that other person's family or household member is guilty of a Class 1 misdemeanor.:

## **JUSTIFICATION FOR SPECIFIC PRIVATE SECURITY EXCEPTION**

Private security professionals are highly experienced in the protection of personal information adhering to strict provisions of the *Federal Driver Protection and Privacy Act* (DPPA) enacted in 1997. The intent of DPPA is to permit access by all legitimate users of the personal information maintained by the Divisions of Motor Vehicles, while denying access to the idly curious. DPPA and additional privacy measures imposed by *Code of Virginia* § 46.2-208. *Records of Department; when open for inspection; release of privileged information* assure strict adherence to procedures and practices that protect personal information from unauthorized access, use or disclosure.

## **PRIVATE SECURITY SERVICES PERSONNEL MUST:**

- Become credentialed by the Virginia Department of Criminal Justice Services (DCJS), Private Security Services Section.
- Meet strict previous experience and entry-level training standards
- Submit fingerprints for local and federal criminal background checks.
- Receive continuing training and education
- Be employed by DCJS-licensed companies employing DCJS-Certified Compliance Agents.

## **LAWS AND REGULATIONS GOVERNING PRIVATE SECURITY SERVICES**

- 9.1-138 *Code of Virginia*
- 6 VAC 20-171 *Virginia Administrative Code*

## **COMMONWEALTH OFFICIALS RECOGNIZE PRIVATE SECURITY'S CONTRIBUTION TO PUBLIC SAFETY**

- In October of 2003 and 2004, Governor Mark R. Warner officially recognized the private security services industry as providing a safe environment for citizens, businesses and visitors in Virginia. <sup>1</sup>
- Addressing attendees of the Private Security Services Annual Conference on October 5, 2004, Virginia State Police Superintendent, Colonel W. Steven Flaherty stated that the approximately 35,000 members of private security services outnumber members of law enforcement in the Commonwealth three-to-one.
- In October 2003, Mr. George Forseman, Director of the Office of Commonwealth Preparedness officially recognized members of private security services as protectors of soft target facilities and potential first-responders to incidents of crime and acts of terrorism.

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<sup>1</sup> 2003 and 2004 *Certificate of Recognition*; Private Security Services Week; Office of the Governor

## **EMPIRICAL DATA SUPPORTS NEED FOR EXCEPTION**

In 2002, DCJS commissioned an independent study of the private investigator and security officer occupations in the Commonwealth.. Enclosed for your information (and with permission) are survey results detailing the myriad of important job functions performed by private investigators and security officers, along with their knowledge and the execution of same.

## **SOCIAL SECURITY ADMINISTRATION OFFICIAL SUPPORTS EXCEPTION RECOMOMENDATIONS**

Supporting our recommendation for legitimate business use exception, Patrick P. O'Carroll, Jr., Acting Inspector General for the Social Security Administration, testified on June 15, 2004 before members of the U.S. House of Representatives Committee on Ways and Means, Subcommittee on Social Security.<sup>2</sup> Relative to homeland security and identity theft issues, Mr. O'Carroll recommended that legislation must limit the use of the SSN to "appropriate and valid transactions." He also stated, "No one is suggesting that we change the way legitimate business is conducted in the United States, but that use of the SSN as a student or patient identifier, as part of a car rental agreement or to rent a video must be curtailed."

Supporting our recommendation for a specific exception for private security services personnel, Mr. O'Carroll promoted the concepts of "data matching and cross verification.' He stated "We strongly support cross-verification of SSNs through both government and private sector systems of records to identify and address inaccuracies. Our experience has shown that cross-verification can combat and limit the spread of false identification and SSN misuse."

## **PRIVATE SECURITY'S LEGITIMATE BUSINESS USE OF SSN'S**

It is important that members of this committee know that private security and legal support professionals accessing, verifying and communicating SSN information are doing so because it is the most dependable method of positively identifying, locating and conducting public record research on individuals. SSNs contained in land records, for example, help with the discovery of assets for judgment collection purposes.

Once obtained, SSN information can then be communicated to members of law enforcement and attorneys, or other legal support or security professionals performing services of:

- Loss prevention
- Protecting property
- Facility access control
- Authenticating identification
- Service of due process
- Fugitive locates
- Locating missing persons to include kidnapped and abducted children
- Locating and positively identifying witnesses, heirs, judgment debtors and alleged criminal suspects

- Investigations into criminal conduct and civil wrongdoing
- Victim/Witness assistance
- Pre-employment background investigations
- Tenant and pre-investment screening
- Protecting persons
- Judgment collections

## **PUBLIC-PRIVATE INFORMATION SHARING INITIATIVES**

It is interesting to note that investigative professionals routinely discover instances of actual alias (or multiple) SSN use in the course of conducting commercial database searches. Unfortunately, there is currently no official conduit through which reports of suspicious SSN activity can be reported to law enforcement as a precautionary measure.

However, through newly implemented public-private information sharing initiatives in the Commonwealth, it is believed that investigators accessing certain government and private records systems will (in the not too distant future) officially assist law enforcement in identifying and locating actual perpetrators of SSN misuse and preventing targets from becoming victimized. Utilizing methods of data matching, cross verification and the lawful communication of SSNs, members of private security can enhance identity theft crack down efforts.

## **CONCLUSION**

Private security personnel play a vital role as litigation support specialists, protecting citizens, businesses and government facilities in the Commonwealth and require unfettered access, and lawful communication of SSNs for the proper conduct of their regulated duties.

**House Bill No. 543 GOVERNMENT DATA COLLECTION & DATA COLLECTION & DISSEMINATION PRACTICES ACT; use of unique identifying numbers limited on public records.**

### *Summary*

Prohibits filing or creating public records that contain more than the last four digits of any unique identifying number, unless such use is required by law or the record is exempt from disclosure. The bill defines unique identifying number as any alphabetic or numeric sequence, or combination thereof, that is unique and assigned to a specific natural person at that person's request and includes, but is not limited to, social security number, bank account number, credit card number, military service number and driver's license number. The bill excludes from this definition any arbitrarily assigned alphabetic or numeric sequence, or combination thereof, that is assigned to a natural person for purposes of identification, in lieu of social security numbers, and used for a single, specific government purpose. Either preparers or filers of such documents must certify that the document complies with this prohibition before the documents can be filed. The bill contains a reenactment clause.

**Bullet Points: Unique identifying numbers limited on public records.**

✓ Prohibits filing or creating public records that contain more than the last four digits of any unique identifying number, unless:

1. The use is required by law; or
2. The record is exempt from disclosure.

If the record is subject to a discretionary disclosure, the record must be configured to prevent disclosure of the unique identifying number before it is disclosed to the public.

✓ The bill defines unique identifying number as any alphabetic or numeric sequence, or combination thereof, that is:

- A. unique and
- B. assigned to a specific natural person
- C. at that person's request

and includes, but is not limited to, social security number, bank account number, credit card number, military service number and driver's license number.

✓ The bill excludes from this definition any arbitrarily assigned alphabetic or numeric sequence, or combination thereof, that is assigned to a natural person for purposes of identification, in lieu of social security numbers, and used for a single, specific government purpose.

○ This provision was designed to enable agencies to use identification numbers in place of social security numbers. However, those numbers must be for a single, specific government purpose such as election identification.

✓ Either preparers or filers of such documents must certify that the document complies with this prohibition before the documents can be filed.

○ The means of certification is established by the agency, but can include:

- Certification at the beginning or end of the document to be filed
- In lieu of a certification on every document, the public body may post a notice in a conspicuous place at the point of filing stating, "By filing any document with this office, you certify that it complies with the restrictions on unique identifying numbers as specified in § 2.2-3808.3 of the Code of Virginia."

✓ The law does not prohibit the collection, use or release of a unique identifying number as required by the laws of the Commonwealth or the United States or for internal verification or administrative purposes as allowed by the laws of the Commonwealth or the United States.

✓ The bill was passed with a reenactment clause.

## **PRIVATE SECURITY PERSONNEL RELIES HEAVILY ON COMPLETE SSN**

Private security personnel rely on the use of complete SSNs (and other unique identifiers such as dates of birth, often found in proprietary databases; public records and documents ( be they court, court-held or state and local agency maintained) that are traditionally open for public inspection. These records include divorce, traffic, other criminal and land records.

Bank account and credit card numbers help to locate assets and instances of financial fraud to include identity theft. Military service numbers and driver's license numbers are vital to the proper vetting of job applicants. Following is just a partial list of the ways private security personnel utilize unique identifiers found in various court and other records systems:

### **CRIMINAL INVESTIGATIONS**

#### **Crimes against employers and employees**

- Internal Theft/Embezzlement
- Compromise of Corporate Security
- Worker's Compensation Fraud
- Workplace violence, harassment, intimidation
- Resume fraud
- Identity theft
- Worker's Compensation Fraud

#### **Crimes against persons and property**

- Rape
- Robbery
- Assault and Battery
- Stalking
- Child sexual abuse
- Domestic violence
- Elder abuse
- Homicide
- Extortion
- Intimidation and Harassment
- Theft
- Conversion
- Kidnapping
- Arson
- Vandalism
- Financial fraud
- Criminal defense

## **CIVIL LITIGATION**

- Product liability
- Domestic Relations
- Personal injury
- Intellectual property infringement
- Probate and Will Contests
- Judgment collections
- Service of due process

## **RECORDS RESEARCH TO DETERMINE:**

- Location of judgment debtors in default
- The location, type and value of real and personal property
- Criminal convictions
- Civil litigation histories
- Location of witnesses, secondary witnesses, heirs, natural children and parents
- Fraudulent use of personal identifiers
- Location of fugitives from justice
- Veracity of job applicant claims
- History of fraud

## **ANATOMY OF A SOCIAL SECURITY NUMBER PROVIDES THE WHOLE PICTURE**

The first three digits of a social security number are called the **area number**. The middle two digits are called the **group number**. The last four digits are called the **serial number**.

### **AREA NUMBERS:**

Area numbers represent particular geographic areas. Most area numbers were assigned by state. However the series 700-729 was assigned to railway workers, regardless of state. In many geographic locations, the original area number range was used up as the population grew.

**GROUP NUMBERS:** Group numbers are not related to geography. They reference the order in which the social security number was issued.

**SERIAL NUMBERS:** Serial Numbers are assigned based on the chronological application of social security numbers in each area and group number.

**INVALID SOCIAL SECURITY NUMBERS:** Any social security number that fits into one or both criteria is an invalid SSN:

1. Any of the fields contain all zeros
2. The first three digits are larger than 740

With the advent of subscription information databases, the time, energy and cost of researching public records is greatly reduced. However, legal support professionals must often locate, positively identify, retrieve, review and obtain certified copies of civil filings and criminal records from the courthouse for their informational and evidentiary value. Attempting to identify public records by names only or the last four digits of a social security number *i.e.* serial number will result in instances of:

- Mistaken identities
- Wasted time and effort
- Significant cost increase to end-users of legal support services.

Furthermore, unique personal identifying information gleaned from public records is often cross verified with subscription database information lessening the likelihood of mistaken identity and saving much time, effort and cost.

## REVERSE DISCRIMINATION

Pre-employment background investigators cite possible ‘reverse discrimination’ by employers having no guarantees that public records (especially criminal and Worker’s Compensation records) can be properly matched to applicant-provided personal identifiers. Employers may elect to decline applications to avoid hiring individuals possibly engaged in chronic insurance fraud schemes, or to avoid tort liability from negligent hiring and negligent retention. Following is an excerpt from a recent *Reuters* article<sup>4</sup>:

*A 2003 survey of more than 200 companies by Virginia-based Society for Human Resource Management revealed that 80 percent of them made reference and criminal checks on their employees.*

A 1990 study conducted by the Census Bureau ranked the most common names in the United States.

First ten entries in dist.all.last

name	freq	cum.freq	rank
SMITH	1.006	1.006	1
JOHNSON	0.810	1.816	2
WILLIAMS	0.699	2.515	3
JONES	0.621	3.136	4
BROWN	0.621	3.757	5
DAVIS	0.480	4.237	6
MILLER	0.424	4.660	7
WILSON	0.339	5.000	8
MOORE	0.312	5.312	9
TAYLOR	0.311	5.623	10

First ten entries in dist.female.first

<sup>3</sup> *Government and Commercial Use of the Social Security Number Is Widespread*; 1999, U.S. Government Account Office

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name	freq	cum.freq	rank
MARY	2.629	2.629	1
PATRICIA	1.073	3.702	2
LINDA	1.035	4.736	3
BARBARA	0.980	5.716	4
ELIZABETH	0.937	6.653	5
JENNIFER	0.932	7.586	6
MARIA	0.828	8.414	7
SUSAN	0.794	9.209	8
MARGARET	0.768	9.976	9
DOROTHY	0.727	10.703	10

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First ten entries in dist.male.first

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name	freq	cum.freq	rank
JAMES	3.318	3.318	1
JOHN	3.271	6.589	2
ROBERT	3.143	9.732	3
MICHAEL	2.629	12.361	4
WILLIAM	2.451	14.812	5
DAVID	2.363	17.176	6
RICHARD	1.703	18.878	7
CHARLES	1.523	20.401	8
JOSEPH	1.404	21.805	9
THOMAS	1.380	23.185	10

## EXAMPLE OF CRIMAL RECORDS DEVOID OF SSNs

Due to marriage female's names often change, making background investigations and database searches even more difficult. However, individuals having common names or providing personal identifier variations to avoid detection of criminal activity prove the most challenging.

For the purpose of this example, all personal identifiers are fictitious: A woman by the name of MARY SMITH applies directly to a couple desperate to hire a Nanny. SMITH provides a variation of her real SSN of 226-00-1022 substituting two zeros in the group number, which also renders the SSN invalid.\*

SMITH claims she was a homemaker for the past 20 years, is recently widowed and seeking employment. She provides a physical address in Richmond and her deceased husband's name of JAMES (the number one ranking male name) Prior to hiring SMITH, the couple retains an investigator to conduct a criminal records check .

The names of MARY and SMITH are the number one ranked names for females in the U.S. According to statistics compiled by the Social Security Administration, the name MARY has been ranked the number one female name from the 1900's through the end of the 1950's.

The investigator first performs a subscription database search to verify identity and the veracity of other information on SMITH'S application.

Attempting to verify identity and address history the investigator uses the SSN as a search parameter. The search returns "NO RECORDS FOUND". However, these results are not uncommon for individuals having no history of gainful employment or use of consumer credit. The same results are often returned for young adults in their early 20's for example.

The street address is searched and verified as a large rental apartment complex with over 700 records returned. The name JAMES SMITH appears five (5) times over a 15-year period, with no deceased indicator for any of them. Deceased individuals are usually indicated as such in the results, however becoming 'recently deceased' it can take up to a month or more for Social Security Administration generated data to become included on reports giving a false positive to the search.

Knowing that criminal convictions can be found in other regions of the Commonwealth (or the U.S.) the investigator broadens the search using SMITH, MARY and VIRGINIA in an attempt to discover an address history. The results are "TOO MANY RECORDS FOUND" returning over 1000 thousand matches. Obviously an 'ALL STATES' search would return thousands more matches. Narrowing the search to just RICHMOND, over 1000 matches are again returned.

Unable to verify SMITH'S information by database, the next step is to manually search criminal records at the courthouse in the jurisdiction where SMITH claims to live. A 'name only' search returns seven (7) records, One of the records is a 1987 criminal conviction for child battering. There is no way to positively determine if SMITH is the subject without the SSN disclosed on the record.

However, SMITH claimed she was never employed, her personal history seems plausible and a decision to hire would be based on a judgment call by a couple desperate for a Nanny. Had the SSN been disclosed it would have alerted the investigator to a possible criminal record match and use of SSN variation. It is important to know that use of false identifiers are often discovered through court record research.

If new public record filings or criminal records are indexed by 'name only', limited to just the serial number, or are redacted to the serial number on existing records (or otherwise restricted from public inspection) job applicants cannot be properly vetted. In this case, a child's safety and welfare could be at stake.

Persons intent on deceit and providing false identifiers often avoid detection. It would be impossible to positively identify criminal records for persons having common names without complete disclosure of SSNs. The same applies for many civil records that produce a wealth of information for civil litigation and background screening purposes.

Therefore, to positively identify public records pertaining to any individual, especially those having common names, complete unique personal identifiers are essential. Please see actual database searches illustrating this example that are attached.

*\* It cannot be presumed that it is common knowledge that all zeros in either the area or group portions of a SSN renders it invalid, especially laypersons conducting their own criminal record searches.*

## COMPLETE SSN IS VITAL LEGAL RESEARCH TOOL

According to an General Accounting Office Report,<sup>3</sup> Information brokers databases can be searched by identifiers that may include SSNs; brokers may also include SSNs along with information they provide customers. When possible, information brokers retrieve data by SSN because it is more likely to produce records unique to the individual than other identifiers are.

Officials of businesses that sell personal information and driver licensing agencies also believed that federal restrictions on SSN use could make it difficult for others to obtain specific records from them. For example, driver licensing officials said that if “outsiders,” such as government and law enforcement agencies, do not know the driver’s license number and cannot request driver records by SSNs, these agencies can only use the driver’s name and are more likely, therefore, to receive the records of other people with the same name.

On October 6, 2004, I informed your committee that according to Ms. Theresa Gonyo of the Department of Motor Vehicles, without providing a full SSN, most motor vehicle information cannot be accessed. I further informed the committee that according to Scott Fowler, Director of Development for the Virginia Information Providers Network (VIPNet), a full 85% of motor vehicle searches conducted remotely are conducted by private security services personnel using the complete SSN as a search parameter. To which Mr. Chairman suggested that, in the name of privacy, investigators would just have to run more than one search using serial numbers.

Besides the fact that the DMV and VIPNet systems would have to be overhauled to accommodate a “serial number only” search parameter, the fact remains that we are not just dealing with SSNs issued from the Commonwealth of Virginia, but SSNs issued from every area or region of the United States. Therefore, using only the serial number will result in multiple records returned, still leaving no definitive method of distinguishing between individuals with the same common name or having identical serial numbers. This problem also applies to civil records that produce documents redacted to only the serial number.

HB 543’s proposed solution to protecting SSNs would not, as Mr. Chairman suggested, “create an inconvenience” to professional investigators. Understanding that investigators act as agents for the citizens and businesses of the Commonwealth it will not only create risk to public safety, but will also impose a tremendous financial burden on citizens and businesses using legal support services.

Furthermore, subscription databases and motor vehicle divisions require a 9-digit social security number as a search parameter lessening the likelihood that public records could be cross-verified or data matched for positive identification of records, individuals and property.

## INVALID SOCIAL SECURITY NUMBERS

Probably the most compelling argument for retaining complete SSNs in public records is the fact that without displaying area and group numbers it will be next to impossible to determine if serial numbers appearing in public (or other records) are valid. Searches will produce multiples

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<sup>4</sup> Resume Fraud gets slicker and slicker: Half of job seekers submit false data in 2003, survey finds: March 9, 2004

of others in the United States having the same serial number issued by the Social Security Administration (SSA).

Using the last four digits of my own SSN, I conducted several database searches using area numbers issued by SSA and unique to the Commonwealth — only to discover that many individuals share the same last four digits as my own. Therefore, a given serial number is not unique to a single individual.

Whereas I would have liked to include the actual searches to illustrate my argument, in order to protect the personal identifying information contained in the various reports, I must refrain from submitting the information in public comment.

### **PUBLIC-PRIVATE PARTNERSHIPS RELY ON VITAL INVESTIGATIVE TOOL (SSN)**

Excerpts from an article appearing in *The Star-Telegram*, Fort Worth, TX , 9/10/04

#### **Agencies work to track abused children**

United Way of Metropolitan Tarrant County, Child Protective Services and Texas Christian University have teamed up for a yearlong study that will focus on finding families that slip out of the system in Tarrant County.

*A \$71,000 grant from the 2003 United Way fund-raising campaign will help pay for a private investigator responsible for finding such families. The investigator would step in when CPS caseworkers have exhausted all other means at their disposal.*

“A private investigator has much more time and many more resources than a regular CPS worker,” she said.

This approach was chosen after meeting with CPS officials who described family-moved cases as a major hurdle. It might save a child before it’s too late, Dettlaff said.

“It could potentially be preventing some serious abuse and possibly a death,” he said.

### **PUBLIC BENEFIT CORPORATIONS USE OF COMPLETE SSN**

**HomeFires Ltd., Volunteer Private Investigators for Missing Children** is a 501 (c ) (3) charitable organization established in 1998, is based in Virginia and conducts missing children investigations on a *pro bono publico* basis nationwide. As founder and Chairman of the HomeFires, I am proud to inform you that the organization has a 98% success rate in locating parentally abducted and kidnapped children. Once located, volunteers coordinate law enforcement’s safe recovery of these tiny victims who are then reunited with relieved loved ones. It is a known fact that just because a child is with a parent that they are not always safe. The success of our program is directly attributable to tracking abductors and subsequently locating their victims through complete SSN information gleaned from public record resources. The area number often provides the most valuable information as to the actual whereabouts of abducted children.

**Citizens United to Find Fugitives** (CUFF) is a 501 (c ) (3) charitable nonprofit headquartered in Arizona and conducts fugitive locates on a *pro bono publico* basis for victims seeking justice. Private investigators donate their time and talents performing duties usually reserved for members of law enforcement who are too overburdened to assist every victim. 100% of fugitives located by this organization are located with the help of SSN information obtained from public record resources.

It is safe to say that without access to complete SSNs, these worthy organizations would no longer be able to perform their stated missions due to increased costs of locating criminals intent on avoiding detection. The risk to women and children is, obviously, of the utmost concern.

**Title 17.1 - COURTS OF RECORD§ 227. (B) Documents to be recorded in deed books; social security numbers,**B. Documents to be recorded pursuant to this section shall contain no more than the last four digits of a social security number. No such document shall be accepted for filing unless the person who drafted the document certifies *at the beginning or end of the document* to be recorded that such document complies with this section.

Regarding this bill's possible re-enactment, members of private security services again cite the problem of requiring only the serial number as an identifier when it is the area and group numbers (used in conjunction with the serial number) that determines if serial numbers are valid.

## **UNSUBSTANTIATED PRIVACY THEORIES**

I respectfully remind the committee that there is absolutely no government generated report or reputable independent study producing empirical data that supports theories that identity theft is perpetrated through access to social security numbers contained in public records at the courthouse level.

During a recent telephone conversation with Mr. Mike Stollenwerk of the Fairfax County Privacy Council, I asked if he could produce victims or empirical data supporting his social security number privacy theories. As for empirical data, he stated that he could not. As for victims, he vaguely recalled reading about an attorney who claimed his identity was stolen from public records, but could not provide any definitive details.

Last year, I participated as a panelist on the topic of online land records and privacy at the Virginia Coalition of Open Government Conference. Mr. Chris Hoofnagle, top national privacy advocate with the Electronic Privacy Information Center was asked the very same questions. Mr. Hoofnagle responded that he could not produce empirical data or victims supporting theories about identity theft and public records. Instead, he offered opinion that the majority of blame for epidemic identity theft can be placed on consumer credit lending institutions that do not conduct proper due diligence of applicants to verify identity.

Therefore, the risk of creating an un-identifiable society far outweighs the perceived benefits of identity theft protection that are based on unsubstantiated privacy theories.

## RECOMMENDATION

Members of PIAVA firmly believe that rushing to pass new (or re-enact) legislation without completely understanding of all the unintended and adverse consequences will result in risks to public safety, corporate and government security, and will impede citizens' pursuits of justice.

We respectfully recommend and request that all legislation before your committee proposing the redaction of identifiers on existing public records, the elimination or reduction of personal identifiers to just the serial number on new filings requires further and serious study. We further recommend and request that any Sunset provisions be extended.

Members of our association are available to assist your committee in crafting legislation that balances privacy against the public's legitimate need to know. I appreciate having the opportunity to provide public comment on these issues and respectfully request your favorable consideration of our recommendations.

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