



**NATIONAL COUNCIL OF INVESTIGATION & SECURITY SERVICES INC.**

*THE NATIONAL VOICE OF THE PRIVATE INVESTIGATION & SECURITY INDUSTRIES*

## ***Data Breaches Require a Targeted and Effective Response***

Recent developments following breaches of security at data brokers and financial institutions have led to calls for immediate regulatory and legislative action.

Investigators are fearful that in the current atmosphere public officials may be pressured to create an overly broad regulatory scheme that will harm the court system and commerce. Ironically, some of the proposed remedies would be counterproductive to the goal of fighting identity theft and other fraud. Statutory solutions should focus on securing personal data and restricting illegitimate entities from accessing the information. They should *not* penalize legitimate users nor restrict legitimate access to data.

The National Council of Investigation and Security Services (NCISS) has learned from past experience that even the best legislative and regulatory intentions can lead to harmful unintended consequences. For example, the 1996 amendments to the Fair Credit Reporting Act ultimately led to an unanticipated situation requiring employers to notify employees suspected of workplace violence, theft, harassment, discrimination and other crimes when a third party was retained to investigate a case. It took years for Congress to remedy that error with the passage of the Fair and Accurate Credit Transactions Act (FACTA).

If barriers are erected to prevent legitimate businesses from accessing identifying information about individuals, the identity thieves will more easily get away with their crimes. Unless private investigators can access Social Security Number confirmations and other unique identifiers, they will be unable to track ID theft criminals and help victims restore their lost identities.

NCISS believes that several actions should be taken in response to the recent data breaches, including these measures:

- *Data brokers should conduct thorough credentialing of new accounts and those where a review indicates that a new check is in order.*
- *Congress should ban Internet sales of personal identification information to the general public.*
- *Penalties, such as fines and jail sentences, for the misuse of personal information should be increased.*
- *Data providers should be required by federal law to notify consumers when their information has been accessed illegally.*
- *Congress should prohibit the use of Social Security Numbers on identification documents such as healthcare insurance cards, drivers' licenses and state permits.*

- *Investigators and other licensed professionals who can demonstrate a need for information and have submitted to a background investigation should have continued access to personal data.*

### ***Private Investigators Use Data for the Public Good***

Private investigators use data supplied by brokers to facilitate justice. For example, they use the data to locate witnesses, find heirs, locate lost children, obtain child support, and detect fraud. Police authorities do not have adequate resources to solve ID theft cases, and many victims must turn to private investigators to restore their credit. If investigators are restricted in their access to the data needed to solve these cases, and thus are rendered less effective, an additional burden will be placed on the overextended resources of public authorities.

### ***Recent Legislation***

Congress has been active in recent years in regard to identity theft and personal information. FACTA, which includes many provisions directly addressing identity theft, was enacted only by the last Congress. In addition, harsher penalties for identity theft were imposed with the enactment of the Identity Theft Penalty Enhancement Act. The impact of these statutes is just beginning to be felt. Congress should gauge the impact of these measures before acting on any proposed identity theft legislation and should refrain from limiting access to information that is necessary for the performance of private investigators.