

The National Council of Social Security Management Associations, Inc.

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**HOUSE SUBCOMMITTEE ON SOCIAL SECURITY
HEARING ON USE AND MISUSE OF SOCIAL SECURITY NUMBERS
PART II**

On May 9th and 11th the Social Security Subcommittee of the Committee on Ways and Means held a two-part hearing on “Use and Misuse of Social Security Numbers.” The first day of the hearing provided an overview of the issue and discussion of current laws and proposals to protect SSNs from misuse. The second day focused on the advantages and disadvantages of restricting the use of SSNs.

Rachel Emmons attended both days of the hearing and the following is a summary of the proceedings.

May 11, 2000 Hearing

The following members of the Subcommittee were present: Clay Shaw (R-FL); Mac Collins (R-GA); J.D. Hayworth (R-AZ); Robert Matsui (D-CA); and John Tanner (D-TN).

Witnesses presenting oral testimony:

Panel:

- The Honorable Jim McDermott, M.C., (D-WA)
- The Honorable Gerald D. Kleczka, M.C., (D-WI)
- The Honorable Edward J. Markey, M.C. (D-MA)
- The Honorable John N. Hostettler, M.C., (R-IN)
- The Honorable Ron Paul, M.C., Texas (R-TX)

Panel:

- Stuart K. Pratt, Vice President, Government Relations, Associated Credit Bureaus, Inc.
- Edmund Mierzwinski, Consumer Program Director, United States Public Interest Research Group
- Katherine Burke Moore, Chair, International Board of Directors, American Association of Motor Vehicle Administrators
- Marc Rotenberg, Executive Director, Electronic Privacy Information Center
- Roberta Meyer, Senior Counsel, American Council of Life Insurers

The following are items of importance from the testimony of Rep. McDermott:

The Honorable Jim McDermott, M.C., Washington:

- The need to protect the confidentiality of personal information has become even more important due to technological advances, particularly in the medical and financial industries
- With the passage of legislation like the Health Insurance Portability Act and the Financial Modernization Act the public has become increasingly worried that private businesses are building databases of personal information
 - Many businesses require customers to provide their SSN as a condition of doing business
 - Congress has only imposed superficial walls around personal information
- Started writing legislation five years ago to address the lack of strong national standards for confidentiality of medical records
 - Concluded that an SSN, or a derivative of an SSN, must not be used for any purpose relating to personal health information or the use or disclosure of such information
- Congress has grappled for years with when and how the SSN should be used
 - Privacy Act of 1974 attempted to limit the disclosure and use of the SSN
 - Most of Congress's attempts have been unsuccessful
- People are concerned about the type and amount of information they disclose as well as how the information will be used
- Many states, without notification, list the SSN on drivers' licenses
 - Information from a single piece of identification provides a criminal with the name, address, date of birth, and SSN of an individual
 - This information can easily be used to "steal" an individual's identity
- I had my own identity stolen in 1996
 - Informed in 1997 only because one of the criminal's victims recognized my name
 - People only find out their identity has been stolen when they are turned down for credit, contacted by a collection agency or the authorities
 - Could take months or even years
- The job of Congress is to mitigate the damages from these crimes
 - Impossible to maintain the confidentiality of SSNs at this point
 - Congress must pass strong laws to protect the confidentiality of medical and financial records

The following are items of importance from the testimony of Rep. Kleczka:

The Honorable Gerald D. Kleczka, M.C., Wisconsin:

- Summary of my legislation, H.R. 1450, the Personal Information Privacy Act (PIPA)
 - Amends the Fair Credit Reporting Act to prevent credit bureaus from giving out identifying information like SSNs, unlisted phone numbers, past addresses, and mothers' maiden names
 - Prohibits the commercial use of an SSN without the owner's written consent
 - Prohibits the use of an SSN as an identifier by persons not already authorized to do so in current law
 - Businesses that refuse to do business with anyone who does not consent to the use of their SSN will be considered as committing an unfair or deceptive business practice

- Prohibits a state department of motor vehicles from selling or transferring SSNs and photographs
- Prohibits the distribution of a consumer report for transactions not initiated by the consumer without the consumer's written authorization
- Prohibits the sale or transfer of a consumer's information for marketing purposes without the express written consent of the consumer
- Provides for civil and criminal prosecution for violations of the act

The following are items of importance from the testimony of Rep. Markey:

The Honorable Edward J. Markey, M.C., Massachusetts:

- Would like to put the matter of the privacy of a consumer's SSN into the broader context of how consumer information is being used by businesses as we proceed into the e-commerce era
- The problems we face today isn't Big Brother, it's Big Browser
 - Right now there are very few protections against a financial services firm from disclosing every check you've ever written, every credit card charge you've ever made, the medical exam you got before you received health insurance
 - As you surf the Web, there are no rules in place to prevent various web sites from collecting information about what sites you are viewing and how long you are viewing them
 - If you buy anything over the Internet, that information can be linked up to other personal identifiers to create disturbingly detailed digital dossiers that can profile your lifestyle, your interests, your hobbies, or your habits
- The SSN is an important identifier that many online and offline businesses wish to obtain about consumers
 - Consumers who value their privacy, have a strong interest in not allowing this number to become a ubiquitous personal identifier that allows companies to tie together bits and pieces of information in various databases into an electronic profile that can be zapped around the world in a nanosecond
- More sinister possibilities
 - Simple Internet search for "Social Security Numbers" turns up links to dozens of websites that offer to provide you, for a fee, with SSNs for other citizens, or to link a SSN that you might have with a name, address and telephone number
 - Most likely the data-mining firms and private detective agencies are accessing information held by credit bureaus, financial services or other commercial firms
- Last year's banking bill gave consumers the right to "opt out" of having their personal, nonpublic financial information transferred to unaffiliated third parties (includes a consumer's SSN)
 - No limits on disclosures to affiliates
 - "Joint marketing agreement" provision that allows disclosure of a customer's information (including an SSN) to nonaffiliated third parties with which the institution has signed a contract
 - The two loopholes render the limited "opt out" requirements in the bill a pathetic joke

- Financial regulators have also decided to delay full implementation of even these minimal privacy protections until July 2001.
- Rep. Joe Barton (R-TX) and I have introduced H.R. 3320, the “Consumer’s Right to Financial Privacy Act,” which would close the affiliate sharing and joint marketing loopholes and require an “opt in” before a financial institution could disclose sensitive financial information – including SSNs
 - Currently has 71 bipartisan cosponsors, and has been introduced in the Senate by Senators Richard Shelby (R-AL) and Richard Bryan (D-NV)
- Have also joined with Reps. John LaFalce (D-NY) and John Dingell (D-MI) in introducing the Administration’s privacy proposal, H.R. 4380
 - Would establish an “opt in” for medical information and sensitive information about a consumer’s spending habits, and an “opt out” for the disclosure of other nonpublic personal information about the consumer
- Urge the Subcommittee to support these legislative reforms, and also Rep. Kleczka’s proposal to prohibit commercial distribution or acquisition of SSNs, or their use as a personal identifier

The following are items of importance from the testimony of Rep. Hostettler:

The Honorable John N. Hostettler, M.C., Indiana:

- Pleased to come before you in support of my bill H.R. 2494, the Children Tax ID Alternative Act
 - Bipartisan bill which currently has 23 cosponsors
 - Would provide a religious exemption for those who do not wish to obtain a SSN for their children
 - Would provide an alternative way of claiming dependent tax credits and deductions
- This subcommittee has been hearing testimony regarding the expanding use of SSNs and the associated use and abuse that accompanies such an expansion
 - Significant group of U.S. citizens, who are resisting this progression because it violates their religious beliefs
- History of the use of the SSN indicates that this has not always been a problem and need not be a problem anyone
 - Not until the Tax Reform Act of 1986 that taxpayers who wished to claim exemptions for dependents were required to provide SSNs for all dependents age 5 and older
 - Age requirement was changed in 1995 to require that any claimed dependent have a taxpayer identification number, which under Section 6109 of the Internal Revenue Code is an individual’s SSN.
 - In 1996, the IRS was authorized to reject a dependency exemption if no taxpayer identification number was supplied
 - Implications of these laws
 - The IRS reported that there were approximately 7.5 million fewer dependents claimed in 1987 than in 1986
 - Translated into a revenue increase of \$2.8 billion for the federal government in tax year 1987 alone

- The IRS has indicated that the significant drop in claimed exemptions is, in fact, due to the required use of SSNs
 - The IRS believes that the exemptions dropped because the use of the numbers eliminated the potential for fraud and abuse
 - The IRS is unable to conclusively assert this finding because no study or report has been conducted
 - Rather, we have every indication that this drop was due, at least in some degree, to personal religious objections by parents who do not wish to attach SSNs to their children
- Understand these laws were implemented in order to curb the use of improper dependency exemptions
- My bill does not add to the potential for tax fraud and abuse
 - Under the provisions of this act, parents would be required to submit several forms of official documentation:
 - An affidavit describing their religious belief
 - An affidavit from a knowledgeable third party
 - Documentation, such as birth records, medical records, school records or insurance records to verify the relationship of the dependent to the taxpayer
- This exemption is not without precedent
 - Currently a number of U.S. citizens who are permitted to be exempt from participation in Social Security based on religious belief
 - Also an allowance for certain ministers and members of religious orders to be exempt from self-employment taxes on income for those who are opposed to these insurance programs

The following are items of importance from the testimony of Rep. Paul:

The Honorable Ron Paul, M.C., Texas:

- For all intents and purposes the SSN has been transformed from an administrative device used to administer the Social Security program into a *de facto* national ID number
- The Congress that created the Social Security system in no way intended to create a national identifier
- The SSN did not become a popular identifier until the 1960s
- In response to concerns about the use of the SSN, Congress passed the Privacy Act of 1974
- The Privacy Act of 1974 states that “It shall be unlawful for any Federal, State or local government agency to deny any individual any right, benefit or privilege provided by law because of such individual’s refusal to disclose his Social Security number.”
 - This is a good and necessary step toward protecting individual liberty
 - Unfortunately, the language of the Privacy Act allows Congress to require the use of the SSN at will
 - Just two years after the passage of the Privacy Act, Congress explicitly allowed state governments to use the SSN as an identifier for tax collection, motor vehicle registration and drivers’ license identification

- Since the passage of the Privacy Act, Congress has been all too eager to expand the use of the SSN as a uniform identifier
 - In 1996, Congress required employers to report the SSN of employees as part of the “new hires” database
 - In 1998, 210 members of Congress voted to allow states to force citizens to produce a SSN before they could vote
- My legislation, the Freedom and Privacy Restoration Act (H.R. 220) forbids Federal or State governments from using the SSN for purposes not directly related to administering the Social Security system
- Other members of Congress are focusing on the use of the SSN by private businesses
 - This ignores the fact that the private sector was only following the lead of the federal government in using the SSN as an ID
 - In many cases the use of the SSN by private business is mandated by the government, for example, banks use SSNs as an identifier for their customers because the federal government required them to use the Social Security number for tax reporting purposes
 - Once the federal government stops using the SSN as an identifier, the majority of private business, will respond to their customers demands and stop using the SSN and other standard identifiers
- No private organization has the power to abuse personal liberty on as massive a scale as the federal government
 - Consumers have the right to refuse to do business with any private entity that asks for an SSN, whereas citizens cannot lawfully refuse to deal with government agencies

The following questions were put forward by the members of the Subcommittee:

Rep. Shaw: It seems like restricting the use (of SSNs) would impede business and harm consumers.

Rep. Kleczka: It shouldn't impede their ability to do business. They could still check the file for accuracy. The SSN was never intended as a national identification number and should not be maintained as one just for business purposes.

Rep. Shaw: The American Association of Motor Vehicle Administrators (AAMVA) will testify that your bill will impede anti-fraud attempts.

Rep. Paul: It should help, not impede. It is very dangerous to use a national identifier. It is the heavy hand of government monitoring us.

Rep. Markey: I am concerned about government misuse of private information. Not concerned so much with “big brother” but with “big browser.” The SSN falls into a special category and deserves special protection.

Rep. Tanner: If people stopped to think about the ramifications of this problem they would be terrified. Mr. Kleczka and Mr. Paul how do your bills help?

Rep. Kleczka: By making it impossible to get one's SSN, and by preventing the commercial use of SSNs. State legislators are getting the same pressures – fewer states are using SSNs for drivers' license numbers.

Rep. Paul: States should not use these numbers. My bill would help stop this. You can't use the SSN for anything except Social Security account information – you can't universalize the number and require it.

Rep. Tanner: Mr. Paul, your bill seems to deal with the gathering of information, and Mr. Kleczka's bill seems to deal with the dissemination of that information – could the two be combined?

Rep. Hayworth: This issue is a great concern to citizens. Do you have Committee reactions to your legislation?

Rep. Kleczka: Not yet.

Rep. Hayworth: What about Joint Committee reactions?

Rep. Paul: There is a hearing scheduled for next week before the Committee on Government Reform. (This hearing was before the Government Management, Information and Technology Subcommittee and was attended by Rachel Emmons. A hearing summary will be provided.)

Rep. Shaw: We have the answer to a question from Tuesday's hearing (Does the Department of Defense require an SSN for check cashing on military bases?). The DoD does not require a SSN for check cashing.

The second panel was composed of witnesses who gave testimony focusing on: the necessity of using SSNs by industries today (including credit bureaus; motor vehicle administrators; law enforcement officials; and life, disability income, and long term care insurers). Opposing testimony was given by witnesses who represented non-profit and non-partisan consumer and environmental advocacy groups as well as information privacy advocates.

Panel:

- Stuart K. Pratt, Vice President, Government Relations, Associated Credit Bureaus, Inc.
- Edmund Mierzwinski, Consumer Program Director, United States Public Interest Research Group
- Katherine Burke Moore, Chair, International Board of Directors, American Association of Motor Vehicle Administrators
- Marc Rotenberg, Executive Director, Electronic Privacy Information Center
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The following questions were put forward by the members of the Subcommittee:

Rep. Shaw: Do you support today's proposals?

Stuart K. Pratt: Rep. Paul's proposal would pose problems for liens and bankruptcy – if the use of SSNs was completely removed or controlled. Rep. Kleczka's bill seems restrained and balanced.

Edmund Mierzwinski: We support the legislation of Rep. Kleczka and Rep. Markey. We also support the others in principle.

Katherine Burke Moore: We oppose H.R. 220 (Rep. Ron Paul) and H.R. 1450 (Rep. Jerry Kleczka) is a mute point – it doesn't affect us.

Marc Rotenberg: SSNs exist to administer the Social Security program. I support today's proposals.

Rep. Shaw: If SSNs are the property of the Federal Government, we (Congress) do have a say in how they are used.

Rep. Shaw: Ms. Meyer, can you buy life insurance without your SSN?

Roberta Meyer: The use of the SSN is integral to supplying products and services to customers. It is important to obtain medical information – we often need to get this from doctors and hospitals and we need the SSN to do so.

Rep. Shaw: Don't you need to get a consent form from the individual anyway?

Roberta Meyer: Yes, but the use of SSNs as identifiers is already built into the system.

Rep. Shaw: Are you prohibited from selling this information?

Roberta Meyer: Under Title V we are required to give people notice and the option to "opt-out."

Rep. Shaw: What about sharing information with third parties not regulated by Title V?

Roberta Meyer: Those groups can't use the information in any other way than we do.

Rep. Tanner: (directed to Stuart K. Pratt) Lt. Colonel and Mrs. Stevens notified the credit bureaus regarding the fraudulent accounts - the accounts were recycled and reappeared. What are you doing to stop this? What about verification? What about printing false information?

Stuart K. Pratt: I agree we need to do more. We announced new initiatives in March.

We are requesting consumer verification, and we are introducing new software to keep track of file activity and notify consumers of strange activity.

Edmund Mierzwinski: I believe the credit bureaus' first steps are good. Not everything is their fault. Banks, department stores, and others issue credit without adequate verification. Customers need to be alerted. There need to be products to notify customers of differences (in records).

Rep. Shaw: What use is there in putting your SSN on a check?

Stuart K. Pratt: Check fraud is an enormous problem. The SSN is used for matching with check databases between the point of sale (register) and the system.

Rep. Shaw: Is this done while the customer is standing there?

Stuart K. Pratt: Yes. Process correctly – "no match found." (Meaning the check is good – no match was found indicating a problem with the check.)

Rep. Shaw: How do they verify that they have the right SSN?

(A lengthy exchange followed discussing the process of check verification at points of sale.)

Stuart K. Pratt: The challenge is to keep fraudulent data out and accurate data in.

Copies of the witnesses' written statements are available. Please contact us if you have any questions or would like copies.

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