

Increasing privacy concerns have brought tighter restrictions on access to information critical to conducting background investigations for employment; investigating workplace fraud, mortgage fraud, embezzlement and other financial crimes; locating assets to collect on judgments; recovering stolen assets; determining the residency status of immigrants; and locating witnesses for civil and criminal litigation. Often, the Social Security Number is the only way to distinguish between individuals with the same time, and similar dates of birth. The SSN is the only personal identifier that is unique to each individual.

In an era when the federal government is imposing heavier burdens on employers to verify SSNs and to conduct background investigations on workers employed under federal contracts, legislation pending before Congress and proposals by federal agencies to protect privacy run counter to these requirements. How can an employer meet these obligations if the tools for conducting thorough background checks are taken away?

The federal backlog of pending background investigations already is tremendous, and growing larger each day. Local, state and federal agencies don't want to provide these services to the private sector. The threshold of loss from theft or fraud often is set so high by the local prosecutor's office (\$20,000 or more), that the only recourse for the victim is in the civil courts.

In those instances, the services of a skilled, experienced and licensed private investigator are needed. These investigators have training and former careers in accounting, law enforcement, regulatory enforcement, the legal profession, banking and other professional disciplines. They know how to analyze information obtained through public and legal means, and the SSN is critical to that process. A plaintiff with a judgment in hand can't even get a credit report, allowable under current laws, without a full SSN, and the inability to obtain that transforms the judgment into a waste of time and money.

Examples abound of when the SSN can be the key piece of information in an investigation. I will relate just one here.

A client recently was sued by a female employer after a supervisor sexually assaulted her in the work place. A pre-employment background investigation had been conducted on the supervisor, but, because of the commonality of his last name, failed to uncover a history of violent sexual conduct. The employer believed that as long as he had a report in the file showing he had done a background check before hiring this individual, whether thorough or not, he was protected from liability. He was not. Now he is paying for this oversight in legal fees and settlement to the wronged employee. On the one hand, Congress and the federal government are saying that the ability to uncover this information needs to be restricted for privacy reasons; but, on the other hand, the courts are ruling that employers and defendants have a growing responsibility to find out these facts before problems arise.

The solution to protecting individual privacy is not to bar licensed private investigators from access to Social Security Numbers. As licensed, private investigators, we are

fingerprinted, undergo FBI criminal background checks, pay hefty licensing fees annually and subject our firms to inspection by state police agencies that regulate our profession. Every law or regulation seeking to protect individual privacy must have an exemption for licensed, private investigators who can demonstrate a permissible purpose for obtaining Social Security Numbers and other protected information.

Not allowing access by licensed private investigators to personal identifiers, particularly the Social Security Number, will do little to guard against identity theft, and will enhance the opportunities for criminal behavior and civil wrongdoing.