

# SPEAR INVESTIGATIONS

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Secretary  
Federal Trade Commission  
Room H-159, 600 Pennsylvania Ave, N.W.  
Washington, D.C. 20580



## RE: Gramm-Leach-Bliley Act Privacy Rule

Dear Secretary:

It seems that every time we turn around these days, we find that Congress has passed a new law with "unintended" consequences. Now, I understand your agency may be thinking of putting a "loose spin" on implementation of Title V of the Gramm-Leach-Bliley Act of 1999. I am concerned about reports that you want to adopt a very broad definition of what constitutes a financial institution which could severely limit distribution of the names and addresses of customers of financial institutions and other companies. As a private investigator, small businessman, and citizen who would be affected, I would like to apprise you of a few of the "unintended consequences" such an interpretation could have for our country.

According to reports, this broad interpretation would bring credit bureaus and major creditors under the umbrella of "financial institutions" and define simple customer name and address data as "non-public personal information." The consequence of this could be to shut off the availability of "header" reports (name/address reports from credit bureau records) -- a key tool used by attorneys, investigators, and others in the private sector who:

- conduct pre-employment investigations
- conduct insurance and other fraud investigations
- locate and serve defendants and witnesses for the civil courts
- locate deadbeat parents and other delinquent debtors
- locate missing heirs and others who are owed hundreds of millions of dollars in various unclaimed funds
- reunite split families and other "missing persons"

Importantly, the aforementioned "header" reports do not contain financial or credit information. While the information is furnished by (and kept updated by) the credit bureaus who obtain it from financial institutions, creditors, and other lenders, it is limited to names and addresses just like the white pages of our telephone books.

Take a moment to consider just one of the examples above-- the conduct of pre-employment investigations. Each year, private investigators conduct millions of such investigations for the nation's employers. The number is probably in excess of 10 million. Employers are expected by their employees and customers, and are required by law, to make every effort to ensure a crime and violence-free place of business. This includes not hiring rapists, murderers, sex offenders, assaultive individuals, and others who are determined to be violence prone or having propensities toward serious crime.

A key component of pre-employment screening is checking applicants for criminal histories through court records in the cities and counties where the applicant is known to have lived. The investigator's first step is a review of the employment application to see where the applicant admits to having lived in past years. He then compares this with the information obtained from a credit bureau "header" report to develop other non-reported addresses which the applicant may have deliberately omitted (as when trying to cover up a criminal history) on his or her application. This screening process not only identifies jurisdictions (courts) which must be checked for criminal records. It simultaneously identifies the fraudulent use of Social Security numbers by job applicants and shows aliases the applicant may have used. These both serve as Red Flags that the employer (investigator) should check further for fraudulent activities.

I believe that in passing the Gramm/Leach/Bliley Act, Congress only intended to provide an opportunity for customers of financial institutions to "opt-out" of sharing their personal FINANCIAL information -- credit and employment histories and asset information -- with non-affiliated institutions. It does not appear to have been the intent of Congress to restrict distribution of simple name and address information. It does not benefit our society -- in fact, it would have profound, negative consequences -- for the Executive Branch to unilaterally impose such restrictions through "loose" interpretation of the law.

Although few outside of the industry really understand or appreciate the fact, private investigators play a critical role in our civil and criminal justice system and in our society. The ability to obtain name and address information is fundamental to our work and enables us to fulfill an essential role which benefits all citizens. As mentioned, this information is vital in helping employers screen out sex offenders, thieves, and violent felons, and in the investigation of embezzlement, insurance fraud, location of deadbeat parents and judgment debtors and others who have skipped out on their debts, and service of civil process. If names and addresses are deemed "non-public personal" information, only wrongdoers and criminals will benefit and the law-abiding consumer will be the loser. I urge you to define non-public personal information in the manner that Congress intended.

Yours truly,  
  
Chet Spear