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ATTORNEY GENERAL OF WASHINGTON

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January 16, 2007

The Honorable Gregory J. Nickels
Mayor
City of Seattle
Seattle City Hall, 7th Floor
600 Fourth Avenue
Seattle, WA 98124-4749

Dear Mayor Nickels:

You recently wrote to me expressing your concerns about a court ruling requiring the city to disclose a database of city employees' dates of birth to KIRO TV. You then asked my office to draft legislation to exempt public employees' dates of birth from disclosure.

I have looked carefully into this matter and have concluded that public employees' dates of birth should not be statutorily or categorically exempt from disclosure, for three main reasons. First, dates of birth are already widely available on the Internet and elsewhere, including state voter registration records that are publicly available. Thus, for practical purposes, there is simply no privacy interest left to protect. Second, dates of birth are an important tool to help keep government accountable. Finally, a more targeted and effective way to fight identity theft would be to allow consumers to freeze access to their credit histories to prevent identity thieves from opening credit accounts in their names.

Dates of birth are already widely available from numerous sources. For example, the Secretary of State maintains a database of registered voters in Washington which includes a voter's date of birth. The Secretary of State provides a copy of this database to the public for a nominal charge. See https://www.secstate.wa.gov/elections/vrdb_order.aspx. The Legislature requires the Secretary of State to maintain such a database - including dates of birth that are included in the publicly disclosed portions of the database. See RCW 29A.08.125. That database is posted on at least one website, allowing anyone to find a registered voter's date of birth. See <http://www.soundpolitics.com/voterlookup.html>. Numerous other websites provide dates of birth for a nominal fee including <http://www.zabasearch.com> and <http://www.privateeye.com/Summary.asp>.

A new law exempting public employees' dates of birth from public disclosure would not in fact prevent their disclosure from all these other sources. Moreover, it would amount to an attempt to treat those government employees differently than all registered voters in our state. It is unlikely that the Legislature would choose to enact such an exemption, since they chose to require disclosure of voter dates of birth just recently, in 2005.



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Dates of birth are widely used to help keep government accountable. For example, a date of birth database such as the one requested by KIRO TV allows reporters to investigate stories on whether agencies employ any felons who have access to vulnerable persons - and then report them to the general public. A name by itself would be insufficient for such an investigation because our state's primary felon database operates on dates of birth. A date of birth is also critical for a reporter investigating whether an agency has ghost employees or engages in nepotism, or whether convicted felons have illegally registered to vote.

I am very concerned about identity theft and want more effective, targeted solutions. An identity thief cannot open a new credit account in his victim's name without access to the victim's credit history. Opening new credit accounts is the most lucrative form of identity theft for the thief and the most damaging to the victim. This is why I supported a credit-freeze bill (SB 6665) in the 2006 legislative session and am supporting a similar bill this session. The credit-freeze bill would allow consumers who believe their identity might have been stolen to "freeze" access to their credit histories (and unfreeze them for a short period to make a legitimate purchase). They would be allowed to freeze access before they fall victim to identity theft, whereas current state law requires a consumer to prove they have already become an identity theft victim before being allowed to freeze access to their credit history.

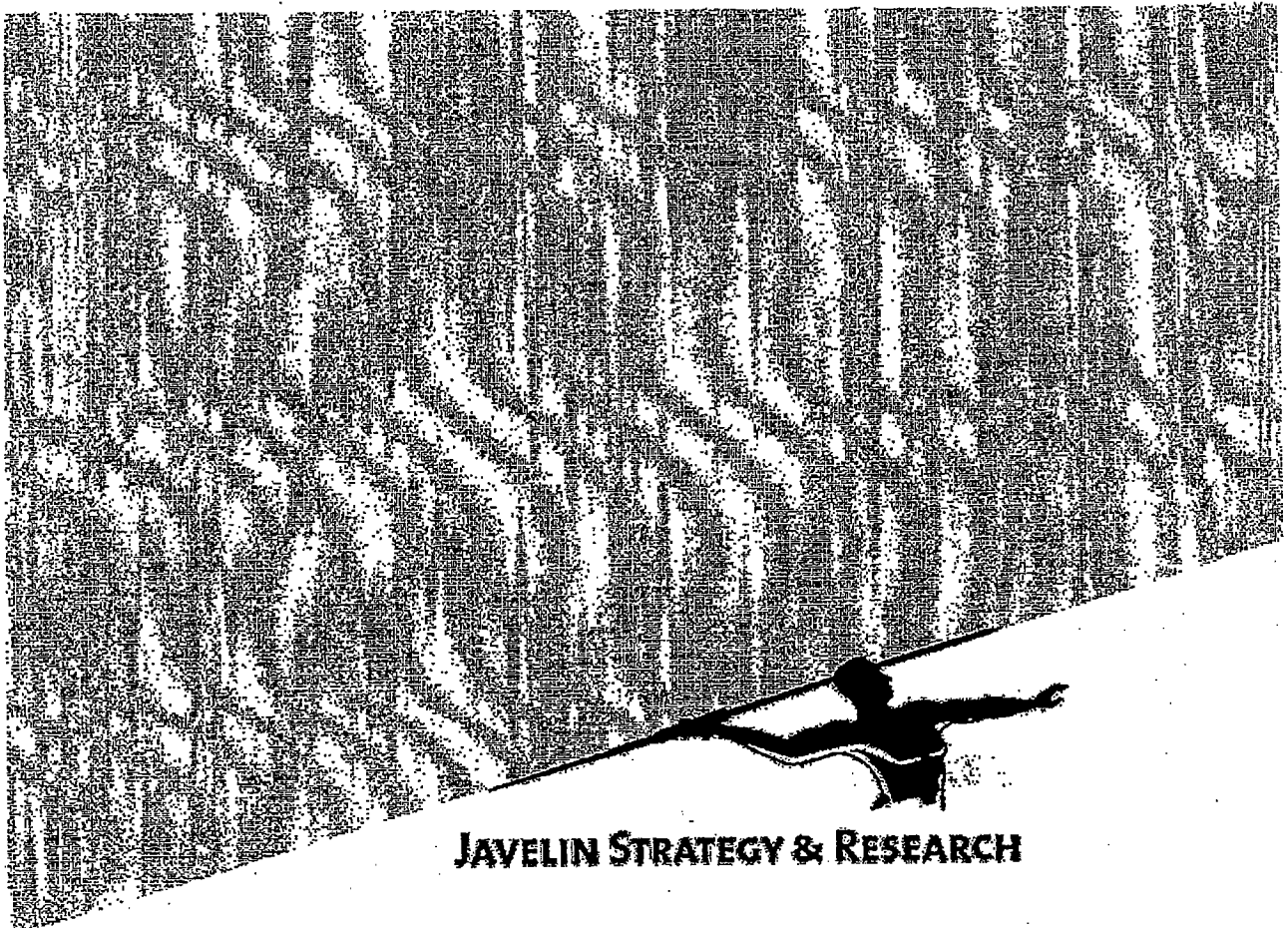
The Secretary of State provided my office with a copy of a 2006 study (copy enclosed) analyzing how identity thieves obtain information. Information from public records was not identified as a source of identity theft. Instead, the study found that most identity thieves obtain personal information from a stolen wallet or purse, or that the identity thief is the victim's friend or family member. The general disclosure of public records has not been a significant source of identity theft, and publicly available dates of birth have not been cited at all as a source of identity theft.

For these reasons, I do not support legislation to exempt public employees' dates of birth from disclosure under the Public Records Act. I will continue to push for stronger protections of all consumers from identity theft, and to enforce other legislative measures that I have helped draft and pass, such as our state's new laws outlawing spyware and e-mail phishing attacks. Please feel free to phone me to discuss these or other matters of interest to you.

Sincerely,


ROB MCKENNA
Attorney General

RMM/jlg
Enclosure



JAVELIN STRATEGY & RESEARCH

2006 Identity Fraud Survey Report

January, 2006

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2006 Identity Fraud Survey Report

The Javelin *2006 Identity Fraud Survey Report* provides a detailed, comprehensive analysis of identity fraud in the United States, in order to help consumers and businesses better understand the effectiveness of methods used for its prevention, detection and resolution. Co-released by the Better Business Bureau, this report is issued as a longitudinal update to the Javelin *2005 Identity Fraud Survey Report* and the Federal Trade Commission's (FTC) *2003 Identity Theft Survey Report*.

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Publication Date: January, 2006



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Executive Summary

This report is issued to update the Javelin *2005 Identity Fraud Report* and the Federal Trade Commission's *2003 Identity Theft Report*. The report is a comprehensive analysis of identity fraud in the United States, created to understand its roots and frequencies and to gauge the effectiveness of methods used for its prevention, detection and resolution.

Five thousand U.S. adults, including 505 victims, representative of the U.S. census demographics distribution, were interviewed via a standardized 44-question telephone survey to develop an in-depth insight on this crime. To enable the detection of longitudinal data trends and parallels, the questionnaire and methodology used are virtually equivalent to the prior reports.

Major Findings

Overall fraud frequencies are declining but total costs are unchanged

	Survey Report		
	2003 ¹	2005 ²	2006
US adult victims of identity fraud ³	10.1 M	9.3 M	8.9 M
Fraud victims as % of US population	4.70%	4.25%	4.00%
Total one year fraud amount ⁴	\$53.2 B ⁵	\$54.4 B	\$56.6 B
Mean fraud amount per fraud victim	\$5,249 ⁶	\$5,885	\$6,383
Median fraud amount per fraud victim	\$750	\$750	\$750
Mean consumer cost	\$555	\$675	\$422
Median consumer cost	\$0	\$0	\$0
Mean resolution time	33 hours	28 hours	40 hours
Median resolution time	5 hours	5 hours	5 hours

¹ 2003 survey dollar costs have been adjusted for inflation by 0.075, April 2003 - Nov. 2005, Consumer Price Index (CPI-U, Base 1982-84=100) issued by the Bureau of Labor Statistics, <http://ftp.bls.gov/pub/special.requests/cpi/cplal.txt>

² 2005 survey dollar costs have been adjusted for inflation by 0.035, Nov. 2004 - Nov. 2005, Consumer Price Index (CPI-U, Base 1982-84=100) issued by the Bureau of Labor Statistics,

³ Based on US population age 18 and over of 215.47 million as of July 1, 2002, of 217.8 million as of July 1, 2003, and of 221.9 million as of July 1, 2005, U.S. Census, <http://www.census.gov/popest/estimates.php>



For the second year in succession the occurrences of identity fraud continue to decline. In the last twelve months, 8.9 million American adults (4.0% of US adult population) became victims of identity fraud, an 11.9% decrease from 2003. The median fraud amount remains at \$750 per fraud victim, while the average fraud amount per victim has increased substantially (21.6%) to \$6,383 since 2003. As a result, the annual amount of identity fraud has remained essentially unchanged at \$56.6 billion, a 6.4% increase from 2003. Most victims (68%) continue to incur no costs related to their fraud cases, while mean consumer costs have declined by 24% to \$422. The mean resolution time for resolving fraud cases has increased from 33 hours in 2003 to 40 hours in 2006.

Consumers' preventative measures can affect the majority of fraud cases

Of the cases where the source of information breach was known, 63% were initiated by breaches of information within the consumer's custody. These fell into four major categories: 30% lost or stolen wallets, credit/debit cards and checkbooks, 15% trusted associates, i.e., friends, family, in-home employees and neighbors, 9% stolen mail or garbage and 9% home computers (hacking, viruses and phishing). Fraud amounts from these cases encompass 73% of the total fraud amount or \$41.5 billion.

Businesses as a source of information breach account for 29% of cases: data breaches (6%), fraudulent transaction processing (7%) and employee malfeasance (15%).

Self-detection benefits the consumer and the institution

The faster a fraud case is detected, the quicker it's resolved and the lower the fraud amount and consumer costs. 47% of cases are detected by victims first. Compared to notification by others, self-detection results in significantly smaller (48%) average fraud amounts (\$4,431), 35% shorter detection times and 36% (\$347) lower consumer costs. Financial institutions identify one in three cases of fraudulent cases through their internal monitoring systems. Financial institutions have made the most dramatic improvements in detection times, reducing the average from 106 to 46 days. These institutions have also made notable progress in identifying fraudulent New Accounts, improving the rate by seven percentage points over 2005 to 26%. However, much work remains to be done.

17% of cases are not detected at all until a creditor contacts the victim or until the victim applies for credit and is denied. When discovered after an application for credit was denied the average fraud amount is \$19,735, an increase of 120% over 2005. On average, these cases take as much as 241 days to be discovered. Cases that are not detected until the victim applies for credit and is denied are the most costly fraud cases to consumers and, on average, cost \$1,391.

⁴ Following FTC methodology for calculating the total one year cost of fraud, the mean total cost for victims who reported that they had discovered fraud within the last five years is multiplied by (the one year rate of identity fraud times the U.S. adult population)

⁵ These figures are recalculated by the FTC using 2003 raw data but with Javelin methodology. The FTC recalculated the raw data for the sole purpose of comparing 2003 survey data to 2005 (and 2006) survey data. This is not a restatement of figures from the FTC nor is it an endorsement of Javelin's method of calculating these figures. Please refer to section on "Deviation from FTC Methodology" for details

⁶ See Methodology section for calculations of mean and median numbers.