

**TESTIMONY OF THE
NATIONAL COMMUNITY REINVESTMENT COALITION
(NCRC)**

COMMITTEE ON FINANCIAL SERVICES

**SUBCOMMITTEE ON FINANCIAL INSTITUTIONS AND
CONSUMER CREDIT**

ON

**“FIGHTING IDENTITY THEFT -- THE ROLE OF THE
FCRA”**

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**SUBMITTED FOR THE RECORD
BY**

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Good Morning Chairman Bachus, Ranking Member Sanders and Members of the Committee. My name is John Taylor, President and CEO of the National Community Reinvestment Coalition (NCRC). NCRC is a national trade association representing more than 600 community based organizations and who work daily to promote economic justice in America, and to increase fair and equal access to credit, capital and banking services to traditionally under-served populations in both urban and rural areas.

NCRC sincerely thanks you for the opportunity to testify before you today on the subject of identify theft. In particular, the focus of the testimony will provide NCRC's concern with the low and moderate-income consumers and their protection from the vulnerability of identity theft.

Low to moderate income families are identified as those who work the equivalent of a full-time job and earn between the minimum wage of \$10,712 and approximately the median income in their area. According to a recent Census Bureau survey, the national median household income in 2001 was \$42,228, down from \$43,162 the previous year. In addition, we learned from a recent study by the Center for Housing Policy that the number of low-to moderate-income working families spending more than half their earnings on housing (much of it substandard housing) rose by over 67 percent (\$4 million households) between 1997 and 2001. This study further revealed that part of the problem for low to moderate-income families was erosion of income, and the lack of affordable housing.

A great majority of the low to moderate-income population includes many elderly people. Many senior citizens are not privy to the consumer tips on identity theft and other scams targeting the elderly. Most of these families are struggling to meet their rent or mortgage payments, and usually have high medical bills and as well as high prescription costs. This is the population of people who are usually left out, the vulnerable and the unsophisticated.

A case in point deals with a recent hoax that targeted elderly African-Americans. Flyers were circulated in many Southern and Midwestern African-American communities, especially on car windshields in church parking lots, claiming that African-Americans born before 1928 could be eligible for slave reparations under a so-called "Slave Reparation Act". In addition, the hoax claimed that those born between 1917 and 1926 could apply for Social Security funds due them because of a "fix" in the Social Security System.

The claims were obviously false since no reparation law has ever been passed in the Congress. However, according to law enforcement officers, these claims were being alleged by skilled identity thieves who were asking people to reveal their name, address, phone number, birth-date and social security number in order to access their credit cards or open accounts under their names without their permission or knowledge.

A similar antic was proposed to many African-American farmers throughout the south. These farmers were asked to fill out an application and send in a check for \$50.00 to participate in the settlement. Many of the farmers thought this was a legitimate proposal since the name of an attorney was listed on the application. Little did they know that the plaintiffs of the class action lawsuit had already been defined and had received a settlement

Finally, the following is a true story told by a woman named Dana is in fact unbelievable. Dana is a friend of a NCRC staff member:

“The following true story occurred over a year ago when a 38 year old woman, Dana Hunter Batts, owner of a daycare center at 7004____Street, closed her checking account, but failed to shred all of her old checks. Aware that all the checks were not shredded, she stood on her porch and watched the trashman pick up her garbage. Several weeks later Dana received notices that checks were bouncing. A total of \$60,000 of returned checks showed up. One of the stores sent her a copy of the check, and she noticed that it had a false signature with a Maryland driver’s license written on it. By this time least 200 stores were writing her for returned checks. Dana has been to court 3 times, and the police have come to her home to arrest her on several occasions. Dana went to the Department of Motor Vehicles and requested a criminal investigation. She discovered that a Maryland non-drivers license was issued to: Dana Hunter, 704____ Street. The thief actually sat for a picture, and put a different social security number and date of birth. Dana felt doomed, and felt she had “no where to turn, and nothing to do”.

Dana wanted to post the picture of the thief, but was told that she could not do anything with the information she received because of the Privacy Act. She asked Motor Vehicle’s staff how did they allow this to happen without checking ID, but to no avail.

Dana wrote to Chevy Chase Bank to let them know about the checks. She also wrote letters to about 200 stores, but she just got tired of keeping up. The police would come to arrest her so often that her reputation became ruined, and she had to close her daycare business and sell her home.

Dana was a college graduate and a nationally certified paramedic. She initially had perfect credit. She requested her credit report and stated that now she cannot get a stick of gum. No one will accept her checks or allow her to get credit. She has to purchase everything in cash. She notified the credit bureaus, but they were of no assistance. Dana has had a bench warrant out for her arrest in almost every county in the metropolitan area.

Six months went by, and no checks were written. Dana thought the nightmare was over. After nine months, the thief started up again by purchasing new checks, but they were sent to a different address. Dana has notified the States Attorneys office, police officers in every jurisdiction and anyone else that will listen.

Now, Dana carries a photo of the thief with her at all times because she does not know when she will be stopped or arrested. She stated that she is tired, and cannot fight this system any longer. Dana has been on several job interviews, but feels that her poor credit rating was the reason that she was not hired. “

Over the course of a year, Dana has spent at least two to three hours every day working to resolve this issue. Dana is in school now since she cannot find a job. Every time the thief (who is still at large) writes a check and it bounces, the police come to her home to arrest her in the belief that she is the other woman. One store took her to court, and the company actually identified her as the person who wrote the check. Dana had to pull out the photo in order to contradict the storeowners. The emotional toil and the dollars spent by Dana are unmentionable. Dana feels that she has literally lost everything including her good name.”

These three examples unfortunately are not isolated incidents. Low to moderate-income individuals often do not have the financial knowledge to realize that predators are targeting them. Working through NCRC members throughout the country, NCRC is tasked with providing financial education and training resources to low and moderate income communities throughout the United States in an effort to bring them into the financial mainstream. NCRC and its member organization recognize that financial education is at the very core of building communities and strengthening relations among community organizations, residents, small business and financial service providers.

NCRC’s financial education program is unique and highly acclaimed with a three-tiered process involving trainers, resources and community-lender collaborations. This component builds basic money management skills, helps people to understand banking, finance and savings, and stresses the most important objective of maintaining good credit. We stress to our constituents that these are the tools an individual or family uses to save enough money to purchase a home or invest in a small business. NCRC also helps avoid being a victim of identity theft and consumer fraud. NCRC feels strongly that an understanding of capital is essential to financial growth for individuals and communities.

NCRC has recently incorporated into our financial education training program, the component of “protecting against fraud and identity theft”, due to the numerous calls and requests received from NCRC member organizations, as well as from consumers who participate in our National Anti-Predatory Lending Consumer Rescue Fund. NCRC sees identity theft as one of the largest growing concerns to low and moderate income Americans. From the stories we have heard, most victims are usually unaware that a crime may have been perpetrated against them until they have practically lost their life’s savings. Rebuilding and restoring their credit is daunting if even at all possible. As a result of the deceptive practices, many consumers have lost their homes forcing them into homeless shelters with a basic loss of consumer confidence in government and big business.

“Identity theft” is defined by the Federal Trade Commission (FTC) as: “Co-opting your name, Social Security number, credit card number, or some other piece of personal information for one’s own use. “ In short, the crime of identity theft occurs when someone appropriates your personal information without your knowledge to commit fraud or theft. As soon as the identity thief fakes another person’s identity, it can have devastating effects on the victim.

Identity Theft can have devastating affects on its victims.

Examples include:

- Opening up a new credit card account using a name, address, date of birth, and Social Security number. A thief can access a consumer’s public record that will enable them to discover places of employment, driver’s license information and mother’s maiden name.
- Credit card bills which fall delinquent due to the address and name (of the victim) not matching up.
- Establishing cellular phone service in your name, and similar to credit cards, bills are not paid.
- Opens a checking account, which enables bank accounts in your name and writes bad checks to be written.
- Takes out loans, purchases cars and real property in your name.
- Other categories include: employment - getting a job using the victim’s name and identity, Social Security number, tax returns, residential leases, fraud, and miscellaneous government documents.

Due to the prevalence of identity theft, NCRC through its Financial Education and Consumer Rescue Fund to teach consumers the following regarding consumer fraud and identity theft:

Fraud and Identity Theft

Credit Cards:

- Tear up or shred all “pre-approved“ credit card offers before throwing them away.
- Require that stores where one is seeking credit ensures that applications are treated as a secure document.
- Ask businesses how they store and dispose of credit card transaction slips. Ensure that proper safeguards are in place to treat these documents securely.

- Never give credit card numbers or other personal information over the phone unless you initiate the call. Even if the call is initiated, ensure that the called party is not using a cellular or other mobile phone.
- Carry only the needed credit cards when going on a trip to prevent credit cards from being lost or stolen.
- Sign credit cards in permanent ink as soon as they are received.
- Keep a list or photocopy of all credit accounts, along with expiration dates and phone numbers to call in case of theft. Keep this list in a secure spot in the home.
- When items are purchased with credit, always remember to take credit card receipts, and never throw them in wastebaskets or trash.
- Never have boxes of new checks delivered to your residence. Arrange to pick them up at the bank or credit union.
- Carefully examine each monthly credit card statement to ensure that every charge accurately matches credit card receipts.
- Do not write credit card numbers on checks.
- If a new credit card has been applied for and it does not arrive, contact the issuer.
- Avoid giving credit card numbers over the phone if in a public place. Even at work, others may overhear and use the information.

Social Security Number:

- Never carry documents containing your Social Security number. This includes Social Security cards as well as insurance cards.
- Never give your Social Security number to anyone by telephone, even if you make the call.
- Avoid having your Social Security number used for ID's at work. Request another one if possible. Also, avoid using your Social Security number as your drivers license number. Request that the Department of Motor Vehicles use an alternative number; most states will provide one.

Financial Transactions:

- Ask your bank or credit union to add additional security protection to your account.
- Shield your hand when entering your ATM password. Be aware of what is around you when approaching an ATM. Beware of persons looking over your shoulder with binoculars or a telephoto lens on a video camera.
- Memorize your ATM password and never write it down or keep it with you. Never write credit card numbers on you checks.
- Never pre-print or write your Drivers License or Social Security number on your checks.
- Never place bill payments in your home mailbox for pickup by postal carriers. Stolen checks can be altered and cashed by an imposter. Mail bills and other personal items at the post office.

Mail:

- Never sign up for unfamiliar contests or sweepstakes. Information provided by you could be sold and/or reproduced hundreds of times.
- Install a lockable mailbox at your home so thieves cannot easily take your mail.
- Remove your name from commercial marketing databases by writing to Direct Marketing Association's Mail Preference Service (P.O. Box 9008, Farmingdale, NY 11735) and Telephone Preference Service (P.O. Box 9015, Farmingdale, NY 11735).
- If your mail suddenly stops, check with the Post Office. Someone may have filed a change of address form.
- Stop credit bureaus from selling your name (header information). Call the toll-free telephone number used by all three credit bureaus and take advantage of their "opt-out" service. One number, (888) 5OPTOUT, or (888) 567-8688 reaches all three bureaus.
- Write to National Demographics and Lifestyles and ask to be deleted from its mailing list. National Demographics and Lifestyles, List Order Department 1621 18th Street, Suite 300 Denver, CO 80202. (800) 525-3533.

Credit Reports and other Documents:

- Shred all documents containing personal information before disposing of them. This includes utility bills, doctor's bills, bank statements, investment reports, and credit card receipts.
- Never post personal information on the Internet.
- Review your credit report annually. Access to free credit reports can be obtained on the website at: www.freeinstantcreditreports.com. This service can also assist with cleaning up your credit report.
- Add a fraud alert to your credit files that alerts all of the major credit bureau to inform credit givers to contact you for verification of any credit applications. Letters should contain your name, address, social security number, and spouse's name. Fraud alerts normally remain active for seven years.

Scams:

- Never respond to any scam by phone or email asking you to provide either credit card account information or your social security number.
- Sign in Rosters for colleges, agencies, programs (requesting name and social security numbers) – (state you will provide social security number in person)
- Email regarding a foreign government asking for your help in moving money from one account to another – Nigerian 419 Scam.
- Canadian/Netherlands Lottery – “You Have Won”
- “Free Credit Report” – Email scams
- “You have won a free gift” by phone or email about a free gift or prize. (Requesting credit card for shipping and handling) – Do not.
- Email chain letters/pyramid schemes. Example: (Bill Gates is testing anew email-tracking program and wants your help. If you forward email to your friends, Microsoft will pay you \$_ for each person that receives it.)
- “Find out everything on anyone” – Email trying to solicit dollars in order to buy a CD or program that you can use to find out personal information on another person.
- Questionnaires – Email holiday card requesting birth date and social security number from “old friend” from a chat room.

- Account Verification Scams – Individuals who have purchased domain names similar to those of legitimate companies. The latest is Discover Card, e-gold.com, ebay-verification.net and change-ebay.com. Companies victimized by the scam are AOL, MSN, Earthlink, E-Bay, PayPal, Discover Card, Bank of America, Provident and Wells Fargo.
- “Help Wanted” ad on Internet – Do not put Social Security numbers on resumes.
- Job Advertisement Scams - Internet Job Web-sites (i.e. Monster.com) and Newspaper Want Ads. (No applicant should respond to a HR person especially giving out a Social Security Number)
- In-Store security scams (requesting that a customer assist in catching a bad employee by asking for personal information or pre-filled application that the customer gave to the employee).
- Telephone scams– Charities asking for donations or calls asking to be included on a “do not call list” requesting Social Security numbers.
- Others include - IRS scams, PayPal Scam, Order or Gift Confirmation, Get out of Debt Scams, Social Security Services Scams, and numerous others.

NCRC and other consumer advocacy groups have serious concerns about the reauthorization of these FCRA provisions and its impact on the exercise of states rights and strong and adequate consumer protection of citizens.

Outline of NCRC’s Recommendations:

- NCRC believes strongly that in the event that a crime of identity theft is committed, the consumer should have an expedient right of redress with law enforcement as well as the regulated cooperation of credit reporting agencies and their furnishers. NCRC believes that perpetrators of identity theft scams must face swift and severe justice.
- Federal pre-emptions should be allowed to expire as intended by FCRA unless Congress enacts uniform federal legislation providing strong consumer protections and criminal sanctions for identity theft.
- If reauthorization of FCRA occurs with federal standards and pre-emptions. NCRC feels strongly that states with stronger consumer protection laws like California (particularly with regard to identify theft), should not be compelled to nullify their laws. Exceptions for such states should be designated in the legislation.
- NCRC strongly believes that reasonable steps should be made to strengthen the obligations of furnishers to report timely and accurate information. Primarily, efforts should be made by the furnishers of information, as well as the credit reporting agencies to complete any disputes regarding a consumer’s credit record with an

investigative period or re-investigative period of less than 30 days. Further, if the investigation or re-investigation extends longer than the designated period, notification should be made to the consumer in writing with an identifiable timeframe for completing the investigation included in the notice. Currently, the FCRA establishes 30 days for the initial investigation of a dispute and allows for a 15 day extension. NCRC believes that in this era of computerization, these time periods could be shortened to 20 and 10 days, respectively. Consumers should not have to wait a month and a half for resolution of complaints; one month ought to be sufficient.

- NCRC further believes that additional steps should be taken to notify consumers within 10 days of receipt of any derogatory or negative information disseminated by the furnisher of information or the credit reporting agency. The letter should spell out specifically the nature of the negative or derogatory information rather than using vague terminology. In addition, the re-authorized law should designate which entity or both should be responsible for notifying the consumer.

In Addition, NCRC Recommends the Following:

- Congress must significantly expand the role of the FTC in prosecuting and resolving identify theft cases. The Identity Theft Assumption and Deterrence Act of 1998 requires the FTC to establish a centralized database of identify theft cases and to coordinate efforts with federal and state enforcement agencies. The case study of Dana described in the beginning of our testimony demonstrates that the existing system is failing to protect thousands of citizens like “Dana”. No enforcement agency has ended this identity theft scam, which is ruining Dana’s life. In Dana’s example, multiple state and local police departments have failed to close the case. The FTC must be empowered to act as an enforcement agency, prosecuting cases and assigning priority to cases that have plagued consumers for years and in multiple jurisdictions as in Dana’s case. Congress must provide appropriations to the FTC so that the agency can adequately staff an office designated to resolve identify theft cases.
- Credit Reporting Agencies should be compelled under FCRA to redesign their credit reports so that they are consumer or user friendly and understandable to the average lay person. The instructions should be simplified and outline the mechanics of what the credit report/score entails. The same should be implemented for “opt-out” procedures in privacy notices.
- The credit industry should implement the practice of verifying at least three pieces of information, such as the name, address, date of birth, Social Security number, drivers license number and place of employment, with information on the existing credit report. This is extremely important when the consumer is requesting instant credit. If the consumer is applying in person, however, the credit grantor should always be required to inspect a photo ID.

- If credit is offered via a mailed application (often referred to as pre-approved offers), measures should be taken to ensure that the credit grantor uses the consumer's address exactly as it appears on the original solicitation, not a different address, which could easily be the work of an identity theft. In addition, if the card issuer receives a change of address notification, it must also send a confirmation notice to the old address it has on file.
- Consumers should be provided with at least one free copy of the credit report annually from each credit bureau. (Maryland, Colorado, Georgia, Massachusetts, New Jersey, and Vermont already have passed these laws.) If consumers checked their credit reports regularly, identity theft would be detected earlier, and the overall impact minimized.
- Further, consumers should be able to have easy access to their credit files through a secured system with each credit bureau at their convenience even if there is a cost factor.
- Allow consumers to have a "freeze" on their credit reports preventing their reports from being furnished without specific authorization.

NCRC Supports Legislation:

NCRC supports the following legislation regarding identity theft in a comprehensive nature:

1. NCRC supports Congressman Bernie Sanders (I-VT) bill, H.R. 2546, the Free Credit Report Act of 2003, which requires consumer reporting agencies to provide any consumer with a free credit report annually upon the request of the consumer.
2. NCRC supports bi-partisan legislation, HR 3368, introduced by Rep. Schakowsky and Rep. Bachus to close a loophole, making it harder for identify theft victims to sue credit bureaus. In November of 2001, the Supreme Court ruled that FCRA's statute of limitations applies to the two year time period after fraud has been committed. HR 3368 would stipulate that two year time period would not begin until the borrower has discovered the fraud.
3. Senator Maria Cantwell's (D-WA) "Identity Theft Victims Assistance Act of 2002" which establishes a nation-wide process for victims of identity theft to obtain business records related to an identity theft, to facilitate the victim's correction of false records and assist law enforcement in obtaining evidence to apprehend the identity thieves. This legislation also clarifies that for victims of identity theft, the statute of limitations for the Fair Credit Reporting Act will be five years, rather than the current two, addressing the Supreme Court's decision in *TRW v. Andrews*. This bill requires consumer credit reporting agencies to block reporting of bad credit arising from identity theft. This bill expands the role of the federal Coordinating Committee on False Identification beyond the current mandate to review federal enforcement of

identity theft law and also examine state and local enforcement and terrorist activity with regard to identity theft.

4. NCRC also supports Senator Diane Feinstein (D-Ca) who introduced legislation in the 107th Congress enhancing the penalties for any individual who steals an identity and uses that false identity to commit one of a number of serious federal offenses including immigration offenses, firearms offenses, and false citizenship crimes.
5. Senator Feinstein also introduced legislation prohibited anyone from selling or displaying a Social Security number to the general public without the Social Security number holder's consent. This provides tools for identity theft victims to restore their identity.
6. NCRC supports the legislation of Congressman Jerry Keczka (D-Wis) that would prohibit businesses from obtaining or distributing a person's social security number without the person's written consent. The bill would also stop credit bureaus from selling "credit headers" – the top portion of credit reports – without consent. The credit headers lists a consumer's name, address and telephone number (including unlisted ones), mother's maiden name, date of birth and Social Security number which earn credit bureaus millions of dollars annually.
7. NCRC supports two bills offering consumer control over their personal financial information. H.R. 3320, introduced by Congressmen Ed Markey (D-Ma) and Joe Barton (R-TX) and S 1903, introduced by Senators Richard Shelby (R-AL) and Richard H. Bryan (D-NV). Both bills require banks to obtain the consent of consumers before selling or sharing information (opt-in). If consumers do not respond, the banks would not be free to sell or share their information.
8. NCRC supports H.R. 3053, Identity Theft Prevention Act of 2001, introduced by Congresswoman Darlene Hooley. The bill amends the Truth in Lending Act to prescribe procedural guidelines under which a credit card issuer shall confirm changes of address. It also amends the Fair Credit Reporting Act to prescribe procedural guidelines under which a consumer reporting agency shall: (1) notify the requester of a discrepancy in the address in the consumer file; (2) include a fraud alert in the file of a requesting consumer; and (3) make free annual disclosures upon the consumer request. It also confers enforcement jurisdiction upon the Federal Trade Commission.
9. NCRC supports California Law SB 168 (Debra Bowen) "Identity Theft Prevention" which prevents identity theft by taking Social Security numbers out of the public's view and the easy reach of criminals by making it illegal for businesses to do any of the following: (1) Post or display social security numbers; (2) Print social security numbers on identification cards; (3) Require a person to transmit a social security number over the internet unless the connection is secure or the social security number is encrypted; (4) Require a person to use a social security number to log onto an internet web site unless used in combination with a password or other authentication

device; and (5) Print a social security number on any materials mailed to a customer unless it's required by law, or the document is a form or application.

The bill also prevents identity theft by giving people the right to "freeze" access to their credit reports. By placing a freeze on a credit report, an identity thief will not be able to get new loans or credit in the victim's name since lenders, retailers, utilities and other businesses need access to a credit report to review and approve new credit loans, and services. At the same time, the bill makes sure people who have frozen their credit reports can still get new loans and credit through access to a PIN based system set up through the credit reporting agencies.

10. NCRC applauds SB 1365, authored by Senator Kevin Murray (D-Culver City, CA), This bill would allow victims of identity theft to prohibit companies with which they do business from sharing marketing information about them with affiliates and third parties. If a company disclosed customer information to a felon, it could be held liable for a penalty of \$5,000 per disclosure.

CLOSING:

NCRC shares many of the concerns of other consumer advocates with regard to revamping the Federal Credit Reporting Act. We also share the view that for too long Credit Reporting Agencies and furnishers of information have operated with loose guidelines and little accountability to the consumer.

As testimony after testimony has revealed, more than a thousand consumers a day across all socio-economic demographics are being hurt financially, professionally and emotionally from perpetrators who can simply go on the internet to obtain personal information and perpetuate fraud and identity theft. As a result, these victims are charged to get their life back in order by using, according to GAO study, an average of 175 man-hours and an average out-of-pocket expense of \$1400. The emotional toil spent to recoup their identity and restore their credit and lifestyle back to status quo is beyond comprehension.

Many low to moderate-income families never have this luxury for lack of resources and knowledge. We are in an information age where access to intelligence, personal information and sensitive data are too easily accessible. Mr. Chair, Americans have a right to their privacy, and the Credit Reporting Agencies are not holding up to their end of the bargain. These types of crimes are foreseeable and inevitable, and victim assistance is critical. Little effort has been made on behalf of consumers to correct these wrongs.

NCRC supports strengthened federal, state and local laws which hold perpetrators strictly accountable. The consumer reporting agencies must be reformed to protect consumers through quick resolution of erroneous information and easy access to their credit files. Finally, NCRC looks forward to working with you and the other Members of the Committee on revamping the FCRA.