

Testimony of Don McGuffey  
Senior Vice President for Data Acquisition and Strategy, ChoicePoint  
Before the House Committee on Financial Services  
May 4, 2005

Chairman Oxley, Ranking Member Frank and members of the Committee,

Good morning, I am Don McGuffey, Senior Vice President for Data Acquisition and Strategy of ChoicePoint. I have been with the company since its inception in 1997.

ChoicePoint has previously provided Congress with testimony about the recent illegal data access and the criminals who perpetrated this fraud, the steps we are taking to protect affected consumers, and the measures that we are taking to prevent similar violations from occurring in the future. While I have described the company's actions in my written statement to the Committee, I would like to specifically offer a sincere apology on behalf of ChoicePoint to those consumers whose information may have been accessed by the criminals who perpetrated this fraud.

What I hope you see in ChoicePoint is a company that has listened – to consumers, privacy experts and government officials – and learned from this experience. Accordingly, we have responded rapidly and in fundamental ways.

We have provided benefits to potentially affected consumers that no other information company had done before and that several companies have since emulated – including voluntary nationwide notification, dedicated call centers and Web sites, free three-bureau credit reports and one year of credit monitoring at our cost.

We learned that there are few places for consumers to turn for help if their identity is stolen. This alone increases the fear and anxiety associated with identity theft. For this reason, we have recently formed a partnership with the Identity Theft Resource Center – a leading and well respected non-profit organization dedicated exclusively to assisting identity theft victims.

Our partnership includes a \$1 million cash contribution from the ChoicePoint Foundation and will help the ITRC serve consumers in the following three ways:

- Expand the victim's assistance program, which offers personal assistance to all current and potential victims of identity theft;
- Launch a consumer education and awareness campaign; and
- Participate in and advise a national working group with representation from across industry participants that will develop these best practices.

We've also hired Carol DiBattiste to serve as our first chief credentialing, compliance and privacy officer. This office will oversee the improvements in our customer credentialing process, the expansion of our site-based verification program and the implementation of an enhanced incident reporting procedure. Carol comes to us after a distinguished government career that includes key prosecutorial roles in the Departments of Defense and Justice as well as policy and senior leadership positions in the Departments of Homeland Security, Defense and Justice.

We have also appointed Robert McConnell, a 28-year veteran of the Secret Service and former chief of the federal government's Nigerian Organized Crime Task Force, to serve as our liaison to law enforcement officials. In his role, he will work aggressively to assist law enforcement in prosecuting those committing identity theft. Bob will also help us to ensure that our security and safeguard procedures continue to evolve and improve.

Just as criminals are ever diligent about finding new ways to evade procedures, we must be equally dedicated to staying ahead of those who would break the law. We have already made broad changes to our products – including limiting the distribution of personally identifiable information – and more changes are still under development. For example, ChoicePoint has decided to discontinue the sale of information products that contain personally identifiable

information, including Social Security and driver's license numbers, except when the products meet one of three very specific needs:

- The product supports consumer-driven transactions where the data is needed to complete or maintain relationships such as insurance, employment and tenant screening, or provides consumers with access to their own data;
- The product provides authentication or fraud prevention tools to large, accredited corporate customers where consumers have existing relationships. For example, information tools for identity verification, customer enrollment and insurance claims; or
- When personally identifiable information is needed to assist federal, state or local government and criminal justice agencies in their important missions.

Enabling business to mitigate fraud remains a key benefit of what we do, but is not our primary focus.

Most importantly, we have shifted our focus to ensuring our products and services provide a direct benefit to consumers or to society as a whole. While this has meant exiting an entire market, we decided that consumer interests must come first.

Mr. Chairman, before delving into the specifics of various policy proposals, perhaps it would be helpful if I gave members of the Committee, a brief overview of our company, the products we provide and some insight as to how we are currently regulated.

The majority of transactions our business supports are initiated by consumers. Last year, we helped more than 100 million people obtain fairly priced home and auto insurance, more than seven million Americans get jobs through our pre-employment screening services, and we helped more than one million consumers obtain expedited copies of their family's vital records – birth, death and marriage certificates. These transactions were started by consumers with their permission, and they provide a clear, direct benefit to consumers.

Not all of our other work is as obvious -- but the value of it is. At a time when the news is filled with crimes committed against children, we're helping our nation's religious institutions and youth-serving organizations protect those in our society who are least able to protect themselves. Our products or services have identified 11,000 undisclosed felons among those volunteering or seeking to volunteer with children --- 1055 with convictions for crimes against children. Forty-two of those felons were registered sex offenders.

Consumers, businesses and non-profits are not the only ones that rely on ChoicePoint. In fact, government officials have recently testified to Congress that they could not fulfill their missions of protecting our country and its citizens without the help of ChoicePoint and others in our industry. Last month, ChoicePoint supported the U.S. Marshall Service's in Operation Falcon, which served approximately 10,000 warrants in a single day for crimes ranging from murder to white collar fraud.

Mr. Chairman, apart from what we do, I also understand that the Committee is interested in how our business is regulated at both the federal and state level. The majority of our products are already governed by the FCRA and other federal and state laws including the recently enacted companion FACT Act, the Gramm-Leach-Bliley Act (GLB), the Drivers Privacy Protection Act (DPPA) as well as state and federal "do not call" and "do not mail" legislation. We believe consumers benefit from these regulations.

- 60 percent of ChoicePoint's business is driven by consumer initiated transactions, most of which are regulated by the FCRA. These include pre-employment screening, auto and home insurance underwriting services, tenant screening services, and facilitating the delivery of vital records to consumers.
- Nine percent of ChoicePoint's business is related to marketing services, none of which include the distribution of personally identifiable information. Even so, we are regulated

by state and federal “do not mail” and “do not call” legislation and, for some services, the FCRA.

- Five percent of ChoicePoint’s business is related to supporting law enforcement agencies in pursuit of their investigative missions through information and data services.
- Six percent of our business supports law firms, financial institutions and general business to help mitigate fraud through data and authentication services.
- The final 20 percent of our business consists of software and technology services that do not include the distribution of personally identifiable information.

While a small percentage of our business is not subject to the same level of regulation, we believe additional regulation will give consumers greater protections. I therefore want to state for the record, ChoicePoint’s positions on future regulation of our industry.

- We support independent oversight and increased accountability for those who handle personally identifiable information, including public records. This oversight should extend to all entities including public sector, academic and other private sector organizations that handle such data.
- We support a preemptive national law that would provide for notification to consumers and to a single law enforcement point of contact when personally identifiable information has fallen into inappropriate hands; ensuring that the burden of notice follows the responsibility for breach and that consumers do not become de-sensitized to such notices.
- ChoicePoint supports providing consumers with the right to access and question the accuracy of public record information used to make decisions about them consistent with the principles of FCRA. There are technical and logistical issues that will need to be solved, but they are solvable.

- We have already taken steps to restrict the display of full social security numbers and would support legislation to restrict the display of full social security numbers modeling existing law including GLB and FCRA while extending those principles to public record information.

We have all witnessed the significant benefits to society that can come with the proper use of information. But we have been reminded, first-hand, the damage that can be caused when people with ill intent access sensitive consumer data.

As a company we have rededicated our efforts to creating a safer, more secure society. We look forward to participating in continued discussion of these issues and would be pleased to answer any questions you might have.