



**TESTIMONY OF
ILLINOIS ATTORNEY GENERAL LISA MADIGAN
BEFORE THE U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON ENERGY AND COMMERCE
February 1, 2006**

Good morning Chairman Barton, Ranking Member Dingell, and distinguished members of the Committee. I am Lisa Madigan, the Attorney General of Illinois. Thank you for inviting me to testify before the Committee on the topic of the sale of phone call records.

It seems that every day we are bombarded with headlines about identity theft. But the sale of peoples' cell and land line phone records is in a new category of its own. It is *privacy theft* – the theft of details of peoples' lives – who they called, when they talked and for how long.

And the potential harm to our citizens cannot be underestimated.

I would like to tell a story of a disturbing undercover purchase of cell phone call records in Chicago. On January 6, 2006, after reading a law enforcement warning, a Chicago police officer went online to www.locatecell.com to test whether he could obtain the cell phone records for an undercover narcotics unit cell phone number. The Web site operators did not require that the officer verify that he was the account holder for the cell phone

number. They merely required the cell phone number, his name, mailing address, and day and night time phone numbers.

The police officer requested the records and received accurate call records within four hours of the request for a total of \$175. For \$175, lives were placed in jeopardy. The call records listed a long string of phone numbers with the dates of calls placed by undercover narcotics agents. The results also included a confirmation of the name and address of the account holder.

These records were obtained in a very short amount of time without any verification that the officer was the proper account holder.

And let me run another scenario by the members of the Committee. Imagine that you are a victim of domestic violence. You have found the courage and the means to flee a cycle of violence. You have not established a land line because you do not want any utility records that might alert your abuser to your whereabouts.

Now all the abuser has to do is call a data broker. Your abuser will know who you are talking to and when. He will know when you pick the kids up at school and when you get home. Now he can find you.

Both of these instances – the undercover cop and the victim of domestic abuse – illustrate this enterprise for what it is: an outrageous invasion of privacy that could put lives in danger. The possibility of harm from this “service” to law enforcement and domestic abuse victims is truly enormous.

As we know, the Federal Communications Commission’s Customer Proprietary Network Information, or CPNI, rules prohibit telecommunications carriers from disclosing or selling

phone call records to third parties without the permission of the account holder. So how could call records be obtained so quickly and with no verification?

Various methods of obtaining phone call information have been suggested in the press: (1) a data broker calls the carrier and pretends to be the account holder or an employee of the carrier to obtain call record information; (2) a data broker accesses the online billing features of a carrier's Web site and pretends to be the account holder; or (3) a data broker pays an employee of a carrier to steal the call record information.

Regardless of how this information is obtained, it is illegal to give out this information without the permission of the account holder.

On January 20, 2006, my office filed a lawsuit against 1st Source Information Specialists, Inc., located in Florida, doing business as locatecell.com, celltolls.com, datafind.org, and peoplesearchamerica.com, and two individuals, alleging that 1st Source engaged in unfair and deceptive practices under Illinois' Consumer Fraud and Deceptive Business Practices Act by:

- *calling the telecommunications provider and representing that the caller is the account holder or an employee;
- *attempting to access online telephone billing records by posing as the account holder; and
- *representing online to Illinois consumers that the services the defendants offer are legal through such representations as “...Get calls made from any cell phone number. All Carriers. No Results, No Charge. ...”
(www.peoplesearchamerica.com); “...Cell Phone Call Records \$110 Give us the cell phone number and we will send you the calls made from the cell phone number. ...”

My office has performed online searches only to find that there are approximately 100 such Web sites, selling everything from phone call records to credit histories. While we are committed to bringing lawsuits to stop these data brokers, we also need to look at how the carriers are protecting their customers' call record information.

I understand that the FCC's Enforcement Bureau has launched an investigation into these practices, and that the FCC is reviewing its CPNI rules. However, some Attorneys General also have concerns and have requested that the major carriers review with the Attorneys General their past, and any updated, policies and procedures for protecting their customers' call record information.

There is also significant momentum in Congress and in legislatures across the country to pass laws to protect consumers' information. At the federal level, U.S. Sen. Dick Durbin and U.S. Rep. Jan Schakowsky – both from Illinois – have introduced legislation to address this issue. At least five bills have been introduced in the Illinois General Assembly thus far, the majority of which prohibit the disclosure or sale of CPNI unless permitted by law, including disclosure with the account holder's permission. The bills provide that a violation of the provisions are a violation of the Illinois Consumer Fraud and Deceptive Business Practices Act, and also have criminal penalties. One bill amends the state ID theft criminal law to cover the data broker's practices of using deception to obtain phone call records.

As a state Attorney General, I would ask that this committee consider, when proposing legislation, that the states many times bring new perspective to the legislative process and can be innovative in the approaches they devise to address problems confronting their citizens. I hope Congress will choose not to preempt any state legislation that is passed regarding this issue.

Furthermore, as the Committee looks at this issue, I ask that you prohibit the obtaining and sale of phone call records and other account information, and that you consider tightening up the requirements that the carriers must follow in ensuring that data brokers do not obtain this information illegally.

It is truly frightening to think that someone with a grudge and \$100 can find out how you live your life. I urge Congress, and the General Assembly in my State of Illinois, to act immediately to stop the crime of privacy theft.

Thank you for allowing me this opportunity to address the Committee on this important subject. I'd be happy to answer any questions.