

Feds Dependent on Data Brokers

By Rebecca Carr

Atlanta Journal Constitution

April 13, 2005

Federal agencies have for years used data brokers such as Alpharetta-based ChoicePoint as a major investigative tool, despite concerns by some activists and lawmakers that the practice sidesteps a long-standing privacy law.

Dozens of agencies have spent at least \$117 million on contracts with ChoicePoint since the company's inception in 1997, according to General Services Administration figures.

Government dependency on ChoicePoint and other data brokers is expected to arise Wednesday at a Senate Judiciary Committee hearing, titled "Securing Electronic Personal Data: Striking a Balance Between Privacy and Commercial and Governmental Use."

At least five congressional panels are studying whether the largely unregulated data information industry needs more oversight. The attention follows this winter's revelation that identity thieves got personal data on 145,000 consumers from ChoicePoint and as many as 310,00 people at LexisNexis.

Companies such as ChoicePoint collect data from public sources and sell it to governments and businesses for verification or enforcement purposes. Federal investigators say data brokers are

invaluable because they can access a wealth of personal data far faster than government computers.

"The FBI uses ChoicePoint and other public source data brokers because it saves us time," said Paul Bresson, an FBI spokesperson. "It certainly helps us gather information in criminal and terrorism investigations."

In minutes, investigators can access Social Security numbers, addresses, assets, lawsuits, certificates of births, marriages, and gun ownership, liens, criminal histories and other records on nearly every American - about 19 billion records.

More important, private computers can connect data in ways the government's computers cannot.

ChoicePoint says it has helped law enforcement with major cases including:

- . Linking the 19 al-Qaida terrorists who attacked New York and Washington on Sept. 11, 2001.

- . Figuring out that the two snipers who paralyzed Washington in the fall of 2002, randomly killing 10 people, were not driving a white van as was widely reported, but rather a Chevrolet Caprice sedan.

- . Finding 800 missing children with a database that instantly alerts the National Center for Missing Children when a suspected abductor obtains a new address.

- . Weeding out 288 felons from 112,000 applicants for jobs at the newly formed Transportation Security Administration.

. Detecting 11,000 felons trying to volunteer with youth service organizations, including 42 registered sex offenders.

ChoicePoint's best customer

In an interview, ChoicePoint chief marketing officer James Lee said one of the company's core missions is improving security for Americans by helping some 7,000 federal, state and local law enforcement agencies use its nimble databases. Law enforcement makes up about 5 percent of the company's revenues.

"Our products correlate records that the human eye might not," Lee said. "With law enforcement, the problem isn't too little information, it's too much information. We are able to refine the information."

ChoicePoint's best customer by far is the Justice Department, with \$63.4 million in contracts since 1997, more than half the government total, according to federal procurement records.

The records show that 36 federal agencies - ranging from the tiny Animal and Plant Health Inspection Service at the Department of Agriculture to the Treasury Department's mighty Internal Revenue Service - use the company's databases.

Some lawmakers question whether that violates the spirit of the Privacy Act, which restricts the creation of government dossiers on U.S. citizens.

The 1974 law bars the federal government from secretly amassing personal information unless there is a "proper purpose." If a federal agency starts collecting such data, the law requires it to follow a cumbersome set of rules, such as giving notice and allowing citizens to correct mistakes.

Loopholes in the law allow the government to pass the "binoculars from Big Brother" to

businesses, said Rep. Janice D. **Schakowsky** (D-Ill.), ranking member of the House Energy and Commerce subcommittee on consumer protection. "This very disturbing practice, while not illegal, violates the spirit of the Privacy Act."

Data brokers are "arms of the government," said Chris Jay Hoofnagle, senior counsel of the Electronic Privacy Information Center in Washington.

The Privacy Act should be extended to cover ChoicePoint and other data brokers, since they regularly serve as "private escrows for information" that the government could not otherwise collect, he said.

"It's an end run around the law," he added.

ChoicePoint's Lee said such searches do not violate the spirit of Privacy Act, which he said does not specifically address the role of data information companies. But, Lee said, his company supports having a debate about how the government uses its information.

"We have always supported there being a more formal framework around when information can be used by whom and how," Lee said. "So if Congress or the general public are concerned about the government's use of data, we have always said that it is a subject that needs to be discussed."

In addition, privacy advocates note that there are few safeguards to keep the government from acting on inaccurate information in brokers' files.

In his book "No Place to Hide," Washington Post reporter Robert O'Harrow cites the case of a Florida man who was prevented from voting in the 2000 election because he was wrongly tagged as a felon by a data company that had been acquired by ChoicePoint. The company faulted state election officials for failing to verify the data.

The FBI says it trains agents before they can use ChoicePoint's database to ensure the data isn't misused or abused. Hoofnagle disputed that, citing documents the obtained by the Privacy Information Center.

"There was almost no evidence of controls to prevent agency employees from misusing the databases," he said.

Of the agencies with large contracts with ChoicePoint, none was able or willing to say how it used the data.

The U.S. Marshals Service, for example, spent \$2.2 million on ChoicePoint data from 1998 to 2003, according to the procurement records. But the agency's spokesman declined to comment on contract details, citing an exemption of the Freedom of Information Act.

However, a lawsuit triggered by the act prompted the Marshals Service and eight other agencies to provide 2,500 pages of documents about its contracts with ChoicePoint and other data brokers to the Privacy Information Center.

In one internal Marshals Service memo, the agency said it had found ChoicePoint's "capabilities particularly beneficial to criminal investigations."