

# The State of the Privacy Act

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CENTER FOR DEMOCRACY & TECHNOLOGY

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# Veterans Administration Breach

- ❑ 26.5 million veterans' information stolen
- ❑ Employee did not follow basic VA security policy
- ❑ Thieves did not seem to be seeking identity information
- ❑ Why is this, what would formerly was thought of as a low-risk theft, of such concern?

# The New York Times

## Technology and Easy Credit Give Identity Thieves an Edge



Jeff Topping for The New York Times

Rose Seivert, a postal carrier, delivering mail recently to a high-security mailbox in a town house neighborhood in Phoenix.

By JOHN LELAND and TOM ZELLER Jr.  
Published: May 30, 2006

PHOENIX — In a Scottsdale police station last December, a 23-year-old methamphetamine user showed officers a new way to steal identities.

### STOLEN LIVES *A Breeding Ground*

Articles in this series will

His arrest had been unremarkable. This metropolitan area, which includes Scottsdale and Phoenix, has the highest rate of identity theft complaints in the nation, according to the Federal Trade

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“...a 23-year-old methamphetamine user showed officers a new way to steal identities.”

“...he pulled up a local divorce document listing the parties' names, addresses and bank account numbers, along with scans of their signatures.... all he needed to print checks in his victims' names”

“Police officers and prosecutors in Phoenix knew of just two cases involving public records, but most victims do not know how their identities are stolen.”

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# Federal privacy rules have fallen behind

“The government cannot adequately assure the public that all legislated individual privacy rights are being protected.”

GAO, Privacy Act: **OMB Leadership Needed to Improve Agency Compliance**, GAO-03-304 (Washington, D.C.; **June 30, 2003**).

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# Lack of Leadership

- ❑ Failure to address aging Privacy Act
- ❑ Full Privacy Act guidance not overhauled since 1975
- ❑ OMB Chief Privacy Counselor position not renewed
- ❑ No best practices for privacy impact assessments (PIAs)
- ❑ Lack of guidance on protecting privacy in agency use of commercial data
- ❑ Mixed messages in OMB memos to agencies

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# Commercial Data in Government

- Guidance needed to clarify when Privacy Act applies to commercial data
  - Private Collection Under Government Contract
  - Receipt of Commercial Data
  - Merging of Commercial and Government Data
  - Direct Use of Commercial Data (on private server)
- PIAs should be required for any use
- Agencies must look beyond letter of current law to protect data

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# Privacy Act Issues

- ❑ “Systems of Records” — describes a ‘70s style flat database and not relational or distributed databases
- ❑ “Routine Use” Exemption — overused and underdefined
- ❑ Commercial Data — Section(m) has always been unclear and

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