



# July 2005 Newsletter



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## Employers Urged to Guard Against Identity Theft

Identity theft continues to be one of the fastest growing crimes in the United States. Almost 10 million people – or 4.6% of the adult population – were victims of some type of identity theft in 2002. Employers of all sizes and types must consider proactive measures to protect employee data to minimize the risk of data security breaches. Here are some ideas to consider:

- Determine who within your company should have access to HR, payroll, and employment tax data and limit access to those people.
- If you use temporary workers, learn how your agency screens the workers it sends you and consider whether to use them for tasks that require access to sensitive data.
- Evaluate your HR, payroll, and/or employment tax software systems for their ability to allow you to limit access to key data elements.
- With your IT department, educate employees on ways to secure access to data on desktop and/or laptop computers.
- Create a data-privacy task force to include members of your HR, payroll, and IT departments as well as senior management to address data privacy policies, procedures, and initiatives.

By considering and implementing these data privacy and security ideas, you will take the first steps toward minimizing identity theft that could harm the good name and reputation of your employees.

*Condensed from SSA/IRS Reporter Summer 2005*

## CHAPTER MAKES DONATIONS

The Brazos Valley Food Bank seeks to eliminate hunger by the distribution of food through a network of nonprofit organizations while providing education and community awareness on issues of hunger. The summer months are often difficult for the food bank as people become busy and donations slack off. This summer is no exception and yet the need in our community still remains. In July, BVHRMA made a \$25.00 donation to the Brazos Valley Food Bank. Our donation will help the Food Bank provide food and meals to those locally that are in need.

Additionally, a \$25.00 donation was made to the SHRM Foundation in the name of Linda Sundance for speaking at a BVHRMA meeting earlier this year.

Brazos Valley HRMA is an affiliate of SHRM (Society for Human Resource Management). For more information about HR employment and to find helpful links to other HR relevant web sites, go to [www.bvhrma.org](http://www.bvhrma.org)



July

2005

Aboriginal Events:  
[Jul-Aug Sun Dance Ritual](#)  
[Jul-Aug Green Corn Ceremony](#)

<a href="#">Home</a>	<a href="#">Year View</a>	<a href="#">Country Index</a>	<a href="#">Religious Index</a>	<a href="#">Religions</a>	<a href="#">Full Screen Version</a>	
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					<b>1</b> ◆ <a href="#">Canada Day - Canada</a>  ■ <a href="#">SAR Establishment Day - Hong Kong</a>	<b>2</b> ■ Int'l Day Of Cooperatives - UN ■ London Mardi Gras - UK
<b>3</b>	<b>4</b> ◆ <a href="#">Independence Day - USA</a>	<b>5</b> ■ Independence Day - Venezuela	<b>6</b> ● New Moon ■ Dalai Lama's Birthday - Tibetan	<b>7</b> ▲ <a href="#">Tanabata - Japan</a>	<b>8</b>	<b>9</b> ■ Independence Day - Argentina ▲ <a href="#">Martyrdom Of The Báb - Bahá'í</a>
<b>10</b> ■ Independence Day - Bahamas	<b>11</b> World Population Day - UN ▲ <a href="#">Imamat Day - Islam (Ismaili)</a>	<b>12</b>	<b>13</b> ▲ <a href="#">Kalimát (7th Month) - Bahá'í</a>	<b>14</b> ■ <a href="#">Bastille Day - France</a>	<b>15</b>	<b>16</b>
<b>17</b> ■ <a href="#">Munoz-Rivera Day - Puerto Rico</a>	<b>18</b> ■ Nelson Mandela's Birthday	<b>19</b>	<b>20</b> ■ <a href="#">Umi No Hi - Japan</a>	<b>21</b> ○ Full Moon ▲ <a href="#">Wassana - Buddhism</a>	<b>22</b>	<b>23</b>
<b>24</b> ▲ <a href="#">Pioneer Day - Mormon</a>	<b>25</b> ■ Constitution Day - Puerto Rico, Dominican Republic	<b>26</b> ■ National Day - Cuba	<b>27</b>	<b>28</b> ■ Independence Day - Peru	<b>29</b>	<b>30</b> ▲ <a href="#">Oh-Harai-Taisai - Shinto</a>
<b>31</b> ▲ <a href="#">Feast Of St. Ignatius Loyola - Spain</a>						

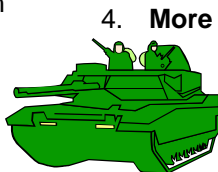
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## Legal News for HR

By Audrey Mross

1. **Good Save** - Thanks to all who responded to Wednesday's HRVoice Alert. Sen. Feingold introduced (and later withdrew) an amendment to a DOD spending bill, proposing to expand FMLA by giving dependents of military personnel who are deployed overseas access to 12 weeks of job-protected leave on an intermittent basis. While we are all sympathetic to these dependents, using FMLA in this manner is not the answer. To refresh your memory, this is the same change which was added to an Iraq/Afghanistan appropriations bill, after 1 a.m. on Dec. 17, without the benefit of any floor debate. The FMLA Technical Corrections Coalition (which is headed by a former SHRM staffer) was able to tap into our collective voice & get the troubling addition removed. SHRM and the Coalition have now been successful, on our behalf, again.
2. **I Never Promised You a Weingarten** - On June 9, the NLRB has (again) decided that employees in nonunion settings do NOT have Weingarten rights (i.e., the right to have a co-worker present when being interviewed by their employer, with the belief that disciplinary action might result). *IBM Corp.*, 341 NLRB No. 148. The Board observed that employers must be free to conduct investigations and, unlike a union steward, a co-worker [1] does not represent the interests of the entire workforce; [2] does not have the "force" of a bargaining unit behind him or her; [3] may not have needed knowledge or negotiating skills; and [4] is not bound from revealing or misusing information revealed during the interview. The *IBM* decision overturns the Board's 2000 decision in *Epilepsy Foundation*, which had conferred such rights in nonunion workplaces. The *IBM* decision is the fourth time in 23 years that the NLRB has changed its position on this issue.
3. **Talkin' Taxes** - By a 97-0 vote, the Senate is asking the IRS to ensure that employers who offer differentials or "gap" pay to their "citizen soldiers" do not suffer negative tax consequences. S. 2400 and the companion bill, H.R. 4200, address a 1969 IRS Rev. Ruling that requires active duty workers to be treated as "terminated" from employment. The bills, if passed, will also help employees since gap pay is not "wages" from which employers can withhold

income tax, which may leave the employee with a large tax burden.



4. **More Military Matters** - OMB is reviewing proposed Uniformed Services Employment and Reemployment Rights Act ("USERRA") regulations and plans to publish them in September. H.R. 4477, if passed, will add another mandatory poster to the workplace, notifying employees of their rights and duties related to military leaves. Another bill, the USERRA Health Care Coverage Extension Act of 2004, proposes to extend the period during which the absent employee can maintain group health coverage under the employer's plan from 18 to 24 months. With more than 373,000 National Guard and reservists activated since 9-11-01, and 168,000 currently on active duty, military leave issues are here to stay, for awhile.
5. **Ouch** - Unless you live in a cave, you know that a CA federal judge has certified a class action against Wal-Mart, alleging sex discrimination against 1.6 million women hired since 12-26-98 in the retailer's 3473 U.S. stores. Wal-Mart says it will appeal. In other class action, Longs Drug Stores will settle two wage and hour suits, involving 1000 store managers and assistant store managers, for \$11 million. The claim stems from CA law, which is more protective than the FLSA, by requiring overtime pay if an otherwise exempt manager spends more than 50% of his or her time performing nonexempt tasks. This is a good reminder that a number of states have wage and hour definitions that differ from the FLSA, so be sure to consider both state and federal law when determining whether an exemption applies.
6. **Smokin' in the Boys Room . . . Not** - Massachusetts is the sixth state to enact a ban on smoking in workplaces, joining NY, CT, ME, DE and CA. The law takes effect July 5, and covers all workplaces with one or more employees, but excludes private clubs, cigar bars, hotel guest rooms, tobacco stores, nursing homes and private residences unless used for child care. So, butt out!

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See UPDATES, Page 7

## Meet Your Fellow BVHRMA Members

Welcome to the first installment of “Meet Your Fellow BVHRMA Members.” Each month, one or two members will be highlighted. We hope you enjoy learning more about each other. And don’t be surprised when you are asked to share a little more about yourself.



### Leah Smith

Place of birth: Bryan. Hometown: Wellborn TX

Are you married? No

Do you have any children? No

**Education:** BA in Anthropology, TAMU & MS in Management-HR focus, TAMU

**Hobbies / Interests:** Riding horses, Rodeoing, Primitive camping, Reading, and NASCAR.

**BVHRMA Chapter:** She has been a member since 1998 and is currently serving as Chapter President. She has served previously as Student Liaison and chapter president. She is certified, PHR, and is a member of SHRM.

**Human Resources:** Leah has worked in Human Resources for 10 years. She started in this profession just as a job in 1990 as a Clerk III at TAMU Employment Office. She is currently the Director of Human Resources for Trajen. Leah most likes the challenging parts of HR. Through the years she has seen the increased difficulty in employee / employer relations concerning generational gaps, benefits, and employee recognition.

In giving advise to someone just starting out in HR she recommends becoming an intern with the expectation of learning from the ground up, remembering that not everything is a major project, and to get a good idea of what HR is like, be a generalist for a week or so. Leah sees that HR gives you the opportunity to expand your knowledge in many areas. You may not be an expert in a certain field, however, as an HR practitioner you will need to have a passing amount of knowledge to be able to help your employees in their daily functions.

Finally, Leah wants you to know “that it’s important to have a lot of humor in the workplace when dealing with HR.”

**HR Southwest**  
Conference and Exposition  
October 26 – 28, 2005



***"HR: A Hallmark of Excellence"***

***13 Re-certification Credits Available!***

To register log on to the website at [www.hrsouthwest.com](http://www.hrsouthwest.com) and click on Attendees, then Registration Form and Rates. Under Chapter Name write or type "Brazos Valley Human Resource Management Association" and I am the Chapter Ambassador.

**Tom Owen, SPHR**  
**Professional Development Coordinator**

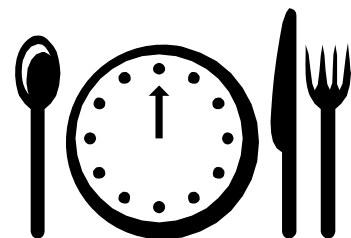
**HR SOUTHWEST Scholarship Awarded**

LaToya Savage has been selected to receive a student scholarship from BVHRMA to attend HR Southwest this October. LaToya was selected, in part, because of her commitment to attend and actively participate in the programs offered. She is currently a Human Resource Development major at Texas A&M University. She is a member of SHRM, an ambassador for the Department of Multicultural Services, a resident advisor and a MEDALS (Maximizing Educational Development through Academic and Leadership Skills) Counselor. She hopes to broaden the knowledge that she has in the HR field through this opportunity.

Look for LaToya this fall at HR Southwest!

**THERE IS SUCH THING AS A FREE LUNCH!**

This October BVHRMA members can receive a free lunch at the October monthly meeting when they bring a guest. It is our goal to expand the awareness of our chapter and the benefits that come with being a member of BVHRMA. Each year the BVHRMA chapter has a membership drive. This year the drive will begin in September. The highlight of the drive will be at the October meeting, when each member that brings a guest to the meeting will receive the meals free for them and their guest.



## Upcoming Seminars & Conferences

### 27<sup>th</sup> Annual Texas Employment Relations Symposium

July 28 – 29, 2005, San Antonio

[www.txbiz.org](http://www.txbiz.org)

This program provides the latest employment regulations, legal counseling, & practical information from HR management.

#### Central Texas HRMA Study Group

Sept 10 - Nov 19, 2005 in Temple & Killeen

[www.bvhrma.org](http://www.bvhrma.org)

This program is being developed at no cost to Texas State Council (TSC) affiliated chapter members and SHRM members. We ask that those who attend free and pass the SPHR return to teach one session in 2006.

#### The Texas Conference on Regionalism:

#### Strategic Directions for Shaping the Future

September 14-16, 2005

[www.txregionalcouncil.org/conf/index.php](http://www.txregionalcouncil.org/conf/index.php)

#### Workplace Diversity Conference & Exposition

October 24-26, 2005 Las Vegas, NV

<http://www.shrm.org/conferences/diversity/>

**Conference Sessions** will focus on the following topics: Practitioner Exchange, Diversity Issues, and Strategies and Tools.

#### Strategic HR: Aligning With the Business to Drive Results

October 26-28, 2005 New York, NY

<http://www.shrm.org/conferences/strategy/>

This conference is designed to give you strategy practices that will help advance your thought process and focus your efforts on what will get results quicker and with greater success.

## Hispanics Behind in Saving for Retirement

Studies repeatedly show Americans are not saving enough for retirement. Half of the those nearing retirement have \$10,000 or less in retirement savings. Among Hispanics, the numbers are worse. According to a study released Wednesday by the Pew Charitable Trust's Retirement Security Project and the National Council of La Raza, more than half of the Hispanic households age 55 through 59 have no retirement savings accounts.

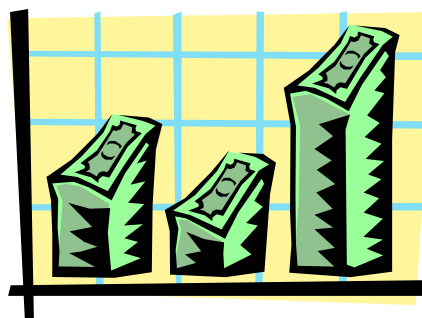
Hispanics are the fastest growing segment of the US population near retirement. The number of Hispanics 65 or older is expected to grow to 15.2 million by 2050 or 17.5 percent of the retired population.

There is a challenge of under-saving by Hispanics, but there is also evidence of solutions. Some of the study's recommendations include:

- *Making it easier to save.* Making enrollment in 401(k) plans the default

option would help people avoid procrastinating the decision to save.

- *Increase incentives to save.* Restructuring the federal tax Saver's Credit to benefit those with lower incomes.

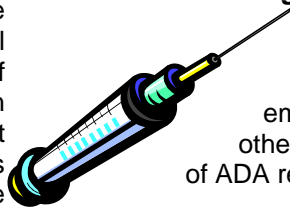


- *Promote financial counseling.* Employers to provide employees with access to a financial counselor once a year.

Condensed from "Retirement Security for Latinos: Bolstering Coverage, Savings and Adequacy" by Peter R. Orszag and Eric Rodriguez. For the full report go to [http://www.pewtrusts.com/pdf/RSP\\_LaRaza\\_071305.pdf](http://www.pewtrusts.com/pdf/RSP_LaRaza_071305.pdf)

7. **Mandatory Sick Days** - S. 2520 and H.R. 4575, if passed, will require employers with 15+ employees to offer full-time employees seven paid sick days per year (and 20+ hr/wk part-timers a pro rata share), for their own illness or to take care of an immediate family member. Proponents of the measure point out that 163 countries mandate some sort of paid leave, but the U.S. does not. CA will head into these uncharted waters, when its new disability leave law takes effect in July, offering up to six weeks of paid family leave in a 12-month period, at up to 55% of normal wages. For more info on the CA plan, go to [www.edd.cahwnet.gov/direp/diind.htm](http://www.edd.cahwnet.gov/direp/diind.htm).
8. **Kerry on Minimum Wage** - Presidential candidate John Kerry is calling for an increase in the federal minimum wage from \$5.15/hour to \$7.00/hour by 2007.
9. **E-mail's Great, But** - E-mail notice to employees of a new mandatory arbitration plan, with more information available via links, was found to be inadequate to bind the employees. In denying a motion to compel arbitration of an ADA claim, the court observed that "while email dispenses with many of the formalities of written communication, when information of this significance is conveyed, it may not be adequate." Specific shortcomings included the failure to [1] require the employee to signify that he or she had read and understood; [2] require the employee to state "I accept"; [3] send paper letters; [4] hold informational meetings with sign-in sheets; or [5] configure the email system to log when and if the employee clicked on the links. *Campbell v. General Dynamics* (D. Mass.).

10. **Toodles, Tammy** - The Administrator of the U.S. DOL Wage and Hour Division, Tammy Dee McCutcheon, stepped down as of June 11 and has returned to the private practice of law, with a D.C. firm. The acting Administrator is the former deputy administrator policy, Alfred Robinson, Jr.
11. **OSHA Update** - The new program focusing on motor vehicle safety (#8 in last months Brief) will start with federal workers, not the private sector. OSHA Administrator, John Henshaw, says the agency will favor using outreach and education, as opposed to a regulatory approach. First up? Issue reminders about E.O. 13043, which requires federal workers to wear seatbelts. Other news? The second voluntary ergonomic guideline, for retail grocery stores, is now available. Go to [www.osha.gov](http://www.osha.gov).
12. **Did You Notice?** - Final rules for COBRA coverage notices are out and available on the U.S. Department of Labor website. Go to [www.dol.gov/ebsa/regs/fedreg/final/2004011796.htm](http://www.dol.gov/ebsa/regs/fedreg/final/2004011796.htm) and print yourself a copy!
13. **A Needling Problem** - Per the EEOC, employers are not required provide or safely dispose of needles used by employees with diabetes or other medical conditions, as a type of ADA reasonable accommodation.



Until next time,

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## Background Checks on the Increase

More employers are looking into job candidates' backgrounds than ever before, according to a study of hiring trends by the ADP Employer Services Hiring Index. About 4.4 million background checks were conducted in 2004, up from 3.8 million in 2003. The 16 percent increase can be

attributed to growing concerns over legal liability, security, ethics, and corporate accountability. Half of the reference, employment, and credential reference checks in the survey revealed that the applicant had provided inaccurate information to the employer.