

The Identity Theft Crisis

By Margaret C. Jasper

The Federal Trade Commission (FTC) has declared identity theft the fastest growing crime today, as well as the most costly financial crime in the nation. It is estimated that more than 750,000 people have their identity stolen each year, costing consumers and the financial industry billions of dollars. In fact, approximately one out of every five Americans, or a member of their families, has been victimized by identity theft.

Identity theft generally refers to the illegal use of another's personal identifying information--name, social security number, or credit card number--without the victim's knowledge or consent, to commit some type of financial fraud.

Victims of identity theft are not only victimized by the criminal who misappropriated their identity, but are further victimized by the system when their credit rating is ruined through no fault of their own as they try to undo the damage caused by unauthorized procurement of credit in their name. The individual whose identity was stolen is often protected from financial loss by insurance or loss limits and reimbursement provisions. They nevertheless bear the tremendous emotional burden that identity theft causes, including loss to reputation, damage to their credit rating, and the time, expense and nuisance of trying to clear their name.

Although the primary victim of identity theft is the individual whose personal information has been misused, the financial burden is often carried by the other "victims" of identity theft, such as the retail merchants, banks, utility companies and other credit grantors. Taxpayers also indirectly bear some of this financial burden when social services are fraudulently obtained or when refunds are sent to individuals who file fraudulent tax returns.

The Secret Service estimates that, in 1997, consumers lost more than \$745 million due to identity theft. Law enforcement around the country now estimates that loss to be more than several billion dollars, adding in losses to credit card companies, victim costs including legal assistance, and judicial and law enforcement time in investigating and trying cases.

Law enforcement agencies have had difficulty tracking identity theft, in large part because there has been no clear definition of the criminal elements of identity theft. Rather, identity theft has been viewed as an element of many other crimes, such as bank fraud, credit card fraud, welfare fraud, tax fraud and mail fraud.

In October 1998, Congress passed the Identity Theft and Assumption Deterrence Act to address the problem of identity theft. Specifically, the Act amended 18 U.S.C. § 1028 to make it a federal crime when anyone "knowingly transfers or uses, without lawful authority, a means of identification of another person with the intent to commit, or to aid or abet, any unlawful activity that constitutes a violation of Federal law, or that constitutes a felony under any applicable State or local law."

Under the Act, a name, social security number, credit card number, cellular telephone electronic serial number or any other piece of information that may be used alone or in conjunction with other information to identify a specific individual is considered a "means of identification."

Violations of the Act are investigated by federal investigative agencies such as the U.S. Secret Service, the FBI, and the U.S. Postal Inspection Service and prosecuted by the Department of Justice. In most instances, a conviction for identity theft carries a maximum penalty of 15 years imprisonment, a fine and forfeiture of any personal property used or intended to be used to commit the crime.

Minimizing Your Risks

Although it may be impossible to completely prevent identity theft, one can minimize the risk by keeping careful track of their financial affairs and by cautiously guarding their personal information. When personal information is requested, ask how it is to be used and whether it will be shared with others. If possible, request that your information be kept confidential.

Although the Internet is a revolutionary tool for marketing, banking and communication, it has unfortunately spawned a whole new venue for identity thieves. Consumers are advised to make sure they use a secure browser before providing personal identifying or financial information on a particular website, it is important to review the site's privacy policy to ascertain the security features offered by the site. Do not provide any private information if you are not satisfied that the site is secure.

Do not give out personal information over the telephone, through the mail, or over the Internet unless you have initiated the contact and know whom you are communicating with concerning the transaction. It is also important to be familiar with your billing cycles and follow up with creditors if statements are missing or late. Make sure that the passwords you use for your credit cards and bankcards are not easily guessed, such as your date of birth or phone number.

When shopping, try to take only those credit cards that you expect to use or need so as to minimize the amount of identification information available to potential thieves. Do not carry your social security card with you.

Also make sure your mail is safe by emptying your mailbox as soon as possible after delivery. Have the mail held at the post office when leaving for vacation. When discarding trash which contains personal information, such as credit card receipts, bank statements, insurance information, etc., make sure it is sufficiently shredded so that a potential identity thief cannot read the information.

In addition, find out who maintains the personnel files at your place of employment and verify that the information is secure. You should also make the same inquiries with any other entities that maintain a personal file on your behalf, such as your medical provider and insurance carrier. Ask that you be notified any time your personal information is requested by a third party to make sure it is for a legitimate purpose authorized by you.

If You Are Victimized

Identity theft may take many forms. However, in almost every identity theft case, there are basic steps the victim should take. It is important to contact the fraud departments of each of the three major credit reporting agencies and advise them that you are a victim of identity theft. Request that a "fraud alert" be placed in your file, as well as a victim's statement asking that creditors call you before opening any new accounts or changing information on existing accounts. Depending on the type of fraud, victims may also need to contact their credit card companies, banks, phone service providers, the Department of Motor Vehicles, post office, or Securities and Exchange Commission.

Victim Assistance

The Federal Trade Commission serves as a federal clearinghouse for complaints by victims of identity theft. The FTC collects complaints about identity theft from consumers who have been victimized. Although the FTC does not have the authority to bring criminal cases, their mission is to help victims of identity theft by providing them with information to help resolve the financial and other problems that can result from identity theft.

The FTC enters Internet, telemarketing, identity theft and other fraud-related complaints into the Consumer Sentinel, a secure online database available to hundreds of civil and criminal law enforcement agencies in the U.S. and abroad.

Consumers can file a complaint with the FTC, or request further information, by calling the FTC's toll-free hotline at 1-877-ID THEFT (1-877-438-4338/TDD: 1-866-653-4261; or by mail in care of:

The Identity Theft Clearinghouse
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
<http://www.consumer.gov/idtheft>

Additional information concerning the problem of identity theft may be found in this author's legal almanac entitled "The Law of Identity Theft," published by Oceana Publishing Company, Dobbs Ferry, New York.

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