

The battle against identity theft

By Sal Perri,
Authority Research Analyst

As technology continues to evolve over the next several years, the stealing of a person's identity will become a more common occurrence. Recent statistics indicate that identity theft is already occurring at epidemic proportions in the United States, and many criminologists are calling it the fastest growing crime in America. It is estimated that identity theft is affecting 500,000 new victims per year at an annual cost of \$700 million to \$3 billion.(1)

Defining identity theft

Identity theft or identity fraud is the taking of the victim's identity for financial gain, such as to obtain credit or credit cards from banks and retailers, to steal money from a victim's existing accounts, to apply for loans, to establish accounts with utility companies, to rent an apartment, or to find employment. An offender may steal someone's identity by using nothing more than the victim's social security number, birth date, address, phone number, or any other personal information they can uncover. With this information, and a fraudulent driver's license, identity theft can easily be committed, whether it is by applying in person for instant credit, or through the mail. Perpetrators of identity theft often provide an address of their own, claiming to have moved. In their rush for business, credit granters do not verify personal information or addresses. So once the imposter is able to open one account, they use the account with the other identifiers to add to their credibility.

An impersonator can gain access to personal information in several ways. The impersonator may gain access through employment with a victim's doctor, accountant, lawyer, dentist, school, health insurance carrier, or other businesses where personal information is collected or kept. If an individual does not shred or otherwise destroy confidential information, including utility bills, credit card slips, and other documents, it is easy for a thief to search an unsuspecting individual's backyard garbage can for the data. A great deal of information also is readily available on the Internet, from the courts, and recorded in public documents. Additionally, if an impersonator obtains enough information about an individual they can request a credit report illegally and then use that additional information to steal their identity. The impersonator gets rich by stealing thousands of dollars without the victim knowing about it for months or even years. These criminals may also use a person's identity to commit crimes ranging from traffic violations to felonies.

Volume of identity theft

Information on the prevalence, cost, and impact of identity theft is limited, but some conclusions can be drawn. First, U.S. Secret Service Financial Crimes Division data shows the number of identity fraud related arrests made increased between 1996 and 1997 from 8,686 to 9,455. Second, more than 90 percent of all arrests made by the division involved identity fraud.(2) Third, credit card companies who are now tracking identity theft statistics, report disturbing findings:

- VISA member banks' fiscal year 1997 total fraud losses in the United States totaled \$490 million, or about 0.1 percent of the banks' business volume, as measured by the value of billing transactions processed (\$504.9 billion). (3)

- VISA has six categories of fraud losses, each of which could have elements of identity fraud. Of the six categories, "fraudulent applications" mostly involves identity fraud. For fiscal year 1997, this category ("fraudulent applications") represented about 5 percent of VISA member banks' total fraud losses in the United States. (4)
- Another of the six categories is "account takeovers," a category that VISA began using in fiscal year 1997. Generally, this type of fraud could be considered mail theft, in that one person may steal another's mail, which could include a credit-card application. The thief may then request a change of address. For fiscal year 1997, the "account takeover" category represented about 6 percent of VISA member banks' total fraud losses. (5)
- In calendar year 1997, MasterCard member banks' fraud losses worldwide totaled \$407 million, which represented about 0.1 percent of the banks' billing transactions processed (\$365 billion). (6)
- About 96 percent of the \$407 million total fraud losses involved identity fraud-related categories, such as account takeovers, fraudulent applications, counterfeit cards, and lost and stolen cards. (7)

Incidents to increase

Within the last two years, 10 states -- Arizona, California, Colorado, Georgia, Kansas, Massachusetts, Missouri, New Jersey, West Virginia and Wisconsin -- have passed laws that make identity theft a felony. Federal, state, and local law enforcement efforts are hindered when identity thieves cross state lines and leave an endless trail of victims. Despite strengthened state and federal laws and more attention from law enforcement, identity fraud maybe on an upswing. Since there is no central agency keeping track of identify theft, it is estimated that thieves collect more than \$3 billion in fraudulent transactions per year.(8)

- 1 National Association of Investigative Specialist - Investigative Mega Trends, Latest Trends Bulletin and Book, PI Trends Watcher, "Identity theft reaches epidemic proportions", compiled By Ralph Thomas (Article at: <http://www.pimall.com/nais/n.idt.html>).
- 2 Identity Fraud: Information on Prevalence, Cost, and Internet Impact is Limited (Briefing Report, 05/01/98, GAO/GGD-98-100BR).
- 3 Identity Fraud: Information on Prevalence, Cost, and Internet Impact is Limited (Briefing Report, 05/01/98, GAO/GGD-98-100BR).
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- 6 Identity Fraud: Information on Prevalence, Cost, and Internet Impact is Limited (Briefing Report, 05/01/98, GAO/GGD-98-100BR).
- 7 Identity Fraud: Information on Prevalence, Cost, and Internet Impact is Limited (Briefing Report, 05/01/98, GAO/GGD-98-100BR).
- 8 Thieves Out To Steal Your Identity - Mailbox, Trash Can Reveal Personal Information, Jan. 25, 1999, By Bruce Miller APBNews.com

Sal Perri is a research analyst with the Authority's Research and Analysis Unit.

How to protect your identity

- Shred pre-approved credit card applications and any mail with social security, bank, and credit card numbers before throwing it in the trash.
- Never throw mail with personal information into trash bins at post offices.
- Do not leave financial or other sensitive mail in vehicles.
- Immediately provide a new address to friends and businesses. Don't rely on mail forwarding, which may put your mail at greater risk of theft. If your mail has been stolen, call local police and the postal inspection service office near you. Telephone your local post office for the number.
- Review bank and credit card statements each month for unauthorized activity. The Consumer Credit Counseling Service, (800) 388-2227, can help clear fraudulent charges on credit card accounts.
- Pay attention to billing cycles and inquire about credit bills that do not arrive on time. They may have been misdirected by identity thieves.
- Before divulging personal financial information to any company, determine how it will be used and whether it will be transferred to third parties.
- Periodically order a copy of your credit report from the three major credit reporting agencies to insure accuracy of records. Credit card fraud should be reported to the major credit reporting agencies, Experian at (800) 301-7195, Equifax at (888) 909-7304 and TransUnion at (800) 680-7289.
- Keep track of credit and debit card receipts.
- Keep the amount of personal information in wallets and purses to a minimum, as well as the information pre-printed on checks.
- Carry only a couple of credit cards and cancel the rest. After the cards are canceled, cut them up.
- Don't carry your social security number or give it to anyone unless absolutely necessary. For abuse of your social security number, call the Social Security Administration's fraud hotline, (800) 269-0271.
- Check guarantee companies can also help if checks have been stolen or bank accounts set up in your name. Call Telecheck at (800) 366-2425 and the National Processing Company at (800) 526-5380.

(Source: [How to Avoid Becoming a Victim](#), January 25, 1999, By Bruce Miller APBNews.com)

Identity Theft and Assumption Deterrence Act of 1998
Title 18 United States Code - Section 1028
Fraud and Related Activity in Connection with Identification Documents and Information.

The Identity Theft and Assumption Deterrence Act of 1998 which became effective October 30, 1998, makes identity theft a Federal crime with penalties up to 15 years imprisonment and a maximum fine of \$250,000. It establishes that the person whose identity was stolen is a true victim. Previously, only the credit

grantors who suffered monetary losses were considered victims. This legislation enables the Secret Service, the Federal Bureau of Investigation, and other law enforcement agencies to combat this crime. It allows for the identity theft victim to seek restitution if there is a conviction. It also establishes the Federal Trade Commission as a central agency to act as a clearinghouse for complaints, (against credit reporting agencies and credit grantors) referrals, and resources for assistance for victims of identity theft. This statute may serve as a model for your state to enact similar legislation. It should also provide you leverage to influence law enforcement to investigate your case.

Title 18 USC 1028:

- (a) Whoever, in a circumstance described in subsection (c) of this section --
- knowingly and without lawful authority produces an identification document or a false identification document;
 - knowingly transfers an identification document or a false identification document knowing that such document was stolen or produced without lawful authority;
 - knowingly possesses with intent to use unlawfully or transfer unlawfully five or more identification documents (other than those issued lawfully for the use of the possessor) or false identification documents;
 - knowingly possesses an identification document (other than one issued lawfully for the use of the possessor) or a false identification document, with the intent such document be used to defraud the United States;
 - knowingly produces, transfers, or possesses a document-making implement with the intent such document-making implement will be used in the production of a false identification document or another document-making implement which will be so used;
 - knowingly possess an identification document that is or appears to be an identification document of the United States which is stolen or produced without lawful authority knowing that such document was stolen or produced without such authority shall be punished as provided in subsection (b) of this section; or
 - 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;
- (b) The punishment for an offense under subsection (a) of this section is --
- except as provided in paragraph (3) and (4), a fine under this title or imprisonment for not more than 15 years, or both, if the offense is --
 - (A) the production or transfer of an identification document or false identification document that is or appears to be --
 - (i) an identification document issued by or under the authority of the United States; or
 - (ii) a birth certificate, or a driver's license or personal identification card;
 - (B) the production or transfer of more than five identification

documents or false identification documents;
 (C) an offense under paragraph (5) of such subsection; or
 (D) an offense under paragraph (7) of such subsection that involves the transfer or use of 1 or more means of identification if, as a result of the offense, any individual committing the offense obtains anything of value aggregating \$1,000 or more during any 1-year period;

2. except as provided in paragraphs (3) and (4), a fine under this title or imprisonment for not more than three years, or both, if the offense is --
 (A) any other production, transfer, or use of means of identification, an identification document, or a false identification document; or
 (B) an offense under paragraph (3) or (7) of such subsection;

3. a fine under this title or imprisonment for not more than 20 years, or both, if the offense is committed --
 (A) to facilitate a drug trafficking crime (as defined in section 929(a)(2)) or this title;
 (B) in connection with a crime of violence (as defined in section 924(c)(3)); or
 (C) after a prior conviction under this section becomes final;

4. a fine under this title or imprisonment for not more than 25 years, or both, if the offense is committed to facilitate an act of international terrorism (as defined in section 2331(1) of this title);

5. in the case of any offense under subsection (a), forfeiture to the United States of any personal property used or intended to be used to commit the offense; and

6. a fine under this title or imprisonment for not more than one year, or both, in any other case.

(c) The circumstance referred to in subsection (a) of this section is that --
 the identification document or false identification document is or appears to be issued by or under the authority of the United States or the document-making implement is designed or suited for making such an identification document or false identification document;
 the offense is an offense under subsection (a)(4) of this section; or
 either --
 the production, transfer, possession, or use prohibited by this section is in or affects interstate or foreign commerce; or
 the means of identification, identification documents, false identification document, or document-making implement is transported in the mail in the course of the production, transfer, possession, or use prohibited by this section.

(d) In this section --
 the term "document-making implement" means any implement, impression, electronic device, or computer hardware or software, that is specifically configured or primarily used for making an identification document, a false identification document, or another document-making implement;
 the term "identification document" means a document made or issued by or under the authority of the United States Government, a State, political subdivision of a State, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization which, when completed with information concerning a particular individual, is a type intended to commonly accepted for the purpose of identification of individuals;
 the term "means of identification" means any name or number that may be used, alone or in conjunction with any other information, to identify a specific individual, including any --
 name, social security number, date of birth, official State or government issued driver's license or identification number, alien

registration number, government passport number, employer or taxpayer identification number;
unique biometric data, such as fingerprint, voice print, retina or iris image, or other unique physical representation;
unique electronic identification number, address, or routing code;
or
telecommunications identifying information or access device (as defined in section 1029(e));

4. the term "personal identification card" means an identification document issued by a State local government solely for the purpose of identification;

5. the term "produce" includes alter, authenticate, or assemble; and

6. the term "State" includes any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other commonwealth, possession or territory of the United States.

(e) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under chapter 224 of this title.

(f) Attempt and Conspiracy – Any person who attempts or conspires to commit any offense of this section shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

(g) Forfeiture Procedures – The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be governed by the provisions of section 413 (other than subsection (d) of that section) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853).

(h) Rule of Construction – For purpose of subsection (a)(7), a single identification document or false identification document that contains 1 or more means of identification shall be construed to be 1 means of identification.

Identity Theft and Assumption Deterrence Act of 1998

(This was included in the Bill signed by the President.)

CENTRALIZED COMPLAINT AND CONSUMER EDUCATION SERVICE FOR VICTIMS OF IDENTITY THEFT.

(a) IN GENERAL – Not later than 1 year after the date of enactment of this Act, (October 30, 1998) the Federal Trade Commission shall establish procedures to –

log and acknowledge the receipt of complaints by individuals who certify that they have a reasonable belief that 1 or more of their means of identification (as defined in section 1028 of title 18, United States Code, as amended by this Act) have been assumed, stolen, or otherwise unlawfully acquired in violation of section 1028 of title 18, United States Code, as amended by this Act:

provide informational materials to individuals described in paragraph (1); and

refer complaints described in paragraph (1) to appropriate entities, which may include referral to –

the 3 major national consumer reporting agencies; and
appropriate law enforcement agencies for potential law enforcement action.

(b) AUTHORIZATION OF APPROPRIATIONS – There are authorized to be appropriated such sums as may be necessary to carry out this section.