

**WHAT THE
STATISTICS
DO NOT
TELL US**



Identity Theft

By Victoria Sanchez*

Identity theft is a prevalent, costly crime. The key for consumers is prevention. Yet, for those who have taken all precautions and are victimized nonetheless, are the authorities able to trace and prosecute the thieves? This article focuses on the problem of keeping track of the profound effects of identity theft and unearthing criminals who profit substantially from this crime.

I. Incomplete Identify Theft Statistics

The United States General Accounting Office (“GAO”) announced in its 2002 report to Congress that “no single hotline or database captures the universe of identity theft victims.”¹ Many of the statistics available are based on hotline reporting as well as assumptions regarding victims who did not contact credit bureaus, the Federal Trade Commission (“FTC”), the Social Security Administration/Office of the Inspector General (“SSA/OIG”), or other authorities.² Overall, the statistics do not take into account the number of victims who do not report the crime who are usually “those who may have contacted their banks or credit card issuers only and not the credit bureaus or other hotlines.”³ Even though identity theft crimes are underreported, an astounding 10.1 million victims reported the crime in 2003 and 9.3 million in 2004.⁴

“[S]tatistical measurement of identity theft trends is difficult due to a number of factors.”⁵ In addition to underreporting, another problem, according to the GAO report, is that identity theft is not a “stand alone” crime and is usually found to be “a component of one or more white-collar or financial crimes, such as bank fraud, credit card or access device fraud, or the use of counterfeit financial instruments.”⁶

Notwithstanding the lack of complete statistical data, it is estimated that victims spend an average of over one hundred seventy-five hours of their time, and an average of \$1,000 in out-of-pocket expenses to resolve identity theft issues.⁷ The exact cost of this crime to the financial industry is also unknown because identity theft is a component of other crimes.⁸ The American Bankers Association reported that “check fraud-related losses against commercial bank accounts...reached an estimated \$2.2 billion in 1999.”⁹

Check fraud related losses attributable to identity theft ranged between approximately 56% for community banks and 5% for money center banks, averaging 29% overall for all banks.¹⁰ Two major credit card companies, MasterCard and Visa, also reported substantial losses in the form of account takeovers and fraudulent applications in the amount of \$114.3 million in 2000.¹¹

The nation is “underestimating the economic impact of identity theft.”¹² It is inevitable that the money that financial and other credit institutions spend on prevention will be passed onto the consumer.¹³ Ultimately, each individual pays for identity theft whether or not they have been victimized directly.¹⁴ Overall, the GOA reports show that victims spend an alarming amount of money on repairing the damage caused by identity theft. Beyond prevention, the costs incurred by the federal criminal justice system in catching identity thieves are not known since federal agencies do not separately maintain records of “person hours, portions of salary, or other distinct costs that are specifically attributable to cases involving identity theft.”¹⁵

II. Criminals

The FTC’s Identity Theft Clearinghouse was established under the Identity Theft Act of 1998 to provide a service for victims and local authorities.¹⁶ In addition to prevention efforts, the clearinghouse pinpoints high-impact episodes of identity theft for law enforcement agencies.¹⁷ While there is much emphasis on prevention, victims reported that assistance in “catching the thief and stiffer penalties” would assist in solving the problem of identity theft.¹⁸

A. Who Commits Identity Theft?

Based on the information reported to the FTC, only 20.5% of individuals who reported identity theft were aware of the actual method used by the criminals to obtain the information.¹⁹ Of the remaining victims who reported theft, 61.7% did not know the method used, and 17.8% reported the identity theft to the SSA/OIG, which did not collect information about the methods used by the criminals.²⁰ The information revealed that of the known methods, 52.5% of the criminals were family members, neighbors, or coworkers

who gained the information through their relationship with the victim.²¹ Less than half of the other criminals obtained the information by stealing a wallet or purse, stealing mail, compromising financial or employment records, burglarizing the victim, or through Internet, telephone, or mail solicitations.²²

B. Punishment: Are Identity Thieves Being Caught?

Identity theft is a federal crime punishable by fine, imprisonment for up to 15 years or both.²³ The number of victims who report identity theft, however, greatly outweigh the number of identity theft criminals who are being convicted. The statistics regarding indictments, arrests, and convictions obtained by the GAO came from the Executive Office for U.S. Attorneys ("EOUSA") and the Federal Bureau of Investigation ("FBI"). The EOUSA reported that 2,172 cases were filed under statutes related to identity theft in 2000.²⁴ The FBI reported that its agency "did not have the capability to determine the number of statistical accomplishments (e.g., arrests and convictions)" that resulted directly from identity theft.²⁵ The number of convictions by the FBI in 2000, however, based on identity theft related statutes was 1,425.²⁶ The FBI considered identity theft related statutes to be those involving identification documents, access devices, loan and credit applications, bank fraud, social security number misuse, and fraudulent use of credit cards.²⁷ The Secret Service reported 3,163 identity theft related arrests in 2000 and the Postal Inspection Service reported 1,722 identity theft related arrests in 2000.²⁸

III. Victim Reporting Contacts

The GAO statistics showed that "the most commonly reported contact was the company that had issued an existing credit card or other account that was misused or that issued a new account to the thief."²⁹ Only one-quarter of victims called the police, and of those who called the police, only three-fourths said that the local law enforcement agency took the complaint and filed a report.³⁰ Credit bureaus were contacted by victims of more serious forms of identity theft and the Federal Trade Commission, Postal Service, and the Social Security Administration were contacted the least.³¹

IV. What More Can Be Done?

The Identity Theft Resource Center, in testimony before a joint judiciary subcommittee, submitted recommendations to curb the impact of identity theft. Those recommendations are summarized below:

- Inclusion of financial fraud and identity theft case statistics in the FBI National Crime Index [to more accurately define the scope of the crime];
- Mandatory Police Reports;
- Development of an ongoing committee composed of consumer groups [to discuss trends and ways to fight the] criminal element;
- Development of an investigation law enforcement taskforce...[that] could be funded by Homeland Security and could actually save money due to the elimination of duplicated efforts;
- Victims of financial fraud must be given full rights under the law;
- Phase out the use of the social security number as a military ID and Medicare number;
- New standards and laws need to be adopted that dictate collection, use, display, security and confidentiality of the social security number. It should not be used as an identifier by schools, insurance companies,

employers, utility companies or businesses;

- Congress must pass laws that give credit issuers an incentive to check credit applications more carefully; and
- Computer security.³²

V. Conclusion

While consumers should attempt to secure their own personal information, they inevitably must also rely on businesses, creditors, and federal and state agencies to do so as well. Because of this reliance, these entities should do more to combat identity theft through increased proactive efforts to preclude the initiation of identity theft, better investigation of the identity theft that is committed and by providing the community with education on their rights.

*J.D. Candidate, 2006, University of Houston Law Center.

1. United States General Accounting Office, *Identity Theft Prevalence and Cost Appear to be Growing*, Report to Congressional Requesters, GAO-02-363 at 2 (Mar. 2002) (hereinafter *GAO Report*), available at www.consumer.gov/idtheft/reports/gao-d02363.pdf (last visited Feb. 25, 2005).
2. *Id.* at 2-3.
3. *Id.*
4. Identity Theft Prevention & Victim Assistance Center, *Identity Theft Statistics*, available at www.myidfix.com/Identity-theft-statistics-us.php (last visited Feb. 25, 2005).
5. *GAO Report* at 3.
6. *Id.*
7. Identity Theft Resource Center, *Facts and Statistics*, available at www.idtheftcenter.org/html/facts_and_statistics.htm (last updated Jan. 23, 2003).
8. *GAO Report* at 5-6.
9. *Id.* at 6.
10. *Id.*
11. *Id.*
12. Identity Theft Resource Center, *The Risk to Homeland Security from Identity Fraud and Identity Theft*, (Jun. 25, 2002) (hereinafter *Homeland Security Risk*), available at www.idtheftcenter.org/html/homeland.htm (last updated Jan. 23, 2003).
13. *Id.*
14. *Id.*
15. *GAO Report* at 9-10.
16. *Id.* at 12.
17. *Id.*
18. *Id.* at 62.
19. *Id.* at 27.
20. *Id.*
21. *Id.*
22. *Id.*
23. 18 U.S.C § 1028 (2004). If the offense is committed to facilitate drug trafficking, the maximum term of imprisonment increases to 20 years; if it is committed to facilitate an act of international terrorism, the maximum term increases to 30 years.
24. *GAO Report* at 31.
25. *Id.* at 32.
26. *Id.* at 33.
27. *Id.* at 36.
28. *Id.* at 38.
29. *Id.* at 50.
30. *Id.* at 59.
31. *Id.* at 50.
32. *Homeland Security Risk*, supra n. 12.