

Rising Tide: The Explosion of Identity Theft During Hard Economic Times

Locating Services for Victims

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Learning Objectives

- Describe the major types of identity theft experienced by victims in Texas;
- Identify populations that are targeted by identity thieves;
- State common emotional and financial impacts on victims of identity theft;
- Recall the law enforcement agencies that investigate and prosecute the various types of identity theft;
- Understand how the Fair Credit Reporting Act and the Texas Business and Commerce Code help victims of identity theft;
- Identify at least three resources for victims of identity theft and the role each plays in assisting victims;
- Recall immediate steps to take when a person believes he or she is a victim of identity theft; and
- Describe steps to take to minimize the recurrence of identity theft and financial fraud.

What is Identity Theft?

The theft or misuse of personal identifying information in order to gain something of value or facilitate other criminal activity.

Texas Penal Code § 32.51:

to obtain, possess, transfer, or use a person's "identifying information" or "telecommunication access device" with the intent to harm the person.



Types of ID Theft in Texas - 2007

Employment-Related	6,312	24%
Credit Card	4,788	19%
Bank	3,836	15%
Phone or Utilities	3,467	13%
Government Documents or Benefits	3,351	13%
Loans	1,515	6%
Other (criminal, medical)	5,582	22%

What information is valuable to identity thieves:

Personal information that can be used to commit identity theft includes:

- **Name**
- **Social Security Number**
- **Address**
- **Date of Birth**
- **Financial account numbers or access cards**
- **Passwords, Mother's maiden name, Father's middle name, answers to "challenge" questions**
- **Telephone number**
- **Biometric data**

Why all victim advocates should know about Identity Theft

- **ID theft is the fastest growing crime in America – more than 9 million victims a year.***
- **Victims of other crimes are vulnerable to ID theft and need information about protecting themselves, discovering the crime, reporting, and repairing the damage.**

Identity Theft and Other Crimes

- **Domestic Violence**
- **Sexual assault, assault, burglary, robbery**
- **Homicide**
- **Terrorism**
- **Drug Trafficking**

Targeted Victims

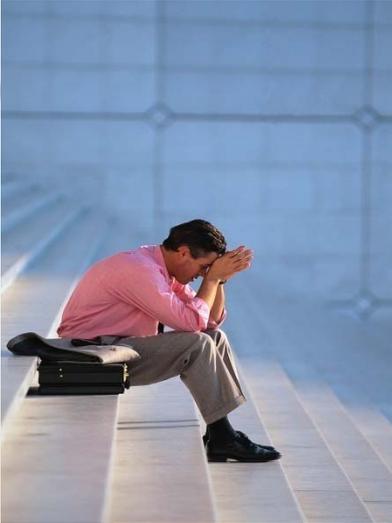
Anyone can become a victim, but certain groups are more adversely affected because they have access to fewer resources:

- **the elderly**
- **persons with limited English proficiency**
- **minors**
- **persons with disabilities**
- **the mentally ill**

Victim Experiences

- Denial of credit
- Loss of credit rating
- Harassment by bill collectors
- Loss/denial of employment
- Lawsuit
- Arrest
- IRS problems
- Garnishment
- Denial of drivers license renewal
- Denial of public benefits
- Denial of medical care

The Emotional Impact of Identity Theft



Feelings of.....

- embarrassment
- sadness
- helplessness
- anger
- isolation
- betrayal
- rage
- suicidal feelings

Victims need a lawyer when

- Their age, health, language proficiency, or economic situation prevents them from making disputes.
- They are sued by creditors attempting to collect debts incurred by an impostor.
- They are being harassed by creditors attempting to collect debts incurred by an impostor.
- Creditors or credit reporting agencies are uncooperative.
- Their identity thief is arrested to assist with their rights.
- Their case is complex or involves non-financial identity theft.

HOW TO ASSIST VICTIMS

IMMEDIATE CONCERNS

- STOP IMPOSTOR ACTIVITY
- REPORT THE CRIME
- REPAIR THE DAMAGE

STEP 1 - STOP ACTIVITY

CONTACT BUSINESSES

- 1. Close accounts opened by impostor.**
- 2. Change account numbers on existing accounts used by impostor.**

INITIAL CONTACT WITH ONE CREDIT BUREAU

- 1. Get a free credit report.**
- 2. Place a fraud alert (90 day). Consider a freeze.**

Fraud Alerts

- **Initial: 90-day, renewable, one free credit report**
- **Extended: 7-year, need ID Theft Report, two free credit reports**
- **Set fraud alert by contacting *only one* of the three CRAs:**
 - **Equifax 800-525-6285**
 - **Experian 888-397-3742**
 - **TransUnion 800-680-7289**
- **Must provide personal information to match file**
- **Beware of diversion to “free annual report” or other commercial services during call**

Fraud Alert vs. Credit Freeze

- One call
- Creditors must take “reasonable steps” to verify identity
- Less effective
- 90 day, 7 years

- Write each bureau
- No one can apply for new credit – must thaw the report
- More effective
- Effective until thawed
- Fee if no police report

No credit? No problem!

Neither will prevent new accounts with merchants that do not check credit reports.

STEP 2 – PREPARE

- **Gather all documents related to the crime;**
- **Make copies – never send originals;**
- **Use FTC complaint form to make an affidavit;**
- **Get a credit report, review it, mark all impostor activity.**

STEP 3 – REPORT

- **Initial report must be made to:**
police/sheriff/other law enforcement
where victim lives (TCCP art. 2.29)
- **Get the report number & officer contact:**
 - You'll need it to get a copy of the report
 - You'll need to update with information you receive from creditors

Law Enforcement Agencies

- **Local law enforcement**
- **U.S. Postal Inspectors**
- **Secret Service**
- **FBI/IC3**
- **DPS**
- **TX OAG**

STEP 4 – DISPUTE

- **File disputes with credit bureaus and request that disputed items be blocked;**

- **File disputes with creditors and collection agents, request that items be removed from credit reports, and request copies of all documents related to impostor accounts;**

- **Notify FTC if credit bureaus fail to block items from reports**

DON'T FORGET:

- **All contacts need to be followed up in writing;**
- **All written contact needs to include:**
 - **Copy of victim's ID;**
 - **Copy of police report, if available; if no police report,**
 - **ID theft affidavit.**

3 THINGS NEEDED TO ENFORCE VICTIMS' RIGHTS UNDER FAIR CREDIT REPORTING ACT

- ✓ **Proof of identity, i.e., copy of driver's license or ID card;**
- ✓ **ID theft report or police report + ID theft affidavit;**
- ✓ **Complete description of account, debt, or other item being disputed.**

Rights of Identity Theft Victims

Identity theft victims have the right:

- To receive a written summary of their rights upon request;
- To place a fraud alert on their credit reports for 90 days, extendable to 7 years;
- To receive a free copy of their entire credit file from the three credit reporting companies upon placing a fraud alert or two free copies within 12 months of placing an extended fraud alert;
- To block any portion of their credit report attributable to identity theft within 4 days upon written request;
- To receive a copy of documents related to fraudulent transactions made or accounts opened using their personal information;
- To prevent businesses from reporting transactions related to identity theft to the credit bureaus;
- To receive information from debt collectors about debts they are trying to collect arising from identity theft;
- To have debt collectors report identity theft to the underlying creditors when notified by the victim;
- To prevent creditors from placing debts for collection after being notified that the debts were incurred as a result of identity theft.

Rights of Identity Theft Victims

Identity theft victims also have the rights afforded all victims of federal offenses including the right—

- To be reasonably protected from the accused;
- To reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused;
- Not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding;
- To be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding;
- To confer with the attorney for the Government in the case;
- To full and timely restitution (The Identity Theft Enforcement and Restitution Act of 2008 gives identity theft victims the right to receive restitution for time spent repairing the harm done by identity thieves.);
- To proceedings free from unreasonable delay;
- To be treated with fairness and respect.

FAIR CREDIT REPORTING ACT

ID THEFT PROTECTION

- One free credit report per year to consumers;
- First 5 digits of SSNs must be removed from credit reports on request;
- Requires reasonable steps to protect information from unauthorized access;
- Allows ID theft victims to place a fraud alert for 90 days / 7 years;
- Allows ID theft victims to block portions of credit reports attributable to identity theft **(4 days on written notification)**;
- Allows active duty military personnel to place an alert while serving abroad;
- Requires credit reporting agencies to give ID theft victims a written summary of their rights upon request;
- Requires businesses that issued accounts or credit to an imposter to provide account documentation to the ID theft victim **if requested in writing**;
- Requires collection agencies to report ID theft to creditors and provide information about the alleged debt to the victim **if requested in writing**;
- Prevents a creditor from placing a debt for collection after being notified that the debt was incurred through ID theft.

The Right to Obtain Documents Relating to Identity Theft – FCRA § 609(e)

- **Business must give victim copies of applications and other business records resulting from theft of identity—**
 - **Within 30 days, at no cost**
 - **Without subpoena**
 - **Must also provide a copy to designated law enforcement officer, upon victim's request**
- **Victim must send request in writing, at the address specified for such requests, if any.**
- **Request must include police report, proof of identity, Identity Theft Affidavit.**

Identity Theft Enforcement and Protection Act

Tex. Bus. & Comm. Code Ch. 521

- **Requires business to implement & maintain reasonable procedures to protect & safeguard sensitive personal information collected or maintained in the regular course of business.**
- **Requires that when business destroys records containing sensitive personal information, records must be shredded, erased, or otherwise modified to render the sensitive personal information unreadable or undecipherable.**

Application to be Declared a Victim of ID Theft

Bus. & Comm. Code Sec. 521.101-521.105

- **ID theft victims may apply to District Court to be declared a victim of ID theft;**
- **Even if victim doesn't know identity of thief;**
- **Burden of proof is preponderance of evidence;**
- **Order must be sealed;**
- **Order may be vacated if obtained fraudulently.**

MINIMIZING RE-VICTIMIZATION

- **Victims must change habits to discourage further ID thefts.**
 - **Shred!**
 - **Don't carry it if you don't need it;**
 - **Watch the mailbox;**
 - **Surf safely;**
 - **Never give out personal information if you did not initiate the transaction.**
- **“Sucker lists” and ID sales – victims must remain vigilant, or they will be victimized repeatedly.**

WHEN THE THIEF IS CAUGHT

- **Less than 1% of cases.**
- **No right to CVC in Texas; although, not prohibited by federal law.**
- **Some locales argue that Crime Victims' Bill of Rights does not apply to ID theft victims.**
- **Victim should provide a written VIS.**
- **If victim desires, should be permitted a chance to speak at sentencing.**

Just for Fun

SPOT THE RED FLAGS
ON THE PHISHING EMAIL

What follows is a real scam email.

From: services@irs.gov
Sent: 10/20/2008 8:22:02 AM Pacific Daylight
Time
Subj: Information



After the last annual calculations of your fiscal activity we have determined that you are eligible to receive a tax refund of 620.50dollars. Please submit the tax refund request and allow us 6-9 days in order to process it.

A refund can be delayed for a variety of reasons. For example submitting invalid records or applying after the deadline.

To access the form for your tax refund, please

[click here](#)

Regards,

Internal Revenue Service

© 2008, Internal Revenue Service, U.S.A..

And when you “click here” ...



Internal Revenue Service

United States Department of the Treasury

REFUND FORM

Your Name:

DOB: SSN:

Your Street Address:

Your City, State, Zip:

Tell us where to deposit your refund.

Bank Name:

Account Number:

Routing Number:

It will take from 6-9 days to process your refund.

Internal Revenue Service
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Website: www.idvictim.org

Access to Victim's Toolkit in English and Spanish including an Action Plan for victims, form letters, and easy to read explanations of Texas and federal statutes.

Phone: 1-888-343-4414