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Government, Business Tries to Keep Pace with Growing Identity Theft Crisis

Eileen Hughes

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In the United States, people wake up each day to find that someone has stolen their identity - to buy a car, run up debt on a credit card, or to create a new identity.

Recently, a California company, ChoicePoint, was under fire for information it gave to identity thieves posing as legitimate companies, according to various news reports. And, as the media and the public's attention to the issue of identity theft increases, more and more incidences of identity theft are being publicized.

According to a Public Advisory: A Special Report for Consumers on Identity Theft published by the U.S. Department of Justice on its Web site,"[l]identity theft complaints to the Federal Trade Commission have increased five-fold in the last three years, from 31,117 in 2000 to 161,819 in 2002." The DOJ's report details how consumers may become victims overnight, simply by "charging dinner at a restaurant."

These incidences reflect what www.usdoj.gov, calls "one of the fastest-growing crimes in the United States and Canada."

Jordana Beebe, communications director of the Privacy Rights Clearinghouse, www.privacyrights.org, acknowledges that anyone may become the victim of identity theft.

"Identity theft knows no bounds," Beebe said. "We hear children becoming victims of identity theft when [a child's] Social Security number is misused by a parent or adult. At times, a person who is deceased will have their SSN misused by someone, too."

Beebe noted that it's not just careless or uneducated consumers who discover they have become victims of identity theft.

"Recent studies indicate that the 18- to 29-year-olds are the ones who are experiencing identity theft the most," she said. "Usually, this demographic represents pretty savvy consumers. In essence, it's not just the unsophisticated or those who are not knowledgeable about technology who become victims."

Privacy Rights Clearinghouse, has taken steps to help protect consumers.

"We've done a lot in the past to get legislation introduced and passed in the state of California and we still work on getting better laws passed. We also assist consumers when they run into problems when attempting to resolve their own identity theft situation," she said.

As far as consumers protecting themselves, Beebe said there are no magic formulas for preventing identity theft.

"...Though there are certain steps consumers can take to minimize their risk for the crime, there's really no silver bullet that will ensure they will not become a victim," Beebe said. "For instance, once you give your personal information over to a company, it's out of your control."

The Federal Trade Commission has entered the identity theft fray, publishing identity theft information for consumers, and advice on how to protect one's identity or deal with the aftermath of identity theft.

The FTC's Web site, www.ftc.gov, contains detailed information on how consumers can rectify the problems resulting from identity theft. According to the site, consumers should put fraud alerts on their credit reports and check their credit reports for mistakes or fraudulent accounts. The FTC's Web site also cites filing a police report as a key component to rectifying

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The FTC cited the recently revised Fair Credit Reporting Act (FACT Act) as a source for consumers to combat identity theft. The revised FACT Act requires that the three major credit-reporting agencies provide one free credit report per year to consumers. The schedule for when consumers may access their yearly free credit report, as well as an online request form, is available on the FTC’s Web site or www.annualcreditreport.com.

According to a 2003 TransUnion press release, the three major credit bureaus, Experian, TransUnion, and Equifax, instituted a policy that allows consumers to make one phone call to alert all three major credit agencies to possible identity theft on the consumer’s account.

Despite increased consumer vigilance and awareness of creditors, Beebe and the Privacy Rights Clearinghouse believe that the credit industry needs to step up its internal protection of consumers to better deal with identity theft.

“We feel that really the credit industry needs to take more responsibility for identity theft. There’s a possibility that the government needs to step in and regulate industry practices because the credit industry simply isn’t doing it voluntarily,” said Beebe. “For instance, we feel that the credit industry could stop identity theft in its tracks if they simply compared more information on the credit application with what’s contained in a person’s credit report. Without minimum security procedures in place, identity theft will continue to proliferate. However, the credit industry seems more focused on their bottom line and simply incorporates identity theft into the costs of doing business,” Beebe said.

But Beebe also said that the government could also improve areas to protect consumers.

"In terms of government involvement, we'd like to see the Medicare system transition away from using a person's SSN as [an] ID number. And we'd like to see California's security breach notification law made into a federal standard or passed into law in other states," Beebe added.

Mari Frank, an attorney, mediator, and privacy consultant in California, knows the ins and outs of identity theft. Not only has she become an educator in identity theft issues, but she has been a victim of identity theft, as well. As detailed in an introduction to her book, From Victim to Victor, Frank describes how one person stole her identity in 1996 and accumulated more than $50,000 in debt, all in Frank’s name.

Given her past experience with identity theft, Frank has insight into the recent identity thefts making the news, including ChoicePoint, and its recent troubles.

"...They gave the key to the door of the databases without much ado; they are now saying that they will be more careful with verification," she said.

In a recent press release available on its Web site, www.choicepoint.com, ChoicePoint stated that it "[would] discontinue the sale of information products that contain sensitive consumer data, including Social Security and driver's license numbers, except where there is a specific consumer-driven transaction or benefit, or where the products support federal, state or local government and criminal justice purposes."

While this move will further protect consumers, other precautions can be taken by companies to safeguard consumers' information.

Frank believes that credit card and credit reporting companies can institute more precautions to protect consumers' identities.

"Of course-they must institute proper
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information handling practices-slow down in
issuing credit-and verify identity and authenti-
cate-limit access to sensitive info-to those who
need to know-have audit trails-and respect pri-

Legally, Frank believes more power
needs to be put in the hands of the consumers
to protect their identities. "The new [FACT Act]
took away a private right of action from many
violations of the Fair Credit Reporting Act - we
must provide for lawsuits by individuals and
attorney generals to enforce the new laws," she
said.

Ultimately, Frank believes that govern-
ment, both state and local, must do more to pro-
tect consumers' personal information. "Hold
the creditors and companies with information
accountable," she said.

In the meantime, consumers will need to
watch their personal information and check
their credit reports to keep thieves from stealing
their identities.

Public Interest Resources

Job Opportunities, Funding, Loan
Repayment Information, and More!

Equal Justice Works
www.equaljusticeworks.com

Equal Justice America
www.equaljusticeamerica.org

PSLawNet
www.pslawnet.org

ABA Law Student Division Advocacy
www.abanet.org/lsl/legislation

Public Interest Law Initiative
www.pili-law.org

National Lawyers Guild
www.nlg.org

Illinois Legal Aid
www.illinoislegalaid.org

Report Explores Indigent Defense
By Katherine Licup

The American Bar Association's Standing
Committee on Legal Aid and Indigent Defendants
released a report in February showing funding for
indigent defense in America is in a state of crisis.

Gideon's Broken Promise: America's
Continuing Quest for Equal Justice was commis-
sioned in 2003 to commemorate the 40th
anniversary of the landmark Supreme Court case
Gideon v. Wainwright, which guaranteed the right
to counsel for poor people accused of certain

The ABA committee held a series of pub-
lic hearings around the country to determine
whether the ruling in Gideon is being fully real-
ized. The committee's report makes clear that it
is not. The report states that funding for indigent-
defense services is inadequate, that lawyers who
provide such services often are not properly
trained, and that there are times where counsel
should be provided to a defendant, but is not. As
a result, the report says, many defendants who
are innocent are actually convicted, as illustrated
by recent cases where convictions have been
overturned due to DNA evidence.

In addition to an increase in government
funding, the report recommends establishing
state oversight committees and disciplinary
reporting procedures when lawyers violate their
ethical duties to their clients.

Many states, such as Georgia, which has
established a statewide public defender system,
and Virginia, which has a statewide commission
that oversees indigent defense, are taking steps
toward mitigating wrongful convictions.

In Illinois, the hearings revealed that the
25-year-old statute governing payment for
assigned counsel in a felony case caps reim-
bursement at $1,250 - a meager amount that dis-
courages attorney volunteers - and thus the bur-
den of indigent defense is being borne almost
entirely by public defenders. Because of the bur-
den on those offices, a defendant frequently is
represented by different lawyers at different
stages of the case.

The full report is available at www.indi-
gentdefense.org/brokenpromise.