



# Identity Theft **911**<sup>®</sup>

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**CONVERSATIONS WITH  
LOCAL LAW ENFORCEMENT  
ON IDENTITY THEFT**

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BY IDENTITY THEFT 911, LLC

**Conversations with Local Law Enforcement On Identity Theft**

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# I.

## INTRODUCTION

Identity theft is an elusive crime – hard to detect, hard to quantify and easy to fall victim to. Victims rarely discover who has stolen their personal information. Banks, credit card companies and federal law enforcement agencies investigate only the largest frauds. Too often, that means victims fall through the cracks, and criminals receive no punishment for their crimes.

But local police officers have front-row seats to this growing epidemic of crime. They see the damage done every day. From first-hand experience, they know that identity theft is a large and growing epidemic that hurts consumers and threatens to overwhelm police departments across the nation.

Identity Theft 911 contacted police departments across the country to ask law enforcement officers to shed light on the challenges they face. We found that the relatively few officers dedicated to investigating identity theft are overwhelmed by the sheer number of cases coming across their desks every day. With little help from federal law enforcement, and many financial institutions pursuing policies that actually make the problem worse, police officers don't even have time for triage. Are they targeting their efforts effectively to attack the heart of the problem? Most police officers interviewed said they don't know, and they don't have time to find out.

"Manpower is the issue," says San Antonio's Sgt. Landgraf. "Basically now victims are on their own."

Officers find they also must contend with jurisdictional roadblocks in investigating reports from local citizens whose crimes often originate in a different city, state or country. Local police are usually powerless to jump those divides. Meanwhile, law enforcement agencies that do have the authority to work in multiple jurisdictions, including sheriffs, the Secret Service and the FBI, often lack either the resources or the initiative to investigate all but the largest identity scams.

Additionally, police officers who work identity theft cases every day have insights into the nature and scope of the problem that go unreported by the Federal Trade Commission and other entities. If better understood, these perspectives could be extremely valuable to consumers, institutions and lawmakers trying to understand and fight identity theft.

By compiling information from several police officers around the country, and combining their responses with established data sets, we hope to offer a new perspective on identity theft that is simultaneously broader and more detailed than traditional sources. We also hope this starts a larger discussion on how to bridge the gulf and bring about a more collaborative and cooperative effort across all levels of law enforcement in the fight against identity theft.

**Conversations with Local Law Enforcement On Identity Theft****II.**

## METHODOLOGY

Researchers with Identity Theft 911 e-mailed questionnaires to 30 police departments around the United States. We selected law enforcement agencies in cities that experience a higher volume of crime – the 15 largest cities by population and the 15 cities with the most identity theft complaints per capita, as reported to the Federal Trade Commission in 2007. Of the chosen cities, 11 responded: Flagstaff, Lake Havasu City and Phoenix, Ariz.; Los Angeles, Madera and San Diego, Calif.; Dallas, Houston and San Antonio, Tex.; Chicago, Ill.; and Columbus, Ohio. Respondents answered 34 questions – in written response and telephone interviews – about identity theft trends in their jurisdictions.\*

The data collected was supplemented with data gathered from the Federal Trade Commission. Police officers' comments were compared and contrasted with these reports to show where experience at the local level is confirmed or contradicted by national and state data.

*The views expressed by the law enforcement officers are their own and are not necessarily official statements on behalf of their departments.*

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SCOPE OF THE IDENTITY  
THEFT PROBLEM

**A. Police Caseload Experience and National Data**

Nationally, identity theft is on the rise. The Federal Trade Commission serves as the central authority for data on identity theft in the U.S. According to the FTC's latest Consumer Sentinel Data Book, published in February 2009, complaints of identity theft rose significantly from 2006 to 2008.

| Year | Complaints to FTC <sup>1</sup> |
|------|--------------------------------|
| 2006 | 246,174                        |
| 2007 | 259,266                        |
| 2008 | 313,982                        |

The number of complaints increased by 5.3 percent in 2007, and by 21.1 percent in 2008. With all three years combined, complaints of identity theft jumped 27.5 percent from 2006 to 2008. Also, identity theft complaints greatly outnumbered any other type of complaints from consumers during that time, accounting for 26 percent of all consumer issues reported to the Consumer Sentinel Network in 2008 (the next-highest problem, overzealous debt collectors, accounted for 9 percent of complaints). Identity theft, already the biggest fraud issue facing American consumers, is growing even worse.

At the local level, the FTC tracks the total number of identity theft complaints by city for the largest 382 cities in the United States. By comparing the number of complaints to the city's population, it also tallies a complaint rate per 100,000 citizens. Many local police departments also track the total number of identity theft complaints they receive every year.

The problem, as we'll see, is that these data sets rarely coincide. Based on our research, it appears that local police and the FTC numbers often conflict with one another, regarding both the total number of complaints and the direction of overall identity theft trends. In some cities, local police believe that identity theft is holding steady or even declining, while FTC data show significantly higher complaint rates over the same period.

This data disagreement may have many causes. Though identity theft can result in crippling financial losses for families, it may often remain unclear to them exactly where to report such a crime. Most people are accustomed to the idea that if a crime occurs, they should report it to the local police. Police departments serve as the first point of contact regarding most crimes, including identity theft. The first thing most people do upon discovering that they've been victimized is to call their local jurisdiction and request a police report, which often is helpful in proving to banks, retailers and credit card companies that some purchases were fraudulent.

Meanwhile, few people are aware that the Federal Trade Commission serves as the federal government's central authority on tracking identity theft nationally. And since the commission does not have the power or resources to investigate individual cases of identity

<sup>1</sup><http://www.ftc.gov/sentinel/reports/sentinel-annual-reports/sentinel-cy2008.pdf>

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theft, citizens have little reason to contact the FTC about their case other than being urged to do so by local police. These factors may depress reporting rates to the FTC as compared to local police.

But in some cities, FTC complaints actually outnumber local police reports. One possible explanation for this is that prior to 2004, the three major credit bureaus required identity theft victims to obtain police reports before placing a fraud alert on victims' credit reports. In 2004 that requirement was dropped, so that many identity theft victims may feel they no longer have a reason to contact local police. Another common problem is that many police departments misclassify identity theft complaints. Some cities have no separate crime called "identity theft." In other cities, departmental policies or untrained clerical staff designate identity theft as other types of crime, such as check fraud or forgery. This means that in many cities, the identity theft epidemic may be far worse than available data indicate.

Confusion concerning identity theft data also may be a result of the paradox of education. As police departments, state attorneys general and federal agencies step up their efforts to educate citizens about how to protect themselves from identity theft, more people learn to detect the crime's warning signs, which leads to more complaints. The crime itself may be growing, staying steady or possibly declining in any given city, even as complaint numbers rise, simply because a better-educated population gets better at detecting and reporting it.

Finally, the issues mentioned above point to the fundamental weakness of relying on complaint data to track identity theft. What makes one person report to the local police and the FTC that her identity was stolen, while another identity theft victim reports nothing? One possible answer is that identity theft takes many different forms. It can be a minor nuisance, or it can ruin a person's life. Reporting rates depend on so many variables – victim education, severity of the crime, responsiveness and awareness of local police and financial institution representatives – that explaining crime trends becomes something of a guessing game. Nevertheless, the more data we can bring to the problem, the better we can assess what's happening and what we do not know. Here, then, we compare local police reports with complaints to the federal government.

### Identity Theft Complaints to the FTC Compared to Local Records, By City

| City, State   | Rank |      | FTC Complaints |        |          | Police Reports |          |          |
|---------------|------|------|----------------|--------|----------|----------------|----------|----------|
|               | 2007 | 2008 | 2007           | 2008   | % Change | 2007           | 2008     | % Change |
| Madera, CA    | 2    | 3    | 410            | 511    | 24.6%    | N/A            | 720-960* | N/A      |
| Flagstaff, AZ | 9    | 18   | 261            | 257    | -1.5%    | 461            | 600      | 30%      |
| Phoenix, AZ   | 29   | 38   | 6,165          | 7,101  | 15.2%    | N/A            | N/A      | N/A      |
| L.H.C, CA     | 13   | 41   | 360            | 332    | -7.8%    | N/A            | N/A      | N/A      |
| L.A., CA      | 39   | 57   | 18,761         | 21,158 | 12.7%    | 21,600         | 21,600*  | UNCH     |
| Dallas, TX    | 59   | 69   | 7,978          | 9,281  | 16.3%    | 1,920          | 2,400*   | 25%      |
| S.A., TX      | 82   | 94   | 2,331          | 2,762  | 18.4%    | 2,400          | 2,400*   | UNCH     |
| S.D., CA      | 83   | 102  | 3,509          | 4,089  | 16.5%    | N/A            | N/A      | N/A      |
| Houston, TX   | 88   | 110  | 6,433          | 7,382  | 14.5%    | 16,800         | 13,200*  | -21%     |
| Chicago, IL   | 158  | 128  | 9,082          | 12,179 | 34%      | N/A            | 4,644*   | N/A      |
| Columbus, OH  | 239  | 289  | 1,402          | 1,457  | 3.9%     | N/A            | N/A      | N/A      |

\* Indicates data converted from monthly to annual, for ease of reference.

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In Madera, California, Detective Shawn Bushey says he does not have specific numbers, but “I know the reports have gone up significantly based on my work load and the cases that my Detective Sergeant has been assigning.”

Bushey’s view is supported by FTC data. The FTC received 511 identity theft complaints from Madera in 2008, a 24.6 percent increase over the previous year.

But even this significant increase in reports may not capture the true magnitude of the problem. That’s because the Madera Police Department doesn’t always label such crimes as “identity theft.” “It depends on the crime itself,” Detective Bushey says. “It could be labeled as forgery, fraud, identity theft, etc.”

In other cities surveyed, data from the FTC and local police contradict one another, often in dramatic fashion. Flagstaff, Arizona, had 600 reports of identity theft assigned in 2008, a 30.2 percent increase over 2007, says Flagstaff Detective David Holyfield.

“Our city population is about 60,000 and we had approximately 600 assigned in 2008,” Holyfield says. “That’s about 1 in every 100 of our citizens.”

Meanwhile, federal data indicate a slight decline in complaints. What’s the reason for this discrepancy? Maybe many Flagstaff residents simply did not report the crime to the FTC, but did report it to the police. Or perhaps the department’s efforts to educate local residents are beginning to have some effect, as Detective Holyfield suggests, which might result in fewer crimes.

“Our department holds public awareness meetings on this very subject each month,” says Detective Holyfield, “and it has become the most popular and most requested presentation.”

A similar divide between local and federal records occurred in Chicago. Sgt. John Lucki stated that the average number of identity theft crimes reported every month to Chicago police dropped from 2007 to 2008, though he did not have the monthly averages from 2007 to compare. But this may be misleading. Like many jurisdictions, the Chicago Police Department lacks a clear method of categorizing some white collar crimes, meaning that “bogus check, deceptive practices, credit card fraud, computer fraud, financial exploitation of the elderly and embezzlement are a direct result of identity theft,” said Sgt. Lucki, but are not included “in specific calculations of report(s) of identity theft.” The actual problem, therefore, is likely much worse than official statistics suggest.

We may get a clearer picture from FTC data, which shows that Chicago suffered the worst increase in identity theft reports of any city surveyed. Complaints from Chicago to the FTC rose 34 percent from 2007 to 2008. Chicago also rose higher in the ranking of American cities with the worst per-capita identity theft rates, jumping from number 158 in 2007 to 128 in 2008.

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One way to resolve this discrepancy might be to change the Chicago Police Department's crime tracking systems, Sgt. Lucki says. "(A) triage method of reporting, data collection and fraud type of identification would be very useful to manage and direct investigative resources as trends develop."

Some officers reported seeing regular, seasonal swings in the number of identity theft complaints reported to their departments. These month-to-month changes are invisible to federal data collectors and most private researchers. Detective Guevara of the Los Angeles Police Department stated that the number of identity theft cases in L.A. remained steady from 2007 to 2008. And he was quite adamant about his assertion that identity theft is not on the rise in Los Angeles; instead, it merely continues to follow regular highs and lows.

But the 50 police officers in Los Angeles dedicated to identity theft do notice a seasonal swing in their caseloads, he says. The period from December to April is the peak season of the year for identity theft crimes due to the financial burdens of the holidays and the April 15th income tax deadline, Detective Guevara says. Police caseloads surge in the summer, therefore, because it often takes months for many victims to discover that their personal information was stolen.

"(I)f you know what you're talking about when it comes to ID theft, you'll know it's seasonal," Detective Guevara told us.

In San Antonio, Sergeant Martin Landgraf told us that identity theft complaints "have leveled off" at about 2,400 per year.

"Businesses are getting a little better at spotting ID theft, and the federal government has gotten worse in dealing with it when it comes to employment fraud," Landgraf says. "Whatever improvements we've made, we've gotten worse in other areas."

In many cities, non-standardized record-keeping made it impossible to track local trends and compare them against national data. In San Diego, Officer Daniel Stuber did not have exact numbers available. But because of recent efforts to educate police officers about the dangers of identity theft, and how to properly categorize the crime, he expects that the number of known identity theft cases "will probably go up."

As for local law enforcement's estimated statistics, many of the officers surveyed indicated that when it comes to identity theft, determining something as basic as a complaint count may be impossible. That's because even in cities that maintain identity theft as a separate statistical category, there is often ambiguity in labeling different types of identity-related fraud. When asked how many identity theft complaints his department received last year, Phoenix Detective Robert Wamsley declined to hazard a guess. "I don't know the answer to this question," he said. "Sometimes the crimes of identity theft fall under different reports because they are the lesser felony."

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These differences in designation on the part of police officers and clerical staff were a common theme among respondents. When asked whether such incidents are clearly labeled as “Identity Theft” in crime reports, Lt. Manzo said, “Not in a lot of cases. They are labeled as investigation forgery, credit card abuse, check forgery, use of identifying information, etc.”

The same was true in Dallas, where citizens and responding police officers often label identity theft as other types of crime. “They get confused with forgeries and credit card abuses,” says Sgt. Stall. His financial crimes unit tries to straighten things out, separating forgeries and credit card abuses from identity theft. But accurate reporting remains elusive. “This is not clear to citizens filing reports,” Sgt. Stall says. This means that even in cities that recorded pronounced increases in identity theft reports last year, the true increase may have been significantly higher (or lower).

These discrepancies illustrate one of the most troubling aspects of identity theft: Because our current methods of tracking the crime are so partial and circumstantial, adding new data often raises more questions than it answers. Until national standards are created for identity theft tracking, or until identity theft is added to the FBI’s list of “index” crimes that are tallied every year, police may be left chasing identity thieves in a vacuum of information. In the meantime, most police officers say that they simply don’t have time to find the correct explanation.

“My time is precious,” Detective Holyfield says, “and my days are literally governed by the minute.”

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# IV.

NATURE OF THE PROBLEM

## The Most Prevalent Types of Identity Theft

We asked police officers to identify the types of identity theft they see most commonly in their jurisdictions. They were instructed to rank the types, with “1” being the most common and “8” being the least. In a number of cases, police officers gave the same rank to multiple crime types, indicating that those types were equally common in their cities.

To determine whether there is any correlation between local and statewide experiences, we compared the officers’ rankings to statewide report data by the Federal Trade Commission. A direct, city-by-city comparison of police and FTC data was not possible because, while the commission reports the overall number and per-capita rate of identity theft by city, it does not segregate those citywide tallies by type of identity crime.



### California

| Fraud Type                 | Madera, CA | Los Angeles, CA | San Diego, CA | California |
|----------------------------|------------|-----------------|---------------|------------|
| Credit Card                | 1          | 1               | 1             | 1          |
| Phone or Utilities         | 1          | 6               | 3             | 3          |
| Bank                       | 1          | 2               | 2             | 3          |
| Employment                 | 2          | 4               | 4             | 1          |
| Govt. Docs/ Benefits       | 6          | N/A             | 6             | 2          |
| Loan                       | 6          | 3               | 5             | 5          |
| Healthcare                 | 6          | N/A             | 6             | N/A        |
| Evasion of Law Enforcement | 6          | N/A             | 7             | N/A        |

### Arizona

| Fraud Type                 | Flagstaff, AZ | Lake Havasu City, AZ | Phoenix, AZ | Arizona |
|----------------------------|---------------|----------------------|-------------|---------|
| Credit Card                | 1             | 1                    | 3           | 2       |
| Phone or Utilities         | 6             | 3                    | 6           | 3       |
| Bank                       | 6             | 3                    | 1           | 3       |
| Employment                 | 2             | 7                    | 7           | 1       |
| Govt. Docs/ Benefits       | 3             | 6                    | 3           | 3       |
| Loan                       | 3             | 5                    | 2           | 3       |
| Healthcare                 | 7             | 6                    | 6           | N/A     |
| Evasion of Law Enforcement | 6             | 2                    | 6           | N/A     |

*NOTE: The city rankings are by law enforcement officers. The state-by-state rankings come from FTC data.*

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|         |    |    |    |    |    |    |    |    |
|---------|----|----|----|----|----|----|----|----|
| Ranking | 1. | 2. | 3. | 4. | 5. | 6. | 7. | 8. |
|---------|----|----|----|----|----|----|----|----|

**Texas**

| Fraud Type                 | Dallas, TX | San Antonio, TX | Houston, TX | Texas |
|----------------------------|------------|-----------------|-------------|-------|
| Credit Card                | 1.         | 1.              | 1.          | 1.    |
| Phone or Utilities         | 1.         | 3.              | 6.          | 6.    |
| Bank                       | 3.         | 3.              | 1.          | 3.    |
| Employment                 | 6.         | 1.              | 3.          | 1.    |
| Govt. Docs/ Benefits       | 3.         | 6.              | 1.          | 1.    |
| Loan                       | 6.         | 6.              | 3.          | 6.    |
| Healthcare                 | 7.         | 7.              | 6.          | N/A   |
| Evasion of Law Enforcement | 6.         | 6.              | 7.          | N/A   |

**Illinois**

**Ohio**

**National**

| Fraud Type                 | Chicago, IL | Illinois | Columbus, OH | Ohio | National |
|----------------------------|-------------|----------|--------------|------|----------|
| Credit Card                | 1.          | 1.       | 1.           | 1.   | 1.       |
| Phone or Utilities         | 1.          | 3.       | 1.           | 1.   | 3.       |
| Bank                       | 1.          | 3.       | 3.           | 3.   | 3.       |
| Employment                 | 7.          | 3.       | 6.           | 6.   | 1.       |
| Govt. Docs/ Benefits       | 6.          | 1.       | 7.           | 3.   | 1.       |
| Loan                       | 6.          | 6.       | 3.           | 6.   | 6.       |
| Healthcare                 | 6.          | N/A      | 6.           | N/A  | N/A      |
| Evasion of Law Enforcement | 7.          | N/A      | 6.           | N/A  | N/A      |

Time and again, credit card fraud was listed as the most common type of identity theft in the United States. Of the 11 jurisdictions surveyed, 10 named credit card fraud as either the first- or the second-most common type of identity crime they see. In the FTC’s statewide tracking, credit card fraud accounts for the most common type of identity crime in California and Illinois, and is No. 2 in Arizona and Ohio.

Another consistent finding from FTC and police data: Employment fraud is a major problem reported to the FTC in the three border states surveyed: Texas, Arizona and California. In Texas and California, employment fraud and government documents/benefits fraud rank #1 and #2 respectively.

Loan fraud did not rank as highly in police and FTC rankings as other types of fraud. The only place where loan fraud appeared to be a top concern among police officers was Phoenix, which by 2008 had experienced the fifth-highest foreclosure rate in the country<sup>2</sup>.

Health care fraud and evasion of law enforcement were not ranked as major concerns by police officers or the FTC. The only exception was in Lake Havasu City, Arizona, where evading police ranked second among local identity theft reports.

<sup>2</sup><http://www.bloomberg.com/apps/news?pid=20601087&sid=asgBXeQu5Lg&refer=home>

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## The Law Enforcement Process

**A. Jurisdictional organization**

Each law enforcement jurisdiction responds to identity theft in a somewhat different way. Among the 11 cities we surveyed, identity theft investigations are organized in the following manner:

| Unit Dedicated Solely to ID Theft  | No Unit Dedicated to ID Theft   |
|--|---|
| <b>Los Angeles:</b> 50 officers in Commercial Crimes dedicated to ID theft                               | <b>Columbus:</b> Cases handled by Unit Forgery/Fraud Unit                               |
| <b>Phoenix:</b> 5 detectives and one sergeant dedicated to ID theft                                      | <b>Flagstaff:</b> Cases handled by Fraud Unit   |
| <b>San Antonio:</b> 14 detectives and 2 clerical workers in Forgery Unit dedicated to ID theft           | <b>Houston:</b> Cases handled by Financial Crimes Unit                                  |
| <b>San Diego:</b> 8 officers and one sergeant in separate Identity Theft Unit                            | <b>Chicago:</b> ID theft cases distributed to property crimes units by geographic area. |
| <b>Dallas:</b> Four officers and one victim counselor in Financial Crimes Division dedicated to ID theft | <b>Madera:</b> One officer who focuses on all financial crimes                          |
|  | <b>Lake Havasu City:</b> Detective Division handles cases                               |

**B. Law Enforcement Complaints and Outcomes**

The law enforcement process begins when a person contacts local police to report a crime. Many identity theft victims do not take this first step, however. In fact, the majority of victims do not notify police at all, according to data from a consumer survey<sup>3</sup> conducted by the FTC in 2006.

When victims do contact police, most receive police reports, which confirm that a crime has been committed and give any relevant details. In a small number of cases, no report is taken. The FTC survey did not ask victims why they never obtained a police report. Nor did it explain the occasions when citizens did complain to police, but police declined to make a report.

<sup>3</sup><http://www.ftc.gov/os/2007/11/SynovateFinalReportIDTheft2006.pdf>

<sup>4</sup><http://www.ftc.gov/os/2007/11/SynovateFinalReportIDTheft2006.pdf>

| Action Taken, as reported by FTC <sup>4</sup>            | % of cases | # of cases |
|--|------------|------------|
| Victim did not notify police                             | 65%        | 156,752    |
| Victim notified police and report taken                  | 27%        | 65,112     |
| Victim notified police and no report taken               | 6%         | 14,469     |
| Victim notified police, did not indicate if report taken | 2%         | 4,823      |

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Another part of the problem when it comes to local law enforcement and identity theft may be that American police departments are not organized in a way that gives priority to identity theft complaints. Instead, identity theft is usually lumped together in some larger unit, usually either forgery, fraud or white collar crime. Even inside those units, it is rare to find either police officers who specialize in identity theft cases, or budgets dedicated exclusively to chasing identity thieves. Instead most cops working these cases are generalists, covering many different kinds of crime. This raises potential problems when it comes to identity theft, police officers say, because the crime is often so technical and difficult to investigate that it often requires officers with vast amounts of training and experience to solve cases.

Regardless of whether or not a city has police officers or units dedicated to investigating identity crimes, it is rare in the cities we surveyed for police departments to obtain state or federal grant money for identity theft investigations, and rarer still for departments to set aside separate budgets for identity theft officers or units.

The only city to have a specific line item for identity theft investigations was Dallas, which budgets \$600,000 annually for five identity theft specialists. The L.A.P.D. has several grant-funded officers who focus on real estate fraud. The salaries of two detectives in San Antonio are partially paid for by a grant, allowing them to investigate identity theft cases with the Secret Service.

In all the other cities, the officers surveyed either did not have grant support, or were unsure about their funding sources.

**D. Police Procedure**

Like budgetary practices, police procedure regarding identity theft cases varies widely. This may make it difficult for citizens to report the crime. It also may hamper efforts to coordinate investigations across city boundaries. Some cities surveyed assign every identity theft report to a detective, who is responsible for determining whether it is possible to find suspect information and build a case. The Los Angeles police department follows this model.

In Dallas, all identity theft cases are referred to a victim counselor, who educates victims about the steps they should take to protect themselves and their credit. "We are pushed to limit on doing basic investigations," says Sgt. Stall in Dallas. "It's not realistic to go out and actually capture 3-4 people a day. We just issue at-large warrants and hope officers come across the thieves somehow."

Other cities use a triage method in which duty officers screen cases for leads and suspects

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before turning them over for investigation by detectives. In Columbus, 10 percent of all identity theft reports received every month are passed on to detectives, says Police Sgt. K. Winn says. In Madera, “We only receive a select few,” Detective Bushey says. “If the cases are workable, they are assigned. I would say some of the identity theft cases have suspect information, but not most.”

In San Diego, “25 percent or less” of all incoming cases are assigned to detectives, says Officer Stuber. “We often look at a case and have a good idea of how successful we might be and then decide what we’ll do.”

The Houston police department uses a hybrid of these two models. There, every identity theft case is referred to a detective, who screens it for leads and suspects. But only 15 percent of those cases are ever actively investigated, Lt. Manzo says.

Other police departments actually outsource the jobs of triage and preliminary investigation entirely. Columbus police prefer that banks and credit card companies perform the preliminary investigations themselves. “(V)ictims are advised to contact their bank or credit card holder [company] to conduct the initial investigation,” says Sgt. Winn. The companies are asked “to forward their findings before an official investigation will be conducted.”

**E. Building a Case**

Many identity thieves get away with the crime. In Dallas, 10 percent of active identity theft investigations lead to an arrest. That may be a high conversion rate compared to other cities. In Los Angeles and Houston, only 3 percent of suspects are ever arrested. In Flagstaff, the rate is just 2 percent.

Even when they’re arrested, most identity thieves never stand trial. Upon making an arrest, police officers must convince the local prosecutor or district attorney to take the case. Still more suspects fall through the cracks at this stage. Police officers in Dallas, Houston and San Diego tell Identity Theft 911 they were satisfied with prosecutors’ efforts. In Houston, Lt. Manzo says his department “has excellent working relationship with the DA.”

But most prosecutors are not eager to take identity theft cases. Such cases must be extremely well documented for them ever to make it to trial, effectively raising the threshold of evidence required to convict identity thieves compared to other types of criminals. The majority of police officers surveyed indicated they were dissatisfied with their prosecutors’ efforts to try and convict identity thieves. Our question: “Are you satisfied with the percentage of identity theft cases presented by your police department that prosecuting attorneys choose to accept?”

Since each officer gave vastly different reasons for their dissatisfaction, we quote or paraphrase some of their responses directly:

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Sgt. Lucki, Chicago: “Prosecutorial constraints and case prioritizations have both state and federal prosecutors ignoring white collar crime cases in heavily populated urban areas. The laws are in place, (but) the prosecutors must apply greater attention to charging these types of offenses.”

Detective Guevara, Los Angeles: District attorneys only take cases that they’re almost guaranteed to win.

Detective Bushey, Madera: “Our DA’s office prosecutes our cases, but mostly the suspects get off with probation based on their history. The reason why the DA’s office does not prosecute these cases is because the (out of state) victim will not travel to Madera for court proceedings, as it would be a financial burden on the victims and the DA’s office. The only thing we can do is let the suspect know that we know, and try and scare them into (not) using the suspect’s information.”

Detective Wamsley, Phoenix: “No, I am not satisfied. Without knowing the numbers of cases presented, hundreds of cases are rejected simply because of the volume. Prosecuting drug cases is easy as they are pretty much black and white. Identity theft-related crimes are tedious, time-consuming, involve numerous documents and witnesses (that have to be subpoenaed). Then the prosecutor has to understand the case, and be able to present it by keeping it at a 3rd-grade level for a jury to understand.”

Sgt. Landgraf, San Antonio: “They have a high threshold of needed evidence, and it’s hard to supply the evidence, e.g., there are no witnesses. Very rarely does someone commit these crimes in person. If someone gets a credit card online, prosecutors don’t like that type of case (because) you can’t prove who did it.”

## **F. Sentencing**

### **1. Punishment Leeway**

Identity thieves unlucky enough to get convicted probably won’t do much time in jail. In the small minority of cases that are brought to trial and won, some police officers expressed frustration that punishment for convicted identity thieves is often too light.

“Thieves are always getting probation or restitution and generally they get very little time – that’s for all financial crimes,” says Sgt. Stall in Dallas. “Some rings are responsible for somewhere near \$100 million and they do probably no hard time at all.”

Some officers blame prosecutors for the light sentencing, as seen above. Others blame the serious pressures faced by the criminal justice system in processing and jailing so many drug and violent offenders.

### **Conversations with Local Law Enforcement On Identity Theft**

"I would love to see the financial crimes suspects receive stiffer penalties to help stop them from doing this again," says Madera's Detective Bushey. "However, I know it comes back to money and how many inmates we have in prison now in California."

Detective Guevara of the LAPD isn't happy with sentencing practices either, but "I understand we've got no jail space," he says.

Other police officers believe that sentences are lighter for identity thieves because the public cares less about the crime.

"It seems this crime gets less attention and there seems to be less of an outrage about it," says Detective Holyfield in Flagstaff.

Wherever the blame ultimately lies, identity theft is an attractive crime from the criminal's point of view. From categorization to triage, investigation to arrest, trial to jail time, identity theft crimes fall through the cracks. That makes identity theft a low-risk, high-reward crime.

"Identity theft-related crimes are worth the risk," says Detective Wamsley of Phoenix. "The chances of getting caught are slim to none; the chances of getting prosecuted are even more slim and if one does get caught and prosecuted, the chances of going to prison" are quite low.

## **2. Identity Theft Laws**

Whatever problems exist in sentencing identity thieves, most police officers surveyed agreed that current laws are not to blame.

"The laws in place are more than sufficient to do the job," Detective Wamsley says.

It took a long time for some state legislatures to catch up to the problem of identity theft, a number of officers say. But now most states have laws on the books that sufficiently address the crime.

"The laws have finally caught up just now," says Sgt. Landgraf of San Antonio. "It took 10 years."

### **a. Federal Laws**

Serious cases of identity theft that are perpetrated across multiple states are investigated by federal district attorneys, and tried in federal court.

### Conversations with Local Law Enforcement On Identity Theft

#### ***False Identification Crime Control Act of 1982***

Made it illegal to commit fraud in connection with identification documents.

Punishments: Up to five years in prison for conviction of fraud. Can be increased to up to 20 years in prison if the crime is committed in connection with violence or drug trafficking. Can be increased to up to 30 years in prison if committed in connection with terrorism.

#### ***Identity Theft and Assumption Deterrence Act of 1998***

This was the first federal law written specifically to deal with identity theft. The Act empowered the Federal Trade Commission to become the central repository for identity theft data, and to educate the public about identity theft. The law also made identity theft a federal crime for the first time. (The 1982 law never mentioned identity theft.)

Punishments: Up to five years in prison for conviction of identity theft. Can be increased to up to 20 years in prison if the crime is committed in connection with violence or drug trafficking. Can be increased to up to 30 years in prison if committed in connection with terrorism.

#### ***Identity Theft Penalty Enhancement Act of 2004***

Increased penalties for aggravated identity theft, including crimes when identity theft is used on the way to more serious crimes including weapons violations, immigration crimes or terrorism.

#### ***Internet False Identification Act of 2000***

Amended the False Identification Crime Control Act of 1982 to deal with false identity crimes involving computers. One provision of the act, which was proposed and supported by the Federal Deposit Insurance Corporation, was to close a loophole in the 1982 law under which identity thieves could legally sell counterfeit Social Security cards over the internet by insisting that the cards were “novelty items,” and not intended for use as identity documents. The law prohibits the production, sale or possession of false identity documents, as well as any machines used to manufacture such documents.

Punishments: Up to five years in prison; can be increased to eight years if connected with acts of terrorism.

<sup>5</sup><http://law.justia.com/arizona/codes/title13/02008.html>

<sup>6</sup><http://law.justia.com/arizona/codes/title13/02009.html>

<sup>7</sup><http://law.justia.com/arizona/codes/title13/02010.html>

<sup>8</sup><http://www.azleg.gov/FormatDocument.asp?inDoc=/ars/13/00702.htm&Title=13&DocType=ARS>

### **b. State Laws**

**Arizona:** Arizona Revised Statutes sections 13-2008 through 13-2010 establish sentencing guidelines for identity theft. At minimum, identity theft is a Class 4 felony in Arizona<sup>5</sup>. (The state’s felony classification system goes down to Class 6.) Aggravated identity theft, defined as stealing the identities of five or more people, is a Class 3 felony<sup>6</sup>. Charges are aggravated further for those convicted of trafficking in stolen identities, a Class 2 felony<sup>7</sup>. For first-time offenders, the punishments for such felonies are as follows<sup>8</sup>:

| Felony  | Mitigated | Minimum   | Presumptive | Maximum  | Aggravated |
|---------|-----------|-----------|-------------|----------|------------|
| Class 2 | 3 years   | 4 years   | 5 years     | 10 years | 12.5 years |
| Class 3 | 2 years   | 2.5 years | 3.5 years   | 7 years  | 8.75 years |
| Class 4 | 1 year    | 1.5 years | 2.5 years   | 3 years  | 3.75 years |

**Conversations with Local Law Enforcement On Identity Theft**

**California:** California Penal Code sections 528 through 530.5 pertain to penalties for identity theft. Individuals convicted of identity theft can be sentenced to up to six months in prison and/or pay a \$1,000 fine. Aggravated identity theft involving 10 or more stolen identities is punishable by up to a year in prison and a \$10,000 fine.<sup>10</sup>

**Illinois:** Identity Theft is covered under Illinois Compiled Statutes 720 ILCS 5/16G-1 to 720 ILCS 5/16G-40.

| Offense   | Classification <sup>9</sup> | Sentence <sup>10</sup>      |
|---|-----------------------------|-----------------------------|
| Unauthorized transmission of identity information | Class A misdemeanor         | 6 months - 1 year in prison |
| Theft of \$1 - \$2,000                            | Class 3 felony              | 2 to 5 years in prison      |
| Theft of \$2,000 - \$10,000                       | Class 2 felony              | 3 to 7 years in prison      |
| Theft of \$10,000 - \$100,000                     | Class 1 felony              | 4 to 15 years in prison     |
| Theft \$100,000 or more                           | Class X felony              | 6 to 30 years in prison     |

**Ohio:** Under Ohio Revised Code, section 2913.49 pertains to identity theft.

| Offense                      | Classification <sup>11</sup> | Sentence <sup>12</sup>   |
|------------------------------|------------------------------|--------------------------|
| Theft of under \$500         | Fifth-degree felony          | 6 to 12 months in prison |
| Theft of \$500 - \$5,000     | Fourth-degree felony         | 6 to 18 months in prison |
| Theft of \$5,000 - \$100,000 | Third-degree felony          | 1 to 5 years in prison   |
| Theft of \$100,000 or more   | Second-degree felony         | 2 to 8 years in prison   |

The crime is aggravated if committed against an elderly or disabled person. If this is the case, all of the above offenses move up one degree in classification. Theft of \$100,000 or more from an elderly or disabled person therefore results in a First-degree felony, with a sentence of 3 to 10 years in prison.

**Texas:** Identity theft is a crime under Texas Business & Commerce Code Chapter 48. Persons found guilty will be sentenced to payment of a fine of between \$2,000 and \$50,000 per violation. Charges are aggravated if the identity theft involves phishing, spyware, email fraud or computer tampering. Aggravated charges carry a maximum of sentence of \$100,000 per violation<sup>13</sup>.

<sup>9</sup><http://law.justia.com/california/codes/pen/528-539.html>

<sup>10</sup><http://law.justia.com/illinois/codes/chapter53/29614.html>

<sup>11</sup><http://law.justia.com/illinois/codes/chapter55/30320.html>

<sup>12</sup>[http://law.justia.com/ohio/codes/orc/jd\\_291349-d0b.html](http://law.justia.com/ohio/codes/orc/jd_291349-d0b.html)

<sup>13</sup>[http://law.justia.com/ohio/codes/orc/jd\\_292914-9825.html](http://law.justia.com/ohio/codes/orc/jd_292914-9825.html)

**Conversations with Local Law Enforcement On Identity Theft****VI.**

## RESPONSIBILITIES AND BLAME

Police officers disagree on who's responsible for the growing identity theft epidemic, and which solutions might best curb the crime. They blamed weaknesses within the criminal justice system itself. They also decried apathy on the part of major companies and the public at large. They suggested changes in all three areas that might make their fight against identity theft more effective.

**A. Lack of Consistent Reporting**

Again and again, police officers said that their efforts to understand identity theft are stymied by the fact that regulations and practices for reporting the crime are inconsistent even within their own departments, much less across jurisdictional boundaries. Some cities, including Dallas and San Antonio, have no crime category labeled "identity theft." Other cities do label some cases as "identity theft," but officers indicated that there is often confusion within their own department over whether individual cases should be classified as identity theft or some other type of fraud.

In many cities, such confusion made it impossible for officers to answer a simple question: How many cases of identity theft were reported last year in your city?

"I don't know the answer to this question," says Detective Wamsley in Phoenix.

Other cities appear to have good record keeping systems. According to our survey, officers in Chicago, Columbus, Flagstaff and Los Angeles believed that their departments had accurate record-keeping practices that enabled them to track identity theft cases in their jurisdictions.

**B. Lack of Resources and Training for Police**

Police departments are overwhelmed by identity theft. Only one of the officers surveyed, Detective Wamsley, believed that his department has adequate resources to fighting identity theft. All the others who chose to respond indicated that their staffing is inadequate to meet the demand.

"We could probably quadruple the department's size," said Officer Stuber in San Diego.

In Los Angeles, Detective Guevara has 50 investigators focused on identity theft, by far the largest unit among the 11 departments surveyed. Nevertheless, he still needs more people. "But we're property crime not injury crime, so the answer is always yes we need more, but when you compete against murder and rape, they come first, as they should," Guevara says.

Identity theft confuses many police officers. Of the 11 respondents, 10 believed that officers need more training on how criminals conduct identity theft scams.

### **Conversations with Local Law Enforcement On Identity Theft**

“Officers get confused about identity theft,” says Officer Stuber. “It seems to overwhelm them, often in terms of how to categorize it and in trying to figure out what exactly the crime is. Officers also often don’t realize where the crime occurred. We’re making a report that has little value.”

The reason for such widespread confusion is usually inadequate education about identity theft, officers say. The good news is that this can be fixed. The bad news is that fixing the problem requires additional time and resources. “Before the education, officers were spending too much time figuring out whether a crime should be categorized as forgery, credit card theft, etc.,” Officer Stuber says. “But now, through this education, they’ve been told that if the report is from an account holder, it should be called an identity theft case. So now more reports are being filed this way.”

### **C. Lack of Cooperation**

Identity theft works like no other crime. In a traditional theft, the thief, the victim and the crime are all in same jurisdiction at the same time. But in identity theft, the victim may be in one location, the thief in another location, the computer used to steal the identity in a third location, and the server used to connect the thief to the Internet in a fourth.

This confounds police officers. Police departments are empowered to enforce the law within the physical boundaries of their jurisdiction. Only when deputized by county sheriffs or federal law enforcement agencies are local police officers allowed to conduct investigations or make arrests outside of their city. This presents serious problems in many identity theft cases.

Lieutenant Manzo describes a typical case in Houston: “Say someone walks into a police department in California and says, ‘I live here, (but) someone has used my credit card in Houston, at this particular business.’ All that happens then is that the California police department files a report, slaps a note on it, and sends it to Houston, sometimes just to make victims think something is being done. But (my) department doesn’t have any additional details, so communication breaks down.”

The same institutional limitations occur in Chicago. “This type of crime initiates a chain of events resulting in the evolution of multiple victims in multiple jurisdictions,” says Sgt. Lucki. “When this occurs, it handicaps local and state prosecution.”

The result: Identity theft leaves police officers feeling powerless.

“This crime is beyond the scope of any law enforcement agency,” says Detective Holyfield in Flagstaff.

In San Antonio, Sgt. Landgraf puts it more bluntly. “It sucks,” he says.

## Conversations with Local Law Enforcement On Identity Theft

### D. Corporate Culpability

Every police officer surveyed agreed: Banks must do a better job of stopping identity theft. Instead of fighting the crime, many banks and financial institutions actually become unwitting co-conspirators by offering credit accounts without checking applicants' identities.

"Absolutely. They are a large part of the problem," says Flagstaff's Detective Holyfield. "They are the ones offering the credit and giving the cash. They turn a blind eye to it."

Many financial institutions don't even verify applicants' Social Security numbers, Sgt. Landgraf says, the bare minimum step required to assure that a person's identity is real. They removed this crucial part of the application process to speed up the application and approval process and attract new customers. Some police officers believe this makes financial institutions at least as responsible for identity theft as the criminals. If banks and retailers were held legally liable for their negligence, perhaps they would begin paying attention to identity theft, officers said.

"The majority of ID theft-related incidents occur as a result of lax due diligence on the part of the banking, retail, and service community while in pursuit of a quick monetary rewards from gaining new customers," says Sgt. Lucki in Chicago. "Credit providers and intermediaries handling data should be held more accountable."

The problem extends to corporations not typically considered financial in nature, especially cell phone companies and traditional utilities. Many utility companies allow new customers to apply for new service contracts online or over the phone, which invites fraud, says Sgt. Winn of Columbus.

"It used to be that if you wanted to turn on water, you had to appear in person and sign something. No one does that anymore (because) it costs too much," Sgt. Stall says. As a result, fraud and identity theft is accepted as "the cost of doing commerce."

Put it all together – fast, anonymous, online or phoned-in credit approvals; insufficient verification of identity documents; acceptance of thefts without even contacting police – and police officers believe that banks and utilities have turned identity theft into "the perfect crime," says Detective Guevara of the LAPD. Guevara says that banks rarely bother to contact him until an identity thief has stolen more than \$20,000.

"Back in old days when we used to fingerprint, take pictures, things worked better," Guevara says. "Proper identity was taken at time of the application. We'd know in 20 minutes who committed a crime. If they were to deny cyberspace applications, the statistics would go way down. The banks will not create police reports for us; it's unreported. They know they screwed up so they don't even call us. No one bothers us for under \$20,000."

**Conversations with Local Law Enforcement On Identity Theft****E. Lack of Public Awareness**

The general public doesn't understand identity theft, police officers told us. This translates into low support for law enforcement's efforts to fight the crime.

"There seems to be a general complacency and lack of a sense of urgency about this crime, possibly because there is no blood and gore involved, regardless of the severe damage it does to its victims," says Flagstaff's Detective Holyfield. "It seems this crime gets less attention and there seems to be less of an outrage about it."

In Houston, Lt. Manzo regularly leads seminars to teach citizens and business leaders about identity theft. Many of the attendees have "heard ID theft is prevalent; they may have even heard it's the fastest growing crime," Manzo says. "but they don't know the specifics of how to avoid being a victim."

**Conversations with Local Law Enforcement On Identity Theft****VII.**

## POSSIBLE SOLUTIONS

Part of the solution to the identity theft epidemic is simple, police officers say, but that doesn't make it easy or cheap. Police need more resources, more staff and better training.

"It's kind of true that everyone wants to be homicide detective or burglary detective; they don't like being 'document examiners,'" says Lt. Manzo. "White collar crime is not really a popular area."

Because most cities are experiencing major budget problems during the current recession, some officers believe that this support should come from the federal government.

"I can't fix it from San Antonio because ID thieves are working all over the country. Just the victims are in San Antonio," says Sgt. Landgraf. "ID theft is a federal problem – we need more federal cooperation."

Many officers also focused on the need for improved cooperation between jurisdictions. This must be led by federal agencies, officers said, which have the power to skip across jurisdictional boundaries. Sgt. Lucki of Chicago believes that the best method would be to empower a single federal agency to perform all the tasks necessary to attack identity theft: reporting crimes, tracking and analyzing trends, and investigating individual cases.

"Right now it would be advantageous if there could be federally funded task forces in each state and region," says Detective Holyfield in Flagstaff.

Police also need banks and utilities to stop enabling identity thieves, and start helping. All companies should start abolishing instant credit, especially online and over the phone. Banks need to "stop taking applications online," and should delay all credit approvals for one week so that applicants' identity information can be verified, says Sgt. Stall in Dallas.

Private companies probably won't take such aggressive steps to fight fraud on their own, police officers said. "Banks probably don't do any of this because they know that what customers want is convenience," says Houston's Lt. Manzo. "People don't want to wait, we want it now, we want it quick, we want it easy. There's also so much competition amongst businesses that grant credit. Businesses don't want to take the chance of losing customers."

For that reason, some officers think that new laws should be passed forcing all financial institutions to safeguard consumers' identities. "I think financial institutions should be held civilly liable for lackadaisically giving credit to unauthorized applicants and perpetuating identity theft-related crimes, all to facilitate their marketing objectives," says Detective Wamsley in Phoenix.

Instead of helping thieves steal identities, corporations should help police with "(m)andatory security and risk investigative support to be provided by banking, financial institutions, credit providers and retail institutions," says Sgt. Lucki in Chicago. All that information should be saved in a database and made available to law enforcement, he says.

**Conversations with Local Law Enforcement On Identity Theft**

More public education is needed too, police say. Many officers lead regular informational sessions for the public about identity theft. But all officers surveyed agreed that many people remain unaware of the problem.

"I do believe in general more education to the public, especially the elderly, would help protect people," Madera's Detective Bushey says. "Most of the citizens I contact throw away their information in the trash can."

Teaching citizens the basic steps they can take to protect themselves would deny identity thieves of low-hanging fruit. "Consumer awareness and education always reduce victimization," says Sgt. Lucki in Chicago.

Finally, some police officers told us that privacy laws make it difficult to identify suspects and pursue investigations.

"There ought to be laws (and) codes that would allow law enforcement access to records without search warrants," says Officer Stuber in San Diego. "Right now it is way too time-consuming to get this information."

Specifically, some officers mentioned that better access to wage and employment information gathered by the Social Security Administration would help them figure out which identities are real and which are stolen.

"Law enforcement should be allowed to access Social Security information such as the owner of a number, where the wages were declared each quarter," says Flagstaff's Detective Holyfield.

**Conversations with Local Law Enforcement On Identity Theft****VIII.**

## CONCLUSION

For most people, identity theft remains an invisible crime. Only when we or someone we know becomes a victim do we begin to glimpse the danger. Headlines of great identity theft capers are rarely splashed across the front pages of newspapers; forged credit card applications will never be as TV-friendly for local news crews as the latest gory murder. To have mass appeal, crime stories must be simple, black-and-white, and clearly dramatic.

Identity theft is not simple. It happens in so many different ways. And it often happens on paper or a computer screen. There's no need for anything as blunt as a gun or a knife. That's partly why identity theft is the perfect crime: Even in the rare case where an identity theft case is tried, the thief faces a relatively short prison sentence because he or she is considered nonviolent.

This report gives us a valuable perspective on identity theft. The epidemic is getting worse. Credit card fraud remains the biggest identity theft problem we face in this country. And police across the nation are stymied by the same problems:

- inconsistent intra-agency and inter-agency records keeping
- insufficient federal support for multi-jurisdiction collaboration
- lack of police funding, personnel and training
- account-issuing practices by financial institutions and utility companies that encourage identity theft
- prosecutors and judges who, in some cases, fail to seek and/or mete out aggressive sentences against people convicted of identity theft.

Finally, police officers across the U.S. expressed the belief that greater public education would protect many people from becoming identity theft victims. In addition to working their own insurmountable caseloads, many police officers surveyed here take time from their busy days to conduct such education sessions themselves. Even in the face of mainstream apathy and institutional neglect, these police officers continue to help individual citizens every day. They should be thanked and commended.