PREPARED STATEMENT OF
THE FEDERAL TRADE COMMISSION ON

IDENTITY THEFT

Before a field hearing of the
SUBCOMMITTEE ON TECHNOLOGY,
TERRORISM AND GOVERNMENT INFORMATION

of the

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

Los Angeles, California
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Senator Feinstein, I am Jeffrey Klurfeld, Director of the Western Regional Office of the Federal Trade Commission ("FTC" or "Commission").[(1)] I appreciate the opportunity to present the Commission's views on the important issue of identity theft and describe to you the Commission's efforts to help victims, alert industry, and equip law enforcement to deal with this harrowing crime. In my remarks today, I will discuss the growing phenomenon of identity theft, the measures the Commission has taken to meet the goals of the Identity Theft and Assumption Deterrence Act ("the Identity Theft Act"),[(2)] and what we see as the major challenges for the coming year in combating identity theft.

The fear of identity theft has gripped the public as few consumer issues have. This is in part because it seems to be widespread and in part because the consequences can be devastating. Consumers feel particularly vulnerable knowing that no matter how careful they are, they may nonetheless become identity theft victims.[(3)]

The Identity Theft Act addressed these concerns in several concrete ways. It directed the Commission to establish the federal government's central repository for identity theft complaints, and to provide victim assistance and consumer education. As the Commission staff have strived to meet the responsibilities of the Identity Theft Act, we have learned much about the crime, its victims and its perpetrators.

I. Meeting the Goals of the Identity Theft Act

In earlier testimony before this Committee, the Commission described the ways in which we have carried out our responsibilities under the 1998 Identity Theft Act.[(4)] We have continued to build on these achievements.

A. *Centralized Complaint Handling - 877 ID THEFT*

The Commission established its toll-free telephone number, 1-877-ID THEFT (438-4338) to help consumers avoid or resolve identity theft problems. In addition to advising consumers, counselors enter consumer complaint information into the centralized Identity Theft Data Clearinghouse used to aid law enforcement and prevent identity theft.

The Identity Theft hotline has been in operation since November 1, 1999. Calls answered have more than tripled in the last six months.[(5)] About two thirds of the calls are from victims, with the remaining calls coming from consumers who are looking for information on ways to minimize their risk of identity fraud.

The telephone counselors provide victims of identity theft with specific information about how to try to prevent additional harm to their finances and credit histories. Callers are advised to contact each of the three national consumer reporting agencies to obtain copies of their credit reports and request that a fraud alert be placed on their credit reports.[(6)] Fraud alerts request that the consumer be contacted when new credit is applied for in that consumer's name.[(7)] The phone counselors also explain how to review carefully the information on credit reports to detect any additional evidence of identity theft. The counselors also inform callers of their rights under the Fair Credit Reporting Act,[(8)] and provide them with the procedures for correcting their credit reports. The counselors advise consumers to contact each of the creditors or service providers where the identity thief has established or accessed an account, and to follow up in writing by certified mail, return receipt requested. Consumers are also advised on how to take advantage of their rights under the Fair Credit Billing Act,[(9)] and the Truth in Lending Act,[(10)] which, among other things, limits their responsibility for unauthorized charges to fifty dollars in most instances. Consumers who have been contacted by a debt collector concerning debts incurred by the identity thief are advised of their rights under the Fair Debt Collection Practices Act,[(11)] which limits debt collectors' practices in the collection of debts.

In addition, the FTC phone counselors advise consumers to notify their local police departments, both because local law enforcement may be in the best position to catch and bring the perpetrator to justice and because a police report is among the best means of demonstrating to would-be creditors and debt collectors that a consumer is a genuine victim of identity theft. More than half the states have enacted their own identity theft laws, and our counselors, in appropriate circumstances, will refer consumers to other state and local authorities for potential criminal investigation or prosecution.

B. *Outreach and Consumer Education*

The FTC also reaches consumers through the Internet. The FTC's identity theft website - www.consumer.gov/idtheft -- gives tips on how consumers can guard against identity theft, warns consumers about the latest identity theft schemes and trends, and provides access to consumer education materials on identity theft. This website has received more

than 139,000 hits from November, 1999 through July, 2000. The site also links to a secure complaint form on which identity theft victims can enter the details of their complaints online, allowing consumers to contact the Commission at all times. After review by FTC staff, these complaints are entered into the Clearinghouse. To date we have received more than 1900 complaints through this electronic form. Further, the Federal Trade Commission has distributed nearly 100,000 copies of the comprehensive consumer guide: *ID Theft: When Bad Things Happen to Your Good Name*. Developed in consultation with more than a dozen federal agencies,[(12)] this booklet provides consumers with practical tips on how best to protect their personal information from identity thieves, summarizes the various federal statutes that protect consumer victims of identity theft, and details the victim assistance mechanisms available. [(13)]

C. *Identity Theft Clearinghouse - Launched Online*

The Identity Theft Act authorized the Commission to establish a central repository of consumer complaints about identity theft, and to refer appropriate cases to law enforcement for prosecution. The Identity Theft Complaint Database, which was activated in November 1999, provides law enforcement with specific investigative material and also allows our public and private sector partners to examine larger, trend-based information to determine ways to reduce the incidence of identity theft. Currently, the Clearinghouse contains data from consumers who contact the FTC through the toll free number or website. We are pursuing ways to collect complaint data from other agencies and private sector entities to allow Clearinghouse users to see as much identity theft complaint data as possible.[(14)]

With a database as rich as the Clearinghouse should become, Commission staff can and do refer cases for potential prosecution. To maximize use of the data, the Commission now provides law enforcement partners with direct access to the Clearinghouse through Consumer Sentinel, a secure website for sharing complaints and other information with consumer protection law enforcers. Starting this month, law enforcement and appropriate regulatory offices can access the Clearinghouse through their desktop computers. This access will enable them to readily and easily spot identity theft problems in their own backyards and to coordinate with other law enforcement officers when the database reveals common schemes or perpetrators. The FTC staff will continue to comb through the data to spot cases for referral, but has also enabled others to use the data to ferret out the bad actors for prosecution.

The Identity Theft Act also authorized the Commission to share complaint data with "appropriate entities,"[(15)] including the three national consumer reporting agencies and others in the financial services industry. The Commission does not envision providing access to the complete database for these private sector entities because unfettered access could interfere with law enforcement efforts. FTC data analysts can, however, identify patterns that reveal a business or business practice that exposes consumers to a high risk of identity theft. Commission staff will forward appropriate information about these complaints to the entities involved so they can evaluate and revise those practices. Similarly, staff plans to share complaint data with a business if data reveal that business fails to respond to legitimate consumer complaints about identity theft or frustrates consumers' efforts to correct misinformation on their credit reports.

II. What the Clearinghouse Tells Us

About Identity Theft in California

We are already seeing the fruits of collecting and analyzing identity theft complaints in a single repository. The basic complaint data show that the most common forms of identity theft reported by California consumers during the first nine months[(16)] of operation were:[(17)]

- *Credit Card Fraud* - Approximately 50% of consumers reported credit card fraud -- *i.e.*, a credit card account opened in their name or a "takeover" of their existing credit card account;

- *Communications Services* - Approximately 28% reported that the identity thief opened up telephone, cellular, or other utility service in their name;

- *Bank Fraud* - Approximately 17% reported that a checking or savings account had been opened in their name, and/or that fraudulent checks had been written;

- *Fraudulent Loans* - Approximately 10% reported that the identity thief obtained a loan, such as a car loan, in their name; and

- *Government Documents or Benefits* - Approximately 8% of consumers reported that the identity thief had obtained government documents or benefits (such as a driver's license) or filed documents (such as a tax return) in their name. [(18)]

Not surprisingly, the states with the largest populations account for the largest numbers of complainants and suspects. California, New York, and Florida, in descending order, represent the states with the highest number of complainants. About 60% of California victims calling the identity theft hotline report their age. Of these, approximately 41% fall between 30 and 44 years of age. Approximately 24% are between age 45 and 64, and 25% are between age 19 and 29. About 7% of those reporting their ages are 65 and over; and slightly over 2% are age 18 and under.

The data also reveal information about the perpetrators. Almost 60% of the caller-complainants provided some identifying information about the identity thief, such as a name, address, or phone number. Los Angeles was the most common location for suspects reported by California consumers; it was reported more than three times more often than Oakland, the next most common location.

Commission staff also are assessing the data on the monetary impact of identity theft. Some complainants provided estimates of the dollar amounts obtained by the thief, because they have received the resulting bills or been notified of the resulting bad debts. The range of dollar amounts reported by California consumers varies widely, with approximately 30% of complainants reporting theft of under $1,000; approximately 31% of complainants reporting theft totaling between $1,000 and $5,000; approximately 12% of complainants reporting theft totaling between $5,000 and $10,000; and approximately 16% of complainants reporting theft of over $10,000. California consumers reported a total monetary loss of nearly $18 million.

Consumers also report the harm to their reputation or daily life. The most common non-monetary harm reported by consumers is damage to their credit report through derogatory, inaccurate information. Forty-nine percent of California consumers reported that they were harmed in this manner. This negative credit information leads to the other problems most commonly reported by victims, including loan denials, bounced checks, and rejection of credit cards. Identity theft victims also report repeated contacts by debt collectors for the bad debt incurred by the identity thief. Many consumers report that they have to spend significant amounts of time resolving these problems.

Consumers also report problems with the institutions that provided the credit, goods, or services to the identity thief in the consumer's name. These institutions often attempt to collect the bad debt from the victim, or report the bad debt to a consumer reporting agency, even after the victim believes that he or she has shown that the debt is fraudulent. Consumers further complain that these institutions' inadequate or lax security procedures failed to prevent the identity theft in the first place; that customer service or fraud departments were not responsive; or that the companies refused to close or correct the unauthorized accounts after notification by the consumer.

III. Next Steps

A. *The Identity Theft Prevention Act of 2000, S. 2328*

The Commission has made great strides in assisting consumers and law enforcement to combat identity theft, but recognizes that much remains to be done. Earlier this year, the Identity Theft Prevention Act of 2000, S. 2328, was introduced in the Senate. This Act would effectively address many areas of identity theft vulnerability and would protect many consumers from becoming victims of this very serious crime. Under S. 2328, consumers will have access to information that may reveal indicia of identity theft or the source of erroneous information resulting from identity theft. These measures will enable consumers to better protect themselves against identity theft and avoid some of the frustrations that often accompany their efforts to undo the harm inflicted by the identity thief. Providing for free annual credit reports and requiring that credit card issuers advise consumers of requests for changes of address to credit accounts will help consumers help themselves. Further, requiring clear and conspicuous fraud alerts on credit reports will help to thwart the ability of identity thieves to commit ongoing fraud. The Commission is confident that these proposals will assist consumers who contact the Commission's Identity Theft Data Clearinghouse to describe the problems they encounter attempting to prevent and remedy identity theft.

B. *Victim Assistance Workshop*

The Commission will soon begin sharing certain limited information from its Identity Theft Clearinghouse with banks, creditors and other businesses whose practices are frequently associated with identity theft complaints. The goal is to encourage and enable industry and individual companies to develop better fraud prevention practices and consumer assistance techniques. To that end, the Commission will convene a workshop for industry, consumer groups, the public, and law enforcement on Identity Theft victim assistance, prevention, and prosecution on October 23-24, 2000. This workshop follows the National Summit on Identity Theft of March, 2000, which initiated a dialogue between the public and private sectors on identity theft. The Social Security Administration, the Department of Justice and the U.S. Secret Service will convene later workshops on identity theft prevention and prosecution.

IV. Conclusion

The Identity Theft Clearinghouse, the toll free hotline phone counselors, and the consumer education campaign have helped the FTC begin to address the serious problems associated with identity theft. While more work remains to be done, the Commission is optimistic that heightened awareness by consumers and businesses will help reduce the occurrences of this fraud. The FTC looks forward to working with the Subcommittee to find additional ways to prevent this crime and to assist its victims.

Endnotes:

1. The views expressed in this statement represent the views of the Commission. My oral presentation and responses to questions are my own and do not necessarily represent the views of the Commission or any Commissioner.

2. Pub. L. No. 105-318, 112 Stat. 3007 (1998) (codified at 18 U.S.C. § 1028).

3. Data from the Identity Theft Clearinghouse, our central repository of identity theft complaints, bear out these fears. See discussion at pp. 7-10.

4. The Commission testified before this subcommittee on March 7, 2000. We also testified before this subcommittee in May 1998 in support of the Act. Following the passage of the Act, the Commission testified again, in April 1999, before the House Subcommittee on Telecommunications, Trade and Consumer Protection and the Subcommittee on Finance and Hazardous Materials of the Commerce Committee. That testimony focused on identity theft in the financial services industry.

5. The hotline received an average of more than 1000 calls per week in the month of July.

6. The three national consumer reporting agencies are Equifax Credit Information Services, Inc., Experian Information Solutions, Inc., and Trans Union, LLC.

7. In addition to fraudulently acquiring accounts or loans, the identity thieves also may register a change of address in the victim's name, routing bills and other correspondence to a different address. In that way, it may take months for the victim to realize that their identity has been hijacked.

8. 15 U.S.C. §§ 1681 *et seq*.

9. 15 U.S.C. § 1666. The Fair Credit Billing Act generally applies to "open end" credit accounts, such as credit cards, revolving charge accounts, and overdraft checking accounts. It does not cover installment contracts, such as loans or extensions of credit that are repaid on a fixed schedule.

10. 15 U.S.C. § 1601 *et seq*.

11. 15 U.S.C. §§1692 *et seq*.

12. These include: Department of Justice; Federal Bureau of Investigation; Federal Communications Commission; Federal Deposit Insurance Corporation; Federal Reserve Board; Internal Revenue Service; National Credit Union Administration; Office of the Comptroller of the Currency; Office of Thrift Supervision; Social Security Administration; United States Postal Inspection Service; United States Secret Service; United States Securities and Exchange Commission; and United States Trustee.

13. The Federal Trade Commission expects to receive a second, and larger, printing of the booklet shortly. The Social Security Administration and the Federal Deposit Insurance Corporation have also printed and distributed *When Bad Things Happen*. The FTC has provided the booklet on zip disk to other agencies who are interested in printing additional copies.

14. Our Consumer Sentinel database, which houses consumer fraud complaints, receives complaint data from Better Business Bureaus, consumer outreach organizations and others. The Commission is looking to replicate this approach with identity theft complaints.

15. The Identity Theft Assumption and Deterrence Act provides, in pertinent part, "the Federal Trade Commission shall establish procedures to . . . refer [identity theft] complaints . . . to appropriate entities, which may include referral to . . . the 3 major national consumer reporting agencies." 18 U.S.C. Sec. 1028 (note).

16. The data analysis covers the period from November 1, 1999 through July 31, 2000.

17. Many consumers experience more than one type of identity theft. Therefore, the percentages represent the number of consumers who reported each type of identity theft.

18. These statistics reflect complaints made by California consumers. However, nationwide statistics are similar: 54% Credit Card Fraud; 26% Communications Services; 17% Bank Fraud; 11% Fraudulent Loans; and 8% Government Documents or Benefits.