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# ID Fraud & Law Reform

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*BC FIPA Privacy and ID Theft Conference  
Vancouver, B.C.  
Nov.24-25th 2008*



# The Problem

- Bad people
- Negligent individuals
- Negligent organizations
  - Public
  - Private
- Helpless victims
- Rapidly changing landscape
  - policy-makers have poor information



# The Solution

- Prosecute & punish thieves/fraudsters
- Frustrate thieves/fraudsters
  - prevent, detect, mitigate
- Assist victims
- Understand the changing landscape
- Develop a coordinated national strategy



**Do we need more laws?**

# Existing Laws

- **Criminal Code**
  - Fraud, Personation, Forgery....
  - Theft/trafficking in credit cards
  - Computer crimes
- **Data Protection Laws**
  - Reasonable security measures
  - Minimizing collection and retention
  - Informed consent
- **Consumer Protection Laws**
  - Right to free copy of credit report (one/year)
  - Prohibition of excessive debt collection practices
  - Ontario - fraud alerts; mortgage fraud



# What's happening: Policy

- Public Education
- Guidelines/Best Practices for security, electronic authentication, etc.
  - Privacy Commissioners
  - Industry Canada working group
- More secure foundation documents and application processes
  - Passports, Birth Cert's, Drivers Licence, etc.
  - Canada Post change of address



# Market Responses

- Payment cards (credit, debit, stored value)
  - Payment Card Industry Data Security Standard
    - Protecting cardholder data (merchants)
    - 12 general requirements + sub-rules
  - Automatic fraud detection systems
    - credit, debit
  - Gradual shift to two-factor authentication
    - “Chip and PIN” systems not yet in wide use
      - Trials currently underway
      - Expected to be fully deployed by 2010



# Market Responses

- Credit cards
  - Zero liability to consumers for fraudulent use
  - Password requirement for online transactions
    - “Verified by VISA”; Mastercard “SecureOnline”
    - up to merchant to adopt (fewer charge-backs)
  - 3-digit security code on card
    - ensures consumer in physical possession of card
  - Truncation of account # on receipts



# Market Responses

- Credit Bureaus:
  - Fraud Alerts (free)
  - Online access to credit report (\$\$)
  - Credit Monitoring Services (\$\$)
- Identity Theft Insurance (\$\$)



# Security and peace of mind.

Credit Monitoring helps you guard your identity from theft.



**Protection:** Weekly email alerts keep you informed about credit profile changes and potential fraud.

**Knowledge:** Quarterly online access to your credit profile with analytical tools.

**Convenience:** Unlimited toll-free access to credit specialists.

Start monitoring your credit today for just \$22.95 per quarter

- Yes, [monitor my score](#) for an additional \$7.95/quarter
- Yes, [monitor my debt](#) for an additional \$7.95/quarter

**Order now**  
It's quick, safe, and secure.



*As a member, you'll receive ALL THIS*



### Weekly Fraud-Watch Emails\*

- ▶ Receive weekly email alerts to changes in your profile
- ▶ Immediately find out about credit profile changes including fraudulent activity, new inquiries, new accounts, late payments, and more

EXAMPLE: CREDIT ACCOUNT

## Equifax Credit Watch™ Gold

### Don't Let Identity Thieves Ruin Your Credit

Monitoring your credit report for changes is one of the best ways to combat identity theft – and ensure the accuracy of what's being reported about you.

**Equifax Credit Watch™ Gold** makes it easy by automatically alerting you within 24 hours of key changes in your Equifax Credit Report™ – such as when someone tries to open credit in your name – so you can act before any serious damage is done.



See it in ACTION

[Take a tour of Credit Watch™ Gold](#)

### Purchase Options

Only **\$9.95** a month

Add **Equifax Credit Report Control™** for only **\$2.00** more a month

**BUY NOW** ▶

[Give as a Gift](#)

### Benefits Include:

- **Daily monitoring** of your Equifax Credit Report for key changes (email/wireless alerts)
- **Unlimited Equifax Credit Reports**
- Up to **\$20,000 Identity Theft Insurance** with no deductible (certain limitations and exclusions apply) at no additional charge to you
- Knowledgeable Customer Care 24 hours a day 7 days a week

 [Compare Product Features](#)

### Many People Bought This Instead:

- **Equifax Credit Watch™ Gold Family Program**  
You want to protect them from everything - including identity theft. Our newest Equifax Credit Watch™ member benefit covers your loved ones.  
[Learn More](#)
- **Equifax Credit Watch™ Gold with 3-in-1 Monitoring**  
Only **\$12.95** a month **includes your 3-in-1 Credit Report** and automatically alerts you of any key changes to your **Equifax, Experian, and TransUnion** credit reports  
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Your Login allows you to return and review previously purchased products or buy additional products without going through the registration process.

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See the credit score used by most lenders, plus a copy of your credit report - online today!

**Price: \$23.95 CDN**

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- ◆ FICO® credit score and analysis

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**Price: \$15.50 CDN**

- ◆ Personalized credit report

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Credit Report  
Online Today!

"Equifax Consumer Services is easy to use, informative and provides instant access to help manage personal finances. All information is secure, confidential and in your eyes."

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[credit file](#) disclosure  
Equifax Canada Inc.  
Canada**CANADIAN  
MARKETING  
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Auto Insurance   Home Insurance   Travel Insurance   Other Products

Cha

## MY NAME™ Identity Theft Assistance *Plus*

*Over 11,000 Canadians were victims of identity theft in 2005 - Phonebusters*

For pennies a day, MY NAME Identity Theft Assistance Plus offers a comprehensive solution when it comes to identity theft.

Should you be a victim of identity theft, MY NAME will reimburse the costs associated with repairing your financial history or restoring your good name, up to \$25,000. This includes:

- ◆ Legal costs
- ◆ Lost wages
- ◆ Loan re-application fees
- ◆ Notarizing documents

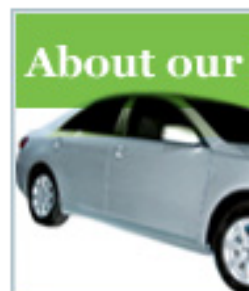
### **Plus: Grey Power's 24/7 Identity Theft Assistance line**

A representative is available to answer all your questions, 7 days a week, 24 hours a day, including:

- ◆ Information about identity theft
- ◆ Tips on how to prevent it
- ◆ Assistance for victims, from discovery of fraud to restoration of identity
- ◆ Specific information about what to do and who to contact

### **Looking for more?**

For more information about identity theft and ways to prevent it, [click here](#).





# Market/Policy Failures

- Fraud/malware use still rising
  - detection and blocking systems improving
  - cyber-criminals always ahead of LEAs
  - organized crime shifting focus to weakest links
    - small business; synthetic IDs
  - individuals poorly equipped to ensure security
- Organizations still over-collecting, over-retaining, and failing to secure data
- Consumers paying for corporate negligence
- Victims still faced with huge recovery costs
- Policy-makers still without relevant data

# Law Reform Proposals

- Punishing/detering thieves & fraudsters
- Frustrating thieves & fraudsters
  - Due diligence:
    - Individuals
    - Public bodies
    - Private organizations
- Assisting individual victims
- Getting relevant data to policy-makers
- Developing a coordinated strategy

# Going after the Bad Guys

- Make it illegal
  - Criminal Code amendments
  - Anti-spam laws
  - Anti-spyware laws?
- Effective punishment
  - Maximum sentences, sentencing guidelines, judicial education
- Police training and resources
- Cross-border cooperation

# Limits of Criminal Law

- doesn't address corporate/government facilitation of ID theft via:
  - lax security/authentication practices
  - collection of more personal data than necessary
  - retention of personal data for longer than necessary
  - proliferation of trade in personal data
- doesn't empower consumers to protect themselves from fraud
- doesn't help victims (other than restitution)



# Frustrating the Bad Guys

- Individuals:
  - Public education
  - Ability to prevent, detect and mitigate
    - Breach notification (public and private sector)
    - Fraud alert on credit report
    - Credit freeze
    - Credit monitoring
      - Offline and online access to report; monitoring services



# Frustrating the Bad Guys

- Public bodies:
  - Foundation documents
    - Application/authentication process
    - Security of documents
  - Data Protection laws
    - Limits on collection/retention
    - Security requirements
    - Limits re: PI in online records
    - Enforcement/redress process



# Frustrating the Bad Guys

- Corporations
  - Stronger incentives:
    - To minimize collection and retention of PI
    - To secure data
    - To authenticate effectively, with minimum PI
    - To detect and block fraudulent applications/use
  - Clearer legal standards re: security
    - Legislate sector-specific security standards?
      - e.g., PCIDSS



# Creating the Right Incentives

- Mandatory breach notification
- Liability for negligence
  - Enforcement of data protection laws
    - Privacy Commissioners; state actions
    - Private rights of action; class actions
    - Statutory \$\$ penalties
    - Naming and shaming
  - Addressing the causation barrier
    - Strict liability for certain kinds of breaches?



# Assisting Victims

- Difficulty getting cooperation/assistance
  - Easier access to credit bureaus, etc.
  - Right to police report and copy thereof
  - Right to information from banks/credit card cos
- Mitigating harm
  - Credit alerts, freezes, monitoring (free)
- Debt Collector harassment
  - Statutory right of action against debt collectors
- Process for clearing reputation
  - Standardized affidavit; court process
- National ID fraud victim assistance centre



# Informing Policy-Makers

- Requirement on financial institutions (and others?) to collect and report on identity fraud to central government agency
  - Credit grantors
  - Credit bureaus
  - Law enforcement agencies
  - Privacy Commissioners



# Coordinating Responses

- No single Canadian government agency addressing ID theft/fraud issue
  - contrast FTC in USA

**FIGHTING BACK AGAINST  
IDENTITY THEFT**  
FEDERAL TRADE COMMISSION



**DETER**



**DETECT**



**DEFEND**

[CONSUMERS](#) | [BUSINESSES](#) | [LAW ENFORCEMENT](#) | [MILITARY](#) | [MEDIA](#) | [REFERENCE DESK](#) | [EN ESPAÑOL](#)

## WELCOME TO THE FTC'S IDENTITY THEFT SITE

DETER·DETECT·DEFEND

**AVOID** THEFT

This website is a one-stop national resource to learn about the crime of identity theft. It provides detailed information to help you deter, detect, and defend against identity theft.

On this site, consumers can learn how to avoid identity theft – and learn what to do if their identity is stolen. Businesses can learn how to help their customers deal with identity theft, as well as how to prevent problems in the first place. Law enforcement can get resources and learn how to help victims of identity theft.

Read on to find out more about identity theft and what you can do about it.

**If your information has been stolen and used by an identity thief**

[more](#)

**If your information may have been stolen, but may or may not have been used by an identity thief**

[more](#)

**Learn more about identity theft**

[more](#)

### Hot Links

[Use Our Materials In Your Community](#)



[Watch the video](#)

[The President's Identity Theft Task Force](#)

[File a Complaint with the FTC](#)

[2006 Identity Theft Survey Report](#)

# Coordinating Responses

- Lead federal agency responsible for:
  - Collecting, analysing, disseminating information on ID theft/fraud
  - Developing a national strategy
  - Coordinating provincial/territorial/federal initiatives
  - Public education
  - Victim assistance

# Conclusion

- Law reform needed:
  - Criminal Code offences + penalties
  - Data Protection law reform + enforcement
    - Add breach notification requirement
    - Update public sector laws
    - Enforce private sector laws
    - Statutory rights of action/class actions
  - Consumer Protection law reform
    - Empower individuals to protect themselves and get redress
    - Credit alerts, freezes, monitoring (free)
    - Statutory rights of action/class actions
  - Getting the data
    - Require credit grantors to report ID fraud statistics



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