

Criminal ID Theft



Every day, innocent Americans have their identities stolen by identity thieves who then use the identity of the innocent victim during the commission of other crimes. When those crimes are detected, it may result in the innocent victim receiving a criminal record they are unaware of until they are stopped by a police officer or go through a background check for a job.

Criminal ID theft: According to Privacy Rights Clearinghouse, criminal identity theft occurs when an impostor gives another person's name and personal information, such as a driver's license number or Social Security number (SSN), to a law enforcement officer during an investigation or upon arrest. Or, the impostor may present to law enforcement a counterfeit license containing another person's data. If the impostor is cited for a traffic or misdemeanor violation and is released, the impostor will be required to sign the citation and promise to appear in court. In some instances, the impostor may appear in court for the offense and plead guilty. If the impostor fails to appear in court, a bench warrant will be issued, but it will be issued in the name of the innocent ID theft victim.

In other cases, the impostor is arrested and booked for a felony, such as a DUI or another serious offense, and provides the ID theft victim's name and identity information. According to Privacy Rights Clearinghouse, this information is then recorded in the countywide database and is usually transferred to the state's criminal records database, and possibly to the national database (the National Crime Information Center).

According to the Identity Theft Resource Center, the chief problem with criminal identity theft is that you don't know it has happened, and therefore you don't take appropriate steps to resolve the criminal charge that has been applied to your identity. Similar to financial identity theft, the burden of clearing one's name within the criminal justice system falls primarily on the victim. Criminal identity theft is a non-credit identity theft crime. Therefore, credit monitoring services, fraud alerts and credit freezes will not inform you of or stop the crime. Some victims first learn of the crimes committed by an impostor when stopped for a driving violation and told there is an arrest warrant in their name. Others may learn about the crimes committed in their names when trying to re-enter society after incarceration, or when denied employment or terminated from employment following a background investigation conducted by the employer. In this instance, the employer would have relied upon the criminal history found under the identity theft victim's name. (The employer is legally obligated to inform the victim of the reason for the rejection of employment.)

What if your driver's license is lost or stolen? Contact the nearest DMV branch to report your lost or stolen driver's license. The state might flag your license number in case another driver gets pulled over by law enforcement and presents your driver's license as his/her own. Often times a clerk will only suggest that you immediately apply for a duplicate, but it doesn't hurt to ask about a database the DMV shares with the police.

Clearing your name: It can be difficult for a victim of criminal identity theft to clear his/her name. The steps

required to clear an incorrect record depend on the laws of the jurisdiction where the crime occurred. Privacy Rights Clearinghouse has created a step-by-step guide to assist victims: "Fact Sheet 17g: Criminal Identity Theft: What to Do if It Happens to You" can be downloaded at www.privacyrights.org/criminal-identity-theft-what-to-do-if-it-happens-to-you.

According to ProtectMyID.com, which is a part of Experian credit reporting agency, it is vital when dealing with any identity theft issue that you keep a detailed log of all efforts and communications. You should:

- Note and record the time spent and any expenses incurred, as you might some day be able to request restitution from the courts.
- Confirm conversations in writing, especially ones that directly deal with clearing criminal records.
- Send correspondence by certified mail, return receipt requested.
- Keep copies of all letters and documents for your files.
- If you must correspond by e-mail, ask the recipient to verify receipt of the message, with the original message attached.
- Never send anything by e-mail that you would not want made public.

The Identity Theft Resource Center (ITRC) suggests that you:

- First, reach out to *both* law enforcement offices: the one where the initial incident took place and where the warrant for your arrest was issued, and your own local law enforcement agency. Explain that this is a case of criminal identity theft, and you'd like copies of all arrest information, including the individual's signature on any tickets or documents, photos, fingerprints and any other data they collected. If the initial incident was a violent crime, there may be DNA evidence that was collected at the time of arrest or when charges were filed. You can request that your local police take your fingerprints for comparison in an effort to prove you were not the person who was picked up at the time of the initial incident.
- Second, petition the court to change the name on the arrest records to reflect that it was an unknown person or, if the identity of the correct individual is now known, to list that your name is a known alias for that individual. You can also request a written verification of the court's finding to keep with you at all times in case you are ever mistaken for that individual or his/her crimes in the future.

Are there any precautions individuals can take to prevent becoming a victim of criminal identity theft?

According to the ITRC, there is no early detection system to alert victims of criminal identity theft. But you should take all the same precautions that you would take to prevent financial ID theft.

Resources:

Criminal Identity Theft: What to Do if It Happens to You (Privacy Rights Clearinghouse):
www.privacyrights.org/criminal-identity-theft-what-to-do-if-it-happens-to-you

Criminal Identity Theft (ProtectMyID): www.protectmyid.com/identity-theft-protection-resources/types-of-fraud/criminal-use.aspx

Criminal Identity Theft: A Guide to the Crime (ITRC): www.idtheftcenter.org/Fact-Sheets/fs-110.html

Consumer Action empowers low- and moderate-income and limited-English-speaking consumers nationwide to financially prosper through education and advocacy. Visit us online at www.consumer-action.org.