



Mercer County Sheriff's Office

JEFF GREY
SHERIFF

125 W. Livingston Street
Celina, OH 45822

Phone: (419) 586-7724

Fax: (419) 586-2234

www.mercercountysheriff.org

IDENTITY THEFT: When You Personally Know the Identity Thief

Co-Written by: Linda Foley, Identity Theft Resource Center Executive Director

And: Mari Frank, Esq: Attorney, Author, and Identity Theft Expert

Email: itrc@idtheftcenter.org, Web: www.idtheftcenter.org

Resource Material of: www.idtheftcenter.org

Email: itrc@idtheftcenter.org

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WHEN A FRIEND, FAMILY MEMBER, CO-WORKER OR EX-SPOUSE STEALS YOUR IDENTITY: WHAT ARE YOUR OPTIONS WHEN YOU KNOW THE IMPOSTER?

Case 1: "My adult daughter used my information without my knowledge to open several credit cards and buy a car. She hasn't paid on any of these accounts and now the bank and credit card companies want me to pay. What do I do? I don't want to see her go to jail."

Case 2. "My father has a gambling problem. He opened several checking accounts in both my name and my brother's name. Then he wrote bad checks for his debt. He's 68 years old and my family thinks we should just pay off the debt. I know that if we do, he'll just do it again. What do you advise?"

Case 3. "My ex-husband is using my 8 year old son's SSN to open credit cards. He even got a driver's license using his information. How do I stop him?"

Case 4. "My friend apparently went through my papers one day and found my SSN. She has several credit cards that she applied for in both of our names. I found out when I applied for a card and it was denied. She says she will pay off the cards but can only afford \$20 a month. The credit card companies want all of it now. I can't afford to pay these off. It is more than \$10,000. What do I do? She won't sign a letter saying these are really her cards because she is afraid they will arrest her."

Identity theft is a complex crime at best. When the imposter is someone you know, the impact of the crime magnifies dramatically. How do I prosecute my own mother? What kind of father would I be if I allowed the police to arrest my son? Should I practice "tough love?" What will the other family members think of me? What will my friends say? If the imposter is an ex-spouse, the crime borders on abuse and harassment. You basically have three choices:

- Proceed as if this was a regular case of id theft- reporting the imposter to the police and following through in helping law enforcement eventually arrest and prosecute the imposter
- Working with the creditors to see if a resolution can be made without police involvement
- Paying the debt and living with the consequences

THE REALITY OF THE SITUATION

Let's look at this situation from various points of view.

The law. If you do not report this case, there will be no police report, and no investigation. If you want the protection of the law as a victim of identity theft (and all the benefits you gain as a recognized id theft victim), you must make a report. You are not an accomplice or co-conspirator unless you knew about the fraud for a while and did nothing to stop it, or if you participated in the fraud yourself. If you refuse to make a report, you may appear suspect when you try to clear the fraud activity (civil or criminal).

Credit card companies and financial institutions. The credit card companies and financial institutions want their money back. That is a reasonable expectation. They know a percentage of people will claim a crime was committed (stolen card or identity theft) in order to get out of paying a bill. One of the standards they have adopted to separate the "deadbeat" from a true case of identity theft is that a person will probably not file a police report if they are making a false claim.

It is your task to convince them that another person has taken over your accounts and/or opened new accounts in your name - all without your permission or knowledge. You will have to prove that you have not benefited financially from these accounts. Unfortunately, without a police report, your job will be much tougher. Credit card companies do not take victims as seriously without a police report.

The imposter. There are as many reasons to steal as there are imposters. The imposter may have an emotional problem or addiction that forces them to seek more money than they can afford. Examples are gambling, drugs, shoppaholic, or the need for attention. The imposter might be in severe financial straits and decide this is the best way to balance things out.

Some imposters use identity theft to abuse the victim, as in the case of an ex-spouse, former boyfriend/girlfriend or an angry child.



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Some imposters do not believe that they have actually harmed the victim. They rationalize that the credit card company will absorb the loss and the victim will be forgiven the debt. The imposter does not realize the emotional and financial impact of this crime or the extensive hours and cost of clearing up compromised financial records. We know of a case of an adult child where the mother has used her identity, and she is now unable to even rent an apartment. She is forced to live at home, with the imposter who created the problem.

The reality is you must realize that this was a choice made by the imposter. We all have choices and there is always a better solution than to steal. They have chosen to sacrifice you for their own needs.

The victim. When you personally know the individual who has used your information, the emotional impact of identity theft dramatically increases -- the sense of violation and betrayal, embarrassment for yourself and the imposter, the abuse of trust, even your feeling of how you evaluate others. You may feel that this decision is not cut and dry. That feeling is one that many family id theft victims experience as they begin to explore their options. It has many ramifications, for you and for those who know both you and the imposter. And those who know both of you may put pressure on you to assume the responsibility for the crime to protect the criminal. As you explore this subject, you will find the indecision seems to lift and you are able to see the path you eventually will choose to take.

One victim put it this way:

"The person who stole my identity was a friend. When I first found out, I was angry at what she did to me, apparently without concern for my feelings or financial security. I reported the situation to the police and then spent the next few weeks worrying about her safety. Would she be arrested? Would she be angry with me? She did get arrested and pled guilty.

The day they took her from the courtroom in shackles was a very difficult day for me. I had a lot of mixed feelings. I knew she would not be able to hurt me for a while, that she would pay for her crime. People told me I should be celebrating. But how do you celebrate when you get to walk in the sunlight and the person you thought was a friend is behind bars, on a cot, alone and unable to feel the breeze on her face?

It took me a while to stop identifying with her. I also had to make peace with myself. I was not the cause of the crime. I was simply a way for her to get money. By going to the police, I had actually given her a gift. A chance to change her ways and get her life together. I finally realized this crime was not about me. It was about her and her problems. I was just an innocent bystander. She was not capable of understanding friendship."

WHAT IF YOU SUSPECT THE IMPOSTER IS SOMEONE YOU KNOW?

Normally these are the steps you would take:

1. The first step is order copies of your credit reports from Experian, TransUnion and Equifax (see Factsheet 17a at www.idtheftcenter.org). We recommend you place a fraud alert at the same time that you order these reports. These reports are free if you believe you are a victim of financial crime or have been refused credit or a job. With this evidence (the info from your credit reports) call the police and file a police report.
2. Call all the companies or collection agencies that list an account that you have not personally opened or that show a pending application. Let them know this is a case of identity theft and find out what steps you must take to clear their records. Ask that they investigate the case, remove the information from your credit reports and finally ask these company(ies) for photocopies of the fraudulent applications and credit slips for purchases made. It is federal law that they must provide these to you (with a written request accompanied by a police report- Cantwell/Enzi amendment to FACTA- effective date June 2004) This is very important. With those, you can show that the signature is not yours. You might also recognize the writing, the address used, the purchases made, or the location of purchases. You may use the ITRC letter form (Under Letter Forms- #1) to make this request.
3. If the company refuses to give this documentation to you, contact the Federal Trade Commission (877-ID THEFT) and ask for their help in getting the information.
4. Remember, you are not liable for this debt, and the company is taking advantage of the fact that you are a family member if they insist that you pay. We hope you have not paid a penny of the fraudulent credit card accounts. If you have, your case is much harder to fight. Please do not be tempted into paying any of the debt.
5. Keep trying to get the company to remove the debt. If they won't give you the photocopies of the applications, and if they won't remove the debt from your credit reports, you may have to consider hiring an attorney.
6. New Federal Law- part of FACTA: If you have a police report listing all the fraud accounts, the credit bureaus must block the fraudulent accounts from your credit reports within 30 days. But that means you must file a police report first.



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YOUR OPTIONS

There are many ways in which you can handle this situation. (1) You can deal with it by deciding not to shield the imposter and report him/her to the credit issuer(s) and to law enforcement. (2) You can seek mediation, when a third party is hired to help you arrive at a solution that both you and the imposter agree to. (3) You can also encourage the imposter to seek mental health counseling. (4) You can deal with the credit issuers yourself. (5) You can seek legal help. Or you might choose a combination of all these approaches.

1. Dealing with the situation: The following are several situations in which you, the victim decide to deal with the matter by not shielding the imposter.

Situation One: Treat this like any other case of ID theft as listed above. The person who used your information showed a lack of concern for your safety and financial good health. The old saying, "I didn't think it would really hurt you; the credit card companies just write off the loss," cannot be allowed as an excuse. If you have approached that person and told them you have a problem they caused AND they don't respond with an offer to make it completely right immediately, they've told you their answer. Why would you continue to protect someone who is putting you at risk?

It is difficult, but sometimes the best gift we give someone is to practice "tough love." By contacting the authorities and cooperating fully, you have not caused this person to be arrested. They caused this by their own actions. They have entered a life of crime and by stopping them you may actually prevent them from moving into a more dangerous situation, one that is life threatening. Identity thieves are often repeat offenders. They move from crime to crime, escalating as they continue their behavior.

The imposter will not recognize this gift you have given them now. After therapy and dealing with the court system, they might. They also might never forgive you. In your heart, you must understand you did the right thing, sometimes the most difficult action you will ever take.

Please be careful if you think this person may become violent. Do not confront him/her. Speak to law enforcement and make sure you protect yourself.

Situation Two: The imposter admits guilt and will sign a form transferring responsibility from the victim to himself/herself. Contact the credit card company(ies) and let them know about the situation. See if the credit issuers will allow this procedure. Many will not. It is important for you to understand- THIS IS NOT AN AGREEMENT BETWEEN YOU AND THE IMPOSTER. IT IS AN AGREEMENT BETWEEN THE IMPOSTER AND THE CREDIT ISSUERS. Send Form Letter 2, below, with the affidavit the creditor sends you. We recommend that the imposter provide you with a check in their name for at least 15-25% of the debt to mail with the documents or whatever the credit issuer demands as a first payment. They may ask for all of the money or they won't agree. Be prepared for that answer. The check should be made payable to the credit issuer, not you.

Situation Three: The imposter admits theft but will not sign forms. You can try mediation and hope the imposter repays the creditor. To protect yourself, gather documentation about the crime and send Form Letter 1, below, or use the standard fraud form provided by the Federal Trade Commission along with your police report (form available at www.idtheftcenter.org) to the credit issuer.

Situation Four: The imposter will not admit guilt and you have conclusive proof of the crime. To protect yourself, gather documentation about the crime and send Form Letter 1, below, to the credit issuer or use the standard fraud affidavit provided by the Federal Trade Commission along with your police report.

Situation Five: The imposter will not admit guilt, you have conclusive proof and the imposter is a repeat offender whom you have confronted prior to this new theft. See Situation One above.

Situation Six: Your whole family tells you to forgive the imposter and they will help you pay off the bills slowly together. Seek mediation and family therapy. Have the family work out an agreement in writing, signed by all parties, to put the debt in the imposter's name to pay it off. See Form Letters 2 and 3 below. UNDERSTAND- any negative information on your credit report will remain on your report for seven (7) years if this process is used. You have basically assumed responsibility for the debt.

Situation Seven: The creditor denies that an imposter has stolen your identity despite the proof you have provided or despite admission by the imposter. You believe that the creditor is going to continue to go after you since the imposter does not have any money and you do (the deep pocket theory). In this case we recommend you speak directly with the vice-president of customer service for the company. You might also ask for help from your state attorney general's office or Federal Trade Commission claiming unfair business practices.

Situation Eight: The perpetrator is your ex-spouse or soon to be ex-spouse. If the person has opened up credit cards in your name, without your authorization, we recommend that you have your divorce attorney address this as part of the divorce proceedings or settlement. If the divorce is final, you may choose to deal with this as in Situation One above or go back to your divorce attorney for additional court assistance - such as a cease and desist order and an order that the perpetrator spouse pay off the debt. Unfortunately, many law enforcement agencies will see this as a continuation of domestic civil action and may not be willing to get involved. Your determination and professionalism in how you deal with the police may sway them to take action. Send a copy of the divorce decree with a cover letter to the creditors and let them go after your ex-spouse.



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2. Mediation. In this situation, you decide to inform your friend or family member that you don't want to be forced to take legal action and therefore are willing to go to a mediator to work out a structured solution and legally binding agreement as to the circumstances. (There are some low-cost community mediation services.) Work out an agreement in writing, signed by all parties, to put the debt in the imposter's name to pay it off. See Form Letters 2 and 3 below. If the party refuses to cooperate, take whatever action is necessary to protect yourself (for example, a police report). Remember, that if the debt is paid off under your name any negative information on your credit report will remain there for seven (7) years.

3. Therapy. Whatever option you choose, you may want to look into emotional counseling, for yourself, the imposter, and for your family if the imposter is a family member. This is a challenge and all involved must learn "boundaries."

For the victim: It often benefits victims of familial identity theft to talk with a professional, either to help you make your decision or live with its consequences.

For the imposter: This person has issues that need to be identified and dealt with. Possible therapies could include anti-theft counseling, anti-substance abuse counseling (for example, alcohol, drugs, gambling), responsible financial management, developing a conscience, accepting responsibility for one's actions, etc.

For the family or between the victim/friend: The bottom line is that you will eventually all have to live with the consequences of the actions taken by the imposter. You need to talk out your anger (and you will experience anger), open new lines of communication, and see how interactions might have led to this action. You also need to establish boundaries to avoid new cases of abuse/identity theft.

4. Dealing directly with the credit card companies and/or collection agencies. In this situation, do not lie at any time to any of the companies. If you are not absolutely certain of your imposter's identity, you should not make an accusation. It is sufficient to provide all necessary documentation to show that the accounts are not yours.

Situation One. If your imposter admits that he/she obtained the credit in your name, and will take over the account, and if the imposter has no means to pay and has poor credit, the creditor may pressure you, the victim, to keep the account in your name. You must refuse to do this. If the creditor will not transfer the account, it will have to absorb the losses.

Situation Two. If the imposter refuses to accept responsibility, and the creditor knows it is a family member, they cannot force you to make a police report, but they may refuse to accept it as fraud. So you may be forced to file an informational report with the police, or the creditor or company(ies) involved can be the one(s) to file the report. You have the right to ask the creditor to file the report instead of you. However they may refuse to get involved. You must provide evidence of your innocence to law enforcement and the creditors.

5. Seeking legal assistance. If your impostor has committed crimes in your name, you should definitely contact a criminal defense attorney and have him/her help you to clear your name from the FBI and state criminal records databases. If your family member committed financial fraud, and the creditors will not remove the fraud after you have written letters, you may need to hire a consumer law attorney. For referral, contact the National Association of Consumer Advocates your local state bar association or other resources in The Identity Theft Survival Kit available at www.identitytheft.org. It provides additional attorney-written letters on diskette dealing with this situation.