

LAW ENFORCEMENT GROUP
AGAINST IDENTITY THEFT

2010 EXECUTIVE REPORT

LEGIT

Washington's Law Enforcement
Group against Identity Theft



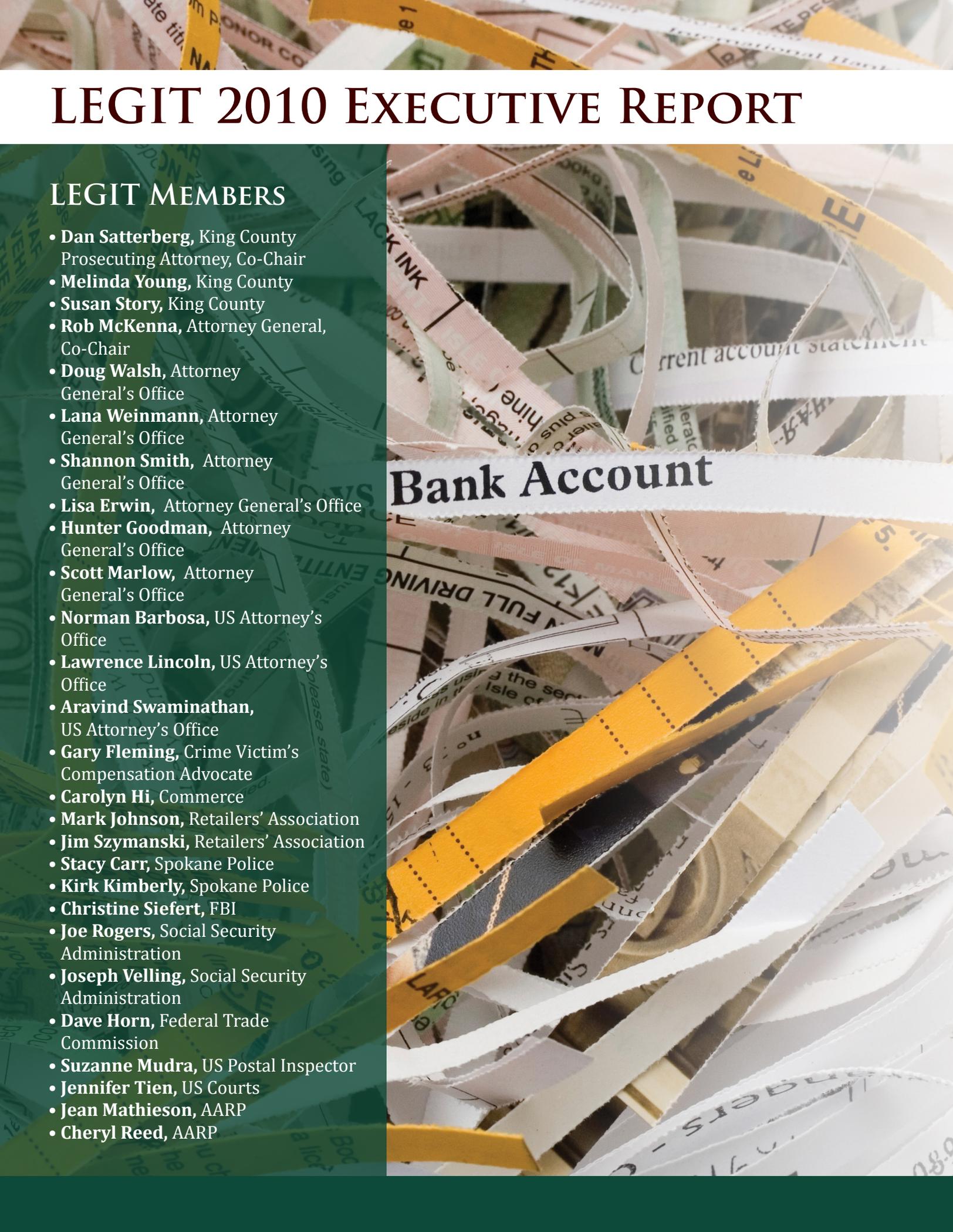
King County

ATTORNEY GENERAL ROB MCKENNA
KING COUNTY PROSECUTING ATTORNEY DAN SATTERBERG

LEGIT 2010 EXECUTIVE REPORT

LEGIT MEMBERS

- **Dan Satterberg**, King County Prosecuting Attorney, Co-Chair
- **Melinda Young**, King County
- **Susan Story**, King County
- **Rob McKenna**, Attorney General, Co-Chair
- **Doug Walsh**, Attorney General's Office
- **Lana Weinmann**, Attorney General's Office
- **Shannon Smith**, Attorney General's Office
- **Lisa Erwin**, Attorney General's Office
- **Hunter Goodman**, Attorney General's Office
- **Scott Marlow**, Attorney General's Office
- **Norman Barbosa**, US Attorney's Office
- **Lawrence Lincoln**, US Attorney's Office
- **Aravind Swaminathan**, US Attorney's Office
- **Gary Fleming**, Crime Victim's Compensation Advocate
- **Carolyn Hi**, Commerce
- **Mark Johnson**, Retailers' Association
- **Jim Szymanski**, Retailers' Association
- **Stacy Carr**, Spokane Police
- **Kirk Kimberly**, Spokane Police
- **Christine Siefert**, FBI
- **Joe Rogers**, Social Security Administration
- **Joseph Velling**, Social Security Administration
- **Dave Horn**, Federal Trade Commission
- **Suzanne Mudra**, US Postal Inspector
- **Jennifer Tien**, US Courts
- **Jean Mathieson**, AARP
- **Cheryl Reed**, AARP



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INTRODUCTION

Identity theft can happen to anyone, no matter their education, race, gender, age or occupation. It is a borderless crime. This elusive crime raises fundamental challenges to the criminal justice system, retail and financial communities and most importantly, to the victim. According to a Javelin Strategy & Research Report, there were nearly 10 million identity theft victims in 2008, accounting for \$48 billion in losses.¹ In 2009 crime victims² spent an average of \$527 dollars in out-of-pocket expenses for damage done to an existing account and \$2,104 in expenses spent regarding new accounts, and/or a combination of several situations. To help combat this fast growing crime, in 2006 we formed Washington's Law Enforcement Group Against Identity Theft—or **LEGIT**.

LEGIT is a statewide group of law enforcement, prosecutors, business and financial experts, industry security professionals, private sector associations, crime victim advocates and others working together to reduce identity theft in Washington. Our members come from all across the state and include local federal professionals from the FBI, the United State Attorney Offices, the Social Security Administrations, the Secret Service and other federal agencies.

ACCOMPLISHMENTS

Much has been done by LEGIT. Here is a re-cap of our accomplishments from 2006 through 2010.

PUBLIC EDUCATION EFFORTS:

Through the Attorney General's Office, we have prepared and delivered many statewide public presentations for consumers and businesses on how to reduce identity theft. The *Guard It Washington*³ tours equipped many consumers and businesses with the knowledge needed to help keep their private information safe. We partnered with the Federal Trade Commission and the AARP on this statewide training mission, traveling to 33 cities.

1. Javelin Strategy & Research, March 5, 2009 Report available at www.ic3.gov.

2. Crime victims in this statistic are victims who reported identity theft to the Identity Theft Resource Center (ITRC) and are contained in *Identity Theft, The Aftermath 2009*, available at www.idtheftcenter.org.

3. For more information, go to <http://www.atg.wa.gov/guardit.aspx>.



LEGIT

Washington's Law Enforcement
Group against Identity Theft

MISSION STATEMENT

LEGIT'S mission is to prevent identity theft through statewide education for consumers and businesses; to develop and coordinate criminal justice resources for investigating and prosecuting identity theft; and to coordinate legislative action to make Washington state hostile to identity theft.

VISION STATEMENT

LEGIT'S mission will continue to be accomplished through collaborative enforcement efforts, increased prosecution, and education of our consumer and business population to prevent this crime from occurring. We foster a state climate that responds quickly to emerging trends and needs to combat this borderless crime and protect our citizens and those that do business in our state.

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We also have developed excellent publications, online information and referral resources for victims of identity theft. We have utilized public service announcements and partnered with *McGruff the Crime Dog* in an effort to educate consumers.

Our first ever statewide Identity Theft Summit occurred in 2006. We brought together more than 300 leaders from the public and private sectors to discuss how to tack what has become the fastest-growing crime in the United State. The 2006 Summit Report can be found at the Attorney General's Office's website.⁴

In 2008, LEGIT sponsored a statewide Identity Theft Summit focused on increasing coordination of information, training, and prosecutions of identity theft crimes. The summit is recapped within this Summary

TRAINING EFFORTS:

Through our strong partnership with the Washington Association of Prosecuting Attorneys, (WAPA), and our federal partners, **LEGIT** delivered several training sessions for prosecutors from all over the state to enhance convictions of this crime.

VICTIM ASSISTANCE:

LEGIT is proud to team up with the Washington State Office of Crime Victims' Advocacy to coordinate victim services through the Crime Victim Service Center (CVSC) programs state wide. Recovering from identity theft can be a long, frustrating and complicated process. This program supplies well qualified advocates who work directly with identity theft victims. Our partnering at the LEGIT 2008 Summit was a huge success by providing one of the best networking and learning opportunities for criminal justice experts to learn from victim advocates about the resources and assistance they provide identity theft victims.

LEGISLATIVE ACCOMPLISHMENTS:

LEGIT's strong legislative efforts greatly strengthened our tools for combating identity theft in our state. In 2005, our members testified in support of new data breach notification laws.⁵ In 2007 we partnered to get enhanced credit freeze legislation in Washington.⁶ Consumers can now freeze their accounts or be alerted when their credit history is requested.

In 2008 we obtained passage of several additional bills aimed at thwarting identity thieves. Consumers can now file police reports much easier in our state regardless of where the crime of identity theft occurred. We also obtained clarification on sentencing for identity theft crimes. Now sentencing can be based on every single offense of identity theft committed—greatly increasing the punishment these predatory offenders receive.⁷ In 2008 we obtained passage of legislation that allows, in most circumstances, for out of state records custodians to utilize much less costly methods other than appearing for trial when their records are needed to prosecute identity theft cases.⁸

In 2009 we obtained passage of a bill that requires that only the last four digits of debit card numbers may be printed on most retail receipts.⁹ We also assisted with the passage of

4. [http://www.atg.wa.gov/uploadedFiles/Home/Safeguarding_Consumers/Consumer_Issues_A-Z/Identity_Theft_\(Privacy\)/IdentityTheftReport.pdf](http://www.atg.wa.gov/uploadedFiles/Home/Safeguarding_Consumers/Consumer_Issues_A-Z/Identity_Theft_(Privacy)/IdentityTheftReport.pdf)

5. See Revised Code of Washington, Chapter 19.255 and Revised Code of Washington, Chapter 42.56.590

6. See Senate Bill 5826, <http://apps.leg.wa.gov/BillInfo/summary.aspx?bill=5826&year=2007>

7. See Senate Bill 5878, <http://apps.leg.wa.gov/BillInfo/summary.aspx?bill=5878&year=2007>

8. See House Bill 2637, <http://apps.leg.wa.gov/billinfo/summary.aspx?bill=2637&year=2007>

9. See House Bill 1127, <http://apps.leg.wa.gov/billinfo/summary.aspx?bill=1127&year=2009>

legislation that provides a pilot project to verify the identity of applicants of drivers' licenses and state identification cards using a biometric matching system.

RISK REDUCTION EFFORTS:

LEGIT wrote over 5,000 letters to each local government office providing information and tips on how to avoid identity theft. Our risk reductions letters were aimed at educating every corner of the state on the potential we each have to be victims of this borderless crime.

LEGIT conducted the first statewide Shred-a-thon on April 28, 2007. The hugely successful identity theft prevention campaign included simultaneous shred events at twenty nine different locations. The event attracted 6,000 Washington residents. Consumers and small businesses were invited to bring sensitive documents to be destroyed at no charge. We partnered with commercial shred trucks that donated their equipment and services. Representatives from local law enforcement, the state Attorney General's Office, U.S. Attorney's Office, Federal Trade Commission, Internal Revenue Service, U.S. Postal Inspection Service, County and Federal law enforcement, financial institutions, nonprofit organizations and businesses blanketed the state to help educate the public about reducing their risk of becoming identity theft victims. Legislators also dropped by several locations to show their support.



ALARMING TRENDS IN IDENTITY THEFT

Despite our accomplishments listed above, the methods used for committing identity theft are growing in sophistication. The King County Prosecutor's Office in Seattle are filing a case involving a check fraud scheme where the victims are five large financial institutions whose losses mounted to over \$100,000 in just a few days. The suspects deposited checks from a newly-opened account (opened with just \$100) into their other accounts with various financial institutions, often via an ATM. The suspects then quickly made withdrawals based on the new "deposits." The transactions occurred so quickly, the institutions could not determine the status of the funds in the accounts before honoring the withdrawals. In another case pending in King County, multiple acts of identity theft occurred when the suspect posed as an electrical worker, complete with tool belt and ladder. He entered a private business office and then convinced the staff to leave their offices for a few minutes due to his "disruptive electrical work." When the office staff returned, they found their wallets and purses missing. The victims immediately reported the identity thefts, but the suspect had already made multiple purchases using the victims' identities, financial information, and credit/debit cards. This case involves at least twelve individual victims and multiple retail victims.

In an emerging trend, law enforcement continues to investigate cases where suspects "skim" debit and checking account information from ATM machines by attaching a tiny device (a skimmer) that reads the account information as the card is placed into the ATM.

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The suspects also place a small video camera over the ATM key pads that records the PINs associated with the accounts. This enables the thieves to match account and PIN information and thus gain access to these accounts. Sometimes the thieves wait days, months or years to use the account information. The delay ensures victims cannot determine how or when their accounts were stolen.

Another growing identity theft scheme occurs when a suspect convinces another person, often a high school student, to give up their own debit card and PIN. The suspect then deposits counterfeit/stolen and/or forged checks into the compromised account. The suspect then quickly makes withdrawals from the compromised account either at an ATM or through the fraudulent purchase of money orders. Suspects can easily obtain \$10,000 - \$20,000 per weekend by using multiple compromised accounts. This scheme is particularly insidious because high school students with no criminal history are being convinced to participate in this criminal activity. To further complicate the investigations of this kind of scheme, suspects commit this kind of identity theft in multiple jurisdictions, making the detection and conviction of these crimes more difficult.

THE FUTURE - OUR STRATEGIC GOALS

We convened 100 criminal justice experts in 2008 to brainstorm on new weapons needed to combat this crime over the next several years. We asked those closest to combating the crime and working with the victims of this crime for ideas on how to increase our efforts in making our state hostile to identity thieves. Their efforts comprise much of the strategic plan for LEGIT for the next several years. Here is a summary of our goals and planned actions.

CRIMINAL JUSTICE STRATEGIC GOALS

1. Enhance methods for investigating and prosecuting identity theft.

We heard loud and clear from our members and the statewide experts attending our 2008 Summit that we need to work toward developing and implementing a statewide crime reporting database. There are over 80 separate law enforcement jurisdictions in our state. This fact alone makes it easy for criminals to take advantage of the traditional way police agencies share information and investigate crimes—typically in isolation. With a statewide reporting data base, criminal justice entities can focus on patterns, methods of committing crime, and individuals who appear to be conducting crime in numerous jurisdictions at the same time. This will allow for coordinated investigation and prosecution of a crime that is truly without borders. The State of Utah has a model online reporting database.¹⁰ We plan to carefully review and consider adopting a similar model here. We will continue to study this and other models in formulating a proposal for consideration by our members, stakeholders and legislators.

2. Investigate increasing sentence enhancements for identity theft crimes.

From our 2008 Summit we are evaluating numerous suggestions. We are evaluating whether we should seek triple sentence ranges (triplers) for prior identity theft

10. Utah's unified identity reporting system is called IRIS, located at <http://www.idtheft.utah.gov/>

convictions. Washington state (and many other states) are facing a significant reduction in the state budget. This concept, while sending a clear message of stronger sentence enhancements for committing this crime in our state, may be beyond our current fiscal capacity. We are also evaluating whether to elevate charges in cases when the victim of the identity theft is arrested or charged with a crime due to the action of the criminal. We are also considering whether to make obtaining medical treatment in someone else's name an identity theft crime. In light of current budgetary concerns, the fiscal impacts of these concepts are under consideration and will be evaluated at future Identity Theft Summits.

3. Increase and improve criminal justice trainings for law enforcement, prosecutors and victim advocates related to identity theft.

LEGIT members are working with our partners at Washington Association of Prosecuting Attorneys (WAPA) Washington Association of Sheriffs and Police Chiefs (WASPC), the Washington State Patrol (WSP) and the Criminal Justice training Commission (CJTC) on several training ideas. They include determining training needs of prosecutors and law enforcement agencies throughout the state. We will collaborate on delivery of these needs, including updates in this area of the law as well as developing best practices models in investigating and prosecuting these crimes.

We will continue to assist WAPA in determining future plans for LEGIT to develop its own criminal justice training package that can be available to all criminal justice agencies. Prosecutors and police must be able to understand, investigate and respond to the new and emerging technologies involved in identity theft and other cyber crimes. We will also include in our training programs the development of case law and legislation for our statewide crime victim advocates. This will be an ongoing goal for LEGIT.

RISK REDUCTION AND EDUCATION STRATEGIC PLANS

1. Re-issue risk reduction letters to our state chambers of commerce, cities and local governments containing updates on preventing identity theft.

LEGIT will revise and update its risk reduction letters with new information and developments in this area. We have improved laws, as well as new community members to reach with basic identity theft and data security information. Our focus will be on electronic delivery of the letters to Chambers of Commerce members as well as local governments and businesses. LEGIT's timeline for sending these letters is 2010.



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2. **Develop an electronic newsletter authored by LEGIT partners, focusing on our three committees' expertise as a source of information for recent and upcoming legislation, identity theft scams, trends, and tips for advocates working with identity theft.**

LEGIT members from each committee will contribute to these newsletters. Newsletters will be published several times a year and will contain links to other available sources of online information. LEGIT's timeline for developing these newsletters is 2011.

3. **Develop a one-stop location for assistance to identity theft victims.**

We are proud of our coordination with our partners at the Office of Crime Victims Advocacy and our combined efforts along with the Federal Trade Commission in referring victims to its website for reporting identity theft.¹¹ However, more must be done to coordinate victim services on a statewide basis. A strong recommendation from the 2008 Summit was to develop a unified brochure on the steps to take to recover from identity theft. This brochure would be handed out by criminal justice agencies as they encounter victims in the course of investigating and prosecuting crimes. The brochure needs to contain state of the art information and provide actual details on how to assist a crime victim. It must be both easy to use and comprehensive. Contact information for local victim advocacy assistance must be included. The projected timeline for this brochure to be available is 2011.

LEGISLATIVE STRATEGIC PLANS

1. **Develop legislation that makes theft and/or possession of stolen mail a felony.**

Criminals frequently obtain identity theft information by stealing mail. Currently, theft of mail or possessing stolen mail is a misdemeanor and isn't tied to Washington's identity theft statutes.¹² Because this kind of theft or possession is often indicative of criminal conduct intimately connected to identity theft, we believe creating a specific state law for this crime will more accurately define this conduct. The projected timeline for LEGIT to introduce this legislation is in the 2011 legislative session.

2. **Continue to work with stakeholders on the uses of biometric technology to reduce identity theft crime.**

The Washington State Department of Licensing was authorized to review its drivers' license and identification card database. This review consists of conducting a biometric comparison of digital photos within the Department's database to determine duplicate licenses. The Department anticipates inspecting all duplicate licenses, providing administrative remedies where needed, and referring any potential criminal activity to law enforcement for further follow-up on possible identity theft cases. LEGIT is committed to continuing its efforts to make our state hostile to identity thieves by proposing any need legislation to keep pace with biometric technologies. We will recommend any needed legislative and policy changes to ensure that biometric advances are used to increase the protection of consumers' personal information, to prevent identity theft losses and to prosecute thieves who engage in this crime. This work will be ongoing.

11. <https://www.ftccomplaintassistant.gov/>

12. See Revised Code of Washington, Chapter 9A.56

3. Support future legislation to create a Digital Forensic lab in Washington State that will provide statewide investigative analysis and lead to the prosecution of crimes containing digital evidence.

LEGIT members will be doing stakeholder work in their communities to explain the need for crime labs specializing in digital criminal analysis. Digital evidence, now available from many new devices, has unique properties that require specialized examiners and tools to reveal and analyze this evidence. The first responders to crime scenes and in evaluating digital evidence must be trained to recognize and preserve these evidentiary items. Analysis must be able to stand up to legal scrutiny in criminal prosecutions. The state must develop and operate coordinated digital forensic labs with the capabilities to allow local jurisdictions to respond to the technological advances that impact their investigations on a daily basis.



CONCLUDING REMARKS

A recent Zogby study concludes that 91 percent of Americans are now concerned about identity theft and expressed concern that legitimate retailers may sell their financial information without their consent. In this same study, 83 percent are specifically worried that information will wind up in the hands of a third party.¹³ Our criminal justice communities have been fighting identity theft for almost ten years.¹⁴ It is clear that no single criminal justice agency in our state has the resources or expertise to adequately deal with the scope of identity theft that occurs within its border.

When identity theft is committed in our neighborhoods or online, it makes investigation and prosecution difficult, as the offender, the victim and the location of the crime are likely located in different jurisdictions—or anywhere in the world. This unique characteristic of identity theft separates it from “traditional” crimes. This presents the challenge LEGIT is working towards—increasing the coordination and cooperation of criminal justice agencies, crime victims, businesses and financial institutions to combat identity theft. All are vital partners to our success in combating this crime.

While we’ve made great strides, we have not been able to do enough. It will truly take our entire state, working together in partnership, to end the crisis that faces our citizens.

13. Zogby Poll, April 3, 2007 at <http://zogby.com/methodology/readmthi.cfm?id+1178>;

14. Identity Theft laws were first passed in 1999; c 368 Section 3, Laws of 1999.

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