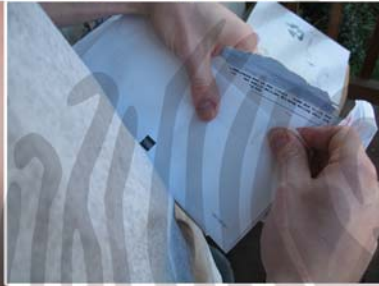
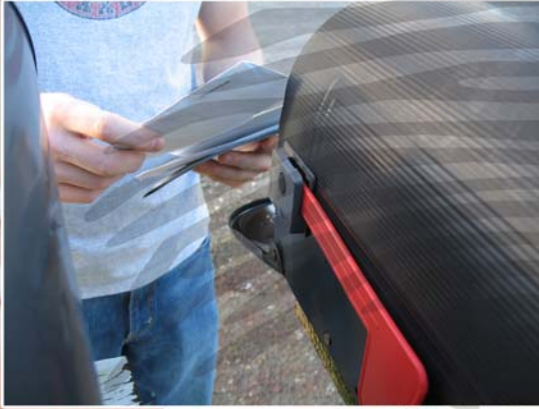


Washington State

AGO Identity Theft Advisory Panel

January 26, 2006



2005 Identity Theft Summit Summary and Recommendations



Office of Attorney General
Rob McKenna

Washington State

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Advisory Panel

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Summary and Recommendations

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Attorney General Rob McKenna

Identity Theft Advisory Panel

Final Report - January 26, 2006



It is my pleasure to share with you my recommendations from Washington's first Identity Theft Summit.

The summit was a tremendous success, bringing together nearly 300 participants with the shared goal of fighting identity theft in our state. Washington ranked 8th in the nation in 2004 for reported identity theft crimes.

We received hundreds of suggestions at the summit from law enforcement, prosecutors, identity theft victims, legislators, experts from financial and retail institutions, government agencies, and consumer advocates.

Our Identity Theft Advisory Panel had the challenging task of sorting through the many excellent ideas raised at the summit to select a handful of initiatives and legislative proposals. We believe these proposals, when enacted, will make a positive difference in reducing identity theft in Washington.

The recommendations in this report are not all-inclusive. Rather, they are a clearly defined group of goals that meet our objectives of

preventing identity theft crimes, enabling successful prosecution and improving victim services. We believe these recommendations can begin to be implemented now, so that we can have an impact as quickly as possible.

This report is just the beginning of our work. We must now turn our attention toward transforming these ideas into reality.

My office is committed to taking a leadership role in several of these initiatives, but we cannot accomplish these goals by ourselves. To ensure success, we need leadership and coordination from all stakeholders – government, business and the non-profit sector. We need help from dedicated experts who are willing to take the lead. We hope you or your colleagues will consider contributing your knowledge and experience to our efforts.

Thank you to all who have contributed to our identity theft initiatives through participation in the summit, by serving on our Identity Theft Advisory Panel, or through sharing your suggestions in other ways.

Together, we can reduce identity theft in Washington. I am enthusiastic about the progress we have made so far and am eager to move forward.

Sincerely,

A handwritten signature in black ink that reads "Rob McKenna". The signature is written in a cursive, slightly slanted style.

Rob McKenna
*Attorney General of
Washington State*

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Introduction

The Washington State Attorney General's Office hosted Washington's first statewide summit to address identity theft on November 2, 2005, in SeaTac. Attorney General Rob McKenna convened the summit, bringing together hundreds of experts from the public and private sectors to discuss how to tackle what has become the fastest-growing crime in the United States.

Law enforcement, prosecutors, identity theft victims, legislators, financial and retail institutions, government agencies, and consumer advocacy organizations were represented.



An Identity Theft Advisory Panel, headed by McKenna and comprised of local leaders, considered suggestions from summit participants to develop a set of recommendations that address the problem of identity theft in Washington.

This report highlights the Advisory Panel's recommendations.

Identity Theft in Washington

Washington ranked 8th in the nation in 2004 for identity theft, as more than 5,600 Washington residents reported they were victims – nearly 20 percent more than 2003. It's estimated that only a fraction of consumers actually report these forms of fraud.

Identity theft crimes cost U.S. consumers more than \$53 billion a year. For many victims, identity theft means more than just a financial nightmare. More and more, victims are also being denied a job or insurance as a result of their credit being destroyed. Or worse, victims have been falsely arrested for crimes they did not commit. Businesses lose an average of \$4,800 per victim, and are increasingly becoming direct targets of identity theft.

Tracking down identity thieves and clearing up the damage they've done is difficult, expensive and time-consuming.

During the 2005 session, the Legislature passed several important laws that make it harder for identity thieves to operate in our state and easier for consumers to protect their personal information. These laws are a good foundation for addressing complex issues, but agencies, businesses and advocacy groups must do more to coordinate their efforts.

Goals for Confronting Identity Theft

The Attorney General's Office, through its identity theft initiatives, is focusing on three specific areas:

- Prevent identity theft crimes.
- Improve victim services.
- Enable successful prosecution.



The primary goal of the summit was to develop suggestions to improve coordination, communication and legislation that would benefit victims, the criminal justice system and the private sector.

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Identity Theft Advisory Panel

The Attorney General's Identity Theft Advisory Panel was charged with shaping the summit goals and agenda, guiding the outcomes, analyzing suggestions and prioritizing steps needed to turn the best ideas into real solutions.

Rob McKenna

Washington State Attorney General
Chair

Nancy Atwood

AeA
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Jenni D'Avis-Pederson

Identity Theft Resource Center
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Regional Director

Mark Johnson

Washington Retailers Association
Government Affairs Director

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Lana Weinmann
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*Assistant Attorney General – Criminal
Justice Division*

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Identity Theft Advisory Panel Recommendations

- *Initiatives*
- *Legislation for 2006*
- *Future Legislation*



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Initiatives

Coordinate a Public Training & Communication Campaign

Proposal:

Coordinate a public education campaign that includes a tool kit for consumers and businesses, mass communication and training.

Components of the campaign may include:

- printed and online materials
- public service announcements
- public presentations on reducing identity theft risk
- training programs for law enforcement on identifying, reducing and prosecuting identity theft
- training programs for business on reducing identity theft, verifying identification of credit applicants, and assisting law enforcement and victims

Context:

Currently, information about identity theft is disseminated through a variety of channels, including government agencies, non-profit organizations and the private sector.



As a result, identity theft victims sometimes feel lost because they do not know who to contact for information or assistance. The potential for conflicting or incomplete information also is a concern.

Many suggestions from the summit called for multiple partners and interest groups to collaborate in education efforts. Summit participants described the need for simple, consistent messages.

Objective:

Prevent identity theft crimes.

Centralize Victims' Services

Proposal:

Determine and promote a one-stop location of resources and assistance for identity theft victims.

Context:

Once someone has become a victim of identity theft, knowing how to resolve the problem is often unclear and burdensome. Processing centralized referrals could help to alleviate frustration, assist in reporting crimes in a timely manner, help victims resolve specific problems resulting from identity theft, and help protect consumers and businesses from further harm.

Objective:

Improve victim services.

Increase Multi-Jurisdiction Coordination

Proposal:

Enhance existing methods of coordination and develop new methods of coordination to investigate and prosecute identity theft cases.

Efforts could include creating a multi-jurisdictional work group, developing a database or expanding access to an existing database, expanding existing listservs, or other initiatives for sharing information among law enforcement, prosecutors and private sector fraud and loss prevention units.

Context:

The crime of identity theft most often occurs in multiple jurisdictions. Both law enforcement and the private sector collect and analyze data regarding identity theft, but too often this information is unavailable or not accessed by the full range of stakeholders. Improving coordination will benefit all investigating agencies and, ultimately, victims.

Objective:

Enable successful prosecution; prevent identity theft crimes; improve victim services.

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Legislation for 2006

Enable a Preventative Credit Report Security Freeze

Proposal:

Amend Washington's credit report security freeze law to allow all consumers, not just victims of identity theft, to request a freeze for prevention purposes.

Context:

Washington state's Fair Credit Reporting Act, RCW 19.182, was amended in July 2005 to allow victims of identity theft the ability to place a freeze on their credit. A security freeze means that a consumer's credit file cannot be shared with potential creditors or insurance companies.

Consumers can request a freeze if they are victims of identity theft or their personal information has been compromised in a security breach. Consumers concerned about the potential for future identity theft who have not been victims, however, do not currently have the option to freeze their credit.

Objective:

Prevent identity theft crimes.

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Create a Safe Harbor for Sharing Information

Proposal:

Establish a safe harbor provision for law enforcement and business to share information about identity theft suspects and victims without being subject to liability if they've cooperated in good faith.

Context:

An attempt to pass such legislation failed in 2003. Substitute Senate Bill 5715 aimed to enable financial institutions and merchants to exchange information for the purposes of preventing, detecting, deterring and assisting in the prosecution of financial fraud, bank robbery, money laundering, and other financial crimes. It would have provided immunity from liability for financial institutions and merchants who participated in a fraud alert network.



Despite bipartisan support, the bill was ultimately returned to the Senate Rules Committee, where it died. This proposal supports an attempt to reintroduce such legislation.

Objective:

Enable successful prosecution.

Authorize and Ensure Interstate Compliance with the Criminal Process

Proposal:

Develop regulations to help ensure that private sector entities, particularly those with headquarters outside Washington, provide information relevant to local criminal and civil investigations.

Context:

Law enforcement investigators frequently need to obtain records from businesses and the private sector relevant to local crimes. Often, private sector entities that conduct business in Washington have headquarters in other states. This proposal would enable law enforcement to better protect victims, including business, and help ensure successful prosecution.

Objective:

Enable successful prosecution.

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Future Legislation

Increase Penalties for Identity Theft Crimes

Proposal:

Better define identity theft and increase penalties for those convicted of identity theft crimes.

Context:

Strict penalties can serve as a deterrent, but striking the balance for an appropriate sentence is often a difficult task. Moreover, identity thieves who prey on particularly vulnerable populations should face stronger sentencing.

There have been attempts to make identity theft a “three strikes” eligible crime. Although this might be too harsh and out of line with crimes that already fall into that category, a work group convened to look at current sentencing guidelines might consider sentencing options not



already in place. At a minimum, a work group could determine 1) whether sentencing ranges need to increase and 2) in what circumstances a criminal might face tougher penalties.

Objective:

Enable successful prosecution; prevent identity theft crimes.

Require Background Checks on State Employees

Proposal:

State government workers who handle personal information, including driver's license data and Social Security numbers, should be subject to background checks as a condition of employment.

Context:

State employees routinely handle personal information in the regular course of business. In at least one known case, workers at a state agency were found to be involved in an identity-theft operation that included the use of information available from their workplace.



Requiring background checks can help reduce the likelihood that personal information related to the public and other state employees falls into the hands of someone with a criminal history.

Objective:

Prevent identity theft crimes.

Provide Funding for Additional Staff in the Washington State Patrol's Identity Theft Unit

Proposal:

Provide funding for additional Washington State Patrol staff dedicated to investigating identity theft crimes.

Context:

The Washington State Patrol currently has just two detectives dedicated full time to investigating identity theft crimes. The State Patrol is in the best position to investigate crimes that occur in multiple jurisdictions within Washington.

Objective:

Enable successful prosecution.

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Incorporate Biometric Data into Driver's Licenses & State Identification

Proposal:

Incorporate biometric data into driver's licenses and state identification cards.

Context:

Biometric data, such as a thumbprint, is useful for verifying identification. California currently requires fingerprinting in conjunction with license renewal. Biometric data is helpful for identifying suspects and can reduce the likelihood of false arrests in identity theft cases.

Objective:

Enable successful prosecution; prevent identity theft crimes; improve victim services.



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Establish Means for Private Sector to Fund Criminal Justice Programs

Proposal:

Establish a means for business and private sector groups to voluntarily help fund criminal justice positions and programs for the prevention, investigation and prosecution of identity theft crimes.

Context:

Businesses benefit from law enforcement and prosecutors who have the skills and time to devote to preventing, investigating and prosecuting identity theft crimes. By partnering with government, the private sector could help enhance and expand existing programs to fight identity theft.



Objective:

Enable successful prosecution; prevent identity theft crimes; improve victim services.

2005 Statewide Identity Theft Summit in Review



Summit Format

Presentations

Four guest speakers were selected by the Advisory Panel to give brief presentations that set the tone of the summit and helped motivate participants. Each provided a different perspective on issues surrounding identity theft.

Victims' perspective: *Ain Jones*, Partner Resources Coordinator for Starbucks. Fraudulent bank accounts, a suspended driver's license, bench warrants, and numerous fines invaded her life five years ago as a result of identity theft.

Business perspectives: *David B. Miner*, Director of Financial Service Industry Solutions for Symantec Corporation, and *Scott Grimes*, Group Team Leader for Target Financial Investigation Services

**Law enforcement/
criminal justice
perspective:** *Susan K. Storey*, Senior Deputy Prosecuting Attorney for the King County Prosecutor's Fraud Division



Small Group Work

Participants at the summit were divided into three basic categories based on their employment and/or area of expertise:

- 1) law enforcement and prosecutors
- 2) private sector/business
- 3) victims and consumer advocates

Participants were asked to sit at a table with up to seven other participants in the same category. This ensured that individuals with similar experiences worked together, while allowing participants some flexibility as to who shared their table.

Legislators and government staff were asked to disburse themselves among these groups.

Professional facilitators were hired to assist in developing the work agenda and keeping participants on task. Participants were engaged.



The small groups spent approximately one hour generating suggestions for each of three issues: coordination, communication and legislation. They were asked to consider what each recommendation would accomplish, parties who would need to be involved in implementing the recommendation, steps to be taken, a timeline, resources, and barriers. These were reported on provided forms.

Suggestions for coordination and communication were collected and reviewed by members of the Advisory Panel, who then prepared a brief summary report of the key strategies and approaches that were recommended.

Small groups were asked to report their suggestions for legislation in a round-robin fashion.



Questions Posed to Participants

Coordination

How can we better coordinate resources across geography and jurisdiction in areas such as investigation, prosecution, victim rehabilitation, intelligence sharing, and others?

Communication

How can we better communicate preventative and responsive information, both within our stakeholder groups and to the general public? Are there information gaps with certain stakeholders that need to be addressed, and how?



Legislation

How can we strategically respond to identity theft with public and industry policies, regulations, interagency and inter-business agreements, and legislation?

Media Coverage

A press conference was conducted on-site during the summit. The summit was attended by representatives from USA Today, The Seattle Times, The Seattle Post-Intelligencer, KING TV, KOMO TV, King County Journal, TVW, and the Washington State Patrol's media services. In addition, advance coverage was provided by KCPQ TV, KTTH radio and KOMO radio.

Media coverage is an important component in educating the public about identity theft.



Summary of Summit Suggestions

The approximately 300 summit attendees submitted more than 150 suggestions in the areas of coordination, communication and legislation. A number of overarching themes emerged.

Coordination

Task Force

A recurring recommendation from summit attendees focused on developing a task force or work group to facilitate investigation and prosecution of criminals across jurisdictions. Suggestions included both regional and statewide formats. Funding was proposed to come from the implementation of seizure laws.

Database

Numerous suggestions focused on facilitating the sharing of information by using databases. Coordinated databases could be used to store data on offenders, victims, and convictions and arrests. Standardized data definitions and reporting could facilitate analysis of identity theft data.

One suggestion was to expand the existing FIT (Fraud and Identity Theft) List, a service similar to a listserv that is administered by the Seattle Police Department.

Victim Services

Suggestions for coordinating victim services included centralizing victim resources, including a one-stop location for resources and assistance. Coordination could also help victims by supporting them with recovery groups, and by helping to facilitate the interaction between victims and law enforcement.



Education

Education is an important component in preventing identity theft as well as informing the response to the crime by law enforcement and the private sector. Summit participants suggested coordinating education efforts to create a common understanding of the crime by both the criminal justice and private sectors.

Providing a centralized information site for consumer/victim education would also provide for an authoritative resource on identity theft that could easily be managed and kept up to date for all stakeholders.

Communication

Public Outreach

Participants indicated a need for increased public education and outreach. Ideas included:

- a statewide, multi-jurisdictional education campaign involving the range of stakeholders
- a hotline for victims to receive information
- a method for law enforcement to send electronic alerts to the public
- publicity materials to broadly distribute information
- public information workshops
- statewide events to generate broad-based awareness of the issue
- outreach to historically underserved groups

Education Materials

Many suggestions mentioned a need for educational materials that could be used by all stakeholders. These included informational packets to help businesses and consumers prevent identity theft and to assist victims; a central Web site and online tools; educational training aids; and talking points for presentations and speeches to businesses and consumers.

Youth Education

Some participants recommended establishing prevention programs in schools. Suggestions included incorporating a section on identity theft into high school finance classes; delivering public safety messages at elementary schools; and conducting an annual presentation about identity theft prevention at public school assemblies.

Business Education

Business was viewed as a valuable partner in the fight against identity theft. A number of suggestions focused on educating businesses, particularly retailers and financial institutions, about identity theft and helping businesses educate their customers.

Suggestions included educating businesses about ways to prevent identity theft; encouraging businesses to check ID when conducting credit card sales; and developing informational packets for small businesses, to be distributed through chambers of commerce to new members.

Law Enforcement Training and Communication Tools

Training for law enforcement was recommended to help ensure that all jurisdictions clearly understand when an identity theft crime has been committed and to provide uniform enforcement of identity theft laws.

Several suggestions described the need for an electronic database accessible to all law enforcement. (This suggestion is described above in more detail in the coordination section.)

Another recommendation called for regular meetings of detectives within communities to facilitate better communication and suggesting incorporating messages about identity theft into community-oriented policing efforts.

One recommendation focused on the need for a “confirmed identity theft flag,” or method to help law enforcement identify an identity theft victim or suspect and prevent false arrests.



Public Service Announcements

Multiple suggestions focused on developing public service announcements to advise the public about how to prevent and report identity theft. Suggestions also mentioned incorporating messages from high-profile leaders and victim testimonials.

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Legislation

Investigation

Many summit attendees represented law enforcement. Participants provided multiple suggestions about how their investigative work could be made more efficient and effective with legislative changes.

Suggestions included establishing a safe harbor provision whereby police and business would not be subject to liability if they've cooperated in good faith.

Along similar lines, participants indicated that investigations would be helped by ensuring that out-of-state businesses comply with Washington subpoenas. They offered several suggestions to that effect, including requiring disclosure of documents from financial institutions to police without warrants and empowering prosecutors/officers to issue administrative subpoenas. If law enforcement cannot get access to records without a subpoena, victims should be able to obtain the records without a subpoena.

Suggestions included changing rules regarding evidence or business records to allow records to be authenticated by affidavit, rather than in person. Similarly, cases with witnesses or victims all over the country should be done through video testimony to reduce major trial expenses.

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Identification

Summit participants shared a common idea of requiring other types of identification to verify personal identification. It was widely suggested that thumbprints or biometric data be added to driver's licenses and identification cards as a way to prove valid identification.

Another idea included creating a mechanism for tracking name changes throughout the country or at least in the state. One group thought that the use of Radio Frequency Identifying technology should be banned for identification documents.



Consumer/Victims

Many ideas focused on what could be done to protect people from becoming victims of identity theft and making the experience of the victim easier.

Preventative ideas include tightening access and disclosure of personal information. Participants felt that public disclosure laws should better protect information in the hands of government about citizens. They also said government employees handling sensitive personal information should be subject to background checks.

Many participants said the credit freeze statute should be amended to include all consumers, not just victims of identity theft.

Other ideas included requiring locking mailboxes for new residential construction projects; banning “convenience checks” that accompany credit offers; and providing victims with special identification cards.

Business Practices

Most agreed that there should be a safe harbor provision for business to protect them from liability when they provide information to law enforcement or consumers in good faith.

Legislative ideas directed toward business typically focused on protection of personal information and changing business practices that might lead to theft of information. Some participants believe that business needs to make it harder for criminals to open fraudulent credit lines; and that unique credit identifiers should be used in lieu of Social Security numbers.

Some believe that business needs to better protect data and should be more financially responsible where a data breach occurs. Another group thought that there should be increased penalties if a business doesn't verify consumer information before making a fraudulent transaction.

Other ideas geared toward business included revisiting Washington's electronic authentication act to complement requirements of the new FDIC

authentication act, which might promote more secure online banking. A few groups suggested expanding federal jurisdiction of ATM crimes as wire fraud and allowing local prosecutors to prosecute the cases. Finally, one group suggested limiting/making it illegal to resell “known” identity theft debts.

Penalties/Defendants

Summit attendees also suggested a number of legislative ideas related to defining identity theft crimes and related penalties. A major theme expressed by many participants was that the term identity theft and other relevant crimes needs to be better defined. It was suggested that the criminal code needs to be reorganized in such a way that all identity theft crimes are described in one location.

Many participants cited a need for stricter penalties. This includes more severe penalties for possession of stolen/fraudulent identification cards; possession of electronics or other tools used to commit identity theft; mail theft; repeat offenders and crimes committed in tandem with methamphetamine.

A suggestion was to designate identity theft as a personal crime, instead of a property crime. Participants suggested lengthening the statute of limitations for prosecuting all related crimes.

Many groups suggested creating a seizure provision and/or mandatory restitution, with proceeds funding enforcement and programs to assist victims.

