

## CLC PRACTICE POINT

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# IDENTITY THEFT AND YOUR CLIENT

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Identity theft has become a significant problem for youth in foster care. According to one report, up to one half of all youth who age out of foster care find that they've been robbed of their identity.<sup>1</sup> This can have devastating effects when youth begin living independently. They may be unable to rent an apartment, obtain a car loan or financial aid, open a checking account or credit card, or renew their driver's license. They may receive bills or collection notices, be denied SSI or welfare services, or even be arrested for activity in which they were not involved.<sup>2</sup> In recognition of this problem, two states have passed laws<sup>3</sup> that require social services to investigate the credit history of older foster youth and initiate corrective action.<sup>3</sup>

Foster youth need information about preventing, detecting, and addressing identity theft as they learn to manage their financial affairs independently. Money management is an important part of the independent living plan development process. As an attorney for foster youth, you can both educate your clients about identity theft, and educate the court and other professionals about the importance of checking and repairing credit before foster youth leave juvenile court's jurisdiction.

### COUNSELING YOUR CLIENT ON HOW TO PREVENT AND DETECT IDENTITY THEFT

#### Preventing

The first step is to counsel your client on how to restrict their personal information from being accessible to others. This can be a problem for foster youth, as they may not have much control over who has access to their personal information. You can remind them, however, that they do have control over the people with whom they choose to share their personal information. The following are a series of pointers for foster youth about protecting their personal information.<sup>4</sup>

- Do not carry all your personal information with you. Keep it in a safe place.<sup>5</sup>

<sup>1</sup> Eli Stokols, KDVR Denver, Colorado. Lawmaker Pushes to Protect Foster Kids from ID Theft, (Feb. 17, 2011), available at [www.kdvr.com/news/politics/kdvr-lawmaker-pushes-to-protect-foster-kids-from-id-theft-20110217\\_0\\_1560736.story](http://www.kdvr.com/news/politics/kdvr-lawmaker-pushes-to-protect-foster-kids-from-id-theft-20110217_0_1560736.story).

<sup>2</sup> Identity Theft Resource Center, ITRC Fact Sheet 120 - Identity Theft and Children, (Dec. 5, 2009), available at [http://www.idtheftcenter.org/artman2/publish/v\\_fact\\_sheets/Fact\\_Sheet\\_120.shtml](http://www.idtheftcenter.org/artman2/publish/v_fact_sheets/Fact_Sheet_120.shtml).

<sup>3</sup> In 2006, California passed a law requiring their social service agencies to check the credit report of foster youth before they are emancipated and to refer the youth to a credit counseling agency if there are any problems. In 2010, Connecticut enacted a similar measure requiring the Commissioner of Children and Families to check the credit report annually of its foster youth 16 and older and to report any indication of identity theft to the state's attorney and to the youth and their workers. First Star & The Children's Advocacy Institute, *The Fleecing of Foster Children: How We Confiscate Their Assets and Undermine Their Financial Security*, (2011) at 18-20, available at [http://www.caichildlaw.org/Misc/Fleecing\\_Report\\_Final\\_HR.pdf](http://www.caichildlaw.org/Misc/Fleecing_Report_Final_HR.pdf).

<sup>4</sup> Federal Trade Commission, *Fighting Back Against Identity Theft*. Consumers, Deter: Minimize Your Risk, Detect Identity Theft, <http://www.ftc.gov/bcp/edu/microsites/idtheft/consumers/index.html> (last visited April 24, 2011). Office of the Minnesota Attorney General, *Guarding Your Privacy: Tips to Prevent Identity Theft*, (July 2007), available at <https://www.ag.state.mn.us/Brochures/pubGuardingYourPrivacy.pdf>. ITRC Fact Sheet 120, supra note 2.

<sup>5</sup> Personal information that should be kept in a safe place includes your Social Security card or number, account numbers, and passwords. *Fighting Back Against Identity Theft*, supra note 4.

- If you notice that your wallet, purse, bag, or phone is missing, contact your social worker as soon as possible so that the loss can be reported. Be on the look-out for signs that someone else is using your identity.
- Shred or rip up mail and documents that include personal information before you throw them out.
- Place out-going mail that includes personal information in a mail slot, not in an accessible mail-box.
- Be wary when giving out your personal and banking information, especially if the other person contacted you first. No one should ever ask for your PIN number or passwords.
- Be wary when using your debit card over the phone or online, especially if the other person contacted you first.

## Detecting

It is also important to counsel your client to keep an eye out for signs that their identity has been stolen. Detecting identity theft early can have a big impact on minimizing the damages.

- If you notice you are not receiving bills or other mail that you should, call your bank, phone carrier, etc.
- If you receive a notice from the post office that your address has been changed, contact the post office immediately.
- Monitor and review bank statements, phone bills, and other documents to make sure there were no unauthorized transactions.
- If you receive pre-approved credit offers in the mail or phone calls from telemarketers, this could be a sign that there was unauthorized activity under your name. Contact your social worker immediately.
- Once you turn 18, take it upon yourself to review your credit reports at least once a year to make sure the information is accurate and that no unauthorized accounts have been opened in your name.
  - The ONLY website to review your FREE credit reports is: [www.AnnualCreditReport.com](http://www.AnnualCreditReport.com).<sup>6</sup>

## CHECKING YOUR CLIENT'S CREDIT

The independent living plan process begins when a youth turns sixteen. This is a good time to have your client's credit checked. Ask the court to order the social services agency to check your client's credit report with each of the three credit reporting agencies. Judges may not be familiar with this process. If the judge is hesitant, explain the prevalence of identity theft among foster youth and the significant problems it creates. Explain to the judge that other states have already passed laws requiring the social service agency to check a foster youth's credit.

If the social services agency is hesitant or does not know how to check a youth's credit, offer to provide them resources on how to do so. The Identity Theft Resource Center has a fact sheet with detailed information on how to order a youth's credit report.<sup>7</sup> Unless your client has opened a credit card, the response from the credit bureau should be that no credit report exists for your client.<sup>8</sup>

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<sup>6</sup> [ITRC Fact Sheet 120](#), supra note 2. Fighting Back Against Identity Theft. Consumers, supra note 4. Guarding Your Privacy, supra note 4.

<sup>7</sup> Identity Theft Resource Center, ITRC Fact Sheet 120A – Ordering a Child's Credit Report, (Dec. 5, 2009), available at [http://www.idtheftcenter.org/artman2/publish/v\\_fact\\_sheets/Fact\\_Sheet\\_120\\_A\\_-\\_shtml](http://www.idtheftcenter.org/artman2/publish/v_fact_sheets/Fact_Sheet_120_A_-_shtml). While the information is geared toward a parent requesting the credit report of their child, TransUnion ask that: 'If the requestor is a guardian, but not a parent, he/she should state that and additionally include any documentation that would legally appoint them as the guardian.'

<sup>8</sup> It is rare for foster youth under 18 to have a credit card as they would need a guardian to co-sign.

NOTE: It may not be a good idea to have your client's credit report checked more than once before they turn 18, because multiple inquiries can create a credit record for a minor.<sup>9</sup>

### HELPING YOUR CLIENT RECOVER FROM IDENTITY THEFT

If your client has become a victim of identity theft, it's important to be proactive and persistent when working with the court and social service agencies because recovering from identity theft can be a complex, expensive and time consuming process.<sup>10</sup> There are resources available to learn about recovering from identity theft.<sup>11</sup> Some general steps that should be taken include:<sup>12</sup>

- Make a request to each of the three credit bureaus to place a fraud alert and security freeze on the youth's name and SSN.
- Contact the child's bank, cell phone carrier, and any other account they have. Close all accounts that are believed to have been compromised and change the account number on accounts that aren't closed.
- Report the crime to the local police or sheriff as soon as the identity theft is discovered. Keep a copy of the incident report. It is also suggested that you file a report with the Federal Trade Commission (FTC).
- Notify the Drivers' Licenses Bureau.
- Keep notes on all the conversations you have and confirm conversations and requests in writing. Keep copies of correspondence and send any mail by certified mail.

### CONCLUSION

Unfortunately, identity theft has become a widespread problem among youth in foster care, many of whom have already experienced countless other challenges in their lives. As an attorney for foster youth, it is important that you counsel your client on how to prevent, detect, and recover from identity theft. It is also important that you work with the court and other professionals to have your client's credit checked (and repaired if necessary) before they leave the foster care system. This will lessen the chance that your client will have to deal independently with the burden of recovering from identity theft and the devastating effects it can have.

If you have any questions or require any help with these issues, please call Children's Law Center of Minnesota at 651.644.4438.

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<sup>9</sup> ITRC Fact Sheet 120A, *supra* note 6. The credit bureaus actually advise not to check a child's credit report at all unless there is suspicion that the child's credit has been compromised. *Id.* However, the facts that California automatically checks the credit reports of all of its foster youth and that Connecticut has decided to check annually after the child turns 16, indicate the severity of the problem of identity theft among foster kids and the need to monitor their credit.

<sup>10</sup> *Fleecing of Foster Children*, *supra* note 3 at 19.

<sup>11</sup> ITRC Fact Sheets 100, 100A, *supra* notes 2 & 6, and the additional Fact Sheets to which they refer *Guarding Your Privacy*, *supra* note 4 at 19-35; *Fighting Back Against Identity Theft, Defend: Recovering from Identity Theft*, *supra* note 4.

<sup>12</sup> [ITRC Fact Sheet 120](#), *supra* note 2. *Fighting Back Against Identity Theft. Consumers*, *supra* note 4. *Guarding Your Privacy*, *supra* note 4.