



# Robbed Behind Bars: Identity Theft Committed Against Incarcerated Victims

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Identity theft is a big problem with hidden victims.

Identity theft is a multi-billion dollar problem in the United States.<sup>1</sup> In 2021, nearly 24 million people were victims of identity theft, and it was the single most common complaint in the Federal Trade Commission’s (FTC) law enforcement database.<sup>2</sup> While people may assume that identity theft victims are wealthy, identity theft harms people across the economic spectrum. A U.S. Department of Justice (DOJ) survey shows that more than one-third of identity theft victims earn less than the national median income.<sup>3</sup> Furthermore, federal agencies and consumer complaints suggest another surprising fact: identity theft is a major problem for incarcerated people.<sup>4</sup>

## *What is identity theft?*

The DOJ defines identity theft as the:

- unauthorized use or attempted use of an existing account;
- unauthorized use or attempted use of personal information to open a new account; or
- misuse of personal information for a fraudulent purpose.<sup>5</sup>

Identity theft most often involves credit cards, followed by bank accounts and email or social media.<sup>6</sup> Identity thieves may also open utility accounts or take out student loans in someone else’s name. In 2021 alone, identity theft cost consumers at least \$16 billion. But it also cost victims untold hours of lost time resolving the consequences, as well as emotional distress.<sup>7</sup>

## *How do incarcerated people become identity theft victims?*

Nearly two million people are currently incarcerated in the United States.<sup>8</sup> According to the IRS, incarcerated people are “frequently” victims of identity theft.<sup>9</sup> Federal Student Aid has similarly reported that “[u]sing the identities of incarcerated people to steal federal financial aid money is a well-documented scam . . . .”<sup>10</sup>

People in jail or prison are particularly vulnerable to identity theft for a number of reasons. People who had “thin” credit files<sup>11</sup> when they were arrested or who have been incarcerated for a long time may be targeted because they have no record of bad debt. As a result, their Social Security numbers can be used to open new accounts.<sup>12</sup>

In addition, for multiple reasons, including lack of taxable income and limited access to financial records, incarcerated people are unlikely to file tax returns. This leaves them exposed to fraud by someone on the outside who has access to their Social Security number and uses it to file a false return to claim an unmerited tax refund.<sup>13</sup>

Incarcerated people are also at risk of identity theft because of how walled off they are from the free world. They have restricted access to telephones, video calls, mail, and electronic messaging, and typically are not allowed to access the internet (or, if they are, they typically

may only visit a small number of white-listed webpages).<sup>14</sup> Communications can also be prohibitively expensive.<sup>15</sup>

These access and cost limitations not only make incarcerated people more vulnerable to identity theft in the first instance, but also make them less likely to discover and address it. Incarcerated people have limited ability to monitor their credit reports and dispute incorrect information,<sup>16</sup> they may not receive text or emailed fraud alerts or other communications that could put them on notice of unauthorized account opening or usage, and they are less likely to notice anyone misusing their name or Social Security number. According to the DOJ, 27% of identity theft victims discovered the theft only when a financial institution called them.<sup>17</sup> Incarcerated people cannot get such a warning.

Even if an incarcerated person is able to timely discover that they have been the victim of identity theft, they face significant barriers to rectifying the problem. The Consumer Financial Protection Bureau (CFPB) recommends a number of steps for identity theft victims to take,<sup>18</sup> but some are impractical or potentially impossible for people who are incarcerated. Barriers to self-help for incarcerated victims can include:

- inability to access information explaining how to address identity theft;
- inability to access the documents and other resources needed to dispute fraudulent information on their consumer report;
- limited ability to contact and communicate with credit reporting agencies to dispute inaccurate information and to request a credit freeze;
- difficulty filing a report on IdentityTheft.gov; and
- difficulty filing a police report, depending on the type and location of the correctional facility.

Some time after Stacy was admitted to prison in 2017, someone used her name to open an electric and gas utility account. When Stacy came home, she needed an account from the same company for her new apartment. But the other person had run-up a large arrearage and the utility company wouldn't let Stacy open an account until it was paid. Stacy explained that the account was the result of identity theft. The utility company contacted the person who opened the account, and they falsely claimed Stacy had authorized use of her name. The utility rejected Stacy's claim of ID theft, so she ultimately had to pay someone else's arrearage to get utilities established in her new apartment.

*Interview on file with NCLC (June 3, 2024)*

Another complicating factor is that sometimes the person committing identity theft is someone with access to the victim's personal documents, such as a relative, friend, or former roommate. Cases of identity theft sometimes start as "identity sharing," before or during incarceration. Identity sharing involves the authorized use of another person's identity information "to manage different forms of debt."<sup>19</sup> People may enter into these types of arrangements to open a utility account, register vehicles, or open bank accounts, for example.<sup>20</sup> While these arrangements begin with authorization, they may transition to abuse after the individual providing the identity is incarcerated and the other person continues to use shared information to open new, unauthorized accounts or fails to pay the balance due on an authorized debt.

In some instances, correctional facility employees have abused their access to confidential records to steal incarcerated people's identities.<sup>21</sup>

### *The consequences of identity theft targeting people who are incarcerated harm the victim and society.*

When people leave incarceration, the consequences of identity theft become yet another barrier to successful reentry. People leaving incarceration are already extraordinarily economically disadvantaged.<sup>22</sup> Those grappling with identity theft can face the additional burden of bad credit or being saddled with someone else's debts, either of which can make it even harder and more expensive to secure housing, get a job, establish utility accounts, get a cell phone, open a bank account, or establish other forms of credit.<sup>23</sup> Increased barriers to securing these necessities of life on the outside, in turn, further hinder successful reintegration and increase the risk of recidivism.<sup>24</sup>

Mrs. S. was released from prison about five years ago, but an identity thief is still using her name to open new utility accounts. The thief also rented an apartment in another state using her name. She believes they originally targeted her when newspapers reported her arrest. The utility told her to file a police report, but she is on probation and is afraid to enter a police station. She finally found an officer who would take her report by phone. Mrs. S. suspects that the fraudulent accounts are the reason her credit card applications were denied. She wishes she had known about the risk of identity theft and the option to freeze her credit at the time she was incarcerated.

*Interview on file with NCLC (Nov. 15, 2024)*

## Recommendations

Federal agencies and state correctional facilities should take action to help incarcerated people prevent and address identity theft. Public and private agencies assisting with reentry should help clients review their credit reports for signs of identity theft and help address the consequences.

### *The Federal Trade Commission (FTC), Consumer Financial Protection Bureau (CFPB), the Department of Justice (DOJ), and the Department of Education (ED)*

The **FTC** and **CFPB** should do more outreach to ensure that incarcerated people know how to avoid identity theft and what to do if it happens to them. These efforts should include:

- Working with federal and state correctional agencies, as well as with the private companies that provide electronic tablets in correctional facilities, to ensure that webpages with information about identity theft and credit freezes are accessible to incarcerated people. Such webpages include:
  - The CFPB Guide, [What do I do if I've been a victim of identity theft?](#)
  - The FTC's [comprehensive resource on identity theft](#), and
  - USA.gov's [How to place or lift a security freeze on your credit report](#).

- Ensuring that incarcerated people can effectively report identity theft through the mail—the only method available for most incarcerated people. To do so, the FTC should:
  - Create an easy-to-use, paper complaint form that requests all necessary information; make it available on the FTC’s website and on request; and create an internal process for accepting, reviewing, and confirming receipt of complaints. To ensure that the agency can communicate with the person reporting identity theft and for data collection purposes, the form should indicate whether and where the person is incarcerated.
- Working with correctional facilities to reduce barriers to reporting consumer abuses such as identity theft, as detailed in the National Consumer Law Center’s issue brief, [Captive Concerns: Incarcerated People Face Obstacles to Reporting Consumer Abuses](#).
- Placing educational “advertisements” about identity theft in publications that incarcerated people and their families read.

The **FTC**, **CFPB**, **ED**, and **DOJ** should collect and publish comprehensive data about instances of identity theft experienced by justice-involved people. For example:

- The DOJ’s Bureau of Justice Statistics should add questions regarding incarceration to its bi-annual [Identity Theft Supplement to the National Crime Victimization Survey](#).
- The Department of Education should report the number of identity theft complaints involving student loans that are filed by justice-involved people.

### *Correctional Facilities*

Correctional facilities should:

- During the intake process and annually thereafter, advise incarcerated people about their right to request a credit freeze in order to prevent anyone from opening new credit accounts in their name without permission.<sup>25</sup>
- Provide access to the resources needed to request a credit freeze and assist those who need help doing so.
- Make educational information about identity theft and self-help materials available in the prison library.
- Ensure that incarcerated people are able to securely save the PIN that credit reporting agencies typically provide in response to freeze requests.
- Assist incarcerated people in regularly monitoring their credit reports and financial accounts. This should include:
  - Allowing incarcerated people to access relevant websites, such as [www.AnnualCreditReport.com](http://www.AnnualCreditReport.com) (where people can request free credit reports from the Big Three credit bureaus).
  - Ensuring that trained counselors are familiar with the steps necessary to rectify identity theft and available to help.
  - Incorporating a credit report review into the reentry counseling process.
- Protect any personally identifying information in their systems, including by limiting the number of employees who have access to such information. Facilities should also take

action against employees who abuse their positions to steal incarcerated people's identities.

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## Endnotes

1. Erika Harrell & Alexandra Thompson, U.S. Dep't of Just., Office of Just. Programs, Bureau of Just. Statistics, *Victims of Identity Theft*, 2021, at 1 (2023), <https://bjs.ojp.gov/library/publications/victims-identity-theft-2021>.
2. *Id.* at 1; Fed. Trade Comm'n, *Consumer Sentinel Network Databook 2021*, at 4 (2022), [https://www.ftc.gov/system/files/ftc\\_gov/pdf/CSN%20Annual%20Data%20Book%202021%20Final%20PDF.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/CSN%20Annual%20Data%20Book%202021%20Final%20PDF.pdf). The Consumer Sentinel Network is an online database of complaints filed by consumers, nonprofit organizations, and corporations, as well as local, state, and federal law enforcement organizations. The Consumer Sentinel Network itself is available only to law enforcement partners, though aggregated information is available through the Consumer Sentinel Network Data Book and online in an interactive format. *Id.* at 2; Fed. Trade Comm'n, *Explore Data*, <https://www.ftc.gov/news-events/data-visualizations/explore-data> (last visited Dec. 6, 2024).
3. Harrell & Thompson, *supra* note 1, at Table 2; see also Fed. Reserve Bank of St. Louis, *Real Median Household Income in the United States (MEHOINUSA672N)*, <https://fred.stlouisfed.org/series/MEHOINUSA672N> (last visited Dec. 6, 2024).
4. See, e.g., Dep't of Ed., *Fed. Student Aid, Fiscal Year 2023 Annual Report 139* (2023) [hereinafter *FSA FY 2023 Annual Report*], <https://studentaid.gov/data-center/business-info/strategic-planning-and-reporting> (stating that “[m]any of the incarcerated and formerly incarcerated complainants are not actually student loan borrowers; they are identity theft victims”); Press Release, U.S. Attorney's Off. Central Dist. of Cal., *Three Women Indicted for Alleged Scheme That Used Prison Inmates' Identities to Fraudulently Obtain Federal Student Loans* (Mar. 3, 2023), <https://www.justice.gov/usao-cdca/pr/three-women-indicted-alleged-scheme-used-prison-inmates-identities-fraudulently-obtain>; Treasury Inspector Gen. for Tax Admin., *Prisoner Tax Refund Fraud: Delays Continue in Completing Agreements to Share Information With Prisons, and Reports to Congress Are Not Timely or Complete 13* (2014) [hereinafter *Treasury Inspector Gen. 2014 Report*], <https://www.govinfo.gov/app/details/GOVPUB-T-PURL-gpo43142> (“According to the IRS, inmates are frequently also victims of identity theft, which can lead to an overstatement of fraudulent returns filed by prisoners.”); Lyn E. Haralson, *Fed. Reserve Bank of St. Louis, The Old, Young and Incarcerated: Latest ID Theft Victims* (2011), <https://www.stlouisfed.org/publications/bridges/winter-20102011/the-old-the-young-and-the-incarcerated-latest-id-theft-victims>. See generally, Annie Harper, Tommaso Bardelli, & Stacey Barringer, “Let Me Be Bill-free”: Consumer Debt in the Shadow of Incarceration, 63 *Sociological Perspectives* 978, 989–92 (2020); Consumer Fin. Prot. Bureau, *Justice-Involved Individuals and the Consumer Marketplace 26* (2023) [hereinafter *CFPB, Justice-Involved Individuals Report*], <https://www.consumerfinance.gov/data-research/research-reports/justice-involved-individuals-consumer-financial-marketplace/>.
5. Bureau of Just. Statistics, *Identity Theft and Financial Fraud*, <https://bjs.ojp.gov/topics/crime/identity-theft> (last visited Dec. 5, 2024).
6. Harrell & Thompson, *supra* note 1, at 1 (Fig. 1).

7. *Id.* at 8, 10–11.
8. Wendy Sawyer & Peter Wagner, Prison Pol’y Initiative, Mass Incarceration: The Whole Pie 2024 (2024), <https://www.prisonpolicy.org/reports/pie2024.html> (including state and federal prisons, local jails, juvenile correctional facilities, immigration detention facilities, Indian country jails, military prisons, civil commitment centers, state psychiatric hospitals, and prisons in the U.S. territories).
9. Treasury Inspector Gen. 2014 Report, *supra* note 4, at 13 (“According to the IRS, inmates are frequently also victims of identity theft, which can lead to an overstatement of fraudulent returns filed by prisoners.”).
10. FSA FY 2023 Annual Report at 139.
11. A thin credit file or no credit file means that a person lacks a credit history or does not have enough current credit history to produce a credit score. See Consumer Fin. Prot. Bureau, Credit Reports and Scores: Key Terms, <https://www.consumerfinance.gov/consumer-tools/credit-reports-and-scores/answers/key-terms/#credit-invisible> (last visited Dec. 6, 2024).
12. Haralson, *supra* note 4.
13. See Treasury Inspector Gen. 2014 Report, *supra* note 4; Treasury Inspector Gen. for Tax Admin., Further Efforts Are Needed to Ensure the Internal Revenue Service Prisoner File Is Accurate and Complete (2012), <https://www.tigta.gov/reports/audit/further-efforts-are-needed-ensure-internal-revenue-service-prisoner-file-accurate-and-complete>; Treasury Inspector Gen. for Tax Admin., Significant Problems Still Exist With Internal Revenue Service Efforts to Identify Prisoner Tax Refund Fraud (2010), <https://mediaassets.news5cleveland.com/uploads/WEWSInmate/IRSINMATEFRAUD2010REPORT.pdf>.
14. Student Borrower Prot. Ctr. & Nat’l Consumer L. Ctr., Collection at All Costs: Examining the Intersection of Mass Incarceration and the Student Debt Crisis 8 (2022), <https://www.nclc.org/resources/collection-at-all-costs-examining-the-intersection-of-mass-incarceration-and-the-student-debt-crisis-2/>; Jules LeFort, Am. Libraries, Closing Access Gaps (Nov. 1, 2023), <https://americanlibrariesmagazine.org/2023/11/01/closing-access-gaps/>.
15. The cost of phone and video calls remains prohibitively expensive for many people, though calls are becoming more affordable nationwide thanks to passage of the Martha Wright-Reed Just and Reasonable Communications Act in 2023 and FCC rulemaking. See, e.g., Incarcerated People’s Communications Services; Implementation of the Martha Wright-Reed Act, Report & Order, Order on Reconsideration, Clarification and Waiver, and Further Notice of Proposed Rulemaking, WC Docket No. 23-62, FCC 24-75 (rel. July 22, 2024) (adopting per-minute rate caps for phone calls, setting interim per-minute rate caps for video communications, prohibiting site commissions, and barring fees separate from the rate). Some state and local governments have also made phone calls free. See Alex Burness, Massachusetts Is Making Communications Free for Incarcerated People, Bolts (Aug. 4, 2023), <https://boltsmag.org/massachusetts-prison-jail-phone-calls/>.
16. See CFPB, Justice-Involved Individuals Report, *supra* note 4, at 25–26.
17. Harrell & Thompson, *supra* note 1, at 5.
18. Consumer Fin. Prot. Bureau, What do I do if I’ve been a victim of identity theft? (Feb. 27, 2024), <https://www.consumerfinance.gov/ask-cfpb/what-do-i-do-if-i-think-i-have-been-a-victim-of-identity-theft-en-31/>.
19. Harper et al., *supra* note 4, at 990.
20. See *id.* at 990–91.
21. Christopher Zoukis, *Corrections Officials Stealing Prisoners’ Identities a Growing Problem*, Prison Legal News (Dec. 8, 2016),

<https://www.prisonlegalnews.org/news/2016/dec/8/corrections-officials-stealing-prisoners-identities-growing-problem/> (collecting cases).

22. Incarcerated people have especially limited financial resources: the median income among people *entering* prison is 41 percent less than the national average. Bernadette Rabuy & Daniel Kopf, Prison Pol’y Initiative, *Prisons of Poverty: Uncovering the Pre-Incarceration Incomes of the Imprisoned* (2015), <https://www.prisonpolicy.org/reports/income.html>. And people have virtually no ability to earn meaningful wages while they are incarcerated. Wendy Sawyer, *How Much Do Incarcerated People Earn in Each State?*, Prison Pol’y Initiative (Apr. 10, 2017), <https://www.prisonpolicy.org/blog/2017/04/10/wages/> (showing average hourly wages of 14¢ to 63¢ for typical prison jobs). People *leaving* incarceration are even worse off financially. See, e.g., Terry-Ann Craigie et al., Brennan Ctr. for Just., *Conviction, Imprisonment, and Lost Earnings: How Involvement with the Criminal Justice System Deepens Inequality*, 6 (2020), <https://www.brennancenter.org/our-work/research-reports/conviction-imprisonment-and-lost-earnings-how-involvement-criminal> (finding that “[o]n average, formerly imprisoned people earn nearly half a million dollars less over their careers than they might have otherwise,” that “[t]hese losses are borne disproportionately by people already living in poverty,” and that “they help perpetuate it”).
23. See Bd. of Governors of the Fed. Res. Syst., *Credit Reports and Credit Scores* (undated) (“Your credit history is important to a lot of people: mortgage lenders, banks, utility companies, prospective employers, and more.”), <http://www.federalreserve.gov/consumerinfo>; Fed. Trade Comm’n, *FTC Facts for Consumers: Utility Credit* (2024); Chi Chi Wu, Ariel Nelson, April Kuehnhoff, & Caroline Cohn, Nat’l Consumer L. Ctr., *Digital Denials: How Abuse, Bias, and Lack of Transparency in Tenant Screening Harm Renters* 7, 9 (2023), <https://www.nclc.org/resources/digital-denials-how-abuse-bias-and-lack-of-transparency-in-tenant-screening-harm-renters/>; (describing the information that appears on tenant screening reports and how low credit scores can lead to denials of rental housing applications); Amy Traub, *Demos, Discredited: How Employment Credit Checks Keep Qualified Workers Out of a Job* (2014), <https://www.demos.org/research/discredited-how-employment-credit-checks-keep-qualified-workers-out-job>.
24. See, e.g., FSA FY 2023 Annual Report, *supra* note 4, at 139–40; Ctr. for L. and Social Policy, *No More Double Punishments: Lifting the Ban on SNAP and TANF for People with Prior Felony Drug Convictions* (2022), <https://www.clasp.org/publications/report/brief/no-more-double-punishments/> (citing research showing that the financial stability provided by access to SNAP and TANF benefits reduces recidivism); Carlos Fernando Avenancio-León, *Without access to credit, ex-cons may return to lives of crime*, *The Hill* (Mar. 5, 2019), <https://thehill.com/opinion/finance/432646-without-access-to-credit-ex-cons-may-return-to-lives-of-crime/> (describing research noting link between lack of access to credit and recidivism).
25. See Fed. Trade Comm’n, *Credit Freeze or Fraud Alert: What’s Right for Your Credit Report*, <https://consumer.ftc.gov/articles/what-know-about-credit-freezes-fraud-alerts>, (last visited Dec. 6, 2024).