



What is the Law Foundation?

The Law Foundation of Silicon Valley is a nonprofit leader that advances the rights of under-represented individuals and families in our diverse community through legal services, strategic advocacy, and educational outreach.

We focus on three areas: **housing**, **children's rights**, and **health** (including mental health) throughout Silicon Valley, but predominantly in Santa Clara County. The majority of our clients are low-income and our legal services are free of charge.

The Law Foundation was established in 1974 and now has 90 staff members, 50 of whom are attorneys. The remaining staff are social workers and critical members of our intake and administrative support teams.

Agenda: What We Will Cover Today

1. Understanding the Impact of Identity Theft on Foster Youth
2. The Nuts and Bolts of Identifying Errors and/or ID Theft on Foster Youth Credit Reports
3. Effective Methods for Remediating Foster Youth Credit Reports and Other Advocacy

Introduction to Identity Theft

- Identity theft is one of the fastest-growing crimes in the U.S.
- **Credit Identity Theft:** Using someone else's personal, identifying information to spend or borrow money



- Identity thieves can “drain your bank account, run up charges on your credit cards, open new utility accounts, or get medical treatment on your health insurance.”

Why Identity Theft Affects Foster Youth

Youth are
35X
more like to be victims
than adults

Between
8%-10%
of CA foster youth are victims
of identity theft

There is no national data on the number of foster youth victimized by identity theft.

Foster youth are hit especially hard by identity theft due to the inherent disadvantages of being in the dependency system. In 2015, more than 20,000 young people aged out of foster care without permanent families. Research has shown that those who leave care without being linked to forever families have a higher likelihood than youth in the general population to experience homelessness, unemployment and incarceration as adults.

Why Identity Theft Affects Foster Youth

- Foster youth are more vulnerable to identity theft because of their involvement in the dependency system.
- Foster youth are often victimized by the caregivers whose abuse and/or neglect led them to be in the foster care system in the first place.



Client Stories

“Tasha” was preparing for college and was unable to take out a loan due to outstanding debts for accounts opened in her name.

- Client believed that someone in the foster care system misused her identity.
- We helped her with a FTC report and dispute letters.



Why Identity Theft Affects Foster Youth

“ Unfortunately, identity theft among foster youth usually isn’t discovered until after they have ‘aged out’ of the foster care system, and have lost the resources and support needed to fix the problems.

For these youth, adulthood will begin with credit histories that are tarnished through no fault of their own. ”

—Former District of Columbia Councilman Tommy Wells (D)

Legislation Addressing Foster Youth Identity Theft (FYID Theft)

Recognizing that children in the foster care system may need a little extra help to determine if their personal information has been misused, state and federal policymakers now require all three credit report agencies (“CRAs”) to provide free credit reports to foster youth, and require child welfare agencies to obtain and examine credit reports of all foster youth.

Legislation Addressing FYID Theft

Sept 30
2011

President Obama signed Public Law 112-34, The Child and Family Services Improvement and Innovation Act

- Requires that each foster youth who has reached age 16 receive a free copy of any credit reports every year while in foster care.
- Requires that the foster youth receive assistance in interpreting and resolving any inaccuracies in the credit report.

2014

Federal law was amended

- **Public Law 113-183, Preventing Sex Trafficking and Strengthening Families Act**, lowered the threshold age from 16 to 14 for the foster youth credit report requirement.

Legislation Addressing FYID Theft

Sept 29
2014

California enacted AB 1658

- Requires county welfare departments, county probation departments, or the State Departments of Social Services to inquire of each of the three major credit reporting agencies as to whether a child described above has any consumer credit history as specified. California law was enacted in 2015 to conform to the federal law.

Sept 23
2016

California enacted AB 1580

- Requires a consumer credit reporting agency to place a security freeze for a protected consumer (which includes a person under the jurisdiction of a county welfare department or county probation department who has been placed in a foster care setting and is under 16 years of age at the time a request for a security freeze is made) upon the request of the consumer's representative.

Legislation Addressing FYID Theft

Sept 21
2018

Federal government enacted the "Economic Growth, Regulatory Relief, and Consumer Protection Act"

- This allows anyone to freeze and unfreeze their credit record for free at the three nationwide credit reporting companies.



Any Questions?

Challenges for Addressing FYID Theft

There are numerous significant systemic barriers that prevent foster youth from accessing their credit reports and resolving any errors.

- Youth in this population need assistance maneuvering through the credit remediation system. An attorney or skilled advocate is essential to obtaining optimal results.
- CRAs will not typically communicate with anyone other than the child welfare agency or the foster youth. Thus, advocating on behalf of foster youth clients can be challenging for a non-profit or legal services agency unless there is an agreement between that agency and the CRA.
- Specific documentation is required for remediation of errors or fraudulent accounts (Court order or legal agency agreement, birth certificate, Limited Scope Power of Attorney, Authorization to Release Information & Records, etc.).

Models for Addressing FYID Theft

There is no one-size-fits-all solution for obtaining credit reports and repairing the credit of an identity theft victim. The methods vary depending upon the specific foster youth population served and the structure of the service provider.



Models for Addressing FYID Theft

Model 1

Model 1, the basic model, is for the local child welfare agency to handle all aspects of obtaining credit reports and remediation.

The local child welfare agency has no issues accessing credit reports and can communicate with the CRA with ease. A concern is that many child welfare agencies do not have the capacity (time, staff or knowledge) to process the number of cases in their jurisdiction.

Models for Addressing FYID Theft

Model 2

Model 2, the hybrid model, is for the local child welfare agency to collaborate with an outside agency to remediate foster youth identity theft cases.

Some child welfare agencies have contracted with private credit monitoring providers, consumer protection entities, non-profit organizations or legal service agencies.

There are significant limitations to this model.

Law Foundation Model for Addressing FYID Theft

Model 3

Law Foundation collaborates with the Santa Clara County child welfare department to obtain credit reports for foster youth.

Law Foundation is able to communicate with the CRAs and remediate errors because of our court appointment to represent foster youth in Santa Clara County. Other agencies working on behalf of foster youth may not be as uniquely situated to have access the credit reports and the CRAs in this matter.

Getting Started: Nuts & Bolts of Remediation

Three methods of obtaining credit reports:

1. Obtain electronic “batch” business division reports from all three CRAs.
2. Submit a request online at annualcreditreport.com.
3. Submit a mail-in request.

Getting Started: Nuts & Bolts of Remediation

Obtaining credit reports can be difficult because:

- Online requests are rarely successful. If a non-minor uses annualcreditreport.com, the authentication questions can be very challenging.
- Mail-in requests may not be effective.
- Working with child welfare agency to get reports works if systems are in place.

Credit Report Review

- Review with youth credit reports from EACH of the three major CRAs: **Equifax**, **Experian** and **TransUnion**.
- Your clients will most likely only receive Business Division Reports or “batch” reports which are obtained through an electronic system by the county welfare agency. These credit reports look different than consumer disclosure reports (from mail-in requests), but have most of the information that is needed to provide advocacy.
- Each report will look slightly different. Information laid out differently, but information is there.

Credit Report Review

- There may be error messages that need to be interpreted on a case by case basis. Examples of such error messages are:
 - “ID Mismatch Alert: Current input address does not match file address.” or
 - “Information From Inquiry Identified As Potentially Fraudulent or Misused, Report Unavailable.”
- Please refer to pages 1-4 in your packet.
- If you have questions about interpreting a credit report, you should contact the CRAs directly or Law Foundation for guidance.

Credit Report Review

- Refer to the “Note Page For Review of Credit Report” on page 5 of your packet and the sample credit reports on pages 6 - 9 of packet
- In your line-by-line review, be sure to look for the following crucial elements, which can indicate identity theft and may give clues as to who the thief is:
 - Variations on the youth’s name;
 - Date (particularly the year) of birth;
 - Social Security Number;
 - Year that the credit file was first created,
 - Address history;
 - Contact phone numbers;
 - Employment history;
 - Adverse accounts;
 - Credit inquiries made by the consumer.

Clear Credit Report

- If, after your careful review of the credit reports, you do not find any fraudulent accounts or inquiries, and all data is correct (name, date of birth, address, etc.), then provide the client with a “**Clear Packet**” found at pages 10-17 of your packet.
- The Clear Packet should contain a letter explaining that the client’s credit reports are “clear” of errors or evidence of fraud **AT THIS POINT IN TIME**. However, ongoing credit monitoring is required. The letter provides instructions on how to:
 - Obtain an updated batch report;
 - Check credit online through annualcreditreport.com;
 - Request credit reports by mail.

Clear Credit Report

- The Clear Packet should also include:
 - AnnualCreditReport.com instructions
 - An Annual Credit Report (mail-in) Request Form
 - A “**National Crime Prevention Council**” flyer
 - A letter explaining the Equifax data security breach and how it may impact the client
- At the end of your meeting, discuss and provide the client with a Clear Packet in addition to copies of their credit reports for their records.

Disputing Errors and Fraudulent Accounts With CRAs

After reviewing credit reports with your client, and you do find discrepancies or errors, the best practice is to contact:

- CWA point person in your county;
- If in Santa Clara County, Law Foundation ID Theft attorneys; or
- Other non-profit or legal services agency doing foster youth identity theft work in your county.

Getting Started: Nuts & Bolts of Remediation

Method of Remediation Depends on Status of the Foster Youth* Being Served:

1. Minors
2. Non-minors dependents (“NMDs”)
3. Former foster youth

*The ages for each category varies by state

Disputing Errors and Fraudulent Accounts With CRAs

- **Minors:** Any accounts created prior to client turning 18 will be automatically removed from the credit file. Submit the following documents with the dispute letter:
 - Copy of the credit report;
 - Proof of age (birth certificate – check with county welfare agency for a copy – and/or copy of the Federal Trade Commission's (“FTC”) Uniform Minor’s Status Declaration);
 - Proof of foster youth status (Court Appointment Order, letter from county welfare agency, etc.);
 - Proof of address, preferably an address verification letter obtained from the county welfare agency;
 - Signed Authorization or Agreement to Obtain Information & Records.

Disputing Errors and Fraudulent Accounts With CRAs

- **Non-Minors:** Look for accounts created prior to client turning 18. Those will be automatically removed from credit file. Note that accounts created after client turned 18 (that client is NOT responsible for), may require dispute advocacy directly with creditors in addition to dispute with CRAs. Submit dispute letter to CRAs with the following documents:
 - Copy of the credit report;
 - Proof of age (birth certificate);
 - Proof of foster youth status (court appointment order or letter from county welfare agency, etc.);
 - Proof of address, preferably an address verification letter obtained from the county welfare agency
 - Signed Authorization or Agreement to Obtain Information & Records;
 - FTC Identity Theft Online Report (optional, but highly encouraged);
 - Police report (optional).

Disputing Errors and Fraudulent Accounts With CRAs

- **Former Foster Youth:** Same as procedure for Non-Minors with the addition of a Power of Attorney.

Investigating and Disputing Fraudulent Accounts With Creditors

- Advocacy likely will have to be done with original creditors and collection agencies.
- Contact whoever is handling foster youth identity theft in your county to address collections accounts.

Fraud Alerts & Security Freezes

- Per current Federal and California State law, CRAs are required to place a security freeze on credits for foster youth upon request of youth's representative and to send written confirmation of the security freeze to the address on file within 10 days of the placement of the security freeze.
- Under the "Economic Growth, Regulatory Relief, and Consumer Protection Act" effective September 2018, you can freeze and unfreeze your credit record for free at the three major CRAs.
 - Note that CRAs continually are changing their websites, procedures, and contact information—so be flexible and prepared for changes.
- Refer to the Fraud Alerts and Credit Freezes information material on pages 18-21 in your packet.

Federal Trade Commission (FTC) Identity Theft Report

- Consider whether submitting an FTC Identity Theft Report will be useful to the youth and/or in your advocacy.
- Counsel the youth about what the FTC Identity Theft Report is and how the Report can be useful.
- As appropriate, assist the youth in completing the FTC Identity Theft Report and submitting the FTC Identity Theft Report to the necessary agencies.
- Make sure the youth keeps at least one copy of any completed FTC Identity Theft Report.

Federal Trade Commission (FTC) Identity Theft Report



FEDERAL TRADE COMMISSION
IdentityTheft.gov

Log In

CHAT WITH OUR SUPPORT TEAM
(mon-fri, 9am - 8pm EST)

Which statement best describes your situation?

- I want to report identity theft. →
- Someone else filed a tax return using my information. →
- My information was exposed in a data breach. →
- Someone got my personal information or my wallet, and I'm worried about identity theft. →
- Something else. →

FTC Identity Theft link: <https://www.identitytheft.gov/>

Report to Law Enforcement

- Consider whether a police report about the identity theft will be useful to the youth and/or in your advocacy.
- Discuss with the youth his or her willingness to report the identity theft to the police. You may advise youth that they don't have to file a police report if the fraud happened while they were a minor and not legally able to enter into a contract.
- As appropriate, assist the youth in making a report to the police.

Report to Law Enforcement

- Obtain any police report number. Make sure the youth has it as well.
- Consider whether to request a copy of the police report. (Note: There may be a fee for the report).
- Understand some of the reasons why many youth are reluctant to file police reports:
 - Fear of police generally; and
 - Reluctance to implicate perpetrators who are family members or who may be looked to as some form of support in the future.

Additional Agencies to Contact

- **Internal Revenue Service – Identity Protection Specialized Unit**
 - 1-800-908-4490
- **Consumer Financial Protection Bureau**
 - [Submit a complaint](#) to the CFPB if the issue is not being resolved.
- **Social Security Administration**
 - 1-800-772-1213
 - Only rarely will SSA issue new SSN for victim
 - For more information, see [“Your Social Security Number and Card” \(Publication Number 05-10002\)](#)

Group Quiz!!!

Jackie's Story:

While running to catch a bus after work, unbeknownst to her, her wallet fell out of her backpack. It wasn't until the following morning that Jackie realized that her wallet was lost. A “not good Samaritan” found her wallet and made several attempts to access her bank account. Ultimately this person figured out her PIN (her zip code), and used it to empty her bank account of nearly \$800.00. Jackie called the bank card issuer immediately, but to no avail.

- **Would you advise Jackie to get a Fraud Alert? If so why?**
- **Would you advise Jackie to get a Security Freeze? If so why?**
- **Would you advise Jackie to file an FTC report? If so why?**
- **Would you advise Jackie to file a police report? If so, why?**

Advise Your Clients How To Protect Themselves

- Foster youth may need advice on the following:
 - Keeping and protecting important personal documents;
 - Sharing personal information with only appropriate, trusted sources;
 - Not carrying social security card with them on a routine basis;
 - Saying “no” to people who want access to their information inappropriately;
 - Be cautious when applying for credit and/or loans online;
 - Monitoring their credit and financial information; and
 - Responding appropriately and in a timely manner to information, including phone calls, mail, and e-mail, about suspicious financial and other activity associated with them.

Advise Your Clients How To Protect Themselves

- Provide client with a copy of the “**National Crime Prevention Council**” flyer in Packet
- Advise client that they will need to actively monitor their credit going forward. It is recommend that client check credit reports every year. This can be done in one of three different ways:
 - Obtain updated batch reports;
 - Request your credit report online at annualcreditreport.com; or
 - Submit a mail-in credit report request to Annual Credit Report Request Service, P.O. Box 105281, Atlanta, GA 30348-5281. You will need to complete and submit the Annual Credit Report Request Form.

Poor Credit Management vs. Identity Theft

- If the youth has adverse accounts for which they are legitimately responsible (debts that are not the result of identity theft), consider counseling the youth about money management, the responsible use of credit, and/or make a referral to a credit-counseling resource.
- Advise youth to speak with a credit counseling specialist at a later date. Some suggested specialists in SCC are: SparkPoint; Alexander Law Center and West Valley Community Services.
- Ask Law Foundation for additional resources.

WHEN SHOULD YOU ADVISE YOUR CLIENTS TO CHECK THEIR CREDIT?

- If your clients are 14 – 17 years old – Credit checks are done for them automatically per the law!
- Hooray! You don't have to do anything!
- Please encourage your minor clients to ask questions about their credit.

**WHEN SHOULD YOU ADVISE YOUR CLIENTS TO CHECK THEIR CREDIT?
DON'T WAIT UNTIL IT IS TO LATE!**

If your clients are 18 -20 years old
ADVISE CLIENTS TO CHECK THEIR CREDIT ANY TIME YOU SEE YOUR CLIENTS!!!

- Social Worker/ILP Case Manager:
 - DO NOT WAIT UNTIL THE 90 DAY MEETING TO START!!!
 - Goal is for client to get a clear credit report at 90 day meeting rather than starting process at 90 day meeting.
 - Encourage clients to use the Child & Family Team (CFT) meetings to start the credit check process. Check credit every year before exiting the system. IT'S FREE!
 - Credit should be discussed in the case plan/TILP. WIC 16501.1(G)(16)(C)
 - Help your client compete the process. When youth fall of radar or disappear for several weeks/months. Encourage them to finish the process of correcting credit reports.
 - Please help to get authorizations signed and gather required documents.
 - Assist client with filing FTC online complaint and/or police reports.
- CASA:
 - Work with client and social worker to ensure that the above is completed.

**WHEN SHOULD YOU ADVISE YOUR CLIENTS TO CHECK THEIR CREDIT?
DON'T WAIT UNTIL IT IS TO LATE!**

If your clients are 18 -20 years old
ADVISE CLIENTS TO CHECK THEIR CREDIT ANY TIME YOU SEE YOUR CLIENTS!!!

- Attorney:
 - When you receive court reports, be certain that credit has been addressed. If not, request that credit reports be requested and reviewed.
 - Goal is for client to get a clear credit report at 90 day meeting rather than starting process at 90 day meeting.
 - Encourage clients to use CFT meetings to initiate credit checks.
 - Credit should be discussed in case plan/TILP. WIC 16501.1(G)(16)(C)
 - Help your client compete the process. When youth fall of radar or disappear for several weeks/months. Encourage them to finish the process of correcting credit reports.
 - Please help to get authorizations signed and gather required documents.
 - Assist client with filing FTC online complaint and/or police reports.
- Judge/Judicial Officer:
 - When you review court reports, be certain that credit has been addressed.
 - If not, specially request (order) that credit reports be obtained and reviewed.

Packet

- Sample credit reports (pages 1-4)
- Note Page For Review of Credit Report (page 5)
- Sample credit reports (pages 6-9)
- Clear Packet (pages 10-17)
- Fraud Alerts and Security Freezes Information (pages 18-21)
- FYID Theft Authorization & Release of Information Form (pages 22-23)

Thank You!



KIRKLAND & ELLIS

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Thank you for attending our webinar!

- If you have questions, please contact a Law Foundation attorney
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