Identity Crisis

Pervasiveness of identity theft and potential liability cause property managers to reconsider how they handle the personal records they access and discard on a regular basis by Michael Whiteley
One of the nation's most celebrated cases of identity theft—triggering identity theft legislation and a Lifetime women's network movie—started with an apartment application being left on a property manager's desk in San Diego.

In 2000, Michelle Brown, age 29 and an international banker at the time, testified before Congress about the unraveling of her life as a result of identity theft. Brown said she first learned her life had been plundered when a bank's loan officer called her in January 1999, regarding her first payment on a new truck—one she'd never purchased.

Brown soon learned a perpetrator had stolen and copied her apartment application a year earlier and went on a spending spree, amassing more than $50,000 in goods and services. The thief's graduation to drug trafficking eventually got Brown arrested and spawned a bogus prison record.

Brown's case might be exceptional, but identity theft is not: It is the nation's fastest growing crime, according to information from the Federal Trade Commission. Awareness of the problem is growing among real estate managers because of the nature of the crime—the theft of sensitive information they often access and throw away.

**PAPER TRAILS PAY OFF THIEVES**

Identity theft comprised 37 percent of consumer fraud complaints filed with the Federal Trade Commission in 2005. The commission puts actual losses for the complaints it received between January and December of 2005 at $680 million, based on more than 680,000 cases of consumer fraud and identity theft. Linda Foley, founder of the Identity Theft Resource Center in San Diego, said the average stolen identity nets thieves about $17,000.

While the publicity surrounding the crackdown on identity theft has focused on high-tech schemes to steal computer data over the Internet, 90 percent of identity theft victims lost sensitive records through non-electronic channels in 2005, according to the Javelin Identity Fraud Survey, released in January 2006 by the Council of Better Business Bureaus Inc.

"People should continue to be cautious of fraud online," said Javelin founder Jim Van Dyke. "But what people also need to understand is they need to be just as cautious everywhere else."

Lost or stolen wallets, credit or debit cards, and checkbooks are the most common source of information breach, according to the survey. Friends, acquaintances, relatives or in-home employees, as well as corrupt business employees stealing information, were the next major sources of identity theft.

Identities stolen from overall property rentals, however, represent a little more than one in every 100 complaints filed with the Federal Trade Commission. One percent of identities were stolen from the garbage in 2005—a statistic probably closely related to people increasingly shredding documents, according to the Javelin survey.

"It doesn't seem [like] the biggest burden is on our industry," said Jeanne Delgado, vice president of multifamily housing for the National Multi Housing Council, of the crackdown on identity theft.

**TAKE SHREDDING PERSONALLY**

While identity theft incidents might not be overwhelming the property management industry, real estate managers should exercise caution with the personal information they maintain on residents and applicants, said Chuck Achilles, vice president of legislation and research for the Institute of Real Estate Management.

Potential liability and legislation are spurring real estate managers to consider how they manage their records and what
to discard, when. Achilles said property managers should store residents’ or applicants’ sensitive records—those with social security and credit card numbers or other vulnerable information—in a private, secure system.

Dallas-based Lincoln Property Co., which owns or manages 87,000 units in New Hampshire, beefed up its security of sensitive documents several years ago. Lincoln recently hired a data security firm to safeguard its computer files and warns residents to watch their mailboxes for break-ins.

“Credit checks and applications are kept under lock and key—actually under two sets of locks and keys,” said Bob Dickson, Lincoln’s vice president of risk management. “They’re generally in a locked filing cabinet behind a locked door. None of our offices are vacated without those files being locked up.”

Achilles said property managers should retain documents for only as long as they need the information and then, rather than pitch the documents in the trash, destroy them via shredding, burning or pulverizing, or erase electronic copies.

“It’s common sense,” Achilles said. “As consumers—and we’re all consumers—we would want anyone who has our personal records to destroy them as well.”

**BROAD RULES REQUIRE PERSONAL RESPONSIBILITY**

Achilles said real estate managers should not rely solely on the intentionally broad record disposal rules added to the Fair and Accurate Credit Transactions Act (FACTA) of 2003.

The act was initially designed to ensure all citizens are treated fairly when applying for a mortgage or another form of credit. The disposal rules were added to the act in 2005—requiring people who keep and maintain sensitive consumer information to “take reasonable measures to protect against unauthorized access to or use of the information in connection with its disposal.”

Real estate industry leaders are pleased with the act’s current record disposal rules, Achilles said, because they don’t impose burdensome or specific regulations. He said real estate managers need to proactively and properly dispose of sensitive documents on their own, though, to guard against stricter legislation and requirements.

“We are very happy with how simple they are,” he said of the current rules. “Any time the government sets up rigid regulations, it becomes more difficult for small businesses.”

**FACTA IS A FACT OF LIFE**

The disposal rules’ implications are profoundly impacting property managers, and they should not be taken lightly, said Robert Johnson, executive director of the National Association for Information Destruction Inc., a Phoenix-based lobby of document shredders who helped write the first set of new rules behind the act.

“With the [disposal] rules, you’re the victim as soon as your information is thrown out,” he said. “That really is a red flag now, and the lawsuits that are happening are getting attention. The ability for civil action and class action [based on disposal] are the big triggers in this new law.”
Dickson, of Lincoln Property Co., said the disposal rules and the potential liability of exposing a client’s personal information are reasons to step up document security.

"FACTA is a fact of life," Dickson said. "We’re really cognizant of keeping sensitive information such as social security and drivers’ license information under lock and key."

With cases like Michelle Brown’s and others bringing suit against those requiring and maintaining such personal and sensitive information, identity theft experts say everyone, including property managers should be cautious.

“When you’re talking about property managers and rent applications, it’s the same thing as job applications. Lock them up,” Foley said. “Do a criminal background check on employees. Spend the extra few dollars to protect people who may have been good tenants for many years. If you’ve inadvertently hired someone who’s stolen their identity, those tenants may not be able to pay their rent, and you’re not going to be able to pay your mortgage.”

Michael Whiteley is a contributing writer for JPM. Questions regarding this article can be sent to kgunderson@irem.org.

The IREM publication, Spotlight on Security, Second Edition, provides in-depth coverage on identity theft and related security issues. This can be found at www.irem.org.

IDENTITY THEFT HITS METRO AREAS

The major urban areas of California, Florida and Texas appeared to dominate the nation’s landscape for identity theft in 2005*, with Arizona’s retirement hub leading the way.

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<tr>
<th>MSA</th>
<th>Complaints</th>
<th>Per 100,000</th>
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<tr>
<td>1. Phoenix-Mesa-Scottsdale, Ariz.</td>
<td>6,406</td>
<td>178.3</td>
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<tr>
<td>2. Las Vegas-Paradise, Nev.</td>
<td>2,499</td>
<td>158.5</td>
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<tr>
<td>3. Riverside-San Bernardino-Ontario, Calif.</td>
<td>5,308</td>
<td>145.7</td>
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<td>4. Dallas-Fort Worth-Arlington, Texas</td>
<td>7,852</td>
<td>141.2</td>
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<tr>
<td>5. Los Angeles-Long Beach-Santa Ana, Calif.</td>
<td>17,312</td>
<td>134.9</td>
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<tr>
<td>6. Miami-Fort Lauderdale-Miami Beach, Fla.</td>
<td>6,967</td>
<td>131.7</td>
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<tr>
<td>7. San Francisco-Oakland-Fremont, Calif.</td>
<td>5,433</td>
<td>130.7</td>
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<tr>
<td>8. Houston-Baytown-Sugar Land, Texas</td>
<td>6,502</td>
<td>128.1</td>
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<tr>
<td>9. San Diego-Carlsbad-San Marcos, Calif.</td>
<td>3,559</td>
<td>121.4</td>
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<tr>
<td>10. San Antonio, Texas</td>
<td>2,168</td>
<td>119.1</td>
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* Ranked by identity theft complaints per 100,000 people filed with the FTC during 2005 for Metropolitan Statistical Areas of 1 million people or more.

Source: Federal Trade Commission

STATES NARROW DISPOSAL RULE REQUIREMENTS

Just as the federal FACTA legislation is impacting property managers, the new tougher laws passed in Arkansas, California, Georgia, New Jersey and Texas are affecting everyone from the mega-corporations managing thousands of apartments to the owners of four- and six-unit complexes who may turn out to be the most exposed.

The identity theft law that took effect in September 2005 in Texas, requires businesses to destroy all “sensitive personal information,” defined as any document containing a person’s first and last name combined with a social security number, a driver’s license or government-issued identity number, or an account or credit-card number. The protection is void if the data is available from public record.

The Texas attorney general is allowed to seek fines between $2,000 and $50,000 for each violation, and businesses are required to immediately notify victims in the event of a breach. The law also allows local prosecutors to seek jail time for the offending owners of businesses.

California apartment owners are now battling lawsuits over when they must tell potential tenants of criminal background and rental history checks under the state’s Investigative Consumer Reporting Act.

Debra Carlton, senior vice president of public affairs for the California Apartment Association, said the lawsuits could take years to settle. In the meantime, she said, neither FACTA nor the California disposal law has caused noticeable problems for her members.

“We don’t have reports of any negative repercussions or any inordinate amount of work to be done,” she said. “When we reported to them that they would have to shred all documents that have identity information, the world didn’t come to an end.”