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ORANGE COUNTY, CALIFORNIA

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June 3, 2004

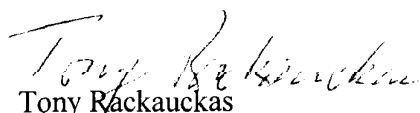
The Honorable Judge Frederick P. Horn
Presiding Judge
Orange County Superior Court
700 Civic Center Drive West
Santa Ana, CA 92701

RE: Orange County Grand Jury Report of April 13, 2004
"Identity Theft"

Dear Judge Horn:

Our office is in receipt of the above referenced Grand Jury Report. Please find attached the Office of the District Attorney's response to the specific Grand Jury Report.

Sincerely,


Tony Rackauckas
Orange County District Attorney

WJF/TR:vlb
Attachment

REPLY TO: ORANGE COUNTY DISTRICT ATTORNEY'S OFFICE

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RE: Orange County Grand Jury Report of April 13, 2004
Identity Theft

Summary:

The Office of the District Attorney has seen an increase in the number of identity theft cases submitted by police agencies for prosecution. Most of these cases are handled by attorneys at the branch court level. An average identity theft case involves a defendant who has been identified using the identity or credit of another person without permission. Some cases involve the prosecution of rings of criminals who harvest identities and then sell or use them. This scenario is increasingly common and involves complex investigations by local police agencies who work with prosecutors assigned vertically to handle these cases in the Economic Crimes Unit of the Office of the District Attorney. Unfortunately, there are not enough budgetary resources to fund the number of vertical prosecutors and investigators necessary to handle the increasing number of complex identity theft cases. At our Office's request, the County of Orange has made Identity Theft a strategic priority for every year since 2000, and again in 2004/2005. Unfortunately, although identity theft has been repeatedly reaffirmed as a county strategic priority, the County has not allocated funding to specifically address this crime.

We continue to support the establishment and funding of an Orange County identity theft task force. However, the difficult budget situation for 2004/2005 does not make it likely that the county as well as local police agencies will be able to allocate scarce law enforcement resources to a task force. We look forward to participating, and playing a leadership role, in this task force as funding becomes available.

The Office of the District Attorney has participated in a two and one-half day identity theft training sponsored by the California District Attorney's Association, which was held in Orange County in September, 2002 and open to investigators from law enforcement agencies. The Economic Crimes Unit Assistant District Attorney was an instructor at that seminar. We have sent investigators to a recent 40 hour training course in Long Beach, California, sponsored by the San Diego Regional Training Center, which was attended by investigators from county law enforcement agencies. We participate in the Orange County Fraud Investigator's Association, which includes discussion of identity theft related issues. We work individually with investigators from local law enforcement agencies who seek our input on pending identity theft investigations.

The problem of identity theft is growing and increased resources are necessary to effectively combat the problem. Unlike many crimes, these cases are difficult to solve and often require time consuming investigations. Identifying perpetrators of these frauds can be difficult because the persons who actually steal the information are not always the same persons who use the information, and may be located in other jurisdictions. The prosecution of these cases are lengthy and often require months of analysis of data and bank records.

RESPONSE TO FINDINGS OF GRAND JURY – IDENTITY THEFT

Finding #1 The Orange County District Attorney's Office is in need of additional staff to effectively investigate and prosecute complex and time consuming identity theft crimes.

***Agree with Finding** - There have been dramatic increases in the number of persons reporting crimes of identity theft during the past three years. Many of these cases remain unsolved at the police agency where the crime was reported, often due to the inability of police agencies to solve these cases. Their investigations are complicated by the fact that the criminal who stole the identity is not always the person who uses the information. The cases often involve multiple police agencies, counties and even states. There has been a significant increase in the number of identity theft prosecutions by the Office of the District Attorney. Increased numbers of prosecutions have occurred at the branch court level as well as in the Economic Crimes Unit. Vertical prosecutions involve rings who systematically steal identities and then exploit them. They are often extremely complex and demand experienced prosecutors and investigators. Vertical prosecution of identity theft cases benefits public safety by preventing future loss and recovering restitution from defendants convicted of identity theft crimes. Unfortunately, the increased identity theft has corresponded to the difficult budget situation faced by the county. Additional attorneys and investigators need to be funded to vertically prosecute these cases. An investment of county resources at this time to provide prosecutors and investigators who specialize in identity theft will pay dividends as we work together in this county to combat identity theft and protect our citizens, and ultimately save money by preventing the losses and recovering some of the losses through restitution orders. At our Office's request, Orange County has made Identity Theft a strategic priority every year since 2000, and again in 2004/2005. . Unfortunately, although identity theft has been repeatedly reaffirmed as a county strategic priority, the County has not allocated funding to specifically address this crime.*

Finding #2 Several city police agencies need more training by the District Attorney's Office to properly investigate and prepare identity theft cases for presentation to prosecutors.

***Disagrees partially with Finding** - We agree that complex identity theft investigations require a high level of training for police agency investigators. There has been a larger than average turnover among trained fraud investigators at all county police agencies in the past year that has resulted in more inexperienced investigators handling these difficult cases. We disagree with the finding only in that it does not specify or acknowledge that we have provided training to many investigators individually and provided training through the Orange County Fraud Investigators Association. In September 2002, the California District Attorney's Office conducted a two and one-half day training on identity theft in Orange County open to investigators from county police agencies. The Economic Crimes Unit's Assistant District Attorney was an instructor at that seminar. The San Diego Regional Training Center offered an excellent 40 hour course on identity theft in Long Beach, which was attended by many officers from Orange County police agencies. In addition, we remain available to review and discuss identity theft cases with investigators. Some police agencies*

may well need training for general investigation detectives so that they better understand how to prepare identity theft cases. We would like to do more training. We hope to hold county wide identity theft training in early 2005 for police officers. The high caseloads of our deputies assigned to the Economic Crimes Unit make it difficult to provide regular and systematic training in identity theft, which is desirable. Fully funding a Felony Charging Unit in the Office of the District Attorney would result in greater hands on training being available at the branch court level where the majority of identity theft cases are filed. However, cuts in that unit made necessary by the budget situation do not make this possible at present.

Finding #3 Identity theft Sub-Task Forces are in place in 5 major population centers in California and are functioning to facilitate better communication, coordination and cooperation among federal, state and local law enforcement and public record-keeping agencies involved in prevention, investigation and prosecution of identity theft. Orange County does not have an Identity Theft Task Force or Sub Task Force.

Agree with Finding – *Orange County does not have an identity theft task force because the difficult budget situation countywide does not allow police agencies and the Office of the District Attorney to commit officers, investigators and prosecutors to an Orange County task force on a full time basis.*

Finding #4 - The Orange County District Attorney's Office, Orange County city police agencies and the Orange County Sheriff-Coroner Department provide some form of public information and resource materials outlining how one can prevent identity theft as well as corrective steps to take where identity theft has occurred.

Agree with Finding - *Many county police agencies, the Orange County Sheriff's Department and the Office of the District Attorney have produced informative booklets on what to do if your identity is stolen as well as prevention of identity theft by safeguarding personal information. The District Attorney's Office offers these pamphlets in Spanish and Vietnamese as well as English. These publications are designed to assist in the recognition of the danger signs of identity theft and provide strategies to avoid victimization. Officers in the field regularly provide these materials to identity theft victims when they report incidents of identity theft. The District Attorney's office, moreover, provides an experienced identity theft investigator who speaks to community groups on this topic on a regular basis. In addition the District Attorney, Tony Rackauckas, has personally participated in presentations on identity theft. He was one of four guest speakers at a three hour community seminar on identity theft at the University of California, Irvine. This seminar was attended by over 400 people. Mr. Rackauckas more recently addressed the Orange County Bar Association on this topic. The office's brochures were distributed at each of these events as well.*

RESPONSE TO RECOMMENDATIONS – IDENTITY THEFT

Recommendation #1 That the Orange County District Attorney increase the number of investigators and prosecutors to allow for both identity theft specialization and in-depth case investigation.

Recommendation not Implemented: *The implementation of this recommendation requires the allocation of additional funding. The Office of the District Attorney has included provision for additional prosecutors and investigators to combat identity theft in its previous four strategic plans submitted to the County for funding by the Board of Supervisors. In addition the Board of Supervisors agreed to include identity theft as a priority item in the strategic plan for 2004/2005; Our Office has requested funding from the Board of Supervisors to fund additional positions for attorneys and investigators dedicated to investigating and prosecuting identity theft. Increased attorney and investigative staff to combat these crimes are dependent on this additional funding.*

Recommendation #2 The Orange County District Attorney provide more training to local police agencies in investigative techniques and case preparation to ensure that cases will be accepted by the District Attorneys Office for prosecution

Recommendation partially implemented *Recognizing the need for ongoing training in identity theft; the Office of the District Attorney has and will continue to identify, promote and conduct specialized training, including training under the auspices of the Orange County Fraud Investigators Association, through the California District Attorney's Association, and any other available means. However, the recommendation that training be provided in investigative techniques and case preparation is overly broad and cannot be implemented. All police agencies offer ongoing required POST training to their officers and can avail themselves of training in investigative techniques and case preparation. Budgetary and resource limitations constrain our ability to provide such extensive training to all police departments in the county. However, additional funded attorney and investigator positions would enhance our ability to provide identity theft training.*

Recommendation #3 The Orange County District Attorney, the Orange County Sheriff-Coroner Department and the city police departments in Orange County should take steps to form and actively participate in a countywide Regional Identity Theft Task Force comprised of representatives of each of these agencies. The task force should seek the cooperation and participation of the United States Postal Inspector, the United States Secret Service, the United States Immigration and Naturalization Service and the United States Federal Trade Commission.

Recommendation not implemented – *The Office of the District Attorney supports formation of an Orange County identity theft task force. Additional resources for attorneys and*

investigators will allow us to commit personnel to such a task force. However, in order to successfully implement an Orange County identity theft task force, local police agencies would likewise have to commit their detective and investigative resources to that effort. The current budget situation for all agencies in the county, including local police agencies impose a severe constraint on the immediate creation of such a task force.