

# Privacy Rights Clearinghouse

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September 15, 2000

## FEDERAL TRADE COMMISSION IDENTITY THEFT VICTIM ASSISTANCE WORKSHOP

### REQUEST TO PARTICIPATE AS PANELISTS

TO: Joanna Crane  
Workshop Coordinator  
Federal Trade Commission

FROM: Beth Givens  
Director  
Privacy Rights Clearinghouse

The Privacy Rights Clearinghouse appreciates the opportunity to present this “request to participate” in the Identity Theft Victim Assistance Workshop. This letter is submitted on behalf of four individuals and their respective programs. Together we represent over 20 years of expertise in directly assisting victims of identity theft.

- C Janine Benner, Consumer Advocate, CALPIRG
- C Linda Foley, Director, Identity Theft Resource Center, affiliated with the PRC
- C Mari Frank, Esq., author of *Identity Theft Survival Kit* and victim advocate
- C Beth Givens, Director, Privacy Rights Clearinghouse

Our original intent was to propose that we four comprise one panel focusing on various aspects of victim assistance from the perspectives of both victims and consumer advocates. We have learned that the FTC has already tentatively placed one or more of the above-listed individuals on separate panels. We respect whatever decisions you make on the appropriate placement of panelists. Whether or not we comprise a single panel, I am pleased to provide the FTC with information about our respective qualifications and our proposed topics of discussion. Please note that some information about our credentials and discussion topics is provided as attachments to this proposal.

The merits of each individual are summarized below, according to the selection criteria that are outlined in the Federal Register notice. These are:

- C Proposed topic
- C Representation of a balance of interests
- C Promote the consideration and discussion of the issues presented
- C Has expertise in issues raised
- C Reflects the view of the affected interests which it purports to represent

**Janine Benner**  
**Consumer Associate, CALPIRG**  
**[Alternate: Ed Mierzwinski, U.S.PIRG]**

The “Request to Participate” for Janine Benner (or alternatively Ed Mierzwinski) has been submitted separately to the FTC by U.S.PIRG (Sept. 11, 2000). A copy of the e-mailed “Request” is provided at the end of this document.

Benner is principal researcher and co-author of the pioneering survey of identity theft victims conducted in the spring of 2000 and published in May. The study, *Nowhere to Turn: Victims Speak Out on Identity Theft*, was conducted jointly by CALPIRG, U.S.PIRG and the Privacy Rights Clearinghouse. It can be found on the PIRG web site at [www.pirg.org/calpirg/consumer/privacy/idtheft2000/](http://www.pirg.org/calpirg/consumer/privacy/idtheft2000/) and at the PRC web site.

We propose that Benner discuss the findings of this study as well as the implications for victim assistance. Some of the more startling findings include:

- C Victims spend an average of 175 hours actively trying to resolve the problems caused by identity theft. Several reported spending from 500 to 1,500 hours regaining their financial health.
- C The average out-of-pocket expenses for victims is \$808.
- C The average total fraudulent charges is \$18,000 with the highest reported reaching \$200,000.
- C Victims reported learning about the theft an average of 14 months *after* it occurred.
- C Victims reported difficulty in reaching the credit reporting agencies, especially a “live” person. Automated voice messages are the norm for the initial contacts with the bureaus.

Benner can also speak about her experiences in co-facilitating a victim support group. CALPIRG has been instrumental in establishing the Los Angeles group, Victims of Identity Theft (VOIT), founded in 1997. To our knowledge, this is the first such group to be formed in the U.S.

Benner has testified about identity theft before the California Legislature and Congress. She can also discuss PIRG’s recommendations for federal and state legislation.

*Please note:* We propose that the FTC make the study *Nowhere to Turn* available at the Workshop as a handout (20 pages). In addition, we would like to make the joint CALPIRG-PRC guide available as a handout at the Workshop – “Identity Theft: What to Do if It Happens to You.”

**Linda Foley**  
**Director, Identity Theft Resource Center**

Proposed topic: Foley is a victim of identity theft who has become a full-time victim advocate. She founded the Identity Theft Resource Center (ITRC) in 1999. It is affiliated with the PRC. The ITRC offers monthly meetings to San Diego area victims, and counsels victims from afar by telephone and e-mail.

Foley can speak about a wide range of issues. Her expertise is in providing long-term assistance to victims and assisting them through the credit recovery and court processes. She is currently writing a 9-part series of papers covering a broad array of victim assistance topics. They are listed here, with those that are already on the PRC web site noted. See these materials at <http://privacyrights.org/identity.htm> . See also information about the ITRC at <http://privacyrights.org/voices.htm> .

- Fact Sheet 17b: Organizing Your Case (on the website)
- 17c: Reasonable Requests to Make of the Court System (on the website)
- 17d: How to Form a Support Group (on the website)
- 17e: Emotional Impact of Identity Theft (in draft form, to be added soon)
- 17f: Recovering from Criminal Records Identity Theft (in draft form, soon to be added)
- 17g: The Court Experience (in draft form)
- 17h: Identity Theft in Australia (being developed)
- 17i: Corporate Survey and Self-Assessment: How Businesses Can Prevent Identity Theft from Happening to their Employees and Clients (in draft form)
- 17j: Examples of Victim Statements to the Court (being developed)

Foley proposes to discuss her experiences in establishing a directed victim assistance program, the emotional support required over the long-term, and what victims need to know in order to effectively work with the criminal justice system, including law enforcement and the courts. Foley has been especially effective in establishing good working relationships with law enforcement. She can provide suggestions for improving law enforcement assistance to victims. She will also speak to the need for establishing uniform forms and procedures that victims can use, rather than the hodge-podge they presently face, as well as the need for establishing more effective inhouse victim support programs for companies that deal with identity theft victims, especially in the credit and banking industries. A preliminary version of some of the comments she is prepared to offer is attached to the end of this document.

Representation of a balance of interests: Foley is both a victim and a victims' advocate.

Promote the consideration and discussion of the issues presented: Foley presents a unique perspective -- that of a support group director.

Has expertise in issues raised: See information provided above and in the attached material at the end of this document.

Reflects the view of the affected interests which it purports to represent: Foley's experiences as a victim and as a victim assistance provider can be ascertained from the reports she has written (see the PRC web site as noted above).

**Mari Frank, Esq.**  
**Author of *The Identity Theft Survival Kit* and victim advocate**

We understand that the FTC has already been in contact with Frank regarding her role at the

Workshop. Additional information is provided here.

Proposed topic: Frank can speak to the full range of victims' experiences as well as the assistance victims require to regain their financial health. She is also well-versed in the legal aspects of identity theft cases.

Representation of a balance of interests: Frank is a victim, a victim advocate, and an expert on identity theft.

Promote the consideration and discussion of the issues presented: Frank is author of the *The Identity Theft Survival Kit* which contains here book, *From Victim to Victor: A Step-by-Step Guide for Ending the Nightmare of Identity Theft*. She co-authored with Beth Givens the booklet *Privacy Piracy: A Guide to Protecting Yourself from Identity Theft*. Frank's web site includes numerous tips and sample letters for victims. See [www.identitytheft.org](http://www.identitytheft.org). In addition to being an attorney, Frank is a mediator, trainer, and professional speaker. She has testified before the California Legislature and Congress about identity theft. And she has been interviewed on numerous television and radio programs and by many newspapers and magazines. Several financial institutions and Internet start-ups have consulted with Frank on the topic of identity theft.

Has expertise in issues raised: See above.

Reflects the view of the affected interests which it purports to represent: This can be ascertained from her publications and her web site.

**Beth Givens**  
**Director, Privacy Rights Clearinghouse**

Proposed topic: Givens proposes to speak about the growing problem of criminal records identity theft and the types of victim assistance that such individuals require. The PRC and others who assist victims of identity theft have observed an increase in the number of victims who are burdened with wrongful criminal records. Givens considers this to be the "worst case scenario" for identity theft. Such individuals are faced with being associated with the crimes of the imposter for the rest of their lives. Contrary to credit-related identity theft where there are well-established strategies for regaining financial health, there are no set procedures for clearing a wrongful criminal record. Givens will present information on the plight of such victims, why it is currently difficult for these individuals to clear their names, what types of remedies must be established for such victims, amendments needed in the FCRA, as well as the work of the California Criminal Records Identity Theft Task Force, and legislation that was enacted in the 2000 California legislative session.

Givens spoke with a law enforcement group, SEARCH, in May 2000 about criminal records identity theft. To read her speech, visit the PRC website at [www.privacyrights.org/ar/wcr.htm](http://www.privacyrights.org/ar/wcr.htm). The title of the presentation is "Identity Theft: The Growing Problem of Wrongful Criminal Records."

Givens can also speak about steps that victims of fraudulent bankruptcy filers must take. If needed, Givens can speak on the full range of victim assistance issues. She testified before a U.S. Senate Judiciary Committee subcommittee in July. Her testimony can be found at [www.privacyrights.org/ar/id\\_theft.htm](http://www.privacyrights.org/ar/id_theft.htm). The title of her written testimony is “Identity Theft How It Happens, Its Impact on Victims, and Legislative Solutions.”

Representation of a balance of interests: Givens is a long-time consumer advocate and presents the point of view of the general consumer populace, identity theft victims, and a seasoned consumer advocate. She estimates that she has counseled at least 4,000 victims since 1994 when the PRC first became a resource for such individuals.

Promote the consideration and discussion of the issues presented: The FTC Workshop is focusing on victim assistance. The PRC is the first nonprofit consumer advocacy organization to provide assistance to victims of identity theft. Its premier publication, “What to Do When Your Wallet Is Stolen,” was published in 1994. This was expanded to become “Coping with Identity Theft: What to Do When an Imposter Strikes” in 1995. In 1997, the PRC joined with CALPIRG to write a victims’ guide, “Identity Theft: What to Do if It Happens to You.” These fact sheets are available on the PRC’s website, [www.privacyrights.org](http://www.privacyrights.org). In 1999, Givens co-authored the 50-page booklet *Privacy Piracy: A Guide to Protecting Yourself from Identity Theft* with attorney and identity theft expert Mari Frank. These materials have been used extensively by victim assistance programs throughout the U.S. as the basis of their publications. In addition to police departments, the materials have been adapted by several state Attorneys General offices, district attorneys’ offices, and other consumer assistance programs.

Has expertise in issues raised: See above. And see Givens’ “bio” at the end of this document.

Reflects the view of the affected interests which it purports to represent: See above and bio.

## **Attachments**

1. Information about Janine Benner, CALPIRG
2. Proposed discussion topics of Linda Foley, Identity Theft Resource Center
3. Information about Beth Givens, Privacy Rights Clearinghouse

## **REQUEST TO PARTICIPATE AS PANELIST**

### **FROM U.S.PIRG AND CALPIRG**

Sender: ed@pop.pirg.org  
X-Mailer: QUALCOMM Windows Eudora Pro Version 4.0.1  
Date: Mon, 11 Sep 2000 11:47:03 -0400  
To: idtworkshop@ftc.gov  
From: Ed Mierzwinski <ed@pirg.org>  
Subject: Request to participate in workshop  
Cc: Beth Givens <bgivens@privacyrights.org>, janinebenner@hotmail.com

TO: FTC

FR: Ed Mierzwinski, Consumer Program Director

11 Sept 00

### **REQUEST TO PARTICIPATE AS PANELIST IN October 23-24 WORKSHOP**

On behalf of the state Public Interest Research Groups, I am writing to request that the state PIRGs be granted panelist status in the upcoming ID theft workshop. We understand that Beth Givens of Privacy Rights Clearinghouse has submitted a proposed workshop. We would like CALPIRG's Janine Benner to be a panelist in that workshop. If Janine cannot attend, I would be the panelist.

I submit the following as our credentials:

-- The state PIRGs released one of the earliest reports tracking the crime of identity theft -- "The Consumer X-Files In 1996." That report was updated in 1997, "Return to The Consumer X-Files." In May 2000, CALPIRG jointly released with the Privacy Rights Clearinghouse, "Nowhere To Turn," a survey of identity theft victims. Janine Benner was a principal author of that major report.

-- The state PIRGs regularly counsel victims of identity theft and, in Los Angeles, helped establish in 1997 an identity theft support group, Victims of Identity Theft, that still meets.

-- Have published and widely two fact sheets-- one to prevent identity theft and a second, jointly with the Privacy Rights Clearinghouse, for victims.

-- Have developed a comprehensive platform for modernizing the Fair Credit Reporting Act and other laws both to prevent identity theft and prevent other errors that ruin consumer's lives. We have pushed this platform in both Congress and state legislatures. Briefly, our position is that criminalization is a modest step that is necessary but not sufficient to solve the problem. The larger problem of creditor and credit reporting agency practices must also be addressed. We support legislation in the following areas, among others:

-- Provide free credit reports annually on request.

-- Require the credit bureaus to improve matching between credit applications and credit reports before reports are issued.

-- Close the credit header loophole.

-- Give consumers the right to block access to their credit reports. For example, the Hooley proposal before Congress (HR 4311) would prohibit issuance of credit on accounts containing fraud alert flags without affirmative consent from the report subject.

--- Improve address change verification procedures by credit reporting agencies.

Please contact me if you have any questions. Below are links to certain of our documents.

#### Reports

-- Nowhere To Turn-- Survey of Identity theft victims:

<<http://www.pirg.org/calpirg/consumer/privacy/idtheft2000/>> Includes latest version of our platform.



-- Return To The Consumer X-Files-- Report On Identity Theft

<<http://www.pirg.org/reports/consumer/xfiles/index.htm>>

Fact sheets

<<http://www.pirg.org/calpirg/consumer/privacy/index.htm>>

Recent Testimony

CALPIRG's Janine Benner (House Banking Committee) on HR 4311-- 13 September

00 (forthcoming)

See index <<http://www.house.gov/banking/testoc2.htm>>

Ed Mierzwinski \*\*\*\*\* U.S. PIRG, 218 D St SE, Washington, DC 20003

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## **Identity Theft Resource Center** (formerly VOICES)

**Linda Goldman-Foley**, Director

P.O. Box 26833

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### **PRELIMINARY DISCUSSION TOPICS IDEAS DIRECTED VICTIM ASSISTANCE PROGRAMS**

FTC Workshop- Oct 23-24, 2000

Identity Theft is a dual crime. It is a crime against merchants, credit card grantors and banks – the industry that loses billions of dollars every year in lost merchandise. Until recently these companies were the only victims recognized in identity theft. And in fact, most of the attendees here will be addressing that issue.

There is another victim however-- the person whose information was used without authorization, without knowledge and who will eventually take more time to clean up the mess than the merchants, card grantors and banks combined.

As the project director of the Identity Theft Resource Center, I have a unique role in this panel –I have the enormous honor of being the voice for hundreds of identity theft victims.

I understand the frustrations, the despair and the emotional turmoil victims suffer because I was a victim of identity theft. It happened 3 years ago when my employer took the information I provided for employment and used it for her own financial gain. I believe the only reason I survived that time in my life with as few emotional scars as I have, and believe me- there are still scars, was that I had a victim assistance counselor (the Privacy Rights Clearinghouse) working with me step by step, explaining the process, my rights, the limitations of the system. That guidance was invaluable in overcoming the barriers that governmental agencies and those in the credit and banking industries kept putting in my path.

Seeing the difference that help made in my case and in my life changed the focus of my career and in December the Identity Theft Resource Center opened its doors. From the first day on, we have inundated with calls, emails and requests for information, assistance and a shoulder to lean on by victims nationwide.

I wish you could sit in my chair for just a few hours and read some of the letters I receive, many from victims who have struggled for months without assistance, taking 4 steps back each time they think they've moved forward. Families who may lose their homes, men who have been denied employment, innocent people incarcerated for crimes others committed in their names, people emotionally broken and lost in a bewildering maze of rules and procedures that seem to change hourly.

Identity Theft can be a complex problem, involving financial, criminal and emotional issues, and

enough paperwork to keep an office of paralegals and administrative assistants busy for months. With all the different forms creditors, CRAs, law enforcement and various other agencies requiring today, clearing the webs of identity theft has become far too complex for the average person to deal with it effectively without assistance. There is a lot of conflicting misinformation out there even within the same agency or company.

Perhaps one of the most powerful aids to victims of Identity Theft is the ability to ask questions of designated victim assistance personnel, talk with someone about the emotional impact of the crime and even to interact with other victims who are going through similar situations.

At one point or another, victims of identity theft will feel overwhelmed by the paperwork they must process as well as by the psychological pain of loss, helplessness, anger, isolation, betrayal, rage and even embarrassment. This crime triggers deep-seated fears regarding financial security, the safety of family members and the ability to ever trust again.

It is not uncommon for identity theft victims to shut down emotionally and withdraw from family, friends and co-workers. This crime is repetitive in nature, with victims becoming fearful of what they will encounter in the next mail delivery or if the next voice on the phone will be another collection agency—demanding payment for items they never purchased. Therefore it is not surprising that some victims react as survivors of prolonged, repeated trauma, much like battered women or prisoners of war.

Add to this emotional turmoil, the tasks of dealing with the police, the district attorney and various credit reporting agencies (CRAs) and credit grantors. If it can freeze even the capable and educated victim- what about those who don't have MBA's or law degrees. What our elderly, those who speak English as a second language, or who may have difficult time reading.

They flounder through the process, each reinventing the wheel – not connected with anyone who can help us, show us the way. I know--- I get their letters and read their pleas for help each day.

At this time there are no standard forms, no standard procedures and far too many roadblocks and walls to climb for victims to act effectively and get through the process of clearing their names without enduring even further hardships and psychological damage. Our study has shown that the average victim takes 175 hours to clear his/her name. That is criminal.

In considering effective methods of assisting victims we must also include programs that will help to guide victims through the various stages of their case.

### **VICTIM ASSISTANCE COUNSELORS IN INDUSTRY and LAW ENFORCEMENT:**

There is a strong need to have counselors trained in the complexities of identity theft at each step in the process. These people would be the ONLY people within company or agency that victims would talk with.

This would greatly reduce frustration, provide a reliable and knowledgeable source of information and streamline work by assisting victims to correctly fill out any forms necessary. Instead of

having to repeat their story to each new customer service rep they encounter, this VA person-often in Loss Prevention- would be familiar with the case.

**Industry Benefits:** Not only would this program assist the victim but this could lead to higher arrest rates and significant decreases in losses to companies due to continuity and record keeping. These specialists would also be quick to see any patterns that security needs to deal with, any possible fraud rings and connections between cases.

1. Identity theft processing specialists within the CRA's and credit card issuers, banks, debt collectors and commercial vendors – one person who will walk a victim from start to finish within their company providing continuity and assistance with established procedures. This person might also provide links to other companies that the victim must also deal with.
2. Identity theft victim assistance coordinators in the law enforcement agencies – these should not be the detective on the case. These coordinators would educate victims on how identity theft is handled in that jurisdiction, explain any delays or complications in the case, listen to victim frustration and help the victim to become an effective partner in this process.
3. Identity theft counselors in DA's offices – to walk victims through the court system including restitution and victim statements.
4. Identity theft counselors in the Social Security Admin, Dept of Motor Vehicles (state by state), IRS, FBI and other governmental agencies
5. ID theft processing specialists to advise and coordinate multiple jurisdiction problems.

## **VICTIM SUPPORT FOR EMOTIONAL ISSUES AND ON-GOING LOCAL SUPPORT GROUPS**

Like victims of violent crime, identity theft victims need a chance to vent, to share frustrations, accomplishments and the opportunity to learn from one another.

1. Victim Assistance counselors—at this time most identity theft victims do not qualify for assistance under VOC programs which typically are for victims of violent crime. We believe that identity theft is as devastating and long-reaching as a violent crime and should be treated as such.
2. Crisis Intervention in Workplace ID theft – this crime should be treated like any other multiple victim case. Companies should be made aware of victim assistance programs and highly encouraged to take advantage of them.
3. On-Going Local Support Groups – each city should set up a local, drop-in program for victims to meet with VA personnel as a group. Not only will these groups help victims but can bring about better public awareness of the crime and might even help to pinpoint crimes by the same perpetrator.

## **PUBLIC AWARENESS – STEPS FOR PREVENTION AND ONES TO TAKE ONCE VICTIMIZED**

It is imperative that we create better public awareness through aggressive media campaigns of:

- Steps for prevention, both individual consumers and in the workplace
- Steps to take once victimized. At this time, many victims flounder needlessly for days wondering who to call, what to say, what information they need to get to prove innocence, how to lock their credit access from imposters.

Victims often feel like they need to become the detective on the case, they don't understand the process and what their role in that process should be.

### **IN CONCLUSION:**

Services for victims of identity theft are 10 years behind other victimization programs. Because of the complexity of this crime, many groups must work together to find solutions- for prevention and to assist the victim. While victim assistance may not seem in the realm of the credit and banking industries, let me assure you – that by working on prevention, that by assisting victims and by forming a cooperative team with victims – you will create a powerful tool against identity theft. One that will benefit you with decreased monetary losses and increased customer loyalty.

**Beth Givens**  
**Director, Privacy Rights Clearinghouse**

Beth Givens is founder and director of the Privacy Rights Clearinghouse (PRC), a nonprofit advocacy, research and consumer education program located in San Diego, California. The PRC was established in 1992 with funding from the California Public Utilities Commission's Telecommunications Education Trust. It is a project of the Utility Consumers' Action Network, a nonprofit organization that advocates for consumers' interests regarding telecommunications, energy and the Internet.

The PRC maintains a complaint/information hotline on informational privacy issues, the only one of its kind in the country. Although it was originally established to serve California consumers, the PRC is increasingly contacted by consumers from throughout the U.S. The PRC publishes a series of guides on a variety of informational privacy issues. Topics include online privacy, credit reporting, identity theft, telemarketing, medical records, workplace privacy, "junk" mail, government records, children's online privacy, among others. These publications, along with other materials, are available on the Internet, at the Web address [www.privacyrights.org](http://www.privacyrights.org).

Givens frequently speaks and conducts workshops on the issue of privacy, and has participated in numerous media interviews. She has testified on privacy-related public policy concerns before the California Legislature, the California Public Utilities Commission, the National Telecommunications and Information Administration, the U.S. Comptroller of the Currency, and the Federal Trade Commission. In addition, Givens has been a member of several task forces studying the privacy impacts of technology on society, including: the California Legislature's Joint Task Force on Personal Information and Privacy; the U.S. Census Advisory Committee (year 2000 appointment), the California Judicial Council's Subcommittee on Privacy and Access; the Internet Policy Committee of the San Diego Public Library, and the Mayor of San Diego's City of the Future Task Force. Many of Givens' speeches can be found on the PRC website, [www.privacyrights.org](http://www.privacyrights.org), under "Speeches&Testimony."

Givens is a recipient of the 2000 Privacy International Brandeis Award. The PRC and its affiliated identity theft support group were awarded the year 2000 award from the Foundation for Improvement of Justice for their work assisting victims of identity theft. Givens is the author of *The Privacy Rights Handbook: How to Take Control of Your Personal Information* (Avon Books, 1997). She is co-author of *Privacy Piracy: A Guide to Protecting Yourself from Identity Theft*. Givens is also co-author and editor of the PRC's fact sheets (22 publications to date). She is author of *Citizens' Utility Boards: Because Utilities Bear Watching* (1991). And she is co-author of *The California Channel: A New Public Affairs Television Channel for the State* (1989), a two-year study on the feasibility of a C-SPAN-like network for state government.

Givens holds a master's degree in communications management from the Annenberg School for Communication, University of Southern California (1987). She has a background in library and information services, with experience in online research services and library network development (M.L.S., University of Denver, 1975).

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