# Document Fraud in Employment Authorization: How an E-Verify Requirement Can Help

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#### Introduction

The use of fraudulent documents for employment authorization and child identity theft go hand-in-hand because adults can use children's Social Security numbers for years without being detected. Document fraud, therefore, is not a victimless crime and the children whose Social Security numbers are used for employment purposes suffer very real and serious harm.

An E-Verify requirement is actually a <u>child protection measure</u> because it makes it virtually impossible for adults to use the fraudulently obtained Social Security numbers of children for employment purposes.

Therefore, a mandatory, nationwide E-Verify program with extremely strong employer sanctions should be implemented immediately in order to protect the futures of American children. Employers should be required to use E-Verify to check the status of all current employees as well as new hires in order to identity individuals who are using the Social Security numbers of children.

In addition, the families of victims of employment related identity theft should be allowed to sue employers for damages if employers fail to comply with the law.

#### I-9 process encourages document fraud and identity theft

The current I-9 employment authorization requirement has the unintended consequence of fueling a demand for fraudulent documents and encouraging employment related identity theft since new hires are required to provide specific documents which illegal immigrants and individuals who are trying to hide their true identities cannot legally obtain.

Illegal immigrants are by far the prime drivers of employment related document fraud and identity theft because a Social Security number is required to get a job with reputable employers. Dead beat parents, sexual predators, criminals trying to hide their identities and others also use fraudulent documents for employment purposes.

Shortly after arrival in the United States, most illegal immigrants purchase a set of fraudulent documents which includes a Social Security number. This results in three-quarters (75%) of all illegal immigrants holding and using fraudulently obtained Social Security numbers according to the Actuary of the Social Security Administration.

Thus, fraudulent documents abound and since the quality of the documents is generally quite good, employers are unable to determine if the Social Security cards, driver's licenses or "green cards" presented by job seekers are real or fake by simply looking at them.

#### **Social Security Number Only versus Total Identity Theft**

Almost all employment related identity fraud is Social Security Number Only fraud. In fact, according to a Social Security official, "Ninety-eight percent of Social Security-related ID theft cases involve people who use their own names but invent or steal their numbers."

The Social Security number being used by the perpetrator of Social Security Number Only identity fraud may not belong to anyone or it can belong to a man, a woman or to a child of any age.

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<sup>&</sup>lt;sup>1</sup> http://www.sltrib.com/business/ci\_3778628

According to the Social Security Administration, 453.7 million Social Security numbers have been issued; therefore, there is roughly a fifty-fifty chance that a randomly made up number has already been officially assigned to someone else. However, even if the randomly generated number has not been issued by the Social Security Administration, it is not taken out of the system when someone begins to fraudulently use it. The Social Security Administration, therefore, eventually assigns numbers that are already being used to new-born infants. When this occurs, a child may begin life with a wage history, bad credit, income tax liabilities and an arrest record.

Total identity theft is the use of another person's full name, Social Security number and complete date of birth. It is relatively rare because it is much harder to carry out, easier to detect and more subject to prosecution than is Social Security Number Only identity fraud.

In order to steal another person's total identity, the identity thief has to get the victim's full name (first, last, middle), his actual date of birth (month, day, year) and his actual Social Security number. In addition, the perpetrator has to be the same gender as his victim, be roughly the same age and the name being used should more or less match the identity thief's physical appearance.

Total identities are also much more expensive to purchase than randomly made up or stolen Social Security numbers that are simply attached to another individual's name.

### Children are victims of employment related identity theft

According to Carnegie Mellon University's CyLab, children are 51 times more likely to be the victims of identity theft than adults. CyLab found that 10.2% of the 42,232 American children in its survey had their identities compromised.<sup>3</sup>

Children's Social Security numbers are especially valuable for employment purposes. Children do not use their Social Security numbers for employment, credit or other purposes, thus the illegal use of their Social Security numbers can go unnoticed for many years.

In Utah, a joint federal-state investigation in 2005 confirmed that the Social Security numbers of Utah children were being used for employment purposes. Based on that investigation, it was estimated that 50,000 Utah children under age 18 were the victims of employment related identity fraud at that time. Under Utah law, identity fraud for employment purposes is a major felony.

In addition, Utah's Workforce Services identified 1,626 employers paying wages to the Social Security numbers of children under age 13.4

In 2009, Utah implemented its first E-Verify legislation that required public employers and their contractors to use E-Verify. In 2010, it added a requirement for all private employers with 15 or more employees to use E-Verify. Both laws simply left it up to employers to comply and did not include any penalties for non-compliance.

http://www.ssa.gov/history/hfaq.html

<sup>&</sup>lt;sup>3</sup> http://www.cylab.cmu.edu/files/pdfs/reports/2011/child-identity-theft.pdf

<sup>4</sup> http://www.citizensfortaxfairness.org/pdf/Identity%20Theft%20-%20Karen%20Morgan%20-%20Fact%20Sheets%202-13-07.pdf

The most recent figures available from Utah's Workforce Services, show that in 2010, 972 children on public assistance under age 13 had wages being reported to their Social Security numbers compared to 1,800 in 2005, a decline of 46%. In 2011, that number had dropped to 800, a 56% decrease.

In addition, in 2010, 1,367 employers reported wages on Social Security numbers that belong to children on public assistance. In 2011, that number rose to 1,449. These numbers are also down from the 2005 level.

The reasons for these decreases are difficult to determine. The nationwide economic downturn impacted Utah, although less severely than the rest of the nation. Many people lost jobs and when that occurred, wages ceased to be reported on the children's Social Security numbers that they were using.

In addition, a less friendly legislative environment for illegal immigrants coupled with Utah's weak E-Verify laws likely had some impact as more companies used E-Verify. A growing awareness of illegal immigrant driven child identity theft may have also contributed to the decline.

In spite of these favorable trends, child identity theft in Utah continues to be a serious problem as noted by a headline in the April 7, 2012 edition of the Salt Lake Tribune which read: "Identity theft involving children is a growing crime." According to the Tribune:

In the past five years, the Utah Attorney General's online Identity Theft Reporting Information System has received more than 3,000 reports of ID theft — about 67 percent of which involved Social Security numbers belonging to children. Nationally, more than 19,000 reports of child identity theft were made to the Federal Trade Commission, up from about 6,000 reports in 2003.

These reported cases of identity theft are, however, just the tip of the iceberg because most parents are unaware that their children's identities are being used and the crime is only discovered when children grow up and eventually apply for credit or when the family applies for public benefits. Therefore, many of the reported adult cases of Social Security Number Only identity theft may have occurred during childhood but were only discovered later on.

#### Document fraud is not a victimless crime

The children and other victims of employment related document fraud and identity theft suffer real harm. They have their good names destroyed and can have their credit ruined and medical records compromised with life threatening consequences.

They can have income tax liabilities attached to their names for unpaid taxes on revenue earned on their Social Security numbers and they can be denied public benefits such as critically needed Medicaid coverage because wages are being reported on their Social Security numbers.

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http://www.sltrib.com/sltrib/money/53803171-79/credit-child-utah-program.html.csp

<sup>&</sup>lt;sup>6</sup> www.cis.org/mortensen/dreams

And once children enter the workforce or go to college, they may not be able to qualify for internships, student loans, jobs, unemployment benefits, and mortgages because of the records of other people that are attached to their Social Security numbers.

#### Multiple felonies to get a job

People from diverse backgrounds use fraudulent documents and the identifying information of American children to get jobs. Dead beat parents use their children's Social Security numbers to avoid having their wages garnished for child support.

In a well publicized case in Utah, a child pornographer used a fraudulently obtained Social Security number to obtain employment as a truck driver, and still other individuals who are trying to hide criminal records from employers may use the identifying information of children.

Perhaps most seriously of all, millions of illegal immigrants use fraudulent documents and the fraudulently obtained Social Security numbers of an untold number of American children to get jobs. In fact, Illegal immigration, document fraud and identity theft, go hand-in-hand because millions of individuals illegally in the United States must have Social Security numbers to get jobs with employers who require the completion of an I-9 form.

Since individuals illegally in the United States cannot legally obtain a Social Security number and cannot legally work using an Individual Taxpayer Identification Number (ITIN), they rely on fraudulently obtained Social Security numbers. They also purchase and use other fraudulent documents such as drivers licenses and "green cards." When they do this, they commit multiple felonies including document fraud, Social Security fraud, forgery, perjury on an I-9 form and under state laws, identity fraud.

States with the highest percentage of illegal aliens in their population also tend to be among the states with the highest levels of both overall and employment related identity theft. Border states including California, New Mexico, Arizona and Texas are among the most impacted not only because they have large populations of illegal immigrants but also because many newly arrived illegal immigrants obtain their false documents in those states before moving inland.

#### E-Verify prevents document fraud and employment related identity theft

Given the high quality of fraudulent documents being used by illegal immigrants, dead beat parents, pedophiles and others, employers have no grounds to challenge them. That is why it is so important to have a mandatory employment verification system in use that protects children from becoming victims.

E-Verify can help dramatically reduce job-related, child identity theft because an employer using the system in good faith cannot legally enter a child's date of birth when the employee is obviously an adult.

E-Verify also stops 100% of all Social Security Number Only, job related identity theft which accounts for as much as 98% of all employment related identity theft. And with the addition of photos and other features, E-Verify makes it very difficult for individuals to use total stolen identities for employment purposes.

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<sup>&</sup>lt;sup>7</sup> www.cis.org/identitytheft

Arizona's experience seems to indicate that the use of E-Verify plays at least some role in preventing employment related identity theft. Prior to the enactment of its E-Verify legislation, employment related identity theft made up an exceptionally large percentage of total identity theft in Arizona and it had been rapidly increasing year after year.

Following the enactment of Arizona's strong E-Verify requirement in 2007, employment related identity theft declined from over 39% of total identity theft in 2006 to 25% in 2011. This is a 36% decline and it is likely that many of the cases of employment related identity theft now being reported occurred before the implementation of mandatory E-Verify. In addition, new cases continue to occur because not all Arizona employers are complying with the law and because other states where people use the Social Security numbers of Arizona children do not mandate E-Verify.

It is important to note that the decline came during a time of economic retrenchment and that factors in addition to E-Verify likely played a role in the decrease of employment related identity theft. However, given the heavy reliance on Social Security number only identity theft for employment purposes, E-Verify almost certainly contributed significantly to the decrease.

Arizona – Employment Related Identity Fraud Trends			
Source: Federal Trade Commission			
	Employment related	% Increase/Decrease from	
	identity fraud as a % of	one year to the next	
Year	total identity fraud		
2002	20%	-	
2003	25%	+25%	
2004	31%	+24%	
2005	34%	+10%	
2006	39%	+15%	
2007 (E-Verify with sanctions)	36%	(-9%)	
2008	33%	(-8%)	
2009	30%	(-9%)	
2010	29%	(-3%)	
2011 (E-Verify law upheld –	25%	(-14%)	
May)			

As noted previously, the number of Utah children on public assistance who have their Social Security numbers used for employment purposes appears to be down as is the number of Utah employers paying wages to the Social Security numbers of children. This consistent with FTC reports that show an initial leveling off of employment related identity theft and then a sharp drop since Utah's E-Verify requirements took effect.

This initial trend suggests that even a weak employment verification requirement with no enforcement mechanism may help reduce the incidence of child identity theft for employment purposes.

The uptick in rates in 2010 may be the result of outreach activities by Utah's Attorney General and other law enforcement, community and business leaders to convince illegal immigrants that they had nothing to fear from weak E-Verify requirements and other illegal immigration provisions passed by the legislature.

Utah – Employment Related Identity Fraud Trends Source: Federal Trade Commission		
	identity fraud as a % of	one year to the next
Year	total identity fraud	
2002	8%	-
2003	9%	+12%
2004	13%	+44%
2005	12%	(-8%)
2006	13%	+8%
2007	13%	0%
2008	16%	+23%
2009 E-Verify (public employers		
and contractors only - July)	16%	0%
2010 E-Verify (private		+6%
employers 15 or more	17%	
employees - July)		
2011	13%	(-23%)

#### **Recommendations and Conclusion**

Given the already existing high rates of Social Security number only, employment related child identity theft and the continuing hiring of people using children's Social Security numbers, a mandatory, nationwide E-Verify program with extremely strong employer sanctions should be implemented immediately in order to protect the futures of American children.

Employers should be required to use E-Verify to check the status of all current employees as well as new hires in order to identity individuals who are stealing our children's identities.

In addition, victims of employment related identity theft should be allowed to <u>sue employers for damages</u> if employers fail to carry out proper employment verifications.

In conclusion, it is imperative that the United States government do everything possible to protect children who are America's future from massive, employment related document fraud and child identity theft. The mandatory use of E-Verify can play a key role in defending our children's future.

# Appendix A

# Key Findings Illegal, but Not Undocumented: Identity Theft, Document Fraud, and Illegal Employment

By Ronald W. Mortensen, Ph.D. (June 2009)

This Backgrounder examines illegal immigration-related document fraud and identity theft that is committed primarily for the purpose of employment. It debunks three common misconceptions: illegal aliens are "undocumented;" the transgressions committed by illegal aliens to obtain jobs are minor; and illegal-alien document fraud and identity theft are victimless crimes. It discusses how some community leaders rationalize these crimes, contributing to a deterioration of the respect for laws in our nation, and presents a variety of remedies, including more widespread electronic verification of work status (E-Verify and the Social Security Number Verification Service) and immigrant outreach programs to explain the ramifications and risks of document fraud and identity theft.

#### The findings include:

- Illegal immigrants are not "undocumented." They have fraudulent documents such as
  counterfeit Social Security cards, forged drivers licenses, fake "green cards," and phony birth
  certificates. Experts suggest that approximately 75 percent of working-age illegal aliens use
  fraudulent Social Security cards to obtain employment.
- Most (98 percent) Social Security number (SSN) thieves use their own names with stolen numbers. The federal E-Verify program, now [2009] mandated in only 14 states, can detect this fraud. Universal, mandatory use of E-Verify would curb this and stop virtually 100 percent of child identity theft.
- Illegal immigration and high levels of identity theft go hand-in-hand. States with the most illegal immigration also have high levels of job-related identity theft. In Arizona, 33 percent or all identity theft is job-related (as opposed to identity theft motivated simply by profit). In Texas it is 27 percent; in New Mexico, 23 percent; in Colorado, 22 percent; California, 20 percent; and in Nevada, 16 percent. Eight of the 10 states with the highest percentage of illegal aliens in their total population are among the top 10 states in identity theft (Arizona, California, Florida, Texas, Nevada, New York, Georgia, and Colorado).
- Children are prime targets. In Arizona, it is estimated that over one million children are victims
  of identity theft. In Utah, 1,626 companies were found to be paying wages to the SSNs of
  children on public assistance under the age of 13. These individuals suffer very real and very
  serious consequences in their lives.

- Illegal aliens commit felonies in order to get jobs. Illegal aliens who use fraudulent documents, perjure themselves on I-9 forms, and commit identity theft in order to get jobs are committing serious offenses and are not "law abiding."
- Illegally employed aliens send billions of dollars annually to their home countries, rather than spending it in the United States and helping stimulate the American economy. In October 2008 alone, \$2.4 billion was transferred to Mexico.
- Tolerance of corruption erodes the rule of law. Corruption is a serious problem in most illegal aliens' home countries. Allowing it to flourish here paves the way for additional criminal activity and increased corruption throughout society.
- Leaders support perpetrators and ignore victims. Political, civic, religious, business, education, and media leaders blame Americans for "forcing" illegal aliens to commit document fraud and identity theft. No similar concern is expressed for the American men, women, and children whose lives are destroyed in the process.
- The Social Security Administration and Internal Revenue Service facilitate illegal immigrant-driven identity theft. Both turn a blind eye to massive SSN fraud and take no action to stop it. The Social Security Administration assigns SSNs to new-born infants that are being used illegally. The IRS demands that victims pay taxes on wages earned by illegal aliens using their stolen SSNs, while taking no action to stop the identity theft.
- State and local governments need to adopt tougher laws to supplement federal efforts. The
  Bureau of Immigration and Customs Enforcement (ICE) is targeting large document fraud
  rings and the most egregious employers, but their resources are limited and stretched across
  multiple priorities. In 2007, identity theft cases represented only 7 percent of the total ICE case
  load.
- Employers must do their part. They can ensure that they have a legal workforce by using a
  combination of the federal government's E-Verify and Social Security Number Verification
  Service systems and by signing up for the federal government's IMAGE program or privately
  conducted audits.

The full study can be found at: www.cis.org/identitytheft

# **Appendix B**

# Illegal Aliens: Turning the Dreams of American Children into Nightmares

By Ronald W. Mortensen, January 12, 2010

Note: This fictional account is an accurate depiction of the harm that illegal aliens are doing to millions of American children. Any resemblance in this account to any person living or dead is purely coincidental.

Years ago, Kinara Matuaki of Nairobi, Kenya traveled to Utah on a tourist visa to attend a major religious conference. Upon entering the U.S., an inspector of the Immigration and Naturalization Service (INS), placed a small card in Kinara's passport. On the card, the inspector recorded a specific date and informed Kinara that he had to leave the United States on or before that date. He also reminded Kinara that he was not authorized to work in the United States. Kinara told the inspector that he fully understood and that he was honor bound to leave as required.

However, after just a few days in Utah, Kinara decided that he was not going to return to Kenya where unemployment stood at 40 percent, per capita income was less than \$1,000 per year, and life expectancy was only 50 years.

Although he had a wife and a child still in Nairobi and a job that paid \$100 per month, Kinara knew that if stayed in the United States, he could make an even better life for himself and his family.

In order to get a job, he needed documents, so he purchased a Social Security card and a drivers license from a **fraudulent documents** dealer for \$50. Both documents carried his own name and he didn't know that the Social Security number that was on his card already belonged to a six-month-old American girl, Susie.

Using the fraudulently obtained Social Security card and driver's license, Kinara quickly found a job that paid \$140 per week. Later, using the same fraudulent documents, he took a second job driving taxi at night. In both cases, he entered the information from his false documents on an I-9 form under penalty of perjury.

Within a year, through hard work and lots of overtime, Kinara had enough money saved to bring his wife (Eddah) and teenage son (Oginga) to Utah. Being unable to get United States visas, Eddah and Oginga traveled to Canada. For a fee of \$3,000, a smuggling ring got them across the border and shortly thereafter they were reunited with Kinara.

Once in Utah, just like Kinara had done earlier, Eddah and Oginga quickly obtained false documents in their own names including Social Security numbers that belonged to two other American children – Aaron, age 10, the son of an American-born janitor, and Maria age 8, the child of a first-generation

legal immigrant from Peru. And just like Kinara, they were now committing major felonies under a combination of federal and Utah laws – document fraud, perjury on an I-9 form, and identity fraud.

The Matuaki family quickly integrated into the community and joined a church. They were, by all appearances, a model family. Those who knew that the Matuakis were illegally in the United States were not concerned because they had always been told that illegal immigrants were only trying to make a better life for themselves without hurting anyone else.

Eddah worked in one of the best hotels in the city as a housekeeper using Aaron's Social Security number, and Oginga used Maria's Social Security number to get part-time work at grocery stores and fast-food outlets.

When Oginga eventually graduated from high school, he attended a state university under Utah's instate tuition program for illegal aliens. In order to pay for his tuition, he worked nights as a waiter in a private club still using the Social Security number that belonged to Maria.

He finally earned a degree in electrical engineering, but when he graduated he was unable to get a professional job using his fraudulent documents. He, therefore, continued to use Maria's Social Security number to get low-paying, unskilled jobs with employers who didn't verify his identity or authorization to work in the United States.

Over the years, the Matuaki family obtained credit cards, purchased cars on credit, and obtained bank loans. For a period of time Kinara was without work and he defaulted on several loans. During that time, neither he nor Eddah filed an income tax return, although Eddah continued to work. In addition, Eddah had taken out numerous credit cards in her name and she missed payments on at least a dozen occasions.

After purchasing a small condominium with a loan from a Utah bank that openly solicited the business of illegal aliens, Oginga was unable to make the payments and lost it in a foreclosure action.

Eventually, Susie, Maria, and Aaron -- the real owners of the Social Security numbers used by the Matuakis -- graduated from high school. All three went on to college. When they tried to obtain internet service in their own names, they were denied because their credit histories had been destroyed by the Matuaki family. For the first time, they became aware that **their identities had been stolen**.

When they tried to get student loans, they were not able to qualify because of their bad credit.

When they tried to get financial assistance, the were denied because the income earned under their Social Security numbers by Kinara, Eddah, and Oginga made it impossible for them to qualify.

When Aaron, the janitor's son, applied for an internship with the U.S. Department of State to help fulfill his dream of becoming a diplomat, he was not able to obtain a security clearance in a timely manner due to a poor credit history and because IRS records showed that he had an outstanding tax liability for the money earned by Eddah on his Social Security number.

The families of all three American children were thrown into a panic and lives were severely disrupted. The children had to spend hundreds of hours and thousands of dollars trying to recover their good names which had been destroyed by the Matuaki family.

Aaron's father took a second janitorial job in order to hire an attorney to help clean up the damage that Eddah had done to his son's credit history and to get the IRS to finally acknowledge that Aaron was not responsible for paying taxes on the money earned by Eddah. However, by the time everything was done, Aaron's dream of becoming a diplomat had evaporated.

Susie was able to use her father's political influence to get a U.S. Senator to intervene on her behalf with the credit bureaus and her credit history was eventually cleared so she was able to get her student loan and a new car.

As the daughter of a single mother, a first-generation legal immigrant from Peru, Maria simply didn't have the resources to clear her credit history. So rather than going to college, she took a low-paying job in a convenience store, got married at age 19, and was divorced, with a child, at age 21.

Available at: <a href="https://www.cis.org/mortensen/dreams">www.cis.org/mortensen/dreams</a>

## Appendix C

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