

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Chief Financial Officer

Natwar M. Gandhi
Chief Financial Officer



MEMORANDUM

TO: The Honorable Linda W. Cropp
Chairman, Council of the District of Columbia

FROM: Natwar M. Gandhi
Chief Financial Officer

DATE: September 15, 2003

SUBJECT: Fiscal Impact Statement: "Identity Theft Amendment Act of 2003"

REFERENCE: Bill 15-036 as Amended in the Nature of a Substitution

Conclusion

Funds are not sufficient in the FY 2004 through FY 2007 budget and financial plan as agreed to by the Mayor and the Council of the District of Columbia because additional resources will be required. **Implementing the proposed legislation will result in unbudgeted costs of \$0.59 million in FY 2004 and \$2.45 million in FY 2004 through FY 2007.**

Anti-deficiency laws, 31 USCA § 1341 (2000) and D.C. Official Code § 47-355.01 *et sequitur* (2003), prohibit District officers and employees from exceeding agency appropriations in any fiscal year. Should the Metropolitan Police Department (MPD) determine that funding is available to absorb the additional costs in FY 2004, then the fiscal impact would be zero. For subsequent years, the additional expenditures must be included as budgeted expenditures.

Background

The proposed legislation will establish a local statute that criminalizes the act of identity theft. The D.C. Code prohibits credit card fraud, general fraud, and theft, but the act of identity theft is not against the law. As a result, the criminal justice system is unable to prosecute those who misrepresent their identities or obtain personal identifying information. MPD indicates that identity theft is beyond its jurisdiction, and are therefore unable to investigate the crime.

The proposed legislation amends the Theft and White Collar Crimes Act of 1982¹ to make identity theft a criminal offense and provide enhanced penalties for offenders who commit identity theft against persons 65 years of age or older. The proposed legislation also authorizes the court to provide restitution to the victim and to order the correction of public records containing false information as a result of identity theft.

The proposed legislation requires MPD to report identity theft and provide the complainant with a copy of the report. In addition, the proposed legislation requires consumer credit reporting agencies to include security alerts in consumer reports upon request of consumers who believe they have been victims of identity theft.

Financial Plan Impact

The District of Columbia is ranked number one by the Federal Trade Commission (FTC) in terms of fraud complaints per 100,000 population and in terms of identity theft victims per 100,000 population. MPD estimates that if implemented the proposed legislation would result in 2,000 to 2,500 cases per year. Although initial reporting requirements could be absorbed by existing operations, MPD has indicated they will require 10 additional detectives to conduct investigations and support prosecutorial actions by the U.S. Attorney's Office.

Funds are not sufficient in the FY 2004 through FY 2007 budget and financial plan to implement the provisions of the proposed legislation. MPD has indicated at a minimum they will require 10 additional Detective Grade I - Class 3, Step 1 FTEs. The table in Figure 1 presents the local personnel services costs² associated with implementing the proposed compensation agreement.

Figure 1.

Expenditure Impact to the Financial Plan				
(\$ in millions)				
FY 2004	FY 2005	FY 2006	FY 2007	TOTAL
\$0.59	\$0.60	\$0.62	\$0.64	\$2.45

Judgements in the nature of fines, penalties, late fees and penalty interest collected as a result of successful criminal prosecution are currently retained by the D.C. Superior Court.

The Chief Financial Officer's legislative fiscal analysis is prepared by the Special Projects and Fiscal Analysis Administration in the Office of Research and Analysis. Contact us at 441 4th Street, NW, Suite 400S, Washington D.C., 20001 or view our work on-line at <http://cfo.dc.gov>.

¹ D.C. Law 4-164; D.C. Official Code § 22-3201 *et sequitor*; effective December 1, 1982.

² Figures include salary and benefits calculated at 15 percent. PS costs reflect scheduled increases effective after April 6, 2003 change date.