



8-2003

The criminal exploitation of ambiguity : a multi-level analysis of fraudulent telemarketers

Glenn Steven Coffey

Follow this and additional works at: https://trace.tennessee.edu/utk_graddiss

Recommended Citation

Coffey, Glenn Steven, "The criminal exploitation of ambiguity : a multi-level analysis of fraudulent telemarketers. " PhD diss., University of Tennessee, 2003.
https://trace.tennessee.edu/utk_graddiss/5120

This Dissertation is brought to you for free and open access by the Graduate School at TRACE: Tennessee Research and Creative Exchange. It has been accepted for inclusion in Doctoral Dissertations by an authorized administrator of TRACE: Tennessee Research and Creative Exchange. For more information, please contact trace@utk.edu.

To the Graduate Council:

I am submitting herewith a dissertation written by Glenn Steven Coffey entitled "The criminal exploitation of ambiguity : a multi-level analysis of fraudulent telemarketers." I have examined the final electronic copy of this dissertation for form and content and recommend that it be accepted in partial fulfillment of the requirements for the degree of Doctor of Philosophy, with a major in Sociology.

Neal Shover, Major Professor

We have read this dissertation and recommend its acceptance:

Accepted for the Council:

Carolyn R. Hodges

Vice Provost and Dean of the Graduate School

(Original signatures are on file with official student records.)

To the Graduate Council:

I am submitting herewith a dissertation written by Glenn Steven Coffey entitled "The Criminal Exploitation of Ambiguity: A Multi-Level Analysis of Fraudulent Telemarketers." I have examined the final paper copy of this dissertation for form and content and recommend that it be accepted in partial fulfillment of the requirements for the degree of Doctor of Philosophy, with a major in Sociology.

Neal Shover

Dr. Neal Shover, Major Professor

We have read this dissertation
and recommend its acceptance:

James A. Black
Dr. James Black

Lois Presser
Dr. Lois Presser

Otis Stephens
Dr. Otis Stephens

Accepted for the Council:

[Signature]
Vice Provost and
Dean of Graduate Studies

**The Criminal Exploitation of Ambiguity:
A Multi-Level Analysis of Fraudulent Telemarketers**

A Dissertation Presented for the
Doctor of Philosophy Degree
The University of Tennessee, Knoxville

Glenn S. Coffey

August 2003

Thesis
2003b
.C64

Copyright © 2003 by Glenn S. Coffey.

All rights reserved.

DEDICATION

This dissertation is dedicated to my parents,
William D. Coffey and Antonina Parafioriti Coffey,
who have dedicated their lives to their children.

ACKNOWLEDGEMENTS

I am first and foremost indebted to my major professor, Dr. Neal Shover, for granting me the opportunity to participate in this research and for the academic and professional guidance he has provided over the past several years. I also would like to express my appreciation to the other committee members, Dr. James Black, Dr. Lois Presser, and Dr. Otis Stephens, for all of their time and consideration and the invaluable feedback they provided during the dissertation process. I am obliged to Dr. Samuel Wallace and Dr. Robert Perrin as well, for their contribution to my professional development and the letters of support they submitted on my behalf during my tenure at the University of Tennessee and the job search.

This research would not have been possible without the financial support of the National Institute of Justice, the assistance of the staff at the Bureau of Prisons Office of Research, especially Dr. Jody Klein-Saffran, and the ladies and gentlemen that provided interviews. The wardens and personnel at the various prisons, above all Jeryl Kochera, several U.S. Attorneys including John MacCoon, and the folks at the United States Probation Office - Las Vegas, particularly David Sanders and Eric Christiansen, were likewise essential to the research process. Credit is also due to Donna Marczi not only for transcribing the interviews, but also for taking an active interest in the project which created new leads and contacts.

With equal vigor, I would like to thank my friends and colleagues for all of their support, insight, and good company over the years. A special thanks to Dr. Judy van Wyk for her guidance and friendship, especially during the early years of my doctoral education. Patrick Williams and I navigated through the program together from studying for comprehensive exams to the completion of our dissertations, which inevitably resulted in a uncommon bond between us. I cannot express well enough my appreciation for the members of the Crew - David Steele, Sean Huss, Sammy Zahran, and Cory Blad. David was ever consistent in his availability to discuss issues relating not only to school, but also personal matters. Sean Huss has been similarly constant in his loyalty as a friend and I am particularly obliged to

him for tutoring me on social psychology and for helping me work past writer's block.

I am also deeply indebted to Sammy Zahran for taking an interest in this research equal to my own, and for the countless hours he spent discussing and conceptualizing the project with me. His counsel was extremely helpful during the job search process as well, yet it is the endless supply of laughs that I will remember most. I would like to express special appreciation to Lisa "Bun" Zilney, for whom I have great respect and affection. I consider myself quite fortunate to be her friend and will always cherish the good times and long talks we have had over time. I sincerely hope that all of my friends stay in touch over the years and that they all have the good fortune to make friends in the future that are as valuable to them as they all have been to me.

Anne Austin Carroll deserves special mention as she not only has provided friendship, support, and counsel over the years, but also was instrumental to my education and the completion of this dissertation. She encouraged me when I was working, scolded me when I was slacking, and provided constant assistance throughout my tenure at the university. She is truly a remarkable person and I shall never forget her contribution to my life and education. I am grateful as well to Beverly Hill for being a shining light in my life during a very trying period and to Tux the Kid for reminding me to keep my cool. Finally, I am very thankful for the support of my family, particularly my dear sister Kirsten who has always kept me close to home, and my brother Colin who has been my best friend throughout life.

ABSTRACT

During the past century there have been significant changes in the economic and social structure that have resulted in new forms of criminal opportunities. Fraudulent telemarketers are among those that have seized such opportunities to defraud consumers out of billions of dollars annually. The purpose of this dissertation is to determine the decision-making process of criminal telemarketers and the means by which they commit fraud. Data analysis draws from semi-structured interviews with 48 subjects who have been convicted under federal law. First, the organization, management, and accountability structure of criminal telemarketing enterprises are examined. Next, the interaction process between fraudsters and victims is explored from a social-psychological perspective. The subjects' backgrounds and criminal careers and the lure of criminal telemarketing and the lifestyles it affords are then provided. Finally, the thought processes of fraudulent telemarketers are analyzed in the context of denial of crime, techniques of neutralization, and organizational design, before a rational choice perspective is applied. The author concludes that fraudulent telemarketers embrace the cultural goal of capital accumulation, exploit ambiguity in the law, design diffuse accountability structures in their organization to avoid criminal responsibility, and ultimately "ascend" to the status of marginalized middle-class persons.

PREFACE

The materials presented here are based upon research supported by grant #00-7185-TN-IJ from the U.S. Department of Justice, National Institute of Justice. Points of view or opinions expressed herein do not necessarily reflect the official position or policies of the Department of Justice.

TABLE OF CONTENTS

	<u>Page</u>
1. Background	1
Emergent Opportunities	4
Telemarketing Fraud	7
Research Problem	17
2. Methods	23
Sample	25
Data Collection	30
Data Analysis	33
Methodological Reservations	36
3. The Social Organization of Telemarketing Fraud	39
Structure and Routine	42
Sample Operation	49
Recruitment and Socialization	53
Management and Accountability	58
Criminal Operations	59
Legitimate Operations	71
Contextual Comparison	82
4. The Interaction Process	89
Social Psychology of Interaction	90
Telemarketing Sales	95
Compliance Techniques	96

	<u>Page</u>
Fraudulent Transactions	98
The Pitch	104
The Bargain	106
Subjects' Perspectives	109
Victims' Accounts	114
5. Individual Offenders	122
Offender Backgrounds	123
Criminal Careers	126
Criminal Lure	128
Income	133
Personal Success	141
Mobility	147
Lifestyles	149
6. Thinking Fraud	154
Denial of Crime	155
Techniques of Neutralization	160
Organizational Buffers	166
Rational Choice	171
7. Conclusion and Policy Implications	181
Conclusion	182
Policy Implications	191
References	200

	<u>Page</u>
Appendices	223
Appendix A - Introduction and Description of Research Project	224
Appendix B - Informed Consent	226
Appendix C - Topical Interview Guide	228
Appendix D - Revised Interview Guide	232
Vita	235

<u>List of Tables</u>	<u>Page</u>
Table 5.1 - Cross-tabulation of Education Background and TM Position	131
Table 5.2 - Cross-tabulation of TM Position and Annual Income Category	134
Table 5.3 - Cross-tabulation of Education and Annual Income Category	136
Table 5.4 - Cross-tabulation of Age and Annual Income Category	138
Table 5.5 - Cross-tabulation of TM Years and Annual Income Category	140
Table 5.6 - Cross-tabulation of Parent Occupation and TM Position	143
Table 6.1 - Cross-tabulation of TM Years and Admission of Guilt	159
Table 6.2 - Cross-tabulation of TM Position and Admission of Guilt	170

<u>List of Figures</u>	<u>Page</u>
Figure 3.1 - Organizational Structure and Routine	47
Figure 3.2 - Fraudulent Organization Management and Accountability	60
Figure 3.3 - Legitimate Organization Management and Accountability	72
Figure 3.4 - Comparison of Organizational Contexts	83
Figure 4.1 - The Social Psychology of Fraud	99

Chapter 1

BACKGROUND

Writing at the dawn of the 20th century, Ross (1907: 3) noted cogently that crime "changes its quality as society develops." Ross focused specifically on growing social and economic interdependence and the variety of ways this permitted both exploitation of trust and the commission of crime at a distance from victims. The transformative social and economic changes that Ross noted gained speed as the century progressed. For instance, in the United States and other Western nations, the middle decades of the century saw the emergence and expansion of state policies and corporate practices.

This development included a fundamental shift in the state's public welfare functions, which had the effect of expanding programs and subsidies for citizens across the income spectrum. One measure of this is the fact that in 1992, 51.7 percent of American families were receiving some form of federal payment, ranging from Social Security, Medicare and military retirement benefits to agricultural subsidies (Samuelson, 1995: 158). In constant dollars the federal outlay for entitlement programs increased more than

1,900 percent between 1945 and 1995 - from \$75 billion to \$1.5 trillion (U.S. Department of Health, Education, and Welfare, 1959; Social Security Administration, 1999).

Concurrently, goods that were either unknown or unattainable decades earlier became readily available in the domestic economy. Houses, automobiles, refrigerators, television sets and a host of other commodities now were within reach of a growing segment of the population. The greater disposable income available to citizens allowed them not only to purchase these commodities, but also to obtain new comprehensive insurance policies offered by insurance underwriters. Increasingly, the middle-class family was insured against major hazards to life, home and business as well as loss of or damage to household items (Clarke, 1990).

Additional changes occurred in the structure and dynamics of economic relationships and in communications technology (Adler, 1992; Lash and Urry, 1994). Electronic financial transfers among banks and businesses, automatic teller machines (Hirschhorn, 1985), and home banking increasingly came into use across the globe (Silverstone, 1991). Of even greater significance is the widespread use of telecommunications (Batty and Barr, 1994; Turkle, 1995),

electronic financial transactions, and consumer credit (Tickell, 1996), which foreshadows a depersonalized, cashless economy. In this new world of personal computers and virtual identities, individuals and organizations conduct business with remote others whose credentials and intentions cannot be determined easily.

There has been a parallel shift in the U.S. occupational structure as well, with routine production giving way to in-person services as the dominant mode of employment. According to Reich (1991), there are essentially three broad categories of work emerging in the United States: routine production services, in-person services, and symbolic-analytic services. Routine production services entail the repetitive tasks of producing finished products tradable in world commerce. In-person services also involve repetitive tasks but their services must be provided person-to-person. They need not have acquired much education and the servers are in direct contact with the ultimate beneficiaries of their work. "Their immediate objects are specific customers rather than streams of metal, fabric, or data" (Reich, 1991: 176).

By 1990, routine production work comprised about one-quarter of the jobs performed by Americans and the number

was declining. That same year, in-person services accounted for about 30 percent of the American labor force and their numbers were increasing rapidly (Reich, 1991: 177). Symbolic-analysts solve, identify, and broker problems by manipulating symbols. They rarely come into contact with the ultimate beneficiaries of their work and currently account for no more than 20 percent of American jobs (Reich, 1991: 178-9).

Emergent Opportunities

While the nature of business transactions has been altered fundamentally by transformations of economic relationships, the capacity for credible oversight of emergent forms of criminal lure has not kept pace. The net result of these political and economic developments was the provision of new white-collar criminal opportunities (Taylor, 1999; Grabosky, Smith and Dempsey, 2001). The State and the array of provisions it makes available to citizens and organizations is a frequent target of fraud offenders, one they need not leave home or office to exploit. Federally funded health care programs, for example, have given physicians and hospitals access to new pools of tax revenue

for which oversight is so weak that it has been called a "license to steal" (Sparrow, 1996). The growth of health insurance fraud, therefore, can be seen as "emblematic of the emerging forms of white-collar crime that reflect the changing economy of the late twentieth century" (Tillman, 1998: 197). New criminal opportunities extend far beyond healthcare.

For individuals, exploitation of these white-collar criminal opportunities may be motivated by a variety of circumstances and meanings, whether feelings of entitlement, anger over past treatment by state functionaries, or simple greed. Occasional media reports and research give reason to believe, however, that a significant proportion of white-collar criminals approach it with a spirit of calling (e.g., Abagnale, 1980; Francis, 1988; Jackson, 1994). Little is known about these vocational predators and how they compare with their predecessors of earlier eras (Glaser, 1972).

While the investigation of professional thieves and their pursuits has a long history in criminology, the canon is replete with portraits of offenders who have passed from the scene. However, for contemporary observers, "fraud masters" (Jackson, 1994) deservedly command more attention

than "cut purses" (Tobias, 1967), "cannons" (Maurer, 1964) and "good burglars" (Shover, 1973). Economic and social change inevitably transform the worlds in which offenders entertain options and organize for pursuit of criminal income (Hobbs, 1997; McIntosh, 1975; Shover, 1983). The new entrepreneurial milieu is an enabling environment for a great range and variety of money-making schemes (Ruggiero and South, 1997).

The landscape of emergent criminal opportunities has proven to be fertile territory for the growth of fraud (Shover, 1996). *Fraud* is misrepresentation or deception used to secure unfair or unlawful gain, typically by perpetrators who create and exploit the appearance of a routine transaction. Fraud violates trust, it is non-confrontational, and it can be carried out over long distance. Its distinguishing characteristics, therefore, stand in stark contrast to robbery, burglary and other street crimes that require offenders to confront their victims or to enter their homes or businesses.

Fraud varies immensely in organizational complexity and reach, for example, from small vinyl siding scams to international banking crimes that can destabilize national economies. The number of Americans victimized by fraud is

large and greatly exceeds the number victimized by serious street crime (Titus, 2001). A 1991 survey of U.S. households found that compared to crimes of burglary, robbery, assault and theft, fraud "appears to be very common" (Titus, Heinzelmann, and Boyle, 1995: 65). A national survey conducted in 1999 found that 36 percent of American households had experienced fraud victimization in the preceding 12 months (Rebovich and Layne, 2000).

Telemarketing Fraud

The rapid growth of telemarketing is one of several consequential changes in the nature of economic relationships in Western countries in recent decades. Telemarketing is a unique vehicle in the service industry as it enlists technology to expand pools of potential customers and affords direct contact with them. In 2000, telemarketing sales accounted for \$611.7 billion in revenue in the United States, an increase of 167 percent over comparable sales for 1995. Increased growth is predicted for the future. Total annual sales from telephone marketing are expected to reach \$939.5 billion by the year 2005 (Direct Marketing Association, 2001).

The reasons for the growth of telemarketing are understood easily in the context of the "general acceleration of everyday life, characterized by increasingly complicated personal and domestic timetables" (Taylor, 1999: 45). The need to coordinate personal schedules and to economize time now drives many household activities. The daily schedule no longer permits either the pace or the style of shopping that were commonplace a few decades ago. In search of convenience, sale of merchandise via telemarketing has gained in popularity.

While telemarketing has become an important part of the legitimate economy, fraudsters also have been quick to exploit the criminal opportunities it presents. Telemarketing fraud touches the lives of many citizens. A 1992 poll of a national sample of Americans showed that 2 percent of respondents had been victimized by fraud in the preceding six months (Harris, 1992). This exceeds the victimization rate for all Index crimes except larceny. A comparison of 1992 poll results with data from the 1992 Uniform Crime Reports shows that Americans were seven times more likely to be victims of telemarketing fraud than victims of robbery in that year (Federal Bureau of Investigation, 1993).

Estimates of aggregate annual financial losses to telemarketing fraud range upwards of \$40 billion, a toll that exceeds the combined monetary loss from all street crimes (U.S. Department of Justice, 2000). There are countless variations on the basic telemarketing fraud scheme, but typically a consumer receives a phone call from a high-pressure salesperson who solicits funds or sells products based on false assertions or enticing claims. Callers offer an enormous variety of products and services, and often they use names that sound similar to bona fide charities and other reputable organizations (U.S. Senate, 1993).

The American Association of Retired Persons (AARP) estimates that in 1996, there were some 140,000 telemarketing firms in the United States and that up to ten percent of them were fraudulent (AARP, 1996a). Elderly persons are disproportionately victimized by telemarketing fraud. There are several reasons for this pattern. The elderly are more likely than younger citizens to have disposable income and are more often at home. Additionally, loneliness and diminished intellectual acumen may increase their vulnerability. This, however, does not mean that the elderly alone are targeted by telemarketers

as people of all ages have fallen prey to telemarketing scams. Some victims of telemarketing fraud are harmed severely by their experiences with it; it can erode both financial savings and self-esteem (Shichor, Doocy and Geis, 1996). Repeat victimization is not uncommon, and elderly victims, in particular, may be left with seriously depleted fiscal resources as they are less likely to be employed.

The size, permanence, and geographic mobility of criminal telemarketing organizations can vary substantially. One segment of the criminal telemarketing industry is made up of somewhat large enterprises. "Boiler rooms," operations featuring extensive telephone banks and large numbers of sales agents, have become less common in recent years, largely because of the law enforcement interest they attract. There is reason to believe, however, that criminal telemarketers increasingly are locating operations in countries with little governmental oversight and operating across international borders (e.g., Australian Broadcasting Corporation, 2001).

On the other hand, some fraudulent organizations are very small, consisting of only two or three persons (See *Atlanta Journal-Constitution*, 2000), many of which are set up and operate in a community for only a few weeks or

months before moving on. They are commonly referred to as *rip and tear* operations. Doocy et al. (2001) observe simply that the telemarketers they studied "seemed to be extraordinarily mobile vocationally" (p. 17). Rip and tear operators count on the fact that up to six months time may pass before law enforcement agencies become aware of and target them. Research on this segment of the telemarketing industry is exceedingly rare due to the fact that they are moving targets. This mobility also makes it difficult for law enforcement agencies to investigate their operations. Thus, there is reason to believe that some of these criminal entrepreneurs may operate with impunity for years.

Sutherland's (1940) *offender-based* definition of white-collar crime emphasizes as its essential characteristic the status and power of those who commit it (Albanese, 1996). Viewed this way, telemarketing fraud is not white-collar crime as the status and power of criminal telemarketers is not recognized by legitimate society. *Offense-based* definitions of white-collar crime, on the other hand, highlight offenses with specific formal characteristics without regard to the status of those who commit them. Wheeler et al. (1982: 642) defined white-collar crime as "economic offenses committed through the

use of some combination of fraud deception, or collusion.” Weisburd et al. (1991), for example, used the criminal code as the starting point for drawing a sample of white-collar offenders. The population from which it was drawn included all persons who were convicted of or pleaded guilty to any of eight *statutorily* defined crimes. The distinction between elite and ordinary white-collar crime is made by Shover (1998). Looked at through the lens of offense-based definitions, telemarketing fraud indisputably is ordinary white-collar crime.

Recent investigations on career criminals (e.g., Blumstein, Cohen and Farrington, 1988) have mainly focused on street offenders. Investigators have found that most street offenders hail from locations in the class and social structure where the young generally do not acquire the human capital requisite to success in the world of well-paid and respectable work. Additionally, a constellation of risk factors predisposes some to unusually early criminality, and a substantial proportion of males reared in these circumstances will acquire arrest and court records before reaching adulthood. For most, however, aging and the changes that accompany it eventually cause a reduction in, or curtailment of, serious street crime.

When compared to the number of investigations into lives and careers of street-crime offenders, the corpus of research into the criminal careers of white-collar offenders is small. The extant research on white-collar offenders suggests that not all are one-time or accidental violators; some have histories of multiple arrests and convictions. Some investigators, for example, have found that when samples of ordinary white-collar criminals are examined, upwards to 21 percent have previous felony convictions (Weisburd et al., 1991). When offender-based approaches to white-collar crime are employed, there are substantially fewer previous arrests in the backgrounds of offenders.

Research on former employees of a California-based fraudulent telemarketing firm found that 30 percent of 162 sales agents had records of at least one criminal offense, and another 16.4 percent had records of alcohol or drug offenses (Doocy et al., 2002). This suggests that the backgrounds and criminal experiences of telemarketing offenders in broad outline may not differ greatly from what previous studies have suggested is characteristic of ordinary white-collar offenders. It also lends credibility to the assumption that at least some telemarketing fraud is

committed by offenders for whom crime is a long-standing pattern or vocation. The fact that telemarketing fraud is perpetrated in an organizational context facilitates the moral transformation of others without prior criminal records.

In addition to being organized, the criminal endeavors of fraudulent telemarketers are entrepreneurial in nature. This business-like approach to crime suggests not only that criminal telemarketers embrace the societal goal of capital accumulation but also they are suited to pursue established pathways to success. The pursuit of profit is a universal goal of individuals in the United States as it is in other capitalist nations. In *Crime and the American Dream*, Messner and Rosenfeld (2001: 5) assert that "crime in America derives in significant measure, from highly prized cultural and social conditions." Cohen (1955) contends that "individuals are encouraged to pursue the somewhat broader goal of middle-class status. That is, individuals are urged to seek the financial success, reputation, and lifestyle associated with the middle class." While it is obvious that criminal telemarketers actively pursue financial gain, whether they desire "middle-class status" is unclear.

From all accounts, many of the larger fraudulent telemarketing firms closely resemble legitimate business firms. Doocy et al. (2001: 21) describe *telescamming* as an "inventive offshoot of legitimate enterprise." They explain it in the context of the capitalist structure which "encourages the accumulation by any tactic, but imposes a penalty if the effort is illegal" (Doocy et al., 2001: 21). As O'Connor (1973) points out, it is up to the state to monitor both facets of this pursuit. The state has an obligation to create and maintain the conditions under which capital accumulation is possible and it must simultaneously create and maintain conditions of social harmony, including protection of the public.

O'Connor goes on to suggest that there is serious potential for conflict between these two obligations.

A capitalist state that openly uses its coercive forces to help one social class accumulate capital at the expense of other classes loses its legitimacy and hence undermines the basis of its loyalty and support. But a state that ignores the necessity of assisting the process of capital accumulation risks drying up the source of its own power, the economy's surplus production capacity and the taxes drawn from that surplus (O'Connor, 1973: 6).

That the state has not previously enacted unduly restrictive measures on telephone sales has facilitated criminal telemarketers pursuit of capital accumulation.

Despite the increased prominence of telemarketing in the economy, however, practitioners are not permitted to exploit its potential at the expense of the public. Thus, telemarketing fraud is defined in 18 United States Code 2325 as:

A plan, program, promotion, or campaign that is conducted to induce purchases of goods or services, or participation in a contest or sweepstakes, by use of one or more interstate telephone calls initiated by a person who is conducting the plan, program, or campaign.

Although telemarketing fraud is defined in 18 U.S.C., section 2325, most criminal telemarketers are charged under the wire fraud statute (18 U.S.C., section 1343): Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire, radio, or television communication in interstate foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice, shall be fined under this title or imprisoned not more than five years, or both.

Offenders may also be charged with mail fraud (18 U.S.C., section 1341), money laundering (18 U.S.C., section 1956)

or criminal conspiracy (18 U.S.C., section 371). It is important to note that the law does not specifically delineate what actions or behaviors constitute fraud. As a result, the prescriptive aspect of the law is subject to interpretation.

Research Problem

The criminal decision-making of fraudulent telemarketers as it pertains to the law and possible ramifications remains largely unexplored. Rational-choice theories of crime have stimulated numerous investigations of street-offender decision-making (e.g., Bennet and Wright, 1984; Feeney, 1986; Katz, 1988; Shover and Honaker, 1992; Tunnell, 1992; Wright and Decker, 1997; Hochstetler, forthcoming). There is remarkable consistency in the results of these studies. Burglars, armed robbers and other street criminals are anything but the careful calculating actors sketched in classical criminological theory. Age, the influence of companions, mood, and drug altered states of consciousness, whether singly or in combination, constrain severely their rationality.

Although rational-choice theory has been extended to white-collar crime by a number of investigators (e.g., Paternoster and Simpson, 1993; Shover and Bryant, 1993), there are few tests of its explanatory and predictive merits (Braithwaite and Makkai, 1991; Simpson and Koper, 1992). Despite the fact that many believe white-collar criminals may be among the most rational of offenders (e.g., Braithwaite and Geis, 1982; Weisburd, Waring and Chayet, 1990), understanding of their decision-making lags far behind what is known about the behavior of street criminals.

Surprisingly little is known about the fraudulent telemarketers who have stepped forward to exploit the new white-collar criminal opportunities. Their social origins and characteristics, the attractions and compensations of their work, the way they organize and manage their criminal enterprises, and the process by which they perpetrate fraud are largely unexplored areas of investigation. The extent to which white-collar criminals are aware of and take account of the criminal justice apparatus and its threats is unclear. The extent to which answers to these and other questions about the white-collar criminal decision-making process would necessitate modifications of crime-as-choice

theory remains unclear as well. From a policy standpoint, it would be useful to understand the forces that cause them either to extend or to terminate criminal participation. This dissertation redresses this situation with analysis of data on criminal telemarketing and offenders. The approach is both descriptive and interpretive.

The problem of telemarketing fraud cannot be addressed adequately by exclusive focus on the individuals who perpetrate it. It generally is not committed by solitary offenders for its operational challenges require the coordinated efforts of two or more individuals (Francis, 1988; Schulte, 1995; Stevenson, 2000). Therefore, it is necessary to examine the organizational context through which criminal telemarketers facilitate fraud. It is equally important to analyze the interaction process wherein the fraud is actually perpetrated.

Doocy et al. (2001) suggest that "successful sales talents are similar to those of a successful actor: an ability to convince others that you are what you truly are not, and to have them [consumers] believe that the lines you speak are truths." In other words, sellers are given wide latitude in making their sales pitches while it is up to consumers to discern the actual value of products or

services. While this may be true of sales in general, it contributes little to understanding the interaction process wherein telemarketing fraudsters swindle funds from unwitting victims. To better comprehend the phenomenon, it would be helpful to gain insight into the perceptions of the "sellers" and buyers" that participate in fraudulent transactions.

To explore fully the phenomenon of telemarketing fraud, it is necessary to examine it at macro, meso, and micro-levels. This study examines how criminal telemarketers exploit ambiguity at the legal, organizational, and interactional levels. By definition, ambiguity is the state of being "ambiguous" - capable of being understood in two or more possible senses or ways (Merriam-Webster, 1997). It is synonymous with vagueness, uncertainty, haziness, doubt, and indistinctness. For purposes of this study, ambiguity in all its derivative forms is explored in the context of the law, organizational structure and management, and the interaction process.

Generally, how do fraudulent telemarketers organize and manage their criminal enterprises to exploit criminal opportunities? What is the process by which they carry out the fraud? What are the backgrounds and criminal decision-

making processes of fraudulent telemarketers? This dissertation analyzes the cultural and legal factors that underlie criminal telemarketing, the social organization and management of fraudulent telemarketing enterprises, and whether organizational structure helps explain the decision-making process of individual offenders. It also explores the interaction processes utilized to perpetrate fraud and the backgrounds and decision-making of the individual offenders.

More specifically:

1. What are the backgrounds, criminal histories, and lifestyles of the sample subjects?
2. How are fraudulent telemarketing firms organized and managed?
3. What is the organizational routine?
4. What is the lure of criminal telemarketing to those that participate in it?
5. How do criminal telemarketers perpetrate fraud interactionally?
6. How do offenders and victims perceive the interaction process?
7. What is the decision-making process of the offenders?
8. How do offenders rationalize their criminal actions?

The methodology employed is detailed (Chapter 2) before the design, routine, management and accountability structure - that is, the social organization - of criminal telemarketing operations are examined (Chapter 3). The interaction process between offender and victim is analyzed from a social-psychological perspective (Chapter 4) and then the backgrounds and criminal careers as well as the lure of criminal telemarketing and lifestyles of the sample subjects are provided (Chapter 5). Next, the thought processes of individual offenders are revealed. Specifically, I consider the denial of crime, techniques of neutralization, organizational design, and rational choice perspective (Chapter 6). The author's conclusion and policy implications follow (Chapter 7).

Chapter 2

METHODS

Research into telemarketing fraud does not have a long history. Few studies have been conducted. In fact, criminological research has been greatly limited prior to the current study. Most of the knowledge gained to date has been gathered in a non-scientific manner by law enforcement and regulatory agencies and victim advocate groups. Albeit unsystematically, the American Association of Retired Persons (AARP, 1996a; 1996b) has provided valuable information to educate victims about the existence of criminal telemarketers while law enforcement and regulatory agencies have produced enforcement statistics.

Doocy et al. (2001) pursued knowledge about the offenders themselves. The investigators reviewed background reports of 162 telemarketers who had previously worked at a California-based fraudulent telemarketing firm. The findings of this study were rather limited but did produce age and criminal history statistics. The researchers also obtained a sole interview and eight surveys from fraudulent telemarketers. While the study was

qualitatively limited, the relevant information is reported later in this paper.

The current study uses qualitative interviews to fill the gap in knowledge about fraudulent telemarketers. In this method of research, interviews are less structured than survey interviews; researchers ask open-ended questions and elicit specific responses but participants are allowed and prompted to explain and clarify their responses (Babbie, 1998; Cromwell, 2003). It is a method that allows access to participants' knowledge, experience, and opinions in their own words (Reinharz, 1992; Rubin and Rubin, 1995; Johnson, 2002; Warren, 2002). The results of qualitative interviews offer "deep" or "thick" descriptive information and understanding of the activity being studied (Johnson, 2002).

We know little about telemarketing fraud, hence the need for qualitative interviews. Understanding the motivations behind participants' criminal activity is central to this study because it allows the researcher to go beyond common sense explanations (Babbie, 1998; Johnson, 2002; Cromwell, 2003). "Effective crime control strategies must take into account the factors that drive crime. Field research that allows offenders to speak for themselves is

ideally suited to these studies" (Cromwell, 2003). The purpose of each interview is to uncover potentially relevant data. Therefore, "it is best not to structure interviews too tightly, but rather to allow sufficient space for other potentially relevant concepts to emerge and to include conceptual areas brought to the investigation or uncovered during the research process" (Strauss and Corbin, 1990: 181-2).

Sample

Theoretical sampling was employed to research telemarketing fraud and criminal telemarketers. According to Strauss and Corbin (1990: 177), the aim of theoretical sampling is to sample events and incidents that are indicative of categories, their properties, and dimensions. In other words, the interest is in gathering data about what subjects do; the range of conditions that give rise to their actions and variations in action; and how conditions change or stay the same over time and with what impact. "Guiding theoretical sampling are questions and comparisons that evolve during analysis that help a researcher to

discover and relate relevant categories, their properties, and dimensions" (Strauss and Corbin, 1990: 178).

Theoretical sampling ensures the noting of variation and process, as well as of density. "A certain degree of flexibility is needed because the investigator must respond to and make the most out of data-relevant situations that may arise while in the field" (Strauss and Corbin, 1990: 178). "Sampling is open to those persons, places, and situations that will provide the greatest opportunity to gather the most relevant data about the phenomenon under investigation" (Strauss and Corbin, 1990: 181). "The researcher chooses the sites, persons, and documents that will maximize opportunities for verifying the story line, relationships between categories, and for filling in poorly developed categories" (Strauss and Corbin, 1990: 183).

In grounded theory research, the researcher pursues generalizations by making comparisons across social situations. "It seeks theory that is comparable with the evidence, that is precise and rigorous, that is capable of replication, and is generalizable" (Neuman, 1994: 323). Decisions regarding the number of interviews depend upon access, available resources, research goals, and time. The general rule in grounded theory research is to sample until

theoretical saturation of each category is reached.

Theoretical saturation occurs when no new or relevant data seem to emerge regarding a category, the category accounts for all of the paradigm elements along with variation and process, and the relationships between categories are well established and validated (Strauss and Corbin, 1990: 188).

Most of the data for this dissertation were gathered in semi-structured personal interviews with 48 telemarketing offenders convicted under federal law. Since there are no lists of the names - sampling frames - of criminal telemarketers, investigators interested in learning about them and their activities cannot draw random samples for study. Sampling began with examination of major metropolitan newspapers for the past five years and approximately 75 web sites that contained information about telemarketing fraud as well as names of convicted offenders. Additional names were gathered from pre-sentence reports of interview subjects. These search processes yielded the names of 308 persons who were convicted of telemarketing fraud in the period 1996 through 2000 in the U.S. For reasons that never became clear, the proportion of names that were matched with incarcerated inmates was much lower than expected. Of the 308 names

submitted to the Bureau of Prisons Office of Research and Evaluation, only 74 were returned with indication they were confined in institutions.

Interviews were completed with 25 of these. Twenty-six (26) elected not to meet with the investigator, two declined to be interviewed after hearing the presentation of research objectives and methods, and seven had been released prior to the investigators' institutional visit. No attempt was made to contact or interview fourteen of the incarcerated offenders, principally because there were no other telemarketing offenders incarcerated in the institutions where they were confined, and it would not have been cost effective to travel there in hopes of securing a solitary interview.

Under the terms of an agreement with the Federal Bureau of Prisons, names were submitted to personnel in their Office of Research and Evaluation, who reported the institutional locations of those currently incarcerated. Institutional wardens were then made aware of the researcher's interest in interviewing these inmates. The warden or the warden's designee then presented to the inmates the written description of the research and its objectives and inquired if s/he was agreeable to meeting

with the investigator when he visited the institution. The written description of the project is attached as Appendix A.

The researcher later traveled to a number of institutions to meet with inmates who responded affirmatively, to describe and explain the research objectives and to interview those who elected to participate in the study. Those offenders that agreed to be interviewed were ensured of confidentiality and were asked to sign a consent form. A copy of the consent form is attached as Appendix B. Twenty-five members of the sample were incarcerated when interviewed. They were confined in twelve federal prisons, from Oregon to Florida and Massachusetts to Arizona.

To ensure that the sample included a sufficient number of people with diverse telemarketing experience, as interviewing progressed, the researcher also included some offenders under federal probation supervision. I reasoned that their involvement in telemarketing fraud probably was not as lengthy or as serious as was the case with the incarcerated subjects. U.S. Probation Officers and U.S. Attorneys in five states provided the investigator with names of potential interview subjects. I interviewed 23

parolees and probationers, 15 in Las Vegas, Nevada, and 8 in other cities. Las Vegas was an early hotbed of criminal telemarketing, and it continues to be a home base for many operations.

Data Collection

The final interview sample consisted of forty-eight subjects. Among them were thirty-six white males, six African-American males, and six white females. All interviews followed an interview guide, which was revised as data collection progressed and analytic insights were developed and tested. The original topical interview guide is attached as Appendix C and the final revised guide is attached as Appendix D. The interviews explored a range of topics, including subjects' background and criminal history, their employment history, and the nature and circumstances of their initial and subsequent participation in telemarketing fraud. The investigator also explored the characteristics and operating procedures of the organizations for which subjects had worked. This information provided an understanding of how fraudulent

telemarketing organizations operate and factors that may explain their differential success.

Interviews lasted from 45 minutes to 7 hours; however, most lasted between one and one and half hours. The subjects confined in prison took considerably longer to interview as they were conducted during the early stages of data collection and the subjects spent a significant amount of time discussing their legal appeals. Most of the imprisoned subjects and the researcher met in visiting rooms at the respective prisons; complete privacy was provided although a few prisons kept a guard within view. The majority of interviews with probationers and parolees took place in probation offices, three were conducted at restaurants, and the remaining two were done by telephone.

In addition to interviews with telemarketing offenders, I had access to pre-sentence investigation reports for 40 of the 48 subjects. Examination of these served not only as an independent check on the validity of information elicited during the interviews but also provided a more complete picture of the subjects' backgrounds and circumstances. I also interviewed four acquaintances who formerly worked as telemarketers at fraudulent firms for short periods of time and five

legitimate telemarketers, two of whom once held office in telemarketing trade associations. The purpose of these interviews was to discern how fraudulent telemarketers differed from legitimate telemarketers.

In addition, I interviewed four assistant U.S. attorneys with extensive experience prosecuting telemarketing offenders, four U.S. probation officers who have supervised a large number of convicted telemarketers, and a state official with the Nevada Consumer Affairs Division. The information gained from these interviews was valuable as it provided a law enforcement perspective on telemarketing. I also examined eight depositions of victims of telemarketing fraud made by law enforcement personnel and three voluminous criminal trial transcripts containing detailed descriptions of criminal telemarketing organizations and operations.

Finally, I made site visits to five telemarketing operations, two of which appeared to operate fraudulently. The purpose of these visits was to examine the operations in practice. The similarities and distinctions between legitimate and illegitimate operations that had been verbalized in interviews became more clear as a result. The researcher was able to observe aspects of the

respective businesses that were not described during the interview process. For example, the differences in professionalism and management techniques became visibly apparent. Field notes were made during visits to the legitimate sites and immediately after departure from the allegedly fraudulent sites and were later transcribed for analysis.

Data Analysis

Interviews were tape recorded and later transcribed for analysis using *N-Vivo*, a software package for text-based data (Richards, 1999). *N-Vivo* allows the researcher to code, recode and store ideas, concepts, categories and themes relevant to the qualitative data being analyzed. Databases are created and can systematically be retrieved and managed. Additionally, *N-Vivo* offers the ability to maintain information about cases by storing attributes and information also can be exported to create spreadsheets and databases.

N-Vivo utilizes a classification system for relating, categorizing, characterizing, coding, and manipulating the concepts, topics, and ideas relevant to a qualitative

research project (Richards, 1999). It is necessary for the researcher to generate the categories from data within the documents. Specific categories are used to code project documentation where a particular topic occurs. The specific categories can then be grouped into any number of sets, which can be studied for their features, contents, themes, etc. (Richards, 1999).

The original research questions and field notes were used as a guide to determine general themes for exploration. The investigator began formal analysis of the data set by reviewing the interview documents and coding passages according to content. This required that a specific category be designated for each passage according to its particular content. As analysis continued, the need to establish new categories lessened as subsequent passages of similar content were fit within previously established codes.

Upon completion of coding by specific content, the investigator placed the various passages under broader conceptual headings: cultural influences, law, offender backgrounds, social organization, social interaction, and criminal calculus. I then reviewed the passages within each broad category in order to determine more specific

themes. At that point, I was able to group the specific categories into sets and thus organize the data to address the research questions.

I also conducted statistical analyses using the SPSS computer software program for quantitative analysis. I ran cross-tabulations on several variables that had theoretical relevance; eight of the tables are incorporated in the paper. Cross-tabulations provide the distribution of frequencies of variables within cross-referenced categories. The tables reveal the within category and within group percentages for the variables that are cross-tabulated. This required that all variables utilized be entered as categorical data, hence numerical data were grouped as needed.

Age, number of marriages, number of children, years in telemarketing, and income were entered as numerical variables. Race was entered as white and non-white; gender was male and female. Education was categorized as less than high school, high school degree (including GED), some college, college degree, and masters degree. Parent's employment refers to the occupation of the head of the household, usually the father; categories consisted of laborer, managerial/professorial, and business owner.

Prior record was a dichotomous variable of yes or no; and the present status of the subject was listed as prison, parole, and probation. Telemarketing positions of the subjects were entered as sales agents which includes closers, reloaders, managers, and owners. Finally a category was created for admission of guilt, which consisted of yes, no and awareness.

Methodological Reservations

Criminologists have long voiced concern about the potential shortcomings of research based on samples of offenders known to the police or other criminal justice agencies. The issues are well known. To begin, known offenders and their experiences may not be representative of the larger population of offenders: their arrest and conviction are *prima facie* evidence that they have been unsuccessful and, therefore, may differ in important ways from offenders who do not have official criminal records (Wright et al., 1992; McCall 1978). Known offenders also may not be honest or forthcoming with investigators for fear of repercussions from criminal justice agencies and personnel (Yablonski, 1956). Last, there is the problem of eliciting information

about street-level dynamics and concerns when subjects, if incarcerated, are far removed from the free world and its constraints.

There are no simple or straightforward solutions to sample selection problems and the use of known offenders. Reason suggests, however, that some issues and topics probably can be explored well using known offenders with little fear of bias, even if this is not the case for all areas of inquiry. Lifestyles and careers, for example, are one thing, decision-making is another (Shover and Honaker, 1992). Almost certainly, the former can be recalled more clearly and accurately than the details of complex cognitive or decision-making processes. Similarly, known offenders may be forthcoming and candid about relationships with family members, but they may be reluctant to divulge information on illicit income if they fear it could be used by state officials to extract hidden income or monies.

There is no doubt that investigations of street crime using samples of known offenders have produced detailed, accurate and useful data on a range of topics (Shover and Honaker, 1992; Shover, 1985; Feeney, 1986; Scully and Marolla, 1984; Benson, 1985). Put differently, research using prisoners or other known offenders has demonstrable

value. There is little reason, moreover, to believe that the results of these studies contradict or are inconsistent with what has been learned from studies using active offenders. More important, despite misgivings about using offenders known to criminal justice agencies, there is little hard evidence available on which to judge whether they think, act and report information differently than free-ranging offenders.

This combined with its cost-effectiveness persuaded me to use a sample of convicted telemarketers under institutional or community supervision. Simply, there is no other way to access these offenders. I acknowledge that the precise relationship of this sample to larger populations of theoretical and substantive interest is unknown, but it does capture persistent telemarketing fraud offenders, the object of considerable public and official concern.

Chapter 3

THE SOCIAL ORGANIZATION OF TELEMARKETING FRAUD

Criminal telemarketers generally do not act alone. They usually enlist the cooperative efforts of other individuals, resulting in the need to organize and manage their criminal enterprises. Thus, I set out to explore the structure and management of the subjects' criminal organizations. More specifically, I wanted to determine whether or not the criminal firms are hierarchical replete with a management and accountability structure. I also examined the recruitment and socialization processes and the routines criminal telemarketers employ to perpetuate fraud. The subjects maintained a defensive stance with respect to the inner-workings of their organizations for the most part. Explication required piecing together information from a variety of sources. It also was instructive to determine whether or not criminal firms differed significantly in organizational context from legitimate operations.

The products and services offered by criminal telemarketers span a wide gamut. Examples of commonly employed schemes include prizes and sweepstakes deals,

magazine sales, credit card sales, work-at-home schemes, advance fee loan offers, credit card loss protection programs, buyers' clubs, and travel/vacation offers. A high proportion of the companies represented by the research subjects promised that those who purchased products from them were odds-on winners of a prize soon to be awarded once other matters were settled. Typically, the products were either personalized or "cause of the day" (e.g., *Say No to Drugs*) items. The prices of these items were grossly inflated and the valuable prizes never awarded.

Other subjects sold private stocks that by definition are not listed or traded on a stock exchange.

Telemarketers nevertheless are able to entice investors with smooth talk and a promising prospectus. Dependent upon their salesmen for market reports, those who invest soon discover that the non-existent stocks take a nose-dive, and they lose their investments. The movie *Boiler Room* (Warner Home Video, 2000) is an entertaining and generally accurate depiction of these operations.

A couple of subjects sold investment shares in cable companies that were said to be on the cutting edge of providing access to previously unreachable land areas.

Naturally, the deal fell through in the end and the clients absorbed the loss. Another subject sold inexpensive gemstones with fraudulent certificates of grossly inflated value and authenticity. The stones were sealed in display cases such that purchasers would have difficulty getting them appraised, particularly since they were told that if they broke the seal, the value of the stones would decrease and the certificate of authenticity would become invalid.

Some research subjects solicited money for nonexistent charities or for legitimate organizations they did not represent. These fraudulent telemarketers place calls to unwitting victims and prey upon their good nature and humanitarianism. A few more brazen firms simply told victims that they had won a large sum of money. To "cash in" on the proceeds, the victims were required to send in several thousand dollars to pay for alleged taxes and origination fees. The higher the amount of the award, the higher the fees. The fraudsters could afford to offer awards allegedly worth millions of dollars since there was never any payout.

Structure and Routine

Larger fraudulent telemarketing operations commonly take on the characteristics and dynamics of formal organizations; they are hierarchical, with a division of labor, graduated pay and advancement opportunities. Established by individuals with previous experience in fraudulent sales, they generally employ commissioned sales agents to call potential customers, to make the initial pitch, and to weed out the cautious and the steadfastly disinterested.

Experienced telemarketers generally do not call individuals randomly but work instead from *lead lists* (also known as "mooch lists"). Individuals whose names appear on lead lists typically are distinguished by past demonstrated interest or participation in promotions of one kind or another.

Lead lists are indispensable to criminal telemarketers. They are purchased from any of dozens of businesses that compile and sell information on consumer behavior and expressed preferences. Lead lists usually are generated by legitimate marketing firms that obtain consumer information from sweepstakes entry forms and purchaser questionnaires, such as those that accompany

product warranties. Owners may spend heavily on good lists, often paying as much as \$10 per name.

A 20 percent close rate on a lead list is considered a "very good" resource, whereas owners can expect less than 10 percent on lists that cost \$1 per name. Telemarketers that operate on an *in-bound* basis wherein consumers call into the company, utilize lead lists with consumer addresses. These firms mail out attractive offers hoping that the recipients will be enticed to call the business. They are less expensive but also produce only about a 1 percent response rate.

When a person is contacted by telephone, the sales agent generally works from a script. Scripts are written materials that lay out both successful sales approaches and responses (rebuttals) to whatever reception sales agents meet with from those they reach by phone. Promising contacts are turned over to a *closer*, a more experienced and better paid sales agent. A former owner told me:

I initiated a racetrack where I built all my telemarketing booths in a circle, and then I built a circle inside the circle. So there was a racetrack, a path going all around the circle, and I used closers that would [take over] as soon as they heard a buying signal. As soon as they [sales agents] heard a buying signal on the telephone they [turned it over] to somebody else to close the deal. So I could use 25 people in a room and just have 5 closers, 5 people

that could sell. And the other ones are just really initiating the sale and trying to develop interest.

Reloaders are the most effective closers. Much like account executives in legitimate businesses, they maintain contacts with individuals who previously sent money to the company (i.e., "purchased" from it) in hopes of persuading them to send more. As one subject told me:

I had it so perfected that I could get these customers to buy again. . . . I made sure they were happy so I could sell them again. It didn't do me, I didn't want the one time. I didn't want the two-timer. I wanted to sell these people ten times.

The organization of larger telemarketing firms and the routine that employees follow when handling promising calls explains why those who buy from them typically report contact with multiple salespersons (AARP, 1996b).

Fraudulent telemarketers generally prefer to bill their victims directly via credit card, but this process creates the potential for charge backs and external review by regulatory personnel and law enforcement. Consequently, customers usually are coached to write out a check during the phone call and directed to send it by overnight mail. Otherwise, the salesperson dispatches a courier to pick up the check or cash. Goods or services either are not delivered at all, or they are substantially inferior to what was promised.

The subjects of this study unstintingly employ the rhetoric of legitimate business when describing their operations and activities. Accounts of their telemarketing activities are replete with references to "customers," "purchases," "account executives," "premiums" and such. When they talk, however, of "customers" who "bought" from their establishments, they are referring to victims who sent them money and whom they hoped could be induced to make additional "purchases" despite receiving little of value in return for earlier ones. Throughout this paper, the rhetoric employed by the subjects is utilized in descriptions of their criminal operations and activities.

The owners are the idea men. They begin set up of the operations by locating office space and obtaining telephone services. There is little financial risk, largely because there is little overhead. Although owners often are required to post a bond with the state regulatory agency prior to start-up, sales are on commission, and products are provided by private contractors. Whereas legitimate marketing firms are enlisted by businesses to market their products, criminal telemarketers enlist businesses to provide products simply as reason to contact consumers they wish to defraud.

The goal of fraudulent telemarketers is to induce consumers to pay substantially increased prices or fees for products by promising awards to those who purchase. For example, they often enlist the services of a printing company, to make personalized pens and other trinkets and attach an exorbitant price to the products. More brazen owners may promise a product or cash award without ever sending any out to the consumers and some simply solicit donations for a non-existent charity.

The organizational flow chart **[Figure 3.1]** provides the basic hierarchical structure and routine of larger criminal telemarketing firms. Owners do not have direct contact with clients, however they often develop the scripts which the sales agents then follow. While scripts generally require approval by a state regulatory agency, the sales agents deviate from the approved scripts during the sales transactions. The owners then employ managers to train the sales agents on how to present the script in a more persuasive manner and to oversee the day-to-day operations. Managers stress the fact that individual income is based on commission and encourage sales agents to incorporate their own personal style when employing the scripts.

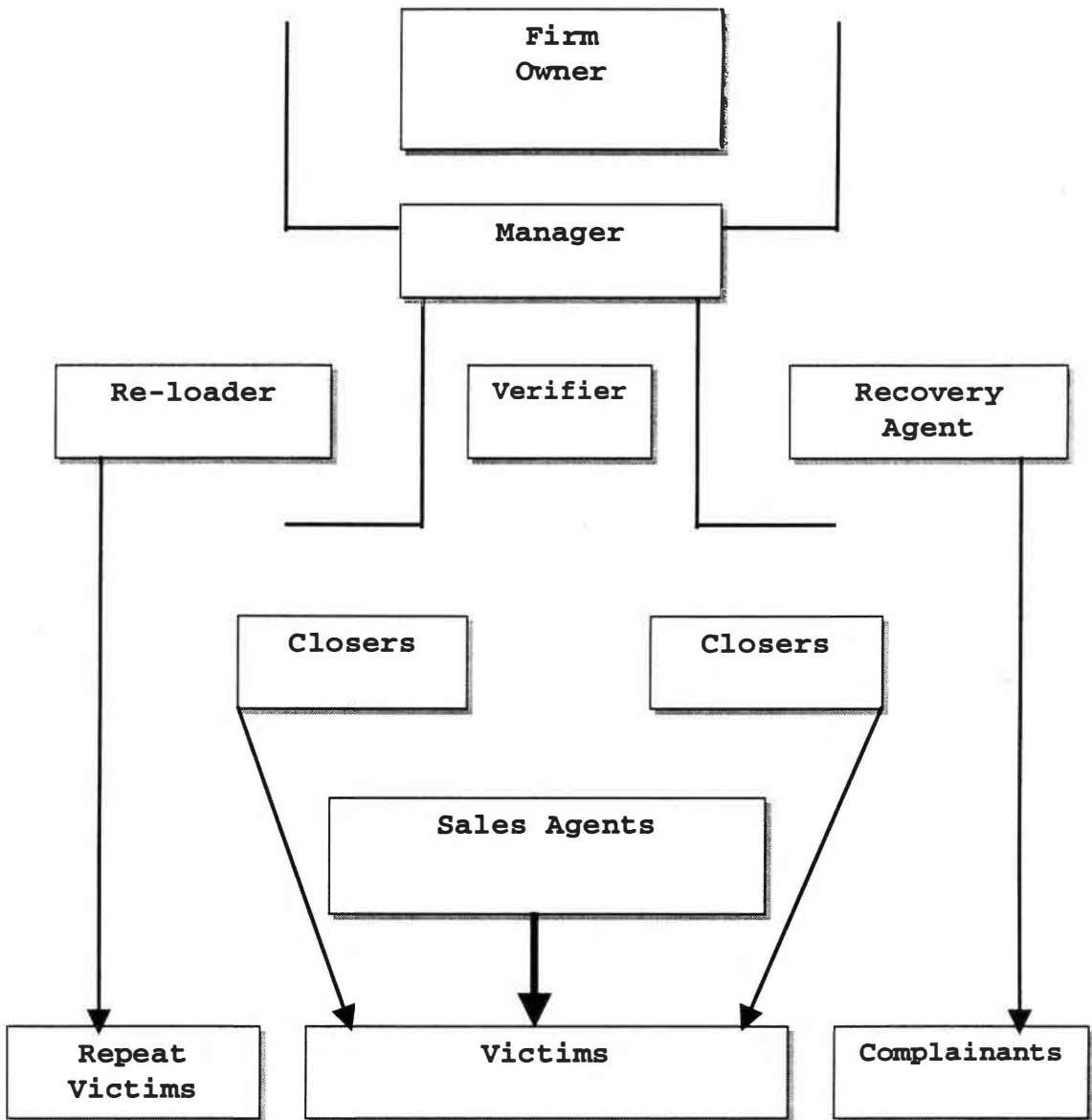


Figure 3.1: Organizational Structure and Routine

While closers technically are subject to the authority of the manager, reloaders are set up as account executives and maintain near complete autonomy in dealing with their clients. The transactions of sales agents and closers, on the other hand, often are subjected to review by the office *verifier*, if there is one. After a consumer agrees to make a purchase, albeit based on false promises, s/he is placed on the phone with the verifier allegedly for the purpose of making sure that all the information is correct. During these tape-recorded conversations, it is "verified" that the consumer is "aware" of the conditions of the purchase and that no additional promises were made. Naturally, the consumer has been coached by the sales agent/closer to not reveal the "inside" information, (i.e., s/he's a "winner"), that has been provided, or risk "queering the deal."

Criminal telemarketers usually count on the fact that most victims will not take the time or effort to complain, and they use verification tapes as their first line of defense should a consumer initiate a complaint. For victims who are more persistent in their demand for a refund, many of the fraudsters have developed ways to satisfy and yet still rip off disgruntled consumers. They do this by setting up *recovery rooms*.

Recovery rooms are based on the concept of legitimate firms that provide a service representing consumers against businesses by whom they've been defrauded. Criminal telemarketers have one of their own employees call dissatisfied customers and offer to represent the consumer against the business. Naturally, the employee proceeds under the guise of an independent recovery company. The result is that the customer recoups a portion, usually half, of what s/he lost, the complaint is abated, and the company keeps the rest.

Sample Operation

Among the subjects of this research were some who identified and located owners of vacant property, led them to believe that buyers for the property could be found easily, and then charged high fees to advertise it. The key to this scam is that the victims were made to believe that the telemarketers had buyers interested in the lots whereas there were, in reality, only a few buyers - individuals that were interested in vacant lots generally. Six (6) of the sample subjects worked for this particular company, which provided additional insight into how the

roles of the various positions are played out within an organizational setting. While the product/service they pedaled is somewhat unique, it does provide a deeper understanding of fraudulent operations.

The Texas operation, hereafter referred to as XYZ Company, was developed by two men experienced in real estate sales. A silent partner, who also possessed prior real estate experience, provided financial backing. The basic concept was to offer owners of vacant land the opportunity to list their land for sale and be matched with interested buyers. The partners developed divisions of labor with separate departments to handle: (1) potential sellers, (2) potential buyers, (3) computer entry and matching, and (4) accounting. Over time, the company grew to include approximately 30-40 employees per shift with a total of about 250 employees during the 3-year period in which the business operated.

The two managing partners located the tracts of land by researching title abstracts accessible to the public and sent out postcards to the land owners, soliciting them to call the business if they desired to sell their land. The sales agents fielded calls and entered the information into the computer base. Gullible sellers were required to pay a

listing fee to have their land placed in the computer listing service.

For the matching part, the fraudsters placed in newspapers and other media sources general advertisements stating that "land [is] available for purchase." Interested buyers were provided a toll-free number to call XYZ Company and specify in what region they sought to purchase land. These requests were then "matched" with parcels of land listed for sale by the sellers and a list of matches were submitted to the potential buyers. Interested buyers were not required to pay fees.

Although the sellers perceived that the company was actively engaged in selling their land, the subjects defended that the service offered was solely listing the properties. In other words, the subjects alleged that it was an advertising company as opposed to a real estate sales operation. The business did, in fact, compile a list of land tracts for sale and advertised, albeit generally.

Nearly 30,000 sellers were listed at the time of the investigation and the company took in about \$9 million dollars in revenue over the three-year span. (Listings required periodic renewal.) Approximately 200 tracts of land were sold during the same period to a total of 30

different buyers. These lands were generally sold at very reduced prices. The managers and partners perpetuated the myth that the service was doing well by talking in terms of matching properties, which in reality meant that some buyers expressed a general interest in land tracts, although not necessarily any of those listed for sale. They also boasted of actual sales made by soliciting and posting testimonials from sellers who somehow were lucky enough to sell their land.

The fraud was perpetrated through representations that the company and its agents made to the sellers. Upon determining the owner of a tract of land, the company would send a personalized postcard to potential sellers, listing their specific tracts of land and asking them if they were "interested in selling their land for cash today." If so, they were directed to call the company "within the next 72 hours." When a potential seller would call in, they were given a sales pitch devised by the managing partners, that implied that the company had "buyers interested in land like [yours] already in the computer." This was done to create the impression that a sale would be imminent.

Recruitment and Socialization

Criminal telemarketers need to recruit and replace personnel, restrict the number of persons knowledgeable about their criminal purpose, and hide assets (Shover, 1996). These problems are solved in most criminal organizations through specialized roles, spatial dispersion of members, and strategic ignorance of operations (Katz, 1980; Reuter, 1983). Etzioni (1961, 1964) identifies two concepts central to the professionalization process - selectivity and socialization. "Selectivity, or recruitment, involves the active search for the right person for a particular job" (1964: 68-69). Organizational socialization consists of "the processes by which the beliefs, norms and perspectives of the participants are brought into line with those of the organization" (Etzioni 1961: 142).

While Etzioni (1961: 158-159) contends that "each concept could substitute partially for the other," presumably the best organizational results are obtained when both selection and socialization are high. "When selectivity is low . . . organizational socialization is expected to adapt the personnel to the needs of the

organization" (Winfree et, al., 1984: 209). According to organizational theory, "the organization can compensate for 'failures' in the . . . recruitment process by increasing its control over new recruits, and subsequently initiating organizational socialization" (Winfree et, al., 1984: 222).

Requiring no formal education and only limited training, telemarketing provides employment opportunity to a wide array of individuals, providing an attractive breeding ground for modern day con artists. The individuals that are drawn to telemarketing generally do not have substantial education and they generally lack prior professional work experience. (The educational backgrounds of the subjects are provided in greater detail in Chapter 5.) As a result, criminal telemarketing firms recruit from a pool of untrained individuals who often lack business sophistication.

None of the subjects said that as children they aspired to a career in telemarketing. Some had previous sales experience before beginning the work, but most did not. Their introduction to it was fortuitous; while still in high school or, more commonly, while in college, they either responded to attractive ads in the newspaper or were

recruited by friends or acquaintances who boasted about the amount of money they were making.

[A former acquaintance] . . . looked me up, found me and said "you gotta come out here. . . . We're gonna make a ton of money." I went out for three weeks -- left my wife back home. And I got on the phones, and I was making a thousand dollars a week. I'm like, "Oh, my God, Jenni, pack the stuff, we're going to Arizona." . . . He [the acquaintance] was like, "man, you're, you're a pro at this shit." And I just, I don't know what it was. I was number one. . . . I don't know, I loved it.

Since selectivity in the recruitment process is virtually non-existent and the recruits are inexperienced, the socialization process is both emphasized and effective.

Generally, new agents are provided with a script and a list of responses (rebuttals) to consumer resistance and immediately placed on the phones. Although some companies provide training, it is usually in the context of being coached during the initiation process. The managers hold daily sales meetings to inspire the sales agents.

Sometimes, inspirational speakers such as Zig Ziegler and others are brought in to help train the sales agents to be more effective closers. In reality, owners and managers emphasize that the recruits are being paid on commission, which acts as a form of self-motivation. In other words, they need to find a way to close the deals in order to get paid.

The execution of the pitch does not begin and end with the scripted pitch. Rather, the sales agents are given latitude to use their own unique skills. Often, the managers suggest that newer sales agents observe some of the more experienced and successful agents. It is known by management, albeit unacknowledged, that the exemplary agents deviate from the script in order to get results. As noted by Hobbs (1995) and Winlow (2001), the influence of others is remarkably similar in criminal telemarketing to what is known about the criminal careers of street criminals, particularly those who go on to pursue crime with a high degree of skill and success. Having received guidance from successful closers, the sales agents soon learn to act on their own initiative and employ a more personal style in order to increase sales.

Managers of criminal firms motivate their sales agents in other ways as well. Law enforcement officials, for example, have said that,

sellers often have mirrors in the cubicles in which they work. They are told to look into the mirror and see the face of a hot-shot salesperson. Sometimes there will be a motto on the wall, such as: "Each No gets me closer to the Yes I want." Boiler room owners and managers . . . may put large bills on a bulletin board and say that the next sale or the highest total for the day will qualify for this extra reward. Often the sales people have to stand up when they

consummate a transaction, so that the boss can note them and they can take pleasure in the achievement (Doocy et al., 2002:171-72).

Sales agents not only receive recognition for successful transactions from management and colleagues but also develop a spirit of competition. Several agents referred to their competitive nature as a driving force. As one subject told me,

You could be selling a \$10 thousand ticket, you could be selling a \$49.95 ticket. And it's the same principle, it's the same rules. It's the same game. I like to win. I like to win in all the games I play, you know. And the money is a reason to be there, and a reason to have that job. But winning is what I want to do. I want to beat everybody else in the office. I want to beat that person I am talking to on the phone.

Several of the subjects said that use of cocaine and other drugs increases their hunger for money and makes them less concerned about how they get it. Owners sometimes encourage drug use by their employees because this causes the latter to run through their earnings quickly, necessitating a return to the telephone:

You know, it's a weird philosophy I have on sales, and you probably won't like it. But I'm intelligent enough to know that it works. And I -- the best salesmen in the world are compulsive people that are easily addicted. To be a great salesman you can't be complacent. You can't be comfortable in your surroundings. I started to realize the best salesmen were the salesmen that got paid on Friday, that had that money spent on Monday. 'Cause they would perform Monday through Friday. If the guy saved his money and

was like me, I didn't like him because eventually he wasn't gonna work for me, he was gonna work for himself. So I either have drugs or girls around, a lot of women that would make sure these guys went through their money, you know, those type of girls. Do you understand what I'm saying?

The principle upon which criminal telemarketers stimulate their members to work is a reflection of what occurs in the larger society; they encourage their members to funnel their "earnings" into the "economy" and the resulting debt requires a commitment to work.

Management and Accountability

To the unsuspecting, the day-to-day activities of a criminal telemarketing operation may be indistinguishable from a legitimate business. Therein lies a major reason for its criminal potential, its success, and its appeal; criminal telemarketing lends itself easily to respectable constructions of organizational and individual activities. Both its illicit nature and individual culpability can be managed behind an organizational front and shared rhetorical scripts.

During the interviews, most of the subjects continued to hide behind these scripts as they expressed awareness only of their particular positions and responsibilities.

The subjects denied personal responsibility and asserted that any potential wrong-doing must be the fault of others in the organization. Generally, the owners stated that the managers were in charge of oversight while the sales agents claimed near-complete ignorance of the operation. The managers, primarily responsible for ensuring that the company made money, contended that the sales agents must have deviated from the scripts without their knowledge.

Criminal Operations

Figure 3.2 depicts the management and accountability structure of larger criminal telemarketing firms. The solid lines denote direct supervision while the broken lines indicate direct communication without strict accountability. The owners enlist the services of managers to run the organization and implement their criminal plans. The organizational design not only facilitates fraud for profit and at the same time serves to protect individuals against criminal implication. The accountability structure of their organizations is sufficiently diffuse to allow the various participants to deny personal responsibility for wrong doing and deflect blame.

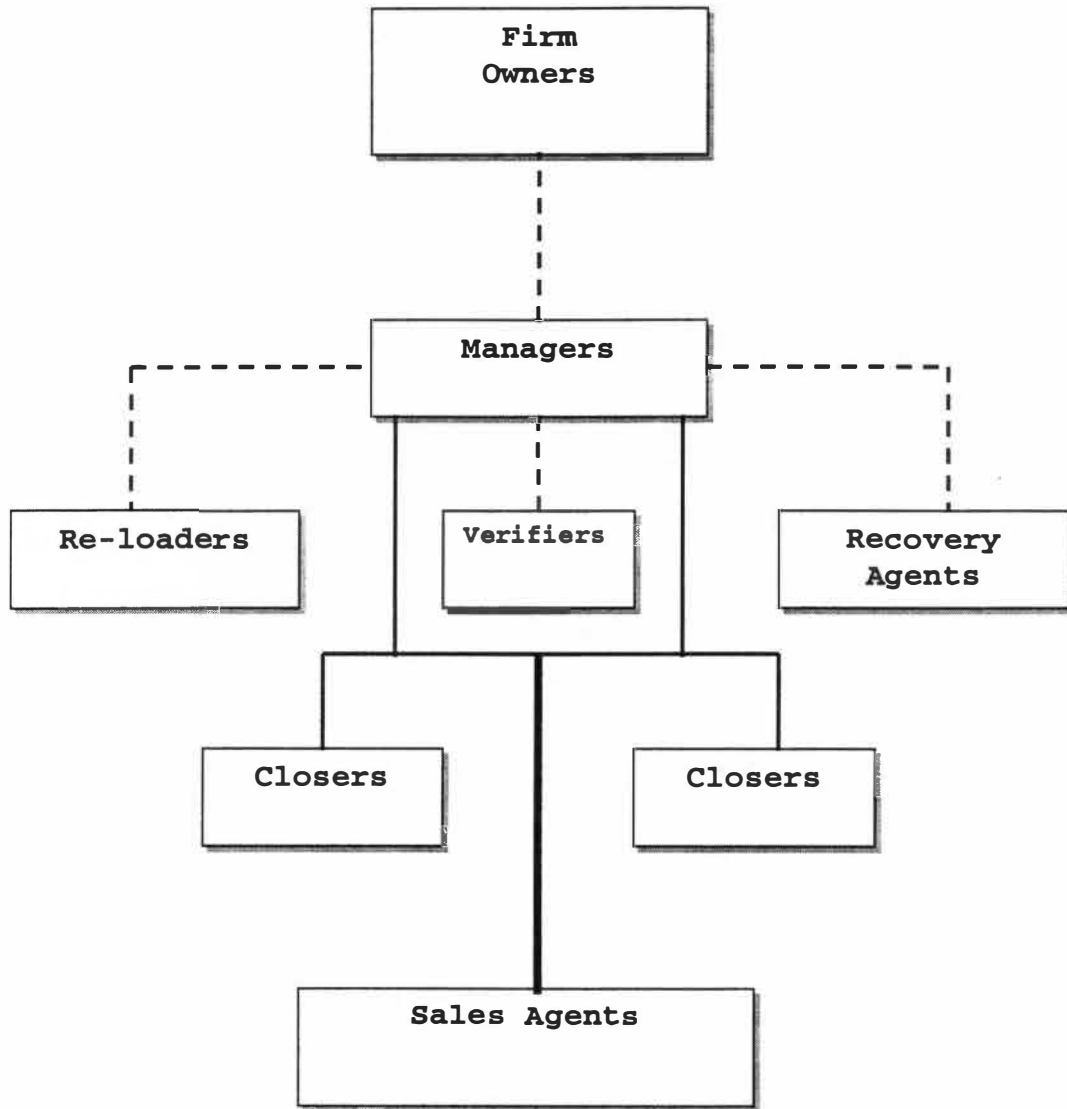


Figure 3.2: Fraudulent Organization Management and Accountability

Generally, the owners give full responsibility for the organization to the managers, providing them with a single controlling mandate: maximize profit. While the owners secure lead lists and are involved in the development of scripts and "inspirational" devices, interviews and site visits reveal that they are less involved in the daily activities of the operation. Having hired someone to oversee the employees, the owners can lay claim that they are not personally responsible for the actions of individual workers.

The managers' primary responsibility is to train and motivate the sales agents. They accomplish this task by pressuring the sales agents, recognizing those that "sell," and creating a culture of competition as discussed above. Although the managers are technically in charge of all of the sales agents, they give more latitude to closers and exercise virtually no control over reloaders and recovery agents. In fact, the managers promote agents that produce results and have little need for direction. The verifiers in criminal organizations also are not supervised by the managers; their role is to get the customers to deny on tape that any false promises were made by the sales agents.

While on the surface it appears that the managers and sales agents would be held strictly responsible for any wrong doing, thus shielding the owner, the structure permits the sales agents to deny accountability as well. The sales agents are provided with substantial discretion on how they decide to employ the scripts. They are encouraged by the manager to inject sales pitches with their own personal styles and pick up tips by watching other agents. The manager's endorsement of the sales agents' "creativity," however, is off the record. The managers defend that they simply cannot listen in on every call and thus, it is up to the agents not to cross the line between good salesmanship and deceit.

For their part, the sales agents contend that they simply work from the scripts provided and suggest that if the company is producing the products they are pedaling, then there is no wrong doing. Meanwhile, closers deal with consumers that have already expressed an interest in the product or service and reloaders engage with repeat customers with whom they have developed a personal relationship. As a result, the closers and reloaders are less likely to have complaints as their clients. The repeat customers are even less likely to complain as

evidenced by their continued commitment to the company. Likewise, recovery agents receive few complaints as they set out to satisfy aggrieved customers and actually fulfill their promises, although still defrauding them.

While a few individuals admitted guilt, most of the research subjects hid behind the organizational front and limited their knowledge and responsibility to their particular positions in the operation. The interviews of subjects working for XYZ Company referenced above exemplify how the scenario is played out within an organization. Interviews were conducted with a managing partner, silent partner, sales manager, closer, and two sales agents. From top to bottom, they all asserted that they were providing a viable service. The managing partner and sales manager defended the system and placed any blame for the alleged fraud on the sales agents. The silent partner also felt that fault would have to lie with the agents as he "believed" that the business itself was legitimate in concept.

The sales agents and the closer, nicknamed "The Hammer," defended the service as ardently as the managers and placed blame on the consumers. In other words, it was the fault of the "sellers" if they misinterpreted what the

service provided. The sales agents contended that if there were problems with the business, it would have to be the responsibility of the owners and manager. In other words, they were doing nothing other than presenting the scripts. However, the agents maintained the legitimacy of the service and their practices suggesting that they were just doing what sales people do every day in society. It is interesting to note that the silent partner was convicted under the concept of *willful blindness*. Willful blindness is a legal concept that suggests that a person knowingly turns a blind eye to the wrong-doing of others under his or her control.

In order to see the organizations in practice, I made visits to three legitimate telemarketing firms and two allegedly illegitimate firms. An acquaintance that had been in telemarketing for 18 years allowed me to observe her company's operation and set up on-site interviews for me with the owner and manager of two additional legitimate firms. I also had the opportunity to visit two telemarketing firms that authorities suspected were fraudulent and speak with a manager and some of the employees. The owners of the two presumably criminal operations advertised in the local newspaper. I wanted to

see how legitimate telemarketers handled the potential for fraud and whether or not the fraudulent operations were transparent.

The first business site was in a seedy area of town and was located near a strip club and sex shop. The windows on the outside of the office were shaded with cheap material akin to that of inexpensive shading wrap that teenagers sometimes place on the windows of cars. The reception area was noticeably separated from the phone room itself. The receptionist summoned an assistant manager, a young female, to talk to me. I asked the manager if it would be all right to see the operation and she escorted me to the sales room.

We sat down in her cubicle and she immediately began to explain the sales agent positions and pay structure. She stated that the agents "make \$15 on the first sale of the week, \$25 on the second, \$50 on the third, \$50 + \$100 bonus on the fourth, and then \$50 for each sale thereafter." She went on, "[G]ood salesmen make about a \$1,000 a week. There are 3 reloaders which make triple that, but someone has to die before you can move into one of those positions." They also had an order verifier. The manager explained that it was a mail-out operation where

consumers receive a postcard from the company notifying them that they have won an award. Upon calling in, the consumers were told that they won one of our prizes, which included a car, a trip, an entertainment system, and a \$1500 cash award. This allowed the sales agents to make a pitch for the products they were selling.

In addition to the owner, the organization had 2 managers, 1 secretary, and about 40 employees. The owner was usually on site from 7 am to 2 pm (in his private office) but was on one of his twice-daily runs to the post office during the time I visited. The products they were selling included magnetic business cards, key rings, and pens at a cost of \$498.50 (per package of 100). Products were delivered and checks received within 72 hours via overnight mail. The manager stated, "[D]ress however you want. You never have to meet with the clients. The owner will meet with them if necessary." She looked at me and stated, "I can see that you are a positive person. You would make a lot of sales."

The cubicles were very small and had what appeared to be plywood make-shift walls covered with a carpet-type material. The desks also were made of plywood propped up on the walls with slanted two-by-fours holding them in

place. Each cubicle had a phone and whatever items the sales agents placed within them. There was music playing and constant talk between the workers while those actively on the phone took orders from customers that had called in response to the postcard naming them as award winners.

Some of the employees voluntarily approached me to talk about the job. One male agent with long hair and a beard told me how easy it was, "I took half a dozen orders in 15 minutes." Another with glasses and a dirty shirt, smiled and nodded in agreement as he ate some pizza. A third male agent, who appeared unkempt, walked out of his cubicle and broadly declared, "[M]aking money. That's what I'm all about."

The agents appeared to have control over the hours they worked. For instance, an older male came out of his cubicle and announced that he decided that he was done for the day. "Gonna get a [motorcycle] ride in." During the entire time, the sales agents listened intently for their phones to ring and somehow were able to determine when it was the distinctive ring of their particular telephones. Several of the female agents remained in their cubicles for the most part and did not engage in conversation, but livened up when the phone rang.

The manager proceeded to provide more information about the operation. She told me that the agents work from a script and there is a four-hour training session, "[S]omeone assists you on the phones during your first morning." "And," she continued, "don't worry, you'll learn all of the rebuttals. Like if a guy says, 'I'll have to ask my wife.' Well, would your wife be upset with you if you won \$1,500?" I asked her how they could afford to give away so many prizes and she explained that the trips are the most common prize and "the packages were purchased for \$30 each as some promotion for the vacation industry." The owner did not return during my visit so I left my cell phone number for him to contact me. He never did.

At the second site, the employee in the reception area appeared a bit more guarded and although she talked to me about the operation, she did not allow me to enter the sales room. She spoke in terms of the positions available (sales agents) and stated that good agents often made over \$1,000 a week. The operation consisted of marketing products for several different companies, which were not named. The employee simply referred to it as a customer service based enterprise. She emphasized the need for "good communication skills and the ability to deal with

rejection, yet maintain persistence." The interview was cut short as the owner finally entered and suggested that he did not have time to meet with me. I provided him with my cell phone number so that he could reschedule at a time more convenient, but he never contacted me.

Outside of the office, I had the opportunity to speak with some of the sales agents. One engaged me in conversation, asking where I was from. I told him that I was a graduate student from Tennessee. He went on to tell me that he was in college but dropped out and was thinking of returning, but just has not found the time or desire. He proceeded to tell me that he was presently working and "just partying for a while. . . . making some money, trying not to work too hard, you know." I asked him how he liked working in telemarketing and he replied, "[N]ot bad . . . Don't gotta answer to anybody, and the money's good." I then inquired if it was a pretty nice place to work. He responded, "Hell no, it's a shit-hole, man." He stated that he comes outside just to get out of his cubicle for a while. I mentioned that it looked nice in the front and he went on, "Yeah, it's pretty fuckin' sweet, but we don't hang up front. That's for the big man."

By this time two others came out of the building and joined in the conversation. They started talking about work and one of them asked me if I was interested in getting a job. I told him that I never really thought about working in telemarketing. The other agent then echoed the comments of the first agent, stating that the work is easy and the money is good. I asked, "What exactly is it that you do?" He replied, "You just call people up and tell them you have this really good fuckin' deal, sell 'em some shit, and they say 'okay' and you get a 25 percent cut of the check." When I asked what they were selling he replied, "A bunch of shit; pens, key chains, shit like that." I inquired, "You guys make a lot of money?" The same agent responded, "Fuck yeah, last week I made 1,500 bucks." The first guy nodded his head and simply said, "We do all right." At that point, they started talking about some "chick" that just started working there and whether or not she was "hot." At that point, I decided to leave to get to my next appointment.

Legitimate Operations

The management and accountability structure of legitimate telemarketing firms stood in stark contrast to that of the criminal operations. One of the five legitimate telemarketers I interviewed was the President/CEO of a large network of telemarketing firms. He provided me with a model of his entire organization; the section of the flow chart that applies to call centers is replicated in **Figure 3.3**. There are several other aspects of this operation that supply services and products, develop advertising, and take care of other corporate matters.

When asked how he avoids fraud, the CEO replied, "I do not try to avoid fraud purposely, but rather I do not provide the incentives that would lead to fraud." He contended that criminal telemarketers "are set up for fraud. . . . They use an outbound calling approach and hire anyone off the street interested in making money." His company works on an inbound basis only where agents do not cold call consumers, but rather the company advertises and interested consumers call into the business. It is a consumer-based business that provides services and products such as hospitality packages and cell phones, using

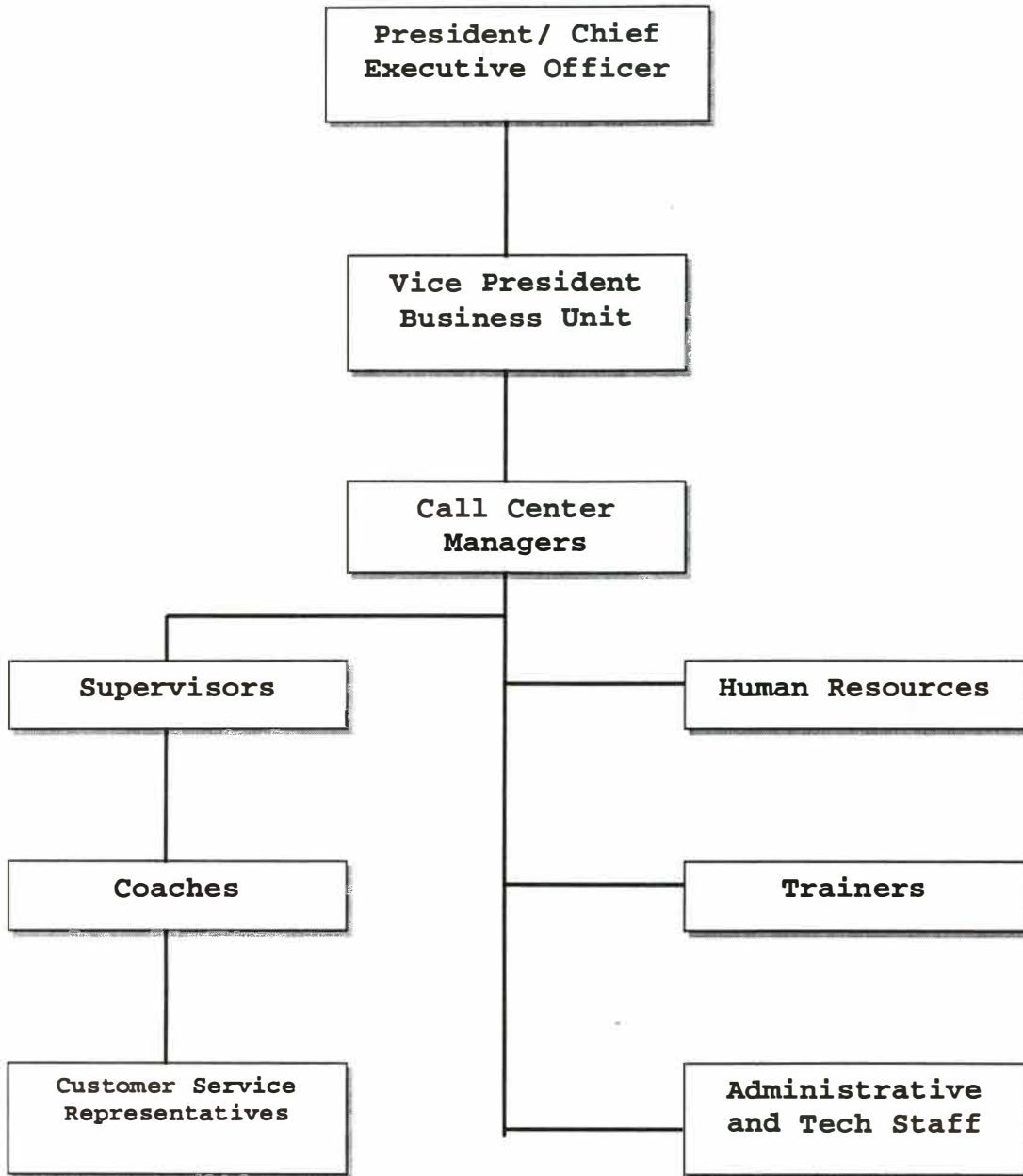


Figure 3.3: Legitimate Organization Management and Accountability

catalogues and infomercials "to stimulate consumer interest." He stated that it is important to avoid "miracle drugs" selling. In other words, his company does not sell "worthless products based on false promises." He added, "[W]e're not selling widgets here."

The CEO wants the operations to last, whereas "raucous firms with insincere personnel will only last 6 to 8 months and then break up before resurfacing under another name." He believes the inbound approach provides a more consistent and stable environment, which will lead to longevity of the firm. He also purposely sets up call centers in small towns where there is an increased "quality of labor" due to the lack of other economic opportunity.

The CEO asserted that to be successful, "[M]anagement needs to set up an incentive policy to get results but not to create temptation." He continued, "[T]he more sales an agent makes, the more monitoring [s/he] receives." When I asked him if the fact that his sites are somewhat remote creates an oversight problem, he contended that it does not "as long as [they] employ decent management and provide an appropriate base salary with little variable compensation."

The CEO also stressed the importance of non-material considerations. "[T]his is not done just to prevent fraud

but rather to develop lasting working relationships with the employees by balancing their lifestyles." He noted that the company draws from a completely different employee base as "small town citizens are generally content with a base salary, benefits, and job stability." Although he asserted that he has never had any problems with deception by his employees, he admitted that there have been three cases of credit card fraud, which were immediately reported to the police.

The sales agents are directly managed by *coaches*, mid-level supervisors. Each coach is in charge of ten customer service representatives (sales agents). The agents make \$7.25 an hour (\$22,000 annually) and the coaches make a base salary of \$9 an hour (\$25,000 annually). The supervisors oversee the coaches and monitor the number of calls per number of agents and draw a somewhat higher salary. The sales agents are trained by an independent team of individuals, trainers who do not have a direct pecuniary interest in the outcomes of transactions.

The call center managers are responsible for overseeing the entire local operation, which includes a human resources department and administrative and technical staff. The call centers fall under the authority of the

vice president of the business unit and the site managers report directly to that office. Additionally, corporate executives visit the call centers often for the purpose of stimulating interest, motivating the employees, and auditing the center for quality. In the end, there is no uncertainty with respect to the responsibility of individual actors. There are several layers of oversight as well as open communication at all levels of the operation.

When I asked the CEO about regulations, he stated that "regulatory agencies do not have much of a presence. At least telemarketers are not aware of it. . . . We just do what makes sense." He suggests that the regulations might be too stringent and indicated that he would be curious to see if his company was in compliance if he had the time. The CEO also stated that he is astonished about how much fraudsters know about regulations as evidenced by the fact that they hire attorneys. "They have to be riding the fence." He suspects that criminal telemarketers hire attorneys at the outset in order to have the attorneys suggest that they appeared legitimate should they get caught.

As noted above, I visited the operations of three legitimate telemarketing firms. The first site was in a large corporate business center. The operation consisted of outbound phone sales, marketing a wide variety of products on behalf of business clients. The managers ran the entire operation and reported to regional executives. The extensive phone room was spacious and contained approximately 50 semi-private cubicles. The employees' individual work areas were nicely furnished and personalized and provided sufficient privacy to conduct business. The operation did not have "closers" but did have two assistant managers and five verifiers on site at all times. While the assistant managers spent most of their time on the floor with the sales agents, the verifiers continually monitored sales transactions from their offices.

The managers and other supervisory staff had glass offices that surrounded the sales floor and I noticed several sales agents walk into and out of these offices. There appeared to be open communication between sales agents and the supervisors. The agents were nicely dressed and had access to a semi-lavish lounge to socialize during breaks. Although I did not have the opportunity to

interview the manager at length, she related an approach similar to that of the CEO cited above, stating that there were multiple tiers of supervision and accountability.

The second site visit was to a company that conducts business with other businesses with total transactions per company ranging from \$15,000 to \$10,000,000 annually. It was located in a business development that was not as large as the corporate center of the first site. The owner stated that he started selling on his own while a student in college and eventually had too much business to handle alone. As a result, he asked friends if they wanted to help out and then built up the business over the next six years. By the age 31, his company was making \$1,400,000 in profits annually. While it was not as large, nor as elaborate as the large firm, the owners "take care of [our] employees by providing them with stability, benefits, and comfort." The cubicles were filled with employees' personal items, which according to the owner, "suggests that they plan to stay."

The agents are paid to find other businesses to purchase liquidator assets. That is, they generate leads and attempt to sell the assets of smaller businesses to larger ones. The product is a lead report and its value is

based upon whether or not the agents can make a viable connection between liquidating business and potential purchasers. The owner contended that agents need to be well aware of all aspects of the businesses in order to make a sale. All calls are tape-recorded and clients may listen to the tapes should they have any questions about the sales transaction. About half of the sales agents have baccalaureate degrees. The owners search for employees with "inquisitive minds and good communication skills."

The organization is hierarchical, consisting of owners, directors, managers, senior associates, and associates. There are approximately 33 employees in the sales department with 9 support staff, providing an approximate 1 to 3 support to sales ratio. The owner asserted that the large support to sales ratio creates more effective communication because it helps keep the associates abreast of the necessary information. According to the owner, "[F]raudsters generally provide no support because they don't market a real product and don't want to deliver anything of value."

The owner suggested that fraudsters "try to convince victims to buy when they don't need the products," whereas the associates in "[his] company are more like detectives

trying to figure out who needs the products." In other words, his agents are not sellers, but rather reporters of the facts. He asserted that "if they [fraudsters] really had a viable product, then they would have more support and communication." The owner believes that the high ratio of support staff to associates in his firm "provides quality assurance, helps with supervision of the operation, and increases retention of employees."

Associates make from \$26,000 to \$32,000 as well as bonuses and benefits. The informant promises his employees "good working conditions rather than money only." He contends that this nets a staff with "more commitment to the company and less potential for fraud." The owner continued, "[I]t's necessary to create an honest culture and use screening as a constraint against potential fraud. Providing money as the only incentive is in itself an incentive to commit fraud." He stated that his company has retained its client base as well as 95% of the employees over the years. When I asked him if he adheres to regulations, the owner admitted he was not well informed about them, but suggested that "regulations can be too strict at times such as the fact that you need the consent of two parties to record calls."

The third site visit was to a relatively small telemarketing firm that was located in a relatively remote area still in the process of development for use by other businesses. The office was very plush with an attractive lounge that the employees used both for business meetings and daily socializing. The top section of the employees' cubicles were made of glass on one side purportedly to "aid in the flow of communication."

The main product is documentary videos that are educational about increasing production in the workplace. The videos are based on the *fish philosophy*, which is the brainchild of a fish company in the Northwest that emphasizes good working conditions and rapport with customers. The workplace is very comfortable and sociable, reflecting the philosophy of the products the agents sell. The company made approximately \$15 million in 2000 after an increase of about 50% annually during the prior three years. There are 40 people in the company and only 11 sales people. The manager stated that they are very selective about who they choose to interview for positions with the company and only 5 to 7 interviews are conducted every three months.

According to the manager, sales agents make upwards to %50,000 and also receive benefits, job stability, and good working conditions.

It would be easy for employees to make other choices and make more money, but they won't because they enjoy the quality of life that we provide them. The goal is to *up-sell*, but they [the agents] are not selling something that they don't believe in. I would have to know it has value. . . . It is important to maintain who they are as a person [of integrity] when engaged with clients.

This last comment echoed that of another legitimate telemarketer I interviewed. He claimed that he "did not like who [he] became when he was a police officer for 8 years, but did like who he was as a telemarketer because he believed in what he was doing."

When I asked the manager if maintaining this type of organizational culture would slow profits, she responded,

Our sales are based on *integrity selling* versus frauds who are all about money. . . . We have even continued to experience an increase in profit after 9 -11 because we emphasize quality of life rather than money. . . . We also put money back into the company and employee benefits rather than spend it on drugs and cars like them [frauds].

The manager went on to suggest that integrity is an aberration in sales but that "9-11 [terrorist attacks] has consumers rethinking the process." She also stated that the company was adverse to the label sales. "Our agents are not sales agents but rather *idea agents*."

The manager asserted that the various divisions in the company are "fully integrated and in constant communication so that each person is fully aware of the others' responsibilities." When I asked about the importance of regulatory agencies to this field, she replied, "I am not very aware of any regulatory agencies. They are not really present." She stated that she does not feel the need to educate organizational employees about regulations because "we believe we are following whatever regulations may exist and we're doing okay. . . . [S]o it's better to gain forgiveness than permission." However, she admitted that they would be more reactionary if they were audited.

Contextual Comparison

Criminal telemarketers do not develop models of their operations for external review. In order to illuminate more fully the management and accountability structure of criminal telemarketing firms, it is helpful to draw a comparison between legitimate and illegitimate organizations [**Figure 3.4**]. As noted in Chapter 1, changes in the structure of economic and social relationships greatly influence the type of businesses that emerge.

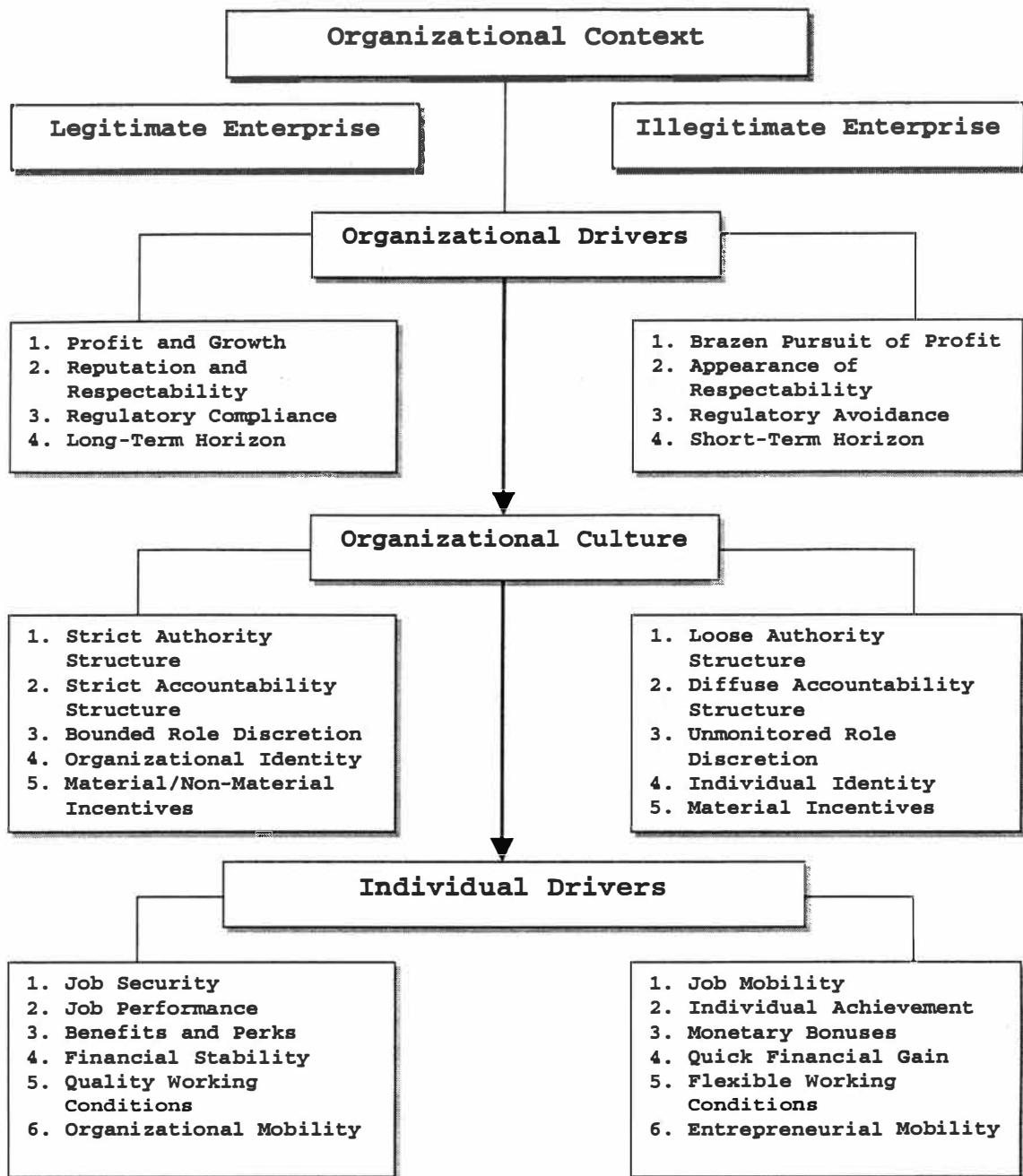


Figure 3.4: Comparison of Organizational Contexts

Like their legitimate counterparts, telemarketers organize their enterprises for profit maximization and are subject to governmental regulation.

Both legitimate businesses and criminal telemarketing firms have organizational drivers or goals and objectives that act as mechanisms, which shape the design of their respective organizations. These goals necessitate the development of an organizational culture - the totality of formal and informal practices that guide the actions of employees - designed to fulfill the firms' objectives. Ultimately, the success of the enterprise depends upon the performance of individual actors and requires an appropriate incentive structure - individual drivers.

There is a significant difference from the outset: one entrepreneur desires to conduct a legal business while the other desires to shield his criminal actions from detection. Legitimate organizations not only strive for profit and growth, but also desire to develop a reputation as a leader in their chosen fields and garner the respect of those with whom they do business and the community at large. They are likely to comply with regulations, if aware of them and not cost prohibitive, and plan to maintain the business for the long term. Criminal

telemarketing firms, on the other hand, are in brazen pursuit of profit and growth is only important if it is necessary to increase profits.

Although criminal organizations are not respectable, they desire the appearance of respectability in order to better persuade potential customers and perhaps to enhance their statuses as successful businessmen. Likewise, criminal telemarketers seek to avoid regulatory constraints, although they comply to the extent that it is necessary for a potential legal defense. While the owners would like to carry on their criminal enterprise until their greed is satiated, they are content with making as much money as possible in the present before moving on.

As a result of the difference in the organizational drivers of legitimate and illegitimate firms, especially in light of criminal telemarketers' additional goal of avoiding criminal responsibility, their respective organizational cultures are easily distinguishable. Legitimate firms have a strict authority structure and thus its members are held accountable according to their position in the established hierarchy. The discretion that employees may exercise is limited by their specified roles, which are often detailed in writing. The owners and

managers encourage employees to take pride in working for the organization and provide non-material as well as material benefits, such as nice working conditions and health insurance.

By contrast, criminal telemarketing firms have a loose authority structure where the liability of each employee is set according to his or her position. No one is held strictly responsible for others allowing the participants to deny accountability for others' actions despite the fact that they are acting in furtherance of organizational objectives. Wide discretion is purposely awarded to members in the operation so that they can pursue the single goal of increasing profit. There is no pride in working for the firm but rather individual achievement is acknowledged, often resulting in competition between the agents within the organization. Finally, a person's success is determined by how much money s/he makes and there are no non-material incentives.

As a result of the difference in organizational cultures established by the two types of firms, the interests of the individual workers vary substantially. Employees in legitimate operations desire job security, financial stability, health benefits and other perks (e.g.,

vacation and retirement), and quality working conditions. They also take pride in their performance on behalf of the company with the intent of being recognized and moving up in the organization. By contrast, fraudulent telemarketers are primarily interested in financial gain, potential for moving into more lucrative positions, and limited personal restrictions. They do not work on behalf of the firm but instead compete against co-workers for individual recognition. In fact, many of the owners interviewed went into competition with their previous employers.

While criminal telemarketers set up operations to mirror legitimate businesses, the inner workings of the fraudulent organizations differ significantly in their management and accountability structures. Their similarities begin and end with the goal of making a profit. The fraudsters are organized with the dual goals of maximizing profit and defending themselves against criminal responsibility. The specialized roles in criminal organizations, including management, are developed for the sole purpose of making money rather than supervision and accountability. The interconnectedness of its constituents is purposely diffuse to promote the use of each individual's criminal ingenuity toward enhancing profits

and, at the same time, guarding against individual responsibility.

It is apparent that criminal telemarketers design their organizations to facilitate large-scale fraud. However, the actual fraud committed upon the public is carried out via person-to-person interaction. As the next chapter reveals, there is more to fraud than "puffery" and "pushing the envelope" in sales transactions.

Chapter 4

THE INTERACTION PROCESS

Although a product of its organizational design, the crux of telemarketing fraud occurs at the interpersonal level. Thus, it is important to analyze the interaction process between the offenders and victims from a social-psychological perspective. The extant literature on script theory informs as to the underlying process upon which people interact in social situations. Generally, script theory proposes that individuals act and react in social situations within the context of sets of expectations based on a learned way of doing things over time. Criminal telemarketers operate within the general framework of common societal scripts and then manipulate the process in order to perpetrate fraud.

By creating a definition of the situation based on deceit, fraudsters capitalize on the inherent ambiguity in stranger-to-stranger interactions by casting the victim in a desired identity. As a result, the "relationships" discussed in this section are all based on deception although terms similar to sincere relationships are utilized. The interview data, victim depositions, and

trial transcripts reveal how offenders and victims interact and how they perceive one another during sales transactions.

Social Psychology of Interaction

In examining the negotiated order between two or more individuals in interaction, Thomas (1928) developed the construct of "the definition of the situation." He contends that subjective definitions of situations must enter into any account of human behavior because identical situations do not always lead to the same behavior (Thomas, 1928). In other words, situations do not merely exist in static form, but rather are defined by the individuals in the interaction process. Consequently, variation in the outcomes of situations results from individual variation in the definitions situations and subsequent adjustive efforts, which ultimately leads to decisions on action (Stryker, 1980).

Script theorists suggest that the human mind is analogous to a computer that processes a great deal of social information in the most efficient manner possible (Abelson 1976, 1981). Because individuals are continually inundated with social information, they are selective in

what is noticed, remembered, or inferred from a variety of situations (Backman, 1985; Markus, 1977). This leads to the development of cognitive structures and scripts that provide frameworks for the interpretation of situations or events that are based on general knowledge of human action and knowledge of specific events (Abelson, 1981).

Cognitive scripts are based on the variety of experiences of an individual, which are learned as vignettes that are integral to efficient decision-making (Abelson, 1976). Individuals draw on cognitive scripts to interpret social situations by selecting a script representative of the present situation and adopting a particular role from the script that is consistent with his or her expectations of situational outcomes. Script selection and role taking provides individuals with cognitive frameworks for behavioral decision-making, while requiring less cognitive effort than original framing for each situation (Abelson, 1976).

Goffman (1959) suggests that people assign one another categorical identities, based on past experience, one another's appearance and conduct, and the setting where they interact. Couch (1989) refers to these categorizations as *functional identities* or *typified*

actions that suggest what will be expected of each person and what they can expect from one another during the interaction. To the extent that those expectations are fulfilled, people engage in recurrent patterns of interaction and construct lasting forms of social relationships. The assignment of categorical identities serves to activate social relationships, however activation is not automatic, nor inevitable.

Goffman (1959) likens the actions of individuals to performances in a drama. He contends that individuals seek information about others during interaction in order to better define and negotiate situations. Pertinent information is based on objective characteristics such as indicators of status and subjective characteristics that are verbally communicated. This enables the individual to better form his or her perception of the interaction and to anticipate responses in the situation. The interpretation of information is based on prior experiences with similar individuals and the consistency or inconsistency of the present information with those prior experiences (Goffman, 1959).

Couch (1989) suggests that individuals' identifications of one another may not correspond and

consequently the results may lead to confusion and conflict. Even when the identifications do correspond, confusion and conflict can result from different perceptions of the form of the relationship under the attending circumstances. Also, individuals may alter their identities and thus the form of the relationship. As a result, social relationships are as flexible and fragile as the interactions that perpetuate them (Cahill, 1995).

Some scripts may be used to meet the needs of an individual, rather than to interpret or negotiate the situation generally (Schank and Abelson, 1977). In this instance, the individual may act to invoke scripts that are personalized, less stylized and may lead to difficulties in interpretation for others in the interaction (Schank and Abelson, 1977; Ross and Nisbet, 1991). The discontinuity between accepted scripts may be used as techniques of manipulation to lure individuals into an interaction that they do not recognize as deceptive (Schank and Abelson, 1977). Such use is deceptive because participants in situations where personal scripts are used often are not aware of their role in the scripted situation (Abelson, 1981). While the personal scripts have a similar structure to the general situational scripts, they are based solely

on the experiences of the individual who typically has used these techniques to meet similar past needs (Schank and Abelson, 1977).

Impression management is one of the key elements for success in sales. During the interaction, the salespersons must convey confidence in the definition of the situation they present in order to facilitate the perception of reality in others (Goffman, 1959). This confidence must be presented in the *front stage* region of the interaction, which necessitates the use of props (e.g., expensive clothing, briefcases, and mannerisms). Thus, the presenters need engage in high levels of impression management based on cultural stereotypes (Goffman, 1959: 28).

The management of doubt is another important dynamic in many social settings, especially sales. Wiley (1998) contends that salespersons actively attempt to influence customers into suspending their doubt about their need for some product in order to make a sale. In other words, the salesperson attempts to reduce the suspicions held by the customer and draw him into a *commodity drama*. As a result, the customer is faced with the need to express some type of identity with respect to the purchase. In essence, how he

proceeds becomes a self-defining moment. In an attempt to get the customers to put off their doubt about the purchase, the salespersons point out the potential rewards, which must include appeals to some need of the consumer (Wiley, 1998).

Telemarketing Sales

One of the interview subjects stated that when he was initially recruited, he read the script and asked, "[H]ow do you tell people this story and get them to buy over the phone when you have never met them?" Advancement in technology, specifically telecommunications, not only permits telemarketers to reach countless potential consumers, but also facilitates manipulation in the interaction process. Communicating with someone over the telephone helps to remove certain barriers to making a connection that otherwise would prove problematic in person. For example, telemarketers need not present an impressive personal appearance or business setting.

Most important, contact via telephone allows a salesperson to create an identity of his or her choosing, which facilitates control of the communication between the

parties. While it takes more time and effort to develop a strong rapport over the phone, there is also the benefit of the fact that other stimuli, which may serve to distract the actors, are blocked out. This allows the participants to have more intimate communication and thus ultimately develop a stronger bond.

Compliance Techniques

The primary goal of salespersons is to gain the *compliance* of consumers. Compliance consists of yielding to direct, explicit appeals meant to produce certain behavior or agreement with a particular point of view. Whereas the pressures on a person to conform are generally implicit and not in the form of direct requests or demands, compliance pressures are more overt (Feldman, 2001). According to Feldman, there are four major methods of facilitating compliance in social interaction.

In the *foot-in-the-door* technique, a person is first asked to agree to a small request, but later is asked to comply with a more important one. If the person agrees to the first request, compliance with the later, larger request is considerably more likely (see Freedman and

Fraser, 1966). This method is often successful due to the commitment of the person of whom the request is made, that person's self-redefinition, or because the requests make norms of conduct relevant (Renno, Cialdini, and Kallgren, 1993). Additionally, if agreement to the requests permits the attainment of significant personal goals, compliance is more likely (Gorassini and Olson, 1995).

The *door-in-the-face* technique is a procedure in which a large request to which refusal is expected, is followed by a smaller one. The belief is that the initial, large request makes people more receptive to the subsequent smaller request (see Dillard, 1991). This strategy is often effective due to the exchange of reciprocal concessions between the person making the request and his or her target, self-presentational factors (Pendleton and Batson, 1979), or the existence of *perceptual contrast*. The contrast occurs due to the fact that initial exposure to a very powerful stimulus, causes a subsequent stimulus to appear less potent than it would if presented by itself (see Shanab and O'Neill, 1979; Cantrill and Seibold, 1986).

In the process of *low-balling*, an initial agreement is reached, but then the seller reveals additional costs. This usually works because people tend to emphasize the

advantages of the deal in order to justify their initial decision (see Cialdini, 1988) or because a sense of personal commitment to the salesperson may act to persuade the person to accept the deal (Burger and Petty, 1981). The *that's-not-all* technique occurs when a customer is offered a deal at an initial inflated price, and just after making the offer, the salesperson offers an incentive, discount, or bonus to clinch the deal (see Burger, 1986; Pollock et al., 1998). As a result, the buyer feels that s/he is coming out ahead in the transaction.

Fraudulent Transactions

As social actors, consumers are quite familiar with the foregoing techniques. While upon realization they may dislike that the techniques have been successfully served to gain their compliance, the consumers can at least place them in their repertoire of cognitive scripts. This allows them to call upon these experiences during similar social situations in the future. Unfortunately for consumers, fraudulent telemarketers have developed their own unique methods of gaining compliance, and as a result these cognitive scripts are of little assistance.

Instead of merely employing sales techniques at the product level, criminal telemarketers begin by manipulating the societal scripts at the very foundation of social interaction. In doing so, criminal telemarketers embrace certain roles for themselves and cast the victims into coinciding counter-roles, thereby attributing a desired identity to the victims **[Figure 4.1]**. Through this act of *altercasting* the victim, the fraudsters successfully manipulate the script, which facilitates a transaction ultimately based on fraud and deceit (see Weinstein and Deutschberger, 1963).

Fraudulent telemarketers initially utilize general societal norms and values to lay the foundation for a "relationship" with their victims. Recall that throughout this chapter references made to "relationships" and "bonds" between the fraudsters and victims are based on deception and thus are not to be interpreted in the true sense of the words used to describe them. As the social relationship advances, the newly created bond requires an advanced set of norms, which allows the fraudsters to dictate the reciprocity of the consumers. For example, norms of politeness will cause a victim to stay on the phone and are generally enhanced when the participants become "friends."

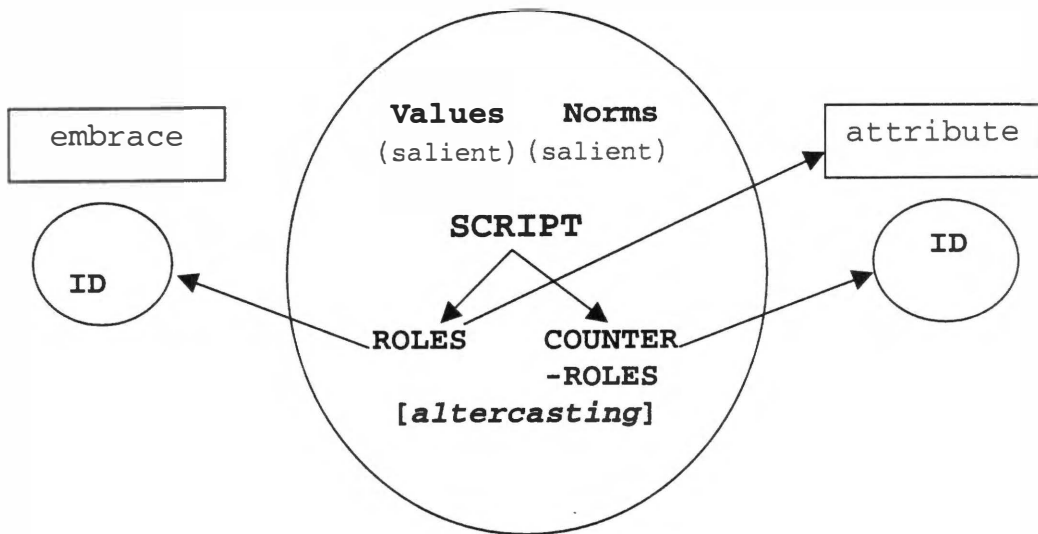


Figure 4.1: The Social Psychology of Fraud

Criminal telemarketers attempt to define and redefine the situation in order to maintain communication with the victim as the victim attempts to ascertain the potential value of participating in the transaction. Herein lies the poignancy of the motto articulated in Doocy's (2001) study, "Each No gets me closer to the Yes I want." What the author of the phrase means is that as long as s/he keeps the victim on the phone, s/he can redefine the situation until s/he forges the relationship. In other words, s/he continually adjusts the definition of the situation to the point that the victim perceives its reality, thus adopting a desired identity and yielding compliance.

Before they even pick up the phone, however, criminal telemarketers need to select their targets. They acquire lead lists that contain names of consumers that have expressed an interest in participating in promotions of one kind or another in the past. During the initial stage of the interaction, fraudsters rely upon norms, such as politeness, which prompt the victims to hear them out. They act quickly in defining the situation by using their best professional voice and a name, often a pseudonym, that sounds sophisticated. In furtherance of this impression management, they identify themselves as representatives of a reputable-sounding organization, which gives the appearance of legitimacy. At times, criminal telemarketers will go a step further and try to distinguish themselves from *classic* telemarketers, usually by making a negative reference to the latter.

Additionally, fraudulent telemarketers often will distance themselves from the company for which they work by providing "inside information" to the victim. For example, a fraudster will say something to the effect of, "According to company rules, I'm not supposed to tell you this, but I like you." This creates the impression that the telemarketer is siding with the victim against his or her

own company, which tends to form an alliance between the fraudster and the victim. As a result, a greater bond is formed between the participants and the commitment to shared norms and values is enhanced.

At some point, the fraudsters take on the role of beneficent actors, telling the victims that they are the lucky recipients of a remarkable deal. This is effective in altercasting the victims, placing them in the role of beneficial recipients. Consequently, the victims internalize the coinciding norms and continue in the interaction. More important, providing gifts to the victims creates the impression that they owe the telemarketers a debt.

In furtherance of their criminal pursuits, fraudsters often will attribute some quality to the victim in order to properly cast him or her into a desired identity. For instance, relying on the fact that people are socialized to take advantage of a good deal, a fraudster may say, "[N]ow, you're an intelligent person. You would know a good deal when you see one, right? Of course you would." Consumers pursuing high self-concept are inclined to embrace such a characterization. In the end, creating a sense of urgency is the fraudulent telemarketers most potent tool. The use

of the telephone helps to ensure urgency as a decision must be made before the conversation concludes. There is no time to reflect. Otherwise, the victims would have time to gain relevant information that would allow them to reassess the script and ultimately the transaction.

Once a fraudster is successful in altercasting the consumer, creating a sense of debt, and enhancing the commitment to norms of interaction, s/he may further develop commonalities with the victim. This will allow the fraudster to form a lasting relationship and make similar contacts with the victim in the future. In other words, s/he can call upon the victim and present additional propositions from time to time in the future. This will be perceived as loyalty to the victim resulting from their newly created friendship. Reloaders, for instance, often will call victims just to chat without talking about any offers. This practice allows the fraudsters to further gain the confidence of the consumers, placing them in line for repeat victimization. Criminal telemarketers are most successful with elderly victims who are isolated and possibly have diminished intellectual acumen, which prevents them from reassessing the scripts and sales transactions.

The Pitch

One of the subjects who was on parole agreed to assist me at a presentation to local law enforcement and senior citizen agencies on telemarketing fraud. I had him enter the room before the audience and stay behind a screen so that he could make a *pitch* to one of the participants. We used telephones as props to make it more realistic, yet both actors spoke out loud so that all in attendance could listen. While the purpose of the exercise was to have the seminar participants assess the caller's character, the pitch he gave exemplifies the techniques used by fraudulent telemarketers. The pitch is paraphrased here. I have placed comments in brackets to point out various aspects of the technique. The seminar attendee's responses are italicized.

Good afternoon, Mrs. Smith [personalized], I am Richard Johnson [respectable] with National Distribution Enterprises [legitimacy]. How are you today? *Okay.* Good, well your day is about to get better. Now hold on to your seat because what I have to tell you is going to make you smile so wide that you'll be able to eat a banana sideways. You've probably heard about those telemarketing firms that got in trouble for not giving away prizes. Well, we've been commissioned to give away those awards [beneficent actor] and you've been selected to win one of these valuable prizes [beneficiary - debt]. . . . And last but not least \$10,000. Now let me ask you, if you drew a bad straw and won the last prize on the

list - the \$10,000 - would you be upset with that? No. Of course not, what intelligent person would [reinforce identity]? Now, Myrtle, may I call you Myrtle [relationship advances - enhanced norms]? Yes, sure. Myrtle, I like you and I hope you don't end up with just the \$10,000 [alliance - enhanced loyalty], but let's see what would happen if you did. And all you need to do in order to receive your award is to send \$5,000 for which you will receive a complete set of professionally crafted personalized items [the catch]. By the way Myrtle, a portion of the proceeds of these items will be contributed to programs for inner-city children in your name [appeal to humanitarianism]. Now, let's, well why don't you do the math? I want you to write this down. Have you got a pen? Yes. Write down \$10,000 - got that? Okay. Now write underneath that \$5,000. Now subtract what you would send for this worthy cause from the \$10,000 award. What does that leave you with? \$5,000. Not bad, huh? Now, all we ask in return is that you allow us to take a picture of you with the \$10,000 check.

Notice that very little time is spent talking about the sale itself. From an objective standpoint it is difficult to imagine that these pitches work. Of course, the victim must trust that the caller is going to send the award. There is a certain amount of risk decision-making that the victim engages in, but the sense of urgency does not give him or her the time to properly analyze the situation. Naturally, there are variations not only in the scheme, but also in the responses of the victims. That is why sales agents are often provided with a list of rebuttals. They are encouraged to memorize the rebuttals

so they use them instinctively. By doing so, they are constantly able to adjust and redefine the situation.

While fraudulent telemarketers may not understand the social-psychological underpinnings of their practice, they do know that the techniques work. The success of criminal telemarketers depends upon the individual skills of the sales personnel to manipulate societal scripts in order to define and redefine the situation. As an aside, the educated audience stated that the telemarketer behind the screen was a tall, good-looking, well-dressed, educated man in his forties. He was none of these. In fact, he was not even well-spoken when responding to questions from the seminar participants. To protect the subject, I stated that he was not a criminal telemarketer but rather an acquaintance who was familiar with their practices.

The Bargain

The products criminal telemarketers sell are limited only by the human imagination. They could include magnets with company logos, fad bumper stickers, septic tank deodorant, or widgets. It really does not matter. What they are really selling are the *premiums*. Premiums are

prizes that the customer may be awarded if s/he agrees to purchase a host of "Say No to Drugs" bumper stickers or whatever product the caller is pedaling. The customers are told that they will be awarded a valuable prize, whose value turns out to have been grossly overestimated, such as a boom box described as a home entertainment center.

Consequently, the customers are really bargaining for the awards. In essence, they are somewhat complicit as they are trying to get something of greater value than the money they spend. The consumers are playing the odds but the odds are deceiving. Often, the *booby* prize is listed before a more tangible prize that is announced as "last but not least," such as the \$10,000 in the above example. It is not until the package arrives at their home and that they realize that they've been taken, yet often the victims fall for another pitch later on down the line. Some of the telemarketing firms hit the victims up for another purchase before sending the awards and often do not send anything until the customer calls in to complain. One victim recounted her experience when she stated,

[H]e called me just about every day during the past year. We just talked about things we were both interested in most of the time. Once in a while he told me that I needed to send more money and that's why the prize hadn't arrived yet.

The victim was an 80-year-old invalid who was taken for nearly \$50,000 and never received anything of real value.

Obviously, the relationships that criminal telemarketers develop with their victims are not sincere, nor are they usually long-lasting. Most sales agents are primarily interested in completing the present fraudulent transaction and getting their cut of the check. While they often pursue consumers who have been duped in the past by other companies, it is the victim who sends out signals about his or her willingness to engage in future transactions. This stands in stark contrast to family businesses that operate on the premise of developing lasting relationships with their customers and retailers that develop working relationships that are akin to acquaintanceships. In this context, telemarketers may be described as *players* looking for a one-night stand. Reloaders are the most effective players as they are known for their ability to make a "booty call" to the same victim(s).

Subjects' Perspectives

The ability to manipulate customers was one of the primary rewards that the fraudulent telemarketers suggested kept them attracted to telemarketing.

It was the money, but it was [also] the ability to control people, to be able to say over the phone, "John, go pick up your pen and write this down." And you write it down! You do exactly like a robot -- they would do exactly what they were told to do. And they would do it pleasingly, they would do it without hesitation, because, again, they had enough confidence and faith in you to believe that you were gonna do the right thing about it.

Most of the interview subjects took similar delight and pride in their ability to control their victims. They were extremely confident in their ability to make the sale.

Several commented that they were "the best." While questioning one of the interview subjects about any dislikes of the business, I suggested that daily rejection might be one. She stated that she does not deal with rejection on a daily basis. "People do not reject my sales. I don't let them." Another referred to himself as a "verbal assassin."

While fraudulent telemarketers all have their own unique talents and beliefs as to what makes them good at sales, there is a consensus that good sales require the

ability to "push the envelope" between creative representation and blatant misrepresentation. This was referred to as the *gray line* and *puffery*. The subjects are under the impression that it is okay to be creative as long as they do not state a blatant lie. For example, interview subjects that worked for the XYZ Company referenced earlier, contended that suggesting they "have buyers interested in property just like that of the seller" is different than saying that they "have a buyer for the seller's property." The subjects also defended the use of *urgency* - interested sellers must call within 72 hours - as simply "good sales practice."

Several agents suggested that it was their job "to convince the consumer of what [s/he] needed." One of the subjects suggested, however, that there is a difference between dealing with businessmen versus housewives. "For businessmen, I merely present their options and let them make a decision. They are holding all the cards." Whereas with housewives, he stated that it is his "job to convince them." The subject was unable to articulate the difference in profile, but alluded to a perceived difference in intelligence, which might reflect gender biases.

The subjects also contend that creating the impression that customers are getting a great deal for relatively little in return is simply good sales practice. One of the subjects put it this way: "[T]he key is to have the customer step over the line without actually having to say the dirty words." During subsequent interviews, I posed the question as a moral issue and most of the subjects reflected only briefly before concluding that it is "the way of business" in our culture.

In addition, and in defense of their actions, the fraudsters fault the victims for blindly participating in the transactions.

If these people can't read, so be it. Screw them, you know. It [doesn't say] everybody's gonna get the diamond and sapphire tennis bracelet. They're dumb enough not to read, dumb enough to send me the money, I really don't care, you know. I'm doing what I have to do to stay out of jail. They're doing what they have to do to fix their fix. They're promo junkies, and we're gonna find them and get them, and we're gonna keep getting them. And they're gonna keep buying. And, you know what I used to say, "they're gonna blow their money in Vegas, they're gonna spend it *somewhere*. I want to be the one to get it.

The fact that they could so easily distance themselves from the victims is perplexing, even if it is over the telephone. Although a few subjects expressed remorse over taking the money of their victims, they suggested that they experienced remorse only they got caught and had time to

reflect. All but one of the few were no longer incarcerated and the other subject was about to be paroled. I suspect that it was partially the result of the fact that the subjects needed to express some modicum of remorse in order to appease their probation officers.

An offhand comment by the subject who assisted me with the seminar perhaps provided the most enlightening insight on the issue of how they perceive their victims. I housed him the night before the seminar, and he insisted that I meet him at a strip club. Sometime before 3 A.M., I asked him why so many of criminal telemarketers frequented strip clubs and dated strippers. The subject replied, "[B]ecause we're just alike. . . . We're all about the money." I asked him to elaborate and he stated, "We sell a dream." He then spoke about how the strippers make men think that there is a chance that they could actually keep company with the strippers, which explains why they "invest" their money in them.

I asked the subject why he never looked the strippers in the eye when he went up to the stage. The subject pointed out that strippers do not look directly at their clients and it is an unwritten rule that the men are not supposed to look directly at them. "You're paying for

their bodies and they don't want you to think that they are part of the deal." I took this to mean that they try to distance themselves from the "transaction." I took this to mean that the dream is their body and the entire illusion is that of the client. The strippers share no responsibility for any misperceptions about the transaction.

Sweet and Tewksbury (2000) noted that central to the interactional strategies used by strippers to maximize their monetary gain is the *cynical performance*, which creates *counterfeit intimacy* (see Goffman, 1959; Siguwade, 1995). The notion of cynical performance is used to describe a social actor with little belief in his or her performance, but who nonetheless uses the performance and elicits responses to achieve other ends (Sweet and Tewksbury, 2000: 137). This concept is consistent with the way criminal telemarketers blame the victim and avoid feelings of remorse. In essence, fraudulent telemarketers make dealing with victims a moral non-dilemma, and refuse to deal with the issue directly.

Victims' Accounts

It is important to note from the outset that the victims' accounts to which I had access were from elderly people who had been victimized repeatedly. The reason for this is that the government sought out senior citizens as they were the most aggrieved group, which allowed the state to better establish a pattern of deceit. Younger consumers and those who are scammed only once or twice are much less likely to file a complaint. They are also harder to locate.

Elderly citizens are the segment of the population that is most victimized by telemarketing fraud and with whom society needs be most concerned. While they recognize that it is acceptable to hang up the phone, they are initially prone to listening to what the pitch is about (AARP, 1996b). This leaves them open to the manipulation techniques of criminal telemarketers. They also are less likely to report their losses to family and friends because they fear being embarrassed (AARP, 1996c) and having to give up control of their affairs.

The individuals who provided accounts of their interaction with criminal telemarketers, although advanced in age, vehemently denied any diminished mental capacity.

They also acknowledged that they have entered other sweepstakes and promotions, but pointed out that they knew they had a "one in a million chance to win" these types of contests. It is obvious from the victims' descriptions of their relationships with telemarketers, that the fraudsters manipulated the societal scripts and capitalized on the newly created bonds. As one victim put it, "Well he - he was a smooth talker, yeah. From the first time he called me I had confidence in him."

Some fraudsters had to work a little harder to gain the victim's trust, but not much harder. One of the victims noted how the fraudster appealed to her values.

Yes, I was a little bit worried at first and then he says, well, he says, "[Y]ou're a man of your word, aren't you.?" And I says, "[Y]es sir," I says. And he - he more or less told me that his mother and father raised him to be honest with people. And I said, well, I said, "[T]hat's the way I am."

Another victim simply said, "I had built a bond to him or a friendship with him, that I thought he was a good honest boy."

One of the criminal telemarketers not only built trust with his victim, but employed the technique of distancing himself from classic telemarketers to do so.

Because he had earned so much of my trust in him in the different days that he had called me and talked to me. And he'd talk to me about other companies that I

should stay away from and all. It seems as though he had knowledge of what was going on in the whole telemarketing business.

Even after being warned by friends and neighbors, one of the victims gave her personal telemarketer the benefit of the doubt. "I have been told by local people that I was being scammed from the very beginning, but I didn't believe it because I believed J. T. was telling me the truth about everything."

When developing repeat victims, it is necessary for the criminal telemarketers to establish a deeper relationship with the victims. One of the fraudsters went to great lengths by engaging in daily communication with his victim in order to strengthen the bond and thus the victim's obligations in the relationship.

Well, we became so friendly over the phone that he reported to me every morning about his dating and all the night before and we just had conversations like that most of the time, not about business. It's just every once in a while he would bring in about the business part of it.

Other relationships became even more advanced. One victim reported that, "[I] looked on him more or less as a son or a nephew or something and we would just discuss different things of interest to both of us." Another victim still maintained loyalty to her criminal telemarketer at the time of trial. "Mr. [Name] was always very courteous and if we

chose up sides, I would have said he was on my side against [Telemarketing Company]."

In their dealings with criminal telemarketers, victims stated that they believed that they were already winners of a major prize. As one noted, "[T]hey give me the impression that I'm rather special." When asked how he first became involved with the telemarketing company, one gentleman's response typified the lure.

I don't know why I got duped into this situation. I'm not at all sure. But all of a sudden this happened. You get a call and the, well, I've been retired since 1980 and my wife had been ill and I've just been here. So for interest you begin to listen to something and you come up with this \$250,000.00 and that's not too bad, you know, especially at my age. So I begin to, I'd listen to him and they were rather convincing people. You know liars can be the best folks in the world.

The victims all agreed that they were hopeful of paying a sum of money and getting something of more value in return. One simply stated, "I have to admit that I was tempted by those four possible awards."

Victims who were involved in *one in four* promotion scams stated that they were never told by the telemarketers that there were 3,500 of the booby prizes. They believed there were only four prizes total and that it was between them and three other people as to who gets which prize. One of the victims thought in terms of her chances of

having bad luck, rather than good luck. "So this company, it was definitely that I would get one of those four awards. Only question from my point of view was, four, and one of them was something that I had no interest in. Would I have the bad luck to receive that?"

Most of the victims thought that the money they sent to the company was for taxes or that the products they received were merely to create an invoice to protect the company. When asked what she received from the company, one victim told a story similar to others,

Well, those usual invoices that all these companies seem to expect and I've questioned it. Sometimes, they've explained that this is necessary to convince the U.S. government that I'm not a relative - or a favored person in some way that - it's more business like and the first one was - was money clips and brass letter openers and - and pens and an emergency survival kit.

Additionally, several of the victims felt grateful when the telemarketer would "get the okay" from his boss to reduce the fee. A couple of the victims felt fortunate to receive the "senior citizen discount."

When asked what they thought they paid the money for, one woman said plainly what all of the victims had expressed. "Well, obviously for one of the major awards." Two of the victims thought only about the award and did not pay much attention at all to the taxes. When asked if she

was told what she would have to do in order to "see that one million dollar check," one of the victims stated, "Yes, I was supposed to have a picture taken of me and have my social security and driver's license and I was to pay a certain amount of money as that would cost tax wise." When asked the same question, another victim only mentioned the photo and had to be prompted to recall that she also was required to pay a substantial amount of money.

Of course, the big awards were never given out, but that did not stop the fraudsters from repeatedly defrauding the victims. When questioned as to why they would continue to contribute, most of the victims stated that they felt they were already too involved to quit. One of the award winners stated, "[B]ecause I had already put in \$1,000 and then if I didn't - didn't send more then it was definite that I was not gonna get anything." Another victim went for new prizes with greater odds.

They had a program going on later on. The second one that I had entered and they convinced me that their awards were much more valuable than they were in the first program that they had. And I sent them a check for \$3,500. . . . [third time] I had sent them a check for \$4,000 because their awards were so much greater and the person that I had talked to on the telephone told me that since I had entered previous programs that there was a better chance of me winning than someone just entering the program.

The male subject quoted earlier sent money on seven different occasions in pursuit of the same award. "I'm still trying to keep active this \$250,000 that I'm chasing in the wind." Others were looking to make up for their past losses.

Several of the victims felt encouraged when they received calls from different telemarketers from the same company. They believed that the new person would be able to "make things right." They also were duped into thinking that failure to receive a major award was a problem with the company rather than the individual telemarketer. Thus, the victims were receptive to the same agent when s/he changed companies. In the end, it was the sense of urgency that the criminal telemarketers created that made the scams effective. All of the victims reported that they dispatched checks through courier (UPS and FedEx) or Western Union. One recounted that the courier was at his doorstep "within an hour."

Victims continue to get involved with telemarketers for the same reason most people in our society are prone to enter contests. They are socialized to take advantage of a "good deal" when they see it. Criminal telemarketers build up the dream from the outset to entice the victims, but

also must convince the victims of their legitimacy and the reality of the "great deal." In addition to the "greed" of gullible consumers and the bond that the criminal telemarketers create with them, repeat victims are also susceptible to throwing good money after bad. Their investments are similar to individuals who constantly put money into a problematic car. Once the victims place a certain amount of money into something, it is difficult to stop as they cannot accept that the initial outlay is irretrievable. In other words, they are trying to recoup their losses by winning the big prize, eventually.

Chapter 5

INDIVIDUAL OFFENDERS

Unlike most street crime, telemarketing has legitimate as well as illegitimate contingencies. It would inform to determine the demographic pool from which the offenders hailed and to assess whether or not the subjects had any significant criminal histories. Due to the entrepreneurial and organizational nature of their criminal endeavors, it is important also to examine what factors influenced the subjects to pursue and persist at fraudulent telemarketing and what kind of lifestyle their criminal pursuits afforded them.

Of all those who begin employment in telemarketing, some quickly discover it is not their cup of tea; they dislike it or they do not perform well at it. Others find the work attractive and rewarding but see it only as a means to other life and career goals. Most, therefore, pursue telemarketing work only temporarily. Some, however, discover they are good at telephone sales, and they are drawn to the income and the lifestyle it can provide. On average, the members of the interview sample were employed in telemarketing for 8 years. Their ages when interviewed ranged from 26 to 69 years, with a mean of 42.2 years. The

sample included thirty-five (73%) white males, six (12.5%) African-American males, six (12.5%) white females, and one Hispanic male.

Offender Backgrounds

Although much less is known about white-collar offenders than about street criminals, evidence suggests they are drawn from offender pools with quite different social characteristics. As a group, they are older, better educated, and include a higher proportion of whites and females. According to Weisburd et al. (1991), many are respected in their home communities. They are less likely to come from disadvantaged sectors of the population, and they are more likely to have records of well-paid legitimate employment.

An enormous body of research on street criminals has shown that many are products of disadvantaged and disorderly parental homes. I was interested in determining if the homes in which the subjects were reared reveal similar or functionally equivalent criminogenic characteristics. Overwhelmingly, the members of the sample describe their parents as conventional and hard-working and

family financial circumstances as secure if not comfortable. They were reared in families whose parents prided themselves on how well they provided for their families and whose conversations and admonitions stressed the importance of financial matters and taking care of business.

Nearly all of the subjects reported coming from middle-class neighborhoods. Their parental families were gender-traditional, with the father providing the main source of income. Although the fathers' reported occupations ranged from machinist to owner of a chain of retail stores, thirty-four were business owners (37.5%) or held professional/managerial (33%) positions. All but one of the remaining fathers (n = 14) maintained steady employment; of those, half held sales positions and two were career military personnel. Only one father had no reported occupation and had spent time in prison. One-half of the mothers were employed outside the home as well. The significance of this is that a substantial proportion (70.5%) of the subjects were exposed to or acquired entrepreneurial perspectives and skills while young.

Although I questioned the subjects at length about their early and adolescent years, their responses reveal

little that distinguishes them from others of similar age and class background. Certainly, the disadvantages and pathologies commonplace in the early lives of most street criminals are hardly in evidence here. What others have noted is no less true of these subjects: "One searches in vain for early precursors or early hints of trouble in the life history of the typical white-collar offender. For most, . . . [t]heir crimes do not appear . . . to be deeply rooted in a troubled social background" (Benson and Kerley, 2001: 133).

If the subjects' early years reveal few clues to their later criminality, there also are few signs that they distinguished themselves in conventional ways. Their educational careers, for example, are unremarkable. Eight (17%) dropped out of high school, although most (83%) graduated and five of the eight drop-outs obtained a GED. Twenty-nine (60%) attended college, but on average they invested only two years in the quest for a degree. Only five (10%) claimed a baccalaureate degree with one of the subjects going on to receive a masters degree.

The subjects also were not very successful in their personal relationships. Nearly all (87.5%) had

been married at least once and a third (31%) of those subjects had been married more than once with several (n = 6) reporting three or four marriages. Despite the percentage of subjects who did marry, only a few of the subjects were married at the time of the interviews. While some asserted that it was the criminal trial process that caused them to separate, most suggested that their relationships had dissolved prior to any charges being brought. Most (75%) have children, although a majority of these subjects indicated that they were not actively engaged in their childrens' lives.

Criminal Careers

What about the subjects' criminal histories? Information elicited in the interviews and a review of information contained in the subjects' pre-sentence investigation reports shows that thirteen (27%) of the subjects had previous criminal records, seven (14.6%) for misdemeanors (e.g., petty theft and drugs) and six (12.5%) for felonies. Of those with felony records, three were convicted previously of telemarketing offenses.

Overall, this level of prior criminality is somewhat below what is reported by other investigators of ordinary white-collar criminals generally and criminal telemarketers specifically (Benson and Kerley, 2001; Weisburd, Waring and Chayet, 2001; Doocy et al., 2002). Still, a sizeable number "are not strangers to the criminal justice system" (Benson and Kerley, 2001: 131). For members of the sample who have previous arrests, the age of onset for criminal activity is considerably higher than for street criminals.

The data do show that some subjects appear to have had recurrent trouble with the law and, like street criminals, they are persistent users of alcohol and other drugs. In fact, some of the subjects were attracted to the work because it supported their addictions. As one former business owner told me, "I had an alcohol problem at a young age, and to be able to support the alcohol and drug habit with the kind of money that we were making seems to go hand in hand."

When invited to reflect upon how they differ from their siblings or peers, many reported they were aware of an interest in money from an early age. As one subject told me: "I had certain goals when I was a teenager, you know. And I had a picture of a Mercedes

convertible on my bedroom mirror for years." Another subject said, "[Y]ou know, I do have a major addiction, and I don't think I'll ever lose it. And I don't think there's any classes [treatment] for it. And it's money. It's Ben Franklin." Typically, they began working for pay while young and maintained employment throughout their adolescent years.

Criminal Lure

In *Crime and the American Dream*, Messner and Rosenfeld (2001: 5) assert that "crime in America derives in significant measure, from highly prized cultural and social conditions." They go on to state:

. . . the American Dream itself and the normal social conditions engendered by it are deeply implicated in the problem of crime. In our use of the term "the American Dream," we refer to a broad cultural ethos that entails a commitment to the goal of material success, to be pursued by everyone in society, under conditions of open, individual competition. The American Dream has both an evaluative and a cognitive dimension associated with it. People are socialized to accept the desirability of pursuing the goal of material success, and they are encouraged to believe that the chances of realizing the Dream are sufficiently high to justify a continued commitment to this cultural goal (Messner and Rosenfeld, 2001: 5-6).

Matza and Sykes (1961) state that delinquents from all social classes tend to pursue certain values that are

conducive to delinquency; they may also have a disdain for hard work and a desire for quick, easy success. In his theory of middle-class delinquency, England (1960) states that delinquents reject such values as hard work, thrift, study, and self-denial. Miller (1958) makes a similar point in his discussion of lower class culture. At the same time, however, delinquents have grandiose dreams of quick success. They desire much money and all the luxuries money can buy. Entrepreneurship appealed to many of the subjects:

You're always pursuing more money, most of us are. We're raised that way, we are in this country. And that's the way I was raised. But I also wanted to do my own thing. I wanted to be in business for myself, I wanted the freedom that came with that.

"Crime, of course, would have an obvious appeal to someone who places a low value on hard work and a high value on money and pleasure" (Agnew, 2000: 359).

The sample subjects were aware that there are ways of earning a good income that do not require hard work and subordination to others. As one subject put it:

You know, I was, I've never been a firm believer [that] you got to work for a company for 30 years and get a retirement. Like my dad thinks. I'm all about going out [and] making that million and doing it, doing it very easily. And there's a lot of ways to do it.

For the sample subjects, many of whom were previously foundering on conventional paths, telemarketing was a godsend. In the words of one of the subjects, "Telemarketing was a salvation to me as a means of income. And being able to actually accomplish something without an education." Aware that failing parental and self-expectations would be unacceptable, it came along at a time when they needed to show that they could make something of themselves. It was the reason some reported for dropping out of college:

[Telemarketing] was just something I picked up as a part time job, when I was sixteen. . . . When I was in college, my second year in college, [fellow students] were talking about finishing their four years of college and making \$28,000 or \$30,000 a year. And I was making \$1,000 a week part time, you know. . . . And I just couldn't see doing it. I mean, I wound up, after the end of my second year of college, I never went back. I was making too much money. It just seemed so easy.

Indeed, success in the field of criminal telemarketing does not require a formal education. A cross-tabulation of educational background and telemarketing position [Table 5.1] suggests that failure to obtain a degree does not constrain one's "status" in the business. Although none of the three

Table 5.1: Cross-Tabulation of Education Background and TM Position

		Owner	Manager	Re-Loader	Sales Agent	Total
Less Than High School	Count			2	1	3
	Within Education			66.7%	33.3%	100.0%
	Within Position			28.6%	9.1%	6.3%
High School Degree/GED	Count	8	1	3	4	16
	Within Education	50.0%	6.3%	18.8%	25.0%	100.0%
	Within Position	33.3%	16.7%	42.9%	36.4%	33.3%
Some College	Count	14	2	2	6	24
	Within Education	58.3%	8.3%	8.3%	25.0%	100.0%
	Within Position	58.3%	33.3%	28.6%	54.5%	50.0%
College Degree	Count	2	2			4
	Within Education	50.0%	50.0%			100.0%
	Within Position	8.3%	33.3%			8.3%
Graduate Degree	Count		1			1
	Within Education		100.0%			100.0%
	Within Position		16.7%			2.1%

subjects with less than a high school degree ascended to the position of owner or manager, eight (50%) of those with only a high school diploma or GED did rise to the level of business owner. In that group were three subjects who obtained their degree by taking the GED. A ninth individual in the high school only category became a manager.

In the *some college* category (no degree obtained), fourteen (58.3%) became owners and two (8.3%) held managerial positions. Of the four who obtained college degrees, two were business owners and two were managers, while the one subject with a masters degree did not surpass the management level. In the end, twenty-two (91.6%) of the owners and three (50%) of the managers in the sample had only a high school degree or some college.

While the ability to achieve something without an education was a fundamental reason for entry into criminal telemarketing, the fact that the subjects could make a large amount of money was by far the greatest lure.

Income

Overwhelmingly, the subjects told me they got into and persisted at telemarketing for "the money." How well does it pay? Only one subject reported earning less than \$1,000 weekly, and most said their annual earnings were in the range of \$100,000 to \$250,000. Seven told me their annual earnings exceeded \$1 million. To conduct further analysis, cross-tabulations were run on income by position, education, age, and years in telemarketing. The income categories were designated as *less than \$99,000*, *\$100,000 to \$249,000*, *\$250,000 to \$999,999*, and *1 Million and above*.

All of the millionaires (n=7) were owners of criminal telemarketing firms and only one owner made less than \$99,000 [**Table 5.2**]. The owners also made up 63.6% (n=7) of the \$250,000 to \$999,000 income category (n=11). The remaining 37.5% (n=9) reported earning from \$100,000 to \$249,000 annually. Only one manager stated that he received an annual income over \$250,000, while four (66.7%) were in the \$100,000 to \$249,000 category. The remaining manager reported an income of under \$99,000.

Table 5.2: Cross-tabulation of TM Position and Annual Income Category

		Less Than 99,000	100,000 to 249,000	250,000 to 999,999	Million and Above	Total
Owner	Count	1	9	7	7	24
	Within Position	4.2%	37.5%	29.2%	29.2%	100.0%
	Within Income	20.0%	36.0%	63.6%	100.0%	50.0%
Manager	Count	1	4	1		6
	Within Position	16.7%	66.7%	16.7%		100.0%
	Within Income	20.0%	16.0%	9.1%		12.5%
Reloader	Count		6	1		7
	Within Position		85.7%	14.3%		100.0%
	Within Income		24.0%	9.1%		14.6%
Sales Agent	Count	3	6	2		11
	Within Position	27.3%	54.5%	18.2%		100.0%
	Within Income	60.0%	24.0%	18.2%		22.9%

Almost all (85.7%; n=7) of the reloaders fell within the \$100,000 to \$249,000 income range while the other reloader garnered between \$250,000 and \$999,000. The closers and sales agents were collapsed into one category based on the fact that closers are more experienced sales agents and work under similar circumstances using the same pool of consumers. Of the eleven sales agents in the sample, 27.3% (n=3) made less than \$99,000, whereas more than half (54.5%) reported annual earnings of \$100,000 to \$249,000. The two remaining sales agents (18.2%), both closers, made over \$250,000.

Obviously, it pays to be a business owner, but that does not necessarily mean that one needs a college education to profit from criminal telemarketing **[Table 5.3]**. In fact, subjects with a high school degree or GED made up 57.1% (n=4) of the millionaires and 2 (12.5%) earned between \$250,000 and \$999,000. Of the subjects who dropped out of high and did not obtain a GED, one reported making between \$250,000 and \$999,000 while the other two had an annual income of \$100,000 to \$250,000.

The remaining millionaires (n=3) and 63.6% (n=7) of the subjects that earned \$250,000 to \$999,000 per year attended some college but never obtained a degree.

Table 5.3: Cross-tabulation of Education and Annual Income Category

		Less Than 99,000	100,000 to 249,000	250,000 to 999,999	Million and Above	Total
Less Than High School	Count		2	1		3
	Within Education		66.7%	33.3%		100.0%
	Within Income		8.0%	9.1%		6.3%
High School Degree/GED	Count		10	2	4	16
	Within Education		62.5%	12.5%	25.0%	100.0%
	Within Income		40.0%	18.2%	57.1%	33.3%
Some College	Count	4	10	7	3	24
	Within Education	16.7%	41.7%	29.2%	12.5%	100.0%
	Within Income	80.0%	40.0%	63.6%	42.9%	50.0%
College Degree	Count	1	2	1		4
	Within Education	25.0%	50.0%	25.0%		100.0%
	Within Income	20.0%	8.0%	9.1%		8.3%
Graduate Degree	Count		1			1
	Within Education		100.0%			100.0%
	Within Income		4.0%			2.1%

41.7% (n=10) of the subjects in this category reported income between \$100,000 and \$249,000 and four earned less than \$99,000; one garnering the least amount reported of \$28,000, equal to the projection of college graduates quoted by a subject in Chapter 3. College graduates fared similarly as 50% (n=2) received an annual income of \$100,000 to \$249,000 while another made over \$250,000 and the last taking in \$60,000 (the second lowest reported income in all categories). The one subject with a master's degree reportedly earned between \$100,000 and \$249,000.

The data also reveal that subjects were able to make a lot of money relatively early in their careers. In order to run cross-tabulations on income by age [Table 5.4], the subjects' ages were collapsed into three categories signifying different stages in life. The *39 and under* category included those subjects in their twenties (n=2), with the other two categories designated as subjects *forty to forty-nine* and *fifty or older*.

Three (12.5%) of the subjects in their thirties were making a million or more and four (16.7%) others topped the \$250,000 mark. A similar number (n=4) made less than

Table 5.4: Cross-tabulation of Age and Annual Income Category

		Less Than 99,000	100,000 to 249,000	250,000 to 999,999	Million Total and Above	Total
39 and Under	Count	4	13	4	3	24
	Within Age Category	16.7%	54.2%	16.7%	12.5%	100.0%
	Within Income	80.0%	52.0%	36.4%	42.9%	50.0%
40 to 49	Count		6	3	4	13
	Within Age Category		46.2%	23.1%	30.8%	100.0%
	Within Income		24.0%	27.3%	57.1%	27.1%
50 and Above	Count	1	6	4		11
	Within Age Category	9.1%	54.5%	36.4%		100.0%
	Within Income	20.0%	24.0%	36.4%		22.9%

\$99,000, but most (54.2%; n=13) reported an annual income of between \$100,000 and \$249,000. Forty-somethings made the most money on average as four (30.8%) made a million or more and three (23.1%) others made over \$250,000. The remaining six (46.2%) garnered \$100,000 and \$249,000 in annual income. While no subject fifty or older made a million, 36.4% (n=4) made more than \$250,000. Most (54.5%; n=6), however, reported earnings between \$100,000 and \$250,000; the remaining elder received less than \$99,000.

Additionally, the subjects were able to make a substantial annual income without having to first work long in the field [**Table 5.5**]. For this analysis, the subjects' years in telemarketing were categorized as *5 and under*, *6 to 10 years*, and *11 or more years*. Three (42.9%) of the millionaires had been in criminal telemarketing for less than five years, while two others had six to ten years experience; the remaining two fell in the eleven or more category.

Those subjects reporting annual incomes of \$250,000 to \$999,000 were divided rather equally among the *5 and under* (36.4%; n=4), *6 to 10* (36.4%; n=4), and *11 or more* (27.3%; n=3) categories. Those with 5 or fewer years in telemarketing made up 32% (n=8) of subjects in the \$100,000

Table 5.5: Cross-tabulation of TM Years and Annual Income Category

		Less Than 99,000	100,000 to 249,000	250,000 to 999,999	Million and Above	Total
5 and Under	Count	3	8	4	3	18
	Within TM Years	16.7%	44.4%	22.2%	16.7%	100.0%
	Within Income	60.0%	32.0%	36.4%	42.9%	37.5%
6 to 10	Count	2	12	4	2	20
	Within TM Years	10.0%	60.0%	20.0%	10.0%	100.0%
	Within Income	40.0%	48.0%	36.4%	28.6%	41.7%
11 and Above	Count		5	3	2	10
	Within TM Years		50.0%	30.0%	20.0%	100.0%
	Within Income		20.0%	27.3%	28.6%	20.8%

to \$249,000 income category compared to 48% (n=12) of those with 6 to 10 years experience, and 20% (n=5) of the subjects 11 or more years in the business.

Only three subjects with less than 5 years and two with 6 to 10 years in the business made less than \$99,000.

Personal Success

As important as the income it yields and the casual approach to employment it permits, criminal telemarketing appeals to many who persist at it for reasons of career and identity. Despite class and parental expectations, most of the subjects had not previously settled upon promising or rewarding occupations. Asked what he liked about telemarketing, one subject's reply was typical: "Well, obviously, it was the money." Immediately, however, he added that "it gave me a career, [and] to me it was my salvation." As with this subject, criminal telemarketing enables fraudsters to own their own business despite their unimpressive educational background, their limited credentials, and the absence of venture capital.

A comparison of the positions to which the subjects eventually ascended in telemarketing to the occupational

positions of their fathers, reveals that there also were no relative limitations on their occupational mobility [Table 5.6]. As a result, many subjects were able to surpass their parents' occupational status by becoming business owners. 62.5% (10) of the subjects whose parents held professional/managerial positions and 50% (n=6) of those with parents listed in the laborer category did so. Of the sixteen subjects whose fathers held professional/managerial positions, ten (62.5%) became owners of criminal telemarketing firms, and three (18.8%) were managers. Likewise, six (50%) of the subjects whose fathers were laborers also came to own their own business; none became managers.

The sons and daughters of business owners did not attain as much "success." Of the eighteen subjects whose parents were business owners, eight (44.4%) eventually became owners and three (16.7%) held managerial positions. The fact that these particular subjects exhibited less upward mobility is hard to explain. Overall, during the interviews, the subjects with professional/managerial parents expressed much more disdain about working for somebody else, often as a result of observing their fathers' situations. In general, the subjects from

Table 5.6: Cross-Tabulation of Parent Occupation and TM Position

		Owner	Manager	Re-Loader	Sales Agent	Total
Business Owner	Count	8	3	2	5	18
	Within Parental	44.4%	16.7%	11.1%	27.8%	100.0%
	Within Position	33.3%	50.0%	28.6%	45.5%	37.5%
Professional/Managerial	Count	10	3	1	2	16
	Within Parental	62.5%	18.8%	6.3%	12.5%	100.0%
	Within Position	41.7%	50.0%	14.3%	18.2%	33.3%
Laborer	Count	6		2	4	12
	Within Parental	50.0%		16.7%	33.3%	100.0%
	Within Position	25.0%		28.6%	36.4%	25.0%
Military	Count			2		2
	Within Parental			100.0%		100.0%
	Within Position			28.6%		4.2%

business owner homes, were less concerned, but perhaps were more aware of the headaches of owning a business. Additionally, there is a lot of money to be made on the sales end and less perceived liability.

The subjects were also able to become business owners relatively early in life. Nearly half (45.8%; n=11) of the business owners started up their own firms before the age of 39; their average age was 35. The average age of all business owners was slightly under 42. Taking into account that ages used in the analysis were the subjects' ages at the time of the interviews, this figure is even more impressive.

Although only seven of the sample subjects were minorities, there appears to be no constraints on their status mobility such as exist in the general population. 66.7% (n=4) of the African-American subjects were business owners and another was a manager. The same equal opportunity was not seen for females (n=6), as 66.7% (n=4) were sales agents, one was a reloader, and only one was an owner. Even the one female who was an owner told me that she did not aspire to ownership, but rather was placed in the position by her fiancé to serve as a "front." Although I did not spend much time exploring the gender issue, some

of the interview subjects did suggest that a glass ceiling does, in fact, exist and females were mainly used to make initial contacts.

For those who persist at it, success at criminal telemarketing brings a strong sense of personal mastery, which gives rise to self-attributions of distinction and desert. As president of their own corporation, their position in telemarketing provides both outward respectability and an income sufficient to maintain the "good life." It is the vehicle that permits them to lay claim to being talented and successful.

This mode of deviant exploitation also offers the intrinsic emotional reward of "sneaky thrills" (Katz, 1988). Seduced into the deviant activity primarily by their desire for easy economic gain, fraudulent telemarketers soon discover that employing their persuasive skills to exploit gullible victims provides feelings of power and control. The deviant work is "a kind of game . . . that produces a clear winner and loser" (Katz 1988: 67). Duffield and Grabosky (2001) have commented on the importance of this dimension of the payoff from fraud.

Characteristically, the subjects believe they are outstanding salespersons; they are supremely confident of

their ability to sell over the telephone by overcoming whatever resistance they encounter. Doing so successfully gives a sense of competitively earned distinction and power.

[I] sold the first person I ever talked to on the phone. And it was just like that first shot of heroin, you know. I'm not a heroin addict. . . . I've only done heroin a couple of times. But it was amazing. It was like, "I can't believe I just did this!" It was incredible. It was never about the money after that. . . . Yeah, it was about the money initially, but when I realized that I could do this everyday, it was no longer about the money. It was about the competition, you know. I wanted to be the best salesman, and I want to make the most money that day. And then it became just the sale. It wasn't the money. I didn't even add the figures in my head anymore. It was just whether or not I can turn this person around, you know, walk him down that mutual path of agreement, you know. That was exciting to me. It was power, you know; I can make people do what I wanted them to do. And they would do it.

Another subject said simply that the work "gives you power. It gives you power."

To make such large amounts of money and do so without incurring restrictive responsibilities adds to the attractiveness of the work. The subjects find appealing both the flexible hours and the fact that it requires neither extensive training nor advanced education. Few employers impose rigid rules or strictures. Generally there are neither dress codes nor uniforms; the work can be

done in shorts and a tee shirt (Doocy et al., 2002). In addition to the money and the success it provides, criminal telemarketers also find other aspects of the work attractive.

Mobility

Employment mobility by criminal telemarketers is common; individuals move from one firm to another, with some eventually taking managerial positions (Doocy et al., 2001). After gaining experience, former managers told me, they were confident that they knew enough about the business to strike out on their own. They did so expecting to increase their income substantially. As one put it: "[I]n my mind I believed I was smarter than the owners of these other companies that were making millions of dollars. And I just said, 'I can do this on my own.'"

Typically, defectors lure productive personnel from their current employer with promises of more money, and on the way out they are not above plundering the business's files and lead lists: "I downloaded every lead in his file. I took it all. I opened up . . . my own office, took all those people and said 'now, watch me.'" Based in

part on the widely shared assumption that the market is never saturated, they generally open a company based on similar products and sales approaches. Others enjoyed the mobility without the responsibility of organization. As one *rip and tear* artist told me:

Hell, I would go on vacation to New Orleans, or whatever, and work out of a hotel room for a few days. They probably tracked me down through couriers. 4 or 5 of my buddies would do the same thing.

When I asked what his parents thought, the subject replied, "Hell, at the time my parents were glad because I was successful."

One subject summed up well not only the reason why most enter this type of work, but also the varied options available to them.

I've done many things. I can't even remember all the things. I don't think I've worked steady ever up until I was 35 years old maybe. I just, you know, I could never keep a job. I could never, nothing can hold my interest that long until telemarketing. Cause then you didn't have to keep a job. You just got to work for the next company. . . . There was like 3 or 4 of us that started together and we would branch out into different companies you know or we'd make our own companies or whatever, you know, and nobody wanted to do it at this time. And because I didn't really want a job and I was a salesman. I started ripping and tearing out of hotel rooms and stuff you know just, you know, 5, 10 grand a week or something, just to keep me out of trouble.

Asked if he ever considered changing his vocation, he replied, "All the time, all the time. So fuckin often the

things were more commonly criminal in nature. Still, wouldn't go get a job, you know."

Lifestyles

Telemarketers generally distinguish between working hard and "working smart." When asked, therefore, how he viewed those who work hard for modest wages, one replied "I guess somebody's gotta do it." By contrast, work weeks of 20-30 hours are common for them, and even for owners and managers, the need for close oversight of operations decreases substantially once things are up and running. The short work-week and their ample income provides considerable latitude in the use of leisure time and in consumption patterns.

The lifestyles of criminal telemarketers vary by age and the aspects of the work that employees find most appealing, but conspicuous consumption is common to all. The young, and those attracted to the work and leisure it permits, live life as a party. This is "enjoyment of good times with minimal concern for obligations and commitments external to the . . . immediate social setting" (Shover, 1996: 93). Use of cocaine and other illicit drugs is

common among this segment of the telemarketing workforce.

One of the subjects recounted how the business accommodated his lifestyle.

The hours were good. You'd work, sometimes, from about 9 to 2, 9 to 3, sometimes from 12 to 4. Basically, we set our own hours. It was freedom. The money was fantastic. . . . You got the best of the girls. For me, it wasn't really about the job, it was a way of life. . . . I had an alcohol problem at a young age, and to be able to support the alcohol and drug habit with the kind of money that we were making seems to go hand in hand. And then you've got the fast lifestyle, . . . up all night, sleep all day, you know. So, everything kinda coincided with that fast lifestyle, that addictive lifestyle.

Asked how he spent the money he made in telemarketing, another subject responded saying:

Houses, girls, just going out to nightclubs. And a lot of blow [cocaine]. . . . Lots and lots of blow, enormous amounts. And other than that, you know, I look back, I get sick when I think about how much we spent, where the hell I put it all. I'm making all this money [but] I don't have a whole hell of a lot to show for it, you know. That lifestyle didn't allow you to save.

Gambling and ostentatious living are commonplace. One subject said that they "would go out to the casinos and blow two, three, four, five thousand dollars a night. That was nothing -- to go spend five grand, you know, every weekend. And wake up broke!" Commenting on one of his employees, a subject said that the man

had a Porsche Speedster after he sold his Porsche 911. He had a Dodge Viper, he had a Ferrari 348, he had a Lexus LS400, he had a BMW 850i, he had a Jeep Grand Cherokee. He liked his cars. Now, he didn't have all these at one time, but he ran through them, you know. He traded the Dodge Viper . . . in for the Ferrari. He always had a Porsche.

There was usually little money to be found when these subjects were investigated and it is assumed that most of it was lost in the process of conspicuous consumption. However, there is also evidence that the subjects spent the money to avoid detection. As one subject put it:

Well I had to say my lifestyle, you know, we couldn't have bank accounts, you know. I didn't even have a driver's license for 10 years. We couldn't, we couldn't keep our money anywhere. We couldn't declare it anywhere, so you know I guess hotel rooms, cars, drugs, clothes, girlfriends. You know money's really easy to spend. And we gambled too. We did just about everything that you would expect a criminal to do with their money. It was just a great lifestyle, man.

What I learned about the lifestyles and spending habits of criminal telemarketers differs little from what is known about street criminals. It also confirms what has been learned about the relationship between easy, unearned income and profligacy: "The way money is acquired is a powerful determinant of how it is defined, husbanded, and spent" (Shover, 1996: 104).

The lifestyles of telemarketers change somewhat as they get older and take on more conventional responsibilities:

I started to realize that, as I was getting older in the industry, it was affecting my children and my relationship with my wife. To the point that it wasn't what I wanted. I wanted more of a home-type of family, where I got home at six o'clock and have dinner and spend time with my wife and children. And with that industry, it doesn't really do that.

My lifestyle? Play golf, go to the lake, you know. I had a family, but . . . I was also, you know, making good money. And I wanted to party and that kind of thing. So, I did that a lot. We got together and partied a lot and went here and there and went to, you know -- nightlife -- go out to clubs occasionally, but, when you're married and have kids, it's limited. It changes. It changed a lot over those years.

For older and more experienced telemarketers, the lifestyle centers around home and family and impressing others with signs of their apparent success:

I played some golf. [In the Summer], water skiing, fishing. I'm real heavy into bass fishing, me and my dad and my brothers. Hunting. Doing things with my wife and kids. I spent a lot of time with them. Evenings, maybe just walking the golf course, or whatever. Watching the sunset.

Another subject told me that after he moved up in the telemarketing ranks: "My partner and I played, we played a lot of golf. The office was right down from the golf

course. We'd go to the golf course and play two or three times a week." Except for the unrestrained hedonism of their lives when young and still new to criminal telemarketing, the broad outlines of their occupational careers, particularly for those who went on to form their own businesses, resemble the work careers of more conventional citizens.

Chapter 6

THINKING FRAUD

Whereas rational street criminals generally conduct only a primitive cost-benefit analysis, the decision-making of fraudulent telemarketers involves several dimensions. An average burglar acting alone, for example, knowing his or her actions are a blatant violation of the law, will assess the possibility of getting caught as well as the potential for obtaining goods of value from an unoccupied building. Criminal telemarketers, on the other hand, largely deny that their actions are criminal. They employ a wide range of techniques of neutralization in their defense. Matza's (1964) application of this concept questions whether techniques of neutralization come before delinquent acts (see also Ball, 1966) while others (e.g., Hamlin, 1988) suggest that these techniques are motives that neutralize guilt after the fact. In this chapter, the techniques are viewed as one of several circumstances in the offenders' criminal decision-making.

The subjects also claim that the law covering business transactions is vague and as a result they should not be held accountable. Questioned about an alleged violation,

fraudulent telemarketers tend to suggest that they are not accountable and other members of the organization are to blame. Applying a rational choice perspective, this multi-level analysis reveals that fraudulent telemarketers are, in fact, rational criminal decision-makers.

Denial of Crime

In writing about newly emerging forms of criminal opportunity, Ross (1907) coined the label *criminaloid* to refer to those individuals that exploit them. He noted that despite their criminal conduct, these offenders refused to see their acts as crimes. In the decades that followed, others reported similar findings (e.g., Cressey, 1953; Geis, 1967; Sutherland, 1983). In more recent years, Jesilow, Pontell and Geis (1993) found that physicians who engage in Medicaid fraud typically define their violations, both in private and to others, in benign terms. Likewise, Doocy et al. (2002: 173) remark that the fraudulent telemarketer they interviewed "conveyed the assured appearance of a most respectable entrepreneur" as well as "no hint . . . that what he was doing might not be altogether legitimate."

Benson (1985: 602) notes that a tendency to reject the criminal label was characteristic of fraud offenders he interviewed and that they "were more likely than other offenders to completely deny committing any crime at all." (see also Willott et al., 2001). The sample subjects in my research are no different. Notwithstanding the fact that all were convicted felons, most reject the labels *criminal* and *crime* as fitting descriptions of them and their activities. They instead employ a range of mitigating explanations and excuses for their offenses, although claims of ignorance figure in most of their explanations (Sykes and Matza, 1957; Scott and Lyman, 1968; Katz, 1980).

Some former business owners reported, for example, that they set out to maintain a legitimate operation, emulated the operations of their previous employers and assumed, therefore, that their activities violated no laws. Others said they were guilty only of expanding their business so rapidly that they could not properly oversee day-to-day operations. Some said that indulgence in alcohol and illicit drugs caused them to become neglectful of, or indifferent toward, their businesses.

Few of the subjects acknowledged culpability. Only six admitted candidly that they were aware from the outset

of the criminal nature of their activities. Reflecting on his experiences in criminal telemarketing, one subject remarked:

I had no respect for telemarketing, you know, companies that would come in and try to act like this is real cool, "we're gonna get away with it," because we have an attorney here, or we paid this bond, or whatever. After a few years it was like, you know, what the fuck. This is, I know what we're doing: "we're taking as much money as we possibly can. That's what we're doing." I'm a very black and white individual, you know. I just, I'm a straight-line man, I go right to it. And as much as a lot of people in our industry try to legitimize it and had all these excuses and stuff, I was always the one that sat back and said, "No, let's go stealing, you know. Let's make some money." . . . I mean, you had to have, I understand that the owners had to have some aura of legitimacy, 'cause they were running ads in the paper. They were getting young people in there, . . . and they had to make it look real good. But me, I knew what was going on early on, and just attacked it with a vengeance.

The appearance of legitimacy and respectability makes it easy for criminal telemarketers to manage culpability:

You just, . . . I mean, you see so many rich people in that business. I mean, these are guys that come to work in a suit and tie everyday. And they have kids. You've been to lunch with these guys, you've been to dinner, you've been over to the house. They look like everyday, normal, average Americans. . . . By the time you get good enough to do it along with them, then you find out, "okay, hold on, there's something not so right about this." But these are great guys, who pay the taxes, you know. They're not criminals. These are the type of guys that don't get pulled over by the police. . . . So you don't really look at what they do as crime, 'cause they don't look like criminals. It just doesn't compute. Now once you go on down the road, . . . yeah, you start to understand that okay,

look, you know this is a shaft [scam]. . . . I never worked anywhere in anything I've done and not come into my office in a shirt and tie, you know. I left my house, you know, my neighbors all said every young man in the block should be like him. But that's what takes that edge off it, because you're a businessman. You are. It's still a business.

Although less than a third (n=15) of the subjects admitted culpability (12.5%) or some awareness of criminality (18.8%), a cross-tabulation of years in telemarketing and admission of guilt [Table 6.1] reveals that the amount of time an individual spends in the business has an effect on his or her willingness to acknowledge the criminal nature of the enterprise. The subjects were placed in categories of *less than 5 years*, *6 to 10 years*, and *11 or more years*. It appears that the subjects became more enlightened as they spent more time in the industry.

Of the subjects with 5 or fewer years experience, only two (11.1%) admitted guilt and three (16.7%) reported some awareness for a total of 27.8% of that category. Comparatively, nearly twice the number of subjects with 6 to 10 years of experience (n=9; 47.4%) admitted guilt (21.1%) or some awareness (26.3%). Those subjects in the 11 years or more category, however, were the most adamant in their denial of criminality as only one subject stated

Table 6.1: Cross-tabulation of TM Years and Admission of Guilt

		No	Yes	Awareness	Total
5 and Under	Count	13	2	3	18
	Within Years Category	72.2%	11.1%	16.7%	100.0%
	Within Admission	40.6%	33.3%	33.3%	38.3%
6 to 10	Count	10	4	5	19
	Within Years Category	52.6%	21.1%	26.3%	100.0%
	Within Admission	31.3%	66.7%	55.6%	40.4%
11 or More	Count	9		1	10
	Within Years Category	90.0%		10.0%	100.0%
	Within Admission	28.1%		11.1%	21.3%

that s/he had some awareness of criminal activity. This pattern implies that the subjects were hesitant to see the business as fraudulent in the beginning and determined to label it as non-criminal once they decided it was going to be their life's occupation.

Techniques of Neutralization

As with many categories of those who live at the margins or outside of the law, criminal telemarketers adopt perspectives that guard against self-blame and moral rejection. Their perceptual and belief systems include a range of techniques of neutralization and accounts (Sykes and Matza, 1957; Scott and Lyman, 1968). To explain offenders' justifications for engaging in criminal activity, Sykes and Matza (1957), start with Sutherland's theory of differential association, which asserts that criminal or delinquent behavior involves the learning of (a) techniques of committing crimes and (b) motives, drives, rationalizations, and attitudes favorable to the violation of law. They state that such neutralizations include the denial of responsibility, denial of injury, denial of victim, condemnation of the condemners, and

appeal to higher loyalties. In explaining their involvement in crime, almost all of the subjects employed one or more of these neutralization techniques.

Fraud offenders typically justify their activities on the grounds that their crimes cannot succeed without acquiescence or cooperation from their victims. Unlike victims of burglary and robbery, those who fall prey to fraud sometimes are willing, if halting or confused, participants in their own victimization (Goffman, 1952). The tendency of fraud offenders to see their victims as deserving of what befalls them was noted by Maurer (1940) more than six decades ago, and it remains true of contemporary telemarketing criminals.

Chief among the legitimating and defensive "vocabularies of motive" (Mills 1940) of telemarketing criminals is belief that "the mooch is going to send his money to someone, so it might as well be me" (Sanger 1999: 9). In other words, customers are thought to be so greedy, ignorant, or incapable that it is only a matter of time before they throw away their money on something impossible. In one subject's account, "[T]hey know what they're doing. They're bargaining for something, and when they lose, they realize that they were at fault." These subjects had

neither concern nor sympathy for their victims. As with convicted rapists (e.g., Scully and Marolla, 1984), telemarketing criminals selectively seize upon aspects of their victims' behavior and point to these as justification or excuse for their crimes.

Several told me they relied on the advice of their business lawyers. In effect, they "pinned" the justification for any wrong doing on erroneous legal advice. While most of these subjects denied criminal responsibility, some also acknowledged they were left ambivalent:

I believed it was okay, but a part of me said it can't be okay. You have this, you're divided. . . . But the lawyer says it that's it's okay. Why would you not believe, you know, a lawyer? You're paying him for that reason. And the other part of you is saying "look at it. Look at it for what it really is. It can't be okay." And you have this fight inside of you . . . like the devil in you saying "you know it's okay you can do it." And the other part of me is saying "I don't care what the attorney says, you can't be doing this you know." But then you - you give into the fact that here's a man who has a degree in law, who knows what you're allowed to do and what you're not to do. And if you're paying him, you know, big dollars to give you the truth, well why don't we rely on what he has to say. Just like in any court case you would have, if you hire an attorney to take care of things for you. You would assume he knows what he's doing and rely on his judgment.

Ensnared in their outwardly respectable and self-indulgent lifestyles, it is both easy and typical of criminal telemarketers to imagine they can continue their activities indefinitely. Most said they believed that if trouble developed they faced nothing more severe than a fine, an adverse civil judgment or a requirement that they make restitution. When asked what he thought was the worst that would happen if he lied in the sales pitch, one subject echoed others' responses: "Somebody's gonna complain on me. That was the worst case. I'd have to send back a check." They claim the entire problem more appropriately was a "civil matter" and "should not be in criminal court." As one put it: "If you have people that are not satisfied, we would be happy to give their money back."

The trappings of a legitimate office and business can make difficult and time consuming the task of investigating their operations. As a result, when telemarketers are the focus of law enforcement, generally it is by federal-level criminal justice officials. Most attribute their arrest and prosecution to out-of-control or politically ambitious prosecutors, and they generally believe the punishment they

received was both unwarranted and excessive (see Willott et al., 2001). As one subject put it:

I think they should stop this crap, . . . coming in with the strong arm, and, you know, making these white-collar people, little people, look like big-time criminals or something like that. . . . They have no mercy. They don't care, you know. They're not out there to help any victims, they're out there to put numbers on the board. . . . And then they make a big business of the prison industry. That's all it's about, you know. Yeah, put violent people away that belong in prison. But don't put people there that are nonviolent people, that can be out there and working a job. . . . Maybe they did do something wrong, but give them another chance.

The subjects also stated that they were unaware of the enhanced penalties statutes such as the *vulnerable victims* and *money laundering* provisions of the sentencing guidelines. Similar to others, one subject, in contesting the vulnerable victims statute, asserted, "[H]ell, I would take anyone's money. I'm not going after the elderly." Others claimed that the money laundering enhancement is wholly inapplicable to telemarketing. "How is it money laundering? I paid salaries and paid for the costs of the business with most of the money. This is a legitimate business; money laundering was intended for the drug business which is obviously illegitimate."

A recurrent theme in the subjects' responses was the claim that they were doing nothing different than conducting business. They maintained that they were not victimizing their customers but engaging in a routine sales transaction, no different than a retail establishment selling a shirt that is marked up 500 percent.

I mean, and I used to say, "[H]ey, I went and bought this shirt over at whatever. You know this shirt costs a dollar to make for the manufacturer but I paid 50 [dollars] at the store." So am I getting screwed here? Oh yeah, technically I guess I am, but I'm paying a markup. How is it illegal for me to do the same thing? That's free enterprise.

Even those who admitted their criminal wrongdoing held on to this notion. "In society it seems like implying, insinuating and lying is just the way things are."

While a third of the subjects eventually admitted wrong doing, most suggested that they did not realize it until after the fact. Still, they asserted that it was more immoral than illegal. Telemarketing fraud is therefore construed by its practitioners as perfectly in tune with mainstream commercial interactions: a "subculture of business" (Ditton, 1977: 173).

Organizational Buffers

It is difficult to accurately determine the calculus of fraudulent telemarketers solely from self-reports of their individual involvement. Criminal telemarketers collaborate with others and design their organizations to shield themselves from detection. Thus, it is helpful to examine the subjects' motives and actions within the organizational context of their criminal enterprises. Organizational buffers are part of the design implemented by fraudulent telemarketers to avoid personal responsibility and deflect blame.

Both the hierarchy of authority and the division of labor in telemarketing organizations facilitate denial of crime. The management and accountability structure of their operations is diffuse. Unlike at legitimate firms, unfettered discretion is given to those at the bottom of the hierarchy - the sales agents. This allows the owners and managers to blame rogue sales agents for any fraudulent or deceptive activities. As one owner put it: "The owners are trying to do the right thing. They're just attracting the wrong people. It's the salesmen."

The owners never attribute the fraud perpetrated to the intentionally deceiving scripts written or approved by them. As one owner stated, "The scripts are drafted to enhance sales but we deliver on everything we promise." They dismiss the fact that the sales agents are commission driven and deny encouraging the agents to do whatever is necessary to make a sale. This is reminiscent of the observation by Ross (1907: 52) that the criminaloid "must have responsible agents as valves to check the return flow of guilt" from his or her criminal proceedings. S/he "shows them the goal, provides the money, insists on results, but vehemently declines to know the foul methods" that they employ.

The owners' method of operation may be likened to that of large-scale drug dealers. They have sales agents conduct their dirty work just as dealers use pushers to make transactions on the street to avoid direct attention. The owners may even deceive their own employees with respect to the legitimacy of the business. The owners of the XYZ Company referenced earlier, for example, placed testimonials from "satisfied" customers in the employee meeting area. In the end, blaming sales agents for the

deceptive practices they mastermind while they sit back and claim ignorance, is their primary line of defense.

Criminal telemarketers also build other defense mechanisms into the organizational structure. The verification process in which the customers are taped stating that no false promises were made during the sales transaction, for instance, is later used as evidence that the sale was legitimate. Naturally, these tapes do not reveal the fact that the sales agents coach the customer to deny the inside information - the false promises - lest the deal be queered.

More innovative owners also set up their own recovery rooms. This allows them not only to maintain a significant portion of the proceeds from complaining victims, but also acts to deter complainants from reporting their activities to criminal justice agencies. The use of courier services to pick up victims' checks also shields the owners from detection by law enforcement. In addition, it ensures that less time is available for the victim to reflect on the transaction.

Sales agents have their own lines of defense when faced with criminal responsibility. Most of them contended that they were convicted of practices that are common in

everyday life. According to them, puffery is used in sales all the time and the good salesperson knows how to "push that envelop to the gray line." The subjects suggested that it is incumbent on the government to make more clear the boundaries of sales transactions. In other words, the state needs to let them know what is wrong before pursuing criminal action.

Additionally, sales agents use the organizational structure to claim that the owners and managers kept them in the dark about the business and its criminal nature. They viewed themselves as just carrying out orders with the belief that any criminal responsibility would befall the owners. One subject, for example, told me that he felt insulated from responsibility as long as he wasn't an owner:

You're just a worker, man. You're getting paid well, but you're just a worker. If anything happens, you got to plead ignorance -- the worst case scenario. But once you start running the whole show, now goes the shit. Cause you collected the money, cause you're writing that check.

The sales agents were more prone than owners and managers to maintain their innocence. A cross-tabulation of telemarketing position and admission of guilt is provided in **Table 6.2**. Eighty percent (n=12) of those who admitted guilt or some awareness of criminality were either

Table 6.2: Cross-tabulation of TM Position and Admission of Guilt

		No	Yes	Awareness	Total
Owner	Count	15	3	6	24
	Within Position	62.5%	12.5%	25.0%	100.0%
	Within Admission	46.9%	50.0%	66.7%	51.1%
Manager	Count	3	2	1	6
	Within Position	50.0%	33.3%	16.7%	100.0%
	Within Admission	9.4%	33.3%	11.1%	12.8%
Reloader	Count	5		1	6
	Within Position	83.3%		16.7%	100.0%
	Within Admission	15.6%		11.1%	12.8%
Sales Agent	Count	9	1	1	11
	Within Position	81.8%	9.1%	9.1%	100.0%
	Within Admission	28.1%	16.7%	11.1%	23.4%

owners or managers. Thirty-seven and a half percent of the owners acknowledged the fraudulent nature of their businesses, while 12.5% (n=3) admitted guilt, and 35% (n=6) stated that they were aware of some potentially illegal activity. Half (n=3) of the managers also stated that either the business itself or some aspects of it were fraudulent. By contrast, only three (17.6%) of the sales agents/reloaders acknowledged criminality in the business.

Rational Choice

Clarke and Cornish (1985; 1986) expanded on the rational choice perspective on crime. The central assumption is that

offenders seek to benefit themselves by their criminal behavior; that this involves the making of decisions and of choices, however rudimentary on occasion these processes might be; and that these processes exhibit a measure of rationality, albeit constrained by limits of time and availability of relevant information" (Cornish and Clarke, 1986: 1).

Not all crimes are carefully planned and systematically evaluated using a cost-benefit analysis. Street criminals, for example, typically give only some consideration to the benefits and costs before making a hurried decision on whether or not to engage in the criminal activity.

In contrast to the morally ambiguous relationships and recreational worlds of street offenders, many white-collar citizens are reared, live and work in worlds structured to promote, monitor, and reward prudent and deliberate decision-making. This is one reason that white-collar offenders generally are sketched as being more rational than street criminals (e.g., Paternoster and Simpson, 1993). Few investigators, however, have used interview data to explore the fit between rational-choice theory and the behavior of white-collar offenders (Braithwaite and Makkai, 1991; Simpson and Koper, 1992; Willott, Griffin and Torrance, 2001). As a result, understanding of white-collar criminal decision making lags behind what is known about their street-criminal counterparts

Their disinclination to see telemarketing fraud as crime, means that the subjects found it difficult to respond to questions about their awareness and calculation of possible criminal penalties. Since they do not commit crime, most deny engaging in *criminal* decision-making. They are sustained in this moral stance not only by qualities of the work and the organizations that employ them but also by the way the work is structured and carried out.

Telemarketers generally do not make calls to individuals residing in the state where their operations are located. This keeps victims at a safe distance and also contributes to offenders' belief that somehow they are unreachable. They assume that local police and prosecutors have little interest in protecting persons outside of their jurisdiction, and they know that few victims are likely to complain in any case. They distinguish their offenses from common street crimes:

I mean, in that business, . . . you don't actually think of it as a crime while you're doing it. Because it just happens so easily. It's not like you're putting a gun to somebody, it's not like you're robbing poor people. I mean, it's not even -- all you do a lot of times is just making up, telling stories. And then it graduates. Because at first you're not selling stories, you're selling something real. But it's devalued already. And I mean they ["customers"] don't know that. You know that, [but] there's no way they can tell that . . . And then it gradually goes on to 100 percent. But, you know, that's down the road.

Willot et al. (2001) had similar findings.

Likewise, when asked why so many people in the business believe it is not criminal and they will not get caught, one subject responded:

Because it's a different type of, it's a different type of crime, you know. It's, you're on, you're using the phone, you're not seeing these people. You don't know what they look like. I mean, I don't know how it is with other guys who may scam, like, life insurance. These people [victims], man, these are

people that you can call one day -- this guy was sending me a \$10,00 check on Wednesday, and you call the next Monday, he's forgotten your name already. And you know, 20 months, they forget all about me. He won't remember me at the end of the year, then he'll just write it off.

They believe, moreover, that they need do nothing more than comply with the regulations of the state where the business is set up. In addition, most believe they are not at risk from the law as long as they maintain financial resources sufficient to cover their obligations.

When criminal telemarketers do come under scrutiny from law enforcement, the initiative usually is taken by federal-level officials. Most of the subjects claimed that police attention came as a complete surprise. As a result, few offenders are prepared for the criminal process. Nevertheless, several of the subjects stated that they were aware of businesses, sometimes their own, being investigated but indicated that the money was too good to discontinue. One subject likened the lure to that of drug addiction.

So I knew, you know, that there's probably a problem out here somewhere but not a big enough problem to stop making the money we were making. So yeah, one time the local police came and raided us. They had a complaint and they came and they took all of our stuff and everything. And very strategically left our database, our leads, which of course they seeded -- that was the catch. We knew it, but you know, it was the

equivalent to leaving a pile of drugs in the corner for a drug addict, you know, sure we're gonna take it. You know, you know we're gonna take it. That was a smart move [by the state].

Retrospectively, many subjects perceived a gradual crossing of the line from legitimacy to illegitimacy. Having crossed it, however, few retreated.

You take a little bit, go a little bit further each time. I mean when you're first on the phones, you know. The perfect example is like, when you first start pitching on the phones, and the client asks you a question. And you don't know. And they hang up on you. You're like, "aw man, if I would've just said such and such, even if it wasn't right, who's gonna know?" I would've got the sale, and it's not gonna hurt the client. . . . And then finally, when they ask you that question you go well "I'm sure" -- real quick, and you get the order. . . . And all of a sudden that's part of the pitch now, doing it all the time. It happens gradually.

Similarly, another subject reported that he became more brazen as time went on.

I was good. I mean, when you're good at something, you exploit it. And it just became easier and easier for me to exploit it. And it became less reasons for me not to do it and more reasons for me to do it. It's not like you look at these people, or you have to go to their house and take the money from their hand, you know. You're talking to them on the phone. And once they send you the check, and you don't want to talk to them, you avoid their phone calls. So, you know, it becomes easier and easier for you to just keep on, you know, doing what you're doing.

With regard to crossing the line into illegitimacy, a former (legitimate) businessman of 26 years responded, "Absolutely. I did, you know. It was because it was easy money and I didn't have the stress that I experienced for 13 years earning that kind of money." He went on:

And all the time not being familiar with the industry and at that time it was my understanding it was already going on for 18 or 19 years in Las Vegas. And the longer I was in it, the more I found out there's some very wealthy people in this town. But no knowledge at all that these people were committing crimes at that time early in the game. Only later did I realize that yes it is and still was at the time. Even when I figured out it was illegal, I still stayed in. I already crossed the line. There was no turning back.

The allure of fast money distorted and gave a distinctive cast to risk decision-making by many of the subjects:

[I did] order verification . . . , I guess, about a year. And I kept asking for raises and the owner, he goes, "If you want a raise, become a salesman." He looked at me, he said, "you could make 3 to \$5,000 a week." I thought, no, I can't do that. I hated sales, I was an order verifier. I knew they were lying to these people, you know, and I just, and I was like the policeman of the company. . . . But it was amazing, it was like, I can't believe I just did this. I just made \$250 and it took me, what, 8 ½ minutes? That was it. It went off like a rocket. Because of my experience with verification, I knew all the objections. I was already a professional salesman, I didn't even know it, you know. So after that I just took off. I strictly worked sales. . . . I learned how to acquire leads. I

learned how to go in to companies and extract their database and take that someplace else and make money for someone else. I learned how to make my employers pay for my rent, buy my cars and food and make sure I have drugs on the desk you know -- all pretty cool.

The same subject later told me:

I had to go from how I was raised, from my parents work ethic, to a different type of person. And I remember thinking that . . . my head was just separating, and I slowly but surely went off into the realm of the salesman, you know. . . . I really didn't understand why my father worked his ass off all of his life. It made no sense to me at this point. I'm thinking, "my God," you know, "he's just not a very bright individual. He's just worked himself into a grave for me, not making any money." I mean. . . . my father worked out of love, you know, and honor. I worked out of greed and self-enhancement.

Another simply stated, that "[he] needed the money and just didn't really think about it after he got away with it the first time. So [he] did it again and again until [he] got caught."

When asked to compare himself with his friends regarding his approach to life, another subject responded directly in terms of risk.

He [my friend] was never like a risk taker, he's not a risk taker. I think that's the big thing they're not risk takers my friends. They're not the type of guys that if there's a \$1,000 sitting over there and there's a cop 10 feet away and he's not looking right now, they're not gonna take the chance to go grab that. Me on the other hand, I take the chance. And it's not, I don't

think that's a bad thing on their part. I don't know, I think, you know, that's just the way we are. I was never really as like you say, scared. But you know I was the type of person that, you know, hey it's worth it [the risk]. If something goes wrong, you go "hey, at least I came out okay."

He went on to say, "So I mean it's like the carrot on the stick, you know, right in front of you. ... Yeah. I mean I think that it's a numbers game with anything in life."

The majority of the subjects indicated that they never thought of leaving the business for another vocation. One subject's comment echoed that of others, "[I]t's the only way I can make money. It's the only thing I know and it's what I'm good at." Despite the money they made as telemarketers, when arrested, few of the subjects had significant fiscal resources; most was spent in conspicuous consumption. Some, however, did invest in efforts to avoid detection and to contest criminal charges. As one subject stated,

Actually I did save quite a bit. I just, I got busted. I had to spend it. Actually we did have quite a bit saved up inside walls. . . . -
inside walls, pictures, toilet bowls.

In the end, a majority of the subjects reported that they plan to return to telemarketing or a similar

business after release from incarceration or parole. In fact, some of the parolees had already returned to employment in sales.

Although relatively few of the subjects candidly acknowledged the criminal nature of their vocation and most were reticent to discuss their decision-making in terms of engaging in crime, there is ample evidence to support that fraudulent telemarketers are very deliberate. To begin, like other white-collar criminals, the subjects employed a range of techniques of neutralization in their denial of crime. While criminologists disagree on whether these techniques precede criminal behavior (Sykes and Matza, 1957) or occur after the fact (Hindelang, 1970), there is some support for both contentions (Hirschi, 1969). Viewed in light of all of the attending circumstances, including the organizational design, the ardent defense of their actions suggests that the subjects gave careful thought to the nature of their actions. In the end, most admitted that they knew they were walking a fine line.

More significantly, the owners organized and carried out their illegal activities in a manner

designed to shield them from responsibility. The subjects called victims from other states in order to avoid the involvement of local law enforcement agencies and structured their organizations to facilitate insulation from personal responsibility. While they skillfully trained agents to commit the actual fraud, they also relied upon the expectation that victims would not complain.

Telemarketing fraud is a very lucrative crime and as such, the subjects needed merely to determine the costs involved in pursuing it. The subjects took a rational approach. They set up and maintained businesses that mirrored legitimate enterprises and built in lines of defense within the organizations to shield themselves from criminal responsibility. The longer the subjects escaped detection, the greater became their pursuit of profit and the less concerned they became about the potential risks. Analysis of their justifications, organizations, and personal considerations reveals that fraudulent telemarketers clearly are rational criminal decision-makers.

Chapter 7

CONCLUSION AND POLICY IMPLICATIONS

Structural changes in the nature of economic and social relationships have created new criminal opportunities for individuals who desire to exploit them. Fraudulent telemarketers hail from middle class backgrounds and embrace the societal goal of capital accumulation yet they reject legitimate means to attain it. They exploit ambiguity in the law and capitalize on the latitude provided in sales transactions to perpetuate fraud upon their victims. Criminal telemarketers design their operations both to facilitate large-scale fraud and to defend against personal responsibility. Their criminal decision-making reveals that they are driven by the substantial income the vocation provides and that they believe their actions are defensible in light of the law and standard business practice. In addition to crime control efforts, policy makers should address factors at the cultural, legal and organizational levels and provide better education to the public.

Conclusion

Americans are encouraged to strive for success - to pursue the *American dream*. This refers to "a commitment to the goal of material success, to be pursued by everyone in society, under conditions of open, individual competition" (Messner and Rosenfeld, 2000: 5). In other words, everyone is encouraged to aspire to social ascent and everyone is evaluated on the basis of individual achievement. "An important corollary of this universal entitlement to dream about success is that the hazards of failure are also universal" (Messner and Rosenfeld, 2000:63).

Sociological strain theory explicates the criminological consequences of frustration in achieving cultural goals and success. In his theory of social structure and anomie, Merton (1938) developed a typology of modes of individual adaptation: conformity, innovation, ritualism, retreatism, and rebellion. Innovation occurs when an individual continues to accept the cultural goal of monetary success but rejects the legitimate means to obtain such success. Merton (1938) contends that crime results when individuals are unable to get what they want through legitimate channels, i.e., innovation as a response to this

condition often takes criminal forms (Cloward and Ohlin, 1960).

The subjects of this research aspired to and lived the American dream. They grew to adulthood in comfortable material circumstances. Despite their class origins, however, they were unable to maintain the standard of living provided by their parents. As they reached early adulthood, their directionless and lackluster performance only heightened the felt need to identify and settle upon a means of livelihood that would "pay off." They had little interest in occupations that require confining routines, hard or sustained physical labor, or subordination to others. Acquisitive crime can appear as an acceptable and attractive alternative to those in this position who place a low value on hard work and a high value on money and pleasure (Agnew, 2000: 359).

In the logic of sociological strain theory, the subjects share a structural vulnerability to innovative but criminal solutions. These mundane white-collar criminals are not distinguished by close up familiarity with poverty and disadvantage but instead by their anxiety either to maintain the comfortable circumstances they have known and now come to expect or "to climb closer to the top"

(Weisburd et al., 1991: 185). In short, they found themselves in economically precarious and frustrating circumstances.

Despite their ambitions, most either had stalled or were making little progress on conventional paths. They were mindful of the possibility of growing economic marginality if they did not find and settle upon a satisfactory means of livelihood. One subject said:

I got into telemarketing, how it all came about is, I was working for a car wash, right up the road here. And I'd been there eight months, you know. And I wasn't really making, I mean, I made pretty decent money, what I thought was decent, you know. And . . . I see all these people coming through driving these brand new cars and all this, you know. Younger people, you know, a little bit older than me, but still . . . it would be nice to do that someday, you know. And most of them were in [telemarketing].

His remarks were echoed by another subject:

Yeah, I'm not complaining but, you know, when you see someone next to you and it's coming that easy for them, you always want to work twice as hard. To get everything twice as fast, to stay one step ahead of him. And I think everybody, in life, has an opportunity to go a different route. But a lot of people, they're scared. You don't know. But when I saw that opportunity to go a different route that would get there twice as fast as somebody else, I took it.

Criminal telemarketing provided opportunities where their unimpressive work and educational experiences were no handicap. Here there was little interest in formal

credentials and little need for venture capital. Working the telephones gave them a chance to show what they could do, and in the process they became self confident, interpersonally powerful, and self-indulgent models of success. Like street criminals, they committed crime in order to maintain a style of living experienced as satisfying. Unlike street criminals, they construe criminal decisions and construct criminal operations that blend imperceptibly into legitimate ones.

The state provides wide latitude to parties in sales transactions. Part of the reason for this is that the state chooses to favor its function of facilitating capital accumulation over protection of its citizens when faced with placing prohibitive restrictions on economic practices (O'Connor, 1973). The very nature of sales, in fact, permits a certain amount of puffery, which is itself a form of deception. The market economy operates under the notion of *caveat emptor* - let the buyer beware. In essence, the seller seeks to make the deal seem better than it actually is and the buyer is left to determine the actual value of the product or service.

One of the subjects who was originally from England made the following observation about sales practices in the U.S.:

The way I looked at it is, everybody here is a con man. They con people into buying stuff and they trash their opposition to make an advertising point, which is illegal in Europe. You can't do it in England. You can't say Coca Cola is better [than] Pepsi, or - There's law against that in England. You can't say that on TV. You can't say it's the best this. You can say it's probably one of, but you can't say it's the best. . . . The way advertising was, I saw in England when I was little. Let's say I had a little train, well they show a close up of the little choo choo train. The train happens to be the size of a pen, but they make it look like a size of, you know, 3 feet long. But it's only the size of a pen. And that's misleading to children. So they don't allow commercials like that on TV period. You know, they have to show within the commercial of the scope, the size, the actual size has to be represented accurately with something that they show you for you to have an idea of what the size is.

The subjects observed what they perceived to be ambiguity in the law and set out to exploit it, both in perpetrating fraud upon the victims in the interaction process and in defense of their actions to potential law enforcement agency response.

There is a fine and at times imperceptible line, however, between good salesmanship and deceit. Unfortunately, it remains somewhat unclear. As Doocy et al. (2001: 9) note:

Illegal telemarketing sales pitches come under the general category of fraud, which has been succinctly defined as "the art of deception for gain." . . . Nonetheless, the law does not specifically say what is fraudulent behavior. One judge noted, rather pedantically, that the law "does not define fraud; it needs no definition, it is as old as falsehood and as venerable as human ingenuity."

The subjects of this research contend that the law is ambiguous because as it does not clearly distinguish between permissible and impermissible marketing practices.

Some subjects who were business owners told me, for example, that they set out to maintain a legitimate operation, emulated the operations of their previous employers and assumed, therefore, that their activities violated no laws. As one put it,

I thought, you know -- and that's the reason I'm here -- I thought I was in the right. I thought I could beat the government, and I thought there was a legal way of doing this, and that I was intelligent enough to find that legal way.

The subjects often sought legal counsel and approval from regulatory agencies prior to setting up their organizations in an effort to maintain the appearance of a legal operation.

Some of the subjects suggested that their early dealings with state regulators led them to believe that the business was entirely legal. The fact that many were allowed to continue operating while investigators worked

and the measures they took to give the appearance of legitimacy contributed to this feeling of invincibility. After hearing that the authorities were looking into his business one indicated that,

[I] even invited them in to see the business, and they said it was unnecessary. The next thing I know is that there is a raid on my place. I didn't do anything wrong, so I wasn't worried. Eighteen months later I'm indicted.

Even one of the U.S. Attorneys that I interviewed did not see the issue as cut and dry. He contended that the offenders were guilty of preying upon elderly people who do not have the requisite faculties to make informed decisions when confronted with high-pressure sales tactics. When I asked him what he thought if it was he or I that fell prey to these practices, he replied, "Oh, well, yeah, we deserve it. If you or I spend a dime on this stuff, we, you know, we'd have to wonder what's happening to our brain." In the end, individuals are prosecuted for fraudulent behavior, but the line of legitimacy in sales remains unspecified, leaving the field ripe for continued exploitation.

The subjects contend that their decision to set up formal businesses lies in their desire not only to abide by the law but also to create an operation that will provide them with revenue for a long time to come. Their

organizations, however, are designed not only to mount an offensive assault on consumers, but also to provide a complex defense strategy should the criminal nature of their activities be detected. Toward this purpose, they are loosely organized with a diffuse management and accountability structure, which allows deflection of responsibility.

In order to capitalize on the criminal opportunities presented by changes in the nature of economic and social relationships, the owners employ individuals with good interpersonal skills. Their organizations are potentially volatile, however, as fraudulent telemarketers are extremely individualistic and their shared interest rests solely in the pursuit of profit. Criminal telemarketers do not, by and large, share a cultural identity as they prefer to blend into society and thus are more prone to distinguish themselves from others in the criminal vocation.

While criminal telemarketers may be defined as a group by their commitment to illegal economic activities, their pursuits are decidedly individualistic, even within the organizational setting. In the end, they act independent of, or in competition with, their fellow fraudsters. They

look to deflect blame onto those that work beside them and most anxiously await the opportunity to set up their own businesses, taking the knowledge and leads from those that trained them.

The picture of fraudulent telemarketers that emerges from this research is of persons whose backgrounds equipped them with a generalized expectation that they would be successful *somehow*. Pathways to success are not identified easily or confidently by the young, however, and the subjects dawdled or became distracted on what many would see as the road to marketable skills and credentials. Lackluster preparation for conventional occupational pursuits did little, however, to dampen either their pursuit of the good life or their pragmatic approach to the process. Instead it heightened the felt need to identify and settle upon a means of livelihood that would "pay off" for them. Chance brought them in contact with criminal telemarketing, a way of earning money for which they discovered they have a special talent. It provides them with a high income and outward signs of success despite their shortcomings of preparation and legitimate resources.

The knowledge and skills needed to exploit criminal opportunities vocationally and successfully do not differ

greatly from those required for success in the legitimate world. The blue-collar skills of an industrial society are not equal to the challenge of exploiting contemporary, increasingly white-collar, criminal opportunities. The technology-based and service-oriented economy instead places a premium on interpersonal and communicative skills, and it is the children of the middle-class who are most likely to acquire these skills. Exposure to entrepreneurial skills and perspectives may be important as well.

Wielding class-based presumptions and notions of respectability, contemporary white-collar hustlers spend their weekends on the lake, play golf, and have friends over for barbeque. Still, they waste their earnings on drugs, gambling, fast living and conspicuous consumption. Despite their apparent embrace of some of the trappings of conventionality, they remain "marginalized middle-class persons" (Doocy et al., 2002).

Policy Implications

The complexity of telemarketing fraud and the fact that victims usually are located in multiple jurisdictions means that investigation and prosecution of these schemes

can be an expensive and time-consuming undertaking. Both cooperative effort by state and federal law enforcement and proactive enforcement strategies are required. "Operation Senior Sentinel," for example, was initiated and coordinated by the Federal Bureau of Investigation with the cooperation of state authorities and the American Association of Retired Persons. Volunteer retired persons secretly recorded calls from fraudulent telemarketers and forwarded them to an operations center for analysis and investigation. The operation resulted in over 400 arrests in more than 12 states (Federal Bureau of Investigation, 1997).

In 1994, the U.S. Congress enacted legislation providing enhanced sentencing for offenders convicted of telemarketing fraud. The Senior Citizens Against Marketing Scams Act (SCAMS Act) - 18 U.S.C. section 2326, reads as follows:

A person who is convicted of an offense under (1028, 1029), 1341, 1342 1343, 1344, or a conspiracy (371) to commit such an offense, in connection with the conduct of telemarketing:

- (1) shall be imprisoned for a term up to 5 years in addition to any term of imprisonment imposed under any of those sections, respectively; and
- (2) in the case of an offense under any of those sections that
 - (A) victimized ten or more persons over the age of 55; or

(B) targeted persons over the age of 55, shall be imprisoned for a term of up to 10 years in addition to any term of imprisonment imposed under any of those sections, respectively.

As a result, stiff sentences were issued to those violators that were detected by law enforcement.

Focused and aggressive policing aimed at illicit telemarketing enterprises and operators has become increasingly common. Joint efforts and task forces have operated in many U.S. cities. The modus operandi of telephonic predators adapts to changing circumstances and challenges, however, and the boiler rooms that once characterized telemarketing fraud are gradually giving way to smaller and less permanent operations, operated increasingly from off-shore and cross-border locations.

Reactive measures against illicit telephonic predators have been matched by a variety of proactive efforts to prevent fraud and sanction fraud offenders. These techniques are consistent with those promoted by supporters of situational crime prevention who contend that knowledge of the fears and rewards of fraud can lead to improved preventive measures. Effective policy development requires an understanding of these fears and rewards that can only be obtained by understanding the decision-making process of

fraudsters and how they manage the legal and organizational contexts of their criminal enterprises.

The present method utilized to combat telemarketing fraud is one of search and destroy. While criminal justice agency response has been widespread and impressive, its procedures are time-consuming and costly. Still, the general deterrent effect remains unknown. Additionally, the task forces of the nineties have been disbanded, leaving local law enforcement agencies impotent to pursue trans-state operations.

More efficient prosecution of telemarketing fraud is needed to prevent further economic damage. The present method of enforcement requires long periods of surveillance followed by an even longer period of review before taking legal action. Although significant prison time has been meted out to offenders, victims of telemarketing fraud have been depleted of life savings that will never be recovered. Safeguards are needed to seize the assets of fraudulent operations in a more swift and efficient manner. It would be in the interest of the state to appoint a "receivership" (i.e., an individual overseer) to suspected operations to monitor the financial activities of the business during the investigation process.

Despite past success in gaining convictions of criminal telemarketers, the general deterrent effect of criminal justice initiatives remains unclear. When the federal government enacted the SCAMS Act in 1994, it applied only to telemarketing and merely set out sentencing enhancements for those in violation of the fraud statutes. The legislation neglected to address the underlying precursors that initially led to the phenomenon. As Chambliss (1993) notes,

[It] is the conflicts that create the dilemmas; and it is the conflicts toward which state intervention is directed. Rarely ...are the basic contradictions addressed. The contradictions create conflicts and dilemmas, which people try to resolve. In the resolution of conflicts and dilemmas other contradictions are revealed and created, other conflicts generated, and a multitude of dilemmas ensue" (Chambliss, 1993: 15).

The fact that the statute applies only to telemarketing offenses suggests that legislators were concerned primarily with protecting elderly citizens because of their presumed inability to decipher fraud. Although the state is also aware of the ambiguous nature of sales in general and that telecommunications lends itself well to the practice of deceit, it has failed to address these issues. The fact that the boundaries of sales transactions are not obvious and that enforcement is once again lax will reopen this criminal opportunity to the

truly motivated. The first course of action calls for the state to enact more definitive statutes and regulations governing the underlying contradictions.

Regulatory agencies have very little oversight of telemarketing operations. Currently, regulations require only that telemarketers post a security bond, that the script be approved, and that sales agents acquire a "sheriff's" card. While the subjects often sought to comply with regulations, usually in preparation of defense, they were not subject to agency supervision. Legitimate organizations expressed that they were unaware of any "presence" from regulatory agencies. Considering the diffuse accountability structure of fraudulent firms, it would be prudent for regulatory agencies to become more involved in overseeing telemarketing operations.

The business owners should be required to provide a model of their organizational structure and sign an accountability contract stating that s/he is responsible for the actions of employees if carried out in the commission of their work. A similar bill was passed in light of the recent stock fraud committed by large companies in the United States. Additionally, the regulatory agencies could conduct seminars on the "do's and

don'ts" of sales transactions. During these seminars, participants would also be informed as to their individual criminal liability for deceptive practices.

It may be necessary to revisit the cultural factors that led to the proliferation of telemarketing and other forms of fraud. The market economy in the United States presently operates on an *opt-out* rather than an *opt-in* basis. Under the *opt-out* policy, consumers who make purchases or enter promotions are automatically placed in a data bank operated by marketing agencies. These consumer information profiles are then sold and resold to businesses - legitimate and illegitimate alike. As a result, consumers are inundated with sales promotions for products and services from countless businesses. If a consumer desires to be removed from these lists, s/he must submit in writing a request to be removed from each one. In other words, s/he must opt out.

The justification for having an *opt-out* policy is that it is supposedly good to inform the consumers about what is available to them - in marketers' terms, "what they need." To prevent contact by fraudulent, as well as unsolicited companies in general, would be to allow the consumer to *opt-in* and thus decide for him or herself whether or not to

participate in a particular segment of the market. Unfortunately, the state would find such a policy too restrictive on economic exchange, which consequently would, it is alleged, have a negative impact on the economy. Thus, it will remain the burden of the consumer to opt-out and otherwise avoid fraudulent solicitations.

Recently, a national *do not call* list was placed into effect with the end goal of deterring telemarketers from placing calls to listed consumers (www.donotcall.gov). In the first day of the five-day campaign, over 800,000 citizens filed for relief. In response, telemarketing supporters have begun to argue that the impact on the economy and employment will be stifling. It remains to be seen whether this law has a significant impact on halting telemarketing fraud or hampering legitimate businesses. The Direct Marketing Association (2003) estimates that there are approximately 6.5 million people that work in telemarketing and that 2 million of them may suffer loss of employment due to the do not call list.

Educational methods employed to date have not been successful in training potential victims to protect themselves against fraudulent telemarketers. To tell citizens to "just say no" ignores the reasons why they

engage in these conversational transactions in the first place. It would be helpful to educate the targeted audience about the social-psychological ploys used by fraudsters to carry out their scams. It is important to understand that the majority of vulnerable victims participate because of deep-seated trust and adherence to social norms, enticing promises, and often diminished mental acumen. To educate the public about the social-psychological methods employed may enhance their ability to distinguish between legitimate and illegitimate telemarketers.

REFERENCES

REFERENCES

- Abagnale, Frank W. 1980. *Catch Me If You Can*. New York: Grosset and Dunlap.
- Abelson, Robert P. 1981. "Psychological Status of the Script Concept." *American Psychologist* 36: 715-729.
- Abelson, Robert P. 1976. "Script Processing in Attitude Formation and Decision Making." Pp. 33-45 in *Cognition and Social Behavior*. J. S. Carroll and J. W. Payne (Eds.). Hillsdale, NJ: Lawrence Erlbaum.
- Adler, P.S. 1992. *Technology and the Future of Work*. New York. Oxford University Press.
- Agnew, Robert. 2000. "Sources of criminality: Strain and subcultural theories." In *Criminology: A Contemporary Handbook* (3rd edition). Joseph F. Sheley (Ed.). Wadsworth.
- Albanese, Jay. 1996. "Offense-based versus offender-based definitions of white-collar crime." In *Proceedings of the Academic Workshop*. James Helmkamp, Richard Ball and Kitty Townsend (Eds.). Morgantown, WV: National White Collar Crime Center.
- American Association of Retired Persons. 1996a. "AARP hits 'phoney' callers." *Bulletin* 37: 1,14.

American Association of Retired Persons. 1996b.

Telemarketing Fraud and Older Americans: An AARP Survey. Washington, DC: American Association of Retired Persons.

American Association of Retired Persons. 1996c.

Telemarketing Fraud and Older Americans: A Report of Focus Group Discussions. Washington, DC: American Association of Retired Persons.

Atlanta Journal-Constitution. 2000. "Alleged scam on elderly by telemarketers is revealed." September 6, p. B3.

Australian Broadcasting Corporation. 2001. "Beyond the Boiler Room." September 24. www.abc.net.au/4corners/

Babbie, Earl. 1998. *The Practice of Social Research.* Belmont, CA: Wadsworth Publishing Company.

Backman, Carl W. 1985. "Identity, Self Presentation, and the Resolution of Moral Dilemmas: Towards a Social Psychological Theory of Moral Behavior. Chapter Ten in *The Self and Social Life.* B. R. Schlenker (Ed.). New York: McGraw-Hill.

Ball, Richard A. 1966. "An Empirical Exploration of Neutralization Theory." *Criminology* 4(2): 22-32.

- Batty, M. and Barr. B. 1994. "The Electronic Frontier: Exploring and Mapping Cyberspace." *Futures* 26 (7): 699-712.
- Bennett, Trevor, and Richard Wright. 1984. *Burglars on Burglary*. Aldershot, U.K.: Gower.
- Benson, Michael L., and Kent R. Kerley. 2001. "Life course theory and white-collar crime." In *Contemporary Issues in Crime and Criminal Justice: Essays in Honor of Gilbert Geis*. Jackie L. Smith, David Shichor and Henry N. Pontell (Eds.). Upper Saddle River, NJ: Prentice-Hall.
- Benson, Michael L. 1985. "Denying the guilty mind: Accounting for involvement in a white-collar crime." *Criminology* 23: 583-607.
- Blumstein, Alfred, Jaqueline Cohen, and David P. Farrington. 1988. "Criminal Career Research. Its Value for Criminology." *Criminology* 26: 1-36.
- Braithwaite, John, and Toni Makkai. 1991. "Testing an expected utility model of corporate deterrence." *Law & Society Review* 25:7-40.
- Braithwaite, John, and Gilbert Geis. 1982. "On theory and action for corporate crime control." In *On White-Collar Crime*. Gilbert Geis (Ed.). Lexington, MA: D.C. Heath.

- Burger, J. M. 1986. "Increasing compliance by improving the deal: The that's-not-all technique." *Journal of Personality and Social Psychology* 51: 277-283.
- Burger, J. M., and R. E. Petty. 1981. "The low-ball compliance technique: Task or person commitment?" *Journal of Personality and Social Psychology* 40: 492-500.
- Cahill, Spencer E. 1995. *Inside Social Life: Readings in Sociological Psychology and Microsociology*. Roxbury Publishing Company: Los Angeles, CA.
- Cantrill, J. G., and D. R. Siebold. 1986. "The perceptual contrast explanation of sequential request strategy effectiveness." *Human Communication Research* 13: 253-267.
- Chambliss, William J. and Marjorie S. Zatz. 1993. *Making Law: The State, The Law, and Structural Contradictions*. Bloomington, IN: Indiana University Press.
- Cialdini, R. B. 1988. *Influence: Science and Practice* (2nd Ed.). Glenview, IL: Scott, Foresman.
- Cialdini, R. B. 1993. *Influence: Science and practice* (3rd Ed.). New York: Harper Collins.

- Clarke, Michael. 1990. "Control of insurance fraud: A comparative view." *British Journal of Criminology* 30: 1-23.
- Clarke, Ronald V. and Derek B. Cornish. 1985. "Modeling Offenders' Decisions: A Framework for Research and Policy." Pp. 147-85 in *Crime and Justice: An Annual Review of Research, Volume 6*. Michael Tonry and Norval Morris (Eds.). Chicago, IL: University of Chicago Press.
- Cloward, Richard A., and Lloyd Ohlin. 1960. *Delinquency and Opportunity*. New York: Free Press.
- Cohen, A. 1955. *Delinquent Boys*. New York: Free Press.
- Cornish, Derek, B. and Ronald V. Clarke. 1986. *The Reasoning Criminal: Rational Choice Perspectives on Offending*. New York: Springer-Verlag.
- Couch, Carl. 1989. *Social Processes and Relationships*. General Hall: Dix Hills, NY.
- Cressey, Donald R. 1953. *Other People's Money*. Glencoe, IL: Free Press.
- Cromwell, Paul. 2003. *In Their Own Words: Criminals on Crime, An Anthology*. Los Angeles, CA: Roxbury Publishing Company.

- Dillard, J. P. 1991. "The current status of research on sequential-request compliance techniques. Special Issue: Meta-analysis in personality and social psychology." *Personality and Social Psychology Bulletin* 17: 283-288.
- Direct Marketing Association. 2001. Available on-line at www.the-dma.org.
- Direct Marketing Association. 2003. Available on-line at www.the-dma.org.
- Ditton, J. 1977. *Part Time Crime*. London: Macmillan.
- Doocy, Jeffrey, David Shichor, Dale Sechrest and Gilbert Geis. 2002. "Telemarketing fraud: Who are the tricksters and what makes them trick?" In *Readings in White-Collar Crime*. David Shichor, Larry Gaines and Richard Ball (Eds.). Prospect Heights, IL: Waveland.
- Doocy, Jeffrey, David Shichor, Dale Sechrest and Gilbert Geis. 2001. "Telemarketing Fraud: Who Are the Tricksters and What Makes Them Trick?" *Security Journal* 14: 7-26.
- Duffield, Grace, and Peter Grabosky. 2001. "The Psychology of Fraud." Paper #199. Australian Institute of Criminology.

- England, R. W. 1960. "A Theory of Middle Class Juvenile Delinquency." *Journal of Criminal Law, Criminology and Police Science* 50: 535-540.
- Etzioni, A. 1964. *Modern Organizations*. Englewood Cliffs, NJ: Prentice Hall.
- Etzioni, A. 1961. *A Comparative Analysis of Complex Organizations*. New York: Free Press.
- Federal Bureau of Investigation. Economic Crimes Unit. 1997. "Telemarketing Fraud: Senior Sentinel." www.fbi.gov/majcases/telefrac/telefrac.htm
- Federal Bureau of Investigation. 1993. *Crime in the United States-Uniform Crime Reports*. Washington, DC: U.S. Government Printing Office.
- Feeney, Floyd. 1986. "Robbers as decision-makers." In *The Reasoning Criminal: Rational Choice Perspectives on Offending*. Derek B. Cornish and Ronald V. Clarke (Eds.). New York: Springer-Verlag.
- Feldman, Robert S. 2001. *Social Psychology* (3rd Ed.). Prentice Hall: Upper Saddle River, N.J.
- Francis, Diane. 1988. *Contrepreneurs*. Toronto: Macmillan.

- Freedman, J. L., and S. C. Fraser. 1966. "Compliance without pressure: The foot-in-the-door technique." *Journal of Personality and Social Psychology* 8: 528-548.
- Geis, Gilbert. 1967. "The heavy electrical equipment antitrust cases of 1961." Pp. 139-150 in *Criminal Behavior Systems*. Marshall B. Clinard and Richard Quinney (Eds.). New York: Holt, Rinehart and Winston.
- Glaser, Daniel. 1972. *Adult Crime and Social Policy*. Englewood Cliffs, NJ: Prentice-Hall.
- Goffman, Erving. 1959. *The Presentation of Self in Everyday Life*. Garden City, New York: Doubleday & Company:.
- Goffman, Erving. 1952 "On Cooling the Mark Out: Some Aspects of Adaptation to Failure" *Psychiatry* 15: 451-463.
- Gorassini, D. R., and J. M. Olson. 1995. "Does self-perception change explain the foot-in-the-door effect?" *Journal of Personality and Social Psychology* 69: 91-105.
- Grabosky, Peter N., Russell G. Smith and Gillian Dempsey. 2001. *Electronic Theft: Unlawful Acquisition in Cyberspace*. Cambridge, U.K.: Cambridge University Press.

- Hamlin, John E. 1988. "The Misplaced Role of Rational Choice in Neutralization Theory." *Criminology* 26(3): 425-38.
- Harris, Gina. 1998. "Using Federal Trade Commission resources to investigate and prosecute criminal fraud." *United States Attorneys' Bulletin* 46(November): 48-51.
- Harris, Louis and Associates. 1992. *Telemarketing Fraud*. Chapel Hill: University of North Carolina, Institute for Research in Social Science.
- Hindelang, Michael J. 1970. "The Commitment of Delinquents to Their Misdeds. Do Delinquents Drift?" *Social Problems* 17(4): 502-509.
- Hirschhorn, Larry. 1985. "InformationTechnology and the New Services Game". Pp. 172-90 in *High Technology, Space and Society*. M. Castells (Ed.). Beverly Hills, CA: Sage.
- Hirshci, Travis. 1969. *Causes of Delinquency*. Berkely, CA: The University of California Press.
- Hobbs, Dick. 1997. "Professional crime: Change, continuity and the enduring myth of the underworld." *Sociology* 31: 57-72.
- Hobbs, Dick. 1995. *Bad Business: Professional Crime in Contemporary Britain*. Oxford: Oxford University Press.

- Hochstetler, Andy. Forthcoming. "Opportunities and decisions: Interactional dynamics in robbery and burglary groups." *Criminology*.
- Jackson, Jerome. 1994. "Fraud masters: Professional credit card offenders and crime." *Criminal Justice Review* 19: 24-55.
- Jesilow, Paul, Henry Pontell and Gilbert Geis. 1993. *Prescription for Profit: How Doctors Defraud Medicaid*. Berkeley, CA: University of California Press.
- Johnson, John M. 2002. "In-Depth Interviewing." Pp. 103-20 in *The Handbook of Interview Research: Context and Method*. Jaber F. Gubrium and James A. Holstein (Eds.). Thousand Oaks, CA: Sage Publications.
- Katz, Jack. 1988. *Seductions of Crime: Moral and Sensual Attractions in Doing Evil*. New York: Basic Books.
- Katz, Jack. 1980. "Concerted ignorance: The social psychology of cover-up." In *Management Fraud: Detection and Deterrence*. R. K. Elliot and J. J. Willingham (Eds.). New York: Petrecelli.
- Lash, S. and Urry, J. 1994. *Economies of Signs and Space*. London: Sage.

- Markus, Hazel. 1977. "Self-Schemata and Processing Information About the Self." *Journal of Personality and Social Psychology* 35(2): 63-78.
- Matza, D. and G. M. Sykes. 1961. "Juvenile Delinquency and Subterranean Values." *American Sociological Review* 26: 712-720.
- Maurer, David W. 1964 [1955]. *Whiz Mob*. New Haven, CT: College and University Press.
- Maurer, David W. 1940. *The Big Con*. Indianapolis, IN: Bobbs-Merrill.
- McCall, George. 1978. *Observing the Law*. New York: Free Press.
- McIntosh, Mary. 1975. *The Organization of Crime*. London: Macmillan.
- Merriam-Webster's Collegiate Dictionary* (10th Edition). 1997. Springfield, MA: Merriam-Webster, Incorporated.
- Merton, Robert K. 1938. "Social structure and anomie." *American Sociological Review* 3: 672-82.
- Messner, Steven F. and Richard Rosenfeld. 2001. *Crime and the American Dream*. Belmont, CA: Wadsworth/Thomas Learning.

- Miller, W. 1958. "Lower Class Culture as a Generating Milieu of Gang Delinquency." *Journal of Social Issues* 14: 5-19.
- Mills, C. W. 1940. "Situated actions of vocabularies of motive." *American Sociological Review* 5: 904-913.
- Neuman, W. Lawrence. 1994. *Social Research Methods: Qualitative and Quantitative Approaches*. Boston, MA: Allyn and Bacon.
- O'Connor, James. 1973. *The Fiscal Crisis of the State*. New York: St. Martins Press.
- Office for Victims of Crime. 1998. *Telemarketing Fraud Prevention, Public Awareness, and Training Activities*. Washington, DC: U.S. Department of Justice.
- Paternoster, Raymond, and Sally Simpson. 1993. "A rational choice theory of corporate crime." In *Routine Activity and Rational Choice*. Ronald V. Clarke and Marcus Felson (Eds.). New Brunswick, NJ: Transaction.
- Pendleton, M. G., and C. D. Batson. 1979. "Self-presentation and the door-in-the-face technique for inducing compliance." *Personality and Social Psychology Bulletin* 5: 77-81.

- Pollock, C. L., S. D. Smith, E. S. Knowles, and H. J. Bruce. 1998. "Mindfulness limits compliance with the that's-not-all technique." *Personality and Social Psychology Bulletin* 24: 1153-1157.
- Rebovich, Donald, and Jenny Layne, with Jason Jiandani and Scott Hage. 2000. *The National Public Survey on White Collar Crime*. Morgantown, WV: National White Collar Crime Center.
- Rebovich, Donald. 1999. "The extent of fraud victimization: A comparison of surveys." Paper presented at the annual meeting of the American Society of Criminology (Toronto).
- Reich, Robert B. 1991. *The Work of Nations*. New York: Alfred A. Knopf, Inc.
- Reinharz, Shulamit. 1992. *Feminist Methods in Social Research*. New York: Oxford University Press.
- Renno, R. R., R. B. Cialdini, and C. A. Kallgren. 1993. "The transsituational influence of social norms." *Journal of Personality and Social Psychology* 64: 104-112.
- Reuter, Peter. 1983. *Disorganized Crime*. Cambridge, MA: M.I.T. Press.

- Richards, Lyn. 1999. *Using N-Vivo in Qualitative Research*. London: Sage.
- Ross, Edward Alsworth. 1907. *Sin and Society: An Analysis of Latter-Day Iniquity*. Boston: Houghton Mifflin.
- Ross, Lee and Richard E. Nisbett. 1991. *The Person and the Situation: Perspectives in Social Psychology*. New York: McGraw-Hill.
- Rubin, Herbert J., and Riene S. Rubin. 1995. *Qualitative Interviewing: The Art of Hearing Data*. Thousand Oaks, CA: Sage.
- Ruggiero, V. and N. South. 1997. "The Late Modern City as a Bazaar." *British Journal of Sociology* 48: 54-70.
- Samuelson, Robert J. 1995. *The Good Life and Its Discontents*. New York: Random House.
- Sanger, Daniel. 1999. "Confessions of a phone-scam artist." *Saturday Night* 114:86-98.
- Schulte, Fred. 1995. *Fleeced! Telemarketing Rip-offs and How to Avoid Them*. Amherst, NY: Prometheus.
- Scully, Diana, and Joseph Marolla. 1984. "Convicted rapists' vocabulary of motive: Excuses and justifications." *Social Problems* 31:530-44.

Scott, Marvin B., and Stanford M. Lyman. 1968.

"Accounts." *American Sociological Review* 33: 46-62.

Shanab, M. E., and P. O'Neill. 1979. "The effects of contrast upon compliance with socially undesirable requests in the door-in-the-face paradigm." *Canadian Journal of Behavioral Science* 11: 236-244.

Shank, Robert C. and Robert Ableson. 1977. *Scripts, Plans, Goals and Understanding: An Inquiry into Human Knowledge Structures*. Hillsdale, NJ: Lawrence Erlbaum.

Shichor, David, Jeffrey Doocy and Gilbert Geis. 1996.

"Anger, disappointment and disgust: Reactions of victims of a telephone investment scam." In *International Victimology: Selected Papers from the 8th International Symposium*. C.M. Sumner, M. Isreal, M. O'Connell and R. Sarre (Ed.s). Canberra: Australian Institute of Criminology.

Shover, Neal. 1998. "White-collar crime." In *Handbook of Crime and Punishment*. Michael Tonry (Ed.). New York: Oxford University Press.

Shover, Neal. 1996. *Great Pretenders: Pursuits and Careers of Persistent Thieves*. Boulder, CO: Westview.

Shover, Neal. 1985. *Aging Criminals*. Beverly Hills, CA: Sage.

- Shover, Neal. 1973. "The Social Organization of Burglary." *Social Problems* 20: 499-514.
- Shover, Neal, and Kevin M. Bryant. 1993. "Theoretical explanations of corporate crime." In *Understanding Corporate Criminality*. Michael B. Blankenship (Ed.). New York: Garland.
- Shover, Neal, and David Honaker. 1992. "The socially bounded decision making of persistent property offenders." *Howard Journal of Criminal Justice* 31: 276-94.
- Siguwade, P. 1995. "Counterfeit Intimacy: A Dramaturgical Analysis of an Erotic Performance." *Social Behavior and Personality* 23(4): 369-76.
- Silverstone, Roger. 1991. *Beneath the Bottom Line: Households and Information and Communication Technologies in the Age of the Consumer*. London: Brunel University Centre for Research on Innovation, Culture and Technology.
- Simpson, Sally S. and Christopher S. Koper. 1992. "Deterring corporate crime." *Criminology* 30: 347-75.
- Social Security Administration. 1999.
www.ssa.gov/statistics/supplement/1999/tables/index.

- Sparrow, Malcolm K. 1996. *License to Steal: Why Fraud Plagues America's Health Care System*. Boulder, CO: Westview.
- Stevenson, Robert J. 2000. *The Boiler Room and Other Telephone Sales Scams*. Urbana: University of Illinois Press.
- Strauss, Anselm and Juliet Corbin. 1990. *Basics of Qualitative Research: Grounded Theory Procedures and Techniques*. Newbury Park, CA: Sage Publications, Inc.
- Stryker, Sheldon. 1980. *Symbolic Interactionism: A Social Structural Version*. Menlo Park, CA: Benjamin-Cummings.
- Sutherland, Edwin H. 1983 [1949]. *White-collar Crime: The Uncut Version*, with an introduction by Gilbert Geis and Colin Goff. New Haven, CT: Yale University Press.
- Sutherland, Edwin H. 1940. "White-collar criminality." *American Sociological Review* 5: 1-12.
- Sweet, Nova, and Richard Tewksbury. 2000. "Entry, Maintenance and Departure from a Career in the Sex Industry: Strippers' Experiences of Occupational Costs and Rewards." *Humanity and Society* 24(2): 136-61.

- Sykes, Gresham, and David Matza. 1957. "Techniques of neutralization: A theory of delinquency." *American Sociological Review* 22: 667-70.
- Taylor, Ian. 1999. *Crime in Context: A Critical Criminology of Market Societies*. Boulder, CO: Westview.
- Thomas, W. I. and Dorothy S. Thomas. 1928. *The Child in America: Behavior Problems and Programs*. New York: Knopf.
- Tickell, A. 1996. "Taking the Initiative: Leeds' Financial Centre." In *Corporate City? Partnerships Participation in Urban Development in Leeds*. G. Haughton and C. Williams (Eds). Aldershot: Avebury.
- Tillman, Robert. 1998. *Broken Promises: Fraud by Small Business Health Insurers*. Boston: Northeastern University Press.
- Titus, Richard. 2001. "Personal fraud and its victims." In *Crimes of Privilege: Readings in White-Collar Crime*. Neal Shover and John Paul Wright (Eds.). New York: Oxford University Press.
- Titus, Richard M., Fred Heinzelmann and John M. Boyle. 1995. "Victimization of persons by fraud." *Crime and Delinquency* 41: 54-72.

Tobias, John Jacob. .1967. *Crime and Industrial Society in the 19th Century*. London: Batsford.

Turkle, Sherry. .1995.. *Life on the Screen: Identity in the Age of the Internet*. .New York: Simon and Schuster.

18 United States Code Annotated, sec. 1, et seq.

U.S. Congress, Senate. 1993. Hearing before the Subcommittee on Consumer of the Committee on Commerce, Science, and Transportation, *Telemarketing Fraud and S. 568, The Telemarketing and Consumer Fraud and Abuse Protection Act*. 103rd Congress, 1st session. Washington, DC: U.S. Government Printing Office.

U.S. Department of Health, Education, and Welfare. 1959. *Social Bulletin* (October). Social Security Administration.

U.S. Department of Justice. 2000. *Criminal Victimization in the United States 1995*. Washington, DC: Bureau of Justice Statistics.

U.S. Department of Justice. 1995. *Fraud Victimization-The Extent, the Targets, the Effects*. Washington, DC: National Institute of Justice.

Warner Home Video. 2000. *Boiler Room*.

- Warren, Carol A. B. 2002. "Qualitative Interviewing." In *Handbook of Interview Research: Context and Method*. Jabber F. Gubrium and James A. Holstein (Eds.). Thousand Oaks, CA: Sage.
- Weinstein, Eugene A., and Paul Deutschberger. 1963. "Some dimensions of altercasting." *Sociometry* 26: 454-66.
- Weisburd, David, Ellen F. Chayet and Elin Waring. 2001. *White-Collar Crime and Criminal Careers*. New York: Cambridge University Press.
- Weisburd, David, Stanton Wheeler, Elin Waring and Nancy Bode. 1991. *Crimes of the Middle Class*. New Haven, CT: Yale University Press.
- Weisburd, David, Elin Waring and Ellen F. Chayet. 1990. "White-collar crime and criminal careers: Some preliminary findings." *Crime and Delinquency* 36: 342-55.
- Weisburd, David, Stanton Wheeler, Elin Waring and Nancy Bode. 1991. *Crimes of the Middle Classes*. New Haven, CT: Yale University Press.
- Weiss v. United States. 1941.
- Wheeler, Stanton, David Weisburd, and Nancy Bode. 1982. "Sentencing the White Collar Offender: Rhetoric and Reality." *American Sociological Review* 47: 641-659.

- Wiley, Norbert. 1998. "Suspension of Disbelief as a Bridge between Media and Consumption." Paper presented at the Annual Meetings of the American Sociological Association (San Francisco, CA).
- Willott, Sara, Christine Griffin and Mark Torrance. 2001. "Snakes and ladders: Upper-middle class male offenders talk about economic crime." *Criminology* 39: 441-466.
- Winfree, L. Thomas Jr., Lawrence Kielich and Robert E. Clark. 1984. "On Becoming a Prosecutor: Observations on the Organizational Socialization of Law Interns." *Work and Occupations* 11: 207-226.
- Winlow, Simon. 2001. *Badfellas*. Oxford: Berg.
- Wright, Richard T., and Scott Decker. 1997. *Armed Robbers in Action: Stick-up and Street Culture*. Boston: Northeastern University Press.
- Wright, Richard, Scott Decker, Allison Refern, and Dietrich Smith. 1992. "A Snowball's Chance in Hell: Doing Fieldwork with Active Residential Burglars." *Journal of Research in Crime and Delinquency* 29(2): 148-161.
- van Duyne, Petrus. 1996. "The phantom and threat of organized crime." *Crime, Law and Social Change* 21: 241-77.

Yablonski, Lee. 1956. *The Violent Gang*. New York:
McMillan.

Zervos, K. 1992. "Responding to Fraud in the 1990s." In
Complex Commercial Fraud. Peter Grabosky (Ed.).
Canberra: Australian Institute of Criminology.

APPENDICES

A

Introduction and Description of Research Project

My name is Glenn Coffey, and I am a research assistant in the Department of Sociology at the University of Tennessee in Knoxville, Tennessee. We are conducting a study of persons convicted of participation in telemarketing fraud in the U.S. since 1994. The objectives of the study are to gain a better understanding of the risks, the rewards, and the organizational arrangements used to commit telemarketing fraud.

We are using two procedures for the study. First, we are conducting interviews with a sample of persons convicted of telemarketing fraud. Each interview will last approximately one and one-half hours and will be tape recorded so it can be analyzed later. The purpose of the interview is to secure each person's own description of past involvement in telemarketing fraud and aspects of it that caused them greatest fear and concern about arrest. Second, we are examining pre-sentence investigation reports prepared on each person we interview. We hope the result of this study will give us a better understanding of telemarketing fraud through the eyes of those who have participated in it.

We believe the risks and discomforts for you from participating in the research are minimal. Perhaps you will experience some psychological discomfort at telling about some of your earlier experiences in crime and in the criminal justice system. Otherwise, we do not believe there are any risks from your participation in the study. Benefits of the study are possible improvements in the way telemarketing fraud is controlled, in order to minimize the financial toll to victims and the wider society. There are no direct benefits to you from participating in this study.

All information given to us will be handled in the strictest confidence. The results of the study will be published in the form of a book; however, no individuals will be identifiable in it or in any reports from the study.

Your participation in the study is completely voluntary and you may end participation at any time without penalty or prejudice. I will be happy to answer any questions you have about the study. Should you have questions later, you may call me at #865-300-2555 or the principal investigator (Professor Neal Shover) at the Department of Sociology, University of Tennessee (865-974-6021).

B

Informed Consent

I, _____ understand the study entitled "Telemarketing Fraud: An Exploratory Study" as explained on page 1, and I consent to participate in the study. My participation is completely voluntary. I understand the purposes of the research and also that any information given to the researchers will be treated in a strictly confidential manner. It will be used only for the purposes of the research explained to me. I understand that in the course of the interview I will not be asked about and I will not answer questions about specific past crimes. Further, I understand that if I do divulge information about specific crimes I have committed, the investigator is bound to make this information known to criminal justice officials. I also understand that I may withdraw my participation in this study at any time, without penalty or prejudice. I consent to the following procedures (initial what you agree to, and cross out what you do not agree to):

I authorize the staff at _____
to release the information specified below to the

researchers only for the purpose of this study and only until the completion of this project. I understand that I may revoke this consent in writing before the information is disclosed. _____ Initials

1. I consent to participate in an interview.
_____ Initials

2. I consent to have the interview audiotaped.
_____ Initials

I understand that all research information (with the exceptions mentioned above) will be handled in the strictest confidence and that my participation will not be individually identifiable in any reports. I understand that participation or non-participation in this research project will not affect my release date or parole eligibility. I further understand that there is no penalty or prejudice of any kind for withdrawing from or not participating in the study.

(Signature) (Date) (Register Number)

(Witness' Typed Name and Signature) (Date)

Topical Interview Guide

Demographics and Family Background

Age

Race

Parent(s)' Occupation While Growing Up

Type of Area in Which Reared

Marital Status (how many times married?)

Employment History

Early

First Job? Age?

Other Jobs

Later Employment

Positions Held and Length of Time

Expectations

Experiences

Longest Period and Place of Employment

Telemarketing Experience

First

Age and Circumstances

Subsequent

Age and Circumstances

Position(s), Length of Time and Income

Likes and Dislikes

Telemarketing Organizational Employers

How Many and Circumstances

Who Was in Charge

Hierarchical Arrangement and Number of Employees

Mode(s) of Operation

Organizational Culture

Employee Compensation

How Much

How Used

Typical Workday (describe)

Leisure Time and Activities

Knowledge/Awareness of Culpability

Attractions and Fears

Principal Attractions of Telemarketing Work

Awareness of Culpability and Circumstances

Greatest Fear(s) and Circumstances

Feelings of Invincibility?

Nature

Origin(s)

Why?

Arrest/Conviction/Penalty History

First

Age and Place

Circumstances

Outcome

Subsequent

Age(s) and Place(s)

Circumstances

Outcome

The Criminal Justice System

Police

Jail

Courts

Prison and Confinement

Expectations

Experience

Principal Problem(s)

Unanticipated Aspects

Typical Day

Post-Release Plans

What?

Why?

Optimistic?

Why?

Fears or Apprehension?

What?

Origins

D

Revised Interview Guide

Demographics and Family Background

How Parents earn a Living? What Learn?

Points of Distinctiveness: Parents/Siblings/Friends

Primary Motivation: List of Importance
(e.g., money/respect)

Employment History

Early

Long Term

Mobility

Telemarketing Experience

Recruitment

Early Employment

Present Experience

Personal Attributes/Qualifications

Positions/Lengths/Income Averages

Likes and Dislikes

Most Abandon; Why Persist?

Describe Lifestyle

Typical Day in Telemarketing/Money Spent

Telemarketing Organization

Start Up

Finances/Regulations

Product/Service/Pitch

Mode of Operation

Hierarchy/Division of Labor

Management vs. Agent

(Authority/Responsibility/Knowledge)

Employee Compensation/Incentives

Employee Lifestyle

Fears/Risks

Attractions to Business

Concerns about Business

Concerns about Culpability

Circumstances/Reactions

Feelings of Invincibility

- Nature/Origin/Now?

Increase with Time/Knowledge/Looseness?

- Caught Up in Success/Inertia of its Own

Consideration of Changing Vocation (Why?/Why not?)

Comparison to Legitimate/Illegitimate Business

Rationalization for Present Operation

How Get Around the Law?

Legal Process

Knowledge/Awareness of Culpability

Where does the Fault Lie?

How much Money on Attorneys?

Reaction to Arrest/Prison/Conviction

How Compare Self to Common Criminal (e.g., rape)?

Prior Criminal History/Personal Trouble

Personal

Personal Attributes (Success/Failure)

Variations in Lifestyle: Prior/Preferred
/Modification?

Post-Release Plans

VITA

Glenn Steven Coffey received a B.S. in Administration of Justice and a B.A. in Spanish from Virginia Commonwealth University. He then obtained a J.D. from George Mason University School of Law and worked as a criminal trial attorney for ten years before returning to academia. Mr. Coffey earned a Ph.D. in Sociology in August 2003 at the University of Tennessee. Broke and tired, he moved to the beach in Florida to live out his remaining days.

7797 0196 14
11/05/03

