



Telemarketing Predators: Finally, We've Got Their Number

Editor's Note

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Telemarketing fraud costs U.S. consumers some \$40 billion annually. Millions are victimized,¹ and the financial blow can be devastating. More than half the targets of telemarketing fraud are people aged 50 years or older.² Who are the perpetrators of telemarketing fraud and how can law enforcement stop them?

To find out, researchers interviewed 47 telemarketing offenders convicted of Federal crimes. The group included 22 owners, 8 managers, and 17 sales agents; on average, they had been in telemarketing for 8 years. The researchers also reviewed the offenders' pre-sentence investigation reports to validate the information they gave and to paint a more complete picture of the offenders' lives.

Telemarketing Organization and Routine

Some fraudulent telemarketing organizations consist of only two or three persons who operate in a community for only a few days or weeks before moving on. These "rip and tear" operators, as they are called, depend on the months-long lapse between the time they begin operating and the time law enforcement agencies become aware of and target them. Somewhat larger enterprises, called "boiler rooms," feature extensive telephone banks and large numbers of sales agents. These operations have become less common in recent years, largely because of the law enforcement interest they attract.

Larger telemarketing operations commonly take on the characteristics of formal organizations, with hierarchies, a division of labor, graduated pay, and advancement opportunities.

Fraudulent firms employ sales agents who work from "lead," or "mooch," lists purchased from any of dozens of businesses that compile and sell information on consumer

behavior and preferences. The sales agent generally works from a script that lays out successful sales approaches and responses. Promising contacts are turned over to a “closer,” a more experienced and better-paid sales agent. The hierarchy of the firms and the routine of turning prospects over to more experienced closers explain why victims typically report contact with multiple salespersons.

Characteristics of Typical Telemarketing Predators

Almost all of the offenders interviewed for this study described their parents as conventional and hard working; their family financial circumstances were secure if not comfortable. As with most white-collar offenders, there were no early precursors of trouble in their life histories.

For the most part, the offenders who were interviewed had unremarkable educational careers. When asked how they differed from their siblings or peers, many reported they were aware of an interest in money from an early age. They generally sought ways of earning a good income that did not require hard work and subordination to others. One subject said: “I’ve never been a firm believer [that] you’ve 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...very easily. And there are a lot of ways to do it.”

As is typical for other white-collar offenders, the age at which telemarketing predators begin their criminal activity is noticeably higher than for street criminals. Of the 47 subjects in the study, 13 had criminal records—7 for minor offenses (e.g., petty theft and possession of marijuana) and 6 for felonies. Of those with felony records, three were convicted previously of telemarketing offenses. Overall, this level of prior criminality is lower than that of other white-collar criminals. Still, the data show persuasively that some of the subjects appeared to have recurrent trouble with the law as adults.

The class origins of these contemporary criminals are more advantaged than the professional thieves of yesterday, but to a great extent they live their lives in similar fashion.

They spend their earnings on drugs, gambling, fast living, and conspicuous consumption. Nevertheless, wielding class-based presumptions of respectability, they also spend their weekends on the lake, play golf, and have friends over for a barbecue.

The Attractions of the Lifestyle

Overwhelmingly, the subjects said that they got into and persisted at telemarketing for “the money.” Only one reported earning less than \$1,000 weekly, and most said their annual earnings were in the range of \$100,000 to \$250,000. Five said that their annual earnings exceeded \$1 million. The fact that they could make money quickly and do so without incurring restrictive responsibilities added to the attractiveness of the work. They found the flexible hours, short work days, and the actual work appealing because it required neither extensive training nor advanced education.

Asked what he “liked about telemarketing,” one subject’s reply was typical: “Well, obviously, it was the money, and it gave me a career.” Some had previous sales experience before beginning the work, but most did not. Their introduction to telemarketing was both fortuitous and fateful—they either responded to ads in the newspaper or were recruited by acquaintances who boasted about the money they were making. Many were foundering on conventional paths, and telemarketing was a godsend. It came along at a time when they needed to show that they could make something of themselves.

Characteristically, these men and women believed they were outstanding salespersons; they were supremely confident in their ability to sell over the telephone despite resistance from those they contacted. Doing so successfully was a high:

I sold [to] the first person I ever talked to on the phone. And it was just like that first shot of heroin, you know...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...It was about the competition, you know. I wanted to be the best salesman, and I wanted to make the most money that day. And then it became just the sale....

“Most of us are always pursuing more money. We were raised that way...”

— a convicted telemarketing offender

Basically, we set our own hours. It was freedom. The money was fantastic... I had an alcohol problem and had to support a drug habit...with the kind of money we were making [it] seems to go hand in hand."

—a convicted telemarketing offender

Gambling and ostentatious living were commonplace for the offenders in the study. One said that he "would go out to the casinos and drop thousands of dollars a night. That was nothing—to go spend five grand, you know, every weekend. And wake up broke!" But as they aged, offenders had to change their lifestyle somewhat. For older and more experienced criminal telemarketers, the lifestyle centered on home and family and impressing others with signs of their apparent success.

Predators Deny Their Crime

Most of the offenders in the study rejected the labels "criminal" and "crime" as fitting descriptions of them and their activities. They acknowledged culpability grudgingly and employed a range of mitigating explanations and excuses for their offenses. Claims of ignorance figured in a high proportion of them. Some former business owners, for example, said 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. Several said they relied on the advice of attorneys. Others said they were guilty only of expanding their business so rapidly that they could not oversee day-to-day operations adequately. Some said that indulgence in alcohol and illicit drugs caused them to become neglectful of the practices of their business. Most claimed the allure of money caused them to "look the other way."

Both the hierarchy of authority and the division of labor in telemarketing organizations facilitate denial of crime. Sales agents claimed their owners and managers kept them in the dark about the business and its criminal nature. Others felt insulated from responsibility as long as they weren't an owner. Owners and managers were prone to blame rogue sales agents for any fraudulent or deceptive activities.

Telemarketing criminals selectively seize upon aspects of their victims' behavior and point to these as justifications or excuses for their crimes. A recurrent theme is: "I wasn't victimizing customers. I was engaging in a routine sales transaction, no different than a retail establishment selling a shirt that is

marked up 1,000 percent." Even those who admitted their criminal wrongdoing held to this notion. They distinguish their offenses from "common" street crimes:

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...all you do a lot of the time is just make up or tell stories.

Most of the subjects interviewed for this study said that police attention came as a complete surprise. Nevertheless, several said that when they became aware that their activities were under investigation they were unable or unwilling to terminate them. One likened it to the behavior of drug addicts:

I knew that there's probably a problem out here, but not a big enough problem to stop making the money we were making. So one time the local police came and raided us. They took all of our stuff and everything. [But they] left our database, our leads.... It was the equivalent of leaving a pile of drugs in the corner for a drug addict. Sure, we're gonna take it. You know we're gonna take it.

Most subjects attributed their arrest and prosecution to out-of-control or politically ambitious prosecutors, and they generally believed their punishment was both unwarranted and excessive. They claimed the entire problem more appropriately was a "civil matter" and "should not be in criminal court." Despite the money they made as telemarketers, when arrested few of them had significant fiscal resources.

What Can Be Done to Quell Telemarketing Fraud

Investigating telemarketing fraud can be expensive and time consuming because the fraud can be complex and victims are usually located in multiple jurisdictions. Both cooperative efforts by State and Federal law enforcement and proactive enforcement strategies are required.

Larger criminal telemarketing organizations are giving way to smaller, less permanent operations and are increasingly being oper-

ated from offshore and cross-border locations, thus requiring cooperation across national borders. The Royal Canadian Mounted Police and U.S. law enforcement agencies, for example, are working together to identify, apprehend, and prosecute criminal telemarketers. Joint efforts and task forces have operated in several U.S. cities as offenders have moved their bases of operation to stay ahead of police and prosecutors.

Educational campaigns. Plans for reducing the financial and psychological toll exacted by telemarketing fraud typically feature educational campaigns, calls for increased vigilance by potential victims, and efforts to make it more difficult for offenders to make telephone contact with potential victims (as, for example, through the national "Do Not Call" list). The fact that elderly citizens are among the most common victims of telemarketers has shaped many of these policy responses.

Many proposals for enhanced oversight of telemarketing amount to an admonition to potential victims to "just say no." Advice of this sort ignores the reasons that victims become ensnared in these transactions. A majority do so because fraudulent telemarketers have perfected stratagems that overcome victims' initial resistance, prey on their psychological issues, and induce victims to make purchases. If potential victims were made more aware of these ploys, perhaps they would be better able to distinguish between legitimate and criminal pitches.

Clearer State regulations and licenses. One proposal for controlling criminal telemarketing would require States to develop clearer and more comprehensive regulations about sales transactions, which are often ambiguous and subject to interpretation. Interviews with offenders revealed that they believed they were not conducting anything different from ordinary business.

Another proposal calls for States to tighten their business license requirements as a way of driving the criminal element out of telemarketing. This may prove difficult to do, however, since inevitably it will be argued that the measures are too costly and harm legitimate businesses. The profits from telemarketing fraud probably exceed the costs of new restrictions, and the fraudsters might forego

the regulatory process altogether. A more appropriate measure might be to pass on to the telemarketing industry some of the responsibility and costs for oversight. Proposals to do so might provide the impetus to move the industry and its trade associations to a more proactive stance on controlling fraudulent telemarketing.

Tougher penalties. Sentences imposed on telemarketing fraudsters have been substantial, but the deterrent effect of this remains unclear. Criminal telemarketers interviewed were undeterred by the threat of criminal penalties.

Speedier law enforcement. In the meantime, more effective prosecution of telemarketing fraud is needed. The present method of enforcement requires long periods of surveillance followed by an even longer period of review before legal action is taken. Safeguards are needed to seize the assets of fraudulent operations quickly and efficiently. States might consider appointing a receivership to monitor an operation's financial activities during the ongoing investigative process. This practice has the potential to mitigate the damages of telemarketing fraud while additional policy measures are explored.

In the final analysis, the extent to which telemarketing crime can be reduced by crime-control programs may be limited. Unlike with most victims of street crime, actions by victims of criminal telemarketers contribute to the successful completion of the acts that victimize them. The crimes are difficult to investigate and prosecute. And the potential for enormous profits in telemarketing fraud is a powerful incentive for offenders to continue to engage in this illegal activity.

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Notes

1. Federal Bureau of Investigation's Economic Crimes Unit Web site, "About the Economic Crimes Unit," http://www.fbi.gov/hq/cid/fc/ec/about/about_tm.htm. Retrieved from the World Wide Web on September 30, 2004.
2. AARP Foundation, *Off the Hook: Reducing Participation in Telemarketing Fraud*, Washington, DC: U.S. Department of Justice, Office of Justice Programs, 2003. Available online at http://research.aarp.org/consume/d17812_fraud.pdf.