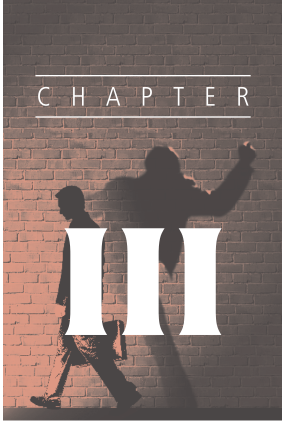

Crimes in Sales-Related Occupations

A Systems Perspective

Chapter Highlights

- Employee Theft in the Retail System
- Crimes in the Entertainment/Services System
- Fraud in the Sales/Service System
- Crimes in the Insurance System

Not long ago, three student workers were caught stealing textbooks from their university bookstore. One of the culprits was actually hired to sit at the front of the store and watch the entrance of the store in an effort to keep shoppers from stealing books. Instead, conspiring with two coworkers, he stole textbooks and sold them to fellow students at reduced prices. The bookstore manager told a reporter, "It's always shocking when someone you trust steals from you" (DeJesus, 2007).

While shocking to victims of employee theft, to those who study workplace crimes it is not surprising when workers are caught stealing from their workplace or committing other types of crime in the workplace. In sales-oriented occupations, in particular, the likelihood of theft is high. In retail settings, for example, employees are often younger, part-time workers who do not feel attached to the business, and many workplace environments have an assortment of items (including goods and money) that can be targeted for theft. In other sales-oriented occupations, the aim of making profits through the provision of different services may foster misconduct. There is a long-standing perception that salespersons cannot be trusted as they are seen as simply trying to sell goods or services that may not be worth the asking price. From this perspective, it should not be shocking when sales-oriented officials engage in wrongdoing.

As an illustration of the breadth of offenses occurring in sales-oriented occupations, consider the following examples as they were described verbatim in various press reports:

- Unlicensed contractors are preying on Gulf Coast residents whose homes were ravaged by Hurricane Katrina and are in dire need of repair, state and FBI officials say. . . . Phony contractors are collecting down payments for work and then disappearing, Marceaux says. One scam involves workmen who take down payments and even drop materials off at work sites, only to return in the night to retrieve the materials and sneak away. (Konigsmark, 2006, p. 3A)
- [The defendant], 48, is accused of stealing nearly $55,000 by running a virtual car lot via eBay but not always following through on his sales. He has been charged with three counts of grand theft, two counts of passing bad checks, six counts of prohibited acts involving certificate of title and one count of selling a car without a title. (Sowinski, 2009)
- [The defendant], the owner of 22 Midas auto repair shops, agreed . . . to pay $1.8 million to settle allegations from the California attorney general's office that his shops charged some customers hundreds of dollars for repairs they didn't need. (Olivarez-Giles, 2010, p. 7)
- [A student was arrested because it was alleged that he] continuously disrupted his classroom environment by intentionally passing gas and shutting off computers that other students were using. ("Florida Student Arrested," 2008)
- [One consumer] said "just about everything" including his odometer broke down on his 1990 Cadillac Sedan de Ville at about 47,000 miles. He would soon find out why: the actual mileage was 80,000 miles. (Lucchetti, 1996, p. B1)

As with all white-collar crimes, these offenses have four things in common: (1) They occurred during the course of the offender's work; (2) the offender was engaged in the role of a worker; (3) in terms of setting, the offenses occurred in a workplace setting; and (4) on one level or another, each of them involved occupations where employees were selling goods or services. Literally hundreds of different types of sales-oriented occupations exist. It would be impossible to address the way crime occurs in each of those occupations, but I attempt here to introduce students to the nature of crime in these sales-oriented occupations. In this chapter, attention will be given to the crimes occurring in the following systems: employee theft in the retail system, crimes in the entertainment and service systems, fraud in sales and service systems, and crimes in the insurance system.

These systems were selected because they capture the kinds of occupational systems about which students likely already have some awareness and a degree of interest. Some of these areas are possibly fields where students have already worked, others are fields they may one day work in, and others are service occupations that students have encountered or will encounter in the future. It is important to stress that other sales-oriented occupations, while not covered here, are not immune from crime.

Employee Theft in the Retail System

The **retail system** is the setting where consumers purchase various types of products. As shown in recent times, the success of our economic system is tied to the success of the retail system. When individuals buy more in the retail system, our economic system is stronger. While consumers drive the success of the retail system, employees steer the direction of the retail system. The key to success for retail stores lies in having employees able to perform assigned tasks. One problem that retail outlets face is employee theft. Indeed, internal theft has been "linked to 30% of U.S. business failures" (Mullen, 1999, p 12.).

Experts use the concept of shrinkage to refer to the theft of goods in the retail industry. Estimates suggest that retailers lost $36.5 billion to shrinkage in 2008, and employees are believed to be "to be the number one shrinkage offenders" (Friedman, 2009, p. 17). Friedman estimates that retailers lost $15.9 billion to employee theft in 2008. Employee theft increased at the end of the 2000s. In line with the idea that changes in one system lead to changes in other systems, some have attributed this increase to the economic changes, such that changes in the economic system resulted in changes in the extent of employee theft in retail settings ("Record Number of Shoplifters," 2008; Rosenbaum, 2009). Explaining this increase in employee theft, loss prevention expert Richard Hollinger has suggested that more workers being alone in stores (because so many workers have been fired or laid off) means that workers will have more opportunities to steal (Goodchild, 2008).

While it is believed that employee theft has increased, it is difficult to determine with any degree of precision how often employees steal in retail settings. Surveys in these settings would probably underestimate the extent of employee theft (Oliphant & Oliphant, 2001). One study found that 1 in 30 employees (out of 2.1 million) was caught stealing from an employer in 2008 ("Record Number of Shoplifters," 2008). Regardless of the number of employees who steal and the fact that most employees in retail settings do not steal, Daniel Butler, the former vice president of the National Retail Federation, notes, "a habitual internal thief can cost a lot of dollars" (Pratt, 2001, p. 37).

Several different varieties of employee theft in retail settings occur. Here are some examples.

- **Overcharging:** Employees charge customers more than they should have.
- **Shortchanging:** Employees do not give customers all of their change and pocket the difference.
- **Coupon stuffing:** Employees steal coupons and use them later.
- **Credits for nonexistent returns:** Employees give credit for returns to collaborators.
- **Theft of production supplies and raw materials:** Employees steal items used to produce goods in retail settings.
- **Embezzlement:** Employees steal money from an account to which they have access.
- **Over-ordering supplies:** Employees order more supplies than are needed and keep the supplies that were not needed.
- **Theft of credit card information:** Employees steal customers' credit card information.
- **Theft of goods:** Employees steal the items the retail setting is trying to sell.
- **Theft of money from the cash register:** Employees take money out of the register.
- **Sweetheart deals:** Employees give friends and family members unauthorized discounts (Albright, 2007; Belser, 2008; Mishra & Prasad, 2006).

Explaining why these offenses occur is no simple task. Some have attributed certain types of employee theft to organized crime on the notion that organized crime families have conspired with employees to develop widespread and lucrative employee theft schemes (Albright, 2007). Others have focused on individual motivations among employees and have highlighted the employees' perceived needs, drug problems, and sense of entitlement as causes of employee theft (Leap, 2007). Still others contend that some instances of employee theft (such as stealing from the cash register) are not planned events but impulsive ones that offenders commit when the opportunity presents itself (Anderson, 2007). Some have suggested that retail settings with more turnover will have more employee theft (Belser, 2008). Still others have noted that organizational culture contributes to employee theft (Leap, 2007). Much more attention will be given to explaining all forms of white-collar crime in a later chapter in this text. For now, it is sufficient to suggest that these offenses are caused by multiple factors.

Because so many different factors potentially contribute to employee theft in the retail system, it should not be surprising that many different types of prevention strategies have been cited as ways to limit the extent of employee theft. These prevention strategies include (a) importation strategies, (b) internal strategies, (c) technological strategies, (d) organizational culture strategies, and (e) awareness strategies. **Importation strategies** are those strategies that aim to import only the best types of employees, who are less likely to engage in employee theft. Strategies would include background checks, drug tests, employee screening instruments, and credit checks (Friedman, 2009).

Internal strategies include policies and practices performed within the retail setting in an effort to prevent employee theft. Random inspections, audits, developing rules that guide returns, and developing internal control policies are examples (Mishra & Prasad, 2006). Random inspections include checking cash registers, employee lockers, and other locations for evidence of wrongdoing. Audits are strategies in which supervisors review cash distribution patterns of employees. Rules guiding returns focus on ways to limit the possibility that employees misuse return policies. Internal control policies refer to a "set of policies and procedures that provide reasonable assurance that an organization's assets and information are protected" (Mishra & Prasad, 2006, p. 819).

Technological strategies entail the use of various forms of technology to prevent employee theft in retail settings. The use of video cameras, for example, can be preventive in nature, assuming employees know that they are being "watched." If the cameras don't prevent an employee from stealing, the video will provide direct evidence of the employee "in action" (Holtz, 2009). With color and digital cameras now available, the pictures provided by the videos are even clearer, and security officials can store the video longer than they were able to in the past (Pratt, 2001). Closed-circuit television, in particular, has been hailed as the most effective deterrent in retail settings (Anderson, 2007).

Organizational culture strategies aim to promote a sense of organizational culture that would inhibit theft. Most business and management experts agree that the way bosses treat their employees will influence the workers' behavior (Kresevich, 2007). The task at hand is for supervisors and managers to promote an organizational culture that values honesty and loyalty. One expert advises, "From the start, employees should know company values and feel a part of a team committed to eliminating theft" (Mullen, 1999, p. 12). Along this line, Davies (2003) recommends that supervisors (a) provide advice to employers about the organization's culture, (b) build loyalty between the employee and the employer, (c) establish a trusting relationship between workers, and (d) eliminate temptations. Echoing these themes, Mazur (2001) calls for the building of a "strong integrity program" as a strategy for preventing retail theft. Such a program would entail four elements. First, managers would be held accountable for employees' behavior and provided incentives as part of this accountability. Second, managers would ensure that all employees be aware of the rules of conduct in the retail setting. Third, an effort would be made to give employees a "sense of authority." Fourth, managers would provide employees an outlet for reporting misconduct (Mazur, 2001). Anonymous reporting systems have been found to be particularly useful in detecting wrongdoing (Holtfreter, 2005).

Awareness strategies focus on increasing awareness among employees about various issues related to employee theft. In particular, it is recommended that employees be told about or exposed to the following:

- Anonymous tip lines
- New hire orientation
- Formal codes of conduct
- Bulletin board posters related to theft prevention
- Periodic lectures on theft and the consequences of theft
- Loss prevention compensation programs (Korolishin, 2003)

A loss prevention compensation program would provide employees monetary rewards for reporting and substantiating employee theft by their coworkers.

Crimes in the Entertainment Services System

While the retail system encompasses the setting where retail goods are sold to consumers, the **entertainment services system** describes those settings where consumers consume or purchase various forms of services designed at least partially for entertainment or pleasure. Many different occupations exist in the entertainment service system. For purposes of simplicity, in this text, attention will be given to just two types of industries in this system: the restaurant industry and the hotel industry.

In considering crimes in the restaurant industry, two broad categories of crime can be highlighted: crimes by the restaurant against consumers and crimes by workers against the restaurant. In her review of crimes by businesses, Hazel Croall (1989) identified four types of crimes committed by restaurants against consumers: (1) adulterating food, (2) failing to keep the restaurant as clean as required by standards, (3) using false advertising to describe goods and prices, and (4) selling food at a smaller amount than advertised (short weighting). Restaurants appeared to be over-represented in "hygiene" offenses in her study. Croall studied 118 businesses and uncovered 37 hygiene offenses; restaurants accounted for 29 of the 37 offenses. In all, restaurants accounted for 29 of the 37 hygiene offenses. Croall also calls attention to instances where restaurants short-measure items. She writes, "Fiddles, including the sale of short-measure drinks, are so institutionalized that they represent part of an 'informal reward structure'" (p. 160). As Croall notes, while one person being ripped off over a drink may not be significant, when one adds up the number of short-measures, the total sum can be especially significant.

In terms of crimes by workers against the restaurant, patterns similar to those of employee theft in retail settings are found. Surveys of 103 restaurant employees found that their most common offenses included eating the restaurant's food without paying for it, giving food and/or beverages away, selling food at a lower price than it was supposed to be sold for, and taking items for personal use (Ghiselli & Ismail, 1998). In this same study, three fourths of respondents admitted committing some type of employee deviance. Stealing from the cash register is an additional type of crime that can occur in restaurants. In one case, a waitress-manager stole $60,000 from her restaurant's cash register over a 2-year time span (Schaefer, 2003).

▲ **Photo 3.1** A study by Ghiselli and Ismail (1998) found that three fourths of restaurant employees reported committing some variety of employee deviance.

A combination of factors is believed to foster theft by workers in restaurants. Restaurants tend to hire younger workers, and younger people in general have been found to be more prone toward deviance than older people. The low wages paid to workers may create settings where workers feel they are underpaid and underappreciated. The nature of the work is part-time, meaning that workers will be less invested in their employer. Also, the erratic hours of restaurant work may contribute to various opportunities for misconduct (Ghiselli & Ismail, 1998). To address these offenses, Ghiselli and Ismail cite the following policies as strategies for reducing theft in restaurants: (a) inventory control, (b) controlled exits so managers know when workers are leaving, (c) inspections of employees' belongings, (d) video cameras, (e) locks on goods and items, and (f) restricted access to the cash register.

White-collar crime also occurs in the hotel industry. Crime types include theft of hotel food, theft of items owned by the hotel, and theft of hotel guests' items. These crimes are particularly difficult to detect (Bloomquist, 2006). When offenders are caught, it is usually because they did something that made the case truly easy to solve. Consider, for example, a case in which two security guards were arrested for stealing three cellular phones and two wallets from a hotel room. They were caught because they used one of the cell phones (Nammour, 2009). Certainly, some of the crimes committed in the hotel industry might be committed by hotel guests. However, there is reason to believe that most hotel crimes are committed by workers. One early estimate suggested that 90% of all crimes committed in hotels were due to employee theft (Worcester, 1998). According to Worcester, employee theft in hotels is believed to be particularly problematic during summer months when temporary employees are hired.

Few studies have focused specifically on white-collar crimes in the hotel industry. Nonetheless, anecdotal evidence suggests that these crimes are somewhat pervasive. Recall that I mentioned that I have students enrolled in my white-collar crime classes write about crimes they committed on their jobs. One of my students worked in a hotel and described his typical workday as beginning when his manager told him the going rates for that evening. The manager would say something like, "The rate tonight is $90.00 a night. If customers ask for the rate, tell them it is $100.00 a night. If they don't like the rate, tell them you will lower it to $90.00 to get them to stay." The student then shared that he would tell customers that the rate was $120 a night. If customers paid that rate in cash, he would pocket $30 each night and tell his boss that the customer paid $90.00. If the customer said the price was too high, he would offer to reduce it a little and still keep the difference if it was higher than $90.00. Just to be clear, this was not a student at my current university. One can't help but wonder, though, where this student is now working. One hopes he's not working anywhere that we will be vacationing!

Fraud in the Sales/Service System

Whereas the entertainment service system sells goods and services that are designed to provide some form of entertainment to consumers, the **sales/service system** entails businesses that sell basic goods and services to consumers. These "basic" goods and services are those that most individuals need in order to function in their communities. The home and the automobile are two examples of basic goods many individuals need in order to carry out their daily routines. When considering fraud in this system, one can draw attention to automotive repair/sales fraud and home repair fraud. While few studies have empirically demonstrated how often these types of fraud occur, they are believed to be particularly pervasive. In Focus 3.1 shows the top 10 consumer complaints made to state attorneys general in 2008. As shown in the box, complaints about auto sales ranked number 2, complaints about home repairs ranked number 3, and complaints about auto repairs ranked number 9. In the following paragraphs, more attention is given to the dynamics surrounding home repair fraud and auto repair/sales fraud.

In Focus 3.1

Top 10 Consumer Complaints Made to State Attorneys General, 2008

1. Debt collection
2. Auto sales
3. Home repair/construction
4. Credit cards (tie)
5. Internet goods and services (tie)
6. Predatory lending/mortgages
7. Telemarketing/do not call
8. Auto repair
9. Auto warranties (tie)
10. Telecom/slamming/cramming (tie)

Home Repair Fraud

Home repair fraud occurs when contractors and repair persons rip off individuals for various types of repairs. One police department cites the following offenses as the most common types of home repair fraud: roof repair, asphalt paving or driveway sealing fraud, house painting fraud, termite and pest control fraud, and tree pruning and landscaping fraud (St. Louis Police Department, 2006). In most of these cases, the fraud begins as part of a door-to-door scam initiated by the offender. Experts believe that the door-to-door scams target older persons more often, partly because they are more likely to be home during the day (Coffey, 2000) and partly because they are seen as more vulnerable (Davila, Marquart, & Mullings, 2005).

Scammers are able to profit significantly from their offenses. Estimates suggest, for example, that those involved in driveway paving scams make $10,000 a day from their schemes. Typically, they underestimate the repair costs and then try to charge more once they are done (Sambides, 2009).

To be sure, while some of the frauds result from aggressive door-to-door targeting by offenders, others occur as a result of consumers seeking repairs. Consumers are particularly vulnerable to repair frauds when considering the underlying dynamics of repair seeking. When individuals seek repairs, they are already admitting to the repairer—at least indirectly—that they do not know how to fix the item themselves. If the contractor commits fraud, the consumer may not even know it. Even when consumers are aware of the fraud, they are often unsure whom they should report the offense to (Vaughan & Carlo, 1975).

The consequences of home repair fraud can be particularly problematic. If items are not fixed appropriately, further damage to the home can result. Additional expenses will be incurred by homeowners seeking to repair their homes. Such an experience can cause significant stress to those dealing with the fraud. Family

▲ **Photo 3.2** Concerns about home repair fraud escalate in the wake of disasters. After Hurricane Katrina, reports of home repair fraud soared in Louisiana and Mississippi.

relationships can also be negatively influenced for those living in homes in need of repair as a result of contractor fraud (Burnstein, 2008a, 2008b). Perhaps recognizing the seriousness of these consequences, one police officer made the following comments to a reporter: "Some of the contractors that we arrest, I think of them as worse than armed robbers. At least when it's an armed robbery, you know you're being robbed" (Lee, 2009).

Allegations of home repair frauds appear to increase after natural disasters, likely because many homeowners are in need of labor to fix their damaged homes. In the wake of Hurricane Katrina, authorities investigated more than 400 cases of contractor fraud. Said one official, "There's not enough skilled labor out there, and it's causing chaos" (Konigsmark, 2006, p. 3A). In Mississippi, 87 contractors were arrested after Katrina, and 60 additional contractors were in mediation with homeowners for allegations that they committed fraud against residents of Mississippi whose homes were damaged in the hurricane (Lee, 2009).

In the wake of home repair fraud scandals, many states have passed criminal laws specifically targeting home repair fraud. In Maine, for example, the home repair fraud law is stated under the following section:

§908. Home repair fraud

1. A home repair seller is guilty of home repair fraud if the seller knowingly enters into an agreement or contract, written or oral, with any person for home repair services and the seller, at the time of entering into that agreement or contract:

    A. Intentionally misrepresents a material fact relating to the terms of the agreement or contract or misrepresents a preexisting or existing condition of any portion of the property that is the subject of the home repair services. Violation of this paragraph is a Class D crime; [2001, c. 383, §110 (AMD); 2001, c. 383, §156 (AFF).]
    B. Intentionally creates or reinforces an impression relating to the terms of the agreement or contract that is false and that the seller does not believe to be true or fails to correct such an impression that the seller had previously created or reinforced. Violation of this paragraph is a Class D crime; [2001, c. 383, §110 (AMD); 2001, c. 383, §156 (AFF).]
    C. Intentionally promises performance under the terms of the agreement or contract that the seller does not intend to perform or that the seller knows will not be performed. Violation of this paragraph is a Class D crime; [2001, c. 383, §110 (AMD); 2001, c. 383, §156 (AFF).]
    D. Intentionally uses or employs deception, false pretense or false promise in securing the agreement or contract (Maine Law §908. Home Repair Fraud).

The advantage of criminal laws (and policies) directed toward home repair fraud is that officials have clear guidance on how these cases should be processed. Whereas these wrongs would have been handled as civil wrongdoings in the past, if they were handled at all, the criminal laws create additional formal policies that can be used to respond to this group of offenders.

In addition to formal policies to respond to home repair fraud, experts urge homeowners to use various prevention strategies to try to avoid fraud in the first place. Common suggestions for preventing home repair fraud include the following practices: obtaining references, relying on local businesses, verifying licensure, obtaining multiple estimates, and using written contracts (Riggs, 2007).

Auto Repair/Sales Fraud

At the broadest level, one can distinguish between auto repair fraud and auto sales fraud. In the early 1990s, auto repair rip-offs were "the most frequently reported consumer complaint" (Munroe, 1992, p. C3). An early estimate suggested that "consumers lose $20 billion annually on faulty auto repairs" (Brown, 1995, p. 21). Automotive industry insiders counter that "faulty" repairs are not the same as "fraudulent" repairs. Recall the discussion in Chapter I about white-collar crime being defined differently by various groups. To those in the automotive repair industry, faulty repairs would not be a white-collar crime. To those following a broader approach to defining white-collar crime, such repairs can be conceptualized as white-collar crime.

Auto repair fraud includes *billing for services not provided, unnecessary repairs*, *airbag fraud*, and *insurance fraud*. **Billing for services not provided** occurs when auto mechanics bill consumers (or insurance companies) for services not provided. Consider a study by the California Department of Consumer Affairs/Bureau of Automotive Repair (BAR) that found "42% of collision repair work done in California to be fraudulent" (Sramcik, 2004, p. 16). In this study, the Bureau inspected 1,315 vehicles that received collision repairs and found that on 551 of the vehicles, "parts or labor listed on the invoice . . . were not actually supplied or performed" (Thrall, 2003, p. 6). Industry insiders critiqued the BAR study for being methodologically flawed and for using vague definitions of fraud, which included billing mistakes (Grady, 2003). Again, the importance of how one defines white-collar crime surfaces. Critics also suggested that the BAR study was politically driven as a strategy to suggest that the Bureau's existence was justified in a time of tough budgets in order to protect consumers from fraud (Thrall, 2003).

Unnecessary auto repairs occur when mechanics perform mechanical services that are not necessary and bill the consumer for those services. Such practices are believed to be well planned by those who perform them. These actions are particularly difficult for consumers to detect. Said one assistant attorney general to a reporter, "Most consumers are not knowledgeable enough about auto repairs to know if their cars have been subjected to unneeded repairs" (Munroe, 1992, p. C3). Presumably, an automotive repair shop will advertise cheap specials as a way to get consumers into the shop and then convince consumers that they need certain repairs. One owner of 22 repair shops recently agreed to pay $1.8 million in fines in response to allegations that he engaged in this type of scam (Olivarez-Giles, 2010, p. 7).

Airbag fraud occurs when mechanics fraudulently repair airbags. In general, two types of airbag fraud exist (Adams & Guyette, 2009). The first type involves outright fraud in which mechanics clearly intend not to fix the airbag appropriately. Adams and Guyette (2009) provide the example of situations where "old rags or foam are shoved into dashboard cavities" (p. 56). The second type of airbag fraud is inaccurate repair. This entails situations in which mechanics simply fail to repair the airbag correctly.

Auto insurance fraud occurs when mechanics dupe the insurance company into paying for unnecessary or nonexistent repairs. Types of auto insurance fraud include enhancing damages, substituting parts, and creating damage. Enhancing damages involves situations where mechanics cause further damage to a damaged car in order to collect more from the insurance company. Substituting parts includes situations where mechanics put used parts in the repaired car but bill the insurance company for new parts (Seibel, 2009). Creating damage occurs when mechanics work with car owners to damage a car so that the owner can file a claim with the insurance company (Bertrand, 2003). This would include stripping and vandalizing cars so that they will be paid to repair the damage they created.

Very few academic studies have focused on auto repair fraud. In one of the first studies done on the subject, Paul Jesilow and his colleagues (Jesilow, Geis, & O'Brien, 1985) conducted a field experiment in which they sought battery testing services from 313 auto shops in California. The researchers found that honesty was related to the size of the shop, with smaller shops exhibiting more honesty than larger shops. How workers were paid (commission vs. hourly rate) was not related to honesty. Commissioned workers tended to be just as honest as hourly workers.

Building on this study, the authors (Jesilow, Geis, & O'Brien, 1986) studied a publicity campaign to see if publicity and awareness would influence mechanics' honesty. The public awareness campaign included letters from a formal regulatory agency, a major lawsuit, and press announcements. After the campaign, the research assistants revisited the shops for battery testing. They found that honesty rates were similar among the shops exposed to the public awareness campaigns and the shops that were not exposed to the campaign. In other words, the campaign had no effect.

Automotive sales fraud is another type of fraud in the automotive industry. Varieties of auto sales fraud include turning odometers back, selling unsafe cars, and selling stolen cars (Smith, 1997). Odometer fraud, also known as clocking (see Croall, 1989), is sometimes part of a broader scheme. In those situations, mechanics work in collaboration with dealers in an effort to maximize a particular car sale. It is estimated that changing the odometer may increase the price of a car by $3,000 to $4,000, which can add up to losses to consumers of $4 billion a year across the United States (Lucchetti, 1996).

States use a variety of tactics to respond to fraudulent auto dealers. Some states, for example, penalize fraudulent or unregistered dealers by seeking payment of unpaid taxes. Under the idea that dealers did not collect or pay taxes for their sales, state officials recoup losses through these aggressive enforcement efforts. In California, officials collected $2.8 million as a result of these efforts in 2007 (McIntosh, 2008).

Crimes in the Insurance System

The insurance system includes the wide range of agencies and institutions responsible for providing insurance to consumers. Many different types of insurance exist, including homeowners, rental insurance, auto insurance, property insurance, and more. The topic is rarely studied for two reasons: (1) It is hard to understand, and (2) people don't typically know when they have been victimized by insurance crimes (Ericson & Doyle, 2006). Of the research that has been done, much has focused on crimes by consumers against insurance companies, including overstating losses, arson for profit, bogus insurance claims, and understating property value to get lower insurance rates (Litton, 1998). Crimes by consumers, however, encompass just one portion of the types of crimes committed against in the insurance system. As with other occupations, a wide range of offenses are committed by those working in the insurance system. In the following paragraphs, attention is given to the types of crimes in this system, the consequences of insurance crimes, and the patterns surrounding these offenses.

Types of Insurance Crimes by Professionals

Four different categories of insurance crimes by workers in the insurance system exist: (1) crimes by agents against the insurance company, (2) investment-focused crimes, (3) theft crimes against consumers, and (4) sales-directed crimes against consumers. With regard to crimes by agents against the insurance company, some agents or brokers engage in activities that ultimately defraud the insurance company. Examples include lying about a potential client's income and unauthorized entity fraud (lying about assets). By lying about these items to the company, the agent is able to provide benefits to the consumer and thereby get the consumer to purchase the insurance.

Investment-focused crimes occur when insurance agents commit crimes that are designed to get consumers to invest in various insurance products. These include viatical settlement fraud, promissory note fraud, and annuities fraud. **Viatical settlement fraud** occurs when agents conceal information on viatical settlement policies, which allow individuals to invest in other people's life insurance policies (meaning they collect money when the other person dies). Fraud occurs when agents lie about the income, health of the insured individual, or other matters the investors should know about (Brasner, 2010; Federal Bureau of Investigation [FBI], 2010b).

Promissory note fraud refers to situations where agents get clients to invest in promissory notes that ultimately are scams. A promissory note is basically an IOU. Consumers are told that if they invest in a particular business, then after a certain amount of time, they will get their entire investment back plus interest. While promissory notes are legitimate investment strategies, here is how investment strategy fraud schemes work:

> A life insurance agent . . . calls with an intriguing investment opportunity. A company is looking to expand its business and needs to raise capital. But instead of borrowing money from a traditional lender such as a bank, it is offering investors an opportunity to purchase "promissory notes," typically with a maturity of nine months and an annual interest rate between 12 percent and 18 percent. Investors are sometimes told the promissory notes, which are like IOUs, are "guaranteed" by a bond from an offshore bonding company. Investors lose money either because fake promissory notes that look authentic are issued on behalf of fraudulent companies, or the crooks abscond with people's money before the notes mature. (Singletary, 2000, p. H01)

In some cases, insurance agents are not aware that they are selling fraudulent promissory notes because they too have fallen for the scam. In other cases, they are knowing conspirators who profit from the crimes. A series of investigations in the late 1990s found 800 incidents of promissory note fraud costing investors $500 million (Knox, 2000).

Annuities fraud occurs when insurance agents misrepresent the types of returns that their clients would get from investing in annuities. Annuities are "insurance contracts that offer a guaranteed series of payments over time" (Jenkins, 2008). Insurance agents get a 3% to 8% commission for selling annuities, giving them incentive to get clients to invest in annuities (Haiken, 2011). However, annuities can sometimes be quite risky investments, and agents have been known to persuade investors, particularly older individuals, to take their investments out of safe investment portfolios and place them in annuities that could eventually result in the investors' losing their savings. One victim described his experiences with annuities fraud in this way:

> The first scam started when the agent showed up and did not tell us he was from Salt Lake City, Utah. . . . His sales pitch convinced me I could use the immediate monthly income from an annuity, it was not disclosed he was selling "life insurance" or that Mr. Smiley was actually an insurance salesman. I was misled into thinking I was investing into a . . . mutual fund program. The instructions he gave me about the contract details such as "single life contract," "no guarantee," "no beneficiary," "no joint annuitant," and "no IRA disclosure statement was presented," these details were

> all misleading and coordinated in favor of [the insurance company]. Now I understand, the more I was defrauded, the bigger the commission for the insurance agent, they are trained to deceive. I have now ultimately lost the entire $57,779.00 IRA savings and I have nothing for my years of work and no retirement nest egg. (Adam, 2008, "Fraud Big Time")

These scams have increased in recent years. In Florida, 37 investigations for annuities fraud were conducted in fiscal year 2004. In fiscal year 2008, a total of 276 investigations were conducted (Jenkins, 2008).

Theft crimes against consumers occur when agents steal directly from insurance clients. Examples include broker embezzlement, forgery, and falsifying account information (FBI, 2010b). In broker embezzlement cases, agents steal funds from a client's account that the agents have access to. In forgery cases agents sign clients' names on documents and forms and benefit financially from the deception. **Falsifying account information** refers to instances when agents or brokers change account information without the client's knowledge. In these crimes, no actual sale, or even effort to make a sale, occurs, and agents are not trying to get clients to invest in anything—they are simply stealing from consumers.

Sales-directed crimes against consumers occur when agents or brokers steal from consumers by using fraudulent sales tactics. Premium diversion theft is the most common form of sales-directed insurance crime (FBI, 2010b). In these situations, brokers or agents persuade clients to purchase insurance, but they never actually forward the payment from the client to the insurance company; instead, they pocket the payment. This means that clients don't actually have insurance when they think they do.

Other forms of sales-directed insurance crimes are more institutionalized in the insurance sales process. For instance, **churning** refers to situations where agents and brokers introduce new products and services simply to get policyholders to change their policies so the agents and brokers can collect commissions (Ericson & Doyle, 2006). Such practices are often called "good business" among officials in the insurance agency; the practice certainly is distinguished from cases of direct theft, which are not institutionalized as part of sales strategies. Other sales-directed insurance crimes include the following:

- **Stacking:** persuading persons to buy more policies than are needed
- **Rolling over:** persuading customers to cancel an old policy and replace it with a more expensive "better" policy
- **Misrepresentation:** deliberately misinforming the customer about the coverage of the insurance policy
- **Switching:** where the sales person switches the consumer's policy so that the coverage and the premiums are different from what the victim was told
- **Sliding:** when agents include insurance coverage that was not requested by customers (Payne, 2005)

Beyond the deception that is tied to these offenses, consumers and the rest of society experience a number of different consequences from crimes committed in the insurance system.

Consequences of Insurance Crimes

Estimates suggest that insurance fraud collectively "raises the yearly cost of premiums by $300 for the average household" (FBI, 2009c). For individuals victimized by these offenses, the consequences of insurance crimes can be particularly devastating. Consider cases of premium diversion thefts—where individuals pay for insurance they don't actually receive. One woman didn't realize she didn't have insurance until after an automobile accident. Her garage called and told her that the insurance company had no policy in her name. She had thought for more than 2 years that she had insurance. The investigation revealed that the agent did the same thing with 80 other clients. In another scheme, an agent who sold fake policies "left dozens of customers without coverage during hurricane seasons [in Florida] in 2003, 2004, and 2005 during which eight hurricanes struck the neighborhood" ("Insurance Agent Accused," 2007, p. 1).

Many of the insurance crimes target elderly persons, making the consequences of lost income particularly significant. One Florida insurance agent defrauded 60 victims, but only 37 of them participated in the trial. Many of the others "died before the trial took place" (Varian, 2000, p. 1). The agent had asked them "to invest in expansions of his insurance business or for short-term loans to book entertainers from the former Lawrence Welk program." In another case, 75-year-old Martha Cunningham "owned a $417,000 home in Prince George's County and held $61,000 in annuities before she met Edward Hanson [an insurance agent]. . . . Today the widow is essentially broke and inundated with debt" (Wiggins, 2009, p. B02). Hanson stole everything the elderly woman owned. The breadth of these schemes is but one pattern surrounding insurance crimes.

Insurance Crime Patterns

In addressing the dynamics of crimes in the insurance system, industry insiders attribute the offenses to either rotten apple explanations, or they engage in victim blaming (Ericson & Doyle, 2006). The rotten apple explanations suggest that a few rogue agents and brokers commit the vast majority of insurance crimes, while the victim blaming explanations suggest that failures on the part of victims (and greed) make them potential targets for the few rogue insurance employees that exist. Ericson and Doyle point out that these explanations are shortsighted and argue that insurance crimes are institutionalized in the industry by the practices and strategies encouraged among insurance employees. Aspects of the insurance industry that they discuss as evidence of the way that these crimes are institutionalized in the insurance system include the following:

- The complex products sold by insurance companies
- The construction of risk as calculable
- The commission structure
- A revolving door of agents
- Mixed messages about an aggressive sales culture
- Limited regulation of market misconduct

▲ **Photo 3.3** Researchers suggest that fraudulent insurance agents try to paint the worst scenario possible to get clients to purchase as much insurance as possible. Is this sales tactic a good business practice, or is it criminal? What do you think?

As will be discussed later, sometimes white-collar crimes are rationalized by offenders as "sharp business practices." This is particularly the case in insurance crime cases. One former life insurance agent is quoted as saying, "you have to understand, everything is crooked" (Ericson & Doyle, 2006, p. 993). Ericson and Doyle provide an example that describes how "deceptive sales are rife and institutionalized in the life insurance industry" and point to the scare tactics used by agents and brokers that are euphemistically called "backing the hearse up to the door" by insurance insiders. Good business practices, or crime? You can decide for yourself.

SUMMARY

- To introduce students to the nature of crime in lower-class occupations, in this chapter, attention was given to the crimes occurring in the following systems: (1) employee theft in the retail system, (2) crimes in the entertainment service system, (3) fraud in the sales/service system, and (4) insurance system.
- Several different varieties of employee theft in retail settings occur. Here are some examples: overcharging, shortchanging, coupon stuffing, credits for nonexistent returns, theft of production supplies and raw materials, embezzlement, over-ordering supplies, theft of credit card information, theft of goods, theft of money from the cash register, and sweetheart deals.
- Employee theft prevention strategies include (a) importation strategies, (b) internal strategies, (c) technological strategies, (d) organizational culture strategies, and (e) awareness strategies.
- In considering crimes in the restaurant industry, two broad categories can be highlighted: crimes by the restaurant against consumers and crimes by workers against the restaurant.
- The most common types of home repair fraud are believed to be roof repair, asphalt paving or driveway sealing fraud, house painting fraud, termite and pest control fraud, and tree pruning and landscaping fraud.
- Auto repair fraud includes billing for services not provided, unnecessary repairs, airbag fraud, and insurance fraud.
- Insurance crimes are rarely studied for two reasons: (1) They are hard to understand, and (2) people don't typically know when they have been victimized by insurance crimes (Ericson & Doyle, 2006).
- Four different categories of insurance crimes by workers in the insurance system exist: (1) crimes by agents against the insurance company, (2) investment-focused crimes, (3) theft crimes against consumers, and (4) sales-directed crimes against consumers.
- Estimates suggest that insurance fraud collectively "raises the yearly cost of premiums by $300 for the average household" (FBI, 2010b).
- For individuals victimized by these offenses, the consequences of insurance crimes can be particularly devastating.
- Industry insiders attribute the insurance offenses to either rotten apple explanations or they engage in victim blaming (Ericson & Doyle, 2006).
- Ericson and Doyle (2006) point out that insurance crimes are institutionalized in the industry by the practices and strategies encouraged among insurance employees.

KEY TERMS

Airbag fraud	Automotive sales fraud	Billing for services not provided
Annuities fraud	Auto repair fraud	Clean sheeting
Auto insurance fraud	Awareness strategies	Churning

Coupon stuffing
Credits for nonexistent returns
Embezzlement
Entertainment services system
Falsifying account information
Home repair fraud
Internal strategies
Misrepresentation
Promissory note fraud
Organizational culture strategies
Over-ordering supplies
Overcharging
Retail system
Rolling over
Sales-directed crimes
Sales/service system
Shortchanging
Sliding
Stacking
Sweetheart deals
Switching
Technological strategies
Theft crimes against consumers
Theft of credit card information
Theft of goods
Theft of money from the cash register
Theft of production supplies and raw materials
Unnecessary auto repairs
Viatical settlement fraud

DISCUSSION QUESTIONS

1. What types of employee theft do you think are most serious? Why?
2. Should employees always be fired if they are caught engaging in crime in a restaurant? Explain.
3. How are home repair frauds and auto repair frauds similar to one another?
4. Why do you think insurance crimes occur?
5. Do you think you have ever been overcharged by an auto mechanic? If so, why do you think the offense occurred?
6. Do you know anyone who has committed retail theft? Why do you think they committed the offense?

WEB RESOURCES

Avoid Student Insurance Scams: http://www.studentfinancedomain.com/budgets/avoid_student_insurance_scams.aspx

Coalition Against Insurance Fraud: http://www.insurancefraud.org/scam_alerts.htm

Prevent Home Repair Fraud: http://www.hbaa.org/remodeling/prevent-home-repair-fraud.html