

Goldstein Award Summary:

SITUATION

Each spring, citizens of the City of Saint Paul are taken advantage of by unlicensed contractors and unscrupulous home repair contractors. They bilk homeowners out of thousands of dollars in home repair schemes. Many of these contractors have a long history of doing this type of crime and they are well known to the Minnesota Department of Commerce and the Saint Paul Police Department Fraud Unit.

MISSION

Sergeant Bebeau was tasked with creating and implementing a detail to deal with the construction fraud issue. She was also tasked with assisting the Minnesota Department of Commerce in holding accountable unlicensed contractors operating in Saint Paul.

EXECUTION

Sergeant Bebeau's plan was to work in cooperation with the Minnesota Department of Commerce Investigator (Tom Sendecky), Ramsey County Department of Taxation (Chris Kujala), Ramsey County Attorney(s) Office (Chuck Balck), and the Saint Paul Police Fraud Unit. She identified known illegal contractors who have operated in Saint Paul based on names provided by Investigator Sendecky. The operation entailed contacting those contractors and attempting to lure them into an undercover home provided by Ramsey County Department of Taxation and Forfeited Land. As part of the plan, she taped recorded phone calls and meetings with those contractors to build a case which was then prosecuted by Ramsey County Attorney(s) Office. The information, documentary evidence, along with the history of schemes documented by the Department of Commerce will be used to pursue charges for licensing violations (misdemeanor and gross misdemeanor).

RESULTS

As a result of her plan, Sergeant Bebeau was able to lure in several known construction fraud contractors. She worked her plan and they were arrested and charged. Sergeant Bebeau received many letters thanking her for her project and looking out for the citizens of the City of Saint Paul.

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TARGETING HOME IMPROVEMENT FRAUD



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FEBRUARY 13, 2007**

**PREPARED FOR
THE SAINT PAUL POLICE DEPARTMENT**

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EXECUTIVE SUMMARY

This report examines the problem of home improvement fraud and offers solutions to this growing problem. The purpose of this report is to provide the administrative team with research information about the causes and effects of this problem, as well as propose solutions.

Home improvement fraud is perpetrated by skilled con men that use the weaknesses in the judicial system to prey upon uninformed homeowners. This report will examine current law as well as the deficiencies in those laws that con men exploit for their financial gain.

The victims of these crimes are often the least able to recover from the heavy financial losses they sustain at the hands of these ruthless individuals. The victims are often the elderly, and the physically disabled. On many occasions I have found that the victims are immigrants that are new to this country and are trying to make their way. This report will examine the commonalities in these victims and how they can be addressed to reduce their chances of being victimized.

Home improvement fraud can be devastating to those who fall victim to this type of scam. My personal experience exhaustively reviewing the details of these cases, researching data on-line, and speaking with experts at the Department of Labor and Industry, brings me to this conclusion: This type of crime flourishes due to poorly written laws, uninformed consumers, and suspects who are not held accountable for their crimes.

Based on these conclusions, I will recommend several things that can be done to reduce or eliminate this problem from our city. These solutions are based on problem-oriented policing principles that suggest victims, suspects and location must be addressed in order to effect a successful reduction in crime. These solutions include the following:

- (1) Education of patrol officers
- (2) Education of the public through use of media
- (3) Covert sting operation targeting unlicensed contractors (working in collaboration with the Department of Labor and Industry)
- (4) Arrest of suspects and impoundment of vehicles and tools until cases are adjudicated

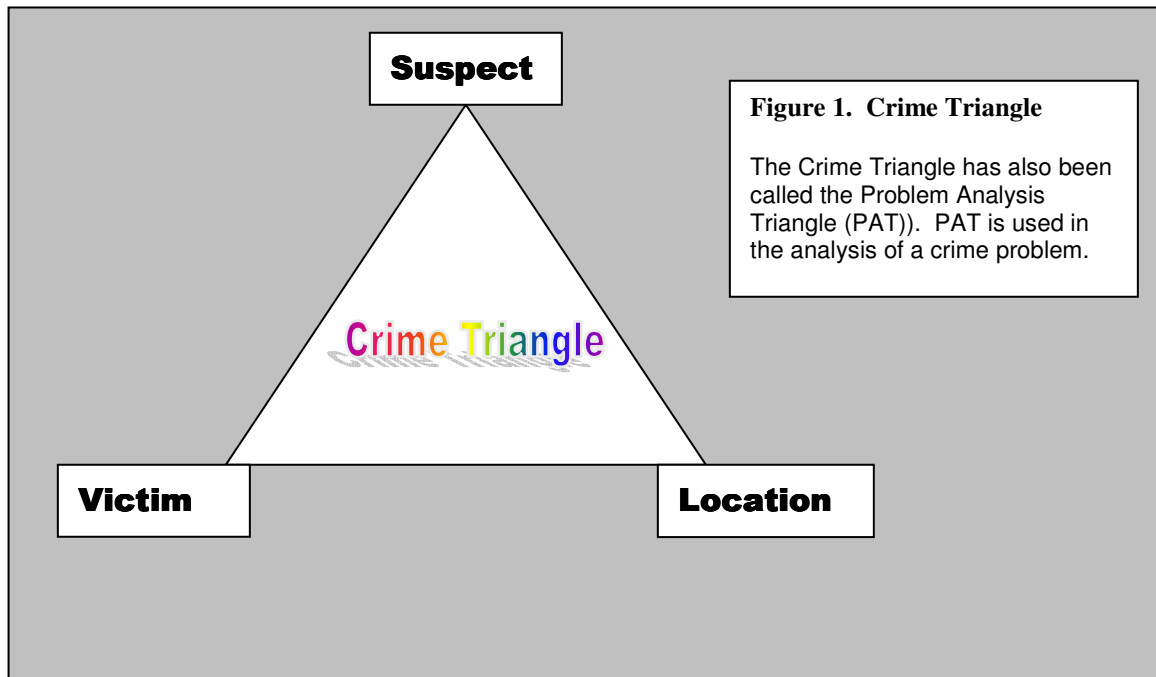
INTRODUCTION

The information contained in this report concerns the problem of home improvement fraud. Included in this report is information on why individuals fall victim to this crime, as well as the method of operation of the suspects involved. In addition, I will discuss the climate that allows this type of crime to flourish. Finally, I will discuss sound, problem-oriented policing theory and how it can be applied to fight home improvement fraud.

PROBLEM ANALYSIS

As an Investigator in the Fraud and Forgery Unit, I became interested in the problem of home improvement fraud. I fielded numerous complaints from citizens that had lost thousands of dollars to con men. These con men take the hard earned money of victims and destroy their homes with shoddy work, or begin work that is never completed. Not only are victims out thousands of dollars that realistically they will never recoup, they are also forced to live in the scene of the crime. Homes are ravaged by the con man's attempt at appearing to do work. The financial and psychological outcomes of home improvement fraud can be severe.

Felson and Clarke (1998) created the concept of the "Crime Triangle" (see Figure 1) or the "Problem Analysis Triangle" as the framework for understanding crime. Their research suggests that all crimes require three elements to be present: victims, suspects, and location. By extension, any proposed solution to a crime problem should address these three areas to maximize success in reducing or eliminating a crime problem.



Victims

The victims of home improvement fraud have one thing in common: they are uninformed about how to hire a reliable and trustworthy contractor. Many times the victims are the elderly who are unable to recover from the financial loss. According to Hermanson and Moag of the AARP Policy Institute (1999), seniors often fall victim to this scam because they are less likely to undertake home repairs themselves. Hermanson and Moag estimate that 79% of seniors do none of their own home repairs. They are forced to rely on handymen to do these repairs, and are easily targeted by unscrupulous contractors. Seniors also are less likely to report these crimes due to embarrassment or fear of being seen as incompetent and placed in a nursing home.

Suspects

Suspects who engage in home repair fraud either reside in the communities they victimize, or can be itinerant labor. In either case, suspects have failed to obtain licensure which is required by law. According to the Commerce Department, those who wish to be licensed must take a test and pay a fee. These suspects do not pursue licensure as they are not trained in this type of work and would be unable to pass a test (personal communication, February 13, 2004).

Local Con Men

According to Department of Labor and Industry (DOLI) Director, Charlie Durenberger (personal communication, February 13, 2005), local con men continue to engage in unlicensed contracting even after being served multiple Cease and Desist Orders and civil fines. Minnesota Law 326.92 states that violating a Cease and Desist Order is a gross misdemeanor. Practical experience shows that this law is not enforced as DOLI investigators are not licensed peace officers and have no power to arrest. These con men continue to violate their orders, the financial gain being greater than the civil fines imposed.

Itinerant Con Men

Itinerant laborers who target the Saint Paul area are often referred to as, "The Gypsies". In speaking with the an investigator from the Attorney General's Office, I learned this is an incorrect assumption. This itinerant group is actually of Irish descent and is called, "The Travellers". Travellers have several close knit communities in southern states such as Arkansas, South Carolina, and Georgia. They do not associate with outsiders, and are uncooperative with law enforcement.

Travellers support themselves through various forms of fraudulent labor. In the springtime, Traveller communities become like military staging areas. Caravans of pick-up trucks and vans loaded down with men gather in order to begin their spring raid on the nation. They travel northward perpetrating a diversity of home improvement frauds on unsuspecting victims. Sons as young as seven and eight years old accompany their fathers and uncles to learn their ways. Summer after summer is spent this way. Upon reaching adulthood, these young men are well capable of conducting these scams themselves. Cleverness is highly valued and fortunes are made through fraud.

Common Characteristics of Suspects

A Minnesota Department of Labor and Industry document entitled *Hiring a Residential Building Contractor* (2006) lists the common characteristics of the suspects in these crimes. These following characteristics can apply to both local and itinerant con men:

- Arrive in an unmarked truck or van
- Ask you to sign an estimate or authorization before you have decided to hire them
- Appear to be willing to do the job at an unusually low price
- Only provide a post office box for their business address
- Require full or substantial payment before work begins
- Refuse to provide you with a written estimate or contract
- Refuse to provide you with a license number issued by the state of Minnesota

- Refuse to provide you with references
- Show up at your door unsolicited
- Use high-pressure sales tactics

Location

According to Tom Sendecky (personal communication, February 15, 2004), Senior Investigator for the Department of Labor and Industry (DOLI), home improvement fraud can and does occur in all cities and townships in the state of Minnesota.

In speaking with Investigator Sendecky, I learned that although DOLI can investigate cases of home improvement fraud and impose civil sanctions, DOLI investigators have no power to arrest. He explained that unlicensed contractors are tried in civil court and issued Cease and Desist orders. A violation of this order is a gross misdemeanor offense under Minnesota Statute 326.92 (see appendix A). Sendecky went on to say that because DOLI has no power to arrest, they are unable to enforce these orders, and unlicensed contractors continue to swindle uninformed victims out of thousands of dollars. There is a state fund to protect victims of home improvement fraud, but this only applies to victims who have hired licensed contractors. Licensed contractors are required to pay into the Contractor Recovery Fund, Minnesota Statute 326.975 (see appendix B). There is no such protection from unlicensed contractors.

Police officers in the state of Minnesota have powers of arrest, and could arrest for unlicensed contracting, but have no knowledge that this law exists. This is because this

law is not under the Criminal Code, Chapter 609. Instead it is found under Chapter 326 which covers “Employments Licensed by State”. Police Officers do not have access to this set of statutes, and for obvious reasons, would not have cause to look in these statutes for enforcement information. Although I have been a police officer for twenty years, I did not learn of this statute myself until speaking with Sendecky. This is the climate that allows home improvement fraud to flourish.

PROPOSED SOLUTIONS

Earlier I discussed Felson and Clarke’s Crime Triangle theory. This theory suggests that any crime fighting strategy should target victims, suspects, and location (climate) in order to be effective. This section will discuss a multi-faceted approach that targets each of these areas. The following proposed solutions will be addressed:

- Education of the public and police officers
- Covert sting operation targeting unlicensed contractors
- Arrest of suspects under Minnesota Statute 326.92 and forfeiture of vehicles/ tools until adjudication
- Media exposure

Education of the Public and Police Officers

Analysis of the problem indicates a lack of information on the part of both police officers as well as the public. This problem requires a two prong approach.

Firstly, police officers need to be educated on the existence of Minnesota Statute 326.92 and be encouraged to enforce it. This education can be done through in-service training, distribution of a training memo department-wide, or both. Through education of police officers, we can seek to change the climate that allows this crime to flourish.

Secondly, the public needs to be educated. Through my experience as an investigator, I observed that this type of crime begins in the spring when homeowners begin their home improvement projects. A media release initiated at the onset of spring would arm homeowners who are seeking to do home improvements, on how to hire an honest contractor. Educating the public attacks the victim base of the crime triangle.

Covert Sting Operation

While researching this problem, I located a 2004 article entitled, *ROC Busts Unlicensed Contractors Through Undercover Sting*. This article describes how the Arizona Registrar of Contractors (ROC) used the common characteristics of suspects as a basis for conducting a very effective sting operation which led to the arrest of several unlicensed contractors. A similar operation could be adapted to the existing laws in our state, and carried out in Saint Paul.

I have looked into acquiring a suitable house in which to conduct this sting operation. I have contacted the Ramsey County Department of Tax Forfeited Lands. This office

holds several properties that have been forfeited by home owners who have failed to pay taxes. I spoke with Kristine Kujala (personal communication, February 20, 2004) who told me they would be willing to allow us to use one of their houses she described as a “fixer upper”.

Kujala stated that working in collaboration with us would benefit them as well. Kujala explained that her office is responsible for providing daily security for these tax forfeited houses. If police were to use these houses, police could provide the security. This would relieve her office of this daily responsibility for these buildings.

Ramsey County Tax Forfeited Lands require that we sign a Hold Harmless Agreement. This document would need to be signed by our City Attorney before we could use a forfeited house. In addition, a City Council resolution must be passed allowing us to work in collaboration with Ramsey County.

The Department of Labor and Industry has agreed to supply our department with the names of their top violators of the Cease and Desist Orders. These suspects are described by Durenberger as, “The worst of the worst”. They are suspects who are not one-time offenders. These suspects continue to practice unlicensed contracting despite orders to desist. They defraud victims of thousands of dollars per incident. Some of these violators are registered sex offenders, and most have felony convictions.

Under cover officers would pose as homeowners looking for contractors to do home improvements. Phone calls would be made to these suspects in an undercover capacity to request estimates on the borrowed house. If suspects agree to show up for an appointment and provide an estimate, they would be violating their Cease and Desist Orders, leaving them open for arrest.

Media would be invited to film the operation, including the arrests of the suspects. The project would be aired upon completion of the operation. This media exposure would have the effect of educating the public as well as putting suspects on notice that Saint Paul does not tolerate this type of crime.

Forfeiture of Vehicles and Tools until Adjudication

Upon arrest, suspects' vehicles and tools would be impounded until their cases were adjudicated. This process can take as long as a year. This would frustrate the efforts of these suspects, as well as make Saint Paul an unattractive location for these types of con men. This approach targets the suspect and location base of the Crime Triangle.

CONCLUSION AND RECOMMENDATION

Home improvement fraud can be devastating to those who fall victim to this type of scam. I have discussed three areas that can be targeted to reduce or eliminate this type of crime from our city: suspects, victims, and location. Educating patrol officers as well as the public to recognize these con games will go a long way toward reducing this type of crime. To make a further impact, a covert sting operation would send a message to would-be con artists that this type of activity is not tolerated in our city. Arrest of

suspects and impoundment of their vehicles and tools until adjudication would frustrate their efforts, making Saint Paul an unattractive location for these crimes.

The theory of the Crime Triangle suggests these crime fighting solutions would be highly effective.

References

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APPENDIX A

326.92, Minnesota Statutes 2006

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326.92 PENALTIES.

Subdivision 1. **Misdemeanor.** A person required to be licensed under sections [326.83](#) to [326.991](#) who performs unlicensed work is guilty of a misdemeanor.

Subd. 1a. **Gross misdemeanor.** A person required to be licensed under sections [326.84](#) to [326.991](#) who violates an order under subdivision 3 is guilty of a gross misdemeanor.

Subd. 2. **Lien rights.** An unlicensed person who knowingly violates sections [326.83](#) to [326.98](#) has no right to claim a lien under section [514.01](#) and the lien is void. Nothing in this section

affects the lien rights of material suppliers and licensed contractors to the extent provided by law.

Subd. 3. **Commissioner action.** The commissioner may bring actions, including cease and desist actions, against any person licensed or required to be licensed under sections [326.83](#) to [326.991](#) to protect the public health, safety, and welfare.

History: 1991 c 306 s 16; 1993 c 245 s 28,29; 1999 c 137 s 8

Appendix B

326.975, Minnesota Statutes 2006

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326.975 CONTRACTOR'S RECOVERY FUND.

Subdivision 1. **Generally.** (a) In addition to any other fees, each applicant for a license under sections [326.83](#) to [326.98](#) shall pay a fee to the contractor's recovery fund. The contractor's recovery fund is created in the state treasury and must be administered by the commissioner in the manner and subject to all the requirements and limitations provided by section [82.43](#) with the following exceptions:

(1) each licensee who renews a license shall pay in addition to the appropriate renewal fee an additional fee which shall be credited to the contractor's recovery fund. The amount of the fee shall be based on the licensee's gross annual receipts for the licensee's most recent fiscal year preceding the renewal, on the following scale:

Fee	Gross Receipts
\$100	under \$1,000,000
\$150	\$1,000,000 to \$5,000,000
\$200	over \$5,000,000

Any person who receives a new license shall pay a fee based on the same scale;

(2) the purpose of this fund is:

(i) to compensate any aggrieved owner or lessee of residential property located within this state who obtains a final judgment in any court of competent jurisdiction against a licensee licensed under section [326.84](#), on grounds of fraudulent, deceptive, or dishonest practices, conversion of funds, or failure of performance arising directly out of any transaction when the judgment debtor was licensed and performed any of the activities enumerated under section [326.83, subdivision 19](#), on the owner's residential property or on residential property rented by the lessee, or on new residential construction which was never occupied prior to purchase by the owner, or which was occupied by the licensee for less than one year prior to purchase by the owner, and which cause of action arose on or after April 1, 1994; and

(ii) to reimburse the Department of Commerce for all legal and administrative expenses, including staffing costs, incurred in administering the fund;

(3) nothing may obligate the fund for more than \$50,000 per claimant, nor more than \$75,000 per licensee; and

(4) nothing may obligate the fund for claims based on a cause of action that arose before the licensee paid the recovery fund fee set in clause (1), or as provided in section 326.945, subdivision 3 .

(b) Should the commissioner pay from the contractor's recovery fund any amount in settlement of a claim or toward satisfaction of a judgment against a licensee, the license shall be automatically suspended upon the effective date of an order by the court authorizing payment from the fund. No licensee shall be granted reinstatement until the licensee has repaid in full, plus interest at the rate of 12 percent a year, twice the amount paid from the fund on the licensee's account, and has obtained a surety bond issued by an insurer authorized to transact business in this state in the amount of at least \$40,000.

Subd. 1a. **Limitation.** Nothing may obligate the fund for claims brought by:

- (1) insurers or sureties under subrogation or similar theories; or
- (2) owners of residential property where the contracting activity complained of was the result of a contract entered into with a prior owner, unless the claim is brought and judgment rendered for breach of the statutory warranty set forth in chapter 327A.

Subd. 1b. **Condominiums or townhouses.** For purposes of this section, the owner or lessee of a condominium or townhouse is considered an owner or lessee of residential property regardless of the number of residential units per building.

Subd. 2. **Accelerated claims payment.** Recovery fund claims that do not exceed the jurisdiction limits for conciliation court matters as specified in section [491A.01](#) shall be paid on an accelerated basis if all of the following requirements have been satisfied:

(a) When any aggrieved person obtains a judgment in any court of competent jurisdiction, regardless of whether the judgment has been discharged by a bankruptcy court against a residential building contractor or residential remodeler on grounds specified in subdivision 1, paragraph (a), clause (2), the aggrieved person may file a verified application with the commissioner for payment out of the fund of the amount of actual and direct out-of-pocket loss in the transaction, but excluding any attorney fees, interest on the loss and on any judgment obtained as a result of the loss, up to the conciliation court jurisdiction limits, of the amount unpaid upon the judgment. For purposes of this section, persons who are joint tenants or tenants in common are deemed to be a single claimant.

(b) The commissioner has sent the licensee a copy of the verified application by first-class mail to the licensee's address as it appears in the records of the Department of Commerce with a notice that the claim will be paid 15 days from the date of the notice unless the licensee notifies the commissioner prior to that date of the commencement of an appeal of the judgment, if the time for appeal has not expired, and that payment of the claim will result in automatic suspension of the licensee's license.

(c) If the licensee does not notify the commissioner of the commencement of an appeal, the commissioner shall pay the claim at the end of the 15-day period.

(d) If an appeal is commenced, the payment of the claim is stayed until the conclusion of the appeal.

(e) The commissioner may pay claims which total no more than \$15,000 against the licensee under this accelerated process. The commissioner may prorate the amount of claims paid under this subdivision if claims in excess of \$15,000 against the licensee are submitted. Any unpaid portions of such claims shall be satisfied in the manner set forth in subdivision 1.

Subd. 3. **Appropriation.** Money in the contractor's recovery fund is appropriated to the commissioner for the purposes of this section.

History: 1993 c 245 s 36; 1994 c 404 s 1; 1994 c 465 art 2 s 17; 1995 c 169 s 6; 2000 c 483 s 50; 2001 c 208 s 23; 2002 c 387 s 15,16; 1Sp2005 c 1 art 4 s 94