Criminal Invasion of Privacy (Credit Card Fraud)

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Abstract—

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I. Introduction (*Heading 1*)

Credit card use has been seen as far back as the 60's. In 2022 the average American consumer has an average balance of $5,910 [1]. With that credit card use there comes a more sinister side. Fraud Rings, Bad Actors, Fraudulent Charges and even cases such as Identity theft. In the year 2022 The Federal Trade Commission (FTC) released data reporting losses nearing 8.8 billion dollars in fraud alone. That is over a 30% increase from the prior year's 2.1 billion [2]. With over 60 years of preparation and technology advancing at an exponential rate, these bad actors will take more every year if we, the consumer do not adapt. It is our responsibility as the consumer to follow basic Risk Framework Strategies, use common sense, and approach these bad actors in an ethical manner. Dewey will be analyzing credit card fraud and arguing for it. Abdulrahman will be arguing against it. The framework that will be used during this research report is utilitarianism. The issue at hand can be seen as unethical by all accounts, however, a juxtaposition is done to highlight moral efficacy.

II. History of Credit Cards

A. To better understand the cause of the increase in credit card fraud one must better understand the history of credit cards and the credit system and how they are used. The concept of credit to humans has been around for thousands of years. The initial intention behind the system was to allow individuals to purchase items before plants were planted or harvested. The individual would then barter or trade those items to pay off the debts collected prior to harvesting [3]. This may seem a little archaic compared to the monetary system that is in place currently, however if our monetary system is broken down it is essentially the same in practice. Money is typically earned through the fruit of labor. One may have to go to work, or one may have a rental property that is being rented out to a tenant, one may own a business. Regardless of the means, the money was acquired through some form of labor being exerted. This money is being used to pay off debts, purchase goods, and pay workers. Now instead of using the word money replace it with crops or food. These crops are used to pay off debts, purchase goods, and pay workers. To plant enough crops to do this, one must exert enough labor equivalent to the purchase amount prior to the harvest season. In a time where individuals did not have a need for money, food, sustenance is what was offered. The same type of system was used in the United States during the early 1800's called "credit coins" [3].

B. A more modernized version of the crediting system began to be established in 1918. The company who founded this was known as Western Union. Western Union has quite the reputation in the modern age of the banking industry. I will go more in depth about the western Union in a later section, for now, the type of credit that was offered to a select form of customers was called "Metal Money" [3]. The holders of these metal plates were allowed to pause their upcoming payment with the promise to pay later.

C. It wasn't until the early 1960's until the first modern credit card was released. The company who released the form of credit is known as Bank of America. The company was founded in 1930, In San Francisco Initially as The Bank of Italy, but later changing the company to Bank of America. The card was called the BankAmericard. It was a revolving form of credit, meaning that balances can be carried from month to month up until the limit of the card is reached or it is paid off. With the introduction of this credit system in the open market came a slew of issues. It was initially feared the amount of delinquency of payments would be around the 4% range, but the actual amount was 22% Not considering the number to be so high, Bank of America had not set up a collections department at this point. It was also feared that credit card fraud would be rampant when the card was introduced into Los Angeles. As Bank of America feared Bad Actors or criminals with bad intentions had found many ways to exploit the system. They knew the fraud limit amount. During that time instead of having automated systems financial institutions would have merchants call them after a threshold dollar amount to prevent fraud. The number of cards being stolen was high, merchants were lying on financials to cheat the bank out of money. In one instance an individual even broke into the warehouse where the cards were being produced. Since it was new at the time law enforcement did not have any concern regarding this. To retrieve the stolen cards what Bank of America had to do was purchase them back from the person who stole them. This was done because there was no way to prevent the physical cards from being used. Bank of America had also faced backlash from the public. In the fine print of the BankAmericard it states even if the card is lost or stolen to whom the card is issued can be held finically liable for the transactions made on the card [4]. This had caused a public outcry about the legitimacy of credit cards. Was it legally correcting for someone to send you these cards despite not wanting them? Can one be charged for transactions that were not attempted by the cardholder?

D. The introduction of credit cards appeared to be done haphazardly. Shortly after the CEO was replaced by another individual and he used some more common-sense practices. Not every consumer shares the same risk, not every consumer should be able to have a credit card, and many factors should be considered when offering a card (i.e., income, payment history, intention to open).

E. For us to better understand why credit card fraud is on the rise, we the consumer need to understand a few basic things. Financial institutions do not care about credit card fraud. Risk Mitigation and Acceptance are planned into the very core of some financial institutions. Meaning they understand fraud will happen, the only thing that can be done is prevention. Especially when it comes to following Governance, Risk and Compliance Standards, sometimes the best thing that can be done is nothing. The line is very fine, and any mistake can be detrimental to not just the consumer, but the institution itself. In 2017 Western Union had to forfeit 586 million to the FTC, Western Union will also admit to multiple criminal violations such as, “failing to maintain an effective anti-money laundering program and aiding and abetting in wire fraud” and per the Department of Justice of The United States (DOJ) “Western Union owes a responsibility to American consumers to guard against fraud, but instead the company looked the other way” [5]. Another instance occurred with Wells Fargo in 2020. The DOJ had reached an agreement with the company. “Wells Fargo Agrees to Pay $3 Billion to Resolve Criminal and Civil Investigations into Sales Practices Involving the Opening of Millions of Accounts without Customer Authorization” [6]. Wells Fargo had been collecting fees, debt, and harming the credit of some of the consumers by this malpractice.

III. ETHICAL FRAMEWORK

A. Utilitarianism is an Ethical Framework that states that the most ethical option is the option that benefits the greatest number. It is a form of consequentialism, meaning that every action has a direct consequence. Utilitarianism can be interpreted as the direct consequence of your actions is ethical, if and only if more people benefit from the action.

B. An example of this can be seen in the classic train morality test. Suppose an individual was placed in a situation where they are at a train track lever, The train tracks have the ability to diverge and change course. The lever will adjust the train tracks so that the train track changes direction of the train. On the left side of the train There is one person tied to the tracks, on the right side of the train there is two people tied to the track. Without any additional context about the people at hand utilitarianism will state ethically speaking turning the lever on the single person would be the best outcome.

Now change the context. Person one is the best doctor that has ever existed, he is in his prime, if he comes home, he has 64 future surgeries lined up, on the left. Two and three are an elderly lady and an infant, on the right/ It would be moral and just to have the lever pulled on person two and three. This is only due to the direct consequence of what will happen if the doctor dies. 64 people will not be saved.

Let us look at one final example. Person one is historically known in our history for murdering approximately 6 million people. But for the context of this situation let us say it was before the act was committed in history and we had no idea he was about to commit such an act. Persons two and three are serial killers. Morally speaking it would be just to kill persons two and three. That is because the direct consequence of pulling the lever will benefit those who have been killed or future targeted by them. If person one were to go and commit the acts, that does not necessarily mean the action chosen were unjust. As determined at that point in time persons 2 and 3 are detrimental to the greater good but allowing person 1 to survive would be a direct consequence of the action committed.

C. The ethical framework at hand is used to justify the reasons one may use to commit a criminal invasion of privacy (credit card fraud). In most situations one can view stealing as being morally incorrect. Laws are in place to prevent someone from stealing and taking financial advantage of “at risk” individuals (Elderly, just turned 18, disabled, special needs). This framework is appropriate because it will discuss the direct consequences of the actions taken by bad actors.

D. For us to understand why some of these bad actors commit credit card fraud it is best to provide some context on how some of this information is attained. I have worked in a Fraud Call Center for approximately 3 years, so I understand the process of how this information is attained. It can be done in a few different ways. Option 1. A fake job posting is placed to a website like LinkedIn, indeed, or Glassdoor. The job posting will look like any other job posting. Once an individual submits a resume, they will inform you that to accept the position we must conduct an employment verification or US Citizen Verification. They will ask for an Identification Card or Driver’s License, and social security card. They will also say, since this is a remote position you must take a picture holding this. Once the individual sends that information to the bad actor has all the information required to open a new account. Option 2 is a fake/real posting, you will get hired on and they will either kick you off quick and take your information or use you as a money transporter and then take your information. The job will have you work initially as described in the posting and will reveal to you they need you to deliver money to a client. Once delivered they will use the proof as blackmail to keep forcing them to transport. Since being a money mule is a crime.

E. Many of these bad actors are based in Third World countries. Or underdeveloped countries. India is typically one of the countries that hold many of these call centers that house scammers. The population of India is almost 3 times that of the United States of America. The United States is one of the wealthiest countries. In India the distribution of wealth is one of the largest in the world. In India they have social hierarchy called a caste system, if one is born into a higher class, they tend to have more money and job opportunities. It is illegal to discriminate based on this, but enforcement is not exactly the best. Some live off less than 1 dollar a day and have inhumane living conditions. Not the cleanest water, not much electricity. Not much food. When someone from a higher class offers them the opportunity to make more money than they have in their entire life of course they are going to take from the American people. Americans live lavishly, they make much money, they attract people from their own country to immigrate. Americans do not need the money like them. Depending on how the scam center is laid out the individual scamming will not get to see all the money taken. It gets distributed among the chain of command. When a scammer Takes from the credit card company, it may inconvenience the holder of that card, but they will get the money back. Credit card laws through Federal Regulation E. Which allows the consumer to dispute unauthorized transactions up to 60 Days after they are attempted. The financial institution is required to place a temporary credit on the account within 7 to 10 business days. Banks purchase insurance and the risk of fraud is factored into the price. Directly under utilitarianism since the scammers are the ones benefiting more overall the actions can be seen as morally just.

F. ON THE DUTY OF CIVIL DISOBEDIENCE by Henry David Thoreau is an artifact that I will be using to support this viewpoint. One must prioritize the needs of oneself before prioritizing the needs of the law. He derives the government is never useful to an individual and that the government is the majority only because it is the strongest group. When a government is unjust people should refuse to follow the law [7]. Credit Card Fraud is against the law, yet the government does not charge institutions who commit said fraud against consumers. If I were to commit fraud with millions of accounts, I would have many years in a federal prison. For legal purposes Businesses are “Persons” [8]. So, the government should persecute these institutions if they insist on being “Persons”.

IV. Personal Position

A. When it comes to personal invasion of privacy, I personally believe that the issue is important, but I do not care that much. As a consumer it is my responsibility to do my due diligence to keep myself safe. I also understand that at the same time the legal responsibility of fraud is up to the financial institution. “If the consumer notifies the financial institution within two business days after learning of the loss or theft of the access device, the consumer's liability shall not exceed the lesser of $50” [9] the most I would lose if I was diligent is 50 dollars total, I can even write my own pin on my card and “accidently” drop it at a grocery store. If I did not authorize the transaction that is the maximum amount I can be charged. “Negligence by the consumer cannot be used as the basis for imposing greater liability than is permissible under Regulation E. Thus, consumer behavior that may constitute negligence under state law, such as writing the PIN on a debit card or on a piece of paper kept with the card, does not affect the consumer's liability for unauthorized transfers”[9]. Regulation E applies to many things such as Electronic Funds Transfers, Point of Sale Transfers, Gift Card purchases, Automatic Teller Machines. If something is being credit/debited from the account, it results in some form of a transfer of funds electronically. I am protected under this clause. I also realize that for credit cards it is now standard for the company to offer “zero-liability fraud protection”. If a card provider does not offer that service, then maybe it’s not the correct card for me due to security concerns.

B. In my personal experience working in the financial sector, specifically fraud investigations, I have come to the realization. If I want to participate in this financial system, I need to set aside any beliefs about my identity potentially being stolen. The issue is terrible and is definitely a long process to rectify, but there’s always a chance it can happen to me. The way these bad actors retrieve information is sometimes not even the consumer’s fault. Let us look at a notable few that happened as recently as this year. For this example, I plan on using healthcare data breaches as a reference point. Why healthcare? The information that is needed to open credit cards is readily available. Addresses, Previous address, Date of Birth, Place of birth (county), Social Security Numbers, Driver’s License, Medical issues (can be used for phishing), Professions, anything that a healthcare provider has asked and is documented is free game. This makes knowledge-based authentication (KBA) easy for the scammers to pass during credit screenings. Healthcare providers are also required to store anywhere from 5 years to indefinite number of years of patient information depending on the state. That doesn’t seem that bad until you look at the numbers of individuals impacted is only referencing the first half of 2023. Between February 26 and March 7th, 2023, 8,861,076 individuals impacted “Managed Care of North America”, This company works with CHIP and Medicaid meaning anyone on government assisted healthcare and uses this, may have been impacted [10]. “Cerebral”, an online mental healthcare provider. 3,179,835 individuals’ information leaked in March 2023 [10]. “Nationsbenefits”, a benefit provider for healthcare plans. 3,037,303 Individuals impacted in February 2023 [10]. “Pharmerica Corporation”, A pharmacy network, 5,815,591 individuals impacted on March 14th, 2023 [10]. I have worked on cases personally where the individual is deceased with a Date of Death Specified on Public Records. The scammers still manage to gain access to accounts, despite this due to loopholes. I can be dead and still risk having my identity stolen. At that point it doesn’t matter, so why should I, the consumer, care now?

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