

Analysis of "Pig-Butchering Scam" Type of Network Fraud from the Legal Perspective

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Abstract: With the rapid development and broad application of network information technology in recent years, the typical criminal behavior of network fraud has gradually increased, causing severe damage and marketing to social order and citizens' rights and interests. Among them, the "pig-butcher scam" type network fraud, as a typical crime method different from the traditional mode, a wide range of victims, a vast amount of money involved, and severe social harm, has become the focus of legal circles and social public opinion. From a legal perspective, this paper will conduct a multi-dimensional detailed analysis of "pig-butcher scam" online fraud, analyze the crime mode from the fraud process and characteristics of "pig-butcher scam," and study the current judicial and legislative status quo in China, explore the current legal dilemma related to the crime from the legal perspective and propose solutions, in order to provide a valuable reference for our legislation and judicature.

Keywords: pig-butcher scam, criminal law, network fraud.

1. Introduction

With the development of modern technology, network information is widely used, which brings great convenience to people's lives. However, at the same time, in order to carry out fraud, some criminal gangs use the Internet as the medium, through SMS, WeChat, shopping software, and other ways to send misleading, false information to specific groups, defraud the trust of victims, to obtain property, carry out a wide range of crowd fraud, to cause significant damage to social stability and the rights and interests of victims. Network fraud often has the characteristics of low crime cost, large amount of money, and strong concealment, so it has become the target of fraud crime in recent years. Even so, driven by huge interests, there are still many opportunistic criminals through the combination of traditional telecom fraud and information technology to change the criminal means of fraud; under this phenomenon, the "pig-butcher scam" type of network fraud came into being [1].

Unlike traditional network fraud, "pig-killing" network fraud, as a new form of network fraud in recent years, has caused great damage to social order. Its purpose is to carry out fraud through a variety of forms, such as carefully planned dating traps and false investment, gambling projects, the packaging of false images to obtain the trust of the victim, deceiving the victim to invest much money, and finally achieve the purpose of illegal wealth, complete the fraud. This form of fraud not only makes the victim's property suffer losses but also makes the victim's emotional and spiritual world suffer great trauma and causes serious harm to social stability.

Therefore, this study will analyze the "pig-butchering scam" type of network fraud from the legal level, which has important practical significance and legal value.

2. The Reasons, Operation Process, and Characteristics of the High Incidence of “Pig-Butchering Scam” Online Fraud

2.1. Causes of High Incidence

2.1.1. Easy Leakage of Personal Privacy

With the development of information technology, citizens' privacy and security are under threat. In addition to the need for citizens to enhance their awareness of personal privacy protection, some third-party platforms, driven by profit, resell customer data, such as phone numbers, names, and family information, across different platforms. This leads to the leakage of personal information, allowing criminals to preliminarily target individuals for fraud and enabling the execution of further fraudulent activities.

2.1.2. Fast Update Speed of Crime Mode

Traditional network fraud through virtual accounts to carry out "batch fraud"; fraud time is short, easy to be identified and disguised. As China's efforts to crack down on telecom network fraud have increased in recent years, criminals have continuously innovated technologies in order to defraud money, such as the emergence of new fraud methods such as "pig-butchering scam" type network fraud, using information networks to obtain personal information accurately, screening cheated objects, using intelligent technology AI to change faces, change voices and other new technologies. Criminals create an emotional connection with the victim through the avatar packaging to carry out the next step of the fraud.

2.1.3. Difficulty in Eliminating the Source

As China's crackdown on telecom network fraud crimes has intensified in recent years, criminal organizations have chosen to set their dens overseas in order to escape legal sanctions, which is not conducive to the country's first time to crack down. "pig-butchering scam" type of cybercrime is primarily cross-border crime, its equipment and servers are located overseas, the organization's internal high-level and bottom are linked, the composition is complex, difficult to accurately locate, increase the difficulty of investigation and detection, can not eliminate the cybercrime from the source.

2.2. Operation Process

"Pig-butchering scam" network fraud usually follows the three steps of "pig hunting - pig raising - pig killing." The so-called pig hunt refers to fraudsters using platforms such as marriage dating sites to search and purchase a large number of users' personal information, including an ID number, address, contact information, and economic status, from which to screen out easily deceived target groups for the next step of fraud, mainly middle-aged single or marriage is not smooth, there is a particular economic foundation and vital emotional needs of the crowd. After targeting the fraudsters, the next step is to raise pigs. Pig raising means adding victims as friends through social software such as WeChat and QQ, using the obtained personal information to accurately package, build false identities and images, and gradually establish a relationship of trust so that victims can relax their vigilance. After the first two steps have been prepared, the final step is to kill the pig. After gaining the complete trust of the victim, the fraudsters began to carry out fraud. In the early stage, small investments or loans may be used as bait to lure victims to taste the sweetness. Criminals gradually increase the chips,

luring victims into investing vast amounts of money in gambling websites or fake investment platforms. Once the victim is deeply involved, the fraudsters quickly withdraw, shut down the platform, and flee with the money. If the fraud is attempted, delete or block the victim directly and move on to the next target [2].

2.3. Operation Characteristics

With the continuous innovation of Internet fraud methods, compared with other Internet fraud methods, the characteristics of this form of fraud have become more distinct. First of all, "pig-butcher scam" network fraud targets accurate targets; compared to the traditional network fraud strategy, "pig-butcher scam" pays more attention to the precise positioning of specific groups, its population selection is generally middle-aged single or marriage is not good group, these people due to strong emotional needs, easy to trust and rely on criminals through virtual packaging and chat. At the same time, the economic level of this group of people is better, the amount of fraud is larger, and it has become the preferred target of fraudsters. Secondly, compared with traditional Internet fraud, "pig-butcher scam" Internet fraud often has a long cycle, and the fraud process often lasts a longer time, usually ranging from 15 days to 30 days, or even longer. Fraudsters need to gradually disintegrate the victim's psychological defense line through long-term emotional investment and interaction, establish a deep foundation of trust, and finally succeed in fraud, so it is different from traditional Internet fraud to quickly obtain the victim's property in a short period of time. At the same time, concealment fraud, usually in the guise of friends and marriage, fraudsters in the early stage disguise cover up the real purpose. Even if the fraud fails, it can quickly get away because it does not take direct face-to-face fraud but remote manipulation with modern network technology, so the relevant information of the fraud party is less, increasing the difficulty of detection. In addition, the virtual nature of Internet fraud also provides a natural hidden barrier. Finally, teamwork, technology, and cross-border is also a major feature of this type of fraud, such fraud is often carried out by well-organized criminal gangs with a clear division of labor, the use of high-tech means to steal information, identity camouflage, and fund transfer, and criminal activities often involve cross-border operations, which brings great challenges to the fight [3].

3. China's Current Legal System Under the "Pig-Butcher Scam" Type of Network Fraud Crime

3.1. Current Legal System

3.1.1. Current Coping Mechanism

Combined with the relevant legal search and the analysis of past cases, the majority of the charges of network fraud crimes are determined on the basis of criminal law Article 266 and Section 5 of the third chapter of the Criminal Law; that is, the charges of fraud. In specific practice, more rigorous and detailed relevant normative legal documents have not yet been formulated, and the crime of Internet fraud has not existed as a separate crime. Similarly, all kinds of new fraud models derived from it, such as "pig-butcher scams," also do not have corresponding criminal law legal norms. Although there are clear provisions on the crime of fraud in Article 266 of the Criminal Law, the legal provisions may be more general and not detailed enough for the particularity of this new criminal form of telecom fraud. In practice, for some new fraud methods, there will be certain difficulties in the application of the law. With the continuous high incidence of cross-border telecom network fraud, the emphasis on judicial interpretation and legal norms has also been strengthened. According to the issued "Notice on Preventing and Combating Telecommunications Network Fraud Crimes", "Opinions on the Application of Law and other issues in Handling Telecommunications Network

Fraud and other Criminal Cases" (hereinafter referred to as the "Opinions"), the jurisdiction provisions of the case, the identification of cross-border electricity fraud crimes, and the corresponding identification of related crimes have been improved and emphasized, but some provisions still need to be detailed. It is easy to cause the problem of excessive trial discretion, which eventually leads to the difference in conviction and sentencing in different network fraud cases. To sum up, in the theoretical research of the current legal system, there is no specific judicial interpretation and legal norms for the crime of network fraud. In judicial practice, the conviction of the crime of telecom network fraud is dominated by the crime of fraud, and there is no certain standard in conviction and sentencing [4].

3.2. Dilemma of Existing Relevant Laws and Regulations

3.2.1. Incompleteness of Conviction

Due to the continuous innovation in telecom network fraud methods, new types of network fraud crimes are constantly emerging. For example, in "pig-butcher" scams, the internal personnel have a clear division of labor, carrying out different criminal acts based on the type of scam. This results in a mix of criminal characteristics and overlaps in various offenses. In the specific cases of practice, due to the variety of fraud means and the large type distinction of "pig-butcher scam" type network fraud, it also reflects its integration in conviction. For different forms of fraud, there will be a variety of charges, and in practice, according to the principle of imaginary competition and alternative felony punishment, it is often convicted of a single charge such as "casino crime," "fraud," or "civil fraud." In the judicial trial, the behavior characteristics of the "pig-butcher scam" type network fraud cases and the behavior structure of the charge identification are ignored, and the joint criminal relationship of the members with the characteristics of organized crime is not reflected [5]. As a result, the standards for conviction and determination of such crimes need to be clarified, which makes the case biased in the final handling and sentencing.

3.2.2. Sentencing to Be Unified

Due to the frequent occurrence of telecom network fraud crimes in recent years, affected by regional economic development, the number of such crime cases is also different among regions, and the sentencing of network fraud crimes in some areas with a high incidence of cases is somewhat different from that in areas with fewer such cases. In order to avoid the limitations brought about by different local sentencing standards, in the "Opinions" for the telecommunications network fraud crime in the "large amount," "huge amount," and "especially huge amount" standards, set up a national unified standard, that is the property obtained by fraud to reach more than 3,000 yuan, more than 30,000 yuan, and more than 500,000 yuan as the basis for definition. However, in terms of the specific sentencing standards and rules, the Opinions have not been unified as the sentencing starting point is the same, but the fraud amount standard for the increase in prison sentence has not been unified, resulting in local courts still needing to decide according to the sentencing guidelines for fraud in their respective provinces, resulting in differences in sentencing. At the same time, in addition to the evaluation of the amount of fraud, the sentencing process of telecom network fraud should also comprehensively consider the number of frauds, duration, number of victims, and other factors, as for the weight of various factors in criminal law sentencing, the judicial practice has not made a unified standard. Still, the amount of fraud as the main basis for criminal responsibility, affecting the justice and efficiency of judicial judgment [6].

3.2.3. Unpursuable Crimes

First, the "pig-butcher scam" type of network fraud is mostly gang-type organized crime, the criminal personnel structure is close, and most of the criminal organizations we detected are the bottom line, but the organization itself is not much damage, and the symptoms do not cure the root cause. At the same time, the "killing pig plate" type of network fraud itself belongs to the updated product of network fraud, which means under the rapid development of information technology and has the characteristics of flexible operation and low cost. The perpetrators of the "pig-butcher scam" only need to fabricate virtual images in accordance with the script designed in advance, illegally purchase identity information, invest a certain time cost, and commit fraud against multiple criminal objects in a period of time, and can obtain huge criminal proceeds [7]. Therefore, even if criminals are punished at the legal level, while the root of criminal organizations still exists, criminals will constantly update their fraud methods and routines, resulting in more criminal forms of online fraud, which is not conducive to the legislative and judicial levels of crime suppression. Second, because the "pig-butcher scam" type of network fraud has the characteristics of using information technology network remote manipulation and does not directly contact the victim, in addition to using the victim's psychology to generate trust and dependence, the means are often the use of virtual Internet IP or behind the operation of the server for large amounts of fraud. Therefore, the victim's understanding of the identity information of the criminal is very limited, and it is impossible for the public security organs to carry out tracking and precise strikes, and it is easy for the criminals to continue to be at large with a lucky mind [8].

4. Prevention and Control Measures for the "Pig-Butcher Scam" Type Network Fraud Crime

4.1. Prevention and Control Measures Proposed for the Characteristics of the Crime of "Pig-Butcher Scam"

The "pig-butcher scam" type of network fraud is often tightly organized and interlinked. Generally, to accurately locate the victim, virtual identity packaging to obtain the victim's trust is the premise of fraud, so it should be prevented from the source to stop such fraud.

First of all, people should pay attention to the protection of personal privacy; the state at the legislative level should protect the privacy of citizens while strengthening the supervision of various third-party platforms to avoid the abuse of the dissemination of customer information, allowing criminals to take advantage of it [9].

Secondly, the "pig-butcher scam" type of network fraud organizations are located overseas, this kind of cross-border crime requires close cooperation between countries; China needs to strengthen cooperation with overseas law enforcement departments, improve prevention awareness and combat efforts, and cut off the criminal path from the source.

Finally, in order to cope with the rapidly updated means of fraud in the information age, anti-fraud and prevention research should be strengthened, information network technology should be continuously improved, and criminals should be targeted by high-tech modern means to improve judicial efficiency and realize technological crime blocking [10].

4.2. Prevention and Control Measures Proposed to Address the Difficulties in Criminalization

In judicial practice, the way of dealing with telecom fraud is often adapted to the crime of fraud, and punishment is carried out in the name of fraud. The author thinks that, due to the rapid development of information technology networks, telecom network fraud is emerging endlessly; people should set

up a separate charge for telecom fraud. However, there is some controversy in the legal field about whether a separate charge of telecom fraud should be set up. The author believes that combined with the analysis of existing cases, some criminals do not get due legal treatment, often due to unclear convictions, because the specific behavior of fraud is often different from that of telecom fraud. The classification of telecom fraud cases as fraud crimes will cause the final sentencing determination to be biased so that criminals can not get due punishment. Therefore, the establishment of a separate charge of telecom fraud can effectively improve the current legal system, incorporate the circumstances of telecom fraud into the legal evaluation system, accurately locate the types of charges that should be adapted to different telecom fraud means, and set up corresponding punishment measures according to the characteristics of their cases, different criminal acts and the severity of the situation, in line with the criminal law principle of matching crime, responsibility, and punishment. It can effectively solve the problem of telecom fraud conviction under the current legal mechanism and improve the judicial and legislative systems in order to cope with the rapid update of fraud methods [11].

4.3. Prevention and Control Measures Proposed for Difficult Problems in Sentencing

First of all, the specific sentencing rules should be unified and standardized, and on the basis of not violating the principle of jurisdiction, the sentencing standards should be referenced and formulated in combination with the case-prone areas so as to avoid excessive sentencing differences between regions and give criminals an opportunity to take advantage of them. The factors considered in sentencing should be more comprehensive because the "pig-butcher scam" type of network fraud has the characteristics of organization and diversity, the division of labor and cooperation among the criminal members, and the behavior involves a variety of types of crimes. In terms of sentencing standards, in addition to considering the amount of fraud, the number of victims, the severity of fraud means, the duration of fraud, and other factors should be considered to achieve fairness and justice in judicial trials.

Secondly, should increase the penalties for telecommunications network fraud crime; for example, according to criminal law, if the suspected fraud amount is particularly huge or there are other particularly serious circumstances, the law will be sentenced to more than ten years of imprisonment or life imprisonment, for telecommunications network fraud crime in judicial practice, the court verdict is more than ten years of imprisonment, In order to distinguish the different types of crimes of Internet fraud in judicial and legislative levels, the personal restriction penalty of individual serious Internet fraud crimes should be increased to achieve the deterrent effect of law and reduce the number of Internet fraud crimes [4].

5. Conclusion

The "pig-killing" type of network crime is a product derived from the change of traditional network fraud in the age of information technology. As a new means of fraud, it has distinct criminal characteristics and serious social harm, so it is of great significance to analyze it deeply and take corresponding countermeasures from the legal perspective. In recent years, although China has continuously improved prevention awareness and put forward a series of legal documents to prevent network fraud, there is still room for thinking about specific conviction and sentencing standards. On the one hand, the speed of innovation of online fraud methods is too fast, and new types of fraud, similar to killing pig plates, emerge endlessly. Achieving accurate and full coverage at the judicial and legislative levels is difficult.

On the other hand, it still takes time and judicial practice to realize the unified standard of conviction and sentencing in various places. All in all, in order to accurately crackdown on "pig-

killing" type online fraud, it is necessary to conduct an in-depth analysis from the legal perspective, start from the characteristics of its crime, and realize the comprehensive application of the construction of laws and regulations under the current legal mechanism, unified standards for conviction and sentencing, strengthening supervision and crackdown, improving judicial relief mechanisms, and strengthening social publicity, to reduce the number of such crimes effectively. Achieve national cyberspace security.

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