White-Collar Crime

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Detection, Prevention and Strategy in Business Enterprises

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INTRODUCTION

The term white-collar crime expresses different concepts depending on perspective and context. In this book, white-collar crime is defined as financial crime committed by white-collar criminals. Thus, the definition includes characteristics of the crime as well as the criminal. Financial crime generally describes a variety of crimes against property, involving the unlawful conversion of property belonging to another to one's own personal use and benefit, more often than not involving fraud but also bribery, corruption, money laundering, embezzlement, insider trading, tax violations, cyber attacks and the like (Henning, 2009). Criminal gain for personal benefit seems to be one of the core characteristics of financial crime.

White-collar crime such as fraud, theft and corruption occur within business companies (Acquaah-Gaisie, 2000; Toner, 2009). Company board and top management are responsible for preventing such crime (Aldama et al., 2009; Baer, 2008) as well as avoiding becoming involved themselves.

The purpose of this book is to generate insights into the global phenomena white-collar crime and present results from an empirical study of major business organizations in Norway. Survey research was applied to find empirical answers to questions such as: The occupants of what roles in the organizations are most likely to commit white-collar crime? What is the probability of various crime types being committed? What are the consequences of various crime types? We explore issues such as capacity, opportunity, and motivation.

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White-Collar Crime and Criminals

The most economically disadvantaged members of society are not the only ones committing crime. Members of the privileged socioeconomic class are also engaged in criminal behavior. The types of crime may differ from those of the lower classes, such as lawyers helping criminal clients launder their money, executives bribe public officials to achieve public contracts, or accountants manipulating balance sheet to avoid taxes. Another important difference between the two offenders is that the elite criminal is much less likely to be apprehended or punished due to his or her social status (Brightman, 2009).

Definitions of White-Collar Criminals

Edwin Sutherland introduced the concept of "white-collar" crime in 1939. According to Brightman (2009), Sutherland's theory was controversial, particularly since many of the academicians in the audience perceived themselves to be members of the upper echelon of American society. Despite his critics, Sutherland's theory of white-collar criminality served as the catalyst for an area of research that continues today. In particular differential association theory proposes that a person associating with individuals who have deviant or unlawful mores, values, and norms learns criminal behavior. Certain characteristics play a key role in placing individuals in a position to behave unlawfully, including the proposition that criminal behavior is learned through interaction with other persons in the upper echelon, as well as interaction occurring in small intimate groups (Hansen, 2009).

In contrast to Sutherland, Brightman (2009) differs slightly regarding the definition of white-collar crime. While societal status may still determine access to wealth and property, he argues that the term white-collar crime should be broader in scope and include virtually any non-violent act committed for financial gain, regardless of one's social status. For example, access to technology, such as personal computers and the Internet, now allows individuals from all social classes to buy and sell stocks or engage in similar activities that were once the bastion of the financial elite.

In Sutherland's definition of white-collar crime, a white-collar criminal is a person of respectability and high social status who commits crime in the course of his occupation. This excludes many crimes of the upper class, such as most of their cases of murder, adultery, and intoxication, since these are not customarily a part of their procedures (Benson and Simpson, 2009). It also excludes lower class criminals committing financial crime, as pointed out by Brightman (2009).

What Sutherland meant by respectable and high social status individuals are not quite clear, but in today's business world we can assume he meant to refer to business managers and executives. They are for the most part individuals with power and influence that is associated with respectability and high social status. Part of the standard view of white-collar offenders is that they are mainstream, law-abiding individuals. They are assumed to be irregular offenders, not people who engage in crime on a regular basis (Benson and Simpson, 2009: 39):

> Unlike the run-of-the-mill common street criminal who usually has had repeated contacts with the criminal justice system, white-collar offenders are thought not to have prior criminal records.

When white-collar criminals appear before their sentencing judges, they can correctly claim to be first-time offenders. They are wealthy, highly educated, and socially connected. They are elite individuals, according to the description and attitudes of white-collar criminals as suggested by Sutherland.

Therefore, very few white-collar criminals are put on trial, and even fewer upper class criminals are sentenced to imprisonment.

This is in contrast to most financial crime sentences, where financial criminals appear in the justice system without being wealthy, highly educated, or socially connected.

White-collar criminals are not entrenched in criminal lifestyles as common street criminals. They belong to the elite in society, and they are typically individuals employed by and in legitimate organizations. According to Hansen (2009), individuals or groups commit occupational or elite crime for their own purposes or enrichment, rather than for the enrichment of the organization on a whole, in spite of supposed corporate loyalty.

Bookman (2008) regard Sutherland's definition as too restrictive and suggest that white-collar crime is an illegal act committed by nonphysical means and by concealment or guile, to obtain money or property, to avoid payment or loss of money or property, or to obtain business or personal advantage. Furthermore, scholars have attempted to separate white-collar crime into two types: occupational and corporate. Largely individuals or small groups in connection with their jobs commit occupational crime. It includes embezzling from an employer, theft of merchandise, income tax evasion, and manipulation of sales, fraud, and violations in the sale of securities. Corporate crime, on the other hand, is enacted by collectivities or aggregates of discrete individuals.

Pickett and Pickett (2002) use the terms financial crime, white-collar crime, and fraud interchangeably. They define white-collar crime as the use of deception for illegal gain, normally involving breach of trust, and some concealment of the true nature of the activities. White-collar crime is often defined as crime against property, involving the unlawful conversion of property belonging to another to one's own personal use and benefit. Financial crime is profit-driven crime to gain access to and control over property that belonged to someone else.

Bucy et al. (2008) argue that white-collar crime refers to non-violent, business-related violations of state and/or federal criminal statues, and they make a distinction between "leaders" and "followers" in white-collar crime.

White-collar crime can be defined in terms of the offense, the offender or both. If white-collar crime is defined in terms of the offense, it means crime against property for personal or organizational gain. It is a property crime committed by non-physical means and by concealment or deception (Benson and Simpson, 2009). If white-collar crime is defined in terms of the offender, it means crime committed by upper class members of society for personal or organizational gain. It is individuals who are wealthy, highly educated, and socially connected, and they are typically employed by and in legitimate organizations (Hansen, 2009).

Characteristics of White-Collar Crime

White-collar crime is a broad concept that covers all illegal behavior that takes advantage of positions of professional authority and power as well as opportunity structures available within business for personal and corporate gain (Kempa, 2010: 252):

> Crimes such as embezzlement, fraud and insider trading, one hand, and market manipulation, profit exaggeration, and product misrepresentation on the other, add up to a massive criminal domain.

If white-collar crime is defined in terms of both perspectives mentioned above, white-collar crime has the following characteristics:

- White-collar crime is crime against property for personal or organizational gain, which is committed by non-physical means and by concealment or deception. It is deceitful, it is intentional, it breaches trust, and it involves losses.
- White-collar criminals are individuals who are wealthy, highly educated, and socially connected, and they are typically employed by and in legitimate organization. They are persons of respectability and high social status who commit crime in the course of their occupation.

In this book, we apply this definition of white-collar crime, where both characteristics of offense and offender identify the crime. Therefore, white-collar crime is only a subset of financial crime in our perspective: White-collar crime is violation of the law committed by one holding a position of respect and authority in the community who uses his or her legitimate occupation to commit financial crime (Eicher, 2009).

White-collar crime contains several clear components (Pickett and Pickett, 2002):

- *It is deceitful.* People involved in white-collar crime tend to cheat, lie, conceal, and manipulate the truth.

- *It is intentional.* Fraud does not result from simple error or neglect but involves purposeful attempts to illegally gain an advantage. As such, it induces a course of action that is predetermined in advance by the perpetrator.
- *It breaches trust.* Business is based primarily on trust. Individual relationships and commitments are geared toward the respective responsibilities of all parties involved. Mutual trust is the glue that binds these relationships together, and it is this trust that is breached when someone tries to defraud another person or business.
- *It involves losses.* Financial crime is based on attempting to secure an illegal gain or advantage and for this to happen there must be a victim. There must also be a degree of loss or disadvantage. These losses may be written off or insured against or simply accepted. White-collar crime nonetheless constitutes a drain on national resources.
- *It may be concealed.* One feature of financial crime is that it may remain hidden indefinitely. Reality and appearance may not necessarily coincide. Therefore, every business transaction, contract, payment, or agreement may be altered or suppressed to give the appearance of regularity. Spreadsheets, statements, and sets of accounts cannot always be accepted at face value; this is how some frauds continue undetected for years.
- *There may be an appearance of outward respectability.* Fraud may be perpetrated by persons who appear to be respectable and professional members of society, and may even be employed by the victim.

PricewaterhouseCoopers is a consulting firm conducting biennial global economic crime surveys. The 2007 economic crime study reveals that many things remain the same: globally, economic crime remains a persistent and intractable problem from which US companies are not immune as over 50% of US companies were affected by it in the past two years.

Percentage of companies reporting suffering actual incidents of fraud according to PwC (2007) were:

- 75% suffered asset misappropriation
- 36% suffered accounting fraud
- 23% suffered intellectual property infringement

- 14% suffered corruption and bribery
- 12% suffered money laundering

Categorization of Business Crime

White-collar crime can be classified into categories as illustrated in Figure 1. There are two dimensions in the table. First, a distinction is made between leader and follower. This distinction supported by Bucy et al. (2008), who found that motives for leaders are different from follower motives. Compared to the view that leaders engage in white-collar crime because of greed, followers are non-assertive, weak people who trail behind someone else, even into criminal schemes. Followers may be convinced of the rightness of their cause, and they believe that no harm can come to them because they are following a leader whom they trust or fear. Followers tend to be naive and unaware of what is really happening, or they are simply taken in by the personal charisma of the leader and are intensely loyal to that person.

Next, a distinction is made between occupational crime and corporate crime in Figure 1. Largely individuals or small groups in connection with their jobs commit occupational crime. It includes embezzling from an employer, theft of merchandise, income tax evasion, and manipulation of sales, fraud, and violations in the sale of securities (Bookman, 2008). Occupational crime is sometimes labeled elite crime Hansen (2009) argues that the problem with occupational crime is that it is committed within the confines of positions of trust and in organizations, which prohibits surveillance and accountability. Heath (2008) found that the bigger and more severe occupational crime tends to be committed by individuals who are further up the chain of command in the firm.

Corporate crime, on the other hand, is enacted by collectivities or aggregates of discrete individuals. If a corporate official violates the law in acting for the corporation it is considered a corporate crime as well. But if he or she gains personal benefit in the commission of a crime against the corporation, it is occupational crime. A corporation cannot be jailed, and therefore, the majority of penalties to control individual violators are not available for corporations and corporate crime (Bookman, 2008).

In legal terms, a corporation is an unnatural person (Robson, 2010: 109):

Role / Actor	Leader	Follower
Occupational	Occupational crime as leader	Occupational crime as follower
Corporate	Corporate crime as leader	Corporate crime as follower

Figure 1. Categories of white-collar crime depending on role and actor

> Corporate personality functions between an insentient, inanimate object and a direct manifestation of the acts and intentions of its managers. Nowhere is this duality more problematic than in the application of traditional concepts of criminal law to business organizations. The question of whether business organizations can be criminally liable - and if so, the parameters of such liability - has long been the subject of scholarly debate. Whatever the merits of such debate, however, pragmatic considerations have led courts and legislatures to expand the panoply of corporate crime in order to deter conduct ranging from reprehensible, to undesirable, to merely annoying. In the context of organizational behavior, criminal law is the ultimate deterrent.

Corporations become victims of crime when they suffer a loss as a result of an offense committed by a third party, including employees and managers. Corporations become perpetrators of crime when managers or employees commit financial crime within the context of a legal organization. According to Garoupa (2007), corporations can more easily corrupt enforcers, regulators and judges, as compared to individuals. Corporations are better organized, are wealthier and benefit from economies of scale in corruption. Corporations are better placed to manipulate politicians and the media. By making use of large grants, generous campaign contributions and influential lobbying organizations, they may push law changes and legal reforms that benefit their illegal activities.

Occupational crime is typically motivated by greed, where white-collar criminals seek to enrich themselves personally. Similarly, firms engage in corporate crime to improve their financial performance. Employees break the law in ways that enhance the profits of the firm, but which may generate very little or no personal benefit for themselves when committing corporate crime (Heath, 2008: 600):

> There is an important difference, for instance, between the crimes committed at Enron by Andrew Fastow, who secretly enriched himself at the expense of the firm, and those committed by Kenneth Lay and Jeffrey Skilling, who for the most part acted in ways that enriched the firm, and themselves only indirectly (via high stock price).

While legal corporations may commit business crime, illegal organizations are in the business of committing crime. Garoupa (2007) emphasized the following differences between organized crime and business crime (i) organized crime is carried out by illegal firms (with no legal status), the criminal market being their primary market and legitimate markets secondary markets, (ii) corporate crime is carried out by legal firms (with legal status), the legitimate market being their primary market and the criminal market their secondary market. Whereas organized crime exists to capitalize on criminal rents and illegal activities, corporations do not exist to violate the law. Organized crime gets into legitimate markets in order to improve its standing on the criminal market, while corporations violate the law so as to improve their standing on legitimate markets.

Criminal opportunities are now recognized as an important cause of all crime. Without an opportunity, there cannot be a crime. Opportunities are important causes of white-collar crime, where the opportunity structures may be different from those of other kinds of crime. These differences create special difficulties for control, but they also provide new openings for control (Benson and Simpson, 2009).

While occupational crime is associated with bad apples, corporate crime is associated with systems failure. Bad apples theory represents an individualistic approach in criminology, while systems failure theory represents a business approach in criminology (Heath, 2008: 601):

> If the individualistic approach were correct, then one would expect to find a fairly random distribution of white collar crime throughout various sectors of the economy, depending upon where individuals suffering from poor character or excess greed wound up

> working. Yet, what one finds instead are very high concentrations of criminal activity in particular sectors of the economy. Furthermore, these pockets of crime often persist quite stubbornly over time, despite a complete changeover in the personnel involved.

It is certainly an interesting issue whether to view white-collar misconduct and crime as acts of individuals perceived as 'rotten apples' or as an indication of systems failure in the company, the industry or the society as a whole. The perspective of occupational crime is favoring the individualistic model of deviance, which is a human failure model of misconduct and crime. This rotten apple view of white-collar crime is a comfortable perspective to adopt for business organizations as it allows them to look no further than suspect individuals. It is only when other forms of group (O'Connor, 2005) and/or systemic (Punch, 2003) corruption and other kinds of crime erupt upon a business enterprise that a more critical look is taken of white-collar criminality. Furthermore, when serious misconduct occurs and is repeated, there seems to be a tendency to consider crime as a result of bad practice, lack of resources or mismanagement, rather than acts of criminals.

The 'rotten apple' metaphor has been extended to include the group level view of cultural deviance in organizations with a 'rotten barrel' metaphor (O'Connor, 2005). Furthermore, Punch (2003) has pushed the notion of 'rotten orchards' to highlight deviance at the systemic level. Punch (2003:172) notes, "the metaphor of 'rotten orchards' indicate(s) that it is sometimes not the apple, or even the barrel, that is rotten but the *system* (or significant parts of the system)".

Including rotten apple and rotten barrel in Figure 2 expands Figure 1.

White-collar crime involves some form of social deviance and represents a breakdown in social order. According to Heath (2008), white-collar criminals tend to apply techniques of neutralization used by offenders to deny the criminality of their actions. Examples of neutralization techniques are (a) denial of responsibility, (b) denial of injury, (c) denial of the victim, (d) condemnation of the condemners, (e) appeal to higher loyalties, (f) everyone else is doing it, and (g) claim to entitlement. The offender may claim an entitlement to act as he did, either because he was subject to a moral obligation, or because of some misdeed perpetrated by the victim. These excuses are applied both for occupational crime and for corporate crime at both the rotten apple level and the rotten barrel level.

Actor \ Role		Leader	Follower
Occupational		Occupational apple leader	Occupational apple follower
		Occupational barrel leader	Occupational barrel follower
Corporate	Rotten apple	Corporate apple leader	Corporate apple follower
	Rotten barrel	Corporate barrel leader	Corporate barrel follower

Figure 2. Categories of white-collar crime depending on role, actor and level

Variety of White-Collar Crime

Miri-Lavassani et al. (2009) found that identity fraud is the fastest growing white-collar crime in many countries, especially in developed countries. In 2008, the number of identity fraud victims increased by 22 percent to 9.9 million victims.

Bank fraud is a criminal offence of knowingly executing a scheme to defraud a financial institution. For example in China, bank fraud is expected to increase both in complexity and in quantity as criminals keep upgrading their fraud methods and techniques. Owing to the strong penal emphasis of Chinese criminal law, harsh punishment including death penalty and life imprisonment has been used frequently for serious bank fraud and corruption. Cheng and Ma (2009) found, however, that the harshness of the law has not resulted in making the struggle against criminals more effective. The uncertain law and inconsistent enforcement practices have made offenders more fatalistic about the matter, simply hoping they will not be the unlucky ones to get caught.

Fraud is generally defined as the procurement of a private asset or means of advantage through deception or through the neglect of care for the interests of an asset required by duty. In particular, fraud includes heterogeneous forms such as misappropriation, balance manipulation, insolvency, and capital investment fraud (Füss and Hecker, 2008).

Corruption might be defined as the misuse of entrusted authority for personal benefit. Business corruption is defined by the involvement of private companies, and is usually motivated by corporate profits. Søreide (2006) suggests that in contrast to the term 'political corruption' or the term 'petty corruption', where we focus on the interests of politicians or civil servant, we usually emphasize the perspective and the interests of the bribers when applying the term business corruption.

The problem of business corruption can be exemplified by a number of scandals. An example is Exxon Mobile in Kazakhstan, where payments were made to Kazakh officials to obtain a share in the Karachaganak oil and gas field. Another example is the Lesotho Dam project, in which eight international construction companies were charged with bribery after they allegedly paid bribes to win contracts for a large dam project. Yet another example is the Titan Corporation's unofficial payments to the President of Benin to get important business advantages (Søreide, 2006).

Micro and Macro Views of Corruption

We are most accustomed to thinking about corrupt behavior in organizations primarily in micro level terms. Ashforth et al. (2008) argue that it is comforting to assume that one bad apple or renegade faction within an organization is somewhat responsible for the corruption we too often observe. However, organizations are important to our understanding of corruption, because they influence the actions of their members. Therefore, both micro and macro views are important to understand corruption.

Pinto et al. (2008) applied both views in their study of corruption. They focused on two fundamental dimensions of corruption in organizations: (1) whether the individual or the organization is the beneficiary of the corrupt activity and (2) whether the corrupt behavior is undertaken by an individual actor or by two or more actors.

To enable a better understanding of the similarities, distinctions, frictions, and complementarities among corruption control types and to lay the groundwork for future study of their effectiveness in combination, Lange (2008) set forth a theoretical basis for considering a corruption control type in the context of other corruption control types.

Pfarrer et al. (2008) proposed a four-stage model of the organizational actions that potentially increase the speed and likelihood that an organization will restore its legitimacy with stakeholders following a transgression.

Misangyi et al. (2008) draw from theories of institutions and collective identities to present a threefold framework of institutional change - involving institutional logics, resources, and social actors - that furthers our understanding of the mitigation of corruption.

Corruption tends to have a deep impact on business corporations, business industries and society as a whole. Corruption has an important economic as well as social impact. Dion (2010) described corruption from three basic viewpoints: the structural perspective, the social-normative perspective, and the organizational-normative perspective. In the structural perspective, corruption is a local and domestic issue, so that the best ways to get rid of it is to have stronger laws and regulations. In the social-normative perspective, corruption is common wherever most of the people have dishonest practices and customs. Corruption is not perceived as an immoral behavior, since it has been socially institutionalized and tolerated by political authorities. In the organizational-normative perspective, corruption is dependent on organizational norms of behavior and may take on three different forms, i.e. procedural corruption, schematic corruption, and categorical corruption.

Collins et al. (2009) studied why firms engage in corruption in India. Building on a survey of 341 executives in India, they found that if executives have social ties with government officials, their firms are more likely to engage in corruption. Also, these executives are likely to reason that engaging in corruption is a necessity for being competitive.

Research Design for Empirical Study

The five hundred and seventeen largest business companies in terms of annual turnover were identified in Norway for our empirical study of white-collar crime. A letter was mailed to the chief financial officer asking him or her to fill in the questionnaire to be found on a web site using a password found in the letter. The research was carried out by a web-based questionnaire combined with a letter to the largest business organizations in Norway.

65 respondents filled in the questionnaire after the first letter, 45 responses were received after a reminder, and another 31 responses were received after a second reminder. Thus, a total of 141 complete responses were received. 141 complete responses out of 517 potential responses represent a response rate of 27 percent. In addition, 36 incomplete responses were received, creating a gross response rate of

34 percent. The survey web site was open to responses from January to April in 2010.

Separate analysis was conducted on the first set of responses, then the second set, and finally the third set included. This analysis shows few changes in results when moving from 65 via 110 to 141 responses. Thus, the analysis suggests that non-respondents might have provided similar responses to actual respondents.

The average number of employees in the 141 business organizations with complete answers was 1.719 persons. The largest responding firm in terms of employees had 30.000 persons i their staff.

Respondents were asked to type in their current position, even though the letter was specifically mailed to the top executive in charge of finance often called chief financial officer (CFO). Most of the respondents were indeed CFOs, but some were CEOs, corporate controllers, managers of finance, and chief group controllers.

The average age among respondents was 48 years among the first 65 responses, and they had 4.4 years of college and university education on average. The average age decreased to 46 years when the first reminder responses arrived, while the average education increased to 4.8 years. There were 91 men and 19 women responding after the first reminding letter. After two remainders there were 116 male and 24 female chief financial officers in the sample.

The average age remained at 46 years after receipt of the final 31 responses, while average education continued to increase to 5.1 years. There were 117 men and 24 women among the total 141 respondents. The only change, therefore, seems to indicate that higher educated persons tend to respond more frequently after reminders.

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EXECUTIVE KNOWLEDGE OF WHITE-COLLAR CRIME

The purpose of this chapter is to create insights into executives' knowledge of white-collar crime in business organizations. That involves mapping their perceptions of magnitude, attitude, risks and offenders. In terms of risk, respondents suggest that probability of white-collar crime is low, while consequences when occurring are substantial. Most likely position category for white-collar crime is a purchasing manager in charge of procurement, followed by a marketing manager, and a person in executive management. It is argued that internal and external control authorities need to focus less on routines and regulations and more on persons in vulnerable positions.

Both descriptive statistics as well as correlation analysis in this chapter provide new insights into the extent of white-collar crime, as well as attitudes, risks and vulnerable positions for white-collar crime. Concerning executives own knowledge, they claim to be more competent in discovering white-collar crime than investigating such crime. They also claim an increased police competence. Survey research was applied to find empirical answers to questions such as: The occupants of what roles and positions in the organizations are most likely to commit white-collar crime? What is the probability of various crime types being committed? What are the consequences of various crime types?