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## **Private investigations. Suspicion of Financial Crime by White-Collar Criminals**

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### **Abstract**

The article is concerned with private investigations into suspicions of financial crime committed by white-collar criminals. Financial crime is illegal possession of others property, it is crime directed towards values of others for personal or organizational advantage, which is carried out by non-physical means and by manipulating and hiding criminal activities within regular business activities. White-collar criminals are persons who carry out financial crime in the context of their profession. It is individuals who enjoy respect and trust, they have a high social status in society, they occupy important positions in organizations, and they abuse trust and position as offenders. Their financial crime is hidden among legal financial transactions. The author also regards financial crime specialists and fraud examiners who conduct private inquiries into suspicion of white-collar crime. A private investigation is conducted by a variety of private sector financial crime specialists who can be detectives, forensic accountants, psychologists, or lawyers, all of whom may be supported by investigative analysts.

### **Keywords**

White-collar criminals, financial crime, fraud, investigation.

## Introduction

When an organization wants to investigate facts, causes and responsibilities for an incident, the investigation can be carried out by financial crime specialists and fraud examiners.

Fraud examination as intelligence emphasizes the systematic and goal-oriented collection of information that is transformed and analyzed according to a rigid procedure to detect suspects' capacity, dispositions and intentions. The purpose is to improve both prevention and detection of crime. Risk-based techniques can be applied to survey environments and persons in order to collect information on their moves. Intelligence can also be defined as the result of information collection about possible offenses and potential suspects to make conclusions about threats, point out problems and identify criminal activity with an intention to follow the case.

Fraud examination as investigation is systematic and goal-oriented collection of information to confirm or disconfirm that an action is crime and that the actor is a criminal. Investigation is to prepare evidence for court proceedings. An investigation occurs only when something wrong has happened, while

intelligence occurs when something wrong might happen.

Fraud examination as analysis is the process of breaking down a complex material or subject into smaller pieces to improve understanding and insight into the case. Analysis is to create meaning based on data by manipulating, interpreting and reorganizing the structure of collected evidence. To analyze is to ask questions such as what, where, how, who, when, and why. What happened? How did it happen? Why did it happen? Elements of know-what, know-how and know why are created through analysis.

While fraud examination has elements of intelligence, investigation and analysis as we know it from police work, it is something different. For intelligence, something might happen. For investigation, something has happened. For analysis, evidence is to be produced. In fraud examinations, something might happen or something has happened. Fraud examiners do not know when they start their work.

Wikipedia applies the following definition of a private investigator:

A private investigator (often abbreviated to PI and informally called a private eye), a private detective or inquiry agent, is a person who can be hired by individuals or groups to undertake inves-

tigatory law services. Private detectives/investigators often work for attorneys in civil cases. A handful of very skilled private detectives/investigators work with defense attorneys on capital punishment and criminal defense cases. Many work for insurance companies to investigate suspicious claims. Before the advent of no-fault divorce, many private investigators were hired to search out evidence of adultery or other conduct within marriage to establish grounds for a divorce. Despite the lack of legal necessity for such evidence in many jurisdictions, according to press reports collecting evidence of adultery or other "bad behavior" by spouses and partners is still one of the most profitable activities investigators undertake, as the stakes being fought over now are child custody, alimony, or marital property disputes.

Private investigators can also be used to perform due diligence for an investor who may be considering investing money with an investment group, fund manager or other high-risk business or investment venture. This could serve to help the prospective investor avoid being the victim of a fraud or Ponzi scheme. By hiring a licensed and experienced investigator, they could unearth information that the investment is risky and or that the investor has suspicious red flags

in his or her background. This is called investigative due diligence, and is becoming much more prevalent in the 21st century with the public reports of large-scale Ponzi schemes and fraudulent investment vehicles such as Madoff, Stanford, Petters, Rothstein and the hundreds of others reported by the SEC and other law-enforcement agencies.

### **Financial Crime Specialists**

In the UK, the Association of Certified Financial Crime Specialists (ACFS) was created to respond to a growing need for documented, verifiable and certifiable knowledge and skill in the financial crime field and to meet the career development needs of the diverse and growing number of specialists in the private and public sectors who work in this field.

A private investigation is conducted by a variety of private sector financial crime specialists who can be investigators, forensic accountants, or lawyers, all whom may be supported by investigative analysts, who the government usually calls intelligence analysts.

ACFS stresses the importance of the following topics for financial crime specialists:

1. The challenge of financial crime

2. Financial crime overview, commonalities and convergence
3. Money laundering
4. Understanding and preventing fraud
5. Global anti-corruption compliance and enforcement
6. Tax evasion and enforcement
7. Asset recovery
8. Financial crime investigations
9. Interpreting financial documents
10. Money and commodities flow
11. Compliance programs and controls
12. Data security and privacy
13. Ethical responsibility and best practices
14. International agreements and standards

## Fraud Examiners

In the US, the Association of Certified Fraud Examiners (ACFE) was created for similar reasons as the ACFS in the UK. Becoming a certified fraud examiner requires documented academic and professional qualifications. Formal education in the fraud examination field is new and limited<sup>1</sup>. The ACFE website

(www.acfe.com) addresses the needs of ACFE members and also provides free resources to general public<sup>2</sup>. Certified fraud examiners have ample career opportunities, since the CFE certification was created in response to the demand for expertise in fraud prevention and detection<sup>3</sup>.

Perhaps Debbie Cutler was born to be a fraud examiner<sup>4</sup>:

"When I was young, my family referred to me as Perry Mason," she said. "I was a very inquisitive child who wouldn't give up until I got the answers." It was happenstance that led her to combine her natural talents with her accounting degree. "I'd spent 10 years in public accounting performing traditional audit work," Cutler said. "One day a partner invited me to help investigate an accounting malpractice case that included fraud allegations against a U.S. senator. I jumped at the chance, and as it turned out, I loved the work."

1 Wells, J.T. (2003), "The Fraud Examiners", *Journal of Accountancy*, October, pp. 76-80.

2 Anders, S.B. (2006), "Website of the Month: Association of Certified Fraud Examiners", *The CPA Journal*, August, p. 71.

3 Morgan, M., Nix, W. (2003), "CPA Perceptions of the Marketability, Career Enhancements and Quality of Services of Certified Fraud Examiners", *The Southern Business and Economic Journal*, No. 3(34), pp. 31-50.

4 Wells, J.T. (2003), "The Fraud Examiners", *Journal of Accountancy*, October, p. 77.

Fraud examiners in the US can have varying backgrounds. It is not only lawyers, auditors and consultants who work as private investigators. Sociologists and criminologists can also take on tasks as detectives. Examples are mentioned by Kennedy<sup>5</sup>, who writes about forensic sociology and criminology. Investigation by sociologists and criminologists might be concerned about people who have neglected responsibility, people who have abused their positions, or organizations where training and guidelines have been missing.

Thus, fraud examiners encompass a wide array of professions, including auditors, accountants, fraud investigators, loss prevention specialists, attorneys, educators, sociologists and criminologists. While fraud examiners in the US can work independent, many are also member of the ACFE. Fraud examiners provide a broad range of services to businesses and governmental agencies as either employees or independent consultants<sup>6</sup>. A fraud examiner may assist in a fraud investiga-

tion by procuring evidence, taking statements, and writing reports<sup>7</sup>.

When hiring a fraud examiner, a company should seek an evaluation that is both disinterested and reliable<sup>8</sup>:

These objectives, however, can occasionally conflict. Where employees within the organization conduct the fraud investigation, the results of such an investigation may be considered suspect because they are obtained by parties who are or at least appear to be biased. Thus, while the company may prefer to use examiners with historical knowledge and details about the company, personnel, and accounting systems, their retention may raise issues of credibility. On the other hand, while the investigation of a fraud examiner who has no prior connection with the company may be unbiased, the resulting evaluation may also exhibit the examiner's inexperience with the particular organization and its business practices.

In balancing the twin goals of disinterestedness and reliability, Machen and Richards suggest that a company should consider the purpose of the investigation<sup>9</sup>. Where the results are to be used in-house

5 Kennedy, D.B. (2013), "Applications of forensic sociology and criminology to civil litigation", *Journal of Applied Social Science*, No. 2(7), pp. 233-247.

6 "2008 Report to the Nation – On Occupational Fraud & Abuse", available at: [http://www.acfe.com/uploadedFiles/ACFE\\_Website/Content/documents/2008-rttn.pdf](http://www.acfe.com/uploadedFiles/ACFE_Website/Content/documents/2008-rttn.pdf)

7 Machen, M.J., Richards, R.E. (2004), "The Use of Fraud Examiners in the Battle Against Occupational Fraud and Abuse", *The Journal of Investment Compliance*, Winter, pp. 67-71.

8 Ibid. P. 68.

9 Ibid.

or where the company is simply establishing a fraud prevention system, there is less concern regarding credibility. Thus, a fraud examiner who has knowledge of the business may be a wiser choice in that instance because of such examiner's familiarity with the company. In contrast, where information from the fraud investigation may be subject to scrutiny by those outside the company, the appearance of disinterestedness becomes more critical and the company should consider hiring an independent fraud examiner.

Within the broad category of fraud examiners are forensic accountants who specialize in a unique brand of accounting that departs from the traditional methods employed in the accounting field<sup>10</sup>.

### Person-Oriented Investigation

Traditionally, crime suspicion is handled by talking to people who may have some relevant information. This approach is called person-oriented investigation, where suspects and witnesses are interviewed.

### Place-Oriented Investigations

Forensic accountants may perform a variety of fieldwork such as in-

<sup>10</sup> Ibid.

specting company facilities to investigate whether goods and equipment are in accordance with company records<sup>11</sup>.

### Archive-Oriented Investigation

Forensic accounting is the application of financial skills and investigative mentality to unresolved issues, conducted within the context of the rules of evidence. As a method, it encompasses financial expertise, fraud knowledge and a strong knowledge and understanding of business reality and the working of the legal system. Expertise as part of the method represents skillful execution of knowledge and skill to achieve effective investigation results<sup>12</sup>. Forensic accountants turn traditional accounting principles on their head by questioning and investigating the accounting methods and financial practices of a company<sup>13</sup>:

<sup>11</sup> Ibid.

<sup>12</sup> Taylor, T.Z., Elison-Bowerrs, P., Werth, E., Bell, E., Carbajal, J., Lamm, K.B., Velazquez, E. (2013), "A Police Officer's Tacit Knowledge Inventory (POTKI): establishing construct validity and exploring applications", *Police Practice & Research*, No. 14(6), pp. 478-490.

<sup>13</sup> Machen, M.J., Richards, R.E. (2004), "The Use of Fraud Examiners in the Battle Against Occupational Fraud and Abuse", *The Journal of Investment Compliance*, Winter, p. 68.



Unlike traditional accountants who assume honesty and integrity in the examination of a corporation's finances, a forensic accountant typically will question figures and numbers until they are validated. For example, while the traditional accountant may examine a company's records to determine whether they are accurate, the forensic accountant will search for badges of fraud in financial statements, balance sheets, and underlying corporate documents. Furthermore, as part of their investigations, forensic accountants may perform a variety of fieldwork from inspecting company facilities to participating in witness interviews. Accordingly, a forensic accountant may be useful not just in assisting an organization create a fraud prevention program, but may also detect and identify instances and responsible parties once the organization has determined that fraud has in fact occurred.

### **Technology-Oriented Investigation**

One method of detecting improper activities in corporations where financial crime is suspected is through the use of information technology. Most organizational information is usually created and managed electronically. Computer forensics allows

private investigators to uncover more of the facts, support otherwise unsubstantiated information, confirm or refute allegations, and analyze competing theories in relation to those facts. Computer forensics involves identifying, collecting, analyzing, and protecting large amounts of data and peripheral evidence<sup>14</sup>.

Computer forensics is defined as a scientific, systematic inspection of the computer system and its contents for evidence or supportive evidence of a crime or other computer use that is being inspected. It includes the art and science of applying computer systems to aid the inquiry process. Additionally, analytical and investigative techniques are used to examine this evidence and data that is magnetically stored or encoded using the binary number system. The computer might have been the target of some illegal activity, the medium through which the illegal activity is committed, incidental to the commission of the illegal activity, or a combination of the previous three<sup>15</sup>.

Data mining is about extracting information from large data bases<sup>16</sup>:

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14 Newman, R. (2009), "Computer forensics fraud investigations", *Journal of Forensic Studies in Accounting and Business*, Winter, pp. 69-81.

15 Ibid.

16 Srinivasa, K.G., Venugopal, K.R. og Patnaik, L.M. (2007), "A self-adaptive

Data mining is a process of extracting nontrivial, valid, novel and useful information from large databases. Hence, data mining can be viewed as a kind of search for meaningful patterns or rules from a large search space that is the database.

Forensic ToolKit tells about their products in this way:

FTK is a court-accepted digital investigations platform built for speed, stability and ease of use. It provides comprehensive processing and indexing up front, so filtering and searching is faster than with any other product. This means you can zero in on the relevant evidence quickly, dramatically increasing your analysis speed. The database-driven, enterprise-class architecture allows you to handle massive data sets, as it provides stability and processing speeds not possible with other tools. Furthermore, because of this architecture, FTK can be upgraded easily to expand distributed processing and incorporate web-based case management and collaborative analysis.

Some caution is needed before getting too excited about data mining<sup>17</sup>:

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migration model genetic algorithm for data mining applications", *Information Sciences*, No. 177, p. 4295.

17 Lind, H., Hjelm, J. og Lind, M. (2007), "Privacy surviving Data Retention in

Whenever huge masses of personal data are stored at one place, and especially when tied to a system with the intelligence to tailor this data, there is enormous privacy risk. The idea is that strict access control surrounds the data. Will that be the case? We can only hope. We see a risk of abuse from corrupted personnel and from hackers or other intruders. Also, there is a risk that data be overly interpreted as true, and that end users be wrongly accused. With the ease in accessing and perhaps performing data mining on huge amounts of personal data, the risk that a police investigation might take the wrong turn is much greater.

## Hypotheses Testing

Theory enables private investigators to create an overview over complexities in the real world by offering a verbal tool to organize a common and consistent understanding of reality<sup>18</sup>:

A theory might be a prediction or explanation, a set of interrelated con-

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Europe?", available at: <http://www.w3.org/2006/07/privacy-ws/papers/23-lind-retention/>

18 Colquitt, J.A. og Zapata-Phelan, C.P. (2007), "Trends in theory building and theory testing: A five-decade study of the Academy of Management Journal", *Academy of Management Journal*, No. 50(6), pp. 1281-1303.



structs, definitions, and propositions that presents a systematic view of phenomena by specifying relations among variables, with the purpose of explaining natural phenomena. The systematic view might be an argument, a discussion, or a rationale, and it helps to explain or predict phenomena that occur in the world. Some define theory in terms of relationships between independent and dependent variables, where theory is a collection of assertions, both verbal and symbolic, that identifies what variables are important and for what reasons, and that specifies how they are interrelated and why. It identifies the conditions under which variables should be related or not related. Other scholars have defined theory in terms of narratives and accounts.

### Investigative Thinking Styles

Financial crime specialists and fraud examiners might be compared to police detectives in their thinking styles and investigative approaches. As argued by Wells, becoming a fraud examiner – a kind of a financial detective – is not for everyone<sup>19</sup>. Detectives – either in law

enforcement or in the private sector – typically have distinct personality traits. They are as good with people as they are with numbers and documents, and they are inclined to be curious, creative and aggressive, rather than shy, isolated and retiring.

Dean developed a set of four thinking styles<sup>20</sup>, which later were enhanced by Staines<sup>21</sup>:

**Thinking style 1: Investigation as method.** Detectives describe this way of thinking as following a 'method' that is driven by a set of basic procedural steps and conceptual processes for legally gathering information and building evidence. The method style is underpinned by a preference for following established rules and procedures, such as standard operating procedures, in order to gather information and build evidence in investigation.

The investigator is trained in procedural steps of investigation and takes

19 Wells, J.T. (2003), "The Fraud Examiners", *Journal of Accountancy*, October, pp. 76-80.

20 Dean, G. (2005), *The Cognitive Psychology of Police Investigators*, School of Justice Studies, Faculty of Law, Queensland University of Technology, Brisbane.

21 Staines, Z. (2013), "Managing tacit investigative knowledge: measuring 'investigative thinking styles'", *Policing: An International Journal of Police Strategies & Management*, No. 36 (3), pp. 604-619.

an evidence-focused rather than suspect-focused approach. According to Tong, the science of investigation exists in direct opposition to the conception of the art of investigation, which is related to the risk thinking style<sup>22</sup>. The science of investigation is taught in classrooms and documented in manuals and handbooks, while the art of investigation is stimulated by creativity as well as innovative and untraditional approaches.

Method thinkers are characterized by the desire to avoid confusion, a rigidity of thought, and a reluctance to consider alternative views as long as they are not along the main lines of investigation. They process information extensively and carefully and focus their attention on a few critical hypotheses. They work within existing rules and frameworks. They are checking all the boxes on a check list. They apply a structured approach to investigative procedures.

***Thinking style 2: Investigation as challenge.*** Detectives describe this way of thinking as a 'challenge' driven by the intensity that is generated by the four key processes of the job, the victim, the criminal and the crime. The challenge style is underpinned by an intense moti-

vation, and the job is perceived by the challenge thinker as an opportunity to fight crime and make community safe.

There is also a perceived need to seek justice for the victim. The stimulating nature of whether or not a crime has occurred provides motivation for the challenge thinker, and generally, the more interesting the possible crime, the more challenged and motivated the detective becomes. Because the challenge thinking style often involves deep emotional involvement by the detective, it can lead to extreme feelings of sympathy and antipathy as well as immense satisfaction if the case is successfully solved. Alternatively, failure to solve the case can result in feelings of being a loser and extreme frustration.

At the extreme, the challenge style can lead to the fragmentation of other aspects of the detective's life in such a way that often the price to be paid for this addiction to the investigative challenge is marriage problems, financial problems and unstable private personality. The challenge thinker is really a crime fighter<sup>23</sup>. The challenge thinker is vulnerable to problematic outcomes in life if he or she is not able to mediate personal enthu-

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22 Tong, S. (2009), "Professionalising investigation", *Understanding criminal investigation*, Wiley&Sons, Chichester, pp. 197-216.

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23 Siegel, L. (2009), *Introduction to criminal justice*, Wadsworth Cengage Learning, California, 800 p.

siasm or passion for the job. Some level of drive and enthusiasm is of course necessary to maintain commitment to the job. However, it is more desirable for detectives to subscribe to the challenge style only to the extent that it keeps them interested and committed to their job, and not to the extent they become overwhelmed and experience burnout. This is also important when considering the possibility of the challenge style acting as a force that can potentially motivate police honesty as well as private investigator honesty in an impatient search for answers<sup>24</sup>.

Goldschmidt and Anonymous reviewed the circumstances that may lead police officers to act dishonestly. One reason was to see a case won, the suspect convicted and sent to prison, and justice seemingly served. Another reason was to respond to a system they perceive to be overly sympathetic towards offenders, while neglectful of victims, and which ignores the common sense and the expected guilt of offenders. These two circumstances are conceptually related to the challenge style, where the detective is motivated by the need to seek justice for the victim and rid the organization or the community of offenders.

24 Goldschmidt, J. (2008), "The necessity of dishonesty: police deviance, 'making the case' and the public good", *Policing and Society*, No. 18(2), pp. 113-135.

**Thinking style 3: Investigation as skill.** Detectives describe this way of thinking as a 'skill' that requires a set of personal qualities and abilities that revolve around the central skill of relating effectively to a diversity of people at a number of different levels throughout an investigation. A detective who employs the skill style is successful at relating to and building relationships with others in order to ensure successful prosecution of a suspect.

Relationships are built with witnesses, whistle-blowers, victims, suspects and managers. In the case of police investigations, relationships are built with people in the criminal justice system, such as magistrates, judges and juries. In the case of private investigations, relationships are built with the client, various internal and external information sources as well as others involved in the investigation. In order to relate to the various individuals, the detective is required to master several abilities, such as communication, personal flexibility, investigative focus, and emotional detachment. The skill style is grounded by the notion of information as the life-blood of an investigation, and the presumption is that most of the important investigative information comes from communicating with others.

A detective has to be able to share and trade information with individuals who might be useful to the investigation. Sometimes there is a need to turn a blind eye in order to gather important case-related information. It is important to be persistent, yet fair. The detective needs to approach investigative interviewing with an open mind. Sometimes a detective needs to display a certain level of warmth, flexibility and emotion in order to successfully communicate and retrieve important information. In this regard Tong discussed the craft of detective work, which emphasizes the importance of understanding and being able to relate to others<sup>25</sup>. It is important to be able to deal with individuals from a range of backgrounds, and it is also critical when questioning individuals who are suspected of having some form of mental illness, intellectual disability or personality disorder<sup>26</sup>.

***Thinking style 4: Investigation as risk.*** Detectives describe this way of thinking as taking a 'risk', that must be legally justifiable, in order to be proac-

tive through the use of creativity in discovering and developing information into evidence. By taking proactive risks, the detective aims to create new leads. This proactivity revolves around three investigative processes: creativity (the creation of new/different ideas), discovery (of relevant and important information), and development (of information into knowledge and evidence). The risk style is particularly useful in protracted and complex investigations whereby strict adherence to the method style has been unfruitful.

The risk thinking style is underpinned by the notion of taking justified risk. Risks taken by detectives must be legally justifiable, logical (make sense as pertaining to the rest of the investigation), and laterally justified (that is, be economically and conceptually practicable). By taking proactive risks, the detective aims to create new leads. This pro-activity revolves around three investigative processes: creativity (the creation of new and different ideas), discovery (of relevant and important information), and development (of information into knowledge and evidence).

Risk thinkers demonstrate creativity in their investigative approaches. Creativity and intuition are perceived as essential qualities of any criminal in-

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25 Tong, S. (2009), "Professionalising investigation", *Understanding criminal investigation*, Wiley&Sons, Chichester, pp. 197-216.

26 Herrington, V., Roberts, K. (2012), "Addressing psychological vulnerability in the police suspect interview", *Policing*, No. 6(2), pp. 177-186.

vestigator. Fictional characters such as Sherlock Holmes have worked to further entrench these notions of the "born detective" who is naturally creative and intuitive. Detectives can be creative in their job by generating new ways of performing their work, by coming up with novel procedures and innovative ideas, and by reconfiguring known approaches into new alternatives.

Detectives emphasizing the risk style tend to be entrepreneurs, who are characterized to see possibilities and openings where others see problems and locked doors, based on their intuition<sup>27</sup>. Generally, an entrepreneur is a person who operates a new unit or venture and assumes some accountability for the inherent risk. It is a person who takes the risks involved to undertake a procedural venture. Entrepreneurship is the practice of starting new investigative steps or revitalizing mature procedures in response to identified opportunities.

Sometimes investigation can remind of a production line, where cases are investigated after each other, in a routine fashion<sup>28</sup>:

Detective work tends to parallel an assembly line; that is, detectives routinely process one case after the other with little or no difference in officers' investigative approaches and/or attitudes towards cases. But, police decision making and officers' overall treatment of cases are significantly influenced in specific situations. Specific factors such as the time and energy dedicated to solving the crime, the number of officers, technology, budget, and police attitudes towards the accused and officers' perception as to the seriousness of the case affect the investigation.

In the production line, experienced detectives are able to discern good from bad information intuitively and at the same time be creative in their approach to investigation. Historically, investigation has been thought of as an art form resembling thinking style 4, because it is difficult to articulate and exists beyond procedures and protocols taught to recruits and novice detectives. The qualities that make a good investigator go beyond academic degrees, specialised training or book learning, because all the theory in the world means nothing if the detective cannot read an organization in search of white-collar crime. In

27 Tong, S. (2009), "Introduction: a brief history of crime investigation", *Understanding criminal investigation*, Wiley&Sons, Chichester, pp. 1-10.

28 Corsianos, M. (2003), "Discretion in detectives' decision making and 'high

profile' cases", *Police Practice and Research*, No. 4(3), p. 305.



this respect, Tong highlights the need to capture and articulate the qualities of the artistic and intuitive investigator so that they may be passed on<sup>29</sup>.

### White-Collar Crime

McKay et al. argue that there are twelve steps in a process of white-collar crime. They presented a model describing white-collar crime as a process linking a leader to selected followers. The model acknowledges addictive nature of success in which a growing desire for success pushes the perpetrator to riskier behavior. The process involves a team with one or several individuals driving the amoral or criminal activities. In this model, rule bending and criminal activity of one or more of the key players is about an individual's need to prevail over a personal weakness and reach happiness. This person manipulates others to aid and guide them in the crime<sup>30</sup>.

Steps one to four of the model describe the players and their interactions:

(step 1) the perfect job – hired into a position of power, (step 2) the perpetrator, (step 3) the driver, and (step 4) passive participants – chance of a lifetime. During these steps, an opportunity for a highly rewarding illegal activity arises. Participants test the opportunity of profitable crime and enter into relationships with players.

Steps five through eight explain how the illegal behavior escalates and the efforts participants make to keep the truth hidden: (step 5) reluctant participants – the uncovering of questionable actions, (step 6) distrust by the perpetrator of the reluctant participant(s), (step 7) bravado of perpetrator, and (step 8) perpetrator as bully.

Finally, in steps nine through twelve, the truth about the criminal behavior becomes known and publicized: (step 9) the trapped reluctant participant, (step 10) cognitive dissonance, (step 11) a whistle-blower, and (step 12) the perpetrator's response to the truth.

When unethical and criminal activities are taking place in a legal organization, they cannot continue forever. Typically, criminal activities become too disturbing to tolerate and hide and a whistle-blower emerges. Alternatives are bankruptcy or other kinds of revelation. Once the truth has been discovered and

29 Tong, S. (2009), "Introduction: a brief history of crime investigation", *Understanding criminal investigation*, Wiley&Sons, Chichester, pp. 1-10.

30 McKay, R., Stevens, C., Fratzl, J. (2010), "A 12-step process of white-collar crime", *International Journal of Business Governance and Ethics*, No. 5(1), pp. 14-25.

brought to light, the perpetrator can take one of two paths; he can accept his guilt or deny wrongdoings<sup>31</sup>.

### White-Collar Criminals

In 1940, sociologist and criminologist Edwin Sutherland wrote an article in the *American Sociological Review* titled *White-Collar Criminality* about the myth that criminality was reserved for those of the lower classes of society. He argued that educated, socio-economically well-off individuals are capable of engaging in crime as well. Sutherland defined white-collar criminals as individuals of respectability and high social status. In addition, white-collar criminals are characterized by criminal activities taking place in the course of one's occupation among legal business activities. It is crime that involves deceit or breach of trust, it is nonviolent crime undertaken for financial gain, either for personal benefit or for the benefit of the organization<sup>32</sup>.

White-collar criminals are persons of respectability and influence who have abused their positions to commit finan-

cial crime in the course of their professions. Their behavior and motives often suggest that they may suffer of personality disorders, as suggested by researchers such as Perri, Ragatz et al. and Walters and Mathews. While Perri suggests psychological traits of narcissism and psychopathy to create risk factors for white-collar offending based on news stories of famous white-collar criminals<sup>33</sup>, Ragatz et al. explored psychopathic characteristics among offenders incarcerated in a federal prison<sup>34</sup>.

White-collar crime is defined both in terms of the offence and in terms of the offender. The offence is typically financial crime such as fraud, tax evasion, corruption and insider trading. The offender is typically a person of respectability and high social status, who commits crime in the course of his occupation<sup>35</sup>. Sutherland's theory of white-collar crime has served as a catalyst for an area of research that continues today.

31 Ibid.

32 Sutherland, E.H. (1940), "White-collar criminality", *American Sociological Review*, No. 5(1), pp. 1-12.

33 Perri, F.S. (2013), "Visionaries or False Prophets", *Journal of Contemporary Criminal Justice*, No. 29(3), pp. 331-350.

34 Ragatz, L.L., Fremouw, W., Baker, E. (2012), "The Psychological Profile of White-collar Offenders: Demographics, Criminal Thinking, Psychopathic Traits, and Psychopathology", *Criminal Justice and Behavior*, No. 39(7), pp. 978-997.

35 Sutherland, E.H. (1949), *White collar crime*, Holt Rinehart and Winston, New York, 392 p.

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<sup>36</sup> and the types of crime may differ from those of the lower classes. Some examples of the former are business executives bribing public officials to obtain contracts, chief accountants manipulating balance sheets to avoid taxes, procurement managers approving fake invoices for personal gain<sup>37</sup>. The elements of competition and rivalry make practicing law an entrepreneurial endeavor but ultimately a defense lawyer has an advantage in that they invariably know the full extent of their client's guilt. They have insider knowledge.

Criminal behavior by members of the privileged socioeconomic class is routinely labeled white-collar crime. Sutherland, in his seminal work, defined again white-collar crime as crime committed by a person of respectability and high social status in the course of his occupation. According to Brightman

(2009), Sutherland's theory of white-collar crime from 1940 was controversial, particularly since many of the academics in the audience perceived themselves to be members of the upper echelon of American society, where white-collar criminals can be found<sup>38</sup>. Certain characteristics play a key role in placing individuals in a position to act illegally. These include the proposition that criminal behavior is learned through interaction with other criminal persons in the upper echelon and the interaction that occurs in small intimate groups who might be involved in corruption, money laundering or embezzlement<sup>39</sup>.

### Personality Disorders

Perri studied white-collar criminals in terms of their psychological traits. He found that the prototypical high-socioeconomic-status offenders, such as today's chief executive officers and chief financial officers, can be explained by the application of psychological trait theory. There is a negative synergy that

36 Brightman, H.J. (2009), *Today's White-Collar Crime: Legal, Investigative, and Theoretical Perspectives*, Routledge, Taylor & Francis Group, New York, 448 p.

37 Simpson, S.S., Weisburd, D. (2009), *The Criminology of White-Collar Crime*, Springer, New York, 230 p.

38 Brightman, H.J. (2009), *Today's White-Collar Crime: Legal, Investigative, and Theoretical Perspectives*, Routledge, Taylor & Francis Group, New York, 448 p.

39 Hansen, L.L. (2009), "Corporate financial crime: social diagnosis and treatment", *Journal of Financial Crime*, No. 16(1), pp. 28-40.

develops when criminal thinking traits combine with the psychological traits of narcissism and psychopathy to create risk factors for white-collar offending. Psychological trait theory may be especially applicable to those who hold some of the highest positions in corporate organizations, who influence corporate culture, and who, at times, are considered visionaries in their respective industries. They may turn out as false prophets<sup>40</sup>.

Lack of self-control is often linked to narcissism and psychopathy. Narcissism and psychopathy increases when there is a lack of self-control, and lack of self-control is often found among chief executives. Narcissism is a visible risk factor for white-collar crime. Narcissists have several typical characteristics<sup>41</sup>:

Narcissists typically display a pervasive pattern of grandiosity, entitlement, exploitative eagerness in the pursuit of goals, a need for admiration, a lack of empathy for others, and a belief that one is superior, unique, coupled with inflated views of their own accomplishments and/or abilities.

Perri writes that not all psychopaths are in prison, some of them are in

the board room. Psychopathy is about irresponsible leadership and increased tendency of white-collar crime. Psychopathy is characterized by manipulation and unsocial behavior.

The modern approach to studying white-collar crime incorporates the offender's personality disorder(s) as risk factor in the decision to commit crime, even though there are legitimate debates on how important personality disorders may be, and which specific traits are common amongst offenders. White-collar criminals tend to harbor anti-social personality disorders and do not necessarily suffer from a temporary moral lapse when committing crime.

McGurrin et al. argue that white-collar crime research is under-represented in the criminological and criminal justice literature relative to traditional street crime. Less than half of all US doctoral programs offer a white-collar crime course, much less require it. Whether one examines the criminalization of white-collar offenses, the allocation of resources for its enforcement, the prosecution of white-collar crime, the sentencing of white-collar offenders, or the representation of white-collar crime in the research literature, the results are almost uniformly the same: white-collar crime is not treated as seriously as traditional street crime.

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40 Perri, F.S. (2013), "Visionaries or False Prophets", *Journal of Contemporary Criminal Justice*, No. 29(3), pp. 331-350.

41 Ibid. P. 334.

An explanation for this under-representation is that white-collar crime is considered less serious among higher and more influential levels in society, where these criminals can be found. Even with personality disorders is less attention paid to possible consequences in terms of misconduct and crime<sup>42</sup>.

Walters and Geyer studied criminal thinking and identity in white-collar offenders depending on whether they had a prior history of crime. Results show that white-collar offenders with no prior history registered lower levels of criminal thinking, criminal identification, and deviance than white-collar offenders previously arrested. The study included both white-collar inmates as well as non-white-collar inmates by a survey instruments. Significant group differences were noted on the Psychological Inventory of Criminal Thinking Styles Self-Assertion/Deception Scale, Social Identity as a Criminal Centrality subscale, Social Identity as a Criminal In-Group ties subscale, and Lifestyle Criminality Screening Form-Revised<sup>43</sup>.

Ragatz et al. extended Walters and Geyer's work by exploring psychopathic characteristics and psychopathology of white-collar offenders compared with non-white-collar offenders. The study included demographics, psychopathic traits and psychopathology among white-collar criminals. They attempted to develop a psychological profile of criminal offenders, and how this profile differs from non-white-collar offenders on criminal thinking and lifestyle criminality. Results demonstrated white-collar offenders had lower scores on lifestyle criminality but scored higher on some measures of psychopathology and psychopathic traits compared with non-white-collar offenders. White-collar offenders were found to be more outgoing, calculating, and controlling in social interactions. They tend to be low in agreeableness and high in narcissism. This can reflect high egocentricity, which means that offenders are more likely to appear self-centered and invested in their own needs when interacting with others<sup>44</sup>.

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42 McGurrin, D., Jarrell, M., Jahn, A., Cochrane, B. (2013), "White Collar Crime Representation in the Criminological Literature Revisited, 2001-2010", *Western Criminology Review*, No. 14(2), pp. 3-19.

43 Walters, G.D., Geyer, M.D. (2004), "Criminal thinking and identify in male

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white-collar offenders", *Criminal Justice and Behavior*, No. 31(3), pp. 263-281.

44 Ragatz, L.L., Fremouw, W., Baker, E. (2012), "The Psychological Profile of White-collar Offenders: Demographics, Criminal Thinking, Psychopathic Traits, and Psychopathology", *Criminal Justice and Behavior*, No. 39(7), pp. 978-997.



Personality disorders are often classified into main categories and sub categories. One common classification is the three categories approach of dramatic, eccentric, and anxious. While such classification might seem stigmatizing, it helps explain criminals and their behaviors. However, it is important to be aware of potential shortcomings, including overlap between categories, which make it often difficult to decide what the primary category is for an offender.

A study in the USA concluded that two main characteristics of white-collar criminals are irresponsibility and antisocial behavior as compared to other white-collar individuals. Collins and Schmidt examined a personality-based integrity test and homogenous bio data scales as reflected in their ability to discriminate white-collar criminals from other white-collar employees. A bio data scale is a systematic method of scaling life history experiences. The sample included 365 prison inmates incarcerated in 23 federal correctional institutions for white-collar offenses, and 344 individuals employed in upper-level positions of authority. The various measures were administered to prisoners at the prison sites and to employees at their workplaces. Results show that non-offenders scored significantly higher on performance than

offenders. Individuals with high scores on the performance scale are described as dependable, reliable, responsible, and motivated to high performance on the job, and rule abiding and conscientious in their work behavior<sup>45</sup>. Furthermore, results show that non-offenders scored significantly higher on socialization than offenders. Individuals who score high on this scale are predicted to be dependable, honest, conscientious, rule abiding, and are not inclined to be opportunistic or manipulative.

Third measure was responsibility that shares some common characteristics with socialization. The responsibility scale measures the degree to which the individual is conscientious, responsible, dependable, and has a commitment to social, civic, or moral values. Persons who score low on this scale often show antisocial behavior, and, in the workplace, higher scores predict responsibility and attention to duty. Results show that offenders scored significantly lower on the responsibility scale than non-offenders. Fourth and final measure was tolerance, where non-offenders had a significantly higher score. Persons scoring high on the

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45 Collins, J.M., Schmidt, F.L. (1993), "Personality, Integrity, and White Collar Crime: A Construct Validity Study", *Personnel Psychology*, No. 46, pp. 295-311.

tolerance scale are tolerant and trusting, whereas low scorers tend to be suspicious, judgmental toward others, and do not believe they can depend on others. The common theme running through these four scales applied by Collins and Schmidt is conscientiousness and positive attitudes toward responsible and pro-social behaviors and activities, suggesting that the discriminating factor between offenders and non-offenders might be conscientiousness.

A study by Blickle et al. in Germany concluded that two main characteristics of white-collar criminals are hedonism and narcissism as compared to other white-collar individuals. They found that: 1) the greater the degree of hedonism is present in a business person, the greater is the tendency to commit economic offenses; 2) The more diagnostic features of a narcissistic personality disorder an individual in a high-ranking white-collar position exhibits, the higher is the probability that this person will commit a white-collar crime; and 3) The lower the behavioral self-control of a person in a high-ranking white-collar position is in business, the greater is the probability that this person will commit a white-collar crime<sup>46</sup>.

46 Blickle, G., Schlegel, A., Fassbender, P., Klein, U. (2006), "Some

McKay et al. examined the psychopathology of the white-collar criminal acting as a corporate leader. They looked at the impact of a leader's behavior on other employees and the organizational culture developed during his or her reign. They proposed the presented 12-step process to explain how an organization can move from a legally operating organization to one in which unethical behavior is ignored and wrongdoing promoted<sup>47</sup>.

There are a number of explanatory approaches to white-collar crime in business from scientific fields such as economics, sociology, psychiatry and psychology. In economics, the rational choice approach implies that if the rationally expected utility of the action clearly outweighs the expected disadvantages resulting from the action thus leaving some net material advantage, then every person will commit the offence in question. One of the many suppositions of this theory is that people generally strive for enjoyment and the fulfillment of

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Personality Correlates of Business White-Collar Crime", *Applied Psychology: An International Review*, No. 55(2), pp. 220-233.

47 McKay, R., Stevens, C., Fratzl, J. (2010), "A 12-step process of white-collar crime", *International Journal of Business Governance and Ethics*, No. 5(1), pp. 14-25.

wishes for material goods<sup>48</sup>. The sociological theory of white-collar crime postulates that managers who commit economic offences live in a social setting, i.e. culture, in which a very high value is placed on material success and individual wealth. Both economic theory and sociological theory are of the opinion that strong striving for wealth and enjoyment in some way contributes to economic crimes committed by managers<sup>49</sup>.

Psychiatrists view the behavior of white-collar criminals in terms of narcissistic fantasies of omnipresence. White-collar criminals display little guilt and identify themselves with the ideal of achieving success at any price. The essential features of such individuals are a pervasive pattern of grandiosity, a need for admiration, and a lack of empathy. In psychology, people for whom material things and enjoyment generally possess a high value are called hedonists. Living in a culture in which a very high value is placed on material success and individual wealth can serve as one cause of strong hedonism<sup>50</sup>.

48 Blickle, G., Schlegel, A., Fassbender, P., Klein, U. (2006), "Some Personality Correlates of Business White-Collar Crime", *Applied Psychology: An International Review*, No. 55(2), pp. 220-233.

49 Ibid.

50 Ibid.

Stanton Wheeler's research into white-collar crime motivation illustrates how psychological factors can work together with situational factors. He asks why persons who are already extremely wealthy, take the chance to involve themselves in white-collar crime, when they earn little from the crime compared to what they already possess<sup>51</sup>. One answer is that they fear falling off the financial cliff and losing their wealth and status. Therefore, they work constantly to remain successful, preferably more successful than others, while not having the time to relax and enjoy wealth because of the fear of failure. It is this struggle for financial success and maintenance of that success which are important.

In line with the state-of-the art conceptualization on personality disorders, we represent the categorical perspective that personality disorders are qualitatively distinct clinical syndromes. According to the new Diagnostic and Statistical Manual of Mental Disorders, Section III, important areas of personality dysfunction are the following six (features selected and cited from Section II, *ibid*)<sup>52</sup>:

51 Wheeler, S. (1992), "The Problem of White Collar Crime Motivation", *White Collar Crime Reconsidered*, Northeastern University Press, Boston, pp. 108-123.

52 *Diagnostic and Statistical Manual of Mental Disorders. Fifth ed.*, American

1. *Schizotypal personality disorder*. The essential feature of the schizotypal personality disorder is a pervasive pattern of social and interpersonal deficits marked by acute discomfort with, close relationships as well as by cognitive or perceptual distortions and eccentricities of behavior.

2. *Antisocial personality disorder*. This is a pattern of disregard for, and violation of, the rights of others. Individuals with antisocial personality disorder fail to conform to social norms with respect to lawful behavior.

3. *Borderline personality disorder*. This is a pattern of instability in interpersonal relationships, self-image, and affects, and marked impulsivity. Individuals with borderline personality disorder make frantic efforts to avoid real or imagined abandonment.

4. *Narcissistic personality disorder*. This is a pattern of grandiosity, need for admiration, and lack of empathy. Individuals with this disorder have a grandiose sense of self. They routinely overestimate their abilities and inflate their accomplishments, often appearing boastful and pretentious. They may blithely assume that others attribute the same value to their efforts and may be surprised

when the praise they expect and feel they deserve is not forthcoming.

5. *Avoidant personality disorder*. The essential feature of this disorder is a pervasive pattern of social inhibition, feelings of inadequacy, and hypersensitivity to negative evaluation. Individuals with avoidant personality disorder avoid work activities that involve significant interpersonal contact because of fears of criticism, disapproval, or rejection.

6. *Obsessive-compulsive personality disorder*. This is a pattern of preoccupation with orderliness, perfectionism, and mental and interpersonal control, at the expense of flexibility, openness, and efficiency. Individuals with obsessive-compulsive personality disorder attempt to maintain a sense of control through painstaking attention to rules, trivial details, procedures, lists, schedules, or form to the extent that the major point of the activity is lost.

## Conclusion

Fraud examination has elements of intelligence, investigation as well as analysis, like we know it from police work. Characteristics of inquiries where the term fraud examination is used include fact finding, causality study, change proposals and suspect identification.

White-collar criminals are privileged by their location in the hierarchy of business organizations, the hierarchy of society, and the hierarchy of respectability. They are privileged by holding positions of authority in state or private organizations, where they can make financial crime happen by directing resources<sup>53</sup>.

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## **Частные расследования. Подозрение беловоротничковых преступников в совершении финансовых преступлений**

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### **Аннотация**

Статья посвящена исследованию частных расследований по подозрениям в финансовых преступлений, совершенных должностными лицами, занимающими высокое общественное положение. Автор также рассматривает деятельность специалистов по расследованию экономических преступлений и специалистов по расследованию хищений и мошенничества, которые проводят частные расследования по подозрениям в должностных преступлениях.

### **Ключевые слова**

Беловоротничковые преступники, финансовые преступления, мошенничество, расследование.

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