

# Whistleblowing



# Whistleblowing:

## *White-Collar Fraud Signal Detection*

By

Petter Gottschalk

Cambridge  
Scholars  
Publishing



Whistleblowing: White-Collar Fraud Signal Detection

By Petter Gottschalk

This book first published 2018

Cambridge Scholars Publishing

Lady Stephenson Library, Newcastle upon Tyne, NE6 2PA, UK

British Library Cataloguing in Publication Data

A catalogue record for this book is available from the British Library

Copyright © 2018 by Petter Gottschalk

All rights for this book reserved. No part of this book may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, without the prior permission of the copyright owner.

ISBN (10): 1-5275-0759-9

ISBN (13): 978-1-5275-0759-3

# TABLE OF CONTENTS

Introduction .....	1
Chapter One.....	7
White-Collar Crime	
White-Collar Fraud.....	7
Magnitude of White-Collar Crime.....	11
Edwin Sutherland.....	14
Offence Characteristics.....	15
Offender Characteristics.....	16
Occupational and Business Crime.....	17
Criminals after Conviction.....	18
Chapter Two.....	22
Theory of Convenience	
Convenience Orientation.....	25
Economical Motive.....	26
Organizational Opportunity.....	28
Personal Willingness.....	30
Chapter Three.....	33
Fraud Signal Detection	
Sources of Crime Detection.....	34
Auditing Role in Crime Detection.....	39
Crime Signal Detection Theory.....	44
Lack of Crime Signal Detection.....	50
Revised Signal Detection Theory.....	53
Chapter Four.....	56
Knowledge Management	
Crime Signal Quality.....	56
Crime Signal Detection.....	59
Signal Detection Intelligence.....	60
Tacit and Explicit Knowledge.....	61
Knowledge Workers.....	62
Value Shop Configuration.....	64

Chapter Five .....	67
Whistleblowing	
Problematic Whistleblowing Situations .....	68
Characteristics of Whistleblowers .....	71
Whistleblowing Intentions .....	77
Whistleblowers as Information Sources.....	81
Organizational Impact.....	86
Chapter Six .....	92
Case Study: Grimstad Municipality	
Corruption Investigation .....	92
Whistleblower Retaliation .....	98
Whistleblowers A and B .....	104
Social Conflict Theory .....	109
Tip of the Crime Iceberg.....	113
Groups in Grimstad Conflict.....	115
Religious Network .....	118
The Case Goes On .....	123
Chapter Seven.....	126
Case Study: National Police Unit	
Police Immigration Unit .....	126
Immigration Unit Investigation.....	127
Blame Game Hypothesis.....	132
Chapter Eight.....	135
Case Study: Telenor VimpelCom	
Statement of Facts.....	135
Deloitte Investigation .....	136
Whistleblower Concerns .....	138
Deloitte Findings.....	140
Chapter Nine.....	144
Case Study: Skjervøy Municipality	
The Island and Municipality .....	145
KomRev Investigation .....	146
Economical Convenience.....	148
Organizational Convenience.....	150
Behavioral Convenience .....	153
Religious Organizations.....	154
Evaluation of Report.....	156

The Whistleblower at Skjærvøy .....	157
Analysis of the Whistleblower .....	160
Chapter Ten .....	164
Fraud Investigation	
Investigation Challenges .....	166
Police versus Internal Investigations.....	168
Implications from Convenience.....	171
Investigation Reports in the United States .....	172
Investigation Reports in Norway .....	179
Chapter Eleven .....	197
Control Committees	
Supervisory Body .....	198
Committee Performance .....	199
Research Model .....	200
Research Hypotheses .....	202
Research Discussion .....	205
Conclusion.....	210
References .....	215





# INTRODUCTION

White-collar crime is financial crime for the benefit of individuals (occupational crime) and organizations (corporate crime). Offenders who abuse their positions of trust and influence in their privileged occupational roles for financial gain commit white-collar crime. Motives for white-collar crime include greed, possibilities, and avoidance of threats such as bankruptcy. White-collar crime is enabled in an organizational context where offenses can be carried out and concealed among legal activities. Offenders have legitimate access to the organization and resources in the organization.

White-collar crime signal detection is an important issue, since it is assumed that very few offenders are detected and brought to justice. Maybe only one out of ten or hundred criminals are caught. Varying estimates have been presented based on both micro and macro approaches to the shadow economy. White-collar crime signal detection is also important because the damage caused by elite crime is not only causing harm to direct victims, but also harm to indirect victims and society. For example, bank fraud may threaten the financial system of borrowing and lending. Insider trading may threaten the stock exchange system of capital transfers. Corruption may threaten the market system of supply and demand.

White-collar crime signal detection is dependent on someone detecting it. Although digitalization has led to red-flag software that have the potential of detecting suspected deviations from normal, white-collar crime activities have the characteristic of seeming normal and therefore remain undetected by computer software. Therefore, detection is mainly occurring when someone notices something that seems strange and that causes suspicion to arise. Suspicion is a starting point for curiosity to find out what is going on. Suspicions may be unfounded and therefore leading to nothing.

If there are grounds for suspicion, and the observer is interested in finding out what is going on, then disclosure of actions is possible, discovery of misconduct is enabled, and recognition of crime is possible. However,

white-collar offenders are powerful people that may harm observers if observers report what they have been noticing. Therefore, disclosure is not just a matter of detection, but also a matter of courage to report observations to responsible authorities and agencies.

Whistleblowers stand out as a group of reporters who have made observations and who are willing to disclose what they have observed. Whistleblowing is the disclosure of wrongdoing in terms of misconduct or crime. Whistleblowing carried out by organizational members who reports wrongdoing to the attention of people who can do something about it. Wrongdoing is characterized by being negative and undesirable at the organizational as well as at the community level.

Many well-known white-collar crime cases were disclosed by whistleblowers. In 2001, Sherron Watkins, an employee in the U.S. energy company Enron, notified her chief executive officer Kenneth Lay about a perceived accounting scandal. Watkins did so hoping Lay would act. He did not, and he was later arrested due to his involvement in the wrongdoing, because she blew the whistle.

When suspicion of fraud, corruption or other forms of financial crime by white-collar offenders occurs, then investigators and examiners are dependent on potential crime signals from whistleblowers. Fraud investigators are to reconstruct the past by collecting pieces of information to form a puzzle of a picture of what happened. Whistleblowing is often the starting point for investigation work.

This book presents theoretical and empirical perspectives on white-collar crime signal detection as well as a number of cases studies of whistleblowing. The book starts by presenting characteristics of white-collar crime and criminals in chapter 1. The occurrence of white-collar crime is explained by the theory of convenience that integrates a number of well-known theories from criminology, management, sociology, and psychology. The theory of convenience consists of three dimensions: economical motive, organizational opportunity, and personal willingness. The theory and its dimensions are presented in chapter 2.

Crime signal detection is introduced in chapter 3, starting with sources of disclosure such as investigative journalists, crime victims, bankruptcy lawyers, and internal and external auditors. While these groups of people stand out as contributors to disclosure of wrongdoing, many of them base their discovery on detection by whistleblowers. Some whistleblowers act

in a way that makes the information public by contacting the media where they get in contact with investigative journalists. Other whistleblowers contact internal or external auditors to inform auditors about their observations.

In chapter 4, we move on to discuss the contents of whistleblowing. Both the information and the source have to be assessed. A piece of information is most trustworthy if it can be confirmed by other sources. It can be verified by other independent sources, and it corresponds with other information on the same topic. A source of information is most reliable if the whistleblower is tested and trusted. There is no doubt of authenticity, trustworthiness and competence. He or she has always provided accurate information. At the other end of the scale, we have information that cannot be assessed, since there is not sufficient basis to evaluate the accuracy of information. A source of information is most unreliable if there is absence of authenticity and competence, or if the source is completely unknown to the receiver of information.

We distinguish between data, information, knowledge, and wisdom. Data are numbers, texts, and pictures without any meaning. When data is put in to a context that makes sense, then data are transformed into information. When information is combined with interpretation and reflection, then information is transformed into knowledge. When knowledge is accumulated over time as learning, then knowledge is transformed into wisdom.

While chapter 4 started with information, it is mainly concerned with knowledge. Given our definition of knowledge, knowledge can only reside in the heads of individuals. It has to do with the understanding information from whistleblowers and others. Information has to be interpreted and understood by receivers of disclosures from whistleblowers. Information may be fragmented and hard to understand. Information quality for knowledge work depends on a number of characteristics concerning content (e.g., accuracy, relevance, completeness, conciseness, and scope), time (e.g., timeliness, currency, frequency, and period), and form (clarity, detail, order, presentation, and media).

Chapter 5 presents characteristics of whistleblowers and whistleblowing intentions. Typically, whistleblowers are motivated by concern for what can go wrong, they are committed to their jobs, and they dislike injustice. Some of them lack self-control, which enable them to blow the whistle even in situations where they are not at all sure about facts in the case.

Chapters 6 to 9 present case studies that demonstrate how difficult it is to be a whistleblower. In the worst case, a whistleblower repeated his accusations and allegations so frequently that he ended up being the main subject of a private internal investigation.

The final chapter 10 introduces fraud investigations that occur when crime signal detection was successful and private fraud examiners are hired to reconstruct past events and sequence of events. A fraud investigation is concerned with what happened, how it happened, why it happened, who did what to make it happen or not happen, and what should be the next step in handling evidence.

Unfortunately, whistleblowers are often ignored as illustrated by several case studies in this book. For example, two whistleblowers in Spain sent notice to the chair at Betanien in Norway, but the chair would not believe that a priest could commit embezzlement from the foundation as its chief executive officer. When the whistleblowers threatened to tell Norwegian media about the case, then the chair confronted the CEO with the allegations, and Are Blomhoff confessed to embezzlement. Blomhoff had problems with substance abuse, which was noticed by the whistleblowers. Fraud examiners from accounting firm BDO (2014) were hired by the chairman to find out if there was more money embezzled by the CEO than he already had confessed. The private investigators found evidence of much more embezzlement. Fraud examiners criticize the Betanien board for not reacting timely to whistleblowing and to other information (BDO, 2014: 10):

Information has come to our attention about a safe that was removed from the former CEO's house in Spain, in addition to another safe that was allegedly stolen during a burglary. This happened in the days after the former CEO was confronted with the embezzlement claims. It is our opinion that the case could possibly have been far better documented if the board had chosen to contact the police before the former CEO was confronted with the issue.

CEO Blomhoff was sentenced to three years in prison by a district court (Drammen tingrett, 2015).

When an accounting manager at publishing house Aschehoug blew the whistle on the chief financial officer, the intention of the chief executive officer was to dismiss the CFO from his post without reporting the case to the police. However, information was leaked from the publishing house to an investigative journalist. Marius Schatvet, the CFO, had been alone in

handling the task of terminating the publishing house's involvement in a chain of bookstores. He was able to transfer some of the money to his own bank account with nobody noticing. He did so for several years. Surprisingly, he finally typed in his own bank account number with a wrong digit, thereby creating attention. The accounting manager noticed the transaction and blew the whistle on CFO Schatvet. Schatvet was sentenced to 3 years in prison (Silvolva et al., 2014).

“John Doe” was an anonymous whistleblower who leaked the so-called Panama Papers to German newspaper *Süddeutsche Zeitung*. Among the 11.5 million leaked documents about companies in tax havens, there are documents about Swedish bank Nordea and Norwegian bank DNB. According to one document, Nordea bank asked law firm Mossack Fonseca in Panama to change the contents of statements retrospectively and to change dates on signed contracts (Ekeberg, 2016b).

Harry Markopolos blew the whistle on Bernard Madoff. In 2010, Markopolos' book on uncovering the Madoff fraud was published with the title “No One Would Listen: A True Financial Thriller”. The book tells the story how Markopolos uncovered Madoff's scam years before it made the headlines, and how he tried to warn the government, the industry, and the financial press. The book became a New York Times bestseller.

Cynthia Cooper blew the whistle on the \$9 billion dollar corporate financial scandal involving WorldCom, which eventually led to the imprisonment of the company's five executives, including CEO Bernard Ebbers. Cooper had never intended to go public, but a member of Congress had released her internal audit memos to the press. She was named as a *Time's* person of the year 2002, along with Coleen Rowley, the FBI whistleblower from Minneapolis, and Sherron Watkins, the Enron whistleblower ([www.whistleblowerdirectory.com](http://www.whistleblowerdirectory.com)).

One of the more successful whistleblowers is Michael Lissack. He worked as a banker at the Smith Barney brokerage. In 1995, he blew the whistle on a fraudulent scheme, known in municipal financing as ‘yield burning’. Lissack filed a whistleblower lawsuit against more than a dozen of Wall Street firms under the False Claims Act. In April 2000, 17 investment banks agreed to pay approximately \$140 million dollars to settle charges that they defrauded the federal government by overpricing securities sold in connection with certain municipal bond transactions. The U.S. government has recovered more than \$250 million because of Lissack's whistleblowing. His allegations have brought on more than a dozen of

civil and criminal investigations by the SEC, IRS and the U.S. Department of Justice. Lissack himself received 15 percent of the \$250 million (Donnovan, 2002). Negative consequences after whistleblowing, suffered by some whistleblowers, are labeled retaliation. Retaliation implies to take an undesirable action against a whistleblower – who reported wrongdoing internally or externally. Retaliation can be defined as taking adverse action against an employee for opposing an unlawful employment practice or participating in any investigation, proceeding, or hearing related to such a practice (Bjørkelo and Matthiesen, 2011). Retaliation is one of many negative mechanisms that may prevent people from reporting observed crime signals.

This book is mainly concerned with whistleblowing as information and whistleblowing as information sources. The book is less concerned with protection of whistleblowers as discussed in so many recent publications.

# CHAPTER ONE

## WHITE-COLLAR CRIME

Ever since Sutherland (1939) coined the term white-collar crime, researchers in the field have emphasized the importance of preventing and detecting financial crime by executives and other members of the elite in society. The typical profile of a white-collar criminal includes attributes such as high social status, considerable influence, and access to resources in an occupational context (Gottschalk, 2018).

White-collar crime is committed in the course of a profession where the offender can carry out and conceal the offence among legal activities in a public or private organization. The offender is a person of respectability and high social status who commits economic crime in the course of his or her occupation.

White-collar criminality causes considerable harm to its victims, be they individuals or families, private companies, non-profit organizations, government authorities, or society at large. Even when only the purely economic damages are considered and other kinds of harm are put aside, fraud, embezzlement, tax evasion, and corruption give rise to enormous monetary losses. Other kinds of harm can be even more serious, such as eroding trust and lack of social responsibility in society. Nonetheless, white-collar criminality is generally regarded – by both the public and law enforcement authorities – as a less serious threat compared to traditional street crime. One reason for this softer attitude towards white-collar crime might be that it is non-violent in its character. Another reason might be that white-collar criminals are people in the upper echelon of society where we may accept more mistakes before the mistakes are labeled crime.

### **White-Collar Fraud**

Fraud not only causes lost revenue for defrauded organizations. Indirect costs such as low employee morale, decreased productivity, ruined reputation and damaged brand image, need to be taken into account. Given

this context, citizens, in general, and public authorities, regulators, and companies of all sizes, in particular, need to consider and be more knowledgeable about these matters taking proactive measures to help mitigate the risks and negative consequences involved.

Fraud is deliberate deception to secure unfair or unlawful gain. Fraud can be defined as an intentional perversion of truth for the purpose of inducing another in reliance upon it to part with some valuable thing belonging to him or to surrender a legal right. Fraud is a misrepresentation of facts with the purpose of causing someone else to do something financially that the person otherwise would not have done. Fraud is a criminal deception intended to result in illegal financial gain. Fraud is intended to deceive others, typically by unjustifiably claiming or being credited with characteristics, accomplishments or qualities. Fraud is an intentional misrepresentation or concealment of an important fact upon which the victim is meant to rely, and in fact does rely, to the harm of the victim. Fraud is an intentional deception of a victim by false representation or pretense with the intent of persuading the victim to part with something of value and with the victim parting with the valuables in reliance on the representation or pretense and with the perpetrator intending to keep the valuables from the victim. Fraud is often the crime of getting money by deceiving people. Fraud is deliberate actions taken by management at any level to deceive, swindle, or cheat investors, other key stakeholders, banks or others (Steinmeier, 2016).

Fraud is an act or course of deception, an intentional concealment, omission, or perversion of truth, to (1) gain unlawful or unfair advantage, (2) induce another to part with some valuable item or surrender a legal right, or (3) inflict injury in some manner. Fraud is the crime of gaining money or financial benefits by a trick or by lying. Fraud is an intentionally deceptive action designed to provide the perpetrator with an unlawful gain. Fraud is a knowing misrepresentation of the truth or concealment of a material fact to induce another to act to his or her detriment. A fraudulent practice is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other valuable benefit or to avoid an obligation. Fraud consists of some deceitful practice or willful device, resorted to with intent to deprive another of his or her right, or in some manner to cause harm.

There is a variety of fraud schemes. An example is *securities fraud* that includes asset fabrication, embezzlement, share price manipulation, and illegal guarantees (Cumming et al., 2015). Another example is financial



reporting fraud that is misrepresentation by an agent of a publicly listed firm of the firm's condition. Fraudulent misrepresentation violates generally accepted accounting rules and regulations (Kang, 2008).

Another example is *bank fraud*, where an organization misrepresents own accounts to obtain a loan. Sometimes, borrowers and accounting professionals combine to engage in fraud for profit schemes.

Fraud is at the core of white-collar crime. While there are other forms of white-collar crime such as corruption, we make white-collar crime and white-collar fraud into synonyms in this book, since fraud is a term in everyday life often applied to all kinds of financial crime. If a person induces another person to buy his or her car by telling that it has low mileage (when the seller knows it has high mileage), and the buyer believes the seller and purchases the car at a higher price, then it is fraud. If a corporation intentionally overstates its revenue, and a stock buyer believes its financial statements and buys the corporation's stocks, then it is fraud (Huber, 2017). According to McMahan et al. (2016), improper recognition of revenue is one of the most common methods used in the preparation of fraudulent statements.

Shi et al. (2017) studied financial fraud, where financial fraud occurs when managers take actions that deceive investors or other key stakeholders. It often involves lying about facts, failure to disclose material information, falsifying information performance, or covering up systematic problems. There may be benefits to financial fraud that motivate managers to engage in financial fraud actions, such as appearance of improved performance or increases in contingent compensation.

Shi et al. (2017) found that an organization's level of dedicated institutional ownership is positively associated with the likelihood of financial fraud. This may seem counterintuitive, as more interest and monitoring of performance from owners should be expected to reduce opportunities for deviant behavior. However, dedicated owners' persistent expectations may cause managers to commit crime, even though managers know it is wrong, and even though it might be detected. Thus, strict governance by owners may have a paradoxical effect: It leads to continuously expanding control, but at the same time, reduces managerial loyalty.

The fraud triangle is a three-leg model for explaining the factors that cause someone to commit fraud (Cressey, 1953). The fraud triangle consists of

opportunities, incentives, and rationalizations (Brown et al., 2016). Opportunities are circumstances that allow a misrepresentation to occur. Incentives and pressures are reasons to misrepresent. Rationalizations and attitude represent a frame of mind that justifies the misrepresentation. The fraud triangle emphasizes that the risk of fraud is greater when all three conditions – incentives/pressure, opportunity, and attitude/rationalization – are present (Hansen, 2008: 4):

Incentive or pressure provides a reason to commit fraud that could be financial, work-related, family-tied, or emotional. Opportunities are circumstances that exist at the organization that allow management or others the opportunity to commit fraud. Ineffective or absent internal controls or management's ability to override controls coupled with a low perceived risk of being discovered are examples of opportunities. Attitude, rationalization, or lack of integrity leads to the justification for committing fraudulent acts.

Similarly, MacGregor and Stuebs (2014) describe incentives as economic, social, and moral; opportunity as situational characteristics such as information asymmetries, moral hazard opportunities, and regulation and monitoring characteristics, policies and procedures; and rationalization based on sensitivity and awareness, moral judgment, moral motivation, and moral character.

Murphy and Dacin (2011) discuss psychological pathways to fraud. They identified three paths that end in different states for the individual offender: I am unlikely to commit fraud again, I will likely continue committing fraud, or I commit (or continue committing) fraud while upholding my moral values.

Murphy and Dacin (2011: 613) suggest that the causes of fraud can be found in decision-making processes:

In the first phase, top management makes a "rational" decision to commit fraud by concluding that benefits of committing fraud outweigh the costs. They are expected to experience negative affect, but use rationalization to reduce or avoid it. In the next phase, middle managers are told by top management to commit fraud. They can take one of three avenues, consistent with each the three pathways: (1) blindly do what they are told, without thought, (2) rely on their own intuition and/or reasoning and decide to commit fraud because they are provided a rationalization by top management, or (3) refuse to commit fraud. The first two lead to continued fraud while upholding one's own ethical values. Finally, new employees look for signals indicating socially acceptable behavior within the

organization. The climate encourages fraudulent behavior as normal and acceptable, so new employees commit fraud without thinking. The end result is continual fraud, with individual organizational members not thinking about it and believing their ethical values are upheld.

The fraud triangle entails (1) an individual's incentives and pressures to act fraudulently, (2) the perceived opportunity to commit fraud, and (3) the attitude of the individual which is linked to the rationalization of a fraudulent act (Steinmeier, 2016). When the theory of convenience is introduced later in this book, the fraud triangle is expanded into the relative concept of convenience and the organizational context where a potential offender has legitimate access.

Roden et al. (2016) tested the fraud triangle by comparing a sample of firms with fraud violations to a sample of firms with no fraud violations. They found significant explanatory variables representing all three sides of the fraud triangle. In terms of incentives and pressures, they used growth in total assets as a measure of financial distress, and found a positive relationship between this measure of growth and fraud. In terms of opportunities, they used combined leadership position of chairperson and CEO as well as tenure, and found a significant influence on fraud. In terms of rationalizations and attitude, they used the fraction of insiders, and found that less independence by a lower percentage of independent board members increases the likelihood of fraud.

## **Magnitude of White-Collar Crime**

The United States center for white-collar crime research estimates in a report by Huff et al. (2010) the scope of white-collar crime in the U.S. at between 300 and 660 billion dollar. This is similar to figures from the Federal Bureau of Investigation (FBI) and the Association of Certified Fraud Examiners (ACFE) who both indicate a range between \$300 and \$600 billion.

In a much smaller country like Norway, the estimate is \$1.5 billion. This number was estimated by expert elicitation. Experts were told that all convicted white-collar criminals in a year had committed financial crime for \$150 million. Experts were asked what fraction they thought this amount would represent out of the total magnitude of crime. They were asked using the tip of an iceberg metaphor, where detected crime is above sea level, while the rest of the iceberg is invisible under the sea. Experts on average said in their interviews that they thought one out of ten – or ten

percent – was caught. Based on this procedure of expert elicitation, the estimate for white-collar crime in Norway becomes \$1.5 billion.

A different approach for Norway could be to compare the magnitude of crime to the United States. For simplicity, we assume that the magnitude of white-collar crime is the same in Norway and in the United States is the same when corrected for population differences. This assumption can, of course, be questioned. Norway is probably most similar to the state of Connecticut in terms of standard of living, population size and several demographic variables.

With a population of 5 million inhabitants as compared to the United States with 321 million inhabitants, the equivalent of \$1.5 billion estimated in Norway would be \$96 billion in the United States.

Given an average estimate of \$ 450 billion in the United States, the equivalent magnitude for Norway would be \$7 billion. When only \$150 million are detected in Norway each year, and the yearly magnitude might be \$7 billion, then this estimate implies that only 2 percent – one out of fifty – are caught each year.

It is often argued that detected and convicted white-collar criminals only represent the tip of an iceberg in terms of financial crime committed by privileged people in the elite linked to their occupations in society (Benson and Gottschalk, 2015; Langton and Piquero, 2007; Michel et al., 2016). The above calculations indicate that they have been right.

One approach to estimate the size of the iceberg is the use of expert elicitation. Expert elicitation refers to a systematic approach to synthesize subjective judgments of experts on a topic where there is uncertainty due to lack of data. (Heyman and Sailors, 2016; Valkenhoef and Tervonen, 2016).

The purpose of eliciting and analyzing expert judgment is to use all available information to make expert judgment inference, which is different from statistical inference. Statistical inference means that conclusions about the population can be established when the sample is randomly drawn for the population. Expert judgment inference means that experts' estimates represent the state of knowledge. It represents previously unknown and undocumented information. The limited ability to infer does not mean that expert judgments are not valid data. Expert judgments are indeed valid data in that it must be carefully gathered, analyzed and interpreted (Meyer and Booker, 2001). When a number of

experts are interviewed, their accumulated guesstimates tend to converge towards numbers that remain stable when more experts are added. Therefore, approximately ten experts from various backgrounds are often sufficient (Heyman and Sailors, 2016; Slottje et al., 2008: 7; Valkenhoef and Tervonen, 2016).

Expert elicitation seeks to make explicit and utilizable the unpublished knowledge and wisdom in the heads of experts, based on their accumulated experience as well as their interpretation and reflection in a given context.

Expert elicitation is a systematic approach to include expert insights into the subject and also insights into the limitations, strengths and weaknesses of published studies (Slottje et al., 2008: 7):

Usually the subjective judgment is represented as a “subjective probability density function (PDF) reflecting the experts’ belief regarding the quantity at hand, but it can also be for instance the experts’ beliefs regarding the shape of a given exposure response function. An expert elicitation procedure should be developed in such a way that minimizes biases in subjective judgment and errors related to that in the elicited outcomes.

Meyer and Booker (2001) argue that expert elicitation is invaluable for assessing products, systems, and situations for which measurements or test results are sparse or nonexistent. When experts disagree, it can mean that they interpreted the question differently or that they solved it using different lines of thought. Expert judgment can be considered relevant information in the sense that it is data based on qualified opinions. The validity or quality of expert judgment, like any data, can vary. The quality of expert judgment depends on both the completeness of the expert’s mental model of the phenomena in question and the process used to elicit, model, analyze, and interpret the data.

In Scandinavia, expert elicitation has been applied to estimate the magnitude of social security fraud. While the estimate for Sweden was 6-7 percent (Delegationen, 2008), the estimate for Norway was 5 percent (Proba, 2013). Slottje et al. (2008) applied expert elicitation in the Netherlands to assess environmental health impact.

## **Edwin Sutherland**

Edwin Sutherland is one of the most cited criminologists in the history of the criminology research field. Sutherland's work has inspired and motivated a large number of scholars in the field associated with his work. His ideas influence, challenge and incentivize researchers. Sutherland's research on white-collar crime is based on his own differential association theory. This learning theory of deviance focuses on how individuals learn to become criminals. Differential association theory assumes that criminal behavior is learned in interaction with other persons.

Sutherland's (1939, 1949) concept of white-collar crime has been so influential for various reasons. First, there is Sutherland's engagement with criminology's neglect of the kinds of crime of the powerful and influential members of the elite in society. Next, there is the extent of damages caused by white-collar crime. Sutherland emphasized the disproportionate extent of harm caused by the crime of the wealthy in comparison to the much researched and popular focus on crime by the poor, and the equally disproportionate level of social control responses. Third, there is the focus on organizational offenders, where crime occurs in course of their occupations. A white-collar criminal is a person who, through the course of his or her occupation, utilizes own respectability and high social status to perpetrate an offense. Fourth, the construction of the corporation as an offender indicates that organizations can also be held accountable for misconduct and crime. Finally, there is the ability to theorize deviant behaviors of elite members. Many researchers have been inspired by Sutherland's groundbreaking challenge of mainstream criminology as neglecting the crime of the upper class and the dominating focus on crime of the poor. This was a major insight that began a dramatic shift and broadening in the subject matter of criminology that continues today.

Sutherland's long lasting influence upon criminological, sociological and more recently also on management thinking is observable across the globe, but in particular in the United States and Europe. Sutherland exposed crime by people who were thought of as almost superior, and people who apparently did not need to offend as a means of survival. Businesspersons and professionals frequently commit serious wrongdoing and harm with little fear of facing criminal justice scrutiny. It can be true that poverty and powerlessness is a cause of one kind of crime while excessive power can be a cause of another kind of crime.

Sutherland exemplified the corporation as an offender in the case of war crime where corporations profit heavily by abusing the state of national emergency during times of war. Corporate form and characteristics as a profit-maximizing entity are shaping war profiteering. It is organizational crime by powerful organizations that may commit environmental crime, war profiteering, state-corporate crime and human rights violations.

While Sutherland's concept of white-collar crime has enlightened sociologists, criminologists and management researchers, the concept may have confused attorneys, judges and lawmakers. In most jurisdictions, there is no offense labeled white-collar crime. There are offenses such as corruption, embezzlement, tax evasion, fraud, and insider trading, but no white-collar crime offense. Sutherland's contribution to the challenge of concepts such as law and crime can be considered one of the strengths of his work as he showed that laws and legal distinctions are politically and socially produced in very specific ways. For lawmakers, there is nothing intrinsic to the character of white-collar offences that makes them somehow different from other types of offences.

One reason for this confusion is that white-collar crime in Sutherland's research is both a crime committed by a specific type of person, and it is a specific type of crime. Later research has indicated, as applied in this book, that white-collar crime is no specific type of crime, it is only a crime committed by a specific type of person. However, white-collar crime may indeed sometime in the future emerge as a kind of crime suitable for law enforcement as Sutherland envisaged it in his offender-based approach to crime, focusing on characteristics of the individual offender to determine the categorization of the type of crime.

Sutherland's broader engagement with criminological and sociological theory in general, such as his theory of differential association and social learning, has been and is influential. One aspect of the theory of differential association – social disorganization – has had a significant influence of later researchers.

Sutherland's work is the foundation in all teaching, research and policing of white-collar crime today.

### **Offence Characteristics**

White-collar crime is illegal acts that violate responsibility or public trust for personal or organizational gain. It is one or a series of acts committed

by non-physical means and by concealment to obtain money or property, or to obtain business or personal advantage (Leasure and Zhang, 2017).

White-collar crime is a unique area of criminology due to its atypical association with societal influence compared to other types of criminal offenses. White-collar crime is defined in its relationship to status, opportunity, and access. This is the offender-based perspective. In contrast, offense-based approaches to white-collar crime emphasize the actions and nature of the illegal act as the defining agent. In their comparison of the two approaches, Benson and Simpson (2015) discuss how offender-based definitions emphasize societal characteristics such as high social status, power, and respectability of the actor. Because status is not included in the definition of offense-based approaches and status is free to vary independently from the definition in most legislation, an offense-based approach allows measures of status to become external explanatory variables.

Benson and Simpson (2015) approach white-collar crime utilizing the opportunity perspective. They stress the idea that individuals with more opportunities to offend, with access to resources to offend, and that hold organizational positions of power are more likely to commit white-collar crime. Opportunities for crime are shaped and distributed according to the nature of economic and productive activities of various business and government sectors within society.

Benson and Simpson (2015) do not limit their opportunity perspective to activities in organizations. However, they emphasize that opportunities are normally greater in an organizational context. Convenience theory, however, assumes that crime is committed in an organizational context to be called white-collar crime. This is in line with Sutherland's (1939, 1949) original work, where he emphasized profession and position as key characteristics of offenders.

## **Offender Characteristics**

The white-collar offender is a person of respectability and high social status who commits financial crime in the course of his or her occupation (Leasure and Zhang, 2017). In the offender-based perspective, white-collar criminals tend to possess many characteristics that are consistent to expectations of high status in society. There is both attained status and ascribed status among white-collar offenders. Attained status refers to status that is accrued over time and with some degree of effort, such as



education and income. Ascribed status refers to status that does not require any specific action or merit, but rather is based on more physically observable characteristics, such as race, age, and gender.

A person of respectability enjoys positive judgment and evaluation of his or her individual attributes relative to socially accepted criteria. A person of respectability enjoys not only generalized respect that is owed to everyone simply as a function of their being persons in positions. A person of respectability also enjoys particularized respect since he or she exhibits – or has the potential to exhibit – certain qualities or actions. Particularized respect differentiates individuals within a social category and is based on the respected person's attributes, behaviors, and achievements (Rogers et al., 2017).

The main offender characteristics remain privilege and upper class. Early perception studies suggest that the public think that white-collar crime is not as serious as other forms of crime. Most people think that street criminals should receive harsher punishments. One explanation for this view is self-interest (Dearden, 2017: 311):

Closely tied to rational choice, self-interest suggests that people have views that selfishly affect themselves. Significant scholarly research has been devoted to self-interest-based views. In laboratory conditions, people often favor redistribution taxes when they would benefit from such a tax. This self-interest extends into non-experimental settings as well. For example, smokers often view increasing smoking taxes less favorably than non-smokers do.

In this line of thinking, people may be more concerned about burglary and physical violence that may hurt them. They may be less concerned about white-collar crime that does not affect them directly. Maybe those who are financially concerned with their own economic well-being will be more concerned with white-collar crime (Dearden, 2017).

White-collar perpetrators have social power associated with different occupational activities across the society. Power and authority at the hands of individuals enable white-collar crime. The power essentially comes from the positions individuals legitimately occupy.

## **Occupational and Business Crime**

A distinction in white-collar offenses can be made between occupational crime and business crime. Occupational crime is committed by persons in

an organizational setting for purely personal gain and to the detriment of the organization. Business crime is committed by or on behalf of the organization for profit or enhancement (Kang and Thosuwanchot, 2017). Of course, in business crime organizations cannot commit illegal acts independently of human agents.

Occupational crime is typically committed under conditions of low levels of socialization and weak accountability. Employees may be unfamiliar with organizational goals or simply ignore organizational goals, while at the same time exerting efforts toward personal goals due to weak restraints by the accountability system. The presence of occupational crime may be symptomatic of larger failures in an organization's system since an organization without committed and accountable employees suggests a higher likelihood of failing in the end. Occupational crime tends to be committed by privileged individuals who feel no attachment to the organization, and who do so for purely personal gain (Kang and Thosuwanchot, 2017).

Business crime, on the other hand, is typically committed under conditions of high levels of socialization and strong accountability. Employees not only identify with the organization but also its goals. The pursuit of organizational goals over individual goals does not imply the absence of crime. Rather, achievement of organizational goals becomes so important that if it cannot be done in legal ways, dedicated employees do it in illegal ways (Kang and Thosuwanchot, 2017).

Both occupational and business crime is committed within the organizational context. Corporate crime is committed for business advantage. Examples of corporate crime include cartels and corruption. Illegal price fixing and market sharing occur in cartels to enable participants in cartels to achieve more profits. Bribes are offered to potential customers, allies and public officials to enable contracts and licenses (Leasure and Zhang, 2017).

## **Criminals after Conviction**

Some researchers have suggested that “the higher you fly, the further you fall”. This suggestion implies that high-profile white-collar criminals who fell from grace manage badly after conviction (e.g., Goldstraw-White, 2012). Other researchers have suggested that they return to prominent roles, which might lead to a conclusion that the impact of conviction is less significant for white-collar criminals (e.g., Kerley and Copes, 2004). Common themes are the impact on status and feelings of stigma, negative

audience reactions from family, friends, and media, the impact on self-worth, rationalizations and neutralizations, and the loss of social status.

The idea that white-collar criminals are especially sensitive to conviction and imprisonment is based on the premise that they are of higher status than street criminals are. White-collar criminals may have greater investments in the prevailing social order and may have more to lose. Stadler et al. (2012) argue that a belief is commonly held by those in the criminal justice system that white-collar offenders are ill equipped to adjust to the rigors of prison life. According to the special sensitivity hypothesis, the claim is made that white-collar offenders experience the pains of imprisonment to a greater extent than traditional street offenders do. Based on this hypothesis, Mann et al. (1979) found that American judges handed down lighter sentences to white-collar criminals because of an a priori assumption that they would not cope well with the prison environment. The special sensitivity hypothesis assumes that the transition from a life of freedom and privileges to one of strict regulation and material deprivation may be particularly shocking to newly incarcerated white-collar inmates.

The idea that white-collar offenders are especially sensitive to the pains of imprisonment was developed with high status offenders in mind. The idea stems from the fact that they differ substantially from other offenders with respect to their social and other background characteristics, as well as their experience with the criminal justice system (Logan, 2015: 11):

In light of these differences, members of the criminal justice community – namely judges – have argued that indoctrination to prison life is particularly shocking for newly incarcerated white-collar offenders. Similarly, these individuals maintain that typical street offenders, who often come from more disadvantaged backgrounds, are far less susceptible to the pains of imprisonment.

The special sensitivity hypothesis has been tested by Dhami (2007) in the United Kingdom and by Stadler et al. (2013) and Logan (2015) in the United States. None of these three empirical studies found any support for the hypothesis that white-collar offenders have a special sensitivity to imprisonment.

Dhami (2007) explored how white-collar prisoners perceived the reactions of the judiciary, media, significant others, prison staff, and other inmates toward them, and how these offenders perceived their own offending behavior. The study in the United Kingdom indicates that it may be easier

for a white-collar criminal than for a street criminal to spend time in prison. Interviews with fourteen white-collar offenders revealed that they perceived the reaction from the criminal justice system and the media as negative, but the reaction of others, including other inmates, as positive.

Stadler et al. (2013: 495) found no support for the suggestion that white-collar offenders experience more pain and cope less well within the society of captives:

Based on a sample of 366 federal prison inmates, we assessed the special sensitivity hypothesis. The analysis revealed that white-collar inmates are not more likely to experience negative prison adjustment. In some regards, white-collar inmates had fewer institutional problems and were more likely to cope with prison life successfully. Results thus call into question the merits of the special sensitivity hypothesis and are consistent with the view expressed earlier by Michael Benson and Francis Cullen that white-collar offenders may possess attributes and resources sufficient for their successful adaptation to life in prison.

Stadler et al. (2013) measured inmate adjustment to prison by statements such as: (i) experience difficulties in prison; (ii) trouble sleeping; (iii) evidence of need for safety in prison; (iv) problems with current or former cellmate; and (v) any friends in prison. Response analysis indicates that white-collar offenders in the United States are not more likely to experience prison adjustment problems than non-white-collar offenders. For two of the five measures, white-collar inmates were significantly less likely to experience problems. Fewer white-collar offenders experienced general prison difficulties compared to the general inmate group, and a larger percentage of white-collar offenders made friends in the prison. Fewer white-collar offenders experienced problems with former or current cellmates. White-collar offenders seemed less in need of safety in prison.

Logan (2015) used nationally representative prison data based on inmates' self-reports in the United States and studied four domains of prison life:

- **Victimization:** Were inmates injured in a fight, assault, or incident in which someone tried to hurt them? No difference was found between white-collar and non-white-collar inmates with respect to experiencing victimization in prison.
- **Prison conduct:** Had inmates violated prison rules and been subject to disciplinary action? Compared to other inmates, white-collar criminals showed significantly less substance abuse-related misconduct. White-collar offenders were significantly less likely

than other inmates to be written up for carrying weapons. White-collar offenders were less likely than other inmates to be involved in verbal or physical altercations with prison staff.

- Psychological adjustment: Did inmates have feelings of negative affect, receive treatment for mental health disorders, and experience symptoms of mental health disorder? White-collar offenders were no more likely than other inmates to develop feelings of negative affect while incarcerated. White-collar offenders were no more likely to be in need of mental disorder treatment.
- Participation in prison programs: Did inmates participate in employment counseling and life skills and community adjustment classes? White-collar offenders were more likely than other inmates to score higher on the program participation scale.

As an alternative to the special sensitivity hypothesis, Logan (2015) introduced the special resilience hypothesis. Resilience is the ability to cope with change. White-collar criminals may in fact fare better in prison than other inmates. White-collar offenders often have greater amounts of personal and social capital, including higher levels of education and closer ties to family than other offenders. They are more likely to adopt non-criminal identities. White-collar inmates may have greater emotional and psychological resources than other inmates. Such factors can be linked to reduced stress in prison.

# CHAPTER TWO

## THEORY OF CONVENIENCE

Researchers have developed a number of explanations for the occurrence of white-collar crime. Sutherland (1939, 1983) started out by differential association theory, where white-collar crime is explained by learning from others in such a way that offenders associate with other offenders and at the same time distance themselves from those who are skeptical of their behavior. As listed in Table 2.1, Sutherland's differential association theory can be classified into the behavioral dimension.

Table 2.1 classifies a number of theories into three categories that are labeled economical, organizational, and behavioral dimension respectively. In the economical dimension, theories emphasize motives for white-collar crime, which can be both possibilities and threats. In the organizational dimension, theories emphasize opportunities for white-collar crime, which include both access to resources to commit crime and opportunity to conceal crime. In the behavioral dimension, theories emphasize willingness based on slippery slopes, lack of self-control, application of neutralization techniques and other enablers for willingness.

As will be explained in this chapter, these three dimensions make up the essence of the theory of convenience. In the economical dimension, white-collar crime is convenient to satisfy desires for more gain and desires to help others, as well as to remove strain and prevent disaster. In the organizational dimension, white-collar crime is convenient since there are attractive opportunities to commit and conceal illegal transactions. In the behavioral dimension, white-collar crime is convenient since the offender does not perceive own deviant behavior as problematic.

These three dimensions represent the convenience triangle for white-collar crime as illustrated in Figure 2.1, where there are mutual influences between dimensions. For example, a stronger motive in the economical dimension will increase personal willingness and will also increase a search for organizational opportunities. On the other hand, when a