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“Examining the why: influences, motivation and rational calculation in white-collar criminality”

Verfasst von

Thomas Hochgatterer, Bakk. rer. soc. oec.

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*For Mom and Dad,
who enabled me to my studies.*

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1 INTRODUCTION

Criminality is a part of everyday social life. With prohibition by law, enforced by executive authorities and punished by social disgrace our society tries to cope with unwanted criminal behavior. Moral values as foundation for the separation of actions in right or wrong seem pretty straight forward for the average human being in most cases. When it comes to street-level crimes like murder, rape or assault, the majority of people is aware of its tremendous negative influence on a society and has a clear deprecatory attitude towards it.

When it comes to other types of offenses the picture drawn seems to be different. Public awareness and its attitude towards offenses committed in a business context, is seemingly dragging behind its real impacts on society and general welfare (Cullen, et al. 2007). This so called white-collar criminality has an impact on society which surpasses the one of street-level criminality by far, at least in monetary terms (McFayden 2010). Academic research has partly discovered the impact of the white-collar offense category and directed some attention towards this topic. Still not being able to get the general population to a level of awareness which matches the impact of these crimes, the future of this field of research has the potential to change the ways of conducting business and its place in human society on a fundamental level.

Aiming at these present shortcomings this paper tries to give a general overview of the current state of white-collar crime research. The focus lies on the different influential factors which might lead to white-collar offending, with an emphasis on the question if there is a "typical" white-collar criminal. Therefore a short definition of the field with its current challenges is presented in chapter 2 before possible influential factors out of the many different research streams are examined in chapter 3. To get the manifold influential spheres in an economic context, chapter 4 will deal with an analysis that puts the findings of chapter 3 into the economic model of Becker (1974).

2 DEFINITION AND RESEARCH OVERVIEW

2.1 DEFINITION OF WHITE-COLLAR CRIME

Already in 1893, Emily Durkheim originated her concept of anomie as a state of normlessness where the conventions of social behavior are shattered in the process of social change (Friedrichs 2010). This concept was further developed by Robert Merton (1957) who claimed that anomie is just a form of innovating ways to move toward personal goals, by people who lack access to legitimate means to reach their goals. Some of these new innovative ways of achieving one's goals were rated sooner or later as illegal behavior. The first who put this general approach for deviant behavior in a pure business context, and therefore away from the street crime view, was Edwin Sutherland. He coined the term of white-collar crime and received therefore great attention in the academic world (Elliott 2010). He defined white-collar crime as "The crimes committed by businessman [...] as a violation of law by a person of the upper socioeconomic class in the course of his occupational activities[...]." (Sutherland, 1941 p. 112 in Schuchter, 2012 p. 38) where the upper class could be defined as a group of people, who were wealthy, highly educated, socially well connected and as well typically employed by a legitimate organization (Gottschalk 2012). Until then, white-collar crime was seen as a crime with no behavioral explanation (Perri 2011). In the course of the development of the field of white-collar crime research, the definition of Sutherland got revised and nowadays the conception of just people from the upper socio-economical strata are committing white-collar crimes cannot be held anymore. However, besides the fact that white-collar crime is not only limited to the upper class the challenge of finding a general definition for white-collar crime prevails up till today. Modern definitions of white-collar crime sound like the following

"[...] the description of white-collar crime refers to a planned and illegal act committed during the performance of an occupational role, initiated by an individual or by an organization. In addition, white-collar crimes do not involve physical violence." (Ivancevich, Konopaske and Gilbert 2008, 402)

"[...] if] white-collar crime is defined in terms of the offense, it means crime against property for personal or organizational gain. It is a property crime

committed by criminal non-physical means and by concealment or deception (Benson and Simpson 2009)” (Gottschalk and Smith 2011, 302f.)

“[...] illegal acts characterised by deceit, concealment, or violation of trust and that are not dependent upon the application or threat of physical force or violence. Individuals or organisations commit these acts to obtain money, property or services; to avoid the payment or loss of money; or to secure personal or business advantage” (Perri 2011, 219)

just to name some examples. There are many more definitions which only differ in small nuances in the attempt to describe deviant behavior in business related context. All these definitions have in common though, that the illegal actions are characterized by being committed in an economic context, without physical force, through a breach of trust with the result of material and immaterial damage to the victim(s). Up to today, there is no uniformly acknowledged definition for white-collar crime in the academic fields. (Schuchter 2012)

Nearly all of these definitions state the non-violent nature of white-collar crimes, which is not necessarily true for all white-collar offenses, as this paper will also show. Furthermore the social status, as Sutherland proclaimed it in his first attempt to define white-collar crime is nowadays not seen as a necessary precondition, even though some white-collar crimes can only be committed by people who earned a certain level of trust and position in a given society. (Weisburd, et al. 1991)

2.1.1 Some numbers about white-collar crime

In general, it can be said that the reports on white-collar offenses understate the holistic influence of white-collar crime on the economy (Weissmann and Block 2007). The reasons are manifold as for example a lot of people do not notice when they have been a victim of white-collar crime (Weissmann and Block 2007), or companies who were able to identify white-collar offenders are willing to conceal the misbehavior to not risk a breach in trust to their business partners or customers (Graeff, Schröder and Wolf 2009). Nevertheless the numbers of white-collar crimes that reached public attention indicate the devastating consequences these offenses have for the economy. The FBI estimated an annual loss in the insurance industry sector of nearly

\$ 30 billion just due to non-health care related insurance frauds in the course of 2011 (FBI 2012). In comparison, all losses due to property crimes in the U.S. in the course of 2010 are estimated with the equivalent of \$ 15.7 billion (FBI 2011). The overall economic damage, just to the economy of the United States, is estimated within a range of \$ 250 billion (Rosoff, Pontell and Tillman 2002) to \$ 300 - \$600 billion (Kane and Wall 2006) up to \$ 1 trillion (McFayden 2010) annually. According to Elliot (2010) the average U.S. corporation loses 7 percent of its annual revenues because of fraud. Furthermore 30% of all new business failures are due to some sort of white-collar crime (Schnatterly 2003). According to the United States Chamber of Commerce, 75% of employees steal at least once from their employer in the course of their occupation (Heath 2008) while on the other hand 24% of the households and 17% of individuals were victims of averaged 1.3 white-collar crimes in the course of 2010 only in the United States (Huff, Desilets and Kane 2010). Worldwide estimates for the economic damage of white-collar crime exceed \$ 10 trillion annually (McFayden 2010).

Besides the huge economic losses there are also the human losses or injuries that have to be accounted for, when referring to the costs of white-collar crime. According to a report on the medical system in the United States, close to 200,000 people, die every year from preventable medical errors and or preventable hospital acquired infections (McGurrin, et al. 2013). Furthermore nearly 4,700 workers were killed and another three million were injured or got ill from diseases they got in the course of their occupation (United States Department of Labor, Bureau of Labor Statistics 2012). Compared to the 14,748 murdered people in the United States in the course of 2010 (FBI 2011), it sheds a different light on the view of white-collar crime and its physical harms to society.

According to a study at the Harvard Medical School the emotional consequences of white-collar crime can be as harsh as the consequences out of violent street crime, for the victims (Price and Norris 2009). In addition to the economic and human loss that comes along with the commitment of white-collar crimes, there is also a loss of trust between business partners, or organizations and the public (E. H. Sutherland 1941 in Schuchter 2012). Still white-collar crime is widely seen as a non-violent category of crime which is mostly committed by one-time offenders, even though research has already proven that there are some cases of white-collar criminals who

are willing to use violent means and even murder to conceal or commit their acts of white-collar crime (Brody and Kiehl 2010). Therefore the definitions which are mostly present at law enforcement agencies, judicative instances, and in some academic fields of a “kinder and gentler” (Perri 2011, 1) white-collar criminal is wrong and therefore the comparison to street-level crime is heavily biased (Brody and Kiehl 2010, Perri 2011).

In the next section of this chapter two famous examples of heavy impact white-collar crimes will be presented, which both took place in the early years of the current millennium.

2.1.2 White-collar crime examples

The presented numbers in the previous section indicate the tremendous losses linked to white-collar crime. Solely five giant frauds in the early 2000s (Qwest, Enron, Tyco Global Crossing and WorldCom) accounted for \$ 460 billion of damage (Rezaee 2005). In this part the case of Bernard Madoff and the Enron scandal are briefly discussed to give an example of how white-collar crime can be committed.

Bernard Madoff and his Ponzi scheme

A Ponzi scheme is an investment model where an organization, person, or institution takes investments from clients for a certain venture and promises extraordinarily high returns for the investment. The clue in the whole scheme is, that received money by new investors is not actually invested in the advertised venture by the issuing party but instead used to pay off the investment with the promised return to other, mostly longer participating clients where the promised returns are due. With the promised return on the returns, the “older” clients vouch for the investment scheme and therefore a stream of new members is investing in the proclaimed promising deal. Therefore no real value is created through the investment, and a lot of money is put into the trust of the issuing organization, for their illegal enrichment until the scheme eventually collapses. Madoff, the former president of NASDAQ and member in the Securities and Financial Markets Association (SIFMA) board, promised his clients such a scheme with an annual return on investment of 10 – 12 %, regardless of the respective market conditions. He was able to gather \$ 9.5 billion from his investors within eight months, and therefore promised his clients a return of \$ 14 billion. He

then issued loans to himself with the money from the clients and paid off the promised returns with the invested money of new members. (Nolasco, Vaughn and del Carmen 2013) The scheme finally collapsed in the course of the last big financial crisis in 2008. Bernard Madoff had deceived his clients for at least \$ 50 billion before the Securities and Exchange Commission (SEC) closed him down (United States Securities and Exchange Commission 2008). He was eventually convicted to a sentence of 150 years in 2009 (BBC 2009).

The Enron Case

Enron was one of the prime cases of creative compliance that seemed still to be in the gray area of legality. Enron used an accounting technique which was called fair-value accounting and was intended for financial assets by the general accepted accounting principles (GAAP). The problem with the use of these techniques at Enron was that the company in combination with its Auditor (Arthur Andersen) used it in the wrong circumstances. It calculated its performance based compensation for its managers on the company performance measures based on the values from the fair-value accounting for instance. Thus the managers of the company used actions (not well devised investments, poorly implemented projects,...) to overstate reported earnings with these accounting principles and therefore received higher bonus payments. Examples for this might be the estimate of value of gas contracts, which were calculated on the basis of gas price forecasts for the next ten to 20 years, and were then fully reported as profits when the deals were closed. Another example would be the construction of the Dabhol power plant in India, where Enron invested and lost \$ 900 million due to renegotiation and contract issues which forced the project to go idle. However, the project management team received bonus payments of \$ 20 million due to the accounted future profits of the power plant in the system of fair-value accounting. (Benston 2006) The company stated positive earnings over the years, which had to be corrected, according to SEC principles in the consecutive years, when the accounting practice of Enron could not be held up any more. So it happened that in September 2001 Enron had to restate accounts for over \$ 1.7 billion, whereupon the SEC began their investigation. Within months of the investigation it turned out that Enron had erased approximately \$ 70 billion of shareholder value and concealed billions of dollars debt. As a consequence the stock price plummeted and the company went bankrupt. The public trust in corporate

America was shattered and the perceived safety that was claimed by the Auditors and rating agencies was gone within days as it seemed all of them were aware of Enron's practices and nobody reacted in the way they were supposed to. (McBarnet 2006)

The two examples that were stated above are dealing in spheres that are hardly imaginable for the average human being, but white-collar crime is not only limited to the high value frauds, embezzlements or misstatements of accounts. White-collar crime is also abundant on each and every level in society, as passing a bad check for \$ 50 is also considered a white-collar crime, regardless of social status, education or any other characteristics of the fraudster (Buell 2014). Another fact that has to be mentioned is that the two examples differ in the motivation of commitment. While Madoff was interested in his own benefit, Jeffrey Skilling and Kenneth Lay acted in the "interest" of the company when committing their crimes, and only enriched themselves indirectly through higher stock prices (Simpson 2013).

In the next section different types of white-collar criminality and their characteristics will be examined.

2.2 DIFFERENT TYPES OF WHITE-COLLAR CRIME

In the course of the development of the research field of white-collar crime a widely accepted distinction of white-collar crime in two broad categories has been drawn: occupational crime and corporate crime (Holtfreter 2005). However, the scientific community in this field has not been unified and some scholars, like Friedrichs (2010) have developed further separate categories. As a too detailed differentiation of types of white-collar crime would not serve any purpose for this piece of work, the commonly accepted classification in occupational and corporate crime will be enhanced with Friedrichs' (2010) category of political or state/governmental crime.

2.2.1 Occupational crime

Occupational crime can be seen as white-collar criminality, which is committed by an individual in the course of her work, and for the personal benefit of the individual. Green (1997) defines it as "any act punishable by law that is committed through opportunity created in the course of an occupation that is legal" (Friedrichs 2002,

245f.). Some scholars argue, that these incidences of crime are acted out of pure greed (Gottschalk and Smith 2011). This approach is not shared throughout the academic field, as this paper is going to show in the next chapters. These acts of white-collar crime can be committed by individuals or group of individuals. However, a line has to be drawn between the involvement of employees of a company who commit crimes on their behalf or on the behalf of the company, which is going to be discussed in the next section. Mostly the enrichment is of financial nature for the perpetrator and is mostly at the expense of the employer or a partner of any kind, of the employing organization (Holtfreter 2005). The major problem with occupational crime is, that the criminal act can only be carried out in a certain position of trust in organizations which has a set of rights and duties that may enhance the possibilities of occupational crime. Therefore it might be a hard task to control and surveil certain actors (Hansen 2009). In this regard, Black (2005) coined a term “control fraud” which indicates exactly these hard to control and monitor executives with a position that enables them to use the company as a mean to enrich themselves in an illegal way (Simpson 2013).

2.2.2 Corporate Crime

Corporate or organizational crime in comparison to occupational crime is characterized by an offending company or organization that is pursuing its goals, by committing unlawful acts (Simpson 2013). As corporations mostly cannot act on their own behalf without any human actors, the attribution of wrong doing to the company or organization can be challenging. The discrimination between corporate crimes and illegal actions set by executives for their own benefit can be blurred, but some researchers argue that the organization takes a life on its own. With the emerging of corporate crime the approach of Sutherland was also attacked as his definition did not fit this category of crime at all. Furthermore the outcome of the collective decision of an organization cannot be considered as the sum of individual decisions made. (Friedrichs 2010) Lee and Gailey (2005) argue, that the several factors have to be considered like the social hierarchy and norms within an organization as well as organizational or institutional context the crime was committed in, just to name a few. A broader definition of the problem of organizational is

“illegal acts of omission or commission of an individual or a group of individuals in a legitimate organization in accordance with the operative goals of an organization, which have a serious physical or economic impact on employees, consumers, or the general public” (Schrager and Short 1978)

Even though the definition covers a broad spectrum of corporate crime, as it does not limit the deviant organizations to for-profit organizations and companies, it has some shortcomings. According to the definition above, corporate crime only starts with great impact, and the small violations would not be considered in the above stated definition. Furthermore acts have to be illegal to be considered under this definition and moral and ethical considerations play no role (Simpson 2013). An example where such grey areas between lawfulness and non-ethical behavior are playing a considerable role, would be the actions of energy companies who are entitled to some exceptions of the Safe Drinking Water Act of 1974 and the Clean Water Act of 1972 in the United States under the 2005 Energy Policy Act. With these exceptions for example, oil and gas companies are allowed to use any chemicals for their high volume hydraulic fracturing (fracking) besides diesel (United States Government Printing Office 2005). Even though not explicitly illegal the harm caused on the general public can be tremendous (Finkel and Law 2011).

Another problem of dealing with the issue of organizational crime is that corporations have a whole different set of actions they can use to cover their deviant behaviors. For instance a corporation has far more possibilities to corrupt enforcers, judges, or regulators than most individuals. Moreover, the financial and social network advantages combined with eventually abundant economy of scale in corruption leaves a corporation likely with a better position compared to an individual. In addition, influences towards the media and the general public can be easily carried out by some corporations as they got budgets for lobbying and other campaigns. (Gottschalk 2012) The Enron case, as presented earlier, is an example of a company committing corporate crime. Also the pressure and influence that a corporation can exercise on politics and its institutions can have a considerable impact. These influences however are not only unilateral, what is to be seen in the next section of this chapter.

2.2.3 Political or state crime

The distinguishing characteristic of political or state criminality is apparently that it has to be carried out by a political or governmental individual or organization. The differentiation between political and state crime can be a similar to the one between occupational and corporate crime, as the first is carried out by an individual, whereas the latter is mostly performed by an organization. Financial motives can be also the triggers for committing political or state crime, the extension and/or maintenance of power are the main motivators for these crimes. (Friedrichs 2010) The largest threat here is clearly the power that can be executed by the potential criminals in combination with their means to conceal their actions or eventually even sabotage or stop the investigation. The question here is who guards the guardians? Furthermore with ethical and legal questionable actions carried out by any political organ, individual or collective, can be seen from different angles in the public. While some may say that an illegal act was committed or that politics puts them under repressions, others might defend the actions taken, as they might be in their interest. Examples for that might be the Emergency Act that enabled South Africa's apartheid government to commit their crimes, or the NSA for collecting data from millions of people around the world (Smeulers and Haveman 2008, Friedrichs 2010). Bribery, corruption and abuse of power are by far the most common state or political crimes, but the approach to these concepts can be different from country to country and from culture to culture, as some countries or cultures are used to the concept of "efficient grease" (Méon and Weill 2010). In addition the impact of political or state crime on other forms of white-collar crime can be huge, as another chapter of this paper will show.

Before results of white-collar crime research in all its manifold directions are presented in the next chapter, the following section deals with a short historic overview and the challenges the field faces nowadays.

2.3 DEVELOPMENT AND PROBLEMS OF THE WHITE-COLLAR CRIME RESEARCH

As it was already discussed, there is still no uniformly accepted definition of the phenomena of white-collar crime, and therefore after 75 years of Sutherland coining the term, the academic community is still divided on which acts, offenders and responses should be seen as white-collar criminality and its treatment (Simpson 2013). Furthermore Simpson (2013) claims that even though the numbers tell a crystal clear story about the impact of white-collar crime, the research dedicated towards this problem is still very meager in comparison to street-crime. Schuchter (2012) argues, that the major problem of the field is, that despite the combination of many academic angles (Criminology, Psychology, Economy, Sociology,...) for the study of white-collar crime, the motivational aspects for the offenders still mostly lay in the dark. Therefore, hardly any useable prevention measures are researched and established. The next section will now look closer into the development of the research field.

2.3.1 Development of the research field and historic overview

During the 19th century, white-collar research has been only on the fringes of criminological research. The major problem that scholars of these times struggled with was that they had to convince the public, that white-collar crime was an issue and should be treated accordingly to its economic impact. Eventually the scholars were able to reveal some white-collar crime scandals towards the end of the century. As the topic emerged with some success in different sciences, major problems were still inherent in the treatment of the topic. In comparison to street-crime offenders, white-collar offenders were treated less harshly and sometimes even managed to get legal immunity. (Cullen, Hartman and Jonson 2009)

Some researchers suggest that the attitude towards white-collar crime has not much changed over the past decades (Cullen, et al. 2007) while others (except Cullen and Jonson, who reconsidered their standpoint) claim that the attitude has changed. Cullen et. al. (2009) suggest a three period model for the development in public

attitude towards white-collar crime. According to them, the first period, up to 1970, was characterized mostly by public inattention towards white-collar crime. The problem, as Sutherland (1940) put it, was that the victims of white-collar crimes, were either not aware of being a victim or if that was not the case, had no means to challenge the offenders, as the victims lacked information, organization and resources. In addition to these problems, the public did not see business people as white-collar criminals, as they did not fit the stereotype of a criminal. The second period reaching from 1970 to 2000 resented in a change of public attitude and awareness for this kind of criminality, paired with the public willingness of sanctioning illegal behavior in business contexts. This development was due to bloom of the study of white-collar crime during the 1970s and especially in the 1980s. With the abundance of academic literature, the public awareness also changed significantly. While the third period, starting 2000, continues the trends of the second period, in addition to the change in public opinion about the white-collar criminals and how the topic should be addressed. (Cullen, Hartman and Jonson 2009)

Scandals like Enron, Worldcom or Tyco triggered the change in perception of the offenders in the public, from more or less respectable business man into the “bad guys”. (Cullen, Hartman and Jonson 2009, Holtfreter, Van Slyke, et al. 2008)

2.3.2 Nowadays problems with white-collar research

With an apparent shift in public attitude in regard to white-collar crime, the first step is taken towards a society where white-collar crime is not regarded as a minor harmful phenomenon on the verge of doing business. As the process is clearly shaped by the public and not only by scholars in the field a large variety of cross national regulations are the results of the process so far (Simpson 2011). With regards to the change in attitude, Heath (2008) criticizes that the public sees the scandals of the early 2000s as “ethical scandals” whereas, according to him, these should be seen as what they are, violations of the code of law and non-different to any other forms of deviation against the law. Polls also show, that in the United States, the majority of the public thinks white-collar crime should be punished more harshly than street-crime, even though the impact of violent street-crime is still perceived as greater than the one from white-collar crime (Holtfreter, Van Slyke, et al. 2008). Rebovich & Kane (2002)

claim, that in some cases the perceived severity of a white-collar offense, can be higher as the one of a violent street-level crime. However, despite the shift in public attitude and the legitimate criticism, the problems are still manifold. Simpson (2011) claims that the three major problems still existing are the meager funding for white-collar crime research, the still existing influence of the early theories which are partly at odds with the nowadays accepted approaches toward criminality and last but not least the complexity and difficulty of the research on this subject matter.

The funding of research lacks first and foremost, public and governmental resources. Especially in the United States, where the awareness of the seriousness of white-collar crime has partly soaked into the public mind, the federal budget is way too small, in combination with some lack of willingness of enforcement in the last decade. Also the public itself, has come to this conclusion, and demands more governmental resource allocation to the topic of white-collar crime research and prevention. (Holtfreter, Van Slyke, et al. 2008) When it comes to corporate funding, the problem might be, that the research is biased, as the research might be willing to please its sponsor (Tombs and Whyte 2007). So the findings of such research have to be seen critically. In this case there seems to be a paradox, because it would be in the best interest of the company, to bias the research the least possible, as nowadays the ability to identify and prevent white-collar crime and its harmful outcomes, may result in a corporate advantage over other players on the market (Schnatterly 2003, Graeff, Schröder and Wolf 2009).

With regards to the influences from the early theories of white-collar crime, which still reach up until today, the picture of just high level managers using their power to deviate from the norms and regulations can nowadays be challenged by more recent research, as it will be discussed in the next chapter. Some people might imagine a white-collar criminal as a middle aged, well educated, trusted employee who is a first-time offender (Dorminey, et al. 2010). A reason for the lasting influence of the early theories of white-collar crime might be found in the fact, that in present times, the academic education in terms of white-collar crime is extremely underrepresented. For example, a study conducted in 2004 found out, that the representation of white-collar topics is hardly given in criminology and crime justice (CCJ) literature. The survey stated, that only 3.6 percent of all examined journal articles, 4.5 percent of CCJ textbooks focusing on white-collar crime. (Lynch, McGurrian and Fenwick 2004)

Similarly, Shichor (2009) raised attention to the underrepresentation in regard to citations and coverage of white-collar crime topics in the CCJ field. This underrepresentation in the literature combined with shortcomings of academic education in the given matter, raises concerns about the necessary development of the research area in the near future as a cyclical dilemma is created that drags the effort of the researchers (McGurrin, et al. 2013).

Besides the lack of funding and the underrepresentation in the academic community compared to its economic harm, white-collar crime research faces another problem, which is the complexity of the topic itself. As we have already heard, about 75 years after the first attempt of a definition, nowadays the community is still not able to get an adequate universally accepted definition for the present phenomenon. Not only the many aspects and facets of white-collar crime add to the complexity of the research, but also the lack of available and structured data prohibits faster advancement as it is the case at the moment. There is not only a lack of national databases, as the United States Department of Justice, the FBI and the Bureau of Justice Statistics have no systematically collected data useable for research (There are national databases as UCR or NIBRS but they were developed for official purposes and local law enforcement) (McGurrin, et al. 2013), but also a dispute about what should be covered by these databases and how the data should be technically measured and systematically recorded (Simpson 2013, Simpson 2011). However, before the problem with data availability can be targeted, the problem of the collection of the data has to be solved. A considerable issue for officials is the multiple sourcing of white collar information - if they get any information at all.. Simpson (2011) names a few of the possible sources for information and data about white-collar crime. According to her, official institutions learn about white-collar crimes through inspections and audits, the complaints of competitors, citizens or victims, as well as from police referrals and self-reports of offenders. Furthermore the problem besides the access to sparsely abundant data is the lack of systematic collection. The researchers sometimes have to use case or arrest data, or just conduct their own data gathering at the end of the justice process, when talking to convicted or at least known offenders (Weisburd, et al. 1991). Lacking such national or international databases it is also challenging to estimate the whole field of white-collar crime and its impact, as we have seen in the different estimates in Chapter 2.1.1. .So the academic community has its troubles to come up with a reasonable

forecast or estimate and relies more on educated guessing with the given data abundance (Schuchter 2012).

Some researchers also claim that the models in white-collar crime research are very complex, as predictors so far are not too precise and therefore the sampling would be hard, if not impossible to do. Again others, laid the idea of uniform white-collar crime research to rest, as they argue, that the field of research has already developed so many different directions, that it would be not possible to unify them. (Simpson 2013)

However, a very small number of quantitative studies that have been realized on white-collar crime, report several identical findings: The amount of white-collar crime is extensive and is mostly committed by a relatively small group of offenders and a quite high percentage of white-collar offenders are recidivists. The findings in regard to generalizable indicators for white-collar crime commitment like firm size, diversity or individual or collective psychological influences are contradictory. (Simpson 2011)

This status quo will be the tune for the next chapter, were the different findings from white-collar crime studies will be presented. To summarize the challenges in the field of white-collar crime research before dealing with its findings so far, it can be said: (1) that through the different approaches of many sciences (Economics, Criminology, Criminal Justice, Psychology, Sociology,...) it is hard to get a general overlapping dialog started, (2) that the origins and outcomes, as well as economic impacts rely mainly undiscovered, and (3) that due to the relative low public awareness (in comparison to its economic and social impact) policy changes are absent or extremely slow. (Vaughan 1999)

3 WHY DO PEOPLE COMMIT WHITE-COLLAR CRIME?

Besides Sutherlands definition of the, according to him, typical white-collar criminal, also one of the first theories, why those individual commit white-collar crime, was originated by him. In his theory of differential association, he claims, that the illegal behavior is learned by the deviant individuals by observing others, committing white-collar offenses (Piquero, Tibbetts and Blankenship 2005). Nowadays this theory, as a general approach, is rejected as the theory does not account for the structural origins of the deviant behaviors in combination with the question, who did the first white-collar criminal watch committing their offenses? Besides the problem of structural origins, there is another shortcoming of the theory in regard to explanatory power of the different types of white-collar crime (e.g. embezzlement, fraud,...) and also in terms of empirical conformability (Friedrichs 2010). Even though there is no uniformly accepted theory of the origins of white-collar crime and its structural triggers, many theories exist today. With a lack of standardized carried out research in the field, it has produced some singular or combined predictors, as well as a broad range of models for the origins of white-collar crime.

In this chapter the focus lies on individual demographic and psychological predictors as well as on models which try to understand the individual personal influences of a white-collar offender. Thereafter the company characteristics that might influence the abundance of white-collar crime will be examined, before this chapter ends with national, cultural and other influences that might affect white-collar crime occurrence.

3.1 PERSONAL INFLUENCES

3.1.1 Demographic characteristics

Education and socialization

In regard to education, one should think, that if rational decisions are made, people with higher or more education should be less likely to commit white-collar crime as their investment in their education was relatively higher and therefore the opportunity costs of being caught are greater implying that the opportunity of committing a crime is less attractive for the potential offender (Lochner 2004). Nevertheless research found out, that white-collar criminals have a lot more education than common offenders (Holtfreter 2005, Ragatz, Fremouw and Baker 2012, Cleff, et al. 2008),

which in itself is not very surprising as white-collar crimes, require often a certain position with trust, resources and/or power which can only be reached by formally educated individuals. Peterburgsky (2012) presented in his research, that also top management of companies that commit white-collar offenses have a higher educational level on average as the control group of his study. The problem of bias is here clearly visible, as the data only contains convicted or at least known white-collar criminals, as it was mentioned as a problem of the field in general in the last chapter. In contrast to this argument stays the study of Marques and Azevedo-Pereira (2009), who found no evidence between ethical standards and education, whatsoever. Other researchers, however, found out that studying business ethics, makes students more open for unethical or at least not clearly ethical behavior (Craft 2013, Cagle and Baucus 2006). Furthermore, punishment for white-collar criminals in comparison to street-level criminals is perceived less severe for white-collar criminals by higher educated individuals (Schoepfer, Carmichael and Piquero 2007). This would eventually allow the conclusion that those people have more insight in the realms of white-collar crime and know better about the impact, as their estimation fits the so far known relationship between white-collar offense damage and punishment better.

Moreover there is a difference in social background between white-collar and street-level offenders, with different opportunities regarding to social structures and situations (Simpson 2013). Also the socialization of values and their importance can have an influence on the likelihood of offending, as people with a strong aspiration for material wealth and success might be more likely to choose illegal means if they cannot reach their goals with legit ways (Friedrichs 2010).

Initially the human capital approach view of higher education leads to higher opportunity costs for committing white-collar crime was presented. The same view holds also true when it comes to age. While some argue in favor of this approach, others support the view that education can enable people to hold higher positions which offer a “skill-premium” in regard to deviation, as higher positions hold more power and influence to offend (Lochner 2004). How this approach relates to age, is going to be discussed in the following section.

Age, tenure and wage

Formal education is not the only source where an individual can acquire skills as a lot of experience and knowledge is gained on the job. Therefore the capabilities of executives or employees in general cannot be fully grasped by just looking at formal education. Furthermore the process of learning on the job can be seen as everlasting, as long one stays in occupation which implies that opportunity costs of committing a white-collar offense should rise with tenure, as it does with formal education (Lochner 2004). In contrast to this theory stands an approach that is similar to the one of the “skill-premium” that is gained through higher formal education. In many cases certain positions in companies can only be reached with a certain age or certain tenure within a company. So it happens that many white-collar offenders are older than their street-level counterparts and have a later age of onset of offending (Holtfreter 2005, Walters and Geyer 2004). According to Bussmann et al. (2006) over one third of all white-collar offenders is between 41 and 50 years while nearly another third is between 31 and 40 years. The abundance of white-collar crime committed by older employees is supported by further researchers (Holtfreter 2005, Alalehto 2003, Friedrichs 2010). Furthermore the offenders also got a tenure of more than six years within the company (36 percent), whereas roughly one fifth (21%) have even a tenure of more than ten years (Bussmann, Werle and Ziegleder 2006). Similar findings were presented by Armstrong et al. (2004) who found out that increasing tenure correlates with unethical decision making in certain cases, like companies with declining revenue. Other researchers claim to have found a more general correlation between age and decline of ethical behavior, in regard to the willingness to injure or even killing people (Piquero, Tibbetts and Blankenship 2005). In these cases not only age and tenure are triggers, but rather a combination of factors like company culture, social bonds within and identification with the company and/or fear of falling (see chapter 3.1.5). However, later on will be dealt with these influences on the occurrence of white-collar criminality.

Further support for the positive correlation between age and white-collar crime abundance is provided by Holtfreter (2005), who shows that age and also education can be generalized in a broader setting. However, she also found out that not all white-collar offenses show this kind of age/abundance relationship, as some of the offenses were committed by individuals that fitted more the description of Weisburd’s

et. al (1991) “middle class” offenders which in some cases have a different age range in comparison to other research.

Age, as a sole predictor, however can be misleading, as not every elder manager, executive or employee in general is dragged towards white-collar criminality. Age has an effect on attitude and behavior of individuals but only in combination with other factors as for example compensation structure and height. (McCelland, Barker III and Oh 2012, Perri 2013) In regard to height of the compensation and its influence toward the likelihood of deviant behavior in a work related context, Bhattacharya & Marshall (2012) found out that there is no strong economic motive for the offenders when it comes to insider trading. They also argue, that if the choice to deviate was a rational, poorer managers should be more likely to commit white-collar crimes, as their economic opportunity costs are not as high as the ones of better earning employees. However they found in their study, that the opposite is the case and that the better compensated employees are more likely to engage white-collar crime (insider trading as examined instance). A similar argumentation is presented by Lochner (2004) who also stresses the opportunity costs of better educated and compensated individuals. He further argues similarly to Bhattacharya & Marshall (2012) that the motives for these people to commit white-collar offenses have to lie somewhere else, according to them on the psychological and socialization side of the individuals in question. These psychological factors will be discussed in section 3.1.2.

Status, Gender and Ethnicity

Status in regard to white-collar crime played ever since the theory of Sutherland a very important role. The picture of the high status white-collar offender was partly successful challenged by viewing them as rather middle class individuals rather than high class (Weisburd, et al. 1991, Perri 2013). Even though this different approach was recognized as legitimate by some of the academic community, it is far from being generally accepted. It may be the case that this status/offending likelihood relation will not allow a unified approach as the reality might not be that simple. Cleff et al. (2008) for example argue that according to their data, 70 percent of the offenders have been part of the management and that nearly one fourth of all registered white-collar offenders had a top-management position. Support for this argument is provided by the opportunities and power these managers and executives have in their respective positions. If their position enables them to omit the security

mechanisms against white-collar crime in their company one talks about management override (Schuchter 2012). But these possibilities do not have to be solely abundant in work environments, as a certain status might also bring other, out of the job, opportunities and channels that favor the commitment of deviant acts on the job (Friedrichs 2010). These might be the networks to other influential individuals in the corporate and governmental sector, higher financial resources for defending themselves or any other opportunity that might help them to prevent detection or conviction (McFayden 2010). Others similarly argue that certain knowledge is needed for white-collar offending, and that this knowledge can often be gained through high status and its opportunities or with the position that is held in the hierarchy (Holtfreter 2005). In contrast to this, and in favor for Weisburd's et al (1991) approach, Simpson (2013) presents cases in which the white-collar offenders have been middle-class or even low-status individuals.

When it comes to the ethnicity of white-collar criminals, only very few conclusions have been made. Studies conducted during the 1990s have shown, that white-collar criminality is mostly committed by Caucasians followed by Asians while violent or street-level crime is more frequently committed by black people (Gordon, Michels and Nelson 1996, Gordon 1990). However, these results, if at all, only have validity for certain geographical areas, if not only national state as the population distribution can differ greatly and therefore has a huge potential to bias the findings. Furthermore, the Author believes that ethnicity has nothing to do with a predetermination of the likelihood of committing a white-collar offense, or any offense at all. The mentioning of this research was only to give a picture in which directions the research on this topic already went, with more or less promising outcomes.

With a similar view the results in respect to the gender distribution of white-collar criminals can be regarded. Researcher found that the majority of white-collar offenses are committed by males (Alalehto 2003, Holtfreter 2005). A further differentiation was drawn by Holtfreter (2005) where she concluded that high-status offenders were mostly males, while middle-class offenders were equally likely to be male and females. This could be eventually biased due to the effect of the glass ceiling in higher social strata that unfortunately reaches up until today.

3.1.2 Personal & Psychological characteristics

In the academic community, there is a dispute about, whether or not personality is an influential factor for the likelihood of committing a white-collar crime. Some argue that personality is negligible especially for the corporate crimes, while others have the opinion that personality is one of the main driving factors. (Perri 2011, Friedrichs 2010, Cleff, et al. 2008, Alalehto 2003) In this regard, the author argues in consistency with those scholars who are for the impact of personality, as there are ultimately always people who are making the decisions, and not corporations.

As it was already discussed above, the financial motivation for committing a white-collar offense is for the majority of the people probably not the main reason. However, it still happens in the academic literature, that such behavior is marked as excessive greed (Gottschalk and Smith 2011). Though, some scholars argue that greed cannot add to the explanation of the deviant behavior, and is just used in absence of another explanation for the wrongdoings of people in a white-collar context. (Heath 2008, Perri 2011) Other research found out that decisions and choices which were made, went against the moral conceptions of employees and line managers. One explanation was that greed clouded the judgment of the respective individuals (Craft 2013). Support for this view is provided by Segal et. al. (2013) who point out, that white-collar offenders may have, to a certain extent, the same motivation as street-level offenders: the lack of legitimate ways to achieve their goals or they just got a lifestyle that got out of hand and needs other ways of funding (Cleff, et al. 2008). However, it seems that in this regard the need for money and the attitude towards it play a big role. While most of white-collar offenders, do not need the money they might make in the course of an offense, the valuing and aspiration of money can be a driving factor for the commitment (Blickle, et al. 2006).

Throughout the years many studies have been conducted on personality features that might predict the feasibility of an individual committing deviant behavior in a business context. The findings of these studies are manifold and not uniform. Schuchter (2012) for example claims that the influential factors are various like personality structure, personal motivations and values as well as personal attitudes towards money, and or the obedience of law. He found out that white-collar offenders tend to be narcissistic and hedonistic (also Blickle et al., 2006), lack integrity, are less able to control their impulsiveness and have an above average need for social

acceptance. Furthermore, he finds that they are more organized, reliable and disciplined as well as showing a tendency toward Machiavellianism. Different to that Bucy et. al. (2008) found personality attributes in their study, which she describes as a bullying attitude, the present fear of falling, which will be discussed later on more detailed, the need for control (also Piquero, Schoepfer, & Langton, 2010), high narcissism (also Friedrichs, 2010), high ambitions within the company, good charisma and a lack of integrity combined with the lack of a social conscience (see big five later on). Perri (2011) presents also results which indicate that the tendency to psychopathy can be an indicator for the probability of white-collar offending. Alaletho (2003) goes even further in his work and distinguishes between two different types of economic criminals. One is the calculating white-collar offender who is characterized by a lack of discipline and norms, as well as insensitivity towards other individuals. The second is the situation depended economic criminal who is naïve, incompetent and desperate. Furthermore Alaletho (2003) argues that the situation dependent white-collar criminal is easily changed by group pressure and has a tendency for choice shift phenomenon. Nevertheless, this type (situation dependent economic criminal) is very likely committing the white-collar offense out of financial needs and could also be seen in the light of the fear of falling by Bucy et. al (2008). The presented studies also indicate intelligence as one of the characteristics of white-collar criminals, and others promote the hard to grasp phenomenon of personality (Lazarus 1973) as indicator. In Section 3.1.3 and 3.1.4 the personality of white-collar offenders is examined more closely.

When it comes to socialization and child-education before and while any formal education, Craft (2013) found out, that a strong moral and ethical foundation was found in most of white-collar offenders, who were taught and themselves teach their kids, a set of strong core values, that contradicts their decisions in their work environment. In this regard, techniques of neutralization (Sykes and Matza 1957) play a big role to overcome the cognitive dissonance (Festinger 1957) between the set of values one was raised to and the behavior white-collar offenders do display. These techniques of neutralization will be discussed later on in this chapter. As psychology, as a science, has partly a strong focus on the Freudian theories, Friedrichs (2010) argues, that early childhood experiences may shape the future attitudes and behaviors of people and therefore enhance the likelihood of white-collar offending. Nevertheless he also admits that this theory has not yet been studied

systematically. A similar approach is presented by Engdahl (2014) who claims that similar to childhood experiences, negative life turning points in the adulthood can also get a person to commit white-collar crimes. He argues that these life turning events, e.g. divorce, drug use, tight family finances, etc. can cause a person to commit illegal acts because their set of values might have changed. In addition to that, Schuchter (2012) adds that the change of goals, as a result of these turning points might also play a role, as well as suddenly perceived individual imbalances, or certain economic pressures on the job (Lou and Wang 2009) might add to the likelihood of offending. A different approach of socialization influence on white-collar offending is going hand in hand with the “greed theories” discussed above. As nowadays many people got an idealized picture of money, create a quasi-need for it. Actually they want to achieve something else, but their socialization process put all the focus on money, which would explain at least some of the white-collar crimes committed by individuals who actually have no objective need for money (Cleff, et al. 2008).

As already discussed, there is an influence of socialization on the pattern of white-collar offending. Moral values form a barrier towards unethical and criminal behavior. There has to be a great enough incentive to overcome these psychological barriers. Once this has happened, incarcerated white-collar criminals report of uneasiness about their wrong doing. However, they also reported that this uneasy feeling was declining with time, and the more time the crime stayed undetected, the less was the discomfort resulting out of the dissonance between moral values and actions set. (Schuchter 2012)

As a reason for this behavior the explanation of the importance of implicit and explicit attitudes might serve well. Implicit attitudes, like unidentified and/or unconscious past experiences, are valued higher than explicit attitudes, conscious views of the world and towards people, when it comes to decision making. This happens when the implicit attitudes shift, unconsciously, from sticking to the socialized moral and ethical values, to egocentrism and maintenance of one’s personal lifestyle, which results in more or less conscious discrepancies between moral values and actions taken. (Craft 2013)

Some argue, that this problem can be overcome by socialization (Gottschalk and Smith 2011) but the Author believes, that this problem cannot be targeted that easily,

as the offending people, consciously know about their misbehavior (Schuchter 2012, Craft 2013). Therefore it is to be doubt, that with stronger emphasis towards the moral values, this discrepancy can be overcome and the wrong actions can be prevented. Against such theories, some scholars argue that the commitment of white-collar crimes is just a rational choice made by the individuals in question (Paternoster and Simpson 1993, Alalehto 2003). This approach is even enhanced by considering the concept of bounded rationality and view the decision process under this angle (Friedrichs 2010).

Further research outcomes are discussed in the academic literature. Some of them will be shortly mentioned here, as the author believes that these theories are rather abstract and would add little to the aimed goal of this paper. Perri (2011), for example argues that white-collar offenders show arrogant indifference towards other people and believe that in reality it is a “dog-eat-dog” world. Another theory is, that white-collar criminals are more thrill-seeking than average employees (Simpson 2013). While others again, claim that white-collar criminals seek to strive upwards (within the hierarchy/company) and have a strict distinction between work and private life, plus often close out their nearest attachment figures from their work life (Alalehto 2003).

Big five personality traits

The concept of the five dimensions of personality, also called the big five, is widely spread in the realm of psychology. Quite some research focused on these traits and their power of prediction towards white-collar criminality. These big five consist of openness, conscientiousness, extraversion, agreeableness, and neuroticism. The explanation of all of these factors, and their possible impacts on economic systems like companies in detail would go beyond the scope of this paper and can be read in every meaningful psychology textbook. Some points will only be briefly mentioned throughout the chapter.

In reference to white-collar crime, research in this area has produced several different outcomes. Alalehto (2003) for example found some tendencies, which imply that the dimensions of positive extraversion, disagreeableness and neuroticism can enhance the likelihood of deviant behavior in a white-collar context. Collins & Schmidt (1993) found a measurable significant difference in the dimension of social conscientiousness (also Perri, 2011) between white-collar offenders and law abiding

managers. Further support is provided by research that found a positive relationship between conscientiousness and white-collar offending. As a possible explanation serves the approach that through a high conscientiousness the offender might think that his wrong doing will not be detected and therefore has a perceived reduced risk (Blickle, et al. 2006). In regard to the dimension of agreeableness, it can be said, that it has a negative relationship to the likeliness of white-collar offending of the respective person. Conceit however is still discussed if it has an influence or not, as research already produced variable results, for and against the hypotheses. (Alalehto 2003)

For the dimension of openness no research could be found in regard to white-collar criminality. After these short remarks about the influence of the big five, the next two sections explore further possible influences of psychological traits and personality on the abundance of white-collar crime.

3.1.3 Personality: is there a typical white-collar offender?

As of now different characteristics have been discussed that may indicate a heightened likelihood of white-collar offending, but is there a typical white-collar criminal type of person? In the field of deviance research on street-level criminality the importance of character and personality is out of question. Therefore it seems logical, to consider the same preconditions for the research on white-collar criminality. Unfortunately, as already briefly mentioned in the beginning, a lot of research on white-collar offending does not consider personality as a predictor so far (Listwan, Piquero and Van Voorhis 2010). The differences of street-level offenders and white-collar criminals are manifold, when the focus lies on education, status and professionalism, but when it comes to motivational structures and thinking patterns there may be similarities (Perri 2013).

Research in this regard is still in its infancy, despite the 75 years of the acknowledging the phenomenon of white-collar criminality in the academic community (Perri 2013). However the patterns observed so far in the research that did consider personality as an influential factor, cannot be seen anymore as anomalies, as the findings suggest a pattern, despite the lack of uniformity in the research (Ragatz and Fremouw 2010).

Findings of research that focused on this matter state that white-collar offenders tend to be more antisocial, and show disrespect and violation of rights of others, as well as poor social conscience and morality (Barnard 2008). They treat their victims as minor people who deserved to be mistreated or exploited by the white-collar crime, as the offenders see their victim's behavior as weakness. Furthermore the criminals tend to show lordly indifference towards their victims as well as a tendency of being irresponsible, independent. In addition, a disregard towards the law and social conventions can be observed in many cases (Collins and Schmidt 1993, Perri 2013). These findings are supported by research that identified white-collar criminals tend to see their victims as mere means to an end and that they are resources which can be exploited without any moral concerns (Carozza 2008).

Such personality can enable people to act differently than the majority of people. It has the potential to enable them to pathological lying without feeling uncomfortably as well to behavior that could be mistaken for good interpersonal skills (Barnard 2008). Behavior like this has strong influence on the likelihood of committing white-collar crimes, as it will be shown in the sections which deals with moral disengagement and in the model section with the techniques of neutralization.

Furthermore, such personality also enables individuals to handle their actions in different ways than their peers. For instance rationalizing mechanisms, such as the techniques of neutralization, which will be discussed in the model section, are more easily accessible for these people and help them as a coping mechanism (Taxman, Rhodes and Dumenci 2011).

An additional character trait often observed with white-collar criminals is their good impression management. This skill can be vital for the commitment and also concealment of any deviant acts (Perri 2013). Using impression management for bonding and building trust can open up opportunities for white-collar offenses, as it is described in the models section of this chapter. An example of that would be the fraud case of Bernard Madoff, as already discussed. In his Ponzi scheme he used impression management and the emphasis on affiliation (in his case the Jewish religion) to gain the trust and the investments of his victims. The duality of being able to establish trust and exploit it without remorse is one of the reasons why white-collar criminals are so hard to predict, because they might hide behind the best facades of all. However, the case of Madoff supports once more the hypotheses of white-collar

criminals being very similar to street-level offenders, when it comes to their motivational structure, as Gregg McCrary (FBI Profiler on the Madoff case) suggested. (Perri 2013, Perri and Brody 2012)

This case, even though one of the most famous ones does not stand alone, as it is further backed up by additional research (Perri 2011). Furthermore the role of violence in white-collar offenses, was so far mostly ignored by the academic research (Walters and Geyer 2004), which is contradictory to many observations like the case of James Bunchan who was readily prepared to use physical violence and even murder to cover up his white-collar crimes (United States Court of Appeals 2010, Perri and Brody 2012).

Argumentation patterns in the academic literature have been often linked to the “out of character” point of view which suggests “temporary moral lapses” of the otherwise law-abiding individuals (Brody, Melendy and Perri 2012). Contrary to this, scholars, like Samenow (2007), claim, that the immorality is inherent in the character of the offenders the whole time, but are only exhibited in moments of opportunity to commit offenses. A closer look on this argument will be presented in section 3.1.4.

Important in this regard is, that one should not make a quick call and classify all white-collar offenders as a homogenous group, as the individual levels of immorality, deviance and violence are different for each offender. Nevertheless research has also shown that some white-collar criminals are indistinguishable in their criminal deviation patterns from street-level offenders (Walters and Geyer 2004, Perri and Brody 2012).

As there are many indicators, that there is a white-collar offending character or personality type, the next section will deal with the, so far, most promising, according to the opinion of the author, direction of research towards an understanding of white-collar offender patterns: moral disengagement and the dark triad.

3.1.4 Moral disengagement and the dark triad

It is generally assumed, that within a culture people share the same idea of right and wrong, and that they know in which category their behavior should be classified (UNESCO 2015). However, it is observed that some people find it easier to disengage from those principles and are able to cope with their actions. This behavior is also called moral disengagement (Egan, Hughes and Palmer 2015).

Bandura et. al. (1996), identified eight mechanisms where moral disengagement can be observed: (1) moral justification, the attempt to justify a wrongful act from a certain angle, (2) euphemistic labeling, using language for concealment like “finding” something when it was actually stolen, (3) advantageous comparison, using an even more immoral act for comparison to the deed in question, (4) displacement of responsibility, finding external influences, like cost or time pressure, for justification, (5) diffusion of responsibility, when decisions that led to an immoral action have been made by more than one actor, (6) disregarding or distorting the evidences, where the outcomes of the action are neglected or downplayed, (7) dehumanization, the act of refusing to see the victim as a human being and (8) attribution of blame, where the victim has been provoking the moral disengagement by his actions.

These rationalizing mechanisms have been linked to antisocial and delinquent behavior (Shulman, et al. 2011). Furthermore strong parallels to other theories, like the techniques of neutralization (Sykes and Matza 1957) which will be discussed in the next section of this chapter, suggest that the direction of research is promising. Some research already managed to establish a link between moral disengagement and white-collar criminality, respectively white-collar criminals (Barsky 2011, Christian and Ellis 2014, Moore, et al. 2012).

As moral disengagement is somewhat established for being a predictor of the ability and/or likelihood of committing white-collar offenses, the question arises, how can moral disengagement be predicted and measured before the immoral, deviant or unlawful acts are committed? At this point the dark triad enters the equation.

The dark triad consists as the name suggest, of three pillars: psychopathy, narcissism and Machiavellianism where the scores are partly derived from the Big-Five personality traits model (Egan, Hughes and Palmer 2015, Jakobwitz and Egan 2006, Pailing, Boon and Egan 2014), which was discussed earlier.

Psychopathy itself was considered to be connected with criminal thinking and ultimately committing deviant actions, since a couple of decades (Taxman, Rhodes and Dumenci 2011). So far, most of the research on psychopathy and deviant behavior has focused on street-level offenses, while only very few suggested a link between psychopathy and white-collar criminality (Perri and Brody 2012). The emphasis on research in this regard is, as mentioned in chapter 2, one of the quests for this field of science to reach a better understanding of the phenomenon of white-collar criminality. (Smith and Lilienfeld 2013) Furthermore narcissism was linked to an increased probability of risk seeking/taking behavior (Maccoby 2000). The risk seeking attitude will later be discussed in chapter 4.

Very recent research found out that Machiavellianism and psychopathy are independently significant predictors of moral disengagement. Further predictability was reached by the influences of age, education and intellect. The same research also found, that some other predictors, like the big five dimension of agreeableness seem to underlie the dark triad and moral disengagement. (Egan, Hughes and Palmer 2015) With these findings, a whole new approach to the predictability of white-collar criminality can come into being, when companies start to engage in testing those traits for their key employees.

However, in literature there are also arguments that even if there were possibilities for predicting individual white-collar offending likelihood, companies might still select those individuals with high scales on the factors of the dark triad. A reason for that might be that those personality traits are strongly valued in parts of the modern day economy, and organizations might want to risk losses to get those characters anyway (Smith and Lilienfeld 2013). It might happen that self-serving, ruthless, opportunistic and partly shameless behavior of executives might be mistaken as good and charismatic leadership, as our society seems to value such traits (Perri 2013). Interestingly this can be observed in various career paths of executives or managers, who can be characterized as psychopathic. Such individuals tend to rise quite rapidly in the corporate ladder, as HR policies seem to identify them as high potentials for such positions (Babiak, Neumann and Hare 2010).

With the evidence found by Egan, Hughes and Palmer (2015) theories that white-collar offenders are acting out of character are weakened considerably and theories, like the one of Smanow (2007) who claimed that the out of character explanation is

just out of lack of information about the offender, should gain more attention in the future.

So far the personality and psychology research on white-collar criminality has been presented. In the next section further theories will be presented which seek to add more to the picture of who is likely to commit white-collar offenses, and which circumstances might further induce deviant behavior. Some of the models presented, try to link the personality and environmental side and aim to give a generalizable access to the matter.

3.1.5 Theories and Models

Techniques of Neutralization

As already discussed, white-collar offenders seem to have a set of moral values which can be regarded as ethical, but in this regard many delinquents seem to use it mostly outside their work environment. But how is this discrepancy between work and private life possible and how do they deal with the conflicts? Sykes & Matza (1957) came up with a set of techniques for juvenile criminals to justify their illegal actions. With such techniques the offenders are enabled to perform the balancing act of living their conventional lifestyle in the law abiding community and in the same time reducing their perception of their own guilt, while they have their knowledge of committing an illegal act that stands contrary to their set of moral values. Furthermore the reasoning with these techniques is seen as valid from the perspective of the offender, but is not accepted by the general public, the system or the society. As these techniques have been developed for juvenile delinquency, some researchers have adapted those theories to the field of white-collar criminality. A good overview of these five basic techniques is given by Siponen and Vance (2010) who describe them analogously as following:

- (1) **Denial of responsibility**, describes a situation where an offender neutralizes his deeds with the argumentation of lack of responsibility as he has had no control over the situation. The only possibility for him was to commit the offense as he sees himself as just a play-equipment in a larger game beyond his control.

- (2) **Denial of injury** is where the offender implies that no physical harm has been done. Especially in cybercrime and or accounting frauds this technique is widely used as no real people were harmed in terms of physical well-being.
- (3) **Defense of necessity** implies that the actions taken by the offender have been necessary and no other choice, than breaking the rules, was available to reach a certain goal. This goal can be an intrinsic one, but it is mostly used for externally defined ones. An example could be that an offender legitimizes his actions with an outlook what could have happened if he did not take the necessary actions, ethical and/or legal, or not.
- (4) **Condemnation of the condemners** describes the behavior of offenders when they doubt the legitimacy of a certain set of rules. This could be the law per se, as people argue that it might be unreasonable in certain areas, but it can also relate to company policies in contrary to taken actions of the delinquent.
- (5) **Appeal to higher loyalties** defines the technique of neutralizing a violation of certain set of rules (legal, company, cultural, etc.) with the need to do so in order to fulfill the tasks that the offender is required to do, e.g. company policies have to be violated to get a job done.

Typically these techniques of neutralization have an argumentation that is quite weak and can be refuted quite easily, which results in internal discrepancy of the offender. Therefore such techniques can only be applied in environments which are allowing and/or supporting them. For example, this could be a company culture that views the claims of the offenders also as legit (Heath 2008). The original theories have been further extended by Moore and McMullan (2009) who came up with five additional techniques.

- (6) **Ledger technique** specifies the behavior of an individual that rates her illegal or unethical deeds as legitimate as long as the majority of the time the person acts according to the publicly accepted values. In this technique the offender believes that she has accumulated a lot of good deeds through her behavior according to the rules and therefore is allowed to misbehave from time to time.
- (7) **Denial of necessity of law** is where the offender argues that the law is not in the greater interest of the good of the people and therefore is not legitimate and has not to be obliged to.

(8) **Everybody else is doing it**, stands as explanation of itself. If the offender got the subjective feeling of nobody respecting a certain law, she will also deviate from that law. The Author thinks that in this regard the Denial of necessity of law can develop into an “everybody else is doing it” attitude in certain systems if powerful (formal or informal) actors argue in favor of the denial of necessity of law.

(9) **Entitlement technique** is the behavior when an offender thinks he is entitled to commit deviant behavior and has not to stick to the rules that are applicable for others, out of some contemplation in their life.

This might be either because the offender had the moral obligation to do so, simply the subjective right to do so, or the victim deserved it for example because of a victim’s perpetration (Heath 2008).

(10) **Defense of necessity** can be seen similar to the original technique of Sykes & Matza (1957) but is meant in this regard that the individual thinks she has to commit an illegal act in order to prevent even greater crimes and/or harm.

These techniques are not uniformly distributed as some offenses like fraud or embezzlement lead to a higher abundance of techniques which claim that there was no deviant behavior at all or respectively the stress and pressure as triggers (Simpson 2013). To scrutinize where which technique is used would go beyond this paper. Another correlation is found by Gottschalk & Smith (2011) who claim to have found a positive correlation between the usage of such techniques and age. Furthermore the naming of the techniques can vary from study to study (e.g. see (Gottschalk and Smith 2011) but the essence stays the same. So the point of these techniques lies in the argumentation that there might be no personal predisposition for the commitment of white-collar offenses as rather a combination of environmental influence factors like the company culture, which we will discuss in more detail later on in chapter 3.2, or adjustment mechanism like certain vocabulary in social interaction (Perri 2011, Gottschalk and Smith 2011).

Besides the approach how white-collar offenders might justify their actions the next section will deal with some of the possible triggers for deviant behavior.

Desire for control vs. low self-control

Control is a very important factor when it comes to white-collar criminality. On the one hand, it is needed and respectively has to be avoided, depending on one's position, to the commitment of certain offenses. On the other hand, control, or rather the lack of it, can be a trigger for the commitment of deviant behavior. In this regard it has to be differentiated which type of control is meant. The concept of low self-control describes a focus of the offender on the present situation, the here and now, whereas the desire for control has a futuristic focus. (Schoepfer, Piquero and Langton 2014) According to Gottfredson and Hirschi (1990) their theory of low self-control is a general one, which means this theory can be used to explain all criminality. They claim that low self-control develops during the childhood and is strongly influenced by the socialization process. Low self-control is characterized for example but not exclusively by risk-seeking behavior, impulsivity and volatile temper (Friedrichs 2010, Schoepfer, Piquero and Langton 2014). So in theory every individual that characterizes as a low-self-control one will deviate, when the opportunity is given. This in fact has been criticized by many other scholars and has led to the development of other approaches like the fear of falling which will be examined more closely in the following. Further criticism aimed on the theories' claim of generalizability points out, that the theory cannot explain the fact that many white-collar offenders are not engaging in street-level criminality, when according to the theory they should do so (Simpson 2013). The critics' argument here is that many positions with a certain level of organizational control (and the eventually inherent possibility of management override) are enabling the white-collar offenders in the first place to commit their deviant actions, and not the poor parenting received in their childhood (Friedrichs 2010).

Research however was not able, up to this point to disproof, that street-level criminality and its white-collar pendant have different roots. Therefore such general theories can improve our knowledge and understanding of deviant behavior. The academic community developed the approach of low self-control further and came up with the desire for control theory. As the name already suggests, the theory claims that all actions are motivated by increasing or at least sustaining control over all situations. These individuals are described as tending towards active, decisive and assertive individuals (Schoepfer, Piquero and Langton 2014). As we have already

heard that the time scope of low self-control and desire for control are different, research suggests that low self-control offenders commit white-collar crime to satisfy immediate needs, while desire for control individuals do the same out of their urge to stay in control of certain or all situations (Piquero, Exum and Simpson 2005).

So far, research found out that desire for control is the far better predictor when it comes to white-collar crime, even though low self-control can predict white-collar offenses (Piquero, Schoepfer and Langton 2010, Friedrichs 2010). Furthermore desire for control has no significant explanatory power for street-level crimes (Blickle, et al. 2006). Also low self-control and desire for control are not exclusive personality features, but may even have an impact on the abundance of the other. However, the likelihood of offending is considered greater for those with low self-control, given the opportunity (Blickle, et al. 2006). Nevertheless, it has to be mentioned that offenders with high levels of desire for control might be able to create their own opportunities for offending and therefore have a greater impact on the white-collar crime abundance (Schoepfer, Piquero and Langton 2014).

Fear of Falling

Greed as a motive has already been discussed in this paper, and disputed in regard to its explanatory power when it comes to the reasoning of white-collar offenders. However, as one side of this spectrum fails to explain the majority of offenses, some researchers came up and looked at the other end of this spectrum, in the concrete case, the fear from losses. In the psychology literature scholars were able to show that individuals value the threat of potential losses higher than the same amount in possible gains and called this approach the prospect theory (Kahneman and Tversky 1979). This was the fundament for research streams within the field white-collar criminality which ultimately resulted in the theory of the fear of falling (Bucy, et al. 2008, Friedrichs 2010, N. L. Piquero 2012).

This theory suggests that the motivation for committing a white-collar offense results not out of the possible enrichment of the offender, but his subjective need to maintain his position. The perception of pressure is dependent on the individuals' position and is not only perceived in regard to monetary belongings but as well to social status and prestige. The opinion of the family and friends can play a vital role in the reasoning of white-collar offenders. (Piquero 2012)

However the results in research are once more not uniform on this matter. For example, Piquero (2012) found out that the fear of falling was prohibiting certain white-collar offenses (in the given study corporate crime – price fixing) because of the potential loss they might face when acting deviant. These potential white-collar offenders perceived the sanction risk as higher when confronted with their prospective losses of socioeconomic status. However, Piquero furthermore stated that she believes that individual decision making styles and situational influences are strong factors for such decisions and remarks that the findings are likely not applicable for all forms of white-collar criminality. In contrast to this, Craft (2013) discovered in her research that white-collar offenders have taken conscious actions towards the commitment of white-collar crimes to maintain their lifestyle, which they have accustomed to, and prevent possible personal losses. Moreover, the respondents of her study claimed that their actions taken, were strongly against their deeply held set of moral norms and values, but the urge to maintain a given situation was stronger within them.

This approach towards the explanation of white-collar criminality has not claimed to be a general one, and has unfortunately so far, not been adapted to all possible aspects of the field. In regard to explanatory power, only little can be said so far. The outlook might be promising, but future research will show its usefulness.

General Strain Theory

Anomie theory was already introduced in the definition section of this paper, which was proclaimed by Merton (1957) and was also referred to as strain theory. The “strain”, he claims, is enabling or forcing the actors to overcome their norms and values and find new ways, including illegal and immoral ones, of achieving their goals. Out of this, on economic motives focused strain theory, Agnew (1992) formed another general theory for the explanation of delinquency called the general strain theory (GST). He claims that this strain, perceived as pressure or stress, is a psychological reaction of every individual towards negative aspects of ones’ life environment. For this theory Agnew identified three different types of strain: (1) the failure to achieve positively valued goals, (2) the diminishing or elimination of positive stimuli or (3) the continued abundance of negative or noxious stimuli (Agnew 1992).

All these types of strain can lead to negative emotions like anger, or frustration and depending on their duration, magnitude and perception of the individual (e.g. perceived unfair strain). If no appropriate legal, and in consistency with the moral values of the individual, solutions can be found, the likelihood of deviant behavior rises as the strain keeps being abundant. The theory in no way suggests, that it has to come to the deviation, as it also considers other adaption mechanisms that can reduce the strain, like a change in attitude or legal ways to reduce or eliminate the strain. The possibilities of coping mechanisms differ here strongly from individual to individual. (Segal, Haberfeld and Gideon 2013, Langton and Piquero 2007)

In this regard the theories of “fear of falling” and the GST could have some common ground. This has also found already some notice in the academic community but has so far not been researched, according to the knowledge of the author. Agnew (2001) also drew a line between the socialization process and the future impact of strain on people with a certain value set. The claim is that the values that have been important in the process of the socialization of an individual form his core values. If these core values are affected by strain, deviant behavior becomes more likely. For example, people with a strong socialized emphasis on monetary values are more likely to commit white-collar offenses when the experienced strain lies on money.

Some research also states, even though GST would be an applicable theory that should be looked into more closely, a lot of deviant behavior would be better explained by other theories as they might better fit the true triggers. For example, it is claimed that a lot of strain that leads to deviant behavior is generated from or in organizations, therefore some argue that organizational theories would capture those incidents better than GST (Langton and Piquero 2007). In contrast to this, theory suggests that external pressure, like economic crisis also leverages the strain levels, not only in individuals but within the society in general (Segal, Haberfeld and Gideon 2013). Furthermore, strain produces different outcomes and cannot be used as predictor for all categories of white-collar offending alike. Criticism is here noted on the point that GST has not got a very good predicting power when it comes to very complex white-collar crimes like antitrust offenses (Langton and Piquero 2007). This general approach might deliver a lot of answers but still lacks the generalizability as some offenses can hardly be explained or predicted with GST. The chance to offend in a certain category is not existent for any individual as the opportunity, position and

the ability have to be given in order to be able to offend. This will also be discussed in the next part - the fraud triangle/diamond.

Fraud Triangle / Fraud Diamond

This model was developed out of the theories of Donald Cressey (1950) who proposed that the influential factors that lead to the commitment of fraud are trifold. Even though Cressey did not refer to his theories as the fraud triangle in the first place, the model got known by this name. Despite the model already carries the determinant of one special sort of white-collar crime in its name, the author thinks that this model might also fit other categories of white-collar offending in a reasonable manner, and therefore this model was here elaborated in detail.

The three influential factors, Cressey (1950) came up with, are the (1) abundance of a non-shareable problem (which enforces pressure upon the individual with the problem), (2) the rationalization possibilities of the offender (3) and the opportunity to commit an offense or a violation of trust (see also figure 1). The non-shareable problem can be financial pressure, as supposed by Cressey, but also non-financial as well as internal and/or external pressure or motivations as scholars who further developed the model remarked (Schuchter 2012, Albrecht, Albrecht and Albrecht 2008). Schuchter (2012) further points out, that pressure is the most abundant element, as it can lead to a vicious circle, when offenders experience pressure of possible detection and commit further crimes to conceal their initial wrong-doings. Even though the model is widely accepted in the academic community, with its adaptations here and there, the definition of the possible pressure sources is far from uniform which prevents systematic and comparable research to some part (Kassem and Higson 2012). In regard to the rationalization process of the offender, Cressey already observed this behavior and mentioned in his paper that:

“In the interviews, many trust violators expressed the idea that they knew the behavior to be illegal and wrong at all times and that they merely kidded themselves into thinking it was not illegal” (Cressey , 1950, p. 741)

The reference to such techniques by the offender has also influenced the development of the respective models by Sykes & Matza (1957) which was already elaborated. The third influential factor, opportunities, can be seen, besides the decision and control rights certain positions within an organization grant, as a weak

board of directors, a lack of controlling mechanisms or the failure to detect and punish perpetrators, but not exclusively (Kassem and Higson 2012, Schuchter 2012). Furthermore the perceived opportunities can have objective and subjective character, which makes them hard to observe as some opportunities are only seen by people who hold a certain position (Cleff, et al. 2008). The model though widely accepted, also faced criticism. For example, quite recently Schuchter (2012) claims that he found out that the only absolute necessary condition for the commitment of fraud in respect to the model of the triangle is the opportunity to do so. So far in the academic community it was widely accepted that all three factors have to be abundant that white-collar crime can be committed. Up to this point the author knows of no further reaction of the academic community towards these results, but wants to state, that such an approach would paint a rather opportunistic picture of white-collar offenders which stands partly in contrast to the theories of fear of falling and the GST but would on the other hand support the argumentation of Becker's (1974) approach which will be discussed in chapter 4.

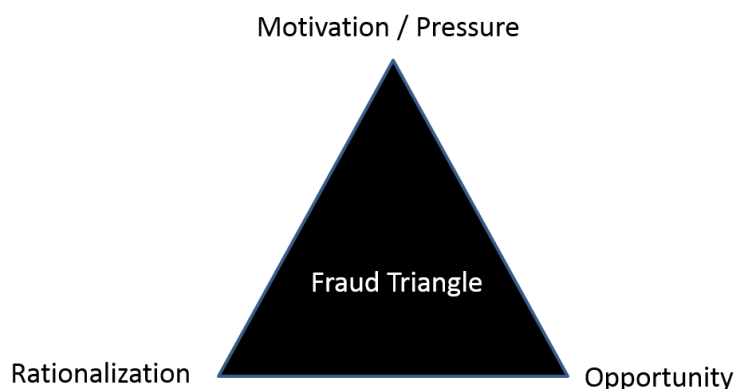


Figure 1: Fraud Triangle adapted from Schuchter (2012, 66)

With the legitimate criticism on the original fraud triangle researchers tried to find a better fitting model, resulting in the postulation of the fraud diamond by Wolfe & Hermanson (2004) (see figure 2). They enhanced the model with one further dimension, the capability of an individual to commit crime. The newly introduced capabilities were differentiated into the categories of position or function, the “brains”, the confidence or ego, coercion skills, effective lying and an immunity to stress (Wolfe and Hermanson 2004). While most of them are self-explaining, the “brains” is referring to the individual cognitive abilities and knowledge, and coercion skills rate

the ability of an individual to convince somebody else of one's opinion or decisions (Schuchter 2012). In regard to confidence and ego, not only the individual opinion in one's skills and competences play a role here, but also the perceived likeliness from the offender of being detected. If one thinks this possibility is low, the confidence is rather high. This has a high impact on the decision of offending, as executives who thought they were likely to be caught, did not offend even though all other factors would have been given (Kassem and Higson 2012). (See further in chapter 4)

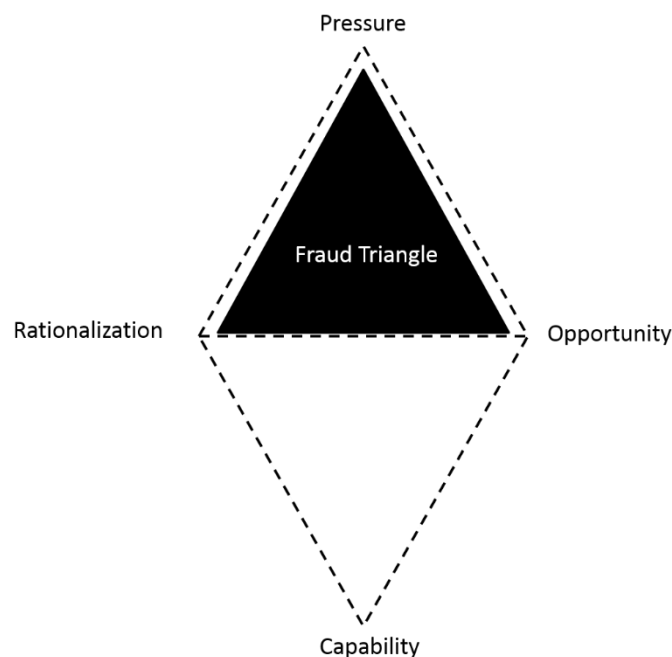


Figure 2: Fraud Diamond adapted from Schuchter (2012, 75)

So with the dimension of capability absorbed in this model, the focus on the individual is more emphasized. To put it in the words of Wolfe and Hermanson:

Opportunity opens the doorway to fraud, and incentive and rationalization can draw the person toward it. But the person must have the capability to recognize the open doorway as an opportunity and to take advantage of it by walking through, not just once, but time and time again. (Wolfe & Hermanson, 2004, p.38f)

Further Theories and Models

Before closing the chapter of psychological & personal influences and predictors & theories about white-collar crime, some further theories and models should just briefly be mentioned. These models are presented to give a better overview of the different streams and existent directions in research.

The **rational choice model** claims that white-collar offenders do calculate their risk and potential output of a criminal action. If the output is valued positive for the individual and/or the company, the person is going to offend (Sen 2007, Paternoster and Simpson 1993). This approach is useable for many cases of white-collar criminality, but by far not all, as offenses like Bernard Madoff`s are not very well explainable under the assumption of declining marginal utilities of money for individuals.

The **bad apples approach** is a theory, which states that no matter what is done against white-collar criminality, there will be always some deviant individuals who will engage in white-collar offenses (Heath 2008). If such a theory would be accurate, the distribution over industries and sectors would be somewhat uniform. However the concentration in certain industries can be observed. To the knowledge of the author so far no studies of self-selection of white-collar criminals into certain industries has been conducted, which would eventually support this theory of bad apples.

The “**Leipziger Verlaufsmodell**” has three phases which somehow remind of the fraud triangle: (1) an opportunity has to be identified or noticed (2) the situation is evaluated by the individual (3) choice of a suitable action alternative (Cleff, et al. 2008). Even though this model has minor differences to the fraud triangle, in the opinion of the author, it just gives a slightly different angle towards the same argument of explaining white-collar criminality.

Grounding on parts Durkheim`s anomie theory, the perspective of **personal faith** was researched in regard to its explanatory power when it comes to white-collar crime. It is theorized that strong religious values and bonds, as well as the belief in a personal moral god are negatively correlated with the abundance of white-collar crime. It is furthermore claimed, that the abundance rises in modern societies, as the religiosity declines, or people see their god as an inactive one. Empirically this theory produced different outcomes, depending on type of religion (Corcoran, Pettinicchio and Robbins 2012).

The **Type A/Type B** model competes with the big five personality traits model in regard to categorize individuals and therefore forecast the likelihood of white-collar offending. Here it is claimed that type A people are more likely to take risks and engage in uncertain outcomes, as they are more concerned with material success

and willing to take the necessary actions (Elliott 2010). This model is in the opinion of the author too simplistic as it tries to paint a black and white picture. It might be useful for other purposes, but as the literature in white-collar crime research suggests, it might not fit best.

At last, another general approach with the German name “**Allgemeines Erklärungsmodell**” (“general explanatory model”) will be shortly discussed. In this model, not only personality traits play a role in the abundance of white-collar criminality as also external environmental factors are integrated in this model. The main influence comes, according to the model, from the individual side (see figure 3). Depending on how good personal motives and values can be implemented, the individual perceives positive reinforcement which deters, or negative stress which can lead to white-collar offending. According to this model, money, as a motivation for committing a white-collar crime, is only a quasi-need and just serves to fulfill other maybe even unconscious needs and it is just a mean to do so. The emotional factors on the environmental side stand for certain group, company or industry cultures that can enforce the likelihood of offending depending what is regarded as common in these cultures (e.g. banking industry). (Cleff, et al. 2008)

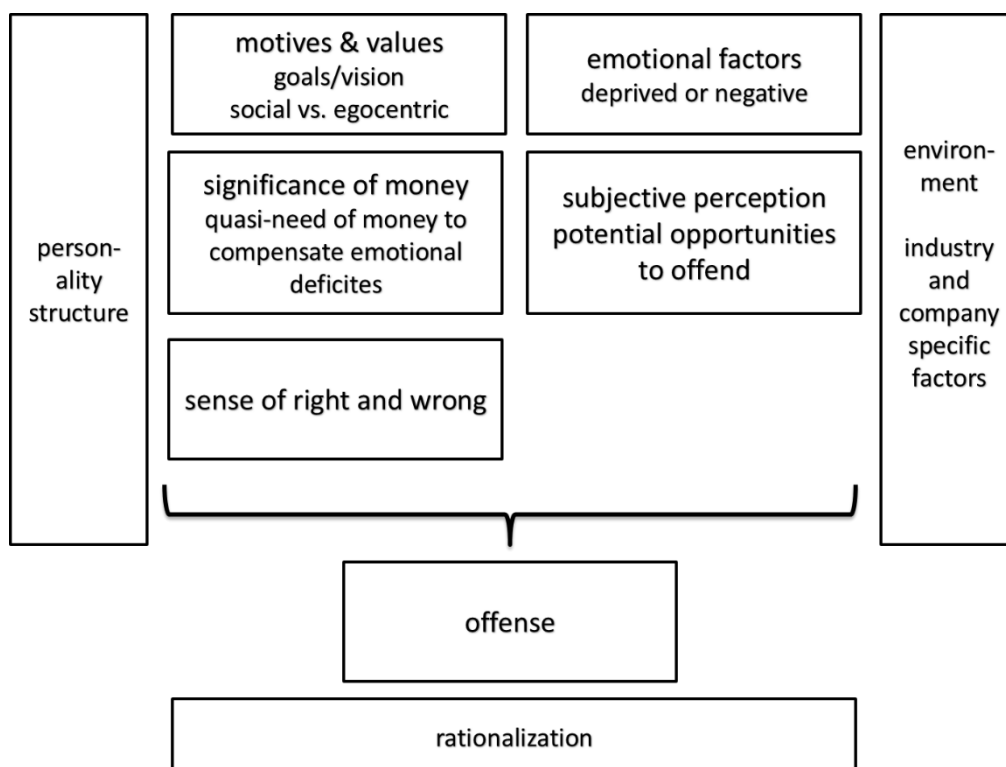


Figure 3: general explanatory model adapted from Cleff et. al. (2011, 24)

Sutherland's theory of individual behavioral or personal characteristics having no impact on the abundance of white-collar crime is still present today (Perri 2011). In fact, even nowadays only little is known in terms of how personality traits do influence the commitment of white-collar offenses as research designs are not uniform and comparable over large areas. Moreover, only a small fraction of studies is dealing with the relevance of personality on white-collar crimes and those are not producing any clear evidence of abnormal personality as the average white-collar criminal also falls into normal personality types (Friedrichs 2010). Some theories and models are still trying to find a generalizable description of the reasons for deviant behavior even though it is already well known that offenders are very likely not to be uniform and can differ significantly from each other (Walters and Geyer 2004). So the approach to classify white-collar crimes as out of character offenses cannot be successful as it would negate all other influences on the matter (Perri 2011). Furthermore this approach would neglect a change or a development in personality traits under environmental influences (Schuchter 2012). Therefore a model like the "general explanatory model" which considers more influential sources could be the first step in the right direction in order to understand the abundance of white-collar criminality according to the opinion of the author. Hence we will look at the effects of company characteristics on white-collar crimes in the next chapter.

3.2 ORGANIZATIONAL INFLUENCES

Besides all the personal influences, that have been researched so far and failed to explain motivational structures in each and every white-collar crime situation, other factors that might influence the abundance of white-collar criminality have been looked into. Several scholars have dealt with organizational influences that might have something to do with the commitment of white-collar crime. Therefore some research findings about the company characteristics will be presented, before potential influences of company policies will be discussed.

3.2.1 Organizational characteristics

In the realm of company characteristics the most researched one, was the company size in regard to its influence of the given topic. Mostly, the assumptions were made, that large organizations are the breeding grounds for white-collar criminality

(Holtfreter 2005). Reasons for these assumptions have been the size as well as bureaucratic, impersonal structures of large corporations which enable employees to set certain actions in certain positions, without being held to account for the full set of consequences these actions might cause in the context of the organization or its environment (Heath 2008). In addition empirical results were presented, to support these assumptions, and they claim a causal relationship between unethical behavior and company size (O`Fallon and Butterfield 2005). Unfortunately in this regard the findings from studies conducted on this matter are not uniform, as there has also been evidence, that company size can be positively related with ethical decision making (Chavez, Wiggins and Yolas 2001, Marta, Singhapakdi and Kraft 2008). Other research again, found no evidence of influence of company size on ethical decision making at all (Craft 2013).

Size was also examined in combination with the respective organization style, and it was found that the public attitude towards the acceptance of white-collar criminality was higher when it victimized large bureaucracies. Underpinning these results scholars argued that the reason for a higher abundance of white-collar criminality was due to the lack of empathy with such organizational victims and the bad public attitude which was soaked up by the employees and was converted into deviant behavior (Holtfreter 2005).

Furthermore it was found, that publicly traded organizations are more likely to experience white-collar offenses. This might be due to the larger size, but it would be also possible that the strain, as it was discussed earlier, which is put on the company by the shareholders has an effect here. (Holtfreter 2005) The conclusion that size as a single predictor for white-collar crime is a relevant one, is further weakened by findings which name factors like the degree of decentralization, incentive systems and span of control within the organizations as influences on the abundance of white-collar offenses (Hill, et al. 1992). Again there are mixed findings by several specialized studies for and against the influence of decentralization and structural complexity (Simpson 2013).

Another stream of research put emphasis on the governance structure of companies. Here it seems that companies with a large stake of board or management ownership are less susceptible to white-collar crime and agency costs seem to be reduced by such structures (Schnatterly 2003, Sen 2007). This might be explained with the cost

of ownership that eventually gets the board to prevent as much deviant behavior as possible. However, this motivation will not always deter management from committing white-collar offenses, as the case of former Tyco CEO Dennis Koslovski shows (Time Magazine 2006). Unfortunately there is not only one possible approach to this, as some research suggests, that a higher stake of ownership by the management could also lead to an increased likelihood of white-collar offending (Sen 2007). The reason for this behavior might be the increased output managers would get from their white-collar offenses. For example, a crime that enhances the stock price of a publicly traded company would bring more benefit to a manager that holds large shares of the respective company.

Company performance, whether of publicly traded companies or not, was theorized to be a predictor of the abundance of white-collar criminality. The approach was that companies who perform poorly or are in poor economic state, have a higher probability of encountering or engaging in white-collar crime (Heath 2008). Reasons for the possible causality between poor financial performance and white-collar crimes might be the urge to change something out of loyalty to the company that can result in strain, as it was discussed earlier. This strain can result in the perceived need to deviate in order to reverse the economic trend, to compete for scarce resources or eventually to prevent to fall behind competitors or even out of business. (Vaughan 1999)

Other approaches argue that this relationship might be due to the changed policies in economically tough situations. If a company's performance is poor, the current policies might be questioned and looked into, and therefore eventually existing white-collar offenses are more likely to be detected than in times when policies are not questioned (Holtfreter 2005).

Again, findings are not uniform, and there is also a study, even though focused on a very narrow field of white-collar criminality, that suggests companies with good financial performance are more likely to engage in illegal activities (Friedrichs 2010).

In comparison to that, other scholars again, argue that the economic situation of an organization does not influence the likelihood of engaging in illegal actions, at all. They claim, that other characteristics, for example some of the already discussed,

are affecting the probability of white-collar crime engagement and not external market pressures (Schnatterly 2003).

Furthermore there are some theories about the industry the company is operating in and its influence on the likelihood of white-collar offending. This will be discussed in chapter 3.3. But before that, in the next section the focus wanders away from company hard facts to the company policies and their influence on white-collar crime abundance.

3.2.2 Organizational policies

Besides the more easily measureable and describable organization characteristics, or hard facts as one might want to call them, other organizational influential factors play a role in the abundance of white-collar crime too. The policies an organization establishes and enforces are a lot harder to observe, measure and quantify than the organizational characteristics, discussed above. Besides these problems of measurement a further dimension adds to the complexity, as each and every organization has differences in their policy development and implementation which makes the comparability hardly, if at all possible.

Nevertheless, research tried to tackle these problems and came up with approaches to explain white-collar criminality in regard to the policies of an organization. The largest body of research in this direction deals with the phenomenon of the organizational culture. One of the many scholars who dealt with this topic is Jana L. Craft (2013). In her study the respondents stated their discrepancies between their personal core values and norms, as well as education in form of socialization (both discussed above) and the company culture, have been an influential factor in the commitment of white-collar offenses. The emphasis of company cultures on growth and profit, led some of the offenders astray from their actual and personal values, and made them deviate from their intended behavior out of strain or pressure. (Craft 2013)

Pressure, however is not the only dimension that is affected by organizational cultures, as in some cases incentives for deviant behavior can be provided by the culture itself. For example executives proclaim a certain set of values officially, which

put an emphasis on a set of rules when doing business. Off the record they encourage deviant behavior by setting internal incentives for lower-level employees. (Monahan and Quinn 2006). If such a culture is abundant (supportive environment), the positive reinforcement of offending will lead to a downward spiral of ethics and will ultimately result in more deviant behavior if the incentives are not erased. (Friedrichs 2010, Vaughan 1999)

If a supportive environment for white-collar offending is in place over a reasonable time and is not tackled by executives or employees it can result in an acceptance of white-collar offenses as a part of everyday business. This can even allow the culture to grow stronger, especially if the board of directors agrees with the practices. If this goes on, the corporate culture can grow so strong that even outsiders, as family and friends, are not capable of showing the wrong-doing of the company or the individual to herself (Piquero, Tibbetts and Blankenship 2005). A supportive environment mostly can be established and maintained by the executives and their use of recruitment policies. Supportive can also mean that no questions are asked and decisions are not doubted at all. One of the reasons for such a culture to be established without facing too much resistance can be the fear of the consequences the individual has to apprehend. If one does not comply, while the majority within the company seemingly accepts or even encourages such a culture, peer pressure or other sanctions might change the individual attitude. (Bucy, et al. 2008, Perri 2013) It also might happen that the supportive culture itself uses the already discussed theories of neutralization to justify their actions towards their employees and themselves which in turn, will only enhance the possibilities of deviation (Heath 2008).

Feedback and learning culture can be another influential factor for the abundance of white-collar criminality. If the management team does not favor a culture of bottom-up feedback or is generally immune against internal idea exchange and consulting, vital options for deterrence might be lost. Furthermore if culture has an emphasis on status the decisions of executives might not be questioned anymore. Narcissistic tendencies, as already discussed, might be favored in a business context, and also can lead to a culture of not doubting any decisions of executives. (Perri 2013) Lay and Skilling did enforce such a culture with their rather narcissistic profile and used their power and status to shut up remaining critical voices (Rijsenbilt 2011). Such

cultures are only visible internally, as such organizations still use an external policy approach that put emphasis on a code of ethics and virtuous business practices which are more likely to be in accordance with the public attitude (Ajoorn 2010).

Besides the supportive organizational culture that enables and partly encourages white-collar criminality, another policy in this regard adds to the amount of deviant behavior. Once a cultural approach is found that suits the needs of executives who are willing to accept white-collar criminality, it might happen that the recruiting of new employees results in the hiring of conformists with such an organizational culture (Friedrichs 2010). This might be the case with every organizational culture, but in this case it will only aid to the vicious cycle that will lead to problems in one way or the other. The selection of new employees, if not carried out by the executives who enforce a supportive environment for white-collar criminality, is highly influenced by the tone at the top. Visions are injected into the recruiting staff and then also into new hires. The right characters for such an environment are carefully selected and if not fitting well enough, set free again. (Padilla, Hogan and Kaiser 2007, Perri 2013)

If the recruiting policy should be in contrary to the above drafted one, the recruitment of nonconformists does not have to lead to the abolishment of the cultural environment in question. Research showed that it might even be the case that nonconformists with a value set that stands in contradiction to the organizational one might also deviate out of different reasons. The approach of white-collar offending leaders and followers is a very interesting one, but going into detail would go beyond the scope of this paper (Bucy, et al. 2008).

Control plays a vital role in all these points mentioned. In organizations with a supportive environment towards white-collar criminality such control mechanisms obviously lack the power to prevent deviant behavior. While a code of conduct should prevent employees to commit corporate crime, organizations with weak control mechanisms often only have a formal code of conduct instead of a lived one (Cleff, et al. 2008). In such companies a code of conduct may be in place and may also sound very compelling but the company's expectations about growth and performance are contradictory to the established codes (Craft 2013). For a code to be useful it has to be specific and comprehensive to make it hard for employees to rationalize any unethical or deviant behavior (Schnatterly 2003).

Even if codes of conduct are in place with the needed levels of scope and detailedness it is not a safe bank to rely on. The codes have to be controlled and enforced, as otherwise they might only be nice formulations with no impact as they can be overridden or just simply ignored. To have an impact, the formal set of rules (like a code of conduct) has to be extended by the meaningful controls, which research identified up to this point as internal audits or anonymous reporting systems. (PwC 2014, KPMG 2013) This might result in short term rise of white-collar criminality, as more is getting detected but will have preventing effects in the long run (Holtfreter 2005, Schuchter 2012).

Lacking such enforcement or control mechanisms within an organization would create the chances and opportunities which are needed to engage in white-collar criminality as it was presented in the fraud triangle/diamond model above. The lack of control could furthermore provide the capabilities to the employees to commit white-collar crime as the chance of getting caught is minimal, if at all present (also see chapter 4). (Simpson 2013, Vaughan 1999)

In contradiction to that stands the theory of control balance. It points out that if the ratio of control exercised by an individual to the control that the same individual is under, could affect the likelihood of offending (Friedrichs 2010). Research on this matter is scarce, but some evidence was found that if the surplus of control exercised is too large, it might increase the probability of offending by those who are holding this control surplus in their respective position (Piquero and Piquero 2006).

Corporate governance and control is not limited to issues like the code of conduct or control rules of behavior within a company. Many more aspects have been looked into, and for some supportive evidence were found that there is a correlation with the abundance of white-collar crime. For example, the possible ways of communicating formally and informally within the organization and their diversity, have an impact on likelihood of offending. Furthermore, the compensation policies can have an effect on the white-collar crime issue. Similar as for executives and managers the cost of ownership might influence the probability of offending when employees hold or are compensated with equity of the company. (Schnatterly 2003)

Also the auditing policies can carry some influence on white-collar crime abundance. The frequency of meetings, the composition of the audit board and the length of the organization/auditor relationship are theorized to have an influence. (Peterburgsky 2012, Schnatterly 2003)

A further facet of influence of organizational policies and the environment of organizational culture is the learning effect they have on the organization itself. As learning can occur in loops (Fiol and Lyles 1985) a supportive culture towards white-collar crime might penetrate deeper and get to a normative level where it is no longer questioned. If the paradox situation of having a set of official values for external matters and a different internal interpretation of that set of rules, it might lead to a culture of routine non-conformity with the official values. (Vaughan 1999) Such behavior is also the central part of the espoused versus enacted value theory by Argyris and Schön (1978). This can lead to many forms of deviation, like the acceptance of minor errors or flaws when deadlines have to be met, or an emphasis on risky decision behavior that might accept severe negative outcomes (Friedrichs 2010, Vaughan 1999).

From this angle the differential association theory, by Sutherland (1940) would be supported. One could make a case for supporting the given argument, by pointing out the defense of Lay and Skilling (Enron Case) who pleaded to have engaged in normal business practices at the time. If even top executives build up on the normative standards to defend their wrongdoing, the environmental influence of the company culture cannot be neglected. (McBarnet 2006)

As a matter of fact, the behavior of the management and the top executives have a high influence on the actual values present in a company. The ways and means of communicating these values can either bring the acknowledgment of the employees or can lead to their rejection. If the top-down communication is too weak or not comprehensible, the employees are more likely to deviate. (Schuchter 2012)

Management also has to pay attention to the different roles of the employees and has to take them into account. For example, if an employee is treated rather harshly in wage negotiations, for any reason, one cannot expect the employee to be the best team player again, right after the negotiation (Heath 2008). Compensation policy is not important only on one end of the spectrum as rather its whole scope has to be

taken into consideration on the effect of white-collar crime. The level of compensation on all hierarchy levels can have affects, as shown in the personal characteristics section. Ultimately, the compensation policy is set by and enforced by the organization, and should therefore also be mentioned here. (Bhattacharya and Marshall 2012) In addition, the circumstances that lead to the possibility of management override (Schuchter 2012), which has already been discussed, are provided by certain organizational policies that lack control mechanisms, or have centralized too much power in one position, spoken from the white-collar crime prevention angle.

With all this potential of prevention of white-collar crime, one must not forget that the other side of the coin opens up many possibilities of encouraging deviant behavior. Some ways have already been briefly discussed, however a really comprehensible approach, in the opinion of the author, is the “appeal to higher loyalties” by Sykes & Matza (1957). This approach describes how organization policies and the resulting cultures can affect an individual and its decisions. For example, the provision of many employee benefits, like employee kindergarten, on-site recreation facilities, amenities in combination with a strong team building approach, can link the employees extremely tight to the company. If a high loyalty is somehow created, it can be exploited for unethical/illegal actions besides the obvious legal economic benefits, as employees are keen on keeping the benefits of the company. (Heath 2008)

Trying to influence the employees of an organization by applying certain discussed policies can be a two edged blade, as once a non-ethical or even illegal practice is publicly noticed, irreversible damage to the image of the organization can be done. These damages are likely to be linked to a diminishment in trust, which in turn can lead to economic problems for the organization but also beyond a single entity, for a whole industry. (McFayden 2010)

It was shown that an organization and especially companies can be the victim and/or the “perpetrator” (as only individuals can take actions) of white-collar crimes. If a company “decides” to follow a path of deviation, it might also do it with regard to its own resources. Corporations are better organized, mostly well financed and can benefit of a large social network (Garoupa 2007). Such organizations can even go thus far to generate economies of scale for white-collar criminality and might be even able to influence law making, by contributing to certain parties through generous

contributions, or seek their favor in other ways (Gottschalk 2012, Gottschalk and Smith 2011).

As it was shown that the organizational influences can provide supportive environments for the commitment of white-collar criminality, it has also be taken into account that the personality traits that influence the abundance of deviation are interdependent with the organizational characteristics and policies. However, these two linked influential spheres are not the only ones. For example take a company that is able to gain certain, even if it is very small, advantage over its competitors in a given industry. If this small advantage can be utilized in a competitive one, like winning some calls for proposals, it might put pressure on its competitors. If the pressure is getting large enough, competitors might also be obliged to switch to deviant behavior if they want to stay in the competition. (Heath 2008) A chain of causality can be the result which might corrupt whole industries. Therefore industry amongst other environmental factors like national culture will be discussed in the next chapter.

3.3 ENVIRONMENTAL INFLUENCES

In regard to environmental influences three major types can be identified: industry, governmental and cultural. The following chapter will examine the categories' strong interdependence.

3.3.1 Industry influences

As in nearly every aspect in the field of white-collar crime research, the findings of conducted studies on the influences of industries and their inherent characteristics are not uniform. Some research finds no unusual concentration of white-collar offending in specific industries (Bhattacharya and Marshall 2012) but rather an effect on all industries, at least in certain geographic areas (Blickle, et al. 2006).

In contrast, some scholars do find a concentration of white-collar criminality in certain industries and come up with different approaches what the main driving factors for these concentrations are. There is a line of research that argues white-collar offender types accumulate in certain industries and therefore are the main driver of the abundance of white-collar criminality (Friedrichs 2010). It is argued that strong

interrelations due to workforce migrations from profit to public sectors are influencing the abundance of white-collar offenses especially in those industries, where the public and the private sector stand in close relationship (Friedrichs 2010). The idea of establishing a network within a closely linked private and public sector and using it for white-collar offending is a very interesting and promising one, but has unfortunately not yet been researched, according to the knowledge of the author.

Aiming in this direction, research conducted on CEOs who worked in the non-profit sector and afterwards joined the profit sector, established a link between non-profit experience and likelihood of white-collar offending (Peterburgsky 2012). Although promising, the research only focused on the Anglo-Saxon market and had a very narrow approach on the personality of the CEOs in question. Therefore other possible influences might have been neglected that other research approaches would have picked up. For example Craft (2013) found out that many interviewed white-collar offenders claimed that they have been acting against their own beliefs, due to certain pressures within an industry.

Enforcing this argument Simpson (2011) describes their structural characteristics as one of the main driving factors of the abundance of white-collar criminality. As example the real estate industry is frequently named, as well as industries which have high financial transaction volumes as these might provide more opportunities to offend (Cleff, et al. 2008, PwC 2014). A quite easily understandable example was provided by Farberman (1975) who examined the structures on the American automobile market back at the time. It was a near oligopoly where four large manufacturers controlled the market. For the manufacturers it was easy to force their intended prices and products on their wholesalers who had to come up with new ways of coping with the cost and product pressure enforced on them. This lead to fraudulent repairs forced on customers and tax evasion on behalf of the car dealerships. (Friedrichs 2010, Farberman 1975) Generally speaking, such market structures make it necessary for some market players to resort to illegal behavior as to be able to compete within the market (Simpson 2011).

Such mechanisms and behavior can be still observed today, even though the identification might not be as easy as it was, due to the increased complexity of market structures (Friedrichs 2010). Today the incentives for committing white-collar criminality might be the compensation structures in certain industries where

performance related pay plays a greater role. In such situations executives might be willing to operate on the edge of illegality and even enter the gray areas or in the worst cases deliberately step over the line to gain a performance advantage over their competitors. (Pontell and Geis 2014) Convicted white-collar offenders from various industries stated that the market demanded a certain way of behavior which included their offending (Craft 2013). As Akerlof (1970) identified the problem and the costs of such structures a couple of decades before:

...dishonest dealings tend to drive honest dealings out of the market. ... The cost of dishonesty, therefore, lies not only in the amount by which the purchaser is cheated; the cost also must include the loss incurred from driving legitimate business out of existence. (Akerlof 1970, 495)

If such structures are existent in certain industries, it is hard to tackle them as an individual or single organization. The problem is that those who refuse to use the same means as their competitors, barley legal or illegal, are very likely to be driven out of the market as the advantage of an enlarged set of possible actions is likely to provide an advantage for those willing to use them. In terms of willingness to operate with such measures it might not be up to the individual as it might just be replaced by an aligned one, in case of refusal of committing illegal acts (see also chapter 3.2.2). (Heath 2008)

This can be seen in relation to the self-selection mechanisms of executives and their subordinates as it was discussed already earlier on. Furthermore, such market or industry pressures have the potential to devitalize a code of conduct that might be in place and make it just a piece of paper that serves for official purposes but is not encouraged within the company. (Craft 2013)

As an example how such pressure forces people to head for the gray or even illegal zones, once more serves the Enron case. In this industry, as well as in many others, it was common to use the interpretational freedoms within the framework of the general accepted accounting principles (GAAP) to cover up shady deals as lawful business transactions. Companies stuck and complied with the letter of the law in order to defeat the spirit of the law. Such behavior is also referred to as creative compliance. In one instance Enron made a deal with Merrill Lynch that they would buy energy barges from them and just “park” them in their financial statement so that

the financial statement of Enron made a better impression on their Stakeholders. Merrill Lynch received a generous return with no risk involved as Enron promised to find a buyer and eventually bought the energy barges back itself. (McBarnet 2006) In this case the offense was committed over the borders of industries, as besides Enron and Merrill Lynch also Arthur Andersen was involved as auditor of Enron, by not disclosing the deal to the authorities.

Another more recent example was the emerging of the subprime mortgage market, which led to the financial crisis in 2008/2009. Here the absence of a meaningful and applicable regulatory framework led to white-collar criminality in a level of complexity only seen very rarely. (Simpson 2011) So the external influences on an industry play a big role and as it was shown the market itself is not able to prevent malfeasance on its own. Therefore the next section will deal with the governmental influences on the abundance of white-collar criminality.

3.3.2 Political and governmental influences

The state and or the government are the responsible entities for lawmaking and the enforcement of the law, depending on its political system. Furthermore, it should be the idea of the law, at least in democracies, to codify a set of behavioral rules to live together as a society. However, there seems to be a discrepancy between the idea of the law and the actual state of it, as

...corporate-state relations cannot be separated from one another in modern society because state policy gives form to corporate structures and creates opportunities for managers to engage in financial malfeasance. (Prechel and Morris 2010, 332)

Reasons for this status-quo are political positions and interests in the last couple of decades, mostly before the millennium (Prechel and Morris 2010). The question now is, as it seems that white-collar criminality is flourishing and the majority of the people do not evenly profit from the actual state of the market and the legislation (see Figure 4), why would a government be just reactive on this issue as rather proactive?

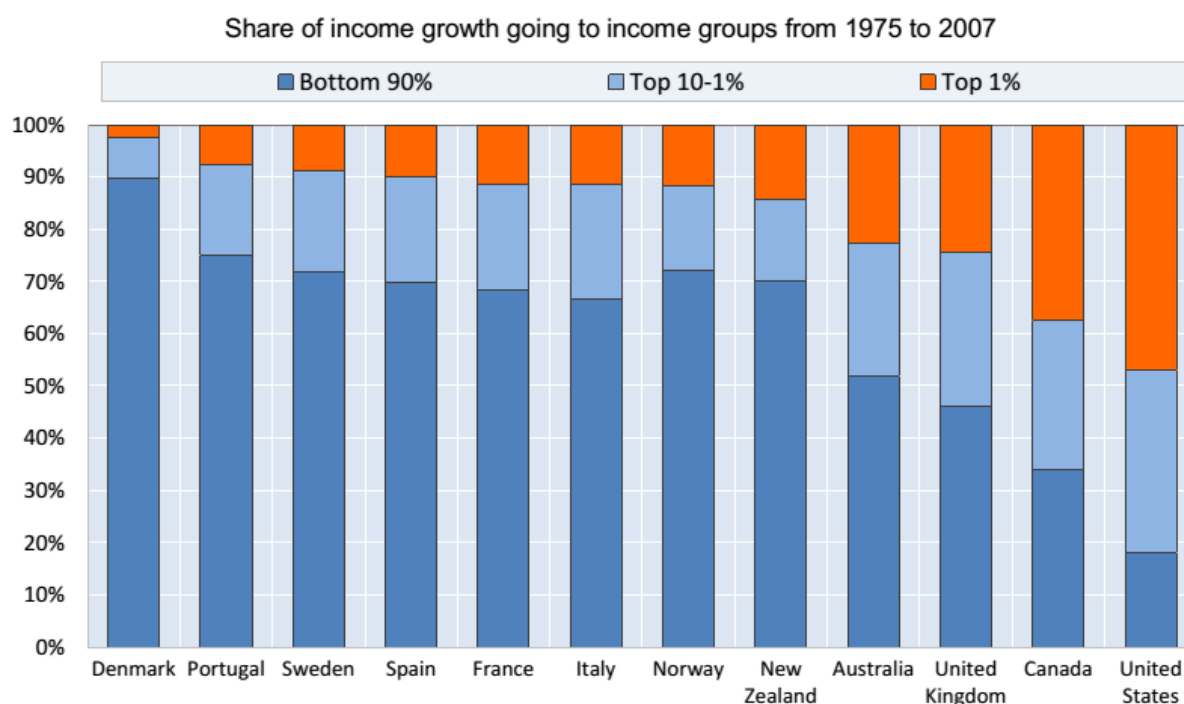


Figure 4: Income growth distribution within OECD countries 1975-2007 from (OECD 2014, 3)

In regard to the claim of reactiveness it can be said, that the last two major changes in the United States politics towards the treatment of white-collar criminality have been issued right after the clash of Enron (Sarbanes-Oxley-Act) and the recent financial crises (Dodd-Frank-Act) (Pontell and Geis 2014).

As neoliberalism with its emphasis on free markets has a good standing in Anglo-Saxon countries, the reactiveness of its legislation to changes in business practices and technology enhancement goes against the establishment of an equal chance market (see again figure 4). For example it was the case that Enron reported huge profits (\$1.8 billion) in the five years before its collapse in 2001, and simultaneously collected tax refunds of the states of roughly \$ 400 million. Striking as this example might be that Enron was the one company who had to take the blame for the, at this time, common practices. (McBarnet 2006)

There are dependencies which seem to prohibit change or at least the proactive change of legislation in time, which would be needed in order to prevent failure or collapse in certain industries or economies. The dependencies are both ways, at least in the United States, as corporations need the legal framework and its neoliberal positions to enhance their business, while it also seems that the political parties are depending on the monetary support from the corporate side. (Prechel and

Morris 2010, Center for Responsive Politics 2015, Simpson 2013) This mindset has sucked in the corporate world and people, at least in certain levels and positions, are aware of it and willing to exploit these dependencies:

„Law is like a cobweb; it's made for flies and the smaller kinds of insects, so to speak, but lets the big bumblebees break through. When technicalities of the law stood in my way, I have always been able to brush them aside easy as anything.” (Sutherland E. H., 1940, p. 9, citing Daniel Drew)

Even though this citation might have no timely connection to the actual situation of white-collar criminality, the essence of it is still relevant today and the view is supported by today's convicted white-collar offenders. (Schuchter 2012)

With legislation in place that provides legal channels for bribe transfers (private party funding in the United States) it seems only natural, that the corporate influence on legislation is likely to be very present (Center for Responsive Politics 2015, Friedrichs 2010). But it is not only the corporate or private sector that acts immoral or illegal in this matter. Also the state itself and its representatives do not always stick to the rules they made. Examples for that could be Watergate, the fraud scandals of the 1980s or the purchasing of favorable news coverage for policies under the Bush administration in the United States. (Pear 2005, Weisburd, et al. 1991) These huge scandals are merely the tip of the iceberg, as many offenses from governmental institutions or representatives are concealed by favorable jurisdiction, which includes beneficial legislation and judging in this matter. The variety of offenses range from the usage of work related mailing privileges for private matters, over the usage of political influence to evade prosecution and arrests, to the misuse of powers entitled through the state (Friedrichs 2010, Kirchler 2011, Holcomb, Kovandzic and Williams 2011). An example in regard to the misuse of powers by state officials is the situation with civil forfeiture in the United States. As there are differences between state and federal legislation occur, research shows, that in states with more restrictive state forfeiture law, the law enforcement agencies tend to use favorable federal jurisdiction more often, to benefit from seized property (Holcomb, Kovandzic and Williams 2011, Worrall and Kovandzic 2008).

Moreover, it seems interesting that, despite the efforts of building a nationwide white-collar crime database in the United States, the already mentioned NIBRS database,

white-collar offenses committed in a governmental or state context are not recorded by the database (McGurrin, et al. 2013).

Another seemingly big influential factor on the abundance of white-collar criminality is the sentencing of convicted offenders. In the United States white-collar crimes used to be punished far less severely than street-level offenses (Ivancevich, Konopaske and Gilbert 2008). Under the assumption that many highly complex white-collar offenses have to be planned in advance, it seems that the levels of the possible sanctions against white-collar offenders are not really deterring crime. The criminals calculate their opportunities and their possible chance of getting caught, and seem to come to the conclusion that the benefits far outweigh the eventual sanctioning costs. (Sen 2007, Simpson 2013) These implications will be further discussed in the model analysis section of chapter 4.

However, corruption and state crime is not a phenomenon only abundant in the United States as nearly all countries struggle with incidents (Transparency International 2015). The acceptance and abundance of state crime, especially corruption, is much greater in countries like Russia, China and many African states, who have been, but not exclusively, ruled by autocratic and exploitive leaders (Myers 2005, Ramirez 2014, Jiang and Nie 2014, Friedrichs 2010, Transparency International 2015). In many cases the impact of white-collar criminality in these countries is even more serious. Corruption and state crime can harm and even destroy national economic development, reduce FDI as well as undermine economic stability and attractiveness (McFayden 2010).

Nevertheless the position of generalizing all actors within the public and private sector as interdependent and unwilling or unable to a change would be a wrong and risky one. There are examples of officials who have identified weaknesses in the system and have worked to overcome them with better control and regulation. One of these instances was Brooksley Born, who was chairwoman of the Commodity Futures Trading Commission (CFTC) in the late 1990s. She tried to overcome the illegal opportunities that an unregulated financial market provided many individuals, but was eventually stopped by counterforces within politics who were interested in keeping the status-quo back then. This example should show, besides the silver linings, that even though efforts are made, they do not necessarily have to be successful. This should also be considered for the more recent bills of the Sarbanes-

Oxley and the Frank-Dodd act, as these are only the first steps towards a fair and transparent market. (Pontell and Geis 2014)

Besides these first steps on a long path have been taken, instances of creative compliance are still present and the big companies most likely still get off the hook with relatively mild punishment (McBarnet 2006). This might imply that the status of the economy accounts for more than justice and civil equality. A shift of mentality towards the issue of white-collar criminality in the public can already be seen in some instances. How this will develop in the future is not yet clear and will be also strongly influenced by the inherent cultural values of a society (Cullen, et al. 2007). The next section will deal with the cultural influences on the perception and treatment of white-collar criminality.

3.3.3 Cultural influences

Culture as defined by the UNESCO as

[Culture] is that complex whole which includes knowledge, beliefs, arts, morals, laws, customs, and any other capabilities and habits acquired by [a human] as a member of society. (UNESCO 2015)

shapes the individuals of any community. The values and the beliefs that are proclaimed by a majority of a certain culture are replicated by their members, to a greater or lesser extent, depending on the individual. Influencing all aspects of life, culture also has its implications on criminality and therefore also white-collar crime. The United States serve again as an example, as most research is conducted on the cultural influence in this particular case. With the emphasis on individualism, competition and material wealth (The Hofstede Centre 2015) a competition for the limited resources is inevitable. Looking closer into this matter, Messner and Rosenfeld (2001) came up with their institutional anomie theory which proclaims that the competition for resources and especially its manifestation on the emphasis on wealth and monetary achievement will promote and create crime. Some support of this theory was also found in regard to white-collar criminality (Schoepfer and Piquero 2006) and was then developed further by Robinson & Murphy (2009) with consideration of other influential theories into the contextual anomie/strain theory. In

this theory, the impact of the current cultural values, of the United States population and its manifestation in the “American Dream”, on the abundance of white-collar criminality, especially corporate crime, is tried to explain. It is shown, that a cultural value set, as the one stated above, can and will lead to subcultures that encourage deviance, especially of elites (see also previous chapters of this paper). With an inherent cultural wish of maximizing one’s own wealth is not only the encouragement, but also the justification for acting selfishly provided. As the competitors are also looking for the same goal, but face like all others the problem of limited resources, it is only natural, that sooner or later people will switch to means that give them an advantage, even if it means that illegal actions have to be taken. (Robinson and Murphy 2009, Blickle, et al. 2006)

Furthermore, it is theorized that in economic desperate times, when the personal wealth and socioeconomic status is at risk, the means to sustain the status quo, or even enhance it, are likely to get rougher and more often illegal (Segal, Haberfeld and Gideon 2013, N. L. Piquero 2012).

The Enron case can also serve as an example here. It happened to be that CFO Andrew Fastow, one of the major players in the fraud, was being honored as the CFO of the year in 1999. This symbolized the achievement he mastered to obtain according to the cultural standards in the United States. Three years later he pleaded guilty in one of the largest fraud cases in U.S. history. (Perri 2011)

But how is it possible that a culture that proclaims equality, freedom and fair chances as their highest goods can sink that low that crime and inequality seem to be widely accepted by certain elite subcultures in the corporate world? Matza & Sykes (1961) coined the term subterranean values, which refers to the values that people might have intrinsically but would never show or communicate in public, as they know about the eventual differences to broadly accepted cultural norms and standards and fear for disapproval by others. However it seems to be true that, if the economic pressure (not the only possible trigger) is large enough, certain subcultures adapt their subterranean values more openly and eventually drift off to illegal actions, as some theories like GST or anomie theory have suggested (Segal, Haberfeld and Gideon 2013, Agnew 1992, Merton 1957). The majority still sticks to the accepted cultural standards and trusts in the institutions and the free market to sort out everything (Schuchter 2012), instead of taking actions and induce change on their own. Why

such a trust might not be the best option, was shown in this chapter. Reasons for governments sometimes being seemingly sedated when it comes to change in white-collar crime legislation will be elaborated in the next chapter.

Other research suggests that the perception of the importance and abundance of white-collar criminality is rising in the United States. As one in four households has been affected by white-collar criminality (Huff, Desilets and Kane 2010) this change in perception does not come overnight. Cullen et. al (2009) cite a study which found out that only one third of the American people believed that CEOs of large American Corporations are “mostly ethical”, while nearly half (44%) of the sample viewed the CEOs as “not too ethical”. Furthermore another study is cited, which states that nearly three quarters of the sample (71%) believes that “the typical [American] CEO” is “less honest and ethical” than the ordinary American. (Cullen, Hartman and Jonson 2009)

As these studies were conducted quite some time in the past and might be biased by the outcries of the large corporate crime scandals of the early 2000s, they might still show the change in attitude and perception towards white-collar criminality and its treatment. More recent polls show, that the focus of attention in this matter has shifted from corporations to the government. In another poll, the blame for the financial crisis at the end of the last decade was perceived by the Americans, as the fault of their government (46%) followed by big corporations (34%) and their actions. (Zogby 2009)

Moreover, other changes can be perceived as well. For example the term “banksters” was established after the recent financial crisis. In addition 62 percent of the United States population thinks the corruption is very common in corporate America. (Pontell and Geis 2014)

With the public perception already changing, the systemic inequality before courts has to be demolished, as people from higher socioeconomic strata do better in the legal system, as the people from lower strata. This can be grounded in the general perception of successful and wealthy people, which is already changing, but also on the financial power, which plays a big role in the American legal system. (McFayden 2010)

4 MODEL ANALYSIS – BECKER'S CRIME AND PUNISHMENT ON WHITE-COLLAR CRIMINALITY

As the theoretical overview of the current research status in the realm of white-collar criminality was given in the last chapters, in this part an attempt to link the theories of the many research streams to an economic model is made. The model of choice is the one of Becker (1974) he presented in the paper "Crime and Punishment: An Economic Approach". The minimization of the overall loss is the optimality condition and therefore the foundation of this model:

$$L = D(O) + C(p, O) + bpfO$$

Simplified, in this model, Becker basically proclaims that, a government has the possibility to influence the values of p (the likelihood of getting caught when committing a crime) and f (the amount and severity of punishment acted upon the criminal in case she is caught) in such a manner, that the system regulates the damages (D) from offenses (O – offense activity level for a given period) in a way that the social loss (L) is at a minimum, which in this case can be regarded as an optimum. From the side of the state or government the decision variables p & f are influenced by the costs of apprehension and conviction (C) which are for example the salary of police forces and judges as well as the social costs of the punishments ($b f$), which for example are the costs of feeding the inmates, plus maintenance of prisons and other correction facilities. The likelihood of being caught per offense (pO) is multiplied by the social loss per offense ($b f$) which results in the total social loss from punishments being meted out (factor $b p f O$ in the Loss function). The damages (D) are referring to the net damage of an offense level (O) which result out of:

$$D(O) = H(O) - G(O)$$

The net damage for the society is calculated from the harm (H) an offense causes, minus the gain (G) the offender gets out of the offense, as the offender is also part of the general population. (Becker 1974)

4.1 OFFENSE SUPPLY

Becker's model is a general one, which tries to explain the abundance of all crime. His definition of a rational calculating criminal is similar to definitions already presented for white-collar criminals in this paper. The model suggests that an offender will only commit a crime if the offense promises a positive utility. The calculation is different for each individual:

$$O_j = O_j(p_j, f_j, u_j)$$

as many factors influence the possibility of getting caught (p_j – for individual j) and the expected punishment (f_j). Further u_j , a rather general variable is used, which includes all other influential factors into the calculation of the offender. All individual calculations combined result in an offense level (O) in the general population.

White-collar crime research partly supports this general variable as it was already shown that personal characteristics like education (Ragatz, Fremouw and Baker 2012), age and tenure (Holtfreter 2005, Armstrong, Williams and Barrett 2004), social status (Perri 2013, Schuchter 2012, Weisburd, et al. 1991), socialization (Craft 2013) etc. have an influence on the likelihood of offending as Becker suggested. These characteristics are likely to influence p_j as well as f_j because judicial defenses, personal connections, knowledge about ways of prosecution and general ability of estimating situations more accurate, can be more readily available to certain individuals and therefore reduce their perceived likelihood of being detected (p_j) and their expected punishment (f_j). Also the calculation of the utility can be highly influenced by those characteristics, as some models presented in section 3.1.5 suggest that for example certain offenses can only be committed in certain positions which in turn require special characteristics in regard to tenure and education (Schuchter 2012, Wolfe and Hermanson 2004). An example could be the auditors at Arthur Anderson who needed formal education to reach an auditing position in order to be able to support the fraud at Enron. Rational calculation should actually deter crime when legal earnings are higher due to better education and longer tenure, as Becker (1974) argues. However, it seems that the disutility for the individual offender by losing a higher legal income seems often to be overcome by a higher utility from offending as Bhattacharya and Marshall (2012) already found in their study. This might be due to lower p_j and f_j as fewer controls might be opposed or just due to

higher utility as offenses promise highly valued money or status, for example. Moreover, psychological characteristics like the big five personality traits also influence the individual's calculation in the perceived likelihood of being detected when committing a crime, as it was already mentioned before (Blickle, et al. 2006). The Madoff case supports this view, as the reputation and knowledge gained through tenure enhanced the possibilities of Madoff to get his scheme started and his characteristics in regard to skills and network have very likely enabled him to keep it running as long as it went. His p_j might have been lower than those of others, as his experience with all the public financial control mechanisms and his understanding of cash flows granted him an advantage. Alaletho (2003), amongst others, partly supports this view with his proclaimed type of a rational calculating offender in the area of white-collar crime and also argues in a similar way as Becker (1974) does. Alaletho (2003) however also advocated two different types (rational and situation dependent) of white-collar criminals as it was already mentioned in this paper. This implication suggests different elasticities (of offending in regard to deterrence through p, f) within the white-collar offender population as the rational offender might have a rather low elasticity (<1) while the situation dependent criminal is likely to have a rather high elasticity (>1) keeping everything else constant. The advocated higher suggestibility of situation dependent white-collar criminals can be one of the reasons for eventually existing differences in offense elasticity.

Moral education is also likely to play a role in the calculations of offenders in regard to their expected utility. For example individuals with a stronger emphasis on money might have a higher marginal value for monetary reward out of offenses, even though their legal income would suffice for a comfortable fiscal situation (Cleff, et al. 2008). Some scholars argue that the decision can be influenced by a stronger emphasis on moral education and therefore create moral discrepancies when deviating (Gottschalk and Smith 2011). With such discrepancies, deviation can result in disutility for the offender, which might deter the crime. However, contrary to this argument stands the theorized ability of white-collar offenders to cope with such disutility. On the one hand, techniques of neutralization can help the offenders (Siponen and Vance 2010) to rationalize their actions despite their moral discrepancies. On the other hand, some offenders might have a personality that does not experience any disutility from deviating from accepted moral norms (Barnard

2008). In such cases, the dark triad and the ability for moral disengagement strongly influences the respective u_j (Egan, Hughes and Palmer 2015).

Further support for the rational calculating offender as proclaimed by Becker (1974) can be found in the explanatory attempt of the fraud triangle/diamond. As white-collar offenders have an occupation they might not face timely pressures as many street-level offenders do. If they have a steady legal income, white-collar criminals might just sit tight and wait for their opportunity to arise (Schuchter 2012). Also the rational choice model (Sen 2007) and the “Leipziger Verlaufsmodell” (Cleff, et al. 2008) argue in a similar way and support the view of a rational calculating white-collar criminal. Moreover, the theory of desire for control supports the view of a rational calculation offender (Schoepfer, Piquero and Langton 2014).

In contrary to this view stand theories where unforeseen events put pressure on individuals and limit the possibilities of rational calculations and partly force offenders to act on impulse (Engdahl 2014). Such incidences are covered by some of the already presented models in chapter 3.1.5. In cases where desire for control, low self-control (Schoepfer, Piquero and Langton 2014), fear of falling (N. L. Piquero 2012) or the bad apples approach (Heath 2008) play a role, rational calculation of the offender cannot be assumed in general. With the abundance of extrinsic and/or intrinsic pressures on the individual, the availability of all rationally possible alternatives might not be given anymore or a biased calculation like in the case of fear of falling does alter the decision process. Other biases like low self-control can also limit rational calculation as short term gains are valued stronger (Gottfredson and Hirschi 1990). Further evidence of non-rationality of the offenders when committing white-collar crimes is provided by Bhattacharya and Marshall (2012) as well as Lochner (2004) as it was discussed in section 3.1.1.

In addition, research which argues that white-collar offenders act “out of character” is standing against the picture of the rational calculating white-collar criminal (Brody, Melendy and Perri 2012). The same goes for the application of violence when situations are about to turn bad, as white-collar offenders mostly do not have such intentions when first committing their premeditated non-violent white-collar crimes. This calculation can easily be biased as very likely sunk costs, of prior committed crimes are included by the offenders (United States Court of Appeals 2010). The threat of a possible “loss of face” could also bias the calculation of a white-collar

offender, when he strongly values his social status and monetary wealth (N. L. Piquero 2012).

In the regard to deterrence of crime the proclaimed risk seeking attitude of Becker (1974) plays a vital role. Assuming the values of p and f are set right, so that crime will not pay (assuming rational calculation), the elasticities in regard to the supply of certain crimes might be too small (< 1) that a noteworthy change can be induced. With the traits of the dark triad, especially if Machiavellianism is high, offenders might be willing to do anything to get or to stay in their intended position. Also those offenders who are acting out of strains like the ones theorized in fear of falling or the GST models. Those offenders might have their back up against the wall and in combination with the abundance of a non-shareable problem the alternatives might be limited. The rationality of the calculations in the given examples can be doubted and therefore the supply of offenses from this category might be hard to deter.

From one possible viewpoint the cover-up of Lay and Skilling could show such a non-rational decision process, as both of them, with their expertise should have known that sooner or later a scam with such an impact will be detected. The decision of committing further offenses, strongly suggests heavy personal bias as they might have thought that they can keep everything under control.

Whether or not the calculation itself might be rational, further influential factors on the offense function must be considered. For example, it will make a difference if the offense is committed as an occupational or as a corporate crime. Assuming rational choice, as Becker (1974) does, corporate crimes are likely to inherent lower p_j and f_j because more resources for example for legal defenses, similar as to the argument stated on the individual level, are available. Also the techniques of neutralization might bring more relieve (changing u_j) if the crime is committed in the name of a company.

Company size, governance mode, etc. might have a similar effect on the calculations in favor of offending, but also in regard to prohibiting, depending on the implemented policies and their influence on p_j and f_j . A supportive environment can lower the p_j and f_j as well as strongly influence the u_j when others look away or even provide ideas or tools for committing an offense. This goes for corporate crimes as a supportive environment sets p_j and f_j internally nearly equal to zero for any accepted

offenses within the company, but also lowers the values for occupational crimes as weak controls are less likely to be successful in detecting those crimes. Therefore a supportive environment has the additional chance to backfire on the company internally and not only from external sources (e.g. detection and prosecution by public institutions). Another interesting implication of a supportive environment in regard to a rational calculating white-collar offender might be the self-selection of such individuals in organizations where such environments are present. This would also be in compliance of Becker's rational calculation argument as the offenders are likely to lower their chances of being caught in such organizations.

Further implications of company policies on the likelihood of offending and their impact on the variables of Becker's model are already discussed in chapter 3.2.2. As u_j combines all other factors besides the likelihood of getting caught and the possible punishment, policies ranging from company communication over compensation structure to recruitment strategies influence this variable. The policies can deter white-collar crime as well as favor it.

Assuming for a moment that also a company has an offense supply function with the same parameters as an individual, the policies have a further dimension. While these policies still strongly influence the u_j of the company, also the f_j can be altered by establishing certain policies. For example, if a certain supportive environment for illegal or immoral actions gets publicly noticed, f_j changes as damage to the company's reputation has to be considered as well. (McFayden 2010) If offenders acknowledge this influence when committing a corporate crime, cannot be said from the current point.

As examined before, the competition in certain industries might also influence the decisions of companies towards white-collar criminality. If competitors use illegal means, it might also influence the given u_j of a company and changes it in such a way, that even rightly set p and f might no longer deter crime (see chapter 3.3.1). In addition there might be further industry or company characteristics which influence respective p_j and f_j for a company and its individuals. Peterburgsky's (2012) research claims a link between non-profit experience and white-collar criminality. In the light of such research the abundance and intensity of public and private institution relationships might be influencing the calculation. Knowing the prosecution system and/or having good contacts to public institutions might give a competitive edge to

companies or individuals. This might happen for example either by changing u_j as having better chances in getting public contracts, or lowering of p_j and f_j as more information is available.

Strong influence on the supply function could also come from the influence of globalization nowadays. As victims of offenses might lie across the globe, lack of direct contact with the impact of crime is also very likely to influence u_j for example in reduced felt disutility for the offender. Furthermore, the respective p_j and f_j change with geographical location as many countries have different approaches to deter white-collar criminality. Some companies already use strategic selection of locations for gaining advantages (see Banking on the Isle of Man) which might not always be only in the legal or ethical realms. Also the already mentioned “effective grease” in certain countries has an impact on those variables as the Siemens bribing scandal has shown (Graeff, Schröder and Wolf 2009). Assuming such a link, the source of enhanced likelihood can amongst other sources possibly result out of a supportive environment or lowered control due to higher decentralization or eventual higher span of control (Hill, et al. 1992, Perri 2013).

Another facet has to be considered from the company's point of view. In regard to compensation policies and the amount of equity compensation, white-collar criminality can be either deterred or favored by it. A reason for that might be a high elasticity (> 1) of offending in terms of cost of ownership. On the one hand, high shares of the company held by managers can prevent crime as they don't want to harm their own supposed profitable property. On the other hand, if risk seeking behavior is abundant higher shares can induce white-collar criminality as offenses might pay off well if the held shares are high, like Dennis Koslovski did at Tyco International (Time Magazine 2006). So there might be individuals which have a certain threshold when owning stocks of a company. For some it might be the case that overshooting this threshold induces white-collar criminality as u_j changes and the utility gets positive, while for others the inverse relationship might be true, and undercutting this threshold limits their expected losses from the cost of ownership and therefore induces another change in u_j which maybe again lead to white-collar crime. For the latter individuals overshooting the threshold might induce possible costs which are too high for them and therefore deter crime.

4.2 DETERRENCE OF CRIME

As it was stated above the government, according to Becker, has to influence the values of p and f in such manner that the social loss is at a minimum. Why the assumptions made in this general model might not fit white-collar criminality best, will be examined in this section.

First of all, the estimation of damages resulting out of white-collar criminality is heavily biased as research suggests that only a fraction of offenses are discovered (Schuchter 2012). The estimates of white-collar crime damage have huge spans, as seen in chapter 2. Therefore it is hard to believe that the right amount of prosecution is acted out as the actual damage lies in the dark. Becker (1974) uses in his model only average values over all offenses, but acknowledges that in practice many different “submarkets” for crimes do exist where each has its own optimal p and f . White-collar crime could be seen as one of these submarkets, however the distinction could go for a separate p and f for each offense type. With weaker or no moral disutility from offending it is disputable if fitting p and f to the general population is feasible to influence the personal p_j and f_j of white-collar criminals in a sufficient way. If p and f should be adapted to an eventual existing stereotypical white-collar criminal, they might bear a lot of costs (C_p , bf) as such a group might have got good legal defenses and means of concealing their activities which are not available to the average citizen. Therefore the prosecution costs eventually lead to higher accepted crime levels in order to reach optimality. The issue here is that even though the public institutions might come up with the best submarkets with their respective values, the calculation has to fit the “average” citizen as research so far only identifies basic points describing white-collar criminals.

Furthermore chapter 3 partly suggests that there might be a certain group of people who are more likely to commit white-collar offenses. Nevertheless, the problem with white-collar crime leaders and followers (Bucy, et al. 2008) needs even further distinction as the personal values differ. The problem of identification of leaders is one that would have to be solved by further research and joint action of scholars and public prosecutors. Identifying those submarkets and the respective values of p and f for them will, if at all possible, partly need a change in current research approaches (see problems in chapter 2) and will also very likely cause considerable costs which in turn have to be included in the calculation. Furthermore, ever new possibilities of

committing white-collar offenses (PwC 2014), demand a continuous process of setting the right values.

One of the many possible examples of new ways of offending and the everlasting struggle of preventing the same is high frequency trading. Only few cases have been prosecuted so far as many of the used means to commit an offense are either legal (e.g. short naked selling and cancellation) or in the grey area between legality and illegality. Further problems arise with the amount of data generated by high frequency trading which make the process of reconstructing events so time and resource consuming. (FBI 2014, Ingram 2015) New legislative approaches to tackle such issues are already under way in the U.S: as well as in central Europe (Schneiderman 2013, Bundesfinanzministerium 2012).

In regard to punishments, Becker (1974) suggests always the use of monetary fines when possible. The social costs of punishment *bf* would therefore be minimal as fines can be seen as a transfer payment, which should cover the damages done by the offense and the cost of apprehension and prosecution linked to the same. However even, or especially in the realm of white-collar criminality it is highly probable that the harm surpasses the monetary fortune of the offenders by far even if the offender is from the upper social strata and extremely wealthy, see Madoff, Lay and Skilling. Further consideration, although being only hypothetical, could be, that the offenders with their expert knowledge are able to get monetary wealth out of the line of fire and bunker it somewhere safe from prosecution and impoundment. From a legislative point of view another concern has to be kept in mind. In regard to the general public the economic effect of fines instead of prison sentences might not be accepted as it is in academic fields. Therefore the public might get a feeling that the law is favoring white-collar criminals as they are allowed to pay off their wrongdoings, while the average street-level offender goes to prison (Holtfreter, Van Slyke, et al. 2008). Even though Becker (1974) deals with such objections, the theoretical advisements might not have a place in practical application.

Generally speaking, the intention of governments setting the punishments in accordance to Becker's (1974) model has to be doubted. When looking at the statistics of inmates in comparison to crime rates in the U.S. the correlation seem to be negative. While inmate numbers keep raising, crime rate is at the same time declining (FBI 2013, United States Department of Justice 2014). Acknowledging this

conclusion is rather simplistic, the trend is nevertheless puzzling. In this scenario the role of exchange and exertion of influence between the public and the private sector is likely to be essential. As the prison industry is a highly profitable one, with high lobbying efforts, there might be a connection to legislation which favors imprisonment as a punishment for many, not exclusively white-collar crimes (Cohen 2015).

A further possible reason why the setting of p and f from official institutions might fall short to optimality is the already mentioned link between private and public sector.. Reasons and manifestations of such dependencies were already discussed in chapter 3.3.2. Favorable judging and flows of money between the interest spheres of politics and business prohibit optimal values for prosecution and punishment. (Center for Responsive Politics 2015, Ivancevich, Konopaske and Gilbert 2008, Prechel and Morris 2010)

With lawmaking being a little sluggish or reactive as already mentioned in the United States case (Sarbanes-Oxley-Act; Frank-Dodd-Act) effort on the optimal setting of p and f seems to need some kind of external trigger like a big scandal. Rather recent incidences of such triggers which changed the law to quite a substantial amount can be found in German speaking countries. The Siemens corruption scandal triggered political movement in the case of anti-corruption lawmaking. This scandal furthermore triggered also the involvement of private companies and institutions, to take up arms against white-collar criminality themselves (Graeff, Schröder and Wolf 2009, Transparency International 2015). In Austria the HYPO scandal (ORF 2015) created a huge national outcry and a public demand of prosecution of the responsible individuals. With a highly probable, but not yet confirmed, involvement of the political squad, the prosecution and refurbishment of the issue was long deterred and is until today far from being finished. However, as public perception changed through the scandal, the political pressure rose and the government had to admit to a minority right for commissions of enquiry (Austrian Government 2015). Furthermore, governments also try to involve the public in the fight against white-collar criminality, as for example the Austrian government does with its launching of whistleblower homepages for white-collar offenses (Wirtschafts- und Korruptionsstaatsanwaltschaft 2015).

The calculation of state officials might be no different from those of private sector white-collar criminals. Therefore the internal bias for setting p and f optimal has to be

acknowledged. The calculation of delaying or even deterring new legislation in the combat against white-collar crime might be in the interest of many public officials, not only those under lobbying influences. Both presented incidences have their respective change induced in the process of deterring white-collar crime. However, in both cases only a huge scandal led to a change in awareness and a public outcry.

Further change in this matter can be moderately observed in the Anglo-American area. After the scandals, which have been discussed throughout this paper, and the recent economic crisis, with the bailout of banks, white-collar criminality is perceived by the public in a way which better matches its actual impact (Cullen, Hartman and Jonson 2009). Manifestations of this shift can be observed in movements like “occupy” or “99 percent” which forced it into the perception of the average citizen (Corcoran, Pettinicchio and Robbins 2012). One could say, that the same shift is also starting in Europe with the political movements in the south like “Syriza” in Greece (Zeit Online 2015) or “Podemos” in Spain (Zeit Online 2015a). With such movements the pressure rises even more on the government in office or might even result in such movements being in office themselves, like Syriza is. With a change in public attitude or at least from public leadership away from neoliberal thinking a change in lawmaking might be induced and the proclaimed optimal values of p and f could be reached more easily.

Culture and a big emphasis on monetary success, the ongoing tournament and the struggle with opponents might create intense performance pressure and consequently risk seeking behavior might be induced. In this regard the common thinking of cultures being country- or region-specific might have to be abandoned, as in a globalized world with an increased personal mobility, only certain individuals would adapt to such a “tournament” culture. This would be in accordance to a theoretical concept of offenders being risk seeking and eventually having a certain personality profile, like Simpson (2013) mentioned, and as chapter 3.1 also partly suggests.

The contrary states the example of Siemens where bribes have been issued by the company in order to do business in other countries. This concept of “efficient grease” is accepted in certain cultures and is embedded in everyday business life (Méon and Weill 2010). Organizations speed up the process of getting red tape or induce favorable legislation or just bribe people to overlook some deviations of the

organization. Therefore, one could argue in the favor of a cultural influence on abundance of white-collar crime. Not only in the personal calculation but also with setting of the optimal values of p and f , as certain parties in a market might have an interest in keeping this values away from the point of optimality. It has to be mentioned that not all studies also support this so called theory of “sand in the wheels” (Méon and Weill 2010). The differences of cultures in regard to their acceptance of corruption are still clearly visible and it seems that in some countries the wish for deterring crime is surpassed by the wish for personal enrichment (Transparency International 2015, Aidt, Dutta und Sena 2008).

It seems that public institutions don't dispose over the means or the resources to tackle white-collar criminality in an efficient way (recent scandals like LIBOR, HYPO, etc show that large scale white-collar crime still happens, and those are only the incidents which have been discovered). Private expenditures from companies are on the rise especially in new fields of possible threats, like cyber criminality (PwC 2014, PwC 2014a). The model of Becker (1974) suggests that p and f should be adapted to the severity of crimes and therefore should be lower for minor offenses. In the realm of white-collar criminality this might be tricky. For example, as already discussed, the rather small offenses in high frequency trading where each offense only amounts for a very small damage, but when placed often generates huge sums of damage. The problem with prosecuting such offenses lies in the amount of data and the time needed to go through it to identify every small offense. If prosecutors have the technology and resources to retrace the happenings at all, it is still likely that small offenses and manipulations go unpunished as no hints are discovered and no prosecution is started, because the technological resources are likely to be needed elsewhere (Prewitt 2012). In this regard, regulatory institutions should also enact more control on the market to prevent major offenses, like the “flash crash” to happen. In regard to damages it has to be questioned if a change in market structure and functionality should be preferred over prosecution as deterrence does not seem to function well (Poirier 2012).

5 CONCLUSION

Generally speaking, a rise in white-collar crime incidents can be observed in recent surveys all over industrialized countries. The reasons for these observations however can be manifold, as the increase could be induced by a higher absolute number of white-collar crimes committed, a rising general awareness of white-collar criminality or better enforcing and controlling mechanisms within the companies. (KPMG 2013, PwC 2014, PwC 2014a)

The so far conducted research, despite its limitations, has done its vital part which lead to a better understanding of the issue. Nevertheless, there is still a long way ahead in the field until the topic is understood in a satisfactory way. In the search for white-collar offenders, the motivational structure and eventual penetrative personality features have to be better understood in order to deter these crimes. If research is able to pinpoint influential factors conclusively, other entities like public institutions, the general public and especially the companies themselves have to provide for their acknowledgment and integration into modern business practices. This is a relatively urgent matter, as existing research already shows the tremendous negative impact, and therefore intensified support is needed. Very recent white-collar crime scandals as the VW emission report frauds (Die Welt 2015) substantiate such a claim. Systematic data gathering as well as non-influential funding is essential to penetrate the issue efficiently.

Unfortunately there is no general answer to the question, if there is a typical white-collar offender as research is still too inconclusive on this matter. Some research does show a tendency towards a certain type of offender but no explanation is so far able to cope with all incidents of white-collar crime. Maybe looking for a certain type of individual is not the right approach to get full understanding of the issue. However, in the opinion of the author, a shift in attitude in the business world is needed to acknowledge the so far identified factors, and a shift in the deterrence of white-collar criminality from just fighting the symptoms to the actual roots is needed. In this regard additional research on the industry concentration could eventually give some insights as some researchers suggest its presence (Friedrichs 2010). Possibly existing self-selection mechanisms into certain industries could be abundant, which in turn, could give hints to further influential factors determining such industries.

Limitations when writing this paper existed as there were obstacles when it comes to the availability of literature at the University of Vienna. Hence, not all existing research was able to be included due to the lack of access rights. The initial intention of the paper to be an explicatory study had also to be disbanded as the resource availability did not allow such an approach in regard to abundant data. Furthermore, the impact of official institutions (government and state) had to be theorized to an extent, as research on this matter is rather scarce.

General explanatory models are useful so far to understand certain areas of white-collar criminality, but are in the opinion of the author, not yet sufficient to live up to their claim of generalizability, as not all facets of the existence of white-collar crime are already understood. On the one hand, some claim that no single theory can ever explain white-collar criminality in its holistic existence (Friedrichs 2010), but on the other hand, science disabused over and over throughout history. Becker's model (1974) for instance is already able to explain certain instances of white-collar crime, but will probably add more to its understanding in the future as additional influential factors will become known. Furthermore, the implication of rational calculation solely determining the abundance of white-collar crime seems not sufficient, according to existing research. General models with a higher level of detail would eventually cope with such shortcomings, as the "Allgemeines Erklärungsmodell" might do in the future. Even if the theoretical foundations are suitable, the current available input of factors might not yet be adequate to exploit the full potential of the model. As an example of promising future research, the relation between official institutions, the lawmaking body and the private economy has to be explored further as it might hold some interesting implications on the abundance of deviant behavior in a business context and could provide further input for models. In addition research approaches like the one of Peterburgsky (2012) applied to public – private sector personnel exchange and its consequences on white-collar crime abundance could eventually be enlightening.

Besides the exertion in the academic field a broader approach has to be applied on a topic that is obviously affecting everybody. For example, a stronger emphasis on general ethics education could eventually help to deter people from committing white-collar crime. Even though the research is not uniform on this matter, economic theories, like Becker's (1974) would support this view, as a higher disutility from

deviating from one's moral norms would influence potential existing calculations. Furthermore, the more an ethical public mindset might soak into the economy the more business will eventually change in such a way that a tightrope walk between morality, legality and profit maximization will not end on the "dark side". This will not be able to deter all white-collar crime, , but would eventually have a positive impact on all facets of modern social life.

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APPENDIX

GERMAN ABSTRACT

Das Phänomen Wirtschaftskriminalität ist in Relation zu seinem wirtschaftlichen Schaden, sowohl im akademischen Umfeld als auch in der öffentlichen Wahrnehmung unterrepräsentiert. Dieses Werk hat zum Ziel einen Überblick über den aktuellen Stand der Forschung zu diesem Thema zu geben, und versucht anhand der vorliegenden Ergebnisse einen Stereotyp für Wirtschaftskriminelle zu identifizieren.

Viele unterschiedliche wissenschaftliche Disziplinen haben sich bereits diesem Thema gewidmet. Resultierend daraus haben sich verschiedene Ansätze und Sichtweisen gebildet, welche auch Probleme wie fehlende Vergleichbarkeit nach sich ziehen. Diese Arbeit versucht mittels Literaturrecherche die verschiedenen Resultate vorzustellen und diese nach Möglichkeit in ein ökonomisches Modell von Nobelpreisträger Gary S. Becker zu gießen.

Trotz einiger Hinweise in der akademischen Literatur auf einen Stereotyp für Wirtschaftskriminelle, kann keine allgemein gültige Antwort auf die Frage nach einem typischen Wirtschaftskriminellen gegeben werden. Im Zuge dieser Arbeit wurden die Probleme in der aktuellen Forschung adressiert wobei ein Bedarf an interdisziplinärem Austausch und einheitlicher Datensammlung identifiziert wurde. Auch die öffentliche Wahrnehmung sowie staatliche Unterstützung für die Forschung haben Nachholbedarf um zu einem angemessenen Verständnis für dieses Thema zu gelangen.

Ein rein ökonomischer Ansatz, wie ihn Becker in seinem Modell mit rational kalkulierenden und agierenden Kriminellen proklamiert, mag für das Thema der Wirtschaftskriminalität nicht ausreichend sein. Um die Komplexität dieses Bereiches und die Motivation der Täter ganzheitlich zu verstehen ist einiges an weiterer Forschung von Nöten.

Keywords: Wirtschaftskriminalität, Kriminalität

ENGLISH ABSTRACT

White-collar criminality is a phenomenon that is underrepresented in academic research as well as in public awareness in relation to its economic impact around the world. Aim of this paper is to give an overview of current existing research which deals with the origins of white-collar criminality and investigates whether there are stereotypical white-collar criminals.

Many scholars from different disciplines have already tried to investigate this topic from varying scientific angles which resulted in a number of different approaches. However, data collection and methodology lack uniformity in this field of crime research. Therefore, the paper only identifies already existing research insights and points to the manifold abundant blind spots. This document is based on literature research and attempts to convert gathered insights of the diverse disciplines into an economic crime model of Nobel laureate Gary S. Becker.

Although the used literature offered plenty references of commonalties with white-collar criminals, a satisfactory generalizable answer could not be given. However, the shortcomings of the current research have been identified and general problems of the field have been briefly addressed. Overall, a need for unification and interdisciplinary exchange of the research approaches have been detected in order to provide the necessary comparability. Furthermore, a need for change in public perception and governmental support has been identified.

A pure economic approach as Becker proclaimed with his model of rational calculating offenders might not be sufficient to explain the complex phenomenon of white-collar criminality. Much research is still needed to grasp the phenomenon of white-collar criminality in its entirety.

Keywords: white-collar crime, “crime and punishment”, criminality

CV

PERSONAL INFORMATION

Thomas Hochgatterer

Sex Male | Date of birth 01/06/1988 | Nationality Austria

WORK EXPERIENCE

February 2014 – February 2015

External controller “place to perform” 2014/2015

uniforce Consulting GmbH, Am Heumarkt 12, 1030 Wien, www.uniforce.at

- Monitoring and auditing of project budget, controlling of external project correspondence, cooperation management, press releases, etc.

Business or sector Consulting

February 2013 – October 2013

Self-employed at Start-up “CodingCollective”

Handling of accounting, organizational planning & design, business development

- Business or sector IT Services

July 2012 – July 2013

Business Unit Leader – Business Unit HR

uniforce Consulting GmbH, Am Heumarkt 12, 1030 Wien, www.uniforce.at

- Team leading, handling of operational business in the HR consulting sector within the company, Recruitment, strategic planning for the business unit

Business or sector Consulting

November 2011 – July 2012

Consultant – Business Unit HR

uniforce Consulting GmbH, Am Heumarkt 12, 1030 Wien, www.uniforce.at

- Acquiring and working on projects with external customers

Business or sector Consulting

2003 – 2010

Internships

Koller Hoch- und Tiefbaugesellschaft m.b.H., (Construction)

HABAU Hoch- und Tiefbaugesellschaft m.b.H., (IT Department)

SOFTSOLUTION GmbH, Im Vogelsang 18, 3340 (Development in Java, C++)

EDUCATION AND TRAINING

2012 - on-going

MSc - international business administration

University of Vienna, Vienna, Austria

- HRM
- Organisation
- International strategies (corporate, market entry, CSR,...)

2008 - 2011

Bakk. rer. soc. oec. (bachelor in business administration)

Karl-Franzens-University Graz, Graz, Austria

- Marketing
- Intercultural management
- General economic principles

February 2011 – July 2011

Studying abroad (within the bachelor degree)

University of Queensland, Brisbane, Australia

- Marketing
- Natural sciences

2002 – 2007

School leaving examination

HTBLA for EDP and Organisation Perg, Perg, Austria

- General education
- EDP (Coding, Database architecture,...)
- Project management

PERSONAL SKILLS

Mother tongue(s) German

Other language(s)

	UNDERSTANDING		SPEAKING		WRITING
	Listening	Reading	Spoken interaction	Spoken production	
English	C2	C2	C2	C1/C2	C2
TOEFL C1 27.02.2010 (103/120) before the semester abroad					
Spanish	A1	A1	A1	A1	
Course at the Karl-Franzens-University Graz					

Levels: A1/2: Basic user - B1/2: Independent user - C1/2 Proficient user
Common European Framework of Reference for Languages

ADDITIONAL INFORMATION

Projects

- Place to perform 2012 (www.placetoperform.at – as project manager)
- Place to perform 2014/2015 (www.placetoperform.at – as Controller)

Memberships

- Chair holder at the nomadic university (NUROPE – www.nuope.eu)
- Auditor at Alumniforce (Alumni organization of uniforce Consulting)

Stipends

- merit scholarships of the Karl-Franzens-University of Graz and the University of Vienna
- e-fellows scholarship <http://www.e-fellows.net/e-fellows.net-Stipendium>