



Understanding White-Collar Crime

A Convenience Perspective

Petter Gottschalk



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A Convenience Perspective

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Introduction

This book deals with the topic of white-collar crime and considers the role of convenience in explaining its occurrence. It puts forward convenience as a theoretical explanation that underlies existing theories and research on white-collar crime.

Convenience seems present in all three dimensions of crime: economic dimension, organizational dimension, and behavioral dimension. Convenience in white-collar crime implies savings in time and effort by privileged and trusted individuals to solve a problem, where alternatives seem less attractive, and future threats of detection and punishment are minimal. The proposed theory of convenience in white-collar crime emerges as an integrated explanation in need of more theoretical work as well as empirical study. This book presents ideas that are grounded in the existing literature, and these ideas represent a novel perspective: They answer questions that are not adequately explained by the existing literature or provide different answers to “how...?,” “why...?,” and “when...?” questions.

Ever since Sutherland (1940) coined the term white-collar crime, there has been a debate who to include in and who to exclude from this category of criminals. For example, Brightman (2009) argues that personal computers and the Internet allow individuals from all social classes to buy and sell stocks and engage in similar activities that were once the bastion of the financial elite. Benson and Simpson (2015) find this insufficient as an argument to include virtually any nonviolent act committed for financial gain regardless of one’s social status into the term white-collar crime, since the definition of white-collar criminal involves a breach of trust. Because scholars tend to disagree, white-collar crime is in need of additional theory.

Scholars seem to agree that while circumstances have changed over the years, the definition of a white-collar crime has to be both offense-based and offender-based. The offense-based perspective is concerned with financial crime for economic gain. The offender-based perspective is concerned with the role, profession, and position enabling the offender to

commit crime. Thus, a white-collar criminal is a privileged person committing financial crime (Gottschalk and Rundmo, 2014).

While this book applies a convenience perspective to understand white-collar crime, Benson and Simpson (2015) apply an opportunity perspective to understand white-collar crime. In the terminology applied in this book, opportunity is an important element and prerequisite in making financial crime convenient for the white-collar criminal. Opportunity is an opening and a possibility to commit criminal acts as a means to reach an organizational or a personal goal. When criminal opportunity is attractive as a means to fulfill one's desires, rational actors will choose it.

As discussed in convenience theory in this book, opportunity is a distinct characteristic of white-collar crime and varies depending on the kinds of criminal involved (Michel, 2008). An opportunity is attractive as a means of responding to desires (Bucy et al., 2008). It is the organizational context where the white-collar criminal is a professional that provides the offender an opportunity to commit financial crime and conceal it in legal organizational activities. While opportunity in the economic dimension of convenience theory is concerned with goal achievements (such as sales and bonuses), opportunity in the organizational dimension is concerned with criminal activities (such as corruption and embezzlement).

Benson and Simpson (2015: 76) use the term *opportunity* to describe the organizational dimension, and they argue that without an opportunity, there cannot be a crime.

What exactly is a criminal opportunity? According to routine activity theory, criminal opportunity comprises two elements: a suitable target and a lack of capable guardianship. A target can be a person or some kind of property. What makes a person or a piece of property suitable as a target for crime? That depends on a lot of factors. Without exploring all of them, we can identify some of the main considerations. (...) Property becomes attractive to an offender if it is portable, valuable, and fungible. The importance of value for property offenders is obvious. (...)

The other component of a criminal opportunity is capable guardianship, or rather the lack of capable guardianship. You may think of capable guardianship as a big strong person who can defend you or your property, but the term guardianship is meant to be interpreted in a much broader way. It is just a convenient figure of speech. By capable guardianship, we mean anything that can either physically

prevent the offender from getting to the target or that can make the offender decide it is too risky to go after the target. Guardianship takes two main forms: blocking access and surveillance.

Blocking occurs when potential offenders have no access to passwords for electronic transactions, and when they are denied participation at travel and in meetings where sensitive information and knowledge are being exchanged. Surveillance occurs when potential offenders can be observed or otherwise detected either while committing the crime or afterward. Surveillance increases the likelihood that the offender's actions will be noticed, and, accordingly, the offender faces an increased risk of being caught. The opportunity is thus reduced.

References

- Benson, M.L. and Simpson, S.S. (2015). *Understanding white-collar crime—An opportunity perspective*, New York: Routledge.
- Brightman, H.J. (2009). *Today's white-collar crime: Legal, investigative, and theoretical perspectives*, New York: Routledge, Taylor & Francis Group.
- Bucy, P.H., Formby, E.P., Raspanti, M.S. and Rooney, K.E. (2008). Why do they do it?: The motives, mores, and character of white collar criminals, *St. John's Law Review*, 82, 401–571.
- Gottschalk, P. and Rundmo, T. (2014). Crime: The amount and disparity of sentencing—A comparison of corporate and occupational white collar criminals, *International Journal of Law, Crime and Justice*, 42, 175–187.
- Michel, P. (2008). Financial crimes: The constant challenge of seeking effective prevention solutions, *Journal of Financial Crime*, 15 (4), 383–397.
- Sutherland, E.H. (1940). White-collar criminality, *American Sociological Review*, 5, 1–12.

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chapter one

Convenience theory of white-collar crime

Extracting the concept from marketing theory (Farquhar and Rowley, 2009), convenience in white-collar crime relates to savings in time and effort by privileged and trusted individuals to reach a goal. Convenience here is an attribute of an illegal action. Convenience comes at a potential cost to the offender in terms of the likelihood of detection and future punishment. In other words, reducing time and effort now entails a greater potential for future cost. "Paying for convenience" is a way of phrasing this proposition.

Convenience benefits and costs

Convenience is the perceived savings in time and effort required to find and to facilitate the use of a solution to a problem or to exploit an opportunity. Convenience directly relates to the amount of time and effort that is required to accomplish a task. Convenience addresses the time and effort exerted before, during, and after an activity. Convenience represents a time and effort component related to the complete illegal transaction process or processes (Collier and Kimes, 2012).

People differ in their temporal orientation, including perceived time scarcity, the degree to which they value time, and their sensitivity to time-related issues. Facing strain, greed, or other situations, an illegal activity can represent a convenient solution to a problem that the individual or the organization otherwise find difficult or even impossible to solve. The desire for convenience varies among people. Convenience orientation is a term that refers to a person's general preference for convenient solutions to problems. A convenience-oriented individual is one who seeks to accomplish a task in the shortest time with the least expenditure of human energy (Farquhar and Rowley, 2009).

Three main dimensions to explain white-collar crime have emerged (Gottschalk, 2015b). All of them link to convenience. The first dimension is concerned with economic aspects, where convenience implies that the illegal financial gain is a convenient option for the decision-maker to cover needs. The second dimension is concerned with organizational aspects, where convenience implies that the offender has convenient access to

premises and convenient ability to hide illegal transactions among legal transactions. The third dimension is concerned with behavioral aspects, where convenience implies that the offender has convenient justification and acceptance of their own deviant behavior.

This book reviews the state-of-the-art relating to white-collar crime and criminals by applying the economic, organizational, and behavioral dimensions. By combining these dimensions, an integrated explanation of white-collar crime emerges, which we label convenience theory. White-collar criminals have convenient access, and financial crime saves them time and effort to solve a problem related to making a personal or organizational profit. Convenience is a relative concept, where the ease of problem solving can cause future costs for the offender. Crime is committed if found suitable by the offender, and especially when no alternative is in sight.

Convenience comes at a potential cost to the offender in terms of the likelihood of detection, prosecution, and prison sentence. Other potential costs are damage to family and friendships, loss of job, loss of income, isolation from profession, depression, and other psychological problems.

The following chapters present convenience theory's three dimensions. But first we provide a general explanation of theory development.

Theorizing and theory development

Whetten (1989) suggests that a theoretical contribution starts by identifying factors (variables, construct, concepts) that should be considered as part of the explanation of the phenomenon. He then suggests the how-part, which is how these concepts are related to each other. He also suggests that a theory has to explain the underlying psychological, economic, or social dynamics that justify the selection of factors and the proposed causal relationships. This rationale constitutes the theory's assumptions—the theoretical glue that welds the model together.

Eisenhardt (1989) argues that researchers develop theory by combining insights into observations, text in the research literature, sensible reasoning, and experience. Convenience theory has developed this way.

Sutton and Staw (1995) argue that a theory has to meet some minimum standards. They argue that references, data, lists of variables or constructs, diagrams, and hypotheses or predictions are not theory. They assert that theory is the answer to queries of *why*. Theory is about the connections among phenomena, a story about why acts, events, incidents, and reactions occur. They argue that theory emphasizes the nature of causal relationships, identifying what comes first as well as the timing of such events. Strong theory, in their view, delves into underlying processes to understand the systematic reasons for a particular occurrence or nonoccurrence.

Weick (1995) commented on Sutton and Staw's (1995) definition of theory by stating that what theory is not, theorizing is. Products of the theorizing process seldom emerge as full-blown theories. Data, lists, diagrams, and hypotheses can be part of a theorizing process. The process of theorizing consists of activities like abstracting, generalizing, relating, selecting, explaining, synthesizing, and idealizing. While theorizing is a process, theory is a product.

DiMaggio (1995) as well commented on Sutton and Staw's (1995) definition of theory by stating that there is more than one kind of good theory. They mentioned theory as covering laws, theory as enlightenment, and theory as narrative. He argues that good theory splits the difference, and that theory construction is social construction, often after the fact.

A few years later, Weick (1999) argued that theorizing in organizational studies has taken on a life of its own. He found that researchers seem more preoccupied with intellectual fashions than with advancement of knowledge. He argues that so much research is irrelevant to practice.

Colquitt and Zapata-Phelan (2007) found that many academics support Sutton and Staw's (1995) definition of a theory in terms of relationships between independent and dependent variables. Theory is then a collection of assertions that identifies how they are interrelated and why, and identifies the conditions under which relationships exist or do not exist. From this perspective, a theory is primarily useful to the extent it has the ability to explain variance in a criterion of interest. Other scholars support DiMaggio's (1995) suggestion that theory is an account of a social process, with emphasis on empirical tests of the plausibility of the narrative as well as careful attention to the scope conditions of the account.

Theory is a way of imposing conceptual order on the empirical complexity of the phenomenal world. Theory does more than simply abstract and organize knowledge. Theory identifies and describes relations between concepts within a set of boundary assumptions and constraints. Some see theory as a means of knowledge accumulation. These are the empiricists. Some see theory as a means of abstraction. These are the rationalists. Some see theory as normative explanations, which is not to represent the phenomenal world as it is but, rather, to see the world as it might be. A fourth role for theory is to legitimate knowledge (Suddaby, 2014).

Theory offers an explanation of relationships between concepts within a number of assumptions and constraints, and theory challenges assumptions about a given concept. For example, Hærem et al. (2015) extend the concept of task complexity and present a number of new assumptions to challenge old assumptions of task complexity. Theory reflects the structure of a phenomenon's knowledge base in abstract terms, such as the phenomenon of white-collar crime in the presented convenience theory.

The term theory is applied differently in various fields. Economists view theory as a stringent derivation of results based on certain assumptions.

It may seem, for example, that B follows from A, without really knowing why, since one only has assumptions and hypotheses.

Michailova et al. (2014) support Weick's view that theory cannot improve until we improve the theorizing process, and we cannot improve the theorizing process until we describe it more explicitly. They challenge the view that interesting theorizing would be an outcome only of high-quality, sustained relationships in the field, as suggested by the why-only perspective on theory.

In the following, the general theory of white-collar crime—consisting of economical, organizational, and behavioral dimensions—the emphasis is on theory as an explanation. An explanation is a set of statements constructed to describe a set of facts which clarifies contexts, modes, causes, and consequences of those facts. This is in line with Whetten (1989) who argues that a theory is an explanation of a phenomenon. He suggests that a theory has to explain the underlying economic, social, and psychological dynamics that justify the selection of factors. This is also in line with Weick (1995) who argued that the process of theorizing consists of several activities including explanations. It is as well in line with Colquitt and Zapata-Phelan (2007) who emphasize a theory's ability to explain variance in criteria of interest. Strong theory, in Sutton and Staw's (1995) view, delves into underlying processes so as to understand the systematic reasons for a particular occurrence or nonoccurrence, which the following theoretical descriptions intend to do.

Explanation for understanding is thus the main focus of the following theory. We search for a better understanding of white-collar crime. We are certainly not the only ones (Benson and Simpson, 2015: 71):

Just as with conventional crime, many theoretical approaches have been tried in the search for a better understanding of white-collar crime. The process of applying standard criminological theories to white-collar crime often involves "conceptual acrobatics." Theorists have to take ideas and concepts that were originally developed to apply to traditional forms of crime and tweak them to account for the special features of white-collar crime and the distinguishing characteristics of white-collar offenders.

An example of a theorist who takes ideas and theorizes them is Jacques (2014), who defines an idea as a statement about the nature of reality that people have said, written, or otherwise communicated. This is in line with Williams (2008), who argues that we must devote more attention to considerations of knowledge and knowledgeability in the study of white-collar crime. He suggests that we need to be concerned with the

extent to which the power of organizations maintain and reproduce themselves, and that we need theory to help document white-collar offending in society impeded by a crisis of knowledge.

Eisenhardt (1989) argues that theory development should include real cases and empirical evidence. She argues that there must be an intimate link between theory and empirical reality. Her argument is in line with those who include hypotheses testing as part of theory construction.

However, in this book we define theory in terms of its core and do not include the empirical side of research. We conclude by providing the following definition of theory as applied in this book to white-collar crime. *A theory is a systematic explanation of a phenomenon in reality. A theory is assumptions about relationships in practice. A theory combines insights from observations, previous research, hypotheses, and own reasoning. A theory emerges by abstraction, relationships, selection, simplification, and generalization.*

With this definition in mind, convenience theory might be classified as a middle-range theory rather than as an abstract theory. It was Merton (1968) who introduced middle-range theory as opposed to grand and abstract theory. Abstract theory as argued by Parson is an all-inclusive systemic effort to develop unified theory (Kang, 2014). Merton suggests that middle-range theory pushes our boundaries of knowledge for a specific phenomenon, while abstract theory includes everything and is thus impossible to evaluate or test in reality. Middle-range theory focuses on an interesting and relevant phenomenon in society—such as white-collar crime—to improve our understanding of and generate insights into behaviors, conditions, and patterns. Middle-range theory should enable development of models and hypotheses about the phenomenon.

Davis (1971) argues that an interesting theory is one that denies certain assumptions of their audience. Sandberg and Alvesson (2011) and Alvesson and Sandberg (2011, 2012) are on the same track by suggesting that theory construction should challenge assumptions. Theorists should challenge dominant assumptions in existing research. One of the dominant assumptions in white-collar crime research is differential association, which argues that criminal behavior is learned. Convenience theory in this book challenges this assumption and suggests that white-collar crime is not learned.

Alvesson and Sandberg (2011) define theory as a statement of relations among concepts within a boundary set of assumptions and constraints. They develop problematization as a methodology for generating research questions, which they argue will lead to more interesting and influential studies. The alternative to problematization is gap-spotting, which tends to provide researchers with a shared—and to a large extent taken-for-granted—norm for generating research questions from existing theory. Alvesson and Sandberg (2012) argue that there is a shortage of high-impact research in management studies because they are mainly

based on gap-spotting. The two authors repeat their suggestion of problematization rather than gap-spotting from a third research article two years earlier (Sandberg and Alvesson, 2011).

Social economic conflict in society

One of the peculiar aspects of white-collar crime is that the privileged and powerful punish their own. Bystrova and Gottschalk (2015) phrased the question: Why does the ruling class punish their own?

Social conflict theory suggests that the powerful and wealthy in the upper class of society define what is right and what is wrong (Petrocelli et al., 2003; Siegel, 2011). The rich and mighty people can behave like “robber barons” because they make the laws and because they control law enforcement (Chamlin, 2009; Haines, 2014; Kane, 2003; Sutherland, 1940, 1949; Veblen, 1899; Wheelock et al., 2011). The ruling class does not consider white-collar offenses as regular crime, and certainly not similar to street crime (Hagan, 1980; Lanier and Henry, 2009a,b; Slyke and Bales, 2013).

Nevertheless, crime by individuals in the elite tends to be prosecuted if crime is detected and evidence of wrongdoing is present (Brightman, 2009; Gottschalk and Rundmo, 2014; Seron and Munger, 1996), as long as they are not too powerful (Pontell et al., 2014) and do not have too excellent defense attorneys (Gottschalk, 2014). This theory section addresses the following research question: Why does the ruling class punish their own?

Social conflict theory views financial crime as a function of the conflict that exists in society (Siegel, 2011). The theory suggests that class conflict causes crime in any society, and that those in power create laws to protect their rights and interests. For example, embezzlement by employees is as a violation of law to protect the interests of the employer. However, it might be argued that an employer must and should protect its own assets. Bank fraud is a crime to protect the powerful banking sector. However, in the perspective of conflict theory one might argue that a bank should have systems making bank fraud impossible. If an employee has no opportunity to commit embezzlement, and if a fraudster has no opportunity to commit bank fraud, then these kinds of financial crimes would not occur, and there would be no need to have laws against such offenses. Law enforcement protects powerful companies against counterfeit products, although they should be able to protect themselves by reducing opportunities for the production of counterfeit products.

Social conflict theory holds that laws and law enforcement are used by dominant groups in society to minimize threats to their interests posed by those whom they perceive as dangerous and greedy (Petrocelli et al., 2003). Crime is defined by legal codes and sanctioned by institutions of criminal justice to secure order in society. The ruling class secures