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Intermittent White-Collar Offenders: Who They Are and How to Stop Them

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Abstract

This paper examines intermittent white-collar offenders. Intermittent offenders represent the most dangerous of white-collar offenders as they are criminally dormant for years at a time and commit deviant acts when the opportunity presents itself. It is for this reason that they are classified as "opportunity seekers." This paper will discuss previous white-collar crime research and assert that white-collar offenders are predisposed to crime. In addition, a modern definition for white-collar crime will be introduced. Following the analysis of the intermittent white-collar offender characteristics, real-world applications on how to dissuade offenders from participating in white-collar crime will be discussed. The onus falls on the business organization to prepare for modern fraudulent acts. It is the hope of this study that the information herein will lead to business policies that can anticipate and thereby avoid white-collar crime in the workplace.

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Introduction

"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" –Daniel Drew, (b.1797).

This quote by a historic fraudster reveals how white-collar crime was occurring from this nation's inception. However, the term "white-collar crime" did not exist until Edwin H. Sutherland (1940) published his pioneering article in the *American Sociological Review*. The vast majority of criminological literature available up to this point in history concerned what is presently categorized as "common crime" or "street crime." These are the stereotypical crimes that dominate the general public's interpretation of "crime" (Piquero & Weisburd, 2009). An objective definition of "common crime" is the Part 1 offenses listed in the FBI's Uniform Crime Reporting survey which include: criminal homicide, forcible rape, robbery, aggravated assault, burglary, larceny-theft, motor vehicle theft and arson (U.S. Department of Justice, 2004). For the purposes of this paper, the term "common crime" will be used to represent non-white-collar crimes. This paper will introduce the reader to the phenomenon of white-collar crime, discuss a specific type of white-collar offender, and identify business policy implications as well as future research ideas.

There is much dispute on what constitutes a "white-collar crime" (herein WCC). Sutherland's (1940) original definition limited the committal of this crime to "respectable persons" of "high social status." Mr. Daniel Drew (see quote above) would fit this designation. The shortcoming in this description is the presumption that individuals with low social standing could not, by definition, commit a WCC. Placing an outright restriction on who can commit this type of crime limits the analysis and scope of the subject. Research suggests that potential offenders emerge from all social classes; but their motivations may be different. The wealthy can be motivated by conspicuous spending resulting in an absence of funds, the desire to leave an inheritance, the desire to build an empire, or to assert self-worth (Braithwaite, 1991). In addition, the American business culture is characterized by competition and dominance, which will be discussed later in the paper. The lower social classes may be motivated to commit WCC by feelings of alienation, hopelessness, and desperation that make them feel powerless in their situation (Braithwaite, 1991). One study reached the conclusion that "most of those convicted of white-collar crimes came from the middle-class of society; that is, they were average citizens with moderate incomes" (Piquero & Weisburd, 2009, p.156). Shapiro (1990) wrote that offenders from all social classes "lie, steal, falsify, fabricate, exaggerate, omit, deceive, dissemble, shirk, embezzle, misappropriate, self-deal and engage in corruption or incompetence by misusing their positions of trust. It turns out most of them are not upper class" (p.358). Based on this information, it is inappropriate to limit WCC to a single social class. The majority of modern researchers agree that Sutherland's definition of WCC is outdated.

Defining White-Collar Crime

The first step in defining WCC is determining the basis of the act. Put simply, is WCC offense-based or offender-based? Morris & Sayed (2013) pose this question about white-collar offending as a matter of behavior (offense-based) or status (offender-based). The decision on the basis of the definition depends on what the researcher is studying. Offense-based definitions are useful for examining trends among the outcomes of WCC. This can be described as a reactive study. For example, one objective of Weisburd & Waring's (2001) research was to observe the frequency of recidivism dependent on the type of WCC committed. They divided WCC into eight individual crimes: antitrust offenses, securities fraud, mail and wire fraud, false claims and statements, credit and lending institution fraud, bank embezzlement, income tax fraud and bribery. Offender-based definitions interpret the individual offender to be the focal point of the study. This can be described as proactive research as the results can be used to predict the incidence of WCC. An example would be Perri's (2011) study: "White-Collar Criminals: The 'Kinder, Gentler' Offender?" In his research, Perri (2011) examined individual personality traits of white-collar criminals in order to determine potential offenders. For the purpose of this paper, an offender-based definition of WCC will be used.

In order for a crime to be committed, there must be at least one offender participating in the act. Without action, there would be no crime. However, white-collar criminals act alone more often than common criminals (Weisburd & Waring, 2001). This one person is responsible for the entire criminal act, from planning to implementation to cover-up. How do offenders find themselves in the position to conduct all of these acts? The answer lies in the fiduciary relationship that operates within the business world. The employer-employee relationship relies on a substantial degree of trust: to conduct one's duties affirmatively and honestly, to place the interests of those they represent over their own, and to operate with the utmost care and due diligence (Shapiro, 1990). This system continues to exist despite its vulnerability to abuse. "The fundamental reason for this [system] is that uncertainty and complexity characterize the employment relationship, and incomplete contracts allow the employer to transfer some of the risks of this complexity and uncertainty onto employees" (Moberg, 1997, p.43). In other words, the structure of business requires mutual trust in order to function. Practically, the business organization model and employer-employee relationship cannot be easily replaced without a complete transformation in lifestyle. This is beyond the scope of this paper. This paper will address how to avoid placing criminally prone individuals in positions of trust, with the aim of reducing both the opportunity to commit and the frequency of WCC.

Having discussed the major characteristics of WCC, the definition this paper will use can now be discussed. As previously mentioned, this paper will follow an offender-based definition of WCC. That is, the study will focus on the individuals who commit the crime rather than the crime itself. The FBI defines WCC as "…those illegal acts which are characterized by deceit, concealment, or violation of trust and which are not dependent upon the application or threat of physical force or violence. Individuals and organizations commit these acts to obtain money, property, or services; to avoid the payment or loss of money or services; or to secure personal or business advantage" (U.S. Department of Justice, 1989, p.3). Arnulf & Gottschalk (2013) identify five components of WCC:

- Deceit: the tendency to lie, cheat, steal, or manipulate the truth
- Concealment: the inequality between reality and appearance
- Violation of trust: a breach of mutual trust in business relationship
- Intentional: purposeful attempts not resulting from error or neglect
- Involves losses: a material loss on the part of the victim must be present

Incorporating the FBI's definition with Arnulf & Gottschalk's (2013) components, the following definition of WCC will be used in this paper: *An intentional act—characterized by deceit, concealment, or violation of trust that results in the illegal procurement, or the loss of avoidance, of financially-valued goods or services—by any member of society that has a predisposition or opportunity to engage in this intentional act.* The reader should note that "any member of society" could potentially commit WCC.

Why study WCC? Common crimes are much more prevalent than WCC, in fact many white-collar offenders engage in common crimes prior to, during, and after the criterion (WCC) offense (Weisburd & Waring, 2001). However, there is a greater chance of being a WCC victim than a common crime victim (Perri, 2011). In addition, "white-collar crime's monetary impact dwarfs that of street-level crimes, and the emotional and physiological effects can resemble those of victims of violent acts" (Perri, 2011, p.236). Some of the social effects of WCC include: damaging the national economy, increasing the divide between the upper and lower social classes, eroding mutual trust relationships, and the loss of time and resources (Ford, 2007). A PricewaterhouseCoopers 2007 survey found that over 50 percent of U.S. companies were affected by WCC during the two years the survey was conducted (Arnulf & Gottschalk, 2013). The Association of Certified Fraud Examiners estimated the loss due to fraud between 1996 and 2008 to be about $600 billion (Singleton & Singleton, 2010). Clearly, WCC has substantial economical, emotional and social effects that warrant further research. The next section analyzes the individuals who are responsible for committing these crimes: white-collar offenders.

Examining the Offender

The discussion of the white-collar offender begins with consulting research that categorizes the offender based on the frequency of WCCs committed. In other words, offenders are separated by the number of WCCs they commit during the course of their criminal career. Weisburd & Waring's (2001) research described three types of white-collar offenders: Low-frequency offenders (1-2 arrests), Intermittent offenders (3-5 arrests), and Chronic offenders (6+ arrests). As the names imply, the number of arrests determines what category the offender is placed in. It is important to note that not all the arrests need be for WCCs; 40 percent of the sample had a prior arrest before the criterion (WCC) offense. Of this group, offenders with a single previous arrest were charged with a WCC 40 percent of the time and offenders with two or more previous arrests were charged with a WCC 60 percent of the time (Weisburd & Waring, 2001). Note that white-collar offenders are not specialized in that they only participate in WCC, they may also engage in common crime. Piquero & Weisburd (2009) conducted a similar study in which they divided their sample into three categories, albeit with different classifications: Crime as an aberration, Intermittent offenders, and Persistent offenders. This study supported Weisburd & Waring's (2001) finding: "Rather than specializing, it appears that most offenders are versatile in the crimes they commit, not favoring one type over another" (Piquero & Weisburd, 2009, p.154).

Another study similarly found three categories of white-collar offenders, however it differed in the prominence of each group (Morris & Sayed, 2013). Piquero & Weisburd (2009) found that 25 percent of their sample classified as intermittent while Morris & Sayed's (2013) results placed 52.7 percent of their sample in the intermittent group. A possible explanation for this discrepancy is that quantifying WCC is not as simple as quantifying common crime (Weisburd & Waring, 2001). In most cases of common crime, the act takes place at a single point in time and then it is finished. "Many frauds are a result of months of scheming and are not the result of one fraudulent act on one particular day, which may be more characteristic of a street-level [or common] crime" (Perri, 2011, p.222). For example, robbing a convenience store may only take a few minutes. This would be quantified as one instance of robbery. However, in WCC, the act of embezzling money may occur over a period of months. More illegal business methods may be implemented to hide the crime. Does this qualify as one instance of crime?

What if several illegal means are used in a single "criminal operation"? Will each violation of the law be designated in the final formal report? Differing answers to these questions may skew the data. This paper will focus on the intermittent offender; the following paragraph describes current research on this classification of white-collar offending.

Criminologists have concurred that the intermittent offender group can also be called "opportunity seekers" (Weisburd & Waring, 2001; Piquero & Weisburd, 2009; Morris & Sayed, 2013). Opportunity seekers take advantage of criminal situations when they arise, but are conformists for long periods of time. The mean onset age for intermittent offenders is 30, and the mean duration for a white-collar offender's criminal career is 14 years (Weisburd & Waring, 2001; Piquero & Weisburd, 2009). Forty percent of opportunity seekers were employed at the time of their arrest, 40 percent owned their homes, 18 percent had a college education (similar to that of the general public), 12 percent used drugs, and they were more likely to be married than a chronic offender (Weisburd & Waring, 2001). In other words, they blend in with the population. "Such criminals are quite willing to violate the law, but they also display a substantial degree of self-control and ability to delay gratification" (Weisburd & Waring, 2001, p.80). An important distinction must be made for opportunity seekers involving what type of crime was committed first: common or WCC. This will be explored below.

In a study of all male inmates, Walters & Geyer (2004) found that offenders with a previous common crime conviction have a higher criminal social identity than white-collar-only offenders. That is to say that intermittent offenders possessing a previous common crime conviction identify with the criminal lifestyle more so than an offender who only commits WCCs. They are dually dangerous. Walter & Geyer (2004) found that this group of offenders committed an average of 1.7 WCCs and 3.7 common crimes, as compared to 1.2 WCCs and 0.0

common crimes for white-collar-only offenders. It is important to note the limitations of this study: the study included only 57 male inmates with a WCC conviction, and incarceration has been shown to have no specific deterrent effect on white-collar offenders (Weisburd & Waring, 2001). The next paragraph will discuss the unique characteristics of white-collar offenders, beginning with adolescence.

Criminal careers can be traced back to adolescence. In other words, adult offending can be predicted by certain childhood factors (Zara & Farrington, 2009). Opportunity seekers' "crimes are part of a pattern of behavior often reaching into childhood and sometimes leading to a lifetime of schemes and frauds" (Weisburd & Waring, 2001, p.90). When examining WCC, one study suggests that examining prior work experience (such as a first job) could lead to important information in regards to how a potential white-collar offender will react in an organization that is vulnerable to WCC. Apel & Paternoster (2009) explored the relationship between business organizations and adolescent employment. They found that adolescents with antisocial propensities prior to employment engaged in criminal behavior at work. They discovered that organizations with normative criminal characteristics (such as turning a blind eye to illegal occurrences) had no effect on the adolescent's criminal behavior. Rather, there is a selection effect where deviant adolescents will continue to be deviant in the workplace. As Apel & Paternoster (2009) write: "The workplace is nothing more than one additional setting within which they put their deviant impulses into action when the opportunity arises" (p.28). In the context of this paper, it is evident that criminal propensity is just as important as situational factors when predicting WCC. Piquero & Weisburd's (2009) research supports this argument, mentioning that the dynamics operate together in defining the nature and timing of intermittent offending. It is therefore crucial that the specific characteristics of white-collar offenders be considered in order to identify potential offenders. This will be further discussed in the following section.

Personality and Gender Characteristics

White-collar offenders possess certain personalities that distinguish them from the law-abiding majority (Perri, 2011; Arnulf & Gottschalk, 2013; Ragatz et al., 2012). First and foremost, when a white-collar offender participates in WCC, they are not operating out of character. Rather, the act of committing a crime is rationalized to the point where the offender no longer considers the act to be criminal (Perri, 2011). The act is a consequence of opportunity rather than an aberration in thought processes. What personality traits contribute to this rationalization? Many white-collar offenders exhibit characteristics of Antisocial Personality Disorder (ASPD) (Perri, 2011). These offenders are predatory in that they actively deceive, exploit and manipulate others to achieve personal gain in the form of money or power. The term "predator" is synonymous with the "opportunity seeker" distinction discussed earlier. White-collar offenders with ASPD are pathological liars whom lie without feeling uncomfortable (Perri, 2011). White-collar offenders also exhibit many psychopathic traits. They are self-centered or callous, conscientious, lack empathy, remorseless and view themselves as being socially persuasive (Ragatz et al., 2012; Perri, 2011). White-collar offenders can also be narcissists. "Narcissism is described as a pervasive pattern of grandiosity, a need for admiration, a lack of empathy for others, and a belief that one is superior, unique, and 'chosen'" (Perri, 2011, p.225). In large-scale WCCs where the offender is a public figure, narcissism is a key component in committing the criminal act (Arnulf & Gottschalk, 2013). These offenders are consumed by their public image, resulting in arrogant and omnipotent business decisions. How are people with these personality traits not discovered and removed? The answer is many of these traits are favorable in the business domain. Self-centeredness may be interpreted as self-confidence and lack of goals may be viewed as visionary (Ragatz et al., 2012). The following paragraphs will discuss the differences between male and female white-collar offenders.

Gender differences are important in the discussion of white-collar offending because it cannot be assumed that the characteristics and rationalizations for WCC are generalizable among the sexes. The most striking difference between male and female white-collar offenders is the proportional disparity. One study found that their sample consisted of only 4 percent women (Gottschalk, 2013). A possible explanation for this statistic is a general lack of corporate employment and/or promotional opportunities for women resulting in fewer opportunities to commit WCC. In addition, "women may have a greater sense of risk aversion rather than risk willingness, and women may more easily be perceived as victims of crime" (Gottschalk, 2012, p.371). That is to say that women are more likely to avoid crime than participate in it.

For women who do engage in WCC, they provide differing motivations for doing so as compared to men. A qualitative study by Klenowski et al. (2011) revealed these dissimilarities. The most common rationalization men provided for their actions was to fulfill their breadwinner role, followed by a denial of injury (no one got hurt), followed by a claim of normality (that others do the same). The most common rationalization for women was to fulfill their caregiver role, followed by necessity, followed by a denial of injury/responsibility. A common theme among men and women was the rationalization that social norms excused their actions. Men are seen as providers and abundant in masculine capital (in control of one's life, willingness to accomplish goals at any expense, to protect families) while women are seen as altruistic (willing to sacrifice oneself for the family) and having a lower degree of control in their occupational lives (Klenowski et al., 2011). Essentially, white-collar offenders rationalize their crimes in socially acceptable ways. For this paper, it is important to recognize that societal standards play a significant role in the decision-making and rationalizing aspects of white-collar offending. While this paragraph discussed qualitative information about WCC, the following paragraph will examine more quantitative data.

It has already been noted in this paper that white-collar offenders exhibit high levels of conformity and stability not associated with criminality (Weisburd & Waring, 2001). White-collar offenders differ from common criminals in other components as well, as measured by objective tests. Higher means on the Anxiety-Related Disorders scale revealed that white-collar offenders are more likely to possess anxiety symptoms than common criminals (Ragatz et al., 2012). The Personality Assessment Inventory Alcohol Problems score for white-collar criminals was higher for white-collar offenders than common criminals, although a lower Drugs Problems score was reported for white-collar offenders (Ragatz et al., 2012). This suggests that alcohol abuse may characterize white-collar offenders. Another important finding is that white-collar offenders and common offenders were quite similar in their levels of criminal thinking (as measured by the Psychological Inventory of Criminal Thinking Styles), however white-collar offenders exhibited fewer criminal attitudes and were less likely to have a criminal lifestyle (as measured by the Lifestyles Criminality Screening Form) (Ragatz et al., 2012). This supports the notion that white-collar offenders are conformists in outward appearance and displayed attitudes, but secretly possess an underlying propensity to criminal deviance. The previous two sections have discussed what WCC is and who commits it, the following section will consider the mental processes intermittent white-collar offenders may experience during these deviant acts. This can be simplified as to why individuals engage in WCC.

Crime Theories

This section will begin with a discussion on crime versus criminality. Crime is an event; an occurrence or happening that takes place within the boundaries of space and time. "Criminality, on the other hand, refers to a behavioral disposition, a disposition that is manifested by behaving in ways that are labeled by society as criminal" (Benson et al., 2009, p.177). This definition of criminality relates to an assertion made in the previous section: societal views are a crucial factor that contributes to rational behavior. White-collar criminologists concur with this assertion. Weisburd & Waring (2001) proposed a theory that once someone is labeled a criminal by society, the individual will fall into a "spiral of deviance and related social problems" (p. 141). White-collar offenders may exhibit a self-fulfilling prophecy, where the offender believes that they only way he can survive is via illegal means. This idea is supported by the information presented earlier in this paper: white-collar offenders experience higher levels of criminal thinking than the average population, and show more psychopathological tendencies (Ragatz et al., 2012; Perri, 2011). One theory as to why white-collar offenders engage in WCC is through labeling and the self-fulfilling prophecy.

The next theory to consider is a popular criminological theory whose founder personally applied it to WCC: Agnew's General Strain Theory (GST). Agnew et al.'s (1990) research first explained the general components of GST: the inability to achieve goals, the actual or threatened loss of positively valued stimuli, or the actual or threatened presentation of negatively valued stimuli. Their research identified three types of strain pertaining to WCC. The first is the blockage of status goals. The American culture is one of competition and winning (Agnew et al., 1990). White-collar offenders often have a high desire for control; the inability to achieve success as defined by American culture creates strain and pressure to acquire this success by illegal means (Ragatz et al., 2012; Agnew et al., 1990). The second type of strain is the blockage of economic goals. According to one researcher, the "American Dream" is unattainable because at each income level the individual wants 25 percent more than he currently has (Merton, 1968). The gap between economic expectations and actual achievements can result in strain. The duration, frequency and perceived injustice of the goal blockage should have a direct relationship with the anger and frustration manifested by the individual (Agnew et al., 1990). These negative emotions increase the risk of committing WCC. The third type of strain identified by Agnew et al. (1990) is the actual or threatened loss of money/possessions/services AND the actual or threatened presentation of negatively valued stimuli related to economic problems. Essentially, potential white-collar offenders wish to protect positively valued stimuli and prevent the appearance of negatively valued stimuli in their lives. "White-collar crime, then, may result not only from the inability to satisfy economic goals, but also from the experience or threat of economic problems" (Agnew et al., 1990, p.43). In other words, economic shortcomings can lead to offender's committing WCC.

There is one more strain concept that applies to WCC: anticipated strain. Wheeler (1992) wrote that white-collar offenders are specifically vulnerable to anticipated strain because they are very protective of any status they may have achieved, and may engage in crime to avoid potential losses in status and monies. They are essentially afraid of failing in any way. The personality traits of white-collar offenders discussed in the previous section of this paper exacerbate the effects of anticipated strain and the three types of strain identified by Agnew et al. (1990). GST provides theoretical explanations for why white-collar offenders engage in crime.

The following paragraph will discuss three crime theories that apply to the situational opportunities involved in WCC. It was previously mentioned that there are two elements involved in predicting WCC: criminal propensity and situational factors. Up to this point, the situational component has been largely ignored. However, the immediate environment plays a critical role in discovering and evaluating a criminal opportunity (Benson et al., 2009). The three theories are the: Routine Activity Theory, Situational Crime Prevention Theory, and Crime Pattern Theory.

The Routine Activity Theory requires three necessary conditions for a crime to take place: the presence of the offender, the presence of a target, and a means of contact between the two (Benson et al., 2009). WCCs rarely involve face-to-face contact, however a connection is often observed in the form of business networks. If a white-collar offender has the motivation to commit a crime, a specified target, and a network, Routine Activity Theory suggests that WCC is a possibility. This is a relatively weak theory, as virtually every business relationship could result in misconduct. A stronger alternative is the Situational Crime Prevention Theory. Potential offenders engage in a cost/benefit analysis prior to committing the crime. This theory draws from the rational choice perspective. WCCs are more likely to occur in situations when the crime is easy to commit, has a low likelihood of detection, contains an attractive reward, is nearby, and easy to justify (Benson et al., 2009). The weakness in this theory is that it assumes the individual engages in a rational thought process. It has already been mentioned that white-collar offenders possess psychopathological personality traits, thus detracting from this theory. The final, and strongest, opportunity theory is the Crime Pattern Theory. This theory postulates that offenders become aware of opportunities to engage in crime based on their individual “nodes” and “paths” (Benson et al., 2009). Nodes are the organizations the individual operates in while paths are the networks used to conduct business. Benson et al. (2009) summarizes the theory quite neatly:

> Three steps are necessary to identify the existing opportunity structure of any particular white-collar crime using crime pattern theory. First, identify the nodes that the offenders generally work with or against to commit their offense. Second, locate the paths that present the opportunity for criminal activity. Third, determine what opportunities may have formed along those paths. (Benson et al., 2009, p.183)

Opportunity theories are vital to the discussion of WCC. Criminologists must be aware of both the criminal propensity of the individual and the environment the individual is located. The final paragraph in this section discusses the applicability of Self-Control Theory to WCC.

There are conflicting views as to whether or not Self-Control Theory is relevant to WCC. Gottfredson and Hirschi (1990) argue that low self-control is responsible for certain crimes. They contend that individuals with low self-control are impulsive, insensitive, and risk-taking (attributes consistent with ASPD). Moberg (1997) writes: “Individuals who suffer the vice of low self-control are prone to opportunities for immediate gratification accomplished by risky and uncomplicated means requiring little skill or planning that create pain for their victims…Acts of embezzlement that require weeks of planning meticulous execution, and gratification that is significantly delayed do not have their origins in low self-control” (p.52). It would appear the Self-Control Theory does not lend itself to WCC. However, Gottfredson and Hirschi (1990) discovered that junior members of an organization, whom lack significant power or seniority, commit a significant proportion of WCCs. Brody & Kiehl (2010) support this discovery. The definition provided in the beginning of this paper acknowledged that social classes below the upper class could engage in WCC. Logical reasoning suggests that white-collar offenders in the lower social classes may engage in small-scale WCCs that result in immediate returns. This adds another dimension to white-collar research that could be explored in future research. For the purposes of this paper, simply acknowledging that Self-Control Theory is a potential explanation for WCC offending will suffice. Self-control will be discussed further in the applications portion of the paper. The next section will focus on the progression of WCC after the criterion offense has taken place.

WCC: Post-Offense

The most dangerous white-collar criminals are those that engage in a diverse array of crimes. Offenders whom engage in WCC and common crime are less specialized and more deviant than offenders whom only engage in WCC (Walters & Geyer, 2004). For the case of repeat offenders, 24.5 percent have been arrested for at least one violent crime (Brody & Kiehl, 2010). This paper previously discussed how societal perceptions and norms can influence the rationalization of WCC on the part of the offender. In effect, the offender uses society as a defense for his actions. In this section we will discuss how the white-collar offender can use societal perceptions in an offensive manner. According to Brody & Kiehl (2010):

> One major misconception of white-collar crime…is the notion that these crimes are non-violent and are committed by those who are non-violent in nature. This is a dangerous misconception as it implies that all white-collar crimes are not harmful nor do they result in violence. This fallacy also suggests that white-collar criminals are not capable of committing violent acts, which may lead to the presumption that these criminals should be viewed and treated as less threatening than a common street criminal. (Brody & Kiehl, 2010, p.352)

The personality traits white-collar offenders exhibit can lead to disastrous results if the offender is challenged in some way. These offenders will go to great lengths to avoid detection and, in extreme cases, resort to murder (Perri, 2011). Potential consequences of discovery, as observed from the point of view of the offender, include: loss of lifestyle, breakup of families, embarrassment, tarnished reputation, massive fines, or imprisonment (Brody & Kiehl, 2010). Brody & Kiehl's (2010) research examined six case studies of white-collar offenders committing murder in an attempt to cover up their crime. The ways in which the investigators, forensic accountants and lawyers were murdered varied considerably. The unpredictable nature of this extreme subcategory of white-collar offender makes them very dangerous.

To complete this section on post-offense scenarios of white-collar offenders, recidivism rates will be reviewed. Since this paper examines intermittent offenders, the analysis is limited to individuals with a prior criminal history. According to the U.S. Federal Sentencing Commission, white-collar offenders with a criminal history experience recidivism rates that exceed 50 percent (Perri, 2011). This supports research that determined a significant proportion of white-collar offenders are repeat offenders (Morris & Sayed, 2013; Piquero & Weisburd, 2009). Why is the criminal justice punishment system so ineffective? One possible explanation is that the legal process and social stigma associated with a guilty verdict are more consequential for white-collar offenders than the punishment itself (Weisburd & Waring, 2001). Incarceration loses its effect after the stressful litigation experience. Because the criminal justice system cannot easily overlook punishing white-collar offending without public outcry, it is useful to determine what form of punishment works best in decreasing recidivism rates. Weisburd & Waring (2001) found that incarceration has no effect on recidivism for white-collar offenders with a criminal record. However, imposing fines succeeded in lowering recidivism rates. The hypothesis for this finding is while a fine represents a significant sanction for an offender, it usually does not inhibit community reintegration (an important factor in reoffending) (Braithwaite, 1989). Punishment for white-collar offenders will be discussed at length later in this paper.

<u>Business Applications</u>

The premise of this paper can be challenged by a single question: Why focus on the intermittent offender? The answer is that intermittent offenders pose the greatest risk to an organization. The acts of one-time offenders cannot be easily predicted; they are, by definition, a deviation from a lawful lifestyle. Chronic offenders are easy to detect by the sheer frequency of criminal acts and therefore should be easy to avoid with a simple background check. Intermittent offenders blend in with the population and are dormant for long periods of time. This group of white-collar offenders poses the greatest risk to an organization and society as a whole. The threat to businesses is real: "Financial fraud sinks about 30 percent of new enterprises with no matter the firm financial strength or quality of the organization" (Hussain & Manzoor, 2014, p.385). Using the information discussed thus far, the following sections will analyze how businesses can best reduce the presence of intermittent white-collar offenders in the workplace.

<u>Education</u>

The study of WCC is a developing field, and thus there is a delay in passing the research along to individuals who can use it. Many organizations recruit new employees from universities – this is not groundbreaking information because college graduates are expected to have gained more knowledge and skills than their non-graduate counterparts (Daniels et al., 2013). However, one study noted that college educators might have indirectly contributed to the significant increase in financial frauds from 2000-2002 (Albrecht et al., 2009). This study cited three failures of current university curriculums: ethics training was insufficient, the elements of fraud were vastly ignored, and developing analytical skills were sacrificed to content-based teaching. AACSB-accredited schools have been slow in adopting programs and courses in fraud examination and forensic accounting. The main reason for this delay is the financial cost of developing and implementing a new curriculum. To provide context, West Virginia University received $614,000 from the National Institute of Justice in 2008 to develop and start a forensic accounting program (Daniels et al., 2013). To mitigate the cost of creating a new program, Daniels et al. (2013) conducted a study to determine what topics should be included in existing curriculums in order to prepare students for the real-world occurrence of WCC.

Research that surveyed both educators and practitioners shed light on certain topics that should be included in accounting curriculums in addition to topics that should be avoided (Daniels et al., 2013). Internal controls within organizations were ranked number one (4.6 on 5.0 Likert scale) in terms of professors and practitioners agreeing that they need to be included in the curriculum:

> Internal control is considered one of the first steps in deterring fraud within an organization. Theoretically, fraud is less likely to occur in organizations with a strong internal control system in place versus one with a weak internal control system. Likewise, perpetrators of fraud may look for weaknesses in the internal control system as an opportunity to commit fraud. Therefore, it is imperative for accounting students to have a thorough understanding of how to evaluate an internal control system to prevent and detect fraud in the workplace. (Daniels et al., 2013, p.100)

Elements of fraud, fraudulent financial statements, fraud risk factors and ethical issues ranked 2 through 5, respectively. Note that educators valued each of these topics slightly higher than practitioners on the five-point Likert scale. Digabriele (2008) discussed the skills accounting students will need when entering the field to combat fraud: critical thinking, investigative flexibility, analytical proficiency and specific legal knowledge. Information technology is also an important skill, as fraud is often committed in a digital environment (Daniels et al., 2013).

Accounting programs must keep pace with the changes in the accounting profession in order to enable college graduates to combat WCC in the workplace. However, accounting students should not be singled out in terms of revamping education requirements. The following paragraph will discuss how all business students need to be trained.

According to the Association of Certified Fraud Examiners (ACFE), companies who have fraud-educated employees lose less than companies who rely solely on accountants and auditors to detect fraud. External audits only account for 3.3 percent of fraud detections, anonymous tips account for 43.3 percent, and reviews of management 14.6 percent (Andre et al., 2014). Therefore, all internal employees should be trained in fraud detection. Both the employer and employee benefit from an education that emphasizes fraud: "First, introducing students to fraud education in their academic careers will give them a competitive advantage in the job market and potentially save their future employers both time and money on employee education. Second, training all future employees early could allow companies to prevent and detect fraud sooner" (Andre et al., 2014). Andre et al. (2014), using data from the ACFE, assert that all business majors should be exposed to a unit on corporate corruption and subsequently specific majors should learn about prevalent frauds in their future profession. A component of the latter requirement is learning the "red flags" or commonly reported behaviors of white-collar offenders. The following section is intended to bridge the gap between theoretical and applied research, using information learned about intermittent white-collar offenders to reduce WCC.

Pre-Employment Personality Tests

The most efficient way of avoiding WCC in a company is to not have any white-collar offenders in the organization. Of course, this is a very difficult task to accomplish. As noted previously in this paper, intermittent white-collar offenders seek opportunities and are adept at hiding in plain sight. However, Ragatz et al. (2012) was able to administer personality tests that differentiated white-collar offenders from non-offenders. These tests included:

- Psychopathic Personality Inventory-Revised (PPI-R): measures psychopathic personality dimensions on eight subscales
- Personality Assessment Inventory (PAI): also measures psychopathology, utilizing twenty-two subscales
- Psychological Inventory of Criminal Thinking Styles (PICTS): eighty-question test that measures attitudes about criminality
- Lifestyle Criminality Screening Form (LCSF): "measures behavioral components found to be part of the criminal lifestyle" with four subscales: irresponsibility, social rule breaking, self-indulgence and interpersonal intrusiveness (Ragatz, et al., 2012, p.985).

Discovering patterns that reflect a predisposition to engage in WCC can be useful in the hiring process. One study examined the effect of self-control on workplace deviance.

Restubog et al. (2010) studied the role of anger, negative reciprocity and self-control in predicting workplace deviance (WCC). Workplace deviance was defined as "voluntary behaviors that violate significant organizational norms and threaten the well-being of the organization, its members, or both" (Restubog et al., 2010, p.655). The general aggression (trait anger) model suggests that as one's aggressive knowledge factors (aggressive thoughts, schemes, and desensitization to anger) are strengthened, the individual develops a predisposition to think and act in a hostile manner. Negative reciprocity is the concept of giving back what is owed, similar to Hammurabi's "eye for an eye" idiom (Restubog et al., 2010). A survey of 125 manufacturing workers in the Philippines measured trait anger, negative reciprocity and self-control characteristics of the subjects. Workplace deviance, as defined above, was recorded for 20 months. The results suggest Gottfredson and Hirschi's (1990) Self-Control Theory applies to workplace deviance:

> Both trait anger and negative reciprocity were positively related to individual's deviant acts in the workplace. Employees who have high propensity to experience anger engaged in more deviant behaviors. Likewise, employees with beliefs favoring retribution also engaged in more deviant acts. Second, and more importantly, the results also revealed that self-control had both a direct and a moderating effect on workplace deviance. (Restubog et al., 2010, p.658)

A limitation of this study is that the survey was administered in one organization and the results may not be generalizable. However, the takeaway from this research is that if employee characteristics can be operationalized, businesses can make more informed hiring decisions.

Another study used the California Psychological Inventory and PDI Employment Inventory tests to examine the relationship between personality measures and WCC rates (Collins & Schmidt, 1993). The former test quantifies responsibility, socialization, and self-control while the latter test predicts "productive" and "counterproductive" work behavior. The study compared 329 inmates convicted of white-collar offenses to 320 professionals employed in white-collar positions of authority. Non-offenders scored significantly higher on Performance, Socialization, Tolerance, and Responsibility; all qualities of "social conscientiousness" according to the authors. Low scorers—the offenders—on these scales suggest irresponsible and self-centered behavior that may cause personal financial trouble. In addition, lows scores on the Socialization scale are prone to unethical, manipulative and opportunistic acts (Collins & Schmidt, 1993). Offenders scored significantly higher on Social Extraversion and Extra-curricular Activities. The authors hypothesized that the high scores on social extraversion and participation/exposure to extra-curricular activities may have provided the confidence and autonomy to ascend to top white-collar jobs. Those low in social conscientiousness and self-control may then succumb to the attractiveness of WCC (Collins & Schmidt, 1993). How can the information in the previous three paragraphs be used in hiring practices?

As mentioned previously in this paper, it is very difficult to determine which employees will commit WCCs. However, personality tests could flag certain characteristics and alert hiring personnel as to areas to monitor with increased supervision. According to a recent article in the Wall Street Journal, 60-70 percent of prospective workers are asked to take tests that assess personality, skills, cognitive abilities and other traits (Weber & Dwoskin, 2014). "As the hiring process gets more automated and employers begin incorporating more data into hiring, the tests are used more often and earlier in the process to winnow applicants for specific jobs" (Weber & Dwoskin, 2014). With more research, the propensity to commit WCC can be added to the testing criteria. This will be a very difficult task because, as previously mentioned in this paper, many of the characteristics respective of a successful corporate leader are similar to those of a white-collar criminal. (Presently, employers can legally administer pre-employment personality tests as long as they do not violate the Americans with Disabilities Act and the employer can justify how the questions are relevant to the job position.)

Limiting WCC Opportunities

Once an employee is hired and part of the organization, it is important to limit the opportunities to commit WCC. After all, intermittent white-collar offenders are biding their time, waiting for the correct moment. Organizations would be better served preventing WCC rather than reacting to it. There are certain parts of a business that an organization can control that will limit the opportunity or motive to commit WCC. The following paragraphs will discuss the subordinate-supervisor relationship, perceived organizational justice, and internal controls.

In most cases, an employee will have a supervisor that he/she must report to. One study discovered that the supervisor could have a direct effect on the incidence of WCC (Mayhew & Murphy, 2014). This study examined the relationship between the fraud triangle and authority. The fraud triangle posits that three factors must be present for fraud to occur: opportunity, motivation and rationalization (Mayhew & Murphy, 2014). Mayhew & Murphy's (2014) study controlled the opportunity (subjects could report any income they wished in a mock scenario up to $20) and motivation (subjects would be paid the amount of income they reported) while the rationalization was varying (an authority figure either encouraged manipulating the income or said nothing). This experiment was intended to imitate a business environment where there is an incentive to report and earn bonuses, the victim of the crime is often faceless, and supervisors face stress in meeting targets. 65.1 percent of subjects misreported their income when the authority figure encouraged it while 46.7 percent of subjects misreported their income when the authority figure said nothing (Mayhew & Murphy, 2014). The most frequent rationalization for misrepresenting the income was displacing responsibility to the authority figure, and the second most frequent rationalization was moral justification (they were showing loyalty or helping the authority figure). One limitation of the study was that the experiment could not measure fear as it is unethical to create such an environment with human subjects, however many real-world professionals who misreport imply they were afraid of their supervisor or supervisor's retaliation (Mayhew & Murphy, 2014). The study suggests that situational adjustments can have an effect on behavior. The benefit of this finding is that a corporate culture that stresses honesty and integrity can flow through to the subordinates however a single unethical supervisor could potentially create opportunities for WCC with the actual offenders reporting reduced negative affect towards their actions.

Corporate culture, or “the tone at the top,” has an effect on the decision to commit WCC. Employees who are unhappy at work have a greater potential to commit WCC (Willison & Warkentin, 2013). Insider threat is significant and growing: “Insiders are employees or others who have (1) access privileges and (2) intimate knowledge of internal organizational processes that may allow them to exploit weaknesses” (Willison & Warkentin, 2013, p.2). A survey by PricewaterhouseCoopers in 2008 discovered that the cause of the worst security incident in companies with over 250 employees was attributed to insiders 57 percent of the time (Willison & Warkentin, 2013). Organizational justice, or injustice, contributes to how employees rationalize their decision to commit fraud. Four factors of organizational justice influence WCC: distributive justice, procedural justice, interpersonal justice and informative justice (Willison & Warkentin, 2013). The same rationalization techniques that repeatedly appear in this paper are applicable to information security insiders who commit WCC: denial of responsibility, denial of injury, denial of the victim, condemnation of the condemners, and appeal to higher loyalties (Sykes and Matza, 1957). Businesses must therefore be cognizant of the emotions employees have towards the company. These associations form “pre-kinetic events,” or interactions between the employee and organization. Pre-kinetic events include the workplace environment, organizational justice or injustice, employee emotions, and rationalization techniques (Straub & Welke, 1998). The thought processes of the individual offender in conjunction with the organizational context must be considered when preventing WCC. The next topic, internal controls, represents proactive modifications a business can make to deter white-collar offenders.

Financial crime control remedies, or internal controls, can help a firm prevent and detect fraud. As previously mentioned, both educators and practitioners agree that internal controls are of vital importance to an accounting student's education. This paragraph will explain why internal controls are paramount to an organization's success. Firstly, the consequences of WCC are two-fold: WCC directly increases the cost of doing business and WCC violates the fiduciary relationship, resulting in lowered morale and social disorganization (Hussain & Manzoor, 2014). Firms who utilize checks and balances have improved their financial position and avoided more WCCs than companies who do not possess adequate internal controls (Effiok et al., 2012). A survey of hospitals found that financial crime control remedies had an affect on the prevalence of WCCs in 68 percent of cases. There was a direct relationship between financial crime control remedies and reducing WCC (Hussain & Manzoor, 2014). The survey measured the audit function, accounting systems, hospital policies/procedures, and communication within the organization. Adequate internal controls will cause intermittent white-collar offenders to pause during their cost-benefit analysis of the criminal act.

One study specifically focused on the internal controls of the European Carbon Market and how white-collar criminals were able to take advantage of the system's weaknesses. This unique case is intended to highlight that every business has its flaws, and organizations must be aggressive in building strong defenses to prevent WCC. As Benson et al. (2009) noted, "We can conceive of white-collar crimes as the intersection of at least two processes. The first is a legitimate process that is followed or employed in the business world, and the second is an illegitimate process that is parasitical on the first" (p.185). Understanding both processes is essential in building internal controls. Gibbs et al.'s (2013) analysis of the carbon market focuses on the structure and processes of carbon market itself, rather than offender's routine activities.

The cause switches from the offender to the business organization. Two shortcomings of the market are highlighted: (1) Inferior guardianship of international registries with conflicting security measures created the opportunity for hackers to access the registries, and (2) Two separate agencies were responsible for collecting the VAT tax on intangible goods in nations with different tax laws, creating the opportunity for hackers to take advantage of the confusion (Gibbs et al., 2013). It is difficult to identify opportunity structures in a cyber environment, however organizations must devote resources to developing control mechanisms if they wish to avoid WCC. To conclude this section, businesses must be aware of how they can influence WCC – the offender is but one factor of the several factors necessary for a crime to occur.

Regulation & Punishment

A paper on WCC would not be complete without an analysis of regulations, specifically the Sarbanes-Oxley Act of 2002 (herein, SOX). There are several common characteristics of the large companies that were the subject of scandals: corporate greed, pressure to succeed, political pressure, economic influence, and hype (Giroux, 2008). Perhaps the most infamous company was Enron, whose stock rose 700 percent from 1990 to 2000 before falling to less than $1 per share in 2001 when the company declared bankruptcy (Giroux, 2008). SOX "expanded regulations, improved funding for oversight bodies, expanded auditor responsibilities, and chastised companies [which] meant scandals were expected to stop" (Giroux, 2008, p.1231). In addition, SEC funding soared, new accounting standards were implemented, finances of publicly-traded companies were subject to more regulations and reporting requirements, and a new federal audit regulator was created: Public Company Accounting Oversight Board. Did SOX achieve its objective of curbing fraud and WCC? The answer is yes and no.

SOX did manage to change how the United States economy regulates business. Hundreds of WCCs were reported and many white-collar offenders were brought to trial:

> SEC Chairman William H. Donaldson testimony to Congress: 'For the fiscal year through August 20, 2003, the Commission has filed 543 enforcement actions, 147 of which involve financial fraud or reporting violations. During this period, the Commission has sought to bar 144 offending corporate executives and directors from holding such positions with publicly traded companies.' (Hamstrung, 2004, p.394)

Additionally, SOX Section 406 requires all publicly traded companies to publish a code of conduct for upper management (Verschoor, 2004). The Board of Directors must adopt and abide by this ethical code. This provision forces publicly traded companies to acknowledge the organizational justice and corporate culture, factors that impact a potential offender's decision to act. This Section also requires companies to implement and monitor a "whistle-blowing" hotline where anonymous employees can report any suspicious activity within the company (Verschoor, 2004). However, corporate frauds have continued, albeit at a much slower pace (Giroux, 2008). The following major scandals have occurred since SOX was put in effect:

- 2003: HealthSouth
- 2003-2004: A major market funds scandal
- 2005: AIG corporate governance violations and internal weaknesses
- 2005-2006: Fannie Mae and Freddie Mac financial misstatements
- 2006: 130 companies under SEC investigation for stock option scandals
- 2007: Subprime mortgage loan crisis in
- 2008: Bernard Madoff investment scandal

Clearly, WCC is still an ongoing phenomenon that requires the attention of everyone from small business owners to federal legislators. Fraud is a modern and continuing problem, as evolving WCC schemes require new procedures, enforcement, and regulatory power to prevent, deter, and punish white-collar offenders. Prevention and deterrence have been discussed at length; punishment for WCCs will be the final topic.

As previously mentioned, incarceration is not a meaningful deterrent for intermittent white-collar offenders. The White-Collar Crime Penalty Enhancement Act of 2002, signed as a part of SOX, has had the effect of making criminal punishment less of a fear for potential fraudsters (Harvard Law Review, 2009). While the act increased maximum sentences for white-collar offenders, it did not provide guidance to judges on how to implement these sentences. The Department of Justice does not have an explicit category labeled "WCC," however the phrase is used liberally in the federal criminal code (Podgor, 2007). This creates confusion for judges and prevents punishment from being swift, certain and consistent (Harvard Law Review, 2009). Two differing reforms for the punishment protocol will be discussed in the next paragraph.

There are two schools of thought concerning WCC punishment. The first is to implement penalties—determined by mandatory federal sentencing guidelines—that leave no room for misinterpretation (Harvard Law Review, 2009). "If judges were anchored to a more reasonable punishment level from the beginning of their sentencing process judges would have less need to deviate from those sentences. Punishment would become more equal and more predictable, meaning that both fairness and deterrence would increase" (Harvard Law Review, 2009, p.1745). The authors of the Harvard Law Review (2009) acknowledge that large-scale offenders such as the Enron executives would receive less punishment, however overall perception of equity and deterrence in regards to punishment would increase dramatically.

The opposing viewpoint notes that this "one-size-fits-all methodology of sentencing white collar offenders seriously diminishes consideration of the individual offender, the nature of the offense, and the level of protection needed to satisfy the public's interest" (Podgor, 2007, p.756). This second school of thought believes certain sentences will be too severe for first-time offenders, and that punishment should be offender-based. They argue that punishments for common crimes can vary due to certain factors such as premeditation, crime of passion, negligence, etc. and so should punishments for WCCs (Podgor, 2007). In other words, WCCs can be multi-dimensional and the punishments need to reflect this fact. Considering white-collar offenders are categorized based upon several factors discussed throughout this paper, the latter punishment mechanism should be adopted. First-time offenders (crime as an aberration) should not be subject to the same punishment as chronic offenders, white-collar criminals or otherwise. Intermittent white-collar offenders too should receive unique punishments related to their specific crime.

Both parties agree that fines may be the best punishment option. Fines were previously mentioned in this paper of having a particularly deterrent effect on intermittent offenders. "With the elimination of the individual's corporate role, the stripping of the convicted felon's money, and the accompanying collateral consequences, such as a loss of license or ability to conduct business with the government, future dangerousness is nearly eliminated" (Podgor, 2007, p.758). Increased fines may counter the greed associated with WCC; potential white-collar offenders may factor potential financial repercussions when contemplating whether or not to engage in the act (Harvard Law Review, 2009). Judges must be careful not consider WCCs as less harmful than common crimes, despite the likely absence of victims at trial.

Conclusion

There are many policy implications to be taken from this paper. The first, based on research conducted by Apel & Paternoster (2009), is business organizations are not responsible for causing WCC. That is to say that companies do not create white-collar offenders. Rather, criminally predisposed individuals engage in WCC. However, business organizations are not completely blameless as they must be cognizant of the people they hire and place in positions of trust. The information discussed in this paper should help guide hiring practices (such as background checks and psychological testing) companies should implement to avoid employing potential white-collar offenders. A second policy implication is to recognize that imprisonment does not reduce recidivism rates in WCC; rather imposing fines is the better option to deter future crime (Weisburd & Waring, 2001). The criminal justice process itself provides enough punishment for white-collar offenders. These are but two policy implications from this research.

Intermittent white-collar offenders represent an intriguing subtopic of WCC. As previously mentioned, this group of offenders poses the greatest risk to society. However, this classification of white-collar offender has not attracted much research. Identifying factors that influence these offenders to engage in WCC provides academia with new correlations regarding the dynamics and prevalence for this specific type of crime and offender. This paper is just the first step in the analysis of intermittent white-collar offenders.

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