



Beyond the fraud triangle: Swiss and Austrian elite fraudsters



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ARTICLE INFO

Article history:

Received 28 June 2014

Received in revised form

30 November 2014

Accepted 30 December 2014

Available online 28 January 2015

Keywords:

Fraud triangle

White-collar crime

Elite offender

Motivational trigger

Rationalisation

ABSTRACT

We suggest that when using the fraud triangle, academics and professionals should take account of the insights gleaned from our study, in which Switzerland and Austria's "elite" white-collar offenders with high professional standing and respectability were interviewed. Our perpetrators consider that only opportunity is a universal precondition of acts defined by others as fraud, though perceived pressure is salient to most frauds. By contrast, financial incentives are not required to be motivational elements. The frequently cited "rationalisation" is too simplistic: rather, a fraud-inhibiting inner voice before the crime and a guilty conscience after it were present among those interviewed.

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1. Introduction

The content of rules, auditing standards and criminal laws is constantly changing over time and jurisdiction: thus, the framework within which the label of 'fraud' is attached is relative from a legal as well as from a social point of view (Sutherland, 1939). Attempts to generate – explicitly or implicitly – a universal definition and demarcation of "fraud" invariably generate boundary disputes. Under the interdisciplinary and multifaceted concept of fraud, we generally mean a criminal violation of financial trust (Cressey, 1950; Sutherland, 1941). White-collar criminals, sometimes called "trust violators", commit fraud in a business environment, usually without any physical force, and confer an illegal economic advantage for themselves and/or for their organisation. According to our paper, the illicit behaviour of our convicted Swiss and Austrian fraudsters in the course of their occupational activities (or by abuse of their authority to dispose of corporate assets) causes serious tangible and intangible damage. Explanations for why some individuals do not follow certain rules under adverse conditions and others do still provoke debate in accounting, criminology and in other fields of research.

Offenders' perspectives on the elements of the Fraud Triangle (FT) – opportunities, motivations and rationalisations – have received little analytical attention and, though their perspectives do not have an exclusive claim on authenticity, they are worthy of our interest. Several risk factors of different fraud standards are predicated on the FT (Cohen, Ding, Lesage, &

Abbreviations: ACFE, Association of Certified Fraud Examiners; AICPA, American Institute of Certified Public Accountants; AS, Auditing Standard; CEOs, Chief Executive Officers; EASA, European Academic Software Award; FT, Fraud Triangle; IDW, Institut Der Wirtschaftspruefer (Institute of Public Auditors in Germany); IFAC, International Federation of Accountants; ISA, International Standard on Auditing; M.I.C.E., Money Ideology Coercion Ego; PCAOB, Public Company Accounting Oversight Board; PS, Pruefungsstandard (Auditing Standard); SAS, Statement on Auditing Standards; WCC, white-collar criminal.

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<http://dx.doi.org/10.1016/j.accfor.2014.12.001>

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Stolowy, 2010; Lou & Wang, 2009; Murphy, 2012).¹ The FT is a sub-set of the more generic Crime Triangle, and though it focuses us away from broader issues of the non-incrimination of privileged business elites (Barak, 2012; Friedrichs, 2009),² it is commonly used in academic and professional circles as a heuristic framework for explaining fraud. Fraud courses are rare in business schools (Choo & Tan, 2007), especially before the financial crisis: nevertheless, though awareness alone might not have prevented the corporate excesses that led to the crisis, it has been asserted that “every corporate executive needs to understand the fraud triangle” (Biegelman & Bartow, 2006, p. 33).

The fundamental sociological conception of how we construct the motivation to commit a crime is found in the academic contributions of Mills (1940) and Cressey (1953), who note “that motives are not biological drives which ‘cause’ us to act in certain ways”; but this is only part of the explanation of why and where offending happens (Shover & Hochstetler, 2006). Differences in organisational as well as societal culture might be expected to play some part in regulating behaviour, because even within different capitalist societies and groups, there are variations in what forms of business (mis)conduct are acceptable and unacceptable. One of the competitive advantages of Switzerland (and perhaps to a lesser extent Austria) is a high reputation³ for discreet and honest guardianship of funds, however acquired. The preservation of that reputation is a central political and social objective, which is threatened by fraud or at least by beliefs that there is a “significant risk” of fraud, especially of fraud by bankers and other trusted persons. Within that framework, one might expect a strong understanding that fraud will be firmly reacted to (formally and/or informally), and thus – for those wedded to social respectability and to remaining within the country or social group – this should constrain people’s willingness to engage in fraud and allied deviant behaviour, provided that they define what they are doing as the sort of behaviour that will be both detected and reacted to as fraud. Though more than offenders’ childhoods (Piquero & Moffitt, 2014) or personality characteristics (Babiak & Hare, 2007), these sociocultural factors cannot readily be altered; but organisations are able to change their institutional framework to remove some cultural and situational stimulants to white-collar crime.

This article provides an opportunity to examine white-collar offending with insights from offenders themselves, primarily from our original research in Austria and German-speaking Switzerland, but also more generally. First, we provide a theoretical discussion of the initial development of the FT and its elements, including the significant work that has followed. This framework is next in fame to Sutherland’s differential association (1939; Cressey, 1954), and perhaps to a lesser extent to strain as well as to coercion theory (Colvin, Cullen, & Ven, 2002; Donegan & Ganon, 2008), as a model for identifying the conditions under which white-collar crime may occur and for explaining fraud in organisations. Since the triangle has received institutional recognition, international scientific management papers have increasingly focused on it. Wolfe and Hermanson (2004) expand the FT to a quadrangle named Fraud Diamond by including an additional element: The capability to commit fraud.⁴ The Fraud Diamond or alternative models, e.g. the fraud scale, the triangle of fraud action, M.I.C.E. etc. (Albrecht, Romney, & Howe, 1984; Dorminey, Fleming, Kranacher, & Riley, 2012; Kranacher, Riley, & Wells, 2011) are not relevant to this work. Secondly, we present the methods of our examination, which was conducted through interviews with convicted fraudsters. Third and last, building from an offenders’ perspective, we discuss similarities and differences between the literature findings and this empirical study. The findings of this study refine our understandings of the relevance of each FT element and for the manner in which offenders perceive and evaluate them. Is the FT an adequate explanatory model? Then we illustrate some implications and suggest intensifying the dialogue with criminological research as well as other scientific disciplines to enrich fraud accounting research and practice.

2. Theoretical background

Almost 60 years ago Cressey, cited as the most influential developer of the FT – though the original idea came largely from a European, Riemer (1941) – presented comprehensive details of the model in his highly regarded book, *Other People’s Money* (Cressey, 1953). At that time, the model, inter alia based on interviews with white-collar offenders, was mainly limited to embezzlement as a delinquent violation of financial trust (Cressey, 1953).⁵ During these early stages in social scientific approaches to explaining white-collar crime, Cressey proved that there have to be more elements than just a

¹ The fraud risk factors’ relevance is acknowledged by American standards, [see Auditing Standard (AS) No. 5 (PCAOB, 2007) or Statement on Auditing Standards (SAS) 82 (AICPA, 1997)] as well as by other international auditing standards [Pruefungsstandard (PS) 210 (IDW, 2006), International Standard on Auditing (ISA) 240 or ISA 250 (IFAC, 2013)]. The Statement on Auditing Standards, SAS 99 (AICPA, 2002), “categorises these factors according to the fraud triangle” (Wilks & Zimbelman, 2004, p. 723; Donegan & Ganon, 2008; Norman et al., 2010). Most recently, the AICPA redrafted SAS, “Consideration of Fraud in a Financial Statement Audit” (Dorminey et al., 2012) to enhance the clarity of drafting conventions and to converge with ISAs (effective for audits of financial statements for periods ending on or after December 15, 2012). According to the AICPA, the clarified SAS does not change or expand SAS 99 in any significant respect (AICPA, 2012).

² Like situational crime prevention generally, it takes for granted the legal framework, which itself is the creation of a political process affected by campaign financing and lobbying: a particularly important issue when we consider crimes that affect the interests of capitalist firms, though intra-capitalist conflicts should not be ignored in making sense of the criminalisation process.

³ The principal exception to this is the hotly disputed allegations about what Swiss banks did with “Nazi gold” taken from the Jews (Bower, 1997). This is not to contest that part of the historic popularity of Switzerland, and to a lesser extent Austria, as a haven for international funds was also its banking secrecy provisions, which later was transmuted in public discourse to ‘customer confidentiality’.

⁴ Wolfe and Hermanson (2004) categorise capability into (a) position/function, (b) brains, (c) confidence/ego, (d) coercion skills, (e) effective lying and (f) immunity to stress.

⁵ The term “Fraud Triangle” does not exist in Cressey’s original writings.

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