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Fraud Examiners in Financial Crime Investigations: The Case of Save the Children in Bangladesh

Petter Gottschalk

Abstract:

This article presents an evaluation of fraud examination carried out by an inspector general from the United States in Bangladesh. The evaluation identifies a number of shortcomings in the investigation. As presented in this article, an evaluation is a systematic study of work done or work in progress. Evaluation is an objective assessment of activities. Evaluation implies assessing or estimating the value of something. Evaluation involves analyzing to determine if the investigation did what it was intended to do and if the investigation had expected impact.

Keywords:

Fraud examination, financial crime, private investigation, evidence, culture.

Introduction:

Internal private investigations examine facts, sequence of events, and the causes of negative events as well as who are responsible for such events. Pending what hiring parties ask for, private investigators can either look generally for corrupt or otherwise criminal activities within an agency or company, or look more specifically for those committing white-collar crime. In other situations, it is the job of the private investigators to look into potential opportunities for financial crime to occur, so that the agency or company can fix those problems in order to avoid misconduct down the road.

Internal investigations include fact-finding, causality study, change proposals, and suspect identification. Recent years have seen an increasing use of private internal investigations in terms of the assessment of financial irregularities. The form of inquiry aims to uncover unrestricted opportunities, failing internal controls, abuse of position, and any financial misconduct such as corruption, fraud, embezzlement, theft, manipulation, tax evasion and other forms of economic crime (ACFE, 2014; CFCS, 2014).

Padakhep Manabik Unnayan Kendra (PMUK) is a non-governmental organization in Bangladesh. PMUK received US\$5.2 million from Save the Children for HIV/AIDS work among children in Bangladesh. An investigation by the office of the Inspector General (2012) was a result of irregularities found in multiple audits performed by the principal recipient, Save the Children USA (SCUSA). The investigation confirmed that there were acts of misappropriation and a fraud scheme from 2004-2009 identified through the audits. A loss of grant funds in the amount of \$1,894,426 of the funds was disbursed to PMUK.

The purpose of this article is to evaluate the fraud examination report written by the Inspector General (2012).

Fraud Examination:

Characteristics of a private investigation include a serious and unusual event, an extraordinary examination to find out what happened or why it did not happen, develop explanations, and suggest actions towards individuals and changes in systems and practices. A private investigator is someone hired by individuals or organizations to undertake investigatory law services. They often work for attorneys in civil cases. A private investigator also goes under the titles of a private eye, private detective, inquiry agent, fraud examiner, private examiner, financial crime specialist, or PI (private investigator) for short. A private investigator does the detailed work to find the answers to misconduct and crime. Financial crime has become a major offense that clients hire private investigators to find the solutions to, in order to bring justice to the individuals affected, as defined by the client paying for the investigation.

Criminal investigation is a goal-oriented procedure for reconstructing the past. It is a method of creating an account of what has happened, how it happened, why it happened, and who did what to make it happen or let it happen. Criminal investigation is a reconstruction of past events and sequence of events by collecting information and evidence (Osterburg and Ward, 2014). An investigation is designed to answer questions such as when, where, what, how, who, and why, as such questions relate to negative events in the past. To reconstruct the past successfully in a professional manner, there is a need for knowledge management, information management, systems management, configuration management, and ethics management.

Internal private investigations typically have the following characteristics (Gottschalk, 2015):

- Extraordinary investigation of suspicions by goal-oriented data collection
- Based on a mandate defined by and with the client
- Clarify facts, analyze events, identify reasons for incidents
- Evaluate systems failure and personal misconduct
- Independent, careful and transparent work
- The client is responsible for implementation of recommendations

Financial crime investigations are a specialized knowledge industry. Williams (2005) refers to it as the forensic accounting and criminal investigation industry. It is a unique industry, set apart from law enforcement, due to its ability to provide “direct and immediate responsiveness to client objectives, needs and interests, (unlike police) who are bound to one specific legal regime” (Williams, 2005: 194). The industry provides flexibility and a customized plan of attack according to client needs.

Investigations take many forms and have many purposes. Carson (2013) argues that the core feature of every investigation involves what we reliably

know. The field of evidence is no other than the field of knowledge. There is an issue of whether we can have confidence in knowledge. A private investigator accumulates knowledge about what happened.

Reports of investigations by fraud examiners are typically written at the final stage of private investigations. Reports are handed over to clients who pay for the work. Reports are seldom disclosed, so that the public never learn about them. Reports are often protected by the attorney-client privilege, when investigating firms are law firms.

Save the Children:

PMUK engaged in a scheme to divert the grant funds disbursed to them as a sub-recipient under the HIV/AIDS program. They concealed the diversion through fabricated documents for submission to SCUSA, including “a set of manufactured books and records to justify withdrawals that never actually took place, and then withdrew funds separately” (Inspector General, 2012: 3):

The fictitious books and records included: (i) fabricated and falsified bank statements; (ii) accounting journals maintained for recording the false program expenditures and activities in detail; (iii) falsified bids and invoices for purchases of services and goods by third party vendors that did not in fact occur; and (iv) copies of cheques allegedly issued to vendors that were never actually issued or presented for payment.

The documents were all created to justify the expenditures for a legitimate program purpose, but it never occurred. PMUK withdrew funds and diverted them to unknown locations. While the diversion of the program funds was well-concealed through a scheme of creating documentation that appeared on its face generally complete and mutually consistent, upon closer examination, indicators of fraud were evident (Inspector General, 2012: 4):

For example, typographical and arithmetic errors appeared on the forged bank statements provided by PMUK. In addition, vendors who allegedly provided goods and services under the program confirmed in several instances that the bids and invoices bearing their companies' names were not authentic, that the vendors never provided the services/goods, and that these entities never actually received the money.

The investigation unit of the Office of the Inspector General is responsible for conducting investigations of fraud, abuse, misappropriation, corruption, and mismanagement that may occur when grants are given for various purposes. Investigations aim to uncover the specific nature and extent of fraud and abuse of funds, to identify the staff or private entities implicated in the schemes, and to determine the amount of funds misappropriated. The office is an administrative body with no law enforcement powers (Inspector General, 2012).

While PMUK was not able to justify the proper use of funds, investigators were not able to find out where PMUK placed the money. Investigators were unable to locate misappropriated sums. The fabricated and falsified bank

statements were evidence of fraud, but investigators failed in reconstructing the past in terms of financial transactions.

Evaluation of Investigation:

It seems that investigators entered the country of Bangladesh with disregard to their culture. The investigators should have understood the culture better instead of showing up at the NCC Bank requesting access to documents. The investigators went in with confrontation and accused the locals of embezzlement that intimidated the locals away. It probably caught PMUK and bank staff off guard because the investigators may have been viewed as outsiders, and locals were not sure how to handle such external critics from the United States.

Investigators requested access to bank statements on May 26, 2011 and did not receive them until June 19, 2011. For about three weeks, investigators were being fooled around in Bangladesh because they may have been seen as foreign and intimidating people. It is understandable for Bangladesh executives to be hesitant in giving up documents to foreign investigators. They did not want to self-incriminate themselves to someone they did not know or were familiar with. The investigators should probably not have barged into the country of Bangladesh without understanding their culture or know how the locals might feel. They could have gained the trust of Bangladesh executives better if they had identified some allies in their struggle to reconstruct the past.

The office of the Inspector General (2012) investigated Padakhep Manabik Unnayan Kendra (PMUK) in Bangladesh. The investigation was concerned with grant funds that supposedly had disappeared. One might expect that forensic accounting knowledge was needed to successfully conduct this investigation. Tracing money must have been a key task for investigators. But instead of tracing the money, investigators just concluded that it had disappeared and blamed local officials in Bangladesh for fraudulent practice.

In addition to forensic accounting knowledge, investigators also needed bank knowledge and information technology knowledge, as insights into bank accounts became an obstacle in the investigation (Inspector General, 2012: 13): Upon presenting the authorization letter to the bank on 30 May 2011, a representative of NCC Bank informed the OIG that requested information could not be provided before 1 June 2011 as the IT person with access to relevant information was not in the office on that day. On 1 June 2011, when the OIG called NCC Bank to enquire about the readiness of PMUK's bank statements, NCC Bank's official informed the OIG that PMUK had revoked its approval for the OIG to access the bank information.

While this obviously creates suspicions of hiding wrongdoing, there is also a need for culture knowledge in such a situation for investigators. Rather than "frustrate the investigation" (Inspector General, 2012: 14), culture knowledge might have prevented investigators to have to wait from 30 May to 19 June before they finally could access bank records.

While it is a good thing that a representative from the Office of Inspector General did visit Bangladesh, the investigator's ability to handle the local situation seems deficient. Although local executives obviously wanted to hide wrongdoing, an investigator with human and cultural skills would probably not have to be fooled for three weeks before accessing relevant information for the investigation.

The investigation report argues that Padakhep in Bangladesh engaged in a scheme to divert the grant funds disbursed to them as a sub-recipient of development aid. However, investigators were unsuccessful in sticking the blame label to Padakhep executives. President at Padakhep, A.B.M. Siddique, admitted to no wrongdoing, and wrote a letter of protest:

It is with the deepest regret I bring to your notice that you are acting with impunity and with gross ulterior motive against Padakhep. It appears that you have no respect and regard for Bangladesh, its laws, culture and its sovereignty.

You are well aware that a dispute has arisen in respect to your purported cancellation of our contract with you and the matter is sub justice before an Arbitration Tribunal created under the Arbitration Act 2001.

If you continue to behave the way you are, which smells of an anti-Bangladesh bias, we will take of the matter with the Government to have you declared Persona-non-grata.

In a comparison of several investigation reports, Gottschalk (2015) found the investigation with the lowest score and thus highest integrity is the Valukas (2014) investigation at General Motors. The investigation with the highest score and thus lowest integrity is the Inspector General (2012) report on the Padakhep investigation in Bangladesh. While these two reports have a score of 26 and 41 points respectively, the best score would be 17 (17 x 1), while the worst score would be 85 (17 x 5). The average integrity for all investigation reports is quite good at 1.7 (386 / (13+17)).

While Valukas (2014) achieves the best score on integrity there is one issue that seems troubling in the GM investigation. It is the issue of avoiding criticism of the client representative paying for the investigation. While discussing in detail whether the chief executive officer (CEO) is to blame, the investigation report concludes that the CEO is not to blame, since nobody had informed her about the ignition switch failure. However, every management scholar knows that a CEO has a personal responsibility for keeping informed and searching information within the organization for which he or she is responsible. The CEO is simply responsible for everything that goes on in business, and should make sure that important events and developments always reach CEO personal attention.

The Inspector General (2012) investigation of Padakhep seems full of accusations without evidence. Padakhep Manabik Unnayan Kendra (PMUK) is a non-governmental organization in Bangladesh. PMUK received US\$5.2 million from Save the Children for HIV/AIDS work among children in Bangladesh. An investigation by the office of the Inspector General (2012) was

a result of irregularities found in multiple audits performed by the principal recipient, Save the Children USA (SCUSA). The investigation confirmed that there were acts of misappropriation and a fraud scheme from 2004-2009 supposedly identified through the audits. A loss of grant funds amounting to \$1,894,426 of the funds disbursed to PMUK. However, investigators were unable to trace the money.

PMUK allegedly engaged in a scheme to divert the grant funds disbursed to them as a sub-recipient under the HIV/AIDS program. They allegedly concealed the diversion through fabricated documents for submission to SCUSA, including “a set of manufactured books and records to justify withdrawals that never actually took place, and then withdrew funds separately” (Inspector General, 2012: 3):

The fictitious books and records included: (i) fabricated and falsified bank statements; (ii) accounting journals maintained for recording the false program expenditures and activities in detail; (iii) falsified bids and invoices for purchases of services and goods by third party vendors that did not in fact occur; and (iv) copies of checks allegedly issued to vendors that were never actually issued or presented for payment.

Allegedly, offenders had created documents to justify the expenditures for a legitimate program purpose, but it never occurred. PMUK withdrew funds and diverted them to unknown locations. While the diversion of the program funds was allegedly well-concealed through a scheme of creating documentation that appeared on its face generally complete and mutually consistent, upon closer examination, indicators of fraud were evident, the Inspector General, (2012) simply concluded. The investigators did never visit Bangladesh or talk to any suspects. They just concluded in their offices in the United States.

The third most serious integrity violation seems to be roles with 34 points. The investigator takes on the roles of police, prosecutor as well as judge. This is far beyond the task of reconstructing the past. Playing private prosecution and passing a conclusion are not roles appropriate for an investigator (Lewis et al., 2014). In the bad case of Inspector General (2012: 30) investigating fraud in Bangladesh, accused persons wrote a letter of protest:

It is with the deepest regret I bring to your notice that you are acting with impunity and with gross ulterior motive against Padakhep. It appears that you have no respect and regard for Bangladesh, its laws, culture and sovereignty.

Discussion:

While the investigation by the Inspector General (2012) was a failure, fraud examinations are indeed important to reveal financial crime in general and white-collar crime in particular.

Ever since Sutherland (1940) coined the term white-collar crime, a number of theoretical approaches have been introduced to explain the phenomenon. Sutherland (1983) himself emphasized differential association theory, where criminal behavior is learned in association with those who define such criminal

behavior favorably and in isolation from those who define it unfavorably. Piquero and Benson (2004) as well as Benson and Simpson (2015) emphasize opportunity as the main factor for white-collar crime. Coleman (1987) suggests an integrated theory of white-collar crime claiming that criminal behavior results from the confluence of appropriate motivation and opportunity. Sutherland (1983, p. 2) originally defined a white-collar crime as “a crime committed by a person of respectability and high social status in the course of his occupation.”

According to Koppen et al. (2010), crime is often described as behavior that involves the pursuit of immediate pleasure. Sometimes white-collar crime requires little in the way of effort, planning and preparation, and also hardly requires any specific skills or contacts. It only requires legal access to resources that enable criminal acts. Even when white-collar crime requires substantial effort, planning and preparation, it may still be attractive, as alternatives are less attractive or not available at all.

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 is here 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 (Gottschalk, 2016).

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 favorable circumstances. 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. 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 finds convenient justification.

Motive-focused theories explain crime in terms of reasons. White-collar crime is profit-driven crime based on favorable economic circumstances. As argued by Naylor (2003), transfers of property occur by free-market exchange or fraud; and these transfers involve redistribution of wealth and distribution of income. Fraud is illegal procurement of a private asset or means of advantage through deception or through the neglect of care for the interests of an asset required by duty. In particular, fraud includes heterogeneous forms such as misappropriation, balance manipulation, insolvency, and capital investment abuse (Füss and Hecker, 2008).

Situation-focused theories explain crime in terms of opportunity structures (Koppen et al., 2010). Piquero and Benson (2004) proposed a middle-ground explanation of white-collar crime, which they call the punctuated situational theory of offending. The opportunity perspective in the situation has also been stressed by Benson and Simpson (2015). They emphasize legal access to premises and resources, distance from victims, and manipulation within regular transactions.

Opportunity is a distinct characteristic of white-collar crime and varies depending on the kinds of criminals involved (Michel, 2008). An opportunity is attractive as a means of responding to desires (Bucy et al., 2008). It is the organizational dimension that provides the white-collar criminal 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 goals (such as sales and bonuses), opportunity in the organizational dimension is concerned with crime (such as corruption and embezzlement).

Offender-focused theories explain crime in terms of personality characteristics (Koppen et al., 2010). Self-control theory is a typical theory related to deviant behavior (Gottfredson and Hirschi, 1990). Individuals with low self-control have a tendency to be impulsive, self-centered, out for adventure and out for immediate pleasure. Immediate pleasure may be achieved more conveniently by white-collar crime than by legal activities.

Most theories of white-collar crime develop along the behavioral dimension. Researchers introduce numerous suggestions to explain white-collar individuals such as Madoff, Rajaratman and Schilling. Along the behavioral dimension, we find strain theory, deterrence theory, self-control theory, obedience theory, fear of falling, negative life events, slippery slope, and the American dream of economic success – just to name a few. These theories suggest motives for committing white-collar crime, and they make crime a convenient option according to convenience theory. It is convenient for the

criminal to be deceitful and breach trust to cause losses to others and gain for one self.

In recent years, neutralization theory seems to increase in importance as a source of explanation. By applying neutralization techniques, white-collar criminals think they are doing nothing wrong. They deny responsibility, injury, and victim. They condemn the condemners. They claim appeal to higher loyalties and normality of action. They claim entitlement, and they argue the case of legal mistake. They find their own mistakes acceptable.

Conclusion:

As presented in this article, an evaluation is a systematic study of work done or work in progress. Evaluation is an objective assessment of activities. Evaluation implies assessing or estimating the value of something. Evaluation involves analyzing to determine if the investigation did what it was intended to do and if the investigation had expected impact. Evaluation is a planned process where the goal is to develop knowledge that is sufficient to judge a completed fraud examination. Evaluation applies predefined and explicit criteria. Evaluation follows in the aftermath of activities. Evaluation can be formative versus summative, goal-oriented versus process-oriented, and self-performed versus stranger-performed.

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