

## **Criminal Entrepreneurship, White-Collar Criminality, and Neutralization Theory**

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# Criminal Entrepreneurship, White-Collar Criminality, and Neutralization Theory

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## ***Abstract***

A legal entrepreneur is a person who operates a new enterprise or venture and assumes some accountability for the inherent risk. Similarly, the criminal entrepreneur's task is to discover and exploit opportunities, defined most simply as situations in which there are a profit to be made in criminal activity. Examples of criminal entrepreneurship committed by otherwise legal entrepreneurs are commonly labeled as white-collar criminality. This paper discusses how criminal entrepreneurship by white-collar criminals can be explained by neutralization theory as white-collar criminals tend to apply techniques of neutralization used by offenders to deny the criminality of their actions.

***Key words:*** Criminal entrepreneur; white-collar crime; neutralization theory.

# Criminal Entrepreneurship, White-Collar Criminality, and Neutralization Theory

## Introduction

The concept of criminal entrepreneurship as advanced by scholars such as Hobbs (1988) and Baumol (1990) is now well accepted in criminological and entrepreneurship research circles, albeit it has still to be developed theoretically and conceptually to make it of utility in practical terms. The term criminal entrepreneur itself raises more questions than it answers. For example, when we label someone a criminal entrepreneur – what does it mean? How can we use this knowledge for practical benefit? Is it possible to recognize a criminal entrepreneur, from a legitimate, legal entrepreneur by their modus operandi? Theoretically and conceptually it is still a grey area. Criminal entrepreneurship is often associated with the concept of white-collar criminality (Sutherland, 1940). From a practical perspective the term white-collar criminal also has limited utility. Furthermore, criminal entrepreneurship is often conflated with the concepts of corporate and organized crime.

A legal entrepreneur is a person who operates a new enterprise or venture and assumes some accountability for the inherent risk (McKague, 2011). The criminal entrepreneurs' task is similar but they have to discover and exploit opportunities situations in which there are a profit to be made in criminal activity. Opportunity discovery is about valuable goods and services for which there is a market (Symeonidou-Kastanidou, 2007). Hence, identification of valuable goods and services is linked to the identification of valuable markets that they serve. Opportunity discovery relates to the generation of value, where the entrepreneur determines or influences the set of resource choices required to create value. Thus, the criminal entrepreneur faces the same challenges as the legal entrepreneur. When the legal entrepreneur slides into – or rather makes a rational conscious choice – becoming a criminal entrepreneur, the person tends to apply techniques of neutralization used by offenders to deny the criminality of their actions (Heath, 2008; Siponen and Vance, 2010).

This paper discusses neutralization theory in the context of criminal entrepreneurship by white-collar criminals. In this paper we therefore consider the two related concepts of criminal entrepreneurship and white-collar criminality by applying neutralization theory to gain new insights into this kind of negative entrepreneurship.

## **Criminal Entrepreneurship**

The newly and modern view on entrepreneurial talent is a person who takes the risks involved to undertake a business venture. Entrepreneurship is often difficult and tricky, as many new ventures fail. In the context of the creation of for-profit enterprises, entrepreneur is often synonymous with founder. Most commonly, the term entrepreneur applies to someone who creates value by offering a product or service in order to obtain certain profit.

Hedonism and hegemonic masculinity play a part in criminal entrepreneurship, and the decision to become a criminal entrepreneur is not always rational and economic but deeply personal based on socio-psychological issues. Except for criminal entrepreneurs' readiness to use personal violence and the ability to shield oneself from it, other social or individual constrictions and qualities do not seem to differ that much from those encountered in successful legal businessmen among successful drug entrepreneurs in Colombia, according to Zaitch (2002: 49):

Opportunities to become a successful drug entrepreneur in Colombia have remained, of course, unequally distributed. Except for the readiness to use personal violence and the ability to shield oneself from it, other social or individual constrictions and qualities do not seem to differ that much from those encountered in successful legal businessmen: sex, age, personal or family contacts, entrepreneurial skills of all sorts, personal attributes such as creativity, alertness or charisma, skills to both exercise power and deal with existing power pressures, and luck.

In this paper we develop and expand upon the work of Smith (2009), who developed a theoretical framework to understand criminal entrepreneurship by making distinctions between the concepts of *modus essendi*, *modus operandi*, and *modus vivendi*. *Modus essendi* is a philosophical term relating to modes of being. This is of significance to understanding of entrepreneurial crime because subjects in which a demonstrative mode of knowing is possible (i.e. entrepreneurship), are seldom taught in a demonstrative way, but descriptively. *Modus*

operandi is an accepted criminological concept for classifying generic human actions from their visible and consequential manifestations. The presence or absence of particular facets allows one to infer facts about behavior. Finally, *modus vivendi* is the shared symbiotic relationship between emerging entrepreneurial groups on the wrong side of the law. Furthermore, we also consider the important issues of entrepreneurial leadership and entrepreneurial judgment.

Understanding the concept of entrepreneurial leadership is essential in seeking to understand criminal entrepreneurship because all criminals are risk-takers but in a criminal context criminal entrepreneurs are characterized by their ability to lead others and take control of risky situations and complex criminal operations. Entrepreneurial leadership is characterized by judgment in decision-making (Alvarez and Barney, 2007). Judgment is where individuals take decisions without access to any generally agreed rule that could be implemented using publicly available information known to be true. A drug dealer who buys before he or she knows the price at which it can be resold must make a judgment about what the future price will be, for instance. Judgment refers primarily to business decision-making when the range of possible future outcomes is generally unknown. Judgment is required when no obviously correct model or decision rule is available or when relevant data is unreliable or incomplete.

Entrepreneurial judgment is ultimately judgment about the control of resources (Small and Taylor, 2006). As an innovator, a leader, a creator, a discoverer and an equilibrator, the entrepreneur exercises judgment in terms of resource acquisition and allocation to prosper from criminal business opportunities. As founder and developer of the business enterprise, the entrepreneur must exercise judgmental decision-making under conditions of uncertainty.

Entrepreneurial strategy is based on entrepreneurial vision. Entrepreneurial vision is a tacit perception of business opportunities for the criminal business organization. To successfully reorganize resources into the envisioned business opportunities, "resource owners must be coordinated on the entrepreneur's conception of the business and be motivated to perform properly". An essential part of the entrepreneurial role of restructuring resources (knowledge, weapons, money, cars, etc.) is the provision of a clear image of why and how the business needs to change to sustain the crime business over time (Casson and Godley, 2007).

## **White-Collar Crime**

One of the major problems in locating concrete examples of Edwin Sutherland's typology of "white-collar criminality" (Sutherland, 1940) is the basic presumption that such individuals are ostensibly middle class members of a business community and that the crimes they commit occur in a moral vacuum separable from the concept of the traditional criminal underworld. It follows from this that because of this artificial dislocation their crimes are somehow different in nature and thus more excusable than those of their working class and the underclass criminals as a genre. We dispute this artificial separation, after all Baumol (1990) argued that entrepreneurs and criminals often emerge from the same social strata.

Indeed, white-collar crime can be defined in terms of the offense, the offender or both. If white-collar crime is defined in terms of the offense, it means crime against property for personal or organizational gain. It is a property crime committed by non-physical means and by concealment or deception (Benson and Simpson, 2009). If white-collar crime is defined in terms of the offender, it means crime committed by upper class members of society for personal or organizational gain. It is individuals who are wealthy, highly educated, and socially connected, and they are typically employed by and in legitimate organizations (Hansen, 2009).

White-collar crime can be classified into categories as illustrated in Figure 1. There are two dimensions in the table. First, a distinction is made between leader and follower. This distinction supported by Bucy et al. (2008), who found that motives for leaders are different from follower motives. Compared to the view that leaders engage in white-collar crime because of greed, followers are non-assertive, weak people who trail behind someone else, even into criminal schemes. Followers may be convinced of the rightness of their cause, and they believe that no harm can come to them because they are following a leader whom they trust or fear. Followers tend to be naive and unaware of what is really happening, or they are simply taken in by the personal charisma of the leader and are intensely loyal to that person. Next, a distinction is made between occupational crime and corporate crime in Figure 1.

Largely individuals or small groups in connection with their jobs commit occupational crime. It includes embezzling from an employer, theft of merchandise, income tax evasion, and manipulation of sales, fraud, and violations in the sale of securities (Bookman, 2008). Occupational crime is sometimes labeled elite crime Hansen (2009) argues that the problem

with occupational crime is that it is committed within the confines of positions of trust and in organizations, which prohibits surveillance and accountability. Heath (2008) found that the bigger and more severe occupational crime tends to be committed by individuals who are further up the chain of command in the firm.

Actor \ Role	Leader	Follower
Occupational	Occupational crime as leader	Occupational crime as follower
Corporate	Corporate crime as leader	Corporate crime as follower

Figure 1. Categories of white-collar crime depending on role and actor

Corporate crime, on the other hand, is enacted by collectivities or aggregates of discrete individuals. If a corporate official violates the law in acting for the corporation it is considered a corporate crime as well. But if he or she gains personal benefit in the commission of a crime against the corporation, it is occupational crime. A corporation cannot be jailed, and therefore, the majority of penalties to control individual violators are not available for corporations and corporate crime (Bookman, 2008).

In legal terms, a corporation is an unnatural person (Robson, 2010: 109):

Corporate personality functions between an insentient, inanimate object and a direct manifestation of the acts and intentions of its managers. Nowhere is this duality more problematic than in the application of traditional concepts of criminal law to business organizations. The question of whether business organizations can be criminally liable - and if so, the parameters of such liability - has long been the subject of scholarly debate. Whatever the merits of such debate, however, pragmatic considerations have led courts and legislatures to expand the panoply of corporate crime in order to deter conduct ranging from reprehensible, to undesirable, to merely annoying. In the context of organizational behavior, criminal law is the ultimate deterrent.

Corporations become victims of crime when they suffer a loss as a result of an offense committed by a third party, including employees and managers. Corporations become

perpetrators of crime when managers or employees commit financial crime within the context of a legal organization. According to Garoupa (2007), corporations can more easily corrupt enforcers, regulators and judges, as compared to individuals. Corporations are better organized, are wealthier and benefit from economies of scale in corruption. Corporations are better placed to manipulate politicians and the media. By making use of large grants, generous campaign contributions and influential lobbying organizations, they may push law changes and legal reforms that benefit their illegal activities.

Occupational crime is typically motivated by greed, where white-collar criminals seek to enrich themselves personally. Similarly, firms engage in corporate crime to improve their financial performance. Employees break the law in ways that enhance the profits of the firm, but which may generate very little or no personal benefit for themselves when committing corporate crime (Heath, 2008: 600):

There is an important difference, for instance, between the crimes committed at Enron by Andrew Fastow, who secretly enriched himself at the expense of the firm, and those committed by Kenneth Lay and Jeffrey Skilling, who for the most part acted in ways that enriched the firm, and themselves only indirectly (via high stock price).

While legal corporations may commit business crime, illegal organizations are in the business of committing crime. Garoupa (2007) emphasized the following differences between organized crime and business crime (i) organized crime is carried out by illegal firms (with no legal status), the criminal market being their primary market and legitimate markets secondary markets, (ii) corporate crime is carried out by legal firms (with legal status), the legitimate market being their primary market and the criminal market their secondary market. Whereas organized crime exists to capitalize on criminal rents and illegal activities, corporations do not exist to violate the law. Organized crime gets into legitimate markets in order to improve its standing on the criminal market, while corporations violate the law so as to improve their standing on legitimate markets.

Criminal opportunities are now recognized as an important cause of all crime. Without an opportunity, there cannot be a crime. Opportunities are important causes of white-collar crime, where the opportunity structures may be different from those of other kinds of crime. These differences create special difficulties for control, but they also provide new openings for control (Benson and Simpson, 2009).

Irrespective of the *modus operandi*, *modus vivendi* and *modus essendi* of the criminal entrepreneur, many seek to neutralize the criminal stigma in building an identity and in seeking legitimacy.

### **Neutralization Theory**

From a review of the literature, potential criminals apply five techniques of neutralization: denial of responsibility, denial of injury, denial of victim, condemnation of the condemners, and appeal to higher loyalties. This is the original formulation of neutralization theory. Later, the metaphor of the ledger and the technique of necessary defense were added. The metaphor of the ledger uses the idea of compensating bad acts with good acts (Siponen and Vance, 2010).

According to Heath (2008), white-collar criminals tend to apply techniques of neutralization used by offenders to deny the criminality of their actions. Examples of neutralization techniques are (a) denial of responsibility, (b) denial of injury, (c) denial of the victim, (d) condemnation of the condemners, (e) appeal to higher loyalties, (f) everyone else is doing it, and (g) claim to entitlement. The offender may claim an entitlement to act as he/she did, either because he/she was subject to a moral obligation, or because of some misdeed perpetrated by the victim. These excuses are applied both for occupational crime and for corporate crime at both the rotten apple level and the rotten barrel level.

Siponen and Vance (2010) describe the five basic techniques as follows:

1. *Denial of responsibility* implies that a person committing a deviant act defines himself/herself as lacking responsibility for his/her actions. The person rationalizes that the action in question is beyond his control. The deviant views himself/herself as a ball helplessly kicked through different situations.
2. *Denial of injury* implies that the person is justifying an action by minimizing the harm it causes. Individuals who perpetrate computer crime may deny injury to victimized parties by claiming that attacking a computer does not do any harm to people.

3. *Defense of necessity* implies that rule breaking is viewed as necessary, and thus one should not feel guilty when committing the action. In this way, the offender can put aside feelings of guilt by believing that an act was necessary and there was no other choice. In computer crime, employees may claim that they do not have time to comply with the policies owing to tight deadlines.
4. *Condemnation of the condemners* implies that neutralization is achieved by blaming those who are the target of the action. For example, one may break the law because the law is unreasonable, or one may break information systems security policies that are unreasonable. Offenders engaged in computer crime can claim that the law is unjust.
5. *Appeal to higher loyalties* implies a dilemma that must be resolved at the cost of violating a law or policy. In an organizational context, an employee may appeal to organizational values or hierarchies. For example, an employee might argue that he/she must violate a policy in order to get his/her work done.

To illustrate our point we will discuss neutralization techniques used by criminal entrepreneurs in white-collar computer crime. Computer crime protection is challenged by neutralization theory. There is a need for techniques that can inhibit neutralization. Siponen and Vance (2010) suggest that adequate explanation to justify the organizational policy through seminars, victim-offender mediation, and persuasive discussion can be useful means to change behavior. With respect to denial of injury, victim-offender mediations or persuasive discussion make offenders realize that there is an injury. With respect to denial of responsibility, supervisors in one-on-one interactions and speakers in company seminars need to stress that there is no excuse for computer crime. Regarding the defense of necessity, managers should emphasize to employees that even when they are under the pressure of a tight deadline there is no excuse to use a criminal shortcut. With respect to the appeal to higher loyalties, security managers at organizations need to ensure that team leaders and line managers do not support their subordinates in violating information systems security policies in order to get their job done.

Neutralization techniques can be found in all kinds of computer crimes including online child grooming. For example D'Ovidio et al. (2009) studied neutralization techniques that are used to promote, advocate, and convey information in support of sexual relationships between

adults and children. Techniques of neutralization included appeal to higher loyalties, condemnation of the condemners, and denial of injury. Many of the adult-child websites studied appealed to higher loyalties to gain acceptance for their actions by linking to websites of social movements not tied to pedophilia activism or causes supporting sexual relationships between adults and children.

In a study of music piracy, Higgins et al. (2008) found a link between the extent of piracy and the extent of neutralization. The level and changes in neutralization by an individual was found to have a direct influence on the level and change in music piracy by that individual over time. Stronger neutralization caused more music piracy. In order to reduce instances of music piracy, the manner in which individuals perceive their own behavior is the key to reducing instances. If the illegality of this behavior is reinforced to youth before participation in this behavior, the likelihood that they will participate in music piracy, especially on a frequent and regular basis, should be diminished.

In a study by Moore and McMullan (2009), five more neutralization techniques were added:

6. *Ledger technique* is used when an individual argues that his or her inappropriate behavior is at times acceptable because the person has spent most of his or her time doing good and legal deeds. The person develops a reserve of good deeds that overshadow the one bad deed.
7. *Denial of necessity of law* argues that the law was the result of the larger society's attempts to regulate behavior that had nothing to do with the greater good of people. As a result, the law was deemed inappropriate and not worth obedience.
8. *Everybody else is doing it*, which implies that the individual feels that there is so much disrespect for a law that the general consensus is such that the law is nullified or deemed to be unimportant.
9. *Entitlement technique* is used by individuals who feel that they are entitled to engage in an activity because of some consideration in their life.
10. *Defense of necessity* is used when the individual finds the act necessary in order to prevent an even greater delinquent act from taking place.

An individual applies techniques of neutralization when there is doubt that there is something wrong with his or her behavior. If there is no guilt to neutralize then it stands to reason that there is no need for neutralization techniques (Moore and McMullan, 2009).

There are other forms of neutralization techniques used by criminals such as building a new more socially acceptable identity by emphasizing their entrepreneurial identity to neutralize their criminal identity. This can be seen in the biographies of many serious organized criminals.

## **Conclusion**

As can be seen by this brief discussion of criminal entrepreneurship, white collar criminality and corporate and organized crime there is a need for a concentrated research effort to clarify and explain these conflated conflicts. By discussing them in context this paper has made a contribution to the literature by introducing the concepts of entrepreneurial leadership and entrepreneurial judgment into the debate. Moreover, in discussing neutralization theory we can gain some fresh insights into the mind of the criminal entrepreneur. Denial of responsibility, denial of injury, defense of necessity, condemnation of condemners, appeal to higher loyalties, ledger technique, denial of necessity of law, everybody else is doing it, and entitlement technique are some of the techniques applied by executives in trusted positions when committing financial crime. While they behave as criminal entrepreneurs, they deny the criminality of their actions.

By linking neutralization theory to white-collar criminals in a perspective of criminal entrepreneurship, new insights might be gained in future research into white-collar crime. Further research is now required in terms of empirical case studies and survey research. Policy implications from the current research are concerned with control as well as ethical issues in private and public organizations.

Clearly there is a need to develop 1) a typology of criminal entrepreneurs by their modus operandi; and 2) a typology of entrepreneurial crimes. Although both of these projects lie outside the scope of this present paper it does go some way towards developing and explaining the concept of criminal entrepreneurship as applied in different criminal contexts.

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