# Facts or Knowledge?
# A Review of Private Internal Reports
# of Investigations by Fraud Examiners

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The purpose of this article is to reflect on the difference between facts and knowledge, as we suggest that knowledge is facts combined with interpretation, context, and reflection. The distinction is important when investigators search for causality. The reason for misconduct in organizations, and thus whom to blame, is dependent on a thorough interpretation and reflection on facts studied in the proper context. This article presents a sample of seventeen investigation reports by fraud examiners to illustrate the difference between facts and knowledge. When facts remain facts, then the blame game can easily occur. This article first presents the theory of convenience to explain financial misconduct in organizations, and the blame game hypothesis, before we introduce the sample. The purpose of this article is not to criticize generally the work that fraud examiners do in private internal investigations for their clients. Rather it intends to reflect upon the difference between facts and knowledge when it comes to reasons for deviance in organizations. Causality is difficult to establish, and it seems tempting to some fraud examiners to enter into the blame game to make sure that they draw conclusions from investigations that clients have paid for.

*Keywords:* knowledge management, fraud investigation, blame game, convenience theory, facts interpretation

## Introduction

There is a growing private industry in the area of fraud examinations (Gottschalk, 2018; Schneider, 2006; Williams, 2005, 2014). The industry consists of global auditing firms, such as Deloitte (2011a, 2011b, 2015, 2017), KPMG (2017) and PwC (2003, 2008, 2015), local law firms, including Breen Guberman (2012), Jenner Block (2010, 2014), Haverstick Seiberling (2014a, 2014b), Shearman Sterling (2017), Sidley Austin (2010), Wilmer Cutler Pickering (2003), as well as independent detectives, such as Freeh (2013).

Their task is to reconstruct past events and sequences of events related to potential misconduct and crime in the client organization. They must answer questions regarding what happened, how did it happen, when did it happen, who did what to make it happen or not happen, and why it hap-

pened or not happen (Button, Frimpong, Smith, & Johnston, 2007a; Button, Johnston, Frimpong, & Smith, 2007b).

Fraud examiners collect information based on a number of sources, such as documents and witnesses (Brooks & Button, 2011; Button & Gee, 2013). The result of their work is a report of investigation that becomes the property of the client organization, which can be either a private or a public organization. Typically, the client organization keeps the report secret and is unwilling to disclose it to the public (Gottschalk & Tcherni-Buzzeo, 2017).

This article is concerned with the blame game that might occur in fraud examinations (Eberly, Holley, Johnson, & Mitchell, 2011; Gottschalk, 2016; Lee & Robinson, 2000). When a private investigator transforms facts into knowledge by a process of interpretation, context inclusion, and personal reflection, the result might be a misleading or wrong conclusion. A misleading conclusion can be the consequence of failing to transform facts into knowledge, where we define knowledge as the combination of facts, interpretation, context, and reflection.

This article starts by introducing the theory of convenience to explain white-collar misconduct and crime, which is the focus of fraud examinations. Next, it presents the blame game hypothesis central to both the organizational dimension and the behavioral dimension of convenience theory. The blame game expands the opportunity structure in the organizational dimension and increases the personal willingness in the behavioral dimension.

In addition, this article introduces our sample of 17 reports of investigations from fraud examiners that we were able to find and retrieve on the Internet in the United States. Finally, we present the research results in terms of facts-based or knowledge-based conclusions in fraud examinations.

## Theory of Convenience

Fraud examiners conduct investigations into suspicions of white-collar misconduct and crime, where a privileged individual or individuals in an organization face accusations of executive deviance. Here we describe the white-collar phenomenon by means of convenience theory.

The theory of convenience suggests that white-collar misconduct and crime occurs when there is a financial motive benefitting the individual or the organization, an organizational opportunity to commit and conceal crime, and a personal willingness for deviant behavior.

The white-collar crime triangle has similarities with the fraud triangle (Cressey, 1972), which suggests three conditions for fraud: (1) incentives and pressures, (2) opportunities, and (3) attitudes and rationalization. However, there are two distinct differences. First, convenience is a relative concept, indicating that offenders have the option of alternative actions

to reach their goals that do not represent illegitimate behavior. Second, it is in the organizational setting where offenders have access to resources that allow for the opportunity to commit and conceal crime.

*Financial motive* is related to the desire for profit that offenders more conveniently achieve in illegal ways. This desire finds its causes in both possibilities and threats. Possibilities can emerge in the perspectives of profit-driven crime (Naylor, 2003), of goal orientation (Dodge, 2009; Jonnergård, Stafsudd, & Elg, 2010), as well as of the American dream (Pratt & Cullen, 2005; Schoepfer & Piquero, 2006). Threats can be found in perspectives of strain (Froggio & Agnew, 2007; Langton & Piquero, 2007; Wood & Alleyne, 2010) and fear of falling (Piquero, 2012).

An interesting starting point is to look at Maslow's (1943) hierarchy of needs. The Russian-American psychologist Abraham Maslow developed a hierarchy of human needs. Needs start at the bottom with physiological need, need for security, social need, and need for respect and self-realization. When basic needs, such as food and shelter are satisfied, then the person moves up the pyramid to satisfy needs for safety and control over own life situation.

Higher up in the pyramid, the person strives for self-respect, status, and recognition. While street crime is often a concern at the lower levels, white-collar crime is often a concern at the upper levels in terms of status and success. Most individuals will want to move higher up in the pyramid when needs below are satisfied.

As far as money or other valuable items can help climbing higher in the pyramid, potential offenders may find white-collar crime convenient if other options to achieve success are more stressful and require more resources. Whether the offender wants more at a certain level or wants to climb to higher levels in the pyramid, financial crime can be a means to such an end.

For some white-collar criminals, money is the goal of crime. For other white-collar criminals, money is a means to a goal, such as acceptance, influence and fame.

For example, to be accepted and potentially admired as a successful businessperson, the enterprise has to grow and make money. For a businessperson, financial success can lead to influence, privileges, and status. Admiration and respect in the elite is a desirable goal for many individuals. If such a goal is difficult to reach by legal means, illegal means represent an alternative.

*Organizational opportunity* focuses on the illegal profit that one can obtain more conveniently in an organizational setting where the offender enjoys power and influence based on position and trust. The organizational dimension sets white-collar criminals apart from other financial criminals.

White-collar crime can be distinguished from ordinary crime ('street crime') based on the status of the offenders, their access to legitimate occupations, the common presence of an organizational form, and the extent of the costs and harmfulness of such crime. Sutherland (1983) specifically emphasized the respectability of white-collar offenders, stating that persons of the upper socio-economic class commit all kinds of financial crimes. The ability of white-collar offenders to commit crimes is dependent on their privileged position, the social structure, and their orientation to legitimate and respectable careers (Friedrichs, Schoultz, & Jordanoska, 2018).

The perspective of principal and agent suggests that, when a task transfer occurs from a principal to an agent, the principal is often unable to control what the agent is doing. Agency problems occur when principals and agents have different risk willingness and different preferences, as well as when knowledge asymmetry regarding tasks exists (Eisenhardt, 1985). The principal-agent perspective (or simply agency perspective) can illuminate fraud and corruption in an organizational context. The principal may be a board of a company who leaves the corporate management to the chief executive officer (CEO). The CEO is then the agent in the relationship. The CEO in turn may entrust tasks to other executives, where the CEO becomes the principal, while people in positions, such as chief financial officer (CFO), chief operating officer (COO), and chief technology officer (CTO), are agents. Agents perform tasks on behalf of principals. A CEO may cheat and defraud owners (Williams, 2008), and a purchasing manager can fool the CEO when selecting vendors (Chrisman, Chua, Kellermanns, & Chang, 2007), for instance, by taking bribes that can cause the company to pay more for inferior quality. The agency perspective assumes narrow self-interest among actors. The interests of principals and agents tend to diverge, also when principals have imperfect information about the agents' contributions (Bosse & Phillips, 2016). According to the principal-agent analysis, exchanges can encourage illegal private gain for both principals and agents (Pillay & Kluvers, 2014). According to the agency perspective, managers are opportunistic agents motivated by individual utility maximization. Taking an economic model of a person who treats human beings as rational actors seeking to maximize individual utility, when given the opportunity, then executives and other members of the elite will maximize their own utilities at the expense of shareholders and others.

*Personal willingness* is connected with the impression that surprisingly few white-collar criminals think they have done anything wrong. Most of them regard themselves as innocent and victims of injustice when put on trial, convicted and imprisoned. By application of neutralization techniques (Sykes & Matza, 1957), they deny responsibility and injury. They condemn the condemners. They claim appeal to higher loyalties and normality of ac-

tion. They claim entitlement, and they argue the case of legal mistake. They find their own mistakes acceptable. They argue a dilemma, whereby they made a reasonable trade-off before committing the act (Siponen & Vance, 2010). Such claims enable offenders to find crime convenient, since they do not consider it crime.

Some white-collar offenders are narcissists. Narcissists exhibit an unusual trust in themselves, believing that they are uniquely special and entitled to more benefits than are legitimately available to them (Ouimet, 2010).

### Blame Game Hypothesis

The blame game hypothesis suggests that suspected individuals do not necessarily become subject to a fair investigation by private examiners and financial crime specialists. In police investigations, it is equally important to prove innocence as to prove guilt. In the charter for Norwegian criminal investigations, it states that police officers should put just as much effort into proving innocence as into proving guilt. Even when victims and others expect public prosecution, only those individuals facing sufficient convincing evidence by police investigations will become subject to prosecution.

This may be different in private investigations. Financial crime specialists claim to have found the facts and the responsible person(s) for a negative event or incident. They may not have practiced an open mind. Clients may have pointed them in a specific direction, and they may have only one lead that the client expected to be verified during the examination. The client pays sometimes for a desired result. The client defines a mandate, and investigators carry out the examination according to the mandate. Investigators have to describe some findings related to facts and causes in the investigation report to make sure that the report contributes and meets client expectations.

Private examiners may draw conclusions based on a likelihood that exceeds 50 percent, while police detectives are not supposed to draw conclusions regarding crime before the likelihood exceeds 90 percent.

There are two steps when looking for causal explanations in private investigations. The first step relates to the mandate that defines and limits the investigative focus. The second step is concerned with findings, where investigators identify potential suspects. Often, individuals who feel confronted with suspicions of financial crime can perceive it as a blame game. Suspects may tell investigators: 'You should not blame me for what happened!'

Research on organizational justice and social accounts focuses on how explanations of negative events transform into public communications with others. Explanations affect outcomes, such as trust in the organization, feelings of anger, dissatisfaction, frustration, and stress. Suspects find it

unfair, especially when suspicions develop into more or less grounded accusations. Of course, this can happen in police investigations as well.

The term blame game often describes a phenomenon that happens in groups of people when something goes wrong. Essentially, all members of the group attempt to pass the blame on, absolving themselves of responsibility for the issue. Lack of causal accounts increase disapproval ratings of the harm done by placing the blame for harmful acts on others. For example, by attributing corruption to an executive in the organization as a rotten apple, the suspect will feel betrayed by other executives who, in his/her opinion, belong to the rotten apple basket.

External attributions place the cause of a negative event on external factors, absolving the account giver and investigation client from personal responsibility. However, unstable attributions suggest that the cause of the negative event is unlikely to persist over time, and as such mitigate the severity of the predicament. Uncontrollable attributions suggest that the cause of the event is not within the control of the attributor, further removing any blame or responsibility for the unjust act from the account giver (Lee & Robinson, 2000).

According to Sonnier, Lassar, and Lassar (2015, p. 10), affective reactions influence blame attribution directly and indirectly by altering private investigators' structural linkage assessments. For example, a negative effective reaction can influence the assessment of causation by reducing the evidential standards required to attribute blame or by increasing the standards of care by which an act is judged.

In addition to requiring less evidence of intention, negligence, or causality, an internal investigator may exaggerate the evidence regarding the foreseeability of an act's consequence, may disregard the justification or explanation for the act, or may search for information to support a desired blame attribution. Thus, negative affective reactions of investigators tend to influence their evaluations. By focusing on personal control by attribution of blame, Sonnier et al. (2015) argue that assessing causation includes the notion of effective causal control, which highlights the fact that investigators are attuned not only to actual consequences of behavior but also to the consequences that could have occurred.

According to Sonnier et al. (2015), the notion of potential consequences relates itself to counterfactual reasoning research on blame attribution. Counterfactual reasoning assumes that surprising outcomes motivate thoughts about alternatives, whereas control assumes that effective causal control is inherent in assessing structural linkages. Counterfactual reasoning provides that investigators will respond emotionally to unfortunate events and will seek to explain such events based on alternative courses of action that could have averted the negative outcome.

Pontell, Black, and Geis (2014) point out that some people are too powerful to blame. Status-related factors, such as influential positions, upper class family ties and community roles, often preclude perceptions of blameworthiness (Slyke & Bales, 2012).

The blame game hypothesis finds support in attribution theory (Eberly et al., 2011), as well as in behavioral decision-making theory, which posits that decision-makers can absorb bias by the interaction of the context and specific cognitive mechanisms (Hammond, Keeney, & Raiffa, 1998; Kahnemann, 2011). Behavioral decision making has identified an array of cognitive mechanisms that may disturb investigators' judgment. A bias can occur among private investigators based on a client mandate and available resources in fraud investigations, where anchoring of suspicion can be misplaced. A private fraud examiner can distort the transition from facts to knowledge by false interpretation, negligence of context, and lack of reflection. Furthermore, a fraud examiner can suffer from the primacy effect, that is, from a tendency to remember the first items presented in a series better or more easily, while affirmation bias means to interpret information consistently with existing beliefs. If the client has strong beliefs in one way or the other, this will manifest itself both in the mandate and in expectations. Similarly, the tunnel view sometimes experienced in police investigations imply that detectives go for the light at the end of the tunnel, rather than to look at what is outside the tunnel.

In his book entitled *The Blame Game,* Farber (2010) takes a humoristic view of the rules, techniques, and advanced strategies gamers apply to the play and how they quit the game. The target of blame becomes a scapegoat, a stooge and a donkey. The blame game is a competition in which participants try intensely to find fault in others. After pronouncing liability, through several techniques such as the responsibility shift, the blamers falsely receive self-accolades. The blamers in our context are the private investigators, who benefit those clients paying investigation bills.

Blame avoidance is possible when investigators are subject to influence both from the mandate and from the client. Valukas (2010, 2014) investigated both General Motors' ignition switch failure and Lehman Brothers' bank collapse and concluded that chief executives were not to blame. Blame avoidance strategies are the most attractive instruments for potential offenders in their attempt to discount charges of irreparable damage and loss (Rajao & Georgiadou, 2014).

Sonnier et al. (2015) conceptualize blame in terms of personal control. The assessment of an actor's control over a harmful event may come from the desire to blame someone whose behavior, reputation, or social category has aroused negative reactions. Blaming implies to form affective reactions to aspects of negative events and people involved. Private investi-

gators judge how much control the actor exerted by analyzing the structural linkages of volition, causation, and foresight, while also spontaneously, relatively, and unconsciously forming affective reactions.

Attribution theory suggests that, all else being equal, the odds are in favor of making a personal attribution (Keaveney, 2008). Shepherd, Patzelt, and Wolfe (2011) argue that the building blocks of an informed culture are encouraging members to report errors and near misses to apportion blame justly when something goes wrong. However, to protect themselves from criticism, executives and other individuals in an organization often engage in impression management, which deflects blame to others. Hood (2011) argues in his book that individuals working in organizations spend time blaming others rather than working to solve issues that arise. Datner (2011) argues that the skewed allocation of blame and credit is the worst problem in work environments.

Blaming can be a self-defense mechanism for the investigation client, who pays investigators to look another way. People react (personally, in a group, or as a corporation) when they are under pressure, when they make mistakes, when they are put into uncomfortable situations, or when they are attacked. Blaming can be to deflect a problem, incident, situation and/or attention away from oneself (Hein, 2014). Blaming by a blamer such as the investigator can have varying degrees of impact on the blamed person who is attributed guilt for a negative event. In the extreme, it can cause considerable harm, such as injustice, public prosecution without evidence, humiliation in the media, and job loss.

The blame game content varies from case to case and can be related to explanations for negative events, accountability or causality. The contents can be associated with an action or a lack of action. The contents can be linked with information disclosure or lack of information flow. Blame games often evolve differently than expected (Resodihardjo, Carroll, Eijk, & Maris, 2015), and blame attribution may vary by many factors (Xie & Keh, 2016). People may be 'blamed and shamed' in the deficit view of information communication (Hurrell, 2015).

## Research Method

The research method applied in this empirical study of investigation reports is content analysis. Content analysis refers to such methodology or procedure that works to identify characteristics within texts attempting to make valid inferences (Krippendorff, 1980; Patrucco, Luzzini, & Ronchi, 2017). Content analysis assumes that language reflects both how people understand their surroundings and their cognitive processes. Therefore, content analysis makes it possible to identify and determine relevant texts in a context (McClelland, Liang, & Barker, 2010).

As mentioned in the introduction, private and public organizations often hire fraud examiners from global auditing firms and local law firms to investigate suspicions of executive deviance related to white-collar crime (Button et al., 2007a, 2007b; Button & Gee, 2013; Brooks & Button, 2011; Schneider, 2006; Williams, 2005, 2014). At the end of their inquiry, fraud examiners write a report of investigation and hand it over to the client organization as their property (Gottschalk, 2018). Unfortunately, clients tend to keep reports secret (Gottschalk & Tcherni-Buzzeo, 2017). Only a few reports are publicly available, and they are often hard to find. After searching on the Internet for some time, we were able to identify and retrieve 17 reports in the United States.

These are the seventeen deviant executives investigated by firms, listed in parentheses with literature references:

1. John D. Green, Sheriff (Deloitte, 2011a)
2. Cari Pupo, Treasurer (KPMG, 2017)
3. Ibe Kachikwu, Managing director (PwC, 2015)
4. Hisao Tanaka, CEO (Deloitte, 2015)
5. Carrie Tolstedt, CEO (Shearman Sterling, 2017)
6. Neil Whittaker, Managing director (Deloitte, 2017)
7. Tsuyoshi Kikukawa, CEO (Deloitte, 2011b)
8. Lionel Sutton, Attorney (Freeh, 2013)
9. Yusuf Acar, Security manager (Sidley Austin, 2010)
10. Richard Como, Superintendent (Haverstick Seiberling, 2014a, 2014b)
11. Kenneth Lay, CEO (Wilmer Cutler Pickering, 2003)
12. Bill Kemp, Senior lawyer (Jenner Block, 2014)
13. Richard S. Fuld, CEO (Jenner Block, 2010)
14. Michael Conley, Director of investor relations (SEC, 2002)
15. Harriette Walters, Tax assessment manager (PwC, 2008)
16. Kern Wildenthal, President (Breen Guberman, 2012)
17. Bernard Ebbers, CEO (PwC, 2003)

We define these seventeen investigation reports as a convenience sample, since they were the only available reports that could be downloaded successfully to obtain results.

Table 1 lists investigated executive deviance. John D. Green allowed a friend to handle all property sales in the sheriff's office. This friend, in turn, supported the sheriff's reelection campaign financially. Cari Pupo covered up debt in a property development project. Ibe Kachikwu was responsible for accounting where all crude oil revenues had to cover alleged costs,

**Table 1**   Suspected Executive Deviance Investigated by Fraud Examiners

| Name | Position | Organization | Executive deviance |
|---|---|---|---|
| John D. Green | Sheriff | City of Philadelphia | Property sales handled by a close friend, who financially supported Green's reelection campaign for sheriff's office |
| Cari Pupo | Treasurer | Town of Pelham | Cover-up of Can$17 million dollars in unaccounted debt |
| Ibe Kachikwu | Managing director | Nigerian National Petroleum Corporation | Crude oil revenues generated by the corporation withheld or un-remitted to the federal accounts |
| Hisao Tanaka | CEO | Toshiba Corporation | Accounting fraud overstating profits by US$1.2 billion |
| Carrie Tolstedt | CEO | Community Bank, Wells Fargo | Improper and unethical sales practices violating specific statutory provisions |
| Neil Whittaker | Managing director | Fuji Xerox New Zealand | Inappropriate accounting practices overstating profits and illegal credit risks |
| Tsuyoshi Kikukawa | CEO | Olympus Corporation | Fraud scheme of investment accounting violating Financial Instruments and Exchange Act and Companies Act |
| Lionel Sutton | Attorney | BP Deepwater Horizon claims administration office | Received improper referral fees from attorneys representing claimants |
| Yusuf Acar | Security manager | Office of the Chief Technology Officer, DC | Bribery and conflict of interest related to procurement improprieties |

*Continued on the next page*

so that the national oil company avoided transferring revenues to the government. Hisao Tanaka was impelemented an accounting practice where non-finished parts entered the production line as finished parts. This led to improved performance figures. Carrie Tolstedt managed aggressive cross sales of bank accounts and services. Neil Whittaker organized leasing practices that enabled early profits to emerge in accounting. Tsuyoshi Kikukawa managed investments that made it look like the company had substantial financial claims. BP hired Lionel Sutton to work in their claims administration office after the Deepwater Horizon oil spill in the Gulf. He helped his own clients by both applying for them and approving their claims. In addition, he received fees from other attorneys when their clients received favorable compensation. Yusuf Acar accepted bribes from consulting firms that he hired to implement information technology solutions. Richard Como was unable to explain how district funds had disappeared.

Kenneth Lay was founder, CEO and chairperson of Enron Corporation,

**Table 1**    *Continued from the previous page*

| Name | Position | Organization | Executive deviance |
|---|---|---|---|
| Richard Como | Superintendent | Coatesville School District | Fiscal mismanagement, lack of accountability, misappropriation, including theft, of school district funds |
| Kenneth Lay | CEO | Enron Corporation | Misleading and illegal practices to hide and embezzle funds, securities and wire fraud |
| Bill Kemp | Senior lawyer | General Motors | Disregard of ignition switch failure in Cobalt car that caused injuries and deaths |
| Richard S. Fuld | CEO | Lehman Brothers | Misconduct but no crime related to fiduciary duty of care by failing to observe risk management |
| Michael Conley | Director of investor relations | Motorola | Violated federal securities laws by selectively disclosing information about quarterly sales |
| Harriette Walters | Tax assessment manager | DC Office of Tax and Revenue | Embezzlement and theft of tax return funds |
| Kern Wildenthal | President | University of Texas | Private travel expenses refunded by employer |
| Bernard Ebbers | CEO | WorldCom | Fraud and conspiracy at false financial reporting |

which reached a value of $63 billion. Enron used misleading and illegal practices to hide, embezzle and mislead funds. Bill Kemp was responsible for safety issues within its legal department, but ignored signals regarding ignition switch failure in the Cobalt car that caused several deaths. Richard S. Fuld led Lehman Brothers into bankruptcy. Fuld was nicknamed the 'Gorilla' on Wall Street for his competitiveness. Michael Conley leaked Motorola sales figures to selected receivers. Harriette Walters embezzled money that came back from tax refunds. Kern Wildenthal charged all his private travel expenses to the university. Bernard Ebbers had committed fraud and conspiracy following the disclosure of WorldCom's false financial reporting.

## Research Results

The reasons for private investigations include lack of facts and lack of accountability. Nobody will blame oneself for the negative event. The account giver, the private investigator, absolves others from the blame and responsibility for the negative event. Even in cases of self-blame, investigations are required to ensure that the self-blame is justified. Self-blame is attributing a negative event to one's behavior or disposition (Lee & Robinson, 2000).

People blame individuals not only for intentional violations, such as tak-

**Table 2**    Alternatives for Blame Games in Reports of Investigations

| Name | Organization | Facts | Knowledge |
|---|---|---|---|
| John D. Green (Deloitte, 2011a) | City of Philadelphia | Green was formally in charge, thus to blame | Businessman James Davis found guilty on fraud charges (McCoy, 2018) |
| Cari Pupo (KPMG, 2017) | Town of Pelham | Cari Pupo was terminated for undisclosed reasons | She was 'set up to take the fall' (Burket, 2017) |
| Ibe Kachikwu (PwC, 2015) | Nigerian National Petroleum Corporation | Kachikwu was responsible for not transferring funds to the government | Corrupt networks involving government officials might explain why funds were not officially transferred to the government |
| Hisao Tanaka (Deloitte, 2015) | Toshiba Corporation | As the CEO, he was desperate to report stable profits to keep investors happy | As the CEO, he was desperate to report stable profits to keep investors happy |
| Carrie Tolstedt (Shearman Sterling, 2017) | Community Bank, Wells Fargo | She tried to blame misconduct on bad apples in the organization that she fired | It was the business model that created a business practice of fraudulent behavior towards bank customers |
| Neil Whittaker (Deloitte, 2017) | Fuji Xerox New Zealand | Improper sales and leasing practices to compensate for reduced activity in other markets | People at the headquarters who expressed expectations might also receive blame |
| Tsuyoshi Kikukawa (Deloitte, 2011b) | Olympus Corporation | As the CEO, he was desperate to report stable profits to keep investors happy | As the CEO, he was desperate to report stable profits to keep investors happy |
| Lionel Sutton (Freeh, 2013) | BP Deepwater Horizon claims administration office | The network of internal and external attorneys as well as clients with unreasonable claims included | The network of internal and external attorneys as well as clients with unreasonable claims included |
| Yusuf Acar (Sidley Austin, 2010) | Office of the Chief Technology Officer, DC | Identified as a rotten apple in the organization (Punch, 2003) | Might have detected a rotten apple basket in the organization (Punch, 2003) |

*Continued on the next page*

ing bribes or embezzlement, but also for unintentional consequences. This means that good intentions alone will not protect suspects from blame. Individuals are regularly blamed for events they clearly did not intend (DeScioli & Bokemper, 2014).

Table 2 introduces the facts versus the knowledge perspective on internal investigations by fraud examiners. Deloitte (2011a) blamed Sheriff Green, but the outcome – seven years later – was different (McCoy, 2018):

**Table 2**  *Continued from the previous page*

| Name | Organization | Facts | Knowledge |
|---|---|---|---|
| Richard Como (Haverstick Seiberling, 2014a, 2014b) | Coatesville School District | Investigators failed to find out where the money from ticket sales had disappeared, blamed nevertheless executives | A different interviewing technique without confrontation might have helped |
| Kenneth Lay (Wilmer Cutler Pickering, 2003) | Enron Corporation | A knowledge-based review of all relevant executives involved in the fraud | A knowledge-based review of all relevant executives involved in the fraud |
| Bill Kemp (Jenner Block, 2014) | General Motors | This is a typical example of blame game, where facts point at middle managers' reluctance to react to ignition switch failure | Obvious responsibility of top executives including the CEO who had implemented a corporate culture where no bad news were allowed to travel upwards in the organizational hierarchy |
| Richard S. Fuld (Jenner Block, 2010) | Lehman Brothers | This is also a typical example of blame game, but here the result is opposite, where external factors are blamed, and executive deviance is excused | Executives were responsible for the collapse of the bank, but the blame game made them avoid prosecution |
| Michael Conley (SEC, 2002) | Motorola | Isolated incidence examined | Incident might have been examined in a context |
| Harriette Walters (PwC, 2008) | DC Office of Tax and Revenue | She was identified as a rotten apple and thus blamed for all misconduct | If her embezzlement had been examined in context, other executives might have deserved blame as well |
| Kern Wildenthal (Breen Guberman, 2012) | University of Texas Southwestern Medical Center | Again, one individual was defined as rotten apple and receiving all blame | Executive enthusiasm for funding might have caused reluctance to control him |
| Bernard Ebbers (PwC, 2003) | WorldCom | Again, one individual was defined as a rotten apple and receiving all blame | Reflection on the role of specific members of the board might provide additional insights into the collapse of WorldCom |

Former Philadelphia Sheriff John Green beat all five charges in his federal corruption trial Tuesday, as a jury also rejected many of the charges against the businessman who prosecutors had said showered Green with bribes and kickbacks.

While nobody could be sure of this outcome, a knowledge perspective

on the story told by Deloitte (2011a) leads to the businessperson who also was a friend of the sheriff. When we interpret his role and reason in the context of influence and motive, he was a more likely suspect also in 2011. The knowledge-based perspective implies here that an interpretation and reflection regarding the whole story should occur, while the facts-based perspective emphasized a few incidents and events.

KPMG (2017) blamed Treasurer Cari Pupo for misrepresenting finances for a development project in Pelham in Canada. Burket (2017) wrote then that she 'was set up to take the fall.' It seems from the investigation report that she was dependent on correct input to produce correct output. Therefore, a knowledge-based perspective would be interested in who provided inputs to the treasurer.

PwC (2015) does not blame Ibe Kachkwu directly as chief executive of the national oil company in Nigeria. However, in a corrupt country like Nigeria, fraud examiners could have looked into corrupt relationships rather than accounting figures in different silos in the public sector. A knowledge-based approach would emphasize roles and relationships, while the facts-based approach emphasized accounting figures obtained from different sources.

At Toshiba, the inflation of profits to meet targets occurred not only on one or two projects, but also across the board, sometimes because the projects were not even profitable as such, according to Deloitte (2015). Probably, both the facts-based and knowledge-based approach would lead to the same result, as CEO Tanaka was desperate to present a constantly profitable corporation. He resigned and 'kept his head lowered for nearly half a minute in a gesture meant to convey deep shame and contrition' (NBC, 2015).

CEO Tolstedt at Community Bank, a subsidiary of Wells Fargo, was extremely ambitious. She developed a business model that she believed in, and everyone had to follow. There is no evidence that people above her at Wells Fargo or people below her at Community Bank deserved blame, although she made attempts at the latter (Shearman Sterling, 2017).

The board in Japan expected that CEO Whittaker at Fuji Xerox would compensate for the stagnating market in Japan. He perceived that expectation so strongly that he introduced leasing arrangements that created faster revenues from reluctant customers. Deloitte (2017) blamed him for his deviant win-at-all-costs objective that led to a significant decrease in pricing on many occasions. Maybe someone at the headquarters should also receive blame, but they paid for the investigation by Deloitte (2017).

Olympus Corporation appears as a similar case as Toshiba Corporation: dominant leadership combined with loyal and obedient followership. Therefore, the blame seems justified at the CEO level in this context, as well (Deloitte, 2011b).

In the claims case after the oil spill from BP Deepwater Horizon, investigator Freeh (2013) applied a knowledge-based perspective where he looked at the network. While attorney Sutton was central to the network, since he worked in the claims administration office, the investigation emphasized external attorneys presenting claims, as well as individuals and firms coming forward with unjustified claims.

At the Office of the Chief Technology Officer, DC, it was obvious to investigators from Sidley Austin (2010) that Acar had received bribes. However, investigators did not look beyond what everyone already knew, which might have led to the detection of more involved employees. There is a danger in facts-based investigations to stop once a rotten apple in the organization has been identified, while a knowledge-based approach might include a search for the rotten apple basket. A single, stand-alone white-collar criminal is a rotten apple, but when several are involved in that crime, and when corporate culture virtually stimulates offenses, then it is more appropriate to describe the phenomenon as a basket of rotten apples or as a rotten apple orchard, like Punch (2003, p. 172) defines them:

- The metaphor of 'rotten orchards' indicates that it is sometimes not the apple, or even the barrel that is rotten, but the system (or significant parts of the system).
- It might be comfortable for both the client and for the investigator to conclude that, by removing the rotten apple, everything will be fine in the client organization.

The remaining eight out of seventeen cases will not be discussed further here, other than summarized them in Table 2.

## Conclusion

The purpose of this article was not to criticize generally the work that fraud examiners do in private internal investigations for their clients. Rather its intention was to reflect on the difference between facts and knowledge when it comes to reasons for deviance in organizations. Causality is difficult to establish, and it seems tempting to some fraud examiners to enter into the blame game to make sure that they conclude from investigations what clients have paid for.

Knowledge requires ability to understand, otherwise facts will remain independent pieces of information. For example, facts about a computer system might include technical terms that most people do not understand. The facts are meaningless to them. Providing sense to facts require a basic understanding of the relevant knowledge area. This is an issue for knowledge integration as a process of incorporating new information into a body of existing knowledge. If a receiver of facts is unable to interpret those facts

and unable to put them into a relevant context, then those facts cannot be included in the body of existing knowledge.

The implication of this reasoning is that fraud examiners need relevant knowledge to understand facts. If attorneys from a law firm conduct an investigation, then their knowledge might be insufficient when it comes to accounting figures and organizational structures. If certified public accountants from an auditing firm conduct and investigation, then their knowledge might be insufficient when it comes to the psychology and sociology of executive deviance. If a former homicide detective is to study the crime scene, then documents and computers rather than bodies and blood are relevant to understand.

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