



Building a profile of the Financial Criminal

— Bruce Arnold —

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Author Bio

Building a profile of the Financial Criminal

— Bruce Arnold —

I've seen lots of funny men;
Some will rob you with a six-gun,
And some with a fountain pen.

Woody Guthrie (1939)¹

Why did I rob banks? Because I enjoyed it. I loved it. I was more alive when I was inside a bank, robbing it, than at any other time in my life. I enjoyed everything about it, so much that one or two weeks later I'd be out looking for the next job. But to me the money was the chips, that's all.

Willie Sutton (1976)²

I'd just ask people: 'Isn't it about time they gave Alan Bond a fair go?'

Alan Bond (2003)³

What drives a person to blatantly and repeatedly manipulate and deceive so many people for so long on such a grand scale? How can there be such a complete absence of remorse? And why would such a man, after enduring public humiliation to the extent that he has - as a result of his own deeds - still crave and expect adulation from the masses, all the while denying any blame for past events.

Ian Verrender (2008)⁴

An inconvenient truth

In the comics life is simple. Lehman Bros knows exactly what it is doing and the brokers live happily ever after. Iceland is the home of Hagar the Horrible rather than something nasty named Kaupthing. Scrooge McDuck goes surfing on a private ocean of greenbacks rather than on the web. Swindlers are readily identifiable through top hats, beady eyes and a habit of twirling their moustaches as they rob the widows and orphans. Robbers are conveniently labelled with five-o'clock shadows, masks, crowbars and big bags marked 'swag'. The Mounties or FBI always get their man.⁵

Reality is more complex. The perpetrators of financial crime⁶ sometimes look just like you.⁷ They may indeed look better than you, with an account or two in Vaduz or Zug,

¹ Woody Guthrie, *The Ballad of Pretty Boy Floyd* (1939).

² Willie Sutton, *Where the Money Was: The Memoirs of a Bank Robber*, (1976) New York: Viking. Sutton is best known for the apocryphal comment "Why rob banks? That's where the money is!"

³ Miranda Devine, 'Bond: Lest We Forget', *Sydney Morning Herald* 24 September 2003.

⁴ Ian Verrender, 'A shark has such teeth, and it shows them pearly white', *Sydney Morning Herald* 31 May 2008.

⁵ For a perspective on community perceptions of perpetrators see Bruce Arnold & Bill Orr, 'Gordon Gekko and the Beagle Boys: Images of the Financial Criminal in Popular Culture' (forthcoming).

⁶ The concept of 'financial crime' is discussed later in this paper. The author has relied on the expansive definition in the 2001 IMF 'Financial System Abuse, Financial Crime and Money

along with the finest QCs and Botox that money can buy.⁸ They may be teenage creatures of the night, parked in front of a pizza box and a computer screen at your local cybercafé or university.⁹ They may instead be adding a signature to a dot painting that may or may not have been near an Indigenous artist.¹⁰ They may be your kids, ‘borrowing’ your plastic to give new meaning to the phrase ‘sexually acquired debt’. As Willie Sutton indicated, some financial criminals are not particularly interested in money.

This session at the ABA Financial Crime Forum 2008 looks at profiling financial criminals, in particular questions about demographics and motivation.

It argues that we face an inconvenient truth: an ‘identikit’ profile of financial crime is not achievable. Reliance on stereotypes is comforting (and drives much of the private security industry) but may blind us to current criminal activity and inhibit our prevention of future financial crime.

As the preceding paragraphs indicated, there is no single type of financial criminal. That is unsurprising, because there is no single type of financial crime. Contrary to what you might hear from pop psychologists on late-night television, it is not possible to produce a comprehensive identikit image of ‘The Financial Criminal’.

In particular it is not possible to produce an image that is of great assistance in forecasting and thereby preventing most financial crime. Profiling, like a lot of lending, sounds better than it turns out to be and we are wiser after the event. By that time it is often too late and the lawyers or publicists are wheeled in to clear away the mess.

Laundering’ background paper, which characterises financial crime as “a subset of financial abuse [referring] to any non-violent crime that generally results in a financial loss, including financial fraud. It also includes a range of illegal activities such as money laundering and tax evasion.” Appendices to the Parliament of Victoria Drugs & Crime Prevention Committee, *Inquiry Into Fraud and Electronic Commerce (Final Report)* (2004) offer a useful tabulation of Australian law’s categorization of financial crime committed by individuals.

⁷ Mark Oberhardt, ‘Managers milked Nestle of \$1.6m’, Brisbane *Courier Mail* 22 May 2007. “Two accounts managers were entrusted to guard against fraud at one of the world’s biggest companies but instead stole nearly \$1.6 million. Prosecutor Julie Alyward told the District Court in Brisbane today, Bryan Michael Canavan and Phillip Michael Gardiner held senior positions with Nestle Australia Ltd but during a 3 1/2 years period stole cash and property for no other motive than ‘greed’.”

⁸ Australian Taxation Office, ‘Taxation Commissioners Battle Against Tax Evasion’ (28 February 2008 Media Release), (2008) Canberra: Australian Taxation Office; Neil Chenoweth, *Packer’s Lunch: A Rollicking Tale of Swiss Bank Accounts and Money-Making Adventurers in the Roaring ’90s*, (2006) Sydney: Allen & Unwin; and Donato Masciandaro [ed], *Global Financial Crime: Terrorism, Money Laundering, and Off Shore Centres*, (2004) Aldershot: Ashgate.

⁹ For contrasting views of cybercrime, including alarmism regarding the Siberian mafiya, see Susan Brenner, ‘Organized Cybercrime? How Cyberspace May Affect the Structure of Criminal Relationships’, 4(1) *North Carolina Journal of Law & Technology* (2002), 1-50; Phil Williams [ed], *Russian Organized Crime: The New Threat?*, (1997) London: Frank Cass; Peter Grabosky, Russell Smith & George Demsey, *Electronic Theft: Unlawful Acquisition in Cyberspace*, (2001) Cambridge: Cambridge University Press; and Gary Gordon et al, *Identity Fraud Trends and Patterns: Building a Data-Based Foundation for Proactive Enforcement*, (2007) Utica: Utica College Center for Identity Management & Information Protection.

¹⁰ Christine Alder, ‘Challenges to Authenticity in the Aboriginal Art Market’, (Paper presented at the Art Crime: Protecting Art, Protecting Artists and Protecting Consumers Conference, Sydney, 2-3 December 1999), (1999) Canberra: Australian Institute of Criminology. For a recent incident see Kate Hagan, ‘And this is the Libertos, who thought they’d get away with it’, *The Age* (3 November 2007).

The following pages accordingly emphasise the process of building up a profile, rather than providing you with a template into which you can drop some data, add water, stir and avoid problems with credit card fraud, cheque forgery, offers to launder an African dictator's loot, recurrent fender-benders or the malfeasance of a boardroom sociopath.

Financial Crime?

What is financial crime? That is a substantive question because it affects how (or indeed whether) we map criminals and potential criminals.

One response has been that financial crime equals payment system fraud, typically involving a financial institution and an element of deception. It involves banks, insurers or funds managers because – as Sutton noted – that is where the money is. The headlines follow.¹¹

Most people would argue that financial crime is broader than offences against members of the Australian Bankers' Association or that require action under AML obligations.¹² Some have suggested that financial crime is roughly equivalent to those offences that centre on financial loss but do not involve violence (theft with a fountain pen rather than Guthrie's six-gun, tickling the till – or the corporate treasury – rather than using an axe to make cats-meat of your family, neighbours, colleagues or friends).¹³

That expansive characterisation of financial crime is more persuasive than reference to 'white collar crime', 'organisational crime'¹⁴ or 'entrepreneurial crime',¹⁵ given that people who wear white collars have been known to engage in acts of violence, that

¹¹ Recent coverage in Australia for example includes Les Kennedy, 'Trusted banker siphoned off \$1.4m, court told', *Sydney Morning Herald* 10 April 2008. St George Bank senior lending manager Veronica Yee Fong "siphoned off \$1.4 million to her personal accounts". Selma Milovanovic, 'Manager embezzled \$1.6m for pokies', *The Age* 19 February 2003. Ballarat bank manager Helen Louise Squire pleaded guilty in Ballarat Magistrates Court to embezzling \$1.6 million. She "allegedly stole \$613,000 of the \$1.6 million directly from the Bendigo Bank sub-branch she managed and gambled it at pokies venues in Ballarat."

¹² William Blair & Richard Brent [ed], *Banks and Financial Crime: The Law of Tainted Money*, (2008) Oxford: Oxford University Press; and Alan Tyree & Prudence Weaver, *Weerasooria's Banking Law*, 6 ed (2006) Chatswood: Butterworths.

¹³ See in particular David Johnson & Richard Leo, 'The Yale White-Collar Crime Project: A Review and Critique', in Michael Levi [ed], *Fraud: Organization, Motivation and Control* vol II, (1999) Aldershot: Ashgate, 63; Stuart Green, 'The Concept of White Collar Crime in Law and Legal Theory', 8(1) *Buffalo Criminal Law Review* (2004), 1-34; and Boronia Halstead, 'Entrepreneurial Crime: Impact, Detection and Regulation', 34 *Trends & issues in crime and criminal justice*, (1992) Canberra: Australian Institute of Criminology.

¹⁴ Kam Wong, 'From White-Collar Crime to Organizational Crime: An Intellectual History', 12 *Murdoch University Electronic Journal of Law* (2005); John Braithwaite, 'White Collar Crime', 11 *Annual Review of Sociology* (1985), 1-25.

¹⁵ Richard Quinney, 'The Study of White-collar Crime: Toward a reorientation in theory and practice', in Gilbert Geis [ed], *White-collar Crime*, rev. ed (1977) New York: Free Press, 283-296; and David Friedrichs, *Trusted Criminals: White Collar Crime in Contemporary Society*, (1996) New York: Wadsworth.

financial offences involve actors at all levels of society and that the 'criminal classes' are not restricted to people with blue collars or no collars.¹⁶

Others have differentiated between criminal and civil offences, a differentiation that is problematical because the state has always been invoked to deter some financial offences¹⁷ and is increasingly relying on criminal penalties (under for example taxation and trade practices legislation) to deal with financial criminals from the big end of town.¹⁸

Those differing perspectives are evident in the presentations at today's Forum and in the shape of the audience. We can get some sense of the nature of financial crime and potential responses by looking at the industry, government and academic literature.

Braithwaite's cogent 1993 'Crime and the Average American' in discussing key research suggested that financial crime encompassed offences such as embezzlement, tax fraud, securities fraud, bribery, insurance/bank fraud, postal/wire fraud and anticompetitive behaviour.¹⁹

Some have noted definitional uncertainties²⁰ or highlighted the ongoing relevance of traditional common law and statute law.²¹

¹⁶ Characterising financial crime as an activity of 'others' (most egregiously through conflating customers with the 'criminal class') is problematical if major financial loss – as distinct from the most incidents – is attributable to a colleague at the next desk, in the corporate call centre at Bangalore or on the 44th floor rather than a petty criminal in Struggletown. For a perspective on profiling as a comfort mechanism see Victor Bailey, 'The fabrication of deviance: "Dangerous classes" and "Criminal classes" in Victorian England', in John Rule [ed], *Protest and Survival: The Historical Experience (Essays for E P Thompson)*, (1993) London: Merlin, 221-256.

¹⁷ See for example Randall McGowen, 'Making the "bloody code"? Forgery legislation in eighteenth-century England', in Norma Landau [ed], *Law, Crime & English Society, 1660-1830*, (2002) Cambridge: Cambridge University Press, 117-138 and Phil Handler, 'Forgery and the end of the 'Bloody Code' in Early Nineteenth-Century England', 48(3) *The Historical Journal* (2005), 683-702. Note however Marion Hetherington, 'Responsibility for payment of forged cheques: lessons from NAB v Hokit', 7(4) *Journal of Banking & Finance Law & Practice* (1996), 313-314.

¹⁸ Grant Fleming, David Merrett & Simon Ville, *The Big End of Town: Big Business and Corporate Leadership in Twentieth-Century Australia*, (2004) Cambridge: Cambridge University Press; Trevor Sykes, *The Bold Riders: Behind Australia's Corporate Collapses*, (1994) North Sydney: Allen & Unwin 1994; Boris Schedvin & Reginald Appleyard [ed], *Australian Financiers*, (1988) South Melbourne: Macmillan; and George Gilligan, 'Financial Crime in Australia', 27(1) *Journal of the Institute of Economic Affairs* (2007), 10-13.

¹⁹ John Braithwaite, 'Crime and the Average American', 27(1) *Law & Society Review* (1993), 215-230. See also David Weisburd, Elin Waring & Ellen Chayet, *White-Collar Crime and Criminal Careers*, (2001) Cambridge: Cambridge University Press; and John Braithwaite, 'Poverty, Power, White-Collar Crime and the Paradoxes of Criminological Theory', 24 *Australian and New Zealand Journal of Criminology* (1991), 40-50. We might infer that financial crime in all its glorious diversity is – along with domestic violence – the crime of the average Australian.

²⁰ David Friedrichs, 'White-Collar Crime and the Definitional Quagmire: A Provisional Solution', 3(2) *Journal of Human Justice* (1992), 5-21; Gilbert Geis [ed], *White-Collar Criminal: The Offender in Business and the Professions*, (2006) New Brunswick: Transaction; and Gary Gordon, 'The Impact of Technology-Based Crime on Definitions of White Collar/Economic Crime: Breaking Out of the White Collar Crime Paradigm', in James Helmkamp [ed], *Proceeding of the Academic Workshop: Can and Should There Be a Universal Definition of White Collar Crime?* (1996) Morgantown: National White Collar Crime Center.

Others have drawn attention to the persistence of 'low tech' mechanisms, including 'improvement' of art works²² or large-scale forgery of stock and insurance certificates,²³ and offences regarding tangible or intangible assets rather than cash.

In the age of the iPod we tend to assume that financial crime involves digital networks, a notion undermined by people who simply print their own money or forge documents.²⁴ The US federal Office of Justice Programs has recently emphasised "telemarketing and investment fraud" and online "identity theft", the latter being a focus of a moral panic in some of the advanced economies, replete with headlines about "the crime of the millennium" and lurid accounts of cyber-criminals in Vladivostok or Mumbai effortlessly outwitting authorities and hapless online consumers.²⁵

Australian financial institutions have on occasion construed financial crime as illegality by their staff (traditional defalcation by managers and counter staff) or as facilitation of offences by their customers (including laundering of money from illegal gambling and drug trafficking).

Governments have warned about entitlement fraud supposedly so pervasive that a national identity card (with enhanced data mining activity) is required.²⁶ The seriousness of welfare fraud has arguably been overstated, particularly in relation to the initial and ongoing costs of the proposed remedy, but we apparently should not let uncomfortable facts or questions about the criminal classes get in the way of bureaucratic empire building and the imperatives of IT vendors or ministerial media advisers.²⁷

²¹ Peter Millett, *On Villainy, Money Loops and Identity Theft*, (2008) St Lucia: University of Queensland Press; and Alex Steel, *General Fraud Offences in Australia*, *UNSW Faculty of Law Research Series 55* (2007), (2007) Sydney: University of New South Wales.

²² For offences regarding manuscripts and wills see Robert Harris, *Selling Hitler*, (1987) London: Faber; James Phelan & Lewis Chester, *The Money: The Battle for Howard Hughes's Billions*, (1997) New York: Random House; Stephen Fay, Lewis Chester & Magnus Linklater, *Hoax: The Inside Story of the Howard Hughes-Clifford Irving Affair*, (1972) London: Andre Deutsch; Clifford Irving, *What Really Happened: The Untold Story of the Hughes Affair*, (1972) New York: Grove Press; and Simon Worrall, *The Poet and the Murderer: A True Story of Literary Crime and the Art of Forgery*, (2003) London: 4th Estate.

²³ Employees of US derivatives group Equity Funding dealt with pesky auditors by manufacturing fake insurance policies and other documentation - all carefully filled out by different people and using different pens, a process described in Ronald Soble & Robert Dallos, *The Impossible Dream: The Equity Funding Story, the Fraud of the Century*, (1975) New York: Putnam.

²⁴ Stephen Jory, *Loadsamoney: The True Story Of The World's Largest Ever Counterfeiting Ring*, (2005) London: Trafalgar Square.

²⁵ Erich Goode & Nachman Ben-Yehuda, 'Moral Panics: Culture, Politics, and Social Construction', *20 Annual Review of Sociology* (1994), 149-171; and Sheldon Ungar, 'Moral panic versus the risk society: the implications of the changing sites of social anxiety', *52(2) British Journal of Sociology* (2001), 271-291.

²⁶ Graham Greenleaf, 'Australia's proposed ID Card: Still Quacking Like A Duck', *UNSW Law Research Series 1* (2007); Margaret Jackson & Julian Ligertwood, 'Identity Management: Is an Identity Card the Solution for Australia?', *24(4) Prometheus* (2006), 379-387; and Peter Graham, *Bureaucratic Politics and Technology: Computers & the Australia Card*, (1990) Nathan: Centre for Australian Public Sector Management, Griffith University.

²⁷ Greg Marston & Tamara Walsh, 'A Case of Misrepresentation: Social Security Fraud and the Criminal Justice System in Australia', *17(1) Griffith Law Review* (2008), 285-300; and Russell Smith,

Was Willie Sutton right about the money? Justice Paul Finn commented that

law, including commercial law, does not track systematically even at a distance the imperatives of morality, conventional and otherwise. Moral values (and contentious ones at that) can and do manifestly inform the law. They are not its master. Illustrative of this is the very obvious truism that legal censure does not as of course parallel moral censure.²⁸

That is evident in recurrent debate about the activities of entrepreneurs and investment advisers whose impropriety arguably imposes greater financial injury on individuals, society and financial institutions than people who burn the family car or takeaway shop for the insurance payout or who devise five personas to collect five Centrelink payments.

Paul Barry thus commented that

For twenty years Alan Bond plundered his public companies. He paid himself huge fees that he was not entitled to, he took huge private profits of public deals with other people's money and he sold things into the public company at inflated prices and he borrowed money that he was never going to pay back and never did pay back. At the end of it he left a black hole of around \$5,000 million, \$5 billion Australian dollars which was losses borne by shareholders, creditors, bankers and the rest. He then managed to hang on to a private fortune of something like \$100 million. Some of that legally because of the way in which the laws operate and the trust laws operate and some of it clearly illegally in the sense that it was concealed offshore.²⁹

Participants at the Forum might well think that it is time we “stopped picking on” poor Mr Bond (a man who has miraculously recovered from his medical problems and in a recent Rich List from the cheerleaders at *BRW* was estimated to be worth some \$260 million).

In thinking about how we characterise and respond to financial criminals it is worth bearing in mind the *Sydney Morning Herald's* 2000 comment that

A couple of days before [Bond] was released after less than four years' jail for a fraud involving \$1.2 billion, a Northern Territory man was sentenced to one year's jail for stealing \$23 worth of cordial and biscuits. Had the same formula been applied to Bond, he would have been in jail for 50 million years³⁰

‘Electronic Medicare Fraud: Current & Future Risks’, (1999) Canberra: Australian Institute of Criminology.

²⁸ Paul Finn, ‘Commerce, the Common Law and Morality’, 17 *Melbourne University Law Review* (1989), 87.

²⁹ Paul Barry, ‘Address to Edmund Rice Business Ethics Initiative Forum’ (27 March 2001), at <http://www.erc.org.au/busethics/articles/1036114079.html>.

³⁰ Jamie Wurrarama, from a remote Indigenous community, had missed the Christmas spirit by stealing the goods on Christmas Day, subsequently explaining that he was hungry.

and the observation that

Just one fraud committed by businessman Alan Bond was worth the same amount as every single household burglary committed in Australia over 18 months.³¹

For some critics the activity of Bond,³² Skase,³³ Skilling³⁴ and Adler³⁵ (and peers such as Kreuger,³⁶ Humbert,³⁷ Wright,³⁸ Balfour,³⁹ Maxwell,⁴⁰ Cornfeld,⁴¹ Savundra,⁴² Friedrich⁴³ and Minkow⁴⁴) is financial crime *par excellence*.

There is less agreement about the 'rogue trader' phenomenon,⁴⁵ unsurprising when the villains are perceived to be large banks and insurance firms (even less lovable than corporate law firms).⁴⁶

³¹ Catherine Job, 'Crime Stoppers' (*Lateline*, 23 March 1999), (1999) Sydney: Australian Broadcasting Corporation.

³² Paul Barry, *Going For Broke: How Bond Got Away With It*, (2000) Sydney: Bantam.

³³ Catherine Hoyte, *An Australian Mirage*, (2003) Griffith University PhD dissertation.

³⁴ Sherron Watkins & Mimi Swartz, *Power Failure: The Inside Story of the Collapse of Enron*, (2003) New York: Doubleday.

³⁵ Paul Barry, *Rich Kids*, (2002) Sydney: Bantam; David Avison & David Wilson, 'IT Failure and the Collapse of One.Tel', in Roland Traummuller [ed], *Information Systems: The e-Business Challenge*, (2002) London: Kluwer; and *Report of the Royal Commission into HIH Insurance*, (2003), at <http://www.hihroyalcom.gov.au/finalreport/index.htm>.

³⁶ Robert Shaplen, *Kreuger, Genius and Swindler*, (1960) New York: Knopf; and Dale Flesher & Tonya Flesher, 'Ivar Kreuger's Contribution to U.S. Financial Reporting', 61(3) *The Accounting Review* (1986), 421-434.

³⁷ Hilary Spurling, *La Grande Therese: The Greatest Scandal of the Century*, (2000) London: HarperCollins. Therese Humbert's fin de siecle scam dwarfed that of Charles Ponzi in the 1920s, for which see Mitchell Zuckoff, *Ponzi's Scheme: The True Story of a Financial Legend*, (2005) New York: Random House. There is little to stop a fund manager gulling 'savvy' investors with a similar scheme.

³⁸ Owen Covick & Beverley Vickers, 'The Trials of Whitaker Wright' (History of Economic Thought Society of Australia, 16th Conference, Melbourne, 15-18 July 2003), (2003).

³⁹ David McKie, *Jabez: The Rise & Fall of a Victorian Rogue*, (2004) New York: Atlantic; and George Robb, *White Collar Crime in Modern England: Financial Fraud and Business Morality 1845-1929*, (1992) Cambridge: Cambridge University Press.

⁴⁰ Department of Trade & Industry, *Mirror Group Newspapers PLC*, (1995) at <http://web.archive.org/web/20060222071644/http://www.dti.gov.uk/cld/mirrorgroup/>; and Tom Bower, *Maxwell: The Final Verdict*, (1996) London: HarperCollins.

⁴¹ Charles Raw, Bruce Page & Godfrey Hodgson, *Do You Sincerely Want to Be Rich?: The Full Story of Bernard Cornfeld and IOS*, (1971) London: Andre Deutsch.

⁴² Jon Connell & Douglas Sutherland, *Fraud: The Amazing Career of Dr. Savundra*, (1979) New York: Stein & Day. For a large-scale insurance fraud closer to home see Monica Keneley, 'The Curious Case of the Occidental and Regal: The Evolution of Solvency and Disclosure Standards in the Australian Life Insurance Industry', 13(3) *Accounting History* (2008), 313-332.

⁴³ Martin Thomas, *The Fraud*, (1991) Richmond: Pagemasters. Friedrich conned upwards of \$200 million from Australian banks as head of the National Safety Council.

⁴⁴ Daniel Akst, *Wonder Boy: Barry Minkow (The Kid Who Swindled Wall Street)*, (1990) New York: Scribner; and Joe Domanick, *Faking it in America: Barry Minkow and the Great ZZZZ Best Scam*, (1989) New York: Contemporary Books.

⁴⁵ Among self-justificatory memoirs see Nick Leeson, *Rogue Trader*, (1996) London: Little, Brown (goodbye Barings); and Joseph Jett, *Broken Bonds: My Immoderate Life of Love, Passion, War on Affirmative Action and Jack Welch's GE*, (2004) New York: Cambridge Matrix (goodbye Kidder Peabody). See also Jerry Markham, 'Guarding the Kraal – On the Trail of the Rogue Trader', 21

Profiling and Prophecy

What is criminal profiling?

In essence it is identification of actual or potential offenders on the basis of behavioural or other attributes, such as age, education, income, gender and prior convictions.⁴⁷

It may be forensic: retrospectively identifying an offender after a crime has taken place (the stuff of countless whodunits and Hollywood movies). It may instead be predictive, attempting to identify and thereby inhibit potential criminals.

It has become popular because it is founded on 'common sense' assumptions in popular culture (the same sort of assumptions that divert police resources to address the threat that you will be murdered/molested by a stranger rather than by your nearest and dearest)⁴⁸ and because it embodies our faith in science (the supposed 'CSI Effect' fostered by the mass media)⁴⁹ or pseudo-science,⁵⁰ statistics⁵¹ or technology such as the polygraph.⁵²

Journal of Corporate Law (1995), 131-149; and Kimberly Krawiec, 'Accounting for Greed: Unraveling The Rogue Trader Mystery', 79(2) *Oregon Law Review* (2000), 301-330.

⁴⁶ Michael Levi, 'The Media Construction of Financial White-Collar Crimes', 46 *British Journal of Criminology* (2006), 1037-1057; and Anne Lampe, 'Media Coverage of Complex Commercial Fraud', in Peter Grabosky [ed], *Complex commercial fraud: proceedings of a conference held 20-23 August 1991 (AIC Conference Proceedings no. 10)*, (1991) Canberra: Australian Institute of Criminology.

⁴⁷ Richard Kocsis & George Palermo, *Criminal Profiling: Principles & Practice*, (2006) Totowa: Humana Press; Brent Turvey, *Criminal Profiling: An Introduction to Behavioral Evidence Analysis*, (2008) New York: Academic Press; and Curt Bartol & Anne Bartol, *Introduction to Forensic Psychology*, (2008) London: SAGE.

⁴⁸ Barry Glassner, *The Culture Of Fear: Why Americans Are Afraid Of The Wrong Thing*, (2000) New York: Perseus; Jock Collins, 'Ethnic Minorities and Crime in Australia: Moral Panic or Meaningful Policy Responses' (Address to an Office of Multicultural Interests seminar, 8 November 2005, Perth), (2005); Hugh & Lyndy Potter, 'The Internet, cyberporn, and sexual exploitation of children: Media moral panics and urban myths for middle-class parents?', 5(3) *Sexuality & Culture: An Interdisciplinary Quarterly* (2001), 31-48.

⁴⁹ Tom Tyler, 'Viewing CSI and the Threshold of Guilt: Managing Truth and Justice in Reality and Fiction', 115 *Yale Law Journal* (2006), 1050-1085; Richard Kocsis & Andrew Hayes, 'Believing Is Seeing? Investigating The Perceived Accuracy Of Criminal Psychological Profiles', 48(2) *International Journal Of Offender Therapy & Comparative Criminology* (2004), 149-160; and David Faigman, *Legal Alchemy: The Use and Misuse of Science in the Law*, (1999) New York: Freeman. See however Donald Shelton, 'The 'CSI Effect': Does it Really Exist?', 259 *National Institute of Justice Journal* (2008), 1-8.

⁵⁰ See for example Barry & Dale Beyerstein [ed], *The Write Stuff: Evaluations of Graphology - The Study of Handwriting Analysis*, (1992) Amherst: Prometheus; Roxanne Panchasi, 'Graphology and the Science of Individual Identity in Modern France', 4(1) *Configurations* (1996), 1-32; and Russell Driver, Ronald Buckley & Dwight Frink, 'Should We Write Off Graphology?', 4(2) *International Journal Of Selection And Assessment* (1996), 78-86; Richard Klimoski & Anat Rafaeli, 'Inferring personal qualities through handwriting analysis', 56(3) *Journal of Occupational Psychology* (1983), 191-202; and Julie Spohn, 'The Legal Implications of Graphology', 75(3) *Washington University Law Quarterly* (1997), 1307-1334.

⁵¹ Stephen Ziliak & Deirdre McCloskey, *The Cult of Statistical Significance: How the Standard Error Costs Us Jobs, Justice, and Lives*, (2007) Ann Arbor: University of Michigan Press; and Jock Young, 'Mayhem and Measurement in Late Modernity', in Kauko Aromaa & Sami Nevala [ed], *Crime and Crime Control in an Integrating Europe: Plenary presentations held at the Third Annual Conference of*

A key premise of this session is that predictive profiling of financial criminals has not advanced much beyond crude recruitment-level vetting⁵³ and inferences from an individual's sweaty palms, nervous demeanour⁵⁴ or knowledge of claim procedures,⁵⁵ has been largely ineffective and will remain so in future. We are simply not very good at prognostics when dealing with people who do not have a criminal record.

That is because financial crime, in all its heterogeneity, is the crime of the average Australian, people "just like us" who don't have the tell-tale stigma of the Beagle Boys' five-o'clock shadow and bag marked 'swag', a tattooed 'F' for 'fraud' on their forehead⁵⁶ or the smell of despair.⁵⁷

It is also because there are uncertainties about who is committing financial crimes (in particular who is *not* being caught or simply not being prosecuted) and why they are committing those crimes.

The *process* of building a profile is of value because it encourages thought about risk and opportunity rather through provision of a template against which you can reliably match suspects.⁵⁸ The second half of this session instead indicates that a hard-headed look at demographics and motivations is disillusioning for anyone who believes that we can usefully filter all financial criminals through a simple set of sieves or that we can rely on a monocausal explanation of what makes those people tick.

the European Society of Criminology, Helsinki 2003, (2004) Helsinki: Criminal Justice Press, 18-31. Young famously criticised 'voodoo criminology and the numbers game', in which data collection is an end in itself.

⁵² Ken Alder, 'A Social History of Untruth: Lie Detection and Trust in Twentieth-Century America', 80 *Representations* (2002), 1-33; and David Lykken, *A Tremor in the Blood: Uses and Abuses of the Lie Detector*, (1981) New York: McGraw-Hill.

⁵³ Robert Tett, Douglas Jackson & Mitchell Rothstein, 'Personality Measures as Predictors of Job Performance: A Meta-Analytic Review', 44(4) *Personnel Psychology* (1991), 703-741; and Liz Walley & Mike Smith, *Deception in Selection*, (1998) New York: Wiley. The 2006 *Report on Gambling Motivated Fraud in Australia 1998-2007* from forensic accountants Warfield & Associates notes that "Pre-employment screening would have failed to identify problems with the overwhelming majority of perpetrators as they had no history of dishonesty prior to committing the frauds". <http://www.warfield.com.au/WarfieldGamblingFraud.pdf>

⁵⁴ "a claimant who adopts an inappropriately nervous or aggressive manner in talking to a claims handler may indicate a potential fraudster." Nicola Morley, Linden Ball & Thomas Ormerod, 'How the detection of insurance fraud succeeds and fails', 12 *Psychology, Crime & Law* (2006), 163-180.

⁵⁵ "The insured is very knowledgeable about insurance terms and claims procedures." Dexter Morse & Lynne Skajaa, *Tackling Insurance Fraud: Law and Practice*, (2007) London: Informa Professional.

⁵⁶ Jane Caplan [ed], *Written on the Body: The Tattoo in European and American History*, (2000) Princeton: Princeton University Press.

⁵⁷ One of the cuter psychological studies suggests that washing with soap and water (aka in research jargon as "cleanliness manipulation") makes people view unethical activities as more acceptable and reasonable than they would if they had not washed themselves. See Simone Schnall, Jennifer Benton & Sophie Harvey, 'With A Clean Conscience: Cleanliness Reduces the Severity of Moral Judgments', 19(12) *Psychological Science* (2008), 1219-1222.

⁵⁸ Paul Slovic, 'Perception of risk', 236 *Science* (1987), 280-285.

Experience suggests instead that major organisations, although susceptible to significant reputational and monetary loss, have often failed to use the filters at their disposal.⁵⁹

Sometimes we disregard the prophecies because they come from a subordinate. We disregard because we don't know to separate signal from noise – sometimes you can have too much data – or because the eye of newt and toe of lizard looks like a zoology exam, not a tool for financial crime forensics. We disregard because the data does not match our preconceptions, for example the potential criminal has charm galore (like many sociopaths),⁶⁰ went to the right school, wears a good suit,⁶¹ has an 'honest face',⁶² a Harley but no tattoos,⁶³ doesn't blink when telling lies,⁶⁴ has an appetite for risk⁶⁵ and brandished what appeared to be a great CV or an outstanding history as an investment adviser.

In practice we also often reward people for exhibiting the 'warning signs', such as aggression, greed and impatience with paperwork – the same signs that often denote a good dealmaker or executive.⁶⁶ Risk management involves thinking about those signs in a context of motivation and opportunity rather than concentrating on isolated personality traits such as decisiveness or diligence.

⁵⁹ For egregious vetting failures see notes 132-134 below. We might wonder about the circumstances that allowed "high rolling gambler" Andrew Stathis – on bail after alleged \$60 million drug trafficking deals – to buy and then loot the Bishopsgate Insurance Co, described in Peter Grabosky, 'The Collapse of Bishopsgate Insurance', in Peter Grabosky & Adam Sutton [eds], *Stains on a White Collar*, (1989) Annandale: The Federation Press, 31-42. Will the collapse of the Subprime Bubble reveal similar lapses?

⁶⁰ Paul Babiak & Robert Hare, *Snakes in Suits: When Psychopaths go to Work*, (2006) New York: HarperCollins; Arthur Leff, *Swindling and Selling: The Spanish Prisoner & Other Bargains*, (1976) New York: Free Press; David Maurer, *The Big Con*, (1999) New York: Anchor; and accounts in Boris Schedvin & Reginald Appleyard [ed], *Australian Financiers*, (1988) South Melbourne: Macmillan.

⁶¹ Silk ties and Zegna suits are not a clear signifier of character, with offenders traditionally exploiting the assumptions underlying sumptuary legislation (eg if suspension of disbelief requires a furry hat or a uniform then buy, beg or steal that signifier), discussed in Valentin Groebner, *Who Are You? Identification, Deception and Surveillance in Early Modern Europe*, (2007) New York: Zone and Alan Hunt, *Governance of the consuming passions: a history of sumptuary law* (1996) New York: St Martins. Upmarket retailers are happy to sell suits to conmen and to saints.

⁶² Leslie Zebrowitz, Carrie Andreoletti, Mary Collins, So Lee & Jeremy Young, 'Bright, bad, babyfaced boys: Appearance stereotypes do not always yield self-fulfilling prophecy effects', 75(5) *Journal of Personality and Social Psychology* (1998), 1300-1320; and Susan Wiley, 'Deception and Detection in Psychiatric Diagnosis', 21(4) *Psychiatric Clinics of North America* (2005), 869-893.

⁶³ Alicia Rozycki, *Prison Tattoos as a Reflection of the Criminal Lifestyle and Predictor of Recidivism*, (2007) Texas Tech PhD dissertation.

⁶⁴ Paul Sackett & Michael Harris, 'Honesty testing for personnel selection: A review and critique', 37 *Personnel Psychology* (1984), 221-245; John Rust & Susan Golombok, *Modern Psychometrics: The Science of Psychological Assessment*, (1999) London: Routledge; and Glenn Walters, 'The Psychological Inventory of Criminal Thinking Styles', 22(3) *Criminal Justice and Behavior* (1995), 307-325.

⁶⁵ Michael Gilding, 'Superwealth in Australia: Entrepreneurs, Accumulation and the Capitalist Class', 35(2) *Journal of Sociology* (1999), 169-182 and 'Entrepreneurs, elites and the ruling class: the changing structure of power and wealth in Australian society', 39(1) *Australian Journal of Political Science* (2004), 127-143.

⁶⁶ Rakesh Khurana, *Searching for a Corporate Savior: The Irrational Quest for Charismatic CEOs*, (2002) Princeton: Princeton University Press.

Can we develop a productive taxonomy of financial crime demographics or motivations? Taxonomies are useful for conceptualisation, reporting and even fact-based action.⁶⁷ It is unsurprising that they have been used for everything from basic differentiations between white collar and violent crime, civil versus criminal offences, through to consumers of ice cream, people with different blood groups⁶⁸ or readers of Harry Potter.⁶⁹ As the latter indicates, they are constructs that should be used with caution

That has led to the observations – common in financial risk management and criminological literature – that

- a) financial crimes are often easier to detect in retrospect than to forecast
- b) financial crimes involve an interaction of opportunity, rationalisation and incentive (positive or negative)
- c) there is no 'ideal' or typical financial criminal, ie one whose appearance or activity provides a useful template for sorting sheep from wolves.⁷⁰

Financial crime demographics

That last assertion is based on facts rather than folk wisdom. It is therefore disturbing to people looking for a quick filter that will allow you to keep financial criminals out of your organization – or off your client database – and allow you to identify criminals who have somehow sneaked past the filter. We want criminals to look like 'them', not like 'us'. If only life was that simple!

Criminologist Edwin Sutherland supposedly developed the notion of white collar crime

to drive a spike into theories that imputed poverty, defective personality or inability to delay gratification as causes of crime”.

Those theories had provided a warm security blanket for criminologists and public policymakers because they implied that we could deal with crime by eliminating

⁶⁷ Geoffrey Bowker & Susan Star, *Sorting Things Out: Classification and its Consequences*, (1999) Cambridge: The MIT Press; and Marshall Clinard & Richard Quinney, *Criminal Behavior Systems: A Typology*, (1967) New York: Holt Rinehart Winston.

⁶⁸ Exponents of 'blood type psychology', a pseudo-science now embedded in Japanese popular culture and corporate recruitment, claim that bluecollar criminals are predominantly of the O blood group whereas whitecollar crime involves people with A group blood.

⁶⁹ Ulster University professor Stephen Brown, in a display of academic zeitgeist-sniffing, recently claimed that Potter readers can be sorted into four distinct categories. 'Hufflepuffs' read slowly but re-read the books. 'Gryffindor' readers inhale the latest Potter in one sitting but quickly move on. 'Ravenclaws' read for light entertainment; 'Slytherin' readers simply are not committed to the Potter cult. They prefer the films but pretend to have read the books when it suits them, just like many students of the criminological literature.

⁷⁰ From the land of profiling comes the comment that “There is no stereotype or profile of people who perpetrate insurance fraud. The perpetrator could be a neighbor, a co-worker, an entrepreneur or a certified/licensed individual or institution. People involved in insurance fraud can be recruited by ringleaders to participate in large-scale fraud rings or they can be opportunists who try to bluff their way around the system”. Advisory Task Force on Insurance Fraud, *Reducing Insurance Fraud in California*, (2008) Sacramento: California Department of Insurance. See however Richard Derrig & Valerie Zicko, 'Prosecuting Insurance Fraud -A Case Study of the Massachusetts Experience in the 1990s', 5(7) *Risk Management and Insurance Review* (2002), 77-104.

poverty through social welfare or economic growth, by education, by confinement of the insane and by 'social prophylaxis' such as sterilisation of those who carried the 'genes' for delinquency, 'theft', 'moral idiocy' or failure to act like proper Bostonians.⁷¹

It is clear from Australian and overseas statistics, from law reports and from a plethora of anecdotal accounts in the mass media that financial crime is not restricted to –

- the 'binary proletariat' (the people behind the cash register or front counter) or to the poor
- large private sector enterprises and government agencies⁷²
- a particular gender,⁷³ ethnic group, sexual affinity or religious faith
- people without a tertiary education or with a particular type of education
- those without a positive image in the local community⁷⁴
- people with a gambling or substance abuse problem, people from a broken home or undergoing a relationship meltdown
- those who are ugly or those who are conventionally beautiful⁷⁵
- those with children or other dependents versus those who are feckless or fancy-free.

It has been claimed that people with specific attributes are more likely to engage in financial crime (or specific types of financial crime), for example that women are more likely to engage in petty 'front office' embezzlement⁷⁶ or that members of particular groups are more likely to encounter 'temptations' but lack internalised ethical/religious constraints against misbehaviour.

Strip away cultural biases and the subjectivity of those claims becomes apparent. Women, for example, appear to be underrepresented among large-scale corporate crime because they are underrepresented in the board room and the executive suite

⁷¹ See for example Richard Wetzell, *Inventing the Criminal: A History of German Criminology, 1880-1945*, (2000) Chapel Hill: University of North Carolina Press; Mark Largent, *The History of Coerced Sterilization in the United States*, (2007) New Brunswick: Rutgers University Press; and Stephen Garton, 'Sound Minds and Healthy Bodies: Reconsidering Eugenics in Australia 1914-1940', 26 *Australian Historical Studies* (1994), 163-181.

⁷² Adam Sutton & Ronald Wild, 'Small Business: White-collar Villains or Victims', 13(3) *International Journal of the Sociology of Law* (1985), 247-259.

⁷³ Janice Goldstraw, Russell Smith & Yuka Sakurai, 'Gender and Serious Fraud in Australia and New Zealand', 292 *Trends and Issues in Crime and Criminal Justice*, (2005), Canberra: Australian Institute of Criminology. A 2006 BDO Kendall study in New Zealand and Australia, covering over 500 charitable organisations, reported that more women than men defraud their nonprofit employers (with average loss of NZ\$50,000 relative to NZ\$300,000 from a commercial enterprise). Employment in the nonprofit sector is of course heavily weighted towards women.

⁷⁴ *R v Reginald John Rich & Craig Weston Hynes* (1997) 68 SASR 390 [1997] SASC 6639; [1997] SASC 6153 (29 May 1997)

⁷⁵ Justin Carré & Cheryl McCormick, 'In your face: facial metrics predict aggressive behaviour in the laboratory and in varsity and professional hockey players', 275(1651) *Proceedings of the Royal Society* (2008), 2651-2656 for example argues that that aggressiveness is predictable from the ratio between the width of a person's face and its height.

⁷⁶ Kathleen Daly, 'Gender and Varieties of White-Collar Crime', 27 *Criminology* (1989) 769-794; Ruth Zaplin, *Female Offenders: Critical Perspectives and Effective Interventions*. (2007) Boston: Jones & Bartlett; and Dorothy Zeitz, *Women Who Embezzle or Defraud: A Study of Convicted Felons*, (1981) New York: Praeger.

rather than because they possess a special gene for financial probity.⁷⁷ Bigotry about particular ethnic groups having a “higher risk factor” through a “cultural predisposition” to gambling or conspicuous consumption – or the wrong blood type – is not borne out by the statistics.

And of course, even if the prejudice *du jour* could be justified it does not provide a foolproof tool for predicting financial crime. Excluding people from recruitment/promotion opportunities because they are ‘legally blonde’, are gay, have a cousin in Lakemba⁷⁸ or have a ‘snub nose’ is an invitation for an expensive date with a discrimination law specialist.⁷⁹

Systematic surveillance of people who have survived the vetting process – nothing like hair dye to deal with the war against blondes – is beyond the capabilities of most organizations, poses challenges for evolving privacy regimes and is inconsistent with rhetoric regarding “our people are our greatest resource”. Many of your colleagues – and more of your superiors – drink, gamble, disregard marriage vows, break the law (eg drive too fast), live beyond their means or practice the casuistry taught by the very best law schools and MBA factories. Not all of them are or will become financial criminals.

How do we know?

Why do people engage in financial crime?

We no longer believe that financial criminals are possessed by the devil or that mummy spanked them too much – or too little or with the wrong type of hairbrush – at a critical stage. Beyond that there is not much consensus.

One reason for that uncertainty is usually overlooked.

Much of what we know about motivation comes from the criminals themselves. Bad news! Criminals lie, during and after the offence. Criminals boast.⁸⁰ Criminals find excuses. So do their lawyers.⁸¹

⁷⁷ Alison Tupman, 'Looking for 'Ms Big', 2(3) *Journal of Financial Crime* (1994), 179-186; George Robb, 'Women and White-Collar Crime Debates on Gender, Fraud and the Corporate Economy in England and America, 1850-1930', 46(6) *The British Journal of Criminology* (2006), 1058-1072.

⁷⁸ Robin Engel, Jennifer Calnon & Thomas Bernard, 'Theory And Racial Profiling: Shortcomings And Future Directions In Research', 19(2) *Justice Quarterly* (2002), 249-274.

⁷⁹ Chris Ronalds, *Discrimination Law*, (2004) Leichhardt: The Federation Press; Andrew Stewart, *Stewart's Guide To Employment Law*, (2008) Leichhardt, The Federation Press; and Bruce Arnold & Bill Orr, 'It's In The Stars: Pseudo-Science, Recruitment and Discrimination Law' [forthcoming].

⁸⁰ As noted below, critics have sporadically questioned the accuracy of statements in ‘exposes’ and memoirs by particular financial criminals such as Icilio Joni, Joseph Weil and Tom Keating and by figures such as Australia’s ‘Chopper Read’. Christopher Wright, in *Art of the Forger*, (1985) New York: Dodd Mead, for example dismisses several claims by UK forger Eric Hebborn as sheer fantasy. Criminals have an incentive to inflate their accomplishments – thereby increasing the likelihood of a best-seller and cocking a snook at society – if they can do so with impunity. That inflation is abetted by their publishers, ghostwriters and reviewers. Conviction does not necessarily ‘flick the switch to honesty’, and why should it? As a culture we often appear keen to be deceived twice: first through the actual financial crime and then in print or on screen. That is inconvenient if we are relying on tales from the criminals for insights about what makes them tick, reflected in debate about the efficacy of literary Proceeds of Crime legislation.

That is a big problem if you are hoping for an identikit that forecasts *future crime*, rather than neatly packages what has already taken place, or merely who has been prosecuted (given indications that much financial crime in the private sector is unreported to prevent individual embarrassment or preserve corporate reputations).

What we *can* say is that motivation is diverse, just like the crimes.

The bibliography and noters for this presentation highlight a range of memoirs and biographies of financial criminals, from frenetic scammers such as Abagnale and Demara through to forgers such as Irving or Hebborn and ‘skunks in suits’ such as Kreuger and Bond.

Making sense of motivations

What makes a financial criminal?

People have been asking that question for as long as there has been financial crime and long before there were financial institutions.⁸² The answers have changed but from the perspective of the ABA probably have not got much more useful.

Some theorists have literally looked to the ‘inner man’ for answers to the question, assuming that criminality is innate and that what’s ‘bred in the bone’ will appear whenever there is an opportunity (or whenever you gain the right guidance).

Mediaeval physicians had fun opening up people’s heads or chests in search of dishonesty, which some thought was shaped like a nut. They did not find what they were looking for, but no matter – once the doctors of the soul were finished the criminals were no longer around to complain.

Physiognomists profitably peddled guidebooks and courses guaranteed to help you identify a bad credit risk or a larcenous clerk. Italian criminologist Lombroso thought that financial criminals could be detected by looking at the shape of their skull: if you had the right sort of callipers and the right sort of training you would be able to fire a

⁸¹ Explanations of motivation in pleadings are thus biased towards what offenders and advocates consider will be persuasive: I did it out of need rather than from greed, I did it because the alcohol (or cocaine or computer) made me rather than because I misjudged whether I would get caught. For three perspectives see Stanton Wheeler, ‘The problem of white-collar crime motivation’, in Kip Shlegel & David Weisburd [ed], *White-Collar Crime Reconsidered*, (1992), Boston: Northeastern University Press, 108-123; Geraldine Mackenzie, *How Judges Sentence*, (2005) Leichhardt: The Federation Press; and Murray Gleeson, ‘Individualised Justice: The Holy Grail’, 69 *Australian Law Journal* (1995), 421-432.

⁸² See for example Judith Rowbotham & Kim Stevenson, *Behaving Badly: Social Panic and Moral Outrage – Victorian and Modern Parallels*, (2003) Aldershot: Ashgate; and James Cook, *The Arts of Deception: Playing with Fraud in the Age of Barnum*, (2001) Cambridge: Harvard University Press.

bad teller before he got round to tickling the till.⁸³ The Nazis and white-shoe merchant banks relied on the ‘science’ of nose and earlobe shape.⁸⁴

Others more plausibly relied on reputation, assuming that past action is a reliable indicator of future behaviour and that reports by colleagues and neighbours about sobriety, continence, domestic violence, personal hygiene and spending patterns truly reveal the past and future ‘inner man’.⁸⁵ We no longer live in a village society, where the neighbouring biddy⁸⁶ (or the Nazi party *blockleiter*)⁸⁷ knew exactly what was happening behind every lace curtain. Fear of litigation is reducing the reliability of written references as indicators of character, although people continue to rely on such documents (which may or may not have been sighted by the ostensible referee). Reputation is not what it used to be.

Enthusiasts are currently peddling tools such as psychometrics⁸⁸ and technologies such as magnetic resonance imaging (in the pious belief that the cerebral activity of

⁸³ For non-specialists there is a useful introduction to criminological fad, theory and fantasy in Peter Becker & Richard Wetzell [ed], *Criminals and Their Scientists*, (2006) Cambridge: Cambridge University Press; Nicole Rafter, *The Criminal Brain: Understanding Biological Theories of Crime*, (2008) New York: New York University Press; Richard Wetzell (2000) op cit; and John Pratt, *Governing the Dangerous: Dangerousness, Law and Social Change*, (1997) Leichhardt: The Federation Press.

⁸⁴ FBI head J Edgar Hoover, anti-semitic Henry Ford and US billionaire Ross Perot, founder of data services giant EDS (not unknown to Australian banks), famously assessed potential executives on the size and shape of their ears.

⁸⁵ Scott Sandage, *Born Losers: A History of Failure in America*, (2005) Cambridge: Harvard University Press and James Norris, *R G Dun & Co, 1841-1900: The Development of Credit Reporting in the Nineteenth Century*, (1978) Westport: Greenwood Press.

⁸⁶ Sheila Fitzpatrick & Robert Gellately [ed], *Accusatory Practices: Denunciation in Modern European History, 1789-1989*, (1997) Chicago: University of Chicago Press; Timothy Garton Ash, *The File: A Personal History*, (1997) London: HarperCollins; Anna Funder, *Stasiland*, (2003) London: Granta. The effectiveness of official ‘Crimestopper’ hotlines and corporate compliance whistleblowing lines as a mechanism for addressing financial crime is unclear, with one Australian Taxation Office contact dismissing public sector hotlines as “street theatre”.

⁸⁷ Michael Kater, *The Nazi Party: A Social Profile of Members and Leaders, 1919-1945*, (1983) Oxford: Blackwell, 193; Robert Gellately, ‘Denunciations in Twentieth-Century Germany: Aspects of Self-Policing in Nazi Germany and the German Democratic Republic’, 68 *Journal of Modern History* (1996) 931-967; and Orlando Figes, *The Whisperers: Private Life in Stalin’s Russia*, (2007) London: Allen.

⁸⁸ Frederick Morgeson, Michael Campion, Robert Dipboye, John Hollenbeck, Kevin Murphy & Neal Schmitt, ‘Are We Getting Fooled Again? Coming To Terms With Limitations In The Use Of Personality Tests For Personnel Selection’, 60(4) *Personnel Psychology* (2007), 1029-1049; Ana Canhoto & James Backhouse, ‘Profiling under conditions of ambiguity – An application in the financial services industry’, 14(6) *Journal of Retailing and Consumer Services* (2007), 408-419; Scott Highhouse, ‘Assessing the Candidate as a Whole: A Historical and Critical Analysis of Individual Psychological Assessment for Personnel Decision Making’, 55(2) *Personnel Psychology* (2002), 363-396; Andreas Kapardis & Maria Krambia-Kapardis, ‘Enhancing fraud prevention and detection by profiling fraud offenders’, 14(3) *Criminal Behaviour and Mental Health* (2006), 189-201; Steve Blinkhorn & Charles Johnson, ‘The Insignificance of Personality Testing’, 348 *Nature* (1990), 671-672; Wayne Camara & Dianne Schneider, ‘Integrity tests: Facts and unresolved issues’, 49(2) *American Psychologist* (1994), 112-119; Mark Rieke & Stephen Guastello, ‘Unresolved issues in honesty and integrity testing’, 50 *American Psychologist* (1995), 458-459; Deniz Ones, Chockalingam Viswesvaran & Frank Schmidt, ‘Comprehensive meta-analysis of integrity test validities: Findings and implications for personnel selection and theories of job performance’, 78 *Journal of Applied Psychology* (1993), 679-703; and Ronald Karren & Larry Zacharia, ‘Integrity tests: Critical issues’, 17(2) *Human Resource Management Review* (2007), 221-234.

financial criminals, along with that of serial killers and gay men, may somehow be different from that of 'normal' people). It is difficult to envisage major employers insisting that executives or front-counter staff take a whirl through an MRI machine – we will reserve that treat for practitioners of chainsaw massacres, not the 'rambos in pinstripes'.

Other criminologists have looked at circumstances, emphasising for example the conjunction of need and opportunity.⁸⁹ One writer for example offers the 'party theory' of property crime, a taxonomy of motivations in which some offenders engage in theft to "keep the party going" rather than merely feed the 'outer man' (or the outer woman's kids and family cat).⁹⁰

US criminologists perhaps more usefully explained fraud in terms of three factors: a supply of motivated potential offenders, the availability of suitable targets and the absence of someone "to mind the store" (ie effective control systems and capable guardians).⁹¹ They disagree, however, about why those offenders are motivated. Are we all potential offenders, on the straight & narrow only because the store-minders are vigilant,⁹² the external watchdogs have sharp teeth, the targets are insufficiently juicy and we have heard bad reviews of the interior decoration at Long Bay Gaol?⁹³

Peers such as Stotland characterise white-collar motivation as involving desire for wealth or other tangible benefits, a threat of loss (whether of those tangibles or of status), a sense of superiority (the rules don't apply to me) and an expression of power (I will show them ... or show myself).⁹⁴ Others have differentiated between offenders with low self-control who commit crime on a non-reflexive basis when an opportunity arises, those who engage in financial crime for ego gratification (rather than for the money), and those who commit crimes "depending on personal situations in their lives" such as threat of bankruptcy or to keep a partner in bling.⁹⁵

Levi sliced & diced financial crime demographics into offenders who plan their activity and those with less premeditation.⁹⁶ That is a useful differentiation from the perspective of compliance personnel and courts because financial crime is not

⁸⁹ Donald Cressey, *Other People's Money: A Study in the Social Psychology of Embezzlement*, (1953) Glencoe: The Free Press.

⁹⁰ That taxonomy example attributes property offences to the criminal seeking to "keep things together" (crime proceeds are used for living expenses, food, shelter or child support), "keep up appearances" (the proceeds are spent in conspicuous consumption on expensive clothes, jewelry, private school fees, philanthropy or other status reinforcement) and "keep the party going" through purchase of drugs. In applying that taxonomy we might of course ask whether the party fuelled by stolen VCRs and microwave ovens is the same as that fuelled by looting an insurance company or bank, where the party might last for a whole summer in the Hamptons, Portsea or Pearl Beach.

⁹¹ Lawrence Cohen & Marcus Felson, 'Social Change and Crime Rate Trends: A Routine Activity Approach', 44 *American Sociological Review* (1979), 588-605.

⁹² Spencer Pickett & Jennifer Pickett, *Financial Crime Investigation and Control*, (2002) New York: Wiley.

⁹³ Tom Tyler, *Why People Obey the Law*, (2006) Princeton: Princeton University Press.

⁹⁴ Ezra Stotland, 'White collar criminals', 33 *Journal of Social Issues* (1977), 179-196

⁹⁵ Michael Benson & Elizabeth Moore, 'Are White-Collar and Common Offenders the Same?', in Michael Levi [ed], *Fraud: Organization, Motivation and Control* vol I, (1999) Aldershot: Ashgate, 496.

⁹⁶ Michael Levi, 'Motivations and Criminal Careers of Long-Firm Fraudsters' in Michael Levi [ed], *Fraud: Organization, Motivation and Control* vol I, (1999) Aldershot: Ashgate, 307.

always a strategic, sustained, carefully-calculated activity. The statistics appear to suggest that many financial offenders, particularly those dealing with small sums and without the comfort of a QC on the other end of the phone, do not plan to commit a crime and to thereafter commit further crimes.

Most do not have prior convictions for financial offences and convictions for non-financial crimes, such as domestic violence, driving under the influence or drug possession are consistent with those of the people attending/organising today's Financial Crime Forum.

Levi implicitly questioned the usefulness of profiling most white-collar criminals as offenders who engage in a Benthamite calculation of costs and benefits, risks and rewards (in contrast to non-financial criminals who are supposedly creatures of impulse).⁹⁷ Subsequent researchers have perhaps pushed the impulsivity or psychopathology meme to an extreme, with one group for example claiming

Business white-collar crime is predicted by gender (males higher rates than females), low behavioral self-control, high hedonism, high narcissism, and high conscientiousness after statistically controlling for social desirability. ... It is argued here that high-ranking white-collar criminals in business combine low integrity with high conscientiousness.⁹⁸

A public sector auditor responded to that by saying “so, I’m supposed to look for actuaries who go birko if a cleaner moves the in-tray a millimetre out of place”. A more positive response – particularly if you are talking with an actuary – was “well, of course they all say that ... I didn’t mean to do it, so I’m not really bad”. That is consistent with competing claims in court.⁹⁹

⁹⁷ That has implications for corporate compliance strategies and sentencing policy founded on assumptions that financial criminals do not suffer from “inadequate impulse control” and are deterred from offences by calculating punishments signalled through statutory penalties and well-publicised judicial decisions.

⁹⁸ Gerhard Blickle, Alexander Schlegel, Pantaleon Fassbender & Uwe Klein, ‘Some Personality Correlates of Business White-Collar Crime’, 55(2) *Applied Psychology* (2006), 220-233. Blickle et al reported on psychometric tests of 150 managers in German corporations and 76 financial criminals formerly in such corporations, including measures of hedonism (Schwartz Value Scale), conscientiousness (NEO-FFI), narcissism (DSM-III-R), social desirability (Crowne & Marlowe, 1960), and behavioral self-control. For a perspective see David Terpstra, Elizabeth Rozell & Robert Robinson, ‘The influence of personality and demographic variables on ethical decisions related to insider trading’, 127(4) *The Journal of Psychology* (1993), 375-390.

⁹⁹ One example is that of Raffaello Follieri, recently sentenced to 54 months in prison after pleading guilty to 14 counts of wire fraud, money laundering and conspiracy. Prosecutors accused him of raising millions by claiming that special Vatican connections allowed him to buy church properties at below-market prices and redevelop them for “socially responsible” purposes. In reality he had no special rights but was simply competing against other bidders. He used investors’ money to finance a lavish lifestyle, including a \$37,000-a-month apartment, dinner with celebrities, designer watches and clothing. Follieri claimed that “I didn’t start off with the intention of deceiving anyone. I started off with good intentions to run an honorable business and make everyone proud of me.” His lawyer portrayed him as a well-intentioned businessman whose miscalculations had spun out of control, a “fundamentally good person with a generous spirit.” The Assistant US Attorney characterized Follieri as a sophisticated swindler who had lured investors into something resembling a Ponzi scheme by recurrently misrepresenting his background and expertise. “It is not clear to me that investors would ever have given him a dime if they knew the truth”.

Questions about rationality in financial crime are often persuasive,¹⁰⁰ but perhaps we can resolve some uncertainties by abandoning a 'one size fits all' profile in favour of profiles that acknowledge –

- diverse motivations
- the significance of opportunity
- the interaction of motivation with rationalisation¹⁰¹
- the nature of particular offences.¹⁰²

What starts as impulse may for example become a sustained pattern of behaviour as the offender sees that she can get away with it or he 'digs a deeper hole' in an effort to repay his initial embezzlement.¹⁰³

Seven Financial Deadly Sins?

One starting point is to contemplate the financial crime version of the Seven Deadly Sins.



We need opportunity (or perceived opportunity, given that some financial criminals – often the ones we read about, rather than their successful peers – clearly misunderstood whether that misbehaviour would be undetected and unprosecuted).

We also need rationalisation, with offenders excusing their actions¹⁰⁴ or indeed justifying them as an acceptable aspect of employment.¹⁰⁵ Some offenders seem to truly believe that they have done no wrong ... or persuade others that they have such belief. When the liquidators are not on the doorstep we call that 'confidence', 'bravery' or charismatic leadership'.

¹⁰⁰ Russell Korobkin & Thomas Ulen, 'Law and Behavioral Science: Removing the Rationality Assumption from Law and Economics', 88(4) *California Law Review* (2000), 1051-1144

¹⁰¹ Gwynn Nettler, 'Embezzlement without problems', 14(1) *British Journal of Criminology* (1974), 70-77.

¹⁰² Donald Cressey, 'Why managers commit fraud', 19 *Australian and New Zealand Journal of Criminology* (1986), 195-209; Arnold Leunes & Larry Christensen, 'A comparison of forgers with other criminals', 3(3) *Journal of Community Psychology* (2003), 285-288; and Travis Hirschi & Michael Gottfredson, 'Causes of White-Collar Crime', 25(4) *Criminology* (1987), 949-974.

¹⁰³ Gary Green, 'White-Collar Crime and the Study of Embezzlement', 525 *Annals of the American Academy of Political and Social Science* (1993), 95-106.

¹⁰⁴ Michael Benson, 'Denying the guilty mind: Accounting for involvement in white collar crime', 23 *Criminology* (1985), 583-607.

¹⁰⁵ Sara Willott & Christine Griffin, 'Building your own lifeboat: working-class male offenders talk about economic crime', 38(4) *British Journal of Social Psychology* (1999), 445-460.

Need

The first sin, one that has preoccupied social theorists for at least a millennium, is need. Some people engage in financial crime because they have to.

Some people steal in order to feed themselves and their dependents, or to keep a roof over their heads (or a roof in a nicer suburb, nicer because there are more trees and less crime).¹⁰⁶

Some people engage in financial crime because of they need to keep the business afloat, keep the bank away from the door, save themselves from the ATO or simply pay for the red-hot VCR on sale at the local pub. Examine law reports – or simply watch tabloid television – and you’ll encounter stories of people who have engaged in financial crime to –

- pay for child’s drug habit
- pay for their own drug habit
- pay a dependant’s legal bills
- buy a dependant out of a nasty situation overseas
- pay for private medical treatment

rather than tawdry tales of money blown on callgirls and viagra,¹⁰⁷ sportscars and champagne.

Some of those motivations may be detected by data-mining (the symptoms of imminent financial collapse are often detectable by lenders or third parties) but others are unlikely to appear on the radar.¹⁰⁸

The data on need-based crime is problematical. Critics have often claimed that gambling¹⁰⁹ drives financial crime¹¹⁰ and some anti-gambling advocates offer the syllogism that restricting gambling reduces financial crime. The statistics, however, do not demonstrate a clear causal link. Research from the Australian Institute of

¹⁰⁶ Oskar Engdahl, ‘The Role of Money in Economic Crime’, 48(2) *British Journal of Criminology* (2008), 154-170.

¹⁰⁷ *R v Campbell* [2001] NSWCCA 162 (9 April 2001). “A credit manager who stole almost \$2.4 million from his employer and splurged it on an extravagant lifestyle and lavish gifts to callgirls was sentenced to more than four years’ jail today. Former Sydney credit manager Malcolm Ernest Campbell ... embezzled the millions to top up his salary and, although impotent, spent some of it on an overseas property for a callgirl”.

¹⁰⁸ Clifton Phua, Vincent Lee, Kate Smith & Ross Gayler, ‘A Comprehensive Survey of Data Mining-based Fraud Detection Research’, *Artificial Intelligence Review* (2005)

¹⁰⁹ For example Renea Hughes admitted in 2007 that she had embezzled \$366,000 from RailCorp in false invoices and faked \$100,000 in salary claims. “She admitted every cent of the stolen \$366,000 went into the pokies at pubs in Penrith in Sydney’s west. The mother of two admitted she would lose sums of up to \$40,000 a month in binges that went until dawn.” See *Independent Commission Against Corruption, Investigation into bribery and fraud at RailCorp, 2nd Report*, (2008) Sydney: Independent Commission Against Corruption. Woolworths pay clerk Theresa Lawson stole \$2.6 million to feed poker machines. ‘Hokey Pokie’, *Four Corners* (Australian Broadcasting Corporation) 10 September 2007.

¹¹⁰ For two empirical studies see Penny Crofts, *Gambling and criminal behaviour: an analysis of local and district court files*, (2002) Sydney: Institute of Criminology, University of Sydney; and ‘White Collar Punters: Stealing from the Boss to Gamble’, 15(1) *Current Issues in Criminal Justice* (2003), 40-52.

Criminology and other bodies suggests there are grounds for caution.¹¹¹ It is useful to remember that as we head towards next week, where large numbers of Australians will spend substantial amounts of money on the outcome of horses running around a track in Melbourne. Few, successful or otherwise, will then proceed to engage in financial crime.

What we might say is that gambling, particularly compulsive gambling and for large stakes, may be a warning sign. Unfortunately it is a sign that is often ignored. Most people at this Forum are familiar with accounts of eminently respectable suburban solicitors who milked the trust accounts, priests who gave money to needy bookmakers, men with an addiction to horses,¹¹² officials who had a way with cheques,¹¹³ demure bookkeepers in small businesses and government agencies who extracted over a million dollars during a decade of otherwise exemplary service in order to feed the pokies, or suburban mums who pocketed money from the local bowling club.¹¹⁴ At the Big End of town the high roller may even be welcomed. Your clerk is a gambler, you are an entrepreneur. Peter Grabosky, in discussing Andrew Stathis' looting of Bishopsgate Insurance, asked

How could a high-rolling gambler on bail for alleged drug offences hoodwink the business establishment?¹¹⁵

Presumably education at Cranbrook helped.

Greed

We can't forget greed. People engage in crime to buy more toys and trinkets – a crate of Bollinger, a new Maserati, the house on the coast,¹¹⁶ a television network or two.

Greed, like need, is a slippery concept. In terms of basic survival no-one truly needs five cars, the million dollar shack at Pearl Beach or the palazzo on Darling Point Road. A Seiko will tell the time just as efficiently as a Patek Philippe. Kids have been deprived of going to Geelong Grammar (or Melbourne University Law School) and survived to tell the tale. Greed and need are subjective.

Understanding greed is a task for moralists and depth psychologists;¹¹⁷ watching *Citizen Kane* may offer more insights for an astute viewer than a week studying financial control guidelines. Greed is problematical because it is encouraged by our financial culture: "Greed Is Good", as entrepreneur Gekko famously said and we reward chief executives for achievement in the financial olympics (bigger, faster, stronger, flashier).

¹¹¹ Yuka Sakurai & Russell Smith, 'Gambling as a motivation for the commission of financial crime', Trends and Issues in Crime and Criminal Justice, No. 256 (2005), Canberra: Australian Institute of Criminology.

¹¹² A \$20 million addiction in the case of *R v Telford* [2004] SASC 248 (26 August 2004).

¹¹³ *The Queen v Gary Vaughn Norman Bird* No. CA 13 of 1987 SCC No. 45 of 1987 Appeal (1988) 56 NTR 17 [1988] NTSC 22 (29 March 1988).

¹¹⁴ *Tuck v R* [1999] TASSC 135.

¹¹⁵ Peter Grabosky, 'The Collapse of Bishopsgate Insurance', in Peter Grabosky & Adam Sutton [eds] *Stains on a White Collar*, (1989) Annandale: The Federation Press, 31-42.

¹¹⁶ *R v Campbell* [2001] NSWCCA 162 (9 April 2001).

¹¹⁷ Grace Duffield & Peter Grabosky, 'The Psychology of Fraud', 199 Trends & Issues in Crime and Criminal Justice (2001), Canberra: Australian Institute of Criminology.

Emulation

Some people engage in financial crime – particularly entry-level computer-based offences – out of emulation.

It is a matter of showing that I am the baddest dude in board shorts, the wizard who can walk through firewalls and harvest financial profiles, rather than ‘this is an easy way to make a living without having to finish my IT degree’. Like suicide it is influenced by media coverage, which illustrates opportunities and risks, and which indicates to potential offenders whether the offence is truly stigmatised.¹¹⁸

Data on ‘copycat’ offences involving payment systems is problematical. Uncertainty is further clouded by moral panics about credit card fraud and identity theft as “the crime of the millennium”.

Anger

Does anger make some financial criminals tick? It is clear from a range of studies that the answer is yes.

Leading forgers, such as Eric Hebborn¹¹⁹ and Han van Meegeren,¹²⁰ have often had a major chip on their shoulder. Their work was a way of saying Up Yours! – particularly to the experts – rather than piling up the greenbacks.¹²¹

Several studies of the 419 Email scam reveal that West Africans justify their activity as a righteous attack on those nasty fat white colonialists – so very stupid and very greedy.¹²²

Much small-scale financial crime appears to have been driven by resentment, with employees ‘compensating’ themselves by taking what they thought they deserved (every performance appraisal is a potential trigger for financial misbehaviour), to equalise rewards given to other people or to inflict a punishment on the hand that feeds (and occasionally spansks) them. Resentment is not restricted to SMEs; it has motivated (or been used to retrospectively legitimate) some major misbehaviour.¹²³

¹¹⁸ In that respect see Lampe (1991) and Levi (2006), op cit.

¹¹⁹ Eric Hebborn, *Drawn to Trouble: Confessions of a Master Forger*, (1993) New York: Random House.

¹²⁰ Jonathan Lopez, *The Man Who Made Vermeers: Unvarnishing the Legend of Master Forger Han van Meegeren*, (2008) New York: Harcourt.

¹²¹ Robert Hughes characterised *fin de siècle* forger Louis Marcy (aka Luigi Parmeggiani) – “a brilliant faker of medieval and Renaissance caskets, jewelry and reliquaries whose works entered the major museums of Europe” – as a “subversive forger”, an anarchist who penned vitriolic magazine articles that reviled the capitalist art market and the purchasers of his exquisite trinkets.

¹²² Farooq Kperogi & Sandra Duhé, 'A Tribe Migrates Crime to Cyberspace: Nigerian Igbos in 419 E-Mail Scams', in Tyrone Adams & Stephen Smith [eds] *Electronic Tribes: The Virtual Worlds of Geeks, Gamers, Shamans, and Scammers*, (2008) Austin: University of Texas Press; Andrew Apter, '419: Nigerian Democracy and the Politics of Illusion', John & Jean Comaroff [eds] *Civil Society & the Political Imagination in Africa*, (1999) Chicago: University of Chicago Press; Daniel Smith, 'Ritual Killing, 419, and Fast Wealth: Inequality and the Popular Imagination in Southeastern Nigeria', 28(4) *American Ethnologist* (2001), 803-826.

¹²³ See for example Joseph Jett (2004), op cit.

At the Big End of town ‘helping yourself’ appears to be more likely where employees believe that the organization is breaking the law or egregiously mistreating customers and suppliers, particularly where resounding statements about corporate ethics are denied through day by day practice.¹²⁴ Organisations with a healthy corporate culture do not need the soapbox about ‘caring & sharing’; failure to ‘walk the talk’ may indeed foster misbehaviour.¹²⁵

Pleasure

Some financial criminals aren’t particularly interested in money. They get their jollies from the activity, not the outcome.

Ferdinand Demara – the compulsive imposter who outshone the star of *Catch Me If You Can* – explained his motivation as “rascality, pure rascality”.¹²⁶ He didn’t know why he did it but it felt good. Other offenders such as Abagnale¹²⁷ and Sutton have spoken of the high that comes from achievement, particularly an achievement involving evasion or subversion of authority.

Offences where the criminal is not driven by stealing to buy more toys or pay off the loan shark is a problem because most prevention assumes some rationality, some relationship between risk and reward.

We assume that financial criminals will not engage in crime purely for pleasure, although many observers of entrepreneurs are quite comfortable with the notion that people build businesses because they enjoy building. Playing the game – what some psychologists have characterised as the ludic imperative – is the thing, not how many toys you’ve accumulated when you go to join Kerry Packer.

Fear

What about fear? Most of the professional literature conceptualises fear in terms of extortion: do what Tony Soprano tells you to do or you (and the family cat) will be sleeping with the fishes.

¹²⁴ Frank Clarke & Graeme Dean, *Indecent Exposure: Gilding The Corporate Lily*, (2007) Cambridge: Cambridge University Press; and Stuart Green, *Lying, Cheating and Stealing: A Moral Theory of White-Collar Crime*, (2006) Oxford: Oxford University Press.

¹²⁵ Robert Bryce, *Pipe Dreams: Greed, Ego, Jealousy and the death of Enron*, (2002) New York: Public Affairs; Kurt Eichenwald, *Conspiracy of Fools: A True Story*, (2005) New York: Broadway; John Keenan, 'Blowing the Whistle on Less Serious Forms of Fraud: A Study of Executives and Managers', 12(4) *Employee Responsibilities and Rights Journal* (2000) 199-218 and 'Upper-level managers and whistleblowing: determinants of perceptions of company encouragement and information about where to blow the whistle', 5(2) *Journal of Business and Psychology* (1990), 223-235.

¹²⁶ Demara (1921-1982) variously assumed the identity of real or fictitious civil engineers, police, psychologists, lawyers, teachers, Cistercian monks and scientists. His career as an identity thief peaked when he stole the ID of Canadian navy surgeon Joseph Cyr during the Korean War, supposedly successfully undertaking surgery. He is profiled in Robert Crichton's *The Great Imposter: the Amazing Careers of Ferdinand Waldo Demara*, (1959) New York: Random House.

¹²⁷ Frank Abagnale, *Catch Me if You Can*, (2000) New York: Broadway Books.

Blackmail and physical coercion *do* play a part in some financial crimes. In reality, however, fear usually seems to involve people digging themselves deeper rather than out of the hole.

Several of the overseas studies of large scale fraud on trading desks for example indicate that the offenders such as Yasuo Hamanaka (US\$2.6bn) and Jerome Kerviel (US\$7.1bn) start by covering up trivial losses in order to save face, ensure they get the annual bonus or keep the job. From there it is easy to break a few more rules in the belief that losses can be turned around. They sometimes end by diverting funds to personal accounts because the auditor is closing in and it is time to think about early retirement in a place free of an extradition treaty.

The same expectations can be found in board rooms and executive suites, whether in the 1890s and 1920s or closer to home in the 1990s with one of Australia's largest insurers.¹²⁸

Misjudgement

Finally, can we talk about the sin of misjudgement?

Some financial crime happens because opportunity beckons and the offenders do not think that they will get caught. Sometimes they are right. Sometimes they are wrong, unsurprising in a culture that rewards risk-taking.¹²⁹

Offenders with sawnoffs usually misjudge the odds. So do geeks who 'borrow' the employer's credit card, as in a recent case in Canberra, and assume that nothing will happen because law only applies to people who are not allergic to daylight and cannot code.

Some finance personnel seem to be living on the same planet. One US government official, for example, recently sent a mere US\$1.2 million to 419 scammers in the belief that he would soon be richly rewarded. Alas, it was public money rather than his savings.¹³⁰ A senior executive of leading agribusiness Archer Daniels Midland similarly started embezzling after blowing his wealth on unbelievable offers from the nice Nigerians.

¹²⁸ *Report of the Royal Commission into HIH Insurance*, (2003), at <http://www.hihroyalcom.gov.au/finalreport/index.htm>, attributing failure to "attempts to paper over the cracks caused by over-priced acquisitions and too much corporate extravagance based on a misconception that the 'money' was there in the business".

¹²⁹ Catherine Schrand & Sarah Zechman, 'Executive Overconfidence and the Slippery Slope to Fraud', (2008) SSRN

¹³⁰ In 2007 Michigan Attorney General Mike Cox announced that former Alcona County Treasurer Thomas Katona had been sentenced to 9-14 years for embezzlement of over US\$1.2 million in county funds, which he had kindly sent to 419 scammers. Embezzlement allegations were initially brought to Cox's attention in November 2006 while Katona was serving as the County Treasurer. Bank personnel discovered that Katona had wired approximately US\$150,000 of County funds to banks in Taiwan and England. An audit by the state Treasury Department then discovered a US\$1.23m shortfall in county funds for the calendar year of 2006, approximately 25% of the county budget. From June 2006, Katona wired money from his personal account to the same banks, despite warnings by bank personnel and by county employees that he might be involved in a 419 scheme. He ignored these warnings. In November 2006 he flew to London to pick up money from the scheme, notifying a Michigan bank to reactivate an old account of his as he was to receive millions of dollars shortly. The money did not materialise.

Offenders who went to a private school, who wear pinstripes and who bank in the Caymans usually do not misjudge the odds. ASIC and other corporate police sometimes give up because it is all too difficult.¹³¹ One conclusion is that if you are going to engage in financial crime, use a fountain pen (preferably a *Mont Blanc*), not a six-gun!

Bridging a Forensic Gap

Effective profiling is an attempt to bridge a substantial forensic gap.

We know that financial crime occurs. Some of it gets detected. Some of it gets reported. Some of the reported crimes are successfully prosecuted. (Much financial crime, although analysts disagree about how much, does not get reported. Non-reporting may be because organizations are worried about reputational damage: criticism by shareholders and watchdogs, increased regulatory costs, unpleasant comments in the *Wall Street Journal* or *Australian Financial Review* or queue outside Melbourne Grammar).

There are questions about whether data collection is comprehensive. Figures often do not match up, unsurprising when there are definitional disagreements and extrapolations from small population samples.

We do not know how financial institutions and other entities are profiling their potential employees and associates, current employees and contacts, or customers. It is thus not possible to assess the effectiveness of profiling. Did criminals never get through the door? Were they deterred from crime through an overt and seamless financial control framework? Were they caught at an early stage, detected after an initial incident rather than after systemic misbehaviour? Did they exhibit warning signs ... and were those signs recognised?

One reason for caution is that leading organizations, facing major reputational risk and with the resources for a close scrutiny of claims by senior executives, clearly have failed to undertake basic vetting or verify claims, such as John Friedrich's assertion that he had over \$100 million of rescue assets parked in National Safety Council containers. That failure poses uncomfortable questions about the efficacy of the vetting industry in Australia. It also poses questions about the making of profiles, ie our willingness to disregard discordant information in order to get the media release onto the fax, because the individual has a firm handshake and good tie, because he/she frightens the inhouse sceptics or is prepared to foil scrutiny by producing a letter from a major corporate law firm.

Embarrassment has not been restricted to people who trusted in Mr Bond, Mr Skase, Mr Friedrich or Mr Goldberg.

Two of Telstra's most senior executives were thus revealed to have problematical CVs.¹³² The head of a New Zealand broadcasting service simply invented his

¹³¹ Peter Grabosky, John Braithwaite & Paul Wilson, 'The Myth of Community Tolerance Toward White-Collar Crime', 20 *Australian and New Zealand Journal of Criminology* (1987), 33-44; Suresh Cuganesan & David Lacey, *Identity Fraud in Australia: An evaluation of its Nature, Cost and Extent*, (2003) Brisbane: SIRCA.

¹³² Chris Tyler, CEO of Telstra subsidiary Solution 6, was revealed in 2000 to have had been convicted of marijuana possession (with a 10-year suspended sentence), involved with a North American

qualifications.¹³³ The president of IBM's Lotus unit – not quite a mum & dad corner shop operation – resigned after *The Register* revealed

So he's not an orphan, his parents are alive and well. He wasn't a Marine Corps captain, he was a lieutenant. He didn't save a buddy by throwing a live grenade out of a trench. He didn't burst an eardrum when ejecting from a Phantom F4, which didn't crash, not killing his co-pilot. He's not a *tae kwon do* black belt, and he doesn't have a PhD from Pepperdine University.¹³⁴

In NSW Glen Oakley rose from a mortician's assistant to become Director-General of the state Department of Business & Regional Development, partly on the strength of his academic background. Unfortunately his degrees,¹³⁵ including a BSc (Hons) and Grad Dip in Education from the University of Newcastle, MBA from UNSW and a PhD, were all fake. Charles Sturt University more colourfully employed a man who had awarded himself a Victoria Cross and sundry other trinkets.

The acceptance of bits of paper at face value is somewhat surprising when 'identity enhancement' is just a few mouse-clicks away, with one vendor boasting that

We can replicate most any passport upon request and proper pricing. Our Fake Passports are of the highest quality and look very near identical to an official one. In addition we can work on a one-on-one basic with you to create a completely custom passport job. Use our fake passports in conjunction with our fake ID's for a complete "New Identity" Package. Upon request we can create a complete identity solution. This can include a fake novelty id, fake passport and several other different forms of identification such as credit cards, checkbooks, utility bills and fake corporate documents if needed. Let us stress that creating our custom packages are only for individuals that are serious about creating complete turn key identify [sic] packages.

Action by ABA members and overseas peers against such 'novelty docs' shops (which typically breach trade mark and other law) is desirable.

company, Lessonware, that had collapsed and with a series of blunders as head of NZ Telecom's internet operations. Telstra did not know about Lessonware or the drug conviction. Queried why he had not told the boards of Solution 6 and Telstra about his past, Tyler commented that he was "never asked". Telstra had previously been embarrassed by the revelation in 1993 that Bruno Sorrentino, head of its IT arm and research laboratories (and former ANZ Bank chief information officer), had not attended London's Imperial College, let alone completed a claimed PhD in physics.

¹³³ In 2002 John Davy was sentenced to eight months imprisonment in New Zealand for CV fraud. He had been controversially appointed as \$NZ140,000-a-year inaugural head of the Maori Television Service. That appointment reflected supposed strong financial and management skills; Davy had no television experience, knew little of Maori culture and was unfamiliar with the language. He had claimed an MBA from the Ashland School of Business at Denver State University, an accounting certificate, experience as a member of the British Columbia Securities Commission and authorship of two books. Unfortunately the Commission had not heard of him and the 'University' was discovered to be an online diploma mill. Davy claimed that he had been 'undercover', with his academic and financial history being wiped as part of a witness protection program. In reality he had been twice declared bankrupt and had worked as an accountant in Whistler, rather than as a regulator.

¹³⁴ Jeffrey Papows, author of *Enterprise.com: Market Leadership in the Information Age* (1999), resigned as Lotus president in 2000 after being savaged in the *Wall Street Journal* over what IBM initially dismissed criticism as nothing but "rumors strung together by commentary".

¹³⁵ George Brown, 'Degrees of doubt: legitimate, real and fake qualifications in a global market', 28(1) *Journal of Higher Education Policy and Management* (2006), 71-79 and the broader discussion of resume fraud at <http://www.caslon.com.au/idcrimeguide9.htm>

Conclusion

We might finish by discussing four conclusions.

The first is that there are no comprehensive, culturally-independent profiling mechanisms for identification of potential and active financial criminals.

One reason for the absence of such mechanisms is that there is no single type of financial crime and no single type of financial criminal.

A second conclusion is that the motivations of financial criminals vary. They may vary considerably. Some are simple, for example a case of “just show me the money”. Others mingle greed, resentment, need and the joy of playing games.

A third conclusion is that some organizations are placing their trust – arguably misplacing their trust – in pseudo-scientific ‘integrity profiling’ or other personnel selection mechanisms, from batteries of psychological tests centred on impulse control and diligence through to quackery about handwriting or the configuration of an individual’s earlobes. Much of that appraisal is of very dubious value because it is founded on problematical cultural assumptions or because it fails to differentiate between ‘leadership’ attributes and ‘looting’ attributes.

A final conclusion is that public and private sector organizations have on occasion been burned because they chose to disregard warning signs or simply failed to conduct basic verification of claims.

Bibliography

This reading list identifies works cited in the preceding pages and other items that may be of use in conceptualising financial crime or profiling financial criminals.

More extensive material is available at www.caslon.com.au, in particular papers and notes on identity offences and vetting.

Frank Abagnale, *Catch Me if You Can*, (2000) New York: Broadway Books

Christine Alder, 'Challenges to Authenticity in the Aboriginal Art Market' (Paper presented at the Art Crime: Protecting Art, Protecting Artists and Protecting Consumers Conference, Sydney, 2-3 December 1999), (1999) Canberra: Australian Institute of Criminology

Ken Alder, 'A Social History of Untruth: Lie Detection and Trust in Twentieth-Century America', 80 *Representations* (2002), 1-33

Daniel Akst, *Wonder Boy: Barry Minkow (The Kid Who Swindled Wall Street)*, (1990) New York: Scribner

Andrew Apter, 'IBB=419: Nigerian Democracy and the Politics of Illusion', John & Jean Comaroff [eds] *Civil Society & the Political Imagination in Africa*, (1999) Chicago: University of Chicago Press

Australian Taxation Office, 'Taxation Commissioners Battle Against Tax Evasion' (28 February 2008 Media Release), (2008) Canberra: Australian Taxation Office

Paul Babiak & Robert Hare, *Snakes in Suits: When Psychopaths go to Work*, (2006) New York: HarperCollins

Victor Bailey, 'The fabrication of deviance: "Dangerous classes" and "Criminal classes" in Victorian England', in John Rule [ed], *Protest and Survival: The Historical Experience (Essays for E P Thompson)*, (1993) London: Merlin, 221-256

Paul Barry, *Going For Broke: How Bond Got Away With It*, (2000) Sydney: Bantam

Paul Barry, *Rich Kids*, (2002) Sydney: Bantam

Curt Bartol & Anne Bartol, *Introduction to Forensic Psychology*, (2008) London: SAGE

Margaret Beare, *Critical Reflections on Transnational Organized Crime, Money Laundering, & Corruption*, (2003) Toronto: University of Toronto Press

Peter Becker & Richard Wetzell [ed], *Criminals and Their Scientists*, (2006) Cambridge: Cambridge University Press

Michael Benson, 'Denying the guilty mind: Accounting for involvement in white collar crime', 23 *Criminology* (1985), 583-607

- Michael Benson & Elizabeth Moore, 'Are White-Collar and Common Offenders the Same?', in Michael Levi [ed], *Fraud: Organization, Motivation and Control* vol I, (1999) Aldershot: Ashgate, 496.
- Barry & Dale Beyerstein [ed], *The Write Stuff: Evaluations of Graphology - The Study of Handwriting Analysis*, (1992) Amherst: Prometheus
- William Blair & Richard Brent [ed], *Banks and Financial Crime: The Law of Tainted Money*, (2009) Oxford: Oxford University Press
- Gerhard Blickle, Alexander Schlegel, Pantaleon Fassbender & Uwe Klein, 'Some Personality Correlates of Business White-Collar Crime', 55(2) *Applied Psychology* (2006), 220-233
- Steve Blinkhorn & Charles Johnson, 'The Insignificance of Personality Testing', 348 *Nature* (1990), 671-672
- Tom Bower, *Maxwell: The Final Verdict*, (1996) London: HarperCollins
- Geoffrey Bowker & Susan Star, *Sorting Things Out: Classification and its Consequences*, (1999) Cambridge: The MIT Press
- John Braithwaite, 'Crime and the Average American', 27(1) *Law & Society Review* (1993), 215-230
- John Braithwaite, 'White Collar Crime', 11 *Annual Review of Sociology* (1985), 1-25
- John Braithwaite, 'Poverty, Power, White-Collar Crime and the Paradoxes of Criminological Theory', 24 *Australian and New Zealand Journal of Criminology* (1991), 40-50
- Susan Brenner, 'Organized Cybercrime? How Cyberspace May Affect the Structure of Criminal Relationships', 4(1) *North Carolina Journal of Law & Technology* (2002), 1-50
- George Brown, 'Degrees of doubt: legitimate, real and fake qualifications in a global market', 28(1) *Journal of Higher Education Policy and Management* (2006), 71-79
- Robert Bryce, *Pipe Dreams: Greed, Ego, Jealousy and the death of Enron*, (2002) New York: Public Affairs
- Wayne Camara & Dianne Schneider, 'Integrity tests: Facts and unresolved issues', 49(2) *American Psychologist* (1994), 112-119
- Ana Isabel Canhoto & James Backhouse, 'Profiling under conditions of ambiguity – An application in the financial services industry', 14(6) *Journal of Retailing and Consumer Services* (2007), 408-419
- Justin Carré & Cheryl McCormick, 'In your face: facial metrics predict aggressive behaviour in the laboratory and in varsity and professional hockey players', 275(1651) *Proceedings of the Royal Society* (2008), 2651-2656
- Neil Chenoweth, *Packer's Lunch: A Rollicking Tale of Swiss Bank Accounts and Money-Making Adventurers in the Roaring '90s*, (2006) Sydney: Allen & Unwin

Michael Clarke, 'Insurance fraud', 29(1) *The British Journal of Criminology* (1989), 1-20

Frank Clarke & Graeme Dean, *Indecent Exposure: Gilding The Corporate Lily*, (2007) Cambridge: Cambridge University Press

Marshall Clinard & Richard Quinney, *Criminal Behavior Systems: A Typology*, (1967) New York: Holt Rinehart Winston

Lawrence Cohen & Marcus Felson, 'Social Change and Crime Rate Trends: A Routine Activity Approach', 44 *American Sociological Review* (1979), 588-605

Jock Collins, 'Ethnic Minorities and Crime in Australia: Moral Panic or Meaningful Policy Responses' (Address to an Office of Multicultural Interests seminar, 8 November 2005, Perth), (2005)

Jon Connell & Douglas Sutherland, *Fraud: The Amazing Career of Dr Savundra*, (1979) New York: Stein & Day

James Cook, *The Arts of Deception: Playing with Fraud in the Age of Barnum*, (2001) Cambridge: Harvard University Press

Owen Covick & Beverley Vickers, 'The Trials of Whitaker Wright' (History of Economic Thought Society of Australia, 16th Conference, Melbourne, 15-18 July 2003), (2003)

Donald Cressey, *Other People's Money: A Study in the Social Psychology of Embezzlement*, (1953) Glencoe: The Free Press

Donald Cressey, 'Why managers commit fraud', 19 *Australian and New Zealand Journal of Criminology* (1986), 195-209

Robert Crichton, *The Great Imposter: the Amazing Careers of Ferdinand Waldo Demara*, (1959) New York: Random House

Penny Crofts, *Gambling and criminal behaviour: an analysis of local and district court files*, (2002) Sydney: Institute of Criminology, University of Sydney

Penny Crofts, 'White Collar Punters: Stealing from the Boss to Gamble', 15(1) *Current Issues in Criminal Justice* (2003), 40-52

Suresh Cuganesan & David Lacey, *Identity Fraud in Australia: An evaluation of its Nature, Cost and Extent*, (2003) Brisbane: SIRCA

Kathleen Daly, 'Gender and Varieties of White-Collar Crime', 27 *Criminology* (1989), 769-794

Richard Derrig & Valerie Zicko, 'Prosecuting Insurance Fraud - A Case Study of the Massachusetts Experience in the 1990s', 5(7) *Risk Management and Insurance Review* (2002), 77-104

Miranda Devine, 'Bond: Lest We Forget', *Sydney Morning Herald* 24 September 2003

Joe Domanick, *Faking it in America: Barry Minkow and the Great ZZZZ Best Scam*, (1989) New York: Contemporary Books

Russell Driver, Ronald Buckley & Dwight Frink, 'Should We Write Off Graphology?', 4(2) *International Journal Of Selection And Assessment* (1996), 78-86

Grace Duffield & Peter Grabosky, 'The Psychology of Fraud', 199 Trends & Issues in Crime and Criminal Justice (2001), Canberra: Australian Institute of Criminology

Kurt Eichenwald, *Conspiracy of Fools: A True Story*, (2005) New York: Broadway

Oskar Engdahl, 'The Role of Money in Economic Crime', 48(2) *British Journal of Criminology* (2008), 154-170

Robin Engel, Jennifer Calnon & Thomas Bernard, 'Theory And Racial Profiling: Shortcomings And Future Directions In Research', 19(2) *Justice Quarterly* (2002), 249-274

David Faigman, *Legal Alchemy: The Use and Misuse of Science in the Law*, (1999) New York: Freeman

Stephen Fay, Lewis Chester & Magnus Linklater, *Hoax: The Inside Story of the Howard Hughes-Clifford Irving Affair*, (1972) London: Deutsch

Paul Finn, 'Commerce, the Common Law and Morality', 17 *Melbourne University Law Review* (1989), 87-99

Grant Fleming, David Merrett & Simon Ville, *The Big End of Town: Big Business and Corporate Leadership in Twentieth-Century Australia*, (2004) Cambridge: Cambridge University Press

David Friedrichs, *Trusted Criminals: White Collar Crime in Contemporary Society*, (1996) New York: Wadsworth

David Friedrichs, 'White-Collar Crime and the Definitional Quagmire: A Provisional Solution', 3(2) *Journal of Human Justice* (1992), 5-21

Anna Funder, *Stasiland*, (2003) London: Granta

Stephen Garton, 'Sound Minds and Healthy Bodies: Reconsidering Eugenics in Australia 1914-1940', 26 *Australian Historical Studies* (1994), 163-181

Gilbert Geis [ed], *White-Collar Criminal: The Offender in Business and the Professions*, (2006) New Brunswick: Transaction

Michael Gilding, 'Superwealth in Australia: Entrepreneurs, Accumulation and the Capitalist Class', 35(2) *Journal of Sociology* (1999), 169-182

Michael Gilding, 'Entrepreneurs, elites and the ruling class: the changing structure of power and wealth in Australian society', 39(1) *Australian Journal of Political Science* (2004), 127-143

George Gilligan, 'Financial Crime in Australia', 27(1) *Journal of the Institute of Economic Affairs* (2007), 10-13

- Barry Glassner, *The Culture Of Fear: Why Americans Are Afraid Of The Wrong Thing*, (2000) New York: Perseus
- Janice Goldstraw, Russell Smith & Yuka Sakurai, 'Gender and Serious Fraud in Australia and New Zealand', 292 *Trends and Issues in Crime and Criminal Justice*, (2005), Canberra: Australian Institute of Criminology
- Erich Goode & Nachman Ben-Yehuda, *Moral Panics: The Social Construction of Deviance*, (1994) Oxford: Blackwell
- Erich Goode & Nachman Ben-Yehuda, 'Moral Panics: Culture, Politics, and Social Construction', 20 *Annual Review of Sociology* (1994), 149-171
- Gary Gordon, Donald Rebovich, Kyung-Seok Choo & Judith Gordon, *Identity Fraud Trends and Patterns: Building a Data-Based Foundation for Proactive Enforcement*, (2007) Utica: Utica College Center for Identity Management & Information Protection
- Peter Grabosky, John Braithwaite & Paul Wilson, 'The Myth of Community Tolerance Toward White-Collar Crime', 20 *Australian and New Zealand Journal of Criminology* (1987), 33-44
- Peter Grabosky, 'The Collapse of Bishopsgate Insurance', in Peter Grabosky & Adam Sutton [eds] *Stains on a White Collar*, (1989) Annandale: The Federation Press, 31-42
- Peter Grabosky, 'The Demise of Trustees Executors & Agency Co Ltd', in Peter Grabosky & Adam Sutton [eds] *Stains on a White Collar*, (1989) Annandale: The Federation Press, 15-30
- Peter Grabosky, Russell Smith & George Demsey, *Electronic Theft: Unlawful Acquisition in Cyberspace*, (2001) Cambridge: Cambridge University Press
- Peter Graham, *Bureaucratic Politics and Technology: Computers & the Australia Card*, (1990) Nathan: Centre for Australian Public Sector Management, Griffith University
- Gary Green, 'White-Collar Crime and the Study of Embezzlement', 525 *Annals of the American Academy of Political and Social Science* (1993), 95-106
- Stuart Green, 'The Concept of White Collar Crime in Law and Legal Theory', 8(1) *Buffalo Criminal Law Review* (2004), 1-34
- Stuart Green, *Lying, Cheating and Stealing: A Moral Theory of White-Collar Crime*, (2006) Oxford: Oxford University Press
- Graham Greenleaf, 'Australia's proposed ID Card: Still Quacking Like A Duck', UNSW Law Research Series 1 (2007)
- Valentin Groebner, *Who Are You? Identification, Deception and Surveillance in Early Modern Europe*, (2007) New York: Zone
- Kate Hagan, 'And this is the Libertos, who thought they'd get away with it', *The Age* (3 November 2007)

Boronia Halstead, 'Entrepreneurial Crime: Impact, Detection and Regulation', 34 *Trends & issues in crime and criminal justice*, (1992) Canberra: Australian Institute of Criminology

Phil Handler, 'Forgery and the end of the 'Bloody Code' in Early Nineteenth-Century England', 48(3) *The Historical Journal* (2005), 683-702

Robert Harris, *Selling Hitler*, (1987) London: Faber

Eric Hebborn, *Drawn to Trouble: Confessions of a Master Forger*, (1993) New York: Random House

Marion Hetherington, 'Responsibility for payment of forged cheques: lessons from NAB v Hokit', 7(4) *Journal of Banking & Finance Law & Practice* (1996), 313-314

Scott Highhouse, 'Assessing the Candidate as a Whole: A Historical and Critical Analysis of Individual Psychological Assessment for Personnel Decision Making', 55(2) *Personnel Psychology* (2002), 363-396

Claire Hill, 'The Law and Economics of Identity', 32 *Queen's Law Journal* (2007), 389-445

Travis Hirschi & Michael Gottfredson, 'Causes of White-Collar Crime', 25(4) *Criminology* (1987), 949-974

Arthur Houts, 'Discovery, Invention and the Expansion of the Modern Diagnostic & Statistical Manuals of Mental Disorders', in Larry Beutler & Mary Malik [ed], *Rethinking The DSM: A Psychological Perspective*, (2002) Washington: American Psychological Association, 17-65

Catherine Hoyte, *An Australian Mirage*, (2003) Griffith University PhD dissertation, at <http://www4.gu.edu.au:8080/adt-root/uploads/approved/adt-QGU20040719.103628/public/02Whole.pdf>

Alan Hunt, *Governance of the consuming passions: a history of sumptuary law* (1996) New York: St Martins

International Monetary Fund, 'Financial System Abuse, Financial Crime and Money Laundering' (Background Paper Prepared by the Monetary and Exchange Affairs and Policy Development and Review Departments), (2001) International Monetary Fund.

Clifford Irving, *Fake: The Story of Elmyr de Hory, the Greatest Art Forger of Our Time*, (1969) New York: McGraw-Hill

Clifford Irving, *What Really Happened: The Untold Story of the Hughes Affair*, (1972) New York: Grove Press

Margaret Jackson & Julian Ligertwood, 'Identity Management: Is an Identity Card the Solution for Australia?', 24(4) *Prometheus* (December 2006), 379-387

Lynne Jeter, *Disconnected: Deceit and Betrayal at WorldCom*, (2003) New York: Wiley

Joseph Jett, *Broken Bonds: My Immoderate Life of Love, Passion, War on Affirmative Action and Jack Welch's GE*, (2004) New York: Cambridge Matrix

David Johnson & Richard Leo, 'The Yale White-Collar Crime Project: A Review and Critique', in Michael Levi [ed], *Fraud: Organization, Motivation and Control v II*, (1999) Aldershot: Ashgate, 63

Icilio Joni, *Affairs of a Painter*, (1936) London: Faber

Stephen Jory, *Loadsamoney: The True Story Of The World's Largest Ever Counterfeiting Ring*, (2005) London: Trafalgar Square

Andreas Kapardis & Maria Krambia-Kapardis, 'Enhancing fraud prevention and detection by profiling fraud offenders', 14(3) *Criminal Behaviour and Mental Health* (2006), 189-201

Ronald Karren & Larry Zacharia, 'Integrity tests: Critical issues', 17(2) *Human Resource Management Review* (2007), 221-234

Jack Katz, 'The Social Movement against White-Collar Crime', in Egon Bittner & Sheldon Messinger [eds] *Criminology Review Yearbook 2*, (1980) Beverly Hills: SAGE, 161-184

Tom Keating & Geraldine Norman, *The Fake's Progress*, (1977) London: Hutchinson

Monica Keneley, 'The Curious Case of the Occidental and Regal: The Evolution of Solvency and Disclosure Standards in the Australian Life Insurance Industry', 13(3) *Accounting History* (2008), 313-332

Stephen Kent & Lynette Millett [ed], *IDs - Not That Easy: Questions About Nationwide Identity Systems*, (2002) Washington: US National Academies Press

Rakesh Khurana, *Searching for a Corporate Savior: The Irrational Quest for Charismatic CEOs*, (2002) Princeton: Princeton University Press

Roy King & Derek Koehler, 'Illusory Correlations in Graphological Inference', 6(4) *Journal of Experimental Psychology Applied* (2000), 336-348

Richard Klimoski & Anat Rafaeli, 'Inferring personal qualities through handwriting analysis', 56(3) *Journal of Occupational Psychology* (1983), 191-202

Richard Kocsis & Andrew Hayes, 'Believing Is Seeing? Investigating The Perceived Accuracy Of Criminal Psychological Profiles', 48(2) *International Journal Of Offender Therapy & Comparative Criminology* (2004), 149-160

Richard Kocsis & George Palermo, *Criminal Profiling: Principles & Practice*, (2006) Totowa: Humana Press

Russell Korobkin & Thomas Ulen, 'Law and Behavioral Science: Removing the Rationality Assumption from Law and Economics', 88(4) *California Law Review* (2000), 1051-1144

Farooq Kperogi & Sandra Duhé, 'A Tribe Migrates Crime to Cyberspace: Nigerian Igbos in 419 E-Mail Scams', in Tyrone Adams & Stephen Smith [eds] *Electronic Tribes: The Virtual Worlds of Geeks, Gamers, Shamans, and Scammers*, (2008) Austin: University of Texas Press

Kimberly Krawiec, 'Accounting for Greed: Unraveling The Rogue Trader Mystery', 79(2) *Oregon Law Review* (2000), 301-330

Anne Lampe, 'Media Coverage of Complex Commercial Fraud', in Peter Grabosky [ed] *Complex commercial fraud: proceedings of a conference held 20-23 August 1991 (AIC Conference Proceedings no. 10)*, (1991) Canberra: Australian Institute of Criminology

Mark Largent, *The History of Coerced Sterilization in the United States*, (2007) New Brunswick: Rutgers University Press

Nick Leeson, *Rogue Trader*, (1996) London: Little, Brown

Arthur Leff, *Swindling and Selling: The Spanish Prisoner & Other Bargains*, (1976) New York: Free Press

Arnold Leunes & Larry Christensen, 'A comparison of forgers with other criminals', 3(3) *Journal of Community Psychology* (2003), 285-288

Michael Levi, 'Motivations and Criminal Careers of Long-Firm Fraudsters', in Michael Levi [ed], *Fraud: Organization, Motivation and Control* vol 1, (1999) Aldershot: Ashgate

Michael Levi, 'The Media Construction of Financial White-Collar Crimes', 46(6) *British Journal of Criminology* (2006), 1037-1057

Michael Levi, *The Phantom Capitalists: The Organization and Control of Long-Firm Fraud*, (2008) Aldershot: Ashgate

Michael Levi & John Burrows, 'Measuring the impact of fraud in the UK: A Conceptual and Empirical Journey', 48(3) *British Journal of Criminology* (2008), 293-318

Jonathan Lopez, *The Man Who Made Vermeers: Unvarnishing the Legend of Master Forger Han van Meegeren*, (2008) New York: Harcourt

David Lykken, *A Tremor in the Blood: Uses and Abuses of the Lie Detector*, (1981) New York: McGraw-Hill

Jerry Markham, 'Guarding the Kraal – On the Trail of the Rogue Trader', 21 *Journal of Corporate Law* (1995), 131-149

David Maurer, *The Big Con*, (1999) New York: Anchor

Randall McGowen, 'Making the 'bloody code'? Forgery legislation in eighteenth-century England', in Norma Landau [ed], *Law, Crime & English Society, 1660-1830*, (2002) Cambridge: Cambridge University Press, 117-138

David McKie, *Jabez: The Rise & Fall of a Victorian Rogue*, (2004) New York: Atlantic

R. Bradley McMahon, 'After Billions Spent To Comply With HIPAA And GLBA Privacy Provisions, Why Is Identity Theft The Most Prevalent Crime In America?', 49(3) *Villanova Law Review* (2004), 625-660

Greg Marston & Tamara Walsh, 'A Case of Misrepresentation: Social Security Fraud and the Criminal Justice System in Australia', 17(1) *Griffith Law Review* (2008), 285-300

Donato Masciandaro [ed], *Global Financial Crime: Terrorism, Money Laundering, and Off Shore Centres*, (2004) Aldershot: Ashgate

Floyd Miller, *The Man Who Sold the Eiffel Tower*, (1961) Garden City: Doubleday

Peter Millett, *On Villainy, Money Loops and Identity Theft*, (2008) St Lucia: University of Queensland Press

George Milne, 'How Well Do Consumers Protect Themselves From Identity Theft?', 37(2) *The Journal of Consumer Affairs* (2003), 388-402

John Miner & Michael Capps, *How Honesty Testing Works*, (1996) Westport: Quorum

Neil Mitchison, Marc Wilikens, Lothar Breitenbach, Robin Urry and Silvia Portesi, *Identity Theft – A discussion paper*, (2004) Institute of the Protection and Security of the Citizen

Frederick Morgeson, Michael Campion, Robert Dipboye, John Hollenbeck, Kevin Murphy & Neal Schmitt, 'Are We Getting Fooled Again? Coming To Terms With Limitations In The Use Of Personality Tests For Personnel Selection', 60(4) *Personnel Psychology* (2007), 1029-1049

Nicola Morley, Linden Ball & Thomas Ormerod, 'How the detection of insurance fraud succeeds and fails', 12 *Psychology, Crime & Law* (2006), 163-180

RT Naylor, *Wages of Crime: Black Markets, Illegal Finance, & the Underworld Economy*, (2002) Ithaca: Cornell University Press

Gwynn Nettler, 'Embezzlement without problems', 14(1) *British Journal of Criminology* (1974), 70-77

James Norris, *R G Dun & Co, 1841-1900: The Development of Credit Reporting in the Nineteenth Century*, (1978) Westport: Greenwood Press

Deniz Ones, Chockalingam Viswesvaran & Frank Schmidt, 'Comprehensive meta-analysis of integrity test validities: Findings and implications for personnel selection and theories of job performance', 78 *Journal of Applied Psychology* (1993), 679-703

Roxanne Panchasi, 'Graphology and the Science of Individual Identity in Modern France', 4(1) *Configurations* (1996), 1-32

Parliament of Victoria Drugs & Crime Prevention Committee, *Inquiry Into Fraud and Electronic Commerce (Final Report)* (2004) at http://www.parliament.vic.gov.au/dcpc/Reports/DCPC_FraudElectronicCommerce_05-01-2004.pdf

James Phelan & Lewis Chester, *The Money: The Battle for Howard Hughes's Billions*, (1997) New York: Random House

Clifton Phua, Vincent Lee, Kate Smith & Ross Gayler, 'A Comprehensive Survey of Data Mining-based Fraud Detection Research', *Artificial Intelligence Review* (2005)

Spencer Pickett & Jennifer Pickett, *Financial Crime Investigation and Control*, (2002) New York: Wiley

John Pratt, *Governing the Dangerous: Dangerousness, Law and Social Change*, (1997) Leichhardt: The Federation Press

Richard Quinney, 'The Study of White-collar crime: toward a reorientation in theory and practice', in Gilbert Geis [ed], *White-collar Crime*, rev. ed (1977) New York: Free Press, 283-296

Nicole Rafter, *The Criminal Brain: Understanding Biological Theories of Crime*, (2008) New York: New York University Press

Charles Raw, Bruce Page & Godfrey Hodgson, *Do You Sincerely Want to Be Rich?: The Full Story of Bernard Cornfeld and IOS*, (1971) London: Andre Deutsch

Pauline Reich, Cybercrime: advance fee scans in-country and across borders (2004), at <http://www.aic.gov.au/conferences/2004/reich.pdf>

Mark Rieke & Stephen Guastello, 'Unresolved issues in honesty and integrity testing', 50 *American Psychologist* (1995), 458-459

George Robb, *White Collar Crime in Modern England: Financial Fraud and Business Morality 1845-1929*, (1992) Cambridge: Cambridge University Press

George Robb, 'Women and White-Collar Crime Debates on Gender, Fraud and the Corporate Economy in England and America, 1850-1930', 46(6) *The British Journal of Criminology* (2006), 1058-1072

Chris Ronalds, *Discrimination Law*, (2004) Leichhardt: The Federation Press

Judith Rowbotham & Kim Stevenson, *Behaving Badly: Social Panic and Moral Outrage – Victorian and Modern Parallels*, (2003) Aldershot: Ashgate

Alicia Rozycki, *Prison Tattoos as a Reflection of the Criminal Lifestyle and Predictor of Recidivism*, (2007) Texas Tech PhD dissertation

John Rust & Susan Golombok, *Modern Psychometrics: The Science of Psychological Assessment*, (1999) London: Routledge

Paul Sackett & Michael Harris, 'Honesty testing for personnel selection: A review and critique', 37 *Personnel Psychology* (1984), 221-245

Yuka Sakurai & Russell Smith, 'Gambling as a motivation for the commission of financial crime', Trends and Issues in Crime and Criminal Justice, No. 256 (2005), Canberra: Australian Institute of Criminology

David Samuels, *The Runner: A True Account of the Amazing Lies and Fantastical Adventures of the Ivy League Impostor James Hogue*, (2008) New York: New Press

Scott Sandage, *Born Losers: A History of Failure in America*, (2005) Cambridge: Harvard University Press

- Boris Schedvin & Reginald Appleyard [ed], *Australian Financiers*, (1988) South Melbourne: Macmillan
- Simone Schnall, Jennifer Benton & Sophie Harvey, 'With A Clean Conscience: Cleanliness Reduces the Severity of Moral Judgments', 19(12) *Psychological Science* (2008), 1219-1222
- Catherine Schrand & Sarah Zechman, 'Executive Overconfidence and the Slippery Slope to Fraud', (2008) SSRN
- Robert Shaplen, *Kreuger, Genius and Swindler*, (1960) New York: Knopf
- Donald Shelton, 'The 'CSI Effect': Does it Really Exist?', 259 *National Institute of Justice Journal* (2008), 1-8
- Paul Slovic, 'Perception of risk', 236 *Science* (1987), 280-285
- Daniel Smith, 'Ritual Killing, 419, and Fast Wealth: Inequality and the Popular Imagination in Southeastern Nigeria', 28(4) *American Ethnologist* (2001), 803-826
- Russell Smith, 'Measuring the Extent of Fraud in Australia', (1998) Canberra: Australian Institute of Criminology
- Russell Smith, 'Electronic Medicare Fraud: Current & Future Risks', (1999) Canberra: Australian Institute of Criminology
- Russell Smith, 'Addressing Identity-related Fraud in the Retail Financial Services Sector', (2003) Canberra: Australian Institute of Criminology
- Russell Smith, *Serious Fraud in Australia and New Zealand*, (2003) Canberra: Australian Institute of Criminology and PriceWaterhouseCoopers
- Ronald Soble & Robert Dallos, *The Impossible Dream: The Equity Funding Story, the Fraud of the Century*, (1975) New York: Putnam
- Julie Spohn, 'The Legal Implications of Graphology', 75(3) *Washington University Law Quarterly* (1997), 1307-1334.
- Hilary Spurling, *La Grande Therese: The Greatest Scandal of the Century*, (2000) London: HarperCollins
- Alex Steel, *General Fraud Offences in Australia, UNSW Faculty of Law Research Series 55 (2007)*, (2007) Sydney: University of New South Wales
- Anne-Marie Stein, *Three Picassos Before Breakfast: Memoirs of an Art Forger's Wife*, (1973) New York: Hawthorn
- Andrew Stewart, *Stewart's Guide To Employment Law*, (2008) Leichhardt, The Federation Press
- Ezra Stotland, 'White collar criminals', 33 *Journal of Social Issues* (1977), 179-196
- Adam Sutton & Ronald Wild, 'Small Business: White-collar Villains or Victims', 13(3) *International Journal of the Sociology of Law* (1985), 247-259

Willie Sutton, *Where the Money Was: The Memoirs of a Bank Robber*, (1976) New York: Viking Press

Trevor Sykes, *The Bold Riders: Behind Australia's Corporate Collapses*, (1994) North Sydney: Allen & Unwin

Robert Tett, Douglas Jackson & Mitchell Rothstein, 'Personality Measures as Predictors of Job Performance: A Meta-Analytic Review', 44(4) *Personnel Psychology* (1991), 703-741

David Terpstra, Elizabeth Rozell & Robert Robinson, 'The influence of personality and demographic variables on ethical decisions related to insider trading', 127(4) *The Journal of Psychology* (1993), 375-390

Martin Thomas, *The Fraud*, (1991) Richmond: Pagemasters

Alison Tupman, 'Looking for 'Ms Big'', 2(3) *Journal of Financial Crime* (1994), 179-186

Brent Turvey, *Criminal Profiling: An Introduction to Behavioral Evidence Analysis*, (2008) New York: Academic Press

Tom Tyler, *Why People Obey the Law*, (2006) Princeton: Princeton University Press

Tom Tyler, 'Viewing CSI and the Threshold of Guilt: Managing Truth and Justice in Reality and Fiction', 115 *Yale Law Journal* (2006), 1050-1085

Alan Tyree & Prudence Weaver, *Weerasooria's Banking Law*, 6 ed (2006) Chatswood: Butterworths

Sheldon Ungar, 'Moral panic versus the risk society: the implications of the changing sites of social anxiety', 52(2) *British Journal of Sociology* (2001), 271-291

Ian Verrender, 'A shark has such teeth, and it shows them pearly white', *Sydney Morning Herald* 31 May 2008

Liz Walley & Mike Smith, *Deception in Selection*, (1998) New York: Wiley

Glenn Walters, 'The Psychological Inventory of Criminal Thinking Styles', 22(3) *Criminal Justice and Behavior* (1995), 307-325

Warfield & Associates, *Report on Gambling Motivated Fraud in Australia 1998-2007* (2008) <http://www.warfield.com.au/WarfieldGamblingFraud.pdf>

Sherron Watkins & Mimi Swartz, *Power Failure: The Inside Story of the Collapse of Enron*, (2003) New York: Doubleday

John Weaver, 'A Pathology of Insolvents: Melbourne 1871-1901', 5 *Australian Journal of Legal History* (2004)

Joseph Weil, *Con Man: A Master Swindler's Own Story*, (2004) New York: Broadway

David Weisburd, Elin Waring & Ellen Chayet, *White-Collar Crime and Criminal Careers*, (2001) Cambridge: Cambridge University Press

- Richard Wetzell, *Inventing the Criminal: A History of German Criminology, 1880-1945*, (2000) Chapel Hill: University of North Carolina Press
- Stanton Wheeler, 'The problem of white-collar crime motivation', in Kip Shlegel & David Weisburd, *White-Collar Crime Reconsidered*, (1992), Boston: Northeastern University Press, 108-123
- Anthony White, 'The Recognition of a Negligence Cause of Action for Victims of Identity Theft: Someone Stole My Identity, Now Who is Going To Pay For It?', 88(4) *Marquette Law Review* (2005), 847-866
- Susan Wiley, 'Deception and Detection in Psychiatric Diagnosis', 21(4) *Psychiatric Clinics of North America* (2005), 869-893
- Phil Williams [ed], *Russian organized crime: the new threat?*, (1997) London: Frank Cass
- Sara Willott & Christine Griffin, 'Building your own lifeboat: working-class male offenders talk about economic crime', 38(4) *British Journal of Social Psychology* (1999), 445-460
- Kam Wong, 'From White-Collar Crime to Organizational Crime: An Intellectual History', 12 *Murdoch University Electronic Journal of Law* (2005)
- Ian Woods, 'Fraud & the Australian Banking Industry' (1998) Canberra, Australian Institute of Criminology
- Simon Worrall, *The Poet and the Murderer: A True Story of Literary Crime and the Art of Forgery*, (2003) London: 4th Estate
- Christopher Wright, *Art of the Forger*, (1985) New York: Dodd Mead
- Jock Young, 'Mayhem and Measurement in Late Modernity', in Kauko Aromaa & Sami Nevala [ed], *Crime and Crime Control in an Integrating Europe: Plenary presentations held at the Third Annual Conference of the European Society of Criminology, Helsinki 2003*, (2004) Helsinki: Criminal Justice Press, 18-31
- Ruth Zaplin, *Female Offenders: Critical Perspectives and Effective Interventions*, (2007) Boston: Jones & Bartlett
- Leslie Zebrowitz, Carrie Andreoletti, Mary Collins, So Lee & Jeremy Young, 'Bright, bad, babyfaced boys: Appearance stereotypes do not always yield self-fulfilling prophecy effects', 75(5) *Journal of Personality and Social Psychology* (1998), 1300-1320
- Dorothy Zeitz, *Women Who Embezzle or Defraud : A Study of Convicted Felons*, (1981) New York: Praeger
- Stephen Ziliak & Deirdre McCloskey, *The Cult of Statistical Significance: How the Standard Error Costs Us Jobs, Justice, and Lives*, (2007) Ann Arbor: University of Michigan Press
- Mitchell Zuckoff, *Ponzi's Scheme: The True Story of a Financial Legend*, (2005) New York: Random House

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