

## Rethinking of Situational Context and Characteristic of Industrial Secrets Leakage: Some National Security and Psychological Perspectives

Choi, Kwan<sup>†</sup>

The Hansei University, South Korea

The present paper highlights by describing one highly specific type of white collar crimes, industrial secrets leakage, and how it is committed. Next, it attempts to discuss how to manipulate situational factors occurring in the immediate environment. As part of the answer, it explains SCP theory and why white collar crimes such as industrial secrets leakages are differentiated from ordinary street crimes. In doing so, it can be able to identify distinct characteristics of white collar crimes such as industrial secrets leakages that may be necessary to modify the situational crime prevention strategies to apply to white collar crime. In conclusion, the present paper discusses how we might apply interventions affecting the judgment of offenders. By doing so we might design a program to control it using ideas drawn from SCP theory.

*Key words* : *Situational Context, Characteristic, Industrial Secrets Leakage, National Security, Psychological Perspectives*

---

<sup>†</sup> 교신저자 : Choi, Kwan, Professor in Criminology and Security, Department of Police Sciences, The Hansei University, South Korea

Tel : 010-4819-8409, E-mail : schgosi@daum.net

## Introduction

How well the Situational Crime Prevention (below SCP) theory applies to white collar crime depends upon the definition of white collar crime. Sutherland's (1983) "offender-based" approach is based on class in relation to the "high social status." As such, other offences, which are committed by the same offenders or are not committed in occupational procedures, are excluded. For this reason, many scholars have criticized Sutherland's definition, by arguing that an offense should be defined according to its modus operandi (Edelhertz, 1983; Shapiro, 1990).

White collar crime, on the other hand, is well defined in the manner proposed by Edelhertz (i.e., "offenses-based" approach). It was formulated by Edelhertz (1983) as "an illegal act or series of acts committed by non-physical means and by concealment and guile, to obtain money or property, to avoid the payment or loss of money or property, or to obtain business or personal advantage" (p. 3). However, this definition paid its attention to non-physical means, but the greatest concern in the community was aroused from physical harms to individuals. Furthermore, requirement that the offense is committed in the occupational procedure is removed, thereby absorbing blue collar offenses (e.g., welfare fraud, and credit card fraud).

The offense based definitions have been

advocated for several reasons. First, both social status and location independently vary on the definition of the offense and can be used as factors as an exogenous / independent variable to explain how the social status of the actors and locations of the act affects white collar crimes. This is important, since the aforementioned factors influence the extent of the opportunity predictors available to potential offenders, which, in turn, lead to criminal offenses. Second, it is possible for researcher to investigate whether white collar crimes occurred in occupational setting is different from those occurred in outside occupational settings. Finally, it makes it easier to use samples of white collar crime from official data sources, such as court conviction records (Benson & Simpson, 2009).

These social and occupational characteristics play a significant role in making white collar crime control difficult. However, these characteristics have an indirect effect on influential access to situational opportunities. The SCP theory has been extended to other more non-conventional crimes such as white collar crimes. This is because many white collar crimes result from the particular opportunities that accompany the access of offenders to a certain occupational or organisation position. The purpose of present paper argues that the SCP theory provides an effective approach to control white collar crime such as an industrial secrets leakage.

Overall, the paper has shown the definition of

white collar crime above. Sutherland (1983) draws attention to characteristics of offenders; however, SCP theory focuses on opportunity characteristics of immediate circumstances that facilitate a specific criminal event. Since Edelhertz's (1983) definition depicts criminal event rather than characteristics of white collar offenders, the "offenses-based" approach will be used throughout this paper.

With the above in mind, the paper will begin by describing one highly specific type of white collar crimes, industrial secrets leakage, how it is committed. Next, it attempts to discuss how to manipulate situational factors occurring in the immediate environment. As part of the answer, it explains SCP theory and why white collar crimes are differentiated from ordinary street crimes. In doing so, it can be able to identify distinct characteristics of white collar crimes that may be necessary to modify the situational crime prevention strategies to apply to white collar crime. Finally, it discusses how we might apply interventions affecting the judgment of offenders. By doing so we might design a program to control it using ideas drawn from SCP theory.

### **Focusing on Highly Specific Types of Crimes and Disorders**

It is an essential limitation because the more specific term of white collar crime is used to

describe heterogeneous offenses. The more specific the definition of the crime and disorder, the greater the likelihood that situational intervention will be effective in reducing criminal issues. This is because a well-defined problem of crime or disorder has a distinct opportunity structure (Sparrow, 1996).

According to Shapiro (1984), Insider trading is most publicized security offense. For example, if individual worked for a medical corporation as an employee and he / she got some information that the corporation had just succeeded in developing a new medicine to cure diabetes, it would be illegal for individual who is working in the company to then rush out and buy a lot of stock in his own company before that data was made available to the public. It can be argued that three key structural factors of industrial secrets leakage are the monopolization of information in relation to the crime and disorder. First, Individuals who are doing the industrial secrets leakage can only access the information and involve in the decision making process. Therefore they can have the right to a monopoly the investment plan using the information. Second, there are no auditors that better and understand and could investigate in terms of insider trading actions of industry security crimes. Third, it was the general fact that even when industrial secrets leakage actions are detected, offenders assume that they had just luck for making money and not offending behavior, and they who are parts of individuals

behind the system do not get any investigation (Shapiro, 1984). All the above mentioned, key factors can play a role as motivators that offenders buy the stock for industrial secrets leakage to get more money using information that they had been received within organization.

### **Manipulating Situational Factors**

Characteristics of white collar crime are related to SCP. In other words, it is required to modify and re-think the situational approach to white collar crime control with those typical characteristics, which, thereby, may require us to alter standard situational prevention strategies. As following the definition of Edelhertz, there are at least four Distinctive Characteristics between white collar crimes and ordinary street crimes (Braithwaite, 2013).

First is the specialized access. From the traditional perspective of crime formulation, convergence in time and space of potential offenders, suitable targets, and the absence of capable guardians can result in increases in crime rates. The lack of any of these minimal components is a sufficient condition for preventing crime and disorder (Cohen & Felson, 1979). Unlike ordinary street crimes, it is not necessary for white collar offenders to access criminal opportunity. This is because the offender's access to the target or victim is specialized by virtue of an occupational position.

Hence, it is difficult to block white collar offenders to access their targets and victims. For instance, most of offenders for industrial secrets leakage have legitimate access to information for making money and their actions have the superficial appearance of legality. Individuals who are doing the industrial secrets leakage generally participation in the decision making process for making money in the companies. Hence, it is impossible to block the access of the industrial secrets offenders to the information relating the money. Furthermore, blocking the access itself stops the industrial secrets leakage offender, who gives service to their investors or clients (Chun & Lee, 2013).

Second is the deception and concealment. To hide the offense, the offender uses deception (i.e., misleading or false information) and concealment (i.e., hiding information). Those who commit industrial secrets leakages engage in a fraudulent transaction in relation to security offenses where the victim is un-aware of the intent of offenders. For instance, people for industrial secrets leakage participate in normal decision making process of company. In the process, he can know exactly how he has to invest for making money. A claim does not reflect how he gets the information illegally.

Third is the ambiguous state of mind. The offender has a vague state of mind at the time of the crime and disorder; state of mind is used on the legitimate sense to refer to criminal objective. In most ordinary street crime, the

activities of offenders while committing the crime can indicate criminal intent and objective. However, with many white collar crimes, the offender's activities cannot be used to refer to criminal objective. For instance, individuals who are in decision making process can get a high quality of information for making money all the time. Any one claim does not mean that the people who are doing industrial secrets leakage intended to commit the security offenses. They might have made a mistake. Shapiro (1984) posited that it is very difficult to understand the intent of people who are doing the industrial secrets leakage because their situations look like highly normal.

Four is the spatial separation or distinction. The ordinary street crime offenders come into physical contact with distant or separate from the target or victim (Chun & Lee, 2013). However, many white collar offenders use electronic or certain transactional networks, such as internet, phones, and mails. For instance, the offenders who are doing industrial secrets leakage are stealing some information relating to money from company's decision making process, they are spatially separated from them. These characteristics require us to alter several of the particular crime control strategies of the situational intervention when the situational approach is applied to white collar crime.

### **Situational Crime Prevention Theory**

Traditional criminological theories, focusing on criminal disposition, have little application to prevent crime, whereas crime prevention theories pay their attention to an alternative theoretical perspective on the situational factors (i.e., the immediate circumstances) influencing crime and disorder to make crime and disorder less likely to occur. Those factors may influence potential offenders' perception that motivates them to engage in crime and disorder, which, in turn, led to more support for a situational crime prevention approach. Based on the assumption that offenders' rational choice perspectives, the SCP theory emphasizes the idea that crime can be preventive by implementing measures, a broad set of techniques. First, they are designed to reduce of the physical opportunities for crime, referring to the blocking of the opportunities for certain crimes. The second element of situational crime prevention is to increases the chances of being caught, referring to raise the chances of being been by someone (Braithwaite, 2013).

According to Cornish and Clarke (2003), SCP consists of opportunity reducing measures that ① are directed at highly specific types of crimes, ② involve the management, design and manipulation of the immediate environment in as systematic and permanent ways as possible, and ③ make crime or disorder more risky and difficult, or less rewarding and excusable as perceived by the vast majority of offenders (p.

225). To reduce opportunities for specific types of crime and disorder, the most important purpose of SCP is to provide a practical framework about how to deal with crime and disorder. There are three components: ① an articulated theoretical framework informed by opportunity theories, ② a standard action research methodology for dealing with specific crime or disorder problems, and ③ a set of opportunity reducing techniques (Cornish & Clarke, 2003).

The SCP techniques have been classified and updated with the expanded theoretical base of SCP. It first grouped the preventive techniques under three main crime prevention principles drawn from rational choice perspective, such as increasing the risks and the efforts, and reducing rewards. The fourth modification, removing excuses for crime, was added to the classification (Braithwaite, 2013). Wortley (2001) suggested adding an analysis of situational precipitators to Cornish and Clarke's (2003) analysis of situational opportunities. Under the previous SCP development, Cornish and Clarke (2003) summarized the five conditions that make provocations and pressures most significant.

Overall, in the context of SCP, there are five general crime prevention principles representing different ways of reducing the criminal opportunities that are attracted by potential offenders: ① increase effort to make crime and disorder more difficult, ② increase risk of being caught before, during, and after a criminal

event, ③ remove rewards that can be obtained by committing crime and disorder, ④ remove excuses that can be made by offenders after a criminal event, and ⑤ remove provocations that may induce individuals for unplanned criminal activities. 25 opportunity reducing techniques have been used to implement crime or disorder reduction principles as an analytical tool to prevent crime and disorder (Cornish & Clarke 2003; Wortley, 2001). The opportunity reducing techniques have been applied primarily to direct contact predator crime or disorder, ordinary street crimes. Very little attention has been applied to white collar crime.

### **Why Industrial Secrets Leakage is still an Issue**

The situational intervention must be effective in changing a criminal opportunity structure by modifying the immediate environment. This assertion is based on the theoretical assumptions of routine activity theory; crimes and disorder will occur in convergence in time and space of suitable target, motivated offender, and in the absence of controllers, such as a capable guardian, handler, or place manager. Most white collar crimes such as industrial secrets leakages are not like direct contact predatory crimes, but physically separated from targets or victims. Furthermore, the white collar crimes can be committed by multiple offenders and at multiple

places, and may not come into contact with their victims. For this reason, it is necessary to re-conceptualize place or immediate environment before situational approach can be applied. As a result, the situational approach can be effectively applied by modifying the features of transaction networks rather than places or the immediate environment since most fraudulent claims are filed through Internet (Braithwaite, 2013).

The better understanding of the industrial secrets leakage issues as one of the white color crime in industry companies did not lead to its “extinction”. According to Shapiro (1984), there are six key reasons why industrial secrets leakage actions in companies are still issues. First, the in industry companies do not seriously consider to the fraudulent actions. Therefore they have no idea exactly the magnitude of the industrial secrets leakage issue and its seriousness. Unlikely other crimes such as murder, sexual abuse, and burglary, there is no specific victims of industrial secrets leakage crime. Therefore individuals do not care seriously in terms of the issue. Second, there is no enough resource to fund undercover investigation and better audits of the claims from offenders in companies and society. Therefore the best and cheapest method to deal with about industrial secrets leakage is just to pay money offenders without further audition and investigation in terms of security offences. Third, the investigators for claims do not have the enough knowledge which is needed most of time for establishing offending in terms of

industrial secrets leakage. Generally, the investigating for successful claims about industrial secrets leakage demands to take long time to get the knowledge. However it is very difficult things that non-specialists in security offense fields have a similar level of knowledge with offenders (Benson & Simpson, 2009). Fourth, the company boards that have to investigate in terms of claims from audits hesitate to come against their colleagues. As a fifth key reason, criminal justice agencies have no strong intentions for preventing and controlling industrial secrets leakage. According to Shapiro (1984), the prosecutors and police officers tend to prefer to deal with more serious disorder issues such as murders and serial sexual abuse than fraud such as industrial secrets leakage and try their best in order to avoid those events.

## Conclusion and Discussion

The SCP approach is based on the assumption that potential offenders are rational and sensitive to changes in the immediate situation that affect the perception of costs and benefits of crime. Compared to ordinary street offenders, the assumption of rationality seems to be less defensible for white collar offenders. This is because offenders are better educated and less likely to be influenced by the kind of alcohol or drug abuse that affects their rationality. Offenders do not make the best decision

whether they will engage in crime, called as “bounded or limited rationality.” Nonetheless, the situational intervention is constructed to change offenders’ judgments of the costs and benefits related to a certain crime in ways that discourage the offender from committing the crime (Braithwaite, 2013).

It is very interesting to explore what the motivated offenders including people for doing industrial secrets leakage believe about their activities and how they perceive their actions. According to Shapiro (1984), majority of individuals for doing industrial secrets leakage deny that they done something wrong in terms of fraud and then they told that they brought the stock before getting the information. Benson and Simpson (2009) also argues that there are several types of neutralizations for denying industrial secrets leakage: denial of responsibility, denial of injury, denial of a victim, condemning the condemners and appeal to higher loyalties.

Majority of the cases, the people who are doing industrial secrets leakage tried to avoid legal and moral responsibilities for their actions putting the blame on other individuals. They then denied having injured anybody. They further denied that the public has been victimized that someone cannot get some opportunities relating investing and making money.

In the SCP theory, there are five general principles implemented by using a variety of 25 specific techniques can also be applied to white

collar crime. These specific techniques appear to affect offender decisions so that they are less likely to commit the specific crimes. However, it might be required to modify the standard situational approaches at times. In doing so, we might design a program or policy to control it using ideas drawn from the SCP theory (Benson & Simpson, 2009).

First is the increasing the effect. For white collar crime, involving specialized access of offender’s occupational role, physically blocking access to the targets or victims is not a possible technique for any white collar crime. For instance, in terms of industrial secrets leakage, to block the individuals’ access to the information for making money, is not feasible, but would have the undesirable side effect of preventing legitimate occupational roles. Shapiro (1984) argued that, alternatively, there are other ways to control offenders’ access without blocking legitimate activities, to restrict access to the occupational position so that it makes it more difficult for potential offenders to access the targets or victims. Thus, unlikely street crimes, regulations that require licenses, certifications, or qualifications that can access occupational positions can be viewed as ways of blocking access to certain types of white collar crimes such as industrial secrets leakages.

Second is the increasing the risk of detection. In industrial secrets leakage crime, however, a basic way to increase the risks related to filing fraudulent claims is to hire more investigators to



review claims submitted. Enhancing the ability of place managers for the supervision and management of the information will increase the risks related to committing industrial secrets leakage (Benson & Simpson, 2009). For instance, place managers who are better understanding in terms of industrial secrets leakage in decision making process can know which step, when, how security offense relating industrial secrets leakage is occurring, and they can more pay attention to that. Also, the government increases the risks of detection by providing reporting incentives for people who are aware of offenders of industrial secrets leakage. Technology, such as software programs designed to detect claims, provide a means to enhance formal surveillance.

Third is the reducing the rewards. This principle could be achieved by concealing and removing targets, identifying property, disrupting markets, or denying the benefits stemming from crime. Reducing rewards for white collar crimes may be a more difficult strategy than those for ordinary street crimes. This is because it may be impossible to conceal or remove reimbursement funds from industrial secrets leakage or generally ineffective in reducing the criminal opportunity for white collar crimes if the cash or property cannot be physically taken (Benson & Simpson, 2009).

Fourth is the removing excuses. Removing excuses by setting rules and posting instructions can be effective in preventing industrial secrets leakage. This focuses on the offenders' rationality

used to commit crimes. That is, removing possible excuses prevents offenders from neutralizing feelings of guilt. Individuals who are doing the industrial secrets leakage should be aware of what rules and instructions and are not covered by the program. Therefore, government and related agencies need to PR (public relation) using mass media to individuals who are motivated the industrial secrets leakage for controlling and preventing the 'excuses' of offenders.

In sum, the paper has discussed the differences between white collar and ordinary street crimes as well as the applicability of SCP theory to white collar crimes. Finally, it has taken, for instance, industrial secrets leakage for a prevention design. Traditional approaches for crime prevention do not seem to work well on industrial secrets leakage. Therefore, a comprehensive crime prevention program will be more effective in reducing industrial secrets leakage. The considerable way is to study the modus operandi of past cases and to identify the specific circumstances in which crime prevention techniques can be successfully applied.

## Reference

- Benson, M. L. & Simpson, S. S. (2009) White collar crime: An opportunity perspective. New York: Routledge.
- Braithwaite, J. (2013) Corporate crime in the

- pharmaceutical industry. New York: Routledge.
- Chun, Y. T. & Lee, J. L. (2013). "An analysis on the industrial technology leakage cases in South Korea". *International Journal of Business and Management Review*, 1(2), 69-78.
- Cohen, L. E. & Felson, M. (1979). Social Change and Crime Rate Trends: A routine activity approach. *American Sociological Review*, 44, 588-605.
- Cornish, D. B. & Clarke, R. V. (2003). Opportunities, precipitators and criminal decisions: A reply to Wortley's critique of situational crime prevention, Martha, J. S. and Cornish, D. B. (Ed.), *Theory for Practice in Situational Crime Prevention*. Monsey, NY: Criminal Justice Press, 41-96.
- Edelhertz, H. (1983). White collar and professional crime: The challenge for the 1980s. *American Behavioral Scientist*, 27(1), 109-128.
- Shapiro, S. P. (1990). Collaring the crime, not the criminal: Reconsidering the concept of white-collar crime. *American Sociological Review*, 55, 346-365.
- Shapiro, S. P. (1984). *Wayward capitalists: Target of the securities and exchange commission*. New Haven: Yale University Press.
- Sparrow, M. K. (1996). Health care fraud control: Understanding the challenge. *Journal of Insurance Medicine*, 28, 86-96.
- Sutherland, E. H. (1983). *White collar crime: The uncut version*. New Haven: Yale University Press.
- Wortley, R. (2001). A classification of techniques for controlling situational precipitators of crime. *Security Journal*, 14, 63-82.
- 1 차원고접수 : 2015. 01. 23.  
심사통과접수 : 2015. 02. 09.  
최종원고접수 : 2015. 03. 23.

## 산업기밀유출범죄의 상황적 맥락과 특성에 대한 재고찰: 국가안보적 / 심리학적 접근

최 관

한세대학교 범죄학 & 안보학 담당 조교수

본 논문은 산업기밀유출범죄와 같은 화이트칼라범죄만이 가지는 특징적 유형과 특성들에 대해서 살펴보고 이러한 범죄가 왜, 그리고 어떻게 일어나는지에 대한 상황적 맥락에 대해서 살펴보는 것에 그 목적이 있다. 또한 산업기밀유출범죄 발생 시, 해당 환경적 요소들이 어떻게 상황적 요소들에 대한 조작에 영향을 미치는 지에 대한 관념적인 접근을 시도하였다. 또한 이러한 현상들에 대해서 산업기밀유출범죄가 일반적인 물리적 범죄들과 비교하고 그 해당 범죄들이 가지는 특성들의 차이를 범죄 전, 범죄 실행, 범죄 후 상황별로 설명하였다. 또한 상황적 범죄예방전략 차원에서 산업기밀유출범죄를 예방하기 위한 발전방안들(범죄억제 효과를 높이기 위한 기회비용 증가; 산업기밀유출적발과 같은 위협의 증가; 산업기밀유출범죄로 얻을 수 있는 보상에 대한 감소; 처벌감경사유 없음)을 고찰하고 또한 제시하였다.

주요어 : 상황적 맥락, 특성, 산업기밀유출범죄, 국가안보적, 심리학적 접근