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**Corporate Criminal Careers: Thinking about Organizational Offending**

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**Abstract**

This article argues for the necessity of considering corporate crime through a criminal career framework. It begins by highlighting that the problems of corporate crime work to date. These relate to whether analysis should be focused on individuals or organizations, and the implication inherent to many explanations for corporate crime that different aspects of corporate offending share a single cause. This has led to seemingly contradictory conclusions about corporate crime being drawn, hampering attempts to develop explanations for its occurrence. A response to these issues involves a stronger focus on corporate offenders as recidivists and, consequently, a study of their offending over time. It is suggested that the criminal career approach is the best way to achieve this, as it allows for a conceptual sensitivity towards understanding corporate crime, pointing at how different elements of the corporate criminal career can be studied in isolation and focusing on offending over time. This is a necessary starting point for developing theories of corporate criminality. The article concludes by suggesting some ways a corporate criminal career approach might be developed.

**Key Words:** Corporate crime, criminal careers, onset, desistance, offending frequency

## Introduction

In March 2017, UK supermarket chain Tesco accepted a deferred prosecution agreement that would see it pay a fine of £85 million for misleading investors. Tesco's chief executive expressed satisfaction that the matter was closed and that "...we are a different business now" (Tesco PLC, 2017). Observers might be forgiven some skepticism. After all, in previous years Tesco had been fined for numerous breaches of health and safety regulations (relating to fire safety, failure to report employee accidents and injury to employees), for price fixing and for pollution of a river that saw homes evacuated, residents taken ill and the death of fish.

## Identifying corporate crime

It is worth first touching upon some staples of corporate crime work. Foremost of these is the necessity of studying corporate crime given the harm such offences cause. The financial and physical costs of corporate offending and the number of victims impacted have been demonstrated numerous times (see for example Sutherland, 1945; Punch, 2000; Tombs and Whyte, 2015).

Second, this article follows existing work in using the term corporate crime to refer to more than just violations of criminal law. Many corporate misdeeds are pursued and punished under civil and administrative legislation and, as such, are not crimes, strictly speaking. Nevertheless, scholars have tended to include in their definition of crime deeds so punished (Sutherland, 1945; Smith et al, 2007; Simpson and Yeager 2015). This is in recognition of corporations' powerful position to resist attempts to label their activities as criminal.

Third, the concern here is with organizations as offenders. Although Greve et al (2010: 57) suggest it is a "...legal fiction"... to say that organizations make decisions independent of those who form them, organizations are nevertheless the context for corporate offending (Paternoster and Simpson, 1996; Slapper and Tombs, 1999: 111-112; Zyglidopoulos and Fleming, 2016). The power of organizations is their ability to impress role imperatives upon their members in order to satisfy organizational goals (Punch, 1996), overriding personal ethics by making the individual synonymous their role (Punch, 2000; Frost and Tischer, 2014). Shapiro therefore encourages us to focus on the roles individuals play within organizations rather than their personal characteristics (1987; 1990). Similarly, Punch argues that management deviance is grounded in everyday business practice (1996: 46; Ashforth and Anand, 2003; see also Huisman, 2016 for an extensive consideration of how various aspects of organizations may be criminogenic). Corporate crime is not reducible to actions of individuals working alone and so focusing on individuals tells us little about how organizational corruption embeds over time (Ashforth et al, 2008). The organization is important, and we should therefore study this (Braithwaite and Fisse, 1990).

These then are the terms under which the following discussion proceeds. The next section outlines some of the difficulties and contradictions inherent to corporate crime work as it currently stands. These are particularly to do with theoretical explanations of corporate offending, many of which implicitly assume all aspects of corporate crime can be explained via the same factors. Finally, there is the necessity of acknowledging that organizations are frequently repeat offenders.

## Explaining corporate crime

Slapper and Tombs (1999; also Tombs and Whyte, 2015) have suggested that the corporate crime field is theoretically barren. Although the situation is not that bleak, attempts to develop corporate crime work are bedeviled by an interrelated set of challenges. Current scholarship is either theoretical or, where it is empirical, frequently employs data collected in situations that struggle to capture the complexity of decision making within organizations.

To take theoretical approaches first, many attempts have sought to apply insights from criminological work more generally. Thus, we have explanations for corporate offending grounded in rational choice – including deterrence based approaches – (Paternoster and Simpson, 1993; 1996;

Simpson and Piquero, 2002; Piquero et al, 2005; Smith et al, 2007; Bertrand et al, 2014), various conceptions of strain (Passass, 1990; Keane, 1993; Simpson and Koper, 1997; Simpson, 2002; Agnew et al, 2009; Mishina et al, 2010; Wang and Holtfreter, 2011), neutralization (Ashforth and Anand, 2003; Piquero et al, 2005; Vieraitis et al, 2012) and routine activities explanations, (Ocasio, 1999; Ashforth and Anand, 2003; Collins et al, 2009) among others (Piquero et al, 2005a; Greve et al, 2010). The challenge in seeking to explain corporate crime with such approaches is that efforts frequently focus on individual decision making rather than organizational context. This is perhaps a consequence of applying theories developed for understanding individual offenders to what may be better treated as an organizational problem. A related difficulty is the way explanations for corporate offending have been tested (or not, as the case may be). Much of the above work is theoretical in nature (e.g., Agnew et al, 2009; Collins et al, 2009). Where effort has been made to test theories of corporate offending (Paternoster and Simpson, 1996; Simpson and Piquero, 2002; Piquero et al, 2005a; 2005b; Wang and Holtfreter, 2011), the difficulties of negotiating access to corporate offenders (Simpson, 2011) mean that frequently the only feasible way to test theories such as strain and rational choice is through the use of vignettes and problem based scenarios with business students or corporate personnel (Piquero et al, 2005a; 2005b; Simpson et al, 2007; 2013; Smith et al, 2007; Simpson and Piquero, 2002). Aside from the difficulty that any intention to offend may not be matched by behavior (Exum et al, 2011), these struggle to capture the complexity of decision-making processes in organizations, therefore shifting focus back to the individual (although Rorie (2015) explores the interaction between organizational context and individual decisions). Avoiding conflating one level of analysis with another is important because different interventions have been shown to be more or less effective at different levels of analysis. Schell-Busey et al's (2016) meta-analysis for example, compared company and individual level interventions, concluding that the deterrent effect of regulatory intervention was far stronger for the former than the latter. A perspective on corporate crime that wants to recognize the importance of organizational context needs to collect data at this level. Other corporate crime work has taken a case study approach to highlight the salient lessons for criminology of particular corporate misdeeds (Geis, 1969; Punch, 1996; Bradshaw, 2015b; Whyte, 2016). These provide a detailed understanding of specific contexts – necessary for suggesting directions for further work – but do not assist our understanding of corporate crime more broadly.

The above notwithstanding, a lack of data hampers attempts to understand corporate crime. Greve et al (2010), Simpson (2011;2019) and Schell-Busey et al (2016) are among those to lament our lack of knowledge on corporate criminals and their activities. Nevertheless, some studies have illuminated the extent of corporate crime (e.g., Sutherland, 1949; Clinard and Yeager, 2006 [1980]), while criminology and management studies have benefitted from work measuring particular aspects of corporate illegality and unethical behavior. Such work is certainly a step in the right direction when it comes to understanding corporate offending. However, as studies often stand in isolation, when considered in aggregate the conclusions reached are often seemingly contradictory. Thus, a reading of the extant research on corporate wrongdoing indicates that increased competition can lead to illegal/unethical behavior (Cai and Liu, 2009; Bennet et al, 2013), but so too can too little competition (Ades and DiTella, 1999; Bauman and Friehe, 2013). Some have identified evidence of a deterrent effect of law enforcement strategies on corporate crime (Block et al, 1981; Yiu et al, 2014). However, others have not (Braithwaite and Makkai, 1991: 29; Simpson et al, 2007), have found a modest effect (Simpson et al, 2014) or found deterrence to be limited and situational (Simpson and Koper, 1992; Makkai and Braithwaite, 1994; Thornton et al, 2005) or subject to a threshold effect (Klepper and Nagin, 1989) (more generally on corporate deterrence, see Schell-Busey et al, 2016). Companies may be more likely to offend when young (Bennett et al, 2013) or when well established (Bertrand et al, 2014). Offending is associated with successful organizations (Mishina et al, 2010), but also unsuccessful ones (Simpson et al, 2007; Bertrand et al, 2014). Some industries seem particularly

criminogenic (Szasz 1986; Simpson and Koper, 1997; Bradshaw, 2015a), but we are not sure what distinguishes some habitually criminal industries from others.

Such findings say more about the complexity of the phenomena of interest rather than anything else. Indeed, all the above may accurately reflect the conditions under which corporate crime may occur, as corporations come under different pressures at different points in time. However, this does highlight a third difficulty, implicit to many attempts to explain corporate crime: they tacitly focus on universal correlates for corporate offending, suggesting that all aspects of corporations' criminality are associated with the same underlying factors (depending on the nature of the enquiry). For example, if a lack of profit is associated with offending then an increase in profit will reduce criminal activity. These explanations do not allow that the correlates for a corporation offending may be unrelated to why it stops, or the frequency with which corporations offend (to give two examples). The sheer complexity of corporate offending allows for at least the possibility that different aspects of corporate criminality may have different underlying causes and correlates, but to date this has passed largely unremarked upon.

Finally, existing explanations of corporate crime ignore a significant fact about corporate offending: organizations are frequently *repeat* offenders. Numerous organizations offend at multiple points in time. For example, since 2000, Barclay's Bank and its subsidiaries have paid penalties in excess of \$2.5 billion for over 20 breaches of regulations, including market manipulation, investor protection violations and insider trading in the US alone (Corporate Research Project, 2018). Barclay's is not unusual in this regard. Existing work has recognized that corporate offenders can be responsible for multiple offences, starting with Sutherland's first attempts to highlight the necessity of focusing on corporate crime (1949; see also Clinard and Yeager, 2006 [1980]; Baucus and Near, 1991; Simpson et al, 2007; Gibbs and Simpson, 2009). However, little has been done to consider the characteristics of such repeat offending, and corporations as repeat offenders have consequently received very little attention. Contributing to repeat corporate offending may be the longevity of organizations, the myriad different ways in which they can fall foul of regulatory procedures, and the increased opportunity for offending this brings about. It also reflects that corporate crimes can be protracted cases of behavior played out over several years, containing numerous examples of wrongdoing, and featuring victims who might be hard to identify or unaware they have been victimized. We are not in a position to say with any confidence what separates the most serious or frequent corporate offenders from their more law-abiding contemporaries. Nevertheless, a significant aspect of corporate offending is that many corporations are recidivists, demonstrating a sustained pattern of offending over time. Any explanation of corporate crime should take this reality into account.

In sum then, despite much excellent work, corporate crime research would benefit from taking a theoretical direction that constitutes the corporation as the offender, by being sensitive to the possibility that different aspects of corporate crime may have different causes and from a greater focus on corporations as offenders over time. To assist with this, a more systematic approach to organizing the study of corporate crime is needed, allowing for the consideration that multiple factors are likely to be related to corporate offending, and sensitive to patterns of stability and change in offending over time. The next section considers just such an approach. It presents the basic tenets of the criminal career approach, summarizes its key points, and outlines how a focus on corporate criminal careers might inform the study of corporate offending.

### **The criminal career paradigm**

The previous section emphasized some of the difficulties associated with attempts to explain corporate crime. Thinking in terms of corporate offending evolving over time provides a useful response to these difficulties. The advantages of doing so include a sensitivity to patterns of stability and change in offending, allowing for asymmetrical causation in the search for explanations of

offending patterns and, consequently, provision of a framework for building more complete theories of corporate offending. Adopting a criminal career approach would be a helpful step in this direction.

The criminal career approach is concerned with the longitudinal sequence of offences committed by an offender (Farrington, 1992; Laub and Sampson, 2001). As traditionally conceptualized, the concept of the criminal career refers to the way offending develops over the life course. Criminal careers have an onset (i.e. when the first offence is committed) and a duration measured as the time from onset until the offender desists (Farrington, 1992). Other important aspects of the criminal career are the frequency of an individual's offending, the prevalence of offenders within a given population (Blumstein et al, 1988) and the extent to which offenders specialize in particular types of offences versus committing a broad range (Piquero, 2000). Blumstein et al (1986), DeLisi and Piquero (2011) and MacLoed et al (2012) provide a fuller outline of the various elements of the criminal career and the development of criminal career research.

Much criminal career work to date has been concerned to identify the correlates of particular aspects of criminal careers. Thus, for example, early onset and persistent offending probably have different correlates (Farrington and Hawkins, 1991; Loeber et al, 1991). Similarly, while gender, race and age are predictive of prevalence of offending in a population, they are not predictive of individual-level offending frequency (Blumstein et al, 1986). In turn, escalation in offence seriousness (i.e. whereby successive instances of offending are more serious than previous ones) is associated with increasing exposure to the criminal justice system (Liu, et al, 2011). Some factors feature repeatedly throughout the criminal career, others are relevant only at particular points (Piquero et al, 2003: 460-462). The message, then, is that at different points in the criminal career different influences may hold sway. This in turn highlights one of the key benefits of adopting a criminal career approach to thinking about offending; such an approach conceptually separates the different aspects of the criminal career, allowing them to be studied in isolation. Although a fuller outline of the criminal career approach is not possible here, the main points to emphasize are its concern with stability and change in offending over the life course and the relevance of different factors at different points in time. With its conceptual sensitivity and focus on long term patterns of stability and change, such a framework is one which could usefully advance understanding of corporate crime. Although the criminal career approach has most frequently been applied to individual offenders, there is no inherent reason that it need be anthropocentric (Reiss, 1986; Bottoms et al, 1992).

Rather than constituting a theory of offending, the criminal career perspective provides a framework within which theories can be developed. The field of developmental and life course criminology gives theoretical context to the study of offending over the life course, identifying the turning points and transitions that might relate to changes in individual offending (e.g., Farrington, 2005; Blokland and van Der Geest, 2017). Corporate crime work is beginning to consider the possibility of integrating a developmental and life course perspective with corporate crime study (see Simpson, 2019), in part by considering offending in terms of organizational life cycles (Phelps et al, 2007). These efforts will undoubtedly help to clarify some of the less understood aspects of corporate offending. A focus on conceptualizing and positing the different elements of the corporate criminal career is a necessary prelude to such work. Adopting some of the insights of the criminal career approach would be a useful step in beginning to untangle some of the apparent contradictions inherent to corporate crime work to date, allowing for more specific and explicit attention to be given to theorizing different elements of corporate offending. The next section explores how a corporate criminal career approach might proceed, highlighting the conceptual and methodological challenges and suggesting how these might be met.

### Outlining a corporate criminal career approach

It is argued above that corporate crime work does not adequately address the fact that corporate offending frequently develops over time, implicitly assumes the correlates of corporate offending are universal when explaining factors associated with corporate offending and, as a result, suffers from a lack of coherent theoretical explanation. Adopting some of the insights of the criminal career approach would be a useful step in addressing these points. Isolation of the different aspects of the criminal career allows for more specific and explicit attention to be given to theorizing different elements of corporate offending. Being able to theorize repeat offending over time is a key part of this. Much of the corporate crime work cited above has already touched upon these issues. However, more explicit incorporation of these into a research agenda focused on tracking, understanding, and explaining patterns of corporate offending over time is necessary.

What might a criminal careers approach to corporate crime find? Fruitful points of enquiry abound, many suggested by existing criminal career work. For example, just as prevalence of offending is not predictive of individual frequency (Blumstein et al, 1986), so it may be worth considering that while corporate offending may be more prevalent in some industries than others (Bradshaw, 2015a), the frequency of offending by corporations in such industries may differ little from other corporate offenders. Also consider Liu et al's (2011) conclusion that exposure to criminal justice sanction increased seriousness of offending amongst individual offenders. Schell-Busey et al suggest something similar, asserting that while some regulatory action against companies may deter offending, too much regulatory oversight may lead to offending out of defiance (2016: 399). Such insights suggest the efficacy of concentrating on particular aspects of offending (frequency and escalation in these cases). We should also consider changes in the state of companies as suggested by business management research. It has already been noted above that the concept of the organizational life cycle might be usefully linked to corporate offending. We might also consider (for example) the link between 'toxic' corporate cultures and offending (van Rooij and Fine, 2018). Further, and following Huisman (2016), an understanding of organizational processes could help explain corporate crime, including through a focus on decision making structures, organizational complexity, and internal oversight procedures.

First, however, corporate crime researchers need better data (Huisman, 2016; Schell-Busey et al, 2016; Simpson, 2019). To analyze corporate criminal careers, we need detail on offences committed by individual firms over time, combined with different company variables. Companies provide regular information on their status in the form of turnover, profit and loss and other measures (e.g., size, management structure, age) that allow us to identify changes in them over time as compared with patterns of offending. Offence data can be obtained from multiple sources. Regulatory bodies and law enforcement agencies as well as news reports and industry journals all represent useful sources, as long as we are mindful of the problems of utilizing them (Simpson and Yeager, 2015).

This does not require a radical shift in the methods employed by corporate crime researchers. Although limited in number, existing longitudinal corporate crime data sets provide examples of just this sort of work. These give a useful context for thinking about how a criminal career approach might be applied to studying corporate crime, while highlighting some of the challenges. The first is Clinard and Yeager's (2006 [1980]) analysis of 582 corporations (including 350 offenders) over two years. Clinard and Yeager demonstrate the efficacy of studying corporate crime using longitudinal data as well as the importance of thinking about frequency and prevalence in corporate offending; 42% of offending corporations had multiple violations during the period of study, while 13% of firms accounted for 52% of violations (2006 [1980]: 116). Unfortunately – and perhaps because of the scope of their work, which included all federal cases during the period of interest – Clinard and Yeager found it difficult to draw conclusions regarding the factors associated with corporate offending. Although they suggest some general trends regarding firm size, financial status, growth, and diversification that

separate corporate offenders from non-offenders (Clinard and Yeager, 2006 [1980]: 132), they acknowledge these are insufficient for explaining corporate offending. Nor are such characteristics strong predictors of corporate crime (see also, Clinard et al, 1979: 178-179). Moreover, they assert that their data are "...inadequate..." for drawing any conclusions regarding recidivism, limited as they are to a two-year period (2006 [1980]: 127). The lesson here for a criminal career approach to corporate offending is that researchers need to give regard to the length of time necessary to draw conclusions about important aspects of the criminal career, such as recidivism and career length. Clinard and Yeager's lukewarm conclusions regarding the factors associated with corporate crime also demonstrate the complexity of comparing corporations in different industries and across different jurisdictions/offence types.

Second, Simpson, et al (2007) consider corporate recidivism in their analysis of violations of environmental law for 67 firms across 212 facilities over a six-year period. Simpson et al indicate that sanctions have little impact on future offending (2007: 112), and that sanctions are positively correlated with the number of violations, but not the violation rate for each firm (2007: 102). Their work therefore represents a comprehensive look at a specific area of corporate offending over time. It may also demonstrate that the advantage of holding a particular jurisdiction constant allows for more definitive conclusions to be drawn. From a criminal career perspective though, the focus on environmental violations does not allow us to explore specialization of offending (i.e. the extent to which corporate offenders commit similar vs. different types of offences), nor does it afford a very large sample size.

The point here though is not to be overly critical of these two oft-cited studies. It is to highlight that corporate crime researchers already recognize the importance of longitudinal data. A criminal career approach can help make sense of these data by identifying not just the fact of repeat corporate offending, which has been amply demonstrated, but by encouraging researchers to think about the relationship between offences over time (Piquero et al, 2003). In doing this for corporations, the lessons of the criminal career approach to focus on patterns of stability and change over time would seem to be particularly useful. At a descriptive level, it would be useful to chart the basic information about corporate criminals over time, considering such things as age of first offence, the distribution of offences across the sample (are a few offenders responsible for the majority of offences for example?) and the mean duration of criminal careers (for analogous efforts with individual offenders see Farrington (1992) and Weisburd et al (2001). A focus on particular aspects of corporate offending e.g., onset of or desistance from corporate crime would explicitly allow that different aspects may not have the same factors associated with them. This in turn would help to narrow the focus of enquiry, freeing researchers of trying to explain all aspects of corporate criminality at once, making the development and testing of corporate crime theories a more fruitful endeavor.

Even with better data however, given the nature of corporate entities, a number of considerations must be given to employing a criminal career approach to the study of corporate crime. These challenges are conceptual and methodological but are not insurmountable and are those things corporate crime researchers should be doing anyway, such as identifying a corporate crime rate (Gibbs and Simpson, 2009) or firmly pinning down their object of enquiry (Schell-Busey et al, 2016). This helps to situate the study of corporate criminal careers within wider corporate crime scholarship.

### *Conceptualizing corporate criminal careers*

In considering how to conceptualize corporate crime, existing work provides instructive examples of how we might operationalize the various concepts we might want to link to different aspects of the criminal career e.g., market pressure, company size and profitability (for example, Cai and Liu, 2009; Prechel and Morris, 2010; Bertrand et al, 2014). There are more challenging conceptual issues though. Part of the reason that explanations of corporate crime are so varied is that conceptualizing the subject is difficult (Rorie et al, 2017). First, the range of offences which corporations can be

pursued for is nothing if not eclectic. From price fixing, bribery, environmental harm, health and safety violations or failure to submit accounts for scrutiny (to name just some examples), the ways in which corporations can transgress are many and varied. This presents something of a problem. Do fraudulent accounting practices have the same underlying cause as paying a kickback for example? Equally, where offending takes place over an extended period of time, how should this be treated? Should collusion to fix prices – where that has taken place over multiple years – be treated as one offence or several?

Second, how viable is it to draw similarities between companies within an industry when those companies may vary considerably in size? The larger the organization the more likely there are to be layers of management, decentralized decision making and lack of internal oversight. These may increase the chance that offending will occur through processes such as diffusion of responsibility (Punch, 1996) or normalization of unethical conduct (Ashforth and Anand, 2003). In any event, can the offending of companies of very different sizes be said to have the same underlying cause? Similar problems exist when comparing across industries, which may be subject to unique pressures and where even common pressures (e.g., the pressure created by competitor companies) will vary in their intensity from one industry to another.

Third is where to draw the boundaries of enquiry. Schell-Busey et al (2016) exhort corporate crime scholars to be very clear about what they are researching and conceptualizing different aspects of a corporations' offending career potentially makes defining things more difficult still. Consider onset: although younger corporations may have committed their first offence recently, some corporations have been in existence for a period of time far exceeding the lifespan of any individual. Where this is the case, and where offending goes back decades, at what point is the criminal career said to have begun? Is it useful to characterize a criminal career as lasting 80 years or more (for example) if it also includes long periods of time between offences? Indeed, what constitutes a "long time" when discussing such an entity? We might find it more parsimonious to identify discrete criminal careers, each with their own onset and desistance within the life of a particular corporation.

Fourth, in thinking about desistance from corporate crime, once again the great age of corporations must be taken into account. We might want to wait several years before being satisfied that a particular corporate criminal career has ended. This raises a further problem, however. Work on desistance has recognized that rather than focusing on desistance as a particular moment in an offending career, it is perhaps best to conceptualize it as a process that unfolds over time (e.g., Laub and Sampson, 2003; Farrall et al, 2014). This latter conception avoids somewhat arbitrary determinations as to how long someone needed to be 'crime free' before they could be declared as having desisted (Kazemian, 2007). Process focused explanations for desistance instead look to understand the efforts involved in leaving crime behind and the subjective experiences of individual offenders in making decisions consistent with who they wanted to be (e.g., Maruna, 2001; Farrall et al, 2014). Although perhaps the downside to having no soul to damn is that corporations therefore have no soul to redeem and no future self to envision as part of the desistance process (Hunter, 2009; 2015; Hunter and Farrall, 2015), this latter approach might work with corporations. We might suggest that organizations can look to the future, identify what they want to 'be' and make plans to achieve this e.g., by drafting codes of ethical conduct to guide employee behavior. A more difficult issue with corporate offenders is being able to say with any confidence that a criminal career has ended. For individual offenders, only in death can we be certain that no more offending will occur, and we can confidently predict the end of the criminal career (Weisburd et al, 2001, although such a concern is probably of more interest to those interested in desistance as an event). But corporations do not die in the conventional sense, although they can of course go bankrupt, be dissolved, merged with other entities or otherwise cease to exist.



The difficulty in identifying corporations as repeat offenders, then, is saying with confidence to what extent corporations remain the same. How much turnover of personnel must a corporation experience before they are a different entity? What do we make of one corporation subsuming another and the latter's criminal career, or offending by a corporation's subsidiaries? Similarly, if a corporation ceases activity but starts up again, or if they diversify their core business (and by how much), can they be said to be the same organization, instead of merely the same logo and name (or indeed, the same personnel with a different logo and name)? Inherent to thinking about corporate criminal careers then is identifying at what point the corporation becomes a different entity, such that we might say its criminal career has ended.

### *Measuring corporate criminal careers*

As noted above, constructs such as frequency and prevalence are important for considering populations of offenders, whether individual or corporate. We at least know what a corporate crime rate might look like, even though identifying it is likely to prove difficult (Gibbs and Simpson, 2009), and it is possible – albeit with numerous caveats – to identify the number of times an organization has offended. Indeed, that is what much quantitative corporate crime work to date has tracked (Clinard and Yeagar, 2006 [1980]; Bilimoria, 1995; Simpson et al, 2007). Meanwhile, studies of prevalence might focus on the rate of offending within particular industries or amongst companies of a certain size and shifts in prevalence over time for given populations of corporate offenders.

Empirically, the sheer range of offences corporations might commit makes identifying offending accurately difficult. Taking a more inclusive approach to identifying corporate crime by including civil and regulatory breaches necessitates that we recognize the large number of regulatory agencies that hold jurisdiction over the various malfeasant activities corporations might commit. Regulators exercise discretion in determining whether to report violations or not, meaning corporate crime data may therefore say more about this difference in approaches rather than any particular underlying criminal propensity (Simpson et al, 2007). A focus on particular jurisdictions e.g., studying the onset of financial offending, might be one way of tackling such an issue, giving up attempting to identify all instances of offending by particular companies for the advantage of holding a particular jurisdiction constant<sup>1</sup> (Simpson et al, 2007 demonstrate the advantages of this approach), while recognizing that regulatory environments can change through the formation of new agencies, shifts in political climate and other exigencies. The disadvantage, however, is that it may make it difficult to identify and compare non-offenders with offenders. This may be easier for some jurisdictions compared to others e.g., those that require a license to operate make it easier to identify the total population at risk of offending (Glicksman and Earnhart, 2007; Simpson et al, 2007).

The avenue of self-report studies of offending that have proven so useful for understanding individual offending careers (Laub and Sampson, 2003; Farrall et al, 2014) may not be as beneficial for considering corporate criminal careers. Self-report data are likely to be difficult to acquire from corporations. Further, an organization *per se* cannot report on its offending, only individuals within it can. This creates difficulties regarding the knowledge that one individual might hold about all the activity within an organization, with the concomitant difficulty that those in the best position to know about their organization's crime may also be held responsible if it comes to light. A further potential problem is that many individuals involved in corporate offending may not be aware that their actions are wrong. The diffuseness of corporate structures means that a single offence may have multiple actors, each responsible for their own part of the offending 'chain', but little direct knowledge of what others are doing (Punch, 1996). Given this, there is good a priori reason to think that individuals within organizations will be unwilling or unable to discuss offending that has not come to light (Simpson,

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<sup>1</sup> Such approaches will be influenced by the demands of enquiry of course. Instead of jurisdictions being the focus, we might instead concentrate on corporations of a certain size.

2013).<sup>2</sup> These then are the principal challenges that a corporate criminal career approach should meet. None are insurmountable however and, as noted above, many reflect points made by scholars already involved in corporate crime research.

### **Conclusions: Towards a corporate criminal career approach**

Recent years have seen an ever-increasing focus on the rights of corporations to be free to conduct business with a minimum of interference. In the UK, the passing of the Deregulation Act (2015) represents the lessening of scrutiny over business activity, while the European Union has challenged WTO legislation designed to protect workers from rights abuses, on the grounds that it is anti-competitive (Martin-Ortega and Methven O'Brien, 2017). This continues a trend of increasingly permissive regulatory regimes (Bernat and Whyte, 2017) and the ascendancy of knowledge claims that benefit corporate agendas (Snider, 2000). A consequence of this is that opportunities for corporate harm are on the increase. As a result, the need for accounts that help us make sense of corporate offending grows in turn.

This article suggests an approach that has not been employed previously in order to make sense of a complicated area of study. In proposing a criminal career approach to the study of corporations, this article advances the study of corporate offending by suggesting not just that researchers should be more precise about their topic of enquiry (Schell-Busey et al, 2016), but how this might be done. The article began by identifying some of the gaps in existing corporate crime work. It noted the assumption of much such work that the correlates of different aspects of corporate crime are the same and fails to recognize how corporate offending might develop over time. This has hampered efforts to develop theories of corporate offending by trying to account for too much at once and leaving a significant aspect of corporate offending unrecognized. The article proposes that a solution to these demands of corporate crime study is to adopt the insights provided by thinking about corporate offending in terms of criminal careers. This means having sensitivity to different aspects of corporate offending and thinking about how offending patterns unfold over time. The advantage of doing so includes investigating the different aspects of the corporate criminal career in isolation, singling out the different causal factors involved different aspects of corporate offending (such as onset or prevalence). This in turn provides a platform for developing and testing theoretical propositions about corporate offending.

The goal then has been to offer not just a critique of corporate crime theory, but a suggestion as to how theories of corporate offending can be developed and organized. The adoption of the criminal career paradigm for studying corporate offending is a project both more ambitious and more pragmatic than what has gone before. More ambitious because it asks that corporate crime research orient itself to think about how offending unfolds over time and to treat different aspects of offending by corporations separately. It is also more pragmatic in that it frees researchers of trying to explain all aspects of corporate offending in the same breath. What is being advocated here is therefore a conceptual shift, rather than an empirical one. It directs attention more explicitly to particular industries, jurisdictions, and contexts for offending, narrowing any explanatory focus and directly helping to combat the paucity of corporate crime theory. In doing so, it therefore helps piece together a better understanding of corporate crime, providing direction for a new phase of corporate crime research.

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<sup>2</sup> Whistleblowers represent an interesting potential exception of course.

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