

## **Introduction**

Corporate crime has been described as the most significant type of white collar crime with the potential to cause widespread individual and societal harms (Friedrichs, 2009; Bartlett et al., 2020). This case study focuses on a corporate crime that involved Australia's convenience retail franchise 7-Eleven and their underpayment of wages to staff. It begins with a brief overview of the case to help explain what circumstances led to "the largest wage compensation payout in Australian corporate history" (Ferguson, 2017, para. 7). Routine activity theory and general strain theory will then be introduced and discussed in turn to help explain how this corporate crime occurred. The two theories will be used to help derive three prevention strategies to help this crime from occurring again in the future. Finally a summary of all the major points will be provided.

## **Case Overview**

7-Eleven is one of the biggest convenience retailers in Australia and operates over 700 stores using a franchise model (7-Eleven, 2020). Allegations of economic exploitation through the underpayment of wages by 7-Eleven franchisees were first made public in July 2009 after a media release was published by the Fair Work Ombudsman (FWO, 2016), however it was not until a joint investigation was conducted by Fairfax Media and ABCs 'Four Corners' in 2015 that the extent of the issue was uncovered (Ferguson & Danckert, 2015). The investigation identified that direct victims included franchisee employees who were requested to undertake training without pay, regularly underpaid for the number of hours they worked, and threatened with immigration if they complained, (Ferguson & Danckert, 2015).

The franchisees typically hired male overseas students from countries like India, Pakistan, and China who were more susceptible to exploitation due to their limited use of

English and understanding of employee rights (FWO, 2016). Employees were requested to work more than the 20 hours per week their visa conditions allowed, and records were falsified in what was described as a ‘half pay scam’ (FWO, 2016). Because the employees suffered from wage underpayments, long working hours, and threats of deportation, this likely had a detrimental effect on their studies and physical and mental wellbeing.

An investigation by the Fair Work Ombudsman found that a ‘culture of complicity’ and a flawed franchise model were partly to blame for the wage underpayments. Franchisees struggled to increase profits (of which 57% went to the franchisor) and found that wages were an easy way to reduce costs as “wages and related expenses (superannuation and workers compensation) made up around 85% of total expenses borne by franchisees” (FWO, 2016, p. 42). It was found that the 7-Eleven franchisor was aware of the franchisees’ behaviour, but did not make any changes to their policies and practices and only began an independent inquiry when the details became publicly known (FWO, 2016). The franchise model likely meant the franchisees were under a lot of pressure to reduce costs to maintain a profit.

The actions of 7-Eleven cost the franchisor (and franchisees) a significant amount of money to resolve. Wage repayments cost over \$173 million, and other improvements cost over \$10 million including the implementation of a biometric time recording system, electronic payroll systems, improved operations of CCTV systems, and employment support services (Clayton, 2020). Other consequences included disrepute to the 7-Eleven brand, changes to the 7-Eleven management (including associated losses of productivity), and damage to Australia’s international reputation for exploiting their international students (Kaukas, 2020; Ferguson & Danckert, 2015). The use of theory will now be introduced to help explain how white collar crimes, such as this corporate crime, can occur.

## **Theory Description and Review**

Corporate crime can be explained using two separate theories – routine activity theory and general strain theory. Routine activity theory (RAT), was introduced by Cohen and Felson (1979). They explain that crime occurs as a result of ‘routine activities’ or a set of circumstances when motivated offenders and suitable targets combine in time and space in the absence of capable guardians. Cohen and Felson (1979) defines motivated offenders as people with an existing inclination for crime, and suitable targets as items, people, or property that have been chosen to be victimised. Target suitability can be measured using four components; value, visibility, accessibility, and inertia (Cohen & Felson, 1979). Capable guardians may be either social or physical and include those people or objects that can prevent crime from happening (Tseloni et al., 2004). These factors must all combine in time and space. The concept of ‘time and space’ may differ for some white collar crimes. Benson et al. (2009) notes that for white collar crime the offender is not always at the same ‘physical’ place as the target, however they can ‘virtually’ be in the same place through the use of technology (or networks) that allow the crime to occur.

Studies have used RAT to explain the occurrence of various white collar crimes such as tax evasion, exploitation of migrant workers, and employee theft. Ceccato and Benson (2016) looked at how RAT could be used to explain tax evasion in Sweden resulting from changes to tax policy. They explained how policy changes were likely to increase the number of ‘motivated offenders’ and make the tax office an even more attractive ‘suitable target’ to businesses (Ceccato & Benson, 2016). RAT can also be applied to the economic exploitation of workers. Nahar and Akond (2017) used RAT to show how female workers from Bangladesh ended up in dangerous and low paid jobs. The women’s low social status and ‘inadequate knowledge’ of work policies made them suitable targets, while insufficient support networks represented a lack of capable guardianship; finally, their interaction (in time

and space) with cheating recruitment agencies (the motivated offenders) allowed the crimes to occur (Nahar & Akond, 2017).

A third study by Mustaine and Tewksbury (2002) explained workplace theft by college students in America using RAT. Their study focused on what personal characteristics of college students are suggestive of potential criminal behaviour. It was found that college students were more likely to partake in crime as a 'motivated offender' if they had previously been involved in criminal behaviour and new opportunities to steal were presented to them (Mustaine & Tewksbury, 2002).

General strain theory (GST) is an individual-level theory developed by Agnew (1992) that helps explain white collar crime. According to GST, pressure from society negatively impacts on individuals and causes strain; when legal means are not available to reduce these stresses, the result is engagement in criminal behaviour. Agnew (1992) explains that "strain may result not only from the failure to achieve positively valued goals, but also from the inability to escape legally from painful situations" (p. 50). He identified three types of strain: (1) strain preventing attainment of ideal goals; (2) strain caused by removal (or threat of removal) of valued items; and (3) strain arising from the possibility of negative outcomes. It is important to note that all individuals experience strain differently, so what may cause one person to resort to criminal means may not necessarily motivate another person in the same way (depending on their ability to handle stress). GST is generally used to describe delinquent behaviour (particularly binge drinking, smoking, and domestic violence) but can also be used to explain white collar crime.

Three studies have been identified to describe how GST can explain the occurrence of white collar crime. The first study by Langton and Piquero (2007) investigated the relationship between GST and various white collar offences including low-level and mid-

level white collar crimes, and complex (large-scale corporate) crimes. Their study found that financial, rather than personal reasons were often given for experiencing strain leading to the low-level crimes of embezzlement and credit fraud, whereas business motives were found to be responsible for complex crimes such as antitrust offending and securities violations (Langton & Piquero, 2007).

A second study described how pressure from managers and pressure for increased profits leads to corporate crime among Australian nursing homes, particularly private nursing homes (Jenkins & Braithwaite, 1993). A third study looked at how perceived job insecurity, employment status, and perceived organisational support impacted on workplace deviance among bankers in Nigeria (Eze et al., 2019). They found that workers with high levels of job insecurity, and those with permanent roles of longer tenure were more likely to engage in minor deviant workplace behaviours, whilst contract workers were more likely to commit major deviance (such as criminal offences) highlighting how the strain of job insecurity and contract work can impact on deviant behaviour in the workplace.

### **Application of Theory**

Routine activity theory (RAT) and its three elements of motivated offenders, suitable targets, and lack of capable guardians, can easily be applied to the case of 7-Eleven. Both the franchisor and franchisees could be seen as motivated offenders as they both profited from the underpaying of the franchisee employees (the suitable targets). It was believed that the way the franchise model was built meant that franchisees would have been unable to make a profit if the correct wages were actually paid (Ferguson & Danckert, 2015). The employees were suitable targets and “highly vulnerable to exploitation, including by way of underpayment” (FWO, 2016, p. 77). Their attractiveness was due to a number of factors including their desperation to work to continue living and studying, and their lack of knowledge surrounding Australia’s employment laws.

Living in Australia away from their support networks meant the employees lacked capable guardians such as parents (FWO, 2016). The franchisees should have acted as capable guardians but instead were the ones that were exploiting the employees. The franchisors should also have acted as a capable guardian by enacting corporate governance but failed to make any changes to their policies and procedures to prevent the illegal behaviour from occurring. Sampson (2010) explains that failures to address issues relating to crime can occur either through ignorance, a lack of resources, resentment at having to spend money fixing the problem, or because it is “more profitable to allow crime than to prevent it” (p. 38) the latter of these was most likely the reason in this particular case. All three of the key elements of RAT combined in time and (virtual) place by way of the 7-Eleven franchise network to create the corporate crime.

General strain theory can also be applied to the case study to explain the behaviours of both the 7-Eleven employees and franchisees. The case overview described how employees were shown to experience multiple stressors, including the need to earn an income to continue their studies, the long hours involved in the work itself, and threats of immigration. Such stressors or strains, compared with a lack of control over their employment situation is likely to have led to them continuing to work longer hours and receive lower wages than their visa conditions allowed, even with the understanding that such practices were illegal.

Likewise, the franchisees also appeared to have undertaken illegal behaviour due to financial strain. The first financial strain involved labour costs. Wages and associated expenses made up nearly 85% of franchisees’ costs meaning that there were few other options available to reduce costs than by decreasing labour costs (FWO, 2016). Additionally, the franchise model used by 7-Eleven was also likely to have incurred financial strain as the franchise agreement meant only 43% of profits went to the franchisees (FWO, 2016).

Franchise agreements set out a guarantee of \$120,000 gross income per year meaning that without reducing labour costs, some franchisees may not have been able to earn this amount (FWO, 2016). It is clear that costs and profitability were likely to have created a lot of strain amongst franchisees, particularly among those who did not work in their own stores. The inquiry also found that franchisees had a low level of control over their businesses and this is also likely to have contributed to their criminal behaviour. As mentioned previously, crime is more likely to occur when there is a combination of both high stress (strain) and lack of control. It is now worthwhile investigating how theory can help to prevent such crimes reoccurring.

### **Implications of Theory for Prevention**

It is important that prevention strategies are introduced to ensure that wage underpayments do not occur at 7-Eleven again. Three of these will now be discussed. The first prevention strategy is taken from routine activity theory and the use of capable guardians (in this case the franchisor) and requires ‘increased penalties on franchisees by the franchisor’. One way that this strategy could be implemented is to ensure that franchise agreements include a clause that allows termination of a franchisee if they continue to be involved in deliberate underpayment of wages and breach the Fair Work Act 2009. This requires the 7-Eleven franchisor taking greater responsibility for the behaviour of franchisees by closely monitoring them and following up on complaints from employees regarding labour issues and holding those franchisees that underpay employees accountable for their actions. The FWO (2016) stated that “sustained change in behaviour is most likely to be achieved if driven by the franchisor” (p. 68) and recommended that 7-Eleven “implements effective governance arrangements that ensure compliance with all relevant Commonwealth laws, specifically addressing mechanisms for identifying, escalating and addressing potential non-compliance” (p. 75).

The second prevention strategy ‘employee training’ also relates to routine activity theory and focuses on reducing the attractiveness of the suitable targets. The employees of the franchisees were made vulnerable due to a number of factors including their lack of knowledge of workplace regulations and use of English as a second language. It is therefore suggested that all new employees should be given training about the helpful language translation tools that are available on the Fair Work Ombudsman’s ‘language help’ webpage so workers can understand their workplace entitlements in Australia (FWO, n.d.). This website translator has only been in place since February 2018 so would not have been available when the employees in the case study were employed (Settlement Council of Australia, 2018). Ideally, this would be introduced to all new employees as part of their training. Such a strategy is currently already in place in New Zealand; the “online multilingual learning programme” was introduced in 2019 to reduce the exploitation of migrant and student workers (Lees-Galloway, 2019).

The third prevention strategy is for 7-Eleven to ‘review the franchise model’. This prevention strategy is derived from strain theory and attempts to change some of the factors that are responsible for causing the ‘strain’ and associated criminogenic behaviours of the franchisees. The franchise model that 7-Eleven used was described as both ‘tough’ and ‘controlling’ allowing only 43% of profits to stay with the franchisees (Ferguson & Danckert, 2015). This strategy was also one of the recommendations put forward by the Fair Work Ombudsman (2016); they recommended that 7-Eleven “reviews its operating model to ensure compliance with all workplace laws is achievable, practicable and fair” (p. 75). It is hoped that a fairer franchise model would allow the franchisees to be able to pay reasonable wages to its employees so franchisees’ strain is reduced, along with the strain of the employees. If employees are being paid the correct amounts and working the right number of hours then they will no longer be suffering from as much pressure to work illegally and being threatened



with deportation. Caltex Australia also had franchisees involved in the underpayment of employees and took action by reviewing its franchise model to ensure it was still profitable (Morgan Mac Lawyers, n.d.).

### **Conclusion**

This case study of 7-Eleven discussed what factors led to the underpayment of wages of employees and used routine activity theory and general strain theory to explain how white collar crimes, and in particular corporate crimes, occur. For routine activity theory it was the combination of a motivated offender and suitable target in the same time and (virtual) space in the absence of capable guardians that was identified as a likely cause; for strain theory it was the experience of multiple stresses and a lack of control that may have contributed. Theory can also be used to prevent such crimes occurring and three prevention strategies were identified. These were increased penalties for franchisees, employee training, and a review of the franchise model. It is believed that the implementation of these strategies are essential in promoting a healthy workplace culture at 7-Eleven in the future.

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