

DIÁLOGOS SOBRE OS CRIMES ECONÔMICOS E EMPRESARIAIS: Avanços científicos, teorias explicativas do desvio corporativo, efeitos criminógenos das oscilações econômicas, impactos dos programas de compliance e a superação do *non-compliance* empresarial

*CONVERSATIONS ABOUT WHITE-COLLAR AND CORPORATE CRIMES: Scientific advances and explanatory theories of corporate deviation; criminogenic effects of economic fluctuations; impact of compliance programs and overcoming corporate noncompliance*

MELISSA RORIE – ENTREVISTA

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**Resumo:** Entrevista concedida ao Coordenador Científico do CPJM, Prof. Artur Gueiros, onde são abordadas questões relativas à sua trajetória acadêmica, seu interesse e estudos acerca da compreensão dos crimes econômicos e empresariais, o estado atual dos avanços científicos nessa temática, as teorias criminológicas mais adequadas à explicação dos crimes empresariais, notadamente diante as oscilações econômicas, os impactos dos programas de compliance na

<sup>1</sup> **Breve currículo:** Dra. Melissa Rorie é Professora Associada de Justiça Criminal, bem como Presidente do Departamento de Justiça Criminal da Universidade de Nevada – Las Vegas (UNLV). Suas pesquisas científicas examinam predominantemente o impacto dos controles formais e informais em infrações econômicas e empresariais, bem como as teorias explicativas dos crimes das elites e do *non-compliance* corporativo. Ela recebeu três prêmios por seus esforços acadêmicos, incluindo o prêmio “*Young Career*” de 2018, conferido pela Divisão de Crimes Econômicos e Empresariais da Sociedade Americana de Criminologia. Desde 2009, a Professora Melissa Rorie publicou 25 artigos revisados por pares, além de ter sido a única editora do *Wiley Handbook of White-Collar Crime* (2019) e coeditora do livro publicado pela *Cambridge University Press*, em 2022, intitulado *Measuring Compliance: Assessing Corporate Crime and Misconduct Prevention*.

**Bio Blurb:** Dr. Melissa Rorie is an Associate Professor of Criminal Justice as well as Department Chair of Criminal Justice at the University of Nevada-Las Vegas (UNLV). Her research predominantly examines the impact of formal and informal controls on corporate and white-collar offending as well as theoretical explanations for elite crime and corporate noncompliance. She has received three awards for her scholarly efforts, including the 2018 “*Young Career*” award from the American Society of Criminology’s Division of White-Collar and Corporate Crime. Since 2009, she has published 25 peer-reviewed manuscripts as well as serving as the sole editor for the 2019 *Wiley Handbook of White-Collar Crime* and co-editor for the 2022 Cambridge University Press book titled *Measuring Compliance: Assessing Corporate Crime and Misconduct Prevention*.



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prevenção do desvio corporativo e as estratégias para a superação das situações de *non-compliance*.

**Palavras-chave:** Crime empresarial – lealdades superiores – crises econômicas – Método Monte Carlo – Informante – Eficácia do compliance.

**Abstract:** Interview given to CPJM Coordinator Prof. Artur Gueiros, where questions related to his academic trajectory, his interest and studies on the understanding of White-Collar and Corporate Crimes are addressed, also the current state of scientific advances in this fields, the best criminological theories about economic crimes, especially in cases of oscillations economic, the impacts of compliance programs in the prevention of corporate deviance and the strategies for overcoming non-compliance situations.

**Keywords:** Corporate crime – higher loyalties – economic crises – Monte Carlo Simulations – Whistleblower – Compliance effectiveness.

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### ***Responses to questions:***

· Could you tell us about your academic career and your interest in Criminology?

**I knew from a very young age that I wanted to do something in the criminal justice field – I’m a fairly empathetic person (or so I’d like to think) and I never understood how people could hurt each other on purpose. As an undergraduate, I pursued a major in psychology because I thought I would end up in a career as a forensic psychologist, working within correctional institutions to help rehabilitate incarcerated persons.**

**After I obtained my bachelor’s, I worked in the Probation and Parole field for a bit as an educator. This was a great experience, and I have nothing but the highest admiration for people who work in corrections with the goal of rehabilitating people as well as keeping our communities safe – but, ultimately, I came to realize that working directly in the correctional setting was not the best fit for me.**

After my stint in probation and parole, I took a job in a private research firm conducting criminal justice research, and knew that I had found my passion and calling. I spent a lot of time while in that job looking at the sorts of graduate degrees my coworkers had, which ultimately led me to pursue a Ph.D. in Criminology and Criminal Justice at the University of Maryland (UMD).

When I began at UMD, I thought my research interests would be focused on terrorism. However, I took a “Corporate Crime” class with Sally Simpson and it was like being struck by a lightning bolt (in a good way). I’ve always been somewhat critical/wary of corporate power, I would consider myself a life-long environmentalist, and the class presented a more formal framework for examining those feelings and confirmed that corporate malfeasance is a far more serious problem than most people would believe. Doing research on corporate crime makes me feel as though I am having an important impact on the world.

· How do you see the current stage of White-Collar and Corporate Crime studies?

This is difficult, given the breadth of research being conducted in the field! I think that the current research in the white-collar and corporate crime domain is, in many ways, very diverse. For one, we have scholars using a lot of different methods, and we increasingly recognize that certain methods for collection information are not necessarily “better” or “worse” – different methods are, simply, useful for different research questions. We also have scholars engaging with many different topics and questions within this very broad field, and doing incredible work in building knowledge that both demonstrates the uniqueness of these types of crimes as well as similarities between traditional crimes and white-collar crimes.

I do think, however, that diversity in terms of international perspectives remains limited – most white-collar and corporate crime scholarship is generated by scholars in Western, English-Speaking countries. Underrepresented are scholars from South American countries, African countries, Asian countries – especially southeast Asian countries, Middle Eastern countries, and Eastern European countries. I have noticed that

journals such as *Crime, Law, and Social Control* seem to be making an effort to include more diverse perspectives, but much more could be done to support scholarship in those parts of the world.

· In your study “Economic Fluctuation and Crises”, written with Prof. Sally S. Simpson, you analyze the connection between crime rates and economic fluctuation, with an emphasis on corporate crime. *Could you tell us about this correlation?*

In that book chapter (published in the excellent handbook *The Oxford Handbook of White-Collar Crime* edited by Shanna van Slyke, Michael L. Benson, and Francis T. Cullen), Sally and I reviewed the literature on economic crises and economic “boom” periods and how corporate offending frequency may change during those transitional periods. In essence, the literature we reviewed indicates that corporate crime may not just increase during times of financial recessions (which would be expected due to the strain on corporate profits and increased motivations of corporate executives to offend to enhance those profits artificially), but that corporate crimes also increase during times of economic prosperity. We articulate that both recessions and “booms” are times of instability for corporations, and corporate crime may simply be an attempt to control profits in times of uncertainty. However, we also discuss how corporate crime during both good and bad economic times can be attributable to stockholder expectations and monitoring, as well as by the monitoring of regulatory agencies. In times of recession, corporate decisionmakers likely commit crime to increase profit in order to keep as many investors as possible, while those investors may not look as closely at corporate records during times of financial strain (perhaps if they don’t see it, it isn’t actually happening). In addition, regulators may not want to “kick ‘em when they’re down” and may be a bit more lax in monitoring during times of struggle for corporations. During times of economic booms, investors may become overly optimistic and expect even better returns than what they are seeing (which puts pressures on corporations to engage in crime), and may be less likely to scrutinize positive company information. Also, during booms, opportunities for corporate offending may increase, which may overwhelm enforcement and regulatory resources for monitoring.

· In your understanding, what would be the most appropriate criminological theories to explain Corporate Crime in both economic boom and depression?

**In that book chapter, we examined three “traditional” criminological theories for corporate crime that could apply to unstable economic times – anomie-strain, rational choice, and routine activity (opportunity) theory. While anomie-strain theory does a good job of explaining the increase in corporate crime during times of recession (i.e., because corporations’ legitimate opportunities for profit maximization may be limited), we argue that rational choice and routine activity theories – in conjunction – are better supported for explaining crimes in both types of cycles. In crises, rational choice theory would point to offenders’ enhanced motivations for profiting while routine activity theory would attribute offending to a decrease in guardianship (e.g., because of unemployment and because regulators may be more forgiving). In financial booms, rational choice theory would point to the increase in criminal opportunities that lure offenders (including gatekeepers who otherwise would be preventing such crimes) while routine activity theory would argue that guardianship is reduced as enforcement gets overwhelmed. Ultimately, though, we pointed to Finney and Lesieur’s (1982) contingency model as a framework that incorporates aspects all three of the aforementioned theories and could account for offending well overall.**

· Were your conclusions regarding the relationship between these phenomena (corporate crime and economic swings) corroborated by the economic crisis triggered by the Covid-19 pandemic?

**It’s difficult to say, simply because longitudinal analyses of corporate crime – to my knowledge – have yet to be published that incorporate the 2019 – 2021 crime period. So, I don’t have the empirical evidence to determine whether this relationship has been confirmed more recently.**

· What is the importance of compliance programs in the prevention or/and detection of corporate and occupational crime? Is there empirical evidence of the compliance effectiveness in the prevention of corporate deviance?

I don't think there is any doubt that corporate compliance programs can be impactful – some of my research (Rorie and West, 2022, *Journal of White-Collar and Corporate Crime*) demonstrates that simply having an ethics code in place reduces offending regardless of content. However, there have been concerns about whether compliance programs are truly accomplishing all that they are supposed to accomplish, or whether corporations are using them as a means to *appear* to be in compliance without assuring that they are truly effective. As Benjamin van Rooij and I articulate in the first chapter of our new book called *Measuring Compliance: Assessing Corporate Crime and Misconduct Prevention* available from Cambridge University Press, much of the current emphasis on assessing the effectiveness of these programs is misguided. Evaluations focus on whether the program is being delivered as intended (e.g., the number of trainings, the number of people involved) without examining whether the program is actually having a meaningful impact on the desired outcome (e.g., Is pollution actually being reduced? Are workplace injuries being reduced?). Focusing attention on the *actual* impact of programs – not just their delivery – is of utmost importance for the prevention and detection of white-collar crime. We know how difficult it is for external monitors (e.g., regulators, non-governmental organizations, etc.) to get the information needed to understand compliance within corporations and within industries, so providing the corporations with the tools they need to ensure compliance within their walls is critical.

· Could you tell us what is “Monte Carlo Simulations”?

Monte Carlo Simulations are, essentially, a statistical technique that allows for the examination of data in a way that can assess whether one's conclusions are valid under different assumptions being made about the data or under different patterns of behavior that might show up in the data. Collecting data at one point in time – or applying one set of assumptions to one's analyses – might result in a unique pattern that doesn't hold true in other data collection efforts. Monte Carlo Simulations allow us to use statistical probabilities to examine what variability may arise in data collection and then account for possible variation in one's results that would arise from that variability.

· In your article "Admitting noncompliance: Interview strategies for assessing undetected legal deviance", written with Prof. Benjamin van Rooij, you address the problem of measuring the compliance programs effectiveness. Could you tell us about this subject?

**In that chapter – again, in the book *Measuring Compliance: Assessing Corporate Crime and Misconduct Prevention* – we detail how the “dark figure” of crime problem also applies to studies of corporate compliance. In essence, a lot of crime and noncompliance goes unreported to law enforcement because, naturally, people fear getting themselves or someone else into trouble. When it comes to researchers studying the effectiveness of compliance programs, this problem remains – people are not likely to admit to offending when they are talking to a relative stranger about undesirable behaviors occurring within their corporation. This chapter was one that I found particularly interesting – especially as a quantitative researcher who doesn’t do a lot of interviewing – because we highlight many ways that researchers can build trust and rapport with powerful subjects in an effort to obtain information that otherwise would remain concealed. Simple techniques like working with two interviewers in the room, conducting a pilot study, thinking through the proper sequencing of interviews over multiple sessions, etc. can have a major impact on the type of information gleaned from conversations.**

· One of the well-known neutralization techniques, the appeal to higher loyalties, would often be used for not reporting violations to a corporation's whistleblower channel. How to overcome this problem?

**Assuming that the “higher loyalty” being used as justification for nonreporting is the corporation itself or their coworkers, one key component would be to educate potential whistleblowers about how much harm is done when victimizations are allowed to continue unabated. As Tracy Sohoni and I describe in our 2019 article “The whiteness of white-collar crime in the United States: Examining the role of race in a culture of white-collar offending”, white-collar and corporate crimes are unique in the distance between the offender and the victim. When the offender doesn’t have to see the harm, they are causing directly, it can be much easier to justify the behavior with such appeals to higher loyalties**

and other excuses. So, education about the harms of white-collar and corporate crimes are incredibly important.

Another “higher loyalty” may be to the potential whistleblower’s family who would be hurt if the whistleblower lost their job. To overcome this, strong legal and corporate protections for whistleblowers, a corporate culture that encourages reporting, and mechanisms for anonymous reporting would go a long way towards alleviating fears of retaliation.

· What are the main techniques or strategies to detect non-compliance situations in organizations? *How to avoid their occurrence?*

I’m not sure that there is one “best” technique or strategy for detecting or preventing corporate crime – a lot of it depends on the type of crime, the type of company, and myriad other factors. For example, a company that is not well-known will be far less deterred by potential reputational damage than would a company with a household name. Companies that can afford to pay fines easily will be less deterred than companies facing huge damages as a result of a civil action. Regulatory agencies with fewer inspectors will be less likely to detect crimes than those with more inspectors.

As Sally Simpson, Natalie Schell-Busey, Mariel Alper and I found in our meta-analysis of corporate crime deterrence (see the 2016 article in *Criminology and Public Policy*) a “pulling levers” approach in which different types of preventions and interventions are engaged in a cohesive effort will likely be most effective.

· In your opinion, which are the main challenges of the "science" of compliance and Corporate Ethics today?

Lack of access. It’s very difficult – at least in the United States – to gain access to corporations and their data. But it’s also the most important part of doing this research – these are the people who can tell you about actual misconduct, can participate in compliance programs geared towards preventing corporate crime, and can explain to you



how they define compliance in their everyday lives. Unfortunately, it seems rare to have compliance/academic partnerships that would facilitate such access at less cost.

As part of the *Measuring Compliance* book, Benjamin and I encourage practitioners and scholars to think about ways that they can collaborate. We – of course – recognize that there will be concerns about “conflicts of interest” and the ability of a researcher to produce uncensored reports. There is also the question of legal liability and what should happen if the researcher uncovers major forms of corporate crime. That said, we know that scholars and compliance practitioners within corporations have the same goal – they want to gain knowledge about how to improve compliance and protect people from harm. We believe that if both parties agree on what the outcome of interest is and how to handle noncompliance in a transparent/ethical manner (and often an IRB<sup>1\*</sup> can help navigate these sorts of discussions) then adversarial relationships don’t have to be a given in this research domain.

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<sup>1\*</sup> Institutional Review Board (*Comitê de Ética em Pesquisas*) is an administrative body established to protect the rights and welfare of human research subjects recruited to participate in research activities conducted under the auspices of the institution with which it is affiliated. The IRB is charged with the responsibility of reviewing, prior to its initiation, all research (whether funded or not) involving human participants. The IRB is concerned with protecting the welfare, rights, and privacy of human subjects. The IRB has the authority to approve, disapprove, monitor, and require modifications in all research activities that fall within its jurisdiction as specified by both the federal regulations and institutional policy. The IRB shall have at least five members of varying backgrounds in order to provide complete and adequate review of human research and its institutional, legal, scientific, and social implications. The Board will also include at least one member who is not affiliated with the institution and one member who is not a scientist. The IRB has several consultants who advise the Board and are periodically involved in protocol review (In <https://research.oregonstate.edu/irb/frequently-asked-questions/what-institutional-review-board-irb>). (Nota do Editor).