

COGNITIVE DISSONANCE AS A PREVENTION STRATEGY

Considerations on the Prospects of Neutralizing the Techniques of Neutralization

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ABSTRACT

In the light of Michael Walters's declarations on the relationship of the perpetrator to the offense based on the theory of techniques of neutralization the article sets its sights on the structuring of in-house compliance programs in order to ensure internally prevention measures. In doing so the author states that those compliance programs should primarily rely on creating an atmosphere in which common neutralization strategies are not accepted. In order to be successful the companies need in-depth programs, which are goal-oriented. But there has to be a company interest in compliance as well. The "tone from the top" plays an important role when it comes to neutralization strategies. The essay shows the meaning of techniques of neutralization within the area of applied economic criminology.

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I. NEUTRALIZATION TECHNIQUES AND COGNITIVE DISSONANCE — THE APPROACH OF MICHAEL WALTER

In the commemorative publication for Hans-Dieter Schwind, Michael Walter explained and exemplified, in a noteworthy approach, the relationship of the perpetrator to the offense based on the theory of techniques of neutralization.¹ An innovative, key concept that Walter develops in the article lies in linking the well-known “techniques of neutralization” of Sykes & Matza² with the theory of cognitive dissonance of Leon Festinger. With impressive formulations and based on content analyses of specific works of creative literature and autobiographies of terrorists, Walter demonstrates that criminal offenses beyond a petty level trigger in the perpetrator an “internal pressure for justification” (p. 1165). Neutralization techniques then allow him to once again “smooth out” the “inner disturbance” inside himself and “accordingly remake and stabilize himself” (p. 1157). These techniques shield one from the “voices of the conscience or the negative judgments of others” (p. 1158), and “sedate” the “internal monitoring of norms” (p. 1158).

Within the framework of an “interdisciplinary approach to the phenomenon of neutralization” (p. 1159 ff.), Walter then refers to the psychological basic assumption of a need for harmony in humans that strives for “normative consonance” (p. 1161) and that does not tolerate “cognitively experienced conflicts” very well. Against this backdrop, and in line with Leon Festinger, he describes as cognitive dissonance the “bad feelings” of the offender (p. 1161) that precede the techniques of neutralization.³ Consequently, techniques of neutralization represent a certain group of possible strategies to reduce dissonance, which are characterized by assimilating new cognitive elements. Walter uses the example of a smoker to elucidate this thought process. If the smoker categorizes the habit of smoking as dangerous and damaging to health, this triggers cognitive dissonance. This can be reduced either by changing individual thoughts (for example, “I do not smoke frequently and only few cigarettes”) or the recourse to new cognitive elements (“Due to my excellent physical condition, I belong to the group that will reach a very old age despite smoking”, p. 1161). There is also a new assimilation of cognitive elements in the techniques of neutralization described by Sykes & Matza. If, for instance, cognitive dissonance arises by virtue of the offender’s friction with certain conformity values to which he is “in principle” obligated, the neutralization strategy identified by

¹ Michael Walter, *Wie kann ein Mensch so etwas tun?* in Festschrift für Hans-Dieter Schwind 1155 ff. (Thomas Feltes & Christian Pfeiffer & Gernot Steinhilper, 2006). For the purpose of better readability, source references from this article will only be cited by stating the page number.

² DAVID MATZA GRESHAM M. SYKES, *TECHNIQUES OF NEUTRALIZATION: A THEORY OF DELINQUENCY*, 664 ff. (1957).

³ Foundational: LEON FESTINGER, *THEORY OF COGNITIVE DISSONANCE* (1957).

Sykes & Matza of “the appeal to higher loyalties”⁴ aids one in resolving the inner-psychic stress. Michael Walter identifies as an example the pledge of the former Federal Chancellor Helmut Kohl, who refused to divulge the identity of the donors in the so-called CDU donations scandal. Kohl justified this violation of a legal duty to himself and towards third parties thereby in that he asserted he had assured the donors of absolute confidentiality: “But ladies and gentlemen, I have given my word to the donors [...] and I will keep to my word, and that is very important for me”⁵ Walter aptly summarizes the consciousness processes underlying such cognitions and statements as follows (interim assessment on p. 1162):

“A person seeks, as emerges from Festinger’s dissonance theory, ways to get around these disharmonies. The neutralization mechanisms contain appropriate new cognitive aspects that possess a mediating effect, assuage living in the conflict and at the same time improve one’s external performance.”

Michael Walter’s work involves the first publication in which the significance of the techniques of neutralization are psychologically reconstructed based on the theory of cognitive dissonance.⁶ The present paper ties into the question also posed by him in the commemorative publication for Hans-Dieter Schwind from 2006 of the practical application for criminological theories and in particular, the concepts of neutralization and cognitive dissonance. The objective is to further develop the integration of both theoretical constructs⁷ and to illustrate the “capacity” (p. 1155) of the insights attained for pre-

⁴ DAVID MATZA GRESHAM M. SYKES, *TECHNIQUES OF NEUTRALIZATION: A THEORY OF DELINQUENCY*, 669 (1957).

⁵ Helmut Kohl, *address at the New Year’s reception of the Bremen CDU*, broadcast on television (Jan. 21, 2000), (<http://www.youtube.com/watch?v=4gpYZftwIMw>).

⁶ Walter’s reasoning was addressed in the dissertation of Laura Claassen (*LAURA CLASSEN, NEUTRALISIERUNGSTECHNIKEN UND KOGNITIVE DISSONANZ – EIN BEITRAG ZUR PRÄVENTION VON WIRTSCHAFTSKRIMINALITÄT* (2013)) which was supervised by the author of this paper.

⁷ In so doing it is certainly debatable and (despite the subtitle of the work by Sykes & Matza) as yet unclear whether the neutralization techniques are a criminological theory at all. In German criminology, they are mostly featured without detailed explanation in the theories (MICHAEL BOCK, *KRIMINOLOGIE*, 54f. (3rd ed., 2007); ULRICH EISENBERG, *KRIMINOLOGIE*, 21f. (6th ed., 2005); HANS GÖPPINGER, *KRIMINOLOGIE*, 150 (6th ed., 2008); GÜNTHER KAISER & HEINZ SCHÖCH, *KRIMINOLOGIE, JUGENDSTRAFRECHT, STRAFVOLLZUG*, 11 (7th ed., 2010); KARL-LUDWIG KUNZ, *KRIMINOLOGIE*, 115 (6th ed., 2011); Klaus Lüderssen, *Kriminologie: Eine Einführung in die Probleme*, 139 (1st ed., 1984); BERND-DIETER MEIER, *KRIMINOLOGIE*, 59ff. (4th ed., 2010); ARMAND MERGEN, *DIE KRIMINOLOGIE, EINE SYSTEMATISCHE DARSTELLUNG*, 123 (3rd ed., 1995); FRANK NEUBACHER, *KRIMINOLOGIE*, 85 (1st ed., 2011); HANS JOACHIM SCHNEIDER, *KRIMINOLOGIE*, 516ff. (1st ed., 1987), p. 516ff.). Only Schwind situates the neutralization techniques in victimology (HANS-DIETER SCHWIND, *KRIMINOLOGIE: EINE PRAXISORIENTIERTE EINFÜHRUNG MIT BEISPIELEN*, 406f. (21st ed., 2011)). In addition, reference is made to neutralization techniques in integration models (thus, already DAVID MATZA, *DELIQUENCY AND DRIFT*, 184 (1st ed., 1964); also, James Coleman, *Toward an integrated Theory of White-Collar Crime*, 2, *AMERICAN JOURNAL OF SOCIOLOGY* 93, 406 (Sep., 1987); Hendrik Schneider, *Das Leipziger Verlaufsmodell wirtschaftskriminellen Handelns*, *NEUE ZEITSCHRIFT FÜR STRAFRECHT* 555ff. (2007), *ibid.* 135 ff. (2008), *ibid.* 4 ff. (2009)). Other authors, in particular Robert Agnew, *Neutralizing the Impact of Crime*, 12, *CRIMINAL JUSTICE AND BEHAVIOUR* 221, 227ff. (1985), p. 227ff. make reference to specific neutralization strategies of the victims of crime, which have the function of reducing the anxiety of further victimization (Denial of Injury, Denial of Vulnerability, Belief in a Just World). If

vention, in particular for the prevention of economic crimes.

II. CONVERGENCES AND DIVERGENCES BETWEEN THE TECHNIQUES OF NEUTRALIZATION OF SYKES & MATZA AND FESTINGER'S THEORY OF COGNITIVE DISSONANCE

A. Central arguments of both approaches

As an initial matter, it is notable that both approaches were developed at the same time without the authors recognizably taking notice or influencing one another.⁸ Festinger's theory was published for the first time in 1957. At that time, the author taught psychology at Stanford University in California. In the same year, the article of Sykes & Matza was published, which is apparently inspired by an earlier work (not utilized by Festinger) of the criminologist Cressey.

Cressey, a student of Sutherland, had already made reference to—in the monograph published in 1953 “Other People’s Money” in connection with a qualitative investigation of the causes and manifestations of embezzlement the significance of so-called “rationalizations”⁹ or “vocabularies of adjustment”¹⁰ that allow perpetrators to justify to themselves an abuse of the trust placed in them by their subsequent victims. In Cressey's view, the exonerating argumentation strategies (“I was only borrowing the money”, “I did what is ordinary business”) already intervene prior to committing the act¹¹ and are an indicator for an effort to belong in a world in which criminality is rejected. They consequently help the perpetrator in the process of making the unlawful conduct compatible with the self-image of a trustworthy person.

one (with Sykes & Matza) assumes that neutralization techniques are learned, this suggests that the theory of neutralization techniques are to be filed in the category of learning theories.

⁸ To date, there has been no transdisciplinary analysis of both approaches, although both theories were broadly received in their respective disciplines. LAURA CLASSEN, NEUTRALISIERUNGSTECHNIKEN UND KOGNITIVE DISSONANZ – EIN BEITRAG ZUR PRÄVENTION VON WIRTSCHAFTSKRIMINALITÄT (2013) reports, with reference to Shadd Maruna & Heith Copes, *What Have we Learned from five Decades of Neutralization Research?*, 32, CRIME AND JUSTICE, 700 (2005) works of international criminology in which the theory of neutralization strategies is cited. Furthermore, there is an array of studies on the neutralization techniques that have a qualitative and quantitative research design. In the field of psychology, the Theory of Cognitive Dissonance is counted among the pioneering efforts of so-called social psychology, cf. on this, comprehensively, LAURA CLASSEN, NEUTRALISIERUNGSTECHNIKEN UND KOGNITIVE DISSONANZ – EINBEITRAG ZUR PRÄVENTION VON WIRTSCHAFTSKRIMINALITÄT (2013).

⁹ DONALD RAY CRESSEY, OTHER PEOPLE'S MONEY: A STUDY IN THE SOCIAL PSYCHOLOGY OF EMBEZZLEMENT, 34 (1953).

¹⁰ DONALD RAY CRESSEY, OTHER PEOPLE'S MONEY: A STUDY IN THE SOCIAL PSYCHOLOGY OF EMBEZZLEMENT, 93 ff. (1953).

¹¹ DONALD RAY CRESSEY, OTHER PEOPLE'S MONEY: A STUDY IN THE SOCIAL PSYCHOLOGY OF EMBEZZLEMENT, 94 (1953): “In the cases of trust violation encountered significant rationalizations were always present before the criminal act took place, and in fact, after the act had taken place the rationalization often was abandoned.”

In Sykes' & Matza's much shorter treatment, the "rationalizations" are called "techniques of neutralization"¹² for the first time, although they also speak of rationalizations or justifications without a recognizable difference in terms of their content. The differences between both approaches are minimal. Both Cressey and also Sykes & Matza summarize arguments under the respectively applied umbrella terms with which the citizen obligated to comply with the law can allow himself a violation of the norm and avert injury to his self-image. However, in this respect Sykes & Matza make it clear that the techniques of neutralization can occur both before and also after committing the offense. Accordingly, they clear the path into criminality ("they precede deviant behavior and make deviant behavior possible"¹³) and in addition, have the function of excusing the crime towards oneself and others after the fact¹⁴ ("protecting the individual from self-blame and the blame of others after the act"¹⁵).

For Festinger it is not a question of explaining delinquency or conformity, but rather in general, the consonance or dissonance of two cognitions. He conceives under the term cognitions, "any knowledge, opinion or belief about the environment, oneself or one's own behavior".¹⁶ Multiple cognitions can be related to one another, but it is not required. Consistent cognitions lead to consonance; inconsistent cognitions produce dissonance. Festinger describes dissonance as "psychological discomfort"¹⁷ that provokes a desire in the individual, with the goal of reducing this, to return to a consonant relationship in cognitions. Dissonant cognitions develop especially in decision situations,¹⁸ because weighing between two alternative courses of action always also entails the decision for one and against the other cognition. If the dissonance-triggering decision cannot be undone, the dissonance reduction strategies of modifying the attractiveness of the alternatives involved in the decision and/or creating a so-called "cognitive overlap" of both

¹² DAVID MATZA GRESHAM M. SYKES, *TECHNIQUES OF NEUTRALIZATION: A THEORY OF DELINQUENCY*, 667 (1957).

¹³ DAVID MATZA GRESHAM M. SYKES, *TECHNIQUES OF NEUTRALIZATION: A THEORY OF DELINQUENCY*, 666 (1957).

¹⁴ On the problem of timing with regard to when the neutralization strategies step in, compare also Michael L. Benson, *Denying the Guilty Mind: Accounting for Involvement in White Collar Crime*, 23, *CRIMINOLOGY*, 583ff., 604 (1985), and Nicole Leeper Piquero & Stephen G. Tibbetts & Michael Blankenship, *Examining the Role of Differential Association and Techniques of Neutralization in Explaining Corporate Crime*, 26, *DEVILANT BEHAVIOR*, 159ff. (2005) A criminal etiological theory can only then be derived from the theory of neutralization techniques if these intervene prior to the offense, and therefore, cause (share in causing) the offense, and/or pave the way into delinquency. In the theory of cognitive dissonance, Festinger (LEON FESTINGER, *THEORY OF COGNITIVE DISSONANCE*, 49 (1978)) assumes that dissonance arises after a decision, not necessarily initially after carrying out an action. According to another conception, one must distinguish between the final decision and the intermediate decisions that precede this. Already preliminary decisions and their underlying assessment processes could allow for cognitive dissonance to emerge, cf. MARTIN IRLE & VOLKER MÖNTMANN, *THEORIE DER KOGNITIVEN DISSONANZ*, 317ff. (1978).

¹⁵ DAVID MATZA GRESHAM M. SYKES, *TECHNIQUES OF NEUTRALIZATION: A THEORY OF DELINQUENCY*, 666 (1957).

¹⁶ LEON FESTINGER, *THEORY OF COGNITIVE DISSONANCE*, 17 (1978).

¹⁷ LEON FESTINGER, *THEORY OF COGNITIVE DISSONANCE*, 16 (1978).

¹⁸ LEON FESTINGER, *THEORY OF COGNITIVE DISSONANCE*, 19 ff. (1978).

cognitions come into question. In the case of modifying the attractiveness of a course of action, the actor frequently draws upon new cognitions that assist him in increasing the attractiveness of the selected course of action, and reducing that of the alternative not selected. To be classified in this category of dissonance reduction strategies are, for example, the neutralization strategies of “appeal to higher loyalties” and “rejection of penal provisions”.¹⁹ If the perpetrator invokes a value of greater significance (such as for example, H. Kohl in the word of honor case), he highlights the importance and correctness of his conduct, and consequently, reduces the cognitive dissonance by increasing the attractiveness of the decision he made (in the word of honor case: non-disclosure of the names of the donors). A comparable strategy also exists if the offender argues that it would be appropriate to break the law because it was in any case flawed (example: “the law I broke was just ‘governmental intervention on the free market’; “It’s just ‘that the government wastes the taxes collected’”²⁰). From the perspective of the actor, who labels himself as an informed insider who is aware of the true laws of the market, it was accordingly only logical to not follow the law.

Creating cognitive overlapping is involved if, through a measure of abstraction, as many commonalities as possible between both courses of action are sought. This is the case in so-called crisis criminality²¹ when the perpetrator justifies the violation of the law with the reasoning that he acted for the good, that is to say, for example, retained jobs or served the shareholders.²² This not only increases the attractiveness of the delinquent conduct (see above), but rather also pursues, (just as conformity with the law), a morally valuable, altruistic purpose from the perspective of the actor.

Techniques of neutralization therefore apparently represent dissonance reduction strategies within the meaning of Festinger’s theory. They smooth the way into criminality, starting with the decision situation for or against the action, all the way through emotional stabilization after the crime when it comes to justifying the action to oneself and others. The combination of both approaches not only facilitates criminology in a psychological reconstruction of the importance of neutralization techniques, and therefore, contributes to a better understanding of this approach, but also opens up additional

¹⁹ James Coleman, *Toward an integrated Theory of White-Collar Crime*, 2, AMERICAN JOURNAL OF SOCIOLOGY 93, 411 (Sep., 1987).

²⁰ Orly Turgeman-Goldschmidt, *Between Hackers and White-Collar Crime Offenders*, in *Corporate Hacking and Technology-Driven Crime: Social Dynamics and Implications* 28 (Thomas J. Holt & Bernadette H. Schell, 2011).

²¹ Cf. on this Hendrik Schneider & Dieter John, *Der Wirtschaftsstraftäter in seinen sozialen Bezügen. Empirische Befunde und Konsequenzen für die Unternehmenspraxis*, in *Wirtschaftskriminalität* 159 ff. (Britta Banenberg & Jörg-Martin Jehle, 1st ed. 2010) and HENDRIK SCHNEIDER, *DER WIRTSCHAFTSSTRAFTÄTER IN SEINEN SOZIALEN BEZÜGEN. AKTUELLE FORSCHUNGSERGEBNISSE UND KONSEQUENZEN FÜR DIE UNTERNEHMENSPRAXIS*, 4 ff. (2009): In particular, techniques of neutralization could be demonstrated for the crisis offender type.

²² Cf. on this Joseph Heath, *Business Ethics and Moral Motivation: A Criminological Perspective*, 83, JOURNAL OF BUSINESS ETHICS, 595, 608 (2008): “I did it for my family”, “I did it for the sake of Enron”, “we did it for the shareholders”.

perspectives that can be made productive for criminological single-case analysis and prevention. A main area of application of the theory of neutralization techniques as expanded by Festinger's approach is the decision for or against an economic crime.²³ In particular, in the area of Economic Criminology, the techniques of neutralization are particularly frequently called upon today as an explanatory approach for the generally, at least in principle, lawfully oriented offender.²⁴

B. Dissonance strength and its significance for successful neutralization

Given that both Cressey and also Sykes & Matza are exclusively concerned with dissonance reduction and not the phenomenon of dissonance as such, they obscure the fact that dissonance can occur in various degrees.²⁵ By contrast, Festinger is of the view that a certain dissonance would be inherent in all decision situations because for almost every cognition a conflicting cognition would exist. But a "strong" dissonance would only then emerge if both cognitions are especially important for the individual:

"If two elements are dissonant with each other, the magnitude of the dissonance is a function of the importance of the elements. The more important or valuable these elements are for the person, the greater is the magnitude of the dissonant relationship between them."²⁶

Insofar as an assessment for or against a crime is involved, the two determinative cognitions are on the one hand, the non-delinquent self-image of the actor and his orientation towards conformity values, and on the other hand, the respective profit or benefit that follows from committing the crime. Dissonance follows then if both elements are important for the perpetrator. The more important they are, the greater the dissonance. According to Festinger, dissonance explains the pressure to reduce dissonance. In this respect, it is possible to distinguish three ideal-typical adaptation mechanisms from one another, which vary according to the magnitude of the dissonant relationship:

- Type 1: Avoiding the dissonance-producing cognitions. In the case of particu-

²³ Cf. already the placement of techniques of neutralization in the Leipziger Progression Model of White-collar Crime (Hendrik Schneider, *Das Leipziger Verlaufsmodell wirtschaftskriminellen Handelns*, NEUE ZEITSCHRIFT FÜR STRAFRECHT 555 ff. (2007); *ibid.* 135 ff. (2008), as developed by the author.

²⁴ James Coleman, *Toward an integrated Theory of White-Collar Crime*, 2, AMERICAN JOURNAL OF SOCIOLOGY 93, 406 ff. (Sep., 1987); Michael L. Benson, *Denying the Guilty Mind: Accounting for Involvement in White Collar Crime*, 23, CRIMINOLOGY 583ff. (1985); Tomson H. Nguyen & Henry N. Pontel, *Mortgage origination fraud and the global economic crisis. A criminal analysis*, 9, CRIMINOLOGY & PUBLIC POLICY 591 ff. (2010); Scott M. Kieffer & John J. Sloan, *Overcoming moral hurdles: Using techniques of Neutralization by White-Collar Crime. Suspects as an Interrogation Tool*, 22, SECURITY JOURNAL 1 ff. (2008).

²⁵ The topic of dissonance magnitude is at most implied. For example, Sykes/Matza recognize that techniques of neutralization cannot always completely shield the individual from feelings of guilt (DAVID MATZA GRESHAM M. SYKES, *TECHNIQUES OF NEUTRALIZATION: A THEORY OF DELINQUENCY* 669 (1957)). In other cases, neutralization strategies would not be necessary because the juvenile offender was isolated from the "world of conformity".

²⁶ LEON FESTINGER, *THEORY OF COGNITIVE DISSONANCE* 28 (1978).

larly pronounced dissonance—Festinger speaks in this respect of the “fear of dissonance”²⁷—it is conceivable that one does not succeed through neutralization strategies to completely eliminate the “psychological discomfort”²⁸. Rather, in the case of great pressure, the individual would attempt from the outset to avoid the dissonance-generating cognitions as such²⁹, or the decision for the crime would not be implemented (“withdrawal of the decision”³⁰). Therefore, from a criminological point of view, pronounced dissonance can be interpreted as a relevant resilience factor. In this respect, it suggests itself for example, that reference be made to the research results concerning the connection between value orientation and delinquency.³¹ People who are compelled by traditional values according to Festinger’s observations are thus possibly less prone to the temptations of advantageous opportunities to commit an offense because the idea of violating a norm elicits such a strong cognitive dissonance that it cannot be calmed. Therefore, the individual striving for consonant cognitions, rather blocks out the advantageous opportunities to commit an offense, increases the attractiveness of conduct in conformity with the law through cognitions that support this conduct, or surrounds themselves with persons who are committed to the same ideals and values. The conflict of nevertheless wishing to achieve economic profit can be resolved by taking advantage of legitimate sources of income and by expanding spheres of activity at the expense of free time.

- Type 2: Dissonance reduction through neutralization. Below the threshold of the “fear of dissonance”, neutralization techniques in the sense of dissonance reduction strategies are engaged to reduce the pressure and establish consonance. Distinct neutralization strategies are in this case an indicator for a socially-conforming value orientation. They point to a basic desire for societal inclusion. In particular, in the area of economic criminality, which represents a group of cases in criminality that is otherwise socially inconspicuous, the perpetrator consequently attaches importance to emphasizing that he has not done anything unusual, that is to say, nothing out of the ordinary. On this backdrop, it is comprehensible that they stress in interviews or before a court that they only did what everyone else also does (“anybody could’ve done it”, “everybody does it”, “it’s the values of competitiveness and achievement in Western socie-

²⁷ LEON FESTINGER, THEORY OF COGNITIVE DISSONANCE 41 (1978).

²⁸ LEON FESTINGER, THEORY OF COGNITIVE DISSONANCE 16 (1978).

²⁹ LEON FESTINGER, THEORY OF COGNITIVE DISSONANCE 41 (1978).

³⁰ LEON FESTINGER, THEORY OF COGNITIVE DISSONANCE 52 (1978).

³¹ Alexander Schlegel, *Werthaltungen inhaftierter Wirtschaftsdelinquenten*, in *Wirtschaftskriminalität und Werte* 113 ff. (2003); Judith M. Collins & Frank L. Schmidt, *Personality, Integrity, and White Collar Crime: A Construct validity study*, 46, PERSONNEL PSYCHOLOGY 295 ff. (1993).

ties that are to blame”³²). From the perspective of prevention this therefore does not require re-socialization, but rather (only) “neutralizing the techniques of neutralization” (see more detail on this below under III).

- Type 3: Withdrawal into an autonomous sphere of values of a workplace-related subculture. If there are no apparent neutralization strategies, this suggests that conformity values no longer produce any friction and no guilty conscience. The value of abiding by the law does not occur in the offender’s cognitions, and hence, there does not follow any dissonance that would have to be reduced. In this case, which forms the opposite pole to Type 1, the perpetrator accordingly is moving at least in part in an autonomous sphere of values. In the law related to economic offenses, this is a specific feature of workplace-related subcultures to the extent that these are accompanied by a breakdown in the “work-life-balance” and the associated loss of external control by persons outside of the work environment.³³ An indicator for this are argumentation strategies with which the perpetrator explains after the fact that he no longer noticed the illegal actions: “price-fixing had become so common and gone for so many years that we lost sight of the fact that it was illegal.”³⁴

C. Dissonance in the case of conduct in conformity with the law

Festinger’s theory furthermore demonstrates that techniques of neutralization are not only needed in choosing the alternative that is a criminal course of action, but also in choosing the course of action that is in conformity with the law. If the individual is exposed to an advantageous opportunity to commit a crime and he recognizes this, he has the choice to seize the opportunity or ignore it.³⁵ Whereas the criminological literature to date only focused on the cognitive dissonance resulting from a decision to commit the offense and against compliance, Festinger’s theory provides space for the problem of cognitive dissonance due to missing the advantageous opportunity to commit a crime, which is connected with the cognition of losing the yields of a crime.

³² Orly Turgeman-Goldschmidt, *Between Hackers and White-Collar Crime Offenders*, in *Corporate Hacking and Technology-Driven Crime: Social Dynamics and Implications* 28 (Thomas J. Holt & Bernadette H. Schell, 2011).

³³ HENDRIK SCHNEIDER, DER WIRTSCHAFTSSTRAFTÄTER IN SEINEN SOZIALEN BEZÜGEN. AKTUELLE FORSCHUNGSERGEBNISSE UND KONSEQUENZEN FÜR DIE UNTERNEHMENSPRAXIS 4 ff. (2009); Hendrik Schneider & Dieter John, *Der Wirtschaftsstraftäter in seinen sozialen Bezügen. Empirische Befunde und Konsequenzen für die Unternehmenspraxis*, in *Wirtschaftskriminalität* 159 ff. (Britta Bannenberg & Jörg-Martin Jehle, 1st ed. 2010).

³⁴ STUART L. HILLS, CORPORATE VIOLENCE: INJURY AND DEATH FOR PROFIT 191 (1987).

³⁵ Basic assumption of the Leipziger Progression Model of White-collar Crime: Schneider (Hendrik Schneider, *Das Leipziger Verlaufmodell wirtschaftskriminellen Handelns*, NEUE ZEITSCHRIFT FÜR STRAFRECHT 555ff. (2007) and *ibid.* 135 ff. (2008)). a similar approach in the Choice Theory of White Collar Crime (NEAL SHOVER & PETER GRABOSKY, WHITE-COLLAR CRIME AND THE GREAT RECESSION 429 ff. (2010); *ibid.* 641 ff. (2010); NEAL SHOVER & ANDREW HOCHSTETLER, CHOOSING WHITE-COLLAR CRIME 114 ff. (2007); *ibid.* (2006); also, John Braithwaite, *Diagnostics of white-collar crime prevention*, 23, CRIMINOLOGY & PUBLIC POLICY 621 ff. (2010)).

This aspect can admittedly not be made fruitful for criminal etiology, but certainly for resilience research and prevention. Whereas within the framework of prevention, neutralization strategies that pave the path into criminality are to be neutralized to the greatest extent possible,³⁶ we very much welcome those that ease the sense of loss of having passed over an advantageous opportunity. According to this, one must fundamentally distinguish between “negative” (crimino-valent) and “positive” (crimino-resistant) neutralization strategies³⁷. Criminology has so far only concentrated on one side of this. Neutralization strategies that are to be assessed as positive and supportive of compliance with the law would have to as yet be formulated. Research results in economic victimology³⁸ suggest that there is also in this respect an appeal to higher loyalties. Employees in victimized companies report that they also cooperated in uncovering and clearing up criminal acts against the company because they had perceived this as the “hour of reckoning”. In addition, they apparently felt a lower tolerance level with respect to navigating in a company gray zone than other colleagues. Thus, in this respect, it was not only a question for them of compliance with the law in and of itself, but rather also that of higher-level ideals of fairness and transparency, therefore, cognitions through which conduct in conformity with the law can gain in its appeal as compared to criminality (or not intervening vis-à-vis criminality). An increase in the attractiveness of conduct in compliance with the law or an incentive to return to legality would also be conceivable by means of relevant monetary or non-monetary incentive systems (see more detail on this under III in prevention strategies).

D. Dissonance in group processes

More clearly than in the criminological works on neutralization techniques, there is also a focus with Festinger on the relevance of group processes. To be sure, Sykes & Matza already emphasize (in differentiating from Sutherland’s Theory of Differential Association), that neutralization strategies can be learned in contact with others. However, in addition, Festinger also makes reference to “social support” in the process of dissonance reduction.³⁹

Mutual social support in reducing dissonance then occurs if multiple persons perceive the same dissonance and must subsequently deal with the identical discomfort. According to Festinger, the mutual social support in “collective dissonance” can even go so far that “a large group of people succeed in continuing to adhere to a belief or opinion alt-

³⁶ Joseph Heath, *Business Ethics and Moral Motivation: A Criminological Perspective*, 83, JOURNAL OF BUSINESS ETHICS, 595, 611 (2008): “The goal [...] would be to neutralize neutralizations”.

³⁷ Cf. on these basic terms of applied criminology: HANS GÖPPINGER, KRIMINOLOGIE, 218 ff. (6th ed., 2008).

³⁸ HENDRIK SCHNEIDER & DIETER JOHN, DAS UNTERNEHMEN ALS OPFER VON WIRTSCHAFTSKRIMINALITÄT – EINE VIKTIMOLOGISCHE UNTERSUCHUNG: PUBLIC AND PRIVATE SECTOR IM VERGLEICH (2013).

³⁹ LEON FESTINGER, THEORY OF COGNITIVE DISSONANCE, 177 (1978).

though clear evidence to the contrary is constantly becoming apparent⁴⁰: [...] If everyone believes it, it must be true without a doubt”.⁴¹ Thus, a “UFO cult” studied by Festinger managed to still cling to a prophecy of an apocalypse even then as the first predicted date of world destruction passed without incident.⁴² In this case, the only members of the cult who turned away in disappointment from the ideas of an imminent apocalypse (and the salvation of a select few by aliens) were those that did not exchange views with other cult members. Insofar as the error concerning the exact date of the apocalypse was collectively confronted, a reinforcement of group cohesion was even apparent.

Consequently, group processes influence not only the appeal and the belief in the correctness of certain cognitions, but also assist with marginalizing and rejecting dissonant cognitions.⁴³ From an economic criminology perspective, in this respect for instance, the recognizable neutralization strategies of management personnel and established employees are relevant for the employees of a company. If the necessity of lawful conduct is only then recognized by management personnel and experienced colleagues if a specific risk of discovery exists, and the norm violation is otherwise consistently neutralized, contagion effects are obvious. Therefore, techniques of neutralization are passed on in the company hierarchy from the top to the bottom and dissenters are collectively and successfully defamed and/or neutralized as “killjoys” or “naysayers”. This applies, as the results of the research project “Corporate Compliance – Legal Limits and the Empirical Effects of a New Form of Company Organization”⁴⁴ of Leipzig University makes apparent, in many companies, even to the individual compliance officer. They speak of—also with regard to their superiors—serious problems with being accepted: “I am perceived as a killjoy” or “I once again needed an investigative proceeding so that anyone listened to me”.

The rejection of persons with a different opinion—for example, from the legal department or the compliance office—can go so far that the cognitions of dissidents that are in conflict with certain cognitions are no longer even perceived. Under these circumstances, dissonance no longer occurs and consequently, it also does not require neutralization

⁴⁰ LEON FESTINGER, THEORY OF COGNITIVE DISSONANCE 196 (1978).

⁴¹ LEON FESTINGER, THEORY OF COGNITIVE DISSONANCE 198 (1978).

⁴² LEON FESTINGER & HENRY RIECKEN & STANLEY SCHACHTER, WHEN PROPHECY FAILS: A SOCIAL AND PSYCHOLOGICAL STUDY OF MORDERN GROUP THAT PREDICTED THE DESTRUCTION OF THE WORLD (1964).

⁴³ LEON FESTINGER, THEORY OF COGNITIVE DISSONANCE 182 (1978).

⁴⁴ Hendrik Schneider & Kevin Grau & Kristin Kießling, „Der Schock von Berlin saß tief!“ – Ergebnisse eines empirischen Forschungsvorhabens zu Compliance im Gesundheitswesen und in der Pharmaindustrie, 2, CORPORATE COMPLIANCE ZEITSCHRIFT 48 ff. (2013); Hendrik Schneider & Kristin Kießling, Compliance im Unternehmen – Wo steht die Pharmaindustrie? Ergebnisse eines empirischen Forschungsvorhabens zur Verbreitung und Wirkung von Compliance Instrumenten in deutschen Unternehmen, 6, ARZNEIMITTEL & RECHT, 261 ff. (2012); Hendrik Schneider & Burkhard Boemke & Kevin Grau & Kristin Kießling, Evidenzbasierte Kriminalprävention im Unternehmen. Wirksamkeit von Compliance Maßnahmen in der deutschen Wirtschaft – Ein empirisches Forschungsvorhaben, 9, DENKSTRÖME, JOURNAL DER SÄCHSISCHEN AKADEMIE DER WISSENSCHAFT 79 ff. (2012).

by means of relevant dissonance reduction strategies. This is demonstrated once again in particular in workplace-related subcultures. Where there is long-term and ongoing entanglement in the workplace-related subculture, the signs of normality and deviance are reversed and breaking the law is no longer reflected in the cognitions of the actors. The reasons for this are, for example, the findings identified in the study “The Economic Offender in his Social Surroundings”⁴⁵, that in one case of significant criminal offenses perpetrated in the context of the workplace-related subculture, the order to the business-consulting firm to resolve the criminal circumstances within the company was issued personally by one of the principal offenders. This finding is also corroborated in other studies: “Membership in a deviant subgroup plays an important role in ‘normalizing’ this otherwise proscribed conduct. Without the supportive group, the ‘sinning self threatens to overwhelm the working self’”⁴⁶.

III. KNOWLEDGE GAINED FOR COMPANY-INTERNAL PREVENTATIVE MEASURES

A. Strategies for neutralizing, techniques of neutralization

Consequently, in-house compliance programs should primarily rely on creating an atmosphere or corporate culture⁴⁷ in which common neutralization strategies are not accepted. Evolved cultures of collective neutralization strategies (compare from the area of cooperation in health care, for example, the arguments for ensuring acceptance of certain problematical practices in “pharma marketing”)⁴⁸ should be made a subject of discussion and deliberated.

As stated, the techniques of neutralization involve relatively fragile lines of argumentation that are amenable to a change in group processes. Just as they can be subsequently stabilized by group processes, they may be destabilized and delegitimized by group processes and a corresponding reflection. Compliance workshops in which the target group is made aware of the neutralization strategies and the problem of cognitive dissonance

⁴⁵ HENDRIK SCHNEIDER, DER WIRTSCHAFTSSTRAFTÄTER IN SEINEN SOZIALEN BEZÜGEN. AKTUELLE FORSCHUNGSERGEBNISSE UND KONSEQUENZEN FÜR DIE UNTERNEHMENSPRAXIS 4 ff. (2009); Hendrik Schneider & Dieter John, *Der Wirtschaftsstraftäter in seinen sozialen Bezügen. Empirische Befunde und Konsequenzen für die Unternehmenspraxis*, in *Wirtschaftskriminalität* 159 ff. (Britta Bannenberg & Jörg-Martin Jehle, 1st ed. 2010).

⁴⁶ GERALD MARS, CHEATS AT WORK. AN ANTHROPOLOGY OF WORKPLACE CRIME (1982).

⁴⁷ GERALD MARS, CHEATS AT WORK. AN ANTHROPOLOGY OF WORKPLACE CRIME (1982).

⁴⁸ GERALD MARS, CHEATS AT WORK. AN ANTHROPOLOGY OF WORKPLACE CRIME 48 (1982); In more detail: Hendrik Schneider & Kevin Grau & Kristin Kießling, „Der Schock von Berlin saß tief!“ – Ergebnisse eines empirischen Forschungsvorhabens zu Compliance im Gesundheitswesen und in der Pharmaindustrie, 2, *CORPORATE COMPLIANCE ZEITSCHRIFT* 48 ff. (2013); Hendrik Schneider & Kristin Kießling, *Compliance im Unternehmen – Wo steht die Pharmaindustrie? Ergebnisse eines empirischen Forschungsvorhabens zur Verbreitung und Wirkung von Compliance Instrumenten in deutschen Unternehmen*, 6, *ARZNEIMITTEL & RECHT* 261 ff. (2012).

are suitable for this purpose. For example, an introduction can rely on hypothetical dilemma situations that are taken from the respective markets in the work environment of the employees to be trained. In discussions concerning such situations and the possible courses of action, neutralization strategies can be made apparent and thus brought to a level of critical reflection. Already the identification of dissonance-generating cognitions and the reconstruction of common neutralization techniques had (according to the insights gained in our study of the effectiveness of compliance instruments) positive effects with regard to awareness vis-à-vis certain established mindsets and argumentation patterns.⁴⁹

Promising are furthermore programs that not only illustrate the content of relevant norms, but also their objectives and legal policy significance.⁵⁰ In this respect, the goal is to undermine and neutralize the neutralization strategies of “appeal to higher loyalties” and the “rejection of penal provisions”. Decisive in the sense of consolidating the insights attained is furthermore that holding onto the common structures and established dissonance reduction strategies is no longer tolerated by the top management (so-called “tone from the top”).

B. Stabilizing and supporting desirable dissonance reduction strategies

Within the framework of prevention, it must also be taken into consideration that a decision for lawful behavior can produce dissonance. In this sense, the company can rely on a double strategy in which compliance is consistently rewarded and non-compliance is consistently rejected. If there are odds for the employee that compliance will be rewarded, this reduces the cognitive dissonance in the event of missing out on a promising opportunity. The employee will ease his sense of loss over the missed profit opportunity with the argument that he also has the possibility to earn, even by missing the promising opportunity, an “extra bonus” in the form of a monetary or non-monetary compensation component.

By contrast, in the case of a low fixed salary and high sales commission, for instance, there exists an incentive to also effectuate the conclusion of a contract for the product to

⁴⁹ Cf. already the approach (Michael Walter, *Wie kann ein Mensch so etwas tun?* in Festschrift für Hans-Dieter Schwind 1155 ff. (Thomas Feltes & Christian Pfeiffer & Gernot Steinhilper, 2006)), who in this respect focuses on “Unmasking Illusory Legitimations”.

⁵⁰ In more detail this Joseph Heath, *Business Ethics and Moral Motivation: A Criminological Perspective*, 83, JOURNAL OF BUSINESS ETHICS 595 ff.: Of course, the current developments in the law of economic offenses are not very favorable for the practice of respecting norms. Due to a lack of precise definition of specific criminal offenses and individual features of the elements of an offense, it is increasingly already difficult to clarify the content of the norm to the party to whom the norm is addressed. Added to this are conflicts in values and the lack of reasonability in certain decisions of the legislature and courts, which can encourage the neutralization strategies of rejecting penal provisions; see on this in detail based on examples, Hendrik Schneider, *Wachstumsbremse Wirtschaftsstrafrecht. Problematische Folgen überzogener Steuerungsansprüche und mangelnder Randschärfe in der wirtschaftsstrafrechtlichen Begriffsbildung*, 1, NEUE KRIMINALPOLITIK 30 ff. (2012).

be sold by improper means.⁵¹ An employee who complies with the laws can therefore in case of doubt, clearly earn less than his colleague acting in a criminal manner. This also generates cognitive dissonance in the lawfully acting colleague for which the company—that does not wish to dispense with sales commissions—should provide a neutralization opportunity. Thus, for example, a compliance scorecard could be implemented and taken into consideration for promotions or the allowance of awards or bonuses. Furthermore, the risk of discovery of the criminal sales strategies could be increased by way of periodic compliance audits not bound to a specific occasion, and with this, the appeal of an opportunity for non-compliance reduced.

Of course, a prerequisite for such programs is that there is a genuine company interest in compliance, and that economic success through unlawful corporate activities is also frowned upon by top management. This stance and attitude towards compliance risks and the legal boundaries of economic success is definitely verifiable. According to the present insights about compliance in the German economy, it is not to be assumed that the relevant departments universally merely have a “fig leaf” function and should exclusively aim for a positive public perception.⁵² Circumstances that are indicative of a serious interest in functional compliance are, for example, the qualifications profile apparent in job advertisements and the qualifications of the compliance officer, as well as the scope of reporting obligations that go all the way up to the supervisory board in companies that value compliance (so-called dotted reporting line) and therefore include monitoring of the board or managing directors by the compliance officer.⁵³

III. CONCLUSION

The starting points illustrated by way of example here that are based on in-house measures for prevention make clear that the theory concerning techniques of neutralization developed by Sykes & Matza definitely has a “quantum leap potential”, in particular, in the area of applied economic criminology, and enriches and expands our

⁵¹ Cf. on this the Strategies of Selling Property Loans, which resulted in the so-called subprime crisis, Neal Shover & Peter Grabosky, *White-collar crime and the Great Recession* 429 ff. (2010); *ibid.* 641 ff. (2010).

⁵² Skeptical towards compliance as a measure for the prevention of corporate criminality: Bernd Schünemann, *Brennpunkte des Strafrechts in der entwickelten Industriegesellschaft*, in *Empirische und dogmatische Fundamente kriminalpolitischer Impetus* (Roland, Hefendehl, 2005), p. 369; Roland Hefendehl, *Corporate Governance und Business Ethics: Scheinberuhigung oder Alternativen bei der Bekämpfung der Wirtschaftskriminalität?*, JURISTEN ZEITUNG 125 (2006); William S. Laufer, *Corporate Liability, Risk Shifting, and the Paradox of Compliance*,⁵², VANDERBIT LAW REVIEW 1343 ff. (1999).

⁵³ HENDRIK SCHNEIDER & DIETER JOHN, *DAS UNTERNEHMEN ALS OPFER VON WIRTSCHAFTSKRIMINALITÄT – EINE VIKTIMOLOGISCHE UNTERSUCHUNG: PUBLIC AND PRIVATE SECTOR IM VERGLEICH* (2013); Hendrik Schneider & Kristin Kießling, *Compliance im Unternehmen – Wo steht die Pharmaindustrie? Ergebnisse eines empirischen Forschungsvorhabens zur Verbreitung und Wirkung von Compliance Instrumenten in deutschen Unternehmen*, 6, ARZNEIMITTEL & RECHT 261 ff. (2012); Hendrik Schneider & Kevin Grau & Kristin Kießling, „Der Schock von Berlin saß tief!“ – *Ergebnisse eines empirischen Forschungsvorhabens zu Compliance im Gesundheitswesen und in der Pharmaindustrie*, 2, CORPORATE COMPLIANCE ZEITSCHRIFT 48 ff. (2013).

knowledge of the origins of an offense and prevention of future offenses. The “critical self-reflection” of the perpetrator with regard to the “legitimation representations of earlier actions” (p. 1170) (rightly presented by Walter with the example of the most severe criminal offenses) cannot happen however, (according to the view applied here) only after the offense within the context of a “new cognitive re-socialization”, but rather ideally already before the initial delinquency in the sense of reflecting about the decision processes; and this self-reflection can be made productive for prevention. In this respect, and integrated into a compliance program, this involves measures of ensuring an internal company integrity structure in which adequate handling of cognitive dissonance is cultivated, and in which crimino-valent neutralization techniques are neutralized, and crimino-resistant neutralization strategies are reinforced.