

White collar crime: causes, impacts, and the criminal justice system



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\n[[toc title="Table of Contents"](#)]\n

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1. [RISE OF WHITE COLLARCRIME](#) \n \t
2. [WHY THIS CRIME HAPPENS](#) \n \t
3. [WHO DOES IT AFFECT](#) \n \t
4. [HOW IT IS TREATED BY THECRIMINAL JUSTICE SYSTEM](#) \n \t
5. [CONCLUSION](#) \n \t
6. [References](#) \n

\n[/toc]\n \n

RISE OF WHITE COLLARCRIME

The term “ White Collar Crime” was first used by Edwin Sutherland in 1939. Sutherland defined white collar crime as “ crime committed by a person of respectability and high social status in the course of his occupation (Sutherland 1940).” The historical period in which Sutherland was born influenced his outlook on corporate structure because he experienced life around the middle-to-end of the Industrial Revolution. He saw the development of companies sprout and when the Great Crash of 1929 found its way into everyday lives of Americans, he began to question how those companies and financial institutions can endorse shoddy practices that are illegal in the court of law and yet because they are conducted by “ professionals” rarely result in criminal prosecutions. He wondered, “...why the law has a different implementation for white collar criminals than for others” (American Sociological Association). The last decades have brought forth important considerations regarding jurisprudence, or what constitutes a crime by theory and law. “ According to a widely shared assumption, criminal <https://assignbuster.com/white-collar-crime-causes-impacts-and-the-criminal-justice-system/>

law is thought to be about the prevention of harm; but if that is so, the question remains what, exactly, counts - or should count - as " criminal harm (Dubber 2005)."

White-collar crime encompasses a verybroad assortment of crimes, including but not limited to “ embezzlement, bribery, conspiracy, obstruction of justice, perjury, money laundering, antitrust violations, tax crimes, and regulatory violations” (Encyclopaedia Brittanica 2017). Although white collar crime has its origins throughout history, the focus of this paper will center on investment fraud. One of the most infamous cases of investment fraud in American history is that of Bernard Madoff who began his ponzi scheme in the 1990s. A ponzi scheme is considered fraud because it uses subsequent investors to pay the previous ones. The ponzi scheme eventually surfaces as a scheme when the economy takes a downturn. The investment fraud only works when the economy is thriving. An area of significance following the Bernard Madoff case is that law enforcement had been given notice that Madoff’s returns were not accurately reflected in the economy, but they decided not to pursue him. “ Opportunities to expose his blatantly illegal practices were overlooked because of his very success (Valukas 2010).

WHY THIS CRIME HAPPENS

From the perspective of the mainstream, white-collar criminals do what they do because there are not enough deterrents to prevent them from doing so. The oversight and regulation are not consistent in times of economic prosperity (Van Slyke 2009) . The mainstream is only interested in corporate exploitations when an economic recession is in effect and people are looking for a scapegoat (Valukas 2010). From the perspective of the white-collar
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offender, the crime can happen for a multitude of reasons. One reason is that some feel the need to protect the interests of their companies as well as their own. The loyalty that a person develops for their places of work and colleagues, drives some to commit criminal acts. Sutherland ascribes the state of committing white-collar crime to social circumstances, rather than inherent traits (American Sociological Association). Henslin (1964) explains in further detail that the corporate environment serves as a conduit for criminogenic subculture, particularly for the middle management because of the expectation by shareholders for a reflection of positive growth. In this respect, Gottschalk (2017) agrees that the act to commit a crime can be motivated by internal or external factors. The individual who commits the various types of investment fraud deviate in their behaviors strictly to gain the financial advantage, whether it be for themselves, or the benefit of their company, or out of fear of losing their jobs. “ The growth of American business and the creation of more large corporations in fierce competition with each other spurred a rise in corporate crime and a focus on the reasons, costs, and controls needed to combat its spread” (Feeley 2006).

WHO DOES IT AFFECT

White-collar crimes affect not only the individual committing the illegal act. In the case of investment fraud, the person who suffers the most is the person who relinquished their money for the investment. White-collar crimes have a long reach into society and that because the capital gained through these shady ventures, schemes, and trading becomes tangled in the web of the business world or shielded by government and religious institutions, it can be difficult to trace (Gottschalk 2017). Crimes that occur within

corporations cause a tremendous detriment to the well-being of all people. If corporations are bringing in the bulk of the money but evade taxes, the money then comes out of the pockets of the populace. According to Kevin McCoy of USA Today, Bernard Madoff defrauded at least 51,700 investors from at least 119 countries. In cases like investment fraud, when the economy finds itself in a downturn, the investors find themselves with no investments. This can drastically impact people's ability to purchase things that enable the economy to function. The people working for companies that sell those products may be laid off or benefits packages may be cut, causing further detriment to the system. These crimes are not victimless but sometimes it is difficult to know exactly who it impacts in a negative way, which is one of the reasons many of these criminals are not prosecuted.

HOW IT IS TREATED BY THE CRIMINAL JUSTICE SYSTEM

Today, American courts can hold "corporations...criminally liable whether or not management was aware of the conduct in question, and they may receive no leniency for having a compliance or oversight system in place (Diskant 2008)." Although corporate fraud exists, because of the attorney-client privilege and the assistance corporations provide their employees in times of accusations, corporations are rarely found guilty in the court of law (Diskant 2008). The threat of the law is enough of a deterrent that many corporations use oversight committees to ensure these crimes do not risk the future of the company because "... the reputational costs can be devastating—the announcement that the government is even *considering* criminal charges can send a company's stock price tumbling, create

immediate management shakeups, or worse (Diskant 2008)." Moreover, the more isolated crimes such as ponzi schemes like the one Madoff used produce tangible fears because in 2009, he received a 150 year prison sentence (Van Slyke 2009). The criminal justice system clearly feels the need to punish those who transgress the nature of the law. It, however, would befit the interest of the public for criminal justice departments to be more consistent in their sentencing.

CONCLUSION

The last decades have brought forth important considerations regarding jurisprudence, or what constitutes a crime by theory and law. White-collar crime can range from embezzlement to ponzi schemes to obstruction of justice. The ponzi scheme has recently become illegal, however, criminal law do not tend to issue sanctions when the economy is strong (Valukas 2010). The reason white-collar criminals do what they do is because there are not enough deterrents to prevent them from doing so. White-collar crimes have a long reach into society and that because the capital gained through these shady ventures, schemes, and trading becomes tangled in the web of the business world or shielded by government and religious institutions, it can be difficult to trace (Gottschalk 2017). Therefore, corporations are rarely found guilty in the court of law (Diskant 2008).

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[edwin-h-sutherland](http://www.asanet.org/about-asa/asa-story/asa-history/past-asa-officers/past-asa-presidents/edwin-h-sutherland)).

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