



# Introduction

IN THE 2000s, white-collar crime has become a topic of almost daily news. The white-collar crime that caused the bankruptcy of Enron Corporation resulted in financial losses exceeding \$66 billion to stockholders, and likely helped lead to the recall of the governor of California. Massive violations of laws pertaining to improper investments in mutual funds and large banking firms in the United States have resulted in major losses to legitimate investors, whose losses are still being calculated. The use of shareholders' assets to fund the lavish private lifestyles of corporate chief executive officers, presidents, and chairs of the board of large corporations are becoming the fodder of scandal and media.

For example, television viewers were treated to an edited version of a videotape of Tyco International Limited head Dennis Kozlowski and friends in a \$2-million bacchanal celebrating his wife's birthday at the expense of the corporation. The WorldCom bankruptcy that resulted from white-collar crime caused billions of dollars in lost investments. The costs to ordinary stockholders are massive, but costs to employees, collateral business, communities, and society are incalculable.

Human lives have been altered forever by the unlawful actions of a few whose need for power and profit resulted in illegal, unethical, and immoral acts. While one can conceive of the plausibility that

the offenders did not define their behaviors as criminal, that in part could be because there is no clear definition of what is meant by the term *white-collar crime*.

The concept of white-collar crime was first conceived by Edward Alsworth Ross (1907), and approximately 30 years later white-collar crime was born in the ideas of Edwin H. Sutherland (1939–40). Sutherland, in coining the term, defined white-collar crime as "... a crime committed by a person of respectability and high social status in the course of his occupation." For Sutherland, the white-collar category included "business managers and executives," although, in research, he included corporations as offenders as well. He believed that a white-collar offense was a crime if it proved to be socially injurious and punishable.

Therefore, an act of white-collar crime could be dealt with in a criminal, civil, or administrative manner. Paul Tappan (1947), a lawyer and sociologist, disagreed with Sutherland's argument. Tappan believed that a behavior could only be considered a white-collar crime if the act was legally defined as a crime and if the offender had been convicted for the offense. That is, he rejected Sutherland's belief that a white-collar crime could be a violation of civil or administrative law without being condemned by criminal law. Frank Hartung (1950) argued that while legal definitions were important in

the general scheme of things, white-collar crimes represented a special case. Whereas, in most instances, it is possible to distinguish between criminal and civil violations, in the case of white-collar crime the artificial distinction between civil and criminal laws was blurred and lacked importance. In response to Hartung's statement, Ernest Burgess (1950) rejected a totally legal definition of crime, arguing for a labeling-perspective definition that required that persons could only be criminals if they perceived of themselves as such. From the white-collar offender's perspective, Gilbert Geis's (1967) findings would support Burgess's definition of crime. Geis found that white-collar criminals often do not perceive their acts as crime, and therefore do not perceive of themselves as criminals.

Marshall Clinard and Richard Quinney (1973) replaced the term *white-collar crime* with two other classification categories, Corporate Crime and Occupational Crime. Corporate Crime referred to the criminal behaviors of corporate entities, while Occupational Crime referred to the criminal behaviors of persons within their occupational status.

Laura Schrager and James Short (1978) proposed the term *organizational crime*. They considered such crime in the context of the operative goals of the organization, the actual unstated goals of the organization, which often differ from its official goals. Clinard and Peter Yeager (1980) defined corporate crime as "... any act committed by corporations that is punishable by the state, regardless of whether it is punished under administrative, civil, or criminal law."

Albert Biderman and Albert Reiss (1980) withdrew the idea of status from the definition of white-collar crime. They argued that individuals, other than those of an upper-class, were capable of committing crimes in their occupational roles. As a result, they emphasized the importance of defining white-collar crime as a violation of a position of trust. For example, if a waitress inflates a customer's bill, the customer is likely to pay both the inflated amount as well as a larger tip without realizing that she has been victimized. The waitress, for her part, not only profits personally, but also violates the trust placed in her by her employer.

James Coleman (1989) suggested that many of the attempts to redefine white-collar crime in other terms have undermined Sutherland's 1949 position since they "do not include many of the offenses covered in Sutherland's original definition," and/or

"are best seen as varieties of white-collar crime." Clinard (1990) suggested replacing white-collar crime with the terms *corporate corruption* and *abuse of corporate power*. These terms included both corporate and occupational crimes, regardless of whether they violate criminal, civil, or administrative laws. In addition, Clinard included behaviors that may not be explicitly defined as violations of law, but that may be unethical and/or immoral in the corporate or occupational context. For example, a scientist who cheats on her research by altering the findings of a study may not have violated a law or regulation, but instead has violated an ethical rule or norm of the scientific community. Under Clinard's hypothesis, that person may have committed a white-collar offense, since she engaged in an unethical and/or immoral behavior in her occupational context.

For the purposes of this encyclopedia, white-collar crime can be defined as:

Any behavior that occurs in a corporate and/or individual occupational context; and, that is committed for personal and/or corporate gain; and/or, violates the trust associated with that individual's and/or corporation's position and/or status; and that is a violation of any criminal law, civil law, administrative law, rule, ruling, norm, or regulation condemning the behavior.

This definition is necessarily both sociological and legalistic in nature, and therefore includes any behavior that may be socially defined as unethical or immoral, as well as behavior that is not legally defined as an offense. In addition, the definition does not include Sutherland's requisite that the violation be "committed by a person of respectability and high social status." This description was not included because white-collar crimes can be committed by persons who do not necessarily hold "high social status."

Bank tellers do not usually enjoy high social status in our society however, they are in a position of trust where they can engage in white-collar crime. Furthermore, John Hagan and Patricia Parker (1985) have suggested that those persons convicted for white-collar offenses are more likely to be in middle-management than in the high prestige and social status group of the top managers in criminal corporations. Finally, punishability for an act is not an important issue. However, it may be assumed that if an

act is a violation of some law, then it must be punishable as well. This broad definition of white-collar crime may bother some scholars in the field. However, given the diversity of the behaviors that have come to be described as white-collar and corporate crime, it is difficult to create a succinct definition without necessarily excluding some of the tangential behaviors.

## HISTORY OF WHITE-COLLAR CRIME

Laws against those actions that have come to be defined as white-collar crimes have existed since ancient times. Usually, such laws were developed in reaction to events in which there was a perception that something had occurred that challenged the moral sensibilities of the society. Geis, in his article in this encyclopedia on ancient mercantile crime, discusses the creation of laws to protect consumers and to guarantee an adequate food supply for the people. While hoarding grain in order to reduce supply and provide large profits might make sense to a lot of people, hoarding could also lead to public unrest and the overthrow of governments that chose to do nothing to guarantee a reasonably priced supply of staple foods.

George Robb (1993) described the cyclical development and repeal of white-collar crime laws in response to specific acts of fraud and immorality in business that brought fortunes to some and ruin to many. Many of these laws were developed to deal with “stock touting,” a practice that has existed as long as there have been stock markets, and that continues to occur to this day. Stock touting involves creating companies, and issuing stock in those companies based on false and/or misleading assets, information, or promise.

For example, Robb wrote about persons who created companies to build railroads in far parts of Great Britain, claiming that they possessed government guarantees that when the railroad was built, stockholders would be instantly wealthy. The stock sold quickly to speculators interested in making money, and the touters quickly disappeared, money in hand, with no railroad ever built. Such frauds aimed at unsuspecting speculators can be found in modern days as well. For example, the high-technology “bubble” of the 1990s resulted in the sale of stock in companies with much promise, but little if any underlying market value. When the bubble burst, stockholders were left holding shares in com-

panies that lacked any tangible assets. Compounding the problem, many stockholders had borrowed money using their stockholdings as collateral, leaving those unable to repay their debts bankrupt and their lenders taking losses as well. Robb noted that touting laws were enacted in reaction to such losses, and would be repeatedly repealed once the British Parliament decided that there was no longer a risk of such behaviors. Unfortunately, as soon as the laws were repealed, stock touts reappeared, new laws were created in response to their behaviors, and the cycle would continue over and over.

The Interstate Commerce Commission (ICC) Act of 1887 was enacted in the United States in response to the behaviors of the robber barons in the railroad industry. The robber barons, who included so-called reputable business leaders and politicians such as Leland Stanford, Sr., and Jay Gould, built railroads connecting the East and West Coasts of the United States, often without investing a cent of their own, and used their transportation monopoly to their own benefit. Before the passage of the ICC act, the railroad owners were free to set their own prices for transporting goods, often raising prices to the point that western farmers and ranchers could not make a profit on their goods. The ICC act created a commission that was meant to regulate the cost of interstate transportation of goods to guarantee that railroads would receive a fair income for their services, while farmers and ranchers would still be able to profit from their labors and goods.

The Sherman Antitrust Act of 1890 was enacted as a response to the growth of monopolies that threatened to destroy competition in the marketplace. A monopoly occurs when a producer controls an entire market for a product to the exclusion of others who would produce the product for a lesser cost. A monopoly allows the controlling producer to set any price for a product. A monopoly producer can set that price as high as she wants, with no fear of losing business due to competition from other producers. The Sherman Act was officially enacted because companies in various industry groups were attempting to eliminate their competition in the marketplace, thus hurting the economy.

It is noteworthy, however, that for the first decade of its existence, the Sherman Act was used almost exclusively as a tool to harass and criminalize the labor unions in their attempts to organize employees of those corporations which the act was

enacted to regulate. Other acts, such as the Clayton Antitrust Act of 1914, the Federal Trade Commission Act of 1914, the Robinson-Patman Act of 1936, the Cellar-Kefauver Act of 1950, and the Hart-Scott-Rodino Act of 1976, furthered attempts to shape and regulate unethical behaviors of business.

The Pure Food, Drug, and Cosmetic Act of 1906 served to rein-in industries that produced products that might endanger the welfare of Americans. Prior to this act, there were no enforceable regulation over food production in the United States. Authors, such as Upton Sinclair, in his novel *The Jungle*, exposed the abuses in the meatpacking industry. Also, prior to the passage of the act, poisons sold as drugs and cosmetics often had little or no positive effect; more likely having a significant negative effect on the health safety of consumers. The Sarbanes-Oxley Act of 2002 is a more recent attempt to respond to corporate criminal wrongdoing, requiring greater disclosure and accountability for corporate boards-of-trustees for the unethical and illegal behaviors of their executives and corporations.

The academic study of white-collar crime did not begin until Sutherland used the term *white-collar crime* in his presidential address before the American Sociological Society in 1939. In his 1949 book, *White-Collar Crime*, Sutherland presented the results of a study of white-collar crime offenses. During the next decade, a very limited amount of research on white-collar crime existed, primarily involving the definitional issues discussed previously. It was not until the publication of studies of the descriptions of behaviors defined as white-collar or corporate crimes, or Modus Operandi Studies as John Braithwaite (1985) has called them, that academic researchers renewed their interest in the topic.

These included studies such as Geis's research on the heavy electrical equipment scandal of the late 1950s and early 1960s; Quinney's (1963) study of prescription violations among pharmacists, and Diane Vaughan's (1983) investigation of the Revco prescription fraud scandal. These and similar research probes have given us a basic description of diverse white-collar and corporate crimes.

## THE ENCYCLOPEDIA

This reference, the *Encyclopedia of White-Collar & Corporate Crime*, is edited to incorporate information about a variety of white-collar crimes, and provides examples of persons, statutes, companies, and convictions. It is acknowledged that it does not, and cannot encompass all behaviors that may be defined as white-collar crimes. The articles have been written primarily for the college library, public library, and high-school library readers. Post-graduate academics and law firms may find the reference useful to add to their libraries. As such, the articles focus on the introductory knowledge that students can utilize.

The authors of the articles come from a variety of social science disciplines, although nearly all are current or retired academicians. The articles on laws describe the specific elements of the laws in terms of what types of illegal acts they are meant to apply to. Articles dealing individuals give a brief biographical sketch of the individual, but primarily focus on how they relate to the study of white-collar crime. Criminal events include descriptions of specific cases of white-collar crime, some very current, and others that were studied in the past. Both are relevant to our knowledge of white-collar crime. Some of the articles also deal with white-collar crime in countries other than the United States, to provide perspective that white-collar and corporate crime is hardly an American phenomenon.

As the definitions of white-collar and corporate crime remain somewhat fluid, we have included in this work other articles dealing with organized crime and prostitution, for example, which we acknowledge are not conventionally defined as white-collar crimes. However, elements of organized crime, prostitution, drug-trafficking, human-trafficking (for example) are addressed in this encyclopedia as these are criminal activities intertwined with white-collar crimes such as money-laundering, bribery, and government corruption.

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JUNE 2004