White-Collar Crime: Corporate and Securities and Commodities Fraud

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In this era of increased interest in white-collar crime, forensic psychiatrists are in a key position to study the individual characteristics of offenders. While a comprehensive theory of high-level white-collar crime should consider societal and organizational contributions, there is value in understanding the personal traits that place an individual at high risk for offending. As the impact of the criminal acts of this group has been increasingly felt by larger groups from all socioeconomic strata, there is less willingness by the public to view these crimes as victimless and harmless.

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Following the loss of much of his life savings in the Madoff scheme, one man in retirement described feeling a "deep depression. . . . I had no desire to live, no prospect of earning a living, no way to pay the bills" (Ref. 1, p A1).

This story is one among hundreds recounting the financial losses suffered by individuals and organizations due to fraud by trusted business advisors and professionals. With globalization of these vast financial portfolios, the impact of white-collar crimes of bribery and corruption extends around the world.[2,3] Walter Pavlo, a convicted felon who stole over $6 million from his employer MCI WorldCom, offers an insider's view of his path toward criminal behavior and punishment in his new book, *Stolen Without A Gun: Confessions from Inside History's Biggest Accounting Fraud—the Collapse of MCI WorldCom.*[4] At 32, he was managing $1 billion a month and was a rising star in the company, but as the business matters began to raise more questions, he reported in an interview on "Nightline" that he had "no happiness." It was noted that he began to sedate himself with antidepressants and alcohol.[5] Pavlo now travels the country lecturing in business schools and making presentations to other agencies, including the Federal Bureau of Investigation (FBI).[5] He also tours with his book and travels "about forty times a year, both in the United States and internationally." Recalling being asked about gangs in prison, he responded "no gangs, unless you consider a bunch of guys with MBAs gang members" (Ref. 4, p 6).

These two accounts illustrate the far-reaching consequences of high-level corporate fraud. According to Blickle *et al.*,[6] high-level white-collar crime refers to those criminal acts committed by corporate managers, representatives, and technical specialists. In Europe, over 42.5 percent of the larger companies have been victimized by white-collar criminal activities, with embezzlement and breach of trust being the prevalent modes involved.[6] The effects of high-level fraud are not limited to the corporations and their large stock holders, but also affect the lives of individuals of modest means who are counting on their savings and investments to support them in their retirement. The impact of this breach of trust by "crime in the suites" can have as many emotional consequences to the victims as the better researched "crime in the streets."[7,8]

In a recent study, white-collar offenders maintained, "There's no victim in white-collar crime, only the organization. White-collar crime isn't a danger to society. . . " (Ref. 9, p 70). Yet these crimes clearly have far-reaching effects. They undermine investor confidence, affect the economic health of corporations and of their employees, depress stock and bond values, affect bank loan delinquencies, and contribute to the financial devastation of the individual investor through declines in retirement and investment portfolios.[10,11]

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The accounts given earlier in the article raise the question of why successful, resourceful, well-educated persons become involved in corporate and securities and commodities fraud. Why do they risk their reputations and standing in their communities and expose themselves to arrest and conviction? This question has been analyzed on the personal, organizational, and societal levels. We provide a historical overview and summarize theories explaining white-collar crime before reviewing several of the recent psychological studies concerning this criminal group.

Historical Overview

Edwin Sutherland is credited with introducing the term white-collar crime in 1939 when he delivered his classic paper, "White-Collar Criminality," at the American Sociological Society Meeting. He offered professionals a new understanding of the interrelationship between business and crime. He defined white-collar crime as "a crime committed by a person of respectability and high social status in the course of his occupation" (Ref. 12, p 7). While noting that the "robber barons of the late 1800s" evidenced practices similar to those of business and professional men of the 1930s, including physicians, Sutherland hypothesized that "situations and social bonds within an organization" are responsible for creating a climate that encourages white-collar crime (Ref. 13, p 1). He recognized a power differential that exists between the victims and the perpetrators, noting that the perpetrators are generally similar in background and social status to those who construct the governing rules and laws that define their crimes.[13]

There are many even earlier references to high-profile fraudulent ventures. The *Boston Post* in 1920 printed a story that ultimately led to the conviction, three-year imprisonment, and later deportation of Carlo Ponzi, an Italian immigrant. He defrauded countless investors of millions of dollars in a scheme that paid earlier investors with money from later investors. This practice, known as a Ponzi scheme, by today's value was worth over $100 million. Victims of a Ponzi scheme have the false belief that they are investing in a legitimate, money-making enterprise when in fact the victims' monies are the only source of funding. Almost 89 years later, Bernard Madoff relied on a similar Ponzi scheme to defraud investors, including prominent foundations and educational institutions.

For several decades after Sutherland drew attention to the problem of white-collar crime, there was little impetus by researchers and criminologists to study the characteristics and motivation of white-collar criminals, and there was a similar lack of emphasis by law enforcement.[8,11] Throughout history, the prevailing opinion had been that the public was more concerned about the risk of violent victimization. Nevertheless, during this period, financial losses from white-collar crime exceeded those from personal and household crime.[8] The savings and loan scandals in the 1980s coupled with a rise in corporate crime set the stage for renewed interest.[8,9]

Around this time, there was a shift in the definition and conceptualization of white-collar crime. Rather than focus primarily on the socioeconomic status of the perpetrator, the new definitions considered the nature of the criminal acts and the organizational culture. The FBI defines white-collar crime as:

> Illegal acts which are characterized by deceit, concealment, or violation of trust and which are not dependent upon the application or threat of force or violence. Individuals and organizations commit these acts to obtain money, property, or services, to avoid the payment or loss of money or to secure personal or business advantage [Ref. 14, p 3].

The National White-Collar Crime Center defines white collar crime as "illegal or unethical acts that violate fiduciary responsibility or public trust for personal or organizational gain" (Ref. 15, p 1).

The 1980s saw the creation of the Financial Crimes Section of the FBI to investigate white-collar crime. Financial crimes investigations centered on fraud in corporations, securities and commodities, health care, financial institutions, mortgages, insurance, and mass marketing, and on money laundering.[16]

In response to several high-profile cases, in 2001, the FBI established the Corporative Fraud Initiative.[17] Yet despite this initiative, the 2008 annual report of the Association of Certified Fraud Examiners estimated that fraud resulted in losses of seven percent for corporations on an annual basis or approximately $994 billion per year.[18] In 2002, the Sarbanes-Oxley Bill, which contained the White-Collar Crime Penalty Enhancement Act, was passed. There were provisions for increasing the maximum sentences for corporate crime and providing fines of up to $5 million for falsifying company records.[19]

The scandals at WorldCom, Adelphi, and Enron further raised public awareness.[2] In 2007, the FBI reported that within the Financial Crimes Section, corporate fraud has been given the highest priority.[17] In that year, 529 corporate fraud cases were being pursued, several of which were associated with losses to public investors individually exceeding $1 billion. Through Fiscal Year 2007, investigations led to 183 indictments and 173 convictions of corporate criminals. The FBI obtained restitution orders totaling $12.6 billion in restitution and $38.6 million in fines from corporate criminals.[17]

The FBI has created three categories of corporate fraud:

> Falsification of financial information, including: false accounting entries; bogus trades designed to inflate profit or hide losses; and false transactions designed to evade regulatory oversight.
>
> Self-dealing by corporate insiders, including: insider trading; kickbacks; backdating of executive stock options; misuse of corporate property for personal gain; and individual tax violations related to self-dealing.
>
> Obstruction of justice designed to conceal any of the above-noted types of criminal conduct, particularly when the obstruction impedes the inquiries of the SEC, other regulatory agencies, and/or law enforcement agencies.[17]

Securities and commodities fraud is another focus for the FBI's White-Collar Crime Program.[17] By the end of Fiscal Year 2007, the FBI was investigating 1,217 cases of securities and commodities fraud and had assigned 155 special agents to investigate these crimes. Areas of investigation into securities and commodities fraud include market manipulation, high-yield investment fraud including Ponzi and pyramid schemes, prime bank schemes, advance fee fraud, hedge fund fraud, commodities fraud, foreign exchange fraud, broker embezzlement, and late-day trading. Fiscal Year 2007 brought $1.7 billion in restitution orders, $24 million in recoveries, and $202.7 million in fines.[17]

Public Perceptions of White-Collar Crime

Traditionally, public attention has focused on violent crime prevention and enforcement. In contrast white-collar crime was considered to be less damaging to society and to the individual, despite the greater financial losses attributed to white-collar crime.[8,11,20–25] There is empirical support that the public is showing a change in attitude. Cullen *et al.*[11] analyzed data derived from studies and opinion polls concerning the perception of white-collar crime, to identify three periods characterized by shifting attitudes with regard to white-collar crime. They noted that in the first period, before 1970, little attention was paid to the problem. However, during the second period, 1970 to 2000, there appeared to be a heightened awareness of the serious nature of such crimes with a resultant willingness to consider increased sanctions for white-collar offenders. During the third period, since 2000, high-profile offenders have lost their status as "respected community citizens" and increasingly have been viewed as "bad guys." These offenders are now perceived as being "greedy" and "lacking concern for victims."[11]

This change may also reflect an increased willingness by the public to endorse stiffer penalties and more rigorous enforcement and to consider certain white-collar crimes as being even more serious than some street crimes.[8,15,21,23,26] Schoepfer *et al.*[21] used telephone interview data derived from the 2000 National Public Survey on White-Collar Crime.[26] Respondents were asked to compare someone who commits robbery and steals $1,000 with someone who commits fraud and steals $1,000. Respondents felt that street criminals were more likely to be caught and sentenced to more severe sanctions than white-collar criminals. However, respondents felt that both robbery and fraud should be punished equally.[21]

Holtfreter *et al.*[8] used data from the follow-up 2005 National Public Survey[15] of 402 households to measure public perceptions of the criminal justice system's response to white-collar versus street crime, attitudes toward the legal penalties, and support for governmental resource allocation. Respondents were again asked to compare two situations, one involving a street crime such as a robbery in which $1,000 is stolen and one involving a white-collar crime such as embezzlement of $1,000. The results indicated that 62.9 percent of the sample believed that violent offenders were more likely to be apprehended and 66.4 percent felt the violent offenders were more likely to receive stiffer penalties if convicted. In addition, 65.4 percent of the sample concurred that violent offenders should, in fact, receive harsher punishments. However, 60.9 percent thought that the federal government should devote equal or more resources to enforcing and preventing white-collar crime. Holtfreter *et al.*[8] and Schoepfer *et al.*[21] did not address attitudes toward high-level corporate fraud. A recent study asked subjects whether they supported or opposed increased penalties for corporate executives who had withheld information concerning the actual financial situation of their companies. Nearly all favored stricter sanctions, including longer prison sentences. African Americans were more likely than others to favor higher sanctions.[20]

Theories Explaining White-Collar Crime

Theories concerning top management white-collar crime have considered the personality characteristics of offenders, societal values, industry expectations, and the corporate climate.[10,27] A distinction has been made between occupational crimes, such as embezzlement, that are committed against a corporation by an individual for personal gain and corporate crimes, such as concealment of the true financial situation, that are committed largely for the perceived benefit of the firm. Even with corporate crime there can be significant benefits to the individual in the form of promotion, bonuses, or other defined perks of the business world. There are situations in which only the offender profits and the firm is victimized; others in which only the firm benefits, largely at the expense of victims in the community; and yet other criminal schemes in which both the offender and the corporation profit, leaving a victimized public.[27]

Several other characteristics of the offense and the offender are also considered when studying the motivation of top management to commit fraud. The position of the offenders within the managerial hierarchy is an important concern and their role as either an active or a passive participant is another factor. In crimes of obedience, there is a choice between carrying out an unethical or criminal request of a supervisor or facing the ramifications of refusal. Negligence and errors of omission may also occur and lead to legal prosecution.[27]

Societal, industry, and company-level pressures that contribute to top management fraud have been identified.[27] The institutional anomie theory (IAT) provides a societal-level explanation for crime and suggests that a high crime rate is related to a society's strong emphasis on the individual's material success at the expense of noneconomic institutions that exert social control, such as family, education, and commitment to the public welfare.[22,27,28] This theory has been applied even to the highly successful white-collar offenders, because these individuals can be viewed as being motivated by the fear of losing their high-status positions and their economic security. On the other hand, these corporate offenders may harbor unrealistically high expectations of power, material success, and individual wealth; experience strain; and be unable to relieve the strain without resorting to crime.[22,27,28] Schoepfer *et al.*[22] used data from the 1991 FBI Uniform Crime Report (UCR) and the 1990 U.S. Census Bureau to investigate whether a white-collar crime such as embezzlement could be explained by IAT and found inconsistent support for this theory.

Industry-level pressures have been identified as influencing factors. Industries that face stiff competition may favor and encourage an aggressive approach from employees that produces rapid results, rather than thoughtful, strategic action. When the gains cannot be realized in the desired time frame, there is a temptation to implement short cuts, resulting in fraud. When there is a culture of collaboration, there is less pressure on the individual to resort to fraud. The manner in which an industry pays its executives can have an effect.[27] Compensation packages, promotions, and bonuses may be linked to company or stock performances.[10,27] In industries with long investment horizons, there can be less pressure, while in industries expecting short payback periods, there may be more emphasis on short-term performance. Fraud may in this context be seen as a method of ensuring that the announced corporate earnings match analysts' forecasts.[27] Industry concentration can result in less scrutiny and discourage oversight. This lack of control may act to discourage employees who may want to question a path that seems to minimize any ethics-related concerns.[10,27]

A hostile environment within an industry can also encourage fraud.[27] Success in a weakening industry is rewarded, with few questions asked. When a firm is failing, communication concerning earnings can be restricted, resulting in less oversight by outsiders. This centralization makes it easier for the senior members of the firm to commit fraud with less risk of exposure.[10,27]

The environmental dynamism can affect the risk of fraud.[27] Industries that invest heavily in new ventures risk lower short-term profits, which may fuel efforts to hide downturns. Environmental heterogeneity may require reliance on the decisions of managers in each of the multiple specialized businesses making up the parent organization. Because of this diversification, control may be ceded to each business. Less central oversight can lead to greater opportunity to conceal fraudulent behavior.[27]

It has been suggested that there are several organization-specific pressures that contribute to the incidence of white-collar crime. In particular, for high-level white-collar crime, organizational factors have been considered to be operative.[27,29] Executives are more prone to inflate estimates of earnings when contracts are tied to short-term performance. Protective factors include a reliable auditing system, a strong independent board of directors with monitoring functions, outside qualified directors and working committees, an organizational culture stressing ethical conduct, strict enforcement of ethics, a rigorous corporate compliance program, and senior leadership commitment to ethical conduct.[10,27]

Although white-collar crime occurs in the context of societal and organizational pressures, it still comes down to an individual's choice and the influence of multiple factors such as age, experience, education, and certain personality characteristics. Younger managers are considered the most susceptible group as they seek advancement. Older executives may remain vulnerable if there is a concern about retaining a position, but, in general, age is seen as a protective factor associated with more thoughtful decision-making. There are complex relationships with the level of experience and education. Males are considered to be more willing to engage in criminal conduct. Certain personality characteristics are considered to be associated with white-collar criminals, including a competitive personality.[27,30] Other personality factors have been considered. The combination of high levels of extroversion coupled with low levels of self-control is viewed as a risk factor for offending.[27,30] In addition, profiles of the "disagreeable businessman" and the "neurotic" have been advanced to explain how other types of personality traits can be linked to white-collar crime.[30] The General Theory of Crime postulates that self-control is an important factor in explaining white-collar crime.[6,10,27]

Studies of Characteristics of White-Collar Criminals

There has been much speculation regarding the personality characteristics predisposing to white-collar crime, but there have been few recent studies concerning the personality characteristics of white-collar criminals. It has been theorized that they are charismatic, have a need-to-control, have a tendency to bully subordinates, fear losing their status and position, exhibit narcissistic tendencies, and lack integrity and a social conscience.[10] Bucy *et al.*[10] conducted comprehensive interviews with 45 nationally recognized experts in the area of white-collar crime, including defense counsels and prosecutors, to determine their perceptions concerning personality characteristics of white-collar offenders. Over three-fourths of respondents characterized white-collar offenders as generally falling into two groups, leaders and followers, with each group having distinguishing personality characteristics. Leaders were described as being arrogant, feeling entitled, and engaging in rationalization. Greed was identified as the primary motivation for leaders. Additional motivations for leaders included opportunity and competiveness. There was less agreement about followers, who were described as passive, naïve, less confident, and non-aggressive. There was speculation that in contrast to the leaders, the followers may have been deterred from engaging in criminal conduct had they been exposed to a different corporate climate—one with leadership stressing ethical conduct and education, providing monitoring in the workplace, and enforcing controls through strong oversight.[10]

There have been several studies that have directly measured the demographic and personality characteristics of white-collar offenders. Wheeler *et al.*[31] reviewed 1,342 presentencing reports of white-collar criminals. The white-collar criminals were distinguished from subjects convicted of other federal crimes on several variables. They were more likely to have been employed, to have attained a higher educational level, to be male, white, and older. In addition the white-collar criminals were financially more secure and less likely to have prior convictions. When compared with the sample from the general public, white-collar criminals again were more likely to be employed, better educated, and older. However, the white-collar criminals were found to have more prior convictions and were less likely to be financially well off.[31]

There has been speculation that not all groups of white-collar criminals share the same personality and motivational factors. In a 1986 study of 62 persons convicted of embezzlement, the profile that was developed was that of a white woman in her mid 20s with a high school education and an annual income of less than $10,000 who cited debt as the motivation.[32] Poortinga *et al.*,[33] in a retrospective chart review, compared 70 defendants charged with embezzlement who were referred to the evaluation unit of the Michigan Center for Forensic Psychiatry with 73 defendants charged with nonviolent theft. The white-collar defendants were more likely to be white and have more years of education and less likely to have a substance abuse problem.[33]

Fraboni *et al.*[34] reviewed the MMPI profiles of 67 men who had been admitted to a psychiatric hospital forensic unit for pretrial assessment. They were classified as violent or nonviolent offenders. Violent offenders included those with charges of assault, robbery, sexual assault, and all degrees of homicide. Nonviolent offenders were those charged with breaking and entering uttering threats and fraud. The two-point MMPI code types (4-3, 4-8/8-4) were used. Neither of these two-point types distinguished the violent from the nonviolent offenders.[34]

Collins and Schmidt[35] used personality scales, a personality-based integrity test, and homogenous biodata scales to compare 365 male federal prison inmates incarcerated for white-collar offenses to 344 control subjects who occupied positions of authority in business. They found large and measurable psychological differences between the white-collar offenders and the control subjects. White-collar criminals showed a greater tendency toward irresponsibility, lack of dependability, and a disregard for rules and social conventions. They noted that these differences were measures of social conscientiousness, defined as the ability to make prosocial decisions. The most significant indicator of this difference was a personality-based integrity test.[35] A 1995 study comparing female shoplifters with offenders involved in fraudulent behavior found that offenders in both samples exhibited high rates of depression and unresolved mourning.[36]

More recently Blickle *et al.*[6] used scales measuring hedonism, conscientiousness, narcissism, social desirability, and behavioral self-control to compare 150 managers currently active in German corporations to 76 white-collar criminals who formerly held similar positions. The sample included white-collar criminals who had functioned as corporate managers, high-ranking technical specialists, official representatives of corporations, or corporation owners. Their crimes included bribery, counterfeiting, embezzlement, forgery, fraud, fraudulent bankruptcy, smuggling, and tax evasion. Business white-collar crime was associated with being male, low behavioral self-control, high hedonism, high narcissism, and high conscientiousness after controlling for social desirability. The unexpected finding of a correlation with high conscientiousness was viewed as being consistent with the "rationally calculating business person pursuing both private interests and the interests of the corporation" (Ref. 6, p 230).

Discussion

White-collar criminals commit crimes that have victims whose lives are significantly affected and at times destroyed by these acts. The public no longer views these high-profile offenders as esteemed citizens who should be excused from the appropriate sanctions for their criminal behavior. There is little or no tolerance for offenders who seek to excuse their actions by blaming them on the orders of their superiors or the culture of the work environment. Many view these individuals as self-centered and motivated by their own greed, without regard for ethics or fiduciary duty to the public. While a comprehensive theory of high-level white-collar crime should consider societal and organizational contributions, there is value in understanding the personal traits that may place an individual at high risk for offending and continuing to offend. Forensic psychiatrists are in a key position to study and to learn more about the individual characteristics of this offenders group.

Much of the recent research literature regarding this population has been done by the international community. Is there more that we in the United States can learn about this group that will be helpful to the judiciary? We note that this is an important area for future study. When medically indicated, psychiatric treatment may offer help for those offenders who have major mental illnesses. We opine that for significant change to occur within American institutions and organizations, there must be accompanying recognition from society of the need to change the culture in which the operational mores of these businesses have long thrived.

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