

WHITE- COLLAR DEVIANCE



David R. Simon • Frank E. Hagan

White-Collar Deviance

David R. Simon

*San Jose State University
University of California, Berkeley*

Frank E. Hagan

Mercyhurst College

Allyn and Bacon

Boston • London • Toronto • Sydney • Tokyo • Singapore

*To Judy for all the encouragement and support.
To MaryAnn and Shannon*

Editor in Chief, Social Sciences: Karen Hanson
Editorial Assistant: Heather Ahlstrom
Marketing Manager: Suzy Spivey
Editorial Production Service: Chestnut Hill Enterprises, Inc.
Cover Administrator: Jennifer Hart



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A Viacom Company
160 Gould Street
Needham Heights, MA 02194

Internet: www.abacon.com
America Online: keyword: College Online

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Library of Congress Cataloging-in-Publication Data

Simon, David R.

White collar deviance / by David R. Simon and Frank E. Hagan.

p. cm.

Includes bibliographical references and index.

ISBN 0-205-27508-7

1. White collar crimes—United States. 2. Deviant behavior.
3. Elite (Social sciences)—United States. 4. Corporations—United States—Corrupt practices. I. Hagan, Frank E. II. Title.

HV6769.S57 1998

364.16'8—dc21

98-5771

CIP

Printed in the United States of America

10 9 8 7 6 5 4 3 2 1 RRD-VA 03 02 01 00 99 98

White-Collar Deviance

Preface

Paradigm shift is a phrase that is used only infrequently in social science. However, that is what those of us who toil in the vineyards of white-collar crime studies face. For example, in June, 1996, the National White Collar Crime Center sponsored an academic workshop of white-collar crime scholars entitled, "Definitional Dilemma: Can and Should There Be a Universal Definition of White Collar Crime?" (Helmkamp, Ball, & Townsend, 1996). For three days white-collar crime experts, including the authors of this book, debated this issue. On the second day, a group of participants during lunch attempted, half in jest, to agree on a definition by passing around and revising a definition written on a napkin. This "National White Collar Crime Center definition" of white-collar crime fits the authors' definition of white-collar deviance:

Planned illegal or unethical acts of deception committed by an individual or organization, usually during the course of legitimate occupational activity by persons of high or respectable social status for personal or organizational gain that violates fiduciary responsibility or public trust (Helmkamp, Ball, & Townsend, 1996, p. iii).

For the first time, a group with the sanction of the federal government has endorsed a definition of white-collar crime based on something other than violations of law. The implications of this definition are immense, and this book is an effort to explore some of the implications of this new definition.

Ethical issues have now been "officially" introduced into the study of "white-collar crime" (or more correctly, as the title of this text reflects, white-collar *deviance*). While it may seem to some that introducing an ethical dimension into the study of so-called white-collar wrongdoing is to merely touch off an endless debate, we beg to differ. As one of the authors of this book has argued for nearly twenty years (Simon, 1997; 1999), the measurable standard of harm (damage)—physical, financial, and moral—constitutes an objective, empirical standard by which the ethical dimensions of a deviant act may be assessed. (This line of reasoning is more fully explored in Chapter 1.)

White-collar wrongdoing of all types and forms will now have to be reclassified, and new typologies of wrongdoing may emerge. To this end, one of the many features of this book is an in-depth examination of both extant and proposed typologies of acts of white-collar deviance. These are explored in Chapter 1 and most other chapters throughout the book. Some of the critical thinking exercises at the end of each of the first seven chapters also reflect our typological concerns.

The new definition of white-collar deviance leads us to a basic classification scheme, one that notes the qualitative and quantitative differences between elite versus nonelite white-collar deviance. This distinction is also described in Chapter 1, which contains an explanation of the economic and political environment that shapes both the culture and nature of elite and nonelite white-collar wrongdoing.

Acts of elite deviance are of such seriousness that they constitute grounds for a separate area of study. To this end, Chapters 2 and 3 contain in-depth discussions of economic and political aspects of elite deviance.

Chapters 4 and 5 explore various dimensions of occupational and professional white-collar deviance as perpetrated by both elite and nonelite white-collar deviants. Here are explored a host of scandals and fraud schemes that contribute to so much of the financial and moral harm that haunts American life.

Chapter 6, unique among white-collar crime writings, analyzes the similarities and interrelationships between white-collar wrongdoing and the activities of organized criminal syndicates. A key argument here is that much of what the media tell us about organized crime is mythical. Gangsters, deviant businesspeople, corrupt politicians, and criminal justice system personnel are all equal and interactive players in a corrupted world.

Chapter 7 presents a multiunit theory of white-collar deviance. It argues that a comprehensive sociological theory of white-collar wrongdoing must explain causal variables on the macro, organizational, and individual levels. The chapter offers a paradigm for such an analysis, as well as hypotheses derived from the paradigm. Similarly analyzed are victimization patterns associated with white-collar deviance, as well as the various interrelationships between all types of deviant behavior.

Finally, Chapter 8 focuses on the policy issues related to topics explored in this book. The chapter discusses both extant policies, as well as those policies we believe necessary for adoption if inroads against this most serious of social problems are to be made. Finally, this chapter also contains an appendix of readings and organizations that will aid those concerned in fighting the various ills associated with white-collar deviance. We present this as an aid to both instructors and students seeking to overcome the resignation and cynicism that so often characterize the attempt to "afflict the comfortable."

White-Collar Deviance, like the authors' other works, is a volume written with passion and with the hope of changing the dangerous patterns associated with white-collar wrongdoing. We sincerely want you to enjoy this book, and to join us in the fight against the great evils it portrays.

Acknowledgments

David Simon would like to thank those who have provided various forms of inspiration in the writing of this book, especially Max Lopez-Ceperro, his pastor. Thanked as well is Judy Simon for her great love and intellectual stimulation relating to the issues raised here.

Frank Hagan would like to thank Editor-in-Chief Karen Hanson of Allyn and Bacon for her encouragement. Thanks also to MaryAnn Hagan for her support and tolerance of my life as a writer.

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Chapter 1

White-Collar Deviance: An Emerging Perspective

Why White-Collar “Deviance”?

- Members of the National Security Council conduct secret, illegal foreign policy financed in part by bankrupting savings and loan organizations.
- An intelligence agency steals the commercial secrets of a private company. That same private company employs organized criminals to control labor unions. Another company forces its franchise holders to swindle customers on automobile repairs, while another rolls back odometers on “new” cars before selling them as new products.
- Chinese agents are accused of buying influence in U.S. federal elections through campaign donations.
- Prudential-Bache is convicted of swindling policyholders.
- Mexican, Japanese, and Russian officials are accused of cooperating with organized crime and drug gangs; tobacco companies admit lying about the lethal consequences of their product.
- High government officials in Albania swindle their citizens in a huge Ponzi scheme.
- The CIA is revealed to have a long history of entering into agreements with drug smugglers, even to the point of engaging in joint drug-trafficking ventures to raise funds for its various covert operations.

Scandalous episodes from the Kennedy-Johnson years to the Clinton White House have rocked virtually every recent administration:

- During the Vietnam War (1964–1975), the Pentagon Papers, investigative reporting, and leaks from within the government had the effect of turning public opinion against the war and the government. A number of governmental transgressions were revealed, including:

- The manipulation of Congress by President Johnson with the Gulf of Tonkin incident; the indictment of high-ranking officers for war crimes similar to those committed by the Germans and Japanese during World War II.
- The deliberate destruction of civilian targets by U.S. forces; intelligence agency suppression of information regarding enemy troop strength and sympathizers in South Vietnam; falsified reports by U.S. field commanders regarding the destruction of enemy targets; the spraying of more than five million acres of South Vietnam with defoliating chemicals; the execution of more than 40,000 so-called enemy agents by the Central Intelligence Agency (CIA) under the Phoenix Program (most without trial); and unauthorized bombing raids against North Vietnam.
- From early 1969 until May 1970, President Nixon assured the U.S. people that the neutrality of Cambodia was being respected. Yet Nixon had secretly ordered the bombing of so-called enemy sanctuaries in that country during that period. He was able to keep the bombings secret through the use of a double-entry bookkeeping system arranged between the White House and the Department of Defense.
- In 1975, governmental investigations revealed that the CIA had violated its charter by engaging in domestic intelligence, opening the mail of U.S. citizens and spying on congresspersons and newspaper reporters. Moreover, this organization plotted the assassinations of a number of foreign political officials. Most significant, the Senate Intelligence Committee revealed that every U.S. president from Eisenhower to Nixon had lied to the American people about the activities of the CIA. Public confidence in government was also lowered when it became known that every president since Franklin Roosevelt had used the Federal Bureau of Investigation (FBI) for political and sometimes illegal purposes. After J. Edgar Hoover's death, we found out how the FBI had been used by its longtime chief to silence his and the bureau's critics. Hoover had also involved the FBI in a number of illegal acts to defeat or neutralize those domestic groups that he thought were subversive (Simon, 1999, Chapter 6).
- The Watergate scandal, and its aftermath, 1972–1974, brought down the Nixon administration. Watergate was also the most significant contributor to low public confidence in government in the past quarter century. The litany of illegal acts by governmental officials and/or their agents in Watergate included securing illegal campaign contributions, dirty tricks to discredit political opponents, burglary, bribery, perjury, wiretapping, harassment of administration opponents with tax audits, and the like.
- The Reagan administration did virtually nothing to increase public confidence in the ethical conduct of government officials. In 1987, news broke concerning what was to be the most damaging scandal of the Reagan presidency, the so-called Iran-Contra affair. The root of the scandal involved the diversion of funds from profits on missiles sold to the Iranian government.

At first, the entire episode was blamed on U.S. Marine Lt. Col. Oliver North. Virtually all high-ranking officials of the Reagan administration claiming they were “out of the loop” concerning any knowledge of the events. Subsequent investigations and trial testimony, however, pointed to a massive cover-up by White House aides and others.

Both the illegal arms sales and illegal solicitation of funds were orchestrated by a secret group, Operation Enterprise, set up apart from the CIA and other governmental agencies to

assure secrecy. It was composed of retired military and intelligence personnel, arms dealers, and drug smugglers.

A report issued in 1994 by Special Council Lawrence Walsh indicated that Reagan administration officials covered up many aspects of the scandal to insure "plausible deniability" of knowledge of the scandal by President Reagan. Walsh's report also concluded that former President George Bush had lied to the press and the American people concerning his knowledge of various aspects of Iran Contra.

The Clinton administration began suffering from the effects of scandal almost immediately upon taking office:

- Two nominees for attorney general, Zoe Baird and Judge Kimba Wood, had both employed illegal aliens in violation of a 1986 immigration law, and their nominations had to be withdrawn.
- A special prosecutor was appointed in 1994 to investigate the connection of the president and Mrs. Clinton to the failed Whitewater savings and loan in Arkansas. Soon after, the president established his own legal defense fund, hoping to raise \$2 million to ward off his increasing legal costs. The president is also being sued for sexual harassment by a former employee of the state of Arkansas, and Mr. Clinton is in a position requiring constant defense of his own moral character.
- One hundred agents of the Bureau of Alcohol, Tobacco, and Firearms burned the Waco, Texas, compound of the extremist Branch Dividians cult in 1993. At least 72 cult members died in the fire and gun battle. The agents in charge significantly altered written plans for the raid after the 100 deaths, and then tried to conceal the changes from officials investigating the raid (Simon, 1996, 3–5).

The U.S. Congress has also suffered its share of scandals, and these have badly damaged its credibility.

- In 1993, the former House Postmaster Robert Rota and three House Post Office employees plead guilty to stealing cash and stamps. Rota claimed he gave two House members, Dan Rostenkowski (D-IL) and Joe Kolter (D-PA), \$30,000 in Post Office funds. Rostenkowski, powerful head of the House Ways and Means Committee, was released in fall 1997 from a halfway house after serving a 15-month prison term.

The above listed acts involve various business and political organizations in the United States and throughout the world. At first glance, these episodes may seem diverse and unrelated, but what is important for our purposes is what these various acts have in common. The characteristics they share comprise what we term "white-collar deviance." Their common characteristics are as follows:

1. White-collar deviance is not restricted to just legally defined crimes, but includes many unethical acts, harmful activities, civil and regulatory violations, and the like. The term white-collar deviance or offenses is a more encompassing construct than "white-collar crime."
2. Deviant acts are so categorized because they are *harmful*. Harm is a useful criterion because it may be *objectively* defined and measured, and need not be the subject of endless

philosophical debate concerning values, or whether or not a harmful act is still harmful even if has not been officially labeled as “a social problem” by the larger society.

3. There are three basic types of harm that will serve as our criteria for white-collar deviance. These include:

- a. *Physical harm*: physical injury, illness, death. Many types of white-collar deviance cause physical injury and/or death. These include not telling workers they are coming into contact with dangerous chemicals, cancer-causing substances that are added to the food supply, the U.S. government’s use of atomic bullets in the Gulf War, which exposed its own troops to radioactivity, and countless others discussed in depth below.
- b. *Financial harm*: fraud, and various scams that are not legally defined as fraud but that nevertheless cause consumers and investors to be deprived of their funds without receiving the goods or services for which they contracted. Just to take one common example: Every drugstore in the United States features products that are termed “fat burners,” yet there is no scientific evidence whatever that any substance will “burn” fat. Such products are legal, but worthless.
- c. *Moral harm*: deviant behavior by elites (people who head governmental and corporate institutions) that encourages deviance, distrust, cynicism, or alienation among the rest of the population. Before Richard Nixon resigned from the presidency in 1974, for example, his administration had been involved in a broad range of deviant acts: burglarizing of the headquarters of the Democratic National Committee, attempts to rig elections, lying to Congress and the American people about the secret illegal bombing of Cambodia, bribery, and tax evasion (Simon, 1996, 3–4). After the Watergate scandal and Nixon’s resignation, confidence in government fell dramatically, and it has never recovered.

4. White-collar crime and deviance fall into two basic categories. First, many examples that opened this chapter involve the largest and most wealthy global corporations and the most powerful branches of the American government. When such entities are the perpetrators, one is speaking of *elite white-collar deviance*. In general, elite white-collar deviance is more harmful because the actors involved have the most resources, and the consequences of their acts are more often national, international, or even global in scope. *Nonelite white collar deviance*, in contrast, involves businesses and governmental organizations whose actions impact more on a regional, state, or local level, and while the actions of such entities can still be devastating within their confines, they nevertheless are usually less consequential than acts of elite white-collar deviance.

5. White-collar offenders do not view themselves as criminals, and crime is not their predominant activity. This distinguishes white-collar offending from some other types of elite crime such as professional and organized crime (Hagan, 1996). There is, however, overwhelming evidence that most white-collar wrongdoing is planned, and that those engaging in it know that it is illegal (Kappeler et al., 1997, 142–144).

The concept of “white-collar crime” was first introduced by Edwin Sutherland in a 1939 address to the American Sociological Association. He defined white-collar crime as “a crime committed by a person of respectability and high social status in the course of his occupation” (Sutherland, 1940). Later, Sutherland (1949) conducted an empirical investi-

gation of such “crimes in the suites,” examining regulatory agency records on the seventy largest industrial and mercantile corporations for a 40-year period. He found that every one was a violator of regulations against false advertising, patent abuse, wartime trade violations, price-fixing, fraud, and intended manufacturing and sale of faulty goods. He also noted that even though such crimes cost far more than “crime in the streets,” they were handled in a very mild manner.

Figure 1.1 provides working definitions of the various types of deviance and crime to be discussed (see Albanese, 1995; Blankenship, 1995; and Jamieson, 1995).

As recounted in the Preface, in June 1996, the National White Collar Crime Center sponsored an academic workshop of white-collar crime scholars entitled, “Definitional Dilemma: Can and Should There Be a Universal Definition of White Collar Crime?” (Helmkamp, Ball,

Sutherland’s initial definition of “white collar crime” has been criticized for being too general; however, many of the synonyms, proposed substitutes, variations, and related terms have failed to provide any greater lexicographic precision.

White Collar Crime involves “a crime committed by a person of respectability and high social status in the course of his occupation” (Sutherland, 1949, 9).

Criminaloid is a concept introduced by E. A. Rose (1907) that preceded Sutherland. Criminaloids are “those who prospered through flagitious [grossly wicked] practices.”

Avocational Crime is a crime that is deterrable by the prospect of public labeling as a criminal, committed by one who does not think of himself or herself as a criminal and whose major source of income or status is something other than crime (Geis, 1974, 273).

Corporate Crime consists of the offense committed by corporate officials for their corporations and the offenses of the corporation itself (Clinard & Quinney, 1986, 188).

Economic Crime refers to any nonviolent, illegal activity that principally involves deceit, misrepresentation, concealment, manipulation, breach of trust, subterfuge, or illegal circumvention (American Bar Association, 1952).

Elite Crime is a violation of the law committed by a person or group of persons in the course of an otherwise respected and legitimate occupation or financial activity (Coleman, 1989, 5).

Elite Deviance refers to “acts by elites and/or the organizations they head that result in any of the following types of harms”: physical, financial, or moral (Simon, 1996, 35).

Occupational Crime consists of offenses committed by individuals for themselves in the course of their occupations and of offenses of employees against their employers (Clinard & Quinney, 1986, 188).

Organizational Crime involves illegal actions taken in accordance with operative organizational goals that seriously (physically or economically) harm employees, consumers, or the general public (Schrager & Short, 1978, 411–412).

Professional Crime is illegal behavior for economic gain or even for economic livelihood that involves a highly developed criminal career, considerable skill, high status among criminals, and fairly successful avoidance of detection (Clinard & Quinney, 1986, 246).

Upperworld Crime refers to laundering acts committed by those who, due to their position in the social structure, have obtained specialized kinds of occupational slots essential for the commission of these offenses (Geis, 1974, 114).

FIGURE 1.1 Definitions of White-Collar Crime/Deviance and Related Concepts