

**SOC 3290 Deviance**  
**Lecture 28: Business Crime**

Back in the 1970's, Ford produced a car called the Pinto with a dangerous flaw: if hit from behind, the gas tank would explode. Ford realized this shortly before the car was put into production, and calculated that it would cost more to remedy the problem on each car than it would to pay for the inevitable lawsuits injury and death. They put the car into production and many people suffered unnecessary injury or death. This kind of thing is still going on today (e.g. Chevy pickups; Goodyear tires).

In effect, such companies, through their executives, perpetrate white-collar deviance (i.e. deviance carried out by white-collar individuals). This can be divided into: (1) corporate deviance (as above); (2) occupational deviance (carried out as part of an occupation); and (3) governmental deviance. Today we will take a closer look at the first two of these and then try to explain why it is that some people become involved in them.

**What is White-Collar Deviance?**

Edwin Sutherland (1939; 1949) first defined white-collar deviance as: (1) occupationally related, carried out during the course of an offender's white-collar occupation; and (2) characterized by relatively respectable, high status persons.

But what distinguishes the commission of white-collar crime from blue-collar or street crime is more than the act itself. It also involves how the act is executed. White-collar offenders are more likely to commit an offense with skill, with sophistication, or, most importantly, with the resources of power, influence or respectability for avoiding detection, prosecution or conviction. Blue collars attempting to commit the same act (e.g. fraud) don't do so in the same way, and are thus more likely to be arrested, prosecuted or convicted.

But, aside from individuals, Sutherland also had in mind the fact that corporations themselves could be engaged in deviance, and that the sociological nature of this behavior renders absurd any attempt to explain this behavior in psychological terms (e.g. GM couldn't have an "inferiority complex").

So, for our purposes, white-collar deviance refers to both occupational and corporate deviance (we use the term "deviance" rather than "crime" because it is broader, including civil as well as criminal violations).

But more importantly, white-collar deviance is unique in that: (1) *such deviants tend not to see themselves as such*, but maintain a "respectable" self-image - typically through rationalizations (e.g. "borrowing," "the company can get tax deductions," "considering how we're being screwed, everyone cheats on their taxes"); (2) their *victims often unwittingly cooperate* (e.g. not checking up on the facts, not wanting to reveal embarrassing details to the

public); and (3) *society itself is relatively indifferent* (e.g. remaining far more outraged at street crime and crimes of the relatively powerless, which are generally sought out, prosecuted and punished more severely).

### **Corporate Deviance:**

The first matter we will address today is the first major category of white-collar deviance: corporate deviance. Every day people holding positions of responsibility in the corporate world violate laws. Corporate crime is not uncommon, but, with the exception of well-publicized cases, few people are aware of the extent of such crime.

Edwin Sutherland (1949) first brought corporate crime into the academic spotlight, identifying a long list of legal violations among the 70 largest U.S. manufacturing, mining, and mercantile corporations. He found a total of 980 legal decisions made against these companies, averaging 14 per corporation. More recent research has found that these results are not unusual. A 1984 survey found about 2/3 of the Fortune 500 largest industrial companies had been involved in illegal behavior since the mid-1970's. But perhaps the most extensive study of corporate offending, conducted by Clinard and his colleagues in 1979-80, found that at least 60% of the corporations surveyed had at least one federal action brought against them, and, for this group, the average was 4.4 cases. He identified 6 main types of illegal corporate behavior:

- (1) Administrative violations, such as noncompliance with an order from a court or government agency;
- (2) Environmental violations such as air/water pollution;
- (3) Financial violations, such as bribery, tax violations, and accounting malpractices;
- (4) Labour violations, involving employment discrimination, occupational health and safety hazards, and unfair labour practices;
- (5) Manufacturing violations, such as violations of consumer product safety laws;
- (6) Unfair trade practices, involving various abuses of competition such as restraint of trade, price fixing, and false advertizing.

In Canada, focusing on violations of the old Combines Act, Goff and Reasons (1978) reported a total of 157 decisions between 1952-72 against the largest 50 Canadian corporations (3 per corporation). All told, such studies demonstrate the wide extent of corporate offending, and reveal that individuals in the middle and upper socio-economic classes - contrary to popular stereotypes, quite frequently engage in illegal behavior.

What causes such crime? We cannot look to poverty or individual pathology. Rather, we must look at the context in which such crimes occur: the corporation, along with the internal and external factors affect it and its employees.

Beginning with the external factors influencing corporations, we must be aware that any organization both affects, and is affected by its environment. Beginning with a macro perspective, we could first look at the essential features of our capitalist economy with its goals

of maximizing profitability and minimizing costs. It could be argued that this leads to unsafe products, environmental pollution, employee and consumer deception, and unsafe working conditions. Simultaneously, it could be argued that the making and enforcement of laws against corporate crime reflect the interests of the economic/political elite, leading to weak legislation and lax enforcement. However, to be fair, these problems are not restricted to capitalist countries, as many of the former communist societies had terrible industrial safety and pollution problems, and widespread corruption. Thus, the capitalist system alone is insufficient to explain corporate crime.

Competition is another precipitating factor in corporate crime. For example, the notorious example of Ford in the 1970's, facing stiff competition from imports, rushing the Pinto into production and later discovering that it would explode on impact. Realizing it would be cheaper to settle the resulting lawsuits than to recall the cars, it decided not to recall the vehicles - resulting in numerous deaths and injuries. This shows how competition can sometimes motivate corporations to succeed at any cost. Indeed, in another example, a survey of 3600 companies in 69 countries found that many considered corrupt practices such as bribery inevitable -if not acceptable - ways to get things done when facing the possibility of losing contracts to competitors (40% admitted having done so).

Indeed, when we consider that industry culture promotes competition as a means of attaining corporate goals, but the market structure limits the opportunity for all to achieve success, this discrepancy or "strain" increases frustration, and the possibility of corporate corruption through the use of illegal means. Such "innovation"- to use Merton's term - occurs both internally and external to the corporation. For example, externally it may involve bribery or illegal cost-benefit analyses as above. Internally, it may involve pressure from management on staff to meet production and sales quotas at all costs.

All the same, competition is not the full answer either. While competition exists in every industry, some are more crime-prone than others - even companies within the same industry differ. We must ask, then, what it is about particular industries and particular firms that produces a higher rate of corporate crime than others?

There are certain external factors that vary among firms and industries. For example, companies may have a variety of goals, and these may vary between companies. For example, while profits are the primary goal, some may strive to maximize revenue, earnings per share, market share, growth, production quotas - or simply to survive. Moreover, the external environment contains a myriad of political, socio-cultural, economic, physical and technological factors, including, most importantly, other organizations. These factors produce a high - and often differential - degree of uncertainty. In order to meet corporate goals in a more uncertain environment, some may be more likely to reduce that uncertainty through illegal behavior (e.g. price-fixing with other companies). As environmental uncertainty increases, so does the probability of illegal behavior to achieve goals.

Another external factor here is market structure. Using the price-fixing example, the more firms in a particular market, the harder it will be to coordinate a collusion to maintain prices. Instead, in industries with many small, highly competitive firms, crimes will tend to coalesce around ways to improve the firm's competitive edge (e.g. fraud, false advertising, and industrial espionage). Thus, market structure affects the type of illegal corporate activities engaged in.

The final external factor to consider relates opportunity to the type of crime. For example, oil and chemical companies are more likely to pollute the environment, while those that are labour intensive - relying more on workers than specialized equipment - are more likely to violate labour laws. As well, some industries more than others may find themselves the targets of various regulatory agencies (e.g. the pharmaceutical, auto, chemical and petroleum industries are more regulated due to the potential harmfulness of their products, and have higher crime rates than others as a result).

Thus, companies are goal oriented, and many external factors create uncertainty which they may attempt to minimize through violating regulations. Still, it is important to recognize that differences in the rate of violation exist among companies in the same industry, and some firms are more deviant than others. Thus, we must also consider what characteristics may help distinguish criminal from non-criminal firms. This necessitates a consideration of influential factors internal to companies themselves.

The modern corporation is a large, diffuse, hierarchical system oriented toward goal attainment in an uncertain environment. Employees are one internal resource utilized to this end, and managed by the corporation. However, the internal structure of the corporation may make it more difficult in some cases to control illegal behavior. For example, sheer size may be conducive to corrupt behavior. When companies grow large with a variety of product lines and geographically diverse facilities, employees become more difficult to manage and control. Deviant activities may more easily remain hidden in a complex structure where lines of authority become decentralized. Visibility is decreased and responsibility diffused. It is not only easier to withhold information in such a structure, it is easier for senior management to distance themselves from wrongdoing (e.g. Union Carbide shifting responsibility to the subsidiary in the Bhopal disaster in India).

Finally, to complete our understanding of corporate crime, we must consider individual level factors. Control theorists, for example, have argued that people with weak ties to the norms of conventional society are more likely to deviate than those who are emotionally attached to conventional others, committed to conventional goals/means, involved in conventional activities, and believe in the validity of society's laws. At first glance, this would seem problematic as corporate executives would appear to be strongly connected to conventional society. However, if we look at the subculture of many corporations, we may argue that corporate offenders may be more tightly bonded to the culture of the organization than they are to the larger society. If these goals and ties are in conflict with those of society as a whole, this may help explain individual corporate criminals.

Similarly, differential association theory may also contribute to an explanation at this level. A form of learning theory, it postulates that deviant behavior is learned just like any other form of behavior through differential contact with deviant associates. In a corporate environment, behavior is often a product of cultural norms operating therein. As executives become enmeshed in a corporate or professional subculture, they become exposed to deviant peers and learn illegal behaviors. Where there is exposure to an excess of definitions favorable to crime, and relative isolation from definitions unfavorable to crime, individuals can be socialized to commit deviant acts - particularly so in companies that instill deep loyalty to, and identification with the company. Of course, companies vary in the extent to which they encourage or discourage illegal behavior (e.g. through selective hiring, socialization and promotion of offenders), but those who lack internal cultural restraints to illegal behavior are more likely to have employees exhibiting deviant practices.

In tandem with control and differential association theories at the individual level, we must consider how the corporate criminal justifies or rationalizes his or her behavior. Here Sykes and Matza's "techniques of neutralization" may be applied. These are:

1. Denial of responsibility ("I have no control over it");
2. Denial of injury ("It's not harmful, it's just that proper procedures weren't followed" ; "The settlement doesn't mean we're admitting liability")
3. Denial of the victim ("No customers were penalized")
4. Condemnation of the condemners ("It's a vendetta by regulators")
5. Appeal to higher loyalties ("Aren't there more important issues facing the country?")

In the end, a theoretical integration of the external, internal, and individual factors we have discussed is necessary to understand corporate crime. Externally, large firms, operating in heavily regulated industries, experiencing economic strain and environmental uncertainty are more at risk of corporate crime. However, individuals must be exposed to a socialization process whereby they come to identify disproportionately with the company and its goals, learn the illegal behavior, and rationalize their behavior through techniques of neutralization. External strain imposed by competitors, suppliers and regulations interacts with internal strains to meet goals within a particular corporate structure. To the extent that cultural constraints are weak from each direction, corporate offending is more likely to occur.

Given these many pressures, how do we control corporate crime? There are already more statutes on the books criminalizing the behavior of corporations than there are laws that criminalize the behaviors of the poor. However, these are generally not enforced as readily, and are often punished as harshly as the crimes of the poor. Indeed, Hagan (1985 and 1989) found, in a study of violators of the Securities Act and the Criminal Code between 1966-83, that offenders in positions of power committed crimes larger in scope than those with less power, but received proportionately less severe sanctions. This was because they were less likely to be charged under the Criminal Code than the Securities Act, which carries lesser sanctions.

Similarly, Goff and Reasons (1978), in their study of companies violating the old Combines Act between 1952-73, found that enforcement was concentrated on small and medium sized corporations, “leaving the very largest corporations to engage in their monopolistic practices.” It was suggested that this was because large corporations have the ability to better obscure their illegal practices, and only very recently have governments been taking a more aggressive stance against anti-competitive practices (and fines often pale in the face of corporate earnings in any event).

Finally, Snider (1982) compared punishments given corporate offenders and other non-violent property offenders. She found that sentences for traditional types of property crime (e.g. theft, possession of stolen goods, auto theft, and B+E) were considerably higher than those for corporate crimes (e.g. false advertizing, misleading pricing, violations of legislation such as the Hazardous Products Act and the old Combines Investigation Act). This may be due to legal advantages and resources they possess due to their generally more respected position in society.

In conclusion, corporate criminals often are spared the stigma of criminalization often imposed on those less privileged, and existing sanctions appear to have little deterrent effect - as these crimes are so interwoven with society’s organizational and cultural context.

While sanctions have been suggested ranging from stiffer penalties for companies and executives, negative publicity, nationalization and/or forced breakups of habitual offenders, all are externally imposed after the fact, and face many difficulties (e.g. globalization facilitates moving out of countries with rigid regulatory regimes/ stiff sanctions). It has also been suggested that corporate crime may be dealt with internally before the fact by improving and strengthening firms’ self-regulatory systems by building in public and/or union representation on boards of directors. Of course, such individuals may be corrupted as well, and are not likely to have an influence on the majority of decision makers. Finally, it has been suggested that firms may find an economic advantage in creating a stronger business ethic, as unethical corporate behavior may destroy a company’s reputation in a highly competitive environment, and result in lost customers, protests, and/or government intervention. Interestingly, this message may be catching on - a 1997 survey found that 66% of Canada’s largest corporations now have a code of ethics (90% in the U.S.) All the same, nothing stops one from breaking rules that one writes oneself.

Whether any of these responses will be successful in controlling corporate crime remains to be seen. Until the public, corporations and their employees feel that illegal corporate activity is as shameful and despicable as street crime, there will be many problems in dealing with such activities.

### **Occupational Deviance:**

Compared to offenses committed by corporations, those perpetrated by individual white-collar employees for their own gain are usually less costly to the victims - yet still cost considerably more than the common crimes committed by the lower classes. There are many different forms of occupational deviance, but we will analyze only the most common and costly

ones.

First, theft by employees from their employers is extremely common and costly. In the 1990's, it accounted for at least 2% of sales, costing an estimated \$120 million a year. Both businesses and consumers suffer. Because of employee theft, more than 1000 businesses fold each year, and the remaining ones, though successful, pass the cost of employee theft along to consumers by raising prices. One study suggests about 30% of U.S. employees plan to steal, another 30% sometimes succumb to the temptation, and only 40% are basically honest (Buss, 1993). This is undoubtedly the most pervasive and costly form of property deviance of any kind.

Most employee thieves are middle-class, apparently solid, respectable citizens who are as outraged as anyone else by common forms of crime (i.e. street crime). Why, then, do they steal? Four explanations have been given. First, it is argued that this has a lot to do with large, impersonal corporations that treat employees like a number, inspiring little loyalty (i.e. people feel that stealing from such abstract entities is like “stealing from nobody”). Secondly, if there is a cultural history of union-management conflict, low pay, feelings of being treated abusively, or lack of promotion, employee theft may represent a way for employees, feeling exploited, to “get back at the company” (i.e. “Informal compensation”). Third, workers may steal if they find their jobs too boring (e.g. motivated by the satisfaction, or challenge, of getting away with it vs. for money alone, as with other counterproductive activities). Fourth, there is the idea that both employers and employees look the other way: employees don't see it as stealing and employers either play along or fire such employees rather than reporting thefts to authorities.

The next form of occupational deviance is embezzlement. Compared to ordinary employee theft which involves taking merchandise, embezzlement involves taking money. Though less common than employee theft, it has been estimated that it costs \$27.2 billion in once year, and commercial banks lose about 5 times as much money to embezzlers as they do to armed robbers.

Embezzlers range from relatively low level employees (e.g. bank tellers) to top executives (e.g. management accountants). But most embezzlers are in management positions, generally white males, married, with kids, and living in a respectable neighborhood. Basically hardworking, honest people, why do they steal?

Donald Cressey (1971) argues that prospective embezzlers go through a three-phase social-psychological process: (1) encountering an unshareable financial problem (e.g. gambling debts); (2) becoming aware of an opportunity to secretly solve the problem, embedded in their position of trust; (3) rationalizing away the criminal nature of embezzlement (e.g. “A temporary loan; I'll return the money later”). This rationalization clinches their decision, particularly for those in higher positions.

The third form of occupational deviance is made up of financial frauds. The most common form here is income tax evasion, particularly by businesspeople and lawyers. This is so

prevalent because of the complexity of tax laws, with their numerous ambiguous legal definitions of income, depreciation, exemptions and credits. These can be computed and manipulated in various ways, and, since they are able to hire smart tax accountants and lawyers, higher income people can play the game a little better than others.

Less common are violations of securities laws (e.g. Enron, Martha Stewart). Yet, since most violators are professional stockbrokers and traders, the cost per violation is much higher. People may be sold worthless securities in companies on the verge of bankruptcy, following lots of hype from friends supposedly “in the know.” Insider trading is another major problem, with company executives privy to confidential information buying or selling stock on the basis of this knowledge (e.g. of an anticipated being turned down for regulatory approval, profit or loss projections, etc.). Insiders can make a lot of money or avoid significant losses this way, which undermines faith in the honest operation of our securities markets. Other examples of financial frauds include sweepstakes schemes, phony internet stocks, and identity theft.

Other forms of occupational deviance relate to the professions of medicine, law, and accounting. For example, doctors may engage in fee splitting (e.g. general practitioners receiving kickbacks from specialists for referrals, rather than making referrals to the best qualified specialists). They may also engage in unnecessary surgeries to maximize profits (around 25%, but higher for pacemakers, eye surgeries, gall-bladder removals, prostate surgeries, hemorrhoid operations and knee surgeries). This is particularly so for doctors who work on a fee for service basis rather than on a flat salary. Finally, doctors may fraudulently claim payment for services, billing medicare for services never rendered, double-billing them for services rendered, or billing them for expensive physician services when these were done by nurses or other non-physicians. This is particularly common among doctors who lack competency and work in poor neighborhoods.

Turning to lawyers, many tend to overcharge their clients: (90% of cases, according to one auditor, 60% according to a survey of lawyers themselves). Opportunities abound here due to the often intangible nature of legal services (e.g. making a phone call, giving advice, writing a letter). Such actions may take only a few minutes, but also may take much longer. Lawyers can often charge an hour’s or several hours fee for them, and the client finds it difficult to dispute this because they can’t see what a lawyer does behind closed doors. Yet, even when they can see the lawyer in action, such as in court, they fee can be pumped up further by intentionally delaying the resolution of the case so as to be able to charge rich clients for more court appearances, or quickly resolving cases involving poor clients (e.g. through plea bargaining) to maximize the number of clients. This general tendency has made lawyers not only among the least trusted of professions, but often the butt of jokes.

Among accountants, there are many opportunities for occupational deviance. For example, in preparing tax returns for companies and individuals, accountants may assist their clients in falsifying their income and deductions in order to pay less taxes. More significantly, they may be involved in fraud or negligence in examining corporations’ financial statements. If



the accountant says a company is financially sound when, in fact, it is about to go bankrupt, banks and investors will likely lose their loans and investments. Banks may even collude in this. Such accounting fraud is a growing problem (e.g. evidenced by increasing numbers of liability suits, as well as the Enron scandal). The major cause of such accounting abuse is obviously the conflict of interest that is built into the accountant's position as an auditor paid by the company to audit itself ("don't bite the hand that feeds you"). This prevents them from doing zealously what they are supposed to do - detect corporate fraud.

A final example of occupational deviance, not noted in the book, relates to car sales. Harvey Farberman (1975) did a study of the hierarchical linkages between auto manufacturers, new car dealers and used car dealers, illustrating that where the relationships between units are highly unequal, one unit (i.e. manufacturers) essentially dictate a set of conditions within which others in the industry must operate. Essentially, the manufacturers force the dealers to sell new cars at a low margin of profit, while maintaining much expensive inventory and high interest costs. To stay afloat, illegal practices are fostered such as cheating on repairs, maintenance, and warranties. Moreover, the inventory of used cars taken in trade is turned over quickly to used car dealers - often in a questionable fashion involving price manipulation, kickbacks, short sales "under the table" to customers, etc.

This system of vertical linkages is complex, involving connections between several different organizational units: manufacturers, new car dealers, used car dealers and customers. These linkages are established by real people keeping their own and their organization's interests in mind. Each negotiates on behalf of self or organization - with varying degrees of power, resources and influence - and forges linkages between them (e.g. criminal acts). It is worth noting that the definition of the situation on the basis of which people act at one of these levels may have little connection with the definitions at another. The customer who sees an opportunity to save a few bucks on the sales tax through a short sale probably has no idea of the place this act has in the larger, vertical linkages of various levels of the auto industry.

### **The Causes of White-Collar Deviance:**

In addition to the explanations proffered above for corporate deviance specifically, three major explanations have been put forth to explain white-collar deviance generally: (1) Fear of loss and greed for gain; (2) deviant opportunity: the benefit of high position and power; and (3) weak social control: lax law enforcement.

The first explanation suggests that, just as fear and greed drive the stock markets to highs and lows, they also drive white-collar deviance. Fear of loss (e.g. bankruptcy, mortgage foreclosure) has been found to be associated with relatively low-profit white-collar deviance such as embezzlement and credit fraud. Greed for gain - in order to prove how successful one is or to turn a successful company into an empire - is more often associated with white collar deviance that produces huge profit (e.g. top executives in large corporations buying political influence or violating antitrust laws). It is an ever receding goal of success - always wanting more. Moreover,

it is deeply rooted in the culture of capitalism, where “you can be greedy and still feel good about yourself.” In short, the greater the fear of loss or greed for gain, the stronger the motivation will be to engage in white-collar deviance.

The second explanation adds another important factor: deviant opportunity. It suggests that no matter what the fear or greed is, white collar deviance is more likely to occur if opportunities exist for carrying it out. Generally, the higher a person’s position is within a company, the more likely the “deviantly” motivated individual is to carry out a profitable deviant act, basically because of easier access to the company’s resources. Not only are security controls more lax on higher level managers and executives, but their status and prestige lend the appearance of legitimacy and trustworthiness. Similarly, the more power corporations have, the more likely they are to commit corporate crime (e.g. large corporations made up 42% of companies investigated, but 70% of all violations - compared to 20% of medium sized companies and 10% for small firms: Clinard and Yeager, 1980).

The third explanation relates to weak law enforcement. It’s well known that law enforcers don’t exercise as much control over white-collar deviance as they do over street crime. The penalties are generally lower, and enforcement priorities lie elsewhere. Hence, white collar crime by the rich and powerful can be expected to be more prevalent than street crime by the poor and powerless. Sometimes the government even encourages such crime by deregulation policies (e.g. as shown by the proliferation of bank frauds in the 1980's). While some studies suggest that most white collar criminals are merely low-level people saddled with high bill, the sample in such research is usually biased - representing the losers among white collar criminals who are prosecuted or convicted. The fact remains that most - particularly the rich and powerful - are not caught: ample testimony to weak law enforcement against them. Indeed, the fact that such deviants are often very powerful plays a large role (e.g. the pharmaceutical industry has been known to bribe regulatory agents and pay scientists to produce phony evidence that drugs are safe; some even have people designated to go to jail if the heat comes down). In brief, more powerful corporations and individuals are more likely than others to engage in deviant activities because of weaker social controls.

### **Conclusion:**

Tonight we have examined two major forms of white-collar deviance: corporate and occupational deviance. Each of these involve non-stereotypical deviance carried out by relatively high status individuals and corporations in particular institutional contexts - often for gain. Next class, I will show a film by Michael Moore illustrating various ways that such crimes play themselves out in people’s lives.