

Preventing and Policing White-Collar Crime

ASSIGNMENT 11

Read this introduction and then read pages 260–294 in *White-Collar Crime: The Essentials*.

White-collar crime is clearly complex and multifaceted. No single theory or explanation can comprehensively explain all forms or instances of white-collar crime. Social scientists have been coming up with many different theories for white-collar crime, including the Marxist theory and the feminist theory. Numerous factors, ranging from external pressure to organizational position to regulatory patterns of response, may be involved in individual decisions to commit crimes on behalf of organizations.

Motivation of the criminal is an important element of white-collar crime, as it is with any type of conventional crime. But it isn't alone in explaining this type of crime. We must examine external factors within the work environment, legal implications, political implications, and societal implications as well. All these often play an important role in white-collar crime situations.

Explaining why people who have everything commit crimes to get more money than they could ever use or need involves more than just "greed." Although greed is crucial, it's only a single dimension of the situation.

There are general theories of crime that can explain white-collar crime as well as conventional crime. There are also specific theories that apply only to white-collar crime. Some theories are *rational choice theory*, *differential association theory*, *labeling theory*, and *status deprivation theory*. Your text goes into detail explaining the many types of theories that have been proposed.





Self-Check 11

Indicate whether the following statements are True or False.

- _____ 1. Although there's a broad array of activities encompassed by the term "white-collar crime," there's still a single theory that explains it.
- _____ 2. In the last three decades, a lot of evidence has been found that cultural factors play a role in white-collar criminality.
- _____ 3. The differential association theory of white-collar crime says that criminal behavior is learned.
- _____ 4. Greed is rarely a factor in white-collar crime.
- _____ 5. The deterrence theory contends that punishment of white-collar crime must be swift, certain, and proportional.
- _____ 6. In explaining white-collar criminality, there's a great tension between organizations and individuals.
- _____ 7. Gottfredson said that white-collar criminals are usually males, who have less self-control than women.
- _____ 8. According to the routine activities theory, because there are fewer retail positions today, workers are more likely to commit white-collar crimes.
- _____ 9. Learning theory advocate Ronald Kramer has called for changes in laws to make it easier to convict corporations in criminal court.
- _____ 10. The foundation of the classical school of criminological thought is based on the 1764 work *On Crimes and Punishment*.

Check your answers with those on page 41.

ASSIGNMENT 12

Read this introduction and then read pages 295–331 in *White-Collar Crime: The Essentials*.

As you'll see in your reading, there are three types of agencies that work to uncover white-collar crime. Federal agencies are most commonly involved because many regulations related to white-collar crime are federal, but state and local authorities may also respond. In many cases, more than one level of government is involved. Make sure you carefully read the information on Table 12.1, for information on federal agencies and how their work relates to white-collar crime.

Strategies for dealing with white-collar crime are either reactive or proactive. Reactive responses naturally come after a crime has been reported, while proactive strategies involve actively investigating the possibility of wrongdoing, such as the example at the beginning of the chapter in which an undercover investigator was sent into nursing homes to look for signs of misconduct.

While many cases begin when someone initiates a complaint of wrongdoing, such as an investigative report in a newspaper, others arise through routine audits of a company's records. Many companies police themselves to prevent loss, especially since the huge economic scandals of the early 2000s. Proving that a crime was committed is a complex process. White-collar crime isn't simple to prove, especially when investigative agencies lack resources.



Self-Check 12

1. Name the three types of agencies responding to white-collar crime.

2. The federal agency charged with making sure food is safe and drugs are effective is the _____.

3. _____ is a federal agency designed to enforce standards in the workplace and chronicle injuries and illnesses occurring there.

4. When businesses and corporations harm endangered species, the _____ responds.

5. What part of the FBI investigates white-collar crime?

6. Which office was created in 2009 to conduct forensic accounting?

7. _____ is a relatively new source of records that's used in white-collar crime investigations.

8. List the stages of a white-collar crime investigation.

9. People who report criminal activity within their organization or company to the organization or company's security police are known as internal _____.

10. White-collar criminal offenders usually have more economic power than _____.

Check your answers with those on page 41.

ASSIGNMENT 13

Read this introduction and then read pages 332–363 in *White-Collar Crime: The Essentials*.

Law plays an important role in white-collar crime. Law is a product of a complex dimension of forces, and no one-dimensional, simplistic explanation of the basis of specific laws satisfactorily addresses its application to white-collar crime. Lawmaking entities enjoy relative autonomy but tend to reflect the concerns of special interests.

Regulating white-collar crime has never been simple. In the real world, objectives of the state and corporations often clash, and conflicts often arise among segments of the business or professional communities. But over the last century, regulatory bodies, courts, and legislators have enacted many different laws to protect people and society against white-collar criminals. For example, Congress enacted the Sarbanes-Oxley Act in response to the corporate scandals of 2001–2002 to increase oversight over corporate accounting and reporting processes.

Often, the people who actually regulate white-collar crime and make the laws that pertain to it are the various federal regulatory agencies. Agencies such as the Food and Drug Administration, the Federal Trade Commission, and the Environmental Protection Agency have been set up to deal with corporate behavior.

Lawyers and accountants are also involved in the policing of white-collar crime. They're often the folks who audit corporate statements and give opinions on corporate actions. They tend to be in the best position to catch any kind of malfeasance. But because they too are motivated by profit, often they'll look the other way instead of reporting fraud.



Self-Check 13

Indicate whether the following statements are True or False.

- _____ 1. Many judges believe that the greater the damage caused by a white-collar crime, the more culpable the offender is.
- _____ 2. Judges decide who to prosecute.
- _____ 3. Many judges find it difficult to condemn corporate crime committed to increase the portfolios of the corporate stakeholders.
- _____ 4. Only seven out of 1,000 white-collar crimes result in convictions.
- _____ 5. Fraudulent claims and bills for services are prohibited by the False Statements Act and the False Claims Act.
- _____ 6. The RICO Act is used only to prosecute organized crime ventures.
- _____ 7. The rogue employee defense is rarely used because it's not credible in most cases.
- _____ 8. One of the reasons corporations aren't charged with crimes is that doing so punishes innocent stockholders.
- _____ 9. The most common defense in a corporate white-collar crime case is the "isolated occurrence defense."
- _____ 10. White-collar criminal defendants usually take the stand at trial to defend themselves.

Check your answers with those on page 42.

ASSIGNMENT 14

Read this introduction and then read pages 364–394 in *White-Collar Crime: The Essentials*.

Prosecutors, defense attorneys and the rest of the judicial system play an important role when a white-collar criminal has been caught and is being prosecuted. Even though most white-collar criminals don't wind up in prison, prosecutors, judges, and defense lawyers still play a crucial role in punishing white-collar offenders.

Most prosecutions wind up being plea bargained, just as with conventional crimes. But those that do go to trial must deal with either a judge or jury exactly like any other criminal case. Some argue that judges and juries are sympathetic to white-collar criminals in that they let them off easier than conventional, violent criminals. Even though sentencing guidelines are in place, the judge still has tremendous discretion in deciding how much punishment to give the offender.

It's one thing to be reactive and punish white-collar criminals and their organizations for their wrongdoings. But what about preventing the crime from ever happening in the first place? There are different ways to respond to the often hotly debated challenges of white-collar crime. For example, business ethics courses have popped up in business schools since the 1950s, and corporations have created their own internal codes of ethics. They've also come up with self-regulation schemes and have even hired employees just to oversee this area.

But self-regulation and ethics aren't enough to curb the spread of white-collar crime, many argue. Punishment, or *sanctions*, is still the best way to secure compliance and deter future offenses. But what type of sanction should be created? Sanctions can be either positive or negative, for instance. Some sanctions or punishments are rehabilitation, probation, and enforced self-regulation. Other punishments include fines, restitution, and community service. Some of the most negative sanctions also include incarceration, occupational disqualification, and corporate dissolution.

As we move through the twenty-first century, white-collar crime in the broadest sense endures as a major threat to our physical and financial well-being. As you've learned from the textbook and this study guide, white-collar crime is a complex phenomenon. It has multiple dimensions and generates public policy conundrums. The challenges of responding effectively to white-collar crime are only like to intensify as we move into the future.



Self-Check 14

Indicate whether the following statements are True or False.

- _____ 1. Equalizing sentences for white-collar crime was addressed in the Sentencing Reform Act of 1984.
- _____ 2. Between 2003 and 2004, the main sentence for white-collar criminal convictions was probation.
- _____ 3. More white-collar criminals are jailed than burglars.
- _____ 4. White-collar criminals receive longer sentences than other types of criminals.
- _____ 5. Loss of their jobs contributes to depression among white-collar convicts.
- _____ 6. Probation allows white-collar offenders to continue to deny their criminal status.
- _____ 7. Compensating damages are awarded when the defendant's conduct is seen as more than gross negligence.
- _____ 8. Some scholars believe jail is inappropriate for white-collar offenders.
- _____ 9. Punitive damages have no bearing on deterrence.
- _____ 10. Optimal penalty theory assumes fines are costless and prison is costly.

Check your answers with those on page 42.