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Dr. Christopher Ibeh  
Professor,  
Plastics Engineering Technology  
Pittsburg State University  
Pittsburg, KS 66762

**Final Report-White-Collar Crime – Ethical Aspects**

Dear Dr. Ibeh,

I am please to submit my final report of the Ethics research paper. The main objective of this research is to bring the current ethical issue on White-Collar Crime.

I believe this report will meet your standards and surely do explain the current ethical issue of white-collar crime.

Sincerely

Bhanu Bhattarai

**WHITE COLLAR CRIME: ETHICAL ASPECT**

**SUBMITTED TO:**

**DR. CHRISTOPHE IBEH**

**DIRECTOR**

**CENTER FOR NANOCOMPOSITE AND MULTIFUNCTIONAL MATERIAL**

**DEPARTMENT OF PLACTIC ENGINEERING TECHNOLOGY**

**KANSAS TECHNOLOGY CENTER**

**SUBMITTED BY**

**BHANU BHATTARAI**

## TABLE OF CONTENT

<b>ABSTRACT .....</b>	<b>4</b>
<b>THE PROBLEM, PURPOSE AND SOLUTION.....</b>	<b>3</b>
<b>DEFINITIONS .....</b>	<b>4</b>
<b>REVIEW OF RELATED LITERATURE .....</b>	<b>6</b>
<b>International Scandals and their Impact .....</b>	<b>6</b>
<b>ARGUMENT .....</b>	<b>8</b>
<b>Has Business Ethics Really Deteriorated? .....</b>	<b>8</b>
<b>Is it Society that is Actually Changing? .....</b>	<b>9</b>
<b>Differential Treatment for white-collar offenders .....</b>	<b>10</b>
<b>SUMMARY, CONCLUSION AND RECOMMENDATION .....</b>	<b>12</b>
<b>REFERENCE .....</b>	<b>13</b>

## **ABSTRACT**

White collar crime is defined as a crime committed by affluent and influential people. News is full of white color crime and it is growing tremendously. Is it the real crime that is increasing or is it just the propaganda? This paper will try to investigate the fact about some corporate crime. But never the less there is white-collar crime. It has made much impact in society but the action taken against it has been very limited. So the main purpose of this paper is to investigate different types of white collar crime and the reason for limited action against these types of criminals.

## **THE PROBLEM, PURPOSE AND SOLUTION**

### Definitions:

According to Webster dictionary, white collar crime is that type of crime that is committed by salaried professional workers of persons in business and that usually involves a form of financial theft or fraud (as in security dealing).

In 1939 Edwin H. Sutherland (1893-1950), a sociologist of the symbolic interactionist school, first used the phrase white-collar criminal in a December 27, 1939 speech to the American Sociological Association. In his speech, he defined white-collar crime as, *“approximately as a crime committed by a person of respectability and high social status in the course of his occupation.”* This is the first time that white collar crime was ever defined. In defining the Differential Association Theory, Sutherland believed that criminal behavior was learned from interpersonal interaction with others. White-collar crime therefore overlaps with corporate crime because the opportunity for fraud,

bribery, insider trading, embezzlement, computer crime and forgery is more available to white-collar employees.

However, the Federal Bureau of Investigation (1989) has adopted the narrow approach, defining white-collar crime. According to Bureau, "... as those illegal acts which are characterized by deceit, concealment, or violation of trust and which are not dependent upon the application or threat of physical force or violence."

Generally, White-collar crimes are fraud, bankruptcy fraud, bribery, insider trading, embezzlement, computer crime, medical crime, public corruption, identity theft, environmental crime, pension fund crime, RICO crime, consumer fraud, occupational crime, securities fraud, financial fraud, and forgery. The tools of the trade are paperwork or through the computer performed by using paperwork or computers. White collar crimes go largely undated.

White-collar crimes cost the United States more than \$300 billion annually according to the FBI.

The main purpose of this paper is to investigate different types of white collar crime and the reason for limited action against these types of criminals. The research will be based on published research, published articles and theses. This paper may also be useful to those, who are researching in the white-collar crime.

## **REVIEW OF RELATED LITERATURE**

### International Scandals and their Impact

There are numerous scandals of white-collar crime and some of them are still in the court. Here are some example of white-collar crime and it's impact.

#### Guinness -1986

Ernest Saunders, the Chief Executive of Guinness, paid himself £ 3 millions plus interest, and paid large sums of those who have helped him rig shares in order to try and take over another beverage company, Distillers. He rigged the shares to beat Argyll, the company in competition with him to try and take over Distillers.

#### Barlow Clowes – 1988

The Barlow Clowes business collapsed owing millions of pounds. The joint Disciplinary Scheme (JDS) stated that there were in general inadequate planning of the Barlow Clowes audit work and that: “in many respects the work was poorly controlled and inadequately focused to ensure that reliable audit options could be drawn.” Money was also moved between client accounts as and when the need arose and spent without any regard to the rights of investors.

#### BCCI (Bank of Credit and Commercial International) – 1991

BCCI, regarded as the world's biggest fraud, caused a bank operating in over 60 countries worldwide, and supposedly valued at \$20 billion, to become worthless. The bank collapsed in 1991 owing \$13 billion.

#### Sumitomo Corporation -1996

Yasuo Hamanaka was a copper trader working for Sumitomo Corporation, the world's biggest copper merchant. Yasuo Hamanaka was a rough trader, who during ten

years of double-dealing in Tokyo ran up losses of £ 1.2 billion. One senior manager said, “This is probably the biggest loss you will ever see.”

#### Enron – 2001

Enron, a multinational energy trading company based in Houston, Texas, collapsed when credit rating firms prepared to lower their assessment of the company’s debt. Enron would have compelled to repay loans gained on the basis of its loan rating, and faced weakened share price. Enron went from \$ 60 billion to bankruptcy and collapsed because of its complicated trading activities and financial manipulation.

#### WorldCom – 2002

WorldCom was valued at \$180 billion in 1999. The company was originally a small local telecommunications agency that grew very quickly into one of the largest providers in the industry. There was change of senior management at WorldCom in 2002, who asked internal auditor to examine the particular accounting transactions. The internal auditor discovered that corporate expenses were being treated as capital investments. That is, expenses were being set against long-term budgets, rather than being offset against profits immediately. This practice resulted in the inflation of WorldCom’s profits and share value, creating the impression that the company was more valuable than it actually was. WorldCom admitted coordinating one of the biggest accounting frauds in history in 2002 and inflating its profit by \$3.8 billion between January 2001 and March 2002.

#### Xerox -2002

The Securities and Exchange Commission, the US financial regulator, filed a suit against Xerox in April 2002 for misstating its profits to the tune of almost \$3 billion.

Xerox reached a settlement with the SEC and agreed to pay a fine of \$ 10 million, but neither denied or admitted any wrongdoing. The fine imposed by the Securities and Exchange Commission was the largest fine ever imposed on a publicly traded firm in relation to accounting misdeeds.

## **ARGUMENT**

### Has Business Ethics Really Deteriorated?

Unfortunately, there is no scientific way to determine whether or not business ethics have really deteriorated. Max Ways's description of a statistical analysis (modern society's favorite kind of investigation) aimed at answering the question "How widespread is corporate misconduct?" is enlightening. He says that to describe such a project would demonstrate its impossibility. He argues that the researcher would have to count the transgressions publicly. He argues that the researcher would have to count the transgressions publicly exposed in a certain period. Then the total number of known misdeeds would have to be correlated with the trillions and trillions of business transactions that occur daily. He concludes:

"If we assume (recklessly) that a believable estimate of total transactions could be made, then the sum of the publicly know malfeasances almost certainly would be a minute fraction of the whole. At this point the investigator would have to abandon the conclusion that the incidence of business misconduct is so low as to be insignificant."

In fact, no such study has ever been attempted. Public opinion polls might be our best way to gather data about the current state of business, but such polls are hardly definitive. The polls do not indicate that business ethics have deteriorated significantly in

recent years, but we must consider some other factors that affect the public's opinions, such as media reporting and society's expectations of business's ethics.

### Is it Society that is Actually Changing?

We can make an argument here and many business managers subscribe to this belief. W. Michael Blumenthal, former U.S. Secretary of the Treasury and chief officer of the Bendix Corporation, has been one of the leading advocates of this view. He argued:

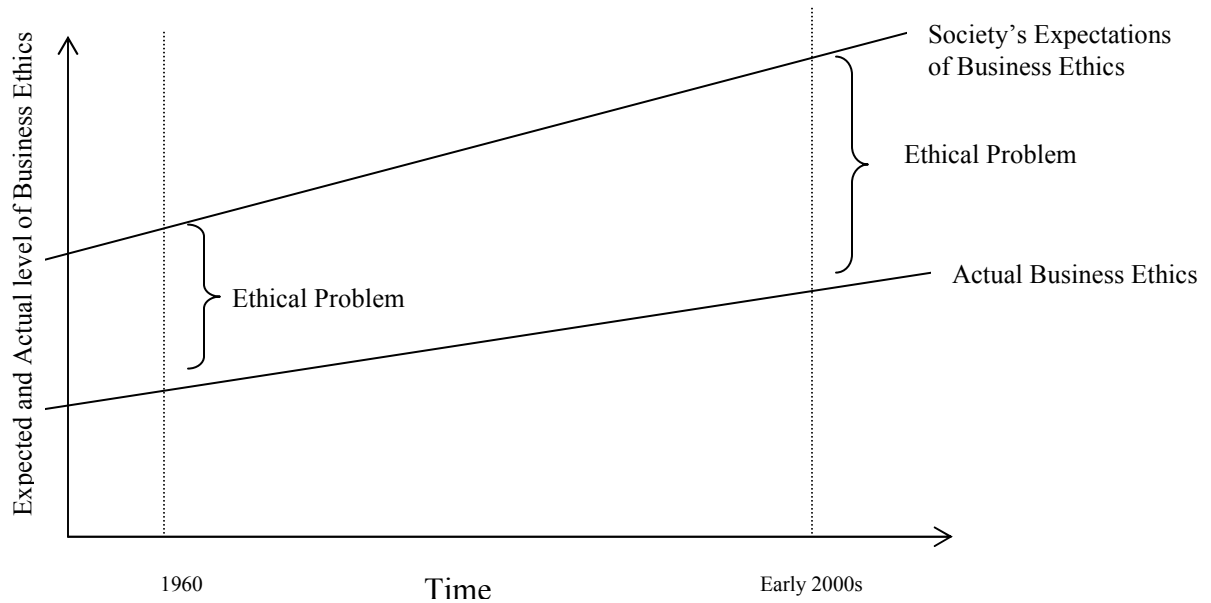
“It seems to me that the root cause of the questionable and illegal corporate activities that have come to light recently....can be traced to the sweeping change that have taken place in our society and throughout the world and to the unwillingness of many in business to adjust to these changes.”

He goes on to say, “People in business have not suddenly become immoral. What has changed are the contexts in which corporate decisions are made, the demands that are being made on business, and the nature of what is considered proper corporate conduct.”

Although it would be difficult to prove Blumenthal's thesis, it is an intuitively attractive one. You do not have to make a lengthy investigation of some of today's business practices to realize that a good number of what are now called unethical practices were at one time considered acceptable. Or, it may be that the practices never really were tolerated, thus causing no moral dilemma amidst the public.

Figure below illustrates how the magnitude of the ethics problem may be more detectable today than it once was, as a result of public expectations of business's ethical behavior rising more rapidly than actual business ethics. Note in the figure that actual business ethics is assumed to be improving but not at the same pace as public

expectations are rising. The magnitude of the current ethics problem, therefore, is seen here practically to be a function of rapid rising societal expectations about business behavior.



(Source: Business, Government and Society)

### Differential Treatment for white-collar offenders

The empirical data clearly demonstrate a double standard between white-collar crimes and so-called street crimes. There are a number of reasons to explain why white-collar criminals are not more rigorously pursued. By virtue of their relative affluence, those accused of being white-collar offenders are able to afford the fees of the best lawyers, and may have friends among senior ranks of the police elite, the judiciary and the law enforcement agencies. These connections often not only ensure favorable treatment on an individual basis, but also enable laws to be drafted or resource allocations to be shifted to ensure that such crimes are not defined or enforced too strictly. It is a fact

that virtually no police effort goes into fighting white-collar crime, and the enforcement of many corporate crimes is put into the hands of government agencies like Environmental Protection Agency which can act only as watchdogs and point the finger when an abuse is discovered. This more benign treatment is possible because the true cost of white-collar crime, while high in nationally consolidated accounts, is diffused through the bank balances of millions either by way of share value reductions, or nominal increases in taxation, or increases in the cost of insurance. And because it can be difficult to assign blame, e.g. environmental damage may be serious but corporations cannot be sent to jail and, if those senior officers are removed from their positions, it may be more damaging to the organization itself which employs many ordinary and innocent people, and to the shareholders who had no role to play in taking criminal decision. Different public policies are at work and there are differences in the level of public interest, case complexity, and a lack of white-collar related literature, all of which has a significant effect on the way white-collared offenders are sentenced, punished, and perceived by the public.

Another reason for differential treatment might be the fact that criminal penalties tend to be more related to the degree of physical force or violence involved than on the monetary loss, all other things being equal. Because white-collar crimes are committed by those with opportunities that do not require violence, they are far less likely to garner more severe criminal penalties. For example, someone who mugs a victim on the street by threatening to stab them and steals their wallet, might very likely be punished with a more severe sentence than an inside trader who cheats shareholders of a million dollars.

## **SUMMARY, CONCLUSION AND RECOMMENDATION**

As seen above, white-collar crime has become the major problem in the corporate world. Crimes done by those affluent and highly influential people are growing exponentially; so is the impact to the society. Some are blaming the society's high expectations and demand as the root cause of these crimes. This is true to some extent but it is not the ultimate truth. The greed and hunger for wealth and power also plays vital role to commit these types of crime. And it should be noted that these crimes are committed by the highly educated people. The lack of proper laws and regulations has helped to breed this type of crime and never the less, as mentioned above, these types of crime are committed by highly influential people who can do anything to prevent themselves from being prosecuted.

As mentioned in the argument, lack of the proper regulations, even the law enforcement officers have difficulty taking action against the white collar criminals. This is very discouraging situation. So at this point, it is recommended that there should be some kind of specific laws regarding white-collar crime either nationally or internationally.

Similarly, there are not any agencies that keep eyes on the corporations or business house and warn them before committing crime. It is also recommended that there should be a special branch in the government which regulates and keeps close eyes on these white collar crimes.

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