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E. F. Hutton

ANYONE OLD enough to remember the heyday of E. F. Hutton remembers their ad, “When E. F. Hutton speaks, people listen” in which entire city blocks fell silent to hear the pearls of financial advice spoken by in whisper by a Hutton client. Chief Executive Officer Robert M. Foman was so enamored of Hutton’s image that he built a 29-story, \$100 million headquarters in Manhattan, New York City, that some people called a memorial to corporate greed.

People stopped listening to Hutton, however, after discovering that the company had been engaged in a systematic effort to avoid paying interest on short-term bank loans through a complicated scheme of check kiting. The scheme came to light in December 1981 when Hutton gave in to the pleas of the Batavia, New York, branch of the Genesee County Bank and moved accounts for its local office from the Marine Midland Bank to the small, local bank.

Over the next several days, bank officials began noticing that Hutton deposited checks worth millions of dollars. Without waiting for credit from the Federal Reserve, the bank had also paid \$8,000,000 on checks that had been written by Hutton on the account. Amazingly, the amounts that Hutton were depositing and withdrawing added up to more than

the bank’s total assets. Internal auditors who were told to monitor the Hutton account wondered why the amounts were so large when Hutton’s local office employed only four people.

Within nine days of opening the Genesee account, Hutton had deposited \$26,427,507 in checks. The 11 checks had all been written by Hutton on its accounts at United Penn Bank in Wilkes-Barre, Pennsylvania, and American Bank and Trust Company in Reading, Pennsylvania. Hutton was inexplicably moving funds among the three banks. Within that same nine-day period, Hutton had written numerous checks on the Genesee Bank totaling \$26,432,000, resulting in an overdraft of \$4,493. After additional checks arrived at the Genesee Bank, officials checked with United Penn Bank and learned that Hutton had funds to cover one but not both of two checks written on December 8 for \$6,000,000 and \$8,000,000.

Later that day, Hutton also deposited a check written on the Reading bank for \$110,000, followed by a check for \$500,000 two days later. The Reading account did not have sufficient funds to cover either check. The Genesee Bank decided to freeze the Hutton account and returned checks for \$2,071,000 and \$8,000,000, notifying the local Hutton office of their action.

During a visit to the local Hutton office, three Genesee officials told Hutton to take their business

elsewhere. The bank subsequently returned three checks totaling \$7,000,000.

Following company procedures, Genesee officials notified the auditor of their parent company about the problems with the Hutton account. Officials there reported Hutton's activities to the deputy supervisor of New York banks and sent copies to the Federal Reserve and the Federal Deposit Insurance Corporation. New York State investigators discovered that Hutton's paper trail led to Manufacturers Hanover Trust (Manny Hanny) and Chemical Bank at which Hutton's main accounts were lodged. By auditing four days of Hutton activities at the two banks, state regulators found the same pattern of inexplicable transfers of funds between Hutton offices and the two banks. For instance, audits of the Manny Hanny accounts uncovered an overnight overdraft of \$1.3 billion on the Hutton account. Both banks were astounded to learn that Hutton had been using overdrafts as short-term, no-interest loans that cheated the banks out of millions of dollars in interest. To do this, Hutton had used a check-kiting scheme, which was variously known as "chaining" or "floating" to amass huge profits at the expense of banks that handled their accounts.

Federal investigators pursued Hutton tirelessly, deciding to use Hutton to bring an end to the practice of overdrafting by big corporations. Finally, prosecutors concluded that the evidence gathered from Hutton's activities at the Northern Central Bank in Williamsport, Pennsylvania, where Hutton had been overdrawing its account for \$900,000 a day during most of 1981, provided evidence that was clear enough for a jury to understand Hutton's "illegal, fraudulent, and criminal" actions. Surprisingly, no individuals within E. F. Hutton had been targeted by investigators.

Letters dated April 20, 1984, were sent to E. F. Hutton Group, E. F. Hutton and Company, and various Hutton officials informing them of the Department of Justice's intent to prosecute E. F. Hutton. Lawyers predictably advised Hutton officials to claim the Fifth Amendment. In February, federal prosecutors found their "smoking gun" in a memo dated April 1982 written by one Hutton official to another describing the check-kiting scheme in detail.

In 1985, E. F. Hutton pleaded guilty to 2,000 counts of mail and wire fraud and was required to pay a \$200,000,000 fine in addition to repaying

banks for all money lost, plus interest. Convinced that his company had done nothing wrong, Foman paid former Attorney General Griffin Bell \$3,000,000 in fees and expenses to investigate the activities of his employees. The move backfired, and the House of Representatives opened hearings on the Hutton fiasco.

On November 8, 1986, Robert P. Rittereiser succeeded in forcing Foman to step down and took over as Hutton's chief executive officer. After taking charge of E. F. Hutton, Rittereiser set a massive reorganization plan in place. He divided Hutton into two parts: one to handle retail brokerage services and the other to oversee institutional and capital markets. Unfortunately for Hutton, on October 19, 1987, the stock market plummeted 508 points in a single day. As a hypothetical exercise, Cable News Network (CNN) explored the influence of an insolvent brokerage house on investors.

E. F. Hutton was described as a "weak link in the financial chain," and Hutton executives recognized that reclassification from its A-2 commercial rating to A-3, the lowest possible rating, was imminent. Stock shares in the company dropped \$11, and it was rumored that E. F. Hutton was in danger of going under and that Foman had committed suicide. Standard and Poor's let it be known that Hutton's credit rating was under close scrutiny. In an effort to recoup, the company had spent employee retirement funds with no ability to replace the funds' capital.

The best course of action seemed to be to sell E. F. Hutton. Foman liked the idea of revenge on Rittereiser and was also attracted to the prospect of a \$3,000,000 investment-banking fee for his role in the sale. After 83 years of providing successful advice, Hutton was up for grabs. The front leaders in the bidding war were Merrill Lynch, Dean Witter, and Shearson Lehman. After Shearson's bid of \$960 million, \$29.25 per share, was accepted on January 29, 1988, 1,450 Hutton employees were dismissed, and armed security guards searched them as they left the building. Over the next month, an additional 3,350 Hutton workers received pink slips. Ironically, Hutton had rejected a Shearson offer of \$50 a share in 1987. After the buyout, no one was listening to E. F. Hutton; it no longer existed.

SEE ALSO

check kiting; investment fraud; bank fraud; accounting fraud.

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ELIZABETH PURDY, PH.D.
INDEPENDENT SCHOLAR

Eastern Europe

THE RISE OF white-collar and organized crime in the Eastern European (EE) nations closely parallels that of their powerful neighbor, Russia. Eastern Europe generally refers to the states formerly under the control of, or heavily influenced by the Soviet Union: Albania, Bulgaria, Czech Republic (Czechoslovakia), Hungary, Poland, Romania, and former Yugoslavia.

Once the state socialist economies collapsed in the late 1980s and early 1990s, massive economic crisis and sociopolitical dislocation created a power vacuum which has been largely filled by organized criminal elements. The economic crisis spawned by civil war and international military intervention in the Balkans also opened up opportunities for local mafias. As in Russia, neo-liberal policies, socioeconomic disparity and weak legal and democratic structures have fostered the integration of "legitimate" and "illegitimate" business. While the extent of the economic crisis in most of the EE nations has not been as severe as in Russia, all countries have registered a growing influence by organized crime in diverse economic sectors, and much of this crime is transnational with groups from various countries, especially Russia, intimately involved in numerous countries of the European continent.

The bureaucratic command economies of the EE regimes were highly centralized: production and distribution of goods were organized by state-controlled companies. As in Russia, increasing integration with the world market and growing problems in effectively coordinating the highly bureaucratic economy led, by the 1970s, to the development of a thriving black market, especially for consumer

goods and foreign currency. In all the EE nations, there was misappropriation and outright theft of state property and speculation in scarce goods. Criminal networks, including officials from state institutions, gradually consolidated through the late 1970s and 1980s. Beginning as small-scale suppliers of clothing, household articles, and building materials, some groups branched out into the bootlegging of alcohol and drug trafficking.

After the fall of the Berlin Wall in 1989 and the rapid disintegration of the bureaucratic command economies, the openings for organized crime multiplied. Socioeconomic marginalization increased dramatically, providing a fresh recruiting ground for criminal organization as well as a sharp reduction in the population's trust in legal private enterprise and government structures. Liberalization and privatization programs were corruptly managed, giving white-collar criminals in organized crime new economic activities to exploit.

As Michel Chossudovsky writes, the privatization programs in all the EE nations "favored the transfer of a significant portion of state property to organized crime." As traditional state economic structures were weakened, so too was law enforcement. Gradually, according to Ben Fowkes, organized crime brought "a culture of bribery, theft and even violence from the underground economy into the world of legal private enterprise."

The emphasis by governments on property rights and market freedom occurred at the expense of public accountability, sociopolitical equality, and economic security. While there has been economic recovery in some countries, the lion's share of the wealth has been concentrated in the hands of a tiny minority of politicians and business people, most of whom have connections with organized crime.

BULGARIA

In Bulgaria, the privatization process offered wind-fall opportunities for ex-politicians such as Andrei Lukanov, twice former premier of the government and leading member of the post-communist party. Lukanov and his associates took up key positions in the newly privatized banks and industries and eventually formed a powerful financial-industrial conglomerate, Multigroup.

The directors of many of the companies in this group allegedly had access to communist party funds through banks accounts in Switzerland and



Members of the House of Parliament in Budapest, Hungary, have been unable to stem the rise of white-collar crime, as privatization of the Hungarian state companies has delivered quick and handsome profits.

Austria. It was suspected of pilfering state assets through hidden privatization schemes and other illegal practices. For instance, Multigroup's Intersteel used Lukanov's connections with newly privatized Russian gas companies to make huge profits from managing the old state steel company, which is one of the largest consumers of Russian gas in the country. Lukanov was assassinated in 1996 allegedly by rival organized crime interests. The illegal growth of Multigroup was replicated by diverse groups in all economic sectors so that by 2000, over half of Bulgaria's private companies were controlled by mafia interests.

HUNGARY

In Hungary, liberalizing measures were first introduced in the 1970s: there was a steady increase in travel between EE countries and the gradual development of small-scale private industry and cross-border retail. In this way, the country became a transit corridor for Yugoslavian and Albanian arms smugglers and the location of stolen goods networks operated by Polish syndicates. Local criminal elements made common cause with these foreign groups, which soon included gangs from the Soviet republics, facilitating the growth and extension of criminal networks in and through Hungary.

Continued expansion of the private sector led to growing concentrations of private capital which became targets for organized crime. According to the former chief of the Investigation Department of the National Police in Hungary, these gangs would plant spies in high society to target potential victims and use separate gangs to execute burglaries. Still another group would be responsible for fencing or selling the stolen goods. Simultaneously, the semi-privatization process of certain areas of the economy such as catering, tourist, and entertainment allowed these gangs to launder their money and invest in "legitimate" businesses.

After the communist state collapsed, Hungarian mafias expanded their operations. By 1994, 30 percent of the gross domestic product was produced through the expansion of the black market economy of the pre-Soviet days. With rising unemployment, skyrocketing inflation and a drastic decline in economic output, crime gangs moved into all areas of the economy to provide goods and services unavailable in the legitimate economy. Privatization of the state companies also promised quick and handsome profits. The state oil monopoly was abolished in the 1990s before legal regulations were enacted to govern the new private market. Organized crime quickly took advantage of this legal vacuum, creating oil companies and using old state facilities at no

cost to dominate the market. A two-tier pricing system designed to shield ordinary citizens from price gouging also resulted in new black market opportunities for the local mafia.

The extraordinarily lucrative profits to be gained from the oil business alone has led to fierce competition and mounting violence, including numerous gangland-style executions. Since 1991, there have been more than 100 bombings and grenade explosions in Hungary as rival elements fight it out for influence and wealth.

BALKAN PENINSULA

The countries of the Balkan peninsula have also seen a dramatic increase in organized and white-collar crime. The civil wars of the 1990s and continued political instability in the former Yugoslavia have fostered the development of conventional organized criminal activities such as consumer goods smuggling, drug trafficking, prostitution and auto theft. Albanian gangs have used their connections with growers in Afghanistan and an increasingly sophisticated use of the internet to corner the heroin market in much of Europe. When sanctions were

imposed on Serbia in 1992, land and water routes were strictly controlled within Yugoslavia, allowing the emergence of widespread black market networks of fuel, food, and other goods which circumvented the embargo through cross-border trade from Bulgaria and Romania. It is also apparent that much of the billions in aid to countries such as Bosnia—either in the form of money, food, or medicine—has been stolen by local mafias in alliance with corrupt politicians.

POLAND

In Poland, the story is similar. The more than 400 organized criminal factions are involved in everything from drug trafficking and prostitution to protection rackets and smuggling. The U.S. State Department claimed in 2001 that Poland had become a major center for the production of synthetic drugs such as Ecstasy and amphetamines, as well as a trans-shipment point for suppliers of narcotics in Turkey and the Ukraine. Drug addiction and drug-related crime have soared in the last decade. The drug business is apparently controlled by three major syndicates operating out of Gdansk



Gray smoke rises above the rooftops of Warsaw, Poland, symbolizing the rise of industrial capitalism and its side effects of pollution, and growing organized and white-collar crime.

and Warsaw. The Pruszkow mafia is one of the largest of such groups. It engages in car and art theft, money laundering, extortion, prostitution and drug trafficking. It has been involved in a bloody turf battle with the Wolomin group for control of these lucrative economic activities.

As in Russia and other Eastern European countries, the importing and exporting of women for sexual exploitation is flourishing in Poland. Police estimate that 15,000 young women from Bulgaria, Romania, and the former Soviet republics are brought into Poland for prostitution each year. Recent reports suggest that criminal groupings from other EE nations and the former Soviet republics have made attempts to take over this trade, resulting in public gun battles and numerous murders.

CZECH REPUBLIC (CZECHOSLOVAKIA)

In Czechoslovakia (split as the Czech Republic and Slovakia in 1993), organized criminal gangs were first founded by immigrants from the large Vietnamese community. By 2003, there were 10-15 such organizations involved in smuggling goods such as cigarettes and people from Central Asia and Southeast Asia to Western Europe, including sex trade workers. Vietnamese gangs engage in money laundering, drugs, and extortion and invest in legitimate business such as restaurants and casinos. In recent years, authorities report that native Czechs are now working for these criminal elements who inextricably merge traditional organized crime with legitimate business.

By the mid-1990s, the Czech Republic also received an influx of organized criminal gangs from Russia, the Ukraine, and Chechnya. Beginning with illegal immigration schemes for Russian and Ukrainian workers, these international groups expanded into drug trafficking and prostitution. Transnational gangs such as these have introduced the highly profitable trade of arms smuggling into Czechoslovakia in the early 2000s. Arms smugglers use the country to sell to rogue regimes seeking clandestine deals that will not be noticed by international authorities. In 2002, two Czechs and a Canadian were arrested for allegedly selling small arms to Iraq.

During home searches, catalogues of Russian-made weapons were found which were being offered to customers in Arab countries. In addition to firearms, the catalogues also offered tanks, missile

carriers, boats, and planes. In 1999, a Czech company was discovered trying to sell six fighter jets to North Korea. Weapons trading is officially legal in the country, but government spokespeople admit that they have little control over the companies or the thousands of transactions that occur each year.

ALBANIA

The Albanian economy enjoyed an economic boom in the early 2000s. Yet, observers such as the respected non-governmental organization, International Crisis Group (ICG), note that just under half of the gross national product results from organized crime. As in the other EE countries and Russia, the distinction between corporate crime and organized crime is blurry, especially since organized crime runs, or heavily influences corporate behavior, whether legal or not. As Kreshnik Spahiu, a lawyer involved in anti-drug trafficking cases, laments, "The reality is that Albania is built with black money." In the early 1990s, the first phase of the post-communist transitional economy was financed through pyramid schemes which collapsed in 1997, bringing with them widespread chaos. According to the ICG, a wide layer of politicians, government bureaucrats, police and respectable businesses are all implicated in organized crime.

ROMANIA

Romania does not grab as many of the headlines as the other European countries, yet its population of 22 million makes it one of the biggest countries in Eastern Europe. It shares all the major features of organized crime in the neighboring nations: close ties to politicians and respectable firms, shady dealings with formerly state-owned property, and involvement in smuggling, prostitution, and extortion schemes.

The early 1990s saw a massive banking fraud perpetrated by former state officials which led to the loss of the life savings of tens of thousands of small-scale investors. Romania's current economic woes stem from massive under-development during the communist era. Once again, mafia elements have moved in to take advantage of a poorly functioning system of consumer goods production and distribution. The country's proximity to Russia has also facilitated the growth of drug trafficking, illegal immigrant smuggling, automobile theft, and, per-

haps most seriously, a black market in nuclear material from the former Soviet republics. Romania's organized crime comprises tightly knit crime families with close connections to politicians, like-minded mafias in the other EE countries, and legal private enterprises.

While there have been attempts by lawmakers and the police, often in alliance with international agencies and governments, to combat organized crime in Eastern Europe, most observers report that it is a losing battle. Some nongovernmental organizations, trade unions, and other groups in civil society have begun to courageously publicize and organize against corruption, but these initiatives have so far only made a minor impact.

SEE ALSO

corruption; Russia; human trafficking; drug trafficking; organized crime.

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SEAN PURDY, PH.D.
QUEEN'S UNIVERSITY

economic espionage

ACCORDING TO THE Federal Bureau of Investigation (FBI), economic espionage refers to the stealing of trade secrets or confidential information by foreign governments or companies against U.S. businesses. Trade secrets are any secretive, private,

or proprietary intellectual property including formulas, patents, budget and marketing plans, customer lists, new technology developments, pricing information, or any other type of information that has some potential economic value. These secrets typically account for roughly 70 percent of a company's market value, making them a highly valuable asset and a prime target of many competitors.

The premium placed on such information represents a fundamental shift from an economy based on tangible goods to a system based on intellectual property. Illegally obtaining access to a trade secret gives foreign competitors several advantages. It gives foreign entities the opportunity to introduce the product or service before anyone else, and thus realize a larger profit. In addition, the stealing of trade secrets allows an entity to under-price the original owner or developers since less money is needed for research and development. Finally, economic espionage allows a company to modify and/or improve upon the stolen trade secrets.

Several companies consider economic espionage a more cost efficient means of spending resources. Rather than spend the time and money to conduct actual research and development, companies can spend a fraction of the cost to steal information.

In one of the largest economic espionage cases to date, Avery Dennison spent roughly \$200 million on research and development over a four-year span to develop adhesive formulas and tapes. One of its foreign competitors Four Pillars, a Taiwan-based company, paid an Avery Dennison employee, Victor Lee, only \$160,000 over eight years to steal proprietary information concerning the development of adhesive formulas. In all, Lee stole approximately 12,000 research and development documents including 71 adhesive formulas and 37 trade secrets concerning specialized adhesive tapes.

Estimates indicate that economic espionage costs U.S. companies tens of billions of dollars each year in lost trade secrets and other proprietary information. According to the American Society for Industrial Security (ASIS) and federal government estimates, U.S. businesses lost approximately \$1.2 trillion during the 1980s to economic espionage. More recently, a 1999 ASIS survey indicated that 97 of the top 1000 Fortune companies lost over \$45 billion in stolen trade secrets. Approximately half (44) of the companies had more than 1,000 incidents of theft totaling nearly \$1 billion. The aver-

age estimated loss was approximately \$500,000 per incident.

According to the survey, most acts of economic espionage occurred in high technology and service industries, while the manufacturing industry tended to lose the most money, averaging a loss of almost \$50 million dollars per incident. Small and medium-sized businesses generally suffered the most significant losses. Many of these companies were unable to recover from the loss of trade secrets which are extremely vital for survival.

NATIONAL SECURITY

The tremendous scope and huge financial losses attributed to economic espionage led former FBI Director Louis Freeh to assert that foreign countries stealing and spying on U.S. companies represents the most serious threat to the nation's security since the Cold War era (aside from terrorism). In this respect, economic espionage has been viewed as a threat to the long-term survival of many U.S. companies.

Traditionally the term *espionage* was associated with military spying and the stealing of military information or secrets. With the end of the Cold War, a new form of espionage emerged that concentrated more on the spying and stealing of confidential economic and intellectual properties. At the same time, the United States emerged as a dominant economic power. Subsequently, America became one of the leading nations in developing valuable intellectual property and contributing new services and products to the world market. As a result, foreign companies and governments began to establish spy networks to target and obtain U.S. companies' trade secrets in order to remain competitive. During the 1990s, FBI information revealed that at least 23 countries had engaged in acts of economic espionage against U.S. companies.

Another FBI finding indicated that at least 100 foreign governments and/or businesses were spending resources to target and acquire U.S. technology. Over half of these companies were using covert operations. The most frequently targeted industries include aerospace, computer hardware and software, defense technology, and biotechnology. Because of the increased development and reliance on computers, most companies have become especially vulnerable to hacking. In 1994, a group of hackers from St. Petersburg, Russia, stole over \$10 million from

Citibank. The group hacked into the company's computers and transferred money into banks in seven different countries. Computers have allowed companies to store more information in a single location, but at the same time this information has become more accessible and easier to steal. Through the use of a computer, a single individual can copy, download, and transfer confidential information within minutes to other parts of the world. In addition, computers provide a great deal of anonymity making it difficult to apprehend offenders. Lastly, the use of computers to engage in economic espionage makes investigation and detection a fairly complex and difficult task. In many ways, computers have inadvertently become a tool in the realm of economic espionage.

ECONOMIC ESPIONAGE ACT

In order to address the growing concerns of U.S. companies and their vulnerability to economic espionage, Congress enacted the Economic Espionage Act (EEA) of 1996 to effectively criminalize the stealing of trade secrets. Under the EEA, trade secrets are broadly defined to include "all forms and types of financial, business, scientific, technical, economic, or engineering information, including patterns, plans, compilations, program devices, formulas, designs, prototypes, methods, techniques, processes, procedures, programs, or codes, whether tangible or intangible, and whether or how stored, compiled, or memorialized physically, electronically, graphically, photographically, or in writing." The EEA also stipulates that the owners must take "reasonable measures" to keep confidential information a secret. If owners fail to safeguard proprietary information, no one can be rightfully accused of stealing it. Finally, the act requires that the trade secrets must have some form of actual or potential economic value.

The EEA is a combination of sections 1831 through 1839 of the U.S. Codes. The Foreign Trade Secret Theft or section 1831 of the EEA specifically addresses the issue of economic or foreign espionage. In many respects, problems and concerns with foreign invasions were the single most important reason why the EEA was passed. Under section 1831, criminal penalties will occur when an accused steals without authorization a trade secret that will knowingly or purposefully benefit any foreign government and agency.

This includes the stealing by any foreign government or agent or anyone acting on their behalf. Criminal penalties for violating this section of the EEA include a fine of up to \$500,000 or imprisonment up to 15 years, or both for an individual and for an organization, a fine of up to \$10 million. Also under the EEA, a court can force a person to forfeit to the United States any property or proceeds obtained directly or indirectly from a violation of the EEA.

PROSECUTION

Prosecutions under the EEA have been relatively rare. As of 2003, only 37 cases have been successfully prosecuted under the act. One of the primary problems is the reluctance of companies to file criminal charges. Most companies fear the risk of publicly disclosing valuable trade secret information through court documents. In an espionage case involving Bristol-Meyers Squibb and their secret formulas for the cancer-fighting drug, Taxol, federal judges ruled that prosecutors had to release the confidential documents to the defendants' lawyers in order to protect due process rights. The defendants' were Yuen Foong Paper Co., a Taiwanese company that had two employees.

They approached an FBI agent, posing as a Bristol-Meyers technology information broker, and allegedly offered him \$200,000 plus a percentage of their sales for access to Taxol technology. Bristol-Meyers appealed the ruling in an effort to protect the secrets from those accused of attempting to steal them. In this way, the EEA presents problems for both victims and the accused. Many companies have turned to private consulting or intelligence agencies to help prevent future incidents of economic espionage.

SEE ALSO

industrial espionage; corruption; bribery; computer hacking.

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JASON DAVIS
UNIVERSITY OF SOUTH FLORIDA

Edelhertz, Herbert (1922–1999)

HERBERT EDELHERTZ WAS a criminologist and scientist who specialized in the study of white-collar crime and organized-crime business activities. He authored several books and reports on the business of organized crime, corporate fraud, and the prosecution of white-collar crime. Edelhertz defined white-collar crime as any "illegal act or series of illegal acts committed by non-physical means and by concealment or guile, to obtain money or property, to avoid the payment or loss of money or property, or to obtain business or personal advantages." This explanation, though it attempts to improve upon Edwin H. Sutherland's original working definition of white-collar crime, has been criticized for its overbroad approach that leaves room for the inclusion of non-occupational crimes.

Edelhertz, however, claimed that Sutherland's definition ("a crime committed by a person of respectability and high social status in the course of his occupation") was too restrictive. He believed that white-collar crimes encompassed non-business activities such as filing false personal income tax returns, claiming fraudulent social security benefits, and concealing assets in a personal bankruptcy.

In his essay for the book *White Collar Crime: An Agenda for Research*, Edelhertz stressed the importance of distinguishing between "the different forms of behavior that fall under the rubric of white-collar crime, since they may vary so widely in terms of motivation, characteristics or *modus operandi*, victims, impact, and amenability to remedies." He also recommended better data availability on the incidence and impact of white-collar crime. Edelhertz described how solving the problem of white-collar crime must include a focus on the issues of equity and sentencing. The disparity between the infrequency with which criminal charges

are brought against white-collar offenders and the regularity with which “crimes of the poor and disadvantaged” are prosecuted is a shortcoming of corporate crime policy. When Edelhertz published his report, *The Nature, Impact and Prosecution of White-Collar Crime*, the National Institute of Law Enforcement and Criminal Justice felt that white-collar crimes were receiving scant attention from the law enforcement agencies and research communities. As the economic and social environment of a region changes, Edelhertz wrote, we become more vulnerable to white-collar crime. Although street crimes, burglaries, and drug violations seem more pressing, Edelhertz asserted that “to ignore white-collar crime is to undercut the integrity of our society.”

Edelhertz was in the private practice of law before becoming a staff scientist in the Science and Government Center of the Battelle Human Affairs Research Centers in Seattle, Washington. He also directed nationwide federal prosecutions of white-collar criminal activities as chief of the Fraud Section, Criminal Division, U.S. Department of Justice.

SEE ALSO

Sutherland, Edwin H.; differential association; Cressey, Donald; organized crime.

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ROBIN O’SULLIVAN
UNIVERSITY OF SOUTHERN MAINE

Eisenhower, Dwight D. (1890–1969)

IN THE 1952 presidential election, both the Democratic and Republican parties courted General

Dwight Eisenhower who had led the Allied forces to victory in World War II, and who had served as commander of NATO forces from 1948 to 1951. Eisenhower was not a partisan by any means. Before 1952, he had never voted in a single election. One of Eisenhower’s most lasting legacies was the appointment of Earl Warren (1891–1974) as chief justice of the Supreme Court in 1953.

The Warren Court became one of the most liberal courts in the history of the United States, handing down major decisions that changed the fabric of life in America. For instance, *Brown v. Board of Education* 347 U.S. 483 (1954) began the move toward desegregation of public schools; *Gideon v. Wainwright* 372 U.S. 335 (1963) required states to provide lawyers for individuals who could not afford them; and *Griswold v. Connecticut* 381 U.S. 479 (1965) articulated the implied right of privacy that led to the landmark abortion decision *Roe v. Wade* 412 U.S. 962 (1973). Eisenhower later said that naming Warren to the Court was the worst decision he made as president.

MILITARY-INDUSTRIAL COMPLEX

Perhaps Eisenhower’s greatest legacy in the field of white-collar crime was his unprecedented acknowledgement and warning to the American public about the collusion of industry and government.

In his farewell speech in 1961 prior to departing from office, Eisenhower outlined his concerns:

... This conjunction of an immense military establishment and a large arms industry is new in the American experience. The total influence, economic, political, even spiritual, is felt in every city, every State house, every office of the Federal government. We recognize the imperative need for this development. Yet we must not fail to comprehend its grave implications. Our toil, resources and livelihood are all involved; so is the very structure of our society.

In the councils of government, we must guard against the acquisition of unwarranted influence, whether sought or unsought, by the military industrial complex. The potential for the disastrous rise of misplaced power exists and will persist.

We must never let the weight of this combination endanger our liberties or democratic processes. We should take nothing for granted.

Only an alert and knowledgeable citizenry can compel the proper meshing of the huge industrial and military machinery of defense with our peaceful methods and goals, so that security and liberty may prosper together. The prospect of domination of the nation's scholars by Federal employment, project allocations, and the power of money is ever present and is gravely to be regarded.

Eisenhower's warning could not have been more prescient. In subsequent decades, the revolving door of professionals working for government agencies and then being hired by the very same contractors whom they previously supervised, and vice versa, has grown exponentially. Government contract fraud, government procurement fraud, bribery, and collusion have become major white-collar crimes and can threaten the integrity of presidential administrations as well as companies.

In 2003, Eisenhower's concept of the collusion between government and business was illustrated once more as Vice President Dick Cheney's former company, Halliburton, scooped up numerous reconstruction contracts in post-war Iraq. Public scrutiny questioned just how much an influence Halliburton had in President George W. Bush's decision to invade Iraq.

SEE ALSO

military industrial complex; Bush, George W.; government contract fraud; government procurement fraud; bribery; corruption; revolving door.

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ELIZABETH PURDY, PH.D.
INDEPENDENT SCHOLAR

Eli Lilly

SINCE THE 1970s, this pharmaceutical manufacturer has been hit with hundreds of lawsuits arguing that the company failed to disclose risks associated with four substances: diethylstilbestrol

(DES), a synthetic estrogen widely used to prevent miscarriages; Oralflex, an anti-inflammatory; Prozac, the popular antidepressant; and thimerosal, a preservative used in vaccines. Of the drugs that Lilly may have marketed without proper research or disclosure, DES has caused the most pervasive and best documented harms. The Centers for Disease Control and Prevention (CDC) estimate that 5 to 10 million people are at risk from side effects from DES, many of them children or grandchildren of women who were prescribed the drug.

First synthesized in 1938 by Edward Charles Dodds, DES was embraced by researchers as a less expensive, more potent substitute for natural estrogen, potentially able to cure a variety of female reproductive ailments. Colleagues recall Dodds consulting for Lilly in the 1930s, says investigative journalist Robert Meyers, but Lilly attorneys deny the researcher was ever on the payroll. Since Dodds refused to seek a patent, Lilly was only one of over 250 companies that would make or market the drug.

Dr. Don Carlos Hines recalled later, in testimony prepared for Lilly's defense, that in December 1940 he joined with representatives from three other major pharmaceutical companies to pool their research in support of Food and Drug Administration (FDA) approval for DES. Hines also insisted that results from animal testing, which showed that DES caused cancer and reproductive abnormalities, could not be generalized to humans.

In 1979, a New York jury disagreed, awarding Joyce Bichler, whose mother had been prescribed DES while pregnant, \$500,000 in civil damages. The jury found that Lilly had coordinated with other drug manufacturers to avoid doing proper testing, and that a prudent manufacturer would never have brought the product to market if testing had been done.

Bichler was one of a number of women, all exposed in the womb to DES, who in their teens or early 20s developed a rare form of vaginal cancer, clear-cell adenocarcinoma. A pattern of this disease, formerly seen only in post-menopausal women, was noticed in the late 1960s by Dr. Howard Ulfelder of Massachusetts General Hospital. Researchers later found that "DES daughters" also face higher risks for reproductive tract abnormalities, ectopic pregnancies, and infertility. Problems found in "DES sons" include genital abnormalities and a higher rate of noncancerous

cysts on the testicles. Women who took DES may face higher breast cancer risks.

Meyers notes that Lilly's salespeople were actively promoting DES to doctors and pharmacists even before it was approved by the FDA. Among the research omitted from later DES promotional brochures was a study, conducted from 1950 to 1952 at the Chicago Lying-In Hospital, that found DES not only failed to prevent miscarriages but seemed to cause them. Lilly did not fund its own research on DES effects until after the FDA banned the drug in 1971.

The company did fund research on anti-arthritis drug Oraflex, approved by the FDA in 1982. However, they did not disclose to the FDA that the drug could cause liver or kidney damage in elderly patients, despite reported fatalities in the United Kingdom and Denmark. Available for just three months in the United States, Oraflex is believed to have caused 26 deaths and 200 cases of non-fatal organ failure. In August 1985, Lilly pled guilty to 25 misdemeanor counts of withholding information and mislabeling, paying \$1,000 per count. The sole civil judgment against Lilly was secretly settled during the appeals process.

Secret settlements were also critical to Lilly's ability to fend off lawsuits related to the popular anti-depressant Prozac, explains an investigative report by the company's hometown newspaper, the *Indianapolis Star*. As well as quietly settling more than 200 suits alleging that Prozac caused violent or suicidal behavior, Lilly offered to pay the legal costs of doctors sued for prescribing the drug. "This is a public relations controversy, not a medical controversy," Lilly spokesman Edward West told the *Wall Street Journal*. The active ingredient, fluoxetine hydrochloride, is no longer under patent. Lilly continues to market Prozac despite a 73 percent drop in U.S. sales of fluoxetine products in 2002; the drop is attributed to generic competitors.

Strangest of Lilly's product liability dramas is how protection from lawsuits related to thimerosal, a mercury-based vaccine preservative not used in the United States after 1999, found its way into the Homeland Security Act of 2002. Title 17 amends the Public Health Service Act to set a three-year time statute of limitations on civil suits for harms from any labeled component of a vaccine, not just the active ingredients.

Most cases would instead go to a special vaccines court administered by the U.S. Court of Fed-

eral Claims. Though faced with lawsuits from parents who claim that thimerosal in routine vaccinations caused their children's autism, Lilly denied lobbying for the measure. Retiring Senator Dick Armey (R-TX) claimed credit, but many pundits dismissed this as a publicity move. Considerable debate surrounds medical studies on potential links between vaccines and autism.

With the exception of vaccines, all of the company's product liability issues have centered on flagship products. Lilly claimed from 50 percent to 70 percent of the market for DES and held patents on Oraflex and Prozac. The latest marketing success to face legal challenges is Zyprexa, a schizophrenia drug that accounted for one-third of Lilly's sales in 2002. Five suits accuse Lilly of suppressing evidence that Zyprexa can trigger diabetes.

On the other hand, Lilly's corporate record is not all suspect; the company has developed numerous initiatives, including, for example, producing new and safer forms of insulin and spending millions per year on diabetes education.

SEE ALSO

Food and Drug Administration; pharmaceutical industry; unsafe drugs; research fraud.

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WENDE VYBORNEY FELLER, PH.D.
ST. MARY'S COLLEGE OF CALIFORNIA

elite crime

ELITE CRIME includes acts committed by members of the upper classes, including these who head corporate and governmental organizations. The phrase perhaps best fits Edwin H. Sutherland's definition of white-collar crime as "a crime committed by a person of respectability and high social status in the course of his occupation."

Though the cases have been made that white-collar crime encompasses more than just occupational malfeasance committed by persons of "high social status," (note, for example, crimes committed by low-level employees), crimes committed by elite members of society may have the most damaging effect. Elite crimes may be committed for personal gain and/or for fostering the power, profitability, or influence of the organization.

White-collar crime is massively harmful financially, but also includes violence and reduction of civil liberties. 2002's big crime story was a long and complicated saga of corporate financial shenanigans that caused a significant drop in stock market prices. Although the economic losses were widespread, *Fortune* magazine notes: "The not-so-secret dirty secret of the crash is that even as investors were losing 70 percent, 90 percent, even in some cases all of their holdings, top officials of many of the companies that have crashed the hardest were getting immensely, extraordinarily, obscenely wealthy."

At center stage was Enron Corporation, a multibillion-dollar energy-rights trading company, which declared one of the largest bankruptcies in history on December 2, 2001, with debts of over \$31 billion. Enron was subsequently accused of having perpetrated a massive "disinformation" campaign, hiding the degree of its indebtedness from investors by treating loans as revenue, and hiding company losses by creating new firms with company capital, and then attributing losses to them rather than Enron. As Enron shares were taking a dive, Chief Executive Officer Ken Lay was e-mailing concerned employees, advising them to hold their shares and buy new ones.

Meanwhile, Lay cashed in \$103 million of his own shares in the company. Enron executives unloaded nearly a billion dollars worth of stock while employees were locked out of selling the holdings in their pensions during much of the period in

which the company's stock fell from \$80 a share to \$0.30. Enron investors collectively lost about \$60 billion, which included many large pension plans and the retirement savings of up to 20,000 Enron employees.

Enron turned out not be an isolated incident and the list of companies touched by financial scandal soon included Tyco, Global Crossing, Quest, WorldCom, Xerox, Adelphia, MicroStrategy, ImClone, and homemaker Martha Stewart, AOL-Time Warner, K-Mart, and some major banks, such as Citigroup and J.P. Morgan Chase.

In terms of violence committed by the elite, environmental pollution, unsafe working conditions, and unsafe products have all produced scores of deaths and injuries. Thousand of workers die each year due to the acts of their employers, but rarely is their criminal liability. The felony is an exception. In September 1991, a fire destroyed a chicken-processing plant in Hamlet, North Carolina. When the 100 employees in the plant tried to escape, they found that the company executives had ordered the doors locked "to keep out insects and to keep employees from going outside for coffee breaks, or stealing chickens." Twenty-five workers died in the fire; some were found burned to death at the doors they couldn't open. Another 50 were injured.

The owners of the company and two plant managers were charged with involuntary manslaughter. The outcome: The owner pleaded guilty and was sentenced to 10 years and 6 months in prison. Some people may not think this is a severe enough punishment for someone responsible for 25 very painful deaths, but note three revealing facts. First, the sentence was "believed to be the hardest judgment over handed out for a workplace safety violations." Second, as part of the plea agreement, the involuntary manslaughter cases against the two plant managers were dismissed, though they surely knew that he doors were locked and what the risks were. And third, the owner eventually served a little more than four years in prison and was released. Such a person sentenced is an exception to the rule.

Elite crime is not prevalent only in the corporate world: During the 1960s and 1970s federal agencies, including the executive branch, Central Intelligence Agency, and Federal Bureau of Investigation (FBI) illegally tapped phones, and violated many civil liberties of those involved in the civil rights movement and anti-Vietnam war movement. Perhaps the most elitist position in the world, the



The concept of elite crime: The man above is convicted of \$250 million in stock fraud, while the man at right ...

U.S. presidency, is not immune, either. Former President Richard M. Nixon resigned due to the white-collar, elite crimes he committed during his presidency, including Watergate. J. Edgar Hoover, head of the FBI, was a major player in promoting and overseeing such illegal activities against the civil rights movement and anti-war movement.

Elite criminals usually are not arrested, and if convicted get much more lenient sentences than working- and lower-class criminals. On July 11, 2002, at a hearing of the Crime and Drugs Subcommittee for the Senate Judiciary Committee on the subject of "Penalties for White-Collar Crimes: Are We Really Getting Tough on Crime," Senator Joseph Biden, Jr. (D-D) said:

Under federal law, if ... you steal a car out of my driveway and you drive it across the state line into Pennsylvania, ten years. Ten years, federal guideline. You take a pension by violating ERISA, the federal system to safeguard pensions, misdemeanor, and maximum one year. The pension may be worth \$1,800,000. My car may be worth \$2,000.

The simple fact is that many people believe the American criminal justice system reserves its harshest penalties for its lower-class clients and puts on kid gloves when confronted with a better class of crook.



... is convicted of stealing a \$2,500 car from his employer. Which man will serve significant, hard time in prison?

SEE ALSO

corruption; bribery; prosecution; Sutherland, Edwin H.; Nixon, Richard M.; Watergate.

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CHARLES E. REASONS, LL.B. PH.D.
CENTRAL WASHINGTON UNIVERSITY

embezzlement

EMBEZZLEMENT IS A wide-ranging offense that involves the misappropriation or destruction of money or property with which a person has been entrusted. Virtually any property, including animals and trade secrets, can be embezzled. Its etymological origin has been traced to the French *embeiseller*, which means to destroy or to make away with. The offense runs a gamut from willful failure to return a rented DVD movie to a multimillion dollar theft by

an employee of a large corporation. Under most circumstances, embezzlement should be one of the simplest crimes to commit because there are very few easier ways to obtain money without working for it than retaining someone else's property, which is already in one's possession or control.

The crime we now know as embezzlement originated in England as a common law offense in 1473 based on the Carrier's Case, which involved the theft of bales of wool by an agent while transporting them to the coast. This was the first time that an agent who stole goods placed in his care could be criminally prosecuted. Prior to the Carrier's Case, no "trespass" or usurpation of the goods (the essential element of larceny at the time) could be shown in a theft-after-trust because the goods were considered to be in the legal possession of the thief.

Carrier's Case may be seen as an example of "structural Marxism"—when laws are enacted in order to promote the viability of a capitalistic economic system. If the precedent in Carrier's Case had not been created at the time that it was, the establishment of English and other European trade routes of the 15th and 16th centuries would have been severely retarded; there would be no recourse for theft-after-trust by transportation agents. Carrier's Case was absolutely necessary to promote the growth of those economies.

The first statute outlawing embezzlement was not enacted until 1529. Embezzlement statutes originally specified trust theft from specific victims (the military, banks, post office, a servant's employer), and then evolved into the modern general definition of wrongful conversion of entrusted property.

PROBLEMS IN APPLYING LABELS

Embezzlement is a crime of specific intent in which a person purposely misappropriates, misapplies, or destroys something that has been legally entrusted to that person but which she does not own, thereby usurping the legal owner's control. Embezzlement is essentially interchangeable with the crime of criminal conversion because both are defined in terms of theft-after-trust. Criminal conversion is often an essential element of embezzlement, and some jurisdictions have only conversion statutes by which to punish embezzlers. If any difference exists between embezzlement and criminal conversion, it is that in embezzlement the thief usually holds a fiduciary relationship to the victim, such as trustee,

guardian, agent, or employee. Persons charged with embezzlement need not hold such a relationship, and persons charged with criminal conversion may indeed meet the requirements of a fiduciary.

To complicate matters further, embezzlement is usually differentiated from fraud according to the exact moment at which the intent to steal (*mens rea*) was present. If the intent existed prior to possession of the property stolen, then the offense constitutes fraud rather than embezzlement. This is also known as "bad faith" embezzlement because before the thief takes possession of the goods there is intent to steal them. "Good faith" embezzlement, on the other hand, is true embezzlement, and involves taking possession of the goods without having criminal intent to steal them, but such intent materializes sometime after possession of the goods has occurred.

Many persons have been convicted of embezzlement even though they formed the intent to steal before gaining possession of whatever was peculated. Larceny is a lesser offense compared to embezzlement, but necessarily included in it. Stealing from another's cash drawer to which one has legitimate access is embezzlement, but this scenario is often punished as larceny. Embezzlers, then, are often incorrectly charged with offenses instead of embezzlement or criminal conversion.

WHITE-COLLAR EMBEZZLEMENT

Edwin H. Sutherland referred to embezzlement as an example of white-collar crime when he first coined the phrase in 1939. White-collar crime for Sutherland referred to crimes committed in the course of occupation by persons with high social status. He continued to equate embezzlement and white-collar crime in virtually all of his later publications on the subject.

However, embezzlement is committed in many circumstances which do not meet the criteria for a white-collar crime, either in terms of the offender's high social status or the criminal opportunity arising in the course of occupation. In the first major research work on embezzlement—*Other People's Money* (1953) by Donald Cressey—it was found that, as a group, the trust violators in the study could not be considered white-collar criminals because they lacked the requirement of high social prestige. Similarly, Dorothy Zeitz, who studied female embezzlers, did not find that the women could

be characterized as having high social status. It is significant that neither of these two major research studies on embezzlement referred to their trust violators as white-collar criminals. Technically, then, using Sutherland's original conception, embezzlement can only be considered a white-collar crime when persons commit a theft-after-trust while they are, in Sutherland's terms, wearing "good clothes at work."

Perhaps the most telling difficulty in pinpointing the relationship between embezzlement and white-collar crime is revealed in Sutherland's belief that white-collar crime is fundamentally organized crime. He believed this because legal definitions of white-collar crimes often necessitate an organized conspiracy or collusion—such as in price-fixing, bid-rigging, commercial bribery, industrial espionage, and physician fee-splitting. Further, he believed that persons working on behalf of large corporations were formally organized both in their attempts to control legislation governing their business behavior and efforts to influence the selection of regulatory administrators who enforce laws against them.

Sutherland also discussed "informal" organization of white-collar criminals, referring to business moralities that run counter to the law. Entire industries or professions—or major segments of them—are often characterized by beliefs that favor the violation of legal norms, thereby tacitly encouraging the commission of white-collar crime. Some white-collar criminals who violate the law are not chastised by their counterparts and peers because so many engage in the same or similar illegalities—thus, they are "informally" organized around legal violations.

The vast majority of embezzlements, on the contrary, are unlike other "organized" white-collar offenses because they lack criminal organization. First, the legal definition of embezzlement does not require collusion. Second, occupational embezzlers as a group are not formally organized to avoid criminal labels for the behavior.

Third, embezzlement lacks "informal" organization, for it can hardly be said that the crime is promoted by widespread business beliefs that encourage it. If anything, embezzlement is most associated not with organized offenders but with organized white-collar victims.

To illustrate, Sutherland referred to embezzlers as the most foolish of all white-collar criminals be-

cause they are relatively powerless compared to their victims. Relatively little embezzlement, then, is white-collar crime according to the original conceptualization of the term because it has nothing to do with Sutherland's three criteria (criminal organization, high social status, occupational opportunity). Anyone with entrusted property or ideas of any kind can commit embezzlement.

Although they represent a very small proportion of all embezzlements, there are some instances where Sutherland's three conditions for white-collar crime have been met. As an example, Henry Pontell and Kitty Calavita describe collusive frauds involving savings and loan financial institutions during the 1980s that led to "collective embezzlement." These offenses were very organized and always collusive, involving an inside officer or employee who violated trust by knowingly approving illegal loans, deriving financial benefit. Whereas typical corporate crime involves the use of the organization's resources to commit crimes against consumers and other organizations, Pontell and Calavita point out that collective embezzlers use the organization to commit crimes for their benefit.

AGGREGATED EMBEZZLEMENT DATA

The primary source on the extent and characteristics of embezzlers in the United States is the Uniform Crime Reports (UCR), compiled annually by the Federal Bureau of Investigation from data submitted by state and local police departments. The UCR does not record embezzlement offenses. However, embezzlement is classified as a Type II, or "non-index," category in the UCR, which means it is reported only in terms of the number of persons arrested for embezzlement, and their basic demographics (race, sex, and age). The annual number of arrestees for embezzlement is far less than the numbers for most other offenses.

The UCR definition of embezzlers includes those involved in any "misappropriation or misapplication of money or property entrusted to one's care, custody, or control." As such, the UCR category contains embezzlers and criminal converters, regardless of their social prestige or whether their crimes occurred in the course of their legitimate employment. It would also include trust violators without regard to whether the offender first took possession of the stolen property in good faith. Because this category for embezzlers includes all types

of trust violators, it is inappropriate for scholars to represent it as indicating any involvement in white-collar crime, whether in numbers of arrestees or in terms of involvement by race, sex, and age.

EXPLANATIONS OF EMBEZZLEMENT

The platitudinous (and sexist) “cause” of embezzlement has been variously termed “wine, women, and wagering,” “bookies, babes, and booze,” and “slow horses and fast women.” These are, of course, motives for stealing rather than explanations for it. Cressey has noted that when people tell you “why” they embezzled—that is, their motives—they do not explain why they embezzled. In searching for a fresh approach through the use of “analytic induction,” Cressey revamped hypotheses until he reached a four-step process that he believed explained the crimes of all 133 federal embezzlers he studied in his classic work *Other People’s Money*: 1) there exists a nonsharable financial problem, a problem that the offender is ashamed or afraid to share with others and for which legitimate sources of money are unavailable; 2) embezzlement is seen as a means for solving the problem; 3) the offender possesses the technical knowledge to carry out the theft; and 4) the criminal behavior is neutralized to be acceptable or to reflect general nonresponsibility of the offender. For example, the money was “borrowed” rather than stolen, the victim mistreated the offender and deserved to be victimized, the money belonged to the offender anyway, or the offender had personal issues.

There are at least two problems with Cressey’s methodology. First, it is based upon incarcerated offenders who are several stages removed from the offense itself—not all embezzlers are discovered, arrested, charged, convicted, or given a disposition of imprisonment, and attrition will occur at each of these stages. His group, then, cannot be claimed to be representative of good faith occupational embezzlers. Second, after arriving at his analytically induced four-step process—rather than using the more straightforward method of strict hypothesis testing—Cressey may well have forced his interpretations to fit his theme.

Cressey has essentially agreed with this latter criticism when he stated in *Other People’s Money* that there is no positive answer to the question of whether he neglected or unwittingly distorted negative cases. Later researchers have come across many

instances in which Cressey’s motive of the nonsharable financial problem was not a universal precondition to the offense. For men, a taste for a more affluent lifestyle—that is, greed—also proved to be a major motivator to embezzlement. For women, stealing was seen as a way of meeting the basic needs of their families or of retaining or regaining the affectations of a mate. Each of these motives was perceived by the actor to be a financial need, but they were not necessarily pressing monetary problems.

Thirty years after his original research, Cressey concluded that although the non-sharable financial problem was not critical, the neutralization of the criminal nature of the behavior was his most salient finding. However, many of the embezzlers in others’ research freely admitted that they knew that embezzlement was wrong before they committed it and they did not feel any need to neutralize. Women embezzlers have stated that there was no need to neutralize because they were simply fulfilling expectations ingrained since childhood that mandated they take care of their families and mates.

Two other theories, differential association and self-control, deserve mention because, unlike Cressey’s attempt to explain embezzlement specifically, these theories purport to describe factors characteristic of criminality generally. Sutherland’s differential association, briefly stated, hypothesizes that crime is a function of learned moralities from significant others. The extent to which persons learn values that favor a criminal act over those that disfavor it will dictate whether they commit a crime. Differential association also states that techniques for committing crimes are learned from other criminals.

In *Other People’s Money*, Cressey initially set out to ascertain whether differential association explained embezzlement. The effort was understandable because Sutherland was Cressey’s dissertation mentor for *Other People’s Money* and insisted that differential association was the most plausible explanation for all white-collar crime.

Cressey abandoned differential association early in his study as a root cause of embezzlement because his research contradicted two main ideas of differential association: that embezzlers should be directly socialized into criminal behavior by other thieves and that they should learn the techniques for committing it from other embezzlers. Many of Cressey’s embezzlers did, however, learn neutraliza-

tions favorable to the violation of law from non-significant others when, through contact with co-workers, they came to believe that some business crimes were merely technical violations rather than morally wrong.

Michael Gottfredson and Travis Hirschi's self-control theory would support an explanation of embezzlement if people who commit it also commit a lot of other lower self-control behaviors. An important corollary to the theory is that people who lack self-control are likely to be versatile in their immediate gratification behaviors, both criminal and noncriminal. That is, they will be more involved in theft, violence, accidents, unsafe sex, gambling, drug and alcohol abuse, lying, poor work performance, cheating in college, and any other behaviors that do not defer immediate gratification. Put simply, if self-control theory is correct, then embezzlers must engage in criminal and other deviant behaviors more frequently than those who do not embezzle.

Self-control theory would point, at least anecdotally, to the "wine, women, and wagering" problems, debt-ridden finances, and other lower self-control behaviors (and neutralizations) that are so well associated with embezzlers. More systematic empirical evidence, however, is found in one study of the official arrest records of embezzlers—two-thirds had at least one other arrest. Of them, four-fifths had an additional arrest for a theft crime, a third had an additional arrest for a crime of violence, and a third had a drunken driving arrest. The average number of arrests for the group was six and the median was four.

CONCLUSION

Embezzlement involves the criminal violation of trust and is a common law offense that can be traced back to the late 15th century. It can be seen as a heterogeneous offense category because it includes acts that are chargeable under numerous criminal statutes, including embezzlement, criminal conversion, fraud, and larceny. Because trust violators commit theft both occupationally and otherwise, and because they represent persons of varying social prestige, the offense category is not in line with the original meaning of white-collar crime. Except in a few isolated cases, embezzlement also lacks criminal organization, which is another criterion for white-collar crime. Because centralized data sources

include this hodge-podge of violators, those sources are inappropriate for the study of white-collar crime. Regardless of the motivation to embezzle—be it a financial problem, greed, gambling debts, or simply the elevation of one's lifestyle—the need is perceived to be real enough to prompt involvement in the offense.

Neutralization of the wrongfulness of embezzlement is often a precursor to participation in the offense, but one need not learn excuses from others, or learn the techniques to commit the offense from others. Persons charged with embezzlement are very likely to be involved in a wide variety of other criminal behaviors.

SEE ALSO

Sutherland, Edwin H.; differential association; Cressey, Donald; self-control theory.

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GARY S. GREEN

CHRISTOPHER NEWPORT UNIVERSITY

employee crimes

IN THE FIELD OF CRIMINOLOGY, the term employee crime, commonly referred to as occupational crime, is generally agreed to be a subtype of white-collar crime. Beginning with the coining of the term white-collar crime by Edwin H. Sutherland, the broader concept of white-collar crime has been subject to numerous definitional revisions.

For example, it is well known that Sutherland's definition of the term was "a crime committed by a person of high status and respectability, in the

course of his occupation.” This definition immediately calls attention to the fact that the white-collar offender is by nature, legitimately employed. Although it focuses on the characteristics of the individual offender, Sutherland’s most extensive study of white-collar crime actually focused on sanctions against entire organizations, rather than separate individuals.

As a result, the distinction between corporate and occupational crime emerged: corporate crime was considered to be a crime that is committed on behalf of the employing organization, while occupational or employee crime was considered to be committed against the employing organization, to the benefit of the individual. Some debate about this distinction has emerged in the field, mainly in the concern over what types of occupations should be studied. This issue is related to Sutherland’s original concern with the status of high-class, respectable individuals, particularly with regard to the fact that their characteristics often render them immune from legal action.

In spite of ongoing definitional disputes, the distinction between the two forms of white-collar crime has generally been accepted. Researchers studying employee crime may focus on specific occupations, or choose to include a wider variety of offenses that may occur equally often in different occupational settings. Broader conceptualizations of employee crime tend to incorporate a large number of acts that share the characteristic of violating trust: the individual employee violates his or her employer’s trust by engaging in acts that directly or indirectly victimize the place of business.

TYPES OF CRIME

The Integrity Center, an organization that conducts risk-management assessments for employers, has identified several offenses that are consistent with employee crime. One such offense that may occur in a variety of settings is espionage, which is defined as: the theft or unauthorized acquisition of secret or restricted information. The purpose of industrial espionage is usually related to the acquisition of unique and profitable information belonging to a commercial enterprise. Another common form of employee crime is referred to as kickbacks. Kickbacks are various payments or favors that are given clandestinely to decision-makers in return for selecting the offender’s products or services. Exam-

ples of kickbacks may vary considerably based on the particular industry involved, but could include such common categories as money, gifts, or personal favors.

Fraud is also a general type of employee crime, and can take numerous forms. The Association of Certified Fraud Examiners (ACFE), a leading authority on the topic, has conducted extensive research on what they have termed occupational fraud. This offense is broken down further into three categories: asset misappropriation, corruption, and fraudulent statements. Each of these categories contains yet additional subcategories based on the strategies used to commit them and on the resulting gains (financial or non-financial) for the individual offender.

For example, asset misappropriation, the most common type of occupational fraud, generally consists of one of two forms: cash or other assets. According to research conducted by the ACFE, cash is the asset most often targeted by employees. Misappropriation of cash may occur at all levels of an organization. Corruption, similar to kickbacks, involves collaboration between an inside employee and one or more outsiders in an attempt to defraud the employer in some way that benefits the individual offender. Fraudulent statements, which typically occur at higher levels of organizations, also tend to take one of two forms: the falsification of an organization’s financial statements (for example, overstatement of revenue) or, alternatively, falsification of other documents or records (for example, information in the employee’s human resource file). All of these forms of occupational fraud are violations of trust, and all victimize the employer.

RELATED CRIMES

Related types of occupational crime include embezzlement, pilferage, and theft of services. The common conceptualization of embezzlement is the taking of money or property by an employee who has been entrusted with its care, custody, or control, which is consistent with the ACFE’s description of asset misappropriation. In the field of criminology, one of the most detailed studies of this type of employee crime was conducted by Donald Cressey, published in his popular 1953 book, *Other People’s Money*.

In this study, Cressey conducted extensive interviews of convicted embezzlers serving time in fed-

eral prison, and found that these former employees had many similarities. All of the offenders were trusted by their employers with money or property. Many of them also identified the fact that they were experiencing a “non-shareable financial problem” at the time of the embezzlement, such as debt due to gambling, blackmail, or womanizing. Many of the offenders also provided common rationalizations for their embezzlement, such as the idea that they were simply borrowing the money from their employer with the intent of eventually repaying it. As a result of this and similar rationalizations, embezzlers did not think of themselves as criminals.

Unlike embezzlement, the employee crime of pilferage generally does not involve the taking of money, but instead refers to smaller scale thefts of relatively inexpensive materials. For example, it may include tools, various office supplies, or other items owned by the employer. Although pilferage is typically viewed as a low-level employee crime, over

time the costs due to this offense can amount to considerable losses for the employer. A similar employee crime is referred to as theft of services. This particular offense consists of the unauthorized use of, or failure to pay for, various services obtained through the employer. Common examples may include making long-distance phone calls or personal photocopying at the expense of the employer.

Other types of employee crimes may be grouped together based on the fact that they involve a similar type of employee: an individual who is bored, feels overworked, has an unresolved dispute with the employer, or is attempting to gain an unfair competitive advantage over her co-workers. Four such employee crimes discussed by the Integrity Center are sabotage, robbery, burglary, and larceny, all of which have a legal counterpart definition.

The broad definition of sabotage consists of a variety of actions, such as the deliberate destruction of property, that are intended to impede the employer’s operations in some way. Comparatively, the employee crime of robbery is distinct in that it tends to involve actual force or the threat of force against a victim. Employees may rob their fellow employees, outsiders, or could even give information to outsiders who may use it to rob employees or the organization. Burglary, a related employee crime, entails an employee entering a building or vehicle in an unauthorized manner, and either stealing something tangible or committing another serious crime while inside. Like robbery, burglary can be directly committed by an individual employee, or could also involve a situation whereby the employee provides information to an outsider, who then will physically commit the offense.

Larceny is generally defined as stealing something from a place where an individual has a legitimate right to be present. In the common definition, larceny may consist of a customer shoplifting from a business. Alternatively, and perhaps even more dangerous to employers, is theft by employees themselves. This type of employee crime is also referred to as “shrink” because it involves missing or unaccounted-for inventory. Like all previously described employee crimes, larceny victimizes the employer and can result in large losses, financial and otherwise, over time.

Finally, a newer type of employee crime is any offense that is related to technology, particularly computers. Crimes committed with the use of a computer may be related to or occur in combina-



Asset misappropriation, or stealing from the till, is one form of occupational or employee crime.

tion with any of the previous forms of employee crime. Other employee crimes specifically involving the use of a computer include altering data as it is entered into a computer, removing data from a system, or releasing confidential data to unauthorized third parties.

FIGHTING EMPLOYEE CRIME

What can businesses do to protect themselves from being victims of employee crime? Several strategies have been proposed. Employers may be well served by defending themselves at the pre-employment stage. They can take a variety of steps in the hiring process. For example, one option is to conduct a criminal background check on potential employees. Such checks are relatively simple to perform, and may be conducted by the organization itself or through consultation with a reliable outside agency.

A criminal background check may determine whether a potential employee has any previous arrests or convictions for crimes that may be related to the workplace. For instance, a previous theft conviction may suggest that a potential employee is not an appropriate candidate for a position that involves the handling of money. Employers can use information from criminal background checks to develop general or specific hiring policies. They may decide to bar potential employees who have any prior criminal involvement (even offenses that do not appear to be related to the workplace), or enact a more specific policy that prevents employment of individuals with prior work-related offenses. In conducting background investigations, however, employers should proceed with caution and not rely on a criminal check alone to make a hiring decision. Recent research on this topic has suggested that some individuals may have extensive histories of employee crimes, but this information will only be detected in a criminal background check if the individual's prior employer took legal action against the offender.

All too often, employers may choose simply to dismiss the offender due to fear of negative publicity or to avoid the expenses of a criminal trial. When conducting background checks, employers should also carefully check prior references in an attempt to uncover any relevant information that may go undetected by a criminal check. When employers choose to severely punish offending employees, they can also ensure that future businesses will de-

tect the behavior in subsequent criminal background checks.

To prevent crimes by existing employees, businesses have a number of potentially useful options. In the past decade, technological advances have made the prevention and detection of employee crimes easier to accomplish. One readily available technique is the installation and use of closed-circuit television monitors. Cameras can be installed at a variety of locations: randomly, throughout a business, or even directed specifically at a location where cash transactions take place, such as above a cash register or customer service counter. This type of preventative technique is common in retail settings, and also serves to detect crimes committed against the business by the general public (such as shoplifting). This option involves close monitoring by a trained security team, and immediate action when a crime is detected. The enactment and publication of strict security policies, such as an automatic report to local police and/or a 100-percent prosecution policy may go a long way in deterring the potential employee criminal from acting.

One of the problems with employee crimes is that many of them are not so easily detected through procedures like cameras that may regularly catch common shoplifters. For example, corruption and fraudulent statements, two forms of occupational fraud, may often involve transactions that are not obviously witnessed. Several options are still available to detect such offenses. One potentially beneficial strategy is the implementation of an anonymous reporting system so honest employees can tip off the employer about the criminal activities of other employees. An anonymous reporting system could consist of a 24-hour, toll-free hotline that employees could call when they are away from work, or it could also take the form of a suggestion box or random survey where no identifying information is required. Regardless of the format, anonymous reporting systems can encourage employees to report crimes without fear of retaliation by the offending employee.

In addition to background checks and anonymous reporting, research by the ACFE has revealed that two other practices may be useful in the detection of employee crimes. These mechanisms are internal audits and external audits. Both serve a similar function, which is a thorough assessment and reconciliation of a businesses' financial accounts, documents, or related information. While

both internal audits and external audits could benefit the organization, the internal audit may be ineffective if it is related to the source of the crime itself. An external audit by a non-related, third party, especially if it is conducted unannounced, may be more useful for the discovery of employee crimes.

In the balance of severity and harm caused by white-collar crime, employee crimes rank, for the most part, as almost innocuous compared to the staggering cost in lives and money of corporate crimes, those committed not necessarily by employees, but more likely, employers.

SEE ALSO

embezzlement; kickbacks; employee theft.

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KRISTY HOLTFRETER, PH.D.
FLORIDA STATE UNIVERSITY

employee safety

EVERYDAY millions of Americans go to work with the expectation that they will return home unharmed. However, this is not the case for everyone. In 2001, there were 5,900 worker-related deaths and 5.2 million injuries and illnesses according to the Bureau of Labor Statistics. The rate for 2001 fatalities, injuries, and illnesses was the lowest since the bureau began collecting this information in the early 1970s, but the rates, most scholars agree, are still unacceptably high. Many of these cases are caused by egregious and willful safety violations. It is very rare for employers to be held criminally liable, let alone be imprisoned, for violation of state and federal safety laws.

The Occupational Health and Safety Administration (OSHA) is the main federal regulatory

agency charged with the health and safety of workplaces for employees in the United States. OSHA was created in 1970 from the Occupational Safety Health Act (OSHA act). The act's stated goal is to ensure that every working person and woman in the United States has safe and healthful working conditions. The law has given employees a wide range of rights. One of these rights requires companies to reduce risks in the workplace, and if there are risks, then employees have the right to fight for their health and safety.

During the 1980s, OSHA's budget was drastically cut and this had a major impact on the ability of OSHA agents to conduct inspections. Inspections are the main tool used to make sure that companies comply with safety standards that are set for each industry. In 2003, OSHA had 1,123 inspectors who were charged with overseeing approximately 7 million worksites that employ over 111 million workers. OSHA had 1,388 inspectors in 1980.

The United States has seen an increase in worksites and employees but a decrease in the number of inspectors. Because OSHA is so strapped for inspectors, it allows many of the states to take over this responsibility. Section 18 of the Occupational Safety and Health Act of 1970 encourages states to develop and operate their own job safety and health programs. OSHA approves and monitors state plans.

The OSHA act provides for criminal sanctions in various situations. If an employer willfully violates a standard, rule, order or regulation which causes the death of an employee she may be held criminally liable. If an employer makes a false representation regarding compliance with the OSHA act this too may make him criminally liable. Employers may be subject to civil and criminal fines and, in rare instances, imprisonment. A willful violation is a voluntary action that is done with either intentional disregard of or with plain indifference to the statutory requirements. Malicious intent is not required to impose liability.

CASE HISTORIES

Some historical cases of willful violations include particular industries, like coal mining, asbestos, and many textile factories. One of the first major coal mine disasters of the television age occurred in 1968 when 78 men were killed in an explosion in a coal mine in Farmington, West Virginia. The igni-

tion source that set off the original explosion never could be determined. However, investigators did find a classic combination of factors, including inadequate ventilation, inadequate control of explosive methane gas and coal dust, and inadequate testing for methane, that could have set the stage for the explosion.

The use of asbestos and its harmful effects have also created unsafe working environments. Many of employees who had asbestosis, a type of lung cancer, have sued Johns-Manville, a major manufacturer of asbestos. Court documents confirm that Johns-Manville knew of the hazards associated with asbestos and intentionally kept the information from its employees. In fact, the asbestos industry had a long-standing policy of suppression. The industry did not warn workers of the dangers of asbestos exposure until 1964.

Textile workers in North and South Carolina have had high rates of byssinosis, an irreversible respiratory disease caused by the ingestion of textile fibers, like cotton dust. In 1980, an estimated 35,000 workers were inflicted with this deadly disease. Working in a factory can be dangerous work, but when one is not told of the dangers or is fired for organizing protests of unsafe work conditions, then this may be criminal. Many executives in the textile industry spent decades denying the very existence of byssinosis. In some cases, the factories would hire company doctors who were told to tell employees that they were fine or simply had bronchitis. Many of the employees had no understanding that their illnesses were caused by the industry's criminal negligence in not creating a safe working environment.

There have been several cases where owners and managers have been held criminally liable under state law for willful violation of safety standards, but these are atypical. Two specific instances of successful criminal prosecution include the Film Recovery Systems, Inc. and Imperial Food Products cases. On June 14, 1985, Steven O'Neil, Charles Kirschbaum, and Daniel Rodriguez, agents of Film Recovery Systems, Inc. were convicted of murder in the death of Stefan Golab, an employee, from cyanide poisoning. In 1990, on appeal, their case was reversed and remanded for a new trial. On September 7, 1993, the three former employees entered guilty pleas of involuntary manslaughter.

In September 1992, the owner of Imperial Food Products, Emmett Roe, age 65, pleaded guilty to in-

voluntary manslaughter and was sentenced to 20 years in prison for his responsibility in the deaths of 25 of his workers.

State and federal regulatory agencies like OSHA can only do so much given the lack of budget and inspectors. It is the responsibility and legal duty of an employer/company to create and maintain a safe working environment for employees.

SEE ALSO

workplace violence; workplace deaths; Occupational Safety and Health Administration; Johns-Manville; Film Recovery Systems, Inc.

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DEBRA E. ROSS, PH.D.

GRAND VALLEY STATE UNIVERSITY

Enron Corporation

ACCOUNTING FRAUD CAUSED the seventh-largest corporation in United States to fall victim to white-collar crime. Its demise was due to accounting practices in violation of Securities and Exchange Commission (SEC) regulations. It is the classic case of the devil is in the details. From its founding in 1981 until the late 1990s, Enron was a dynamic, expanding energy corporation. The larger it grew, the more it diversified.

The accounting fraud at Enron was complex, but it is why it collapsed. Enron annual reports to shareholders stated very high earnings but kept nearly all its debt off the annual reports by stating in a footnote that a special purpose entity (SPE) covered the debts. The use of special purpose entities is a legitimate practice but there are federal regulations that were violated by Enron. A special

purpose entity guarantees a debt for a price, which is its profit. First, though, it must have the assets to cover the debt. Second, SEC regulations requires it to be headed by a person not connected with a corporation which covers the debt. Third, investors in the special purpose entity must have sufficient capital at risk. None of these regulations were observed for the SPEs created by Enron officials.

Enron's chief financial officer, Michael Fastow, created special purpose entities incorporated under the names LJM 1 and LJM 2 (his wife's and children's initials) among others directed by different Enron officials. These SPEs were just post office boxes and bank account numbers in the Cayman Islands. Fastow was president of both SPEs while at the same time an Enron executive in violation of SEC rules and Enron's own internal code of ethics. LJM 1 and LJM 2 had no capital at risk. Their entire assets were Enron's own money backed up by its stock. Fastow transferred hundreds of millions of dollars to LJM 1 and LJM 2 every year from 1997 to 2001. It was deposited in LJM accounts and returned to Enron minus the fee for covering Enron's debt. The fee included Fastow's salary as president of the SPEs and dividends for SPE shareholders. The amount returned to Enron was then listed in the revenue column on the annual report and debt in a similar amount erased from the liability column. As a result, Enron's annual report showed very high income and virtually no debt, making it very attractive to investors.

The prudent decision would have been for Enron to use its high income to pay its debts. However, that would have left much less for shareholder dividends and would cause stock prices to advance at a slow rate based on the actual profitability of the corporation. Fastow and other Enron executives were major shareholders. Every year, 1997 to 2001, stock prices climbed and dividends were paid based on what appeared to be record financial performance.

In reality, the debts grew ever larger year to year until they reached \$1.2 billion. At that point Enron declared it must revise its financial statements. As its stock value fell and the SPEs had no assets, bankruptcy was the unavoidable consequence.

On January 13, 2004, Fastow pleaded guilty to two felonies, becoming "the highest ranking officer at the company to admit to participating in crimes that contributed to Enron's collapse into bankruptcy protection more than two years ago," the

New York Times reported. In his plea, Fastow admitted he had worked with other executive officers of Enron, including possibly Chief Executive Officer Ken Lay, "to disguise Enron's deteriorating financial health, as well as engaging in a scheme to defraud Enron of millions of dollars for his own benefit."

The business media reported prosecutors recommended that Fastow serve a 10-year sentence, the maximum under the two counts to which he pleaded guilty. The former chief financial officer faced an additional 96 counts, and settled related civil charges with the SEC. Fastow agreed to surrender more than \$23 million in civil and criminal penalties. By July 2004, Lay was charged with 11 felonies, including conspiracy, making misleading statements, wire fraud, and bank fraud in a criminal indictment handed down by a grand jury. The SEC also filed a civil complaint against him.

SEE ALSO

accounting fraud; offshore entities; Caribbean islands; corporate liability; Securities and Exchange Commission.

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MICHAEL SIEGFRIED
COKER COLLEGE

Environmental Protection Agency

BEFORE THE Environmental Protection Agency (EPA) was created in 1970, earlier legislation had been enacted to protect the environment. However, these laws were weak, and poorly managed and enforced.

The first environmental law in the United States was called the Rivers and Harbors Act of 1899 or the Refuse Act. This law was primarily designed to bar companies from discharging garbage

into navigable waterways. Clearly, this first law was aimed at protecting commerce not the environment. However, two later Supreme Court decisions mandated that dumping industrial waste, whether or not it interfered with commerce, was still a violation of the law.

In the 20th century, the first environmental law was the Federal Insecticide, Fungicide and Rodenticide Act passed in 1947 requiring companies to register pesticides used in interstate commerce. Public concerns about the environment arose in response to the post-World War II burgeoning industrial development and use of chemicals, as well as the nuclear fallout from the use of two atom bombs by the United States against the Japanese cities of Nagasaki and Hiroshima during World War II. This series of new environmental legislation included the Water Quality Act of 1948 and its expansion in 1956 by the Federal Water Pollution Control Act. This act created the Federal Water Pollution Control Administration that would approve new water-quality standards.

POWERFUL ENVIRONMENTAL LAWS

Also in 1955, the Air Pollution Control Act was passed. This was followed by the 1958 Food Additive Amendment or the Delaney Amendment requiring the Food and Drug Administration to ban any food additives that were suspected of causing cancer. However, it wasn't until 1962, when a book, *Silent Spring*, written by Rachel Carson was published, reflecting the public's growing concern about the effects of synthetic chemicals on all living things. More powerful environmental laws and finally, the Environmental Protection Agency was created.

In 1963, the Clean Air Act was passed and initially gave the secretary of Health, Education, and Welfare the power to define air quality based on scientific research. Then in 1969, after one of the Great Lakes (Lake Erie) was declared dead as the result of industrial pollutants, and an oil spill off the California coast led to extensive damage to wildlife, the demand for an Environmental Protection Agency was further empowered. In 1969, by executive order, President Richard Nixon created the EPA, designed to enforce the new 1970 Clean Air Act. The EPA was initially charged with the responsibility of identifying air pollutants hazardous to humans and to publish air-quality criteria through

the National Ambient Air Quality Standards. These standards mandated two levels of protection for health and welfare and required the states to develop similar implementation plans to protect the air. In the early 2000s, many states still had not met the required standards set up by the EPA.

From 1972 through 1982 the U.S. States Congress created or amended a variety of pieces of legislation designed to control and manage polluting industries and sanction, fine, or punish those companies that violated these regulatory laws. All of these laws are administered or enforced by the EPA and include the following:

1. The Resource Conservation and Recovery Act focuses on the control and management of solid hazardous waste products. It is responsible for ensuring that such waste is properly generated, transported, treated, stored, and/or disposed of. Beginning in 1989 under this law, the EPA began producing the Biennial Reporting System (BRS) database that provides the identities of companies producing waste as well as the volume of waste produced by primary hazardous waste generators. However, this list omits a number of facilities.

2. The Toxic Substances Control Act requires pre-manufacture notification of any new chemicals being developed. It requires testing of any chemicals that are not already regulated by the Food and Drug Administration (FDA).

3. The Comprehensive Environmental Response, Compensation and Liability Act is aimed at repairing environmental harms (see below).

4. The Federal Insecticide, Fungicide and Rodenticide Act targets restrictions in the use of pesticides.

5. The Federal Water Pollution Control Act of 1972 was the first major law requiring a comprehensive approach to discharges of waste and led to the development of an extensive permit system.

6. The Clean Air Act of 1970 is designed to define air quality standards and required the EPA to identify air pollutants and publish air quality standards through the National Ambient Air Quality Standards list.

The Pollution Prevention Act of 1987 authorized the collection of pollution data maintained in the Toxic Release Inventory (TRI). The TRI is available on the internet and lists the toxic chemicals transferred or released by manufacturers with more than 10 workers, producing over 25,000 pounds of or uses more than 10,000 pounds of one of the 350

identified toxic chemicals. The TRI includes air, land, water and underground releases. It is the responsibility of the EPA, as the law enforcement agent of environmental laws, to ensure that all industries comply with the requirements by negotiating compliance, and using the administrative or civil law to sanction or fine companies if they do not voluntarily comply with the law, as well as clean up any pollution that they have caused.

As a last resort, uncooperative violators are referred to the Department of Justice for criminal prosecution with penalties that can include fines and prison for responsible company executives.

The EPA is one of the largest of all the federal regulatory agencies. It has 10 regional offices that include environmental attorneys, investigators, and administrators. The EPA is a part of the executive branch of the federal government and is headed by an administrator, deputy, and nine assistant administrators nominated by the president. It should also be noted that the EPA also works with state environmental protection agencies in achieving enforcement functions. Each state negotiates its particular degree of involvement in environmental protection with the federal EPA.

Unfortunately, the EPA has no authority to intervene in the event of hazardous waste or pollution emanating from chemical or nuclear weapons that belong to the U.S. government. These issues remain under the control of the Department of Defense. Moreover, the EPA cannot control U.S. transnational corporations who violate environmental laws when they are operating overseas.

THE SUPERFUND PROGRAM

In 1980, the Love Canal environmental disaster led Congress to enact the 1980 Comprehensive Environmental Response, Compensation, and Liability Act authorizing the EPA to create the superfund program to facilitate the clean up of hazardous waste sites. This act imposed taxes on crude oil and certain chemicals to provide the capital for the superfund. Unfortunately, as of 2004, it was no longer authorized to gather taxes. However, the previous taxes continue to be received because of past due taxes and Treasury Department adjustments.

A superfund site is authorized when an industrial or individual pollution event occurs and creates a significant danger to people, animals, and the environment. Superfund sites are considered very

dangerous, real threat but another type of site is referred to as a Brownfield. A Brownfield site is defined by the EPA as an abandoned, idled, or underused industrial or commercial facility where expansion or redevelopment is complicated by real or perceived contamination. Such sites do not require clean up as a superfund site does. What remains problematic is that the average site remains on the superfund list for clean up for almost 11 years.

In response to this problem, Congress passed the 1986 Superfund Amendments and Re-authorization Act mandating that superfund sites end up on the National Priority List for clean up within four years of the discovery, although this legislation has not changed the time agenda. Ending up on the National Priority List is the third step of an eight-step superfund investigative process conducted by the EPA, ending in a record of decision and the plan for remedial action.

In addition to the Brownfield list, the Toxic Release Inventory and the superfund database exist to record accidental chemical releases into the environment from fixed facilities. This is called the Accidental Release Information Program Data and any release that may cause injury or death to humans or damage to the soil, water, air, or wildlife must be recorded there. All information relevant to the location, company, and amount of and type of toxins released are specified on the list.

Growing scientific evidence reveals that many polluting industries and superfund sites are near predominantly poor or minority communities. While these blatant forms of classist and racist environmental crime remain permissible by law, some criminologists argue that such crimes are a violation of the equal protection clause of the 14th Amendment. Further evidence of this racism exists in that minority superfund projects are on the National Priority List longer than other sites, and generally take longer cleaning-up than other sites.

In a makeshift effort to address this issue, President Bill Clinton signed an executive order requiring all federal agencies to make environmental equity a part of their mission. In 1992, the EPA created an Office of Environmental Equity, now called the Office of Environmental Justice. This office has commissioned a task force to examine environmental equity issues that oversees the National Environmental Justice Advisory Council, a federal advisory committee of citizens who offer guidance to the

EPA. Additionally, in 1993, the EPA made a series of administrative changes, making the superfund program faster and more efficient. As of 2000, the active site remediation was completed at 43 percent of the National Priority List sites, and 12 percent of sites were deleted from the monitoring program. However, toxic releases and emissions continue to grow and remain problematic across the United States as well as across the globe; many of these releases and emissions contain materials that are carcinogenic.

Internationally, protection of the environment is becoming a protected right of all peoples. The right to a healthy environment exists in international law in the Covenant on Economic, Social and Cultural Rights, which the United States has not ratified. Also, the Rio Declaration is a binding international treaty obliging all nations to recognize the right to a healthy environment; only 34 out of 190 nations have not signed this agreement. In addition, the Montreal Protocol on Substances that Deplete the Ozone Layer has been ratified by 112 nations.

SEE ALSO

air pollution; water pollution; Clean Air Act; Clean Water Act; Justice, Department of; Love Canal.

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REBECCA S. KATZ
MOREHEAD STATE UNIVERSITY

Equity Funding Scandal

THE EQUITY FUNDING Corporation of America was a life insurance company capitalized in 1960

with a few thousand dollars, which by 1973 claimed assets of \$1 billion making it the first white-collar crime to break the billion-dollar mark. The Equity scandal illustrated there is almost no limit to the dollar amounts that can be fraudulently obtained and can go undetected for over a decade.

Equity fabricated non-existing assets and sold them. To understand how the scheme worked requires noting certain practices in the insurance industry. Insurance companies buy and sell policies they issue to other companies, which is called reinsurance. This spreads risk evenly over all companies so, in the event of multiple claims, they do not fall too heavily on one insurer. For example, consider that one company wrote all of the homeowner policies in Florida and a hurricane caused billions of dollars in claims. It would endanger the company's financial stability to pay them all. But if many companies share the risk, each pays a portion of the large number of claims. The same practice applies to life insurance.

Knowing there is a ready market for life insurance policies among other insurance companies, the founders of Equity Funding forged policies by writing insurance on nonexisting people or "fence posts." Secretaries made up fake names, ages, medical histories, addresses, and premiums on forged applications. When several thousand applications were forged, they were assigned policy numbers and entered into the company computer. These policies were sold to other insurance companies in routine reinsurance transactions for large sums of money. The company buying the policies could expect to collect premiums on some policies for decades.

Of course, in a month the first month's premiums are due and will have to be forwarded to the company that bought the policies from Equity. In the meantime, more fake policies were issued and sold to another company, and the first month's premium due to the first was paid from funds received from the second. Money from the sale of the fake policies went into Equity's account. Since the price paid by other insurance companies was so much higher than the premiums due on earlier policies, Equity's cash assets skyrocketed.

With massive revenue flowing in and only a few employees needed to carry on the fraud, Equity began to legitimize operations by hiring real agents. With the ever-increasing flow of money from forged policies, Equity could offer insurance products that no other company could match. Offers included

life insurance with a cash-value so high, the insured paid virtually no premium for coverage. Sales volume naturally increased giving Equity an ever-expanded market share, causing its stock price to go up on average 166 percent annually. Such a well-performing stock attracts investors. Labor unions invested pension funds and colleges and universities added Equity stock to their endowments. Tens of thousands of private investors made substantial investments.

As Equity sales and stock prices advanced, other companies became worried. They had more agents than Equity, yet they could not write that much insurance. Some reasoned that if given a chance, Equity policyholders would also buy their products. Taking names and addresses from policies that they purchased in reinsurance deals, the companies mailed literature offering Equity policyholders their products. When all offers came back from the post office marked "address unknown," the fraud was exposed.

Equity Funding was shut down in simultaneous actions by the insurance departments of several states. Quick action across the country was necessary to deprive Equity of a chance to cover up the crime. Once the fraud was exposed, holding Equity stock or policies was a total loss to all investors and policyholders.

SEE ALSO

insurance fraud; Ponzi schemes; scams; accounting fraud; investment fraud.

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MICHAEL SIEGFRIED
COKER COLLEGE

ethics

ETHICS IS A WORD used to refer to a range of personal decisions relating to issues of morals or principles. It includes issues of morality: what is right and wrong and, hence, how should we live and how should we behave? These questions are clearly

contingent upon culture and dependent upon time and situation. This is because different groups of people profess to believe in the correct way to behave, and promulgate various codes of behavior and values that are claimed to cover all eventualities. These codes often conflict with each other and, from an analytical-ethical perspective, most have some useful content which can help people live together peacefully, but none is sufficient to deal with all the complexities of the modern world.

The range of possible circumstances in which people may find themselves and the decisions they might have to make are so wide that simple definitions are inadequate. Instead, an eclectic approach is required and this helps to explain the tremendous growth of schools of business ethics, with professorial chairs and peer-reviewed journals devoted to the concept.

In the business world, ethics is used in a general sense to refer to the obligations and responsibilities of firms to their stakeholders. Stakeholders are all those individuals and organizations to whom the behavior and existence of the firm is in some ways significant. This can include employees (who rely upon the firm for regular wages), shareholders (who anticipate return on their investments), suppliers of intermediate goods and raw materials (who rely on the firm for their own business survival), and neighbors (who may be affected if the firm causes some form of environmental degradation), as well as many others.

As large firms continue to become internationalized, undertaking different sorts of business activities in different countries, it is clear that they may develop a complex network of stakeholders who, in some cases, will have competing and even contradictory calls on the firm's attention and resources. The need for firms to ensure highest returns for shareholders and investors may, for example, conflict with the interests of employees, when the firm decides to export jobs overseas to countries where labor costs are lower, as in the case of Aviva, which decided that more than 2,000 administrative and telecommunications answer-centre calls were to be relocated to India.

A particular issue of contention has arisen with the growth of importance of the American business model, which argues that the only legitimate purpose of business is the constant pursuit of short-term profit maximization and which is closely associated with conservative thinkers in the United

States and elsewhere. The American business model ruthlessly pits the firm's responsibilities to its shareholders against its responsibility to any other stakeholder, and dictates that the latter must be subservient, no matter what the cost to society and individuals. The interest in business ethics has been further stimulated by these developments.

CONTEXT

The debate about business ethics has intensified considerably over recent years as a result of a series of factors. These include the distaste shown by the public concerning a series of high-profile financial scandals by firms, combined with reports of excessively high levels of compensation provided to executives, seemingly irrespective of corporate performance. The U.S.-led attack on Iraq in 2003 inspired additional debate about the role of corporate interests in shaping foreign policy, particularly with respect to the president and cabinet's very close linkages with the U.S. oil industry, and the controversial award of reconstruction contracts in Iraq with the suspicion of conflict of interest.

Additionally, the entry into the capitalist market system of the states of the former Soviet Union, and the disaster of the International Monetary Fund (IMF) program of privatization in Russia have also highlighted the need to instill elements of ethical behavior into the market system. Under command economy systems, there is little need for an ethical component since all economic decisions are driven by systematic ideology. However, as has been seen in those countries undergoing transition from command to free market economies (such as in Russia, Poland, and China), alienation of the people from what appears to be a predatory state leads to a high degree of corruption and fraud in business practices.

At the same time, the impact of globalization (defined in this sense as increased availability of international travel and of the distribution of information internationally) has led to the interaction between economic actors from different cultures to a much greater extent than ever before. Not only, therefore, have business people been required to deal with different, and in some cases incompatible, ethical standards in appropriate manners but information about those dealings is now increasingly available to stakeholders around the world. Consequently, legislation has been required to regulate,

for example, the interface between U.S. company representatives and Japanese or Korean employees involved with the gift-giving corporate culture widely prevalent in those countries, which has resulted in the imposition of new guidelines and the redefinition of the concept of bribery.

As more states have become involved in the global trade and investment system, production capacity has also necessarily increased and, as a result, competition between firms has intensified and the focus of competition has switched from production values to marketing values. In other words, marketers are selling products based not so much on what they can do, but on what they look like or what image and status they might provide. Consequently, there is a greater incentive for marketers to stretch the limits of description for their products and this means a greater requirement for ethical standards to which marketers should adhere.

HISTORICAL PERSPECTIVE

Historically, all major societies have regulated business-state activities by recourse to the dominant religious ideology or ideologies. Combined with specific societal, cultural, and geographic factors, this led to a series of unique relationships between state rulers and those involved in economic activities. Commerce was variously considered to be a rewarding and moral activity (in Islamic societies), a necessary evil best regulated carefully (China and some other Oriental states), or a recourse from persecution for a people unable to own property in many countries (among some Jewish societies).

The interaction of different cultures involved in trade generally led to the creation of markets in which customs and regulations would be blended together in the interests of trading efficiency, while remaining under political control of the domestic government. One example of this was Ayutthaya, in what is now Thailand, where communities of European, Arab, Chinese, Japanese, and other merchants were able to deal with each other under conditions guaranteed by the state.

Through markets such as these, leavened by the occasional external shock of a powerful new entrant into the market who was able to shake up trading conditions, international standards were set in the pre-modern era. Ethical decisions concerned such issues as the degree to which contracts with nonreligionists must be considered valid, and the

implications of using violence to ensure trade routes or in piracy.

In the modern age, improved communications and technology stimulated the creation of international banking and finance, as well as more sophisticated transactions, which necessitated improved methods of ensuring trustworthiness and reputation. Meanwhile, labor standards remained in a rudimentary state and, as a result of the Industrial Revolution and the imposition of colonial empires, grew significantly worse in many cases.

The 20th century saw understanding of the values of human rights, labor standards, and environmental sustainability slowly seep into the business world, although very frequently only after lagging behind legislation. The growth of consumerism and the civil society helped to change the global environment in favor of the rights of people to live free of ideology, whether political or religious, albeit only in some parts of the world. These attitudes inspired firms to engage with ethical concerns on a more genuine basis, and a number of important gains was made in terms of employee safety and rights and in the responsibility taken for the safety of products. However, the progress of these improvements continues to be subject to the prevailing political climate, as some conservatives strive to divorce corporations from social responsibilities.

ETHICAL STATEMENTS BY FIRMS

Firms are increasingly coming to include ethical statements of various sorts as part of their corporate mission, or else as some other formal part of their statements of principles. They are motivated by a combination of philanthropy and corporate citizenship, on the one hand, and the desire to deflect unwanted and negative ethical investor attention, on the other. In some cases, the statements appear to be somewhat self-important but visionary, as in Ford Motor Company's 2003 statement:

Our Company was built on values. They helped us succeed to this point and will support the drive to a more sustainable future. To inspire us to make our values come alive in our current business practices we have adopted a set of Business Principles for our next 100 years.

The Samsung Corporation, on the other hand, reveals in a series of mission statements, its role as a

supporter of Korean development and increasing independence of action. At first, its mission was "Economic contribution to the nation," followed by "Priority to human resources" and then "Pursuit of rationalism." Finally, it reached this position in 2003: "We will devote our human resources and technology to create superior products and services, thereby contributing to a better global society."

Samsung's example is one which many other corporations have followed, it and reveals an understanding that it is now necessary to promote the organization as subscribing to a number of values considered important by consumers and stakeholders. However, whether they will actually conform to such standards is much less clear.

ETHICAL STANDARDS

Ethical decisions vary according to the functional department in which people are involved and their level of seniority. Functionally, the decisions facing marketing departments are different from those facing accounting or production departments. In the case of accounting, international standards are promulgated and distributed around the world, while the growing acceptance of English as the language of international business is leading toward shared accepted definitions of various concepts and practices. In some functional areas, international or at least national standards of behavior and ethical practice are being established to serve as a filter against poor practice, but also as a barrier to entry for smaller firms.

Managers are required to perform ethically with respect to their duty, their dealing with external stakeholders, and with both their supervisors and subordinates. Depending on their level of autonomy, managers may also be required to make significant decisions concerning the firm's relations with the rest of the world. Country managers, for example, who represent their firm as senior manager in a particular country, may have to make decisions about complying with or rejecting local ethical systems which may appear to be unacceptable. These might include monopolistic distribution systems, payment of commissions or other special payments that may be construed as bribes, or the avoidance of international health and safety regulations.

Employees are also faced with the issue of whistleblowing, which is the practice of alerting the media or regulatory authorities of wrongdoing by

the firm, whether in terms of breaches of safety or labor standards, or else commission of internal fraud or malpractice that may be kept within the organization.

While it is clear that the employee has a moral duty to reveal details of wrongdoing, actually doing this in practice may be made more difficult because of fear of reprisals and job loss. The mixed outcomes of people who have blown the whistle on their employers has led the U.S. government to support individuals through accountability programs.

THE GLOBAL COMPACT

Since the range of circumstances in which a decision with ethical content may be required is so wide, and the ability of individuals to obtain and process accurately sufficient information to make an informed decision so limited, it is necessary to provide guidance on basic values and moral principles. Many organizations have attempted this and their efforts often reflect their own sets of interests. In other words, they only partially deal with all the issues required of them.

As a result, the United Nations (UN) has attempted to integrate basic building blocks of business ethics into a set of guidelines that has become known as the *UN Global Compact*. In response to a challenge issued by UN Secretary-General Kofi Annan in 1999, a network of organizations and individuals published the *Global Compact* in July 2000 centered upon nine principles relating to the conduct of business as it relates to human rights, labor standards, and the environment:

Human Rights

Principle 1: Businesses should support and respect the protection of internationally proclaimed human rights within their sphere of influence; and

Principle 2: make sure that they are not complicit in human rights abuses.

Labor Standards

Principle 3: Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining;

Principle 4: the elimination of all forms of forced and compulsory labor;

Principle 5: the effective abolition of child labor; and

Principle 6: eliminate discrimination in respect of employment and occupation.

Environment

Principle 7: Businesses should support a precautionary approach to environmental challenges; and

Principle 8: undertake initiatives to promote greater environmental responsibility; and

Principle 9: encourage the development and diffusion of environmentally friendly technology.

The network of the *Global Compact* works to promote these principles and to extend their meaning into all areas of business decision-making. One particular issue is to provide compelling reasons for firms to participate and follow the guidelines. This involves focusing upon the return on investment that it is possible to obtain from adhering to a stated ethical code, and the need to ensure that published ethical statements are not only being adhered to, but are inherently meaningful and not just another form of marketing fraud.

SEE ALSO

corporate liability; globalization; self-control theory; board of directors; Ethics Reform Act.

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JOHN WALSH, PH.D.

MAHIDOL UNIVERSITY, THAILAND

Ethics Reform Act

IN THE LATE 1980s, U.S. Congressional ethics were under extensive public scrutiny, and the result was an environment that was ripe for reform. With the Ethics Reform Act of 1989, which became law in November 1989, Congress established restric-

tions on the ways that federal employees could earn money beyond their government salaries. The restrictions were applied to honoraria, gifts, and campaign contributions. Inevitably, Congressional attempts to ensure ethical behavior on the part of federal employees stirred up controversy in the media and the public.

In the midst of an economic recession, the House of Representatives added a provision to the Ethics Reform Act that increased annual salaries for all members by approximately 51 percent. Supporters of the bill argued that increasing salaries would offset the loss from honoraria and would protect members from being corrupted by special interests. The Senate initially bypassed the salary raise and retained the right to accept honoraria. However, in response to public outcry, at the beginning of the following term the Senate also banned honoraria for Senators and Senate staff, and the House of Representatives voted to eliminate the pay raise. Reactions to the raises at a time of economic crisis contributed to the resignation of Speaker of the House Jim Wright (D-TX) on June 30, 1989.

The Ethics Reform Act also attempted to deal with the ethics surrounding the huge war chests comprised of monies left over from political campaigns. Ten years before, Congress had prohibited members of Congress from converting these funds for personal use. The 1979 law had provided a “grandfather clause” that exempted members of Congress who took office before January 1980. The new act removed that exception, allowing members who left office before January 1993 to maintain control of their war chests. In 1989, 179 members of Congress remained who had been exempted from the 1979 act by the grandfather clause.

TAKE THE MONEY AND RUN

Some members chose to take the war chests and leave Congress. Gene Taylor (R-MO), for example, used his war chest to pay automobile insurance, income tax, and to host a party for his Congressional staff. He then donated \$52,000 to charity and wrote himself a check for \$345,000. Others who left Congress with huge war chests were Marvin Leath (D-TX) with \$844,000, Doug Barnard (D-GA) with \$555,000, and Robert Whittaker (R-KS) with \$524,000.

Those who remained in office were allowed to use funds from their war chests to campaign for any

other, entirely different political office than the one for which the money was originally donated.

The Ethics Reform Act also banned government officials, including all employees of the executive and judicial branches and members and staff of the House of Representatives, from accepting honoraria for giving speeches or writing articles. The Ethics Reform Act defined honoraria as “money or anything of value for an appearance, speech, or article, excluding any actual and necessary travel expenses.” This restriction, which was added to the bill at the last minute, proved to be so controversial that challenges reached the Supreme Court of the United States. While the intention was to limit the impact of special interests on federal employees and to prohibit federal employees from acting for special interests, the end result was an outright ban on such activity by federal employees, even when the speeches or articles were unrelated to their federal jobs.

The ban had particular impact on the two million or so employees who worked in the executive branch of government. Federal employees who were adversely affected by the ban included a lawyer for the Nuclear Regulatory Commission who wrote articles on Russian history, a mail carrier who gave speeches about Quakerism, a Labor Department lawyer who lectured on Judaism, an aerospace engineer who lectured on African-American history, a Food and Drug Administration employee who wrote dance reviews, and an Internal Revenue Service (IRS) employee who wrote on environmental issues.

After a number of unsuccessful Congressional attempts to lift the ban on honoraria, federal employees brought a class-action lawsuit, claiming that the First Amendment rights of all federal employees had been threatened by the ban on accepting payment for speeches and articles. In 1995, in *United States v. National Treasury Employees Union* (514 U.S. 527), the Supreme Court upheld the rights of federal employees and overturned the honoraria portion of the Ethics Reform Act of 1989 as it applied to employees ranked GS-15 and below.

Writing for a six-to-three majority, Justice John Paul Stevens used the examples of writers Nathaniel Hawthorne and Herman Melville who had worked for the U.S. Customs Service to argue that federal employees should be given the opportunity to make contributions to the “marketplace of ideas.”

SEE ALSO

corruption; bribery; ethics; campaign finance; Ros-tenkowski, Daniel.

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ELIZABETH PURDY, PH.D.
INDEPENDENT SCHOLAR

extortion

EXTORTION IS A CRIMINAL offense, generally described as obtaining something of value from one party by the infliction of harm, or the threat of that infliction of harm by a second party. Extortion is different from theft; in a theft, the item (a physical object) of value is usually taken without the owner's knowledge and/or permission, so no force is present.

Similarly, extortion is different from robbery; in a robbery, violence is either present or implied, not understood to be a future occurrence. Additionally, most robberies involve the taking of a physical object, not an abstract or immovable instrument, that is, a reputation, future business contracts, or occupancy of a building. Extortion often involves the payment of monies to ensure that violence will not occur, sometimes referred to as protection money.

The generally accepted public conceptualization of extortion is one of two classifications: a politician demanding payments from persons seeking business from a political body (corruption, bribery, graft), and organized-crime figures demanding

money from business owners to avoid physical injury or damage (paying protection). However, extortion exists in many forms, including: individual on individual, individual on public figure/politician, individual on corporation, individual on governmental agency, politician on individual, politician on corporation, labor unions and law enforcement personnel on individual, organized-crime operation on individual, and organized-crime operation on corporation, as well as certain ethnic extortion operations.

Extortive demands made against individuals and corporations, in both domestic and overseas markets, have increased in such regularity that insurance coverage is now offered by several major insurance carriers; insuring such risks as: kidnapping/threat of kidnapping, bodily injury extortion, property extortion, product contamination, and trade-secret extortion. Some insurance carriers note their success in reducing kidnapping payments from the original demands, and usually settling for 10-25 percent of the original demand.

THE HOBBS ACT

The crime of extortion is often associated with the Hobbs Act, which is defined in 18 U.S.C. S 1951 (b)(2), which describes extortion as the "obtaining of property from another, with or without his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under the color of official right." Certain standards must be met for an act to be identified as extortion under the Hobbs Act and for a person to be charged with violation of the act, including: 1) Did the defendant induce or attempt to induce the victim to surrender property or their rights to that property? 2) Did the inducement include either physical injury or economic harm? 3) Did the action potentially or actually affect, delay, or obstruct interstate or foreign commerce? And 4), was the threat of physical injury or economic harm wrongful—did the defendant have intent to obtain the property or right thereof by the threat of force?

GANGSTER EXTORTION

Similar to the irony of Al Capone being convicted on tax evasion charges, extortion charges hastened the demise of fellow Chicago gangster, Frank Nitti, who took over for Capone. As the repeal of Prohi-

bition reduced the income opportunities of the Chicago mob, Nitti looked toward extortion as a source of income.

With the placement of key personnel, Nitti's organization gained control of the International Alliance of Theatrical Stage Employees and Motion Picture Operators (IATSE). Monies were extorted from major operators in the motion picture industry, including Louis Mayer and the Warner brothers. In 1943, Nitti and others were charged with extorting over \$1 million from motion-picture operators, and one day after the indictments were issued, Nitti committed suicide, allegedly being despondent over a possible return to prison.

SPECIFIC TYPOLOGIES

Individual(s) on individual. This case type involves individual attempting to extort or blackmail other individuals who are not necessarily public figures. Prior cases have included: a tabloid news editor threatening to report (falsely) that a former police detective's mother had committed suicide if the detective did not give him confidential information on the Jon Benet Ramsey investigation. Rap music personality Mystikal was charged with extortion of a female acquaintance by demanding she perform certain sexual favors in exchange for not having her arrested on an embezzlement charge.

Other examples include anonymous bidders on eBay.com who have demanded extortion payments from other bidders to drop out of the bidding process and not raise the price. A multi-count criminal indictment against Teamsters Local 390 (stevedores) included extortion charges alleging that rank-and-file members were required to make payments to union officials to secure not only employment, but work in certain lucrative locations.

In 2001, the former bodyguard of singer LeAnn Rimes was arrested for attempted extortion, demanding \$2 million from her in exchange for the return of pictures and videotapes, and a promise not to reveal confidential information to tabloid publications.

In May 2001, management of a Somerset, New Jersey, construction company was charged with extortion of its workers as management, in an attempt to circumvent prevailing-rate laws, required workers to kickback part of their salaries to management under the threat of termination if the kickbacks were not paid.

Individual(s) on public figure/politician. Numerous cases of this type have been noted in the press, with some involving blackmail, demanding money in exchange for withholding information. Recent publicized cases include: A woman claiming to be the illegitimate daughter of television personality Bill Cosby demanding \$40 million to not sell her story to the news media. A person identified as the paramour of basketball player Michael Jordan demanded \$5 million to keep their relationship from the press.

In August 2003, an individual demanded \$25,000 for the return of \$250,000 of jewelry stolen during a baggage handling incident at New York's JFK Airport. Other examples include a photographer demanding \$3.3 million from actress Cameron Diaz in exchange for the return of some photographs and videotapes of her in an earlier private modeling session.

In March 2003, the U.S. Attorney's office in Miami obtained criminal indictments against 74 owners and operators of Florida household-moving companies, alleging their extortion by adding fraudulent additional moving charges once the furniture was loaded, and refusing to release the shipment until the additional fees were paid. In January 2003 a Rockville, Maryland woman extorted money from persons wanting home repairs; she would identify a victim through her employment at a flooring company, offering to do the job for less, but did no work after accepting money, and once the victim began to complain, physical violence was threatened against the victim and his family.

Individual(s) on corporation. These cases involve person attempting to secure something of value from companies by a variety of claims, including: In January 2003, two men demanded a substantial amount of money from the Van Gogh Museum of Amsterdam, the Netherlands, for the return of two early Van Gogh paintings that had been stolen from the museum. A New York City stock analyst threatened to release possibly damaging financial information against a Canadian company official if payments were not made and, after payments were originally refused, he "leaked" part of the information to a local paper and reiterated his demands.

A computer hacker, who identified himself as Maxus, demanded \$100,000 from an online CD company in exchange for not releasing the names and credit card numbers of 350,000 customers he had obtained from the company website. A person

demanded an extortion payment of \$1 million from a computer software company under the threat of posting installation instructions for the company's product that would negate the need to purchase the product from the company. In 2000, a \$200,000 extortion payment was demanded from media mogul Michael Bloomberg, under the threat of public disclosure of security breaches in the company's financial transactions computer system, as verified by a copy of Bloomberg's corporate I.D. sent with the demand. In January 2003, a Vermont man was indicted for the attempted extortion of a local hotel, by offering that in exchange for \$50,000 he would not divulge information to the local press concerning the illegal disposal of asbestos and lead paint on the hotel property (the focus of a local criminal investigation). A serial extortionist threatened a number of banks and retail stores in western Pennsylvania in 2000 by reporting the placement of an explosive device in their businesses which would be detonated if a cash payment was not made.

Individual(s) on governmental agency. These cases involve the extortion of governmental bodies, often concerning the threat of fraudulent litigation. Examples of such cases include: A Florida doctor and his real-estate adviser were convicted of the attempted extortion of Marion County by attempting to reach a cash payment in exchange for dropping a civil suit, a suit that was allegedly fraudulent in nature. In March 2003, police and rescue personnel (working with local "gangsters") blocked a rescue boat from delivering emergency supplies to a cyclone-stricken island until extortion payments were made

Politician on individual. These cases involve elected or appointed political officials who use their authority to extort monies or other items of value from individuals, often in return for assistance in obtaining contracts. Examples of these cases include: The mayor of Bridgeport, Connecticut, was convicted of 16 criminal counts including extortion for obtaining over \$500,000 of benefits (cash, expensive wines, designer clothing, and home improvements) from business associates in return for steering city contracts worth millions of dollars to them and their associates.

Politician on corporation. These cases involve elected or appointed political officials who use their authority to extort monies or other items of value from companies, often in return for assistance in obtaining municipal contracts. Examples of these

cases include: New York City Councilman Angel Rodriguez was indicted in 2002 for extorting a real-estate developer, promising to support an upcoming multi-million dollar waterfront development in exchange for \$50,000 cash and the sale of three pieces of real estate at below market price (three properties valued at \$1.5 million to be sold for \$1 million; the day after the contracts for these properties were signed, Rodriguez supported the development and the full council approved the project).

In October 2002, Wisconsin state Senate Majority leader Chuck Chvala was charged with 20 felonies, including extortion, in a 67-page criminal indictment that noted multiple allegations of extortive transaction; two \$500 campaign contributions were requested from a historical society lobbyist for a friendly vote, a \$7,500 contribution was required from the Wisconsin Realtors Association before a state senate vote on licensing home inspectors would be scheduled, a wholesale beer lobbyist was fired after refusing to pay a \$1,500 campaign contribution.

Labor relations. These cases specifically involve the operations of labor unions and often involve the following actions, usually accompanied by the threat of force or actual force: Demand of payoffs to union representatives in violations of labor laws to achieve certain concessions, solicitation of donations to remove pickets, and as noted in the August 2000 Federal Bureau of Investigation (FBI) and U.S. Labor Department's investigation into allegations that three United Auto Workers members extorted \$200,000 and jobs for relatives to end an 87-day strike at a General Motors plant after intentionally prolonging the strike to procure the money and job offers. Other extortion cases of this type involve sham fees which labor unions are not entitled to; extorting payments from employees for various services (already guaranteed under labor contracts such as health coverage); employer payments for labor consulting to establish bogus "sweetheart unions"; payments demanded for unwanted, excessive, and nonexistent workers; and extortive demands made upon nonunion companies to vacate the marketplace.

Law enforcement personnel on individual. These cases involve the extortion of individuals or criminal organizations by police officers who used their police powers either to grant specific favors or to use police resources to gain information. Actual cases include: A Washington, D.C., police lieu-

tenant was arrested for using police computers to ascertain the identities of patrons of the Follies Theater, a bar frequented by homosexuals, by running license plates of vehicles parked there and, after identifying married patrons, demanding money to not inform spouses or employers. In June 2003, three Canton, Mississippi police officers were arrested for offering to arrange for the dismissal of felony charges in exchange for \$6,000.

Local police in Federal Way, Washington, offered to “fix” a woman’s shoplifting arrest (\$34 from Wal-Mart) in exchange for sexual favors. In early 2003, the chief and three officers of the Camden, New Jersey, police department admitted to extorting “thousands” of dollars from persons involved in illegal activities (\$130,000 paid by one madam to prevent the arrests of prostitutes working for her, bars selling alcohol after hours, and allowing an amusement company with Cuban mob ties to place illegal video-gambling machines in bars and other businesses), and persons seeking to obtain or keep city contracts (towing companies were required to pay “fees” to police officers to get tow calls for vehicles disabled in accidents).

In February 2003, the former Donna, Texas, police chief was convicted of multiple criminal charges including extortion relating to demanding payments from drug smugglers to escort marijuana shipments through city limits. In 1996, six members of the nine-person Ford Heights, Illinois, police department were arrested on criminal charges, including extortion related to demanding payments for protection of drug sales territories, the sale of advance information on police raids, and “forcing” out other drug dealers who refused to pay.

Organized crime operation on individual. These cases involve money or objects of value from individuals in exchange for either prevention of certain acts or for the non-disclosure of specific information. Specific cases include: In August 2003, local “gangsters” threatened the safety of British soccer sensation Wayne Rooney if a percentage of his earnings was not relinquished to the crime group. Both law enforcement and sporting sources have acknowledged allegations of Russian Mafia extortion of one-third of the approximately 50 former-Soviet hockey players in the National Hockey League (NHL), with one player being extorted for six-figure payments to “protect” his family in Russia; the protection payment was needed after several acts of property damage occurred. In 2003, organized-

crime family members were found guilty of attempting to extort \$3 million from Hollywood action hero Steven Seagal, who originally refused to testify out of fear of retaliation, but was faced with contempt charges if he did not. Concerning the Seagal case, another organized-crime member was charged with threatening a *Los Angeles Times* reporter who broke the story originally; she was approached by a man with a gun who told her to “stop;” her car windshield was smashed, a dead fish with a long-stemmed rose was left on her car.

In 2002, members of the Indian mafia attempted to extort Bollywood (India’s version of Hollywood in Bombay) film star Hrithik Roshan, one of many attempts by the Indian underworld to extort actors, actresses, and producers. The Yakuza (Japanese organized crime operations) utilized extortion against owners of small properties to sell to developers so that large land deals could be arranged; in this practice (*jiage*) developers pay the Yakuza three percent of the land’s value (which due to inflated land values can often cause fees to be in the high six-figures).

Organized-crime operation on corporation. These cases involve organized-crime groups exerting pressures on companies to obtain something of value, often associated with the construction industry. Examples of these cases include: In 1998, three men with ties to the Gambino and Genovese crime families of New York were convicted of extortion by threatening labor unrest and economic injury to a contractor on the Newark Airport monorail project; the contractor was told to put men on the payroll even though they would not report to work (at one point one “ghost worker” was taken off the payroll and labor unrest occurred until the “worker” was reinstated and given back pay). In 2002, 27 members of organized-crime families were indicted for extorting payments (said to be approximately \$10,000 per night) from Long Island, New York, restaurants.

In 1996, 17 members of the Detroit, Michigan, organized-crime families were indicted for extorting payments from bookies and operators of illegal lotteries, persons who would be likely not to report the extortion attempts to local law enforcement. In February 2002, 26 bosses and members of New York organized-crime families were charged in a 137-count indictment including multiple counts of extortion; the indictment alleged that over \$6 million in wages and benefits were illegally obtained

over an 11-year period (with money being obtained from “no-show” workers. One fictitious worker, Mattlynn, received more than 1,400 checks totaling more than \$1.5 million. Contractors who did not hire members of a certain local were threatened with labor unrest if members were not hired and paid a premium rate.

In May 2002, 14 members of the Laborers’ International Union of North America Local 91 were arrested for extortive tactics against area contractors, workers, and developers, including beatings, assaults, bombings, and a \$100,000 vandalism incident (one taped conversation included threats of rape against family members, specifically juveniles). In October 2002, two officers of Local 81 of the International Longshoreman’s Association were arrested for threatening to kill the owner of a Rhode Island scrap-metal company, an elected state representative was present at the meeting where the threat was issued and recorded, but he was not charged.

The Yakuza in Japan committed various extortion operations, with some taking advantage of Japanese law which gives building occupants tremendous rights. *Senyu-ya* (occupation specialists) Yakuza members will illegally occupy a building before its upcoming sale for one of two purposes: to extort payment from the owner to vacate the property to allow the sale to proceed, and extort protection payments until the sales is finalized. If the owner does not pay, they stay in the building causing the price to plummet.

Additionally, the Yakuza take advantage of some Japanese companies’ desires to avoid confrontation and bad public relations by committing *sokaiya*, corporate extortion, by threatening to appear at board meetings to disrupt business. The extortion is halted either by cash or stock payments. Yakuza operations also use extortion in their debt-cutting/loan-collecting services (*songiri-ya*) in which loan payments are “recovered” by the Yakuza, charging their client 3 percent for “collecting” the debt and, the person collected from a 5 percent fee for getting the debt holder to accept a smaller amount on the loan (threat of force or force is often utilized against one or both parties);

Ethnic extortion operations. These are a subclassification of organized-crime extortion but identified by the ethnic specificity of both parties. Due either to a fear of law enforcement in general or a belief that local law enforcement would not be able to re-

solve the situation, members of some ethnic groups do not report these extortion attempts to the police. Cases of this type would include: Smugglers of illegal aliens across the U.S.-Mexico border who demand additional payments from their customers after they cross the border—detaining the undocumented aliens until their family members send more funds.

Asian street gangs often require local (Asian) businesses to pay protection money to the gangs to prevent acts of violence and, as noted in New York City’s Chinatown, they have made businesses install gang-owned blackjack and video-poker machines in their operations (similar activities have been noted by Chinese Tong, Vietnamese, Korean, and Russian gangs). A Dominican street gang, C&C, in the Bronx, New York City, demanded money from any group wishing to conduct illegal-drug sales in the Mott Haven section (mostly occupied by immigrants from the Dominican Republic), and anyone who refused to make payments was robbed, beaten, and sometimes murdered.

Indian crime gangs extort *hafta* payments, from Indian business owners (jewelry stores, restaurants, fast-food operations.) with the amount of *hafta* being a set payment according to the profit made by the business, with refusal to pay usually resulting in personal injuries. An Israeli organized crime operation in Los Angeles, California extorted protection money from elderly Jewish business-owners in the predominantly Jewish community of Fairfax and, in some cases, extorted partial ownership in businesses to run “bust-out” (order large sums of merchandise and then declare bankruptcy) schemes. In March 2003, members of the Philadelphia KGB, a gang of Russian émigrés, were charged with extortion, specifically using a soldering iron on at least one victim.

As evidenced by all these examples, extortion is rampant in the worlds of white-collar, corporate, and organized crime, often crossing into violent street crime.

SEE ALSO

bribery; Capone, Alphonse; fear of crime; organized crime; Japan; India; Central America; South America.

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PATRICK D. WALSH
LOYOLA UNIVERSITY NEW ORLEANS

Exxon Valdez

THE CRASH of the Exxon Valdez in the waters off the coast of Alaska represents the worst oil spill in U.S. history, to date in the spring of 2004. On March 24, 1989, the Valdez tanker collided with Bligh Reef in the Valdez Narrows and spilled over 11 million gallons of crude oil into the waters of Prince William Sound.

Scheduled for a five-day trip from Valdez, Alaska, to Long Beach, California, the tanker was loaded with 1,264,164 barrels of North Slope crude. Just hours before the departure of the Exxon Valdez, its captain Joseph Hazelwood had been drinking a round or two of vodka. This factor was attributed as the primary cause of the accident. During the voyage, Hazelwood's speech was slurred while in radio contact with Coast Guard officials and, at one point, he mistakenly identified his vessel as the Exxon Baton Rouge. In addition, he made several questionable judgments regarding the course of the tanker.

Due to concerns over icebergs in the sound, Hazelwood had to make a decision regarding the direction of the Valdez. Instead of slowing down and waiting for the ice to move or have the ship work slowly through the ice, Hazelwood choose to turn the tanker and enter a gap between the ice and the Bligh Reef. The gap in this area was only one-tenth of a mile wide, almost the width of the tanker itself. This meant there was little room for error. Hazelwood also ordered that the tanker's speed be increased and the ship be placed on automatic pilot. Both commands were highly unusual. Normally, ships reduce their speed when they encounter ice in

order to minimize impact and allow for adjustments. Furthermore, the use of the automatic pilot was rare under such conditions because of the need to make changes in the ship's course. Another questionable decision by Hazelwood was leaving only one officer in charge of maneuvering the Exxon Valdez through the gap.

This lone officer was not given clear instructions regarding a course to follow nor an exact chart of the tanker's position. Shortly after Hazelwood left the officer alone, the Exxon Valdez ran aground on Bligh Reef and began leaking tremendous amounts of oil. For 15 minutes, Hazelwood attempted to force the tanker ahead but eventually the smell of oil in the air and control room gauges, that confirmed significant losses of oil, forced the crew to stop and wait for Coast Guard assistance. While the cause of the crash and spill was attributable to the officer being unable to properly maneuver the tanker, other factors played a major role. First, several of Hazelwood's decisions and judgments were highly questionable due in part to his impaired or intoxicated state. Second, the Exxon company reduced the Valdez crew, meaning that many of the members were excessively overworked and fatigued. Finally, Exxon did not have a proper recovery plan in place that could effectively deal with such a disaster.

The effects of the oil spill were tremendous on the surrounding communities. The loss of marine life, wildlife, and natural resources was abundant. The disaster happened at a time when fish and other marine organisms were beginning their reproductive cycles, and the large amounts of oil devastated the development and threatened the existence of many aquatic species and mammals. Over 200,000 seabirds were lost as well as thousands of sea otters and hundreds of other wildlife, including deer and eagles.

The economy of the surrounding communities was also significantly affected. For many families, the multimillion-dollar commercial fishery industry was dramatically altered or completely destroyed. In 1989, one of the primary economic resources, salmon fishing, was completely closed. While Exxon agreed to help with the recovery process, it remained slow. Some 15 years later, several of the animals and species in Prince William Sound had not fully recovered. Some shellfish remained contaminated and unsuitable for human consumption. The herring population collapsed in

1993 and had not recovered 10 years later. In 1992 and 1993, pink salmon runs failed and in 1994 they were severely depressed. In some instances, animals have almost left the region completely. Certain species of seals, sea otters, ducks, and killer whales can no longer be found in the region's waters. The majority of the animals and species, however, have very gradually recovered, yet millions of gallons of oil still exist in the mud and sand surrounding the Prince William Sound area.

In the aftermath of the disaster, Exxon paid billions of dollars in criminal and civil fines. The company paid \$900 million to the Exxon Valdez Trustee Council in 1991 to oversee the restoration of ecosystems damaged by the spill. This civil suit was filed under the Clean Water Act and the Comprehensive Environmental Response, Compensation, and Liability Act and the money awarded represented the largest recovery in U.S. history.

Also in 1991, Exxon pled guilty to a criminal charge and paid a \$100 million fine. In 1994, a federal court ordered Exxon to pay \$5 billion in punitive damages to help Alaskans harmed by the oil spills. The court stated that Exxon acted recklessly by allowing Hazelwood to command the Valdez tanker. Hazelwood was fired by Exxon and lost his

license to captain a ship. In addition, he faced criminal charges for leaving command of the ship to an uncertified officer and was convicted of negligent discharge of oil. He was sentenced to serve 200 hours per year of community service until 2004.

SEE ALSO

water pollution; Clean Water Act; negligence; United States; Environmental Protection Agency.

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JASON DAVIS
UNIVERSITY OF SOUTH FLORIDA