

# White-Collar Crimes

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## ABSTRACT:

*White-collar crimes are also called the professional crime. These are property crimes, economic crimes, environmental and health safety laws violations etc. the White-collar crimes has various types that I will explain in detail in my article. In this article I want to throw light on various contents like meaning, origination, classification, types, implications, causes, factors affecting White-collar crimes. As we know that crimes in India is increasing day by day. Crimes are happening at every place. I will explain the White-collar crimes in India, measures to control White-collar crimes, penalties and punishment. I am also taking the help of leading cases to explain White-collar crimes. White-collar crimes have their criminal history including infractions of illegality but many do not indulge in that. An individual can commit a crime during employment or unemployment. Its two common forms are fraud and theft. In the era of modernization there are lots of nations which divide the crimes into some laws. One of the most common crimes is corporate crime which deals with the company as a whole. White-collar crimes and corporate crimes are similar because they take place within the business world. The difference between both of this is White-collar crimes benefit the company. White-collar crimes are done by employees with the criminal behavior. Let's begin with the article.*

## I. WHAT ARE WHITE-COLLAR CRIMES?

White-collar crimes are the non-violent crimes committed by businessman and government professionals. The White-collar crimes are first defined by the sociologists named as **Edwin Sutherland** in 1939 as “**A crime committed by the person of respectability and high school status in the course of their occupation**”. White-collar crimes are performed by the people in business for financial gains. These are committed by business people who are able to access large amount of money. Crimes that are committed by using deceptive practices for financial gains. The anti-social activities of a person in their occupations are also called White-collar crimes. White-collar crimes are not dependent upon the application of physical force or violence. They are committed by individuals by the well-planned conspiracy.

## II. ORIGINATION OF WHITE-COLLAR CRIMES

White-collar crimes are originated in 1939 by **Edwin Sutherland**. The term White-collar crimes is also created by **Edwin Sutherland**. He was the professor of sociology, 29<sup>th</sup> president of American sociological society. he defined White-collar crimes as “**Crimes committed by a person of respectability and high social status in the course of his occupation**”.

## III. CLASSIFICATION OF WHITE-COLLAR CRIMES

White-collar crimes are classified into three categories. They are given below:-

- **Personal crimes:-**

A personal crime is committed by person who is operating on an individual for personal financial gains in business.

- **Business crimes:-**

A business crime is committed in business for financial gain in business context.

- **Breach of trust:-**

It is occupational crimes in violating the duty of loyalty.

#### **IV. EXAMPLES OF WHITE-COLLAR CRIMES**

Following are the examples of White-collar crimes:-

- Tax evasions
- Credit and frauds
- Bank and postal frauds
- Frauds of social security welfare
- Insurance frauds
- Embezzlement of self-dealing business
- Fraud against government
- Food and drugs violations
- Deceptive advertising
- Malpractices in medical profession
- Illicit liquor sale, narcotic drugs etc.
- Commercial espionage
- Land transaction fraud
- Charity and religious endowment frauds
- Crimes by lawyers, fake claims etc.
- Bribery and graft by public servant
- Hoardings, black-marketing, adulteration
- Smuggling
- International crimes
- Human organ racket

#### **V. TYPES OF WHITE-COLLAR CRIMES**

There are four types of white-collar crimes and I am also taking the help of examples to explain all the types.

These are as follows:-

- **Fraud:-**

Fraud is also called cheating. Fraud is committed by misrepresenting facts in order to gain something in return. Fraud is done by misrepresenting facts through words and actions for financial gains. This action results in a financial injury.

**For Example:-**

Joseph responded to an ad about an apartment for rent. He met with the supposed landlord toured the apartment, and agreed to rent the apartment by signing a lease. Joseph paid the security deposited first month's rent up front. The next week, Joseph went to the apartment to pick up the key, and learned that someone else occupied the residence. After doing some investigation, Joseph learned that the apartment was not for rent at all, but that the man he met with and gave the money to be not the property owner. In this example of White-collar crimes the man who posed as the owner to swindle money out of a prospective tenant has committed fraud.

- **Extortion:-**

Extortion means that obtaining money or property by threat to a victim's property or loved ones, false claim of right. It is a direct threat to harm the victim is usually treated as the crime of robbery. It is obtaining benefit through coercion.

**For Example:-**

**X** is the person that is threatening to publish the defamation concerning the person **Z**. **X** will not go ahead with this unless and until **Z** does not give him the money. Thus **X**, includes **Z** to give him the money. So, in this case it is said that **X** has committed the extortion.

- **Bribery:-**

It is defined as the offering, giving, receiving or soliciting of any item of value to influence the actions of an official or other person in a public or legal duty. A bribe is an illegal or unethical gift bestowed to influence the recipient's conduct. It may be money, goods, property etc.

**For Example:-**

DrillTech company is in the process of engineering a horizontal drilling project for a company installing a pipeline that runs through north city. The city engineering office is dragging its feet on approving the drilling project, bringing up question after question about the project. Mr. Smith, DrillTech's Vice President of hole-drilling, invites Sam, the city engineer to lunch, during which he offers to "donate" \$100,000 to his children's education fund, if Sam will just finish the approval process, allowing DrillTech to get on with the project. This is considered bribery, as its purpose is to induce a city official to take an action that will benefit the company's business and profit. In this example of White-collar crimes, DrillTech has committed an illegal act in attempting to bribe the city official. If Sam accepts the bribe and green lights the drilling project, he has also committed an illegal act.

- **Insider trading**

It is also a type of fraud. It is against the law if a securities transaction, which is the sale or purchase of stocks is engaged in by a person or small group of people, inside the company, who have special knowledge not available to others.

**For Example**

Jeff works for a private company that is working on a device that can detect certain serious heart problems. One day, while at work, Jeff receives an email that was intended for his boss. The email stated that the device would be released on a certain day, which had not been announced to the public. Jeff immediately calls family and friends, telling them to buy company stock right way. By time the product is released, which immediately raises stocks values, the company's stocks have already been bought out. In this example of White-collar crimes, Jeff used "insider information" to give his friends and family an edge, enabling them to obtain company stocks at the previously low rate.

**VI. CAUSES OF WHITE-COLLAR CRIMES**

- White-collar crimes has to be placed on the same footing as 'mass disobedience' of laws in a climate of public opinion, which looks upon business practices as necessary for successful performance even if they are illegal. The result is 'mass neutralization' of law and order which gives rise to a group norm which approves White-collar crimes as 'normal response'.
- As per the Law Commission's report. "The inability of all sections to appreciate in full the need (of high standard of ethical behavior) results in the emergence and growth of white-collared and economic crimes renders enforcement of law, more difficult.
- The economic growth and industrial progress throughout the globe is one of the most important causes for the rise in White-collar crimes.
- Criminal law administrators and judges are also allegedly sympathetic towards White-collar criminals which result in their going scot free.
- White-collar criminals are tactful, intelligent and stable under the cover of high-social status.

**VII. IMPLICATIONS OF WHITE-COLLAR CRIMES:-**

The modern society said to the White-collar crimes as an unethical business practice and nit as crime. The implications of White-collar crimes are as follows:-

- **Social Damages:-**

It creates general community disturbances. It destroys morale and promotes social economic disorganization. It is also the violation of trust. Such White-collar crimes cause damages to social relations at a large scale.

- **Financial Loss To The Public:-**

The White-collar crimes cause the financial loss to the public and society too. The White-collar crimes cause the financial loss through robberies and burglaries etc.

## VIII. FACTORS LEADING TO WHITE-COLLAR CRIMES

There are four factors that are leading to White-collar crimes such as:-

- **Using ill-considered job incentives:-**

Incentives increase the chances of competition and rewards between the employees. And the incentives must have to properly plan.

- **No emphasis on ethics:-**

There should be well planned chart of the ethics politics. This can create an office culture of no accountability. When the accountability is how it creates more chances of illegal behavior of employees.

- **An industry-wide reputation:-**

If the industry is working outside the rules it makes individuals to indulge in the corrupt behavior. The wrong perception can make an industry seem implicit in illegal behavior. This creates the bad reputation of the industry.

- **A slippery slope:-**

Not every time the intention of a person is to break the rules. Sometimes they may not know they are committing crimes and it will harm to their company.

## IX. WHITE-COLLAR CRIMES IN INDIA

There are many people who commit white collar crimes they are employees who are known for their hard work ethics and success.

- **In trade and industry:-**

In India white-collar are committed in trade and industry with criminal intention. Business communities in India of large and small merchants are basically a dishonest bunch of crooks and nowhere in the world do businessmen get rich quickly as they do in India.

- **Black marketing:-**

The black marketing causes the harm to industry and its reputation. It can create the serious damage to Indian economy and sufferings to common people. Such traders are habitual criminals who deserve penal actions.

- **Violation of foreign exchange regulations and import and export act:-**

It is the more prevalent thing among businessmen. This is done under involving of importing and exporting of goods and causes harm to national economy.

- **Violation of tax laws:-**

Some people do not pay taxes and there is a clear demarcation line. The tax paid is only a fraction of the total income and the rest goes as black money.

- **Corruption in government and politics:-**

Corruption is a global phenomenon in the government and politics. The people are not happy with salary paid by government they have greed for modern luxury and this is the reason for corruption.

## **X. MEASURES TO CONTROL WHITE-COLLAR CRIMES:-**

White-collor crimes are bound to multiply in large proportion. Control of these crimes is a crucial problem for the criminal justice administration in this country. Some of the measures for combating white-collor criminality may be stated as follows:-

- Creating public awareness against these crimes through the media of press, platform and other audio visual aids. Intensive legal literacy programmers may perhaps help in reducing the incidence of white-collor criminality to a considerable extent.
- Special tribunals should be constituted with power to award sentence of imprisonment up to ten years for white-collor criminals.
- A separate chapter on white-collor crime and socio-economic crimes should be incorporated in the Indian Penal Code by amending the code so that white-collor criminals who are convicted by the court do not escape punishment because of their high social status.
- There is an urgent need for a National Crime Commission which may squarely tackle the problem of crime and criminality in all its faces.
- Above all, public vigilance seems to be the cornerstone of anti- white-collor crime strategy. Unless white-collor crime become abhorrent to public mind, it will not be possible to contain this growing menace.

## **XI. PENALTIES AND PUNISHMENTS OF WHITE-COLLAR CRIMES**

The criminal's penalties for white-collor crime vary greatly, depending on the crime committed, and the circumstances surrounding the case. Most individuals facing criminal charges for a white-collor crime have never faced the criminal justice system, and the process is frightening. Typically, penalties for white-collor crime include any combination of imprisonment, restitution, fines, probation and community service. As a result of the

act, penalties for white-collar crime involving wire or mail fraud increased. The civil suit will be filed for financial losses to get the compensation for that.

## XII. LEADING CASES:-

Following are the leading cases:-

In **M.H. Hoskot VS State of Maharashtra** (1978) 3 SCC 544, blaming the session court for the wrong sentencing, the supreme court observed:

“Social defense is the criminological foundation of punishment. The court which ignores the grave injury to society implicit in economic crimes by the upper-berth ‘mafia’ ill-serves social justices. Soft sentencing justice is gross injustice where many innocents are the potential victims”.

The Supreme Court indicated its policy regarding the punishment of white-collar crime in the context of corruption by public servant in **Som Prakash VS State of Delhi** (1974) 4 SCC 84. Severe punishment must be prescribed to root out such social danger. It was said that though all-intensive efforts to track down bigger criminals were needed; courts could not slow down because bigger criminals were to be caught.

Besides prescribing stiffer punishments for white-collar offenders the Supreme Court has also held in a number of cases that liberal interpretation must be given to the penal laws dealing with social welfare legislation to see that the legislative object is not defeated.

Finally, courts in India have given strict interpretation to the socio-economic statutes which do not require any **mens rea** either in the form of intention or knowledge for committing an offence.

In **P.K. Tejani VS M.R. Dange** (1974) 1 SCC 167, a case under the prevention of food adulteration act, the supreme court said:

it is trite law that in food offences strict liability is the rule not merely under Indian act but all the world over. Section 7 casts an absolute obligation regardless of scanner, bad faith and **mens rea**. If you have sold any article of food contrary to any sub-sections of section 7, you are guilty. There is no more argument about it.