



I33 White-Collar Criminals: A Breed Apart?

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Learning Overview: After attending this presentation, attendees will understand: (1) what crimes qualify as “white-collar;” (2) historical models of white-collar criminal behavior; (3) the differential treatment of white-collar criminals from other types of criminals; (4) the evidence basis for the notion of a distinct white-collar criminal; and (5) considerations relevant to evaluating defendants charged with white-collar crimes.

Impact on the Forensic Science Community: This presentation will impact the forensic science community by: (1) improving understanding of white-collar criminal behavior, and (2) attendees gaining confidence in performing forensic evaluations of white-collar criminals.

The phrase “white-collar” traditionally denotes professionals and others from the upper strata of society. This is reflected in the Federal Judiciary’s use of the term, which first appeared in a Federal decision in the 1930s, referring to a class of workers. In 1947, the United States Supreme Court used the phrase “white-collar” in *Fay vs. New York* to draw a distinction from the “manual laborer.”¹

Edwin H. Sutherland, the sociologist who is generally credited with coining the phrase “white-collar crime,” defines it as “crime committed by a person of respectability and high social status in the course of his occupation” in his 1949 monograph, *White Collar Crime*.² The book highlighted these crimes because, Sutherland observed, they have a great cost to society and were absent from the study of criminology. *White Collar Crime* “ridiculed theories of crime which blamed such factors as poverty, broken homes, and Freudian fixations for illegal behavior.”³ Sutherland observed that existing theories of criminal behavior were based on biased statistics and specifically neglected “business and professional men.”²

Following the publication of Sutherland’s highly influential book, white-collar criminals were no longer ignored. The term “white-collar crime” entered the vernacular. Sutherland’s direct influence on the Federal Judiciary is reflected by the fact that its very first use of the term is a citation of Sutherland’s book in the 1955.⁴ Since the publication of *White Collar Crime*, the Federal Judiciary has generally accepted the importance of preventing and prosecuting white-collar crimes.

Ironically, despite Sutherland’s goal of a unified theory of criminality, over time, the idea of the white-collar criminal as a separate class of criminal—a breed apart—has proliferated in the popular imagination. There is the conception of white-collar criminals as typically “ingenious” (so described by the 2nd Circuit Court of Appeals in 1961) or even as criminal masterminds (for example, the presentation of Bernard L. Madoff in the media).⁵ The idea of white-collar criminals constituting a separate class had become so widely accepted that in 1964, District Court Judge John W. Oliver wrote, “the past sentencing practices of the District Courts of the United States have, I think, not unreasonably produced a longstanding conviction that there is some sort of a distinction between ordinary crime and White Collar crime.”⁶ The downside, for defendants, of the idea of white-collar criminals as being a breed apart from “ordinary” criminals is that it may sabotage potential defenses. To wit, a mastermind by definition understands the consequences of his/her actions.

Recently, when examining the 2008 United States financial crisis—an event that uncovered numerous examples of white-collar crime—scholars have rediscovered that such criminal behaviors can be motivated by factors common to other types of crime, including impulsivity, environmental influences, and rationalization. Only time will tell if this conceptual shift foreshadows increased prosecution of white-collar crime or, on the flipside, more successful defenses in terms of mitigation.

Reference(s):

1. *Fay v. New York*, 332 U.S. 261 (1947).
2. Edwin H Sutherland. *White Collar Crime: The Uncut Version* (New Haven: Yale University Press, 1983), 7.
3. Gilbert Geis and Colin Goff. “Introduction,” in *White Collar Crime: The Uncut Version* (New Haven: Yale University Press, 1983), ix.
4. *United States v. Standard Ultramarine & Color Co.*, 137 F. Supp. 167 (S. D. New York 1955).
5. *United States v. Crosby*, 294 F.2d 928 (2nd Circuit, 1961).
6. *United States v. National Dairy Prods. Corp.*, 1964 Trade Cas (CCH) P71, 163 (W. D. Missouri 1964).

White-Collar, Criminal, Motive