

**Crime in the Context of Organizations & Institutions**

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**Today we will**

- Define white-collar crime and provide examples of it
- Profile the victim of white-collar crime
- Explore how criminologists explain corporate offending
- Learn about various types of corporate and WC crime
- Consider crimes involving breach of trust
- Examine the structure of transnational organized crime

\*white-collar crime; something you can do all by yourself

\*the division between white-collar and corporate crime

**'White collar crime'**

- 1939: Edwin Sutherland, US sociologist, used term at conference of American Sociological Ass'n
- Wanted to show that persons of "respectability and high social status commit crimes in the course of their occupation"

**Sutherland's WC crime list**

- misrepresentation in financial statements/prospectus/ads
- manipulation of stock exchange (including non-approved activity)
- misappropriation of funds
- bribery of officials to get contracts, favourable laws
- kickbacks
- embezzlement (theft of profits at the source)
- =generally comes down to lying and stealing

**Causes of Corporate Crime**

- Unstable economic times
- Unethical business practices
- Lack of scrutiny of corporate high level decisions
- Belief of consumers in get-rich-quick & higher than average returns (greed)

**Case 1: WorldCom**

- world's largest communication business at its height of power
- Bernie Ebbers, CEO raised in Edmonton
- Inflated profits in financial statements
- 25 years for 1) fraud\* 2) false filings to regulators

\*intentional deception made for personal gain

\*Privatizing  
Mulroney, Thatcher, Reagan  
\*Federal reserve as a banking cartel - a hybrid. Not private-not government. Operates under the protection of the government. "Owned" by banks.

## Case 2: Enron



- Major energy conglomerate
- CEOs Skilling (Pres & CEO) and Lay (CEO)
- falsified earnings reports
- Creative accounting re future assets & profits
- <https://www.youtube.com/watch?v=Q55e0uUfVY> The Smartest Guys in the Room [0:22-8:43]

## Case 2: Enron

- 20,000 workers lost their jobs
- 2B in pensions & investments lost
- Executives Jeffrey Skilling & Kenneth Lay convicted of conspiracy and fraud
- = Skilling sentenced to 24 years in 2006 – 'resentencing' being considered as Skilling maintains his innocence

## Case 3: Bernie Madoff

- 'How does Ponzi Scheme work?'  
<https://www.youtube.com/watch?v=zRTPKcJGwe4>
- How does it differ from a pyramid scheme?
- Robbing Peter to pay Paul
- Investors keep re-investing rather than cashing in
- Scheme eventually collapses



## Federal reserve "the Fed"

- Banking cartel
- Created in 1913 to avoid banking panics, stabilize employment
- Owned by private banks
- Sets US money supply & interest rate
- Includes US government, backed by law (Federal Reserve Act)
- Supervises US banks, tries to keep interest rates moderate
- Completely unregulated = policies don't need presidential approval
- Ask Congress to bail out the banks to maintain economy
- <http://www.youtube.com/watch?v=bhMacPvcgpc> [to 6:36]

## Case 4: Savings and Loans

- 150B bailout of banks by Bush administration
- Begins with: Reagan's deregulation of banks in '80s
- 'liars' loans'
- [https://www.youtube.com/watch?v=Rz1b\\_MdtHY](https://www.youtube.com/watch?v=Rz1b_MdtHY)
- [to 5:04]

## Case 5: Conrad Black

- <https://www.youtube.com/watch?v=MDWAFuQsTj8> 'Conrad Black juror speaks'
- Media baron, CEO of Hollinger Inc (worlds' 3<sup>rd</sup> largest newspaper business
- 'creative accounting'. Complaint filed by US shareholder
- Removed boxes of accounting files while under court order
- Convicted of fraud (x3) and obstruction of justice



## Case 6: Garth Drabinski

- CEO of Livent ('live entertainment') (The Phantom, Kiss of Spider Woman)
- Theatre & movie producer
- U of T Law graduate

sentenced to 5 years for fraud, forgery

served at Millhaven (minimum security)

Livent still in OSC hearings



## Case 7: Julius Melnitzer

- Lawyer in London, Ontario
- Printed false stock certificates to get bank loans
- Law partner, Fletcher Dawson, major victim. Now a judge
- In 1992, he pleaded guilty to 42 counts of fraud against 5 Canadian banks - 9 years in jail
- accused of defrauding friends of more than \$14-million in a property deal in Singapore
- largest personal loan fraud in Canadian history



## Case 8: Martha Stewart



- Insider trading (using info not available to public to make money on stock exchange)
- Sold shares in ImClone based on information not yet made public; earned 40,000 US
- Charged with insider trading, pleaded to lying to investigators
- 5 months, 4000US fine

## Legal Results of Enron debacle

- Sarbanes-Oxley Act of 2002
- top management must now individually certify the accuracy of financial information
- penalties for fraudulent financial activity are much more severe
- increased independence of outside auditors who review the accuracy of corporate financial statements
- increased oversight role of boards of directors

## Legal results in Canada

- Insider trading now included in s 382.1 of CC
- Competition Act 'criminal' offences like pyramiding
- Canada has 21 Foreign Investment Promotion and Protection Agreements (FIPA) with Russia, Poland, Czech and Slovak Federal Republic, Argentina, Hungary, Ukraine, Latvia, Philippines, Trinidad & Tobago, Barbados, Ecuador, Egypt, Romania, Venezuela, Panama, Thailand, Armenia, Uruguay, Lebanon, Costa Rica and Croatia
- [http://www.crimes-of-persuasion.com/laws/canada/criminal\\_laws.htm](http://www.crimes-of-persuasion.com/laws/canada/criminal_laws.htm)

## Manipulation of stock exchange

- Case 4: Quebecor Media Inc.
- When CEO charged with insider trading he blamed in-house counsel
- Since then, in-house counsel responsible for regulatory compliance, along with CEOs
- Canada: (2004) insider trading added to CCC
- = when a person in a "special relationship," including a business relationship, trades with the knowledge of a material fact or material change\* that has not yet been generally disclosed. An intent to benefit from inside knowledge is not a required element of the offence so as long as a person has knowledge of undisclosed material information at the time of trading
- \* "any information that has not been disclosed to the public and that could affect the decision of a reasonable investor" is a 'material fact or change' Quebecor case



## Breach of Trust

- 4. **Organizational theory**
- We legitimize institutions through our respect, obedience, agreement to assign duties to them
- Eg: police, government officials, religious leaders
- Criminal acts by the power holders betray that trust, erode legitimacy

## Political crime

- Against the state:
- 1. violent: Upper/Lower Canada Rebellion (1830s), October crisis (1970), Toronto 18 (2006)
- 2. Non-violent: peaceful resistance, occupation

## Political crime

- By the state:
- Sponsorship scandal (2005-6) = misappropriation of money allocated to advertising for unity (18 month sentence for defrauding gov't of 1.5 m)
- Internment of Japanese during WW2
- Extraordinary rendition

## Transnational crime

- Human trafficking
- Drug trafficking
- Arms dealing
- Cyber crime
- Terrorism
- <http://www.youtube.com/watch?v=tWgBOoOsY5w> [4:31]
- for your own interest
- <http://www.youtube.com/watch?v=9G7yqnoA13s> [5:29]