

White-collar crime laws complex
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Q. What is a white-collar crime, and can I unwittingly commit one?

First coined by the American sociologist Edwin Sutherland to represent a criminal activity "committed by a person of respectability and high social status in the course of his occupation," the term "white-collar crime" has become part of our daily lexicon. No longer tied to the concept of one's social status, "white-collar" criminality involves, most typically, various forms of fraud, embezzlement, money laundering, forgery and corporate crime. Since the Nixon era, both the federal and state governments have worked to regulate the financial and corporate sectors, and violations of these statutes and regulations are often met with criminal prosecution. As the Madoff scandal illustrates vividly, white-collar crime is not victimless, and harsh penalties — including long prison sentences — await violators.

The flurry of legislation enacted in the wake of the Enron collapse can lead unsuspecting businesspeople to run afoul of many hidden, complex rules. For example, businesses transacting with foreign governments, their agents or representatives must be careful not to violate the Foreign Corrupt Practices Act. The FCPA's mandates, which are similar to other regulatory mechanisms, are comprehensive and, in many cases, defy common sense. Even the smallest businesses must be careful with political donations, tax compliance and accounting procedures. White-collar crime is not always committed by devious corporate raiders or renegade employees; rather, most of the crimes are committed by small businesses, which often fail to realize that they have committed an offense.

The most cost-effective method of defending against white-collar crime is prevention. Every business should consult with its attorneys to develop clear guidelines for the conduct of employees, shareholders and managers, and be ever mindful of transactions that are unusual in scope or fall outside acceptable business practices. Businesses or people who may have committed a crime, and those being investigated by the government or regulatory agencies, should contact legal counsel immediately.

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