

*Seventh Edition*

# **PROFIT WITHOUT HONOR**

**WHITE-COLLAR CRIME AND THE LOOTING OF AMERICA**

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**Dedication**

*To our families*

*and*

*In memory of Lillian Rosoff*

*A woman of resonant kindness*

*and quiet courage*

*and*

*In memory of Stephen M. Rosoff*

*Exceptional teacher, brilliant scholar,*

*and a man of impeccable wit and humor*



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## PREFACE

Since the sixth edition of this book in 2014, there have been dramatic new developments in the study of white-collar crime. One would surely expect that, for the battle between profit and honor is as old as human commerce. In a hotly contested national election, the country chose its first “businessman-president” who never held a government office, and whose cabinet and agency appointments will prove interesting to the future of white-collar crime. As of this writing, the country is in the throes of one of the largest upheavals in both national and international politics in modern history. Robert Mueller, former head of the FBI, and until recently, unimpeachable prosecutor and public servant, was appointed as a special prosecutor for discerning the facts surrounding the already-well-documented Russian meddling in the last U.S. presidential election. It was determined by every intelligence and law enforcement agency that the Russians had in fact hacked the election, with the seeming goal of defeating Hillary Clinton. The special prosecutor was appointed as a result of President Trump firing FBI director James Comey, for stated reasons (admitted in a major television interview) having to do with his pursuit of the Russian investigation. The president has repeatedly and publically denied any collusion by himself and his campaign staff with the Russian government in the election, or obstruction of justice in the investigation itself. As of this writing, there are 5 guilty pleas and 19 indictments of those close to the White House, and/or associated with Russian interference in the 2016 national election, brought by Special Counsel Robert Mueller, including the indictment of former Republican presidential campaign head, Paul Manafort. As the investigation focuses more intensely on those close to the White House, including the president, his son, Donald, Jr., son-in-law, Jared Kushner, as well as various staff, there have been political attacks by a Republican-controlled Congress and by the president himself on Mueller, the FBI, and the investigation itself, despite the fact that Mueller and the person who appointed him in the Department of Justice are both Republicans.

As almost constant chaos is created around the investigation by the administration and its political surrogates, including elected members of Congress, in response to additional uncovered details, a number of questions arise, not the least of which is, if there was no Russian collusion or obstruction of justice involved as the president repeatedly claims, why doesn't the administration simply cooperate fully, hand over all files, and stop attacking those who are charged with ascertaining the facts in accordance with established institutional norms and laws that govern the process? Defenders and the president argue that the investigation is simply a sham, is designed by opponents to question the legitimacy of his election, represents sour grapes by those who lost the election, and is waste of taxpayer money. This same president has refused to turn over his personal tax returns unlike all recent predecessors to the office, claiming that they are still under audit (which does not legally preclude him from doing so). Trump was elected with a major campaign promise to disrupt politics as usual, and he has certainly accomplished that goal in his first year of office. But it must also be noted that where there is smoke, there usually is fire. As we note later in this book, at some point complexity IS fraud, in that very complex schemes can be designed in an attempt to prevent investigators from establishing underlying criminal intent.

Some comedians have already labeled the rather amateurish transparency of the Russian connection to presidential politics and actions of the administration as “Stupid Watergate,” referring to one of the darkest chapters in U.S. history, which we discuss at length in Chapter 9. However, by what the public has witnessed thus far, it could also be termed “In-Your-Face Watergate,” in that damning evidence surfaced some time ago, but a Republican-controlled Congress and the president himself have made contorted moves to distract attention from, pick away at, and ultimately destroy its credibility. As we explain in Chapter 10, “big corruption” is very different from, and much more dangerous than,

“little corruption,” in that if left unchecked, it can undermine and fundamentally alter societal institutions. It remains to be seen whether or not the Constitution, the free press, and American democracy itself will withstand current assaults being leveled against them by both a major foreign adversary and partisan politicians loyal to the president. By the time this book is published the current situation will have certainly changed, and one can only hope that both the country and world will be better for it. In addition to the potential crime and corruption at the highest levels of government in America today, and central to the topic of this book, lurk the eventual disastrous results of massive deregulatory policies already enacted by the current administration on the prevention, commission, and enforcement of laws against white-collar and corporate crime.

In 2008, the U.S. economy imploded, throwing the nation (and the world) into the worst financial crisis since the Great Depression. The country has seemingly picked up the pieces and rebuilt its shattered economic infrastructure, but whether or not the lessons from the disaster were really learned appears dubious at best, as politicians, economists, and ordinary citizens point fingers of blame in every direction. But there is at least one thing almost everyone, regardless of class or ideology, can agree on. Whatever market forces or “natural” economic cycles pushed the U.S. economy to the edge of the abyss, it was a lethal concoction of greed, corruption, and criminality that provided the *coup de grace*, the final push over the precipice.

The legendary investor Warren Buffett has a favored aphorism: when the tide goes out you see who has been swimming naked. By 2012, the tide had not only gone out, and true to Buffett’s dictum, a plethora of naked swimmers were also revealed. None of the largest companies or their executives were ever criminally convicted although most received civil and administrative fines.

The subprime mortgage market was exposed as a house of cards, propped up by worthless paper representing worthless loans. Corruption and misrepresentation by giant mortgage lenders like Fannie Mae and Freddie Mac tipped over the first domino. The mortgage collapse quickly metastasized like a deadly cancer. Some of the passengers—and conspirators—on the subprime train wreck were among the most hallowed names on Wall Street. Down went Bear Stearns, down went Merrill Lynch, down went Lehman Brothers—all dumped (in Trotsky’s famous phrase) into the ash heap of history. From there, the cancer spread to the U.S. stock market and the banks and the insurance companies and the manufacturing sector, and then, because the world has been well into the age of the global economy, down went the international financial markets.

It would be simplistic to attribute the entire collapse to white-collar crime. World events and perhaps uncontrollable economic forces played a role, as did an epidemic of stunning, albeit not necessarily criminal, corporate and political recklessness and incompetence. But it would be even more simplistic to deny that white-collar crimes of unprecedented magnitude have taken place. These crimes are examined and described in this edition.

One of the most conspicuous of the “naked swimmers” was New York investment guru Bernard Madoff, who orchestrated the most costly Ponzi scam in history that flushed away a reported \$65 billion from investors—many of them charitable foundations. The Madoff case highlights the shortcomings in financial regulation and oversight that allowed the much larger economic crisis to occur. The events that took Madoff from being a finance superstar to a federal penitentiary where he will almost certainly spend the rest of his life are analyzed in this edition.

Computer crime has continued to emerge as the nation’s fastest growing category of crime. This edition continues to highlight the explosion of Internet frauds. Of particular focus are the “pump and dump” swindles that infest the Internet; the nefarious spammers, who flood our e-mail boxes with crooked schemes; so-called phishing scams that help cyber-criminals steal our identities; new developments in online international espionage, especially those involving China; activities of those involved in “hactivism” where the motives for hacking are political, resulting in a form of electronic

protest; and those seemingly ubiquitous Nigerian “4-1-9” con games that bait seductive electronic traps for the unwary among us. Despite denials by Russian government leaders, the extent and influence of hacking into American (and other countries’) elections have yet to be fully uncovered. Social media have apparently played an important role as both Twitter and Facebook were used to disseminate false and biased political information using bogus accounts bought by Russian operatives. These computer crimes threaten the very legitimacy of the electoral process itself and are among the most dangerous crimes facing the nation. It would not be hyperbole to claim that we are currently engaged in an undeclared cyber war with an enemy state.

Wal-Mart, the world’s largest company, remains the symbol of corporate irresponsibility. Allegations of everything from monopolistic practices, to environmental contamination, to violations of labor laws through the exploitation of its own workers and the promotion of slave labor overseas, to illegal union busting, to its callous utilization of “dead peasant insurance” have been leveled against the retailing behemoth. Religious affinity scams also have exploded, costing devout victims hundreds of millions of dollars. Likewise, a shocking study has revealed a prevalence of embezzlement within the American Roman Catholic Church that is scarcely believable. New and horrifying cases of worker safety violations have been uncovered. Political corruption at all levels of government persists. And even public school education, a social institution never before linked to white-collar crime, has generated stunning and widespread cheating scandals on the parts of teachers and administrators willing to resort to fraud in order to raise state-mandated test scores.

This edition applies particular scrutiny to outrageous and sometimes repulsive abuses of power by the government in the post-9/11 era. Illegal domestic surveillance and the torture of foreign nationals are detailed and exposed as crimes hiding behind a smokescreen of national security.

All of these issues, along with newer cases of many other predatory offenses and rapacious scams, are examined in this updated edition.

So, once again, *Profit Without Honor* seeks to elucidate a very broad subject that only seems to get broader: white-collar crime. How broad? Its domain stretches from the small price-gouging merchant to the huge price-fixing cartel. It can breed in an antiseptic hospital or a toxic dump. It is at home on Main Street, Wall Street, Madison Avenue—even 1600 Pennsylvania Avenue.

Yet, as Americans demonize the Crips and the Bloods, recoil at al-Qaeda, and “radical Islamic terrorists,” and still obsess over O. J. Simpson, white-collar crime remains the “other” crime problem. The reason for this relative indifference is that the true costs of upperworld misconduct are largely unrecognized. Compared to murderers, terrorists, and urban gangsters, white-collar criminals do not seem to scare the public very much.

Even the economic expense—by far the most identifiable cost—is typically underestimated by the average citizen. Annual losses from white-collar crime are probably 50 times as great as the losses from ordinary property crime. For example, the price of bailing out a single corrupt savings and loan institution surpassed the total losses of all the bank robberies in American history. The bill for the taxpayer bailout of the financial services industry, which choked on its own greed, was about a *trillion* dollars. (To put that figure in perspective, consider that a million seconds is about 11 days; a trillion seconds is about 30,000 years.) Indeed, the price-tags attached to some white-collar crimes ultimately are so staggering they are difficult to comprehend. They evoke memories of the late Senator Everett McKinley Dirksen’s wry quip: “A billion here, a billion there; and pretty soon you’re talking about real money!”

But monetary expenditures are only the tip of the topic. The “looting” in the subtitle refers to more than larceny; it implies “destruction” too. This book argues for an expanded definition of white-collar crime because it is not just property crime on a grand scale. It entails higher and more enduring levels of costs—particularly physical and social costs. These less conspicuous effects carry a heavy payment that cannot be measured with a calculator.

White-collar crimes do not leave a chalk outline on the sidewalk or blood spatter on the wall, so the American public, in its understandable preoccupation with street crime, often has overlooked the violent aspects of elite deviance. In his polemic book *Thinking About Crime*, James Q. Wilson marginalized white-collar crime, lumping it together with “victimless” crimes such as gambling and prostitution. He stated that most citizens (including himself) do not consider white-collar offenses to be very serious compared to street crime. Wilson’s intuition about the predominance of such a belief is quite correct, even decades later in the post-Enron era. The belief itself, however, is utterly wrong. *White-Collar criminals cause more pain and death than all “common criminals” combined.*

A likely explanation for the inadequate attention can be derived from a cognitive rule-of-thumb known as the *availability heuristic*, which stipulates that there is a common human tendency to judge the likelihood of occurrences in terms of how readily instances come to mind. Vivid events stick in our memories, and their greater ease of recall misleads us to overrate their frequency relative to less dramatic, but actually more pervasive events. The physical harm wrought by some forms of white-collar crime can be slow and cumulative—like the mythic “death of a thousand cuts.” In other words, the human suffering caused by corporate cupidity frequently can take years to materialize, in contrast to the graphic suddenness which usually characterizes street violence. Consequently, it is easy for people to misperceive the extent of the injuries caused. As this book will delineate, environmental crime, hazardous workplaces, medical malfeasance, and unsafe products are lethal manifestations of what Ralph Nader calls “postponed violence.”

As for social costs, they are the most insidious and difficult to measure. The victims here are not limited to endangered employees, mistreated patients, or injured consumers, but include all of society—from its component institutions to its transcendent culture. Indeed, a case could be made easily that *every* category of white-collar crime depicted in this book manifests a deleterious effect on some social institution and thereby inflicts damage on society as a whole. To cite just two examples: The insider trading scandals detailed in Chapter 6 and the corporate crimes highlighted in Chapter 7 have eroded public faith in the American economy; likewise the crimes by the government described in Chapter 9 and the political corruption related in Chapter 10 have devalued the democratic process.

It should also be noted that much of the existing white-collar crime literature focuses on offenders—those who commit these crimes, their motives, and their methods. This is certainly an illuminating perspective, but not the only perspective. This book seeks to shed light on the *victims* of white-collar crime as well. Victimology is a critical element because it helps give the problem the personal relevance it has sometimes lacked. The more predatory white-collar crime is perceived to be, the less likely it will continue to be dismissed as a mere appendix to the crime problem.

One additional preliminary comment seems appropriate—and it concerns the style of the chapters that follow. We have chosen to present our material in an occasionally flippant and hopefully engaging manner. But despite its intermittent irreverence, this is a serious book on an important subject. It is not difficult to write mordantly about con artists charging people \$30 for a “solar clothes dryer,” then mailing them a piece of rope and some clothespins (Chapter 2), or greedy doctors billing Medicare for pregnancy tests performed on elderly males (Chapter 11), or religious charlatans peddling trashy “holy shower caps” to thousands of faithful proselytes (Chapter 5). It is likewise easy for readers to ridicule those who are duped by such flagrant deceit. So it is worthwhile to bear in mind an old maxim: when you slip on a banana peel, it’s tragedy; only when *someone else* slips is it comedy. A reiterative lesson of this book is that white-collar crime spares no one. Everybody reading this sentence (or writing it, for that matter) has been somebody’s victim. Each of us would do well to remember just how much alike a window and a mirror can be.

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## ACKNOWLEDGMENTS

Since the publication of the fifth edition, we have lost a dear friend, dedicated teacher, and noted scholar in Stephen Rosoff, whose major contributions to this book will continue to educate and inform students for generations to come. A professor of criminology at the University of Houston – Clear Lake for many years, Steve passed away in March 2010 at the age of 64. He had undergone esophageal surgery, followed by a number of additional operations, had shown incredible strength in battling through these maladies, and was recovering at a rehabilitation unit in Houston when his heart failed him. He was an incredibly popular instructor at UH who created a highly successful criminology curriculum with a thriving master’s degree program that attracted a very large number of officers from the Houston Police Department.

Steve’s family moved from Brooklyn to Boston when he was very young. A lifelong baseball fanatic, he played in Little League, and few persons knew more about the sport, its players, and its statistics. He was a loyal Red Sox fan and attended one of the championship games at Fenway Park when his team won the World Series in 2007.

A gifted child and a voracious reader, Steve graduated from English High School in Boston at the age of 15, and entered UMass Amherst where he studied drama. Given his young age, it proved to be a difficult experience and he dropped out after a year. He went to work in his family’s pickle business (“Rosoff’s Pickles”), was employed as an actor and producer in theater and film over the next decade and a half, and began taking psychology courses through Harvard extension. In his early thirties he matriculated at Harvard and graduated in three years number two in his class with a major in psychology.

Steve arrived at UC, Irvine’s Program in Social Ecology in the early 1980s to begin his doctoral work in human development. He had been attracted by the advertised interdisciplinary environment and the “strange name” of the degree. After his first year he worked as a research assistant on a federally funded study of Medicaid fraud conducted by Gil Geis, Paul Jesilow, and Henry Pontell and shifted his scholarly interests to law and psychology, medical sociology, criminology, and white-collar crime. He completed a stellar master’s thesis on the social psychology of the sanctioning of high-status defendants (later published in *Law & Human Behavior*, the top-rated journal in law and psychology), and placed articles in medical journals on issues related to miscreant physicians. Missing the east coast, he applied and was accepted into Harvard’s PhD program in psychology, where he spent his third year of graduate work. Not finding a suitable mentor for his interests in the punishment of the well-to-do, he returned to UCI to write his doctoral dissertation the following year.

Steve’s wit and wry sense of humor are shown in a short piece that he contributed to the *Sage Handbook of Field Work*. “Interviewing offenders of any hued collar is a tricky business,” he started out. “If I were interviewing a convicted burglar I would probably call him Charlie (or whatever his first name is), while he might call me ‘Doc.’ There is a role reversal when the offender is an elite deviant. I respectfully called the Medicaid fraud subject Dr. So-and-So. And I might well be called Steve in return—or called nothing at all.” Then Steve added the punch line: “No problem. When the interview ends, I’m still the one without a parole officer.”

He taught enormously popular graduate courses at UH in social deviance, law and society, crime and the media, law and psychology, criminological theory, organized crime, juvenile delinquency, crime in the cinema, and white-collar and corporate crime. He was a brilliant, gifted, and hardworking instructor who still found time to publish articles and book chapters. Steve presented papers at conferences in Australia, Hungary, Thailand, and Italy, and was a regular participant at criminology conferences in the

United States. He was invited to discuss his work at a major conference on control fraud following the Enron debacle (discussed in Chapter 7) organized by noted economist James Galbraith at the University of Texas, Austin, and was a delegate and presenter at a UN Crime Congress. The head of the FBI's Behavioral Sciences Unit invited him to a three-day closed conference on cybercrime at Quantico. Always ahead of the curve, Steve was the first major writer on cybercrime in criminology.

In addition to all of these significant academic accomplishments, Steve Rosoff was a first-rate human being whose absolute unpretentiousness belied his enormous intellectual prowess. In addition to baseball, he was also a movie and media expert. His life was teaching. His immense kindness toward animals saw him rescue numerous dogs who became members of his family. He had a keen eye for injustice, an impeccable wit, and an almost nonstop sense of humor. As one colleague astutely observed, "He was probably the funniest smart person I have ever known and the smartest funny person as well." His coauthors recognize and honor his major contributions to all aspects of this text. It stands as his legacy, or as Steve so elegantly described, "His footprints in the sand."

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