

Business Ethics and Moral Motivation: A Criminological Perspective

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ABSTRACT. The prevalence of white-collar crime casts a long shadow over discussions in business ethics. One of the effects that has been the development of a strong emphasis upon questions of moral motivation within the field. Often in business ethics, there is no real dispute about the content of our moral obligations, the question is rather how to motivate people to respect them. This is a question that has been studied quite extensively by criminologists as well, yet their research has had little impact on the reflections of business ethicists. In this article, I attempt to show how a criminological perspective can help to illuminate some traditional questions in business ethics. I begin by explaining why criminologists reject three of the most popular folk theories of criminal motivation. I go on to discuss a more satisfactory theory, involving the so-called “techniques of neutralization,” and its implications for business ethics.

KEY WORDS: character, deviance, moral motivation, techniques of neutralization, white-collar crime

One of the peculiar features of business ethics, as compared to other domains of applied ethics, is that it deals with a domain of human affairs that is afflicted by serious criminality, and an institutional environment that is in many cases demonstrably criminogenic (Braithwaite, 1989, pp. 128–129; Coleman, 1989, pp. 6–8; Leonard and Weber, 1970; Sutherland, 1968, p. 59). The oddity of this state of affairs is sometimes lost on practitioners in the field. It is common, for instance, at business ethics

conferences for the majority of presentations to be concerned, not with ethical issues in the narrow sense of the term (where there is often some question as to where the correct course of action lies), but with straightforward criminality. In this respect, all the talk of “ethics scandals” in the early years of the twenty-first century has been very misleading, since what really took place at corporations like Enron, Worldcom, Parmalat and elsewhere was, first and foremost, an outbreak of high-level, large-scale white collar crime. Each illegal act was no doubt surrounded by a broad penumbral region of unethical conduct, yet in each case the core actions all involved a failure to respect the law.

The high incidence of crime in the corporate environment is, in itself, something of a mysterious phenomenon. Most well-adjusted adults would never consider shoplifting from their local grocery store, or stealing from their neighbor’s backyard, despite having ample opportunity to do so. Yet according to a United States Chamber of Commerce Study, 75% of individuals steal from their employer at some time or other (McGurn, 1988). Studies of supermarket and restaurant employees found that 42 and 60% (respectively) admitted to stealing from their employer in the past six months (Boye and Jones, 1997; Hollinger et al., 1992). The losses suffered as a result of this sort of “occupational crime” – crime committed by individuals *against* the corporation – greatly exceed the total economic losses suffered from all street crime combined (Snyder and Blair, 1989). Yet this does not even begin to take into consideration the losses suffered from “corporate crime” – crimes committed by individuals *on behalf* of the corporation. During the 1990’s the list of firms that were convicted of serious criminal offenses in the United States included (either the parent, a division or a subsidiary of)

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BASF, Exxon, Pfizer, Banker's Trust, Teledyne, IBM, Hyundai, Sears, Eastman Kodak, Royal Caribbean Cruises, Litton, General Electric, Chevron, Unisys, ALCOA, Tyson Foods, Bristol-Meyers Squibb, and Mitsubishi (Mokhiber, 2006).

The phenomenon of white-collar crime clearly casts a long shadow over discussions in business ethics. One of the most important effects has been the development of a strong emphasis upon questions of *moral motivation* within the field. In many domains of applied ethics, such as bioethics, it is often not clear what the right thing to do is. In business ethics, on the other hand, there is often no real dispute about the content of our moral obligations (i.e., *what* we should be doing), the question is rather how to *motivate* people to do it. The moral rules, in other words, are often quite platitudinous (e.g., don't lie, don't cheat, don't steal ...) and, within a given culture or society, typically coincide with legal rules. The tough questions arise at the level of compliance: what to do when a rival firm gains competitive advantage through deception, or when a supervisor orders sensitive documents to be destroyed, or even when ethical behavior simply conflicts with the bottom line (Stark, 1993). As a result, business ethicists have exhibited considerable concern over the relationship between moral obligation and self-interest, whether it be in discussions of agency theory (Bowie and Freeman, 1992), the question of whether "ethics pays" (Vogel, 2005; Webley and More, 2003), or even debates over how (or whether) business ethics should be taught (Williams and Dewett, 2005).

Criminologists also have a longstanding preoccupation with motivational questions, in part because crime prevention is such a major component of their professional mandate. Considerable resources have been dedicated to the task of studying the causes of crime, and a sophisticated body of research has emerged. Given that business ethicists have cognate interests, one might expect that this research would serve as an important source of information and inspiration. Unfortunately, this resource has barely begun to be tapped. For example, instead of speculating about the motives of those who steal from their employers, business ethicists could consult Cressey's (1953) classic study *Other People's Money*, which featured extensive interviews with incarcerated embezzlers. Yet Cressey's study, a

staple of the criminology literature, has been cited exactly once in the 25-year history of the *Journal of Business Ethics* (less often than the 1991 Danny DeVito film of the same name).¹ This is unfortunate, since criminologists are practically unanimous in rejecting several of the more popular "folk" theories about what motivates people to commit crimes. Yet many of these same theories continue to thrive in the business ethics literature as explanations for unethical behavior.

In this article, I will attempt to lead by example, by showing how a criminological perspective can help to illuminate some of the questions about moral motivation that have often troubled business ethicists. I will begin by explaining why criminologists almost unanimously *reject* three of the folk theories often proposed as explanations for white collar crime: first, that criminals suffer some defect of character; second, that they suffer from an excess of greed; or third, that they "don't know right from wrong." I will then go on to discuss a theory that is widely accepted among criminologists, involving what are referred to as "techniques of neutralization." One of the most noteworthy features of this theory is that it is far more cognitivist than any of the folk theories – it suggests that the way people *think* about their actions and the situation has an enormous amount to do with their propensity to commit various crimes. I conclude by considering some of the positive conclusions that business ethicists can draw from this (including some important implications for the way that business ethics is taught).

Folk theories of motivation

I have spoken so far as though there were a single, unified, "criminological perspective" on the subject of white-collar crime. This is, of course, an exaggeration. Criminologists disagree with one another just as heartily as specialists in any other academic discipline, and the field of study is divided into a number of rival schools of thought (e.g., see Jones, 2005). Nevertheless, there are also a number of very broad presuppositions that are widely shared within the discipline, but which may be counterintuitive to outsiders. They constitute a set of very general ideas and approaches that are mastered during early

education in the field and are subsequently taken for granted. It is these general ideas that are largely uncontroversial among criminologists, and make up what I am referring to as the “criminological perspective.”

The first feature of the criminological perspective is that it takes as its point of departure an inversion of the everyday question that people tend to ask about crime. Picking up the morning newspaper, reading about some egregious offense, we naturally ask ourselves, “Why do people do such things?” Yet what the criminologist regards as mysterious is not the fact that some people commit crimes, but rather the fact that more people do not commit more crimes more often. This is because, when looked at from the standpoint of individual incentives, only a tiny percentage of those who could advance their interests through criminal activity actually choose to do so. Even though illegal activity is punished, the legal system typically fails to supply adequate external incentives for compliance – the chances of apprehension are remote, and the threat of punishment is highly attenuated. Thus, what the criminologist needs to ask first is “Why do people *not* commit crimes?” Only once this question has been answered can one go on to deal with the exceptions.

The standard solution to this problem is to point out some type of socialization process that individuals undergo, in the passage from childhood to membership in adult society, which aligns individual preferences with social expectations in such a way that individuals acquire a desire to comply with institutional norms. According to Talcott Parsons, this coincidence of self-interest and role expectations is “the hallmark of institutionalization” (Parsons et al., 1961, p. 76). Parsons used the term *deviance* in a technical sense to refer to “a process of motivated action, on the part of the actor who has unquestionably had a full opportunity to learn the requisite orientations, tending to deviate from the complementary expectations of conformity with common standards so far as these are relevant to the definition of his role” (Parsons, 1951, p. 206). Deviance in turn evokes various “mechanisms of social control” aimed at “motivating actors to abandon their deviance and resume conformity” (i.e., restoring full institutionalization). The most significant mechanism is the imposition of external sanctions. These work to bring about a greater alignment of self-interest and social expectations, not only by realigning external incentives

in such a way as to encourage conformity, but also, when “internalized” by the subject, by socializing the individual in such a way that his preferences become less anti-social.

This analysis, which was enormously influential in early American sociology (and by extension, criminology), has a number of noteworthy consequences. The first is that it defines crime as a type of deviance (Parsons et al., 1961, pp. 869–871), rather than as a simple failure of mechanism design. Thus the attempt to understand the sources of crime focuses upon failures of socialization and failures of social control – failures that are, of course, interdependent, since the primary mechanism of social control (external sanctions) also has a socializing function. This perspective also suggests that “moral” and “legal” norms within a particular society be viewed on a continuum, with the primary difference being merely that the former are enforced through what are, to varying degrees, informal social sanctions, whereas the latter are enforced using the power of the state.

This is the very general theoretical framework presupposed by the overwhelming majority of criminologists. Even so-called “rational choice” approaches to criminology are based upon variants of this view (Akers, 1990). Beyond this, however, things get complicated. Applying this framework to the explanation of crime turns out to be more difficult than initially imagined, and a lot of early speculation about the causes of crime turned out to be false. Crime is widely understood to represent *some* form of deviance, but it is not entirely clear in many cases where the deviance lies. Naturally, before inquiring into the causes of crime, the first step must be to determine what precise form of deviance is involved. Here, it turns out that many of the traditional folk theories of criminal motivation are unsupported by the evidence. Three in particular have been debunked:

Character

It is widely believed among members of the public that criminal deviance is due to some failure of primary socialization. According to this folk view, criminals “lack conscience,” are “sociopathic,” or else possess some other character flaw that leaves

them lacking the disposition to “do the right thing.” Thus criminal conduct is explained as a consequence of some defect in the individual criminal’s personality structure.

The problem with this theory is that it overgeneralizes in a way that is unsupported by the evidence (Coleman, 1989, pp. 202–204). Failures of socialization do, of course, occur, and sociopathy is a genuine phenomenon. However, the overwhelming majority of criminals suffer from neither. Indeed, it is precisely the *ordinariness* of white-collar criminals that led to a serious rethinking among criminologists in the first half of the twentieth century of the Victorian view of criminality, which regarded offenders as either genetically or psychologically inferior. As Edwin Sutherland noted, “businessmen are generally not poor, are not feebleminded, do not lack organized recreational facilities, and do not suffer from the other social and personal pathologies” (1968, p. 58). A certain percentage of white collar criminals may be more egocentric and reckless than the norm, but almost all fall within the range of what is considered psychological normal. Furthermore, an equally large number are simply “muddled” or “incompetent” (Spencer, 1965, p. 261). There is no particular psychological trait that they all share, nor is there any trait or set of traits that set them apart in any significant way from the general population.

Indeed, the tendency to overestimate the effect of “character” upon action is an extremely pervasive error, which afflicts many of our folk theories of social interaction (Ross and Nisbet, 1991; Wilson, 2002, p. 207). The evidence of this is quite powerful. Consider, for example, the “Panalba” case, involving the pharmaceutical company Upjohn. After strong medical evidence emerged that the drug was causing a number of serious side-effects (including unnecessary deaths) and that it offered no medical benefits beyond those that could be obtained from other products on the market, the board of directors of the firm decided not only to continue marketing and selling the drug, but also arranged to have a judge issue an injunction to stop the FDA from taking regulatory action (Mintz, 1969). When the FDA finally succeeded in having the drug banned in the United States, the firm continued to sell it in foreign markets. When this story is presented as a case history, respondents are almost unanimous in

their conviction that the actions of the Upjohn board were “socially irresponsible” (Armstrong, 1977). Attitude surveys also show that respondents in the United States regard executives who allow their firm to sell a drug with undisclosed harmful side-effects as having committed a serious criminal offense, second only to murder and rape in severity (Scott and Al-Thakeb, 1997). However, when management and executive training students were put in a role-playing scenario (as members of a corporate board, faced with the same decision that confronted Upjohn), 79% chose the “highly irresponsible” option, of not only continuing with sales of the drug, but also taking action to prevent government regulation. The other 21% chose to continue selling the drug for as long as possible, only without trying to interfere with the regulatory process. Thus the range of behavior extended from “highly” to “moderately” irresponsible. Not one group chose the “socially responsible” action of voluntarily withdrawing the drug from the market (Armstrong, 1977, p. 200). These results were obtained from 91 different trials of the experiment in 10 different countries (Armstrong, 1977, p. 197).

It is worth noting that Scott Armstrong, the investigator who conducted these studies, initiated them because he was puzzled by the Upjohn case, and believed that his own students at the Wharton School of Management could not possibly do such a thing (Hilts, 2003). Unfortunately, it was his own students who became the first group to disprove this hypothesis. Anyone familiar with Stanley Milgram’s (1974) experiments would be unlikely to find this surprising. What Milgram had shown, and what subsequent studies have shown again and again, is that perfectly ordinary people are able to commit very serious crimes or moral offenses when put in the right situation. The celebrated Stanford prison camp experiment (Haney et al., 1973) taught very much the same lesson.

This is not a finding that is specific to criminology. Social psychologists have accumulated considerable evidence to show that our folk theories of character have little or no predictive value when it comes to determining the probability of “moral” versus “immoral” conduct, whereas situational factors are extremely important. In one particularly noteworthy experiment, students at the Princeton Theological Seminary were told that they needed to

report to a building across campus in order to do a presentation. Some were told that they were running late, others that they were just on time, and some that they were a bit early. The experiment was designed, so that, on the way, they would pass a stranger in need of assistance. Of those who were told that they were late, only 10% stopped to help, versus 45% of those who were on time, and 63% of those who were early (Darley and Batson, 1973, p. 105). Other studies in a similar vein have shown quite clearly that situational factors far outweigh the effects of character when it comes to determining behavior (Doris, 2002, pp. 30–60).

Yet despite the absence of evidence, the belief that criminals possess a deviant psychology or personality structure is remarkably persistent. Some have suggested that this is because the belief serves as a source of reassurance to the non-criminal segment of the population. As James William Coleman writes:

The public tends to see criminals as a breed apart from “normal” men and women. The deviants among us are commonly branded as insane, inadequate, immoral, impulsive, egocentric, or with any one of a hundred other epithets. In seeing the deviant as a wholly different kind of person from ourselves, we bolster our self-esteem and help repress the fear that under the right circumstances we, too, might violate the same taboos. But this system of facile psychological determinism collapses when applied to white collar criminals. The embezzling accountant or the corporate functionary serving in an employer’s illegal schemes conforms too closely to the middle-class ideals of American culture to be so easily dismissed (Coleman, 1989, pp. 200–201).

The idea that criminals suffer from some sort of character defect also serves the important function of absolving many institutions of any responsibility for the conduct of their members. According to the popular view, respect for social expectations, whether legal or moral, is something that is taught primarily in the home, cultivated through appropriate child-rearing techniques. As philosopher Michael Levin put it, “Moral behavior is the product of training, not reflection. As Aristotle stressed thousands of years ago, you get a good adult by habituating a good child to do the right thing” (Levin, 1989). He goes on to conclude that ethics courses in law schools, medical

schools, business schools, and even high schools, are an “utterly pointless exercise,” simply because students are fully socialized by the time they get to these institutions, and so it is too late for educators to do anything about their character.

It follows from this analysis that institutions of higher learning cannot be blamed for the conduct of their students. While Dean of the Sloan School of Management, Lester Thurow argued that business schools should be absolved of any responsibility for the unethical or illegal actions of their graduates. His argument was based upon a variation of the “garbage-in garbage-out” principle. “Business students come to us from society. If they haven’t been taught ethics by their families, their clergymen, and their elementary and secondary schools... there is very little we can do. Injunctions to ‘be good’ don’t sway young men and women in their mid- to late 20’s. In the final analysis, what we produce is no worse than what we get” (Thurow, 1987). The assumption is that the way people *think* about their decisions is unimportant, and thus students have nothing to be taught about the moral or legal challenges that may arise in a business context. Students are programmed during early childhood to be either “good boys and girls” or bad ones. What they are subsequently taught about the ways of the world, over the course of their education, is taken to be irrelevant. Yet, this moral psychology is false (as thoroughly discredited as Aristotle’s views on physics and biology). The fact that such ideas continue to circulate in the public sphere – the fact that they exercise influence in a various public policy debates – should be a source of considerable consternation.

Greed

There is no doubt that the vast majority of white collar crime is motivated by what might broadly be referred to as pecuniary incentives. Typically, individuals who commit occupational crimes are seeking to enrich themselves personally, just as firms engaged in corporate crime aspire to improve their financial performance. In addition, of course, since most people prefer more money to less, there is a temptation to assume that this basic incentive is what underpins criminal conduct. Naturally, the mere

presence of a pecuniary incentive is not sufficient to explain criminal conduct, since the vast majority of individuals confront such incentives on a regular basis and yet do not avail themselves of the opportunity to commit crimes. This is where greed comes in. While everyone likes money, some people seem to like it more intensely than others. Thus it may be tempting to conclude that, in the case of white collar criminals, the intensity of their passion for money simply outweighs the various incentives that encourage respect for the law.²

There are many problems with this explanation. First of all, it should be noted that it does very little to explain corporate crime. Employees often break the law in ways that enhance the profits of the firm, but which generate very little personal benefit for themselves. There is an important difference, for instance, between the crimes committed at Enron by Andrew Fastow, who secretly enriched himself at the expense of the firm, and those committed by Kenneth Lay and Jeffrey Skilling, who for the most part acted in ways that enriched the firm, and themselves only indirectly (via the high stock price). Loose talk about “greed” in the corporate setting often obscures the crucial distinction between enhancing one’s own compensation and enhancing the earnings of the firm. In the latter case, most of the money goes to other people, not to the law-breaker, and thus greed – at least of the conventional sort – cannot be the primary explanation.

Greed offers a more plausible explanation for occupational crime, but even here the picture is quite complicated. Often it is not the desire for gain that motivates white collar criminals, but rather a strong aversion to losses (there is a well-documented asymmetry in behavioral psychology between the way that individuals treat losses and gains [Tversky and Kahneman, 1991]). This is reflected in the fact that crime seems to be more prevalent in firms that are doing poorly than in firms that are doing well (Coleman, 1989, pp. 230–231; Lane, 1953). Many white collar criminals are certainly individuals who find themselves financially “squeezed” in some way (Cressey, 1950, pp. 742–743). In such cases, it appears to be fear or anxiety rather than greed that is the dominant motive. Yet another fair proportion of crime appears to be related to “rising expectations,” when actual gains fall somewhat short of anticipated ones. In this case again, it is not

exactly greed that is doing the work, but rather a sense of entitlement that develops and is subsequently disappointed.

These incentives are all very commonplace – indeed, they are *too* commonplace to serve as a useful explanation for criminal behavior. As Sutherland and Cressey argue, “though criminal behavior is an expression of general needs and values, it is not explained by those general needs and values, since non-criminal behavior is an expression of the same needs and values” (1978, p. 82). In other words, if greed combined with opportunity really *caused* crime in any significant sense, then there would be a lot more crime, simply because greed is ubiquitous as a human motive and the world is rife with opportunity.

Finally, it is worth noting that the “bigger” occupational crimes tend to be committed by individuals who are further up the chain of command in the firm (Weisburd et al., 1991). In part this is due to the structure of opportunities – low-level employees tend to commit less serious crimes, simply because they are not trusted with large sums of money, their work is more closely supervised, etc. Yet, if money is subject to diminishing returns, as economists typically suppose, then it is often unclear what motivates managers, many of whom are already quite wealthy, to risk everything just to gain a relatively marginal increase in income. As Coleman has observed, “Criminal activities are surprisingly common among elite groups that might be thought to have little to gain from such behavior” (Coleman, 1989, p. 243). It is also unclear, why greed motivates them to commit crimes in this one particular domain of life, but does not impel them toward crime in other areas (e.g., ordinary street crime).

Indeed, one of the reasons that we ascribe an excess of greed to white-collar criminals is that we often find their motives to be inscrutable. Large numbers of offenses are clearly committed by individuals who are wealthy beyond the dreams of avarice. To the average person, the reasons these people have for stealing seem as obscure as, say, the motive that Hugh Grant had for marital infidelity. The ascription of “greed,” in such cases, far from constituting an *explanation* for their conduct, signals rather the *absence* of any plausible explanatory hypothesis.

Values

One of the characteristics shared by the previous two folk theories of criminality is that they focus entirely upon the propensity of individuals, acting as individuals, to commit crimes. Yet, white-collar crime, just like street crime, has an important social dimension. If the individualistic approach were correct, then one would expect to find a fairly random distribution of white collar crime throughout various sectors of the economy, depending upon where individuals suffering from poor character or an excess of greed wound up working. Yet, what one finds instead are very high concentrations of criminal activity in particular sectors of the economy. Furthermore, these pockets of crime often persist quite stubbornly over time, despite a complete change-over in the personnel involved. For example, the petrochemical, automobile, and pharmaceutical industries have been plagued by corporate crime for years, in a way that, for example, the farm equipment or the beverage industries have not (Clinard and Yeager, 1980, pp. 340–341). Of course, some of this can be explained by the structure of opportunities in certain occupations (as with theft by dockworkers, or corruption among police officers), but much of it also has to do with the formation of deviant or criminal subcultures, often with their own internal rules and normative expectations, which in turn get reproduced over time (Mars, 1982).

It is precisely this observation that led Sutherland (who coined the term “white-collar crime” and did the pioneering research on the subject), to posit his “associational” theory of white-collar crime (1949). He basically treated crime as a form of learned behavior, acquired through contact and observation of the activities of other criminals. This theory has a number of defects, including the fact that, stated baldly, the explanation is regressive (who did those other criminals learn from?), but what matters for our purposes are not the merits of the theory but rather the motive that Sutherland had for proposing it. His goal was to account for the contagion-like pattern exhibited by these criminal offenses. It is precisely this pattern that overly individualistic explanations fail to account for.

One popular strategy for attempting to explain the social dimension of criminal activity is to imagine that these deviant subcultures have essentially the

same internal structure as the dominant society, but that their members adhere to a different set of values, one that is not shared by those outside the group (Braithwaite, 1989, pp. 21–24; Cohen, 1955). According to this view, the mechanism that produces ‘criminal’ conduct within the subculture is the same as the mechanism that produces ‘law-abiding’ conduct in the broader culture, viz. conformity to some set of shared expectations. The reason that the former is ‘criminal’ while the latter is not is simply that the two groups have different values – what one calls “good” the other calls “bad,” and *vice versa*. (So-called “labeling theory,” which argues that crime is essentially an artifact of the power that dominant groups have to define certain forms of conduct as deviant, is a variation on this view.)

This sort of thinking is quite widespread. For example, after the Haditha massacre in Iraq, the United States Marine Corps ordered new “core values” training for all soldiers. The senior officer in Iraq explained that although most soldiers “perform their jobs magnificently every day ... there are a few individuals who sometimes choose the wrong path.” In order to correct the problem, he said, “it is important that we take time to reflect on the values that separate us from our enemies” (Stout, 2006).

The problem of soldiers “choosing the wrong path,” by attacking unarmed civilians is a good example of criminal deviance. The way that the Marine Corps chose to render this choice intelligible was by interpreting it as the adoption, on the part of these soldiers, of a deviant set of values, viz. those of the “enemy.” Thus the way to solve the problem, in their view, was to reaffirm amongst all a commitment to the official “values” of the organization. Yet, one need only think about this analysis for a moment to see that it constitutes a highly dubious explanation for the conduct in question. How plausible is it to suppose that a group of American soldiers got together and decided that there was in fact nothing wrong with terrorism (i.e., the intentional targeting of civilians), and that this change in value-commitment caused their subsequent conduct?

Criminologists give very little credence to such explanations. Research on juvenile delinquents, in particular, has shown that young offenders typically do not reject the values of mainstream society, nor do they endorse any rival system of group-specific values. “Even serious repeat delinquents mostly place

higher value on conventional accomplishments than on success at breaking the law” (Braithwaite, 1989, p. 23). They tend to partake of the same normative consensus as every other member of mainstream society: they share the same role models (e.g., “a humble, pious mother or a forgiving, upright priest” [Sykes and Matza, 1957, p. 665]), they approve of the same standards of behavior, and so on. In other words, there is no *fundamental* disagreement about what is right and wrong between the majority of those who do and those who do not commit crimes. It is precisely because delinquents recognize the “wrongness” of their behavior, at some level, that they usually draw a distinction between those who are legitimate targets of crime (“fair game”) and those who are not (Sykes and Matza, 1957, p. 665).

Techniques of neutralization

There is no question that crime involves some form of social deviance. The question that has preoccupied criminologists is “What sort of deviance?” – or more specifically, “Where exactly does the breakdown in social order occur?” While there is still considerable controversy over the correct answer to these questions, several incorrect answers have been rejected with near-unanimity. As we have seen (and contrary to popular wisdom), crime does not primarily involve a defect of character, it is not simply a matter of incentive or opportunity, and it does not reflect a rejection of society’s basic moral principles. Indeed, the central question that has preoccupied criminologists for the past century, especially with regard to white-collar crime, has been “Why do psychologically normal individuals, who share the conventional value-consensus of the society in which they live, sometimes take advantage of opportunities to engage in criminal conduct?”

One way to find out why people commit crimes is to ask them. Of course, criminals can hardly be expected to have the last word on the subject, but it does seem reasonable to give them at least the first word. When criminologists did begin talking to criminals about their crimes, some interesting things turned up. One of the most noteworthy was the extent to which criminals rationalize their actions. Cressey (1953), for instance, was struck by the number of convicted embezzlers who claimed to be merely

“borrowing” the money, with every intention of repaying it. Sutherland noted that one of the things criminals pick up through “differential association” are “definitions favorable to the violation of law” (Sutherland and Cressey, 1978, p. 81), in other words, ways of describing their actions that made them seem less wrong. Gilbert Geis, studying the major antitrust case brought against heavy electrical equipment manufacturers in 1961, drew particular attention to the number of defendants who “took the line that their behavior, while technically criminal, had really served a worthwhile purpose by ‘stabilizing prices’” (1968, p. 108).

Cressey referred to such euphemisms as “vocabularies of adjustment,” which allowed the criminal to minimize the apparent conflict between his or her behavior and the prevailing normative consensus. Criminologists had traditionally described these as rationalizations, used after the fact to protect the individual from blame. Sykes and Matza (1957), however, suggested that this sort of reasoning often preceded the action as well, constituting a mechanism through the criminal, in effect, gave himself permission to violate the law. Thus, they claimed that much of delinquency involved, not deviancy with respect to primary values, but rather a deviant use of what were, in principle, legitimate excuses for crime.³ Through these excuses, “social controls that serve to check or inhibit deviant motivational patterns are rendered inoperative, and the individual is freed to engage in delinquency without serious damage to his self image” (Sykes and Matza, 1957). Thus they referred to them as “techniques of neutralization.” Thus according to Sykes and Matza,

much delinquency is based on what is essentially an unrecognized extension of defense to crimes, in the form of justifications for deviance that are seen as valid by the delinquent but not by the legal system or society at large (1957, p. 666).

Sykes and Matza draw attention to five categories of neutralization techniques, used by offenders to deny the criminality of their actions. It is important to note that each appeals to a consideration that, in some cases, provides the basis for a legitimate excuse. What distinguishes the criminal is the tendency to make overly generous or self-serving use of them:⁴

Denial of responsibility

The offender here claims that one or more of the conditions of responsible agency were not met: that the action or its consequences were unintentional; that he was drunk, insane, provoked, or otherwise unable to think clearly while performing it; that he had “no choice” but to do it, and thus acted out of necessity; that it was all an accident, etc.

Denial of injury

The offender seeks to minimize or deny the harm done, e.g., by claiming that an assault was merely intended to frighten, that stolen money was merely borrowed (or the victim too rich to notice it missing). Overly generous applications of the *volenti non fit iniuria* principle also fall into this category (the claim that the victim’s consent negates the injury).

Denial of the victim

The offender acknowledges the injury, but claims that the victim is unworthy of concern because, in some sense, he deserved it. Thus the crime is portrayed as retaliation for some offense committed by the victim (or a preemptive strike, to stave off an attack), e.g., vandalism is portrayed as “revenge on an unfair teacher,” thefts are excused on the grounds that the storekeeper is “crooked” (Sykes and Matza, 1957, p. 668). Attacks on stigmatized minorities are also often justified in this way.

Condemnation of the condemners

The offender attempts to “turn back” the charges by impugning the motives of those who condemn his actions. Thus the police are criticized for being corrupt, singling him out unfairly, prosecuting him out of malice, racism, stupidity, etc. It is sometimes suggested that it is morally unacceptable for one individual to be punished for an offense, when not everyone who has committed the same offense is punished.

Appeal to higher loyalties

The offender denies that the act was motivated by self-interest, claiming that it was instead done out of

obedience to some moral obligation (that conflicted with the law). These obligations often have a highly particularistic character, such as loyalty to friends, family, or fellow gang-members. Offenders might also claim to have been acting for political motives, and thus characterize their behavior as a form of dissent or civil disobedience.

I have interpreted the above categories quite broadly, in order to subsume some subsequent proposals for addition to the list (e.g., Minor, 1981). However, two additional techniques proposed by other authors are sufficiently different that they deserve categories of their own.

Everyone else is doing it

This is to be distinguished from cases in which the offender uses the fact that others violate the law, and yet escape prosecution, in order to condemn the condemners, or uses the fact that others break the law to show that he had “no choice” but to follow suit, and thus was acting out of necessity. In some cases, the mere fact that others are breaking the law is used to suggest that it is unreasonable for society to expect compliance. An appeal to the fact of widespread violation may also be used to remove the moral stigma associated with an offense. In either case, the goal is to show that the law is out of touch with social expectations, and therefore that enforcement is illegitimate.

Claim to entitlement

The offender may claim an entitlement to act as he did, either because he was subject to a moral obligation, or because of some misdeed perpetrated by the victim. He may, however, grant that his motive was self-interested, and yet still claim an entitlement to the act, simply by denying the authority of the law (Coleman, 1989, p. 213). An offender may argue, for instance, that he was acting “within his rights,” and that the legal prohibition of his conduct constituted unjust or unnecessary interference. Certain offenders also appeal to a more “karmic” version of this argument, claiming that their good behavior on past occasions gives them an entitlement to act badly in this one respect (Klockars, 1974).

The important thing about the use of excuses is that they allow the delinquent to “have his cake and eat it too,” by retaining allegiance to the dominant system of norms and values, while at the same time exempting his own actions from its imperatives, thereby freeing him to pursue his self-interest in a relatively unconstrained fashion (Sykes and Matza, 1957, p. 667). In many cases, a *cognitive* norm will be violated (e.g., “stealing” is described as “borrowing”), in such a way as to allow the offender to claim that he was in compliance with a more heavily weighted moral or legal norm (e.g., “don’t steal”).

Consider, for example, the following letter, which was sent to two researchers investigating the use of neutralization techniques by hunters cited for illegal possession of game in the state of Colorado. In a cover letter accompanying the survey, the researchers used the term “poaching” to describe the offense. Although this is in fact the correct term, the description was vehemently resisted by many of those who responded to the survey. One of them wrote:

I almost didn’t answer this, I had to leave it lay for several days in order to calm down some. I am very proud of my almost 40 years of hunting and fishing in Colorado. For someone to put me in the same category with poachers, as far as I am concerned that puts them in the same category with antihunting groups. If that’s an injustice it can’t be a bigger injustice than what you did [to] me. I made a mistake once, and a young hothead game warden tried to take advantage of it to boost his arrest record point system. I misread some very complicated regulations. They write them more complicated every year to try to boost their “fine” income (Eliason and Dodder, 1999, p. 239).

Apart from the writer’s success in squeezing perhaps four different categories of neutralizing excuse into one short paragraph, what is noteworthy about the letter is the writer’s strong endorsement of the dominant social attitudes toward “poaching.” Indeed, it is precisely because he abhors poachers that he is driven to adopt the rather untenable position that while he may (by his own admission) have illegally hunted game, he is nevertheless not a poacher. One can find similar attempts to defeat analyticity in the claim, often made by those convicted of white-collar offenses, that though they may have broken the law, they are not really criminals (Geis, 1968, p. 104).

As one can see from this example, there is an element of genuine self-deception in the use that offenders make of these neutralizing excuses. Furthermore, it is still in many respects a mystery why certain people, in certain situations, seem to be more vulnerable to these sorts of self-deceptions. Thus the discussion of techniques of neutralization does not solve the problem of explaining criminal motivation. The significance of the theory lies in the way that it redirects our attention, away from the issue of compliance with primary moral norms, toward compliance with the secondary norms that govern excusing conditions. It suggests that what many criminals are doing, when they break the law, is not violating shared moral principles, but rather *circumventing them* – violating non-moral rules in such a way as to persuade themselves that their criminal actions remain compliant with the prevailing set of moral rules.

Hence, this theory puts considerable emphasis upon the way that individuals *think* about their actions, it is not a fully cognitivist account of criminal motivation. There is still a core element of deviance in the criminal will that remains somewhat mysterious – not entirely though. It is here that the social dimension of criminal behavior is clearly important. The offender will find it much easier to regard his own excuses as plausible (and thus to maintain the self-deception) if he is in a social environment in which such claims tend to be given credence, or where he is unlikely to encounter critical or dismissive voices. Thus “differential association” and the formation of deviant “subcultures” remain an important part of the story about crime. Neutralization theory, however, regards the function of these subcultures differently. Rather than sustaining an independent system of values and moral principles, different from those of the mainstream, the function of the subculture is to create a social context in which certain types of excuses are given a sympathetic hearing, or perhaps even encouraged.⁵ In this way, the offender finds it easier to live with the (otherwise glaring) contradiction between his own commitment to the moral standards of society and the criminality of his actions.

There is some debate about how much this theory explains, since the use of such techniques of neutralization is not universal (e.g., Kraut, 1976, pp. 363–364). It is also not clear to what extent these techniques are used merely to provide excuses, or

whether they in fact supply full-blown justifications (Hindelang, 1970, 1974). It seems clear, for instance, that an appeal to higher loyalties suggests that the action was not merely excusable, but actually the right thing to do under the circumstances. In that case, the extent to which the criminal shares in the broader normative consensus of the society becomes subject to dispute. Nevertheless, the basic empirical phenomenon of neutralization is clearly an important one (see Agnew, 1994; Agnew and Peters, 1986; Akers et al., 1979; Buffalo and Rodgers, 1971; Landsheer et al., 1994). In contemporary criminological research, it is typically embedded within a multifactorial theory of deviance, as one of several “social” factors that generate a propensity toward crime (Akers, 1998, pp. 77–87). It is worth singling out for special attention in this context, however, because it is a factor that should be of particular interest to business ethicists.

Neutralizations in business

When crime is analyzed from the perspective of techniques of neutralization – rather than, say, faulty socialization or deviant values – it immediately becomes apparent why bureaucratic organizations such as large corporations, as well as the “market” more generally, might constitute peculiarly criminogenic environments. These are institutional contexts that generate a very steady stream of rather plausible (or plausible-sounding) excuses for misconduct. This is the result of a confluence of factors: first, corporations are typically large, impersonal bureaucracies; second, the market allows individuals to act only on the basis of local information (Hayek, 1945), leaving them in many cases unaware of the full consequences of their actions; third, widespread ideological hostility to government, and to regulation of the market in particular, results in diminished respect for the law; and finally, the fact that firms are engaged in adversarial (or competitive) interactions gives them broader license to adopt what would otherwise be regarded as anti-social strategies (Heath, 2007). The other major feature of the corporation, and of the business world more generally, is that it constitutes a subculture that in many cases isolates individuals from the broader community, and thus may serve to insulate deviant ideas and arguments from critical scrutiny.

It may be helpful to consider these factors from the perspective of the seven different categories of neutralization technique. Sykes and Matza’s original work was done in the context of juvenile delinquency and street gangs. However, it is easy to see that there are very familiar “business” versions of each pattern of excuse that was encountered there.

Denial of responsibility

Hannah Arendt once described bureaucracy as “rule by nobody” (1969, p. 81). With corporate crime in particular, it is seldom the case that any one individual is clearly responsible for a particular action. Thus when a crime is committed, everyone can, with some degree of plausibility, point the finger at someone else. The person who carried out the action can blame the person who made the decision, the person who made the decision can blame the person who vetted the decision, etc. (e.g., see Vandivier, 1996, p. 128). Due to the organizational hierarchy of the firm, individuals can always try to pass the blame up to their superiors. These superiors can, in turn, try to pass the blame back down, by insisting that their subordinates acted independently (Clinard and Yeager, 1980, p. 45). (In this context, it is worth noting that the “ethics codes” adopted by some firms clearly facilitate the latter. By imposing upon each employee the obligation to resist any “unethical” orders, they in turn make it more difficult for these employees to shift the blame up.)

The competitive structure of the marketplace, not to mention the “hard budget constraint” (Kornai, 1992, pp. 143–144) imposed by investors, also generate the perception, among many people, that they have “no choice” but to violate the law. This is, of course, predicated upon the assumption that the bankruptcy of the firm (or personal bankruptcy, or even just losing one’s job) is an evil to be avoided at all cost. For example, Geis quotes one defendant in the heavy electrical antitrust case excusing his actions in the following terms: “I thought that we were more or less working on a survival basis in order to try to make enough to keep our plant and our employees” (1968, p. 108). Here one can see the vocabulary of “survival” being used to blend the “necessity” defense into an appeal to higher loyalties

(in this case, an altruistic concern for the plant's employees).

The competitiveness of the marketplace, and the workplace, also means that if one individual refuses to perform an illegal act, he may simply be replaced by someone else who is (or if one firm refuses to pay a bribe, the business will simply go to some other firm that is, etc.).⁶ This suggests that the illegal act is going to occur regardless of what any one individual chooses, and is thus subject to some sort of metaphysical "necessity." As a result, the particular individual who happens to perform the act cannot be said to have "caused" the harm that results, since one of the central counterfactuals associated with causal relations is false (it is not the case that, had he not performed the act, the harm would not have occurred).

Denial of injury

One of the most important features of white-collar crime is its often "faceless" character. In general, people have more permissive attitudes toward crime when the victim is unknown, or else an institution (Landsheer et al., 1994, p. 51). Most white collar criminals never meet or interact with those who are harmed by their actions (and in many cases they wouldn't even know how to find their victims should they choose to). This makes it more plausible to claim that no injury has occurred. In antitrust cases, in particular, many offenders simply refuse to believe that they have caused any harm. Geis quotes a Westinghouse executive, for instance, acknowledging that price-fixing arrangements were illegal, but denying that they were criminal: "I assumed that criminal action meant damaging someone, and we did not do that" (1968, p. 108). One can find the same steadfast refusal to acknowledge any harm by Microsoft executives, despite having been found in violation of the law in both the United States and the European Union. The problem stems from an ignorance of, or perhaps an unwillingness to grasp, a rather subtle point of economic theory, viz. that that social cost of monopoly is borne, not by those who purchase the firm's products, but rather by those who do *not* purchase them due to monopolistic pricing. Typically, however, monopolists point to the satisfaction of the firm's own customers as evidence that their conduct caused no harm. This defense is based upon an

economic fallacy, but it is hardly one that they have an incentive to sort their way out of.

In these cases, there is potential confusion as to the *identity* of the individuals who are harmed by the criminal's actions. In other cases, the mere fact that there is *diffusion* of the harm over a very large number of persons is appealed to as grounds for denial that anyone was injured by the person's actions. This is presumably what underlies the widespread conviction that crimes committed against large corporations are more acceptable than those committed against small ones. It may also be a major factor in the extraordinarily permissive public attitudes toward tax evasion, insurance fraud or crimes resulting in losses that are covered by insurance. Finally, because shareholders are not entitled to any fixed rate of profit, actions that merely produce a lower rate of profit are sometimes excused on the grounds that they did not result in actual losses.

One of the most general grounds for denying injury stems from overly generous use of the *volenti non fit iniuria* principle. This is often tied to a form of market utopianism, which suggests market outcomes are to be presumed efficient until proven otherwise. Since market transactions typically involve consent, it is relatively easy for people to convince themselves that shareholders who are exploited by management could have invested their money elsewhere, consumers who purchase inferior goods ignored the "buyer beware" rule, workers who are injured "knew the risks when they took the job," and so on. One can find highly sophisticated variants of these arguments. Certain proponents of the so-called "efficient markets" hypothesis, for example, claim that the stock market fully anticipates managerial graft when determining the price at which shares trade. Since the shares of firms where managers abuse their perqs will trade at a discount, this sort of 'abuse' does not actually harm shareholders – indeed some theorists claim that it is merely "implicit compensation" for the managers. Many "economically" minded theorists defend insider trading using more-or-less the same rationale (Easterbrook and Fischel, 1991, pp. 257–258).

Denial of the victim

The essence of this neutralization technique is the claim that, rather than merely acting opportunistically

toward the victim, the offender is in fact playing tit-for-tat, and thus responding in kind to past opportunistic conduct on the part of the supposed victim. The least sophisticated version of this argument involves simply pointing at the other and saying “he started it.” The more sophisticated version involves presenting the offender as exacting righteous vengeance, perhaps even sacrificing his own interests in order to ensure that the crimes of others do not go unpunished.

This category of neutralization technique is especially important when it comes to occupational crime. It is very difficult to find an employee who believes that an enhancement of the overall level of distributive justice in society would require a reduction of his or her current compensation package. Such perceptions of “underpayment inequity” can be an important source of occupational crime (Greenberg, 1990). Among less skilled workers, people often confuse the fact that their *role* is invaluable to the organization with the belief that *they* are essential to the organization. Thus they feel undercompensated, ignoring the fact that it is the ease with which they can be replaced that determines their wage rate, not the value that they contribute to the firm on a day-to-day basis.

The basic structural problem comes from the difference between the adversarial orientation associated with the competitive labor market and the more cooperative orientation required for work within the firm. Labor is, as Karl Polanyi wrote, a “fictitious commodity” (1944, pp. 72–73). When a firm hires an employee on salary, what they are doing is essentially paying to secure that person’s cooperation. Yet when it comes to negotiating compensation, it is the adversarial norms of the marketplace that prevail (see Heath, 2007). It can be very difficult for employees to “switch hats” so quickly, to put what are often very bitter wage negotiations behind them, and return to being “team players,” devoting themselves selflessly to the interests of the firm.

All of this creates an environment in which it is relatively easy for people to convince themselves that, rather than stealing, what they are really doing is taking what they are owed, or perhaps punishing their employer for treating employees poorly (Green, 1990, pp. 81–83; Greenberg, 1990). In one large-scale survey, Richard Hollinger and John Clark found that “when employees felt exploited by

the company... these workers were more involved in acts against the organization as a mechanism to correct perceptions of inequity or injustice” (1983, p. 142). Furthermore, if the corporation is engaged in unethical or illegal practices, employees may regard their own theft as nothing but the seizure of “ill-gotten gains.” More generally, few people in the public at large regard corporations as absolutely innocent (in the way that a person walking down the street, singled out at random and mugged, is absolutely innocent). This contributes to a general propensity to regard occupational white collar crime as merely “just deserts” (and hence as victimless).

Condemnation of the condemners

One of the most prominent features of corporate crime is the frequency with which business executives dispute the legitimacy of the law under which they are charged, or impugn the motives of the prosecutors who enforce them. Consider, for instance, the abuse that was heaped upon New York State Governor Eliot Spitzer during his tenure as Attorney General (particularly in the *Wall Street Journal*) for exposing a wide range of dubious practices in the insurance, mutual fund, and securities industry. His major prosecutorial work was almost never discussed, in the popular press, without some mention of his “political ambitions.”

More generally, corporate criminals will often contest the very legitimacy of regulation, by suggesting that the government, when it imposes constraints upon the marketplace, is actually beholden to “special interests,” while the corporation represents the broader interests of the public. Since the latter is taken to be a larger constituency than the former, the suggestion is that the corporation enjoys stronger democratic legitimacy than the government. Another common strategy is to pick out one overzealous or odd regulation and use it as grounds for dismissing the need for all regulation (Clinard and Yeager, 1980, pp. 70–71), or to impugn the competence of government in general. Raymond de Sousa, for instance, argued for jury-nullification in the Hollinger International case on this basis: “I have very little confidence that the same vast bureaucratic apparatus that manages our health care, our post office or our roads somehow becomes more competent and fair when it comes to criminal justice” (De Sousa, 2007).

The other major strategy is to suggest that the government is motivated by some type of ideological agenda (as opposed to the corporation, which for structural reasons can have no interest other than to “give the people what they want”). Thus prosecution of white collar offenses is seen as stemming, not from considerations of justice, but rather from some sectarian political ideology.⁷ The very concept of “white collar crime” is often dismissed as a socialist plot, despite the fact that the primary beneficiaries of such prosecutions are usually capitalists (i.e., investors). For example, when Robert Lane interviewed a group of business executives in the early 1950s, asking them how to reduce the level of corporate crime, the most common recommendation was to “stop the drift to socialism and the restriction of freedom.” (Lane, 1953, p. 164). All of the other proposals made by these executives focused upon either increasing the quality or integrity of *government*, or else decriminalizing the relevant activities. Not one made any suggestion that would have enhanced compliance with the existing body of law.

Appeal to higher loyalties

“I did it for my family,” remains one of the most popular excuses for occupational crime, especially among female offenders (Daly, 1989). These sorts of excuses are no different in kind from the ones employed by street criminals. What is different in the business context, and what outsiders sometimes have difficulty comprehending, is the extent to which the *corporation itself* can serve as an object of higher loyalty. This is especially the case in more knowledge-intensive industries, which are subject to greater “information impactedness,” and so rely much more heavily upon the loyalty of their employees in order to overcome internal agency problems. Considerable effort on the part of management is aimed toward cultivation of these loyalties, from dramatic initiation rituals for new employees, on-site recreational and sports facilities, personal counseling services, to the ubiquitous “team building” seminars and weekend retreats (Arnott, 2000).

An unintended consequence of the intense loyalties that are developed through such techniques is that employees may sometimes feel that they are excused from any accusation of criminality, so long as their actions were undertaken for the sake of the firm rather

than for reasons of self-interest. (For example, it is quite plausible to suppose that neither Kenneth Lay nor Jeffrey Skilling were motivated by any personal pecuniary incentive when they misled investors about Enron’s financial condition. They did it for the sake of Enron—an organization that they both continued to insist was a “great company” even after its collapse [McLean and Elkind, 2004, p. 419].) One study of retired Fortune 500 company managers by Marshall Clinard (1983) showed a widespread condemnation of whistleblowing, on the grounds that it conflicted with the “loyalty” owed by employees to the firm. Many believed that (with certain exceptions, such as safety violations) individuals who were unwilling to participate in illegal activities should simply quit their jobs and keep quiet, rather than “go to the government” (1983, p. 116).

It should also be noted that managers will sometimes appeal to the fiduciary relationship that they hold toward shareholders as an excuse for misconduct (Clinard and Yeager, 1980, p. 72). (Depending upon the audience being appealed to, offenders will also sometimes appeal to stakeholder interests as well. Corporate crime, for instance, can be excused as an action taken to stave off bankruptcy, in order to protect workers from losing their jobs, etc.) The “we did it for the shareholders” excuse had a ring of plausibility to it, because agents are obliged to advance the interests of their principal as best they can, and this sometimes does require violations of conventional morality. Lawyers, for instance, are generally thought to be under a professional obligation to conceal information on behalf of their clients in many circumstances. Yet the loyalty argument is spurious as a defense against crime, of course, because agency relationships cannot be used to “launder” impermissible actions in this way.

Everyone else is doing it

This is an excuse for all kinds of crime, but it should be noted that it has greater plausibility in a business context than in many other cases. This is because the competitiveness of the marketplace creates certain pressures that are absent in other domains. If one doctor is performing unnecessary procedures, this does not necessarily create any pressure on other doctors to do the same, simply because it doesn’t affect them in any material way. In business, however, illegal

conduct can give a firm an unfair competitive advantage that threatens rival firms with significant losses. For example, a minor safety infraction may save a firm only a small amount of money, but if it gives them an advantage over their competitors, which allows them to land several contracts that might otherwise have gone to them, then these slight gains will be significantly amplified. This will, in turn, create pressures on their rivals to follow suit. (It may also make the violation seem trivial, relative to what is at stake.)

The best analogy here is to the dilemma that many athletes face when confronted with the problem of doping in sport (Heath, 2007). In some cases, the individual faces a situation in which the consequence of acting ethically is certain defeat. Similarly, corporations are sometimes put in situations where they must offer a bribe, or arrange a kickback scheme, if they want to do business with a particular client. Thus there are clearly cases in which “everyone else is doing it” can serve as a reasonable excuse (although never, it should be noted, as a justification). This having been said, however, one must be on guard against the tendency toward overuse of this excuse. In particular, one must be suspicious of the version that treats it as a general result of microeconomic theory that the misbehavior of one firm “forces” all others to follow suit. In Clinard’s study of middle managers, for instance, most ranked the “unethical competitive practices” on the part of rival firms quite low in their assessment of the causes of unethical or criminal conduct (1983, pp. 62–63), while only one in nine felt that it was a significant factor. Primarily, this is because they felt ethical firms had a variety of different ways of protecting themselves from these sorts of tactics – including, most significantly, bringing adverse publicity or regulatory attention to bear upon the firm that was acting unethically or illegally.

Entitlement

One of the major differences between corporate crime and street crime is the frequency with which white collar criminals simply deny the authority of the laws that they have broken. Often this is based on some variant of *laissez-faire* ideology (e.g., Clinard and Yeager, 1980, p. 69), which either contests the legitimacy, or denies the efficacy, of any government interference

in the market. More sophisticated apologists appeal to the “business judgment” rule, in order to condemn government interference in mere “governance” issues. Both arguments suggest that the state simply does not have the right to regulate certain forms of private transactions. Thus individual businesspeople need not appeal to any “higher good” in defense of their actions, they need only insist upon their rights. Civil rights legislation and various aspects of labor law were for a long time very publicly resisted on these grounds – shouldn’t employers be free to choose who they want to employ, or which customers they want to serve? What business is it of the government’s?

These sorts of ideological challenges can have very powerful effects. In the United States, for instance, where these ideas enjoy much greater public acceptance, “the problem of business resisting law enforcement by forming oppositional and criminogenic business subcultures would seem to be more widespread” (Braithwaite, 1989, p. 129). Braithwaite draws particular attention to the Occupational Safety and Health Administration in the United States, which has encountered what he calls “an organized subculture of resistance that advocates contesting all enforcement actions, that is consistently challenging and litigating the legitimacy of the government to enforce the law” (1989, p. 129). It is worth pausing for a moment to emphasize how extraordinarily uncommon it is in advanced Western democracies to encounter such large-scale, organized attempts to undermine the authority of the law. The rather uncompromising tradition of individual rights in the United States, combined with the fact that the American Supreme Court for many years (during the so-called “Lochner” era) interpreted these rights in such a way as to prohibit many of the forms of government intervention in the marketplace that we see today, presumably accounts for much of this phenomenon.

It is also quite easy to find “karmic” versions of the entitlement argument, where people point to how much “good” a company does (e.g., the number of satisfied customers, happy employees, etc.) as an excusing condition for violations of law.

The power of these techniques of neutralization is amplified by the social environment created within many corporations. As Gerald Mars has emphasized, illegal conduct creates considerable cognitive

dissonance for the typical perpetrator. Membership in a deviant subgroup plays an important role in “normalizing” this otherwise proscribed conduct. Without the supportive group, “the ‘sinning’ self threatens to overwhelm the working self.” (1982, p. 170).

For most people, work is the center of their lives. Not only do they spend more waking hours at work than anywhere else, but they do most of their socializing there as well. Their entire circle of social interaction is often limited to family and coworkers. This is encouraged by many modern management techniques, which take a lot of the interactions that would traditionally have occurred outside the workplace and transfer them to inside the organization – creating what Dave Arnott (2000) refers to as “all-consuming organizations.” One can see this trend at work in the creation of company “campuses” or “compounds,” which include banking services, medical clinics, dry cleaners, daycares, and convenience stores (Arnott, 2000, pp. 72–73). A (largely) unintended consequence of this trend is that it leaves employees increasingly cut off from any contact with the broader community, and in many cases, even from their own families. Such arrangements are troublesome, from the standpoint of white collar crime, simply because they also leave individuals quite isolated from any contact with those who might challenge the “company line” on illegal practices, or reject the excuses that are conventionally offered within the firm.

Implications for business ethics

There is an enormous benefit to be derived for business ethicists from this sort of foray into the criminology literature. I would like to draw attention to some of the implications that the focus on techniques of neutralization has for the way that business ethics is taught. This is an issue that is close to the heart of many in the field, since most people who do research in business ethics also teach it. Of those who teach business ethics, very few do so out of purely “academic” interest, most are also hoping, in one way or another, to improve the chances that their students will act ethically, when and if they continue on to careers in business. There is nothing wrong with such aspirations. Suppose though that we change the focus slightly, in order to bring the

criminological perspective to bear. Instead of asking how an ethics course should be taught, in order to reduce the chances that students will behave unethically, let us ask how a course should be taught, in order to reduce the chances that students will go on to commit major felonies. We can then ask what advice a criminologist would have to offer. By paying careful attention to this advice, we can perhaps learn some more effective strategies for the design of ethics courses as well.

The first thing that one notices, when turning to the issue of ethics education, is that the debate over the efficacy of business ethics programs is almost entirely dominated by the folk theories of moral motivation that have been so thoroughly discredited in the field of criminology. Critics of business ethics typically argue that morality is matter of character, or of values, and that “by the time students enroll in college-level business courses their values have already been formed, rendering ethics education a waste of time” (Williams and Dewett, 2005). Defenders of business ethics education, unfortunately, have been far too willing to accept the theory of moral motivation that is implicit in this critique. Thus they have responded by trying to show that it is still possible to improve the character (Hartman, 1998), or influence the values (Williams and Dewett, 2005, pp. 112–113), of students. A more appropriate response would be to dismiss the entire frame of reference.

It is worth recalling, in this context, that the motivation most people have for obeying the law is often the same as the motivation that they have for acting ethically. This is especially true with regard to white collar crime, where enforcement is exceedingly difficult, and the threat of legal penalties in many cases slim to non-existent (Coleman, 1989, pp. 177–180). Insofar as most people respect the law, they do so because they feel morally bound to do so. What the criminology literature tells us about this moral motivation is that it is not about character, and it is not about values. On the contrary, it is various aspects of the *situation* that individuals find themselves in, what they *think* about this situation, and what they *expect others* to think about the situation, that plays the major role in determining how they conduct themselves.

Too many business ethicists, unfortunately, have maintained a stubborn adherence to a discredited folk theory of character traits (e.g., Hartman, 1998;

Solomon, 1992, pp. 3–4). The fact that institutional context is far more important than character should be a source of encouragement for business ethicists. After all, thinking in a disciplined manner about the sort of institutional arrangements that employees find themselves working in is one of the central functions of management. One of the interesting results turned up by Armstrong, in his study of how management students would behave when confronted with the Panalba case, is that the outcome was highly sensitive to the way that he described the role that students would be playing. When told that “a resolution was passed in 1950 which stated that the Board’s duty was to represent the stockholders,” 79% of groups chose the “highly irresponsible” course of action. However, when told that a resolution was passed stating that “the Board’s duty was to represent the interests of each and every one of its ‘interest groups’ or ‘stakeholders’” the level of highly irresponsible conduct dropped to 22% (Armstrong, 1979, p. 203). Setting aside the more complicated question of whether this sort of “stakeholder” orientation represents either a feasible or desirable way of achieving more ethical conduct in business (see Heath, 2006), what this result does show quite clearly is that the way individuals conceive of their obligations – and the neutralizations that are made available to them by aspects of their situation – is an enormously important factor in the decisions that they ultimately make.

This has important implications for business ethicists. On the one hand, it means the business schools – and business managers more generally – cannot simply throw up their hands and claim that it is “too late” to do anything about ethics. The best way to get people to behave ethically is to put them in a situation in which ethical conduct is expected of them and self-serving excuses are not tolerated. This is a matter of effective institutional design. Thus business ethics courses need not do anything particularly profound, such as forcing students to rethink their fundamental values, or promoting their moral development (Williams and Dewett, 2005, p. 112). They need only teach managers how to create institutional environments that will promote ethical conduct. One way of doing this, suggested by the criminology literature, is to create an environment in which the standard techniques of neutralization used to excuse criminal and unethical behavior are not accepted.

If one takes this perspective seriously, then there is no particular reason for business ethics courses to focus on moral dilemmas, or to teach fundamental meta-ethical perspectives (Kantian, utilitarian, etc.) Students do not commit crimes because they lack expertise in the application of the categorical imperative or the felicific calculus. They are more likely to commit crimes because they have talked themselves into believing some type of excuse for their actions, and they have found a social environment in which this sort of excuse is accepted or encouraged. Thus a more useful intervention, in an ethics course, would be to attack the techniques of neutralization that students are likely to encounter, and may be tempted to employ, when they go on to their future careers. As we have seen, white collar criminals are typically conflicted about their own actions. They know what morality and the law require of them. The problem is that they have convinced themselves that no one is really injured by their actions, or that they had no choice in the matter, or that it’s permissible because everyone else is doing it, etc. Typically, the arguments they have used to convince themselves are sufficiently fragile that they can only be sustained in a supportive environment, among peers who are also inclined to view these claims as legitimate. One way to tackle this problem, “preemptively” so to speak, is to demonstrate the inadequacy of these rationalizations, e.g., by tracing out the harm caused by embezzlement, or expense account abuse; by articulating the logic of government regulation and the basis for its legitimacy; by explaining the concept of market failure and why unconstrained competition sometimes produces inferior results; and by exploring the tendency toward dissipation of responsibility in bureaucracies. One can imagine an ethics curriculum structured around these themes. The goal would be to bring to conscious awareness certain patterns of self-exculpatory reasoning, and to flag them as suspicious, so that students will be less likely to accept them at face value when they encounter them later in life. The goal, in other words, would be to neutralize the neutralizations.

Notes

¹ The one article that cites it is Chan (2003), although Cressey’s name is misspelled.

² This might be thought of as a defect of character, and thus merely a special case of the previous folk theory. Yet there are ways of construing the underlying moral psychology that are not committed to a “virtue ethics” framework. This, combined with the frequency of appeal to this motive, justifies giving it a separate treatment.

³ I am tacitly introducing the distinction between excuses and justifications into this discussion (see Baron, 2005). To justify an action is to show that it is, in some sense, the “right” thing to do. To excuse an action, on the other hand, is to grant that it is, in some sense, the “wrong” thing to do, but to claim that the individual cannot be blamed for performing it under the circumstances (Ripstein, 1998). Sykes and Matza use only the vocabulary of “justification,” but most of the patterns of reasoning they discuss are better understood as excuses.

⁴ I use masculine pronouns throughout, in reflection of the fact that the overwhelming majority of criminals – both white collar and blue collar – are men.

⁵ In this context, one might read with interest the lyrics of Ice Cube’s “Why We Thugs.”

⁶ My father, while serving in the Royal Canadian Air Force, once threatened to resign if a particular practice, which he considered unethical, was not stopped. His commanding officer stuck his fist into a pail of water than happened to be on his desk, pulled it out, and said “You see that Heath? That’s the hole you’ll leave in this organization when you’re gone.”

⁷ Writing for the Heritage Foundation, Baker Jr. (2004) argues, “The origin of the ‘white-collar crime’ concept derives from a socialist, anti-business viewpoint that defines the term by the class of those it stigmatizes.”

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