

WHITE COLLAR CRIMES IN POLICE

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Abstract: This paper throws an ample light on white collar crimes committed by police. Police is an essential part of society and its primary duty is to ensure safety of society and maintain law and order in society but today as every individual as well as every profession is in the grip of white collar criminality similarly police are also in the grip of white collar criminality. Various kinds of white collar crimes are committed by police such as bribery, fake encounters etc. Thus, strict laws are required to be enacted to deal with white collar criminals.

Keywords: Police, White Collar Crimes, Society, Bribery.

1. INTRODUCTION

Now-a-days, it is a common thought that some profession give more extensive chances to criminal acts and fraudulent practices which rarely come in open consideration. There have been wrongdoer and dishonest individual in businesses,¹ different profession and even in people's life. They will become unethical on account of their negligence at school, home and other social institutions where individuals are prepared for good qualities and character building. These corrupt individuals had rarely any respect for trustworthiness and other moral qualities. Consequently, they carry on their illicit exercises without suffer the loss of renown or status. These types of wrongdoings are called 'white collar crimes' and they are basically a result of the aggressive economy of mid-twentieth century.²

The sociologist Prof.Edwin.H.Sutherland invents a new term "white collar crime" in a lecture given to 'the American Sociological Society' in 1939. Prof. Edwin.H.Sutherland defines white collar crimes as "crimes committed by a person of respectability and high social status in the course of his occupation." Examples of it include fake advertisements, violation of patents, making of false balance sheets, clearance of defective goods and so on. These white collar crimes are of such a nature that they don't affect any person individually or the affect on individual is very much less but they affect the society at large.³ 'White collar crimes' are the wrongdoing that are committed by salaried experts or people in business and that generally includes a type of money related cheating or misrepresentation. These violations are peaceful acts committed by businessmen through tricky exercises who are able to get a lot of cash with the end goal of monetary benefit. White collar crimes have turned into a worldwide problem with the development in business and technology. The ongoing development in information technology has added new branches to white collar criminality. In a developing nation like India where population is expanding day by day, financial matter offenses are growing in a very high speed other than the conventional crimes. These crimes are generally connected with center of society and high class of society and have added new chapter in criminal jurisprudence. The word "white collar crime" has not been characterized in any code. But the branches of white collar crimes are so wide that after examine the Indian Penal code, 1860 it can be said that some offences under IPC are directly linked with white collar crime such as bribery, corruption, adulteration of food and forgery etc.⁴

The most important and primary duty of state is to ensure the safety of society. There can be two sources of threat to the society either it can be internal or external so in both terms it is the responsibility of state to protect the society. For this purpose the state has established different police forces for the suitable areas. To guard against the external threat the state has established the Army with its allied wings like the Air Force and the Navy etc, and to guard against the internal force it has Para-Military and the state Police force. The ultimate objective of these forces is to maintain Rule of law which is ultimate necessity for a democratic state.⁵

Police is an essential part of the society. In order to keep peace and harmony in society there is a need of efficient police system. Police is an official part of criminal justice system in India on that basis it has to play a vital role in "keeping peace and harmony and maintaining law and order within its territorial jurisdiction." The main responsibility of police is to protect the lives and

¹ Dr.Rajendra.K.Sharma – *Criminology and Penology* 220 (Atlantic Publishers and Distributors, Delhi, 2017).

² N.V.Pranjape – *Criminology and Penology and Victimology* 145 (CLP, Allahabad, 17th edn. 2017).

³ "White Collar crime and its changing dimensions in India" available at <http://www.legalservicesindia.com/article/1378/White-collar-crime-and-its-changing-dimensions-in-India.html> last visited on February 4, 2019.

⁴ "White Collar Crime" available at <http://www.lawyersclubindia.com/articles/White-Collar-Crime-8556.asp> last visited on February 4, 2019.

⁵ N.V.Pranjape - *Criminology, Penology and Victimology* 402 (CLP, Allahabad, 17th edn. 2017).

property of the people and also safeguard them against the brutality, intimidation, ill treatment and disorder. Basically police is a “constituted body of persons authorized by the state, to impose the laws, to safeguard the people and their property and to prevent crime and civil disorder.” The police are stated as an important part of the criminal justice system. Their main duty is to pick the criminal from the society for the prosecution and get them punished for their offence. Police is also considered as the important link between the government and people. Police is also connected with prosecution and judiciary under the criminal justice system. As Police being the first essential element of the criminal justice system so it has to perform all the necessary functions such as it has to investigate the crime, arrest the criminals, gather all evidences from the scene of crime, recording of confessions and produce the offender before the magistrate, arrest and search and seizure etc., these are the basic functions which the police has to perform in their daily working because of the increasing crimes rates. The concept of police was introduced in India by the Britishers. The laws relating to the sphere of police work in the country are not enhanced properly till now. The Indian Police Act, 1861 was enacted in British India which provides the role, functions, duties and powers of the police. Further, The Code of Criminal Procedure, 1973 was amended from time to time which provides power to make arrest, investigation, search and seizure. Thus, it is clear that police has to play an important role in the administration of criminal justice system.

2. DEFINITIONS OF WHITE COLLAR CRIMES

The idea of ‘white collar crimes’ was firstly brought in the field of criminology by the famous American criminologist ‘Edwin.H.Sutherland’ in 1939. The expression ‘white collar crime’ has been defined by various scholars such as ‘Sir Walter Reckless’, an eminent American criminologist said that, white collar crime represents the crimes of professionals or business personalities who are capable to determine the policies and activities of businesses. Some other criminologist said that, white collar crimes are those crimes which are committed by person of high social status not for their need but for greed .i.e. for the greed of money making. In ‘Black Law Dictionary’, the term ‘white collar crime’ is defined as “A non-violent crime usually involves cheating or dishonesty in commercial or business related matters.”

The ‘Oxford English Dictionary’, also defines the ‘White Collar Crime’ as “A person who takes advantage of the special knowledge or responsibility of his position to commit non-violent, often financial crimes.”

The expression ‘White Collar Crime’ was 1st coined by Edwin.H.Sutherland, the most influential American Criminologist of his time. Edwin.H.Sutherland has defined, “White Collar Crimes as a crime committed by a person of respectability and high social status in the course of his occupation”.

The above definition of ‘White Collar Crime’ has 5 elements which are as follows:

- I. It is a crime.
- II. Committed by a person of respectability.
- III. Of high social status.
- IV. In the course of his profession or occupation.
- V. It is usually a violation of trust.

3. FEATURES OF WHITE COLLAR CRIMES

Features of white collar crimes are totally different from traditional crimes in several respects and they are stated below:

- i. White collar crimes are mainly committed by government officials, doctors, advocates, chartered accountants and businessmen etc.
- ii. The means of white collar crimes differs from conventional crime such as fraud, misrepresentation, adulteration, malpractices and irregularities etc.
- iii. These types of crimes are done by the means of deliberate and non-planned conspiracies without any sentiments or feelings..
- iv. Community, society at large or the entire nation is the victims of the white collar crimes. They don’t affect the individual directly.
- v. Mens rea is an essential ingredient in commission of a crime. But in case of white collar crime, mens rea is not an essential ingredient. Only the actus rea on the side of wrongdoer makes the wrongdoer liable for the offence.

4. REASONS FOR GROWTH OF WHITE COLLAR CRIMES IN INDIA

It is a general belief that ‘white collar crimes’ are committed because of money hunger and the people who involve in these crimes are financially secure. But these crimes are committed by a person who wants to become wealthier than others in their profession or business. These crimes are committed in the course of their profession or business of white collar criminal. However, there are various reasons for the growth of white collar crimes which are discussed under:

- a. Not a crime – “White collar criminals justifies themselves by saying that the actions performed by them are not crimes as the acts does not involve and resembles as traditional crime”.
- b. Not realizable – “Some white collar criminals convince themselves by stating that the government regulations do not understand the practical problems of competing in the free enterprise system”.
- c. Lack of awareness – “One of the main reasons of white collar crime is the lack of awareness of people. Peoples do not know the affect of white collar crime in the long run on society”.
- d. Greed – “Greed is another one of the most important reason for the growth of crime. A white collar criminal thinks that other people are also violating the laws and so it is not bad if they will do the same”.
- e. Necessity – “Necessity is also another important reason for the growth of crime. A person commits white collar crime in order to satisfy their ego or support to their business”.⁶

5. ELEMENTS OF WHITE COLLAR CRIMES

Following are the white collar crimes:-

1. A white collar crime involves violation.
2. It takes place directly or indirectly in connection with a legitimate occupation.
3. The crime is not against a specific individual or a firm but is against society at large. There is therefore no specific victim who would complain
4. The effect of this crime is much more serious for society than an ordinary crime
5. It aims at gaining money.

According to Appelbaum and Chambliss, there are two types of white collar crimes. They are:

I) Occupational crime: - Occupational crime occurs when crimes are committed to promote personal interests. Crimes that fall into the category include altering books by accountants and overcharging or cheating clients by lawyers. Usually it occurs when employees come across an opportunity to make extra money by bending or breaking the rules. The professions of medical, engineering, educational institutions are the parties for such crimes

II) Organizational or Corporate Crime: - A much more costly type of white collar crimes occurs when corporate executive commit criminal acts to benefit their company. There are a variety of corporate crimes that include the creation of inferior goods, pollution and price fixing. The crimes of hoarding, black marketing and adulterations are committed to earn the maximum profits. Sale and income are concealed in order to evade taxes.

There is one more type of white collar crime, ‘Government Crime’ or crimes by officials. These crimes, now-a-days are called “scams” in India. Bribery and kickbacks in Government purchases and issue of licenses are examples of white collar crimes,

6. FORMS OF WHITE COLLAR CRIMES

Some forms of white collar crimes are:-

1. Frauds in business in relation to sale of bonds and investments and the use of deception to obtain money or others assets.
2. Counterfeiting is the forgery of an official document
3. Malpractices in sales and supply of banned goods to attain large profits
4. Adulteration is foods and drugs and misleading advertisements
5. Racketeering refers to the operation of an illegal business for personal profit.

7. PRINCIPLES OF POLICING

The police play a vital part in a law based establishment of government. They should win the confidence of the general population. The following are the important principles that govern police force in any country:-⁷

- a) To contribute towards freedom, fairness and fraternity in human affairs and activities
- b) Dealing with the criminals in action;
- c) To maintain and ensure human rights;
- d) To contribute towards winning confidence of the general population;
- e) To reinforce the security of people and property.”

⁶ Harshit Jain,” Case study on White Collar Crime”Volume 5, Issue 2 IJEDR 2017.

⁷ N.V.Pranjape - *Criminology, Penology and Victimology* 402 (CLP, Allahabad, 17th edn. 2017)

8. DUTIES OF CIVIL POLICE

The common police of the state needs to play out certain general commitments for the upkeep of lawfulness in the public eye. Following are the obligations of common police:

- 1) Serving and securing the residents;
- 2) Engaging the natives and picking up their co-task;
- 3) Policing of the beat;
- 4) Patrolling;
- 5) Collecting insight to help police work.
- 6) Traffic obligations;
- 7) Investigating and enquiring the cases answered to them and keeps up police headquarters reports, registers, and records, and so on.
- 8) Auxiliary obligations, for example, specialized help, exceptional ability report and other open-air obligations.

9. WHITE COLLAR CRIMES IN POLICE

Yet another profession which is in the grip of white collar criminality is police. Basically, Police is an essential part of the society. To maintain peace and order in society there is a need of good police system. As Police is a functionary of criminal justice system in India so it has to play an important role in maintenance of peace and enforcement of law and order within its territorial jurisdiction. Its primary duty is to safeguard the lives and property of the people and protect them against the violence, intimidation, oppression and disorder. Basically police is a constituted body of persons empowered by the state, to enforce the law, to protect people and property and to prevent crime and civil disorder. The police are considered as essential part of the criminal justice system. Their main duty is to pick the criminal from the society for the prosecution and get them punished for their offence. Police is also considered as the important link between the government and people. Police is also as well as connected with prosecution and judiciary under the criminal justice system. As Police being the first essential element of the criminal justice system so it has to perform all the necessary functions such as it has to investigate the crime, arrest the criminals, gather all evidences from the scene of crime, recording of confessions and produce the offender before the magistrate, arrest and search and seizure etc., these are the basic functions which the police has to perform in their daily working because of the increasing crimes rates.

But in today era, the ratio of white collar criminality is high in the police and it is increasing day by day. It is stated that most of the Indian Police is corrupted whether it is small rank of police or higher rank of police. The police are bribed for different reasons and these reasons are considered as white collar crimes. Therefore, some types of white collar crimes committed by the police are as follows:

a) Unorganized Recruitment of Police:-

Under this the police officials are recruited without following the procedure of recruitment by the authority for the purpose of getting bribe. For example, if a person is unfitted for the recruitment due to any reason and he bribes any senior officials because of that reasons and he is appointed by the person because he had bribed the official.

b) Bribery:-

Bribery refers to the situation where someone wants some favor from a person with the power to move a bill. Money is given and the favor is granted.

c) Favorable attitude towards criminal or gangster:-

Some of the police have generally favorable attitude towards the criminals or gangster because they know that if they have a favorable attitude towards the criminal or gangster then they can have financial profits and for this profit sometimes they provide unauthorized facilities to the criminal in custody.

d) Agents of political parties:-

Police are also considered as agents of political parties because they got bribed from political parties and do their work according to the politicians instead of performing their duties as per required.

e) Fabricating of false evidence:-

Fabricating false evidence is defined under Sec-192 of IPC, 1860. The essence of the offence of fabricating false evidence under sec-192 of IPC, 1860 consists in order to injure another by supplying false data upon which a judicial decision may rest. In this, a lawyer prepares fabricating false evidence for his own interest and presents it before the court for a specific result.⁸

f) Delay in investigation of crime and filing the charge sheet:-

⁸ "Fabricating false evidence" available at <http://www.shareyouressays.com/knowledge/fabricating-false-evidence-section-192-of-ipc/118981> last visited on February 19, 2019.

Police generally does delay in investigation of crime and filling of charge sheets when they found that there will be financial profit if they do so. For this purpose, they delay the investigation by giving different excuses or by harassing the complainant and the complainant have to fulfill their financial requirements for filing charge sheet and investigation of crime.

g) Fake Encounters:-

Fake encounters are executed for the purpose of bribe. The ratio of fake encounter is high in the police. Because of the fake encounter an innocent dies and the criminal is left open in the society. The best example of fake encounter was seen in the Indian movie Jolly LLB 2, the whole movie has shown the corruption in police and how the police are bribed for fake encounters.

Following are also some of the situations where the police are bribed:-⁹

- i. for registering a case and proceeding with investigation;
- ii. Arrest or non-arrest of accused and release or non-realize on bail;
- iii. Providing unauthorized facilities for persons in custody;
- iv. for dropping action against violators of traffic rules and regulations
- v. while verifying character and antecedents in connection with passport applications
- vi. Collusion with black marketers and smugglers and tipping them off with advanced information about any intended raids or searches
- vii. Fabricating false evidence during investigation of cases and implicating innocent person or leaving out the guilty persons on mala fide consideration
- viii. Unauthorized interference in civil matters between two parties and securing a disposal favourable to one party by threatening the other party with violence and involvement in a criminal case
- ix. Extortion of periodic payments from shop-keepers, footpath vendors, brothel keepers, promoters of gambling dues etc.:
- x. Obtaining free entertainments and services from hotels, cinema houses, shops, transport services etc on threat of prosecution for infringement of a variety of rules and regulations.

CONCLUSION

According to Sutherland, white collar crimes are the crimes committed by the person of respectability and social status during the course of their business or profession. The dimensions of white collar crimes are expanding it can be observed that the definition stated by Sutherland is true. The dimensions of white collar crimes are expanding in high class professions such as engineering, medical, police, journalism, lawyers and in educational institutions and by the respectable professionals. The main reason of these expanding dimensions is to earn profit. At present time, every profession is in the grip of white collar criminals. Due to the advancement of science and technology the white collar criminals are committing crimes with new methods. Most of the crimes are committed through online system. The white collar criminality is increasing day by day as there is no fear in them that will be catches because most of the white collar crimes are not covered under the laws of India. The main advantage to white collar criminals is that profession like police and lawyers whose primary duty is to serve the justice and protect the society and maintain law and order in society are also involved in white collar crimes. Police is an essential part of the society. To maintain peace and order in society there is a need of good police system. As Police is a functionary of criminal justice system in India so it has to play an important role in maintenance of peace and enforcement of law and order within its territorial jurisdiction. But in today era, the ratio of white collar criminality is high in the police and it is increasing day by day. It is stated that most of the Indian Police is corrupted whether it is small rank of police or higher rank of police. The police are bribed for different reasons and these reasons are considered as white collar crimes. Thus, there is a dire need for the enactment of strict laws regarding white collar criminals.

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