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The Role of the Mass Media in the Enron Fraud

Cause or Cure?

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The relationship between crime and the mass media often has been described by researchers as paradoxical. Perhaps the most striking of the proposed paradoxes are the dual contentions that the media can serve as both a *cause* of crime and a *cure* for crime. This paper posits that the recent financial scandals in the United States—which began in 2001, when Enron tipped over the first domino in a stunning fission of corporate failures—are a reflection of these contradictory notions of cause and cure.

Cause

When scholars like Surette[1] and others have written about mass media as a cause of crime, their focus generally has been on violent crime. They cite an abundance of evidence from laboratory studies in which media depictions of violence stimulate aggression in subjects.[2] They report classic empirical studies of modeled aggression[3] and copious anecdotal evidence of copycat crimes.[4] Although white-collar crime can in fact be very violent, especially in the areas of environmental contamination and unsafe consumer products, this is not the case with the corporate Ponzi schemes and "pump and dump" scams that opened the New Millennium. If modeling of illegal conduct has occurred—and it clearly has—the models typically have been deviant leaders, supervisors, or associates, whose crimes have been rewarded. It seems very unlikely that the media could have stimulated an explosion of fraudulent financial reports. It is tautological that there can be no copycat crime unless there is a crime being reported that someone could copy. This did not happen. The media failed to recognize—or chose not to report—that crimes of unprecedented magnitude were even being committed. They published and broadcast the fraudulent hyperbole but not the fraud.

So one must look elsewhere for a causal link between the mass media and the corporate scandals. If the media did not abet the fraud through imitation or social learning, how did they? In the best case, they did it through negligence or naiveté; in the worst case, through co-optation and complicity.

When one considers the role of the media in the Enron debacle, the primary referent is a journalistic segment largely ignored by criminologists—the financial press, both print and electronic. Excavating back issues of magazines like

Forbes, *Fortune*, *Business Week*, as well as the *Wall Street Journal* and the business sections of other major daily newspapers, for Enron stories is like taking a journey through a fantastic looking glass and entering a parallel universe of cheerleading and obsequiousness, a universe where applause drowns out skepticism, where down is up and nothing succeeds like failure. Like the treacly poetry in cheap greeting cards, it can be painful to read.

Naiveté

The naiveté was manifest in the extravagant praise heaped on Enron from the late 1990s through much of 2001. Enron was held up as the epitome of a new post-deregulation corporate model. As far back as 1998, the highly regarded *Kiplinger's Personal Finance Magazine*, for example, was touting Enron as "good value," adding that "Enron's estimated rate of long-term growth—15 percent per year—is roughly twice that of the market's."[5]

A reporter for the Dow Jones News Service beat the drum even louder in 1999: "In contrast to the 'boringly predictable' regulated utilities of old, which were safe havens for widows and orphans, the newcomers hold the promise of skyrocketing returns." His article listed the most interesting energy companies. Enron topped the list.[6]

Also in 1999, a *Los Angeles Times* business columnist rejoiced that the energy market was no longer a "staid business of regulated monopolies," but a "beehive of financially savvy companies like Enron."[7]

In 2000, *Business Week* was celebrating Jeff Skilling's vision of Enron as a cutting-edge company that could securitize anything and trade it anywhere.[8]

A headline in one *Dallas Morning News* branded Enron a "global e-commerce leader," and the article gushed over how Enron is a "global go-getter that has created a corporate culture that rewards risk-taking."[9] The *Houston Business Journal* used the adjective "sizzling" twice in three paragraphs, noting, "Enron has shown a widely recognized knack for innovation that consistently generates additional sources of revenue."[10] Both of these Texas publications were basically (and uncritically) rewriting Enron press releases.

On August 13, 2001, *Business 2.0* hit the streets, declaring, "The Revolution LIVES," with a photo of Enron president Jeff Skilling on the cover.[11] The following day Skilling resigned.

In September 2001, only a month before the implosion, *Red Herring*, one of the bibles of the New Economy, proclaimed, "Forget about Microsoft. America's most successful, revered, feared—even hated—company is no longer a band of millionaire geeks from Redmond, Washington, but a cabal of cowboy/traders from Houston: Enron."[12]

Even *The New York Times* called Enron a "model for the new American workplace."[13] It labeled CEO Ken Lay "an idea machine."[14] *Fortune Magazine* named Enron "America's Most Innovative Company" *six years in a row*.[15]

Negligence

Enron was, of course, a Houston-based company. As such, one would have expected the *Houston Chronicle*, the only daily newspaper in America's fourth largest city, to be on top of the story. When a major scandal breaks in a newspaper's hometown, it often gives local reporters and editors a chance to shine in the national spotlight. But this was not at all the case. On the *Chronicle's* website a link was offered to what it called "full coverage" of the Enron collapse. Interestingly, the stories went back only as far as October 23, 2001. Not available for examination was the *Chronicle's* shameless trail of cheerleading. An especially memorable piece appeared in the business section on August 28, 2001. The headline read, "Taking a Long View: Enron Works to Shore Up Confidence." The lead sentence was, "Even though *nothing major appears to be wrong at Enron* Corp., investor confidence in the world's largest energy trader remains shaky [emphasis added]."[16] Perhaps that shakiness stemmed from investors reading other publications, which, by that time, had been aggressively reporting Enron's troubles.

Another memorable *Chronicle* column that same month was titled, "Enron Making Way to Weather Storm." The column insisted, "It's still a company with innovative people who have shown they can turn ideas into profitable businesses. That's why the *current problems will blow over* [emphasis added]."[17]

Perhaps the *Chronicle's* most ignominious moment came on November 11 in a story covering Enron's public announcement that it had overstated its income by about $600 million over the previous four years. The *Chronicle's* lead on this story was astonishingly flippant: "Ever have to fix an error in your checkbook when you get your monthly bank statement in the mail? Imagine the headache Enron Corp. is facing."[18]

The *Chronicle* at times seemed to operate as Ken Lay's public relations arm. One story about his "humble beginning" said, "He is often described as a folksy man of the people who never lost sight of his origins—or his drive to succeed."[19] By that time, no one except the *Chronicle* was describing Lay in such sympathetic terms. Another story bemoaned, "Like the vast majority of the company's employees and shareholders, he [Lay] could now lose nearly everything." The newspaper wept for a hometown boy who was secretly dumping his own shares for hundreds of millions of dollars while still encouraging employees to invest all their retirement savings in Enron stock. The *Chronicle* somehow found a way to equate Ken Lay's mounting legal problems with the devastating financial losses suffered by Enron's faithful rank-and-file workers.

Ironically, since the collapse no newspaper has been more aggressive in its Enron coverage than the *Chronicle*. But its sad record of negligence in its own backyard may never be fully erased. In January 2002 the *Chronicle* ran a story headlined "The Myth of Enron." It said, "Years before its spectacular fall there were signs that Enron was never what it seemed. A close look at its history shows that the company relied on a steady stream of hype and distractions to gloss over its failures."[20] The story identified those taken in by the Enron propaganda machine: Wall Street analysts, investors, and "others." One might well wonder if it included itself in the "others" category, given its egregious record of fawning over the company—something never alluded to in the article. The *Chronicle's* belated outrage seems somewhat akin to marching onto the field *after* the battle and shooting the wounded.

Co-optation and Complicity

The press, needless to say, depends on public trust. It now appears clear that some prominent columnists and commentators placed that trust at risk by accepting substantial fees from Enron. Though purportedly meant as compensation for services rendered, the actual work involved seems so patently small that many critics have characterized the exchanges as ill-disguised bribery.

New York Times economics columnist Paul Krugman received $50,000 from an Enron advisory group shortly before joining the *Times*. The liberal Krugman later blamed the criticism on a conservative attempt to link Enron to the left—and thus help obscure the company's questionable ties to the Bush administration. It seemed a weak and self-serving argument, given that most of the journalists benefiting from Enron largesse were from the free-market right. Krugman denied he had done anything inappropriate, insisting that the Enron advisory board "had no function that I was aware of."[21] Krugman's curious neutralization was reminiscent of former Congressman Ozzie Meyers, who went to prison in the wake of the notorious ABSCAM sting operation of the 1970s. Meyers admitted taking a $50,000 bribe from a bogus Arab sheik but denied any culpability because he claimed he had no actual intention of using his position to help "Abdul"[22]—as if that makes a $50,000 payoff to Meyers or, in this case, to Krugman, ethically acceptable.

Weekly Standard editor William Kristol, one of the leading conservative voices in the America media, received $100,000 from the Enron advisory board.[23]

Lawrence Kudlow, contributing editor of *National Review* and host of a daily financial program on CNBC, was paid $50,000 for what was termed "consulting and research."[24]

Financial columnist Irwin Seltzer of the *Times* of London received about $50,000 from Enron. Perhaps coincidentally, perhaps not, Seltzer became one of Ken Lay's fiercest defenders.[25]

Wall Street Journal columnist Peggy Noonan (a former presidential speech writer) earned a fee of $25,000 to $50,000 (she claims not to remember the amount) from Enron for doing something—although no one is quite sure what that something was.[26]

It should be noted that all of the afore-mentioned beneficiaries—except Seltzer—later acknowledged in print their financial arrangements with Enron. And some of them, such as Krugman and Kudlow, became strong critics of the company. But the cooptation of the media by a criminogenic corporation is so fraught with danger that even journalistic *mea culpas* and after-the-fact piling on raise disturbing questions. When Enron set out to buy favorable press coverage by turning *muckrakers* into *buckrakers*, it placed its targets in a no-win situation. If their so-called consultants later recused themselves from Enron coverage—as some critics demanded—the company would have in effect bought their silence. If, on the other hand, their purchased pundits later turned on them, as most did, they risked the appearance of biting the hand that fed them just to flaunt their independence and courage.

Journalists are ever quick to rage when politicians appear to be doing the bidding of those who fill their campaign coffers. For those in the mass media, feeding at the same corporate trough is an engraved invitation for trouble.

Apologists for the financial press argue that the media were hoodwinked like everyone else. After all, the doctored financial reports of companies like Enron—as well as WorldCom, Qwest, Global Crossing, Adelphia, and others—had been certified by external auditors, most notably the once-giant corporate accounting firm of Arthur Andersen and Company, now deservedly a rotting corpse. There may be some measure of truth to this contention. There is no question that the Enron books were cooked by master chefs. But Enron's use of layer upon layer of interlocking limited partnerships should have raised a red flag to an attentive press. Consider just one example: Enron made a $12.5 million loan to Kafus Industries, a Canadian company that makes recycled fiberboard. In 1999 Enron increased the loan to $20 million and received a note convertible into Kafus shares. It then sold the Kafus stake to another partnership, SE Thunderbird. SE Thunderbird was controlled by Blue Heron, which in turn was controlled by Whitewing Associates, a partnership whose sole member was Whitewing Management, which was controlled by Egret I, another Enron affiliate.[27] If these Byzantine machinations seem incomprehensible, that's the whole idea. And the media should have understood that—even if they couldn't understand the precise details. Beyond a certain point, complexity *is* fraud.

Perhaps most importantly, the media fell asleep at the switch while a dangerous revolution in the corporate culture was occurring under their noses. The American economy had been largely built on what has been termed *patient wealth*. Earlier generations of executives were the products of a time when almost nobody got rich quickly. Going public and making a billion dollars a few months later was not in their mentality or imagination.

Today's business leaders grew up in a very different America—a more materialistic America that showcased enormous amounts of wealth. It now appears clear that many of them brought into the arena a profound sense of entitlement. They expected things sooner rather than later. "In your face" extravagance that once would have been embarrassing had become the norm. Not only do today's corporate elite believe they should make fortunes quickly, but there are also far fewer restrictions on conspicuous consumption. One need only think of now-imprisoned former Tyco CEO Dennis Kozlowski's infamous $15,000 umbrella stand and $6,000 shower curtains—paid for by victimized shareholders.

This dramatic transition was fueled by a greed so out of control that a generation of entrepreneurs who *make* things was replaced by a generation who *take* things. The wealth they possess or aspire to possess is not a patient wealth. But to merely call it "impatient" wealth is to understate what has happened in corporate America. It may be more apt to borrow a term from the psychiatric lexicon, a term used to describe persons intensely selfish, conspicuously lacking in human empathy, and dispositionally unable to delay gratification. We entered an age of *psychopathic wealth*—and the press hardly seemed to notice.

And even if most of the mass media are still not yet ready to admit it, they helped create Enron. The media had become participants in the New Economy. Today's news media are themselves frequently a part of large, often global, corporations, depending on advertising revenues that increasingly come from other large corporations. As public companies, the news media are under the same kind of pressure to create shareholder value and increase earnings as other public companies. Consequently, there are always potential conflicts of interest—perhaps more now than ever. The so-called "Chinese Wall" in journalism, between doing business and reporting business, rests on shifting sand.

White-collar crime, like most crime, is photosensitive. It does best in darkened rooms behind closed doors. The media, of course, have had centuries of experience in shining a spotlight on crime, but have probably been least successful in revealing the malfeasance of large corporations—particularly before the damage was done. The impact of large corporations on our environment, our political system, the distribution of wealth around the world, the security of our investments, even our health, continues to grow. The recent corporate failures and frauds served as a warning to the press that it needs to be dedicated to finding the next Enron. Finding the first Enron, thousands of days late and billions of dollars short, was surely not the media's finest hour. From 1995 to 2001, reporters gave a remarkably free ride to some amazingly unsupportable businesses. Perhaps writing about all those 20-something dot.com millionaires spawned some combination of envy and admiration that turned into a perverse Stockholm Syndrome.

But that was then, and this is now. Just as the political media were changed irrevocably by Watergate, the financial press seems far different in the post-Enron era.

Cure

Media scholars long have debated the notion of agenda setting—that is, the manner in which the mass media can influence public opinion. It is generally accepted that people tend to judge the significance of a social concern by the extent to which it is emphasized in the media. But whether that proposed nexus between media and public opinion effects changes in public policy is less clear. Some have proposed a simple linear model: a story appears; the issue increases in importance to the public; and policy makers respond.[28] Some critics contend that a linear model is *too* simple. Doppelt and Manikas suggest an ecological model, in which the relationship among media, public opinion, and policymaking is multidirectional.[29] Molotch and colleagues argue that the linear model may be truncated at any point, noting, for example, that the American media have reported decades of dramatic and tragic stories involving gun deaths, which have bent public opinion strongly in favor of tighter gun laws; but that (for a variety of reasons) this has resulted in very little in the way of major policy changes.[30]

Nevertheless, if the media are to play a role in "curing" grand-scale corporate corruption, they are most likely to do so by elevating the position of such crimes on the public agenda. In the past, this has proved to be difficult. Street crime has always dominated the public's attention. White-collar crime usually has been dismissed as the "other" crime problem. Even the massive savings and loan and insider trading scandals of the 1980s had surprisingly little traction, beyond the public's fascination with a few high-profile "star" offenders like Charles Keating, Michael Milken, and Ivan Boesky. To the average citizen, Wall Street often seems a million miles from Main Street. And while the cost of the S&L collapse to taxpayers was enormous (The cost of bailing out Keating's corrupt Lincoln Savings exceeded the total cost of all the bank robberies in American history[31]), these scandals failed to resonate in any lasting, visceral way.

But the Enron story *did* resonate. In journalistic parlance, it had "legs." The tragic tales of hard-earned retirement funds being wiped out almost overnight, while top executives continued to live like maharajahs, struck a collective nerve. And the more Enron horror stories the media told, the angrier the public became. Here, at last, was traction.

In its belated "Myth of Enron" story, *the Houston Chronicle* complained angrily about how the company had avoided answering tough questions. As usual, the *Chronicle* got it wrong. The fall of the House of Enron occurred because someone finally asked the *simplest* of questions: How do you make money?[32] It is a question not likely to be overlooked again by the financial press.

So, have the media reasserted their traditional public watchdog role? Have increased scrutiny and skepticism led to increased public outrage and a louder demand for corporate accountability? Have politicians and agency decision makers been listening? Perhaps it's too early to say for certain, but the signs are encouraging. Congress surely was listening when it passed the Sarbanes-Oxley Act of 2002—the toughest piece of corporate governance legislation ever enacted. The law imposes new duties on public corporations and their executives, directors, auditors, and attorneys, as well as securities analysts. The act requires significant rulemaking by the Securities and Exchange Commission and the creation of the Public Company Accounting Oversight Board.[33] Among the act's 11 major provisions is the requirement that corporate CEOs assume personal responsibility for the integrity of their company's financial statements. Misrepresentation could mean prison time.[34] At least two repercussions are worth noting. First, in the year following the passage of Sarbanes-Oxley, more than 300 publicly traded corporations revised and restated their earnings reports.[35] Second, there have been no major corporate scandals even approaching Enron proportions since Sarbanes-Oxley was enacted.

Another indication that the post-Enron media have sensitized their consumers to the seriousness of white-collar crime and the arrogance of control fraud is the spectacle of disgraced captains of industry voluntarily entering into plea bargains involving lengthy prison terms. Defendants such as Samuel Waksal[36] (former CEO of ImClone), Martin Grass[37] (former CEO of Rite-Aid), and Andrew Fastow[38] (former CFO of Enron) agreed to accept tough sentences of seven, eight, and ten years, respectively, rather than go to trial. These men presumably were represented by skilled, highly paid attorneys and surely would not have pled guilty without a compelling reason. Simply put, they were afraid to face an angry, punitive jury.

Moreover, the media finally have discovered psychopathic wealth and its newsworthiness. Consider one illuminating example: In April 2003, a story broke that CEO Donald J. Carty of American Airlines, in an effort to avert bankruptcy, had successfully negotiated a $1.8 billion savings package with the company's three labor unions. He had convinced his pilots, mechanics, flight attendants, and baggage handlers that they must accept major pay cuts of between 15 and 25 percent or AMR would collapse, taking their jobs and pensions down with it.[39]

What Carty failed to make clear at the time was that his plea for shared sacrifice did not include himself. On April 15, AMR filed a required report with the Securities and Exchange Commission. Only then was it revealed that—at the same time Carty was negotiating the labor pay cuts—he secretly was crafting hefty retention bonuses for himself and a handful of top executives that would reward them for staying at their posts until 2005. Carty's bonus would total $1.6 million, twice his annual salary.[40] The press wanted to know how this could have happened. And why a CEO whose company had lost over $5 billion dollars in the previous two years deserved a seven-figure bonus just for showing up.

This was the type of story that once easily could have gone unnoticed—especially at a time when the drums of war were drowning out competing noises. But an incensed public noticed it. As a result, the bonuses were rescinded, and Carty was forced to resign. Perhaps the media indeed had re-asserted its watchdog role. Even *Fortune*, long a bastion of the corporate status quo, the magazine that once had voted Enron America's best company six years in a row, did a cover story in 2003 on exorbitant CEO compensation. The cover featured pigs in designer suits.[41]

A chastened U.S. media have vowed "never again," and now promise to replace cheerleading with hardnosed, skeptical reporting. Will this pledge endure? No one can predict that with any real confidence. Forever is a long time. But the renascent financial press seems likely to last for a while—at least until the next giddy boom.

Endnotes

1. Surette (1992).
2. Garofalo (1983); Phillips (1982); Comstock (1983).
3. Rosekrans (1967).
4. Cook et al. (1983).
5. Stover (1998).
6. Sherman (2002).
7. Flanigan (1999).
8. Rebello (2000).
9. Thompson (2002).
10. Greer (2000).
11. *Business 2.0* (2001).
12. Locke (2001).
13. Salpukis (1999).
14. Ibid.
15. Enron Press Release (2001).
16. Goldberg (2001).
17. Barlow (2001).
18. Fowler (2001).
19. Fergus (2002).
20. Goldberg (2002).
21. Kurtz (2002).
22. Rosoff et al. (2004).
23. Kurtz (2002), op. cit.
24. Ibid.
25. Ibid.
26. Ibid.
27. Rosoff et al. (2004), op. cit.
28. Surette (1992), op. cit.
29. Doppelt and Manikas (1990).
30. Molotch et al. (1987).
31. Rosoff et al. (2004), op. cit.
32. McLean (2001).
33. Rosoff et al. (2004), op. cit.
34. Ibid.
35. *Boston Business Journal* (2003).
36. Usborne (2003).

37. WCVB-TV Boston (2003).
38. TalkLeft (2004).
39. Guardian Newspapers (2003).
40. Ibid.
41. Useem (2003).

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