PhillyDeals: Executive compensation: Is it criminal?

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Should executives go to prison for collecting too many millions from the companies they run?

Angry readers have told me they should. Especially if those companies end up losing money for investors, ripping off customers, or firing a lot of workers, after paying the boss a fortune.

But is that really criminal behavior? Yes, says **criminologist David Friedrichs**, professor at the **University of Scranton** and author of a recent paper, "Exorbitant CEO compensation: Just reward or grand theft?" in the academic journal *Crime, Law and Social Change*.

"If you rob a bank with a note, that's a crime," Friedrichs told me.

"And to walk into the boardroom, and have people with multiple conflicts of interest - consultants you pay, directors who are your customers, or CEOs at other companies where they want big paychecks - vote you these exorbitant compensation packages, that creates a criminogenic condition."

Meaning it's likely to lead to the taking of money that belongs to others. Friedrichs compares U.S. boss pay levels, far in excess of typical European and Asian practice, to business monopoly, which used to be considered natural, not illegal.

Monopoly was only outlawed by Congress after growing protests by farmers and small-business owners at the tactics of the giant railroads and manufacturers who set prices without fear of competition.

Some boss pay is illegally high, of course. Friedrichs cites a string of CEOs who ended up in prison in the mid-2000s: **John Rigas** of Pennsylvania's **Adelphia Communications Corp.**, jailed for using more than "$2 billion of the corporation's funds for personal purposes," and lying to banks and investors. **L. Dennis Kozlowski** of **Tyco International Ltd.**, "convicted of grand larceny, conspiracy, and falsifying business records" to boost his pay. **Conrad Black** of **Hollinger International Inc.**, "convicted of fraud in connection with taking illegal payments."

But those involved proven cases of breaking existing laws. Courts are reluctant to go further. Black's jury, for example, refused to convict him on additional charges of skimming millions through "self-dealing" legal agreements. Friedrichs admits "jurors accepted" those schemes to boost bosses' pay as "standard business practices."

And that should change, he adds: "Why do you have a Citigroup? Because **Sandy Weill** made a fortune on the order of a billion dollars cobbling it together."

Weill lost millions when the stock fell. "But he hasn't had to pay back the American taxpayers" for investing billions to keep the unwieldy company that enriched him solvent after he left, Friedrichs said. "It should be against the law."

Instead, **President Obama's** administration is limiting pay for Weill's current successors, who mostly joined the bank only after it was already going downhill.

I've angered some readers by noting that the Obama administration's cap on high pay at government-backed companies gives their rivals an advantage, which works against the value of the taxpayers' investment.

Friedrichs agrees. "The Obama administration doesn't go nearly far enough," he argues. "Restrictions shouldn't be on some companies. They should be on all companies."

But doesn't high pay attract the best and the brightest? Friedrichs says it's too easy to cite examples of CEOs who collected millions as their companies lost big at **Home Depot Inc., Pfizer Inc., Walt Disney Co.**

He cites the studies assembled by **Harvard** scholars **Lucian Bebchuk** and **Jesse Fried** in their 2004 book, *Pay Without Performance*, which "clearly demonstrated there is not a necessary correlation" between high pay and excellent performance.

Isn't this just jealousy - the average American's anger at the rich and successful?

Friedrichs distinguishes between *envy*, the biblical sin of hating someone else's joy, and *jealousy*, the feeling someone else is getting what we're entitled to - which Friedrichs considers a more appropriate response in these cases, since "these CEOs are being awarded resources that in large measure rightly belong to other stakeholders, including shareholders, corporate employees, and consumers."