From white-collar crime to organizational crime: An intellectual history

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Contents

- Introduction
- I. The Discovery of White Collar Crime
  - 1. The Origin of The Concept of White-collar Crime
  - 2. Contributions and Impacts
- II. The Discovery of Corporate and Organizational Crime
  - 1. The conceptual and ideological straight-jacket
  - 2. Corporate-organizational crime: the genesis of an idea
- III. Organizational Crime Coming of Age
  - 1. The study of organizational crime - a humble beginning
  - 2. Organizational criminology coming of age
- Conclusion
- Notes

Introduction

1. The concept of white-collar crime has been with us now for half a century. Since then it has grown into a major field of criminological study. In the intervening years there was a discernible move from the study of white-collar crime as an individual phenomenon to the study of white-collar crime as an organization practice. This shift in focus, though not anticipated by Sutherland, was nonetheless made possible by his original conceptualization of white-collar criminality. How this conceptual transformation occurred is the interest of this author and the focus of the paper.

2. This paper is divided into three parts. Part I, entitled “THE DISCOVERY OF WHITE-COLLAR CRIME,” discusses the conceptual origin of white-collar crime, particularly the controversies attending its creation and the contributions it made on criminological studies. Part II, “THE DISCOVERY OF CORPORATE AND ORGANIZATIONAL CRIME,” describes the emergence of a countervailing model in the study of white-collar crime, i.e. the organizational perspective. The section starts by observing the conceptual and theoretical difficulties in making a paradigmatic shift from the studying of white-collar criminals to the studying of organizational criminals. It then attempts to show that the concept of organizational crime was embedded within the Sutherland's original white-collar crime theoretical framework. The section ends by outlining the major pioneer works which gave life to this incipient movement in the re-orientation of an entrenched idea. The last part, Part III - “ORGANIZATIONAL CRIME COMES OF AGE” describes in more detail how contemporary scholars, building upon the dissenting voices of the past, were able to successfully disassociate themselves from Sutherland legacy and created an organizational study field of its own.

I. The Discovery of White Collar Crime

1. The Origin of The Concept of White-collar Crime

1.1. The discovery of white-collar crime

3. Sutherland introduced the concept of "white-collar crime" in 1939 in his presidential address at the American Sociological meeting. A white-collar crime is a crime committed by: "a person of respectability and high social status in the course of his occupation." The idea instantly captured the imagination of the public, the focus of the scholars, and the attention of the policy makers. It revolutionized the way crimes were looked at. Before, crimes were considered mainly as a street level phenomenon. After, the rich and poor alike could be implicated. In drawing the distinction between "white-collar crime" and "street crime," Sutherland wanted to expose to the unsuspecting public a long obscured crime problem, i.e. crimes committed by the rich and powerful. More importantly, he wanted to bring to justice the elite criminals who until then were able to avoid the reach of the law...
4. Sutherland was not the first to be concerned with the deviance of the rich, powerful and privileged. It appears that Edward A. Ross was the first to report upon the sins of "The Criminoid" in his now classical article in The Atlantic Monthly in 1907: "By this we designate those who prosper by flagitious practices which have not yet come under the effective ban of public opinion. Often, indeed, they are guilty in the eyes of the law; but since they are not culpable in the eyes of the public and in their own eyes, their spiritual attitude is not that of the criminal."[7] A much more detailed elaboration of Ross's thesis appeared in a widely read book Sin and Society (1907). Albert Morris was the first to discuss the abuses of the "criminals of the upperworld" in the form of a book. In his treatise on Criminology (1935) he defined "criminals of the upper-class" as: "that numerous but never clearly defined group of criminals whose social position, intelligence, and criminal technique permit them to move among their fellow citizens virtually immune to recognition and prosecution as criminals."[8] The common intellectual linkage between Ross, Morris and Sutherland was the immunity of a group of criminals from the legal process because of their social, economic and political status; a theme which Sutherland capitalized on in rallying public support for his new ideas.[9]

5. Personally, Sutherland was first exposed to the concept of white-collar crime when he took a graduate sociological course from the University of Chicago. In a required textbook, Charles R. Henderson wrote: "The Social classes of the highest culture furnish few convicts, yet there are educated criminals. Advanced culture ... make it (form of crime)... more cunning .... open up to new and colossal kinds of crime ... Many "Napoleons" of trade are well named, for they are cold blooded robbers and murderers, utterly indifferent to the inevitable misery which they must know will follow their contrivances and deals. Occasionally eminent legal ability is employed to plan raids upon the public in ways which will evade the penalties of the criminal code..."[10] He also owed evident intellectual debt to for his development of white-collar crime concept to Matthew Josephson's The Robber Barons (1934).[11]

2. Contributions and Impacts

2.1. Sutherland's contributions

6. Sutherland distinguished himself from those who preceded him in one important respect. He made the study of white-collar crime not only respectable but feasible. He stated the problem clearly, forcefully and succintly. He spearheaded the systematic study of the phenomenon. He articulated a distinctive theoretical concept (that of white-collar criminality), provided for an operational definition (that of administrative, civil and criminal violations), attempted at a causal theory (that of differential association) and supported his thesis with empirical data (legal and administrative violations of 70 companies). His major thesis is best summed up in the following propositions:

1. "White-collar criminality is real criminality, being in all cases in violation of the criminal law.

2. White-collar criminality differs from lower-class criminality principally in an implementation of the criminal law, which segregates white-collar criminals administratively from other criminals.

3. The theories of the criminologists that crime is due to poverty, psychopathic and sociopathic conditions are invalid because, first, they are derived from samples which are grossly biased with respect to socio-economic status; second, they do not apply to white-collar criminals; and third, they do not even explain the criminality of the lower class, since the factors are not related to a general process characteristic of all criminality.

4. A theory of criminal behavior which will explain both white-collar criminality and lower-class criminality is needed.

5. A hypothesis of this nature is suggested in terms of differential association and social disorganization.[12]

Sutherland's impact was great and unmistakable.[13]He re-oriented the thinking of a generation of criminologists and others to come. He provided personal leadership in theory development and research verification. He inspired others to follow his example. He raised controversial issues and sharpened debates over existing theories and research of crime and delinquencies. Largely because of his influence, the period between 1940 and 1960 was described by one scholar as the "classical period" in the research and study of white-collar crime.[14]

2.2. Contributions by other white-collar researchers

7. Sutherland's earthbreaking work was followed by a rush of studies in his footsteps. Hartung (1950) studied price control violations in the wholesale meat market in Detroit.[15] He was one of the very few, in this early period, to define white-collar crime as "a violation of law regulating business, which is committed by a firm or its agents in the conduct of its business."[16] In so doing, Hartung drew a distinction between the individual and organizational violators. The distinction however was not capitalized upon in his analysis of price control violations in the meat industry.

8. Aubert (1952) expounded on the relationship between social structure and white-collar crime. He pointed out the need to investigate the "interdependence of the origin and function of social norms and the origin of deviations." Particularly, it is important to look at the attitude and opinion of the white-collar criminal and his peer groups to the law.[17] The personal disposition of this targeted group reveal the legitimacy and efficacy of the law as a form of social control.
9. Clinard (1952, 1946) researched into black market illegality during war time[18] He was first to introduce the concept of "occupational crime." He defined white-collar crime as "a violation of the law committed primarily by groups such as businessmen, professional men, and politicians in connection with their occupations."[19] Clinard investigated violations of price and rationing regulations issued by the Office of Price Administration (OPA) during WWII. Clinard found that in spite of the pervasive patriotic support and wide spread publicity given to such OPA regulations, violations were rampant during the war, e.g. in 1944, 11% of the nation's business firms at the retail level were implicated for a total of 338,029 violations. There were also surprisingly very few prosecutions. The sentences imposed were likewise mild. Although, the OPA violations were every bit as socially harmful (to the war effort) as any other traditional criminal acts.[20] Clinard made several observations which echoed Sutherland's earlier statement about white-collar crime:

1. OPA regulations as malum in prohibita did not develop the same kind of moral indignation and repulsion as traditional crime;

2. though jail was considered to be effective against white-collar criminals, they were withheld because of the social status and economic background of the offenders;

3. the use of administrative measures against OPA offenders should not obscure the fact that such conducts were criminal in nature;

4. conventional criminological theories used to explain "lower class" criminals, e.g. psychopath and sociopath - could not adequately explained the etiology of white-collar criminals.

He was critical of using Sutherland's differential association theory in explaining all white-collar criminality. The theory was flawed in many respects, e.g. it failed to explain how white-collar skills, habits and motivations were form in the original instance.[21]

10. Lane (1953) investigated violations of trade practice and labor regulations in the New England shoe industry[22] He conducted the first definitive study of white-collar crime at the macro level. He used organizational (economic), structural (size) and environmental variables (geographic locations) to explain regulatory violations by industrial "firms." Lane interviewed top management (25) from New England industrial firms and leaders (7) of government regulatory industry. He acquired data from cases, decisions and court orders from FTC, NLRB and Wage and Hour and Public Divisions of DOL and separate statistical study of trade and labor violations in the New England shoe industry. Lane found that:

1. Profit motive alone could not be used to differentiate between the law abiding and violators. However, there was a demonstrated inverse relationship between the economic conditions of a firm and its violation record. Firms with declining profit were more inclined to violate labor and trade regulations.

2. The study showed that ambiguity in the law tempted the firms to test the limits of the law. However, ignorance of the law or incapacity to follow the rule did not seem to be related to labor or trade practices violations.

3. The evidence in support of Sutherland's differential association was mixed. Violations did not appear to be associated with common "interest groups" of companies. However, some shoe manufacturing communities were more criminogenic than others. Social and environmental pressure of a particular community did appear to influence the behavior of a firm and its executives.

4. Adverse experience with the law did not appear to generate patterns of "anti-regulation," anti-government" or "anti-authority" sentiment or behavior. It was equally clear that the leadership of a firm made a material difference in maintaining a respect for the law.[23]

11. Cressey (1953) wanted to understand why some and not all people violated financial trust, e.g. embezzlement[24] He interviewed financial trust violators imprisoned in the Illinois State Penitentiaries. He observed that trusted persons breached their trust when (1) they have a financial problem non-sharable with others; (2) they could only solve the problem by abusing the position of trust; (3) they could be able to rationalize to themselves that they were there were no violation of trust, e.g. seeing embezzlement as borrowing. He dismissed Sutherland's differential association theory as not being able to satisfactory account for why some but not all trusted people, with non-sharable personal financial problems, steal.

12. Quinney (1963) studied prescription violations by pharmacists. Quinney was interested in "systematic attempts to consider social structure of occupations in their explanations of white-collar crime."[25] He interviewed and compared twenty pharmacists in Albany New York State who were prescription violators and sixty randomly selected non-violators. He found that pharmacists have to negotiate the strain created by conflicting role expectations generated by his occupation and profession. He was expected to be a successful businessmen and an ethical professional at the same time. He found that prescription violations varied with occupational role expectations. Pharmacists with a professional role orientation were less inclined to be prescription violators. His research was the first to draw a linkage between occupational structure and culture and deviant behavior.

13. Quinney also contributed to white-collar crime research methodology by insisting that only homogeneous unit of behavior can be subjected to a common explanation. There is no grand criminology theory, such as differential association, which is capable of explaining all types and kinds of white-collar crime.

2.3. Summary

14. All of these pioneers work in the formative years of white-collar crime studies were defining in their own ways. Some of these work
15. Overall, these work shared Sutherland's espoused common theme - white-collar crime is real crime and white-collar criminals were beyond the reach of the criminal law. There were however no conceptual or theoretical linkage between the pioneer scholars. This created a problem in the coordinating and corroborating of research effort. The result was an emerging field of study lacking in focus, direction and sustained effort.

2.4. A problem with Sutherland's definition

16. Sutherland defined white-collar crime as "...a crime committed by a person of respectability and high social status in the course of his occupation" was fraught with objective ambiguity and given to subjective value judgment.[26] Neither of the terms "respectability" or "high social status" was capable of precise definition, much less objective measurements. Many scholars took issue with the definition. Some raised troubling questions about the formal definition. For example, Quinney objected to its lack of conceptual clarity: (1) how importance is "social status" in finding white-collar criminality? (2) What is the exact meaning of "occupational activity?" (3) The definition included deviant behaviors that were not considered criminal. (4) The definition covered a broad range of diverse and inconsistent behaviors.[27] Others were concerned with the operational definition. For example, Tappan argued that only those who were formally prosecuted and convicted by a court of law should be considered a criminal. A sociological definition of white-collar crime encompassing administrative or civil violators should not be used to measure criminality.[28]

17. There were many attempts made to refine or rehabilitate the original white-collar crime concept. The process allowed the scholars to notice some of the inherent deficiencies of a definition build upon the quicksand of social status and quagmire of occupational activities of the offender. It further provided the impetus and opportunity for the search for an alternative way of looking at the problem. This, more than anything else, planted the seed for the later blossoming of an organizational crime perspective.

18. Hartung (1950) defined white-collar crime as violation by a firm or its agent[29] The definition distinguished itself by noting that firm as an organization could engage in white-collar crime. Clinard (1952) defined white-collar crime as: "a violation of law committed primarily by groups such as businessmen, professional men, and politicians in connection with their occupations." This definition highlighted occupational crime as a collective group activity.[30] Bloch and Geis (1962) further sought to increase conceptual clarity of "occupational crime" by dividing it into: (1) crimes by professionals, e.g. doctors and lawyers; (2) crimes by employees against employers, e.g. embezzlement; (3) crimes by policy makers of corporation on behalf of the corporation, e.g. price-fixing.[31] Finally, Geis (1962) wanted to drop the term white-collar crime altogether and substituted it with "corporate crime."[32]

2.5. Impact of Sutherland's Legacy

19. In the end, the cumulative effect of all these work was to give Sutherland's earth breaking concept a more defined body, substantive content and renewed focus and gathered momentum. Together they provided much needed conceptual tools, theoretical foundation and database for later researches to build upon. These work, by virtue of their pioneer quality, set the tone, pace, texture and direction of later research and debate in the field. However, the defining qualities of these work also possessed restricting propensities.[33] By focusing on individual white-collar criminality, the pioneers ignored the importance of organizational deviance. By paying attention to "social status" as a correlate of crime, the pioneers neglected organization structure as an important causal factor to crime. By concentrating on "personal association" as a plausible explanation of crime, the pioneers diverted attention from environmental and organizational factors in structuring crime.

II. The Discovery of Corporate and Organizational Crime

1. The conceptual and ideological straight-jacket

20. As observed earlier, the pioneer work in white-collar crime were significant in promoting continued conceptual refinement and theoretical advancement in a brand new field of study and research. All of them were successful in documenting the abuses of the rich, powerful and privileged but none of them was able to break out of the ideological and conceptual straitjacket laid down by Sutherland.[34] White-collar crime during this era was looked at very much as an individual phenomenon.[35] The exclusive focus on offender status as a conceptual building block and the continued emphasis on the individual as the unit of analysis[36] overshadowed the need to study organization deviance at a macro-structural level. There were other reasons accounting for this neglect:

1. A blinding ideological conviction The crusade against white-collar crime was a highly moralistic and ideological one. Sutherland was an old fashion liberal. He was very much against the abuse of trust by any entrenched interests. By the same token he was always on the side of the underclass.[37] He felt that the rich and the powerful, as much as the poor and the weak, deserved to be treated the same. They should be held equally accountable to the law. His solution was to expose their abuse of power and violation of trust to the public view. Sutherland was consumed by his own ideological zeal in his relentless crusade against social injustice.[38] In the process, he was not able to draw critical distinctions between crime problems caused by different kinds of abuse of power, e.g. political vs. economical. Nor was be able to clearly distinguished between different ways in which the legal process were being avoided, e.g. by skillful concealment vs. hidden under complex organizational structure. In the end, he failed to clearly separate the abuse of trust and power by individuals verses that by
2. Corporate-organizational crime: the genesis of an idea

First, our national history, political heritage, religious cult, economic theory and constitutional tradition are all bound up with the notion of atomistic individualism. Indeed the whole western civilization has put the individual in the center stage of thinking, acting and theorizing. More particularly, Anglo-American criminal law has been primarily concerned with individual culpability and not group responsibility. Jurisprudential thoughts likewise did not contemplate nor favor the punishment of group, collectives or organization. The criminal law made few provisions for the punishment of collectives, group and organization.

Second, the study of crime and delinquency has always been interested in measuring, explaining, deterring and treating individual failures. The unit of analysis of extant criminological researches has been the individual. The question most consistently raised was also of the individual kind: why does a person commit crime? How can he be deterred? What can be done to reform him? In what way can be made to pay for his crime? Explanation of criminality tends to be of a classical (e.g. Bentham) or psychological (e.g. Beccaria) bent. Even when a macro theory was occasionally used to explain crime e.g. “ecological theory” of Shaw and Mckay, the focus was still on how socio-economic-political-cultural forces impact on the individual and his behavior. There were a number of reasons accounting for this trend:

- Criminology, born of sociology, is concerned with the improvement of individual life. Atomistic individualism has a long established history in the study of social phenomenon.

- The positive criminologists and later the progressive penal reformers championed individualized treatment of criminals. This required the understanding of the criminal as a “sick” person.

- It is much more easier to study individuals than their aggregate. As subject of research they are easily identifiable and accessible. There are less methodological - validity and reliability - issues to content with. It is also more "emotionally" satisfying to investigate a natural person than explore an impersonal object.

- Most established crime data sources record street crime. There is no comprehensive database for the measurement of organizational crime. The FBI Uniform Crime Report (UCR) provides information only on conventional crime, e.g. murder and theft. UCR does not report on white-collar crime, except perhaps for fraud, embezzlement and forgery. NCS (National Crime Survey) reports on commonly experienced crime, i.e. street crime. SR (Self Report Survey) only deals with minor delinquent acts. Data on corporate, e.g. SEC violations, and organizational crime, e.g. civil rights violations, are not easily available. They are obscured in many reports filed by different regulatory agencies e.g. FTC, FCC, INS and EPA. Access to deviant organization for investigation and data collection are cumbersome and in most instances limited or obstructed.

Third, the study of organization as a sociological field has not come of age. Organizational study was then a young discipline yet to make its mark. Viewing the organization as having a separate identity and existence apart from its constituency required a whole new way of thinking; a paradigmatic shift yet to materialized. The study of organization required huge resources and specialized skills (accounting, economics, criminal, administrative and business law), which was not in existence.

2. An ambiguous and amorphous concept Sutherland's original definition of white-collar crime obscured the differences between corporate (and organization) crime and individual crime. Sutherland's book White-collar Crime (1949) was an investigation into administrative and criminal violations of 70 large U.S. corporations. In the study, as with his initial definition, he drew no distinction between white-collar criminals who abused their position for personal gain and those who committed white-collar crime for and on behalf of their corporations.

3. An immature discipline Criminological research into organizational deviance was not well developed by 1960s. Few criminological researches focused on the organization as a unit of analysis. There were a number of reasons that account for such neglect or failure.

First, our national history, political heritage, religious cult, economic theory and constitutional tradition are all bound up with the notion of atomistic individualism. Indeed the whole western civilization has put the individual in the center stage of thinking, acting and theorizing. More particularly, Anglo-American criminal law has been primarily concerned with individual culpability and not group responsibility. Jurisprudential thoughts likewise did not contemplate nor favor the punishment of group, collectives or organization. The criminal law made few provisions for the punishment of collectives, group and organization.

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- Criminology, born of sociology, is concerned with the improvement of individual life. Atomistic individualism has a long established history in the study of social phenomenon.

- The Age of Enlightenment and Reason has once and for all liberated the individual from his collective group identity. He is now given a free will and made an autonomous moral agent of his own right. He is free to choose to be right or to be wrong. Any attempt to explain his behavior must start with taking his individual will into account. More significantly, individual moral agents are not only vested with the capacity to do the right things, they have the propensity to do so. This concept of moral agency required explanation of individual moral degeneration.

- The positive criminologists and later the progressive penal reformer championed individualized treatment of criminals. This required the understanding of the criminal as a “sick” person.

- It is much more easier to study individuals than their aggregate. As subject of research they are easily identifiable and accessible. There are less methodological - validity and reliability - issues to content with. It is also more "emotionally" satisfying to investigate a natural person than explore an impersonal object.

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Third, the study of organization as a sociological field has not come of age. Organizational study was then a young discipline yet to make its mark. Viewing the organization as having a separate identity and existence apart from its constituency required a whole new way of thinking; a paradigmatic shift yet to materialized. The study of organization required huge resources and specialized skills (accounting, economics, criminal, administrative and business law), which was not in existence.

2. Corporate-organizational crime: the genesis of an idea
21. The concept of corporate-organizational crime was germane to the idea of white-collar crime as then understood. White-collar criminals were able to avoid criminal sanction because of their power and guile; they have the know-how to conceal their wrongdoing and the power to misdirect the arms of justice. As observed by Sutherland: "The Phrase "criminals of the upper world" is suggested to define that numerous but near clearly defined group of criminals whose social position, intelligence, and criminal technique permit them to move about their fellow citizens virtually immune to recognition and prosecution as criminals." [48] "The crimes of the upper class either result in no official action at all, or result in suits for damages in civil courts ... Because of their social status they (the upper class criminals) have a loud voice in determining what goes into the statutes and how criminal law as it affects themselves is implement and administered." [49]

22. Given this characterization of the white-collar criminals, it is hard to see why corporations and organizations did not receive the attention they were due. The most powerful and sophisticated white-collar criminals are of course not the individuals but the organizations. The size and complexity of an organization allows it to frustrate the functioning of the law in detecting, prosecuting, adjudicating and sanctioning of organizational deviance. [50] More significantly, corporate-organizations, either independently or as a group, can influence if not defined, the regulatory framework. [51]

2.2. Some early advocates

23. A careful reading of the pioneer work on white-collar crime bears witness to the fact that corporate crime was indeed a major concern to some of the pioneer scholars, including Sutherland. When Sutherland described the essence of "White-collar Criminality," he observed: "White-collar criminality in business is expressed most frequently in the form of misrepresentation in financial statement of corporations, manipulation in the stock exchange, commercial bribery, bribery of public officials directly or indirectly in order to secure favorable contracts and legislation, misrepresentation in advertisement and salesmanship, embezzlement and misapplication of funds, short weight and measures and misgarding of commodities, tax frauds, misapplication of funds in receiverships and bankruptcies."

24. It is clear from an examination of this list of white-collar crimes that most of them can only be committed only by corporations, e.g. misrepresentation in financial statement or misgarding of commodities. [52]

25. When Sutherland wanted to investigate white-collar crime to provide empirical support for his thesis, he instinctive turned to the major U.S. corporations for an analysis of their violations records with anti-trust, unfair trade, deceptive advertisement, patent, trademark, copyright, SEC, financial fraud laws. [53] This was more than a coincident. He observed: "This tabulating of the crimes of the seventy largest corporations in the United States gives a total of 980 adverse decisions. Every one of the corporations has a decision against it, and the average number of decisions is 14.0. Of these seventy corporations, 98% are recidivists; that is they have two or more adverse decisions. Several states have enacted habitual criminal laws, which define a habitual criminal as a person who has been convicted four times of felonies, 90 per cent of the seventy largest corporations in the United States are habitual criminals. ... The decisions have been concentrated in the period since 1932 ... One possible explanation is that the large corporations are committing more crimes." [54] (Emphasis mine.)

26. Again, most of the examples used by Sutherland to illustrate his thesis were crimes that could only be committed by a corporation as an organizational entity, e.g. deceptive advertisement, unfair labor practices and anti-trust. He referred only sparing to "embezzlement and violation of trusts by officers of corporations." [55]

27. Unfortunately, he chose to lump corporations and its managerial officers into one big category of "businessmen." He concluded by observing: "I have attempted to demonstrate that businessmen violate the law with great frequency, using what may be called the method of organized crime." [56] Notwithstanding the unfortunate use of word, Sutherland was clearly concerned with corporate and organization crime as a major form of white-collar crime in his earlier paper "Crime of Corporations." It is also clear that when he spoke of businessmen or white-collar criminals he had in mind, in the main, corporate organizations and individuals laboring for them.

28. This organizational theme was picked up and developed by Robert E. Lane. In a seminal article, he tried to understand the criminal behavior of industrial firms; i.e. why some but not all shoe manufacturers violated labor and trade regulations. In the paper he was not interested in understanding the motive and behavior of the individual businessmen but sought to predict and explain the criminality of the business firms. Lane's hypothesis and variables used in the study were macro-structural ones. The independent variables he used to account for the variation in white-collar criminality included "economics of violation," "ambiguity, ignorance and difficulty of compliance," "violators and their associates," and "the personal experiences and personality of violators." They were operationally defined as profitability of the firm, size and resources of the business enterprise, common ownership of companies, close proximity of the manufacturing operations and violation experience of the corporations. Lane's research approach became in time a favorite amongst organizational deviance researchers. [57]

29. Finally, when Albert Morris wrote about "Criminals of The Upperworld," he gave 23 examples of such malefeasance. Of those 15 were in corporate or organizational form. Only 5 were strictly crimes by individuals. [58]

2.3. Summary

30. In sum, when Sutherland spoke of white-collar crime, he had in mind both individual and organizational deviance. Given Sutherland's expressed concern with the problems of abuse of power and trust by the "privileged" class, it should be the corporate-organizational criminals, more so than the individuals, which deserve the bulk of our attention. As argued earlier this possible fertile research agenda was obscured by a white-collar crime definition which emphasized on individual culpability; a criminal
III. Organizational Crime Coming of Age

1. The study of organizational crime - a humble beginning

31. Misguided ideology, ambiguous definition, inadequate conceptual development, entrenched disciplinary paradigm all contributed to a lack of research into corporate - organizational crime. There were however seeds awaiting cultivation and cross-fertilization. Sutherland's first foray into white-collar crime was focused on big corporations. Hartung operationally defined white-collar crime as crime by industrial firm. Lane of course used organizational-environmental variables to explain regulatory violations by shoe manufacturers. All these research anticipated the concept of organizational criminality yet to take hold.

32. As early as 1966 Reiss recognized the need to develop a theoretical model explaining "organizational deviance." He suggested the application of organizational theory to the investigation and understanding of organizational deviance. His called for the reorientation of white-collar crime research effort fell on deaf ears at the time. Years later, Reiss's vision bore fruit. As Gross pointed out: "our ability to understand, let alone control, organizational crime requires going beyond theories of individual deterrence and punishment. We shall have to study organizations themselves and the organizational world they have created." This new orientation required researchers to disregard the "preoccupation with individuals" and concentrate on the "pressures within society and organizational structure, which impel those individuals to commit illegal acts."[62]

2. Organizational criminology coming of age

2.1. The social setting

33. The 1970 - 80 saw a revival in interest in the study white of collar crime. During this period, scholarly attention gradually shifted to the study of organizational crime. This trend took shape slowly but unmistakably. In this regard, Stanton Wheeler, the President elect of the American Sociological Association in 1976, provided much needed leadership in promoting organizational crime research. His called to arms was warmly received. A number of highly acclaimed investigations into corporate-organizational crime followed.

34. The renewed interest was fueled not only by academic curiosity but impelled by a broad social movement in the 1960 - 70s against big business enterprises and powerful government institutions. The genesis of the social movement against big businesses and the government is not difficult to trace.

35. The 1960s were years of great social upheaval in America: anti-war movements, civil rights struggle, racial riots, drugs, crimes and violence beset the nation from coast to coast. An anti-establishment culture was in the making.

36. In the 1970s, the public was bombarded with news account of corporate indiscretions and government abuses. The 1973 oil embargo crisis made plain that the big oil companies were willing to manipulate price and supply during a national crisis to enrich themselves. The 1977 Love Canal pollution story bore witness to the wanton and deliberate disregard of public welfare by a company for its own gain.

37. Things did not fare much better in the public sector. The Knapp Commission revealed widespread institutionalized corruption in the New York Police Department. This raised troubling questions about the possibility of "systematic" abuses in our criminal justice agencies. The FBI and Chicago police was found to have abused the civil rights of political activities in the 70s. This pointed to the gross lack of "institutional safeguards" against violations of civil liberties within the government. Finally, the Watergate case saw the near impeachment of a serving President (Nixon) for abuses of power. This bred distrust and disillusionment in the conduct and ethics in government.

38. All these public disclosures have a cumulative and profound corrosive effect on the public trust - people learned to fear and distrust public institutions and private organizations; from big business to big government. When big businesses do not work for the public good and without a sense of social responsibility, who is there to hold their profit motive in check? When big government institutions are suspected of systematic abuse of power without counterbalancing structural check or political accountability, what can be done to hold them responsible to the public? For people who lived through this era of American history, they have been baptized by fire. No one came out unscratched. They have witnessed a paradise disappeared and in the process experienced a distinct sense of innocence lost! In time, these commonly shared sentiments of fear and mistrust became the basis of a wide spread anti-establishment, anti-government and anti-business movement to follow.

39. The anti-establishment, anti-government, anti-business sentiments found expressions in a range of social movements: from radical political actions to self-help consumer movements. Ralph Nader was indefatigable in assailing the abuses and corruption of government and big business. He provided the leadership for a coalition of anti-government and anti-business movement. Consumer protection became a household word. More significantly, he showed that big business could be tamed. Under his stewardship, the idea that for profit corporations should also have social responsibility came into prominence. Jimmy Carter was elected in 1976 as a reformed President with no Washingtonian connections. He soon made ethics in government the centerpiece.
2.2. A new generation of white collar crime scholars

40. It was within this social and political milieu that the new generation of white-collar-organizational crime scholar came of age. Born in the 40s and 50s into an era of prosperity and optimism, they were taught to have faith in big business and government. They were disappointed when the "Love Canal," "Pinto Madness," "Watergate" and "Vietnam War" betrayed their confidence. They became disillusioned in the established institutions. Disillusionment led to stoicism or radicalism. Drop out or revolution. Once in the academic world these brainchild of the 50s became radical scholars - questioning the established order at every turn and challenging the legitimacy of existing authority structure in every way. They used their institutional position to influence the course of social and political events. It was during this time that critical criminology gain an increasing foothold in America academe. In this the criminologists were also driven by other pressing events within the discipline: "Increased Environmental Concern, Reaction to the over concentration On Concern With Lower Class Crimes and Poverty Problems, the Black Revolution and Prison Reform Movement, and the Influence of Conflict Analysis and Radical Criminology."[76]

41. During this period a number of significant theoretical paper and informative empirical researches about corporate - organizational crime were published.[77] Though still few in number they helped to lay the necessary foundation for further investigation into organizational criminality. A flurry of academic activities followed. Academic conferences on white-collar and economic crime were sponsored.[78] Funding for white-collar crime increased.[79] Organizational deviance courses were developed both at the graduate as well as the undergraduate level. Many textbooks addressing organization deviance beginning to appear. More Ph.D. students were doing dissertation in corporate-organizational crime.[80]

2.3 Reconceptualization of a field - problems and promises

42. Sutherland's theoretical and operational definition of white-collar crime inhibited corporate and organizational crime study in three ways: (1) the definition was based on the offender's socio-economical status; (2) it was restricted to occupational activities; (3) it was limited to individual criminality. Sutherland's insistence for a single, all embracing theory for the explanation of street and suit crime limited alternative thinking about the etiology of corporate and organization crime. Sutherland's concentration on personal, instead of structural, factors to explain white-collar criminality also hampered any new research strategy. Any successful investigation of corporate and organization crime must be able to break away from Sutherland's restrictive concept and limiting theory.

43. There were a number of attempts to break ranks with Sutherland. They reflected a general discontentment and frustration with the illusiveness of the original "white-collar crime" concept. These efforts however moved within narrow band. Partly because of the overshadowing influence of Sutherland and partly because of the novelty of the idea, followers of Sutherland maintained conceptually loyal to, and personally identified with, its founder. They were contended with clarifying and refining Sutherland's concept without reconceptualizing it.

44. The line between reconceptualization and clarification through refinement, at times, however, can be fine indeed. Sometimes the refinement focused on one aspect of the original definition to the exclusion of other definitional parameters, e.g. occupational crime. At other times, the refinement tried to capture Sutherland's major concern without following his literal definition, e.g. economic crime.[81] Although, all cited approvingly Sutherland's original work, the new definitions unmistaken diluted Sutherland's intellectual hold and opened up new grounds for conceptual expansion. Such was the intellectual history from white-collar crime to occupational crime to organizational crime.[82]

2.4. From white collar crime to occupational crime

45. The movement from white-collar crime to occupational crime was made possible by Sutherland's original definition[83] Sutherland defined white-collar crime as those perpetrated within the confine of ones "occupational activities." It is clear from a careful reading of his work that Sutherland never intended white-collar crime to stand for only crime connected with ones occupational activities. Sutherland's major concern was to expose the criminality of the rich and powerful, who exploited their trusted position for personal gain. In as much as occupational activities provided ideal opportunities (i.e. secrecy and trust) for much of the violation of trust to occur within the white-collar ranks, it was convenience to include "occupational activities" as one of the defining characteristics of white-collar criminality. But it should be recognized that white-collar crime could be committed without the context of any occupational activities. Thus observed, "occupational activities" were meant to inform upon "how" white-collar crimes were most likely committed - in stealth and in breach of trust - and made possible by the nature of ones occupation, e.g. bankers have the opportunities to abuse their clients' trusted. However, ones occupation activities do not exhaust all the possibilities that violation of trust might occur. Viewed in this light "occupational activities' should not be made a necessary condition of white-collar crime.

46. The "occupational crime" theorists (Clinard, Quinney[84]Newman) re-oriented Sutherland's white-collar crime concept away from its primary focus on the "social status" of the offender to the "occupational role" of the criminal. Thus according to Clinard White-collar crime is "a violation of the law committed primarily by groups such as businessmen, professional men, and politicians in connection with their occupation."[85] Newman argued that "... farmers, repairmen, and others in essentially non-white-collar occupations could, through such illegals as watering milk for public consumption, making unnecessary 'repairs' on television sets, and so forth, be classified as white-collar violators." Given this emphasis, blue-collar workers as much as white-collar workers...
can equally be charged with the abuse of others trust, if a trust relationship is build into the role.[86] This "occupational orientation" was a drastic departure from Sutherland's "social status approach" which capitalized on certain defined class of white-collar criminals, i.e. those who were traditional rich and powerful. By emphasizing on the occupation role of the offender, the social status of the offender becomes less and less relevant as a determinative criterion. The successful "redefinition" of white-collar crime away from the "social status" of the criminal to the "occupational role" assumed by the criminal allowed for objective determination of white-collar crime, e.g. what occupational roles are being trusted.

47. The "occupational crime" definition also opened up the possibility of studying white-collar crime as a group phenomenon. What is there with the occupational structure that prompted the violation of trust? From there it was a short step to inquire about how organizational structure and norm in an occupation helps explains criminality. The road is paved to the study of organizational criminality.

2.5. The invention of organizational crime

48. The re-orientation of Sutherland's original concept of white-collar crime took a few well-marked steps:

49. (1) White-collar criminal as business firm

50. Lane provided the first break from Sutherland by defining white-collar crime as those "committed by a firm or its agent." The white-collar criminal was no longer the individual, but the firm as a business entity. The definition moved away from focusing on the "ascribed status" of the individual to the "objective characteristics" of the firm; making possible objective and scientific study of the problem.[87] This allowed for the meaningful operationalization of a key concept and precise measurement of independent variables under investigation, e.g. how "size of a firm" is related to violations. The value of Lane's work was in demonstrating: (1) It was possible to draw conceptual distinctions between individual and organizational white-collar crime. (2) The nature, extent and causality of criminality between the two types of white-collar crime are likely to be entirely different. As observed by Sherman years later: "Organizations do not have a "mind," they are not "motivated," and they cannot experience emotions. Moreover, they cannot be put in prison - although they can be fined and stigmatized. The dynamics of organizational behavior are fundamentally differently different from the dynamics of individual behavior."[88] Lane's idea did not catch on. It laid domain for years before it was given its credence.[89]

51. (2) Organizational crime and organizational goal

52. Shover defined organizational crime with reference to its intended goal: "...criminal acts committed by individuals or groups of individuals, thus including conspiracies, during the normal course of their work as employees of organizations, which they intend to contribute to the achievement of goals or other objectives thought to be important for the organization as a whole, or some subunit within the organization, or their particular job duties."[90]

53. This definition has a broad sweep. It included the use of legal means to achieve an illegal organization goal as well as the use illegal means to achieve a legal organization end. The innocent act of an agent or employee is tainted by the illegal purpose of the organization. The individual, as an organizational agent, will be implicated when "during the normal course of their work as employees" he engaged in activities with "intend to contribute to the achievement of goals" of the organization which is later found to be illegal. This formulation clearly separates the criminality of the individual from that of the organization; making them both responsible for the criminal act.[91]

54. The definition also included the possibility of employees engaging in illegal acts in pursuit of a legal organization goal, e.g. survival needs. Such illegal acts may be intended or unintended by the organization or they may be just suffered as necessary costs of maintaining a viable organizational, e.g. maintaining internal morale or staff stability. Defining organizational crime as unintended, but suffered, by the policy makers put into sharp focus the structural nature of corporate-organizational crime. Once an organization is duly formed and structured, it has a momentum and life of its own. The organization as a "living" entity with its own goals and needs was not contemplated by Sutherland.

55. The remaining question not resolved by the definition is whether this definition can be stretched to include unacceptable harms caused by routinized activities e.g. repeated or systematic industrial accidents. This includes inevitable structural or human failures in spite of good human intentions or detailed structural safeguards. The question is whether those who are beneficiaries of corporate activities, including the society at large, should be held responsible for its incidental social harm. Shover's definition did not expressly address the issue. It is however implicit within its reach, i.e. crimes committed within the scope of employment and for organizational gain.

56. (3) Organizational deviance and deviant organization

57. Ermann and Lundman formally introduced the concept of "organizational deviance"[92]

1. The act must be contrary to external norms.
2. The act must be contrary to formal organizational goals but supported by internal operating norms.
3. New members must be socialized into accepting the rationalizations and justifications for those acts.
4. The actions of the individuals must receive peer support.
58. Sherman,[93] building on the work of Reiss[94] and Erman distinguishes "organizational deviance" in two ways: organizations with deviant goals and organization that approved illegitimate means in the achievement of organizational goals.[95] "When deviant acts by organizational members are condoned and even expected by dominant coalition, the deviance is organizational; the organization is deviant."[96] The critical contribution of Sherman is in clearly distinguishing individual deviance within an organization and deviance by the organization.

59. Shover's definition of organization crime contributed to the building of a viable organizational crime conceptual framework in four ways:

1. Individuals criminality and organizational criminality are distinct domain

Individual acts and organizational acts are not one and the same. Innocent individual's acts may be considered illegal when the broader organizational goal, purpose and context are taken into account. Thus, individual innocent acts may become illegal when they are orchestrated to fulfill the illegitimate objectives of an organization as a unit whole. Likewise, illegal acts of the individual may or may not be attributed to the organization depending on the nexus between the individual's act and the organization's complicity in the act, e.g. by promoting, condoning or ratifying the act.

2. Individual motivation is not important in understand organizational deviance

The personal motive, intention and disposition of the individual are no longer critical in the understanding of organizational crime. The organizational goal, structure and process become important.

3. Organizational crime is structured and systemic

Large organizations are governed by objectives and rules. Organizational crime is "structured and systemic" in two senses. First, once an organization is set up (structured), actions are taken on behalf of the organization as a matter of course. The action and resulting consequence (criminal or otherwise) will repeat itself "systematically." Second, the actors involved, acting as a part of the whole (structured), may or may not be aware of the overall impact of his action. The action, viewed separately from the rest, even if intentionally done, may not create the ultimate harm intended. Harm is systemic in the sense that it is being felt as the impact of the system as a whole.

4. Organization has an independent identity and existence

This points to the possible need of developing a new concept of organizational crime that emphasize on the criminogenic nature of certain organizational form. "Structured crimes" are crimes that resulted from systematic failures of a given organizational design. At an aggregate level, we can predict statistically (though may not be able to control effectively) the social harm or criminality of certain organizational set up or social arrangements. Thus railroad maims less than highway. Conventional war kills less than nuclear war. A "free" society has more crime than a totalitarian one. An automated assembly line is much more dangerous than one staffed with sweat labor. Should the decision to engage in one form of social arrangement or organizational set up be condemned in the eyes of the criminal law when the social harms, in real or relative terms, turned out to be unacceptably high? Marx and Gandhi seem to think so. Capitalism is evil, as a system; notwithstanding the good intend of thousands of capitalists trying to make it work. Colonialism is corrupted, as a form of government, in spite of the humanitarian efforts of millions of dedicated colonial officials. At a medium range, certain organizations are better designed and/or operated than others to achieve socially approved objective without incurring unacceptable social costs. What should we do with a factory that, in spite of the effort of the management, has a poor injury records than its neighbor. Currently, the political and economic system is being used to check such "structured crime" or "systemic social cost" occasioned by incompetent political leaders or inefficient corporate managers. The real question is whether there is a need to subject such public, government and business leaders to a well-articulated criminal standard. Who should be responsible for the S. and L. fiasco? In the end, what is the linkage between criminal responsibility and political accountability? Is Marx and Sutherland right all along. Politics is always above the reach of criminal law.

Conclusion

60. Taken together the organizational crime theorists reconceptualized Sutherland's original concept of white-collar crime, giving it renewed vigor and possibilities. When the reconceptualization was complete what was left of Sutherland's earthbreaking concept was nothing more than a historical landmark; essential to understanding the journey of conceptual development but not important to the debate about organizational criminality’s current conceptual viability or future theoretical directions as a field of study and research.

61. The torch has passed. A new paradigm is in the making. What is left of the past is the faint reminder that the crimes of rich and powerful must be treated different by criminologists and jurists alike. This common strain of thought is however not strong enough to provide any intellectual linkage between the two school of thoughts. What we have then is two different criminological research areas, each equipped with its own set of concepts, theories, methodologies and literature.[97]

Notes
The concept of white-collar crime was first introduced by Sutherland at the 1939 American Sociological meeting.


It appears that Sutherland was not the only person who was concerned with the powers and influences of the rich and powerful. "The power elite is composed of men whose positions enable them to transcend the ordinary environments of ordinary men and women; they are in a position to make decisions having major consequences... They occupy the strategic command posts of the social structure, in which are now centered the effective means of power..." See C. Wright Mills, The Power Elite (New York: Oxford University Press, 1956), pp. 1-2.


The white-collar criminals achieved immunity from criminal prosecution for their deviance as a result of two facts: (a) White-collar crimes are invisible crime. The public do not have the ability, capacity or the information to monitor white-collar criminality. (b) White-collar criminals are powerful people. They are able to obstruct the course of law and justice due to their position, powers, connections, and influence. Sutherland was instrumental in bringing white-collar crimes to public light. It was up to the critical criminologists (Quinney, Turks) to observe that public knowledge of white-collar crimes alone is not enough to control the rich and powerful. Austin A. Turk, "Prospect for Theories." Journal of Criminal Law, Criminology and Police Science. 55:454-461 (1964). (Richard Quinney, "Crime in Political Perspective." American Behavioral Scientists. 8:19-22 (1964). Quinney, Critique of Legal Order: Crime Control in Capitalistic Society. (Boston, Little Brown, 1974). A shift in theoretical perspective and disciplinary paradigm is necessary to deconstruct the social reality of deviance. In this way, Sutherland can be viewed as laying the necessary groundwork for the critical criminologists, years later. He facilitated the shift from positive thinking to constructive thinking to phenomenological thinking, critical thinking and now post-modernist thinking about crime and control. Richard Quinney Criminology. (Boston: Little Brown, 1975), pp. 9-12.


Ibid. p. 8.

See Sutherland, "White-collar Criminality," op. cit., note 1, pp. 11-12.

A survey of 100 leading scholars in the field of criminology regarded Sutherland's work on white-collar crime as the fourth most important contribution made in the field. See White-collar and Economic Crime, op. cit., note 4, p. 16. Not all scholars at the time were equally receptive to or impressed by Sutherland's work. Much debate was generated about his initial conceptualization and definition of white-collar crime. As one scholar observed: "The concept has remained unclear because criminologists have subsumed different behavior under the term. In addition, writers have varied on the amount of emphasis given to the social status of the offender, have employed different meanings of occupational activity, and have lacked consistency in designating the illegal nature of the offense." See Richard Quinney, "The Study of White-collar crime: toward a reorientation in theory and practice," pp. 283-296 in G. Geis and R.F. Meier (eds.) White-collar Crime (rev. ed.) (New York: Free press, 1977). For a debate whether administrative and civil violations by corporations should be considered as crimes, see Edwin H. Sutherland, "Is White-collar Crime?" American Sociological Review 10 (April, 1945), pp. 132-139 ("white-collar crime" is defined by its adverse social consequences and not its conventional legal label) and Paul W. Tappan, "Who is The Criminal?" American Sociological Review, 12 (February, 1947), pp. 96-102 (criminals are those who have been adjudicated by the courts to have violated criminal law.) See also E. W. Burgess, "Comment," American Sociological Review 56 (1950) who argued that there is a material difference between crimes arousing moral indignation (traditional common law crime) and those which do not excite public condemnation (white-collar crime). pp. 32-4.


See Frank B. Hartung, "White-Collar Offenses in the Wholesale Meat Market Industry in Detroit," American Sociological Review 56 (1950), pp. 25-34. Hartung's article is not a remarkable piece of research viewed by today's standard. However at that...
time it contributed much in verifying Sutherland's earth breaking thesis by generating a first of its kind empirical data. The paper reinforced Sutherland's oft-repeated statement that white-collar crime is "true crime" according to the "pure-theory school of law": The "pure-theory" school argued that a crime is one that is proscribed and made punishable by law. See Hans Kelsen, General Theory of Law and State (Cambridge: Harvard University Press, 1945). The fact that the proscribed act is not criminally processed does not detract from its inherent criminality. In a "Comment" following the article, Professor Burgess disagreed. "There is no evidence that OPA violators conceived themselves as criminal or were so considered by the public." He observed that the Emergency Price Control Act and the Second War Powers Act made otherwise innocent business transactions criminal overnight. He argued that a crime is only a crime when it is sufficiently apprehensible to arouse public condemnation and social indignation, i.e. strong enough to warrant the imposition of criminal penalty as provided by the law. Ibid. pp. 30-34. The imposition of criminal penalty itself does not make an act criminal. The public condemnation is the only litmus test. The novel part of this debate is that there was a reversal of traditional position: Burgess was accusing Hartung to be too legalistic while Hartung was accusing Burgess as too sociological. Another noteworthy aspect of this article is its definition of white-collar crime as conducts of the business firm. However this operational definition seemed to have been adopted without much in-depth analysis of its conceptual implications.

[16] Ibid. p. 25.


[20] "In 1977, of 3,486 persons who were convicted of violations of the price and rationing regulations, only 27 per cent received imprisonment and fine. Of the total convicted, 46 per cent received only fine, and 28 per cent were placed on probation." Ibid. p. 261.

[21] First, the theory did not satisfactorily explain why some people who were associated with OPA violators and were familiar with the techniques of violation did not become violators. Second, the theory viewed offender in a unidimensional frame. Businessmen were differentially exposed to multiple associations and subject to divergent and conflicting role expectations. What he learned from the job might not be controlling of his motivation and action. Third, the theory placed too much emphasis on recent personality development and not sufficient attention to earlier personality formation. Finally the theory failed to account for independent and original in the development of criminal skills, habits and motivations. Ibid. pp. 268-9.

[22] Robert E. Lane, "Why Businessmen Violate the Law," 44 Journal of Criminal Law, Criminology and Police Science 151-165 (1953). Lane was interested in finding out "why do some businessmen violate these laws while others do not?" (p. 151). Although talking in terms of businessmen, Lane's research focused on business firm behavior. Lane was particularly interested in finding out how economics, whether "greed" or "need," promotes criminality? Whether ambiguity, ignorance and incapacity affects compliance with the law? Whether patterns of violations are related to close associations between violators? Whether personality and experience of the firm or its management has an impact on compliance?

[23] Overall, the study suffered from a weakness in research design. The methodology was not well discussed in the paper. There were apparently no effort taken to make sure that the sample was representative and the measures used conformed to exacting statistical requirements.


[29] See note 12, supra.


These pioneer scholars were responsible for drawing the intellectual map of white-collar crime. In so doing they became a necessary guide and inevitable hindrance for generations of scholars to come. Unwittingly, in opening up a new area of scientific inquiry these pioneer researchers provided for its ultimate demise - original conceptual definition and theoretical orientation has a tendency of outliving its utility in confining "sociological imagination." For the cumulative nature of scientific work, see Merton, Social Theory and Social Structure (New York, Free Press, 1967) (3rd ed.) p. 25. For an evocative essay on how the scientific enterprise can stifle "imagination." See Mills, "Sociological Imagination." For a discussion of how limiting scientific paradigms can be see, Thomas S. Khun, The Structure of Scientific Revolutions (Chicago: University of Chicago Press, 1962).

See From white-collar crime to organizational crime - the reconceptualization of a field, infra.

Lane was a notable exception. See note 17, supra. However he was not able to capitalize his find in developing a research agenda based solely on corporate or organization deviance.


For an insightful look into how Sutherland's childhood and educational experience influenced his outlook on life in general and views of white-collar crime in particular see Gilbert Geis and Colin Goff, "Edwin H. Sutherland: A Biographical and Analytical Commentary." In White-collar and Economic Crime, op. cit., note 7. Sutherland was brought up by a Nebraska minister in an rural area. (p. 5) Sutherland was raised in a tradition of "dedication to service" and "taking the side of the underprivileged." (p. 4) He inherited a rugged individualism of the old frontier from his father and was much against entrenched interests and big business. His rural upbringing also made him suspicious of city-bred sophistication. (p. 5)

In this Sutherland and his followers were faulted for their missionary zeal. Nor were their objectivity ever questioned. After all, just like generation X, he is the product of an era. He personalized the thinking of the time as the time captured his thinking. "The early sociological scholars came together from a wide diversity of sources, but few would miss the strong ministerial tone that pervaded their ranks. They were persons of evangelical bent who believed that they had found the resolution of man's difficulties in a moral fever buttressed by the dictates and metaphors of science." See Geis, op. cit. note 2, p. 2. Scholars do not live outside their environment - cultural and intellectual. Academics cannot be separated from the social milieu they find themselves. The Americans are a highly moralistic lot. Liberalism has been a tradition with, if not a birthmark of, American intellectuals. The beginning of the 19th centers saw the ascendancy of the "new left" with its progressive mentality and anti-business, anti-government social agenda. These observations led one scholar to observe: "The "new left" in politics and in the social sciences often substituted moral indignation for political analysis..." See generally Anthony M. Platt, 2nd ed., The Child Savers (The University of Chicago Press, 1977).p. xiii. For an observation of such similar tendency in international-China studies, see Ezra P. Vogel, "Contemporary China Studies in North America," paper presented at Thirtieth Anniversary Conference: The Development of Contemporary, China Studies, The Universities Service Centre, The Chinese University of Hong Kong, 25 June, 1993, p. 5.

Sutherland's approach is followed by scores of criminal justice scholars from community policing to zero tolerance of policing. See Kam C. Wong, "The Philosophy of Community Policing in China." Justice Quarterly (Forthcoming, 2001). Whether Sutherland was aware of it or not, as standard bearer of an emerging academic doctrine, he has to define his concept and idea broad enough to attract the attention of many disaffected scholars who are not completely satisfied with the standard conceptual construction and theoretical development in the field, i.e. positivistic and class based criminology, sufficient to debunk the existing disciplinary agenda based solely on corporate or organization deviance.

Sutherland was preoccupied with social and economic "status" of the offender and its consequence on criminological research. This was made plain in his now controversial footnote: "Perhaps it should be repeated that "white-collar" (upper) and "lower" classes merely designate persons of high- and low-socioeconomic status. Income and amount of money involved in the crime are not the sole criteria. Many persons of "low" socio-economic status are "white-collar" criminals in the sense that they are well dressed, well educated, and have high income; but "white-collar" as used in this paper means "respected," socially accepted and approved," "looked up to." Some people in this class may not be well dressed or well educated or have high incomes, although the "upper" classes usually exceed the "lower" classes in these respects, as well as social status." See Sutherland, "White-collar Criminality" American Sociological Review 5: 1-12 (Feb., 1940).

The inability to draw the distinction between corporation and its personnel is no more apparent than in "Crime of Corporations," in Albert Cohen, Alfred Lindersmith and Karl Schuessler (eds.), The Sutherland Papers (Bloomington: Indiana University Press, 1956), pp. 78-96. It is ironic that such distinction was not made. Sutherland's original white-collar crime study was based on a tabulation of the crimes of seventy of the largest U.S. corporations. In his analysis he constantly referred to corporation as violators.

corporate crime must be found on an understanding of the decision-making process underlying corporate action.” “Decisionmaking and illegal organizational behavior” at an organization level. p. 78 and Kiriesberg made clear that “effective legal policy concerning ...


organizations are capable of committing.” Lawrence W. Sherman, Scandal and Reform (Berkeley: University of California Press, 1979), p. 3.


The full research report see Sutherland, White-collar Crime (N.Y.: Dryer Press, 1949).


Id. 90.

Id.


Id. 90.

Id.


This observation should help put to rest some of the sterile, but no less contentious, academic debate of who set the agenda and otherwise control the work of the academically free - professionally insulated and individually independent minded - scholars. The academic researchers, much like the Supreme Court Justices, have different roles to play. As professionals they remain aloof from the crowd. As citizens, they are responsive and responsible to listen to the drum of the populace. In the end, their work will reflect the values and concerns of the time - albeit ever so discreetly and surreptitious. This, in the jargon of the academic arena, is called being relevant.

For a superb journalistic account of the era, see Godfrey Hodgson, American in Our Time (Vintage Books, 1976).


David Garland observed in Punishment and Modern Society (Chicago University Press, 1990) that "sources of penal change and the determinants of penal form are located not just in penological reasoning or economic interest, or strategic of power, but in the configurations of value, meaning, and emotion which we call 'culture.'


See Mark Green, Ralph Nader and Joel Seligman, Taming the Giant Corporation (1976).


The renewed interest in white-collar crime in 1970-80, particular those perpetrated by big, impersonal organizations, is thus not accidental.

The increase funding to the academia was part of a larger state and national effort to fight white-collar crime. The National District Attorneys' Association joined force with the Academy for Contemporary Problems (Columbus, Ohio) to conduct research "which would both enhance prosecution capabilities in the area of economic crime and also give new impetus to criminological research into his area." Herbert Edelhertz, "National District Attorneys' Association Demonstration Project: Economic Crime," in Diane Vaughan (ed.), Monograph on Economic Crime (Columbus Ohio, 1974), Unpublished. LEAA funding was made available for law enforcement (special units for prosecution of white-collar crime in selected cities across the United States) and research projects (e.g. 5 year research program at Yale as "the beginning of a substantial and increasing commitment on the federal level to response to white-collar crime and corruption." See Bernard Auchter, "Federal Level Research and Demonstration in White-collar Crime Control: Efforts of the Law Enforcement Assistant Administration," paper presented at American Society of Criminology, Annual Meeting, Dallas Texas, November 8-12, 1978.

Herbert Edelhertz redefined white-collar crime as economic crime: "An illegal act or series of acts committed by concealment or guile, to obtain money or property, to avoid the payment or loss of money of property, or to obtain business or personal advantage." The Nature, Impact and Prosecution of White-collar Crime, National Institute of Law Enforcement and Criminal Justice, U.S. Department of Justice, Law Enforcement Assistance Administration, 1970, p. 3. Note this definition emphasize on the nature of the offense instead of the status of the offender. In so doing, it captures much of Sutherland's concern, i.e. people obtaining economic advantage by "concealment and guile" (usually by breach of trust) without being faithful to his original definition, that of "crime committed by a person of respectability and high social status."

It is difficult to trace intellectual history. Literal citations, personal acknowledgment and biographic reconstruction provide some of the sources to track some of the ideas. Most of the time they are incomplete to grasp fully the inter-connectedness of a stock of ideas, through time and across discipline. Most ideas are inter-related directly in some way, either logically or temporally; making it easy to observe the connection. However, when concepts and ideas are indirectly related, when they are tangentially interconnected, when they are separated in space and time and when the an idea belong to stock of ideas which provides needed stimulation and necessary context for the development of other ideas (for each other, in parallel or later), much is left to speculation and conjecture. Abstract ideas do exhibit continuity and inter-dependency. For an enlightening discussion on evolution of ideas, see Merton, "On The History and Systematics of Sociological Theory," in Social Theory and Social Structure (New York: Free Press, 1968), pp. 1-39.

It is of interest to note, whether it is in politics, law or academic world, the first step to debunk a traditional ideology, established precedent or dominant paradigm is not by challenging its legitimacy completely or disagreeing with it totally but to acknowledge its dominance and merits and seek only to modify it in part - textually, spiritually or directionally. Such a strategy allow the new ideas to gain legitimacy and foothold. To attempt a frontal attack on existing ideas is much like attempting revolution in the face of a repressive regime; it is suicidal.

Defining white-collar crime by social status is controversia: it is very nebulous to behold, impossible to articulate and too subjective and value laden to sustain any critical analysis.

This critical distinctions in the study of organizational crime are made explicit in Sherman's definitive study on control of deviant organization. See Scandal and Reform.
An examination of Sherman's work on deviant organizations, Chapter 1 "Deviant Organizations," in Scandal and Reform, op. cit., showed that there is only one reference (out of 46 footnotes) to a major white-collar crime work, that of Sutherland's White-collar Crime (1949). It was cited as "first sociological discussion of deviant organizations." See ibid. footnote 1.