

# Understanding White-Collar Crime

## Definitions, Extent, and Consequences

### Section Highlights

- White-Collar Crime: An Evolving Concept
- Modern Conceptualizations of White-Collar Crime
- Extent of White-Collar Crime
- Consequences of White-Collar Crime
- Public Attitudes About White-Collar Crime
- Characteristics of White-Collar Offenders

As noted in the introduction, Edwin Sutherland created the concept of **white-collar crime** more than 70 years ago to draw attention to the fact that crimes are committed by individuals in all social classes. As will be seen in this section, one of the largest difficulties in understanding white-collar crime has centered on an ongoing debate about how to define white-collar crime. After discussing various ways that white-collar crime can be defined, attention will be given to the extent of white-collar crime, the consequences of this illicit behavior, public attitudes about white-collar crime, and patterns describing the characteristics of white-collar offenders.

As a backdrop to this discussion, consider the following recent white-collar crimes described in the media:

- A jury convicted [then-Baltimore mayor Sheila] Dixon . . . of embezzling about \$500 worth of gift cards donated to the city for needy families. Dixon then pleaded guilty last month to lying about thousands of dollars in gifts from her former boyfriend, a prominent developer. (Nuckols, 2010)
- The money manager and technology investor convicted of stealing some \$22 million from clients and using his gains to support charitable causes in Colorado and elsewhere was sentenced in New York Friday to nine years in federal prison. (Harden, 2010)
- The secretary of a St. Peters business has been indicted in connection with the embezzlement of \$573,388 from her employer. (“Secretary Charged With Embezzling,” 2010)
- A former Redondo Beach police officer accused of taking more than \$75,000 from a law enforcement officers’ association pleaded guilty . . . to one count of grand theft by embezzlement, authorities said. (Lopez, 2010)
- An employee at Goldman Sachs from May 2007 to June 2009 was arrested in July of 2009 and charged with illegally transferring and downloading hundreds of thousands of lines of source code for Goldman’s high-frequency trading system on his last day at the firm. (Heires, 2010)

In reviewing these cases, five questions come to mind. First, are each of these cases white-collar crimes? Second, how often do these kinds of crimes occur? Third, what are the consequences of these crimes? Fourth, how serious do you think these crimes are? Finally, who are the offenders in these cases? While the questions are simple in nature, as will be shown in this section, the answers to these questions are not necessarily quite so simple.

## White-Collar Crime: An Evolving Concept

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While Edwin Sutherland is the pioneer of the study of white-collar crime, the development of the field, and the introduction of the concept of white-collar crime, did not occur in a vacuum. Indeed, prior academic work and societal changes influenced Sutherland’s scholarship, and his scholarship, in turn, has had an enormous influence on criminology and criminal justice. Tracing the source of the concept of white-collar crime and describing its subsequent variations helps to demonstrate the importance of conceptualizing various forms of white-collar misconduct.

Sutherland was not the first social scientist to write about crimes by those in the upper class. In his 1934 *Criminology* text, Sutherland used the term “white-collar criminaloid,” in reference to the **“criminaloid concept”** initially used by E. A. Ross (1907) in *Sin and Society*. Focusing on businessmen who engaged in harmful acts under the mask of respectability, Ross further wrote that the criminaloid is “society’s most dangerous foe, more redoubtable by far than the plain criminal, because he sports the livery of virtue and operates on a titanic scale.” Building on these ideas, Sutherland called attention to the fact that crimes were not committed only by members of the lower class. As noted in the introduction, Sutherland (1949) defined white-collar crime as “crime committed by a person of respectability and high social status in the course of his occupation.”

Sutherland’s appeal to social scientists to expand their focus to include crimes by upper class offenders was both applauded and criticized. On the one hand, Sutherland was lauded for expanding the focus of the

social sciences. On the other hand, the way that Sutherland defined and studied white-collar crime was widely criticized by a host of social scientists and legal experts. Much of the criticism centered around five concerns that scholars had about Sutherland's use of the white-collar crime concept. These concerns included (1) conceptual ambiguity, (2) empirical ambiguity, (3) methodological ambiguity, (4) legal ambiguity, and (5) policy ambiguity.

In terms of **conceptual ambiguity**, critics have noted that white-collar crime was vaguely and loosely defined by Sutherland (Robin, 1974). Robin further argued that the vagueness surrounding the definition fostered ambiguous use of the term and vague interpretations by scholars and practitioners alike. Focusing on the link between scholarship and practice, one author suggested that the concept was "totally inadequate" to characterize the kinds of behavior that are at the root of the phenomena (Edelhertz, 1983). Further describing the reactions to this conceptual ambiguity, white-collar crime scholar David Friedrichs (2002) wrote, "perhaps no other area of criminological theory has been more plagued by conceptual confusion than that of white-collar crime" (p. 243).

Criticism about Sutherland's work also focused on the **empirical ambiguity** surrounding the concept. In effect, some argued that the concept only minimally reflected reality. For example, one author said that Sutherland's definition underestimated the influence of poverty on other forms of crime (Mannheim, 1949). Another author argued that by focusing on the offender (in terms of status) and the location (the workplace) rather than the offense, the concept did not accurately reflect the behaviors that needed to be addressed (Edelhertz, 1983). Edelhertz went as far as to suggest that this vague empirical conceptualization created barriers with practitioners and resulted in a lack of research on white-collar crime between the 1950s and 1970s. Shapiro (1990) also recognized the problems that the conceptualization of white-collar crime created for future researchers. She wrote:

The concept has done its own cognitive mischief. It . . . is founded on a spurious correlation that causes sociologists to misunderstand the structural impetus for these offenses, the problems the offenses create for systems of social control, and the sources and consequences of class bias in the legal system. (p. 346)

The consequences of this empirical ambiguity are such that findings from white-collar crime studies sometimes call into question the nature of white-collar offenders. One study of white-collar offenders convicted in seven federal districts between 1976 and 1978, for example, found that most offenses described as white-collar were actually "committed by those who fall in the middle classes of our society" (Weisburd, Chayet, & Waring, 1990, p. 353).

Sutherland was also criticized for **methodological ambiguity**. He defined white-collar crime as behaviors committed by members of the upper class, but his research focused on all sorts of offenses including workplace theft, fraud by mechanics, deception by shoe sales persons, and crimes by corporations (see Robin, 1974). One might say that Sutherland committed a "bait and switch" in defining one type of crime, but actually researching another variety.

A fourth criticism of Sutherland's white-collar crime scholarship can be termed **legal ambiguity**. Some legal scholars contended that the concept was too sociological at the expense of legal definitions of white-collar offending (Tappan, 1947). To some, white-collar crimes should be narrowly defined to include those behaviors that are criminally illegal. Some even take it a step farther and suggest that white-collar criminals are those individuals convicted of white-collar crimes (suggesting that if one were not caught for a white-collar crime one actually committed, then one would not be a white-collar criminal). Sutherland, and others,

have countered this argument by suggesting that conviction is irrelevant in determining whether behaviors constitute white-collar crimes (Geis, 1978).

A final criticism of the white-collar crime concept is related to the **policy ambiguity** surrounding the concept. In particular, some have argued that the vagueness of the definition, and its purely academic focus, created a disconnect between those developing policies and practices responding to white-collar crime and those studying white-collar crime (Edelhertz, 1983). Over the past decade or so, criminologists have become more vocal about the need for evidence-based practices to guide criminal justice policies and activities. In terms of white-collar crime, an issue that has been cited is that unclear definitions about white-collar crime make it extremely difficult for policy makers and practitioners to use criminological information to guide policy development and criminal justice practices. In effect, how can criminologists call for evidence-based practices for certain types of crime when they have not adequately provided the evidence needed to develop subsequent practices?

Sutherland was aware of the concerns about the concept potentially being vague. He noted that his point was not precision, but to note how white-collar crime is “identical in its general characteristics with other crime rather than different from it” (Sutherland, 1941, p. 112). He wrote:

The purpose of the concept of white-collar crime is to call attention to a vast area of criminal behavior which is generally overlooked as criminal behavior, which is seldom brought within the score of the theories of criminal behavior, and which, when included, call for modifications in the usual theories of criminal behavior. (p. 112)

Thus, Sutherland conceded that the concept was vague in nature, but it was necessarily vague in order to promote further discussion about the concept.

Sutherland was successful in promoting further discussion about the phenomena, though the topic received very little attention in the 1950s and 1960s. This began to change in the early 1970s when criminologists Marshall Clinard and Richard Quinney published *Criminal Behavior Systems*. Building on Sutherland’s work, Clinard and Quinney (1973) argued that white-collar crime can be divided into two types: corporate crime and occupational crime. They focused their definition of **corporate crime** on illegal behaviors that are committed by employees of a corporation to benefit the corporation, company, or business. In contrast, they defined **occupational crime** as “violations of legal codes in the course of activity in a legitimate occupation.” By distinguishing between crimes by corporations and crimes against corporations, Clinard and Quinney took an important step in addressing some of the ambiguity surrounding the white-collar crime concept. Indeed, corporate crime and occupational crime are viewed as “the two principal or ‘pure’ forms of white-collar crime” (Friedrichs, 2002, p. 245).

After Clinard and Quinney’s work, white-collar crime research by criminologists escalated in the 1970s and 1980s. Much of this research focused on ways to conceptualize and define the phenomenon in ways that addressed the criticisms surrounding Sutherland’s definition. Table 2.1 shows eight different concepts and definitions that criminologists have used to describe these behaviors. Just as Sutherland’s definition was criticized, each of the concepts provided in Table 2.1 are imperfect. Still, they illustrate the impact that Sutherland’s white-collar crime scholarship has had on criminology and criminal justice.

A definition of white-collar crime acceptable to all groups is yet to be developed. This is troublesome for at least five reasons. First, the lack of a sound definition of white-collar crime has hindered detection efforts. Second, without a concrete definition of white-collar crime, the most effective responses to the problem cannot be gauged. Third, varying definitions among researchers have made it difficult to draw comparisons between different white-collar crime studies. Fourth, vague conceptualizations have made it more difficult to

**Table 2.1** Evolution of the White-Collar Crime Concept

Concept	Definition	Reference
Criminaloid	The immunity enjoyed by the perpetrator of new sins has brought into being a class for which we may coin the term <i>criminaloid</i> . By this we designate such as 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. The lawmaker may make their misdeeds crimes, but, so long as morality stands stock-still in the old tracks, they escape both punishment and ignominy.	E.A. Ross (Sin and Society, 1907, p. 48)
White-collar crime	Crime committed by a person of respectability and high social status in the course of his occupation.	Sutherland (1949)
Corporate crime	Offenses committed by corporate officials for their corporation and the offenses of the corporation itself.	Clinard and Yeager (1980, p. 189)
Occupational crime	Offenses committed by individuals in the course of their occupations and the offenses of employees against their employers.	Clinard and Yeager (1980, p. 189).
Organizational deviance	Actions contrary to norms maintained by others outside the organization . . . [but] supported by the internal operating norms of the organization.	Ermann and Lundman (1978, p. 7)
Elite deviance	Acts committed by persons from the highest strata of society . . . some acts are crimes . . . may be criminal or noncriminal in nature.	Simon (2006, p. 12)
Organizational crime	Illegal acts of omission or commission of an individual or a group of individuals in a formal organization in accordance with the operative goals of the organization, which have serious physical or economic impact on employees, consumers, or the general public.	Schrager and Short, (1978, p. 408)
Occupational crime	Any act punishable by law which is committed through opportunity created in the course of an occupation that is legitimate.	Green (1990)

identify the causes of the behavior. Finally, varied definitions of white-collar crime have made it difficult to determine with great accuracy the true extent of white-collar crime.

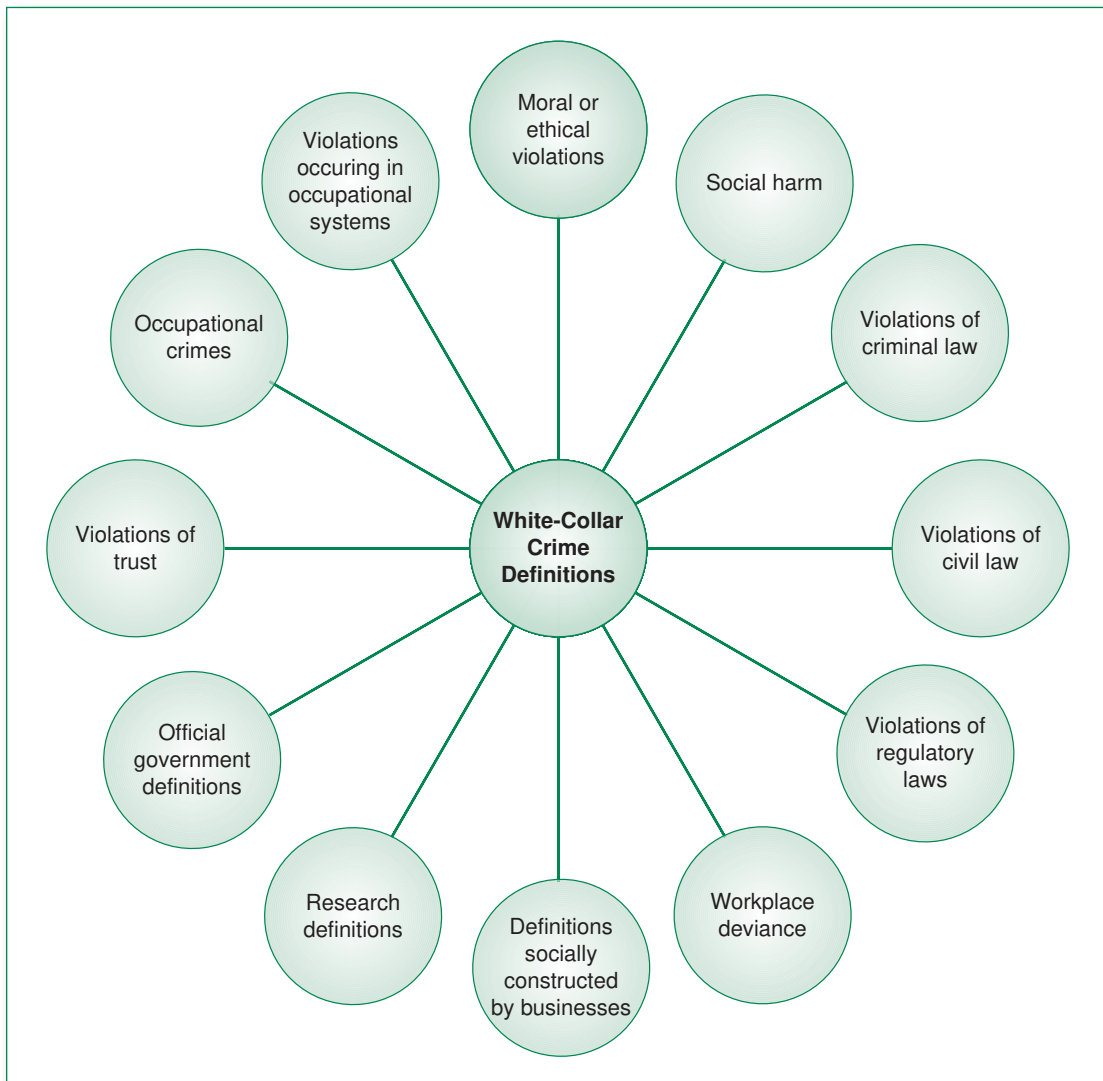
## Modern Conceptualizations of White-Collar Crime

Today, criminologists and social scientists offer various ways to define white-collar crime (see Figure 2.1). These variations tend to overlap with one another and include the following:

- White-collar crime as moral or ethical violations
- White-collar crime as social harm
- White-collar crime as violations of criminal law

- White-collar crime as violations of civil law
- White-collar crime as violations of regulatory laws
- White-collar crime as workplace deviance
- White-collar crime as definitions socially constructed by businesses
- White-collar crime as research definitions
- White-collar crime as official government definitions
- White-collar crime as violations of trust
- White-collar crime as occupational crimes
- White-collar crime as violations occurring in occupational systems

**Figure 2.1** Defining White-Collar Crime



Defining *white-collar crime as moral or ethical violations* follows ideals inherent within principles of what is known as natural law. **Natural law** focuses on behaviors or activities that are defined as wrong because they violate the ethical principles of a particular culture, subculture, or group. The immoral nature of the activities is seen as the foundation for defining certain types of white-collar activities as criminal. Some individuals, for example, define any business activities that destroy animal life or plant life as immoral and unethical. To those individuals, the behaviors of individuals and businesses participating in those activities would be defined as white-collar crimes.

Some prefer to define *white-collar crime as violations of criminal law*. From this framework, white-collar crimes are criminally illegal behaviors committed by upper class individuals during the course of their occupation. From a systems perspective, those working in the criminal justice system would likely define white-collar crime as criminally illegal behaviors. Crime, in this context, is defined as “an intentional act or omission committed in violation of the criminal law without defense or justification and sanctioned by the state as a felony or misdemeanor” (Tappan, 1960, p. 10). Applying a criminal law definition to white-collar crime, white-collar crimes are those criminally illegal acts committed during the course of one’s job. Here are a few examples:

- An accountant embezzles funds from his employer.
- Two nurses steal drugs from their workplace and sell them to addicts.
- A financial investor steals investors’ money.
- A prosecutor accepts a bribe to drop criminal charges.
- Two investors share inside information that allow them to redirect their stock purchases.
- A disgruntled employee destroys the computer records of a firm upon her resignation.

These acts are instances where the criminal law has been violated during the course of employment. As such, members of the criminal justice could be called upon to address those misdeeds.

Certainly, some rule breaking during the course of employment does not rise to the level of criminal behavior, but it may violate civil laws. Consequently, some may define *white-collar crime as violations of civil law*. Consider cases of corporate wrongdoing against consumers. In those situations, it is rare that the criminal law would be used to respond to the offending corporation. More often, cases are brought into the civil justice system. When the *Exxon Valdez* ran aground in Prince William Sound, Alaska, and caused untold damage to the environment, for example, the case was brought into the civil justice system. Eventually it was learned that the cause of the crash could be attributed to the ship’s overworked crew. To date, Exxon has paid \$2 billion in cleanup efforts and another \$1 billion in fines. Ongoing legal battles are focusing on whether Exxon should pay even more in damages.

Individuals have also defined *white-collar crime as violations of regulatory law*. Some workplace misdeeds might not violate criminal or civil laws, but may violate a particular occupation’s regulatory laws. Most occupations and businesses have standards, procedures, and regulations that are designed to administratively guide and direct workplace activities. The nursing home industry provides a good example. The government has developed a set of standards that nursing home administrators are expected to follow in providing care to nursing home residents. At different times during the year, government officials inspect nursing homes to see if they are abiding by the regulations. In most instances, some form of wrongdoing is uncovered. These instances of wrongdoing, however, are not violations of criminal law or civil law; rather, they are violations of regulatory law. Hence, some authors focus on white-collar crimes as violations of regulatory laws.

Sometimes behaviors performed as part of an occupational routine might be wrong, but not necessarily illegal by criminal, civil, or regulatory definitions. As a result, some prefer to follow definitions of *white-collar crime as workplace deviance*. This is a broader way to define white-collar crime, and such an approach would include all of those workplace acts that violate the norms or standards of the workplace, regardless of whether they are formally defined as illegal or not. Violations of criminal, civil, and regulatory laws would be included, as would those violations that are set by the workplace itself. Beyond those formal violations of the law, consider the following situations as examples of workplace deviance:

- Professors cancel class simply because they don't feel like going to class.
- A worker takes a 30-minute break when she was only supposed to take a 15-minute break.
- A worker calls his boss and says he is too sick to come to work when in fact he is not actually sick (but he uses that "fake sick voice" as part of his ploy).
- A wedding photographer gets drunk at a client's wedding, takes horrible pictures, and hits on the groom.
- An author uses silly examples to try to get his point across.

In each of these cases, no laws have necessarily been broken; however, one could argue that workplace or occupational norms may have been violated.

Somewhat related, one can also define *white-collar crime as definitions socially constructed by businesses*. What this means is that a particular company or business might define behaviors that it believes to be improper. What is wrong in one company might not necessarily be wrong in another company. Some businesses might have formal dress codes while others might have casual Fridays. Some companies might tolerate workers taking small quantities of the goods it produces home each night, while other companies might define that behavior as inappropriate and criminal. The expectations for workplace behavior, then, are defined by the workplace. Incidentally, some experts have suggested that expectations be defined in such a way as to accept at least minor forms of wrongdoing (see Mars, 1983, for a description of the rewards individuals perceive from workplace misconduct). The basis for this suggestion is that individuals are more satisfied with their jobs if they are able to break the rules of their job at least every now and then. As a simple example, where would you rather work: (1) in a workplace that lets you get away with longer breaks every now and then or (2) in a workplace where you are docked double pay for every minute you take over the allotted break?

In some cases, workplace behaviors might not be illegal or deviant, but might actually create forms of harm for various individuals. As a result, some prefer to define *white-collar crime as social harm*. Those defining white-collar crime from this perspective are more concerned with the harm done by occupational activities than whether behavior is defined either formally or informally as illegal or deviant. According to one author, "by concentrating on what is defined as illegal or criminal, a more serious threat to society is left out" (Passas, 2005, p. 771). Galbraith (2005, p. 731) offers the following examples: "The common practices of tobacco companies, hog farmers, gun makers and merchants are legal. But this is only because of the political nature of the perpetrators; in a democracy free of their money and influence, they would be crimes." Additional examples of white-collar crimes that are examples of this social harm perspective have been noted by Passas (2005), who highlighted the following "crimes" that occur without lawbreaking occurring: cross-border malpractices, asymmetrical environmental regulations, corrupt practices, child labor in impoverished communities, and pharmaceutical practices such as those allowing testing of drugs in third world countries. Passas emphasized that lawbreaking does not occur when these actions are performed, but argues the actions are, in fact, criminal.



Another way to define these behaviors is to consider *white-collar crime as research definitions*. When researchers study and gather data about white-collar crime, they must operationalize or define white-collar crime in a way that allows them to reliably and validly measure the behavior. As an example, in 2005, the National White-Collar Crime Center conducted its second national survey on white-collar crime. The results of this survey will be discussed later. For now, the way that the researchers defined white-collar crime illustrates what is meant by research-generated white-collar crime definitions. The researchers defined white-collar crime as: “illegal or unethical acts that violate fiduciary responsibility or public trust for personal or organizational gain” (Kane & Wall, 2006). Using this definition as their foundation, the researchers were able to conduct a study that measured the characteristics of white-collar crime, its consequences, and contributing factors. Note that had they chosen a different definition, their results may have been different. The way that we define phenomena will influence the observations we make about those phenomena.

Another way to define these behaviors is to consider *white-collar crime as official government definitions*. Government agencies, and employees of those agencies, will have definitions of white-collar crime that may or may not parallel the way others define white-collar crime. The Federal Bureau of Investigation (FBI), for example, has used an offense-based perspective to define white-collar crime as part of its Uniform Crime Reporting program. The FBI defines white-collar crime as:

Those illegal acts which are characterized by deceit, concealment, or violation of trust and which are not dependent upon the application or threat of physical force or violence. Individuals and organizations commit these acts to obtain money, property, or services; to avoid payment or loss of money or services; or to secure personal or business advantage. (United States Department of Justice, 1989, p. 3; as cited in Barnett, no date)

In following this definition, the FBI tends to take a broader definition of white-collar crime than many white-collar crime scholars and researchers do. Identity theft offers a case in point. The FBI includes identity theft as a white-collar crime type. Some academics, however, believe that such a classification is inappropriate. One research team conducted interviews with 59 convicted identity thieves and found that offenses and offenders did not meet the traditional characteristics of white-collar crimes or white-collar offenders. Many offenders were unemployed and working independently, meaning their offenses were not committed as part of a legitimate occupation, or in the course of their occupation (Copes & Vieraitis, 2009).

Another way to define white-collar crime is to focus on *white-collar crime as violations of trust* that occur during the course of legitimate employment. To some authors, offenders use their positions of trust to promote the misconduct (Reiss & Biderman, 1980). Criminologist Susan Shapiro (1990) has argued for the need to view white-collar crime as abuses of trust and she suggests that researchers should focus on the *act* rather than the *actor*. She wrote:

Offenders clothed in very different wardrobes lie, steal, falsify, fabricate, exaggerate, omit, deceive, dissemble, shirk, embezzle, misappropriate, self-deal, and engage in corruption or in compliance by misusing their positions of trust. It turns out most of them are not upper class. (p. 358)

In effect, Shapiro was calling for a broader definition of white-collar crime that was not limited to the collar of the offender's shirts.

Others have also called for broader conceptualizations that are not limited to wardrobes or occupational statuses. Following Clinard and Quinney's 1973 conceptualization, some have suggested that these behaviors be classified as *white-collar crimes as occupational crimes*. One author defines occupational crimes as "violations that occur during the course of occupational activity and are related to employment" (Robin, 1974). Robin argued vehemently for the broader conceptualization of white-collar crime. He noted that various forms of lower class workplace offenses "are more similar to white-collar crime methodologically than behaviorally," suggesting that many occupational offenders tend to use the same methods to commit their transgressions. He further stated that the failure of scholars to broadly conceive white-collar crime "results in underestimating the amount of crime, distorts relative frequencies of the typology of crimes, produces a biased profile of the personal and social characteristics of the violators, and thus affects our theory of criminality" (p. 261).

Criminologist Gary Green (1990) has been a strong advocate of focusing on occupational crime rather than a limited conceptualization of white-collar crime. He defined occupational crime as "any act punishable by law which is committed through opportunity created in the course of an occupation that is legal" (p. 13). Green described four varieties of occupational crime: (1) organizational occupational crimes, which include crimes by corporations, (2) state authority occupational crimes, which include crimes by governments, (3) professional occupational crimes, which include those crimes by individuals in upper class jobs, and (4) individual occupational crimes, which include those crimes committed by individuals in lower class jobs. The strength of his conceptualization is that it expands white-collar crime to consider all forms of misdeeds committed by employees and businesses during the course of employment.

Using each of the above definitions as a framework, white-collar crime can also be defined as *violations occurring in occupational systems*. This text uses such a framework to provide broad systems perspective about white-collar crime. White-collar crime can therefore be defined as "any violation of criminal, civil, or regulatory laws—or deviant, harmful, or unethical actions—committed during the course of employment in various occupational systems." This definition allows us to consider numerous types of workplace misconduct and the interactions between these behaviors and broader systems involved in preventing and responding to white-collar crimes. As will be shown in the following paragraphs, the extent of these crimes is enormous.

## Extent of White-Collar Crime

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Determining the extent of white-collar crime is no simple task. Two factors make it particularly difficult to accurately determine how often white-collar crimes occur. First, many white-collar crimes are not reported to formal response agencies. One study found that just one third of white-collar crime victims notify the authorities about their victimization (Kane & Wall, 2006). When individuals are victims of white-collar crimes, they may not report the victimization because of shame, concerns that reporting will be futile, or a general denial that the victimization was actually criminal. When businesses or companies are victims, they may refrain from reporting out of concern about the negative publicity that comes along with "being duped" by an employee. If victims are not willing to report their victimization, their victimization experiences will not be included in official statistics.

A second factor that makes it difficult to determine the extent of white-collar crime has to do with the conceptual ambiguity surrounding the concept (and discussed above). Depending on how one defines white-collar crime, one would find different estimates about the extent of white-collar crime. The federal

government, and other government agencies, offer different definitions of white-collar crime than many scholars and researchers might use. The result is that white-collar crime researchers typically observe caution when relying on official statistics or **victimization surveys** to determine the extent of white-collar crime victimization. Despite this caution, the three main ways that we learn about the extent of white-collar crime are from official statistics provided by government agencies, victimization surveys, and research studies focusing on specific types of white-collar crime.

With regard to official statistics and white-collar crime, the FBI's Uniform Crime Reports (UCR) and National Incident Based Reporting System (NIBRS) provide at least a starting point from which we can begin to question how often certain forms of white-collar crime occur. These data reflect crimes known to the police. The UCR includes eight Part I (or index offenses: homicide, robbery, rape, aggravated assault, motor vehicle theft, larceny, arson, and burglary) and 29 Part II offenses, which are typically defined as "less serious" crimes. With regard to white-collar crime, Part II offenses have been regarded as possible white-collar crimes. Table 2.2 shows the number of times these crimes occurred between 1990 and 2008. As shown in the table, the number of forgery/counterfeiting and embezzlement cases increased somewhat dramatically between 1990 and 2009, while the number of fraud cases was lower in 2009 than in 1992, though the number of fraud cases fluctuated significantly over this time frame. Also, note the increase in all arrests for all three offense types between 2008 and 2009.

A word of caution is needed in reviewing these estimates. Not all criminologists agree that these offenses are appropriate indicators of white-collar crimes. Many of these offenses may have occurred outside of the scope of employment. Also, because the UCR does not capture information about offender status, it is not possible to classify the crimes according to the occupational systems where the offenses occurred.

Limitations in the UCR prompted the federal government to expand its efforts in reporting crime data through the National Incident Based Reporting System. NIBRS data provide more contextual information surrounding the crimes reported to the police. For example, this reporting system provides information about where the crime occurred, the victim-offender relationship, victim characteristics, and so on. While

more contextual information is provided from NIBRS data, the same limitations that plague the UCR data with regard to the measurement of white-collar crime surface: (1) not everyone would agree these are white-collar crimes, (2) the database was created for law enforcement and not for researchers, (3) many cases are reported to regulatory agencies rather than law enforcement, (4) some white-collar crime victims are unaware of their victimization, and (5) shame may keep some victims from reporting their victimization (Barnett, no date). Also, the NIBRS data are not as "user friendly" as UCR data at this point.

Victimization surveys offer an opportunity to overcome some of these problems. These surveys sample residents and estimate the extent of victimization from the survey findings. The 2005 National White-Collar Crime Center (NW3C) Victimization



▲ **Photo 2.1** Most victims of white-collar crime do not call the police. As a result, using police-based data to examine white-collar crime offers a limited picture of white-collar crime.

**Table 2.2** Arrests Reported in UCR for Three “White-Collar” Offenses, 1990–2009, U.S. Department of Justice, Available online.

Year	Forgery/Counterfeiting	Embezzlement	Fraud
1990	50403	7708	182752
1991	53853	7458	188100
1992	66608	8860	279682
1993	69063	8886	246127
1994	71322	9155	233234
1995	84068	10832	295584
1996	81319	11763	248370
1997	77773	10935	298713
1998	70678	10585	220262
1999	56813	9692	166413
2000	58493	10730	155231
2001	77692	13836	211177
2002	83111	13416	233087
2003	79188	11986	208469
2004	73082	9164	235412
2005	87346	14097	231721
2006	79477	14769	197722
2007	78005	17015	185229
2008	68976	16458	174598
2009	85844	17920	210255

Survey is the most recent, and most comprehensive, white-collar crime victimization survey available. The results of this survey, a phone interview with 1,605 adults in the United States, found that 46.5% of households and 36% of individuals reported experiencing forms of white-collar crime in the prior year (Kane & Wall, 2006). Nearly two thirds of the respondents reported experiencing some form of white-collar victimization (as measured by the researchers) in their life time.

**Table 2.3** Household Victimization Trends (12 months)

False stockbroker info	4.4%
Illegitimate e-mail	5.5%
Business venture	5.9%
New account fraud	8.1%
Unnecessary repair (home)	11.7%
Monetary loss (Internet)	12.4%
Existing account fraud	12.6%
Unnecessary repair (object)	20.8%
Affected by national corporate scandal	21.4%
Credit card fraud	24.5%
Price lie	35.9%

**Table 2.4** Household Victimization Reporting Trends

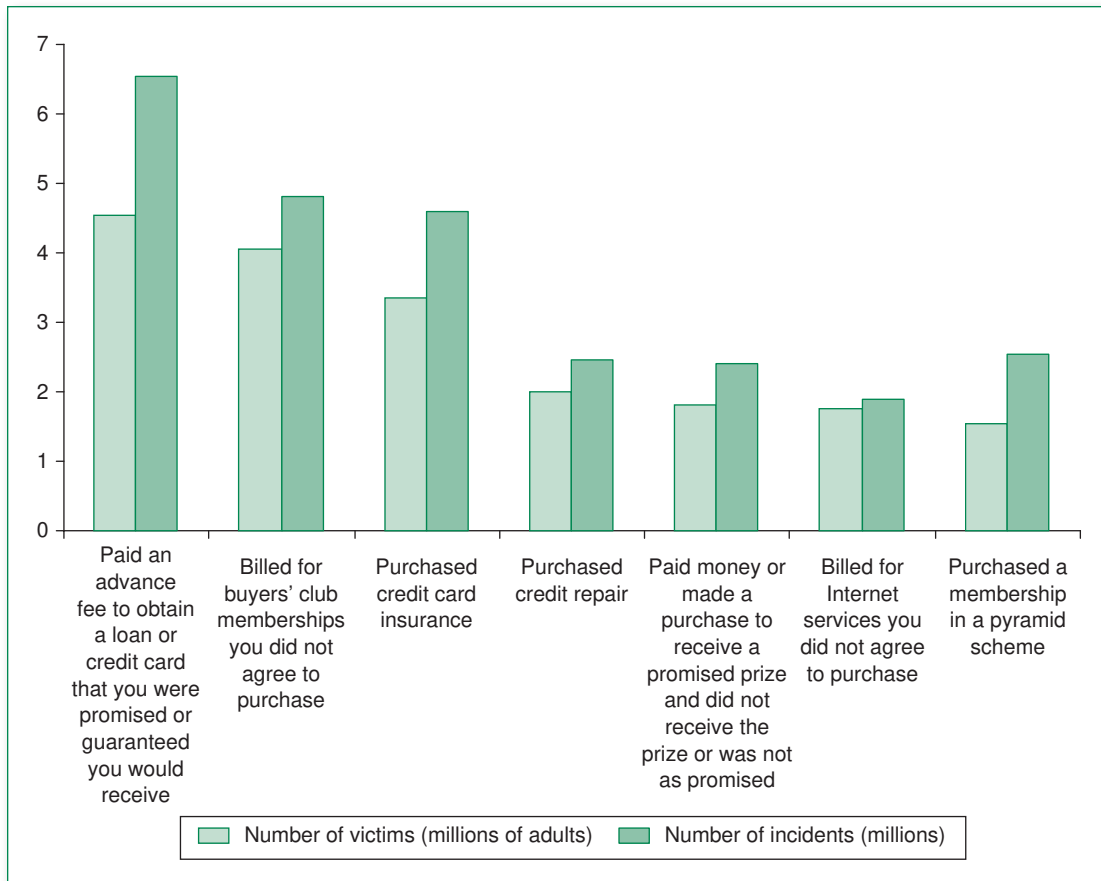
Internet crime complaint center	2.6%
Consumer Protection Agency	4.5%
Personal lawyer	4.9%
District attorney or state attorney general	7.7%
Better Business Bureau	14.2%
Police/law enforcement	19.3%
Entity involved	31.8%
Other	32.1%
Credit card company	34.9%

Table 2.3 shows the types of victimization reported by respondents in the NW3C victimization survey. As shown in the table, more than a third of the respondents indicated that they had been lied to about prices in the prior year, and one fourth reported being victims of credit card fraud. Also, about one fifth reported being victimized by unnecessary object repairs and corporate scandals.

The NW3C also asked victims about their decisions to report their victimization to various agencies. Table 2.4 shows the formal agencies that respondents reported their victimization to (among those who did report the victimization). As shown in the table, respondents tended to report their victimization either to their credit card company or the entity involved. Perhaps most interesting is how infrequently respondents reported their victimization to formal governmental agencies of social control. Less than one fifth of respondents reported their victimization to the police, one seventh of them notified the Better Business Bureau, one in 14 notified the district attorney, and about one in 20 notified a personal lawyer or the consumer protection agency.

Researchers have also used specific studies to gauge the extent of various forms of white-collar crime. One author, for example, cites a study by the Government Accountability Office that found fraud in “every single case” of the Savings and Loan institutions included in the study (Galbraith, 2005). Another study found that one in 30 employees (out of 2.1 million employees) was caught stealing from his or her employer in 2007 (“Record Number of Shoplifters,” 2008). A Federal Trade Commission (FTC) survey of 2,500 adults in the United States found that consumer fraud was rampant (Anderson, 2004). Based on the survey findings, Anderson estimates that “nearly 25 million adults in the United States—11.2% of the adult population—were victims of one or more of the consumer frauds covered in the survey during the previous year” (p. ES-2). Anderson further estimated that 35 million cases of consumer fraud occur each year.

Figure 2.2 shows the extent of the types of consumer fraud considered in the FTC survey. As shown in the figure, the most common frauds were paying an advanced fee for a loan/credit card, fraudulent billing for buyers’ club memberships, and purchasing credit card insurance. Note that these are only estimates about the extent of victimization. Accurately determining the extent of white-collar crime remains a difficult task.

**Figure 2.2** Common Types of Consumer Fraud

While it is difficult to gauge the extent of white-collar crime, all indications are that these offenses occur with great regularity. The regularity of these offenses exacerbates their consequences.

## Consequences of White-Collar Crime

Crime, by its very nature, has consequences for individuals and communities. White-collar crime, in particular, has a set of consequences that may be significantly different from the kinds of consequences that arise from street crimes. In particular, the consequences can be characterized as (1) individual economic losses, (2) societal economic losses, (3) emotional consequences, (4) physical harm, and (5) “positive” consequences.

**Individual economic losses** refer to the losses that individual victims or business lose due to white-collar crimes. One way that criminologists have captured these losses is to compare them to losses

experienced by victims of conventional crimes. By some estimates, the average amount lost to embezzlement, for example, is about \$1,000,000 (“The Marquette Report,” 2009). By comparison, consider the following:

- The average street/highway robbery entails losses of \$1,032
- The average gas station robbery entails losses of \$1,007
- The average convenience store robbery entails losses of \$712 (Federal Bureau of Investigation, 2009b).

It is important to note that a small group of offenders can create large dollar losses. One study found that 27 white-collar offenders were responsible for dollar losses in the amount of \$2,494,309 (Crofts, 2003). Each offender stole an average of \$95,935. Other studies have also found large dollar losses as a central feature of white-collar crimes (Wheeler, Weisburd, & Bode, 1988). In fact, Sutherland (1949) argued that white-collar crimes cost several times more than street crimes in terms of financial losses. While his estimate may be a little dated, the fact remains that a white-collar crime will likely cause larger dollar losses to victims than a street crime would.

**Societal economic losses** entail the total amount of losses incurred by society from white-collar crime. Kane and Wall (2006) cite estimates suggesting that white-collar crime costs the United States between \$300 and \$600 billion a year in financial losses. These costs are increased when considering the secondary societal economic costs such as business failures and recovery costs. In terms of business failures, one estimate suggests that one third to one half of business failures are attributed to employee theft (National White Collar Crime Center, 2009). With regard to recovery costs, taxpayers pay billions of dollars to support the efforts of the criminal, civil, and regulatory justice systems. As an illustration of how these costs can quickly add up, one white-collar criminal involved in a \$7 million Ponzi scheme eventually lost everything and was unable to afford his own attorney. In this case, the federal public defender’s office was assigned the task of representing the accused (Henning, 2010). Attorney costs in white-collar crime cases are believed to be particularly exorbitant.

**Emotional consequences** are also experienced by victims of white-collar crime and all members of society exposed to this misconduct. These emotional consequences include stress from victimization, violation of trust, and damage to public morale. With regard to stress, any experience of victimization is stressful, but the experience of white-collar crime victimization is believed to be particularly stressful. Much of the stress stems from the violation of trust that comes along with white-collar crimes.

According to Sutherland (1941), the violation of trust can be defined as the “most general” characteristic of white-collar crime. Victims of a street robbery didn’t trust the stranger who robbed them in the first place. Victims of a white-collar crime, in addition to the other losses incurred from the victimization, have their trust violated by the offender. There is reason to believe that the level of trust may be tied to the specific level of trust given to different types of white-collar offenders (e.g., we trust doctors and pharmacists at a certain level, but auto mechanics on another level).

Researchers have used various strategies to consider how these trust violations manifest themselves in white-collar crimes. Spalek (2001) interviewed 25 individuals who lost some of their pension funds to a fraudulent scheme by Robert Maxwell. She focused on the degree to which victimization bred distrust. She found that many of the victims already distrusted their offender before the victimization came to light. The victims said that they felt forced or coerced into trusting the offender as part of his investment scheme. In terms of trust, they placed their trust in outside agencies to protect them from the offender. The following comments from Spalek’s participants highlight this pattern:

- I've always mistrusted Maxwell. But I felt that because pensioners were, to a large extent, the province of the state . . . that there was very little Maxwell could do to make off with the money.
- I suppose at the time I actually thought that the law would actually safeguard against anything that was mine so I wasn't too worried about it, although I thought that Maxwell would do his best to get his hands on the money (n.p.).

With regard to public alienation, violations of trust potentially do damage to the economy and social relationships. According to Frankel (2006), “with few exceptions, trust is essential to economic prosperity” (p. 49). If individuals do not trust financial institutions, they are not likely to invest their funds in the economy. Sutherland (1941) recognized this relationship between trust, the economy, and social relationships. He wrote:

The financial loss from white-collar crime, great as it is, is less important than the damage to social relations. White-collar crime violates trust and therefore creates distrust; this lowers social morale and produces disorganization. Many white-collar crimes attack the fundamental principles of the American institutions. Ordinary crimes, on the other hand, produce little effect on social institutions or social organization. (p. 13)

Building on Sutherland's ideas, Moore and Mills (1990) described the following consequences of white-collar crime:

- Diminished faith in a free economy and in business leaders
- Erosion of public morality
- Loss of confidence in political institutions, processes, and leaders

**Physical harm** may also result from white-collar crime victimization. Sometimes, physical harm may be a direct result of the white-collar offense. For example, cases of physical or sexual patient abuse will result in physical harm for victims. Other times, experiencing financial harm can lead to physical problems. The loss of one's entire retirement savings, for example, has been found to contribute to health problems for white-collar crime victims (Payne, 2005).

Death or serious physical injury is also a possible consequence of white-collar crimes. In one case, for instance, seven people died after a doctor “used lemon juice instead of antiseptic on patients' operation wounds” (Ninemsn Staff, 2010). In another case, Reinaldo Silvestre was running a medical clinic in Miami Beach when it was discovered that he was practicing without a license, using animal tranquilizers as sedatives for humans, and performing botched surgeries. In a widely publicized case, a male body builder



▲ **Photo 2.2** In the aftermath of the *Exxon Valdez* grounding, workers worked tirelessly to eradicate harmful effects of the white-collar offense. Researchers have not yet been able to identify the full extent of the consequences of this disaster.



was given female C-cup breast implants—he had requested pectoral implants to make his chest look bigger (“Fugitive Phony Doctor Nabbed,” 2004).

It is possible to more generally highlight the physical harm stemming from white-collar crime. Consider the following estimates, quoted verbatim from their sources:

- Research from the U.S. Consumer Product Safety Commission indicates that defective or unsafe products cause 29.4 million injuries and 21,400 deaths each year. (Ria, 2009)
- As many as 231,000 people have died from asbestos-related diseases in the U.S. since 1980; an equal number could die by 2040 according to testimony given at the [Senate] hearing. Dr. David Weissman, from the National Institute for Occupational Safety and Health, informed the Senate Committee that deaths from the asbestos cancer mesothelioma are increasing. (Kazen-Allen, 2007)
- At least 12,000 Americans die each year from unnecessary surgery, according to a *Journal of the American Medical Association* report. And tens of thousands more suffer complications. (Black, 2005)
- An estimated 7.5 million unnecessary medical and surgical procedures are performed each year, writes Gary Null, PhD, in *Death by Medicine*. (Black, 2005)
- An average of 195,000 people in the USA died due to potentially preventable, in-hospital medical errors in each of the years 2000, 2001 and 2002. (Loughran, 2004)
- The National-Scale Air Toxics Assessment . . . study is used by the EPA to identify parts of the country where residents could face the greatest health threats from air pollution. . . . Almost 2.2 million people lived in neighborhoods where pollution raised the risk of developing cancer to levels the government generally considers to be unacceptable. (Heath & Morrison, 2009)

In line with the objective approach presented in Section I, it is important to stress that not all consequences of white-collar crime are necessarily bad. Sociologist Emile Durkheim has highlighted four functions of crime that illustrate how crime in some ways has positive influences on individuals and communities (see Martin et al., 2009). These four functions can also be applied to white-collar crime. They include: warning light syndrome, boundary maintenance, social change, and community integration.

The **warning light syndrome** refers to the fact that outbreaks of white-collar crime could potentially send a message to individuals, businesses, or communities that something is wrong in a particular workplace system. If an outbreak of employee theft occurs in a hospital, for example, the administrators would be warned that they need to address those aspects of the occupational routines that allowed the misconduct to occur.

In terms of **boundary maintenance**, it is plausible to suggest that individuals learn the rules of the workplace when some individuals are caught breaking those rules. In effect, they learn the boundaries of appropriate and acceptable behaviors by seeing some individuals step over those boundaries. Some even recommend that white-collar offenders, when caught, be arrested at times when the vast majority of workers would be able to see the arrests (Payne & Gray, 2001). This recommendation is promoting a strategy to promote boundary maintenance.

With regard to **social change**, our society has changed significantly because of white-collar misdeeds. Some people have talked about how survivors of violent crime actually become stronger because of their experience with violence. Following this same line of thinking, those who survive white-collar crime victimization might actually become stronger. As well, when cultures and societies survive corporate victimization, they too may actually grow stronger.

**Community integration** is a fourth function of white-collar crime. In particular, groups of individuals who otherwise would not have become acquainted with one another may come together in their response to white-collar crime. When there is a crime outbreak in a neighborhood, those neighbors come together to share their experiences and make their neighborhood stronger (Martin et al., 2009). A crime outbreak in a business could have the same result. Coworkers who never talked with one another might suddenly become lunch buddies simply because they want to get together to talk about the crimes that occurred in their workplace. As well, at the societal level, new groups have been formed to prevent and respond to white-collar crime.

Consider the National White Collar Crime Center (NW3C). Formed in 1992, the center includes professionals, academics, and researchers interested in addressing white-collar crime on different levels. The NW3C's mission is: "to provide training, investigative support, and research to agencies and entities involved in the prevention, investigation, and prosecution of economic and high tech crime" (National White Collar Crime Center, 2009). Without the problem of white-collar crime, this center would never have been created and its members would never have been brought together (or integrated as a community).

Other possible positive consequences of white-collar crime can be cited. For example, some criminologists have noted that occasional forms of deviance might be enjoyable or pleasurable to commit. The 2010 Conan O'Brien/Jay Leno debacle comes to mind. It was announced in January 2010 that O'Brien was to be replaced by Leno after he had been promised a long-term contract to host *The Tonight Show*. In the last several episodes of his NBC show, O'Brien spent much of his show trashing his bosses at NBC. He even had skits suggesting that he was blowing NBC's money on pointless props for his show. The studio and home audiences raved about these skits. Who wouldn't want to go on national television every now and then and blow their company's money while trashing their bosses? (For the record, the thought never entered my mind.) In a similar way, some cases of workplace deviance might have the positive benefit of making the worker a more satisfied worker (see Mars, 1983). Authors have talked about "the joy of violence" (Kerbs & Jolley, 2007). In some ways, there might also be "the joy of white-collar deviance."

For some students, the numerous careers available to respond to white-collar crime might also be seen as a positive. Whenever I teach my criminal justice classes, I always ask my students if they would make crime go away if they could. Seldom do any students indicate that they would make crime disappear. In their minds, if they made crime disappear, they'd have to change their majors! So, in some ways, white-collar crime helps keep some criminal justice officials employed. A few of these careers can be particularly lucrative—one defense attorney was recently paid \$50,000 simply for providing counsel to a white-collar worker who had to testify in a grand jury proceeding (Nelson, 2010).



▲ **Photo 2.3** After his dispute with NBC, Conan O'Brien mocked his employer, joking about ways he could waste the company's money.

Of course, this brief overview of the “functions of white-collar crime” should not be interpreted as an endorsement of white-collar criminal behavior. In fact, the seriousness of many white-collar crimes means that the offenses cannot be taken lightly. The question that arises is whether members of the public view the offenses seriously.

## Public Attitudes About White-Collar Crime

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A large body of criminological research has focused on public attitudes about crime and different crime policies. Unfortunately, of the hundreds of criminological studies focusing on attitudes about crime, only a handful have focused on what the public thinks about white-collar crime. Yet research on white-collar crime attitudes is important for empirical, cultural, and policy-driven reasons (Piquero, Carmichael, & Piquero, 2008). In terms of empirical reasons, because so few studies have considered what the public thinks about white-collar crime, research on this topic will shed some light on how members of the public actually perceive this offense type. As well, such research will provide interesting, and important, insight into a particular culture or subculture. Perhaps most important, such research provides policy makers information they can use to implement prevention, response, and sentencing strategies.

In one of the first studies on public attitudes about white-collar crime, Cullen and his colleagues (Cullen, Clark, Mathers, & Cullen, 1983) surveyed a sample of 240 adults and assessed various perceptions about this behavior. The researchers found that the sample (1) supported criminal sanctions for white-collar offenders, (2) viewed white-collar crimes as having greater moral and economic costs than street crimes, and (3) did not define the offenses as violent. They also found that perceptions of seriousness of white-collar crime increased more than any other offense type in the 1970s and that physically harmful offenses were viewed as the most serious forms of white-collar crime.

Other studies have shown similar results. A study of 268 students found that perceptions of the seriousness of white-collar crime have increased over time and that these perceptions were tied to wrongfulness and harmfulness (Rosenmerkel, 2001). The NW3C National Victimization Survey also included items assessing perceptions of seriousness. The researchers found that the sample of 1,605 adults viewed (1) white-collar crime as serious as conventional crime, (2) physically harmful white-collar offenses as more serious than other white-collar crimes, (3) organizational offenses as more serious than individual offenses, and (4) offenses by higher status offenders as more serious than offenses by lower status offenders (Kane & Wall, 2006).

More recent research has built on these findings. A telephone survey of 402 residents of the United States focused on perceptions about white-collar crime and the punishment of white-collar offenders (Holtfreter, Van Slyke, Bratton, & Gertz, 2008). The authors found that one third of the respondents said that white-collar offenders should be punished more severely than street criminals. They also found that two thirds of the respondents believed that the government should “devote equal or more resources towards white-collar crime control” (p. 56).

Around the same time, telephone interviews with 1,169 respondents found that the majority of respondents defined white-collar crime as equally serious as, if not more serious than, street crime (Piquero, Carmichael, & Piquero, 2008). They also found that the presence of a college education impacted perceptions of seriousness. Those with a college education were more likely to define street crime and white-collar crime as equally serious. Another study using the same dataset found that respondents believed that street criminals were more likely than white-collar offenders to be caught and to receive stiffer sentences (Schoepfer, Carmichael, & Piquero, 2007). Respondents also believed that robbery and fraud should be

treated similarly. Another way to suggest this is that the respondents believed that robbers and occupational offenders committing fraud should be handled the same way. In addressing this point, it is important to call attention to similarities and differences between conventional criminals and white-collar criminals.

## Characteristics of White-Collar Offenders

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Because white-collar offenses are viewed as equally serious as street crimes, there may be a tendency among some to view white-collar criminals as similar to street criminals (Payne, 2003b). Such an assumption, however, is misguided and represents an inaccurate portrait of “the white-collar criminal.” As well, focusing narrowly on white-collar offenders may result in individuals failing to recognize the interactions between the offenders’ background characteristics and their offensive behavior (Wheeler et al., 1988).

Criminologists have devoted significant attention to describing the characteristics of various types of white-collar offenders. Comparing records of street offenders and white-collar offenders, Benson and Moore (1992) concluded: “Those who commit even run-of-the-mill garden variety white-collar offenses can, as a group, be clearly distinguished from those who commit ordinary street offenses” (p. 252). In one of the most comprehensive white-collar crime studies, Wheeler and his colleagues (1988) found that white-collar offenders were more likely than conventional offenders to (1) have a college education, (2) be white males, (3) be older, (4) have a job, (5) commit fewer offenses, (6) start their criminal careers later in life, and (7) be Jewish. Focusing on the interactions between offender characteristics and offense characteristics, the same research demonstrated that white-collar crime was more likely than street crime to:

- Be national or international in scope
- Involve a large number of victims
- Have organizations as victims
- Follow demonstrated patterns
- Be committed for more than a year
- Be committed in groups

Recognizing the differences between white-collar crime/white-collar offenders and street crimes/street offenders is significant for theoretical and policy reasons. In terms of theory, as will be demonstrated later in this text, if one of the criminological theories can explain both types of crimes, then that theory would be seen as having strong explanatory power. In terms of policy, it is important to recognize that different criminal justice strategies may be needed for the two types of offenses and that street offenders and white-collar offenders may respond differently to the criminal justice process.

Consider efforts to prevent crime. Strategies to prevent street crimes might focus on community building and poverty reduction; preventing white-collar crime is much “more complex” (Johnstone, 1999, p. 116). The impact of convictions and incarceration is also different between street offenders and white-collar offenders (Payne, 2003b). While such events may actually allow street offenders to gain “peer group status,” the white-collar offender would not experience the same increase in status as the result of a conviction (Johnstone, 1999; Payne, 2003b). At the most basic level, recognizing the differences between street offenders and white-collar offenders helps to promote more useful prevention and intervention strategies. On a more complex level, recognizing these differences fosters a more objective and accurate understanding about the dynamics, causes, and consequences of the two types of behavior.

## Summary

- Sutherland (1949) defined white-collar crime as “crime committed by a person of respectability and high social status in the course of his occupation.”
- Criticism of the concept centered around (1) conceptual ambiguity, (2) empirical ambiguity, (3) methodological ambiguity, (4) legal ambiguity, and (5) policy ambiguity.
- Corporate crime and occupational crime are viewed as “the two principal or ‘pure’ forms of white-collar crime” (Friedrichs, 2002, p. 245).
- Criminologists and social scientists offer various ways to define white-collar crime. These variations tend to overlap with one another and include the following: (1) white-collar crime as moral or ethical violations, (2) white-collar crime as social harm, (3) white-collar crime as violations of criminal law, (4) white-collar crime as violations of civil law, (5) white-collar crime as violations of regulatory laws, (6) white-collar crime as workplace deviance, (7) white-collar crime as definitions socially constructed by businesses, (8) white-collar crime as research definitions, (9) white-collar crime as official government definitions, (10) white-collar crime as violations of trust, (11) white-collar crime as occupational crimes, and (12) white-collar crime as violations occurring in occupational systems.
- Determining the extent of white-collar crime is no simple task. Two factors make it particularly difficult to accurately determine how often white-collar crimes occur: unreported crimes and conceptual ambiguity.
- With regard to official statistics and white-collar crime, the FBI’s Uniform Crime Reports (UCR) and National Incident Based Reporting System (NIBRS) provide at least a starting point from which we can begin to question how often certain forms of white-collar crime occur.
- The consequences of white-collar crime can be characterized as (1) individual economic losses, (2) societal economic losses, (3) emotional consequences, (4) physical harm, and (5) “positive” consequences.
- Research on white-collar crime attitudes is important for empirical, cultural, and policy-driven reasons (Piquero, Carmichael, & Piquero, 2008).
- Because white-collar offenses are viewed as equally serious as street crimes, there may be a tendency among some to view white-collar criminals as similar to street criminals (Payne, 2003b). Such an assumption is misguided and represents an inaccurate portrait of “the white-collar criminal.”
- Wheeler and his colleagues (1988) found that white-collar offenders were more likely than conventional offenders to (1) have a college education, (2) be white males, (3) be older, (4) have a job, (5) commit fewer offenses, (6) start their criminal careers later in life, and (7) be Jewish.

### KEY TERMS

Boundary maintenance	Definitions socially constructed by businesses	Individual economic losses
Community integration	Emotional consequences	Natural law
Conceptual ambiguity	Empirical ambiguity	Occupational crime
Corporate crime	Government definitions	Physical harm
Criminaloid concept		Research definitions

Social change	Violations-of-occupation crimes	Warning light syndrome
Social harm	Violations of criminal law	White-collar crime
Societal economic losses	Violations of regulatory law	Workplace deviance
Victimization surveys	Violations of trust	

## DISCUSSION QUESTIONS

1. Review the five white-collar crimes described in the beginning of this chapter. Answer the following questions for each offense description:
  - a. Is it a white-collar crime?
  - b. How often do these crimes occur?
  - c. What would the consequences of this crime be?
  - d. How serious do you think this crime is?
  - e. Who is the offender in each case?
  - f. How does that offender vary from street offenders?
2. Why does it matter how we define white-collar crime?
3. How serious is white-collar crime in comparison to street crimes?
4. What are the negative and positive consequences of white-collar crime?

## WEB RESOURCES

*FBI White-Collar Crime:* [http://www.fbi.gov/about-us/investigate/white\\_collar/whitecollarcrime](http://www.fbi.gov/about-us/investigate/white_collar/whitecollarcrime)

*10 Biggest White-Collar Crimes in History:* <http://www.businesspundit.com/white-collar-crimes-history-and-how-they-were-unravelling/>

*Protect yourself online:* <http://stlouis.jobing.com/protectagainstfraud.asp>

## READING

Edelhertz, a legal scholar, provides a different look at the concept of white-collar crime. He calls for a more specific way to define the phenomenon so that it will have utility to both practitioners and academics alike. Edelhertz suggests that the conceptual ambiguity surrounding the concept made officials from different areas define the concept within their own domains. Part of the conceptual confusion, he notes, relates to the fact that it is not always clear how white-collar crimes (and criminals) should be processed in the justice system. Edelhertz summarizes categories of white-collar crime including personal crimes, abuses of trust, offenders who deny or rationalize their crimes are legitimate business activities, and crimes that are a central part of the business activity. Edelhertz also highlights the various kinds of victims of white-collar crime. Edelhertz concludes with strategies to improve the response to these crimes.

### ***White-Collar and Professional Crime***

#### **The Challenge for the 1980s**

**Herbert Edelhertz**

**T**his article addresses a very broad range of anti-social behavior that, literally, cries out for a new and descriptive title that conveys some sense of who does what and to whom. The term “white-collar crime” is totally inadequate for this purpose, as is the descriptor “economic crime” that is increasingly used in the United States and is the prevailing term abroad. The very word “crime” is out of place here because we are dealing with behaviors and activities that, spectrum-like, merge imperceptibly into one another, with the legitimate and laudable on one end and the dishonest and disreputable on the other.

Sutherland (1940) coined the term “white-collar” relatively recently, only a little more than forty years ago. Already distinguished for his contributions in the field of criminology, he turned with populist gusto to upper-class crime, particularly in the business sector (Geis and Edelhertz, 1973). Sutherland was not the one to discover the crimes of business and the upper

classes; law enforcement and regulatory agencies were already active in the field. Before the turn of the century, the federal mail fraud statute was already a key part of an extensive law enforcement arsenal against business fraud; powerful legislative weapons against financial frauds had been deployed in the early 1930s with the passage of the first federal securities act, and bankers and government officials had been prosecuted for abuses of trust. Even a president of the New York Stock Exchange had been convicted before Sutherland focused a spotlight on white-collar crime. He did, however, place white-collar crime on the agenda of American criminologists. It has been a part of that agenda these past forty years, though relatively dormant until this past decade.

Sutherland’s perspective, whatever its merits, was responsible for a barrier between academic, or research investigators, and practitioners, or legislators in the field. He defined white-collar crime as “an illegal act

committed in the course of one's business or profession," thus focusing attention on who the offender was and where the offense was committed, rather than on the nature of the antisocial behavior that we are concerned with. Such a perspective made it difficult for the researcher to meet on common ground with the practitioner. No prosecutor could accept, as a basis for a criminal charge, that embezzlement by a bank president was white-collar crime, and that the same act by a low-paid bank teller was not. It is fair to speculate that the long hiatus in research in white-collar crime—extending from the early 1950s to the early 1970s (there were of course occasional and isolated studies during this period)—stemmed in part from this gulf. Criminological research in other areas—juvenile justice, delinquency, deterrence, and rehabilitation—flourished during this same period.

Starting in the mid-1970s, there was a new burst of research activity in the white-collar crime area. This occurred at the same time that thought was being given to the definition of white-collar crime. The new view was that the focus should be on the behavior rather than the character of the offender, a view taken by this writer (Edelhertz, 1970), the American Bar Association (ABA, 1977), and the U.S. Department of Justice's Criminal Division (Civiletti, 1978). If there was a link between these two developments, it probably did not lie in any departure from Sutherland's conceptions by the research community. Rather, it may have stemmed from the ability of those outside the research community to perceive the potential of the social sciences to contribute to law enforcement agency and other governmental agency goals, because practitioners were able to identify with these new definitional approaches. A broad range of studies were launched in the white-collar crime area that included extensive examinations of corporate crime (Clinard et al., 1979), fraud against government programs (Lange, 1979), prosecutive policies (Edelhertz and Hoff, 1980), organized crime (Blakely and Gettings, 1980), operation of prosecutive units (Blakely et al., 1978), federal data sources reflecting white-collar criminal activity (Reiss and Biderman, 1980), relationships between federal, state, and local efforts (Edelhertz and Rogovin, 1980), definitional

issues (Shapiro, 1980; Saxon, 1980), the impact of white-collar crime (Schrager and Short, 1978; Meier and Short, 1981), and a host of other issues.<sup>1</sup> There have been numerous symposia held and journal articles published dealing with operational issues, measurement, and evaluation.

Finally, in explaining the burst of public and research interest in white-collar crime in the latter half of this decade, one must suspect that the Watergate drama was also a major factor in focusing attention on the problem.

## White-Collar Criminal Behavior

The term "white-collar crime" means so many things to so many people that it will be rarely "out of fashion" as an attractive area for the attention of parts of the public, government, business, and the research or academic community. Each will, of course, concentrate on that aspect of this very broad area that particularly concerns it. Thus, many will concentrate, for ideological or political reasons, on the antisocial behavior of the business community and the wealthy, while at the same time finding it quite difficult to give serious attention to frauds committed by the poor, to frauds that exploit institutions that serve the disadvantaged, or even to the activities of con artists who make a business of fraud.

The business community lines up its concerns with its economic interests. Those who extend credit cry out for attention to bankruptcy frauds or to those who deliberately misuse credit cards; telephone companies are concerned with those who use technical devices to make long distance calls without leaving footprints that are necessary for billing; and electric utilities seek the prosecution of those who divert power by tapping wires before electricity gets to the user's meter. Merchants concerned with the thefts of merchandise have come to the startling conclusion that this is a form of white-collar crime, or at least they did when white-collar crime enforcement appeared to be a more popular enforcement vehicle than it is now (Chamber



of Commerce, 1974). The business community has a more difficult time, however, placing antitrust or price-fixing violations under the same umbrella.

Government is not a monolith, but rather a conglomeration of interests, each of which competes with others. It speaks with many voices and its allocation of enforcement resources also responds to political and economic interests. At one time, or in one place, the stress will be on curbing abusive or deceptive behavior by the business community. At another time, the emphasis will be on seeking out and acting on frauds against government programs and frauds against entitlement programs—all of which add to the costs of government. At all times, there is an ambivalence as to the issue of tax fraud because every segment of our society has some stake in the weakness of the tax collection function.

This brief mention of divergent views of white-collar crime only scratches the surface. Even where there is some consensus as to what general behavior constitutes white-collar crime, there is not likely to be agreement on what is to be done in individual cases. For example, it is unlawful to use fraud and deception in offering to sell stock, bonds, or other securities. Yet one part of the same statute that proscribes this behavior and makes it punishable as a felony, also provides alternative remedies and gives the U.S. Securities and Exchange Commission the power to refer for criminal prosecution or to refrain from doing so. What “crime” is, therefore, depends on whether the cognizant agency chooses to see it as crime, which in turn will depend on the quantum of available proof and also on how the agency balances its many, often conflicting enforcement objectives (Steir, 1981).

What is being suggested here is that in the area of white-collar crime, there is more of a gap between legal proscriptions and enforcement than in other areas of the criminal law. Murder and theft are violations of criminal law. When such crimes are committed, and we know how and by whom, we expect to see a prosecution though we recognize that juries may acquit or lesser charges may be traded for guilty pleas in order to ease burdens on the criminal justice system. But in the white-collar crime area, it is often

difficult to know whether or not there is a prosecutable case, even when we have persuasive and incontrovertible evidence as to who did what and how it was done. The wild card here is that most white-collar crimes involve wrongful behaviors in what appear to be thoroughly legitimate contexts. For example, it is legitimate to sell stocks, but not to deliberately misrepresent what is being sold. It is legitimate for a scientist to use grant money for a trip to a professional meeting, but certainly more questionable for two scientists to use that money for a Caribbean cruise with their secretaries to discuss their work. If you are mugged, the intent of the mugger can rather clearly be inferred from his behavior. But if competing contractors’ bids for public road construction work just happen to fall into a pattern that results in their sharing available contracts by alternative successful bids, can we make a parallel inference that the coincidence of bids demonstrates intent to unlawfully collude in the same way as the mugger’s act evidences his intent? Certainly we would need much more than this in order to make a case (Maltz and Pollock, 1980).

We make a mistake if we think that victims can be relied on to report these crimes, even if they know they have been defrauded. Offenders are far more likely to escape prosecution, if only because their behavior is less likely to be reported. Top corporate management may hesitate to report the white-collar crimes of middle- or high-level management for fear that this will hurt the corporate image. Top management often fears that its own position will be jeopardized because it failed to prevent or detect earlier such crimes, or because it will be subject to financial liability if stockholders sue them for negligence on behalf of their corporations. Corporate offenders are also members of “old boy” networks; one does not call for the arrest of a bridge partner whose wife shops with yours. Finally, some such offenders are valued executives with real track records for producing high profits; one motion picture production company resisted firing its chief executive even after he admitted stealing from his own company. On a lower, more personal level, one elderly victim was most concerned about possible harm to the dance studio instructor

who had exploited her loneliness to take many thousands of dollars from her.

## Categories of White-Collar Crime

There are a number of lenses through which we can observe white-collar criminality. We can examine these behaviors in terms of motivations, victims, or the schemes that are employed. For the purposes of this paper, it may be helpful first to consider the objectives of white-collar offenders and to simultaneously consider classes of victims and the schemes that are used against them.

This writer has previously suggested a four-part typology of white-collar schemes that may serve to illustrate the range of criminal purposes in this crime area (Edelhertz, 1970). These four parts are not necessarily mutually exclusive; many schemes will fall into more than one category, and may even involve common crimes.

The first category is that of personal, or ad hoc crimes. The offender here is pursuing some individual objective and usually has no face-to-face relationship with the victim. Examples would be personal income tax violations, frauds against government entitlement programs, and credit card frauds. The motives here are usually simple greed, or very serious real or perceived need. Schemes are facilitated and prevention or detection hampered by the fact that the offender is usually part of a sea of anonymous faces dealt with by government and corporate victims.

The second category involves abuses of trust. Criminal or abusive behavior falling in this category usually involves an offender who has been given custody of the assets of another, or power to make decisions that bind another. Embezzlements by employees or fiduciaries, accepting bribes or other favors to grant contracts on behalf of one's government or business employer, misuse of an employer's property or information for private profit, misuse of labor union pension funds, creating "ghosts" on payrolls or fictitious accounts payable—all of these are typical examples in this category. Here the offender has power to cause harm by virtue of his or her position and, through

control and manipulation of paper or computer records, to temporarily or permanently bury evidence of crime.

The third category is, in many ways, the most troublesome of white-collar behaviors since it involves offenders who rarely think of themselves as criminals or abusers of society. These offenders usually have very real status in their communities. Theirs are crimes incidental to and in furtherance of organizational operations, but crimes that are not the central purpose of the organization. Typical examples would be: antitrust violations; collusive bidding for public contracts; violations of the federal Corrupt Practices Act to assemble a pool of monies to influence the political process to support a business interest or create or save a tax loophole; or bribing a contracting officer domestically or abroad to contract for goods or services. On a smaller scale, such violations may involve fraudulent Medicare or Medicaid claims, the thumb on the butcher's scale, or the submission of a misleading financial statement to obtain more credit for a business than it would otherwise be entitled to. There have been cases involving government defense contracts (and I am sure in many a research grant area) where funds from one contract or grant are used to support another effort that is in trouble. These crimes or abuses are difficult to deal with because they are submerged in a mass of legitimate activities. They are both well hidden and extensively rationalized.

The final category is white-collar crime as a business, or as the central activity of a venture. Here we are talking about the con man and the con game. It is the easiest one to visualize because we are dealing with the business of cheating. There is no way to put a nice face on, or find any justification for the swindler who is in business only to get something for nothing. For these swindlers, the provision of goods, services, or property is only an excuse to grasp monies that bear no recognizable relationship to what is provided. Sometimes the scheme may be close to picking a victim's pocket, as in the case of the street "pigeon drop" that victimizes any vulnerable passerby. At other times the scheme will involve sale of worthless desert land or investment securities at high prices, based on fraudulent descriptions. These schemes can victimize a business and government, as well as individuals. The IRS pays out

millions every year to schemers who claim many refunds under phony names and who submit fabricated W-2 forms to support these claims. Businesses lose many millions of dollars by selling on credit to bankruptcy fraud artists who buy or set up a business, establish credit, then resell the merchandise and pocket the proceeds while leaving business creditors with an empty, bankrupt shell. Simply because these swindlers are the easiest to understand they receive disproportionate public, and perhaps law enforcement, attention, and are even romanticized in films such as *The Sting* and *The Producers*.

### Victims, Schemes, and Harm

It is helpful to consider what kinds of schemes are directed against different categories of victims. There is little reliable data here, but reasoning and experience in the area can take us at least some distance. Developing a structure for consideration of the scheme-victim-harm relationship can be a starting point for policy analysis, action priority development, and marshalling the tools of social sciences for valuable and helpful research on white-collar crime. As a starting point, it would appear that white-collar assaults are mounted against three general categories of victims: (1) individuals; (2) businesses and non-government institutions; and (3) government as buyer, giver, and protector-gatekeeper.

In considering these categories, one should also keep in mind the relationships of victims to the offender(s). There are at least three such relationships, which we can call “assault categories.” There are external assaults, which are externally conceived and executed with no knowing collaboration by the victim or the victim organization. Examples would be a fraudulent claim for a tax refund, or the sale of worthless stock to an investor. There are internal assaults, that involve no knowing collaborators outside a victimized organization. Embezzlement would be the classic example. Finally, there are mixed assaults which involve inside-outside collaboration. The classic example would be commercial bribery in which an outside organization bribes the trusted employee of the victim organization to grant a contract.

Crimes against individuals fall into five broad groups. These are (1) street con games such as the “pigeon drop,” (2) consumer frauds that include personal improvement schemes involving work-at-home schemes, trade schools, vanity publishing, modeling schools, and the marketing of inventions, (3) charity and religious frauds, (4) investment frauds, and (5) fiduciary frauds, such as thefts from estates or attorneys’ embezzlements of escrow funds. Some crimes against business will have very direct impact on individuals, for example where an uninsured financial institution is looted, wiping out the savings of many (often small) investors.

Crimes against business fall into seven very general groups. These are (1) internal thefts through embezzlements and misapplications, (2) commercial bribery (that may well be the major desert area of detection and enforcement), (3) conflicts of interest and exploitation of inside information for personal gain, (4) external swindles, such as advance fee schemes, bankruptcy frauds, and use of phony security or false financial statements as a basis for loans or credit, (5) false entitlement claims, such as internal expense accounts, external fraudulent insurance claims, or billing for goods or services not supplied, (6) business investment fraud, such as mergers or business purchases induced by false financial statements, and (7) unlawful competition due to market domination by competitors. Though the examples offered relate to businesses, other private institutions are similarly vulnerable. Universities have suffered from embezzlements, and admissions to at least one medical school were sold.

The list of white-collar crimes that have been committed against government and government functions is an exceedingly lengthy one, and very difficult to divide into categories. As a starting point, we can consider the following: (1) frauds arising out of procurement of goods and services, such as collusive bidding, billing for “phantom” goods or services, commingling of contract costs, and commercial bribery; (2) program frauds that involve false entitlement claims, fraudulent exploitation of public programs to promote housing, agriculture, small business development, and foreign aid; and (3) frauds against the revenue. In addition there is a broad range of white-collar violations against

government as gatekeeper or protector of the public. Examples in the gatekeeper-protector area would be fraudulent abuse of the zoning function, fraudulent information supplied to regulators to obtain permission to establish a bank or insurance company or to sell securities, unlicensed export of arms, soliciting for charities in violation of state registration laws, environmental offenses, fraudulent immigration applications, and fraudulent test result submissions to get permission to market a prescription drug.

## Conclusion

White-collar crimes and related abuses are not adversaries that can be targeted, met, attacked, and defeated once and for all. They are, rather, forms of group behavior that can be expected to surface again and again in response to new opportunities, or to avoid the loss of money, property, markets, or personal advantages. Since total victory and perpetual safety are not attainable, society's general objective in this area should be to marshal and deploy its public and private administrative, research, and law enforcement resources to contain white-collar crime, that is, to deter, detect, investigate, and prosecute (criminally and civilly) these crimes and related abuses.

Many resources exist that have not been fully brought to bear on this area. In the academic community, schools of business have totally ignored the problem of white-collar crime; law schools, with rare exceptions, treat the problem as a very minor part of courses in criminal law and regulatory law; social scientists have noted the problems in this field but have not yet developed methods to gather, organize, and describe white-collar criminal behavior or measure the effectiveness of remedies (all of which may not be achievable). Only in the area of policy analysis—and there in but a few instances—has there been a systematic effort to relate agency organization and functions, and to consider the pros and cons of alternative approaches. Within law enforcement agencies, the stress has been on day-to-day operations and defense of white-collar crime containment resources against competing programmatic demands, such as the clamor for resources by those combating violent crimes and common theft.

In a few instances—in such places as the policy analysis branch of the Criminal Division of the U.S. Department of Justice, the New Jersey Division of Criminal Justice (Stein, 1981), and the Arizona Attorney General's Office (Edelhertz et al., 1981)—there has been systematic consideration of strategies to deal with white-collar and organized crime that take into account the complex issues of enforcement tools, remedies, and criminal behaviors to be contained. Law enforcement agencies must adjust their planning to exploit the total arsenal of weapons available to them, particularly in the area of civil prosecution that has been made more promising by the enactment of relatively new federal and state anti-racketeering statutes (Blakely and Gettings, 1980). Professions such as law and accounting will have to reconsider their reluctance to assume any responsibility for containment of white-collar crime, or to report such crimes. Such a reconsideration may be encouraged by successful criminal prosecutions and massive civil judgments against major public accounting firms.<sup>2</sup>

In reacting to white-collar crime challenges, we will have to distinguish more carefully between sociological and economic impacts. Doing so should help to set enforcement priorities and allocate resources. For example, welfare frauds may be insignificant in economic terms as compared to antitrust violations, but welfare programs are most vulnerable to attack whenever frauds are exposed. Conversely, swindles and con games may bulk large in terms of public consciousness and individual victim injuries, but the economic injury to the body politic caused by the hemorrhaging costs of procurement fraud and abuses could suggest greater emphasis and use of enforcement resources in the latter area.

Finally, all those concerned with white-collar crime and related abuses must consider what contribution they can make to the development of a rational method of marshaling and deploying those containment resources that are available (Edelhertz and Rogovin, 1980). These resources are currently divided among numerous federal, state, local, and private agencies that are, in turn, divided by function: police departments, investigative agencies, compliance offices within agencies that procure goods and services or

distribute program benefits, regulatory agencies, prosecutors, and the courts. Groups in private industry perform many of these same functions. There is no reason to believe that decisions as to which agency responds to a white-collar crime challenge are in any way related to the resources or other capabilities of that agency. Rather, who becomes involved is likely to reflect which agency moved first, or which has greater clout or resources. Agencies have overlapping jurisdictions, and there is little to prevent dysfunctional duplication of effort or significant matters falling between the cracks.

In this high-altitude pass over the world of white-collar crime, it has been necessary to omit many issues of importance which some would consider more significant than those discussed here. To carry the space analogy further, however, the major task in the 1980s for those concerned with white-collar crime is to develop high-resolution lenses with which to better survey the terrain.

## Notes

1. For a bibliography of the more recent work in the field of white-collar crime, see Edemerdt and Overcast (1981). For examples of more recent research in the field, see Geis and Stotland (1980).
2. There is already considerable concern in the accounting profession. See Elliot and Willingham (1980).

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## DISCUSSION QUESTIONS

1. Who are the victims of white-collar crime?
2. How does the way Edelhertz defines white-collar crime vary from Sutherland's approach?
3. Given that Edelhertz wrote this article a quarter of a century ago, how might he change his views about these concepts given today's technologically oriented society?



## READING

David Friedrichs is regarded as one of the top criminologists currently studying white-collar crime. In this article, Friedrichs directly addresses all of the issues that arise when academics use different concepts to describe white-collar crime. One major part of his argument is that these new concepts create additional confusion, rather than limit it. He provides a summary of the history of the white-collar crime concept. Friedrichs then reviews the concepts of occupational crime, occupational deviance, and workplace crime. The occupational crime concept, Friedrichs argues, distorts what Sutherland meant by “white-collar crime” by including occupations with less status, power, and wealth. The occupational deviance concept is also viewed as too vague by Friedrichs, who sees the concept as describing behaviors (like child abuse in day care centers) as outside of the scope of white-collar crime. In a similar way, Friedrichs argues that many of the behaviors included under the heading of “workplace crime” are more similar to street crime than white-collar crime.

### ***Occupational Crime, Occupational Deviance, and Workplace Crime***

#### **Sorting Out the Difference**

David O. Friedrichs



#### **Introduction**

Perhaps no other area of criminological inquiry has been more plagued by conceptual confusion than that of white collar crime. Many attempts have been made

to resolve the definitional conundrums that arise in this realm (e.g. Friedrichs, 1992, 1996a, 1996b; Geis, 1992; Helmkamp et al., 1996; Meier, 2001). At least some of those who write about white collar crime choose to address the definitional question very

SOURCE: Friedrichs, David O. (2002). Occupational Crime, Occupational Deviance, and Workplace Crime. *Criminal Justice*, 2(3): 243-256.

briefly—if at all—and then move on to other substantive issues or empirical research findings. Although a certain level of impatience with the definitional and conceptual debates may be understandable, a premise adopted here is that theoretical advancement, meaningful analysis of empirical research, and the development of effective policy responses in the realm of white collar crime is only possible if it is grounded in optimal conceptual clarity (Helmkamp et al., 1996; Gerring, 1999). This claim should not be confused with a failure to recognize that consequential disputes about the best way to define key terms are inevitable, or that for some purposes intentionally ambiguous definitions are desirable. On the first point, one can agree with John Braithwaite's observation that 'It is an enormously valuable type of scholarship to study the struggle between those with an interest in clarifying and those with an interest in muddying the criminal-non-criminal distinction' (2001: 23). On the second point, one can agree with Wilhelm Aubert's (1952) call for adopting a deliberately ambiguous definition of white collar crime itself. The specific concern here, however, is with explicit or implicit claims that key terms have discrete, coherent meaning, when any such claims enhance rather than diminish conceptual confusion. Accordingly, further engagement with definitional and conceptual issues is called for, however tedious it may seem to some.

The present article was inspired by a long-standing dissatisfaction with Gary Green's (1997 [1990], 2001) solution to the definitional challenge, and more immediately by a review of several new encyclopedia entries, on: occupational crime, occupational deviance, and workplace crime.

## **A Brief Review of the History of the White Collar Crime and Occupational Crime Concepts**

It is well known that Edwin Sutherland (1940) introduced the concept of white collar crime in his 1939 American Sociological Society address in Philadelphia.

In the present context only two observations need to be made. First, Sutherland has also been faulted with having contributed to the long history of conceptual confusion in this realm both because he defined white collar crime in somewhat different ways at different points, and because these definitions themselves were intrinsically problematic; second, Sutherland's (1949) own major work on white collar crime focused on the crimes of corporations.

In their influential *Criminal Behavior Systems: A Typology*, Clinard and Quinney (1973 [1967]: 131), building on earlier work by Quinney (1964), discriminated between corporate crime and occupational crime, or 'violation of the legal codes in the course of activity in a legitimate occupation.' This typological distinction has been widely accepted, along with the recognition that the term 'white collar crime' encompasses an exceptionally broad range of activities that can only be analyzed and discussed in a coherent manner when broken down into types. Indeed, the usefulness of typologies within criminology generally is quite established, despite some criticisms of limitations or distortions inherent in existing criminological typologies (Gibbons, 1983; Miethe and McCorkle, 2001). Gilbert Geis, the most respected active white collar crime scholar over a period of more than four decades, has long favored a typological approach to white collar crime (Geis, 1962, 1982, 1992, 2002; Meier, 2001). In my own approach to typologies of white collar crime I have argued for recognition of the term itself as relativistic and heuristic (Friedrichs, 1996a). While corporate crime and occupational crime are the two principal, or 'pure,' forms of white collar crime, I make the case for recognition of cognate, hybrid, and marginal forms of white collar crime, including: governmental crime; state-corporate crime; finance crime; technocrime; enterprise crime; contreprenurial crime; and avocational crime (Friedrichs, 1996a). Each of these activities has a fundamental link with the core concept of white collar crime. But in the present context I will only address the conceptual confusion that has arisen in relation to the invocation of the terms 'occupational crime', 'occupational deviance', and 'workplace crime'. The concept of occupational deviance—or deviance in

an occupational setting—was especially influenced by Clifton Bryant's (1974) reader, *Deviant Behavior: Occupational and Organizational Bases*. The term 'workplace crime' seems to derive principally from some recent attention to workplace violence (e.g. Southerland et al., 1997). On the one hand, occupational crime, occupational deviance, and workplace crime—as invoked today—are often used quite interchangeably, although I will argue that it makes more sense to differentiate quite clearly between them. On the other hand, although traditional white collar crimes are frequently encompassed by these terms, many of the other activities subsumed within these categories have nothing to do with white collar crime. This inevitably produces great conceptual confusion, and hinders both empirical and policy-related work.

### Occupational Crime

Gary Green (1997 [1990], 2001) has promoted the case for replacing the term 'white collar crime'—which he regards as conceptually incoherent—with his particular conception of occupational crime. He defines such crime as 'any act punishable by law that is committed through opportunity created in the course of an occupation that is legal' (Green, 1997 [1990]: 15). The core argument here is that it is the structuring of crime opportunities, as a consequence of having a legitimate occupation, that most fully and effectively distinguishes what has traditionally been characterized as white collar crime from other forms of criminal behavior, and most especially conventional crime. Gerald Robin (1974) is credited with first having called for replacement of the term 'white collar crime' with 'occupational crime'. As Green puts it, 'The concept of occupational crime seeks only to identify a general type of opportunity' (2001: 406).

Certainly opportunity is a highly significant variable in the occurrence of crime, and arguably it has not been adequately emphasized in some criminological theories and typologies. But the claim is made here that the opportunity factor can also be overstated in the formulation of viable criminological theories and typologies. If occupations structure or facilitate the

commission of certain forms of crime it does not necessarily follow that this dimension is the most significant element of the crime. All truly useful typologies of crime use multiple criteria, and attempt to group together activities that most logically belong together (Gibbons, 1983; Miethe and McCorkle, 2001). I hope to demonstrate here that the typological groupings emerging out of Green's approach are fundamentally flawed, and distorting.

Green breaks down occupational crime into four types. The first of these, 'Organizational Occupational Crime,' is essentially the equivalent of corporate crime. But Green loses more than he gains in this translation, and not only by virtue of the awkwardness of the term itself. It is the corporate structure, resources, environment, mission, and so on, that are the key elements for understanding crime in this category—e.g. environmental pollution; unsafe products; unsafe working conditions; price-fixing; contractual fraud; etc.—not the fact that company executives and managers have legitimate occupations. It is not so much the occupation as the organization that structures the opportunities in this realm. Indeed, corporate crime such as environmental pollution typically involves corporate personnel on various different levels for purposes of implementation, from CEOs to lowly workers.

Green's second type, 'State Authority Occupational Crime,' is arguably an even more awkward term for what I have chosen to characterize as governmental crime (with state crime and political white collar crime as the major types). This term is applied to abuses and illegal applications of state power by those holding some official position. In relation to this term an unusually broad array of activities is encompassed, ranging from a notary public who takes a bribe to genocide. In my own approach state crime is the public sector equivalent of corporate crime, and political white collar crime is the public sector equivalent of occupational crime. In the case of genocide, the fact that those carrying it out—from the high command to killing squads or concentration camp guards—may have 'legitimate' occupations in some sense is far less significant than the role of the apparatus, resources, and ideology of the state.



Green's third type is 'Professional Occupational Crime,' the equivalent of crimes of professionals in other typologies. As an example under this heading we have unnecessary treatment and fraud by physicians. Green characterizes unnecessary surgery as a form of aggravated assault uniquely available to physicians. Certainly the injury to patients is real, but unnecessary surgery typically differs in a fundamental way from aggravated assault, insofar as the intent is not to do physical harm but rather to realize a financial gain. Green also includes sexual assault by physicians, and misappropriation of drugs, under this heading. It makes more sense to recognize that physicians may have special opportunities to commit sexual assaults, and to shield their actions from prosecution, but that such offenders are basically rapists/molesters or drug abusers simply utilizing the enhanced opportunity they have as physicians, and the dynamic and motivation for such offenses is fundamentally at odds with that of white collar crime, or financially driven crimes of professionals.

Green's fourth and final category is 'Individual Occupational Crime,' which is conceded to be a catch-all term for all other forms of occupational crime. Personal income tax evasion is given as one example of this type of crime. But one's personal income tax obligation is not linked to one's occupation; rather, it is linked to one's having income, from whatever source. Accordingly, I characterize it as a form of avocational crime, parallel to white collar and occupational crime, but in definitional terms outside the boundaries of such crime because it does not specifically occur within an occupational context.

Under this heading, as well, Green includes offenses ranging from thrifts fraudsters to nonprofessionals molesting children at day care centers. While the former example certainly fits under the traditional heading of white collar crime, the latter clearly does not. Again, as in the case of physicians, while it may be true that day care workers who molest have unusual opportunities to carry out this type of crime, they are best classified as molesters, not as occupational offenders. We do not characterize conventional crime as 'neighborhood crime,' despite the fact that in many

respects the neighborhood structures the opportunity for such crime. The offenders identified here have far more in common with others with tendencies promoting pedophilia than they do with financially oriented occupational offenders, such as the crooked thrift executives, or employees who steal.

In noting the dissension on the meaning of white collar crime, Green claims that 'some scholars include among white collar crimes those offenses committed in the course of occupations that are illegal themselves' (2001: 406). Mafioso, contract killers, bookies, burglars, and the like might be said to occupy illegal occupations, but I am not aware of white collar crime scholars who would label those occupying such positions as white collar offenders. However, it should be recognized that the legality (or legitimacy) of a particular occupation is not always entirely clear-cut, and occupations could be ranged along a continuum of legitimacy and legality. For example, real estate agent is a fully legitimate/legal occupation, con artist is not, but what about a time share entrepreneur who is using high-pressure sales tactics and some forms of misrepresentation? In my book *Trusted Criminals* I adopted a term formulated by Francis, 'contrepeneur,' to encompass a wide range of activities (and related occupations) that incorporate in varying degree elements of both legitimacy and illegitimacy, legality and illegality (Friedrichs, 1996a). A 'fence' who deals in stolen goods is obviously engaged in illegal activity, so fence is not a legitimate occupation, but fences are invariably legitimate businessmen (e.g. pawnbrokers) who engage in much legitimate and legal activity along with their illegal and illegitimate activity. Accordingly, if we address actual cases, it is not necessarily accurate to characterize someone as either engaged in a legal or an illegal occupation, as opposed to elements of both. 'Enterprise crime' is another term I have used to characterize activities involving the intersection of legitimate businesses with syndicated (organized) crime. Again, what level of engagement with illegal enterprises is required for a businessman to no longer be legitimate?

Green argues that '... the concept of occupational crime can be equally as useful as "white collar crime" in seeking an understanding of the ways in which wealth and political powers affect the making of law and their

application' (2001: 406). But many legal occupations are essentially devoid of real wealth and political power. White collar crime, in its traditional use, incorporating corporations and the professions, does in fact highlight the disproportionate political clout of organizations and occupations in the elite or at least upper middle class realm.

In sum, Green fails to make the case that the benefits of replacing the concept of white collar crime with occupational crime outweigh the costs. What Green gains—the emphasis on how occupations can structure criminal opportunities—is more than offset by what he loses, through wholly abandoning the important social class dimension of the traditional concept of white collar crime, and by conflating activities that may occur within a single occupational framework but are fundamentally different in terms of motivation and form. Those who adopt the white collar crime concept typically only make heuristic claims for it; Green claims a fundamentally analytical coherence for his concept of occupational crime that simply cannot be demonstrated. The Clinard and Quinney conception of occupational crime as a subtype of a broader category of white collar crime remains more valid, in this view.

## Occupational Deviance

The term 'occupational deviance' has also been invoked. Nathan W. Pino (2001: 260) defines it as 'any self-serving deviant act that occurs during the course of one's occupation,' broken down into deviant occupational behaviors (e.g. extramarital relations with a co-worker; consuming alcohol in the workplace; whistle-blowing) and occupational crime (e.g. embezzlement; sexual harassment; accepting kickbacks). Pino cites Clifton D. Bryant's (1974) reader *Deviant Behavior* as one basic source of inspiration for this conception. Readings in this volume addressed such matters as work-norm violations in the factory, drug addiction among physicians, lesbian behavior among strippers, fortunetelling, and abortion clinic ethnography, as well as some forms of white collar crime. Deviant occupational behavior is characterized as activity undertaken for one's own gain, or to cope with workplace stress, and not for the

benefit of one's employer or organization. However, there are obviously fundamental differences between extramarital relations with a co-worker and whistle-blowing; the latter activity can be exceptionally selfless, for example. It is also important to differentiate between the workplace norms established by employers (often quite formally, in employee manuals) and the norms of co-workers, typically informal but often quite potent. 'Rate-busting,' or exceeding employer quotas and expectations, is likely to be viewed positively by the employer, and may well be rewarded; from the point of view of co-workers, however, it is more likely to be viewed negatively. Professionals must also orient themselves in relation to the norms of their professional associations (e.g. the American Medical Association; the American Bar Association), and such professional association norms may be at odds with the norms and expectations of both employers and co-workers.

Some of those who write about white collar crime—or at least certain forms of white collar crime—have opted to use the term 'deviance', instead of 'crime' (e.g. Douglas and Johnson, 1977; Ermann and Lundman, 1996; Simon, 1999). But the application of deviance in the realm of white collar generates several fundamental problems. First, 'deviance' as a term is powerfully associated with those who are fundamentally (and sometimes visibly) different from mainstream members of society—e.g. prostitutes; homosexuals; drug addicts; the mentally ill; and so on. One of the striking dimensions of white collar crime (and occupational crime) is that the offenders are typically quite fully integrated into the mainstream of society, and are widely so perceived. Second, for certain significant forms of white collar crime offenders are in fact conforming to prevailing organizational or occupational norms, rather than deviating. Of course many traditional forms of deviance are characterized by peer group conformity—e.g. gang members—but in the case of white collar crime or occupational crime the deviance from mainstream norms may be more ambiguous, or less clear-cut. Finally, any invocation of the term 'deviance' in this context has to clarify whether deviance from formal or informal societal norms, from formal or informal organizational norms, from formal

or informal professional peer association norms, or from informal norms of workgroup peers, is involved.

In discussing occupational crime (as a subtype of occupational deviance), Pino (2001) basically adopts Green's approach, and accordingly includes such phenomena as child molesting in a day care center, along with embezzlement and accepting kickbacks, but expands on Green to include workplace violence. Occupational crime, then, has been conceived of as financially driven crimes committed by middle and upper class individuals within the context of their legitimate occupation; financially driven crimes committed within the context of any legitimate occupation, regardless of socioeconomic status; financial and non-financial forms of crime and deviance committed within the context of any legitimate occupation; and conventional criminal behavior committed in the setting of the workplace. Occupational crime can range from that which conforms to widely held norms within the occupation (e.g. taking kickbacks; favoring some suppliers; tax evasion) to that which is wholly at odds with occupational norms (e.g. sexual molestation; violence against co-workers). Occupational crime, as

defined here, incorporates violations of society's laws and regulations (e.g. fraud and embezzlement); violation of the norms of professional associations (e.g. ambulance chasing); violations of the rules or norms of employers (e.g. misappropriating trade secrets); and violations of coworkers' norms (e.g. rate-busting). All of this tends to contribute to and enhance conceptual confusion. In my view it would make more sense to restrict the term 'occupational deviance' to non-criminal violations of norms within a legitimate occupational setting, with differentiation between violations of the norms of the employer, of professional or occupational associations, and of co-workers. See Table 2.5.

### Workplace Crime

Finally, we have the concept of 'workplace crime,' defined as 'any harmful act committed by a person or group of persons during the course of a legitimate occupation' (Ismaili, 2001: 530). It is taken to be harm specifically generated by the workplace, and accordingly is broken down into: occupational crime; corporate (organizational) crime; and workplace violence.

**Table 2.5** Comparing Forms of White Collar and Conventional Crime

White Collar Crime		Conventional Crime	
Corporate/Occ. (C&Q)	Organ. Occ. (Green)	Occupational (Green)	Conventional
HMO defrauds Medicaid	MD defrauds Medicaid	MD steals patient's wallet	Pickpocket steals stranger's wallet
Pharmaceutical corporation sells dangerous product (e.g. Dalkon shield)	Surgeon performs unnecessary surgery	MD molests patient	Uncle molests niece
Corporation defrauds consumers	Employee steals from employer	Maid steals from guest	Burglar steals from homeowner

**NOTES:** Examples in the two columns to the left would be uniformly defined as white collar crime, either in Clinard and Quinney's (C & Q) typology of Corporate Crime and Occupational Crime, or Green's Typology of Organizational Occupational Crime and Individual Occupational Crime. Examples in the right-hand column would be uniformly defined as forms of conventional crime. In the remaining column we have examples of illegal acts that could be regarded as fitting Green's conception of occupational crime. The question here is this: do they have a closer generic relation to white collar crime or to conventional crime? I would argue, with the latter.

In my view, however, the concept so defined simply confuses our understanding of the range of illegalities that can occur in the context of the workplace. As an ‘umbrella’ term for a range of different offenses it is quite inferior to the white collar crime concept, which at a minimum offers a fundamental contrast to conventional crime. By analogy, it would not seem to be either theoretically or conceptually useful to put forth a concept of ‘home-based crime.’ The home can be the locus of a broad range of illegalities that have nothing important in common: burglaries; domestic violence; and even some forms of occupational crime—e.g. investment fraud—in an era when growing numbers are working out of their homes. It is one thing to say that an organizational structure (e.g. an asbestos-producing corporation) can generate a particular form of crime, or a specific occupation (e.g. medicine) can generate a particular form of crime. However, the workplace per se is merely a setting, and has much less to offer toward an understanding of how specific forms of crime are generated. Quite different forms of violence are linked with the workplace: e.g. the violence of unsafe working conditions; the violence of unnecessary surgery; the violence of homicide by a disgruntled worker, or sexual assault by a co-worker. To conflate such different violence under the heading of workplace violence confuses violence that is financially driven (and typically indirect or incremental), with violence that is emotionally driven (and typically direct and immediate).

The notion of ‘workplace’ is implicit in the concepts of corporate crime and occupational crime: i.e. they occur by definition in the context of the workplace. When this concept is then extended to the activities of state institutions even greater confusion arises. We are informed by Ismaeli (2001: 532), in his encyclopedia entry, that workplace crime occurs in the public sector ‘when public officials violently victimize citizens on the basis of either formal or informal policies.’ As stated, this definition encompasses genocide, CIA assassinations, and budgetary cutbacks for prenatal care, or inadequate funding for addressing AIDS. Lax enforcement (or non-enforcement) of building codes can produce victims in the context of

earthquakes. This concept might also include sexual exploitation of subordinates by a public official.

But if we are informed that some two million Americans are victims of violence at the workplace—including homicides, assaults, rapes, and robberies—how shall we treat this information in relation to the broader concept of workplace violence? First, on homicide, such statistics may include crimes committed by aggrieved, disgruntled, and dismissed employees, and crimes that arise out of the intrinsic dangers of the workplace—e.g. a prison inmate murdering a guard—but also may incorporate victims of violence in the workplace for reasons wholly independent of the work setting itself (e.g. homicides committed by estranged husbands and jilted boyfriends), and by conventional offenders who have invaded the workplace for specifically criminal purposes. Assaults and rapes occur in the workplace, but it seems useful to discriminate between sexual exploitation of a subordinate by a supervising manager (through direct or indirect threats relating to employment status, promotion, and salary bonuses), an employee taking advantage of special access in the workplace (e.g. a janitor raping a doctor, or vice versa), and an assault by an outsider (entering an office where a secretary is working alone, late at night). Official theft statistics relating to the workplace are highly unlikely to include systematic thefts of workers by owners and managers (e.g. looting of a pension fund; illegal underpayment in violation of minimum wage law), but could include theft by a co-worker, or by an outsider.

Although it may be useful for some purposes to recognize that a significant number of crimes occur at the workplace, it is not conceptually or theoretically useful to classify criminal offenses together on that basis. If a convenient market night clerk is robbed and murdered on the job by a stranger at 3 a.m., in an inner city location, this may be ‘workplace crime’ in the broad sense of the term, but it is best classified as conventional felony robbery and murder. Certainly this crime—as well as many other offenses provided as examples—is about as far removed from what Sutherland meant by white collar crime as one could possibly imagine.

If the term ‘workplace crime’ has any conceptual and theoretical value it seems that it should be restricted to conventional forms of crime that occur at the workplace, further differentiated in terms of whether they involve insiders or outsiders.



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## DISCUSSION QUESTIONS

1. How is occupational crime different from occupational deviance?
2. What policy implications arise from the way that white-collar crime is defined?
3. Is workplace violence a form of white-collar crime? Explain.

