

C H A P T E R O N E

White-Collar Crime and Criminal Careers

When Edwin Sutherland coined the term “white-collar crime” in his address to the American Sociological Society in 1939, he used the concept to challenge conventional stereotypes and theories.¹ In 1939, crime was generally seen as the work of disadvantaged young men from broken homes and decaying neighborhoods. Through films and books, the criminal was portrayed as a tough guy growing up on the wrong side of town. He was either to be saved by the church or the community or to be condemned to a sad fate determined by the difficult circumstances in which he was raised.

Such stereotypes were not limited to popular images of criminality. In a series of enduring empirical inquiries, sociologists at the University of Chicago in the 1920s and 1930s emphasized the link between social disorganization and poverty in areas within a city and high rates of criminal behavior (e.g., see Thrasher, 1927; Shaw, 1929). Their work, which continues to have an important place in American criminology (e.g., see Reiss and Tonry, 1986), served to focus attention on crimes of the lower classes. When Sutherland gave his ground-breaking speech to the American

¹ The address was published the following year in the *American Sociological Review* under the title “White Collar Criminality” (Sutherland, 1940).

Sociological Society, scholars and lay people alike saw poverty or conditions associated with poverty as intricately linked to criminality.

Sutherland challenged the traditional image of criminals and the predominant etiological theories of crime of his day. The white-collar criminals he identified were often middle-aged men of respectability and high social status. They lived in affluent neighborhoods, and they were well respected in the community. Sutherland was not the first to draw attention to such criminals. In earlier decades, scholars such as W.A. Bonger (1916) and E.A. Ross (1907) and popular writers such as Upton Sinclair (1906) and Lincoln Steffens (1903) pointed out a variety of misdeeds by businessmen and elites. However, such people were seldom considered by those who wrote about or studied crime and were not a major concern of the public or policy makers when addressing the crime problem.

Sutherland (1940) argued that the predominant conceptions and explanations of crime in his day were “misleading and incorrect” because they were developed from “biased samples” of criminals and criminal behavior (see also Sutherland, 1945, 1949). He noted that “vast areas of criminal behavior of persons not in the lower class” had been neglected in prior studies (1940, p. 2). In Sutherland’s view, poverty and social disorganization could not be seen as the primary causes of crime, if crime could also be found among people who grew up in “good neighborhoods and good homes” and lived in situations of authority and privilege. He believed that much could be learned about the crime problem by focusing on the category of white-collar crime. He declared that white-collar crime was not an isolated phenomenon, but a significant part of the landscape of criminal behavior.

Despite Sutherland’s recognition of the importance of the white-collar crime category, it never achieved the centrality in criminological study that he proposed. White-collar crime has for the most part been treated as a deviant case, invoked primarily to provide a contrast to the common crimes and street criminals that continue to dominate research and theory about crime. In this book, we seek to return the white-collar crime category to the mainstream of criminological thought. Our specific focus is on

what criminologists term *criminal careers* (see Blumstein et al., 1982, 1986). Much research on crime has focused on general portraits of crime in the population. The concern of such studies is with aggregate crime rates in communities or regions of the country or the relative changes in crime rates over time. The criminal career approach, in contrast, “seeks to analyze the activity – the careers – of the individuals who commit criminal offenses” (Blumstein et al., 1986, p. 1). It directs attention to the factors that lead to participation in crime, the nature and seriousness of criminal behavior of active offenders, and the duration of their involvement. In this context, the criminal career approach allows scholars and policy makers to focus directly on the causes of criminality, and potential methods of effective prevention and treatment of crime (Farrington et al., 1986).

Though the study of criminal careers has come to occupy a central place in the study of crime, criminologists have largely overlooked the criminal careers of white-collar offenders. For study of criminal careers, as with study of other crime and justice problems, the primary focus of researchers has been upon street crimes and common criminals. The fact that white-collar criminals have been assumed to be one-shot offenders (e.g., see Edelhertz and Overcast, 1982; Wheeler, Mann, and Sarat, 1988) has reinforced this bias. Even though there is a long tradition of scholarship dating back to Sutherland (1949) that recognizes that white-collar criminals, like common criminals, may repeat their involvement in law violating acts, most scholars (including Sutherland) have assumed that white-collar criminals are unlikely to have multiple contacts with the criminal justice system. Because such contacts have formed an important part of the study of criminal careers (Blumstein et al., 1986), white-collar crime has not been seen as a fruitful area of concern for criminal career researchers.

Our study contradicts this common assumption about white-collar criminals. In the chapters that follow we show that a substantial number of offenders who are convicted under white-collar crime statutes in the United States federal courts have multiple contacts with the criminal justice system. This fact led us to explore the problem of white-collar criminal careers, allowing

us to examine white-collar crimes and criminals using a different approach than has traditionally been applied by other white-collar crime scholars. It also provides us with an opportunity to critically examine assumptions about criminality and criminal careers that have been developed primarily in the context of studies of street criminals.

In taking this approach we are led to a portrait of crimes and criminals that is very different from that which has traditionally dominated criminology. Criminologists have generally focused on the ways in which criminals differ from those not involved in crime. As Thomas Gabor (1994, p. 14) writes:

Traditionally, criminologists have attempted to explain why some people become criminals and others do not. Some have attributed the apparent differences between criminals and the law-abiding to innate or genetic factors, others to personality differences, and still others to social circumstances. Whatever their persuasion, these traditionalists shared the assumption that there were clear differences between criminals and the rest of society. The traditional goal of research and theory in criminology, therefore, has been to identify these differences as precisely as possible.

The emphasis that traditional scholarship has placed on distinguishing between criminals and noncriminals adds little to understanding the involvement in crime of many of those we study. Rather, our data suggest the importance of the immediate context of crime and its role in leading otherwise conventional people to violate the law.

White-Collar Crime and Criminal Careers

This book centers both on description of the criminal careers of white-collar offenders and on the implications that the study of white-collar criminal careers has for understanding criminality more generally. The fact that white-collar criminals, like common crime offenders, often have multiple contacts with the criminal justice system raises a number of intriguing questions. Who are these repeat white-collar criminals, and how are they different from white-collar offenders who have only one recorded contact

with the criminal justice system? How are their criminal careers similar to or different from offenders found in more traditional crime samples?

It might be, for example, that repeat white-collar offenders, as defined by the criminal justice system, are similar to other white-collar criminals, but are just unlucky enough to be caught more than once. This would be consistent with research on corporate offending which suggests that such criminality is part of an established pattern of behavior for law violators (Clinard and Yeager, 1980; Braithwaite, 1982; Sutherland, 1949). On the other hand, some might argue that those convicted of white-collar crimes who have multiple contacts with the criminal justice system are not likely to be white-collar criminals at all. An example consistent with this argument would be a criminal who is a high-level manager of an illegal drug distribution network who was prosecuted for a white-collar crime, such as tax evasion, merely because other prosecutorial avenues were too difficult.

The occurrence of repeat criminality in a sample of offenders convicted of white-collar crimes also raises the issue of whether these offenders differ from street crime offenders in the basic parameters of their criminal careers. As we have already noted, white-collar offenders have generally been assumed to have infrequent contacts with the criminal justice system. In fact, do white-collar offenders have official criminal histories of much lower frequency than street crime offenders? Do they start and end their criminal careers later in the life course than do other types of offenders? If common stereotypes of white-collar offenders hold true, we would not expect to find that such criminals are active offenders early in life. However, we might expect that they would continue to reoffend much later in life than street crime offenders. This in turn would imply that the duration of criminal careers of white-collar offenders may be particularly long. Prior studies offer little insight into these concerns.

The question of specialization is particularly important in the study of white-collar criminal careers. Does it make sense, for example, to speak of “white-collar criminals” if such offenders are likely to engage in common criminal behavior as well as white-collar criminality? It would certainly alter the prevailing image of

white-collar crime if white-collar offenders were found, for example, to commit more serious violent crimes at other points in their criminal careers.

The study of white-collar crime and criminal careers offers a special opportunity for critically examining the appropriateness of the concept of career for understanding the development of criminal activities among offenders. Unlike most street criminals, white-collar offenders are often employed and may have conventional career histories. How does criminality intersect with those careers, and to what extent does it appear to be an important part of their development? Similarly, does repeat criminality among white-collar criminals provide evidence of systematic development of paths to crime, or does it suggest a series of random and chance events that are a small part of the life course?

What of the relationship between the social backgrounds and histories of offenders and involvement in crime on the one hand, and the relevance of situational characteristics of crime on the other? Does involvement in crime appear to be related to characteristics that are common to white-collar criminals but not others in similar social and economic circumstances? Does the criminality of white-collar offenders appear as a natural outcome of a life that is typified by deviance more generally? Or conversely, does it appear for these offenders that “opportunity makes the thief” (Felson and Clarke, 1998) – that white-collar criminals are conventional people who confront specific situational opportunities that lead them to crime? Or must we distinguish among different types of offenders who commit white-collar crime?

Some criminologists argue that it is essential to examine very specific categories of crime and deviance, such as car theft or house-hold burglary, rather than overarching groupings such as white-collar crime, because there may be important differences between them (Clarke, 1980, 1983, 1992, 1995; Clarke and Cornish, 1985). Thus, we might find very different pathways leading to involvement in crime among different types of offenders in our sample. Are such differences related to the types of crime that offenders commit or to the frequency of offending? What can we learn more generally about crime and criminality from the different types of offenders identified in a white-collar crime sample?

At least since the time Sutherland began his study of white-collar criminals there has been concern that high-status offenders avoid the most severe sanctions in the justice system (Wheeler et al., 1982; Meier and Short, 1982; Clinard and Yeager, 1980; Watkins, 1977). In recent years, such concerns have led in the federal sentencing system to increased severity in the penalties for white-collar crimes (U.S. Sentencing Commission, 1987) and to a much larger number of such offenders being sentenced to imprisonment (U.S. Sentencing Commission, 1991). For the most part, these policies have been developed without an understanding of how these changes will impact the potential for future criminal conduct among sanctioned white-collar criminals. Do criminal sanctions decrease the likelihood of reoffending, or the timing or seriousness of reoffending, of those convicted of white-collar crimes? Or do criminal sanctions “backfire” (Farrington et al., 1986; Sherman et al., 1986; Petersilia and Turner, 1986; Bridges and Stone, 1986) in a white-collar crime sample and lead to more serious involvement in crime? Finally, do different types of sanctions – for example, prison or fines – have distinct types of influences on the criminal careers of convicted white-collar criminals?

Defining White-Collar Crime and Sampling White-Collar Criminals

In order to provide insight into these questions, we sought to carefully examine the social and criminal histories of a sample of white-collar offenders. We recognize at the outset, however, that our view of white-collar crime and criminal careers is strongly influenced by the nature of the white-collar criminals we study. Therefore, we now focus in detail on our approach to the problem of white-collar crime and the sample of white-collar offenders that we study.

Defining White-Collar Crime

The absence of a precise definition of white-collar crime has plagued white-collar crime scholars from the outset (Schlegel and

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Weisburd, 1992). The confusion began with Sutherland himself (Geis, 1992; Coleman, 1992; Wheeler, 1983). Sometimes he stressed crimes committed by individuals of high status, while at other times he stressed crimes carried out in the course of one's occupation (e.g., see Sutherland, 1939, 1945). In his major empirical contribution to study of white collar crime, he focused on crimes committed by organizations or by individuals acting in organizational capacities (Sutherland, 1949). Although he used various definitions, the most frequently cited definition draws attention both to the established social standing of white-collar criminals and to the special opportunities for crime that come from specific occupational positions. He wrote: "White-collar crime may be defined approximately as a crime committed by a person of respectability and high social status in the course of his occupation" (Sutherland, 1949, p. 9).

Sutherland's definition established status, occupation, and organization as central features of white-collar crime study. However, in the more than half century since he coined the term, it has come to have different meanings depending on the research problem encountered or the theoretical context explored. For some, the concept is centered squarely in the activities of the most elite and powerful members of society. For example, Geis (1992, p. 47) argues that white-collar crime involves the "abuse of power by persons who are situated in high places where they are provided with the opportunity for such abuse." For others, white-collar crime refers not to the social positions of offenders but rather to the context in which white-collar crimes are carried out or to the methods used in their commission. This latter approach is reflected in early studies of occupational crime, such as Earl Quinney's (1963) examination of prescription violations by retail pharmacists, or Frank Hartung's (1950) study of violations of wartime regulations in the meat industry (see also Newman, 1958). It is also reflected in Herbert Edelhertz's influential definition of white-collar crime, as "an illegal act or series of illegal acts committed by nonphysical means and by concealment or guile, to obtain money or property, to avoid the payment or loss of money or property, or to obtain business or personal advantage" (Edelhertz, 1970, p. 3).

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While an array of definitions of white-collar crime has been offered since Sutherland coined the term (see also Reiss and Biderman, 1980; Shapiro, 1990), they have in common an underlying theme that is linked to Sutherland's original interest in the concept. Whatever the definition proposed, scholars have tried to define a category of crimes and criminals that provides a clear contrast to the common crimes and street criminals that generally attract the attentions of lay people and scholars. High social status is not a trait that is normally associated with crime, nor indeed is white-collar occupational status. Street criminals often use guns or knives to steal from their victims, they do not rely on paper instruments or computers as methods for committing their offenses. In some basic sense, the different definitions of white-collar crime intersect one with another. People of higher social status are those most likely to have white-collar occupational position, and such people are more likely to have the opportunity to commit crimes that involve nonphysical means. The question, however, is how broad the boundaries of white-collar crime study should be. While the differing definitions have much in common, they draw the dividing line between white-collar and other crime in different places.

Debate over the boundaries of white-collar crime study has gained new intensity as a result of a series of empirical studies that examine the types of people that are prosecuted for what are ordinarily defined as white-collar crimes. These studies suggest that much of what has been assumed to be white-collar crime is committed by people in the middle rather than upper classes of our society (e.g., see Croall, 1989; Levi, 1987; Weisburd et al., 1991). Many of the "fraudsters" who manipulate stocks are very far from elite status. Most of those who are prosecuted for crimes like bribery, tax fraud, or bank fraud are rather average in their social backgrounds and positions. The predominance of the more ordinary type of white-collar offender may be, to some extent, a function of the vagaries of prosecution rather than the realities of offending. Nonetheless, it is not a trivial fact that most of those prosecuted for so-called white-collar crimes have little in common with the powerful and wealthy individuals who are often conjured up as images of the typical white-collar offender. However, it is

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also important that they differ at least as sharply from the lower-class criminals that are generally thought of when scholars or lay people discuss the crime problem.

These white-collar criminals differ in status and position from more elite white-collar offenders, and their crimes are frequently as mundane as their social backgrounds. But it would be misleading to overstate the differences in their opportunities to commit costly and complex white-collar illegalities. It is not necessary to be a Fortune 500 corporate executive to develop a costly stock or land fraud. Such crimes are often committed in small firms or by employees who hold less powerful positions in larger ones. Antitrust violations involving millions of dollars are often committed by local businessmen or women. Frauds netting millions of dollars are frequently perpetrated by middle-level bureaucrats in public and private agencies who have access to large sums of money through government aid programs.

Should these middle-class white-collar criminals be included within the boundaries of white-collar crime study? Some scholars have suggested that such offenders are a useful subject of inquiry, but that they are too far afield from Sutherland's original conception to add much to our understanding of the problem of white-collar crime (e.g., see Geis, 1992; Shover, 1999). The question is whether it is useful to begin with an understanding of white-collar crime that allows us to speak not only of the rich and powerful white-collar criminals, but also of those offenders much closer to the middle of our society who have recently become the subject of scholarly attention. A simple response to this question would note that were we to narrow the scope of white-collar crime research to the most elite white-collar criminals, we would exclude the bulk of those people who are convicted for so-called white-collar crimes. Though from the outset scholars have contended that white-collar criminals often escape detection and prosecution, it seems unreasonable to us to argue that most offenders who are prosecuted for white-collar crimes should be excluded from systematic study.

Beyond this we believe that Sutherland's emphasis on elite status was in part a function of the different opportunity struc-