

WHITE-COLLAR CRIME

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I

INTRODUCTION

Possibly the most significant recent development in criminology, especially since World War II, has been the emergence of the concept "white-collar" crime as an area of scientific inquiry and theoretical speculation. It is true, of course, that this crime itself is not wholly new; robber barons have been exposed in the past, and muckrakers have long decried corruption and venality in high places. But the generalization of such phenomena and the incorporation of facts concerning illegal behavior of the higher classes into theories of crime causation is a product of recent effort. The speeches and publications of Edwin Sutherland culminating in his 1949 study¹ not only gave the name "white-collar" to this new area, but stimulated widespread research and, not incidentally, caused a furor in criminological circles concerning the appropriateness of this concept as a legitimate focus of research and theory.

White-collar crime is markedly different both legally and sociologically from more conventional crime, and the controversy over its criminological appropriateness centers around three major issues:

1. Are the law violations in question really crimes?
2. Can the behavior of the offenders involved be equated with conceptual meanings of criminal behavior, particularly since violators neither think of themselves nor are commonly thought of as criminals?
3. What is to be gained, other than confusion and imprecision, by the reformulation of definitions of crime to include behavior customarily "punished" civilly or by administrative action rather than by the conventional, and probably more precise, criminal procedures?

However these questions are answered, no one can deny that every single recent textbook in criminology includes a comprehensive discussion of white-collar crime. Included also, as inevitable as the concept itself, are the arguments, pro and con, about the criminal nature of this form of lawbreaking. The majority opinion of these sociological writers seems to be that white-collar criminality is a legitimate area

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¹ EDWIN H. SUTHERLAND, *WHITE COLLAR CRIME* (1949). This study of Sutherland's was preceded by a number of his articles dealing with the general significance of white-collar crime, and he had stated his thesis in *White Collar Criminality*, 5 *AM. SOCIOLOGICAL REV.* 1 (1940), and in an address before the American Sociological Society ten years before his book was published.

of criminological research, although it is customarily set apart as a special type or "behavior system" of crime. While many of the criticisms of such inclusion remain essentially unanswered and all writers recognize the theoretical import and research problems of broadening the concept of crime, none can ignore the numerous research studies and monographs which have appeared in recent years. The studies of Sutherland,² Clinard,³ Hartung,⁴ Lane,⁵ Cressey,⁶ and Newman,⁷ the cases described by Irej and Slocum,⁸ and various papers on the frequency of lawbreaking among "respectable" segments of our population⁹ have supported the general thesis of white-collar criminality.

The relative recency of this interest in what Morris calls "upperworld" crime¹⁰ is the result of the convergence of many cultural factors in our time and place. In the first place, contemporary society has necessarily created legislation specifically designed to control economic and political activities and, therefore, particularly aimed at the more powerful social classes. Rapid industrialization, urbanization, the replacement of the entrepreneur by the corporation, and the development of labor unions and cooperatives have all combined to give us a new world requiring new means of social control. We have come to realize that the conventional laws regarding theft and other socially-injurious conduct are inapplicable or ineffective today in many very important relationships. Some cherished common-law principles—*e.g.*, *caveat emptor*, the fellow-servant doctrine, and so on—have been necessarily reversed or revised by the demands of industrial society. From the late nineteenth century to the present day, a major legal trend has been the development of administrative or regulatory laws designed to control commercial dealings and to codify industrial obligations. Deviations from these laws form the basis of white-collar crime.

In addition to this legal trend, the interest in white-collar crime is a result of a maturity, of both theory and method, within the field of sociology. Early criminologists oriented themselves to the "pathologies" of the social system, taking conventional definitions of societal "diseases" and offering conventional "cures." Criminals were "convicts," and cause lay in personal pathologies or individual environmental defects. In this, these writers reflected their own class values and their training, as well as the spirit of the times.¹¹

² *Ibid.* See also ALBERT COHEN, ALFRED LINDESMITH, & KARL SCHUESSLER (Eds.), *THE SUTHERLAND PAPERS* (1956).

³ MARSHALL B. CLINARD, *THE BLACK MARKET* (1952).

⁴ Hartung, *White-Collar Offenses in the Wholesale Meat Industry in Detroit*, 56 *AM. J. SOCIOLOGY* 25 (1950).

⁵ Lane, *Why Business Men Violate the Law*, 44 *J. CRIM. L., C. & P.S.* 151 (1953).

⁶ DONALD R. CRESSEY, *OTHER PEOPLE'S MONEY* (1953). Cressey, however, limits his definition of criminality to violation of the penal law. See his *Criminological Research and the Definition of Crimes*, 56 *AM. J. SOCIOLOGY* 546 (1951).

⁷ Newman, *Public Attitudes Toward a Form of White Collar Crime*, 4 *SOCIAL PROBLEMS* 228 (1957).

⁸ ELMER L. IREJ & WILLIAM SLOCUM, *THE TAX DODGERS* (1948).

⁹ For examples see Wallerstein & Wyle, *Our Law-Abiding Law-Breakers*, 25 *PROBATION* 107 (1947); Peterson, *Why Honest People Steal*, 38 *J. CRIM. L. & CRIMINOLOGY* 94 (1947).

¹⁰ ALBERT MORRIS, *CRIMINOLOGY* (1934).

¹¹ See especially, Mills, *The Professional Ideology of Social Pathologists*, 49 *AM. J. SOCIOLOGY* 165 (1944); GEORGE B. VOLD, *THEORETICAL CRIMINOLOGY* (1958).

It is probably a truism that the more any type of behavior is studied, the less clear-cut, the less distinct, it becomes. So it is with crime. Criticism of inmate samples, rejection of personal pathology theories, the blending of data from social class and social psychological research all aided, even forced, the criminologist to revise some of his postulates. The conception of "degrees" of "deviation" from legal norms took the place of a criminal, noncriminal dichotomy.¹² A broadening interest was generated, too, by the sociological concern with institutions and the structural-functional theories of social systems. Crime came to be viewed as normative within various contexts. Merton said "certain phases of social structure generate the circumstances in which infringement of social codes constitutes a normal response"¹³ and elaborated the thesis of illegality as a "latent" function of political and economic organization.¹⁴ The increase of regulatory laws during the depression of the 'thirties and the war years of the 'forties merged with changing sociological concepts to form the context from which interest in white-collar criminality developed.

II

THE NATURE OF WHITE-COLLAR CRIME

A. White-Collar Crime Defined

The chief criterion for a crime to be "white-collar" is that it occurs as a part of, or a deviation from, the violator's occupational role. Technically, this is more crucial than the type of law violated or the relative prestige of the violator, although these factors have necessarily come to be major issues in the white-collar controversy, first, because *most* of the laws involved are not part of the traditional criminal code, and second, because *most* of the violators are a cut above the ordinary criminal in social standing. Such crimes as embezzlement, larceny by bailee, certain forgeries, and the like, however, are essentially occupational and thus white-collar crimes, and yet are tried under the penal code. Likewise farmers, repairmen, and others in essentially nonwhite-collar occupations could, through such illegalities as watering milk for public consumption, making unnecessary "repairs" on television sets, and so forth, be classified as white-collar violators. Conversely, however, members of high-status white-collar occupations who commit ordinary penal law violations, such as murder, robbery, rape, nonoccupationally-connected thefts, and the like, would not be white-collar criminals.

All this adds confusion to the concept but has limited applicability in that the vast bulk of white-collar legislation is regulatory rather than penal in philosophy, is administrative in procedure, and by its qualifications is directed chiefly toward the business and professional classes of our society. This is apparent in the widely-accepted definition by Sutherland that a white-collar crime is "a crime committed

¹² See especially, MARSHALL B. CLINARD, *THE SOCIOLOGY OF DEVIANT BEHAVIOR* (1957), and EDWIN LEMERT, *SOCIAL PATHOLOGY* (1951), for systematic analyses of this approach.

¹³ MERTON, *Social Structure and Anomie*, 3 *AM. SOCIOLOGICAL REV.* 672 (1938).

¹⁴ ROBERT K. MERTON, *SOCIAL THEORY AND SOCIAL STRUCTURE* 78-80 (1949).

by a person of respectability and high social status in the course of his occupation."¹⁵ These crimes are usually violations of trust, either "duplicities" or "misrepresentations," placed in the person (or the corporation, for that matter) by virtue of his occupational norms and high position in the society.¹⁶

Of course, these violations of trust must also be violations of law, and not merely unethical practices or noncriminal deviations from informal conduct norms within a business or profession. And around the legal status of such violations has arisen a theoretical conflict that continues to the present day. Are such trust violations really crimes? Must theories be revised to include these lawbreakers? If these questions are answered affirmatively, then, indeed, the science of criminology must revise its postulates and reformulate many of its theories.

B. The Legal Basis of White-Collar Crime

The majority of laws underlying white-collar crime differ from conventional criminal laws in five ways: (1) in origin, (2) in determination of responsibility, or intent, (3) in philosophy, (4) in enforcement and trial procedure, and (5) in sanctions used to punish violators. In the first place, most white-collar laws have been legislatively-created as of a given date, and some of them are in derogation of common-law principles. These, then, are *mala prohibita*, crimes created by legislative bodies, in contrast to most of the conventional criminal code, which is viewed as merely a legislative expression of "natural" crimes, *mala in se*. Secondly, most regulatory laws define their violations as misdemeanors rather than the implicitly more serious felonies of penal law. Furthermore, the question of intent, so prominent in the criminal code, is irrelevant to conviction under many regulatory laws, although intentional violations, if proved, may increase the punishment. In these respects, white-collar violations are legally much more like traffic laws and municipal ordinances than statutes of the criminal code.

The legal distinctiveness of white-collar legislation is seen even more clearly in procedural variations from those more commonly used in conventional criminal cases. Most of the federal regulatory legislation and much of its counterpart on state levels rely for enforcement not on the police and public prosecutors, but on specially-created investigatory and enforcement bodies. Probably the most familiar of these is the Bureau of Internal Revenue, but many similar agencies exist within the framework of other legislation. Of course, in the final analysis, police and the criminal court *can* be used, but in general, the enforcement of such laws is not a common police activity.

In white-collar legislation, the same agency or commission which directs investigation also conducts hearings on cases and administers numerous punishments or sanctions short of prison terms or the other more conventional penal sanctions. In a strict sense, these hearings are not trials, and, therefore, the formal criminal procedures are often absent, as, indeed, are the many protections given defendants in

¹⁵ EDWIN H. SUTHERLAND, *WHITE COLLAR CRIME* 2 (1949).

¹⁶ SUTHERLAND, *White Collar Criminality*, 5 *AM. SOCIOLOGICAL REV.* 1, at 2 (1940).

criminal proceedings. Of course, the findings of such hearings may be appealed to conventional courts, and here the precise, if more cumbersome, formal procedural rules apply. This administrative process of investigation and hearing parallels more closely the practices in juvenile court than those in its criminal counterpart.

Since laws proscribing *mala prohibita* are remedial in nature, they are liberally construed, so that the goal remains prevention or correction of existing illegalities rather than the repression or punishment of violators. In this respect, various sanctions other than the criminal punishments of imprisonment, probation, and fines are used by the enforcing agencies. Violators of such laws may be subjected to warnings; injunctions; consent decrees; seizure and destruction of products; civil suits for damages, like the treble-damage suits sanctioned in the case of OPA violations during the wartime emergency; license revocation, where applicable; and similar informal or civil processes. Legislation also provides for the use of more traditional sanctions by criminal courts, however, in cases warranting such action. The discretion to press criminal charges rather than civil action is another function of the enforcing agency. Sutherland's survey of the records of seventy large corporations showed a total of 980 adverse decisions against these companies, 158 of which were criminal proceedings, 298 made by civil courts, 129 by equity courts, while the remainder were administrative actions discussed above.¹⁷ Likewise, Clinard's extensive study of rationing and price violations, the "black market" of war years, illustrated the use of criminal sanctions in about six per cent of OPA cases.¹⁸

The relatively infrequent use of criminal sanctions is undoubtedly a reflection of many factors, including the high social status of many violators and the lack of consensus about the "criminal nature" of their behavior, but it is also consistent with the remedial philosophy of the laws in question. Since the purported aim of enforcement is to correct economic wrongs, prevent public injury, and the like, cases are more likely "settled" or wrongs prevented from continuing in contrast to the eye-for-eye philosophy implicit in conventional criminal actions. Certainly, burglars and bank-robbers are not merely "warned" nor issued cease-and-desist orders.

Then, too, the conventional criminal law is based on a theory of individual responsibility and guilt, the *mens rea* nature of intent, that is inconsistent with and difficult to apply in many white-collar cases. Quite often, white-collar violators are corporations, cooperatives, or labor unions, and while legal responsibility may fix to a corporation as it does to a person, the use of the criminal sanctions of imprisonment or probation is virtually impossible in such cases. The diffuse nature of the perpetrator (the corporate body), as well as the diffuse nature of the victim (the public), does not fit many white-collar cases to the usual criminal format. Then, too, the virtual absence of the necessity of intent, of *mens rea*, on the part of violators makes criminal sanctions seem inappropriate.¹⁹

¹⁷ EDWIN H. SUTHERLAND, *WHITE COLLAR CRIME* 22 (1949).

¹⁸ MARSHALL B. CLINARD, *THE BLACK MARKET* 238 (1952).

¹⁹ See JEROME HALL, *GENERAL PRINCIPLES OF THE CRIMINAL LAW* c. 10 (1947), for a discussion of intent.

Of course, in any behavioral definition of crime, the focus is not on behavior *tried*, but on behavior *triable*. Sutherland puts it "An unlawful act is not defined as criminal by the fact that it is punished, but by the fact that it is punishable."²⁰ This means that while one person may be tried in a criminal court for behavior remarkably similar to that of another which, at the discretion of the investigating agency, results only in a civil suit or a warning, both would be "criminals," since the emphasis is on the behavior in question rather than the formality of legal process.

III

ARE WHITE-COLLAR VIOLATORS CRIMINALS?

A. Legal and Sociological Opposition to the Concept of White-Collar Crime

The very narrowest legal conceptions of the criminal view him not only as a person who has engaged in acts or omissions forbidden by the penal law, but as a person *convicted* by due process. Hence, the unapprehended or undetected violator is not a criminal for either "practical" or "theoretical" purposes.²¹ Vold comments on such rigid conceptions saying:²²

. . . such definitions are purely formal and a matter of logic and verbal consistency. They are of little assistance in helping to understand problems of crime causation. All that is really said is that law is the immediate cause of crime, since without the formal legal definition there would be no crime, regardless of the behavior involved. This is reflexive circularity that leads nowhere.

Most criminologists today would not feel bound to limit their interest to *convicted* felons. These are obviously select offenders, reflecting what Reckless has called "categoric risk" of conviction²³ more than actual, representative criminality. Nevertheless, the inclusion of violators of regulatory laws within functional definitions of criminal behavior has been vigorously opposed on both legal and behavioristic grounds.

From a strictly legal point of view, white-collar lawbreakers handled by administrative action outside of penal law jurisdiction would not be criminals, not even misdemeanants, since they have no criminal record. Perhaps their behavior is not ethical or is even damaging in a civil sense, but it is not criminal. Consequently, it is presumptuous to meld white-collar cases decided by criminal courts with cases involving administrative decisions into one large sample and label it crime. It is an error compounded to equate this collection with the conventional larceny and burglary convictions under the criminal code, for these latter violations are deliberate, and even malicious, whereas no "wilful intent" has been or need be, demonstrated in many white-collar convictions. A manufacturer who distributes to the public an adulterated food product in violation of the Food, Drug and Cosmetic Act could possibly be

²⁰ EDWIN H. SUTHERLAND, *WHITE COLLAR CRIME* 35 (1949).

²¹ For a positive statement of the necessity of criminal court conviction as the basis of "crime," see JEROME MICHAEL & MORTIMER ADLER, *CRIME, LAW AND SOCIAL SCIENCE* c. 1 (1933).

²² VOLD, *op. cit. supra* note 11, at 268.

²³ WALTER C. RECKLESS, *THE CRIME PROBLEM* c. 3 (2d ed. 1955).

sentenced to imprisonment, although the adulteration might be an honest mistake or an "act of God" rather than the result of intentional or negligent behavior on his part. This imprisonment would be unlikely, of course, because the Food and Drug Administration, like other regulative bodies, does not ordinarily rely on criminal convictions and severe sentences for control.²⁴ Nevertheless, *caveat vendor*, it would be possible to produce an "accidental" criminal under such legislation.

The legal argument against the inclusion of white-collar crime has been most forcefully stated by Professor Tappan who says:²⁵

Vague, omnibus concepts defining crime are a blight upon either a legal system or a system of sociology that strive to be objective. They allow judge, administrator, or—conceivably—sociologist, in an undirected, freely operating discretion, to attribute the status "criminal" to any individual or class which he conceives nefarious. This can accomplish no desirable objective, either politically or sociologically. . . . (The) law has defined with greater clarity and precision the conduct which is criminal than our anti-legalistic criminologists promise to do; it has moreover promoted a stability, a security and dependability of justice through its exactness, its so-called technicalities, and its moderation in inspecting proposals for change.

Interestingly, some sociologists, while rejecting the legal basis of this opinion, concur with its general conclusion.²⁶ Burgess, in commenting on Hartung's study of violations in the Detroit wholesale meat industry, maintains that while violations of administrative action, health ordinances, and the like may technically be called crimes, the offenders cannot be justifiably included in studies of criminals because:²⁷

- (1) The offenders do not conceive of themselves as criminals.
- (2) These administrative laws are suddenly imposed on businessmen making acts which were previously non-criminal, criminal overnight.
- (3) There is no organized effort on the part of civil leaders, churches, schools, the press and even governmental agencies to apply social condemnation to these violations.
- (4) If all such persons violating traffic regulations, health ordinances, and other administrative acts, are to be considered criminal, then the number of criminals in the population would greatly outweigh those who have never committed such offenses.

Sociologists, perhaps less concerned with semantic limitations of their field than lawyers, have argued that crime, like all "deviant" or "problem" behavior, must be viewed in its entire cultural context. They are less concerned with textbook definitions of crime than with the meaning given to the behavior by the general community. Pointing out, and correctly, that all behavior which is defined as criminal

²⁴ Section 306 of the 1938 revised Food, Drug and Cosmetic Act reads: "Nothing in this act shall be construed as requiring the Administrator to report for prosecution . . . minor violations of the act whenever he believes that the public interest will be adequately served by a suitable written notice or warning." 52 STAT. 1045 (1938), 21 U.S.C. § 336 (1952). See FEDERAL SECURITY AGENCY, FEDERAL FOOD, DRUG AND COSMETIC ACT AND GENERAL REGULATION FOR ITS ENFORCEMENT 7 (1949).

²⁵ Tappan, *Who Is the Criminal?*, 12 AM. SOCIOLOGICAL REV. 96, 99-100 (1957). See also Caldwell, *A Re-examination of the Concept of White-Collar Crime*, Fed. Prob., March 1958, p. 30.

²⁶ For a general discussion of such conflict, see Clinard, *Sociologists and American Criminology*, 41 J. CRIM. L. & CRIMINOLOGY 564 (1951).

²⁷ Burgess, *Comment on Hartung, "White Collar Offenses in the Wholesale Meat Industry in Detroit,"* 56 AM. J. SOCIOLOGY 32-33 (1950).

is culturally relative rather than "natural," they look in historical context to the values, the mores, of societies to delimit deviant behavior.²⁸ In this respect, some writers have pointed to the cultural inconsistencies inherent in the concept of "respectable criminals." After all, what is "respectable" is culturally as significant as behavior defined as "criminal." Vold says: "Attribution of high status is made by the same community that decides whether and to what extent specific misconduct shall be called 'crime,' and to what extent it shall be subjected to criminal or to civil procedure."²⁹ Certainly, not all law infractions would be, or are, considered by the community to be crimes. Whether or not the researcher defines white-collar violations as crimes will depend, Aubert believes, "upon how much one wants to get rid of these white collar activities"³⁰ rather than on any general consensus about their criminal nature.

Thus, while some opponents of the criminal definition of white-collar offenses argue that the violations in question are not really crimes from a legalistic point of view, others admit that technically such actions may be "legal" crimes but demur that the behavior in question is not "sociologically" criminal because neither the offenders themselves nor the mores define it so. While admitting that regulatory laws and deviations from these laws have a good deal of sociological relevance, such critics would presumably limit criminological activity to the study of conventional law violations.

B. Advocates of the Concept of White-Collar Crime

Those sociological writers who advocate the inclusion of upperworld violations in criminological context admit the uniqueness of regulatory law and the class differential between white-collar and ordinary criminals. The differences they see, however, are viewed as differences of degree, not of kind. Sutherland stated the majority position when he said:³¹

White-collar crime is real crime. It is not ordinarily called crime, and calling it by this name does not make it worse, just as refraining from calling it crime does not make it better than it otherwise would be. It is called crime here in order to bring it within the scope of criminology, which is justified because it is in violation of the criminal law. The crucial question in this analysis is the criterion of violation of the criminal law. Conviction in the criminal court, which is sometimes suggested as the criterion, is not adequate because a large proportion of those who commit crimes are not convicted in criminal courts.

The inclusionists are well aware of the criticisms of their position and attempt to meet them. They are aware, too, of the significance of inclusion of white-collar crime in criminological theory but argue that unless the definition of crime is ex-

²⁸ For a discussion of this, see THORSTEN SELLIN, *CULTURE CONFLICT AND CRIME* cc. 1, 2 (SSRC Bull. No. 41, 1938).

²⁹ VOLD, *op. cit. supra* note 11, at 254-55.

³⁰ Aubert, *White Collar Crime and Social Structure*, 58 AM. J. SOCIOLOGY 263 (1952).

³¹ Sutherland, *White Collar Criminality*, 5 AM. SOCIOLOGICAL REV. 1, at 5 (1940).

panded, criminology will remain legalistically-bound, class-biased, and unable to develop accurate, inclusive theories of lawbreaking.³²

Meeting various criticisms of inclusion, advocates of the white-collar-crime concept point out that the laws in question are at least partially penal, having provision for criminal court action and conventional criminal sanctions at agency discretion. The fact that civil and administrative actions can also be used is a reflection of the remedial intent of regulatory legislation, but this does not lessen the fact that deviations from the law are *triable* in criminal court. Furthermore, many of the nonpenal actions taken in some cases are, in fact, punishments, although not the traditional ones imposed on ordinary criminals. Sutherland argues not only that many administrative actions were legislatively designed to punish offending corporations, but that the corporations themselves define the actions as punishments and seek to evade them. The major element in the punishment is "public shame, which is an important aspect of all punishments."³³ The emergence of the corporate criminal merely made imprisonment inappropriate as punishment, so other devices are used. New sanctions must be developed to meet new conditions of violation and new philosophies of law. It would be ridiculous to argue, for example, that a thief sent to prison today would not have been a thief by seventeenth century standards solely because he is not mutilated or branded.

The criticism that white-collar crime exists only by arbitrary legislative action, in contradistinction to the more serious, "natural" crimes, is met by a challenge of the *malum prohibitum-malum in se* and the misdemeanor-felony dichotomies. These dichotomies are unstable at best. What is *malum in se* is essentially subjective, and the lack of universality of any criminal act results in a variety of definitions of felonies from one area to another and one period of time to another.³⁴ Furthermore, white-collar crimes are ordinarily far from arbitrary; most of them have roots in the common law and merely reflect an application of common-law principles regarding theft, fraud, and the like to modern social and economic institutions.³⁵ Presumably, however, crimes "by nature," including most felonies in the criminal code, are more serious than legislated crimes and require more severe measures of control.

The relative seriousness of crimes has been a debatable issue since the time of Beccaria. If by seriousness is meant the harm done to individual and public welfare or public order, as is generally intended, then advocates of the white-collar-crime concept have a strong case. Financial losses to victims of embezzlements, fraudulent financial manipulations, the formation of illegal monopolies and cartels, false advertising, food adulteration, misbranding, and the like are many times, even hundreds of times, greater than similar losses in conventional criminal cases.³⁶ Losses in many

³² MARSHALL B. CLINARD, *THE BLACK MARKET* 229 (1952).

³³ EDWIN H. SUTHERLAND, *WHITE COLLAR CRIME* 39 (1949).

³⁴ See MORRIS R. COHEN, *REASON AND LAW* c. 1 (1950).

³⁵ EDWIN H. SUTHERLAND, *WHITE COLLAR CRIME* 32-33 (1949).

³⁶ *Id.* at 12-13. See also ALLEN CHURCHILL, *THE INCREDIBLE IVAR KRUEGER* (1957), for an account of an international underworld criminal whose "take" exceeded three billion dollars.

offenses are not limited to money. Physical injury, sickness, and even death have resulted from some fraudulent, and some negligent, white-collar offenses, particularly food, drug, and cosmetic law violations.³⁷ Violations of wartime price and rationing regulations posed a serious and widespread threat of inflation to our economy and were damaging to many phases of our war effort.³⁸ Corruptions, frauds, and swindles of various sorts undoubtedly come closer to destroying our economic and political ideologies than all of our conventional crimes combined. How, then, is the "seriousness" of a single crime or a type of crime determined?

Meeting another criticism of inclusion, advocates admit that even though white-collar legislation differs from the conventional criminal code in respect to the importance of wilful intent, the "accidental" violator is rare. Sutherland's study of corporation records indicated the persistent nature of such lawbreaking, 97.1 per cent of his sample being "recidivists" by having two or more adverse convictions or administrative decisions, with an average per corporation of fourteen such decisions.³⁹ This is hardly accidental. Likewise, Clinard reports not only the deliberate nature of many black market violations, but the high proportion of businessmen who felt that most such violations by their colleagues were, indeed, intentional.⁴⁰

It is admitted by all who study white-collar violators that generally they do not conceive of themselves as criminals, but at most as "lawbreakers" or even, in a traditional rationalization, as "shrewd businessmen." Does this difference from the traditional criminals preclude their inclusion in criminological studies—that is, is self-conception a necessary element in the definition of a criminal? Obviously, no authoritative answer can be given; it is a decision that must be left to each author or researcher in his working definition of criminal. Certainly, an individual's self-conception is of paramount importance to the social psychologist, and this issue is not denied by the advocates of a broadened definition of crime. Stressing the necessity of such a self-conception in a definition of criminal behavior, however, assumes that such behavior is a single entity. Modern criminologists do not study criminal behavior *in toto*, but types of criminal behavior. There is almost as wide a difference in self-conception between the confidence man and the conventional jail-bird as between the business offender and the professional thief. Conceiving of oneself as a "criminal" as contrasted to "lawbreaker" or even "nonconformist" ordinarily involves a subjective definition of criminal according to the popular stereotype of the lower-class armed-robber, burglar, or racketeer, or the newsprint description of the murderer. Obviously, the sophisticated ordinary violator, as well as the business offender, cannot logically equate himself with such an image and, in this sense, does not conceive of himself as a criminal. To exclude such individuals from

³⁷ See ARTHUR KALLET & F. J. SCHLINK, *100,000,000 GUINEA PIGS* (1933); RUTH DE FOREST LAMB, *AMERICAN CHAMBER OF HORRORS: THE TRUTH ABOUT FOOD AND DRUGS* (1936); LELAND J. GORDON, *ECONOMICS FOR CONSUMERS* 616 (2d ed. 1944).

³⁸ MARSHALL B. CLINARD, *THE BLACK MARKET passim* (1952).

³⁹ EDWIN H. SUTHERLAND, *WHITE COLLAR CRIME* 20 (1949).

⁴⁰ MARSHALL B. CLINARD, *THE BLACK MARKET* 235-36 (1952).

criminological studies, however, is not necessarily warranted. Lack of self-conception as a criminal in cases of lawbreakers can be as significant for the modern criminologist as the reverse.

The sociological argument that white-collar crime be excluded from criminological theories because it does not conform to the general cultural meaning of crime cannot be arbitrarily dismissed, but the implied contradiction between the community conferral of "high status" versus the conception of "criminal" may not be as mutually exclusive as claimed. It would be a naïve citizen who failed to be aware of law-breaking in high places. From Teapot Dome and Ivar Krueger to recent FCC "scandals," Americans have been continually reminded of white-collar rascality. The fact that the stigma of upperworld violations is less severe than in ordinary offenses does not necessarily rule out their criminal nature. Sutherland, arguing that the law is "differentially implemented" in favor of business-class violators, explains this difference by three major factors: (1) the high status of the violators, (2) the trend away from punishment, and (3) the relatively unorganized resentment of the public against white-collar crimes.⁴¹ The exalted social position of many white-collar offenders, coupled as it is with a "combination of fear and admiration," not only allows them to escape conviction and, by their control of the press, social stigma, but accounts for the mild provisions of laws regulating business, since these offenders are influential in the very process of law-making. Furthermore, many white-collar violations are so complex and their effects so indirect that only an accountant or a lawyer can fully appreciate their criminal nature. Then, too, the victim of the white-collar offender is ordinarily that abstraction "the public," which means that the effects of the offense are diffuse and community resentment does not gain momentum. A murder is a clear-cut crime, usually involving one specific victim as well as a single, visible perpetrator. The violence, the directness of murder, engenders social solidarity against the criminal, particularly as long as the press reports every detail. But what of the formation of an illicit monopoly, with complex interlocking corporate structures? Even granting a crime has been committed, who is the criminal; who, the victim? Obviously, public resentment of such offenses must take a different form than in conventional criminal cases, but the very fact that laws forbidding monopoly exist argues for its cultural meaning as crime.

IV

THE SIGNIFICANCE OF WHITE-COLLAR CRIME TO CRIMINOLOGICAL THEORY AND RESEARCH

A. Theoretical Implications of White-Collar Crime

Regardless of the "persuasive" nature of definitions of white-collar crime, it is apparent that criminology must face up to its inclusion. This is not to say that it must be equated with burglary, so that theories relating to burglars are discarded as inadequate by failing to explain corporate violations. Nevertheless, the research on upper-strata criminality must be viewed as a challenge to those particularistic theories

⁴¹ EDWIN H. SUTHERLAND, *WHITE COLLAR CRIME* 46 (1949).

which explain crime in terms of personal inadequacies or essentially lower-class characteristics, such as poverty or poor home life. The challenge is to the generalization of such factors to all criminal behavior, but danger lies in preventing descriptive research on samples of ordinary, lower-strata violators. Low intelligence, poverty, discrimination, personality deviation, and the like may be crucial variables in some *types* of crime, and their absence among white-collar violators should not completely invalidate their usefulness.

Studies of upperworld crime have taken criminology a step closer to the conceptualization of its subject matter as "deviant," rather than disorganized or pathological, behavior. This is in keeping with the general trend in "problem" areas of sociology. Deviant behavior in this framework is approached through a study of social processes common to *all* behavior, with an emphasis on degrees of variations from norms, role conflicts, status differentials, and so forth.⁴² In short, this approach casts the problem of conforming *versus* deviant behavior within a broad sociological analysis of culture and of the interaction of personality and subcultural variants. Obviously, white-collar crime is crucial in such a context. Debates about whether such phenomena are "real" crimes become significant in themselves. Aubert comments:⁴³

For purposes of theoretical analysis it is of prime importance to develop and apply concepts which preserve and emphasize the ambiguous nature of white-collar crimes and not to "solve" the problem by classifying them as either "crimes" or "not crimes." Their controversial nature is exactly what makes them so interesting from a sociological point of view and what gives us a clue to important norm conflicts, clashing group interests, and maybe incipient social change.

White-collar legislation represents the major *formal* controls imposed upon the occupational roles of the most powerful members of our society. Whether he likes it or not, the criminologist finds himself involved in an analysis of prestige, power, and differential privilege when he studies upperworld crime. He must be as conversant with data and theories from social stratification as he has been with studies of delinquency and crime within the setting of the urban slum. He must be able to cast his analysis not only in the framework of those who *break* laws, but in the context of those who *make* laws as well. This, of course, necessitates the development of enlarged, if not wholly new, theoretical models. Fortunately, the bibliography of studies of stratification and power is extensive and growing even larger.⁴⁴ There remains for the criminologist the task of relating white-collar crime to class differences in interaction, in styles of life, aspirations, child-rearing, mobility patterns,

⁴² For a general discussion of this position see MARSHALL B. CLINARD, *THE SOCIOLOGY OF DEVIANT BEHAVIOR* c. 1, 2 (1957).

⁴³ Aubert, *supra* note 30, at 264.

⁴⁴ See JOSEPH A. KAHL, *THE AMERICAN CLASS STRUCTURE* (1957), for a description and analysis of many significant studies of social stratification in the United States. For a provocative analysis of power structure, see C. WRIGHT MILLS, *THE POWER ELITE* (1956), as well as his *THE NEW MEN OF POWER: AMERICA'S LABOR LEADERS* (1948), and his *WHITE COLLAR* (1951). For an analysis of upper middle-class values, see DAVID RIESMAN, *THE LONELY CROWD* (1950).

prestige symbols, and the host of other sociological variables important to the understanding of motives and differential behavior patterns in a multiclass society.

B. Research Methods in the Study of White-Collar Crime

Research problems posed by the concept of white-collar crime are manifold. Criminal statistics do not ordinarily contain data of corporation illegality, and prison samples rarely contain white-collar violators. There is no centralized source which tabulates the extent of, and any trends in, white-collar crime similar to the FBI's *Uniform Crime Reports*, which tabulates ordinary crimes known to the police. Many federal agencies publish decisions in cases under their jurisdiction, however, and such official sources formed the basis of Sutherland's analysis. Clinard's *Black Market* grew out of sources available to him in his wartime position as Chief of the Analysis and Reports Branch of the Office of Price Administration.⁴⁵ He utilized case records, field reports, interviews, information from congressional hearings, public-opinion surveys dealing with price regulations, and various other channels of data. The extremely careful documentation of his study reflects the excellence of many of these sources. Hartung interviewed businessmen concerning law violations in the wholesale meat industry,⁴⁶ while Newman sampled consumer's responses to actual cases of food adulteration.⁴⁷ Lane interviewed top management in twenty-five industrial concerns and analyzed decisions of the Federal Trade Commission, the National Labor Relations Board, and some cases within the Department of Labor.⁴⁸ Cressey, on the other hand, narrowed his research to embezzlers and conducted a rather intensive study of these violators who were imprisoned in Illinois, California, and in the federal prison in Terre Haute, Indiana.⁴⁹

Missing from these research techniques are psychometric data, clinical interviews, extensive life histories, matched samples, and the other procedures more familiar to students of ordinary criminal behavior. Many of these techniques may not be applicable to white-collar crime; others are virtually impossible to apply. White-collar *crime* rather than white-collar *criminals* has been the basic orientation in research. At any rate, efforts in this field have been frugal when compared to conventional crime or delinquency and have been devoted in good part to the demonstration of the criminal nature of, and social damage caused by, upperworld law-breaking. They have not been primarily etiological, although causes have not been completely ignored. In fact, white-collar phenomena have been fitted into or tested against many theories. The emphasis has been, however, on demonstrating the existence and danger of such behavior. Vold argues that implicit in most studies of white-collar crime is an appeal not only to modify criminological theory, but to reform values so that white-collar violations *become* generally defined as reprehensible. He says:⁵⁰

⁴⁵ MARSHALL B. CLINARD, *THE BLACK MARKET* viii-x (1952).

⁴⁶ Hartung, *supra* note 4.

⁴⁷ Newman, *supra* note 7, at 228-29.

⁴⁸ Lane, *supra* note 5.

⁴⁹ DONALD R. CRESSEY, *OTHER PEOPLE'S MONEY* 151 (1953).

⁵⁰ VOLD, *op. cit.* *supra* note 11, at 259.

The persons who argue in favor of the term "white collar crime" are really asking for a change in the cultural attitudes and conceptions of the community as a whole so that such behavior will be considered criminal, rather than be viewed as a kind of misconduct to be handled by noncriminal procedures. The real plea is for a change in the mores basic to attitudes about what is to be considered right or wrong in business practice.

Some sociologists feel that the inclusion of upperclass lawbreaking in criminological theory is still too narrowing. Since the sociological emphasis is on processes in producing deviant *behavior* rather than on defining crime, criminology should not limit itself to formal laws as the norms from which deviation is measured. Conduct which violates *any* group norm should also be studied.

While such an approach undoubtedly has theoretical merit, practical considerations of measuring conduct norms, obtaining consensus on unethical practices, and otherwise discovering behavioral standards from which deviations can be observed pose almost insurmountable problems within the possibilities of present-day research techniques. Deviation from conduct norms is not to be ignored, however, and any future research will surely be welcome, but broadening "crime" to "nonconformity" is at present beyond all but the most speculative hypotheses.

V

THEORIES OF WHITE-COLLAR CRIME

White-collar crime not only challenges particularistic explanations of lawbreaking, but requires a theoretical explanation in itself. Sutherland sought the explanation in his theory of differential association. He explains:⁵¹

The hypothesis of differential association is that criminal behavior is learned in association with those who define such behavior favorably and in isolation from those who define it unfavorably, and that a person in an appropriate situation engages in such criminal behavior if, and only if, the weight of the favorable definitions exceed the weight of the unfavorable definition.

Very roughly, this position puts forth the argument that within certain businesses and occupations, lawbreaking is normative. Incumbents in these occupations, being relatively isolated from possible other association where this criminal activity is not common, learn attitudes, values, motives, rationalizations, and techniques favorable to this type of crime. The normative nature of the lawbreaking is a result of various disorganizing factors within the general culture, such as excessive competition, the emphasis on success rather than the means of succeeding, the impersonality of urban business practices, and the like. In general, this theory views white-collar crime as a natural product of conflicting values within our economic and class structures and the white-collar criminal as an individual who, through associations with colleagues who define their offenses as "normal" if not justified, learns to accept and participate in the antilegal practices of his occupation. The emphasis is on a fundamental

⁵¹ EDWIN H. SUTHERLAND, *WHITE COLLAR CRIME* 234 (1949).

learning process and does not rely on personality deficiencies as the root of such crime.

Clinard, while agreeing in principle with the differential-association hypothesis, argues that it fails adequately to account for all cases of lawbreaking, at least where black-market violations were concerned, and does not sufficiently account for individual differences in legal conformity within many business enterprises. He feels that more attention should be paid to certain personality traits of individual violators. He says:⁵²

Such a theory does not adequately explain why some individuals who were familiar with the techniques and the rationalizations of black market violations and were frequently associated with persons similarly familiar, did not engage in such practices [I]t is suggested that *some*, but by no means all, persons tended to accept or reject black market opportunities according to their basic personality make-up. Some of these general personality patterns, which probably were important in accounting, in some instances, for participation, or lack of participation, in the black market, were egocentricity, emotional insecurity or feelings of personal inadequacy, negative attitudes toward other persons in general, the relative importance of status symbols of money as compared with nationalism, and the relative lack of importance of one's personal, family or business reputation.

Walter Reckless, who has often stated the impossibility of developing a single theory to account for all types of crime, looks to individual differences in personalities to explain the white-collar violator. Stressing "differential responses" to similar situations, he says "white collar crime and OPA violations cannot be explained without a personality component, a differential response or inner readiness to break over the lines of compliance."⁵³

Robert Lane, answering the question of corporate violation supports, in general, the differential-association hypothesis by pointing to the consistency of law violations in certain firms, even when management has changed several times. He tentatively states: "It seemed to be the position of the firm, rather than any emotional qualities of its management which led it to violate."⁵⁴ He does not reject, however, the possible influence which men with varying tolerations of governmental authority may exert on the behavior of their firms.

Not all theoretical effort has been directed to the explanation of differential lawbreaking. Most criminologists, in fact, have been more concerned with accounting for the very existence of upper-strata crime in our society than with variation in offense rates within a business or profession. Hartung suggests that such crime is a result of "social differentiation" rather than disorganization," and points to sub-cultural value divergencies within a common set of economic and political ideals as the basis of such violations.⁵⁵ Taft stresses the "exploitive" nature of our society and

⁵² MARSHALL B. CLINARD, *THE BLACK MARKET* 309, 310 (1952).

⁵³ RECKLESS, *op. cit. supra* note 23, at 223.

⁵⁴ Lane, *supra* note 5, at 163.

⁵⁵ FRANK E. HARTUNG, *A STUDY IN LAW AND SOCIAL DIFFERENTIATION, AS EXEMPLIFIED IN VIOLATIONS OF THE EMERGENCY PRICE CONTROL ACT OF 1942 AND THE SECOND WAR POWERS ACTS IN THE DETROIT WHOLESALE MEAT INDUSTRY* (unpublished Ph.D. thesis in University of Michigan Library 1949).

sees white-collar crime as a mere social-class variation of common motives and practices. He puts it this way:⁵⁶

American culture demands that we be individualists, conformers, materialists, and so on, but the ways in which we strive for these culturally determined goals are determined by the ways which are approved in these primary groups. The underprivileged slum dweller joining a gang commits the "no-collar" type of crime. The businessman joining Rotary becomes a noncriminal competitor if possible, but a white-collar criminal if such a course is essential to his prestige. Some fortunate people are able to achieve success without exploitation of their fellows, but these, we hold, are a minority, not a majority, because our system well-nigh compels most of us to be exploitative.

White-collar crime cannot be fully understood without a knowledge of the value conflicts implicit in the governmental regulations of business. Contrasted with oft-stated ideals of "free competition," the "law of supply and demand," and philosophies of individual success (or failure), the state regulation of commerce is viewed by some as an infringement on basic rights, as unjustified, unnecessary, discriminatory or otherwise contrary to the "American way." Every regulatory law has had a stormy legislative history; most, in fact, represent compromise bills to lessen the dissatisfaction of multiple-interest groups. Quite possibly, many white-collar violations reflect ideological conflicts, how individual offenders or corporations feel about governmental "interference," rather than an acceptance of criminal patterns. White-collar offenses, thus, may represent, in part at least, a protest against what is felt to be "bad" law, similar to violations of prohibition. Vold points to the impossibility of gaining legal conformity unless laws are "accepted and respected by most of the important power groups or elements in the organized political state."⁵⁷

The most important theoretical implication of white-collar crime is that it presents a problem almost exclusively sociological, or at least sociolegal, in nature. Regardless of whether such deviation is "really" crime, it is a highly-significant social problem, reaching to the broadest, but in a way most basic, of our culture patterns. It cannot be explained by somatotypes, infantile regression, low intelligence, psychopathy, broken homes, or the host of other "deprivation" hypotheses. In order to comprehend it at all, a fundamental knowledge of class structure, values, roles and statuses, and the many other essentially social processes and concepts is needed. Criminology has frequently been guilty of studying delinquency and crime out of its culture context or of concentrating, microscopically, on the family as the single, most definitive cultural unit. White-collar crime does not lend itself to such an approach. A great deal more research is needed, of course, but by its very acceptance in criminological circles, white-collar crime will force researchers to explain more thoroughly the relationship of personality to subcultural influences, to make more thoroughgoing explorations of role and role conflicts,⁵⁸ and to deal much more comprehensively with social deviation in general.

⁵⁶ DONALD R. TAFT, *CRIMINOLOGY* 339 (3d ed. 1956). ⁵⁷ VOLD, *op. cit. supra* note 11, at 257.

⁵⁸ For an example of exploratory research in this problem, although not in the area of white-collar crime, see NEAL GROSS, WARD S. MASON, & ALEXANDER W. McEACHERN, *EXPLORATIONS IN ROLE ANALYSIS* (1958).

VI

THE CONTROL OF WHITE-COLLAR CRIME

We have very little success controlling any kind of crime in our society, as attested by increasing crime rates. Our methods of control have been repressive on the one hand and rehabilitative on the other, with some lip-service to prevention. The punishment of individual lawbreakers is an integral part of our religious and political heredity, just as individual readjustment is a tradition of our public welfare, charitable, and correction programs. Perhaps these two approaches are not mutually exclusive; it cannot be debated here. The traditional forms which each of these philosophies take, however—chiefly imprisonment and public stigma in the first instance and case-work, psychotherapy, vocational training and the like in the latter—are, for the most part, inappropriate in white-collar crime, for reasons already discussed.

The legal philosophy basic to regulatory legislation is essentially remedial rather than punitive. The admitted purpose of administrative agencies is to help individuals and businesses under their jurisdiction comply with the law and, thus, to prevent violations from occurring. Many times, educational, inspectional, and corrective programs supersede enforcement activities of administrative personnel. Perhaps this should not be the case. Would white-collar crime decline if warnings, injunctions, consent decrees, and damage suits were abandoned in favor of the exclusive use of fines, probation, and imprisonment? Clinard reports that imprisonment, even for sentences as short as six months, was the punishment most feared by businessmen, according to their own testimony. The other criminal court sanctions of fines and suspended sentences had little effect in insuring compliance with government OPA regulations.⁵⁹ He concludes, however, that punishment, either administrative or criminal, does little to control white-collar offenders, except to increase caution and cleverness in the methods of their evasions. He feels that the only effective control rests on "the voluntary compliance with the regulations of society by the vast majority of the citizens."⁶⁰

Newman reported on public opinion of punishment as a means of control. He hypothesizes that the public—*i.e.*, victims—will punish white-collar violators much more severely than administrative agencies actually do, particularly in cases of food law violations which potentially threaten their own health as well as their pocket-books. This was, in fact, demonstrated.⁶¹ A second hypothesis, however, to the effect that respondents would select penalties comparable to those meted in ordinary criminal cases (long prison sentences) had to be abandoned. While about one-fifth of the respondents indicated that they would sentence some violators to prison for more than one year, the majority selected fines, warnings, seizures, and jail terms as their judgments. The conclusion was: "In effect, respondents viewed food adultera-

⁵⁹ MARSHALL B. CLINARD, *THE BLACK MARKET* 244 (1952).

⁶⁰ *Id.* at 261.

⁶¹ Newman, *supra* note 7, at 230-31.

tion as more comparable to serious traffic violations than to burglary."⁶² Fuller, however, stresses the necessity of *convincing* the public that white-collar crimes are more serious than conventional offenses and calls for strict enforcement of the laws.⁶³

There has been a general trend away from punishment—at least severe, stigmatizing punishment—as an effective method of dealing with all sorts of social deviation. Instead, a variety of educational and social-readjustment programs have been suggested. Many of these programs, possibly effective with delinquents, alcoholics, and the like, are grossly inappropriate in white-collar crime. Modifications of them, however, have been suggested and, to a limited extent, are used by various enforcing agencies. Lane proposes an educational and experimental program involving the interaction of government and business management personnel. Pointing out the ambiguity of many regulatory laws, he proposes a clarification of provisions, improved communications between business and government, a study of social pressures and community attitudes, with an eye to building respect for the law, and a “dry-run” experimental period whenever a new regulation is introduced. The purpose of this is for “business and government to re-examine their relationship and to attempt to recreate a mutual respect which will facilitate their partnership in a democratic society.”⁶⁴

Professions have long prided themselves on their self-policing policies based, in some cases at least, upon rather elaborate codes of ethics. Since recognized professional status carries with it the highest social prestige, there has been a tendency, among diverse kinds of businesses to become “professionalized.” Thus, undertakers become “morticians,” house salesmen, “realtors,” druggists, “pharmacists,” publicity becomes “public relations,” and so on. Accompanying this trend has been the formalizing of business responsibilities, obligations, and even personal conduct into ethical codes. If this trend continues, internal methods of control may make external enforcement of regulatory laws less necessary. This is assuming, of course, that the specific business or profession as a whole agrees to support regulating legislation and appropriate “ethics” are developed in a wide variety of white-collar activities. In this respect, it is interesting to note the efforts of the federal government to develop a code of conduct suitable to government personnel. The Douglas committee has already made a number of proposals, among them the plea for a permanent commission on ethics in government.⁶⁵

If white-collar crime is intrinsic to and normative within the value structure of our society, then no punishment or treatment program will effectively eradicate it. It cannot be “cured” by externally-imposed sanctions; major value realignment becomes necessary. Caldwell, however, warns social scientists about stressing such a solution. He reproves the confusion of ethics with science and argues that no special

⁶² *Id.* at 231.

⁶³ Fuller, *Morals and the Criminal Law*, 32 J. CRIM. L. & CRIMINOLOGY 624 (1942).

⁶⁴ Lane, *supra* note 5, at 165.

⁶⁵ See PAUL H. DOUGLAS, *ETHICS IN GOVERNMENT* (1952).

values are, in themselves, superior to others. A sociologist may "show how to reduce social problems by removing one side or the other of a conflict of values but he cannot advocate either side and remain a scientist."⁶⁶ The desire to reduce social problems at all, however, is itself a value position, for the implicit purpose in all studies of crime is not only knowledge of lawbreaking, but control, or cure, or prevention. Much more must be known, of course, about the functional relationship of values and roles and deviant behavior. Nevertheless, the theoretical criminologist is increasingly orienting himself to consideration of values and broad social processes as inductive to many types of crime. White-collar crime, along with many other types of law violation, has been related to many essentially urban, industrial characteristics. Impersonality, materialism, intense economic competition, status-striving, and other such "American characteristics" have been labeled the root factors in all crime. If so, what can be done about them?

At this stage of criminological growth, only very speculative judgments about control can be made. In all likelihood, efforts must be directed to the distribution of our societal *rewards*, rather than our usual emphasis on control through the manipulation of *punishments*. This involves the creation of new opportunities for wealth, security, education, prestige, and self-respect by the reduction of discrimination, favoritism, and nepotism in these reward channels.⁶⁷ The price of this may be greater than we are willing to pay. Taft asks, "What liberties are we prepared to sacrifice in the interest of crime prevention? . . . Can criminogenic political corruption be eliminated and yet democracy be retained?"⁶⁸

This really brings us to a new frontier in criminology. The concept of white-collar crime has forced the theoretician into an analysis of highly complex and very abstract relationships within our social system. No longer is the criminologist a middle-class observer studying lower-class behavior. He now looks upward at the most powerful and prestigious strata, and his ingenuity in research and theory will be tested, indeed!

⁶⁶ ROBERT G. CALDWELL, *CRIMINOLOGY* 178-79 (1956).

⁶⁷ Newman, *Crime Is Big Business*, *Challenge*, May 1958, p. 32.

⁶⁸ DONALD R. TAFT, *CRIMINOLOGY* 757 (3d ed. 1956).