

● RE-VISITING THE DEFINITION OF WHITE COLLAR CRIME



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Abstract

This research article analyses Professor Edwin Sutherland's concept of White-Collar Crime. The main feature of the concept is that it is an economic crime committed in the course of a profession by a respectable person and a high social status. While the idea of White-Collar Crime by Edwin Sutherland has educated sociologists, criminologists, and experts in management, the definition may have confused prosecutors, judges, and politicians in the newly emerged information-age. Now, economic crime through computer-system or internet posing challenge to the definition of white-collar crime given by Sutherland. This paper highlights criticism of his definition and why in this information age, there is a need to change the mindset regarding the concept of white-collar crime.

Key words

White collar crime, criminality

I. Introduction

Conventional crime theories described poverty, homelessness, underemployment, inadequate health care, poor housing, mental illness, alcoholism as the root causes of crime. Currently, though it has steadily increased in number, these crimes remain on the statute book only as a small fraction of all criminal offences. Another type of crime known as White-Collar Crime has arisen with industrialisation and urbanisation. White-Collar Crime are relatively new crimes that have been developed in many social and economic domains, such as education, trade, taxes and public health. White-Collar Crime includes securities fraud, misappropriation, company fraud, and money laundering. The dangerous nature of White-Collar Crime and its pattern of combining with activities considered legal have led some to say that white-collar criminals present a much more significant threat to society than those of conventional crime.¹ This article argues that all financial fraud is included in the phrase White-Collar Crime. Fraud is described as deliberate deception, trickery, or cheating in order to gain an advantage. In current perspectives on White-Collar Crime, the idea of deception is fundamental.

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¹Earl R. Quinney, "The Study of White Collar Crime: Toward A Reorientation in Theory and Research" 55 J. Crim. L. Criminology & Police Sci. 208 (1964).

II. White-Collar Criminality

Since World War II, a most significant and recent development in criminology has been the emergence of the concept White-Collar Crime. The term White-Collar Crime was first coined by Edwin Sutherland in the year 1940.² Sutherland used this term to impress upon the need to expand the boundaries of the study of crime to include the criminal acts of respectable individuals committed in the course of their occupations. He labelled these crimes for the apparent lack of a better name, "White-Collar Crime," and thus was born a term soon to become an established part of the vernacular of criminology. Sutherland defined White-Collar Crime as "*a crime committed by a person of respectability and high social status in the course of his occupation*".³ His study of White-Collar Crime was prompted by the view that criminology had incorrectly focused on social and economic determinants of crime, such as family background and level of wealth. Sutherland excluded many crimes of the upper class, such as murder, adultery, and intoxication, because these are not customarily part of the occupation procedures. Likewise, he excluded con games operated by "wealthy members of the underworld, since they are not persons of respectability and high social status".⁴ Later on in his book Sutherland modified his earlier definition in the following way: "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."⁵ At last, Sutherland offered the most straight forward definition in the following way: "the white-collar criminal is defined as a person with high socio-economic status who violates the laws designed to regulate his occupational activities."⁶

"White-collar" in his study includes, "respected," "socially accepted and approved," "looked up to." His research aimed to accomplish two goals: (1) "to present evidence that members of the upper socio-economic class commit many crimes and that these crimes should be included in the general theories of criminal behaviour;" and (2) to present a theory that explains all criminal behaviour, namely that of "differential interaction."⁷ For various reasons, Sutherland's definition of white-collar crime was very influential. First, there is Sutherland's contribution to criminology's ignorance of the kinds of crime being committed by the powerful and influential elite members of society. Second, is the degree of white-collar crime-related impact. Sutherland highlighted the disproportionate amount of harm caused by the wealth's crime as compared to the poor's much-researched and widespread emphasis on crime, and the similarly disproportionate degree of responses to social control.

²Lars Gunnesdal and Petter Gottschalk, *White-Collar Crime Research*. In: *White-Collar Crime in the Shadow Economy* 12 (Palgrave Pivot, Cham, 2018).

³Edwin H. Sutherland "White-Collar Criminality" 5(1) *American Sociological Review* 1(1940).

⁴James Helmkamp, Richard Ball, et. al., (eds.), *Definitional Dilemma: Can and Should There be a Universal Definition of White Collar Crime?* 89 (National White Collar Crime Centre, Morgantown, West Virginia, 1996).

⁵Ellen S. Podgor, "Corporate and White Collar Crime: Simplifying the Ambiguous" 31 *American Criminal Law Review* 391(1993).

⁶Gilbert Geis, "White-collar Crime What is it?" 3 *Current Issues in Criminal Justice* 13 (1991).

⁷Supra note 2 at 7.



III. Characteristic Features of White Collar Crimes

Over 79 years since it was first coined in 1939, the complexities of even describing the word White-Collar Crime have eluded the scholarly and law enforcement communities, and the debate continues to this day. Prior to Sutherland, scholars like W.A. Bonger (1916) EA Ross (1907) Sinclair (1906) and Steffens (1903), emphasised the misdeeds by businessmen and elites. Sutherland's work was focused at separating and defining the differences in blue-collar street crimes such as murder, burglary, theft, assault, rape, vandalism, so on and so forth which are often blamed on psychological, associational, and structural factors. Instead, he evaluated that white-collar criminals are opportunists, who overtime look for the opportunity to take advantage of their circumstances to accumulate financial gain. They are educated, intelligent, affluent, confident individuals, who were qualified enough to get a job which allows them the unmonitored access to often large sums of money. Many also use their intelligence to convince their victims into believing and trusting in their credentials. Thus, in simple words, White-Collar Crime is an unlawful act or series of unlawful acts or legal acts to achieve an unlawful goal committed by any person through non-physical and/or non-violent means and guile, to wrongfully gain money or property or to avoid payment of legal duties to retain money.

IV. Criticism

Sutherland's study of white-collar crime was prompted by the view that criminology had incorrectly focused on social and economic determinants of crime, such as family background and level of wealth. Sutherland was of a view that crime is committed at every level of society and by persons of widely divergent socio-economic backgrounds. In particular, according to Sutherland, crime is often committed by persons operating through large and powerful organisations.⁸ White-Collar Crimes, as Sutherland concluded, have a greatly underestimated impact upon our society.⁹ However, his definition of White-Collar Crime was vehemently criticised, and some writers even questioned whether a White-Collar Crime is a crime in the real sense of the term. His definition includes within its boundaries such behaviours only which are indulged in during one's occupational activities, and it fails to recognise that there are many such behaviour which, no doubt, can be placed within the category of White-Collar Crime. However, they bear no relation to the offender's occupations. There are many criticisms and strong objections to Sutherland's stipulation that White-Collar Crime must occur in the course of an offender's occupation. They argue that such a definition excludes crimes such as filing false income tax returns, making false claims for social security benefits, buying on credit with no intention or capability of paying and variety of other offences that he felt should be included under the White-Collar Crime. These and similar criminal behaviours are now studied under White-Collar Crimes, although these are not committed during occupational activities.

Another essential element of Sutherland's definitions is that white-collar criminal must be a person of respectability, and at the same time, he must be enjoying high social

⁸Abdul Latif Wani, "White Collar Crime-Its concept" 6 Kashmir University Law Review (1999).

⁹Supra note 2.

status. These elements seem to be more doubtful.¹⁰ The high social status and the element of respectability taken together also has led to more confusion. It has been argued that it is entirely possible to be highly respectable and illiterate on the one hand, or a member of the upper-class, yet held in disapproval by the general society on the other. There can, indeed, be a person of a high social status indulging in white-collar criminality who are not respectable or vice-versa. Thus, Sutherland's concept of 'high social status' is far too vague to be of much use within a social system as complicated as that of modern society.

V. Emerging White Collar Crimes

Conventional properties as we used to think are movable and immovable property in physical units. However, in recent years the value of any property is not attached to physical units. It is now attached to information or information products. Sensitive information is now stored on servers of the company or organisation. Additionally, computers connected with the Internet have become an essential part of business and daily life. People using the Internet are becoming a victim of financial crime. The criminals committing financial crime over the Internet are interestingly not highly placed officials but any ordinary person knowing computers-system. Moreover, Internet provides inexpensive and anonymous means to reach thousands of potential victims. Therefore, the challenge which scholarly and law enforcement agencies are now facing to define the term White-Collar Crime due to the evolving nature of computer and Internet-related crime. Without an appropriate definition of White-Collar Crime, it is not possible to measure the impact of White-Collar Crime in the society. The future is full of challenges to deal with this evolving field of criminality.

VI. Concluding Observations

Sutherland's approach to the definition of White-Collar Crime was offender-related. He had paid so much attention to the nature of the offender that actual criminal behaviour had gone unexamined. It is an apt time to reconsider the definition of White-Collar Crime, keeping in view the emergence of computer and Internet-related financial crime. Assessment of causes of crime and mode of doing these crimes by any person instead of the status of the criminal is more critical for criminologist to unlock the nature of the White-Collar Crime. So, Sutherland's offender-related approach had to make way for offence-related approach.

¹⁰Gerald Cliff & Christian Desilets, "White Collar Crime: What It Is and Where It's Going" 28 Notre Dame J.L. Ethics & Pub. Pol'y 481(2014).