



WHITE-COLLAR CRIME: DEFINITIONAL ISSUES AND CLASSIFICATION

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Acest articol științific este dedicat unora dintre cele mai complexe și discutabile probleme ale științei criminologice, cum ar fi criminalitatea gulerelor albe. Scopul principal al articolului este găsirea unei definiții relevante a criminalității gulerelor albe care ar corespunde mai bine realității moderne a criminologiei. Totodată, autorii au supus unei analize aprofundate diferite clasificări teoretice ale criminalității gulerelor albe. Pentru a obține cele mai bune rezultate, autorii au utilizat mai multe surse științifice străine ale autorilor de peste hotare. Prin urmare, au fost formulate unele concluzii noi care vor fi utile pentru știința modernă a criminologiei.

Cuvinte-cheie: crima gulerelor albe; infracțiunea ocupațională; infracțiunea organizațională; valoare socială; prejudiciul social; infracțiunea financiară; profitul financiar; sustragere colectivă; criminalitatea guvernamentală; infracțiune corporativă.

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This scientific article is dedicated to one of the most complex and disputable problem of modern criminology – white-collar crimes. The main purpose of this study is to find a proper definition of white collar crimes, which will correspond much better to the modern realities of criminology. Also, the authors have submitted to a detailed analysis of different theoretical classifications of the white-collar crimes. In order to obtain the best results, the authors have used a lot of scientific issues which belong to different foreign authors. As a result several new conclusions have been formulated for the modern science of criminology.

Keywords: white-collar crime; occupational crime; organizational crime; social value; social harm; financial crime; financial gain; economic crime; collective embezzlement; public governmental criminality; corporate crime.

This scientific article represents a literary theoretical background of the existing situation in studies in the field of all the variables, related and belonging to the research subjects, shall be presented, as described in the criminological, psychological, economical and behavioral literature. This chapter would lead us to the presentation of a model that would describe the new strategy for reduction of white-collar criminality.

The issue related to the definition, we will analyze in the realm of the monograph research of Ray J.V. in his book *„Psychopathy, attitudinal beliefs and white-collar crime”* [1].

White-collar crime has been discussed in a number of different ways, and the definition is *„hotly contested within the community of experts”* (Barnett) [2].

The sociologist Edwin Sutherland coined the term *„white collar crime”* in a speech given to the American Sociological Society in 1939. While he gave no formal definition of the term in the speech, he would eventually define white collar crimes as *„crimes committed by a person of respectability and high social status in the course of his occupation”*. This offender-based (and crime-based) definition was well-suited to the tasks to which it was put, serving to give sociologists a way to label and talk about offenses committed by successful, healthy people who had ample access to societal resources and who were members of respectable society—a concept that was out of synch with the prominent sociological theories of the day [3].

Arguably the most common definition – in no small part because it was the first – is from Edwin Sutherland (1939). In his study, *White-collar Crime*, Sutherland

defined white-collar crime as *„an offense committed by a person of respectability and high social status in the course of his /or her occupation”* [4].

By Edwin Sutherland, White-collar criminality in politics, which is generally recognized as fairly prevalent, has been used by some as a rough gauge by which to measure white-collar criminality in business. In his scientific research the author is quoting James A. Farley who said, *„The standards of conduct are as high among officeholders and politicians as they are in commercial life,”* and Cermak *„There is less graft in politics than in business”* [5]. Additionally, the author is quoting John Flynn, who wrote, *„The average politician is the merest amateur in the gentle art of graft, compared with his brother in the field of business”*. At the same time, he is mentioning that Walter Lippmann wrote, *„Poor as they are, the standards of public life are so much more social than those of business that financiers who enter politics regard themselves as philanthropists”* [6].

These statements obviously do not give a precise measurement of the relative criminality of the white-collar class, but they are adequate evidence that crime is not so highly concentrated in the lower class as the usual statistics indicate. Also, these statements obviously do not mean that every business and professional man is a criminal, just as the usual theories do not mean that every man in the lower class is a criminal. On the other hand, the preceding statements refer in many cases to the leading corporations in America and are not restricted to the disreputable business and professional men who are called quacks, ambulance chasers, bucket-shop operators, dead-beats, and fly-by-night swindlers.



Edwin Sutherland wrote: „*The financial cost of white-collar crime is probably several times as great as the financial cost of all the crimes which are customarily regarded as the „crime problem”. An officer of a chain grocery store in one year embezzled \$600,000, which was six times as much as the annual losses from five hundred burglaries and robberies of the stores in that chain*” [7].

Sutherland's contribution expanded the discussion to include illegal deviance perpetrated by those who had the tools to achieve the goals that their society taught them to desire, and had, in fact, already used them to that effect.

In another scientific issue the author is quoting Wendell Berge („*Remedies Available to the Government under the Sherman Act*”, Law and Contemporary Problems. 7:III.January, p.940): „*While civil penalties may be as severe in their financial effects as criminal penalties, yet they do not involve the stigma that attends indictment and conviction. Most of the defendants in antitrust cases are not criminals in the usual sense. There is no inherent reason why antitrust enforcement requires branding them as such*” [8].

If a civil fine were substituted for a criminal fine, a violation of the antitrust law would be as truly a crime as it is now. The thing which would be eliminated would be the stigma of crime. Consequently, the stigma of crime has become a penalty in itself, which may be imposed in connection with other penalties or withheld, just as it is possible to combine imprisonment with a fine or have a fine without imprisonment. A civil fine is a financial penalty without the additional penalty of stigma, while a criminal fine is a financial penalty with the additional penalty of stigma. When the stigma of crime is imposed as a penalty it places the defendant in the category of criminals and he becomes a criminal according to the popular stereotype of „*the criminal*”. In primitive society „*the criminal*” was substantially the same as „*the stranger*”, while in modern society „*the criminal*” is a person of less esteemed cultural attainments. Seventy-five per cent of the persons committed to state prisons are probably not, aside from their unvalued cultural attainments, „*criminals in the usual sense of the word*”. It may be excellent policy to eliminate the stigma of crime in a large proportion of cases, but the question at hand is why the law has a differential implementation for white collar criminals than for others. Three factors assist in explaining this differential implementation of the law, namely, the status of the business man, the trend away from punishment, and the relatively unorganized resentment of the public against white collar criminals [9].

In the same perimeter of scientific research we have to mention that Edwin Sutherland proved an axiom: „*The sentimental reaction toward a particular white collar crime is certainly different from that toward some other crimes. This difference is often exaggerated, especially as the reaction occurs in urban society. The characteristic reaction of the average citizen in the modern city toward burglary is apathy unless he or his immediate friends are victims or unless the case is very spectacular. The average citizen, reading in his*

morning paper that the home of an unknown person has been burglarized by another unknown person, has no appreciable increase in blood pressure. Fear and resentment develop in modern society primarily as the result of the accumulation of crimes as depicted in crime rates or in general descriptions, and this develops both as to white collar crimes and other crimes” [10].

Sutherland saw four main factors at play here:

1) civil agencies often handle corporate malfeasance that could have been charged as fraud in a criminal court;

2) private citizens are often more interested in receiving civil damages than seeing criminal punishments imposed;

3) white collar criminals are disproportionately able to escape prosecution „*because of the class bias of the courts and the power of their class to influence the implementation and administration of the law*”, and

4) white collar prosecutions typically stop at one guilty party and ignore the many accessories to the crime (such as when a judge is convicted of accepting bribes and the parties paying the bribes are not prosecuted) [11].

Since Sutherland, there continue to be debates among sociologists who argue that this definition is too vague [12]. As a consequence several new definitions have been proposed by scholars.

White-collar crime – definitional issues:

a. Sutherland defined white-collar crime as ‘crime committed by a person of respectability and high social status in the course of his occupation’.

b. The role of class has been highly contested, as the status of an offender may matter less than the harm done by someone in a trusted occupational position.

c. The term ‘crime’ is also contentious as many of the harmful activities of businesses or occupational groups are not subject to criminal law and punishment but to administrative or regulatory law and ‘penalties’ or ‘sanctions’.

d. An alternative definition is ‘an abuse of a legitimate occupational role that is regulated by law’ [13].

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

– *White-collar crime as moral or ethical violations;*

– *White-collar crime as social harm;*

– *White-collar crime as violations of criminal law;*

– *White-collar crime as violations of civil law;*

– *White-collar crime as violations of regulatory laws;*

– *White-collar crime as workplace deviance;*

– *White-collar crime as definitions socially constructed by businesses;*

– *White-collar crime as research definitions;*

– *White-collar crime as official government definitions;*

– *White-collar crime as violations of trust;*

– *White-collar crime as occupational crimes;*

– *White-collar crime as violations occurring in occupational systems.*



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

Some prefer to define white-collar crime as *violations of criminal law*. From this framework, white-collar crimes are criminally illegal behaviors committed by upper class individuals during the course of their occupation. From a systems perspective, those working in the criminal justice system would likely define white-collar crime as criminally illegal behaviors. Crime, in this context, is defined as „*an intentional act or omission committed in violation of the criminal law without defense or justification and sanctioned by the state as a felony or misdemeanor*” [14].

Applying a criminal law definition to white-collar crime, white-collar crimes are those criminally illegal acts committed during the course of one's job. Here are a few examples:

- An accountant embezzles funds from his employer.
- Two nurses steal drugs from their workplace and sell them to addicts.
- A financial investor steals investors' money.
- A prosecutor accepts a bribe to drop criminal charges.
- Two investors share inside information that allows them to redirect their stock purchases [15].

White collar crimes are threats to nations which are striving hard for economic development. Such white collar crimes under the sphere of commercial law mainly take the forms of capital market malpractices, money laundering, financing to terrorism and falsifying company accounts. These crimes do not take place just in a single day. These are well planned and continuous dealings by few perpetrators. Some employees, associates or responsible citizens who come to know the happening of wrongdoing may be concerned to disclose but will be reluctant to reveal it due to reasons of fear or retaliation by their superiors or others connected. The category of people who are willing to make disclosure of information relating to crimes committed by high ranking people in the society is called whistleblowers. These whistleblowers need encouragement and protection to fight white collar crime [16].

The law to deal with whistleblowers is a timely one since the repercussion of white collar crimes are so great that they affect innocent public, stock markets, regulators and the government economy. Though there are contra views for the regulation of whistleblower protection stating that overly complex regulatory environment will undermine people dealing with commercial entities, the pros of proper regulatory mechanism

for whistleblowers outweigh the criticism. Maintaining or restoring public confidence and strengthening financial market is one of the main objectives of every modern State. Therefore, analyzing and demarcating the role and the limits of the regulator on the topic is significant for sustainable development [17].

White-collar crime is financial crime committed by trusted persons in important business positions. Sutherland in his seminal work defined white-collar crime as crime committed by a person of respectability and high social status in the course of his occupation [18].

In the US, the law recommends heavier sentences when larger numbers of victims suffer a pecuniary loss as a result of an offender's criminal conduct. This law section governs sentencing for financial identity theft and other financial crimes such as larceny, embezzlement, fraud, and various counterfeit offenses. External victims are more common than internal victims. For the external victim, there is an external source causing damage and loss. This is in line with alien conspiracy theory, which blames outsiders and outside influences for the prevalence of organized crime in society and financial crime in organizations. Over the years, unsavory images, such as well-dressed men of foreign descent standing in shadows with machine guns and living by codes of silence, have become associated with this theory. The alien conspiracy theory posits that organized crime (the Mafia) gained prominence during the 1860s in Sicily and that Sicilian immigrants are responsible for the foundations of U.S. organized crime, which is made up of twenty-five or so Italian-dominated crime families [19].

By Gerald Cliff and Christian Desilets, the term „*white collar crime*” means different things to different disciplines, as well as to different camps within those disciplines. Unfortunately, professionals within an environment where there is general consensus about the term's meaning do not always clearly specify what they mean by the label of „*white collar crime*”. This can lead to confusion and (sometimes vigorous) disagreement when they interact with larger audiences that might contain a number of different understandings of the term. It is therefore quite important, when discussing white collar crime, to more closely examine what different people mean by it [20].

Generally, the authors Gerald Cliff and Christian Desilets these definitions tend to concentrate on:

- the characteristics of the offender (such as high social status) and/or;
- the characteristics of the crime (such as crimes occurring within the scope of one's employment) [21].

The American author S. Shapiro taking a definitively more sociological viewpoint, argues that definitions of white-collar crime „*share a fundamental problem: they confuse acts with actors, norms with norm breakers, the modus operandi with the operator*” [22]. S. Shapiro argues that ultimately what defines white-collar crime is not the status of the criminal or the crime itself, but a violation of the norms of trust citizens' place in economic and governmental institutions. Actors within these institutions exploit the norms cultivated within these institutions to lie and steal.



The USJD's (U.S. Department of Justice, Federal Bureau of Investigation) definition focuses on the nature of the criminal activity as well as on the job of the offender. The USJD uses the working definition: „*White-collar offenses shall constitute those classes of non-violent illegal activities which principally involve traditional notions of deceit, deception, concealment, manipulation, breach of trust, subterfuge or illegal circumvention*” (Simon, Swart, 1984).

This definition is clearly not one set in stone. Several studies have used broad definitions of WCC to include acts that are not violations of criminal law [23].

Currently, the definition of white-collar crime is still hotly contested within the community of experts. Although there is a multitude of variations, there appears to be three major orientations: those that define white-collar crime by the type of offender (e.g., high socioeconomic status and/or occupation of trust); those that define it in terms of the type of offense (e.g., economic crime); and those that study it in terms of the organizational culture rather than the offender or offense. Additionally, there are also those that confine the definition mainly to economic crime, as well as others that include other corporate crimes like environmental law violations and health and safety law violations [24].

The FBI, when it specifically addresses white collar crimes (nowadays, it usually references „*financial crimes*” instead), uses a very similar definition: „*those illegal acts which are characterized by deceit, concealment, or violation of trust and which are not dependent upon the application or threat of physical force or violence. Individuals and organizations commit these acts to obtain money, property, or services; to avoid the payment or loss of money or services; or to secure personal or business advantage*” [25].

Having so many definitions in use means that it is often difficult to compare data gathered by different white collar crime stakeholders, and that theoretical constructs in use by one group may be completely misaligned to the needs of another. One way that various groups have tried to reduce these inefficiencies is by crafting definitions that could enjoy buy-in from larger groups of stakeholders, providing them a common language (and compatible tools) for discussing white collar crime.

In 1996, the National White Collar Crime Center convened a group of noted academics specifically to address this definitional dilemma. Attendees were selected from among the most noted scholars in the criminal justice field, who had devoted significant effort to the study of white collar crime. Several aspects of white collar crime were examined and discussed at length.

The result of the process was that white collar crime was examined from a variety of perspectives. Most agreed the following characteristic features of WCC:

1) the lack of direct violence against the victim – the critical element;

2) the criminal activity should have been the result of an opportunity to commit the crime afforded by the offender's status in an organization or their position of respect within the community;

3) deception to the extent necessary to commit the

criminal offense (such as misrepresentation of the perpetrator's abilities, financial resources, accomplishments, some false promise or claim intended to deceive the victim, or possibly a deliberate effort to conceal information from the victim) [26].

Focusing on the interactions between offender characteristics and offense characteristics, the same research demonstrated that white-collar crime was more likely than street crime to:

- Be national or international in scope.
- Involve a large number of victims.
- Have organizations as victims.
- Follow demonstrated patterns.
- Be committed for more than a year.
- Be committed in groups [27].

Recognizing the differences between white-collar crime/white-collar offenders and street crimes/street offenders is significant for theoretical and policy reasons. In terms of theory, as will be demonstrated later in this text, if one of the criminological theories can explain both types of crimes, then that theory would be seen as having strong explanatory power. In terms of policy, it is important to recognize that different criminal justice strategies may be needed for the two types of offenses and that street offenders and white-collar offenders may respond differently to the criminal justice process. Consider efforts to prevent crime. Strategies to prevent street crimes might focus on community building and poverty reduction; preventing white-collar crime is much „*more complex*” [28].

In the late nineteenth and early twentieth centuries, the theoretical constructs used by sociologists to understand crime focused on it as a problem of poverty and of personal characteristics believed to be associated with poverty (such as broken homes, mental illness, association with criminal subcultures, and living in slum housing) [29]. One of the most influential of those theories, *Anomie Theory*, is still in general use (in various forms) today, and was put forth a year before the introduction of the concept of white collar crime. It holds that in a society where members are taught to value attaining certain goals (such as wealth), but the means to achieve those goals are unevenly distributed, those without access to the societal prescribed means are put under considerable pressure to find other ways (including crime) to achieve those goals. In short, the theory holds that crime is a symptom of some members of society not having the tools to achieve what their society defines as success [30].

Weisburd, Chayet, and Waring [31], used official crime records of specific types of WCC such as embezzlement, mail fraud, false claims, credit fraud, bribery, tax evasion, securities fraud, and antitrust violations. Other studies [32] have measured WCC as intentions to offend using vignettes. Of the individual-level theories, rational choice/deterrence has received the most attention among WCC researchers [33] likely because WCC is seen as a calculating and rational decision. Additionally, individuals in corporations are trained to make decisions based on maximizing profits, and as such are presumed to be rational decision-makers. Most studies that have tested the theoretical propositions of rational



choice theory as applied to WCC find support for the theory [34]. For example, Patternoster and Simpson [35] found that individuals were less likely to commit WCC when confronted with formal sanctions, moral commitments, and organizational factors. Nagin and Paternoster and Piquero [36] found that there is an interaction between individual differences (self-centeredness and desire-for-control, respectively) and the likelihood of being deterred by perceived risk. More specifically, Nagin and Paternoster found that individuals who are self-centered are less likely to weigh the costs of engaging in WCC, where Piquero et al. found that desire-for-control was positively related to sanction threats and negatively related to perceived benefits.

White collar crimes, as traditionally defined, are conflated with many other types of illegal or deviant activities with which they have nothing significant in common. D.O. Friedrichs has argued elsewhere that the concept of white collar crime is inevitably a heuristic and relativistic term, and illegal and harmful activities may be viewed as more or less purely white collar crime; some kinds of illegal activities are characterized as cognate, hybrid, or marginal forms of white collar crime [37]. But all such activities have a clear, logical relationship to both the original meaning of white collar crime put forth by Sutherland, and the meaning in public discourse. Many of the activities identified as forms of occupational crime, occupational deviance, and workplace crime, have absolutely no logical or coherent relationship to white collar crime. Accordingly, it would be far more productive to retain the original meaning assigned to occupational crime by Marshall Clinard and Richard Quinney, with a qualifying thesis, as financially oriented offenses committed by individuals within the context of a legitimate occupation, and specifically made possible by that occupation; to restrict the use of occupational deviance to activities deviating from norms within an occupational setting, including the norms of the employer, the norms of professional associations, and the norms of co-workers; workplace crime is best restricted to conventional forms of crime – e.g. homicide; assault; rape; molestation; robbery; theft; etc. – that occur at the workplace. Such conceptual distinctions should be useful in theorizing about crime, in engaging in empirical study of it, and in formulating policies in response to it [38].

E.Goode [39] who deals in social deviation, describes the unique characteristics of white-collar criminality and claims that the corporate criminality is conducted by a complex technical way and out of interaction with others. In majority of cases it is combined with a legitimate behavior, diffusion of the victims, the enormous amount of the financial sums under discussion over a long period of time, their acts almost never sued as it is difficult to detect and present irrevocable evidences, and they are not sentenced to long prison terms, the white-collar criminality is not compatible with the stereotype of a real criminal – these offences do not arouse the condemnation responses typical to street crimes, and are not involved in a real social stigma. These offences are not reported by the media in a full and detailed manner as the street crimes are. In order

for such a report to reach the news it needs the following: the sum stolen should be high, the steal needs to be related to some scandal, or the suspect needs to be of important figure. These offences usually bore the public, and also most people lack the financial knowledge to have understanding of these crimes. And finally, the perpetrators themselves do not perceive themselves as criminals.

Classification of White Collar Crimes. White collar crimes are crimes that are non-violent in nature committed by financially motivated high ranking people in the society. These white collar crimes take many forms such as bribery, fraudulent investment schemes, capital market manipulation, insider trading, cyber crime, money laundering, identity theft, terrorist financing and falsifying company accounts etc. In general, *these are malpractices for financial gain* [40].

Repercussions of white collar crimes are many. It creates fear in the minds of an ordinary citizen in his/her day-to-day transactions and it affects the business and the financial system of the country as well. Sudden collapse of large companies is a good example for such malpractices because it is crystal clear that the reasons behind a corporate collapse is a series of wrong doing which is not done by one, but by many, surreptitiously. Leaking of secret information leading to wrong doing cannot be prevented. Those who come to know about the surreptitious dealings are the centre point of this article. Why are they not making known the information about such secret illegal dealings as they become aware, to the appropriate authorities is the crucial question. It is obvious that it is due to fear of reprimand or punishment directly or indirectly by the perpetrators.

Classifications of crimes are done using various methods and it varies in different judicial systems. One such classification is traditional crimes falling under the penal code or criminal code of a country and the other.

Many argue that the term „*white-collar crime*” insufficiently describes the wide range of offences committed by the „powerful”, be they wealthy individuals or corporations. Most accept a distinction between:

- „*classic*” *white-collar crime*, which involves personal gain, at the expense of employers, „the government” or clients (which can also be described as occupational crime) [41];

- *offences which involve increased profits or the survival of the organization* – often known as organizational or corporate crime [42].

The crime pie of white-collar criminality includes:

- *embezzlement* – a theft of a white-collar employee from the corporation he is employed in;
- *collective embezzlement* – a crime against a corporation that is conducted in the name of the corporation;
- criminality of the free professions;
- corporate crime; and
- public governmental criminality – personal corruption and briberies of political position holders.

Others prefer to use the broader term *economic crime* (used in many European, particularly Scandinavian countries, where the term „*white-collar crime*” is



rarely used) [43]. Economic crime defined as „*crimes of profit which take place within the framework of commercial activity*” [44].

White-Collar Crime Offence includes:

– Corporate and/or business fraud White-collar Crime;

- Bribery and Corruption;
- Insider dealing and market abuse;
- Money laundering and terrorist financing.

Another classification is by way of status of people who commit crimes. Division of white-collar crime and blue-collar crime comes within the latter category. These are generalized classifications coined by the media to make ordinary people understand the nature of the crime, and are not codified as crimes in the classic sense in our judicial system.

A notable iteration is that of Marshall Clinard and Richard Quinney. These authors suggest that white-collar crime should be divided into *corporate* and *occupational crimes*.

– **Corporate crime** is committed by employees for the benefit of a corporation, and occupational crime committed by employees for personal gain. Corporate crime is often veiled in „*improper accounting procedures*”. For example, American International Group (AIG), an insurance broker for large corporations, was charged with inflating assets and deflating losses. The goal was to improve the financial profile of the company to the market. **Corporate malpractices** were not very common during the early part of the twentieth century since there was only little growth of corporations. When corporations started to develop rapidly and became the major contributor to the economy, misdeed also originated. Perpetrators, with the only objective of making quick money, went to every extreme to achieve it. As a result, there were many collapses. These were due to non adherence of accepted accounting standards or corporate governance rules and capital market manipulative activities. If there had been a tip off and a timely investigation, the position would be different. One cannot come to a conclusion that no one was aware of any suspicious activity until the real collapse or the exact occurrence of capital market manipulation that affected innocent general public or investors in billions. The culture of silence has not only resulted in many corporate failures but wrongdoers go undetected gives more and more encouragement to the prospective wrong doers. There are many reasons for one to decide not to reveal the information he becomes aware of. It may be that he was not bothered; he did not understand the gravity of it or due to fear of retaliation. If it is the first two reasons, then the person should be encouraged to become a whistleblower while assuring that he will be protected by the law. If it is the third reason, i.e., due to fear, there should be adequate laws to protect him [45].

– The concept of **occupational crime** – as one of the principal forms of white collar crime – has been quite familiar and widely invoked since the publication of Clinard and Quinney’s influential *Criminal Behavior Systems: A Typology*. More recently, however, the term occupational crime has been applied to activities quite removed from the original meaning of white collar

crime, and it has been used interchangeably with such terms as occupational deviance and workplace crime. In the interest of greater conceptual clarity within the field of white collar crime the argument is made here for restricting the term ‘occupational crime’ to illegal and unethical activities committed for individual financial gain – or to avoid financial loss – in the context of a legitimate occupation. *Occupational crime* refers to personal violations that take place for self-benefit during the course of a legitimate occupation, while *corporate (organizational) criminal behavior* refers to crimes by business or officials, committed on behalf of the employing organizations. Although organizational crime refers to crime on behalf of the organization, it becomes corporate (business) crime when it is done for the benefit of a private business. Thus, much of what ordinarily would be branded as corporate crime in a free enterprise economy is labeled organizational crime when committed by state bureaucrats in socialist systems. The organizational, economic crimes are also distinct from political crimes by government; the latter have more to do with efforts to maintain power, ideology, and social control than with economic advantage [46]. The term ‘*occupational deviance*’ is better reserved for deviation from occupational norms (e.g. drinking on the job; sexual harassment), and the term ‘workplace crime’ is better reserved for conventional forms of crime committed in the workplace (e.g. rape; assault). The conceptual conflation of fundamentally dissimilar activities hinders theoretical, empirical, and policy-related progress in the field of white collar crime studies [47].

Gerald Cliff and Christian Desilets have contributed essentially to the interpretation of the term „*white collar crime*”. In their opinion, white collar crime can refer to:

- Financial crimes;
- Non-physical (or abstract) crimes. That is, crimes that „*occur*” on a form, balance book, or computer;
- Crime by or targeting corporations;
- Crimes typically committed by the rich;
- Criminal businesses or organizations. Including, for some, organized crime and terroristic organizations;
- Corporate or professional malfeasance. For some, this can include acts that are immoral, but that are not specifically prohibited by law (for example, an insurance company automatically targeting every policyholder who gets diagnosed with breast cancer for an aggressive fraud investigation to find any possible pretext to drop the account).

– Anything that is against the law that the average beat cop would not typically handle. Essentially, everything but street crime [48].

On the other hand, an example of occupational crime would be embezzlement, such as when Bernie Madoff absconded with his investors monies for his 4 own personal gain. Occupational crime can also be as simple as pilfering from the office supply cabinet:

Bernard Lawrence Madoff founded Bernard L. Madoff Investment Securities LLC, a small Wall Street investment firm in 1960. The firm was initially a small penny stock trader but it grew fast due to its use of in-



novative computer technology. The firm became one of the largest market makers in the US, and by 2008, the year of B.L. Madoff's arrest, Bernard L. Madoff Investment Securities LLC was the sixth largest market maker on Wall Street. One division of the company was the „advisory and investment management division”, where investors could put their money in a hedge fund. Over the years this „hedge fund” continued to deliver an almost constant return to the investors on just above ten percent. This is a very high return given over a long period of time, which made people concerned. Madoff himself explained to *The Wall Street Journal* in 1992 that there was nothing special with the high returns, and referred to the high average annual returns for the US stock index. As it would turn out later, the fund was in fact the world's largest Ponzi scheme.

The method of the scam was a classic Ponzi scheme. The definition of a Ponzi scheme given by Investopedia is: „A fraudulent investing scam promising high rates of return with little risk to investors. The Ponzi scheme generates returns for older investors by acquiring new investors”. This was basically how the advisory and investment management division of Bernard L. Madoff Investment Securities LLC operated. The division started as a perfectly legitimate business, but he confessed that the returns given since approximately 1995 were fabricated. When a customer made an investment, he simply put the money into a bank account, and when asked for a withdrawal he took the money piled up in that account. Withdrawals were simply covered by new investments. Bernard L. Madoff used a variety of techniques that made it difficult to disclose the scam. At the end of each month Madoff sold all stocks and financial instruments so that the hedge fund only reported the amount of cash to the authorities. Further on, investors did not have any online access to their investments, instead they received a mail with their account information and balance each month. As a result of these precautions and many more, explained in the next section, it took until late 2008 before the scam was exposed, although people had accused the so-called hedge fund for fraud as early as 2001 [49].

A related concept that again focuses on the offender is „organizational crime” – the idea that white collar crime can consist of „illegal acts of omission or commission of an individual or a group of individuals in a legitimate formal organization in accordance with the operative goals of the organization, which have a serious physical or economic impact on employees, consumers or the general public” [50]. The distinction between occupational and organizational crime points to some major contrasts. Broadly speaking, *occupational crime*, a typical example of which is embezzlement, involves offenders, either individually or in groups, engaging in illegal or rule-breaking activities for personal gain at the expense of consumers, clients or employers. *Organizational crime*, on the other hand, a typical example of which is the neglect of safety regulations, does not involve personal gain, but may be seen as being ‘for the good of’ the organization by enhancing profitability or efficiency. Whereas occupational crime more obviously involves intent and individual respon-

sibility, organizational crime illustrates the diffusion of responsibility. Where an employee neglects or violates a regulation they can claim that it is ultimately the organization's responsibility to ensure that regulations are complied with. This distinction parallels others [51].

While these definitions were vital for expanding the realm of sociology and criminology, they were not as well-suited to the needs of other criminal justice stakeholders who dealt with these issues in a more practical sense (including policymakers, law enforcement, and the legal community). These definitions are geared for asking why white collar crime occurs or who commits it, but they are not as well-suited to asking questions about how much white collar crime is occurring, or whether prevention methods are working.

Gerald Cliff and Christian Desilets have shown a model of white collar crime that lent itself somewhat more to empirical data analysis was Herbert Edelhertz's 1970 definition: „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” [52].

Herbert Edelhertz identified four main types of white-collar offending:

- personal crimes („crimes by persons operating on an individual, ad hoc basis, for personal gain in a non business context”);
- abuses of trust („crimes in the course of their occupations by those operating inside businesses, Government, or other establishments, or in a professional capacity, in violation of their duty of loyalty and fidelity to employer or client”);
- business crimes („crimes incidental to and in furtherance of business operations, but not the central purpose of such business operations”); and
- con games („white-collar crime as a business, or as the central activity of the business”) [53].

We have to begin using something more along the lines of „economic crime”, „elite crime”, or simply „financial crime”.

The status of offenders continues to be an important feature of these definitions, with some referring to elite crime or crimes of the powerful, and to corporate and state crime. Some activities can be seen as largely motivated by financial gain, whereas others intentionally or otherwise cause physical harms. Thus, some people distinguish financial white collar crimes from others.

Many people now accept that a broad distinction can be drawn between offences primarily motivated by individual monetary gain and those that are more directly related to the survival or profitability of organizations, although in this respect, as in so many other respects, the characteristics of offenders are also important.

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