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## THE STUDY OF WHITE COLLAR CRIME: TOWARD A REORIENTATION IN THEORY AND RESEARCH

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Now that Sutherland's concept of white collar crime has undergone extended treatment in the literature, what can be said to be the range of the concept? Has it become so broad as to lose its scientific utility? Is the blue-collar-white-collar-criminal properly comprised in the concept? Is the white collar deviant a useful addition thereto? Considering these and related questions, in the following article Dr. Quinney proposes a method of delineating homogeneous units for study within the concept of white collar crime and suggests the employment of different levels of explanation in future studies of occupational crime and deviation.—EDITOR.

White collar crime as a unique form of illegal behavior has received a great deal of attention since Sutherland introduced the concept in his 1939 presidential address to the American Sociological Society.<sup>1</sup> White collar crime—the violation of criminal law by a person of high socio-economic status in the course of occupational activity—has been focused upon in several ways. For instance, a number of research studies of white collar crime have been initiated;<sup>2</sup> the legal character of the violations has been questioned;<sup>3</sup> the sociological relevance of the concept has been doubted;<sup>4</sup> the theoretical and research significance of the concept has been indicated;<sup>5</sup> critiques and summaries have been written;<sup>6</sup> and in most criminology textbooks considerable space has been devoted to a discussion of white collar crime.<sup>7</sup> Most important to the

field of criminology, use of the concept of white collar crime has led to the reexamination of the grounds on which generalizations about crime and criminals are made. Although controversy still occurs, the majority of criminologists regard white collar crime as a legitimate subject for criminological research.

Because the validity of white collar crime as a form of crime has been a subject of severe controversy, the question of conceptual clarity has largely been ignored. Today, as a result, the meaning of the concept is not always clear. In addition to the lack of conceptual clarity, a satisfactory explanation of the diverse behaviors subsumed under the concept does not exist. These difficulties are to be expected since the search for a causative theory of white collar crime has been hampered by a number of problems which have also impeded the study of other forms of crime. Two principal problems have been (1) unit of analysis, and (2) level of explanation. A discussion of these problems as they apply particularly to the study of white collar crime will aid to clarify the concept of white collar crime and also will provide suggestions for a reorientation in theory and research.

### UNIT OF ANALYSIS

The first problem stems from the fact that the legal category of crime includes many different kinds of behavior, and it follows that it is unlikely

<sup>1</sup> Sutherland, *White Collar Criminality*, 5 AM. SOC. REV. 1 (1940).

<sup>2</sup> Significant studies are those of CLINARD, *THE BLACK MARKET* (1952); CRESSEY, *OTHER PEOPLE'S MONEY* (1953); Hartung, *White Collar Offenses in the Wholesale Meat Industry in Detroit*, 56 AM. J. SOCIOLOGY 25 (1950); SUTHERLAND, *WHITE COLLAR CRIME* (1949).

<sup>3</sup> Caldwell, *A Reexamination of the Concept of White Collar Crime*, 22 Fed. Prob. 30 (March, 1958); and Tappan, *Who Is the Criminal?* 12 AM. SOC. REV. 96 (1947).

<sup>4</sup> Burgess, *Comment on Hartung, White Collar Offenses in the Wholesale Meat Industry in Detroit*, 56 AM. J. SOCIOLOGY 32 (1950).

<sup>5</sup> Hartung, *White Collar Crime: Its Significance for Theory and Practice*, 17 Fed. Prob. 31 (June, 1953).

<sup>6</sup> Newman, *White Collar Crime*, 23 LAW & CONTEMP. PROB. 735 (1958); VOLD, *THEORETICAL CRIMINOLOGY* 243-61 (1958).

<sup>7</sup> E.g., BARNES & TEETERS, *NEW HORIZONS IN CRIMINOLOGY* 3-57 (1959); BLOCH & GEIS, *MAN,*

*CRIME, AND SOCIETY* 379-404 (1962); RECKLESS, *THE CRIME PROBLEM* 207-29 (1961); TAFT, *CRIMINOLOGY* 250-56 (1956).

that the different behaviors are subject to a common explanation. Several writers have attempted to correct this difficulty by delineating various behaviors within the legal definition of criminal behavior.<sup>8</sup> Law violators have been placed into behavior units that are more homogeneous than those provided in the legal definitions.

Arguments for the delineation of types of white collar crime have been made on several occasions. Aubert noted a few years ago that, similar to the concept of crime, white collar crime probably covers a range of behaviors and each type of behavior may need a different causal explanation.<sup>9</sup> Recently, Bloch and Geis in their criminology textbook, which concentrates on behavior systems of crime, noted in regard to white collar crime that the concept has come to cover a vast array of illegal behaviors and that "it is apparent that more rigid procedures to distinguish categories of white collar offenses will have to be undertaken to render the classification of maximum scientific worth."<sup>10</sup> As a starting point in delineating types of white collar crime, Bloch and Geis suggested that it might be desirable to separate white collar crimes committed (1) by individuals as individuals (e.g., lawyers, doctors), (2) by employees against the corporation (e.g., embezzlers), and (3) by policy-making officials for the corporation (as in the recent antitrust cases).

In a somewhat different manner, Geis in a recent article, after recommending that white collar crimes be grouped into forms of behaviors that analytically resemble one another both in their

<sup>8</sup> CLINARD, *SOCIOLOGY OF DEVIANT BEHAVIOR* 195-264 (1963); Clinard & Wade, *Toward the Delineation of Vandalism as a Sub-Type of Juvenile Delinquency*, 48 J. CRIM. L., C. & P.S. 493 (1958); Cressey, *Criminological Research and the Definition of Crimes*, 56 AM. J. SOCIOLOGY 546 (1951); Cressey, *OTHER PEOPLE'S MONEY* (1953); Gibbons, *Prospects and Problems of Delinquent Typology*, 32 SOCIOLOGICAL INQUIRY 235 (1962); Gibbons & Garrity, *Definition and Analysis of Certain Criminal Types*, 53 J. CRIM. L., C. & P.S. 27 (1962); Gibbons & Garrity, *Some Suggestions for the Development of Etiological and Treatment Theory in Criminology*, 38 SOCIAL FORCES 51 (1959); Gibbs, *Needed: Analytical Typologies in Criminology*, 40 SW. SOCIAL SCIENCE Q. 321 (1960); Kinch, *Continuities in the Study of Delinquent Types*, 53 J. CRIM. L., C. & P.S. 323 (1962); Kinch, *Self-Conceptions of Types of Delinquents*, 32 SOCIOLOGICAL INQUIRY 228 (1962); Lindsmith & Dunham, *Some Principles of Criminal Typology*, 19 SOCIAL FORCES 307 (1941); RECKLESS, *THE CRIME PROBLEM* 75-229 (1961); Schrag, *A Preliminary Criminal Typology*, 4 PAC. SOC. REV. 11 (1961).

<sup>9</sup> Aubert, *White Collar Crime and Social Structure*, 58 AM. J. SOCIOLOGY 270 (1952).

<sup>10</sup> BLOCH & GEIS, *op. cit. supra* note 7, at 379.

manifestation and in terms of the ingredients which appear to enter into their origin, suggested that the concept of white collar crime be restricted to "corporate violations." He concluded that "unless the concept of white collar crime is restricted, in line with the above or similar ideas, it will continue to remain prey to the legitimate criticisms of numerous scholars . . . , and it will continue to be so broad and indefinite as to fall into inevitable desuetude."<sup>11</sup>

It is apparent, then, that such efforts to distinguish categories of white collar crime, or to restrict the definition of white collar crime itself, must be undertaken in order to give the concept any scientific utility. Various principles of classification should be considered. Possible classifications could include such factors as a more elaborate indication of the kind of occupation and the source of employment, the position of the occupation in the occupational structure, the occupational role or roles of the offender, and the institutional nature of the occupation or organization (political, business, industrial, medical, etc.). Also, classifications could be based on the nature and recency of the law itself and the relation of the offense to societal values. An additional consideration is the possibility of a multi-dimensional classification.<sup>12</sup>

However, before white collar typologies can be developed, a more pressing problem must be faced and that is that the concept of white collar crime today rather indiscriminately covers a diverse, wide, and oftentimes uncertain and inconsistent range of behaviors. The result is that we are not entirely certain what behaviors constitute white collar crime. This is due in part to Sutherland's definition and to his own subsequent use of the concept.<sup>13</sup> The research and writing of others on the subject have done little to clarify the concept. We remain uncertain as to (1) the importance of the social status of the offender, (2) the exact meaning of occupational activity, and (3) the possibility of including deviant behaviors which are not strictly legal violations.

#### *Social Status of the Offender*

Sutherland conceptually limited white collar crime to violation of the criminal laws regulating

<sup>11</sup> Geis, *Toward a Delineation of White Collar Offenses*, 32 SOCIOLOGICAL INQUIRY 171 (1962).

<sup>12</sup> For a multi-dimensional classification in regard to juvenile delinquency see Gibbons, *supra* note 8.

<sup>13</sup> See Cressey, *Foreword to SUTHERLAND, WHITE COLLAR CRIME* vii (5th ed. 1961); and Geis, *supra* note 11, at 160-61.

occupations by persons who are "respectable" or of the "upper socioeconomic class." His reason for emphasizing social status was primarily for the purpose of illustrating that persons of high status commit crimes and may be included in the study of criminal behavior—thus altering the picture of crime as well as the usual conception of the pathological criminal. While the limitation of white collar crime to a particular status group may be of historical significance in the reformulation of criminological theory, it appears to have little theoretical merit today, except to point to procedural differences in the administration of justice. Newman, in his critique of white collar crime, suggested that "farmers, repairmen, and others in essentially non-white 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."<sup>14</sup> Such an expansion of the concept to include all violations that occur in the course of occupational activity—regardless of the offender's social status—would increase the utility of the concept. It would then be advisable to change the term to *occupational crime*.

#### *Occupational Activity*

The exact meaning of occupational activity is drawn into question when one reviews the writings on white collar crime. One cannot quarrel with the fact that the study of such offenses as embezzlement, price fixing, over-pricing in time of war, misrepresentation in advertising, unfair labor practices, and medical fee-splitting involve behaviors that occur directly in the course of one's occupational activities. It is another thing, however, to include certain forms of such acts as income tax evasion, rent control violation, and violation of welfare compensation laws in the category of occupational crime.<sup>15</sup> These latter behaviors usually do not strictly occur in the course of occupational activity, except, for example, in the case of income tax evasion which is carried out for a corporation or in the case of rent control

violation when it can be established that one pursues renting as an occupation. The important point here is that the behavior must be directly related to the violator's occupational activities if it is to be included in white collar crime or occupational crime. Such precision will reduce conceptual problems in future theory and research.

#### *Crime and Deviant Behavior*

Those who have argued against the inclusion of white collar crime in criminology have stressed that the violations are not crimes because they are not in violation of the traditional criminal code and, what is more, that the violations are not crimes because the offenders are not usually convicted in a court of criminal law.<sup>16</sup> The advocates of the concept of white collar crime have argued that the behaviors are nevertheless in violation of laws and regulations which contain provisions for punishment. They also argue that the fact that cases are usually processed differently is of no scientific interest, at least for the purpose of explanation.<sup>17</sup>

Although the controversy no longer seems to be of primary concern, ambiguities arise because some writers on white collar crime, Sutherland included, have been interested in behaviors which are not punishable by law, for example, "sharp" business practices and contract violation. It is important that only behaviors which are punishable by law be included in the concept of white collar crime (or occupational crime). On the other hand, the student of occupational crime could gain much by focusing on any deviations in occupational activity, be they criminal or not. It would be valuable, then, to employ the concept of *occupational deviation*. In keeping with recent conceptualization of deviant behavior in general, occupational deviation represents departures from expectations that are shared and recognized as legitimate within an occupation.<sup>18</sup> Occupational deviation includes all occupational behavior that violates the institutionalized expectations of an occupation, that is, deviant behavior that occurs in the course of occupational activity. It should be made explicit at all times, however, whether or not the behavior in question

<sup>14</sup> Newman, *supra* note 6, at 737. See also BLOCH & GEIS, *op. cit. supra* note 7, at 402.

<sup>15</sup> For studies of these behaviors see IREY & SLOCUM, *THE TAX DODGERS* (1948); Ball, *Social Structure and Rent-Control Violations*, 65 AM. J. SOCIOLOGY 598 (1960); and Smigel, *Public Attitudes Toward "Chiseling" With Reference to Unemployment Compensation*, 18 AM. SOC. REV. 59 (1953).

<sup>16</sup> Caldwell, *supra* note 3; and Tappan, *supra* note 3.

<sup>17</sup> See Sutherland, *Is "White Collar Crime" Crime?* 10 AM. SOC. REV. 132 (1945).

<sup>18</sup> Cohen, *The Study of Social Disorganization and Deviant Behavior*, in *SOCIOLOGY TODAY* 461-84 (Merton, Broom, & Cottrell eds. 1959).

is criminal as well as a deviation from occupational norms.<sup>19</sup>

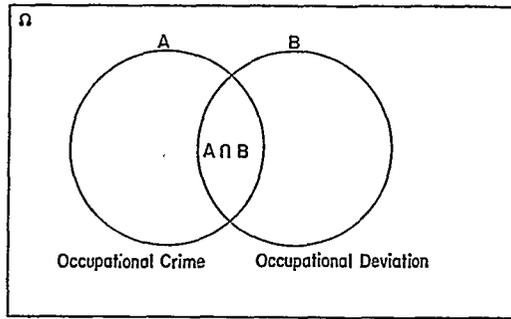
By thus expanding the concept beyond the limits set by legal definitions, but still noting if the behaviors are illegal or not, it would be possible to handle the heretofore unmanageable fact that violations of the legal norms are not necessarily violations of other (non-legal) norms. Because many of the white collar crimes are in violation of laws and regulations recently enacted, they may not yet be a part of the normative structure of the occupation. These laws and regulations are often imposed by outsiders and thus are not necessarily held as binding by the occupational incumbents themselves. Although the violation of the laws and regulations is defined as crime, it is often the case that an occupational norm is not broken. In fact, the white collar offender is likely at most to regard himself as a lawbreaker rather than a criminal.<sup>20</sup> Even the public is unlikely to regard the violation of such laws as crime. These laws do not have their basis in other norms, occupational or otherwise, and the offenses are only bad because they are prohibited (*mala prohibita* rather than *mala in se*).<sup>21</sup>

Therefore, a shift to the concept of occupational deviation would allow researchers to investigate actual departures from occupational norms without having to rely upon the otherwise necessary inference that violations of legal norms are also deviations from occupational norms. It would also be possible to study occupational deviations that have not been formalized into law. A range of other problems would be opened by the use of the concept, such as the relationship between law-making and law-breaking, the acceptance of legal norms and the process by which they are incorporated into the occupation, resistance to laws by particular occupational members and the factors associated with resistance, competing occupational

<sup>19</sup> Newman has recently stated that because deviation is similar behaviorally to the violation of legal norms deviation must be considered along with conventional legal violation in testing etiological hypotheses. Newman, *Legal Norms and Criminological Definitions*, in *SOCIOLOGY OF CRIME* 55-89 (Roucek ed. 1961). The pioneer statement of extending criminology beyond legal definitions is in SELLIN, *CULTURE CONFLICT AND CRIME* (1938).

<sup>20</sup> CLINARD, *SOCIOLOGY OF DEVIANT BEHAVIOR* 263-64 (1963); and CLINARD, *THE BLACK MARKET* 236 (1952).

<sup>21</sup> See the classical article by Fuller, *Morals and the Criminal Law*, 32 *J. CRIM. L. & C.* 624 (1942). Also CLINARD, *SOCIOLOGY OF DEVIANT BEHAVIOR* 152-53 (1963).



Occupational Behavior  
FIGURE I

RELATIONSHIP BETWEEN OCCUPATIONAL BEHAVIOR,  
OCCUPATIONAL CRIME, AND OCCUPATIONAL  
DEVIATION

norms, redefinition of occupational roles, and occupational change.

In addition to occupational crime and deviation, there are several different orders of behavior which are made obvious when both the violation of legal norms and deviation from occupational norms are considered together and in relation to occupational behavior in general. Each type of behavior presents the researcher with a different set of problems for investigation. Figure 1 is an attempt at a graphic presentation of the relationship between the violation of legal norms and deviation from occupational norms in the larger framework of occupational behavior. It should be kept in mind, however, that the circles representing occupational deviation and occupational crime could assume varying positions in the diagram and are likely to do so in reality. There is the possibility, for example, that the circles could be either mutually exclusive or equivalent, as well as vary in the degree of overlap. Also, either circle could contain the other, or one or both circles could be nonexistent. The circles can, of course, vary in size in relation to the universe of discourse. Nevertheless, the diagram as shown probably presents the most common situation. The circle A represents behavior in violation of laws and regulations governing an occupation (occupational crime). The behaviors in B are the deviations from occupational norms (occupational deviation). The intersection of A and B represents criminal violations which are also deviations from occupational norms (or those occupational deviations which have also been defined as crime)—possibly called

*criminal occupational deviation.* Other combinations could also be of theoretical interest. For example, in notation form,  $A \cup B$  represents all behaviors which are either in violation of a criminal law or a deviation from an occupational norm;  $A - (A \cap B)$  includes behaviors which are in violation of the law but do not deviate from an occupational norm; similarly,  $B - (A \cap B)$  includes deviations from occupational norms which have not been defined as crime;  $\Omega - B$  (or  $c [B]$ ) represents behaviors that do not deviate from occupational norms, while  $\Omega - A$  (or  $c [A]$ ) represents behaviors which are not in violation of laws regulating the occupation; and  $\Omega - (A \cup B)$  (or  $c [A \cup B]$ ) includes behaviors that do not depart from either criminal laws or occupational norms. Such distinctions could continue until the possibilities are exhausted. The important point is that there are a number of different orders of behavior in reference to the combination of criminal violation and deviation from occupational norms. It follows that researchers must always make clear what order of behavior they are trying to describe and explain. The theories in turn will vary according to the particular behavior (or unit of analysis) in question.

Another interesting observation arises when the criminologist views the relationship between legal norms and occupational norms. There is the special case in which most of the occupational behaviors are defined as criminal by persons outside of the occupation. To the incumbents, however, the behaviors may be legitimate according to their own standards, yet there are entirely different behaviors which they regard as occupational deviations.<sup>22</sup> These are the illegitimate (and usually illegal) occupations which are organized around criminal activity. Crime is pursued by the members as a career and as a regular day-by-day means of livelihood, as in the case of professional theft and the various forms of organized crime.<sup>23</sup> These criminal occupations are known to have their own norms and deviations. The criminal code, for example, presents the professional criminal with the rules that one criminal should not inform on another and that there should be an honest division of the loot with partners in crime. The study of occupational crime and occupational deviation

among these illegitimate occupations would certainly present the researcher with two separate and distinct behaviors. Of course, it is not unlikely that the criminal behaviors of illegitimate occupations are also supported by some legitimate occupations.<sup>24</sup>

There is also the fact that in some occupations deviations become institutionalized for certain segments of the occupation or even for most members in particular situations. There may be cases in which there are patterned evasions of occupational norms. Alternative norms may exist which are followed by some members.<sup>25</sup> Also, it is known that certain occupational behaviors which are usually regarded as deviant are legitimate in certain situations.<sup>26</sup> There is, in addition, the fact that occupations are in a constant process of change, and occupational deviation (and sometimes crime) is a necessary concomitant of occupational change. The deviant or criminal is often an innovator. Occupational deviation and crime can be an indication of the development of new occupational norms.<sup>27</sup> It can therefore be seen that in the process of occupational change, definitions of both occupational deviation and occupational crime change, as does the relationship between occupational deviation and occupational crime.

Thus, because the concept of white collar crime does not accurately purport what criminologists always desire to study, it is suggested that rather than restrict the area of investigation to a narrow range of illegal behavior, the various orders of behavior should be specified. Such specification is necessary in order to assure future progress in both theory and research. Particularly valuable for study is the behavior noted in the concept of occupational deviation which includes all deviant behaviors committed in the course of occupational activity, yet at the same time the legal status of the specific deviations should be considered. Distinguishing the different orders of behavior is a step in the delineation of homogeneous behavioral units for the purpose of explanation. It is likely, in reference to the problem which follows, that the

<sup>24</sup> See VOLD, *op. cit. supra* note 6, at 220-42.

<sup>25</sup> A discussion of alternative norms and patterned evasion of norms in general is found in WILLIAMS, AMERICAN SOCIETY (1960), especially chapter 10.

<sup>26</sup> Bensman & Gerver, *Crime and Punishment in the Factory: The Function of Deviancy in Maintaining the Social System*, 28 AM. SOC. REV. 588 (1963).

<sup>27</sup> Coser, *Some Functions of Deviant Behavior and Normative Flexibility*, 68 AM. J. SOCIOLOGY 172 (1962); Menzel, *Innovation, Integration, and Marginality*, 25 AM. SOC. REV. 704 (1960); and MERTON, SOCIAL THEORY AND SOCIAL STRUCTURE 131-94 (1957).

<sup>22</sup> A discussion of the norms of deviant groups is found in LEMERT, SOCIAL PATHOLOGY 49-51 (1951).

<sup>23</sup> SUTHERLAND, THE PROFESSIONAL THIEF (1937); CLINARD, SOCIOLOGY OF DEVIANT BEHAVIOR 257-91 (1963); and RECKLESS, *op. cit. supra* note 8, at 153-206.

level of explanation employed will depend upon the particular behavioral unit under study.

#### LEVEL OF EXPLANATION

The problem of level of explanation has caused a great deal of confusion in criminology. Theories have differed from one another not only because some have been valid and others have not been, but because they have merely been on different levels. Cressey, in the introduction to his study of embezzlement, identified two levels in the sociological explanation of crime: "The first kind of theory deals with social learning. The data are the specific behaviors of persons, and the task is to identify the process or processes by which a person becomes a criminal. In the other type of theory the data are the social statistics of crime, and the aim is to account for variations in crime rates."<sup>28</sup>

Sutherland, on the same occasion that he introduced the concept of white collar crime, offered his theory of differential association as an explanation of the process by which a person becomes a white collar criminal. Since that time most of the studies of white collar crime have employed differential association as an explanation of the behavior. The theory, however, has been only partially successful in explaining white collar criminality. For example, even though Clinard in his study of the black market concluded that most of the violations appeared to have their origins in behavior learned in association with others, he noted that the theory was limited because it could not adequately explain why some individuals who are familiar with the techniques of violation and also frequently associate with persons familiar with techniques of violation do not engage in such practices. In addition, Clinard noted that the theory did not consider the variety of roles played by the individual, the early associations, the independent invention of a complex technique for violations which are extraordinarily simple, nor the individual's personality pattern.<sup>29</sup>

Also critical of differential association, Cressey in his study of embezzlement seriously questioned the usefulness of the theory in explaining some types of crime. It was found that contacts with criminal behavior patterns were not necessary for the learning of techniques of trust violation and that the specific sources of rationalizations for trust violation could not be identified precisely.

Cressey found it necessary to conclude that "it is doubtful that it can be shown empirically that the differential association theory applies or does not apply to crimes of financial trust violation or even to other kinds of criminal behavior."<sup>30</sup> It remains questionable then, whether or not differential association as utilized thus far can state precisely the process by which a person becomes a criminal. Further refinement of this level of explanation, however, might be attempted in future studies of specific types of occupational crime and deviation.

Sutherland originally presented his theory of differential association in nine propositions on two pages of the 1939 Third Edition of his well-established textbook in criminology. Only slight modifications, primarily in terminology, were made in subsequent editions.<sup>31</sup> As Cressey has recently pointed out, numerous errors have arisen in the interpretation of the theory because readers have not understood what Sutherland apparently was trying to say.<sup>32</sup> An important interpretative error, according to Cressey, is that of assuming that Sutherland's theory deals only with the process by which a person becomes a criminal. However, an examination of Sutherland's writing clearly indicates that he was greatly, if not primarily, concerned with organizing and integrating the factual information about crime rates.<sup>33</sup> This conclusion is supported by the fact that Sutherland proposed the concept of "differential social organization" or "differential group organization" as a complementary concept to differential association in order to account for variations in rates of crime. The essential idea in differential social organization is that in a multi-group or heterogeneous type of social organization, alternative and likely inconsistent standards of conduct are possessed by the various segments.<sup>34</sup> The conception that crime (or deviant behavior in general) is structured and that there are strains for crime in a social organization is also found in another sociological tradition, that of functionalism.<sup>35</sup> Both approaches attempt

<sup>28</sup> Cressey, *Application and Verification of the Differential Association Theory*, 43 J. CRIM. L., C. & P.S. 52 (1952).

<sup>29</sup> SUTHERLAND & CRESSEY, *PRINCIPLES OF CRIMINOLOGY* 74-81 (6th ed. 1960).

<sup>30</sup> Cressey, *Epidemiology and Individual Conduct: A Case From Criminology*, 3 PACIFIC SOCIOLOGICAL REV. 37 (1960).

<sup>31</sup> As particularly seen in Sutherland, *Development of the Theory*, in THE SUTHERLAND PAPERS 13-29 (Cohen, Lindesmith & Schuessler eds. 1956).

<sup>32</sup> SUTHERLAND & CRESSEY, *op. cit. supra* note 31, at 79-80, 82-85.

<sup>33</sup> See especially Merton, *Social Structure and Ano-*

<sup>28</sup> CRESSEY, *OTHER PEOPLE'S MONEY* 11-12 (1953).

<sup>29</sup> Clinard, *Criminological Theories of Violations of Wartime Regulations*, 11 AM. SOC. REV. 258 (1946).

to account for variations in rates of crime between or within social organizations.

Consideration should be given to the explanation of rates of criminal behavior in occupations, a level of analysis which has been ignored in the study of white collar crime. However, even given this level, it is likely that the orientation will be so general that it can serve only as an organizing principle, as seems to be the case with differential association. In fact, it may be suggested that differential social organization be employed as a general orientation. It would thus turn research in the direction of attempting to account for variations in rates of crime among different occupations or among segments within an occupation. The particular social organization of the occupation in question would determine the further specification of the theory.<sup>36</sup>

A glaring omission in criminology is the failure to use a level of explanation based on the criminal law itself. The study of white collar crime, however, has forced some criminologists to realize that the criminal law should be considered as well as the behavior in violation of the law. As Aubert has noted in reference to white collar crime, "The recent concern among social scientists with white collar crime tends to bring long-neglected relationships between criminal behavior, criminal law, penal sanctions, and social structure into focus. The unexpected and somehow deviant nature of many recent laws defining white collar crimes has made it natural to ask for an explanation of the norms themselves and not only of their infringements. As soon as this happens new theoretical vistas are immediately opened."<sup>37</sup> It seems obvious, then, that an urgent need in the study of occupational crime, and crime in general, is research that explicitly takes the nature of particular criminal laws into consideration in the explanation of specific types of crime. The discussion above, and accompanying diagram, in reference to the relationship between criminal law and occupational norms could provide a framework for the formulation of such a research problem.

The idea that criminal law is important in the study of crime was noted some time ago by Michael and Adler. They forcefully stated at one

point that "if crime is merely an instance of conduct which is proscribed by the criminal code it follows that the criminal law is the formal cause of crime."<sup>38</sup> It is only the criminal law that gives any behavior its quality and criminality. And, as Jeffery has been arguing more recently, attention must be turned to the study of criminal law, not the criminal, in order to determine why a particular behavior is defined as crime.<sup>39</sup> The study of the conditions in society by which certain behaviors become defined as criminal may be important in explanation of the resulting criminal behaviors. It is probably the case, for example, that in some occupations certain behaviors have been a part (possibly deviant) of the occupation for some time, but the fact that for some reason a law was established suddenly made the behaviors criminal. The point is that the relationship between social structure, criminal law, occupational norms, and criminal behavior should be given further consideration. This level of analysis, as well as others, should be attempted in future study of the specific orders of behavior that are related to violations of the criminal law and deviations from occupational norms.

#### CONCLUSION

Although there has been considerable interest and activity in the study of white collar crime, the development of the area has been hampered by a number of problems that have not been made explicit. The concept has remained unclear because criminologists have subsumed different behaviors under the term. In addition, writers have varied on the amount of emphasis given to the social status of the offender, have employed different meanings of occupational activity, and have lacked consistency in designating the illegal nature of the offenses. Because the concept includes a wide range of behaviors, it becomes necessary to delineate more homogeneous units for the purpose of explanation. Several distinct orders of behavior become evident when the relationship between criminal behavior and occupational deviation is considered. Finally, it is important that different levels of explanation be employed in future studies of occupational crime and deviation.

mie, 3 AM. SOC. REV. 672 (1938); and PARSONS, THE SOCIAL SYSTEM 249 (1951).

<sup>36</sup> This strategy was taken in my own recent research, Quinney, *Occupational Structure and Criminal Behavior: Prescription Violation by Retail Pharmacists*, 11 SOCIAL PROBLEMS 179 (1963).

<sup>37</sup> Aubert, *supra* note 9, at 264.

<sup>38</sup> MICHAEL & ADLER, CRIME, LAW, AND SOCIAL SCIENCE 5 (1933).

<sup>39</sup> Stated in several places by Jeffery, especially in *The Structure of American Criminological Thinking*, 46 J. CRIM. L., C. & P.S. 658 (1956). A similar idea is found in Vold, *Some Basic Problems in Criminological Research*, 17 Fed. Prob. 37 (March 1953).