



## White-Collar Crime Research

**Abstract** One of the theoretical challenges facing scholars is to develop an accepted definition of white-collar crime. The main characteristic is that it is economic crime committed by a person of respectability and high social status in the course of an occupation. While Edwin Sutherland's concept of white-collar crime has enlightened sociologists, criminologists, and management researchers, the concept may have confused attorneys, judges and lawmakers. One reason for this confusion is that white-collar crime in Sutherland's research is both a crime committed by a specific type of person, and it is a specific type of crime. Later research has indicated, as applied in this book, that white-collar crime is no specific type of crime, it is only a crime committed by a specific type of person.

**Keywords** Convenience theory • Criminology • Definition • Edwin Sutherland • Gender perspectives • Occupational crime • Offence characteristics • Offender characteristics • Special sensitivity hypothesis • Social status

Ever since Sutherland (1939) coined the term “white-collar crime”, there has been extensive research and debate on what to include and what to exclude from this offense category (e.g., Piquero and Benson 2004; Pontell et al. 2014; Stadler et al. 2013). In accordance with Sutherland's original work, convenience theory emphasizes the position and trust enjoyed by the

offender in an occupational setting (Shapiro 1987). Therefore, the organizational dimension is the core of convenience theory where the offender has access to resources to commit and conceal financial crime.

The typical profile of a white-collar criminal includes the following attributes (Piquero and Benson 2004; Pontell et al. 2014; Stadler et al. 2013):

- The person has high social status and considerable influence, enjoying respect and trust, and belongs to the elite in society.
- The elite have generally more knowledge, money and prestige, and occupy higher positions than other individuals in the population occupy.
- Privileges and authority held by the elite are often not visible or transparent, but known to everybody.
- Elite members are active in business, public administration, politics, congregations, and many other sectors in society.
- The elite is a minority that behaves as an authority towards others in the majority.
- The person is often wealthy and does not really need the proceeds of crime to live a good life.
- The person is typically well educated and connects to important networks of partners and friends.
- The person exploits his or her position to commit financial crime.
- The person does not look at himself or herself as a criminal, but rather as a community builder who applies personal rules for his or her own behavior.
- The person may be in a position that makes the police reluctant to initiate a crime investigation.
- The person has access to resources that enable involvement of top defense attorneys, and can behave in court in a manner that creates sympathy among the public, partly because the defendant belongs to the upper class, often a similar class to that of the judge, the prosecutor, and the attorney.

However, one of the theoretical challenges facing scholars in this growing field of research is to develop an accepted definition of white-collar crime. While the main characteristic is the foundation—economic crime committed by a person of respectability and high social status in the course of an occupation—other aspects lack precision (Kang and Thosuwanchot 2017).

## EDWIN SUTHERLAND

Edwin Sutherland is one of the most cited criminologists in the history of the criminology research field. Sutherland's work has inspired and motivated a large number of scholars in the field associated with his work. His ideas influence, challenge, and incentivize researchers. Sutherland's research on white-collar crime is based on his own differential association theory. This learning theory of deviance focuses on how individuals learn to become criminals. Differential association theory assumes that criminal behavior is learned in interaction with other persons.

Sutherland's (1939, 1949) concept of white-collar crime has been so influential for various reasons. First, there is Sutherland's engagement with criminology's neglect of the kinds of crime of the powerful and influential members of the elite in society. Next, is the extent of damage caused by white-collar crime. Sutherland emphasized the disproportionate extent of harm caused by the crime of the wealthy in comparison to the much researched and popular focus on crime by the poor, and the equally disproportionate level of social control responses. Third, there is the focus on organizational offenders, where crime occurs in the course of their occupations. A white-collar criminal is a person who, through the course of his or her occupation, utilizes respectability and high social status to perpetrate an offense. Fourth, the construction of the corporation as an offender indicates that organizations can also be held accountable for misconduct and crime. Finally, there is the ability to theorize the deviant behaviors of elite members. Many researchers have been inspired by Sutherland's groundbreaking challenge that mainstream criminology neglects the crime of the upper class and has a dominating focus on the crime of the poor. This was a major insight that began a dramatic shift and broadening in the subject matter of criminology that continues today.

Sutherland's long-lasting influence on criminological, sociological and, more recently, on management thinking is observable across the globe, but in particular in the United States and Europe. Sutherland exposed crime by people who were thought of as almost superior, and who apparently did not need to offend as a means of survival. Businesspeople and professionals frequently commit serious wrongdoing and harm with little fear of facing criminal justice scrutiny. It is often the case that poverty and powerlessness is the cause of one kind of crime while excessive power can be the cause of another kind of crime.

Sutherland exemplified the corporation as an offender in the case of war crime where corporations profit heavily by abusing the state of national emergency during times of war. Corporate form and characteristics as a profit-maximizing entity shape war profiteering. This is organizational crime by powerful organizations that may commit environmental crime, war profiteering, state-corporate crime, and human rights violations.

While Sutherland's concept of white-collar crime has enlightened sociologists, criminologists, and management researchers, the concept may have confused attorneys, judges, and lawmakers. In most jurisdictions, there is no offense labeled white-collar crime. There are offenses such as corruption, embezzlement, tax evasion, fraud, and insider trading, but no white-collar crime offense. Sutherland's contribution to the challenge of concepts such as law and crime can be considered one of the strengths of his work as he showed that laws and legal distinctions are politically and socially produced in very specific ways. For lawmakers, there is nothing intrinsic to the character of white-collar offenses that makes them somehow different from other types of offenses.

One reason for this confusion is that white-collar crime in Sutherland's research is both a crime committed by a specific type of person and a specific type of crime. Later research has indicated, as applied in this book, that white-collar crime is no specific type of crime; it is only a crime committed by a specific type of person. However, white-collar crime may indeed, sometime in the future, emerge as a kind of crime suitable for law enforcement as Sutherland envisaged it in his offender-based approach to crime, focusing on characteristics of the individual offender to determine the categorization of the type of crime.

Sutherland's broader engagement with criminological and sociological theory in general, such as his theory of differential association and social learning, has been and still is influential. One aspect of the theory of differential association—social disorganization—has had a significant influence on later researchers.

It must be noted that Sutherland's key constructs and definitions have divided criminology. Nelken (2012) suggests there is ambiguity about the nature of white-collar compared to ordinary crime. Croall (1989: 157) phrased the question "Who is the white-collar criminal?":

White-collar crime is traditionally associated with high status and respectable offenders: the 'crimes of the powerful' and corporate crime. However, examination of one group of white-collar offences reveals that offenders were typically small businesses, employees, and those more properly

described as ‘criminal businesses’. While this could be attributed to the ‘immunity’ of the corporate offender from prosecution, it can be argued that such patterns of offending reflect not only enforcement policies but also wider structural and market factors. Thus, analyses of economic and white-collar crime may concentrate overmuch on the corporate offender, and make over simplistic distinctions between ‘corporate’ and other varieties of white-collar offending.

Levi (2002) emphasized a wide socio-economic spectrum of fraud offending when discussing shaming and incapacitating business fraudsters.

### OFFENSE CHARACTERISTICS

White-collar crime is illegal acts that violate responsibility or public trust for personal or organizational gain. It is one or a series of acts committed by non-physical means and by concealment to obtain money or property, or to obtain business or personal advantage (Leasure and Zhang 2017).

White-collar crime is a unique area of criminology due to its atypical association with societal influence compared to other types of criminal offenses. White-collar crime is defined in its relationship to status, opportunity, and access. This is the offender-based perspective. In contrast, offense-based approaches to white-collar crime emphasize the actions and nature of the illegal act as the defining agent. In their comparison of the two approaches, Benson and Simpson (2015) discuss how offender-based definitions emphasize societal characteristics such as high social status, power, and respectability of the actor. Because status is not included in the definition of offense-based approaches and status is free to vary independently from the definition in most legislation, an offense-based approach allows measures of status to become external explanatory variables.

Benson and Simpson (2015) approach white-collar crime utilizing the opportunity perspective. They stress the idea that individuals with more opportunities to offend, with access to resources to offend, and that hold organizational positions of power are more likely to commit white-collar crime. Opportunities for crime are shaped and distributed according to the nature of economic and productive activities of various business and government sectors within society.

Benson and Simpson (2015) do not limit their opportunity perspective to activities in organizations. However, they emphasize that opportunities are normally greater in an organizational context. Convenience theory,

however, assumes that crime committed in an organizational context be called white-collar crime. This is in line with Sutherland's (1939, 1949) original work, where he emphasized profession and position as key characteristics of offenders.

White-collar crime research is a growing field with a number of scholars. Green (2007) discussed lying, cheating, and stealing, while Naylor (2003) developed a general theory of profit-driven crime. Some of the accumulated research will be presented in the theory of convenience. Crime-as-choice theory, as suggested by Shover et al. (2012) for white-collar crime, has links to convenience theory.

### OFFENDER CHARACTERISTICS

The white-collar offender is a person of respectability and high social status who commits financial crime in the course of his or her occupation (Leasure and Zhang 2017). In the offender-based perspective, white-collar criminals tend to possess many characteristics that are consistent with expectations of high status in society. White-collar offenders display both attained status and ascribed status. Attained status refers to status that is accrued over time and with some degree of effort, such as education and income. Ascribed status refers to status that does not require any specific action or merit, but rather is based on more physically observable characteristics, such as race, age, and gender.

The main offender characteristics remain privilege and upper class. Early perception studies suggest that the public think that white-collar crime is not as serious as other forms of crime. Most people think that street criminals should receive harsher punishments. One explanation for this view is self-interest (Dearden 2017: 311):

Closely tied to rational choice, self-interest suggests that people have views that selfishly affect themselves. Significant scholarly research has been devoted to self-interest-based views. In laboratory conditions, people often favor redistribution taxes when they would benefit from such a tax. This self-interest extends into non-experimental settings as well. For example, smokers often view increasing smoking taxes less favorably than non-smokers do.

In this line of thinking, people may be more concerned about burglary and physical violence that may hurt them. They may be less concerned about white-collar crime that does not affect them directly. Maybe those

who are financially concerned about their own economic well-being will be more concerned about white-collar crime (Dearden 2017).

White-collar perpetrators have social power associated with different occupational activities across the society. Power and authority in the hands of individuals enable white-collar crime, with power essentially deriving from the positions individuals legitimately occupy.

## GENDER PERSPECTIVES

Research has suggested a relationship between gender and tax compliance, with men being more likely to commit tax offenses than women. Research on tax evasion has both an offender-based perspective and an offense-based perspective. Wealthy individuals have more opportunities to avoid tax compliance and to benefit more from it. In addition, circumventing tax compliance can be organized in a professional setting, where the business enterprise manipulates accounting for the purpose of tax evasion. Status affects the ability of individuals successfully to avoid detection or sanctions for non-compliance, and the opportunity to commit a variety of tax offenses is status based. Tax compliance can be the result of interaction between authority and expectations, where both authority and expectations are based on individual status.

The offense-based approach to defining white-collar crime is also fitting when examining tax offenses. The actions of being non-compliant dictate that the offense itself is considered a crime.

A special kind of tax offense is bank deposits in tax havens. As documented by Andersen et al. (2017: 2), banks help politicians and others transform petroleum rents and other assets into hidden wealth using bank deposits in tax havens:

Political elites abuse public office to extract rents. Even moderate levels of political rents may have socially undesirable effects, through the adverse selection of political candidates and by distorting political incentives. In countries without strong democratic governance, political rents can be substantial and the economic and political consequences severe.

When white-collar offenders are brought to justice, Supernor (2017: 148) found that “a lot more women were given community service than men” because “women are considered homemakers for families, and the court systems do not want to punish a woman in a way that would take her away from her family”.

## OCCUPATIONAL AND BUSINESS CRIME

A distinction in white-collar offenses can be made between occupational crime and business crime. Occupational crime is committed by persons in an organizational setting for purely personal gain and to the detriment of the organization. Business crime is committed by or on behalf of the organization for profit or enhancement (Kang and Thosuwanchot 2017). Of course, in business crime organizations cannot commit illegal acts independently of human agents.

Occupational crime is typically committed under conditions of low levels of socialization and weak accountability. Employees may be unfamiliar with organizational goals or simply ignore organizational goals, while at the same time exerting efforts toward personal goals due to weak restraints by the accountability system. The presence of occupational crime may be symptomatic of larger failures in an organization's system since an organization without committed and accountable employees suggests a higher likelihood of failing in the end. Occupational crime tends to be committed by privileged individuals who feel no attachment to the organization, and who do so purely for personal gain (Kang and Thosuwanchot 2017).

Business crime, on the other hand, is typically committed under conditions of high levels of socialization and strong accountability. Employees not only identify with the organization but also its goals. The pursuit of organizational goals over individual goals does not imply the absence of crime. Rather, achievement of organizational goals becomes so important that if it cannot be done in legal ways, dedicated employees do it in illegal ways (Kang and Thosuwanchot 2017).

Both occupational and business crime is committed within the organizational context. Corporate crime is committed for business advantage and examples include cartels and corruption. Illegal price fixing and market sharing occur in cartels to enable participants in cartels to achieve more profits. Bribes are offered to potential customers, allies, and public officials to enable contracts and licenses (Leasure and Zhang 2017).

## CONVICTED WHITE-COLLAR CRIMINALS

It is often argued that convicted white-collar criminals have a hard time in prison. They have to leave all their privileges and opportunities behind to join a community dominated by street crime inmates. This argument is formulated using the special sensitivity hypothesis, which suggests a relatively tougher everyday life for white-collar crime inmates compared to



street crime inmates. However, empirical studies of white-collar inmates do not support the special sensitivity hypothesis. Rather, empirical studies support the special resilience hypothesis, which suggests that white-collar offenders are able to adapt to prison life more successfully than other inmates. In this section, we argue that the theory of convenience can provide support for the special resilience hypothesis.

If a white-collar criminal should end up in jail, defense attorneys work hard to make prison life as easy as possible for the client. Attorneys argue that it is much worse for a member of the elite to end up in prison than for other people. After a short while, the white-collar offender typically gets most of his freedom back in an imprisonment setting to avoid too much damage. However, research indicates that it is easier for a white-collar criminal than for a street criminal to spend time in prison. White-collar offenders tend to find new friends more conveniently, and they are able to sleep all night, while most other inmates may have trouble sleeping and making friends in prison (Dhami 2007; Stadler et al. 2013).

Evidence of neutralization by denial of responsibility can be found in autobiographies by white-collar criminals such as Bogen (2008), Eriksen (2010), Fosse and Magnusson (2004), and Kerik (2005). Bernard B. Kerik was the former New York police commissioner who served three years in prison. He seems to deny responsibility, to condemn his condemners, and to suggest normality of action. Evidence of neutralization can also be found in autobiographies by those who were accused of misconduct, but never prosecuted or convicted. An example is ex-Lehmann Chief Financial Officer Erin Callan who presents herself as a victim rather than an offender (Montella 2016).

In this chapter, we argue that there is lack of evidence for the special sensitivity hypothesis for white-collar inmates. The autobiography by Kerik (2005) is used in our case study of lack of evidence. Rather, there is support for the special resilience hypothesis that we discuss in terms of convenience theory in the next chapter.

### SPECIAL SENSITIVITY HYPOTHESIS

The idea that white-collar criminals are especially sensitive to imprisonment is based on the premise that they are of higher status than street criminals. They belong to the elite in society, and their fall from grace is much greater, since the higher people fly, the further they fall. White-collar offenders have a greater investment in the prevailing social order and have

more to lose. Some argue that a belief is commonly held by those in the criminal justice system that white-collar offenders are ill equipped to adjust to the rigors of prison life. According to the special sensitivity hypothesis, the claim is made that white-collar offenders experience the pains of imprisonment to a greater degree than traditional street offenders.

Upon incarceration, they lose their direct influence and authority over people in business and private life, they lose their direct access to resources that enable them to do almost whatever they like, and they lose their self-identity characterized by position, trust, and profession. They enter a world that is foreign to them. They leave a hierarchy in society where they held positions at the top, and join a hierarchy in prison where they are far away from the top. Those with physical prowess and criminal connections, such as members of global biker gangs, rule prison life. White-collar offenders discover that they find few of their equals, similar to those they have socialized with for most of their lives. The majority in most prisons is populated by poor and minority group members. In North European prisons, for example, the majority consists of refugees and immigrants who ended up on the wrong side of the law.

The special sensitivity of white-collar offenders has been cited as a reason for the supposed leniency with which they have been punished traditionally. The argument is based on a study by Mann et al. (1979), who found that American judges handed down lighter sentences to white-collar criminals because of an *a priori* assumption that they would not cope well in the prison environment. Judges apparently assumed that white-collar offenders were not socialized into the ways of the majority of the prison population, simply because they come from the upper echelon of society. Therefore, it was assumed that the experience from arrest to imprisonment would be especially traumatic for white-collar criminals compared to street criminals.

The special sensitivity hypothesis assumes that the transition from a life of freedom and privilege to one of strict regulation and material deprivation may be particularly shocking to newly incarcerated white-collar inmates. The hypothesis implies that white-collar offenders have more to lose than other offenders by going to prison. The hypothesis considers as an extra burden the stigmatization experienced as a result of prestigious job loss, media coverage of the court case, asset recovery by the government, family breakup, reputation damage within the community, withdrawal of professional licenses, and dismissal from the elite. The hypothesis suggests that these circumstances far exceed what street criminals have to go through after detection and conviction (Logan 2015).

The idea that white-collar offenders are especially sensitive to the pains of imprisonment was developed with high-status offenders in mind. The idea stems from the fact that they differ substantially from other offenders with respect to their social and other background characteristics, as well as their experience of the criminal justice system (Logan 2015: 11):

In light of these differences, members of the criminal justice community – namely judges – have argued that indoctrination to prison life is particularly shocking for newly incarcerated white-collar offenders. Similarly, these individuals maintain that typical street offenders, who often come from more disadvantaged backgrounds, are far less susceptible to the pains of imprisonment.

Stadler et al. (2013: 5) formulate the idea in a similar way, where the special sensitivity hypothesis is based on the undeniable fact that white-collar offenders are different from street offenders regarding their backgrounds:

Because they would be transitioning from a life of freedom and privilege to a life with little or no liberty and possessions, incarceration is assumed to be especially shocking for white-collar offenders. In contrast, street offenders typically live more deprived lives and would therefore experience less of a culture shock upon incarceration.

Mann et al. (1979: 487) interviewed judges to explore their reasons and motivations for the special sensitivity hypothesis and got answers like the two following responses:

A white-collar criminal has more of a fear of going to jail than this syndrome we find in the street crime. And I am not saying that if you cut everyone they don't bleed red blood. A person who commits a robbery or an assault, they don't want to go to jail either. But the white-collar criminal has more to lose by going to jail; reputation in community, business as well as social community, decent living conditions, just the whole business of being put in a prison with a number on his back demeans this tremendous ego that is always involved in people who are high achievers.

It can be a major disruption for the family, for the individual. It may undermine his whole career. I can probably better understand the white-collar defendant. He is more like me and ... I guess I do believe that white-collar defendants are more sensitive to and more affected by the prison experience.

Defense attorneys are active supporters of the special sensitivity hypothesis. Their support comes as no surprise, since the magnitude of billable hours involved in white-collar defense far exceeds what is feasible in street crime defense. Often, attorneys are hired to contribute symbolic defense and information control, in addition to substance defense. They continue to work for their clients after conviction. Stadler et al. (2013: 18) found that:

Almost without exception, defense attorneys argue that merely convicting a white-collar offender results in enough suffering. Prison, it is argued, would be an especially difficult hardship for these individuals because of their social background.

The special sensitivity hypothesis may seem particularly relevant in prison settings that are poorly managed and marked by high levels of inmate violence and other forms of victimization. In such environments, white-collar inmates can prove attractive targets and be neglected owing to lack of guardianship (Stadler et al. 2013).

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