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# From elite lawbreaking to financial crime: The evolution of the concept of white-collar crime

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MPIfG Discussion Paper 16/10

# From Elite Lawbreaking to Financial Crime

## The Evolution of the Concept of White-Collar Crime

Arjan Reurink

MPIfG Discussion Paper

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**About the author**

Arjan Reurink is a doctoral fellow at the International Max Planck Research School on the Social and Political Constitution of the Economy (IMPRS-SPCE), Cologne.
Email: reurink@mpifg.de

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Max-Planck-Institut für Gesellschaftsforschung
Max Planck Institute for the Study of Societies
Paulstr. 3 | 50676 Cologne | Germany

Tel. +49 221 2767-0
Fax +49 221 2767-555

www.mpifg.de
info@mpifg.de

## Abstract

Despite the ubiquity of illegality in today's financial markets, systematic scrutiny of the phenomenon of financial crime is lacking in the fields of economic sociology and political economy. One field of research in which the illegal behaviors of business elites have long taken center stage is that of white-collar crime research. This paper makes available to economic sociologists and political economists an overview of the most important conceptual insights that have been produced in the white-collar crime literature. In doing so, its aim is to provide economic sociologists and political economists with a conceptual foundation for future research on financial crime. The paper first traces the evolution of the white-collar crime concept. Subsequently, it investigates how white-collar crime scholars have conceptualized the way in which the empirical profile of white-collar crimes has evolved over the past decades and especially how the locus of such crimes has shifted away from industrial corporations to the financial services industry. It is argued that a fruitful avenue for future research on financial crime in economic sociology and political economy consists in studying in more detail the interactions between the changing character of white-collar crime and the broader capitalist dynamics associated with processes of financialization.



## Zusammenfassung

Trotz der Allgegenwart illegaler Handlungen auf den heutigen Finanzmärkten fehlt es der Wirtschaftssoziologie und der Politischen Ökonomie an Ansätzen, das Phänomen Finanzkriminalität systematisch zu untersuchen. Ein Bereich, in dem illegale Verhaltensweisen von Wirtschaftseliten schon lange im Mittelpunkt stehen, ist die Forschung zur Wirtschaftskriminalität. Das Papier bietet einen Überblick über die maßgeblichen Erkenntnisse in der wirtschaftskriminologischen Literatur und will eine konzeptuelle Basis für die künftige Erforschung von Finanzkriminalität in der Wirtschaftssoziologie und Politischen Ökonomie zur Verfügung stellen. Nach einer Darlegung des Konzepts der White-Collar-Kriminalität wird analysiert, wie der empirisch beobachtbare Wandel der vergangenen Jahrzehnte in der wirtschaftskriminologischen Forschung konzeptualisiert worden ist. Dabei wird insbesondere darauf eingegangen, dass sich die Tatorte der White-Collar-Kriminalität inzwischen von Industriekonzernen auf Unternehmen aus der Finanzdienstleistungsbranche verlagert haben. Ein Erfolg versprechender Weg für die künftige Forschung zur Finanzkriminalität liegt daher in einer detaillierteren Betrachtung des Wechselspiels, das sich zwischen den sich ändernden Charakteristika der White-Collar-Kriminalität und den weitreichenderen kapitalistischen Dynamiken vollzieht, die mit den Prozessen der Finanzialisierung verbunden sind.

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# From Elite Lawbreaking to Financial Crime: The Evolution of the Concept of White-Collar Crime

## 1 Introduction

Illegality is ubiquitous in today's financial markets. After consecutive financial scandals in the 1980s, the 1990s, and the early 2000s, the aftermath of the global financial crisis of 2007–2008 has revealed yet another wave of financial crimes. Predatory lending to disadvantaged borrowers, widespread mis-selling of interest-rate swaps to small and medium enterprises, financial statement fraud related to structured investment products, and the manipulation of key financial benchmarks are only a few of a long list of possible examples. Observers have suggested that crime is more endemic in the financial sector than in any other sector of the economy (Freeman 2010). Some even argue that financial markets have turned into a de facto "criminal playground" (Michel 2008). The systemic character of financial crime becomes all the more disturbing if one considers how, in today's highly financialized form of capitalism, the experiences of firms, households, and governments, as well as the trajectory of macro-economic dynamics have all become increasingly mediated by relations with financial markets.

Despite the ubiquity of illegal behavior in financial markets and the questions this raises with regard to the social legitimacy of today's financial industry and the specific form of finance capitalism it operates in, systematic scrutiny of the law-violating behavior of today's financial elites is lacking in the fields of economic sociology and political economy. Although research in those fields on processes of "financialization" (e.g., Epstein 2005; Windolf 2005; Langley 2007; Engelen 2008; Erturk et al. 2008; Krippner 2011; Godechot 2015) and the "sociology of finance" (e.g., MacKenzie 2008; Knorr Cetina/Preda 2012) has recently begun to make great conceptual and theoretical advances in understanding the institutional foundations of financial market dynamics and the *modus operandi* of financial elites, such research has failed until now to seriously engage with financial market behaviors that fall outside the realm of legality.[1] This failure to systematically study the law-violating behavior of today's financial elites represents a significant blind spot in the conceptual and theoretical understandings of capitalist dynamics generated in those fields.

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1 Notable exceptions are Fligstein and Roehrkasse (2013) and Will, Handelman, and Brotherton (2013).

One field of research in which the illegal conduct of business elites has long been recognized is that of White-Collar Crime (WCC) research, a relatively small and greatlyneglected subfield of the academic discipline of criminology.[2] Situated at the intersection of law, society, and markets, WCC research has produced an invaluable body of knowledge about the individual, organizational, and societal aspects of illegal behavior in the business world.[3] WCC scholarship, however, originated and acquired most of its conceptual and theoretical tools in studies that focused on the manufacturing enterprises that have traditionally characterized industrial capitalism (Calavita/Pontell 1991). As a result, WCC scholarship falls short in fully appreciating the distinctive nature of lawbreaking by business elites in the context of today's highly financialized form of capitalism and especially those illegal conducts that are situated in the idiosyncrasies of contemporary financial markets. Here, I believe, lies an opportunity for future research in economic sociology and political economy.

The aim of this paper is to provide economic sociologists and political economists with a conceptual foundation for future research on financial crime by reviewing the literature on white-collar crime. First the paper traces the origins and evolution of the concept of white-collar crime and identifies several major points of contention in the debate surrounding it. Doing so brings to the fore a number of important conceptual tools produced in the WCC literature. Subsequently, in section three, the paper investigates how WCC scholars have interpreted and conceptualized the way in which the empirical profile of white-collar crimes has evolved over the last decades and how the locus of such crimes has shifted away from industrial corporations to the financial services industry. It will be revealed how WCC scholars worked to make sense of this shift by developing different conceptual frameworks, or narratives, all of which understood the changing empirical profile of white-collar crime in the context of wider structural changes in late modern capitalism. Finally, it will be suggested that a fruitful avenue for future research on financial crime for economic sociologists and political economists would be to study in more detail the interactions between the changing character of white-collar crime and broader capitalist dynamics associated with processes of *financialization.*

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2 It needs to be emphasized here that the concept of white-collar crime is an Anglo-American one. As Friedrich (2013a) has pointed out, "economic crime" is the favored term among Europeans who study or investigate what is usually referred to as white-collar crime in the English-speaking world. Conceptualizations of the term "economic crime," however, generally fail to capture one dimension that is at the heart of the white-collar crime concept: i.e., that these crimes are committed by members of the respectable and economically advantaged and privileged segments of society (Friedrichs 2013a: 19–20). As a result, most of the literature that is subsumed under the label "economic crime" focuses on what could be said to be illegal markets (see Beckert/Wehinger 2013) and the economic activities of organized crime groups operating in the shadows of the underground economy.

3 As a consequence of the American roots and the predominantly Anglo-American practice of the white-collar crime concept, WCC research is heavily skewed towards the lawbreaking of the business elite in capitalist societies, and specifically in the Anglo-American context

## 2 White-collar crime: The origins and evolution of a concept

The concept of "white-collar crime," which has by now migrated out of the realm of academia to become part of public discourse, has a long and contentious history (Friedrichs 2013b; Helmkamp/Ball/Townsend 1996). The concept has been the subject of a long-standing intellectual debate ever since it was coined by the sociologist Edwin Sutherland (1945–1983) in his 1939 presidential address to the American Sociological Association. In his landmark speech, Sutherland posed a major challenge to the traditional assumptions about criminals and the predominant etiological theories of crime when he introduced the term to refer to the phenomenon of lawbreaking by "respectable" persons in the upper reaches of society. Up to that time, criminologists had focused almost entirely on lower-class "street crime," and research was characterized by a broad consensus that poverty was the primary cause for crime. The neglect of elite forms of lawbreaking, Sutherland explained, was primarily due to the fact that the crimes committed by the upper class were not represented in the official criminal records that formed the primary source from which criminologists drew their data. According to Sutherland, this distortion in the official criminal records was primarily explained by two facts. First, that "persons of the upper socioeconomic class are more powerful politically and financially and escape arrest and conviction to a greater extent than persons who lack such power" (Sutherland 1983: 6). Second, when arrested, white-collar offenders are treated in a fundamentally different way by the justice system:

> [They] are not arrested by uniformed policemen, are not tried in criminal courts, and are not committed to prisons; this illegal behavior receives the attention of administrative commissions and of courts operating under civil or equity jurisdiction. For this reason such violations of law are not included in the criminal statistics nor are individual cases brought to the attention of scholars who write the theories of criminal behavior.[4] (ibid.: 6–7)

By introducing the concept of white-collar crime, Sutherland thus brought about a realization that upper-class people commit their own forms of crime. Criminologists' hitherto neglect of elite forms of lawbreaking, he claimed, represented a serious selection bias in the samples from which conventional explanations of criminal behavior were derived (Sutherland 1940). Hence, Sutherland concluded, criminological theories looking for causal explanations of criminal behavior in poverty or psychopathic and sociopathic conditions statistically associated with poverty were seriously flawed (ibid.: 5).[5]

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4 Here it needs to be emphasized that the distinction between civil offenses and criminal offenses is often not inherent to the acts themselves, but rather in the way in which the justice system responds to them. Most white-collar offenses violate both civil and criminal laws. Whether the offenses are prosecuted in civil or criminal court is often determined by extralegal factors (Coleman 2006).

5 As an alternative to existing theories of crime, Sutherland had developed his so-called *theory of differential association,* which posits that values, attitudes, techniques, and motives for criminal behavior are learned through interaction with others in a certain social group.

Although received as potentially representing a paradigmatic shift in the study of crime, Sutherland's argument initially did not find much resonance in the thinking, theory, and research of criminologists (Simpson/Weisburd 2009).[6] It was not until the 1970s that his ideas would be more fully applied to empirical research. Rosoff, Pontell, and Tillman (2014) explain that the 1970s brought an end to a period of conformity during which big business had been seen as the solution to, rather than a problem for, widely shared prosperity. Social unrest and several major corporate scandals – most notably the Watergate and Lockheed scandals in the United States – brought about a new spirit, one that was similar to the populist, anti-establishment spirit that had prevailed during the Great Depression. Once again the legitimacy of those holding power was questioned and a renewed interest developed in Sutherland's concern with lawbreaking among the rich and powerful (Geis 1992).

The 1970s was also a period in which law enforcement officials became concerned with white-collar crime, giving rise to the creation of white-collar crime units in federal and local prosecutorial agencies (Katz 1980). The decade also saw the first large-scale funding of white-collar crime research by the federal government (Simpson/Weisburd 2009). It was not until the 1990s, however, that both systemic data and grant money for white-collar crime research became more readily available and that, facilitated by this, empirical work on white-collar crime moved from being primarily qualitative case studies whose authors made little attempt to locate these cases in a broader socioeconomic context to studies that began to pursue the systemic sources of different forms of white-collar crime.[7]

The renewed interest in white-collar crime triggered an academic debate about the need for a reformulation of the concept. When he introduced the concept, Sutherland had emphasized that it was not intended to be definitive but merely to call attention to crimes that were usually neglected by criminologists (Sutherland 1983). Still, he suggested that white-collar crime could be "defined approximately as a crime committed by a person of respectability and high social status in the course of his occupation" (ibid.: 7). This somewhat ambiguous "definition" includes three interrelated premises that in subsequent decades came to define the areas of a fierce scholarly debate about the proper parameters for the white-collar crime concept. First, in his empirical work, Sutherland subsumed under his white-collar crime concept a whole range of behaviors that did not violate criminal law statutes but rather included breaches of regulatory and administrative law or that resulted in adverse civil decisions. In doing so, Sutherland's introduction of the white-collar crime concept posed a challenge not only to criminological theory, but to the very *concept of crime* (Minkes/Minkes 2008). Second,

6 One reason for the initial failure of Sutherland's critique to influence mainstream criminology, Simpson and Weisburd (2009: 4) suggest, is that for many scholars Sutherland's main argument was inextricably intertwined with his attempt to advance his theory of differential association. The failure of Sutherland's theory, then, appears to have contributed to the initial lack of interest in white-collar crime as a concept.

7 I thank Robert Tillman for bringing this point to my attention.

Sutherland's definition indicated that the respectability and high social status of its perpetrators should be regarded as a defining characteristic of white-collar crime. Here Sutherland used the term "white-collar" as a metaphor to distinguish the occupational status of those who were employed in office buildings – especially those in managerial and executive positions – from those who worked in factories or were employed in other "blue-collar" jobs (Rosoff/Pontell/Tillman 2014: 3). Third, white-collar crimes, as the definition suggests, are typically committed in the course of otherwise perfectly legal occupational activities. By locating white-collar crimes in a legitimate occupation, Sutherland's definition ruled out for selection those crimes committed by organized crime groups and professional criminals, such as con men and other sorts of swindlers. These areas of conceptual skirmishing and the theoretical insights they produced will be discussed in more detail below.

## Reconsidering the criminality of WCC: The Sutherland–Tappan debate

One controversy raised by Sutherland's introduction of the concept of white-collar crime emerged from his use of the word "crime." Notwithstanding his use of the criminal label, Sutherland subsumed under white-collar crime not only offenses that violated criminal law, but also offenses that were violations of regulatory, administrative, and civil laws. He justified his decision by providing a definition of crime that required two conditions to be fulfilled for an act to be criminal: "legal description of an act as socially injurious, and legal provision of a penalty for the act" (Sutherland 1945: 132). For many scholars, however, especially those in the legal profession, Sutherland's approach was highly problematic. They believed that it was inappropriate to use the "crime" label for many of the acts discussed by Sutherland (Shover/Wright 2001a).

The most prominent amongst those critics was the legally trained sociologist Paul Tappan (1911–1964). In an article published in 1947 in the American Sociological Review, entitled *Who is the Criminal?,* Tappan insisted on a strictly legal use of the word crime, because he found perturbing the confusion around the criminal label unleashed by Sutherland. First, Tappan maintained that "crime is an intentional act in violation of the criminal law (statutory and case law), committed without defense or excuse, and penalized by the state as a felony or misdemeanor" (Tappan 1947: 17). Second, he insisted that the term "crime" should only refer to behaviors that have been adjudicated as such by the courts. In studying the offender, Tappan emphasized, "there can be no presumption that arrested, arraigned, indicted, or prosecuted persons are criminals unless they also be held guilty beyond a reasonable doubt of a particular offense" (ibid.). Not to rely on the criminal justice system to decide what constitutes a criminal act and what not, he argued, would allow the subjective value judgments of the investigator to dominate social inquiry on the topic (ibid.: 14). Sutherland, however, fundamentally opposed Tappan's argument and pointed to a differential implementation of the law by the justice system with regard to white-collar criminals (Sutherland 1945: 137). As Pontell points

out, Sutherland emphasized that "if studies were grounded in the well-documented biases of the criminal justice system, that researchers would simply replicate them in their analyses, and lose all claims to science" (Pontell 2005: 759).

In the decades following the Sutherland–Tappan debate, students of white-collar crime have generally adopted one of three approaches. One group of scholars has heeded Tappan's concerns, and they have confined their studies of white-collar crimes to only those offenses that have been recorded in the criminal records. The most prominent example of such an approach has been the Yale White-Collar Crime Project, which will be discussed in more detail in the next section.

A second group of scholars, mostly trained in the social sciences, has followed Sutherland's lead and has largely rejected Tappan's concerns (e.g., Coleman 2006; Geis 1992; Gerber/Jensen 2007; Minkes/Minkes 2008). Central to the argument of these scholars is the claim that the issue of white-collar crime cannot be studied separately from the distribution of power in society. Minkes and Minkes (2008), for example, maintain that Tappan's opposition to the inclusion of noncriminal offenses under the white-collar crime label is meaningful only if one is dealing with the operation of the law as it stands; "it ignores the role of power in forming the law and determining, for example, which forms of wrongdoing will be the subject of criminal prosecution and which will be subject instead to administrative and civil sanctions" (ibid.: 11). In a similar vein, Gerber and Jensen suggest that an indication of who has power at a certain moment in time is reflected in the decision about which acts to encode in criminal law as opposed to civil and administrative law and in the extent to which some laws are enforced more rigorously than others (Gerber/Jensen 2007: xiii). In this regard, Friedrichs (2013b) has pointed out that, historically, corporate and financial elites have been largely successful in shielding many of their blatantly exploitative practices from being criminalized. Reflecting upon Tappan's emphasis on the need for adjudication by a criminal court, Gilbert Geis echoes the stance of those who rejected Tappan's concerns, as he argues that

> Sutherland got much the better of the debate by arguing that it was what the person had actually done in terms of the mandate of the criminal law, not on how the criminal justice system responded to what they had done, that was essential to whether they should be regarded as criminal offenders. (Geis 1992: 36)

A third group of scholars has attempted to recognize the legal issues raised by Tappan without compromising on Sutherland's endeavor to put the socially harmful acts committed by the upper strata of society on the radar of criminologists. These scholars have proposed alternative concepts based on the notion of "harm." Typically these concepts are sufficiently broad and flexible to allow for the violations of norms and statutes other than criminal law. Most prominent amongst those is the concept of *elite deviance,*

proposed by David Simon and Stanley Eitzen (1990).[8] An often ventilated concern with such approaches, however, is that there is an absence of clearly formulated public standards for behavior, which leads scholars using deviance approaches to rely on their own values and prejudices to define what sorts of practices are actually deviant (Coleman 1987; Green 1997). Especially from the perspective of law and legal theory, Green points out, such approaches are highly problematic: "To replace the concept of white-collar crime with the concept of deviant behavior is … to blur a distinction that, at least in legal discourse, is foundational" (Green 2007: 12).

Today the debate surrounding the criminality of white-collar crime is far from exhausted (Ruggiero 2007) and continues to show the divergence between legal, social, and political definitions of criminality (Nelken 2007). Some have suggested that competing definitions of crime be conceptualized along a continuum that extends from a narrow legalistically constrained conception to a very broad one based on human rights (Brown/Chiang 1993). This continuum, Ruggiero stresses, deserves careful examination "in that subjectivity, social and intellectual identity and political strategy are engrained in the very process which extends the criminal label from clearly defined illegitimate acts to harmful acts" (Ruggiero 2007: 167). With some risk of oversimplification, however, this continuum can be divided into three sections: on one end are those acts that violate existing criminal law, in the middle are those acts that violate existing civil and regulatory law, and on the other end are those acts that are socially harmful but for which no legal remedy yet exists (Brown/Chiang 1993: 30).[9]

## Reconsidering the social status aspect of WCC: Offender- versus offense-based approaches

A second, and related, controversy arising from Sutherland's introduction of the concept centers on his adoption of an offender-based conceptualization of white-collar crime. For Sutherland, and those following his lead in this regard (e.g., Braithwaite 1985; Geis 1992; Coleman 2006; Pontell/Geis 2014; Schlegel 1996; Shover/Wright 2001b), the respectability and high social status of offenders needs to be a defining characteristic of white-collar crime precisely because, as Sutherland emphasized, it directs attention to

8 Other examples of concepts that have been proposed are "occupational deviance" (Quinney 1964), "white-collar illegality" (Shapiro 1980), "white-collar lawbreaking" (Reiss/Biderman 1980), and "corporate deviance" (Ermann/Lundman 1982).

9 Some have suggested other categories that could be added to this. Coleman (2006: 6), for example, points to the fact that many internationally operating organizations operate in the cracks between different national jurisdictions. It is therefore necessary, he argues, to include internationally agreed upon principles, such as those codified in United Nations documents like the Universal Declaration of Human Rights, the Guidelines for Consumer Protection, and the Draft Codes of Conduct for Transnational Corporations, into our definition of illegal behavior.

> a vast area of criminal behavior which is generally overlooked as criminal behavior, which is seldom brought within the score of the theories of criminal behavior, and which, when included, calls for modification in the usual theories of criminal behavior.
> (Sutherland 1949: 112)

Many, however, have argued that, contrary to Sutherland's beliefs, white-collar crime should be defined in a status-neutral manner and have instead proposed conceptualizations of white-collar crime that focus on the nature, characteristics, and methods of the offenses, rather than the offenders (e.g., Edelhertz 1970; Shapiro 1990; Weisburd et al. 1991; Albanese 1996). Shapiro, for example, argues that the concept of white-collar crime has become

> an imprisoning framework for contemporary scholarship [that] is founded on a spurious correlation that causes sociologists to misunderstand the structural impetus for these offenses … they confuse acts with actors, norms with normbreakers, the modus operandi with the operator. (Shapiro 1990: 346–347)

Proponents of offense-based conceptualizations generally give two arguments in favor of reconceptualizing Sutherland's offender-based definition of white-collar crime. The first argument concerns the vagueness of the notion of "high social status and respectability." Critics of an offender-based definition have suggested that Sutherland primarily included the notion of respectability into his preliminary definition of white-collar crime because it defined the very ability to commit such crimes (Weisburd/Waring 2001). However, they argue, in contemporary society the relationship between social status and the ability to commit white-collar crimes has significantly changed in two ways, making it problematic to include high social status and respectability into a definition of white-collar crime. First, as Leap (2007) points out, the sharp distinction between the managerial white-collar and the blue-collar segments of the labor force that existed when Sutherland developed the concept had largely disappeared in most advanced industrialized countries by the end of the twentieth century. No longer are white-collar jobs synonymous with high social status, power, prestige, and respectability (Schlegel 1996; Coleman 1996). This "democratization" of white-collar jobs and the opportunities that come with them led some scholars to conclude that many of the crimes that Sutherland was hinting at could now just as well be committed by middle-class people (Weisburd et al. 1991). Second, the advent of the computer and modern bureaucracies has put transactions involving large amounts of money in the hands of people who never had access to such sums before (Weisburd/Waring 2001: 11). In contemporary society, it is therefore "arbitrary to distinguish identical behaviors, involving similar people with similar motives, calling one white-collar crime, and the other something else" (Albanese 1996: 89).

A second argument in favor of an offense-based approach holds that it is problematic to include social status in the definition of white-collar crime because doing so rules out the possibility of using social status as an explanatory variable (Benson/Simpson 2009: 7; Green 1997: 14; Shapiro 1990: 347). Social status, it is argued, is important precisely

because it influences access to opportunities for white-collar crime as well as societal reactions to such offenses. By including social status into the definition of white-collar crime, the important question of *how* social status is related to white-collar crime is ruled out (Benson/Simpson 2009).

The first to come up with an offense-based definition of white-collar crime was Herbert Edelhertz, an official at the US Department of Justice. After recognizing Sutherland's contribution, Edelhertz went on to argue that white-collar crime is "democratic" and need not be committed by persons of high social status. The character of white-collar crime, he argued, "must be found in its modus operandi and its objectives rather than in the nature of the offenders" (Edelhertz 1970: 4). Edelhertz proposed to redefine white-collar crime as

> 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. (ibid.: 3)

Not only did Edelhertz' offense-based approach become influential with the federal bureaucracy (Coleman 2006: 3), the idea of the need to reconceptualize Sutherland's offender-based conception of white-collar crime was also picked up by other scholars, giving way to two distinct offense-based approaches to white-collar crime: a *legalistic* approach and a *sociological* one.

The *legalistic* version of the offense-based approach uses the legal code as a starting point for defining white-collar crimes. The renewed interest in white-collar crime from the 1970s onwards prompted a number of influential studies on the topic. Perhaps the most influential of those has been the *Yale White-Collar Crime Project.*[10] Funded by the National Institute of Justice in the United States and headed by Stant Wheeler, a professor of law and sociology at Yale University, the Yale project has been praised for being the first endeavor to systemically research white-collar crime and, in doing so, to come up with more than just anecdotal evidence (Johnson/Leo 1993). The Yale researchers began their study by selecting eight specific statutory criminal offenses that were considered to be white-collar crimes.[11] Having designated these offenses, the researchers then turned to studying the criminals that had been convicted for these offenses. They

10 The Yale White-Collar Crime Project was first funded in 1976 and ran for well over a decade. It produced numerous research articles, doctoral dissertations, and monographs, the most prominent of which are *Wayward Capitalists: Targets of the Securities and Exchange Commission* by Susan Shapiro (1984), *Defending White-Collar Crime: A Portrait of Attorneys at Work* by Kenneth Mann (1985), *Sitting in Judgment: The Sentencing of White-Collar Criminals* by Wheeler, Mann, and Sarat (1988), and *Crimes of the Middle Classes: White-Collar Offenders in the Federal Courts* by Weisburd, Wheeler, Waring, and Bode (1991). For an extensive review of the Yale White-Collar Crime Project, see Johnson and Leo (1993).

11 The eight selected offenses were securities violations, antitrust violations, bribery, bank embezzlement, mail and wire fraud, tax fraud, false claims and statements, and credit- and lending-institutions fraud.

found that, contrary to Sutherland's suggested definition, the offenders in their sample were predominantly middle-class people who enjoyed neither high social status nor extraordinary respectability. One of the conclusions the researchers drew from their findings was that it is not social status that enables offenders to commit white-collar crimes, but rather their specific positions in organizational structures. Organizational opportunities and resources, they argued, are used by perpetrators as a "weapon" to commit white-collar offenses, with the most harmful offenses being those which are most "organizationally complex." As these "organizational weapons" become ever more sophisticated and ubiquitous, they added, we can expect individuals to use those newly available resources in ever-increasing numbers, leading to illegal gains of formerly unseen magnitude (Wheeler/Rothman 1982; Weisburd et al. 1991).

The insights generated by the Yale project motivated two other scholars to re-label white-collar crime as *crimes of specialized access,* which they defined as "a criminal act committed by abusing one's job or profession to gain specific access to a crime target" (Felson/Boba 2010: 119). The central idea put forward by these scholars is that legitimate features of the work role provide potential offenders with opportunities to do misdeeds (ibid.: 119). According to William K. Black, of special concern in this regard are the opportunities to commit crimes available to those at the top of organizational structures. Such *control frauds* – crimes in which "those who control firms or nations use the entity as a means to defraud customers, creditors, shareholders, donors, or the general public" (Black 2005b: 734) – he argues, cause greater financial losses than all other forms of property crimes combined (Black 2005a, 2005b).

The *sociological* version of the offense-based approach suggested by Susan Shapiro (1990) and David Friedrichs (2010) makes a new element the central factor in the definition white-collar crime: the violation of the norms of trust in fiduciary relationships. Indeed, Sutherland himself already suggested that "the varied types of white-collar crimes in business and the professions consist principally of violations of delegated or implied trust" (Sutherland 1940: 3). In her 1990 article *Collaring the Crime, not the Criminal: Reconsidering the Concept of White-Collar Crime,* Shapiro further builds upon Sutherland's insight and contends that the violation and manipulation of the norms of trust – of disclosure, disinterestedness, and role competence – are the central elements that define white-collar crime (Shapiro 1990: 350). Endorsing Shapiro's claim that the violation of trust is *the* central attribute of white-collar crime, Friedrichs has suggested that it might be better to conceive of white-collar crime as

> a generic term for the whole range of illegal, prohibited, and demonstrably harmful activities involving a violation of a private or public trust, committed by institutions and individuals occupying a legitimate, respectable status, and directed toward financial advantage or the maintenance and extension of power and privilege. (Friedrichs 2010: 8)

According to such an approach, white-collar crime research should then focus on the way in which white-collar crime offenders exploit the structural vulnerabilities of trust relationships through deception, self-interest, or outright incompetence (Shapiro 1990: 350). Especially in the modern world, a rising need to rely on agents and the consequent increased exposure to the risk of their malpractices have rendered these trust relationships much more problematic (Friedrichs 2010: 9; Nelken 2007: 743).

Those clinging to Sutherland's offender-based conceptualization of white-collar crime have refuted the arguments put forward by advocates of offense-based approaches. They have responded to the critique that socioeconomic status can no longer be an explanatory variable if white-collar crime is defined by the social status of its offenders by emphasizing that there is no need to conceptualize social status as a dichotomous variable (Schlegel 1996: 109; Coleman 2006: 3). Even if respectability and high social status are part of the definition of white-collar crime, there is still a wide range of variation amongst offenders. They also think the argument fails to stand up to scrutiny that the vagueness of the notion of "high social status and respectability" justifies a reconceptualization of the concept of white-collar crime. Although they do recognize the vagueness of the notion and subscribe to the idea that there is a need for a more sophisticated operationalization, they maintain that it does not pose a real threat to the conceptual integrity of the offender-based approach (Coleman 1996: 81). In fact, they argue, offense-based approaches threaten the whole intellectual thrust of the concept of white-collar crime, which for them is to call attention to the crimes of the rich and powerful and the way in which these perpetrators escape punishment (Coleman 2006: 4). They are especially skeptical towards legalistic versions of offense-based approaches. The law, they argue, "is the product of power, lobbying, whim, and a host of idiosyncratic inputs that often lack logical coherence" (Pontell 2016: 49). Hence "the unqualified acceptance of legal definitions as the basic elements of criminological enquiry violates a fundamental criterion of science" (Sellin 1938: 31). In practice, removing the notion of status from the definition of white-collar crime effectively skews examination of offenses downward, causing researchers to miss the crimes of the powerful, who simply sidestep the criminalization process (Benson/Simpson 2009: 12; Pontell 2016: 45; Shover/Wright 2001: 2; Shover/Cullen 2008: 159).

In this regard, advocates of an offender-based conceptualization of white-collar crime have pointed to three ways in which the respectability, high social status, and ultimately the power of white-collar offenders enables them to prevent their offenses from appearing in official government databases and hence from studies such as the Yale project. First, elites have been extremely successful in shifting the responsibility for dealing with white-collar crimes away from the criminal justice system to specially created regulatory agencies – which are more inclined to negotiate cooperative settlements than to pursue tough criminal sanctions – and to subsequently prevent those agencies from obtaining sufficient resources to enable them to carry out their legislative mandates effectively (Coleman 2006: 236). Second, the vast economic resources and political influence of elite offenders and the organizations they work for can be employed to escape detection

and arrest (ibid.: 236). Third, even when arrested, elite offenders often enjoy the advantage of a respectable appearance as well as the best legal representation (ibid.). All in all, the power of elite offenders enables them to decriminalize their deviant practices, hide their illegalities, and obstruct successful prosecution, all of which prevent their offenses from appearing in official government databases (Pontell 2016: 45). Because of these real-world interactions of law, power, and wealth, advocates of an offender-based approach to white-collar and financial crime maintain that to conceptually separate status from the offense results in an "a priori operational trivialization of white-collar crime" (ibid.).

According to defenders of Sutherland's initial offender-based approach, the real reasons why some people advocate offense-based definitions are rather sinister: such definitions allow government officials to provide a more convincing public account of their effort to stop white-collar crime, and researchers benefit from the fact that it becomes much easier to obtain data (Coleman 2006: 4; Shover/Wright 2001: 2). Therefore, they conclude, the most sensible way to proceed is to stick to Sutherland's offender-based definition (Braithwaite 1985; Geis 1992).

Some scholars have argued that offender- and offense-based approaches are actually neither contradictory nor mutually exclusive and instead have suggested a reconciliation of the two approaches. For example, while conceding to the critique that, in practice, offense-based approaches have often resulted in studies that do not include the crimes of the powerful, Benson and Simpson (2009) argue that this is more of a practical consequence that reflects a failure on the part of the researcher, rather than a logical consequence of offense-based approaches (ibid.: 13–14). The key point to keep in mind, they say, is that white-collar crimes are committed using particular techniques. White-collar criminals rely upon certain *modus operandi.* The characteristics central to offender-based definitions, such as high social status, respectability, and elite occupational positions, are indeed important because, first, they provide offenders with access to opportunities for white-collar crime, and second, because they are related to the seriousness of the offense (Benson/Simpson 2009: 13–15; Johnson/Leo 1993: 89). For Benson and Simpson, however, this does not justify making these characteristics defining criteria of white-collar crime and thereby exclude crimes that are similar in nature but are committed by people of low social status. Taking a similar position in the debate, Shover and Hochstetler (2006) distinguish between "ordinary white-collar crimes" and "upperworld white-collar crimes."

## Reconsidering the occupational aspect of WCC: The organization of white-collar crimes

Parallel to the debate on offender- versus offense-based approaches to white-collar crime discussed in the previous section, two other areas of conceptual reconsideration of Sutherland's "approximate" definition came up in the 1970s. Both emerged from Sutherland's requirement that white-collar crimes are committed in the course of one's occupation. The first concerned the desire by some scholars, especially those advocating offense-based approaches, to shift conceptual and theoretical emphasis from the social class and individual characteristics of the offender towards the organizational context in which a large portion of white-collar crimes take place. This shift was motivated by the observation that many white-collar crimes were committed in furtherance of otherwise legitimate business operations, rather than for personal benefit. In their influential book *Criminal Behavior Systems: A Typology,* which was first published in 1967, Clinard, Quinney, and Wildeman captured this idea by proposing a distinction between *occupational crime* and *corporate crime.* They defined occupational crime as "offenses committed by individuals for themselves in the course of their occupations" (1994: 173). Corporate crime, on the other hand, was defined as "offenses committed by corporate officials on behalf of their corporations and the offenses of the corporations themselves" (ibid.).

Conceptualizations of white-collar crime that distinguish sharply between occupational and corporate crimes on the basis of who benefits from the illegal act – the individual or the organization – have been adopted by many others following Clinard, Quinney, and Wildeman, (e.g., Friedrichs 2013; Braithwaite 1985). The principle rationale for distinguishing between organizational crime and occupational crime is based on the belief that most white-collar crimes that are committed within an organizational environment cannot be explained by the personal characteristics of their perpetrators. Instead, it is believed that organizational goals, conditions, structures, dynamics and constraints play a significant role in explaining the onset and course of those crimes (Pearce 2001; Shover/Scroggins 2009; Shover/Wright 2001b). To put it differently, many white-collar crimes committed by individuals are committed on behalf of the organizations that these individuals work for.[12] With their by now widely accepted dichotomy, Clinard, Quinney, and Wildeman thus shifted the focus of criminological work from the individual and a person's criminal predispositions towards

12 Note that the idea that some crimes are committed on behalf and to the benefit of the organizations is different from the idea mentioned earlier, put forward by Wheeler and Rothman (1982), that the organization can be used as a "weapon to defraud." In the former case, organizational dynamics are causal to white-collar crimes. In the latter they are merely instrumental to the commission such crimes.

the corporation and its organizational dynamics, and paved the way for the development of a sociology of organizational crime (Kramer/Michalowski/Kauzlarich 2002).[13]

Today, many scholars have replaced the term *corporate crime* with the term *organizational crime,* allowing for the inclusion of crimes committed on behalf of noncorporate organizations such as governmental agencies, international institutions of governance, and nongovernmental organizations. Some (e.g., Clarke 1990; Pearce 2001; Punch 1996), however, opt to cling to a narrow focus on *corporate crime.* They believe that there is something inherently "dirty" in business (Punch 1996) and that treating corporate crime as a subtype of organizational white-collar crime will not do justice to the specifically criminogenic characteristics of the corporate form. As Shover and Scroggins (2009: 277) point out, the idea that corporations have a strong antisocial character had already been expressed at the dawn of the twentieth century by Edward Ross, who characterized them as entities that "transmit the greed of investors, but not their conscience" (1907: 109). Subsequent research on corporate crime has reaffirmed the central role played by the emphasis on profit maximization in explanations for illegal acts committed by corporate executives (Geis 1973; Cullen/Maakestad/Cavender 1987). Other rationales for isolating corporate crime, Shover and Scroggins (2009: 277) point out, are the pervasiveness and power of large corporations, the high costs of corporate crime to the larger community, and the difficult control challenges it presents.

Other scholars have focused their attention on forms of white-collar crime that arise from functional interdependencies between corporations and the state. In this regard, Michalowski and Kramer (2006) have introduced the concept of *state-corporate crime* to refer to those forms of organizational crime that occur when one or more institutions of political governance pursue a goal in direct cooperation with one or more institutions of economic production and distribution (Kramer/Michalowski/Kauzlarich 2002). The concept of state-corporate crime, they explain, is based on the idea that, contrary to popular belief, economic power is inextricably intertwined with political influence:

> The institutional arrangements and cognitive frameworks of liberal democracies create an image that economics and politics are, or should be, kept apart by a bright line that separates money from power. This is of course a social fiction. It is, however, an important one because

13 Closely related, albeit distinct from the scholarly concept of corporate crime is the legal concept of *corporate criminal liability.* Unique to the legal system of the United States (Diskant 2008), the legal provision of corporate criminal liability holds that a corporation, as a legal "person," can be prosecuted and punished for violations of criminal law deemed to have been committed by the denominated group, rather than by the individuals within it (Geis 1993). What these concepts have in common, then, is that they focus on the corporation, rather than the individual, as the criminal perpetrator. Geis (ibid.: 23) suggests that corporate crime became a legitimate topic for criminological study largely because of the introduction of the Anglo-American provision of corporate criminal liability.

> the premise that rich and poor are political equals is the very heart of democracy's claim to legitimacy. (Michalowski/Kramer 2007: 201)[14]

The benefits of distinguishing between organizational – or corporate – and occupational crime for our understanding of white-collar crime has been widely acknowledged by those studying the topic (e.g., Coleman 1987: 407; Johnson/Leo 1993; Kramer/Michalowski/Kauzlarich 2002; Payne 2013: 28). Nevertheless, two pitfalls in doing so are mentioned in the literature. First, it has been argued that much scholarly work tries to distinguish between individual and organizational crime on the basis of who benefits – either the individual or the organization – but often fails to fully recognize that in many cases both the individual offender and the organization reap mutual advantage from criminal conduct (Johnson/Leo 1993: 72; Wheeler/Rothman 1982: 1405). Second, it has been pointed out that the corporate–occupational dichotomy fails to consider the possibility of organizational crime "in which the organization is a vehicle for perpetrating crime against itself" (Pontell 2005: 762–763). Such hybrid forms of "crime *by* the corporation *against* the corporation" (Calavita/Pontell 1991: 99) might occur when senior executives turn the principal goal of an organization into the generation of personal profits for top management, despite the negative effect on the health of the organization on the long term.

Such schemes typically occur in two stages. First, top management subverts the firm's legitimate structure and objectives and redirects them towards the firm's engagement in questionable business practices whose sole purpose is the generation of cash flows. In this stage, accounting fraud is frequently used as "the weapon of choice" to produce fictional profits on the books (Black 2005: 736). Subsequently, top management uses normal corporate mechanisms, such as dividends, bonuses, stock options, and appreciation in the value of the firm's stock, to convert fictional corporate profits into real personal profits. Effectively, then, in the second stage, senior executives are *looting* the firm (Akerlof/Romer 1993).

Calavita and Pontell (1991) stress the fact that, contrary to the traditional forms of embezzlement studied by Sutherland (1949) and Cressey (1953) in which individual employees in subordinate positions steal in isolated acts from their employing corporation for personal gain, such looting practices are very much collective in nature and involve complex networks of co-conspirators inside and outside the institution. Hence, they suggest that such practices be referred to as *collective embezzlement*. Furthermore, they suggest that collective embezzlement constitutes the prototypical form of white-collar crime in the contemporary context of finance capitalism (Calavita/Tillman/Pontell 1997). When we consider the major financial debacles of the last few decades, this claim seems to bear some truth. The savings and loan crisis of the 1980s, the corporate

14 For more on the concept of state-corporate crime, see Kramer, Michalowski, and Kauzlarich (2002), and Michalowski and Kramer (2006, 2007).

scandals of the early 2000's, and the wave of frauds in the mortgage industry that have contributed to the build-up to the financial crisis of 2007, all indeed show striking similarities to the practices described by Calavita, Pontell, and Tillman.

A second area of conceptual debate related to Sutherland's requirements that white-collar crimes are committed in the course of one's occupation concerns the in- or exclusion from analysis of those crimes committed by organized crime groups and organizationally unattached professional criminals. Those who cling to Sutherland's emphasis on the occupational location of white-collar crimes (e.g., Coleman 1987; Green 1997; Felson/Boba 2010), as well as those working in the occupational and organizational crime traditions, usually exclude such crimes from their studies (Shover/Scroggins 2009: 276). Although Sutherland himself never explicitly compared white-collar and organized crime (Potter/Gaines 1996: 37), he did indeed emphasize the premeditated and organized nature of white-collar crime. As Green points out, Sutherland

> believed that white-collar criminals were organized not only by their collusion in their crimes, but also for the control of legislation, selection of administrators, and restriction of appropriation for the enforcement of laws which may affect themselves. (Green 1997: 12)

Nevertheless, Sutherland considered white-collar crimes distinct enough to merit a qualifying label. Potter and Gaines have suggested that what primarily motivated Sutherland to distinguish white-collar crime from organized crime was the difference in the self-perception and the public perception of offenders:

> Thieves were thieves and proud of it. The public viewed a professional thief as a criminal. White collar criminals did not view themselves as criminal actors. … Similarly, the public viewed white-collar criminals primarily as legitimate actors who strayed or made mistakes. (Potter/Gaines 1996: 37)

Some scholars (e.g., Calavita/Pontell 1993; Passas/Nelken 1993; Ruggiero 1996), especially those who advocate an offense-based approach to white-collar crime, consider a conceptual distinction between white-collar and organized crime arbitrary and hard to sustain for three reasons. First, they recall Sutherland's observation that, like organized crimes, many white-collar crimes are premeditated and organized in nature. They are performed in coordinated structures which involve not only networks among the perpetrators themselves, but also networks between offenders and accomplices, such as law enforcement officials, politicians, and others in a position to minimize the risk of detection and prosecution (Calavita/Pontell 1993; Calavita/Pontell/Tillman 1997; Ruggiero 1996). Whether or not the organization appears to be a legitimate business, they argue, is irrelevant: "if a primary goal of the organization is to facilitate illegal transactions for personal profit, it qualifies as organized crime" (Calivata/Pontell 1993: 527).

Second, they point out similarities in the techniques used to perpetrate both forms of crime. The modus operandi of much corporate misconduct, Calavita and Pontell (1993: 520) argue, very closely approximates the organized crime model. Both are based on a capitalist

ethos of costs and benefits (Nelken 2007: 739; Calavita/Pontell 1993: 527), both often express a cartel-type brand of criminality that aims at establishing market monopolies (Taibbi 2012), and both frequently share the same illegal know-how (Ruggiero 1996: 21).

A third set of arguments is rather empirical in nature and concerns the assertion that the separation of organized crime from white-collar crime "does not reflect the way things are actually happening" (Passas/Nelken 1993: 224). Regardless of the grounds scholars use to distinguish them conceptually, empirically the distinction between *organizational crime* and *organized crime* is often not tenable (Shover/Scroggins 2009: 276). For one thing, the legitimacy of organizational goals might shift over time as legitimate businesses gradually convert into criminal ones (Baker/Faulkner 2003; Levi 2008).[15] For another, we are increasingly witnessing the development of symbiotic bonds between legitimate and organized crime organizations.[16] Criminal organizations are no less active in financial markets than are other white-collar criminals (Michel 2008: 388). Indeed, as Potter and Gaines point out, "finance, investment, capitalization, and credit all matter just as much for organized crime as for McDonalds" (Potter/Gaines 1996: 44–45). On the other side of the equation, banks have proven time and time again willing to turn a blind eye to Know-Your-Customer-requirements in order to do business with organized crime groups.

Moreover, it has been suggested that globalization may be leading to similar forms of structural integration of legitimate and illegitimate business activities (Nelken 2007: 739). This not only makes regular collaboration between business and organized criminals more possible and more necessary, it also gives rise to forms of *systemic synergy,* in which legal and illegal actors benefit each other as they go about their business independently promoting their interests and objectives (Passas 2002). These developments are especially observable in the field of global finance. Case in point is the phenomenon of secrecy jurisdictions. Organized crime groups willingly make use of secrecy jurisdiction to launder their criminal proceeds. Once the funds have been laundered and, through multiple intermediary transactions in those secrecy jurisdictions, cleared from all traces of illegality, Western banks and other financial institutions reap the benefits of receiving substantial overseas funds that are, in fact, the proceeds of crime (Palan 2009; Passas 2002).

In light of the above arguments, Ruggiero then argues that "white collar and corporate crime are variants of organized crime" (1996: 21). Although they, too, emphasize the similarities between corporate and organized crime, Calavita and Pontell are somewhat more restrained in treating crimes committed by corporate actors on par with

15 Those situations in which organizations start out obeying the law but consciously turn to fraud at a later stage have been referred to as "intermediate frauds" (Baker/Faulkner 2003; Levi 2008).

16 For a typology of the different forms that such symbiotic relationships might assume, see Passas (2002: 22–25). The different types identified in the typology are outsourcing, collaboration, co-optation, reciprocity, systemic synergy, funding, legal interactions, and legal actors committing organized crimes.

organized crime. What distinguishes corporate crime from organized crime, they argue, is that in corporate crime the primary goal is the pursuit of corporate interests, whereas in organized crime the purpose of the organization itself is illegal activity for personal gain (Calavita/Pontell 1993: 527). However, after studying in detail a large number of cases involving collective embezzlement in the savings and loan crisis of the 1980s, they argue that "it becomes apparent that certain forms of fraud by corporate offenders are for all intents and purposes "organized crime" (Calavita/Pontell 1993: 539). Emphasizing that both corporate white-collar crime and organized crime are perpetrated by continuing enterprises operating in a rational fashion geared towards profit achieved through illegal activities, others (Passas/Nelken 1993; Passas 2002) have suggested replacing both terms with the term *enterprise crime.*

Another form of white-collar crime that falls under the radar of those clinging to traditional categories of white-collar crime concerns what Friedrichs (2010) refers to as *contrepreneurial crimes.* Contrepreneurial crime, he suggests, specifies a spectrum of illegal activities that combine elements of legitimate enterprises with classic scams or cons (Friedrichs 2010). In financial markets, contrepreneurial crimes can, for example, be found in the form of investment scams and pyramid schemes.

Exactly where the line is drawn between contrepreneurial crime, corporate crime, and organized crime is highly consequential for both theoretical and practical reasons. Theoretically, the conceptual distinction between corporate and organized crime has given rise to two distinct branches of research. As a consequence, Ruggiero (1996) explains,

> experts of white-collar crime know little about conventional organized crime and vice-versa. This separation is by now strongly established and reproduced. It is by now perpetuated less on the grounds of the diverse nature and characteristics of the two types of crime than by the courtesy of the subdivisions within criminology as an academic discipline. (ibid.: 18)

This strict separation not only restrains our theoretical understanding of the causal dynamics of both forms of crime, it has also fueled real-world stereotypes about the relative villainy and moral culpability of organized criminals, on the one hand, and high-status corporate offenders, on the other (Calavita/Pontell 1993: 520; Ruggiero 1996: 18–19). Such stereotypes, in turn, are highly consequential for the effective control of white-collar crimes (Calavita/Pontell 1993: 521). Whether specific financial crime schemes are qualified as being the work of a criminal syndicate or whether they are seen merely as deviations from otherwise legitimate corporate operations has significant implications for the legal response to them. Defendants often argue that it is unfair to treat business people as organized criminals. In essence, Calavita and Pontell argue, this is similar to

> suggesting that if certain ethnic groups wear black shirts and white ties and engage in criminal conduct it is all right to call them "racketeers," but individuals who wear Brooks Brothers suits and white collars and engage in similar conduct ought to be called by a less pejorative name. (Calavita/Pontell 1993: 519–520)

In a similar way such stereotypes might adversely affect policy decisions regarding such things as corporate governance and market regulation that aim at preventing future financial crimes.

## WCC as a heuristic social construct

In 1996, the conceptual debate reached its climax at a workshop organized by the National White-Collar Crime Center and attended by numerous white-collar crime specialists. The sole purpose of the workshop was to formulate a working definition of white-collar crime. Those attending the conference agreed upon a definition of white-collar crime as being

> illegal or unethical acts that violate fiduciary responsibility or public trust, committed by an individual or organization, usually during the course of legitimate occupational activity, by persons of high or respectable social status for personal or organizational gain.
> (Helmkamp/Ball/Townsend 1996: 351)

However, like all of its predecessors, this new definition failed to satisfy everyone and was later criticized for its vagueness and multidimensional character.

Today, more than 70 years after the introduction of the WCC concept, there still exists considerable disagreement over the range of misbehaviors that it refers to and doubts about the coherence of the behaviors it includes (Nelken 2007: 738). Shover and Cullen (2008) have suggested that underlying this conceptual debate is an ideological debate between what they call a "populist perspective" and a "patrician perspective" on white-collar crime. The populist perspective, they explain, has a rather critical edge to it. It highlights issues of power and privilege and locates the offenses in the framework of inequality. It assumes that white-collar criminals, just like conventional street criminals, are rational decision-makers who *choose* to commit their crimes after carefully weighing the potential gains and losses. Moreover, the historical and structural conditions that are believed to account for the aggregate level variation in white-collar crime are explained in terms of hierarchy, inequality, control, and conflict.

The patrician perspective, on the other hand, offers a less politicized and more legal-technical perspective on the subject matter. It explains offenders' involvement in white-collar crimes in terms of abstract behavioral categories and organizational cultures. Historical and structural conditions accounting for aggregate-level variation in white-collar crime are thought to emerge without the intervention of power, authority, and agency. Here the patrician perspective points to developments such as changing transaction systems and the growth of fiduciary relationships. Much of the controversy about white-collar crime, the authors argue, can be understood as a conflict between these two paradigms.

The authors further note that the ideological schism between the two approaches is quite institutionalized in the field of academia. The populist perspective, they argue, tends to be exclusively based in departments of sociology and criminal justice at public universities. The patrician perspective, on the other hand, is the dominant approach in schools of business and management, academic units in which many faculty serve as paid consultants to industry. This institutionalized character of the paradigmatic divide in white-collar crime research, they conclude, implies that "the disagreements that plague this area of inquiry are deeply rooted and thus are unlikely to be resolved soon" (Shover/Cullen 2008: 155).

Recognizing the difficulty in pinning down a definition of white-collar crime, some scholars have argued that we should perhaps give up the illusion that the concept of white-collar crime can or should be defined in terms of a precise set of necessary or sufficient characteristics.[17] Green (2007: 18–20), for example, has suggested that instead of thinking of the concept as a precise classification of offenses or offenders, we would do better to think of the concept as referring to a set of offenses connected by a series of "family resemblances." Others have suggested that white-collar crime is best thought of as a social construct, a heuristic device, the constituent variables of which occur on a continuum (Potter/Gaines 1996: 35; Friedrichs 2010: 8). The exact parameters of the construct, they argue should be contingent on the purpose of analysis (ibid.). The task of researchers would then be to search for interactions along the different dimensions and between the multiple components that make up crime and societal reaction to crime (Schlegel/Weisburd 1994).

## 3 From White-Collar to financial crime: Conceptualizing the changing character of white-collar crime

Over the last decades, WCC scholars have seen the character and empirical profile of white-collar crimes transform. In hindsight, an important feature of this transformation has been the disembedding of white-collar crimes from the spheres of production and commerce and the shift of the locus of such crimes away from industrial corporations to the financial services industry. For most of the twentieth century, white-collar crimes had manifested themselves primarily as violations of laws and regulations intended to curb the negative externalities of the industrial production processes and reign in anticompetitive practices of industrial firms. More recently, however, white-collar crimes, especially in the developed world, increasingly involve the unlawful manipulation of

17 The very question whether there can and should be a definition of white-collar crime was the starting point for the highly influential academic workshop *White Collar Crime, Definitional Dilemma: Can and Should there Be a Universal Definition of White Collar Crime?,* organized by the National White Collar Crime Center in the US.

financial accounts and the illegal fiddling with other people's money.[18] Surprisingly, not many WCC scholars have reflected on this transformation of the empirical profile of white-collar crime, and only few have dwelled upon the question whether this change necessitates a conceptual distinction between white-collar crime and *financial crime.*

Most WCC researchers make no fundamental conceptual distinction between white-collar crime and financial crime. According to Pickett and Pickett, for example, "it is the contrast between white-collar crime and [street] crime that is most interesting" (Pickett/Pickett 2002: 2). Hence they use the terms *financial crime, white-collar crime,* and *fraud* interchangeably and define them as "the use of deception for illegal gain, normally involving breach of trust, and some concealment of the true nature of activities" (ibid.: 3). Edelbacher and Theil (2012: 91) use the term *financial crime* to refer to those white-collar offenses that are aimed against financial institutions. And in his presentation of different categories of financial crime, Gottschalk (2013) draws upon other scholars' definitions of financial crime, fraud, and white-collar crime to state that "financial crime is often defined as crime against property, involving the unlawful conversion of property belonging to another to one's own personal use and benefit" (ibid.: XIX).

Others, however, emphasize the distinctive character of financial crime and choose to conceptually distinguish them from traditional white-collar crime. Friedrichs (2010; 2013b), for example, defines what he calls *finance crime* as "large-scale illegality that occurs in the world of finance and financial institutions" (Friedrichs 2013b: 10) and argues that by treating such crimes on par with other forms of white-collar crime in a broadly defined sense, they become conflated with a broad range of illegal or unethical activities that are far more limited in terms of both scope and impact. More specifically, Friedrichs gives three reasons for considering finance crimes separately. First, the exceptionally large financial stakes involved. These amount to hundreds of billions of dollars, far more than is typically involved in corporate and occupational crime. Second, their complexity. Finance crimes typically involve an especially broad network of parties, both horizontal and vertical. This complexity, Friedrichs explains,

> contributes to the paradoxical fact that, relative to the harm done, finance crime has been the most difficult form of white collar crime to define by law, to regulate and contain, and to prosecute or adjudicate successfully. (2013b: 10)

18 It is a central tenet of this paper that, over the last couple of decades, the locus of white-collar crimes has shifted away from industrial corporations to the financial services industry. This is not to say, however, that white-collar crimes outside the financial services industry have waned. Indeed, as the recent Volkswagen emission scandal and the ongoing revelations of Western multinationals' involvement in sweatshop scandals in developing countries pertinently reveal, violations of environmental and labor laws and regulations still remain important topics for WCC researchers. Other persisting nonfinancial forms of white-collar crime include consumer fraud, political corruption, and antitrust violations.

Third, their diffuse and devastating impact. Finance crimes, more than corporate and occupational crimes, pose an imminent threat to the integrity of the economic system itself. Another rationale for conceptually distinguishing financial crimes from more traditional white-collar crimes has been put forward by Michel (2008). According to Michel, financial crimes – defined as "those [crimes] that pertain to the financial market or the investment business" (ibid.: 387) – distinguish themselves from other white-collar crimes in the necessity of expertise.[19] The refinement and sophistication of financial crimes, he explains, requires inside knowledge of back-office operations and the expertise provided by tax specialists, lawyers, accountants, and corporate managers.

Still other attempts to conceptualize the increasingly financial character of white-collar crime have been based on the idea that the distinctiveness of different forms of white-collar crime should not only be sought in the empirical features of the crimes themselves, but even more diligently in the distinct character of the institutional environment in which they are embedded. Such interpretations assume that actors find meaning – motivation and rationalization – and opportunities for their actions in the cultural and institutional environments in which they are situated and that such environments can be *criminogenic* in the sense that they structurally facilitate or even promote illegal behavior (Needleman/Needleman 1979). In explaining how structural changes in these environments have caused the empirical profile of white-collar crime to evolve, WCC scholars have developed a number of theoretical frameworks, or narratives, thereby borrowing heavily from – and contributing to – a number of conceptual ideas and narratives that have found widespread use in the broader scope of the social sciences. Four such frameworks have been developed in the WCC literature, which I will discuss below.[20]

## "Finance capitalism" as a theoretical framework for the study of white-collar crime

In the aftermath of a series of major scandals in financial institutions that had occurred in the United States during the 1980s – primarily large fraudulent insolvencies in the insurance industry and fraudulent practices that led to the insolvency of a good many thrifts during the savings and loans crisis – a group of prominent WCC scholars consisting of Kitty Calavita, Henry Pontell, and Robert Tillman observed that, unlike much of the corporate crime of earlier decades, the white-collar crimes of the 1980s "had nothing to do with production or manufacturing but instead entailed the manipulation

19 Instead of "white-collar crimes" Michel uses the term "commercial crimes." Commercial crimes, he explains, refer to "criminal activities that deal with value related assets, in other words, assets that can be convertible into cash" (Michel 2008: 386).

20 It needs to be emphasized that the frameworks discussed here are not in any sense mutually exclusive. They overlap very much and are often discussed in conjunction with one another.

of money" (Calavita/Tillman/Pontell 1997: 20). They traced this new form of white-collar crime to the distinctive qualities of an emerging form of finance capitalism in which it was embedded. In doing so, their aim, as they put it, was

> to suggest the utility of drawing a distinction in white-collar crime studies between manufacturing and finance capitalism and examining fraud in financial institutions as the product of the unique "production" process of the latter. (Calavita/Pontell 1991: 97)

In finance capitalism, the scholars explained, the "means of production include corporate takeovers, land speculation, currency trading, real estate ventures, futures trading, and land swaps" (ibid.: 96). Moreover, they suggested, the illusory nature of the product in finance capitalism enables opportunities for financial crimes to multiply almost indefinitely:

> Unlike manufacturing capitalism in which consumers receive products for their money, in finance capitalism the consumer receives only a "promise" that some relatively ephemeral or distant service will be rendered. (ibid.: 103)

As a consequence, they argued, financial crimes are unencumbered by the confines of the production process.

The work by Calavita, Pontell, and Tillman found little resonance in the WCC literature, despite the accuracy of their analysis, especially when considered in the light of more recent events, and the meaningful starting points for future research on financial crime suggested by their proposed analytical framework. Instead, WCC criminologists turned their attention to a number of other themes that increasingly started to dominate the debate in the wider social sciences.

## "The New Economy" as a theoretical framework for the study of white-collar crime

Less than a decade after Calavita, Pontell, and Tillman emphasized the need for conceptual renewal in the field of white-collar crime research, the discipline was forcefully reminded of the changing character of its object of research. The corporate transgressions related to the burst of the dot-com bubble were in many ways different from earlier white-collar crime scandals. Although the epicenter of these episodes was still located in nonfinancial firms – primarily firms operating in the energy and telecommunication sectors – many of the schemes engaged in complex financial arrangements and "fancy financing" techniques (Goldman 2010) that involved derivatives and had been facilitated, if not promoted, by long-established and well-respected financial service firms. For WCC scholars at the time, the novel empirical profile of these scandals and the increasingly prominent role played in them by the financial service sector added weight to earlier warnings that the discipline needed new conceptual tools for analyzing white-collar

crime (Tillman/Indergaard 2007). In a cluster of writings that appeared in the wake of the corporate scandals of the early 2000s, the WCC scholars Robert Tillman and Michael Indergaard put forth the idea that the most recent wave of corporate scandals were products of the "New Economy."

For Tillman and Indergaard (2005), it was the combined effect of changes in economic institutions, business organization, and corporate culture that explained the novel forms of white-collar crime witnessed in the early 2000s. In what had come to be referred to as the New Economy, they explained, markets were heavily deregulated or left self-regulated, corporate organization and control had shifted from self-contained hierarchies to network forms, and norms, ideas, and sensibilities of what constitutes good business and investment practices had been fundamentally reshaped. The model firm in the New Economy was one that possessed few material assets but nevertheless maintained dominance in their markets by buying up relevant innovations and talent developed in other firms. Key to this new business model was the strategy for firms to boost their share price so that the stock could be used as a currency to acquire talent, capital, and other firms. Managers were thus disciplined to give primacy to the financial markets' assessment of their firms and to fixate on quarterly financial results. This New Economy "doctrine" was accompanied by new conventions about investment. Investors should "shift from the 'value' strategy of holding shares in old established corporations to a 'growth' strategy of investing in companies with potential for achieving high rates of growth" (Tillman/Indergaard 2005: 17).[21]

The shift in corporate organization from self-contained hierarchies to networks came with a new form of coordination and corporate governance (Tillman/Indergaard 2007: 474). In the corporate governance system for the New Economy, Tillman and Indergaard explain, a crucial role was reserved for so-called "reputational intermediaries" – mostly financial professionals such as auditors, investment bankers, financial analysts, credit-rating agencies, but also lawyers and board directors. These reputational intermediaries, or "control agents," were supposed to serve as independent monitors safeguarding the interests of investors against abuses of corporate insiders. According to dominant economic theory and the neo-liberal version of corporate governance it informs, these "control agents" are kept in line because they are subject to extra-legal sanctions in the form of "reputational penalties," which in turn decreases the value of their services in the markets in which they operate. In fact, however,

21 A similar thesis was formulated earlier by Zey (1993), who had studied a series of financial crimes in the US "high-yield" or "junk" bond market during the 1980s. For Zey, "the increase in securities fraud in the 1980s in the United States [was] related to the long-term shift in the conception of how large firms grow and operate. … The financial definition of corporations and the resulting power of financial and accounting subunits; the expansion of mergers and acquisitions and the resulting structure of unrelated, multiform conglomerates; the lack of federal control over mergers and takeovers; the deregulation of trading commissions; and the favorable corporate debt tax structure combined to create an environment ripe for investment banking fraud" (Zey 1993: 251).

> by the late 1990s many of these individuals and organizations had abandoned their traditional roles as independent monitors of corporate behavior to become accomplices, or at least facilitators, of their corporate clients' schemes to enrich themselves at the expense of shareholders. (Tillman 2009: 366)

What had emerged were "collusive networks of reputational intermediaries" (Tillman 2009) that operated on the basis of questionable reciprocity. Much of this reciprocity, they explained, involved some sort of business intermediary and linkages to the financial sector: investment bankers allocated "hot" IPOs (Initial Public Offerings) to favored clients in return for future business and subsequently conspired with those clients and financial analysts to artificially drive up the stock prices of these same IPOs. To ensure their participation in deceptive deals and to secure access to cheap credit when needed, corporate executives took intermediaries and bankers with them on expensive trips to exotic locales (Tillman/Indergaard 2005: 19). Important for understanding the transgressions of those involved in this questionable reciprocity, Tillman and Indergaard argue, were "instituted rationalities," norms and routines that helped to organize and "normalize" corruption (Ashforth/Anand 2003) amongst those integrated in the small circles that controlled access to the deal flows.

With an eye to the future, the scholars called for more research to fully assess the significance of what they dubbed "New Economy Crimes." Importantly, they singled out the financial sector as a prime candidate for scrutiny. The New Economy crimes, they emphasized, not only revealed numerous frauds in different parts of the financial sector, but also exposed the "dubious connections" between the financial sector and other sectors of the economy.

## "Postmodernization" as a theoretical framework for the study of white-collar crime

An alternative interpretation of the corporate scandals that were revealed with the bursting of the dotcom bubble was suggested by David O. Friedrichs, who saw in these scandals a steady increase in postmodern elements. For Friedrichs, these crimes – especially the Enron scandal, which for him represented the "paradigmatic white-collar crime case for the new century" (Friedrichs 2004) – were best understood as expressions of white-collar crime in a postmodern world. For Friedrichs, postmodernization refers to

> a shift from the central role of such distinctive features of modern society as industrialization, urbanization, bureaucratization, mass communication, and mobilization to a postmodern society, where computers (as opposed to machines), virtual communities (as opposed to physical communities), adhocracies (as opposed to less flexible bureaucracies), interactive communication (as opposed to traditional forms of mass communication), and fluidity – or movement in and out (as opposed to conventional forms of geographical and social mobility) – become increasingly dominant. (Friedrichs 2007a: 12)

From his observation Friedrichs (2007b) drew the conclusion that WCC scholarship increasingly had to adopt a postmodern point of view. Borrowing from the work of the French philosopher Baudrillard, Friedrichs singled out two concepts that he believed to be especially helpful in understanding a number of important features of the contemporary manifestation of white-collar crime. The first of these is the concept of "hyperreality," which "holds that reality has collapsed and has been replaced by image, illusion, and simulation" (Friedrichs 2007a: 12). If one, for example, considers the various accounts of the Enron case, Friedrichs argued,

> one is struck by a fundamental disconnect between the presumed "modernist" assumptions of most ordinary investors – that they are putting their money into something "real," into an appropriately assessed product or service with a good potential for growth – and the apparent postmodernist orientation of some of the central figures in this case, whose primary concern seemed to be the manipulation of assets and numbers in ways that maximized their own short-term gain, with almost complete indifference to the "real" demonstrable value of the "product" or service at the center of their business. (Friedrichs 2007b: 167)

Another concept developed in postmodernist thinking that Friedrichs believed to be helpful for understanding the new manifestations of white-collar crime is the concept of "intertextuality," which for him represented the idea that "there is a complex and infinite set of interwoven relationships …; that everything is related to everything else" (ibid.: 167–168). Again taking the Enron case as an example, he argued that

> one is struck by the complexity of the many suspect deals, financial arrangements and instruments (e.g., derivatives), to the point that it seems possible that at a certain juncture none of the key players could any longer fully grasp the scope and character of the financial edifice they constructed. (ibid.: 168)

Also the directly and indirectly intertwined involvement of many different parties – i.e., corporate executives, corporate boards, auditors, investment bankers, stock analysts, lawyers, credit-rating agencies, and the like – in these transactions represented a form of intertextuality for Friedrichs.

Since then, others have also used a postmodern conceptual framework to explain the more recent global credit crisis as a criminogenic "event"; a result of the "criminogenic manipulation of reality" that has taken place in a context of "cyber capitalism" (Wilson 2012). The postmodernization framework clearly captures several important characteristics of financial crimes, the most obvious of which is the increasing disconnect of such crimes from the sphere of material production and commerce.

## "Globalization" as a theoretical framework for the study of white-collar crime

The fourth and by far the most widely applied framework that has been adopted by WCC scholars to interpret the changing empirical profile of white-collar crime is that of globalization. Globalization and related developments, it has been said, "have modified crime problems intrinsically so deeply that the earlier criminology has lost (part of) its relevance" (Walgrave 2011: 23). Others have stated that globalization is increasingly becoming a "structuring context" for criminology (Coleman et al. 2009: 10) and that

> if criminology as a field is to remain relevant as the twenty-first century progresses, it must increasingly adopt a global framework and increasingly concern itself with transnational forms of crime and criminal justice. (Friedrichs 2007a: 6)

More recently, Pakes (2013: 6) has offered the reassurance that, after a slow start, criminology is now very involved and truly engaged with globalization and is set to transform the discipline at its very core. Indeed, much of the more recent literature on white-collar and organized crime gravitates around the concept of globalization (e.g., Passas 1999, 2000; Gilbert/Russel 2002; Tillman 2002; Friedrichs 2007a; Grabosky 2009; Pakes 2013).

The globalization framework as developed in the WCC literature, as well as the literature on organized crime for that matter, focuses on the criminogenic dimensions of the internationalization of politics, trade, and production. It emphasizes how white-collar crime and organized crime increasingly transcend nation states and manifest themselves in a global context. A number of themes figure prominently in the globalization framework.

The first theme developed in the globalization framework concerns the way in which globalization multiplies and intensifies what have been called "criminogenic asymmetries" – structural problems that result from discrepancies and inequalities in the realms of the economy, politics, law, and culture (Passas 1999, 2000). Especially troublesome is the mismatch between, on the one hand, increasingly globally and transnationally organized economic structures and, on the other, nationally organized rules and law enforcement bodies (Passas 1999, 2000; Tillman 2002; Pakes 2013). Under the influence of globalization and the unprecedented mobility of capital, both legitimate and organized crime organizations have become compartmentalized and have spread their operations throughout the world. But while the international community becomes a global village, Passas (1999: 400) asserts, controllers see themselves constrained by divergent domestic rules and limited jurisdictions. Ultimately, this mismatch enables malicious actors to engage in "jurisdiction shopping": finding the jurisdictions which allow for or fail to enforce laws against business conducts that have been criminalized in other jurisdictions (Passas 2002; van Duyne 2002). As a result of the combined effects of criminogenic asymmetries and the inefficiency, or even absence, of rules and enforcement

mechanisms at the international level, we increasingly find *cross-border crimes,* or *transnational crimes*[22] that operate in "the space between laws" (Michalowski/Kramer 1987), effectively constituting "crimes without lawbreaking" (Passas 1999: 410).[23]

Thus, an important feature of the empirical profile of white-collar and organized crimes emphasized by the globalization framework is their increasingly transnational character and their ability to operate between the laws. A closely related feature emphasized under the globalization framework concerns the increasingly *networked organization* of such crimes. To exploit cross-border criminal opportunities, perpetrators of transnational crimes set up strategic alliances that take the form of loosely coupled and fluid networks (Williams 2001; Block/Griffin 2002; Tillman 2002; Grabosky 2009). Closely mirroring developments in the corporate world, these networks are said to be "diverse, flexible, and highly mobile, giving them the ability to respond quickly and adapt to rapidly changing environments" (Tillman 2002: 137).

Moreover, and this is a third feature emphasized by the globalization framework, these transnational crime networks typically involve links between the *underworld* and the *upperworld* – that is, between traditional organized crime groups and otherwise legitimate businesspeople, corporations, or financial institutions (van Duyne 2002; Passas 2002).[24] These alliances provide underworld actors with access to the legal economy and financial system, while upperworld actors benefit from low-cost financing, cheap supplies, or new products to market. Typically, such mutually beneficial operations crystalize in secrecy jurisdictions, where upperworld and underworld can interact behind a veil of secrecy (Block/Griffin 2002; Tillman 2002). As Tillman describes for the case of large-scale offshore (re)insurance fraud, for example,

> organized crime groups obtained access to the securities industry, the securities brokers gained access to both the "muscle" they needed as well as new products (promissory notes) to market, and the offshore insurers were able to move into a new, relatively risk-free (since they never intended to pay) area. (2002: 137)[25]

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22 Transnational crimes have been defined as "cross-border misconduct that entails avoidable and unnecessary harm to society, is serious enough to warrant state intervention, and is similar to other kinds of acts criminalized in the countries concerned or by international law" (Passas 1999: 401).

23 Passas has introduced the concept of *dysnomie* to refer to a state of affairs in which an ineffective regulatory patchwork and fragmented controls undermine the ability of authorities to control individual and organizational behavior and, ultimately, make possible the commission of "crimes without lawbreaking" (Passas 1999: 410).

24 As mentioned earlier in section 2.3, globalization has been said to facilitate the emergence of "systemic synergies" in which legal and illegal actors benefit each other while they go about their business independently promoting their interests and objectives (Passas 2002). Offshore secrecy jurisdictions often act as a central pivot in such mutually beneficial structures.

25 Another illustration of the way the distinction between organized crime and white-collar crime is blurred under the influence of globalization is the scandalous closure of the Bank of Credit and Commerce International (BCCI), which had been found to be the pivot in numerous financial crimes, offering illegal financial services and secrecy to drug barons, terrorist organizations, corrupt dictators, and financial fraudsters (Passas 1993, 1996; Passas/Groskin 2001).

The transnationalization of business-related crime has thus undermined the conceptual distinction between what is generally considered "white-collar crime" – or "occupational," "organizational," or "corporate" crime for the matter – and those forms of lawbreaking that are subsumed under the "organized crime" label (Ruggiero 1996; Johnstone 1998; Grabosky 2009; Huisman/van Baar/Gorsira 2015). It is striking, however, to see how the compartmentalization of research into white-collar crime and organized crime has remained largely intact. With some exceptions (e.g., Michalowski/Kramer 1987; Tillman 2002; Grabosky 2009; Huisman/van Baar/Gorsira 2015), most of the literature on the transnationalization of business-related crime and the intensification of links between white-collar criminals and organized crime groups is situated in the disciplinary fields of securities studies and criminology of organized crime, where scholars have primarily focused on the concealment and investment of the proceeds of organized crime activities and the financing of terrorist organizations. White-collar crime scholars, however, have devoted most of their energy to systematic study of the impact of globalization on "international crimes" – violations of international laws, i.e., war crimes, crimes against humanity, human rights violations, etc. – "crimes of globalization" – demonstrably harmful activities of international financial institutions such as the World Bank, the International Monetary Fund, and the World Trade Organization (Rothe/Friedrichs 2015) – and "transnational corporate crime" – mostly cross-border environmental crime and corruption. Largely neglected in the globalization and crime debate has been the impact of globalization on crimes perpetrated in and by established financial institutions in their dealings in the international investment banking industry, trade financing, insurance activities, derivatives trading, and related activities.

## 4 Conclusion

Despite the ubiquity of illegal behavior in financial markets and the questions this raises with regard to the social legitimacy of today's financial industry and the specific form of finance capitalism it operates in, systematic scrutiny of the law violating behavior of today's financial elites is lacking in the fields of economic sociology and political economy. Given the pivotal role of finance and financial markets in contemporary capitalism, this is a significant deficiency in the theoretical understandings of capitalist dynamics generated in those fields.

The aim of this paper has been to provide economic sociologists and political economists with a conceptual foundation for future research on financial crime. It does so by presenting an overview of the most important conceptual tools and theoretical insights that have been produced in the WCC literature. In section two, the paper traced the evolution of the white-collar crime concept and identified several major points of contention in the debate surrounding it. Section three discussed how WCC scholars have seen the character of their object of research change over the last decades, and the theoretical

frameworks they have developed to make sense of this change. All of these frameworks have sought to understand this change against the backdrop of wider transformations of modern capitalism.

In hindsight, however, all of these frameworks provide only partial understandings of the changing character of white-collar crime and only one of the suggested frameworks make explicit an important, if not the most important, feature of this change: the disembedding of white-collar crimes from the sphere of production and the shift of the locus of such crimes away from industrial corporations to the financial services industry. For Calavita, Pontell, and Tillman, this shift called for a conceptual distinction in WCC studies between manufacturing and *finance capitalism* and a more detailed study of the specificities of the financial "production" process. Despite the fact that the center of gravity in global capitalism has continued to shift towards finance in the two and a half decades since they made their proposals – and with that the locus of white-collar crime has also shifted further towards the financial services industry – subsequent theorizing in the field of WCC criminology has failed to build further on the idea put forward by these scholars. As a result, WCC scholarship has not fully appreciated the distinctive nature of business elites' lawbreaking in the context of today's highly financialized form of capitalism, especially the illegal conduct that is situated in the idiosyncrasies of contemporary financial markets.

What is needed if we are to come to grips with the recent proliferation of financial crimes is a new theoretical framework, one that understands today's financial crimes as the dominant manifestations of white-collar crime in a historically specific form of finance capitalism. Economic sociologists and political economists are particularly well positioned to play an important role in developing such a framework. Since the early 2000s, scholars working in those fields, in close collaboration with scholars from other disciplinary backgrounds, have begun to document and conceptualize the ongoing reconfiguration of global economic and political organization that have led us to today's specific form of *finance capitalism.* Their work is compiled in a multidisciplinary body of literature on the *financialization* of contemporary capitalism (e.g., Epstein 2005; Krippner 2005; Windolf 2005; Langley 2007; Engelen 2008; Erturk et al. 2008; Montgomerie 2008; Pike/Pollard 2010; van der Zwan 2014; Christophers 2015). In this literature, scholars have described how, facilitated by technological advances and a rapid pace of financial innovation, financial markets have undergone a functional transformation, moving from relationship-based to market-based financial intermediation, and how, as a result of new material and discursive linkages, the experiences of governments, nonfinancial firms, semi-public institutions, and households as well as the trajectories of macro-economic dynamics have all become increasingly bound up with financial markets. Despite their generally critical verdict about the socioeconomic implications of this process of capitalist restructuring, economic sociologists and political economists have refrained until now from seriously investigating the criminogenic

dimensions of financialization. Not one of the authors in that literature has explicitly interrogated the illegal practices that have been engendered by the process and the criminogenic features of the institutional structures it generates.

Therefore, I argue, a fruitful avenue for future research in economic sociology and political economy would be to study in more detail the interactions between the changing character of white-collar crime and the broader capitalist dynamics associated with processes of financialization.

Sutherland began his 1939 presidential address to the American Sociological Society by pointing out a fundamental mismatch in the social science theories of his time. He stated:

> The economists are well acquainted with business methods but not accustomed to consider them from the point of view of crime; many sociologists are well acquainted with crime but not accustomed to consider it as expressed in business. (Sutherland 1940: 1)

Today, a new fundamental mismatch seems to have appeared in the social sciences: WCC scholars are well acquainted with the illegal dimensions of capitalist enterprise but have failed to fully account for the structural transformations of the capitalist system in which they play out; economic sociologists and political economists are well acquainted with the structural transformations of twenty-first century capitalism but are largely blind to the criminogenic dimensions of this process of capitalist restructuring. Economic sociologists and political economists should try to overcome this mismatch by developing theoretical frameworks that bring together insights from the WCC literature with insights on the financialization of contemporary capitalism developed in the fields of economic sociology and political economy. This is intended as a first step in this direction.

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# From Elite Lawbreaking to Financial Crime

## The Evolution of the Concept of White-Collar Crime

Arjan Reurink

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