

CHAPTER 2

Problems and Reviews of Crime and Economics

A literature survey by Lewis¹⁸ (1987) concludes that interest has grown rapidly in the economics of crime, which weighs expected benefits against expected costs. Lewis notes that studies attribute little significance to macroeconomic incentive variables as determinants of crime. However, more recent studies by Fadaei-Tehrani¹⁹ (1989) and Meera and Jayakumar²⁰ (1995) find unemployment to be significant in explaining variation in the level of crime in the United States and Malaysia, respectively. At the other end of the cause-and-effect spectrum, estimates of the microeconomic costs of crime vary widely. For example, it has proven difficult to establish a link between crime rates and costs to society reflected in property values because these rates are closely correlated with other neighborhood features. Available empirical estimates of social costs are also described by Lewis as too crude for most practical purposes. It seems reasonable to expect that similar considerations would apply to money laundering undertaken for criminal motives.

Several studies introduce illegal or underground activity into simple macroeconomic models. Houston²¹ (1990) develops a theoretical macro model of business cycle and tax and monetary policy linkages with the underground economy. His investigation of the growth of the underground economy concludes that its effect must be taken into account in setting tax and regulatory policies. More generally, Houston notes that controlling the money supply and forecasting shifts in the price level and interest rates may be made more difficult by the presence of an underground economy that is unobserved. His conclusion is that the presence of an underground economy that is unobserved. His conclusion is that the presence of significant hidden transactions could lead to overstatement of the inflationary effects of fiscal or monetary stimulus. For example, the increased currency holdings assumed to be induced by money laundering result in reduced inside money expansion. Houston thus sees the growth of crime as possibly contributing to the stagflation phenomenon of the late 1970s and early 1980s. A study for Belgium by Adam and Ginsburgh¹⁶ (1983) focuses on the implications for growth. On certain assumptions, including insignificant entry costs into the underground sector due to a low probability of enforcement and unlimited

supply of resources in that sector, the study concludes that leakage of fiscal stimulus to the informal economy will grow disproportionately larger as the formal economy approaches full employment, but that fiscal expansion will be generally positive for both the formal and informal economies. Subrahmanyam²² (1991) uses a standard IS-LM model to derive inconclusive results; the effect of an increase in illegal activity on measured income is a priori indeterminate. Fichtenbaum⁴ (1989) argues that the U.S. productivity slowdown in the 1970s and 1980s was to a significant degree overstated, as the underreporting of income due to the more rapid growth of the underground economy in this period was not taken into account.

The common theme of the available research is that if crime, underground activity, and the associated money laundering take place on a sufficiently large scale, then macroeconomic policymakers must take them into account. Failure to do so would result in misdiagnosis and incorrect policy-setting. For example, at the international level, there is little disagreement that the behavior of monetary aggregates has become in the 1980s and early 1990s more difficult to interpret. This is attributed mainly to the very rapid growth of financial technology and economic structures associated with deregulation and privatization in many countries. However, aggregate growth in money laundering over the same period may also have contributed to the increased volatility of the aggregates, as suggested by the literature. There is the very large size and the timing of some individual criminal activities to consider. Large and irregular individual activities could serve to obscure the economic data base and complicate economic policy making. In addition, a key aspect of the understanding of monetary behavior is being able to identify statistically the country and currency of issuance and the residency of the deposit holder. To the extent that there is a shift in apparent money demand from one economy to another due to cross-border laundering, and the data are thus misleading, this could have consequences for interest and exchange rate volatility, particularly in dollarized economies, as the tracking of monetary aggregates becomes more uncertain.

Income distribution effects of money laundering are not discussed in the literature, but cannot be ignored. To the extent that the underlying criminal activity redirects income from high savers to low savers, or from sound investments to risky and lower-quality investments, economic growth will suffer. For example, there is evidence that in the United States tax evasion is

particularly focused on income derived from the more risky but higher yielding noncorporate capital. Fraud, embezzlement, and insider trading seem likely also to be biased toward more rapidly growing and profitable businesses and markets, because “that’s where the money is.” Similarly, crimes against the person, such as thefts and kidnappings, seem likely to be directed at wealthier individuals and thus be biased against savings. On the other hand, a drug lord might well have a higher propensity to save than a drug user, so that not all distributional effects negatively impact saving and thus economic growth. There is also a particular distributional impact of the money laundering that facilitates tax evasion. Economic costs are compounded in this case because many countries rely on means testing based on declared income for access to a range of government benefits (Tanzi and Shome 1993.)⁸

There are indirect macroeconomic effects of money laundering: (1) Illegal transactions can deter legal ones by contamination effects. For example, some valid legal transactions by foreigners with Russian entities have been reported to have become less desirable because of easier to make.

The above discussion relates to money laundering flows. Accumulated balances of laundered assets seem likely to be larger than the annual money laundering flow figures. The potential for destabilizing and economically inefficient movements, either across borders or domestically, is therefore heightened. The balances accumulated after laundering could be used to corner markets or even smaller economies to the extent that they remain controlled by large-scale organized crime interests. With organized crime contacts, there is the further possibility that the control of economic activity can be compounded by insider trading using the balances.

Tests of economic theory:

There have been many empirical tests of the economic model of criminal behavior. A summary of this evidence is provided by Gordon Tullock. Perhaps the best and most careful work has been done by Isaac Ehrlich. These studies are statistical in nature. A common method is to use state data and to use crime rates as the dependent variable and the variables discussed earlier as independent variables. The statistical technique used is some form of multiple regression.

The results of all of the studies that have sense affects crimes against persons as well as crimes against property. Thus increasing the cost of crimes such as assault or rape will serve to reduce the incidence of such crimes. As mentioned previously, we do not know why such crimes occur, but the law of demand would imply that an increase in their costs would reduce the number of these crimes.

There are some aspects of criminal behavior that the model does not fully explain. In particular, even after adjusting for all economic variables, the number of blacks in a state and the number of teenagers are generally associated with higher levels of crime. One possible explanation for this finding is that measures such as average income do not fully reflect incomes of these groups; another possibility is that crime enforcement in black areas is relatively poorer than in other areas. Nonetheless, currently we do not have a satisfactory explanation of these behaviors in terms of the economic model.

It is sometimes argued that the economic model of behavior assumes rationality and the ability to perform sophisticated calculations and that criminals are irrational and unable to calculate, so this model would be worthless. Two answers to this criticism are possible. First, the model does not assume perfect knowledge or complete and correct calculation; rather, the results follow if potential criminals have some idea, for example, that judges are getting tougher. Thus the assumption is that people respond to directions of change in the relevant variables, not that they have complete knowledge of the magnitudes of these variables. The second answer is more powerful. If criminals behave as postulated in the model, then certain results will be observed. We test the model by observing whether the predictions are correct. If the predictions are borne out, as they are, then we may continue to use the model. Given our current state of knowledge, it probably is fair to say that the economic model of criminal behavior is the most useful in explaining and prediction criminal behavior; therefore, good canons of scientific inference indicate that we should continue to use this model.

The case of capital punishment:

Much of the sociological argument about the lack of a deterrent effect of punishment has come from studies of capital punishment. It has been argued

that capital punishment did not deter murder (or other crimes) and that therefore punishment in general did not deter crime. We have seen here that a substantial amount of evidence has been accumulated that shows that, in fact, punishment does deter crime; but we have not discussed specifically the case of capital punishment.

In recent year, Isaac Ehrlich examined the issue of capital punishment. If execution is a worse punishment than, for example, life imprisonment, capital punishment should deter crime. In a rather sophisticated study Ehrlich calculated on the basis of rational behavior that the relevant probability is the probability of execution given that one has been convicted of crime. In this study he then found that over time capital punishment was significantly and importantly related to deterrence for committing murder. The number of executions over time was negatively associated with the number of murders that occurred. This study was a time series study, which is to say Ehrlich looked at data over time in obtaining the result. In a recently published paper in the *Journal of Political Economy*, Ehrlich examined detailed cross-section data and came to essentially the same conclusion. In states where more persons were executed for committing murder, significantly less murders were committed. Thus it is fair to say that we now are reasonable confident that capital punishment in fact serves to deter the crime of murder.

How can we then explain the earlier results in which it was claim 1 that capital punishment had no deterrent effect? There are two answers to this question. First, many of these studies were anecdotal in nature. That is, they were based on stories such as “during hangings for pickpocketing, pickpockets were common in the crowd.” But this kind of evidence cannot prove anything. The relevant question is how much pickpocketing there would have been had there not been execution for this crime. We need some sort of statistical study to determine the true form of the relationship. Many of the earlier sociological studies were statistical, but the statistics were not very sophisticated. Methods such as comparing homicide rates in two neighboring states, one with capital punishment and one without, were used. This kind of approach controls for some the relevant variables, but not many. Age, economic opportunities, and other characteristics of people between even similar states may differ. The kind of study done by Ehrlich, using multiple regression techniques, is able to compensate for most differences that are thought to be significant. The results of Ehrlich’s studies are very strong

in indicating a deterrent effect for capital punishment. It is in the case of capital punishment that the non-economist is most skeptical about the results of the economic model. It is commonly felt that murderers are totally irrational and cannot be deterred from their evil intent. However, many murders are committed during the commission of other crimes such as armed robbery, and armed robbers are not likely to be particularly emotional during the commission of the crime. In addition, it is not clear to me that a man who kills his wife during a domestic argument (a common form of murder) is totally indifferent to the likely penalty. If he knows that the maximum he will receive is seven years in prison, he may well behave differently than if he knows that he may be executed. But here again, the best answer is the evidence, and the evidence does seem to indicate that in fact capital punishment does deter murder.

Organized crime:

There have been some studies by economists applying economic tools to organized crime. The basic tools used have been those derived from industrial organization, the branch of economics dealing with firms and their behavior in markets. Unfortunately, the data available for the testing of hypothesis about organized crime are almost nil, so that most of the work has been purely theoretical and speculative. Thus the results in this section must be considered more tentative than those in the earlier sections.

One way of viewing organized crime is as a network of firms providing goods and services. It is in fact important to note that most of those criminal activities that are considered organized---heroin, gambling, loan sharking, perhaps prostitution---do in fact involve the sale of goods and services that individuals want to buy, and this activity is lacking in the coercive effect of normal crime. Organized criminal firms deal with each other and with the ultimate consumer who buys the goods and services.

Many criminal firms have some monopoly power in the provision of some good or service. It is likely that this monopoly is in dealing with other criminal firms, rather than in dealing with ultimate consumers. A useful framework in which to view organized crime is as a firm with monopoly power supplying some needed good to other criminal firms. That good which is probably most important is capital. Capital is needed by many criminal

organizations. The nature of the heroin market is such that many shipments tend to be large and must be paid for in advance. This requires capital. Gambling also requires capital. Loan sharking is by nature a capita-using enterprise. If the sources of this capital to criminal firms are limited, then those who are willing to supply the capital can charge interest rates sufficiently high so that the borrowers will earn only a normal return on their time and effort. (Of course this return will be adjusted for the risks involved.) Thus a criminal firm can lend money to a heroin importer and not itself deal with the heroin at all; the price charged for the loan will be high enough for the lender to make most of the profit in heroin importing. There may be some monopoly in the provision of other goods to the criminal firm: for example, "connections" in the form of access to and information about bribed officials. We might expect monopolistic criminal firms to behave in this way because it is less expensive to monopolized a stage of production that exhibits some economies of scale and because monopolization of one stage of production can extract most of the available profits in the industry.

Viewing criminal activity as being organized in firms also can help us understand the geographic scope of organized crime. Some people seem to believe that there is one huge criminal firm controlling all organized criminal activities in the country (or even in the world). This is unlikely to be so; we would not expect a wider scope for criminal activities than for comparable non criminal activities. In fact, there is reason to expect that criminal firms. One advantage to national scope for a non-criminal firm is the information conveyed in the trademark of the company; this advantage is not available to criminal firms. Thus, though certain aspects of crime may involve dealings among firms in different locations, it is in fact unlikely that "there is a Nation-wide crimes syndicate known as the Mafia, whose tentacles are found in many large cities."

One should also be skeptical of analyses that attribute all manner of activities to organized crime. It is sometimes alleged that the pornography market in Atlanta and other cities is under the control of the Mafia (or, currently, the Cosa Nostra). It is difficult to see why organized crime would find this a desirable investment outlet. In fact, if criminals want to invest in legitimate enterprises, they would probably find it desirable to choose less conspicuous activities.

Viewing organized crime as a monopoly has one other implication of some interest, first pointed out by James Buchanan. Monopoly restricts output and raises price, thus obtaining for itself some profits. If certain activities, such as gambling, are illegal because society has decided they are wrong, and if this activity is provided by a monopoly, then in fact we will have less gambling than if the activity were provided by purely competitive criminal firms. That is, less organized crime and less crime may not be the same thing. If we want less crime, one way of achieving this goal might simply be to allow the activity to become monopolized, allow the firm to decide how much to provide. In this view, activities of the police in enforcing monopolies for organized crime may in fact be socially productive; it may be worthwhile to have the police maintain a criminal monopoly because this will serve to reduce crime.

The economics of criminal activity:

FROM “LAW” ‘N’ ORDER” political candidates to more federal spending on law enforcement or more campus police, there seems to be a lot of concern about crime in our society, especially in the cities. Until the last few years, economists had little to say about crime, apparently being content to restrict their attention to the traditional analysis of resource allocation in legal activities. Crime had not gone totally unnoticed by social scientists though, particularly among sociologists and criminologists. Lately, however, economists have begun to invade the turf of sociology and apply the principles of microeconomic theory to illegal activity. The belief is that most of the economic principles which operate in legitimate activities must, with certain modifications, function in illegitimate activities too.

Resources are being consumed every day in committing, avoiding, detecting, and punishing crime. This essay presents a reasonably complete story about the economics of this process. Throughout, I have stolen shamelessly from the work of a number of economists, few of whom will receive enough credit here. The first section tries to define what crime is and describes what we know about the size of the crime “industry.” Then we discuss the “supply” of criminals and offenses. Next, we look at the behavior of the private sector---potential victims---and then at the behavior of the private sector---potential victims---and then at the behavior of the public sector---police, courts, and corrections. Another section asks whether or not the criminal relationships predicted by economic theory really are supported by the behavior we observe

in the real world. The concluding section contains some remarks about public policy.

Definition and measurement of crime:

Since the word “crime” is used rather loosely in a variety of contexts (the crime of pollution, crimes against humanity, or it’s a crime that George dropped out of school), we should be careful to define the concept of crime and then sort crimes into a few general categories. Usually is made A distinction between civil and criminal law in Western societies. A civil wrong is committed by one private individual against another and the complaining party, the plaintiff, initiates an action through the civil courts. A judicial decision is rendered, and a money payment (restitution) is made if the private dispute is decided in favor of the plaintiff. A criminal wrong, on the other hand, is allegedly committed by an individual against the state, or community as a whole.

Criminal law, originally developed to deal with crimes of violence exclusively, has gradually enlarged in scope to deal with behavior which does not directly involve any coercion of one individual by another. For example, gambling and prostitution are undertaken willingly by both buyer and seller, yet these activities are criminal offenses in many areas today. At last count, there were over 2800 Federal crimes, not to mention a much larger number of state and local crimes. A couple of examples might illustrate how the scope of law has extended into commercial activity. Exporting fruit or vegetables in improper barrels is punishable by \$500 or 6 months if willful (Standard Barrels Act 1915); giving rebates on interstate truck charges, price-cutting in other words, is punishable by \$200 to \$500 for a first offense, \$250 to \$5000 for repeated offenses (Motor Carrier Act 1935).

Obviously, deciding what constitutes criminal behavior inevitably involves a certain degree of arbitrariness, and some observers claim that we have “over criminalization” in our society today. People differ about where the line should be drawn. For our purposes, however, convenient sidestep these ethical issues by simply accepting as given the structure of criminal law resulting from the ongoing legislative and judicial processes.

Fortunately for us, criminal law is somewhat standardized from place to place

and time to time in always prohibiting crimes against the person, such as homicide, battery, rape, kidnapping, assault, and crimes against property, such as larceny, burglary, embezzlement, and so on. Serious crimes commonly are called felonies; petty offenses are called misdemeanors. Originally, all felonies were punishable by death and forfeiture of all property to the state. Today, felonies are crimes whose conviction carries a maximum sentence of one or more years in prison.

From an economic point of view, criminal offenses can be divided into three general categories. The first two may be labeled predatory or coercive crimes: crimes against the person and crimes against property. Crimes against the person involve direct violence against an individual that result in death or physical injury. The FBI Uniform Crime Reports (UCR), the main source of statistics on crime in the United States, collects data on four serious crimes against the person---willful homicide, forcible rape, aggravated assault, and robbery.

Crimes against property, such as theft, burglary, fraud, and embezzlement are activities in which the property of another is taken by stealth, force, threat, or deceit. Of course these are crimes against the person also, in the sense that they involve the loss of property by the legitimate owner rather than a loss of life and limb. To an economist, crimes against property might be viewed as simple “transfers” of income or assets. Transfers are simple rearrangements of purchasing power that do not directly consume any resources. If I lost a \$10 bill and you find it, that is a “transfer” of wealth. I’m poorer and you’re richer. Another example is a government transfer program like social security, where the losses of wage earners (taxed) are offset by the gains of social security recipients. There is a significant difference, however, between conventional transfers and criminal thefts, aside from questions of morality or legality. Normally, transfers involve small administrative costs relative to the total value of the transfers. For criminal transfers though, the size of the transfers is a crude measure of the total amount of resources used to achieve these criminal revenues. A lot of real resources used to achieve these criminal revenues. A lot of real resources are being consumed in the process.

Victimless crimes, or the production and consumption of illegal goods and services, are the last group in our typology of crime. Government at various times and places declares certain goods illegal (marijuana, pornography,

prostitution, alcohol, etc.), or declares certain groups ineligible consumers (e.g., minors) or declares certain prices illegal (e.g., usury and loansharking). These laws are certainly more variable than those outlawing violence and coercion. The existence of laws, however, does not prevent people from producing and consuming the prohibited goods and we normally call these “black markets.” Government allocates some resources to enforce the laws against illegal goods.

Crime always seems to increase, which might not be surprising if you believe that “morality’s always on the decline.” Crime statistics are notoriously unreliable as a rule but, on the other hand, it is very difficult to say much without them. (Many social scientists are speechless without their numbers.) In 1965 the President’s Commission on Law Enforcement and Administration estimated that the economic costs of crime and its prevention were some \$21 billion, or about four per cent of national income; probably an underestimate, if anything, crime is one of the sizable “industries” in our economy. The FBI estimates the number of full-time criminals at about 1.1 million, on the basis of fingerprint submissions of multiple offenders. Although this must be viewed somewhat skeptically since it probably overestimates the number of “full-timers,” this is equivalent to 1.5 per cent of the labor force. Another indicator is that on any given day, the corrections systems is responsible for over 1.3 million offenders, and in the course of a year it handles over 2.5 million admissions.

The major source of criminal statistics in the U.S., the UCR, receives data submitted voluntarily by police departments throughout the country. Seven major felonies form the FBI crime index---murder, rape, assault, robbery, burglary, larceny over \$50, and auto theft. Between 1960 and 1971 this overall crime index nearly tripled. In 1960 there were 1,038 crimes for each 100,000 population but by 1971 this had risen to 2,907. It appears that crime is truly a growth industry and that the chance of becoming victim to a serious crime has risen sharply.

The major problem is that only part of the actual crime occurring everyday is reported in police statistics. Different people have different propensities to report crimes, even for the same crime. Secondly, the police do not always properly record all reported crimes. Given some 8000 police agencies of varying quality and practices, considerable slippage is involved. As just one

example, the New York City Police Department in 1950 changed from local precincts to a central control system for recording complaints. Recorded robberies “increased” 400 per cent and larcenies “increased” 700 per cent that year because of the change in procedures.

In 1965, the National Opinion Research Center (NORC) confirmed the “underreporting” of crime, and found out a good deal more, by interviewing a random sample of 10,000 house holds. More than twenty per cent of the household were criminally victimized during the preceding year, twice as much major crime as reported by the official UCR index. The incidence of minor crimes was even greater. Table 1 shows how the degree of underreporting varies by type of crime. The reader might to cover the numbers and predict which crimes are heavily underreported and which are not.

The remaining crimes might be termed “economic” crimes because the motive is material gain or, possibly in the case of auto theft, a “joy ride” (free use of the automobile). Robbery, underreported as are burglary and larceny, is reported more often because robbery involves a physical confrontation with the victim and therefore is more serious. Some 25 per cent of robberies result in injury. Auto theft appears “over reported” in official police statistics, perhaps because people report a car stolen and then discover they have “misplaced” it or loaned it to a friend. In general, it is heavily reported because automobiles are highly valued, insured items and the chances of police recovery are very high (85 percent).

Our primary concern is to try to understand the process which determines the amount of crime, not the “desirability” of the process. Of course, economic analysis is useful for policy purposes, just as knowledge about how a clock works is useful if you want to fix the clock. But economic knowledge is not sufficient to choose the best policy. Among other things, we would have to know the social value of lower (or higher) crime rates, the costs of achieving these by different means, and any “equity” or “fairness” considerations.

The interaction among three groups---criminals, victims, and the police-court-corrections system---determines the amount of crime a society will have. These groups are not strictly comprised of separate people. For example, a potential victim can be a criminal who is trying to protect his stolen loot. Or, a policeman could be a member of a burglary ring or accept illegal bribes to

close his eyes to crime in his district. But conceptually, the roles of criminals, victims, and the police are different. If the police began to promptly return 100 per cent of stolen cars to their rightful owners, free of charge, people might not take the trouble to lock their cars so often. But let's begin a more complete analysis by discussing the behavior of criminals.

The supply of criminals:

“Certainty of punishment and detection may deter the normal person who thinks about the existence of plea bargaining and the fact that most cases are settled through plea bargaining as an imperfection in our legal system.

Actually, if we assume rational behavior on the part of criminals and prosecutors, we would expect most cases to be committed if the benefits exceed the costs, the crime is committed, and it is not if costs exceed benefits. Offenders are not pictured as “sick” or “irrational,” but merely as engaging in activities that yield the most satisfaction, given their available alternatives. Some readers might object to such a rational analysis being applied to such irrational behavior, but I can only urge patience at this point. Presumably, people are making the best subjective choice even in so-called crimes of passion. A quote from Konrad Lorenz might help a little:

None of this denies that some people are not more emotional than others, that they often are not sure of the consequences of their behavior, or that they often do not make careful calculations about what to do next. But they are making choices, explicitly or implicitly, in crime as well as in all activities. Sociologists often appear to take a contrary view, arguing that offenders are “deprived,” and were “forced” into a life of crime. One problem with this is that some offenders were never “deprived,” and even among the deprived, only a minority go into crime.

But what factors will influence an individual's perception of the costs and benefits of crime? Suppose we look at crimes whose economic motivation is obvious because over 90 per cent of the crimes recorded by the police involve thefts and robberies. To take an extreme case, suppose that an individual were making a “once-and-for-all” decision to enter a lifetime of crime or not. What would he consider? One important feature is the “wage rate” or monetary returns he could earn in his best legal occupation compared with the

amount he could earn in his best criminal activity. “Money talks.” If a person chooses to devote his time to criminal activity, he is giving up the wages he could have earned washing dishes or hauling bricks. In other words, one of the costs of crime is the “opportunity costs” of foregone legal wages. The amount a person can earn in the legal sector depends upon his I. Q., previous education and training, experience, age, race, sex, region, unemployment rates, and so on. People who legally can earn only small amounts find crime “cheaper” to commit because they are not foregoing much in earnings. If all other factors were equal, we would predict that people with a low opportunity cost (low educational attainment and lack of job experience) would have a greater propensity to engage in crime. Examples would be the young, the poor, and members of minority groups.

The probability of conviction will be different for different people, and those who are clever at eluding the police or “beating the rap” after arrest will find crime relatively more attractive. The costs of punishment will also vary among people. For example, teenagers more often will receive a suspended sentence, probation, etc, than older people, making crime less costly for the young. Even prison costs can differ in many respects, in addition to the length of time served. Enforced unemployment is relatively cheaper for low income people than for high income people. A criminal record also tends to decrease future opportunities for legal earnings because employers are reluctant to hire ex-convicts. Low income people, who take casual, low skilled jobs, find the cost of imprisonment much lower than they are for highly educated people. A dramatic example of this difference is the “Chappaquidick incident” where Senator Edward M. Kennedy received no formal punishment from the state, but possibly was denied the Democratic nomination for the Presidency. A final cost to imprisonment is the negative value individuals place on the loss of freedom.

Partially offsetting these costs of conviction is the positive value of room and board provided “free of charge” during confinement. In fact, this positive feature appears to dominate sometimes, when, for example, drunks prefer being thrown in jail to pounding the pavement in skid row. Another “positive” economic feature of imprisonment is that the criminal can increase his productivity by learning new “tricks of the trade” from other inmates. He can also make new contacts among prisoners, learn about “fences” for unloading stolen merchandise, etc. Of course, the effect of prison on

decreasing legal earnings and raising criminal skills often is thought socially undesirable because it makes crime somewhat more attractive to ex-convicts.

Benefits come in two forms---monetary benefits and non-monetary benefits. Non-monetary benefits mean the direct enjoyment from the activity, in addition to the “paycheck.” People differ in their tastes and attitudes toward criminal activity just as they do toward Elvis Presley records and oleomargarine. Some people apparently enjoy the thrill of the chase, or impressing their friends by claiming to steal five cars. People will differ in their attitudes toward violence also. But this diversity is not very troublesome from an economic viewpoint if we can reasonably assume that tastes (preferences) are pretty constant in the community. In other words, even though young males may be more prone to crime, this has been true all the time and has been stable. It is difficult to see why males are any more prone to violence now than, say, ten years ago, so something else must account for increasing crime. However, knowing individual propensities to crime is helpful if you want to predict what sector of the population is most likely to commit crimes, rather than predicting how the amount and types of crime will change in the aggregate.

The monetary returns to crime are variable and will immediately affect the incentives to commit crime. What does the level of returns depend upon? Three factors appear important. One is the prevailing level of wealth in the community. The richer a community is, the more goods there are, and the more valuable they are. This means more profitable theft. The gross returns to crime will be higher in New York than in Alabama, just as they are for robbing banks rather than cookie jars.

A second factor, closely associated with the first, is the degree of urbanization, or the “density” of the population. The denser the targets to rob, the more offenses one can commit per unit time, so returns are higher. The most obvious example is pick pockets who work in large crowds, with the virtue of lots of targets and anonymity, thus reducing the probability of detection. The same principle makes cities better places to engage in crime than rural areas. A final factor is the level of precautions that potential victims undertake to avoid crime. Victims can “harden targets” by buying locks, renting security guards, etc., all of which reduce the returns to criminals for the amount of time invested.

Other individuals might combine both legal and illegal activities because they want to devote a lot of time to getting income, so they work “part time” in crime, up to point A, but beyond that it pays to work in legal activities. In fact, some types of legal and illegal activities are “fruitfully” combined; for instance, selling retail goods along with stolen goods acquired as a “fence,” or being a security guard and selling “inside” theft information, or tending bar while acting as a pimp.

Victims

“But nowhere are the new legions of rent-a-cops more obvious than in Detroit. There, some 107 agencies supply more guards to businessmen and apartment houses than the city has men on its 5,200-man police force.”

- Newsweek, January 10, 1973

Last year the XYZ corporation chose to lose \$2.5 million to shoplifters, \$0.8 million to employee pilferage and embezzlement, and \$0.9 million to check forgers. Sound strange? How about this---some people choose to live in high crime areas and run the risk of victimization. Stranger still? Perhaps it is not so strange if you think about it. Once again, economists picture the potential victims of crime as making choices, and if that is true, these personal choices influence the chance of victimization and the size of the losses. In other words, victimization is at least partially self-determined.

The point is easily illustrated by an example which superficially has nothing to do with crime. A western railroad was experiencing some difficulty with their trains on a long mountain grade. It seems that the equipment was heavily strained, in particular, the running gear could develop “hot boxes” which can end in derailment of an entire train. There are a number of things the railroad managers might consider and one of them was a hot-box detector which was priced at \$50,000 a copy. This could be installed and the train halted before the disaster occurred. But...was it worth \$50,000? The management could obviously continue running the risk of derailment. They had to decide if the gains from avoiding occasional derailments exceeded the cost of the preventive device.

Similarly, individuals, households, and business firms are continuously

deciding how much to invest in preventing a loss from crime. They are (implicitly?) weighing the costs and benefits from spending more or less on personal crime prevention. The costs are all types of expenditures on security and the gains take the peculiar form of losses forestalled.

Of course the response would depend upon the scale of the program, which have been pretty small to date. Five states, New York, California, Hawaii, Maryland and Massachusetts, have paid out \$1.8 million to 1,000 crime victims, or \$1,800 per crime. But suppose the state offered compensation of \$100,000 for every victim of an assault who required one day of hospitalization or more. It is easy enough to predict that we would experience a rash of "assaults" and possibly even firms could spring up that would specialize in administering beatings for a fee. Private insurance companies reduce this incentive with a variety of devices, the most important being deductibles, coinsurance, minimum prevention requirements, and variable premiums. The deductible provision excludes some initial amount of loss from coverage so that the victim bears the cost and hence still has an incentive to reduce theft losses. Coinsurance requires the individual to pay some fraction of each dollar of loss. Minimum prevention standards mean that certain preventive expenditures are required for eligibility, for example, a burglar alarm system may be necessary for a firm to acquire insurance. Finally, insurance premiums can be higher priced for firms and house holds with heavy losses, an additional incentive to reduce crime losses. The net result of all these insurance devices is to sharply reduce the tendency for insurance to foster more crime.

A Digression on Victimless Crime and the Mafia. As mentioned earlier, some activities are declared criminal that do not involve any obvious victim. Some consumers are willing to pay for gambling, drugs, prostitutes and other things, even if the community insists on outlawing them. One interesting economic question is: How will the production system be organized under these conditions? Many potential suppliers are deterred from engaging in illegal activities, providing a barrier to entry for "organized crime" or the "underworld." Many observers often allege that the "Mafia" or "La Cosa Nostra" or "The Syndicate" is a single monopoly firm controlling the production and distribution of some illegal goods in the United States. Although firms are certainly "organized" in these activities, just as in legal trades, it is highly doubtful that a true monopoly exists in the country.

Competing firms spring up if profits are available. The major source of income is illegal bet-taking, crudely estimated at over \$50 billion a year, for all forms of gambling, legal and illegal.

Competition can be somewhat diminished through violence---gang warfare. This deters entry and produces some consolidation of firms, in part because any violence in a “disorganized” industry arouses the public and the police against the industry. Much of the corruption of police and politicians stems from organized crime buying reduced detection, which decreases their costs of operation. Running a “house of ill repute” or a “numbers racket” is difficult without paying off the police to some extent. Police and public officials have some incentive to accept bribes for the obvious reason of higher income, but also because there is not a universal feeling that selling gambling or drugs to a willing consumer is socially harmful. One major side effect of victimless crimes might be a general deterioration of respect for law plus a lower quality of law enforcement per dollar. The best example was the prohibition of liquor in the 1920s, which spawned the initial “infrastructure” for organized crime and produced a good deal of official corruption.

The core of organized crime is supplying illegal goods and services to countless numbers of citizen customers. Much of their revenue comes from innumerable petty transactions: 50-cent bets, quarters dropped into racketeer-owned jukeboxes, smuggled cigarettes in vending machines, the classic “6-for-5” loan (20 per cent interest a week), or street sales of narcotics by independent “pusher” using drugs imported by organized crime. In addition, organized crime is involved in such diverse activities as extortion and protection packets, labor union racketeering, the control of some legitimate businesses, truck high jacking, and warehouse burglary. According to the President’s Crime Commission Report [8], La Cosa Nostra consists of 24 groups in large cities across the nation. The membership of about 5000 is exclusively Italian-American, although they often work in concert with criminals from other ethnic groups. Each of the 24 groups is a “family,” with membership varying from 700 member to as few as 20. Most cities with organized crime have only one family: New York City has five. Each family is headed by one man, the “boss” who maintains order in the pursuit of profits. Below the boss in an “underboss,” a “consigliere” or counselor, “caporegime” or chiefs of operating units, and at the lowest level are “solidity” or soldiers. The larger groups also have full-time positions for an

“enforcer” and a “corrupter.” A code of conduct very similar to the Sicilian Mafia’s code maintains internal discipline, enforced by ritual, material rewards, and violence.

The dominant public approach to organized crime has been through individual indictments and conviction, rather than through regulation or restructuring markets and business conditions. For example, if the organizational stimulus for large criminal enterprise is a few black markets which are “protected” from legitimate competition, the scope of organized crime could be reduced by legalizing these goods. This would subject illegal firms to competition by legitimate businessmen. If we insist on maintaining gambling and other activities as illegal however, we may actually prefer that these activities be monopolized by organized crime rather than produced by competitive firms. Some of the costs of criminal activity are “internalized,” which might go unnoticed if criminal activity is decentralized. For example, an individual hijack might kill a truck driver to eliminate a potential witness, even though criminals as a group would suffer from public outrage and increased police activity. A monopoly or trade association would discipline its members to avoid such costs, hence “internalizing” a cost which was external to the individual criminal. In this sense, society might “contract out” some of the regulatory functions to criminals themselves, encouraging them to stick to less damaging kinds of crime. Of course, this argument is not decisive in what kind of market organization we should encourage for the inevitable trade in illegal goods. The corruption of public officials associated with large-scale criminal firms argues for encouraging decentralized criminal enterprise. The sum of costs and benefits must be weighed for alternative public policies; our present state of knowledge does not permit any clear-cut estimation.

The consumption of one illegal good, heroin, is widely claimed to be directly related to the amount of robbery and theft. Drug addicts largely support their habit by stealing, so presumably more addicts mean more crime. Addicts, of course, are still choosing which activities yield the best income, but usually they cannot hold legal jobs with sufficient remuneration to support the habit. The average heroin addict must have about \$40 a day which means he has to steal about \$160 a day because he can normally get only about \$.25 on the dollar for stolen merchandise.

The scope of addiction is large enough to generate substantial amounts of

additional crime in a few of our largest cities, particularly in black communities. An oft-quoted statistic is that one-half of the crimes in New York City are committed by addicts. Of course, this does not necessarily mean that the same people would not steal even if they were not addicts but it undoubtedly adds to crime. Government has responded in two general ways. First, they have cracked down somewhat on the drug pushers and producers. This raises the cost of doing business and pushers and producers. This raises the cost of doing business and pushes up the price of heroin. Prices are artificially high because of law enforcement. One curious effect of this is that, in the short run, addicts would have to steal more to pay the high prices. Apparently if the police ceased enforcement, prices would fall and hence crime will fall. Off-setting this effect, however, is that in the long run the lower price would attract additional consumers of heroin and the net effect on crime is not so obvious.

A second technique is that the government has gone into the business of giving away, free of money charge, a substitute drug called methadone. This induces some addicts to shift away from heroin, although in the long term, because it makes the consequences of becoming addicted somewhat less disastrous, it may generate a larger population of addicts. Recently, some reports indicate that the drug epidemic may be peaking out. Although government programs may be partly responsible, the demand for heroin may also have fallen because the “fashion ability” of drug use has declined with more widespread knowledge about the effects of addiction.

White – collar crime

As originally identified and systematically studied by Edwin H. Sutherland a generation ago, white-collar crime fell in the area of business operations and represented the rather invisible violations of trust or violations of business regulations (especially federal regulations) by persons high enough on the ladder of management to expedite unscrupulous tactics. A recent study of white-collar crime by Herbert Edelhertz for the National Institute of Law Enforcement and Criminal Justice (1970) revises and brings up to date the realistic observations about white-collar crime. Consequently, it seems the better part of wisdom to deal first with Sutherland’s contribution and secondly with the findings from Edelhertz’s research.

Before embarking upon Sutherland's original contribution to the identification of the problem of white-collar crime in the United States, it should be noted that trade and business, throughout history, developed an accumulated set of "sharp practices" that forced the buyer or receiver of services to be alert--- "buyer beware"! The buyer had to be aware of adulterated milk, contaminated meat, under weighting, and mislabeling. It was the buyer, not the seller nor the state, who was responsible for making sure he received full value for the price he paid.

Sharp practices and recent regulations

Many of the petty sharp practices in the United States declined with the development of government price-regulating and government scrutiny of weights and measures. It is true, however, that many business operations and transactions in the kind of highly regulated free enterprise system that exists in the United States today still depend upon sharp practices. Businessmen must be cognizant of all angles of their operations if they are going to service in a free enterprise system.

White-collar crime in a regulated free enterprise system nowadays is the violation of regulations by the owner or managers of a business, that is, by those who are in the positions of determining procedure and policy. Clearly, white -collar crime in this context is not the visible cheating or falsification which is the concern of ordinary criminal laws and it is not the visible violations of the regular criminal code, such as theft. It is rather the violation of business regulations, maneuvers behind the scenes, of which the average citizen or even the average employee is unaware. It usually takes a technician or an expert to detect that the violations of regulations have taken place.

In contrast to the patterns of behavior manifested by men with criminal careers (ordinary and professional) and by persons involved in organized crime, white-collar crime represents the offenses of business. In all likelihood, such a category includes owners of small businesses and shopkeepers as well as the middle and upper management of large business.

The offenses of businessmen that fall into the white-collar crime category are not those usually subsumed under the regular criminal code, such as theft.

Rather, they are actions that are counter to the regulation of business, both state and federal, such as the rules of the Federal Trade Commission, a state insurance commission or utility commission, the Federal Interstate Commerce Commission, the Food and Drug Administration. And so forth. For example, businessmen who use the reserve funds of an insurance company for forbidden purposes; who falsify company books and income reports; who violate the standards of weight, quality, and content of materials, in food and drugs; who overload planes or buses and trucks---all come under the purview white-collar crime.

One should be mindful of the fact that, since the Civil War, the United States has witnessed an expanding regulation of commerce and business, not only to protect the interest of the public but also to protect the free enterprise system. The regulation of business has responded to a recurrence of catastrophes caused by machinations of businessmen. One of the early forms of regulation took place in the insurance field to secure the interest of policy holders by guaranteeing the fulfillment of policy contracts. There were many disasters in this area. From about 1890 until World War I, cutthroat competition, aggrandizement, and integration in business caused grave concern over the rapidly growing problem of monopoly and the threat to free enterprise.

Since the Sherman Antitrust Law, many waves of public pressure in favor of the regulation of business were directed toward state and federal governments. It would be fair to say that the United States government regulates business to a much greater extent than any other modern democracy. Businessmen are subject to fewer restraints in the countries of Western Europe, in Japan, Southeast Asia, the Middle East, North and South Africa, and in Central and South America, than they are in the United States. The result is that the consumer in the United States is more likely to get goods and services of standard quality and at the lowest possible price than in any other country in the world. He is more likely to pay less for what he buys than in any other country of the world.

White – collar crime defined

Edwin H. Sutherland, American sociologist and criminologist, made the first systematic effort to identify and explain white-collar crime. He defined white-collar crime as “a violation of criminal law by a person of the upper

socioeconomic class in the course of his occupational activities.” He claims further that white-collar crime is mainly a violation of trust. These violations of trust largely fall into two main types: First, misrepresentation; and second, duplicity. The first type is akin to fraud or swindle; the second type is a double cross. The essential principle in the double cross is that while seeming to act for the good of his clients, the professional or businessman fleeces them. For example, a member of the board of directors of a corporation may have knowledge that the corporation needs a certain piece of property. He buys this piece of property and sells it to the corporation at a very considerable mark-up; yet he as a director is charged with the responsibility of looking after the interests of the corporation. In Sutherland’s words:

White-collar criminality in business is expressed most frequently in the form of misrepresentation in financial statements of corporations, manipulation in the stock exchange, commercial bribery, bribery of public officials directly or indirectly in order to secure favorable contracts and legislation, misrepresentation in advertising and salesmanship, embezzlement and misapplication of funds, short weights and measures and misgrading of commodities, tax frauds, misapplication of funds in receivership and bankruptcies. These and many others are found in abundance in the business world.

The evidence for white - crime

The evidence for the widespread existence of white-collar crime is not to be found in ordinary police records or in the records of criminal courts. Only once in a while does a violating business official run afoul of the police and the criminal court. The evidence for white-collar crime that transcends the visibility of ordinary cheating practices of small merchants is to be found principally in the investigations and hearings before special bureaus and trade commissions that have been given the responsibility of regulation of business. Sutherland says:

White -Collar crimes are very prevalent in present American society. No index or rate of white-collar crimes has been officially constructed, but their prevalence has been shown abundantly in many industries by congressional and other investigations of banking, insurance, investment trusts, the stock market, receiverships and bankruptcies, public utilities, railways, shipping,

munitions, oil, lumber, milk, meat, tobacco, and flour milling. The prevalence of white-collar crimes can be readily appreciated by anyone who reads a few of the current annual reports of the Federal Trade Commission and other commissions which have the responsibility of regulating business. Moreover, it is easy for 2 person to learn a good deal about white-collar crime merely by asking intimate friends, "What crooked practices are prevalent in your business or in the industries with which you deal in your business?" The manufacturers of practically every class of articles used by human beings have been involved in legal difficulties with these commissions with more or less frequency during the last thirty years, including the manufactures of the surgical instruments with which an infant may be assisted into the world, the bottle and nipple from which he may secure his food, the milk in his bottle, the blanket in which he is wrapped, the flag which the father displays in celebration of the event, and so on throughout life until he is finally laid away in a casket which was manufactured and sold under conditions which violated the law.

Even two generations ago illegal and criminal practices in business operations were featured in the early investigations of regulatory bodies:

The Federal Trade Commission in 1920 reported that commercial bribery was a prevalent and common practice in many industries. In certain chain stores, the net shortage in weights was sufficient to pay 3.4 percent on the investment in those commodities. Of the cans of ether sold to the Army in 1923-1925, 70 percent were rejected because of impurities. In Indiana, during the summer of 1934, 40 per cent of the ice cream samples tested in a routine manner by the Division of Public Health were in violation of the law. The Comptroller of the Currency in 1908 reported that violations of law were found in 75 per cent of the banks examined in three months' period. Lie detector tests of all employees in several Chicago banks, supported in almost all cases by confessions, showed that 20 per cent of them had stolen bank property. A public accountant estimated, in the period prior to the securities and Exchange Commission, that 80 per cent of the financial statements of corporations were misleading. James M. Beck said, "Diogenes would have been hard put to it to find an honest man in the Wall Street which I knew as a corporation lawyer" (in 1916).

Financial loss to the public

The financial loss incurred by the public because of white-collar crime is perhaps greater than the loss from all other crimes combined, and it might even be greater than loss to the public through inefficient or corrupt government. Some idea of this may be gleaned from material presented by Sutherland.

The financial loss to society from white-collar crimes is probably greater than the financial loss from burglaries, robberies, and larcenies committed by persons of the lower socioeconomic class. The average loss per burglary is less than one hundred dollars, a burglary which yields as much as fifty thousand dollars is exceedingly rare, and a million-dollar burglary is practically unknown. On the other hand, there may be several million-dollar embezzlements reported, in one year. Embezzlements, however, are peccadilloes compared with the large-scale crimes committed by corporations, investment trusts, and public utility holding companies; reports of fifty-million-dollar losses from such criminal behavior are by no means uncommon.

White – collar crime sidesteps the courts

Although white-collar crime is not reported and dealt with as is ordinary crime, there is no reason to claim that it is not real crime. According to Sutherland, white-collar crime is definitely a violation of criminal laws. The criterion that white-collar crime cannot legally be considered crime because it is not prosecuted in a criminal court and the persons involved are not found guilty or convicted by a criminal court is not significant for the purposes of criminological study.

It is true that white-collar crime comes to the attention of administrative boards, bureaus, and commissions charged with the responsibility of regulating business activities. Much of the work of these agencies deals with definite violations of rules and regulations. If most of the cases of violations reviewed by these special regulatory bodies were brought before criminal courts, they would probably lead to definite convictions. Such behavior is criminal, even if it manages to avoid the criminal court. Gangsters, racketeers, and professional criminals are usually able to avoid arrest and

sentence. The perpetrators of white-collar crime are likewise able to develop immunity to criminal court action. If this immunity takes white-collar crime out of the category of criminal behavior, then it should also take professional crime and organized crime out of the category of criminal behavior. Lastly, it appears that when responsibility for violation is sought, it is likely to be pinned on one person within a business or corporation. Actually, there are many persons who are accessory to white-collar crime, professional crime, and organized crime. Sometimes it is true in white-collar crime as it is in organized and professional crime, and, to the criminologist, white-collar crime, like most crimes, involves accessories, associates, and confederates. From such lines of reasoning Sutherland concludes that white-collar crime is essentially like crime in the lower classes, which is more often reported and dealt with officially.”

Lots of crime but little prosecution

In the early forties Sutherland studied in detail the decisions made by various federal agencies involving 70 corporations. He faced the problem of establishing that these violations for the most part had all the characteristics of criminal behavior, although only a small number found their way to courts. The opening wedge, according to Sutherland, to differential treatment of the violations of big businessmen came with the Sherman Antitrust Act and was assisted further by the amendments that set up the Federal Trade Commission law, the Clayton Law, and several others. These and subsequent laws enabled businessmen to be dealt with outside the criminal courts. Consequently, their violations do not carry the stigma that comes from being dealt with as a criminal in a court, although they are legally and sociologically criminal in nature. There seems to be much less stigma attached to white-collar crime than to any other kind of violation, including juvenile delinquency, which society has tried to deal with in an unstigmatized way through special courts and special probation. Sutherland says:

An analysis was made of the decisions by courts and commissions against the seventy largest industrial and mercantile corporations in the United States under four types of laws, namely, antitrust, false advertising, National Labor Relations, and infringement of patents, copyrights, and trademarks. This resulted in the finding that 547 such adverse decisions had been made as average of 7.8 decisions per corporation and with each corporation having

at least 1. Although all of these were decisions that the behavior was unlawful, only 49 or 9 per cent of the total were made by criminal courts and were in fact decisions that the behavior was criminal. Since not all unlawful behavior is criminal, these decisions can be used as a measure of criminal behavior only if the other 498 decisions can be shown to be decisions that the behavior of the corporations was criminal.

Three decisions against the seventy corporations under the patent law and one under the copyright law included awards of such additional damages and on that account were classified in the tabulation of decisions as evidence of criminal behavior of the corporations. The other decisions, 74 in number, it regard to infringements were classified as not conclusive evidence of criminal behavior and were discarded. However, in 20 of these 74 cases the decisions of the court contain evidence which would be sufficient to make a prima facie case in a criminal prosecution; evidence outside these decisions which may be found in general descriptions of practices regarding patents, copyrights, and trademarks, justifies a belief that a very large proportion of the 74 cases did, in fact, involve willful infringement of property rights and might well have resulted in the imposition of a penalty if the injured party and the court had approached the behavior from the point of view of crime.

The preceding discussion has shown that these seventy corporations committed crimes according to 473 adverse decisions, and also has shown that the criminality of their behavior was not made obvious by the conventional procedures of the criminal law but was blurred and concealed by special procedure. This differential implementation of the law as applied to the crimes of corporations eliminates or at least minimizes the stigma of crime. This differential implementation of the law began with the Sherman antitrust law of 1890. As previously described, this law is explicitly a criminal law and a violation of the law is a misdemeanor no matter what procedure is used. The customary policy would have been to rely entirely on criminal prosecution as the method of enforcement. But a clever invention was made in the provision of an injunction to enforce a criminal law; this was not only an invention but was a direct reversal of previous case law. Also, private parties were encouraged by treble damages to enforce a criminal law by suits in civil courts. In either case, the defendant did not appear in the criminal court and the fact that he had committed a crime did not appear in the face of the proceedings.

The Sherman antitrust law, in this respect, became the model in practically all the subsequent procedures authorized to deal with the crimes of corporations. When the Federal Trade Commission bill and the Clayton bill were introduced in Congress, they contained the conventional criminal procedures these were eliminated in committee decisions, and other procedures which did not carry the external symbols of criminal process were substituted. The violations of these laws are crimes, as has been shown above, but they are treated as though they were not crimes, with the effect and probably the intention of eliminating the stigma of crime.

If a civil fine were substituted for a criminal fine, a violation of the anti truss law would be as truly a crime as it is now. The thing which would be eliminated would be the stigma of crime. Consequently, the stigma of crime has become a penalty in itself, which may be imposed in connection with other penalties or withheld, just as it is possible to combine imprisonment with a fine or have a fine without imprisonment. A civil fine is a financial penalty without the additional penalty of stigma.

The method of criminal prosecution in enforcement of the Sherman anti truss law has varied from one presidential administration to another. It has seldom been used in the administration of the presidents who are popularly appraised as friendly toward business, namely, McKinley, Harding, Coolidge, and Hoover

Business men suffered their greatest loss of prestige in the depression which began in 1929. It was precisely in this period of low status of business men that the most strenuous efforts were made to enforce the old laws and enact new laws for the regulation of business men. The appropriations for this purpose were multiplied several times and persons were selected for their vigor in administration of the laws. Of the 547 decisions against the seventy corporations during their life careers, which have averaged about forty years, 63 per cent were rendered in the period 1935-43, that is during the period of the low status of business men.

White-collar crime is similar to juvenile delinquency in respect to the differential implementation of the law. In both cases, the procedures of the criminal law are modified so that the stigma of crime will not attach to the

offenders. The stigma of crime has been less completely eliminated from juvenile delinquents than from white-collar criminals because the procedures for the former are a less complete departure from conventional criminal procedures, because most juvenile delinquents have not organized to protect their good names. Because the juveniles have not been successfully freed from the stigma of crime, they have been generally held to be within the scope of the theories of criminology and in fact provide a large part of the data for criminology; because the external symbols have been more successfully eliminated from white-collar crimes, white-collar crimes have generally not been included within these theories.

Effect of prestige and power as deterrents to prosecution

Granting the existence of variations in the implementation of the laws as applied to businessmen in the conduct of their business, Sutherland calls attention to the factors behind these irregularities that account for their existence. First of all, businessmen have prestige and high social status. Secondly, they are able to exert great pressure by propaganda and lobbies to prevent the enactment of laws that would bring their operations under greater scrutiny and control. Thirdly, the violations of businessmen flourish unimpeded for the most part because the victims of such operations are weak. They do not possess the information necessary for successful prosecution. They are not organized to challenge a corporation, although theoretically the law gives them such a right. Consequently, there is no organized public to combat white-collar crime. The only agencies that can combat it are the regulatory bodies, which do not handle the violations as crimes.

Black - marketing

During World War II and early postwar months, when rationing and price controls were in effect, large-scale violations occurred in marketing procedures which on the one hand partook somewhat of the nature of white-collar crime and on the other somewhat of the nature of bootlegging operations. The reason for saying this is that price and rationing violations were committed largely by the public rather than by gangsters or racketeers and that these violations constituted an illicit traffic within a regulated economy.

According to Leon Henderson, criminal racketeers had little place in the black market. Unlike bootlegging of the prohibition era, the under world gangster or mobster was an almost negligible factor in the American black market of the war and early postwar period.

The basic conditions that caused the growth and spread of black-market operations in which consumers, producers, distributors, and retailers participated were shortages in goods, regulations and price fixing, and excess purchasing power. Of course, the moral factor had to be overcome. There were, to be sure, certain industries that were very much more vulnerable to black-marketing than other industries. That is, the opportunities to operate black markets were very much more possible in certain industries than in others. Closely organized industries, such as steel, tires, and drugs were observed to be relatively free of price and rationing violators, whereas illegal prices and violations of rationing controls were rife in such loosely connected industries as foods, cars, and testiness. Perhaps the most prominent and most publicized black market during the war operated in the meat industry. In the early part of the war, it was estimated that a very large proportion of the meat supply went into illegal channels. There was an instance or two of a racketeer with underworld connections who were into the black market as a big operator, but the vast, vast majority of black marketers in meat were the farmers and small-town butchers at one end of the line and butcher shops in the cities at the other.

According to Clinard, the major types of black-market activities consisted of over ceiling price violations, evasive price violations, rationing violations (including theft and counterfeiting of ration currency), violations of rent ceilings, and record-keeping and reporting violations. However these activities were not unique to the regulated wartime economy set up by the OPA. Several of them were similar to violations of regulations of other wartime agencies such as the War Production Board. Black-market violations were very similar to the ordinary peacetime violations of businessmen that come before administrative agencies such as the Federal Trade Commission. Finally, black-market activities in some instances also violated laws that had been established before the war. Such violations included income-tax evasion, illegal diversion of sugar, deterioration of food quality, and counterfeiting of currency. The similarity to white-collar crimes is very striking.

The sample soundings and estimates of the extent of black-market violations in their retail and pre retail aspects alone, during the reign of OPA (1942-1947), were quite staggering and probably should be considered as exceeding the estimates of ordinary property crimes. If consumers' violations and complaints against landlords were added, there would be a terrific excess of volume of black-market activities over reported and unreported property violations.

Action against black-market offenses ranged all the way from admonitions to criminal prosecution in court. Most of the action was administrative, such as suspension of license, treble damage suits, and injunctions. Out of 259,966 actions taken against non consumers (mainly businessmen) from among over 1,000,000 OPA investigations, only 13,999 were turned over to federal courts and 5,127 to local courts. Of 13,915 federal criminal prosecutions completed, 11,600 were convicted; and of those convicted, 2,970 received imprisonment, and the remainder received only a fine and probation or suspended sentence. Compared with the sentence received by property offenders in felony courts, Clinard thought that black-market businessmen got off very lightly. Since businessmen considered probation or suspended sentence equivalent to exoneration and really were not hurt financially by payment of fines, Clinard believed that the small number of commitments to penal institutions had a non deterrent effect on black-market activities. He discovered that the businessmen really feared a prison sentence, not only because of the stigma but also because of the loss of business; yet this was the sentence, not only because of the stigma but also because of the loss of business; yet this was the sentence they received most infrequently. Unquestionably, black-marketing among businessmen is the type of crime, like white-collar crime and organized crime, that is sensitive to strong measures of enforcement and conviction and unlike most forms of conventional crime and affiliated problems, such as drug addiction, chronic alcoholism, abnormal sex offenses, vagrancy, and gambling addiction, responds to deterrent measures.

Although the great majority of people in the United States supposedly favored price and rationing controls during the war (sample studies revealed 80 to 97 percent), the government and the public were willing to overlook the offenses against wartime price controls and rationing and to overlook the offenses against wartime price controls and rationing and to categorize violating

businessmen differently from violators of the ordinary criminal code. Perhaps the reason for such exempt consideration is that the public did not want to be hard on its over competitive businesses and the government did not want to discourage production during the emergency. Although their offenses are crime in a legal sense, such offenses seen not to be considered as inimical to the public welfare as are the older kinds of crime. After all the United States has had very limited experience in attempting to outlaw bad business practices and to control business, and it is too early in our sociopolitical development to expect the public to look upon the butcher who upgrades meat to get a higher price in the same light as it looks upon a thief, a check forger, or a robber.

Postlude to the black market

In January, 1949, in the United States, U. S. News reported that the “era of the black-market and the gray-market is definitely ending,” based on reports from Detroit, New York, and Chicago. “Sheet steel, a few popular makes of automobiles, and leases to apartments are about the only items that buyers will still pay premiums to get....

The buyer, not the seller, is calling the tune again in the U. S.” With the lifting of wartime price regulations and the availability of materials, supplies, and consumers goods, the basic need for a black market has disappeared and, with it a chapter in the criminological history of the United States.

However, the black market is a threat to a democracy and to a free-enterprise system during a period of emergency controls and regulations. Although we had some regulation during the Korean War, we had inflation rather than the black market. It appeared also that our economy then was able to provide for the war without a noticeable sacrifice in consumers goods. In an all-out war, strict regulation of business, commodities, services, and quotas for consumers will undoubtedly be instituted. The black market will then return to the American scene unless businessmen develop their own pressures for compliance with regulations in the meantime and public opinion forges a solid front against nonconforming consumers.

The original controversy about white – collar crime

In the early fifties a controversy developed between Hartung and Burgess about whether white-collar crime and black marketing were really crime in the sociological sense. Hartung contended that white-collar crime (and black marketing) should be considered, sociologically, as crime just as any other kind of crime. Burgess maintained that OPA violators did not conceive of themselves as criminal and neither did the public; that the Emergency Price Control Act of 1942 and the Second War Powers Acts suddenly transformed former business practices into crimes; that the public, the government, and the press made no concerted effort to condemn OPA violations and to stigmatize them as burglars, roger, forgers, and so forth; that large segments of the public participated in the black-market practices (just as they did in bootlegging in the time of prohibition); that only a small fraction of OPA violators received prison sentences, which were light compared with sentences for ordinary property crimes. Hartung made the rejoinder that in his researches he found “considerable evidence that OPA violations and the public both considered OPA violations to be criminal”: that the OPA controls were not a sudden descent upon businessmen, since business regulation has existed for several generations; that rationing and ceiling prices were the only sudden innovations of OPA regulations; that public opinion studies indicated that the public defined OPA violations as criminal; that there is some doubt as to whether white-collar Crimes do receive much lighter sentences at the hands of the courts. Burgess’ concluding comment on Hartung’s rejoinder was that a criminal sociologically “is a person who regards himself as a criminal and is so regarded by society, “and the OPA violator does not meet this test. At one point in his statement on OPA violators, Clonard said, “they generally regard themselves as ‘offenders’ against the law” (he does not say criminals). At another point, he stated that “most of these violations were not looked upon as crimes by businessmen, although they actually were and should be treated sociologically as criminal acts.”

The second part of the original controversy about Sutherland’s contribution had to do with the application of his own differential association theory to white-collar crime. It will be recalled that Sutherland insisted upon a theory which could explain crime, independent of personality factors, no matter whether it was committed in the upper or lower classes. In the second edition

of this book, the author insisted that such a theory would not be valid. “White-collar crime and OPA violations cannot be explained without a personality component, a differential response or readiness to break over the lives of compliance. Something subjective must help the violator succumb to the current and confronting black-market activities, and something must help the non violator reject black-market practices.” The author also raised the question as to whether white-collar crime, as a special order of crime, might not need an explanation peculiar to it, rather than to fit it into a general explanation of all crime. In the same vein of thought, it is possible that gambling, drug addiction, murder, auto theft prostitution, burglary, check writing, etc., might need their own specific explanations, as specific orders of behavior.

Revisionist observations

The recent effort by Edelhertz to update the original thinking about white-collar Crime has been referred to carrier in this chapter. His study was done under the auspices of the National Institute of Law Enforcement and Criminal Justice. First of all, Edelhertz broadens the definition and scope of white-collar crime. Whereas Sutherland viewed white-collar crime primarily as violations of regulatory codes by upper-class businessmen in positions of trust, Edelhertz claims that white-collar crime is “an illegal or series of illegal acts committed by nonphysical means and by concealment or guile, to avoid the payment or loss of money or property, to obtain money or property, or to obtain business, or personal advantage. The modus operandi is the important factor. “White-collar crime is democratic. It can be committed by a bank teller or the head of his institutions. He can be the destitute beneficiary of a poverty program who is told to hire a work group and puts fictional workers on the payroll so that he can appropriate their wages.”

Although Edelhertz, as others before him, found it practically impossible to get valid indicators of the extent or the cost of white-collar crime he claimed with good reason that the United States has witnessed and “expanded vulnerability to white-collar crime because of changes in our economic and social environment.” Inter alia, he mentioned “the weakening of certain safeguards which were built into the marketing and distribution patterns of an earlier age, and which retained much of their vitality only 20 year ago.” In particular, he called attention to the following development which have

facilitated the spread of white-collar crime: Retail sales are now an “essentially faceless” transaction, transactions between business or within a business have become computerized, quick obsolescent of products, the pressure on credit agencies to meet the demands for nonessentials on the part of the “have notes,” the increase in tax evasion, increased affluence making it possible for fiduciaries to violate the terms of their frusta, etc.

Edelhertz developed a list of “common elements” which are likely to be found in all white-collar crime.

A: Intent to commit a wrongful act or to achieve a purpose inconsistent with law or public policy.

B: Disguise of purpose or intent.

C: Reliance by perpetrator on ignorance or carelessness of victim.

D: Acquiescence by victim in what he believes to be the true nature and content of the transaction.

E: Concealment of crime by-----

1. Preventing the victim from realizing that he has been victimized, or
2. Relying on the fact that only a small percentage of victims will react to what has happened, and making provisions for restitution to or other handling of the disgruntled victim, Or
3. Creating of a deceptive paper, organization or transactional fagde to disguise the true nature of what has occurred.

Categories of white – collar crime

One of the most important contributions in the Edelhertz study his classification of specific white-collar crimes. This is the first time that a complete catalogue of white-collar violations has been compiled classified variously into four basic categories:

Crimes by persons operating on an individual, ad hoc basis.

Crimes in the course of their occupations by those operating inside business, government, or other establishments, in violation of their duty of loyalty and fidelity to employer or client.

Crimes incidental to and in furtherance of business operations, but not the central purpose of the business.

White-collar crime as a business, or as a central activity.

One should make note of the fact that Edelhertz goes far beyond Sutherland's focus on violations of trust by businessmen in positions of trust. As a matter of fact, Edelhertz's coverage embraces forgery, fraud, and embezzling by employees as well as swindles and illegal financial maneuvers by businessmen.

Government's Attempts at Control

As will be remembered from the study of the complaining process, violations and thefts by employees of businesses are not readily reported and seldom come to the attention of the police or courts. Consequently, the non-business aspects of white-collar crime---one might say the employee aspect of white-collar crime, lead to very few arrests and prosecutions. This is in part due to the effect such action would have on the morale of the general run of employees in any large office, store, or plant.

The violations of executives in their transactions and procedures of handling business are likewise difficult to discover, to investigate, and to prosecute. However, several federal agencies as well as a very small number of state agencies have primary concern for dealing with the violations of various codes by business executives. One would probably be correct in asserting that the majority of violations of businessmen go undetected and unprosecuted. Perhaps the one form of white-collar crime which is the most readily subject to investigation and prosecution is income-tax fraud.

As stated previously, the federal government has many regulation agencies with investigation units which usually act on complaints from competitive businesses discovering the violations. But few of these violations, after confirming investigations, reach the courts. They are handled by measures such as assessment of treble damages or an order to cease and desist operations for a year. Of all the federal regulatory bodies, undoubtedly the Antitrust Division of the United States Department of Justice, next to the Internal Revenue Service, has the clearest entry into white-collar crime of any of the other investigation units of the so-called regulatory agencies

It is well known that the prosecution of businessmen's crimes is ever more

difficult than investigation. Prosecution of such cases is not only complicated and time-consuming but, in many instances, seems to be beyond the competence of prosecutors in many federal and county courts. It appears to be quite difficult to evaluate or assess the complications of a case, even after investigation. Is there a provable violation? And, finally we should mention that there is frequently an overall unwillingness on the part of the public to hold business executives responsible. Hence, white-collar crime of businessmen most frequently “sidesteps” the law.

The President’s Commission on Law Enforcement and the Administration of Justice, however, came to the conclusion that the greater use of criminal sanctions might help the public realize the seriousness of the problem of white-collar crime and that the use of imprisonment for violating business executives might have a deterring effect.

Criminal sanctions may help to educate the public to realize the seriousness of misconduct which is not on its face abhorrent, yet their indiscriminate use in areas where public opinion has not crystallized may seriously weaken the condemnatory effect of the criminal law. Imprisonment may be unnecessary for purposes of rehabilitation and incapacitation, although very effective as a deterrent.

Here as elsewhere our present system operates to a great extent in the dark in seeking improvements. We rely largely on our basic notions of fairness and common-sense expectations about how certain classes of people will react to the threat of criminal penalties. The enormous stake our society has in the fair and effective operation of its tax system has led to some close analysis of what results in compliance, but even here there is no general agreement about what the levels and form of enforcement should be. Rather than dealing with a single concept of white-collar crime, we need to study different kinds of offenders and offenses separately to see what they do and do not have in common with each other. We need to know whether an apparently permissive approach to business crimes in fact encourages street crime through disrespect for law, desire for revenge, or other motives, since no valid determination of the economical level of enforcement can be made without such information on secondary effects. We need enlightenment on such crucial questions as the extent to which a criminal conviction unaccompanied by jail is likely to be an effective deterrent. On the basis of such information it will become possible for public officials and the public itself to confront, as

they have not yet done, the perplexing issues in dealing with this group of crimes and offenders.

White – collar crime in other countries

It could very readily be contended that, with the exception of a very limited number of European countries, the American consumer is more likely to receive the correct quality and quantity of the articles he buys than the purchasers of foods, goods, and equipment in most countries of the world. And he purchases his goods at a more reasonable price (relative to money evaluation). Very few countries have tried as valiantly to establish controls over the quality and quantity of goods sold on the open market to the consumer. In other words, the consumer is likely to get better value for his money when buying merchandise, foods, and medicines, in the United States than in most other countries of the world. In many countries, there is downright cheating and falsification in drugs, foods, and supplies, even so the extent of getting powdered chalk for aureomyacine at a very high price from a reputable pharmacy. It is still “buyer beware” in most of the world. The United States has led the way now for almost one hundred years, in bringing about control over the manufacture and distribution of products.

It is probably true that most countries of the world have no white-collar crime among business executives because they do not have appropriate regulations and regulatory agencies. However, a recent news report indicates that “white-collar” crime has appeared in the Europe’s Common Market, which has tried to regulate the distribution of farm products.

Having produced its own bureaucracy, its own tariffs and a plan for its own currency, Europe’s Common Market was bound to inspire its own kind of crime. That has now appeared in the form of a neat type of smuggling that Enrocrats callagro- fraud. The illegal activity costs the European Economic Community some \$10,000,000 a year.

In 1949 a new type of crime was brought to the attention of law enforcement when Professor Edwin H. Sutherland defined white collar crime as “a crime committed by a person of respectability and high social status in the course of his [or her] occupation. The definition of white collar crime has since been expanded to include people of lower status. It is 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.

For a successful prosecution, law enforcement officials must show that one or more criminal statutes have been violated. They must prove an illegal activity rather than concentrating on the offender.

It is important, therefore, for officers to understand how white collar crimes are committed. Knowing the identity of the perpetrator of a fraud is not enough. The law enforcement officer must be able to understand, explain, and show conclusively how and why the activities are illegal. In this portion of the chapter, we look at two types of white collar crime and demonstrate their complexity and fraudulence. Ponzi, or pyramid, schemes and the laundering of funds are only two examples of the bribes, kickbacks, payoffs, bankruptcy, credit card, check, consumer, and insurance frauds that occur each year.

Definition of laundering

Al Capone, the infamous gangster of the 1920s, is said to have amassed a fortune of \$20 million in ten years through bootlegging and gambling. Yet when Capone was sentenced to 11 years in prison in 1931, it was for income tax evasion. The conviction of Capone taught other organized crime members an important lesson: money not reported on an income tax return is money that cannot be spent or invested without risk of detection and prosecution.

Because most money collected by organized crime is from illegal sources, such as loan-sharking, prostitution, gambling, and narcotics, criminals are reluctant to report the income or its sources on tax returns. Before spending or otherwise using these funds, they must give the money an aura of legality. This conversion is known as laundering. To combat organized crime successfully, law enforcement officials must understand how money is laundered.

The laundering of money by organized crime

At the end of the 1800s, most money earned by the American underworld was

gained through extortion, blackmail, and dock racketeering. By the 1920s, most came from bootlegging, and some believe that Prohibition supplied organized crime with the funds and skills to operate multimillion-dollar ventures. “Organized crime is an estimated \$100 billion-a-year untaxed business operated by groups ranging from motorcycle gangs, to Asian drug triads, to the Italian Mafia.