

# WHITE-COLLAR CRIME

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HEARINGS  
BEFORE THE  
SUBCOMMITTEE ON CRIME  
OF THE  
COMMITTEE ON THE JUDICIARY  
HOUSE OF REPRESENTATIVES  
NINETY-FIFTH CONGRESS  
SECOND SESSION  
ON  
WHITE-COLLAR CRIME

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would be greatly appreciated. We are glad you could come today.

Mr. SEYMOUR. Thanks very much, Mr. Conyers. Obviously it is your end product we are most interested in. Any time I can help, don't hesitate to ask.

Mr. CONYERS. Our next witness before a brief break is a professor of the School of Criminal Justice here at Rutgers, Mr. Richard Sparks, who has prepared a statement which will be incorporated into the record at this time.

He is a professor at the School of Criminal Justice, Rutgers University, the State University of New Jersey. The School of Criminal Justice is a graduate school, located in Newark, N.J.; it was established in 1974, as a result of a mandate from the New Jersey Legislature.

He received the B.A. degree from Northwestern University, Evanston, Ill., in 1954; and the Ph. D. degree from the University of Cambridge, England, in 1966. His previous university appointments were as lecturer in criminal law and criminology, Faculty of Law, University of Birmingham, England (1964-67); and as assistant director of research, Institute of Criminology, University of Cambridge, England (1967-74). He was visiting professor at the School of Criminal Justice, Rutgers University, during 1974-75; and he has held his present appointment as professor at that school since 1975.

In addition to journal articles and technical reports, his publications include the following books: "Key Issues in Criminology" (with R. G. Hood: London: Weidenfeld and Nicolson; New York: McGraw-Hill, 1970); "Local Prisons: The Crisis in the English Penal System" (London: Heinemann, 1971); and "Surveying Victims: A Study of the Measurement of Criminal Victimization, Perceptions of Crime and Attitudes to Criminal Justice" (with H. G. Genn and D. J. Dodd; London: John Wiley and Sons Ltd., 1977).

He has served as a consultant to the Panel for the Evaluation of Crime Surveys, Committee on National Statistics, National Academy of Sciences; to the Division of Crime Problems of the Council of Europe; and to the Crime Prevention and Criminal Justice Section of the United Nations Secretariat. He is at present a member of the Crime and Delinquency Review Committee of the National Institute of Mental Health. He is also a member of the American Society of Criminology and the American Sociological Association.

At the present time he is project director of a project on the evaluation of statewide sentencing guidelines; and project codirector of a research project on strategies for determinate sentencing; both of these projects are funded by the National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration.

[The prepared statement of Mr. Sparks follows:]

#### WHITE-COLLAR CRIME: THE PROBLEM AND THE FEDERAL RESPONSE

(By Richard F. Sparks, School of Criminal Justice, Rutgers University, Newark, N.J.)

#### WHITE-COLLAR CRIME, AND ITS IMPACT ON THE COMMUNITY

Many people, I am sure, will welcome the decision of this Subcommittee to hold some of its current hearings outside Washington, and to go to some of the cities which are affected, in one way or another, by the problems of crime which the Subcommittee is charged with investigating. It seems especially appropriate that

today's hearings should be held here in Newark—a city whose recent history vividly illustrates many of the problems concerning so-called "white-collar" crime that we have been asked to discuss today.

Even before the riots which engulfed Newark in the summer of 1967, the city was widely believed to have one of the worst crime problems in the United States. Data published by one of the Task Forces of the 1967 President's Commission on Law Enforcement and Administration of Justice showed that in 1965, for each of the seven "index" offenses included in the F.B.I.'s "Uniform Crime Reports," crime rates in Newark were either the highest, or nearly the highest, of any of the largest American cities. Newark's aggregate rate for all seven "index" offenses—murder, rape, robbery, aggravated assault, burglary, larceny and car theft—was the highest in the country; at 4940.1 known offenses per 100,000 population, it exceeded that of Los Angeles—its closest competitor—by eleven per cent. Generally speaking, the picture of crime in Newark which emerges from U.C.R. statistics since 1965 is just as gloomy as it was in that year; only in 1976 did the "index" crime rate show signs of beginning to level off or even decline.

In fact, there is some reason to think that the U.C.R. statistics greatly exaggerated the problem of "street crime" in Newark during recent years. Thanks to pioneering work done for the President's Commission, a new method of crime is now available: the survey of victimization, in which representative samples of the general public are asked directly about crimes which may have been committed against them in a particular period such as the preceding year. As one of the eight American cities included in LEAA's "high impact" crime reduction program, Newark was the site of victimization surveys carried out in 1972 and 1975. These surveys showed that, even in 1971/72, victimization rates in Newark were by no means as high as many people had supposed; in fact, total rates of violent victimization in Newark were the lowest of any of the eight "high impact" cities. Moreover, a comparison of 1974/75 victimization rates with those for 1971/72 showed a decrease, in Newark, in almost every category of crime covered by the surveys.

I know that this Subcommittee is well aware of the methodological limitations of victimization surveys in general, and of the Census-LEAA National Crime Panel Surveys in particular. Indeed, it is thanks largely to hearings which the Subcommittee held, just over a year ago, that LEAA's proposed suspension of the National Crime Survey was averted—thus giving some hope that those limitations may be overcome by methodological and developmental research in the future. For reasons which I shall discuss in a moment, victimization surveys (at least in their present form) are of no help at all in studying white-collar crime. My point is simply that, even if we are considering only street crimes, the situation in Newark may well have been much less serious, over the past decade, than the U.C.R. statistics suggested.

And yet, paradoxically, it can be argued that Newark really did have a serious crime problem during at least the early part of that period. Up to the end of the 1960's, there was a plain sense in which Newark's reputation as "crime capital" was thoroughly justified, quite apart from the statistical data I have just mentioned. For nearly half a century—since the Prohibition years—Newark had been well-known as a center of operations for so-called "organized crime". And in more recent years, Newark had become nationally known for political corruption: three witnesses told the Lilley Commission, which investigated the Newark riot, that "there is a price on everything at City Hall", and the Commission itself concluded that "a pervasive feeling of corruption" in the city was an important underlying cause of the riots. Throughout the early 1960's, there were repeated allegations of corruption in the Newark police department; and a long and sordid history of extortion, bribery and kickback contracts involving Newark political figures was brought to an end by the conviction (and subsequent imprisonment) of Mayor Hugh A. Addonizio in 1970.

Even in its worst years, of course, Newark did not have a monopoly on municipal-government venality: racketeering and corruption have existed, to a greater or lesser extent, in all large American cities over the past century. What is important for present purposes, however, is that racketeering and corruption played only a minor part in creating Newark's recent reputation as a crime-ridden city. Indeed, they played no part at all in assessments based on the Uniform Crime Reports and similar police-compiled statistics. The reason for this is simple: political corruption and other forms of white-collar crime, like most of the illicit activities of so-called organized crime, are not included in those statistics.

It is true that the Uniform Crime Reports contain data on the numbers of persons arrested for a variety of such offenses, including fraud and embezzlement as well as violations of narcotics and liquor laws. But the UCR statistics most commonly quoted—and those published by the President's Commission, in the Task Force volume referred to earlier—relate to offenses known: these statistics are restricted to four types of interpersonal violence and three types of traditional property crime. The UCR crime index, in short, focuses almost entirely on those crimes most often committed by the relatively poor and powerless. It omits entirely those forms of lawlessness which the middle classes find most congenial; neither the corruption of Watergate nor the corruption of Newark was recorded in the Uniform Crime Reports.

This illustrates one of the most important features of white-collar crime; namely, its invisibility. Crimes by businesses and businessmen, political corruption, fraud and abuse—these and other forms of middle-class rule-breaking are for practical purposes completely excluded from our existing systems for measuring crime and assessing its social consequences.

This is true not merely for police-compiled statistics like those in the Uniform Crime Reports; it is also true for our main alternative to those statistics, namely data from victimization surveys. At present, as the Subcommittee will know, the Census-BEAA National Crime Surveys concentrate almost entirely on the FBI "index" offenses (excluding, of course, homicide); they do not even attempt to measure victimization through such things as consumer fraud, price-fixing, unfair labor practices, illegal redlining by lending institutions, environmental pollution or the sale of dangerous products. In principle, at least some of these kinds of victimization could perhaps be measured in sample surveys based on interviews with the general public; and I hope that some attempts will be made to do this in the future. But there are clearly limits to the extent to which white-collar crime can be adequately assessed even in this way. For one thing, in many white-collar crimes there is no individual ("assignable") victim: electoral fraud, tax evasion and transfer pricing are examples. In other cases, the consequences of white-collar crime may be very diffuse; a price-fixing conspiracy may net millions of dollars for its perpetrators, at a cost of only a few cents apiece for several million ultimate consumers. In any case, before a survey respondent can report being criminally victimized to an interviewer, he must know of his own victimization, and know that it included a crime: plainly neither of these conditions is fulfilled, in the case of many kinds of white-collar crimes. Finally, for a large and important class of white-collar crimes, the immediate victim is not an individual, but a corporation or other organization: and there is good reason to believe that survey methods are not very well suited to the measurement of crimes against organizations.

A general consequence of the invisibility of white-collar crime is that the general public's beliefs about "the crime problem"—their stereotypes, if you will—are based on a biased set of information. The social definition of "crime"—and the public's beliefs about "criminals"—are powerfully influenced by the statistical machinery which we use to measure crime. So long as that statistical machinery systematically excludes from its consideration middle-class rule-breaking, that rule-breaking will play no part in public perceptions of crime and its social consequences. In the public mind, then, crime will continue to be something mainly committed by poor people. Fraud and abuse, bribery and corruption, price-fixing and election-rigging may briefly enter the public consciousness from time to time—through anecdotal evidence, or after a spectacular prosecution or the non-indictment of a co-conspirator. But the effects of such things are inevitably weak and transient; they cannot compete, in terms of shaping public awareness of the true nature and consequences of crime, with official statistical series like the Uniform Crime Reports or the victimization survey data.

It is obvious that such a state of affairs is both grossly unjust and socially divisive. It can lead to the wrongful stigmatization of whole communities, and of social-class and racial groups, as "dangerous classes"; at the other extreme, it may allow other groups who are in fact highly law-breaking to be described (and to describe themselves) as "non-criminals". It can thus lead to radically mistaken public perceptions of what the crime problem in a particular community really is—as, I would argue, was the case here in Newark throughout the 1960's. To sum up: our official information systems, on which we rely for our definitions of crime, may lead to a dangerous polarization of our society. And since this polarization (between "criminals" and "noncriminals") is related to differences in political

and economic power, it can serve to reinforce class conflicts which we ought to be trying instead to eliminate.

In addition, our present conceptions of "crime"—based, as they are, on data from the Uniform Crime Reports and from victimization surveys—help to conceal many of the serious consequences of white-collar crime for the community. I am not, of course, attempting to minimize the social and personal costs of street crime, in terms of death or physical injury, or personal property lost by its victims. But there can be little doubt that the costs of white-collar crime are far greater, even in the crudest, purely monetary terms. In previous sessions this Subcommittee has heard evidence suggesting that white-collar crimes (excluding anti-trust violations) cost the public about \$44 billion a year, or about eleven times as much as traditional property crimes such as robbery and burglary. For reasons that I shall try to make clear in a moment, dollar-loss estimates of this kind must be treated with considerable care. But there can be no doubt that the rough magnitudes are correct, and that the personal and social costs of white-collar crime far outweigh those of traditional violent and personal crime. I do not think that there is any need for me to try to persuade this Subcommittee that white-collar crime is a serious social problem.

It has sometimes been argued that one of the most serious consequences of white-collar crime is that it leads to street crime—that (to put it crudely) poor people, seeing that the rich and powerful are able to violate laws with impunity, would be led to commit more crimes themselves, perhaps out of a sense of injustice or disillusionment with an unfair social system. In fact, so far as I am aware, there is no hard evidence whatsoever that this is the case. After they have been caught and convicted, some of those guilty of burglary, robbery or aggravated assault may well try to excuse their behavior by saying that "everybody does it"—while pointing to cases in which price-fixing, unfenced machinery or tax evasion have led to consent-decrees or pleas of *nolo contendere*.

Common sense suggests that "a pervasive feeling of corruption" (as was said to exist in Newark, at the time of the riots) is unlikely to make ordinary people more law-abiding. It also seems reasonable to assume that a widespread perception of a double standard of justice for rich and poor is unlikely to breed confidence in the criminal justice system. But the hypothesis that white-collar crime and corruption—or the system's failure to punish white-collar crime and corruption—can cause people to commit armed robbery, rape or burglary, is not a hypothesis to which the available evidence lends much support.

In any case, it is surely not necessary to argue that white-collar crime may lead to street crime, in order to show that white-collar crime constitutes a serious social problem. A company dumps poisonous industrial waste into a river or lake; another company rigs the prices of sales to its foreign subsidiaries, so as to avoid paying corporate income taxes which are due; another company makes illegal political campaign contributions, in return for promises of favorable legislative treatment. These things would plainly be serious social harms, even if it could be shown that they actually reduced the amount of rape and armed robbery being committed, instead of increasing it.

Thus far, I have been concerned with our sources of information about white-collar crime, and the limited part that that information plays in public perceptions of crime in general. I would like to return, in a moment, to the question of the kinds of data which we should be trying to obtain on white-collar crime and its consequences—and to some suggestions for appropriate federal action aimed at reducing that crime and minimizing its consequences. First, however, I would like to consider briefly some facts about the nature of white-collar crime, since I think that a clear understanding of the concepts underlying this kind of crime is essential if we are ever to make any real progress in controlling it.

#### "CRIME AS BUSINESS" AND WHITE-COLLAR CRIME

Edwin Sutherland, the greatest of American criminologists, did us a great service by coining the name "white-collar crime" and thus calling attention to a type of law-breaking that had previously been almost entirely ignored both by students of crime and by those who tried to control crime. But explorers are not necessarily the best map-makers; and Sutherland was not in fact very clear as to just what he meant by "white-collar crime." At one point he defined it as "crime . . . committed by businessmen or other persons of high social status . . . in the course of their occupations". But it has often been pointed out that this

definition includes two different elements: it refers to (1) crimes committed by businessmen (and so might include individual acts of income tax fraud or embezzlement by middle-class persons, even though these did not have anything to do with their occupations); and (2) crimes committed "in the course of" one's occupation, which might include occupational theft by lower-class persons, e.g. pilfering from factories, union racketeering and bribe-taking by policemen. (Another sociologist, Edwin Lemert, reports that he once asked Sutherland whether he meant by "white-collar crime" a type of criminal behavior, or crime committed by a certain group of people; Lemert reports that Sutherland said he wasn't sure.) Most of the examples which Sutherland discussed in his early papers, and in his book *White Collar Crime*, involved violations by corporations of regulatory statutes or anti-trust laws. But I am reasonably sure that Sutherland would not have wanted to exclude from scrutiny individual illegal acts (such as income tax evasion or embezzlement.)

Since Sutherland first wrote, much time has been spent—and much ink spilled—in an effort to provide a satisfactory working definition of "white-collar crime". In my opinion, this search for definitions has been largely misconceived. What matters is not the meaning of some words; it does no harm to use the expression "white-collar crime" as a handy general name for whole range of illegal or improper acts. It is important, however, to be clear about the variety of kinds of behavior within that range; since a variety of causes, and of control strategies, are involved.

In an effort to clarify some of the conceptual issues surrounding white-collar crime, I recently proposed a somewhat different conception of "crime as business". By this term I meant those crimes (or, more generally, those deviant acts) possessing all or most of the following features:

(1) *They are carried out primarily for economic gain, and involve some form of commerce, industry, trade or legitimate profession.* Thus my concept of "crime as business" would exclude most cases of kidnapping or skyjacking for ransom, just as it would exclude most armed robbery: since no form of legitimate enterprise is involved in those crimes.

(2) *They necessarily involve some sort of formal organization, in the sense of a set or system of more or less formal relationships between the parties involved in committing the criminal acts.* Thus what I am calling "crime as business" would include most of what criminologists usually call "organized" or "syndicated" crime; it would also include price-fixing conspiracies, most types of company frauds, violations of regulations concerning manufacturing processes (e.g. environmental pollution or worker protection laws), and the laundering of money through illegal banking or other financial transactions.

(3) *They necessarily involve either the use, or the misuse, of legitimate forms and techniques of business, trade or industry.* What distinguishes such things as price-fixing conspiracies, involve faking and bankruptcy fraud from robbery, burglary and shoplifting is that the former do, but the latter do not, involve methods and techniques which are also used for legitimate business purposes.

I am not claiming, of course, that this conception of "crime as business" covers everything that people have ever called "white-collar crime"—or that anything not falling within my definition is not worth considering. Individual illegal acts by middle-class persons—a businessman cheating on his income tax, a doctor filing phony Medicare claims, a solitary embezzlement by a bank teller or union treasurer—do not fall within the definition I have just given, yet they are obviously important. What I do claim is that the features I have just mentioned mark off a number of types of criminal and quasi-criminal behavior which have significant similarities, which have often been obscured in discussions of "white-collar crime" in the past; and that different control strategies may be appropriate for what I am calling "crime as business" than for other forms of white-collar crime.

Any attempt to understand what I am calling "crime as business" must begin with the truism that the pattern of economic crime displayed by any society necessarily depends on that society's patterns of legitimate economic development; and that changes in the form and frequency of economic crime are largely a consequence of changes in the patterns of legitimate economic enterprise. This is so, in part, because of the crucial role of *opportunity* in the causation of criminal behavior. Opportunity is generally important in shaping crime and deviant behavior, of course; it is not relevant only to "crime as business". But it is especially important there, because of the scale and complexity of new forms of busi-

ness and industry which are characteristic of the twentieth century, and especially the last fifty years or so.

Of special importance here are developments in the world of banking and finance. As corporate and governmental investment have grown, in the post-World War II years, new and increasingly complex forms of funding have been developed, which in turn have permitted new and increasingly complex kinds of fraud. Financial service conglomerates like Equity Funding; "offshore" mutual funds; multinational corporations—all of these things have made possible new forms of fraud of a kind which could not have been carried out in the simpler financial world of fifty years ago. In short, the *technology* of crime in the business world has become much more complicated—because business has become more complicated. Our techniques of control must become correspondingly more sophisticated, if they are to have any hope of success.

To some extent, my conception of "crime as business" has some affinities with the "theory of illicit enterprise" recently sketched by my colleague Dwight Smith. Smith was mainly concerned with what criminologists (and journalists) have called "organized" crime—the Mafia, Cosa Nostra, mob or whatever. He pointed out that "entrepreneurial transactions can be ranked on a scale that reflects levels of legitimacy within a specific marketplace"; there is, for example, a market spectrum in the banking industry which ranges from trust companies and commercial banks at one end to loan sharks and other usurers at the other. In looking at racketeering in this way, Smith shifted the focus from "alien conspiracy" theories which have obsessed criminologists and the general public for the last twenty years or so, to the economic activities involved. I suggest that exactly the same shift in emphasis is needed in the study of what criminologists have called "white-collar crime".

Indeed, it seems to me that there may often be little point in distinguishing between persons who are (or regard themselves as) "racketeers", and those who purpose to be legitimate businessmen: given comparable market or financial circumstances, the behavior of the two groups is often strikingly similar. (The "Mafia" is often alleged to launder money through banks in the Bahamas; the Gulf Oil Company has admitted laundering money through a bank in the Bahamas.) It is often alleged that so-called organized criminals have turned away from traditional rackets such as gambling, narcotics and prostitution, and have taken up the infiltration of legitimate business instead. It is undoubtedly true that there has been an increasing use, in recent years, of legitimate forms of business for dishonest purposes: bankruptcy fraud is an example. But it remains to be seen how frequent the "infiltration" of legitimate business by racketeers really is, and whether it leads to any more crime, or any more social harm, than is caused by legitimate businessmen in similar circumstances.

I suggest, then, that in order to understand (and to try to control) what I have called "crime as business", we need to start by understanding the kinds of businesses involved in particular kinds of crime. If this approach is correct, it has an important practical consequence: namely, that control strategies for white-collar crimes will have to be tailored to the problems of particular kinds of industries and/or economic activities. There seems to me to be very little point in trying to alter some supposed general morality of businessmen, so as to persuade them that government regulation in general is legitimate or desirable. Businessmen who engage in stock frauds may well turn out to be highly indignant about environmental pollution; businessmen who feel free to pay bribes in order to get contracts may well disapprove of other businessmen who sell cars that explode in collisions, or pharmaceutical products that cause blindness.

Our control strategies will also have to be tailored to take into account what I have called the *technology* of crime as business—that is, in police terms, its *modus operandi*; an understanding of this is likely to require a thorough knowledge of the legitimate business and/or commercial practices underlying the form of crime in question. From the standpoint of both prevention and control, it may be important to distinguish between frauds aimed at competitors, and those aimed at shareholders or creditors (such as bankruptcy fraud).

To a certain extent, of course, the law already makes such distinctions, in a rough and ready way; and a whole range of different administrative and law-enforcement agencies are now charged with dealing with various forms of business misbehavior. Working relationships between U.S. Attorneys on the one hand, and agencies such as the Securities and Exchange Commission or the Federal Trade Commission may not always be as close as they should be; overlapping state and federal jurisdictions, and divisions of powers between ad-



ministrative, criminal and civil agencies may not be optimum. It has often been pointed out that consumer protection, for example, is the responsibility of a large number of federal and state agencies. Basically, however, I think that this eclectic and functionally specialized approach is the right one, however cumbersome it may occasionally seem. Program frauds in the area of Housing and Urban Development are likely to be very different in kind from program frauds in the area of Health, Education and Welfare. It is likely that control strategies will also have to differ accordingly.

Similar distinctions need to be made with respect to the several different kinds of misbehavior that we conventionally label "corruption". One approach to the problem of corruption places great emphasis on promoting the general integrity of politicians and public servants, and on halting some supposed decline in public morality. A more realistic approach, I think, would be to recognize that "corruption" comes in at least three very different forms. First, there are corrupt practices concerned with getting, or holding, public office. Second, there are corrupt activities which spring from what are essentially commercial activities of federal, state and local government—in the procurement of supplies, equipment and services, and in the letting of contracts for public works. Third, there is the corruption of law enforcement. It should be obvious that the improper activities involved in these three areas are very different; and we should not be misled by the fact that we use the same general term for all three, into supposing that they must have something important in common. (They may, however, have connections with other forms of white-collar crime: procurement and program frauds against government agencies may well turn out to be very similar to fraud and embezzlement in purchasing and contracting departments in the private sector.)

In summary, then, I would urge that in thinking about the problem of white-collar crime we should be aware of the great variety of forms that it can take; and to look at each of those forms in the context of the legitimate economic and social activities in which it occurs.

#### THE FEDERAL RESPONSE TO WHITE-COLLAR CRIME

If the perspective for which I am arguing be accepted, what might it entail by way of federal action in the immediate future? The first priority, in my opinion, is a great deal more by way of information about the problem than we now possess. I noted earlier that neither police statistics nor victimization survey data (at least in their present form) can throw much light on the extent and consequences of white-collar crime. Indeed, we are probably never going to get an accurate measure of the amount of any particular kind of white-collar crime; statistics based on investigations or prosecutions, like statistics of arrests for street crime, are mainly measures of law enforcement activity and not of the crime itself. I do not think, however, that our lack of that kind of data matters very much. What we really need is a very different sort of information; that is, detailed information about the nature and consequences, both immediate and longer-term, of various kinds of white-collar illegality. The number of illegal acts committed by businessmen is of no value, either for theoretical explanation or for social policy—in the latter case, because a single act (say, a price-fixing conspiracy) can have drastic effects on the community, through increased consumer prices, driving competition out of business, and so on. These diffuse consequences are part of what we need to understand.

In short, what we need is detailed research on crime as business, and not merely statistics. The best approach for this kind of research would be a series of case studies—based on particular industries or industrial sectors. The problems of crime and crime control encountered in cargo transportation or retailing, for example, are likely to be very different from those encountered in fields such as banking, insurance and consumer credit; these in turn will differ from crime problems in the aircraft industry, or the car industry.

By taking major industries—or industrial sectors—separately, we could at least begin to understand the specific problems of crime and crime control in those industries, and we could begin to build toward a more general theory and a more general strategy of control (if indeed there is one). We would be asking down-to-earth, answerable questions such as: do *all* multinational or international companies in a particular industry (say, engineering and construction) go along with paying bribes—or only some of them? How many companies in such an



industry have a policy on bribes or improper commisions—and what are these policies? If—as Sutherland found—some companies can accurately be described as “recidivists”, what kinds of companies are those? Are they dominant companies in the industry, or are they struggling for survival on the fringe of it? Are problems of controlling pollution and the disposal of toxic waste in a particular industry special to particular manufacturing processes or plants? If so, what kinds?

There has been almost no good, solid empirical research of this kind on white-collar crime. There are, I think, several reasons for this. But one of the most important is undoubtedly that the federal agency responsible for funding research on crime—the Law Enforcement Assistance Administration—has not placed anything like enough emphasis on the subject. It would not be true to say that LEAA has done nothing at all in this area; white-collar crime was a program priority of the National Institute of Law Enforcement and Criminal Justice in 1970, and other related topics have been announced as program priorities since then. A program of research funded by LEAA is now being carried out at Yale, and there are isolated projects elsewhere. But it is clear that white-collar crime now gets a far smaller share of LEAA's budget—about five per cent, I believe—than it should get, in view of the seriousness of the problem.

I hope, therefore, that when it is finally decided what sort of agency is going to replace LEAA, the research arm of that agency will have as an explicit priority the funding of research in this area. There is a tendency for the funding of research by federal agencies to get compartmentalized: projects funded by the National Institute of Mental Health, for example, are supposed to be “relevant” to mental health problems. I would hope that future research on white-collar crime is not too narrowly focussed on crime. There may well be socially harmful business practices which are not (yet) against the criminal law; and I would not want to have these excluded from research in the future, merely for that reason. In any case, even where an act is technically a crime, the law often provides alternative civil remedies (injunctions and/or civil damages, for instance, in the case of anti-trust). I know that there are often deep feelings of injustice when businessmen are able to escape imprisonment for what are in fact serious social harms. But we need to face the fact that—like it or not—the criminal law may not always be the best or most efficient instrument for controlling corporate misbehavior. For the purpose of funding future research in this area, therefore, the net should be able to be cast more widely even if the funding agency is one that primarily deals with crime in the strict sense of that term.

There are, of course, other reasons for the present limited amount of research on white-collar crime. For one thing, that kind of research is often difficult to do—not least because it is a lot harder to interview businessmen about their misbehavior than it is to interview schoolchildren about theirs.

In addition, as I have already mentioned, in order to understand crime as business, it is necessary to understand business; and it is unfortunately true that teachers and researchers with special knowledge of crime and criminal justice tend to be unfamiliar with the business world. (On the other hand, businessmen and professors of business administration tend to know very little about patterns of criminal behavior, theories of crime causation or techniques of crime control.) It may therefore be that this is an area in which multidisciplinary research—involving students of business administration, economists, lawyers and criminologists—may be of use.

There is a further priority in this area, though I have to admit that I do not know how it may best be achieved. The priority is the changing of attitudes in the business community toward research on business-related crime. We have been speaking today about the broader social consequences of white-collar crime, for the community—for instance, through higher prices, environmental pollution, and so on; and of the social polarization that comes from identifying “crime” with street crime, and from the perceived injustice in the treatment of white-collar offenders. But it needs to be emphasized that one victim of crime as business is the business community itself. A recent Commerce department report, for instance, estimated that crime cost American businesses about \$30 billion in 1976, with losses exceeding \$9 billion in service industries alone. Given that state of affairs, business and industry ought to be in the forefront of the war on business crime—funding research on the problem, and opening their doors to those who are trying to understand the contexts in which illegal

activities arise. These hearings, which have helped to reveal the magnitude of the problem of white-collar crime, may help to bring about such a change in attitudes.

Finally, there is a Congressional function that can be very useful in providing information on a variety of kinds of white-collar crime: namely, data collection through hearings in the course of legislative oversight of areas in which white-collar crime is a problem. The hearings on the Watergate affair are of course a good example on this; another example is the hearings held by the Senate Foreign Relations committee's subcommittee on multinational corporations, which a couple of years ago revealed the problem of "improper" payments made overseas by a large number of American companies. At the time of those hearings, I contacted the counsel to the subcommittee, and asked if some of the materials which the subcommittee had obtained could be made available to me for research purposes; I was informed that they could not, since the materials in question had been obtained by subpoena. But of course many of those materials were subsequently published by the subcommittee; and they are extremely useful for research purposes. In fact, one of our doctoral students is now engaged in research in this area, and has made extensive use of the materials I just referred to. In some cases, in other words, a Congressional subpoena is a lot more effective than a researcher's questionnaire.

In summary: I have argued that the present state of public knowledge about what I have called "crime as business" is totally inadequate—in part because the main methods by which we try to measure crime and assess its consequences—police statistics like the Uniform Crime Reports and victimization surveys—are of little if any use when it comes to assessing white-collar crime. As a result, "crime as business" is largely invisible. One result is that we continue to perpetuate a picture of "crime" as consisting largely if not entirely of acts committed by the poor—excluding the fraud, the corruption, the price-fixing, the pollution of the environment and other kinds of organized illegal behavior by businessmen.

As a first step toward remedy that situation, and toward devising effective strategies of control, much more detailed information about crime in the business community is urgently needed. I have argued that that information can best be collected by concentrating on particular industries or groups of industries—proceeding on a case-by-case basis to understand the situations which give rise to illegal behavior by businessmen, and examining the available remedies in the light of specific problems. The time for rhetoric about white-collar crime has long since ended; what is needed now is specific information, which can serve as a basis for informed and effective action.

Mr. CONYERS. Professor Sparks, on behalf of the subcommittee we welcome you before us and would invite you to proceed in your own way.

#### TESTIMONY OF RICHARD SPARKS, PROFESSOR, SCHOOL OF CRIMINAL JUSTICE, RUTGERS UNIVERSITY

Mr. SPARKS. Thank you very much, Mr. Chairman, Chairman Rodino, Mr. Guder, Ms. Holtzman.

I think many people are going to welcome the decision of this subcommittee to come here to Newark today and hold this hearing outside Washington. I think it is especially appropriate that today's hearings should be here in Newark because the recent history of Newark illustrates a lot of the problems of white-collar crime that we have been asked to discuss today.

Even if we go back to before the riots of 1967, as we all know, Newark had an image as a crime-ridden city, as a dangerous place to live. The President's Commission in 1967 published statistics that showed that Newark had the worst crime problem in the country.

Mr. CONYERS. Was it true?

Mr. SPARKS. Well, in fact, there is some reason to think that the uniform crime report statistics actually exaggerated the problem

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