Lecture Notes

# Chapter 14: White-Collar Crime, Organized Crime, and Cybercrime

**Learning Objectives**

* Articulate the criteria experts use to distinguish white-collar crime from traditional forms of offending, as well as criticisms of these criteria
* Evaluate the ways corporate crimes harm society in terms of physical and property damage, as well as in weakening the moral fabric of society
* Describe the impact of various types of white-collar crime
* Discuss some of the theoretical explanations for white-collar crime
* Describe the complexity in defining organized crime
* Discuss the different types of criminal organizations identified by the criminal justice system
* Identify the various criminal justice responses to organized crime
* Discuss how different theoretical explanations can be applied to enhance our understanding of organized crime
* Compare and contrast the similarities and differences between traditional forms of crime and cybercrime
* Identify various types of cybercrimes, such as hacking, identity theft, child pornography, Internet fraud, and cyberstalking
* Discuss some of the legislation that has been enacted to address cybercrime
* Apply some “traditional” theoretical perspectives to explaining cybercrime

**Summary**

This chapter examines a large group of offenses that do not generally fit in the traditional concept of predatory street crimes, such as murder, rape, assault, burglary, and motor vehicle theft. Rather, the types of offending examine in this chapter include various types of white-collar, organized and computer crimes.

Experts in the area of white-collar crime consider it one of the most difficult concepts to define, with little consistency from researcher to researcher. Edwin Sutherland presented the first prominent acknowledgement of white-collar crime. In 1949, he published two works which supplied definitions for white-collar crime. In *White Collar Crime*, Sutherland stated that white-collar crime “may be defined approximately as a crime committed by a person of respectability and high social status in the course of his occupation …” The second relevant publication by Sutherland was a brief, five-page entry in Branham and Kutash’s *Encyclopedia of Criminology*, entitled “The White Collar Criminal.” Here he defined white-collar crime as “a person with high socioeconomic status who violates the laws designed to regulate his occupational activities.” Despite these definitions, there is still much debate about how white-collar crime should be defined. However, a short-list of general categories of various white-collar offenses includes fraud, labor violations, manufacturing violations, unfair business practices, abuse of authority, and regulatory or administrative violations. One thing that can be agreed on is the economic costs associated with white-collar crime. There is now little doubt that white-collar crime causes far more financial damage to society than all other crimes combined. In 2002, the FBI’s Uniform Crime Report estimated the cost of all street crime at close to $17 billion. In comparison, a “very conservative” estimate of the total economic costs from white-collar crimes each year is approximately $500 billion. However, the financial costs are not the most disturbing type of damage that results from corporate misbehavior. Most experts now agree that scientific evidence clearly shows “corporate crime kills, maims, and injures enormously larger numbers of innocent people that all street crimes combined.” Crimes against the environment became prevalent during the Industrial Revolution. In the 20th century, it became obvious that much damage had been done. In response, many laws and regulations were passed; and entire federal, state, and local agencies were created. One such agency is the Environmental Protection Agency (EPA). The EPA is charged with protecting human health and safeguarding the natural environment. One of the more common corporate violations involves crimes against the individuals who work for the business. Labor violations range from hiring illegal workers, to exploitation of the workers, to unsafe working conditions. The primary legislation developed to investigate labor violations is the Occupational Safety and Health Act (OSHA). OSHA is charged with establishing and enforcing standards for the safety of American workers.

For decades, the American public has had a curious fascination with organized crime. In the *1986 Report to the President and the Attorney General*, the President’s Commission on Organized Crime noted that when defining organized crime, the problem is not the word crime. Rather, the difficulty is with the term *organized*. One approach to defining organized crime is to incorporate a typology. This typology includes factors such as the means of obtaining the goals (e.g., violence, theft, and corruption), and the reasons for engaging in such activity: an economic objective (e.g., through common crime, through illegal business, and through legal business) or a political objective (e.g., through the existing order and against the existing order). While there is no agreed-upon definition of organized crime, Abadinsky listed eight factors identified by law enforcement agencies and researchers that are associated with organized crime. Organized crime can be divided into various types of criminal organizations. These organizations include the Mafia, outlaw motorcycle gangs, prison gangs, and urban street gangs. The origins of the Mafia are unclear. What we do know is that the Mafia was similar to an extended social family. The members took an oath swearing, under punishment of death, to a code of silence. Initially, the Mafia was a self-protection group; by the 1860s however, they expanded to criminal activities such as smuggling, cattle rustling, and extortion. During the late 1940s, outlaw motorcycle gangs evolved as disorganized and unruly groups made up of disgruntled World War II veterans. OMGs today are secretive and close-knit groups with selective membership. Some of the most notorious OMGs include the Hells Angels, the Outlaws, the Bandidos, and the Pagans. Some have attributed the growth of prison gangs to the 1964 U.S. Supreme Court decision *Cooper v. Pate.* Organized in the late 1950s, and one of the oldest prison gangs is the Mexican Mafia (EME), who members are primarily Mexican-Americans from southern California. Another major prison gang is La Neustra Familia. This gang was established in Soledad Prison (California) in 1967. The Texas Syndicate originated in Folsom Prison in 1974. The members are predominately Mexican-Americans from the El Paso and San Antonio, Texas region. The Black Guerilla Family (BGF) was established by black activist prisoner George Jackson at San Quentin Prison in 1966. This gang is closely associated with the Crips street gang. The Aryan Brotherhood is a motorcycle-oriented, white supremacist gang founded in San Quentin Prison in the 1960s. Criminal justice responses to organized crime include the Chicago Crime Commission, the Wickersham Commission, The Kefauver Committee, the McClellan Committee, the President’s Commission on Law Enforcement and the Administration of Justice, the Organized Crime Control Act of 1970, and the President’s Commission on Organized Crime.

Cybercrime is a relatively new area of criminal activity. Cybercrime can be defined as “any unauthorized, or deviant, or illegal activity over the Internet that involves a computer (or computers) as the tool to commit the activity and a computer (or computers) as the target of that activity.” Cybercrime consists of at least three features: 1) the act was committed using a computer; 2) a “victim” computer; and 3) an intermediary network. There are various types of cybercrimes including hacking, identity theft, child pornography, internet fraud, and cyberstalking. Moore described six general types of hackers: black hat hackers, white hat hackers, gray hat hackers, script kiddies, hactivists, and cyber terrorists. There are generally three different types of identity theft. The first type of identity theft is when the identity thief assumes the life of the victim. The second form of identity theft is virtual identity theft. The third type of identity theft occurs when a victim’s credit identity is stolen. Two of the most common types of internet fraud schemes are online auction and purchasing wives and prostitutes. The criminal justice response to cybercrime has lagged behind. Most large agencies have the resources to devote the manpower and resources for a specialized unit as well as some medium-sized agencies. However, the reality is that most departments either cross-train detectives from tradition fields or have no resources at all. In regards to legislation, the U.S. Congress has acted more swiftly to enact legislation establishing computer-specific statutes. The following legislation focuses on cybercrimes: The Computer Fraud and Abuse Act, the Digital Millennium Copyright Act, the Child Online Protection Act, and the Electronic Communications Privacy Act.

**Course Outline**

* **What is White-Collar Crime?**
  + Despite years of being relatively ignored by researchers, white-collar crime is currently receiving much attention, probably due to high-profile Chief Executive Officers (CEOs) and celebrities such as Martha Stewart being recently charged and convicted of illegal business practices.
  + **Definitions and History of White-Collar Crime**
    - Experts in the area of **white-collar crime** consider it one of the most difficult concepts to define, with little consistency from researcher to researcher.
    - The first prominent acknowledgment of “white-collar crime” as an important concept for criminologists to study was presented at an American Sociological Society (ASS) conference in 1939 by **Edwin Sutherland**.
      * Sutherland coined the term “white-collar” crime and is generally considered the most prominent criminologist of the 20th century.
      * He did not provide a clear definition of white-collar crime, but rather simply presented a variety of cases that seemed to apply.
        + For example, he discussed the racketeering cases of Al Capone of Chicago, as well as the Federal Trade Commission’s (FTC) investigations of automobile companies in falsely advertising low interest rate loans.
        + His discussion also included cases in which judges and other officials accepted bribes or engaged in other unethical practices in which they abused the power of their positions.
      * Perhaps the reason why Sutherland did not provide a clear definition of crime in his address was that he first needed to convince other academics that white-collar crime really is an actual, serious form of criminal activity.
    - Although most textbooks claim that Sutherland introduced the concept of corporate, occupational, or industrial crimes, that is not true.
      * Specifically, prior to Sutherland’s address there were numerous scientific studies on “white-collar bandits,” “robber-barons,” “corporate crime,” “muckrakers,” and “industrial crime,” all of which refer to forms of corporate, industrial, occupational, or political corruption.
      * In fact, some of these studies are considered seminal, classic studies on the topic.
        + Matthew Josephson’s *The Robber Barons: The Great American Capitalists* (1934).
        + George Anderson’s *The Consolidation of Gas Companies in Boston* (1905).
    - Although similar terms of “white-collar barons” had been used many times before, Sutherland does deserve credit for both coining the actual term “white-collar crime,” and most importantly, he deserves much credit for bringing far more attention to the topic by making it the primary topic of his ASS Presidential Address.
    - Sutherland published two works, which supplied definitions, albeit somewhat vague, for white-collar crime.
      * *White Collar Crime* (1949)
        + Provided the following definition in a footnote:

May be defined approximately as a crime committed by a person of respectability and high social status in the course of his occupation … [which] excludes many crimes of the upper class, such as … murder … since these are not customarily a part of their occupational procedures … and refer[s] principally to business managers and executives.

* + - * A five-page entry in Branham and Kutash’s *Encyclopedia of Criminology*, entitled “The White Collar Criminal” (1949)
        + White-collar criminal is defined as a person with high socioeconomic status who violates the laws designed to regulate his occupational activities. The white collar criminal should be differentiated … from the person of lower socioeconomic status who violates the regular penal code or the special trade regulations which apply to him, and … from the person of high socioeconomic status who violates the regular penal code in ways not connected to his occupation.
    - In both definitions, Sutherland stipulates four criteria of what constitutes white-collar crime, including
      * The offender being upper-class and
      * Committed violations are work-related,
      * The work-related violations of blue-collar workers are excluded, and
      * Also excluded are regular crimes (i.e., outside of employment) committed by upper-class persons.
    - Despite the criteria established by Sutherland, the term white-collar crime was both criticized and loosely applied to a variety of behaviors, particularly by the researchers of the 1940s through the 1960s, while others questioned the limits that had been set or the use of the term criminal in such situations.
      * For instance, some argued that many, if not most, of the persons that Sutherland referred to had not been convicted in criminal court, and therefore could not be considered “criminals” who had committed “crimes.”
      * Sutherland responded to this argument by noting the need to emphasize the actual harm done by the act(s) and the acknowledgment that what they did is in violation of the mandate of legal codes, and that these factors should be emphasized more so than the way the criminal justice system and/or society respond to such offenders.
    - Unfortunately, even today white-collar criminals are far less likely than traditional street criminals to be investigated, caught, charged, and convicted, let alone sentenced to significant prison time.
    - Some of criminologists acknowledged considering the criteria established by Sutherland when determining whether the offenses they were examining deserved the label “white-collar crime.”
      * For example, one researcher explicitly questioned whether embezzlers were white-collar offenders, considering that many of them were not persons of high status, although most had committed the crimes during the course of their occupational duties.
    - Other experts outright claimed that Sutherland’s definitional criteria were far too restrictive, and should allow for inclusion of any offenders working for a business.
    - Another major cause of confusion when it comes to defining white-collar crime is that there have evolved a variety of other terms that are typically used synonymously, although some would argue that these terms do have distinctions.
      * These terms include, but are not limited to, “corporate crime,” “organizational crime,” “occupational crime,” “upperworld crime,” “business crime,” and “suite crime” (as opposed to traditional “street crime”).
    - Despite such pointed criticisms and ongoing disagreements among criminologists about a clear definition of white-collar crime, a short-list of the general categories of various white-collar offenses includes:
      * Fraud
        + Include such behaviors as tax evasion and false advertising.
      * Labor violations
        + Include different forms of harassment and dangerous working conditions that can cause injuries and death.
      * Manufacturing violations
        + Include the production and distribution of unsafe consumer products, as well as environmental violations (e.g., toxic waste dumping).
      * Unfair business practices
        + Include insider trading, bid rigging, antitrust violations, and illegal mergers.
        + Has gotten the most attention in the media recently, due to the prosecution and/or conviction of many high-ranking business executives in the U.S.
      * Abuse of authority
        + Can take many forms including bribery, extortion, brutality, kickbacks, etc.
        + One of the more known categories for criminal justice practitioners.
      * Regulatory or administrative violations
        + Established by federal, state, and local agencies and govern the functioning of businesses and other organizations.
        + Include copyright, trademark, and patent infringements.
* **Incidence and Impact on Society**
  + In his seminal study, Sutherland examined the decisions of courts and regulatory commissions against the seventy largest mercantile and industrial corporations in the nation.
    - He found that 547 adverse decisions had been made against these seventy companies, with an average of almost eight decisions per corporation.
    - Even more surprising was the prevalence of the substantiated rule-violations; specifically, every single one of the corporations that Sutherland included in his sample had a decision against it, which implies that all highly successful businesses in the U.S. had engaged (and been caught) in unethical practices.
    - Perhaps most shocking, virtually every corporation committed more than one offense, with 97.1% recidivating.
    - Only 9% (49 of the 547) of the decisions were made by criminal courts. The others were made mostly by federal or state oversight agencies.
  + Has the increased amount of laws, regulatory codes, and investigation lowered this rate of violations among modern corporations?
    - The scientific answer is that we do not know for sure because there was no stable, consistent measure of such violations from the 1940s to now.
    - However, given the recent revelations regarding the extensive amount of grossly unethical practices at some of the nations most respected and “successful” corporations, especially those with strong political ties such as Enron and others (i.e., WorldCom and Adelphia), it is not likely that there has been a significant reduction in the incidence of corporate criminality in the last sixty years.
  + **Economic Costs**
    - There is now little doubt that white-collar crime causes far more financial damage to society than all other crimes combined.
    - Yet these far more costly acts are either not criminal, or, if technically criminal, not prosecuted, or if prosecuted, not punished, or if punished, only mildly.
    - Some modern estimates by the FBI’s Uniform Crime Reports have put the cost of all street crimes at close to $17 billion for the 2002 year.
    - In a shocking comparison, just one act of corporate crime in the early years of the millennium (Enron) resulted in estimated losses of $60 billion, and the Savings and Loan Industry bailout from 1989 is estimated to cost taxpayers $473 billion dollars by the year 2020 (showing the long-term consequences of such events).
    - Furthermore, a “very conservative” estimate of the total economic costs from white-collar crimes each year is approximately $500 billion, which is approximately 30 times greater than the total for combined streets crimes.
  + **Physical Costs**
    - Most experts now agree that the scientific evidence clearly shows “corporate crime kills, maims, and injures enormously larger numbers of innocent people than all street crimes combined.”
    - For example, one study showed a conservative estimate that at least 105,000 people die annually due to corporate crime. This includes approximately 55,000 employees who were harmed while working (includes occupational illnesses), another 30,000 consumer deaths from unsafe products, and at least 20,000 citizens who die from a variety of types of environmental pollution.
    - These estimates do not include people who die from falsely prescribed or marketed pharmaceutical drugs, criminally negligent nursing home or medical care, or the estimated 4.7 million Americans harmed (but not killed) at work.
    - It appears that corporate crime causes at least seven times more deaths than traditional street crimes.
    - Additionally, it appears the rate of homicides and assaults due to street crimes has been cut in half over the last 25 years whereas there is no indication that deaths or injuries due to corporate crimes have decreased; on the contrary, there is evidence that such injuries are on the rise.
  + **Breakdown in Social Fabric**
    - A number of theorists have made the argument that these “suite” crimes are also far worse than “street” crimes in terms of the damage it does to the moral and social fabric of society.
* **Types of White Collar Crime**
  + **Crimes Against the Environment**
    - There have been forms of pollution throughout human civilization; however, the real turn for the worst was the Industrial Revolution.
    - In the pre-industrial period, the farmers were dependent on the land, so for the most part they treated it well.
    - When the Industrial Revolution took place, countless numbers of factories and plants had no concern for the environment.
      * This resulted in unprecedented dumping of deadly chemicals and waste products into bodies of water, toxins being released from endless streams of smoke coming out of factory chimneys, and the massive destruction of majestic forests and natural resources.
    - In the 20th century, it became obvious how much damage had been done during the Industrial Revolution and efforts began to restrict the harm against the environment.
    - Many laws and regulations were passed, and entire federal, state, and local agencies were created.
    - The Environmental Protection Agency (EPA)
      * The EPA is not a Cabinet agency, but the Administration (appointed by the President) is normally given Cabinet rank, so he/she certainly has almost daily contact with the President of the U.S.
      * The EPA, started in 1970, is charged with protecting human health and safeguarding the natural environment, which is quite a burden.
        + For instance, the United States contains 30,000 waste sites, along with over 10 billion pounds of toxic chemicals that pose a significant threat of pollution.
        + Furthermore, the EPA estimates that there are approximately 60,000 deaths, mostly elderly and young children, each year in the United States as the direct result from toxic particles emitted in pollution from manufacturing plants.
        + In one recent year, the EPA identified 149 manufacturing plants throughout the nation where air in nearby communities were tested as being toxic and dangerous.
      * The EPA often works with the US Department of Interior and US Department of Agriculture in developing and enforcing regulations to protect the environment from corporate crimes.
        + These include laws against air pollution, water pollution, preserving forests/other natural areas, hazardous waste disposal, and protecting endangered species.
    - This has been one of the most common areas of corporate violations over the last few decades.
  + **Labor Violations**
    - One of the more common corporate violations involves crimes against the very people who work for the business.
    - There are number of variations of labor violations, which range from hiring illegal workers (e.g., children), to exploitation of the workers, to unsafe working conditions, etc.
    - The primary legislation developed to investigate labor violations is the Occupational Safety and Health Act (OSHA), which was passed in 1970 and, among other things, made it a misdemeanor to cause the death of a worker by willfully violating safety laws, and it remains a misdemeanor to this day.
    - OSHA is charged with establishing and enforcing standards for the safety of American workers.
    - In 2003, OSHA conducted approximately 40,000 inspections, finding about 83,600 violations.
      * Violators are sometimes fined, but even these fines are usually relatively low in relation to the profits being made by the companies.
    - OSHA rarely pursues criminal charges; between 1970 and 2002, OSHA only referred 151 cases to the Department of Justice for criminal prosecution.
      * Of these 151 cases, only 11 resulted in prison sentences, with the maximum being six months.
  + **Transnational Comparisons of White-Collar/Corporate Crime**
    - In terms of more street-level corruption (such as bribing police officers or other local authorities), which is the best measure we have for the less-developed countries, one recent study by Van Dijk collected data from 92 countries and examined both the data from ICVS and TI surveys from the early 2000s regarding the percentage of the general public who were involved with paying bribes to local officials in a given year.
      * This study reported that such corruption was highest among two regions of the world: West/Central Africa and East Africa (South Asia was a distant third in the ranking).
    - At this time, it is virtually impossible to estimate the level of various white-collar crime and corporate crimes are committed in the numerous countries around the world.
    - Transparency International Annual Report of 2003
      * Has administered global surveys among business experts in 15 emerging market countries regarding the propensity of international companies to offer or pay bribes to win or retain business in their nation.
      * The portion of the Transparency International Report of 2003 that we are concerned with here is the ranking of countries based on responses of business experts to the question of how likely the companies from certain countries to pay or offer bribes to win or retain business in that respective country.
      * Our focus will be on the countries that scored lowest on this measure, which were Russia and China, as well as the category of “Domestic Companies,” which scored lowest on this rating.
        + Regarding Russia and China, this ranking is very much in line with other rankings of corporate corruption, such as bribe taking and ICVS rankings of countries.
        + Furthermore, both of these countries are not members of the Organization of Economic Co-operation and Development (OECD), which was adopted in 1997 after an urgent request of the U.S. government and other nations.
        + Ratified by the majority of industrialized countries, there is an obligation from the OECD that requires countries to criminalize payment of bribes in their government legislation.
        + The United States ranked below the middle of the group, ranking number 13 out of 21 countries.

This relatively recent ranking shows that the US is largely perceived as being relatively corrupt, in terms of bribes for winning or retaining contracts for business in our country.

* **Theoretical Explanations of White-Collar Crime**
  + A recent review of the extant scientific research testing the empirical validity of various theories discussed previously in this book in explaining white-collar crime found that some theories did better than others did.
  + Specifically, various studies were examined regarding the theories of differential association/social learning, techniques of neutralization, deterrence/rational choice, cultural/sub-cultural, routine activities/opportunity, strain, low self-control theory, as well as the political/economic ideologies of capitalism versus communism/socialism.
  + One recent study showed that Executive MBA candidates, who had much experience in the corporate world, were significantly more likely to use such neutralization techniques in explaining why they agreed to marketing and selling an admittedly dangerous drug than normal MBA students who had far less experience in the corporate world.
  + Studies have shown that the more often a company is caught for violations, the more likely they are to engage in such acts in the future.
    - This is easily understood by the simple fact that the very companies that have been caught have gotten away with such violations for many years without being caught, and they know that the potential benefits far outweigh any sanctions they may face when they are caught for a few of their total violations.
  + Portions of rational choice theory are strongly supported by empirical research, in the sense that the benefits of the payoff for violating ethical business rules often gain much in terms of financial profit and/or employers’ recognition.
  + Regarding opportunity theories, such as routine activities theory, the ready-made opportunity to commit various white-collar crimes is quite attractive, especially given the low likelihood of being caught and the so easy way to make economic gain via one’s everyday job.
  + Regarding strain theory, especially institutional anomie theory (IAT), there is believed to be an American cultural value of monetary success, which often takes priority over other important social factors (i.e., family, friends, and education).
  + In terms of conflict theory, especially regarding the overall political or economic ideology of various corporations (such as across various countries), studies show that whether a company is based in more communistic countries versus more capitalistic countries, the goal is profit.
    - Specifically, studies have shown that white-collar crime existed at a very high rate in more socialist and communist countries.
* **What is Organized Crime?**
  + **Definition**
    - In the 1986 *Report to the President and the Attorney General,* the President’s Commission on Organized Crime noted that when defining organized crime, the problem is not from the word crime. Rather the difficulty is with the term organized.
    - One approach to defining organized crime is also to incorporate a typology.
      * This typology includes such factors as the means of obtaining the goals (e.g., violence, theft, and corruption), and the reasons for engaging in such activity: an economic objective (e.g., through common crime, through illegal business, and through legal business) or a political objective (e.g., through the existing order and against the existing order).
    - While there is no agreed upon definition of organized crime, Howard Abadinsky listed various factors identified by law enforcement agencies and researchers that are associated with this type of criminal activity.
      * Organized crime is nonideological.
      * Organized crime is hierarchical.
      * Organized crime has limited or exclusive membership.
      * Organized crime perpetuates itself.
      * Organized crime is willing to use illegal violence and bribery.
      * Organized crime consists of specialization or division of labor.
      * Organized crime is monopolistic.
      * Organized crime is governed by rules and regulations.
  + **Historical Context of Organized Crime in the United States**
    - Organized crime did not begin with 20th century Prohibition. It began with the colonial pirates.
    - Some argue that pirates during the American colonial era were a form of an organized crime group.
      * These pirates developed a well-structured, hierarchical organization as well as engaged in nonideological goals and had a restricted membership.
    - By the turn of the 19th century, New York City was the “entrepreneurial center” of the country.
    - The city was also the center for conspiracies, crooks, and criminals.
    - In the 1850s, gangs began to dominate the criminal arena.
      * These gangs included the Forty Thieves, the Hudson Dusters, the Short Tails, and the Dead Rabbits; they evolved when groups of immigrants banded together for protection as well as the exploitation of other immigrants.
      * These gangs eventually formed partnerships with the political machines of the time in an effort to control their vice enterprises.
      * One notorious political machine was Tammany Hall.
        + It was founded in 1789 to oppose the ruling conservative Federalist party.
        + A primary strength of Tammany Hall was its skill to elect candidates to the state legislature in Albany and the board of alderman in New York City.
    - In 1919, the 18th Amendment to the Constitution was passed outlawing the manufacture, sale, distribution, and transportation of alcoholic beverages.
      * Prohibition created an opportunity for criminals.
      * Even with the passage of the 18th Amendment, they recognized the need for a major infrastructure to meet the public demand for alcohol such as production, transportation, and importation.
      * Prohibition and the Chicago political machine created one of the most notorious criminal organizations in this country’s history.
      * One of the most infamous of these criminals, epitomizing Chicago during Prohibition, was Al Capone.
      * The profits earned from illegally supplying alcohol were great; however, even with a more powerful position, many of these gangs continued to operate as they did in their “while early days.”
      * This would oftentimes result in violence among various gangs to obtain control over this illegal market.
    - In 1931, the state of Nevada legalized gambling to create tax revenue during the Great Depression.
      * Bugsy Siegel was the first significant criminal to realize the potential from legalized gambling.
      * In 1947, the Flamingo Hotel in Las Vegas, Nevada was opened.
        + This opening designated the onset of organized crime control of the legal gambling industry.
      * Many of the lavish hotels, such as the Flamingo, were controlled, albeit through hidden interests, by organized crime.
        + Usually, monies were “skimmed” before being counted for tax purposes; this money was distributed to the organized crime bosses in proportion to their “hidden” ownership.
    - In 1986, the President’s Commission on Organized Crime noted of the various developments in organized crime during the preceding twenty years, there were three developments that were of significance.
      * One is the increasing awareness that other organized crime groups exist.
      * Another development is the success of law enforcement against the leadership, membership, and associates of *La Cosa Nostra*, which was considered by some the best known organized crime group in the last thirty years.
      * The third significant development is organized crime’s involvement in drug trafficking.
  + **Types of Criminal Organizations**
    - **The Mafia**
      * The origins of the Mafia are unclear.
        + One opinion is that the Mafia evolved as a 9th century response to Arabic domination of Sicily.
        + Another view is that the Mafia evolved in Palermo, Italy in 1282 as a political organization to free Sicily of French domination.
      * Originally, the Mafia was similar to an extended social family.
      * The members took an oath swearing, under punishment of death, to a code of silence.
      * Initially, the Mafia was a self-protection group; by the 1860s, however, they expanded to criminal activities such as smuggling, cattle rustling, and extortion.
      * In 1878, the Italian government began concentrated efforts to eliminate the Sicilian Mafia.
        + Thus, many Sicilian **Mafiosi** immigrated to the United States, settling in major urban cities such as Boston, Chicago, Kansas City, New Orleans, New York, and St. Louis.
      * From 1890 to the 1920s, the Mafiosi preyed on other immigrants by forcing their participation in the protection scam.
    - **Outlaw Motorcycle Gangs**
      * During the late 1940s, outlaw motorcycle gangs (OMGs) evolved as disorganized and unruly groups made up of disgruntled World War II veterans.
      * Through the decades, the tough-guy image was perpetuated and membership increased as well as the organization and sophistication of these groups.
      * Some of these groups’ behavior was less rebellious rather than openly criminal.
        + In fact, OMG members refer to themselves as one-percenters.
        + While the “one percent” figure is meaningless today, members refer to themselves as being “one percenters” to flaunt their status as lawless outsiders.
      * OMGs today are secretive and close-knit groups with selective membership.
        + Membership in OMGs is symbolized by “colors” which are often on denim or leather jackets with embroidered patches sewn on the back.
        + These patches display a gang logo and may include “rockers” that identify the name of the gang and home city of the chapter.
        + The colors are the member’s most prized possession and represent his primary commitment—to the gang and its criminal lifestyle.
      * The outrageous treatment of women who associate with the members is also part of the OMGs lifestyle.
        + Women are considered less important than the gang itself or the member’s motorcycle.
        + In some gangs, women are used to generate money through prostitution as well as for the transportation of drugs and weapons.
      * Some of the most notorious OMGs include the Hells Angels, the Outlaws, the Bandidos, and the Pagans.
        + The Hells Angels are regarded as the wealthiest and most powerful of the OMGs.
        + The Hells Angels also have a sophisticated and wide-ranging counterintelligence structure as protection from arrest and prosecution.
      * There are sophisticated but smaller OMGs including the Vagos (located in the west and southwest); the Warlocks (located in the area of Pennsylvania, New Jersey, and Delaware), the Dirty Dozen (located in Arizona), the Gypsy Jokers (located in the Pacific northwest), and the Sons of Silence (located in Colorado).
    - **Prison Gangs**
      * Some have attributed the growth of prison gangs to the 1964 U.S. Supreme Court decision ***Cooper v. Pate***.
        + This decision allowed prisoners to sue state officials, in federal court, which resulted in a great deal of litigation and changed the prison conditions in the 1970s.
        + Gangs grew in this more liberal prison environment.
      * Prior to *Cooper v. Pate*, only Washington and California reported the existence of prison gangs; by 1984, this number rose to over 60% of state and federal prisons reporting gang activity.
      * By the 1990s, some of these prison gangs had evolved into well organized crime groups.
      * These gangs were different from previous gangs primarily with their demand of absolute obedience to the “parent” group.
        + For instance, the “death oath,” or “Blood In Blood Out,” requires the member to always remain a member.
      * Organized in the late 1950, and one of the oldest prison gangs is the Mexican Mafia (EME), whose members are primarily Mexican-Americans from southern California.
        + In some prisons, the Mexican Mafia controls homosexual prostitution, gambling, and narcotics.
        + Both inside and outside prison, the Mexican Mafia is involved in burglary, assault, robberies, extortion, drug trafficking, and contract killings.
      * Another major prison gang is La Neustra Familia, considered an enemy of the Mexican Mafia.
        + This prison gang was established in Soledad Prison (California) in 1967.
        + Some of the La Neustra Familia’s outside prison operations include a protection racket, similar to more traditional organized crime groups.
      * The Texas Syndicate originated in Folsom Prison (California) in 1974.
        + The members are predominately Mexican-Americans from the El Paso and San Antonio, Texas region.
        + It has a reputation for being one of the most violent gangs.
      * The Black Guerilla Family (BGF) was established by black activist prisoner George Jackson at San Quentin Prison in 1966.
        + This gang is closely associated with the Crips street gang.
        + The BGF is controlled by a central committee consisting of generals, captains, lieutenants, and soldiers.
      * The Aryan Brotherhood is a motorcycle-oriented, white supremacist gang founded in San Quentin Prison in the 1960s.
        + The Aryan Brotherhood’s criminal activities include extortion, protection rackets, drug tracking, and contract murder.
    - **Urban Street Gangs**
      * Dennis Kenney and James Finckenauer evaluated whether urban street gangs could be deemed an organized crime group.
        + The first characteristic is *corruption.*

At this time, there is no evidence to support the notion that urban street gangs systematically engage in paying off public officials in an effort to avoid arrest and prosecution.

* + - * + The second characteristic, *violence*, or the threat of violence, is a major feature of urban street gangs.
        + The third characteristic, *continuity*, is a feature for certain street gangs.
        + The fourth characteristic is *multiple enterprises*.

The drug “business” is essentially the only enterprise for urban street gangs.

* + - * + *Structure and involvement in legitimate businesses* is the fifth characteristic.

While some street gangs appear to have some type of organizational structure, there does not seem to be a great deal of expansion from illegal business into legitimate business.

* + - * + The last characteristic is *sophistication, discipline, and bonding*.

While some gangs engage in sophisticated activities, such as speaking in code on the telephone, most gangs do not.

In reference to discipline, many urban gangs stress the need for discipline, especially in the drug business.

Finally, many street gangs emphasize bonding such as rituals and initiation rites.

* + **Criminal Justice Responses to Organized Crime**
    - **Chicago Crime Commission**
      * Formed in 1919 by a group of Chicago businessmen that were concerned about Chicago’s “gangland” reputation.
      * Some argued that the Commission was “a self-serving exercise in hypocrisy,” however; it was able to demonstrate successfully the city’s crime problem through a public relations campaign.
      * Introduced the “Public Enemy” list prior to J. Edgar Hoover’s version.
    - **The Wickersham Commission**
      * Formed in 1929 to assess the effect of Prohibition on criminal activity.
      * The findings from the Commission revealed that organized criminal activity flourished around bootlegging activities.
    - **The Kefauver Committee**
      * In May of 1950, Senator Estes Kefauver became chair of the Special Committee to Investigate Organized Crime in Interstate Commerce.
      * The Committee was charged with three responsibilities:
        + Conducting an extensive study and investigation to assess whether organized crime uses the services, or avenues, or interstate commerce to promote any transactions, which violate Federal or state law.
        + If such transactions do occur, investigating the identification of the persons, firms, or corporations involved.
        + Determining whether such interstate criminal operations were responsible for developing corrupting influences in violation of Federal or state laws.
      * During Kefauver’s term as chair, the Committee heard from more than six hundred witnesses in Miami, Tampa, New Orleans, Kansas City, Cleveland, St. Louis, Detroit, Los Angeles, San Francisco, Las Vegas, Philadelphia, Washington, Chicago, and New York.
      * The Kefauver Committee did provide invaluable information on organized crime; however, the Committee did not provide support for the existence of an international Mafia conspiracy.
    - **The McClellan Committee**
      * In the early 1960s, the Senate Permanent Subcommittee on Investigation, chaired by Senator John McClellan, was formed to investigate labor racketeering in the country’s trade unions.
      * In 1963, the Committee held televised hearings including the testimony of Joseph Valachi, the first “made member” of the Genovese crime family to testify about Italian-American organized crime.
      * Valachi’s testimony did not result in any convictions; further the McClellan Committee failed to recommend a specific definition of organized crime.
      * These hearings, however, did contribute to the government’s understanding of this type of criminal activity.
    - **The President’s Commission on Law Enforcement and the Administration of Justice**
      * In 1965, President Lyndon Johnson established the President’s Commission on Law Enforcement and the Administration of Justice.
      * There were nine different task forces, with one being the Task Force on Organized Crime.
      * In their 1967 report to the Commission, the Task Force noted the following:
        + Today the core of organized crime in the U.S. consists of twenty-four groups operating as criminal cartels in large cities across the Nation … To date, only the FBI has been able to document fully the national scope of these groups, and the FBI intelligence indicates that the organization as a whole has changed its name from the Maria to *Cosa Nostra*.
      * The Commission maintained that gambling was the largest source of revenue of organized crime followed by loan sharking and narcotics trafficking.
      * The Task Force continued the efforts initiated by the Kefauver Committee and made various recommendations including a witness protection program, special federal grand juries, and legislation allowing electronic surveillance.
    - **Organized Crime Control Act of 1970**
      * Passed because of the President’s Commission on Law Enforcement and the Administration of Justice.
      * A key component of this legislation was Title 9 of the Act, specifically, the Racketeer Influenced and Corrupt Organizations (RICO) Act.
        + However, it would take nearly a decade for authorities to apply adequately RICO.
      * There are three criminal penalties for RICO violations and these penalties can be applied simultaneously.
        + A fine of no more than $25,000;
        + A prison term of no more than 20 years (for each racketeering count); and
        + The forfeiture of any interest obtained or maintained in the course of state violations.
    - **The President’s Commission on Organized Crime**
      * Created by President Reagan in 1983, under Executive Order Number 12435.
      * The commission produced five reports in its three-year existence.
      * Some of the key issues highlighted by the Commission include the problem of money laundering, labor union racketeering, and “mob lawyers.”
      * Avoided focusing on Italian-American organized crime, instead the focused on Columbian cocaine cartels as well as other criminal groups such as outlaw motorcycle clubs.
      * The Commission also provided a more meaningful definition of organized crime.
      * Further, in an effort to enhance their understanding of organized crime groups, the Commission developed a contingency model that highlighted levels of involvement of members and nonmembers; these levels include:
        + The criminal group (i.e., the core of the organized crime unit),
        + The protectors (e.g., corrupt public officials, businesspersons, judges, attorneys, and financial advisers),
        + Specialized support (i.e., provide services that facilitate organized crime such as pilots, chemists, arsonists, and hijackers),
        + User support (i.e., consumers of organized crime’s legal goods and services such as drug users, and people knowingly buying stolen goods), and
        + Social support (i.e., provide the perception of legitimacy of these criminal groups such as politicians who seek the support of organized crime members and community leaders who invite these crime members to social gatherings).
  + **Theoretical Explanations of Organized Crime**
    - Kenney and Finckenauer reviewed various theoretical perspectives that attempt to provide an understanding of organized criminal behavior such as cultural transmission, culture conflict, and strain theories as well as low self-control theory.
      * Another theoretical perspective they discussed was ethnicity and ethnic succession:
        + [O]rganized crime has been described as being “caused” by the efforts of successive immigrant groups to make it in America. Cut off from legitimate opportunities for achieving socioeconomic and political success, immigrants have been forced by circumstances to climb … the “queer ladder” of upward social mobility, namely, crime, and especially organized crime.
      * Another theoretical perspective presented was enterprise theory.
        + This perspective maintains that the legitimate marketplaces do not provide an opportunity for customers to obtain goods and services; thus illicit entrepreneurs fill this void by providing such goods and services.
    - Peter Reuter attempted to understand under what circumstances some gangs are deemed an organized crime group.
      * He contends that adult gangs are primarily in existence for economic purposes, specifically, to make money.
      * Another key characteristic is the supply and demand conditions that assist organized crime to flourish.
      * Three factors that affect the extent of organized crime in a particular city:
        + Illegal market opportunities (e.g., gambling, drugs, and loan-sharking) that are contingent on coordinated groups of people in frequent interaction;
        + The extent of recent migration of significant ethnic groups into the community allowing for recruitment as well as potential clients for goods and services; and
        + The strength and corruptness of local political authority.
* **What is Cybercrime?**
  + **Definition**
    - Cybercrime: any unauthorized, or deviant, or illegal activity over the Internet that involves a computer (or computers) as the tool to commit the activity and a computer (or computers) as the target of that activity.
    - Cybercrime consists of at least three features:
      * The act was committed by using a computer;
      * A “victim” computer; and
      * An intermediary network.
    - High-technology crime refers to any criminal act involving the use of high-technology devices during the commission of that act.
      * Examples of these high-technology acts include the use of such devices as computers, telephones, check-reading machines, and credit card machines.
      * Can be comprised of traditional crimes that were committed prior to technological developments to more recent crimes that use high-technological devices.
      * Thus, this term incorporates crimes that may involve limited use of computers and networks to those that completely rely on the use of computers and networks.
  + **Types of Offenses**
    - **Hacking**
      * The term *hacker* most likely emerged from the electrical engineering labs at the Massachusetts Institute for Technology (MIT).
      * Today individuals who claim to be hackerscontend that true hackers are concerned with enhancing computer security.
      * Later the term *cracker was* suggested to replace the term hacker in the media.
        + This term usually refers to an individual who violates copyright protection.
      * In the computer science community, the distinction between these two terms is recognized; outside this community the two terms often refer to the same activity.
      * Robert Moore described six general types of hackers:
        + Black hat hackers

These individuals violate computer security essentially for the purpose of being malicious or for personal gain. They write programs to damage computer systems and networks. Because of these hackers, organizations have had to spend millions of dollars to develop protected computer network and operating systems.

* + - * + White hat hackers

These hackers are involved in writing programs to protect systems and networks from being illegally and maliciously accessed. They attempt to hack into targeted computers. If successful, they will subsequently notify the owner of the computer system of their vulnerabilities.

* + - * + Gray hat hackers

A blend of black hate and white hat hackers, these individuals may be considered as “opportunistic.” They may successfully target and access a computer system and then notify the system’s owner. Rather than informing the administrator as to how the system was exposed, these hackers offer to correct the defect for a certain amount of money.

* + - * + Script kiddies

These hackers are deemed the lowest on the hacker ladder when considering their limited technical ability. Essentially, they surf the Internet for hacker utility programs and then launch the programs at a target computer system. Due to the limited technical knowledge, they are considered risky because they are not aware of how this program will affect the attacked computer system. Some of the well-known hacking attacks, such as the shutting down of the eBay and Amazon.com websites, were due to script kiddies.

* + - * + Hactivists

In reference to their methods, these individuals are similar to those hackers described above. They differ, however, in their motives. Hactivists attempt to hack computer systems or networks that will provide them an avenue to spread their political message. They may access the server that stores a web page and then modify the page to reveal their message.

* + - * + Cyber terrorists

These individuals access computer systems that are linked to critical infrastructures such as water purification, electricity, and nuclear power plants. Such “attacks” can cause damage or even death due to loss of service. These hackers are relatively new but are gaining attention and create a great deal of public fear.

* + - **Identity Theft**
      * Identity theft is defined as “the procuring of this false identity regardless of its use … [often] to commit identity fraud, but in some cases, it is used by criminals and terrorists to establish false identities and escape detection.”
      * There are generally three different types of identity theft.
        + The first type of identity theft is when the identity thief assumes the life of the victim.

One possible motivation for this form of identity theft is someone engaging in organized criminal activities.

The trail left behind would lead to someone else, with no affiliation to the organization, rather than the thief.

This type of identity theft is rare, possibly because taking over an individual’s life is extremely difficult.

* + - * + The second form of identity theft is “virtual” identity theft.

Individuals steal another person’s screen name for the purposes of harassing people or using the account to spam other users.

* + - * + The third form of identity theft occurs when a victim’s credit identity is stolen, such as his or her social security as well as other forms of identifying information.

This is the most common type.

After the offender obtains the information they will use it to apply for credit in the name of the victim.

There are various approaches to obtaining an individual’s identity including:

Carding: this refers to stealing a victim’s credit card information and then subsequently using this information to purchase items, especially for electronics.

Dumpster diving: This method involves offenders obtaining materials, such as credit card carbons or pre-approval credit card forms, that include identity information.

Credit card skimming: Offenders steal credit card information from the card being scanned through an electronic card reader.

Shoulder surfing: An offender peers over the victim’s shoulder and memorizes the credit card number when the victim is paying for their merchandise.

* + - **Child Pornography**
      * Child pornography portrays children in a sexual act or in a sexual way.
      * There are national and international organizations that support pedophiles and child sexual exploitation.
        + One such organization is the North American Men/Boy Love Association (NAMBLA).
      * Users of internet child pornography generally fall into one of four categories:
        + Individuals who encourage prevailing or developing sexual interests in children.
        + Communicate with other sexual offenders who use child pornography as a broader pattern of offending.
        + Individuals who are impulsive and curious.
        + Individuals who are involved in child pornography for non-sexual reasons such as financial gain.
    - **Internet Fraud**
      * Two of the most common types of internet
        + Fraudulent online sales

A major problem with online auction fraud is when an individual purchases merchandise but never receives the items.

Since these transactions can occur between the seller and purchaser living in different states, or countries, there are issues pertaining to investigating and prosecuting these offenses.

However, many states have statutes that criminalize fraudulent selling practices and these statutes would apply to auction fraud cases as they would apply to more traditional transactions between a buyer and seller.

* + - * + Advance fee frauds

The victim is lured to pay monies with the expectation of receiving some service or benefit, but this never occurs.

One of the most well-known is the Nigerian email scam

* + - **Cyberstalking**
      * Florida statute explicitly defines cyberstalking as a “means to engage in a course of conduct to communicate, or to cause to be communicated, words, images, or language by or through the use of electronic mail of electronic communication, directed at a specific person, causing substantial emotional distress to that person and serving no legitimate purpose.”
      * Cyberstalking includes some of the following actions:
        + Monitoring e-mail communication directly or by using some form of spyware or keystroke logging hardware;
        + Sending e-mails that threaten, insult, or harass;
        + Disrupting e-mail communications by inundating a victim’s e-mail box with unwanted mail;
        + Disrupting e-mail communications by sending a virus;
        + Using the victim’s e-mail identity (i.e., “virtual identity theft”) to send false messages to others or to purchase goods and services; and
        + Using the Internet to seek and collect a victim’s personal information and whereabouts.
  + **Criminal Justice Responses to Cybercrime**
    - **Investigation of Cybercrime**
      * Law enforcement has lagged behind the remarkable technological advances and the easy availability of this technology to millions of individuals.
      * A number of large law enforcement agencies have devoted resources for electronic crime investigation; medium-sized agencies may be attempting to develop an electronic crime investigation unit or cross-train detectives from traditional fields.
      * Small agencies, however, do experience computer crime in their area but are often not able to devote the resources for a specialized unit.
      * Law enforcement agencies must determine whether they will be reactive or proactive when investigating the various types of cybercrime.
        + Cyberstalking and identity theft are almost always reactive.
        + However, digital child pornography can be viewed as proactive.
      * Another important facet investigating cybercrime involves search warrants.
        + It is essential that operating systems, storage devices, and hard specifications be clearly articulated in the development of a comprehensive search warrant.
    - **Relevant Legislation**
      * The Computer Fraud and Abuse Act (CFAA)
        + Initially enacted in 1984; amended in 1986 and has subsequently been amended since this time.
        + Originally designed to protect national security, financial, and commercial information, medical treatment, as well as interstate communication systems from malicious acts, including unauthorized access.
        + The CFAA provides those who have been a victim of such crimes to bring a civil suit against those violators.
      * Digital Millennium Copyright Act (DMCA)
        + Passed in 1998 because of pressure from the motion picture industry, record labels, software publishers, and other entities whose profits are linked to copyrighted material.
        + Incorporates part of the Copyright Act; it criminalizes making, distributing, or using tools, such as software, to evade technological protection measures implemented by copyright owners to prevent access to copyrighted material.
      * Child Online Protection Act (COPA)
        + Passed in 1998.
        + Prohibits individuals from knowingly engaging in communication for commercial purposes that is available to any minors and includes material that is “harmful to minors.”

Such prohibited material includes pictures, writings, recordings, or videos that are obscene, or what the average person would find, in the context of minors, appeals to the prurient interest.

* + - * + A violation is a misdemeanor with a punishment of up to six months imprisonment and a $50,000 fine for each violation.
      * Electronic Communications Privacy Act (ECPA)
        + Passed in 1986.
        + Regulates the interception of electronic communications by individuals as well as the government.
        + In reference to investigators, this Act regulates the amount of information that law enforcement can obtain based on the levels of service.

Law enforcement is required to obtain a subpoena for basic subscriber information (e.g., name, address, local and long distance telephone billing records, length of service, and type of service).

A court order is needed to acquire transaction information (e.g., records or logs pertaining to the subscriber such as destinations of outgoing mail).

Law enforcement needs to attain a search warrant for obtaining the actual content of e-mail messages.

* + - * Executive order 13694: blocking the property of certain persons engaging in significant malicious cyber-enabled activities
        + April 2015, President Obama issued Executive Order 13694 which provide the government the ability to impose sanctions against individuals and groups that threaten the United States’ infrastructure through malicious activities in cyberspace
        + Malicious activities would have the purpose or effect of:

Harming or significantly compromising the provision of services by entities in a critical infrastructure sector;

Significantly disrupting the availability of a computer or network of computers (e.g., through a distributed denial-of-service attack); or

Causing a significant misappropriation of funds or economic resources, trade secrets, personal identifiers, or financial information for commercial or competitive advantage or private financial gain (e.g., by stealing large quantities of credit card information, trade secrets, or sensitive information).

* + - **Theoretical Explanations of Cybercrime**
      * Robert Taylor and his colleagues reviewed several theories to explain computer crime.
      * Routine activities contend that when there is a convergence of a motivated offender, a suitable target, and the absence of a capable guardian, a crime will occur.
        + Due to the rapid increase in the use of computers as well as the Internet, this has increased the number of suitable targets. The insufficient software protection for these types of crimes reveals the absence of a capable guardian. Thus, “when motivated offenders are present, they make rational choices by selecting suitable targets that lack capable guardianship.”
      * Social process theories, such as learning theory and differential reinforcement theory, can help explain crimes that are committed by individuals who develop and spread computer viruses.
      * Social structure theories, specifically strain theory, can be considered when attempting to understand Internet fraud schemes and corporate espionage.