CHAPTER 5

Criminal Actors: Natural Persons and Collectivities

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Introduction

This chapter deals with the theoretical issues that are raised by the fact that collectivities are actors and produce criminal and deviant acts. They are those actors to which individual human beings or "natural persons" are related as "members"; the members are seen to "belong to" the collectivities. Like other actors, collectivities have names and reputations. We love them, hate them, admire them, and resent them. They range from families and ball teams to nation-states. Some of the things they do are deviant. Some of the things some of them do are crimes. (Some of them cannot commit crimes for the same reason that some natural persons—e.g., idiots, infants, and the insane—cannot commit crimes: The law says they can't, and crime is what the law says it is. The law can, of course, change its mind in these matters, and may be of a different mind in different jurisdictions.)

Collectivities are outstanding contributors to the gross national criminal product. Criminologists themselves are fond of describing the staggering costs of the crimes of business corporations, one species of collectivity. Legislation creating new crimes or increasing penalties for established crimes—e.g., legislation to protect the consumer, the
natural environment, and the health and safety of workers—is increasingly directed at collective actors, and collective actors are increasingly the targets of criminal prosecutions. In the forums of everyday life, away from the criminal courts, we pronounce judgments of crime or deviance on almost all the collectivities we do business with: the electric company—not just the clerk—for overcharging us; the university—not just the dean—for underpaying us; the hospital—not just the doctors or the nurses—for neglecting us; the FBI and CIA—not just their agents—for breaking and entering, opening other people’s letters, tapping phones, and telling lies. In light of all this, it is remarkable—and it would be an intriguing topic for the sociology of sociology—that very few students of crime and deviance have addressed themselves systematically to questions like these: What sort of an actor is a collectivity anyway? What does it mean to say that a collectivity “does” something—anything, but especially deviant things like bribery, theft, slander, racial discrimination, and murder? What is entailed in explaining what a collectivity does? What is the relevance of existing deviance theory to the criminality and deviance of collectivities, and what, in turn, do the latter imply for our theories? Do collectivities call for a theory of their own? Will one theory do for both collectivities and natural persons? And, if so, what would it look like? (Hereafter, for simplicity and economy of expression, I shall speak mostly of “crime” and “criminology,” but most of what I have to say will apply equally well to noncriminal deviance.)

Collectivities, Corporations, and White-Collar Crime

From the literature of criminology one could easily form the impression that criminal collectivities are all business corporations, that the crimes of business corporations and white-collar crime are more or less the same thing, and that when one sets about explaining white-collar crime, it boils down to explaining the crimes of natural persons, usually company officers. Even Edwin H. Sutherland (1949), who introduced white-collar crime to criminology, failed to appreciate the theoretical implications of the fact that the subjects of his research, his white-collar criminals, were mostly corporations. The conclusion that he drew from his research was that traditional criminological theory was deficient because it could not explain the crimes of rich, intelligent, capable, and respectable businessmen. He failed to draw the additional conclusion that a theory capable of explaining the crimes of businessmen might still be inadequate to the