

White Collar Crime

Occupational and Corporate

White Collar Crime—The Classic Statement	201
Related Concepts	202
The Measurement and Cost of Occupational and Corporate Crime	204
The History of Corporate, Organizational, and Occupational Crime	205
Crime Types 6.1 The Organizational/Occupational Crime Grid	208
Legal Regulation	209
Occupations and the Law	209
Organizations and the Law	210
Occupational Crime	213
Crimes by Employees	213
Crime Types 6.2 Edelhertz’s (1970) Typology of White Collar Crime	213
Crimes by Employees Against Individuals (the Public)	214
Crimes by Employees Against Employees	219
Crimes by Employees Against Organizations	220
Crimes by Individuals (or Members of Occupations)	222
Corporate Crime	226
Crimes by Organizations/Corporations Against Individuals (The Public)	227
Crime File 6.1 Financial Crimes: FBI Releases Annual Report to the Public	230
Crime File 6.2 The Great Savings and Loan Scandal: The Biggest White Collar Crime in U.S. History	232
Crime File 6.3 The Donora Fluoride Death Fog: A Secret History of America’s Worst Air Pollution Disaster	237
Crimes by Organizations Against Employees	240
Crimes by Organizations (Corporations) Against Organizations	243
Crime File 6.4 Pirates of the Internet: Criminal Warez Groups	246
Criminal Careers of Occupational and Organizational Offenders	247
Corporate Environment and Crime	247
Corporate Concentration	248
Rationalizations	248
Societal Reaction	248
Why the Leniency in Punishment?	249
Summary	251
Key Concepts	253
Review Questions	253

Seldom do members of a profession meet, even be it for trade or merriment, that it does not end up in some conspiracy against the public or some contrivance to raise prices.

—Adam Smith (1776/1953, p. 137)

We have no reason to assume that General Motors has an inferiority complex or Alcoa Aluminum Company a frustration-aggression complex or U.S. Steel an Oedipus complex or Armour Company a death wish, or that Dupont wants to return to the womb.

—Edwin H. Sutherland (1956a)

The best way to rob a bank is to own one.

—William Crawford,
California Savings and Loan Commissioner
(quoted in Pizzo, Fricker, & Muolo, 1989, p. 318)

WHITE COLLAR CRIME—THE CLASSIC STATEMENT

Although previously discussed in the popular literature, the concept of *white collar crime* was first introduced in the social sciences by Edwin Sutherland in a 1939 presidential address to the American Sociological Association. Defining white collar crime as “a crime committed by a person of respectability and high social status in the course of his occupation” (Sutherland, 1940), his address was important in that it was the first major statement on white collar crime in academic criminology. Volk (1977) describes Sutherland’s pioneering effort as “the sign of a Copernican revolution in Anglo-Saxon criminology” (p. 13), a radical reorientation in theoretical views of the nature of criminality. Mannheim (1965) felt that if there were a Nobel Prize in criminology, Sutherland would deserve one for his effort. It certainly represented, to use Kuhn’s (1962) notion, “a paradigm revolution,” a new model that served to radically reorient future theoretical and empirical work in the field.

Sutherland’s (1949) investigation using records of regulatory agencies, courts, and commissions found that of the 70 largest industrial and mercantile corporations studied over a 40-year period, every one violated at least one law and had an adverse decision made against it for false advertising, patent abuse, wartime trade violations, price fixing, fraud, or intended manufacturing and sale of faulty goods. Many of these corporations were recidivists with an average of roughly eight adverse decisions issued for each. On the basis of his analysis, it becomes obvious that, although he used the general label *white collar crime*, Sutherland was in fact primarily interested in organizational or corporate crime.

Sutherland maintained that while “crime in the streets” attracts headlines and police attention, the extensive and far more costly “crime in the suites” proceeds relatively unnoticed. Despite the fact that white collar crimes cost several times more than other

crimes put together, most cases are not treated under the criminal law. White collar crime differs from lower-class criminality only in the implementation of criminal law that segregates white collar criminals administratively from other criminals (Sutherland, 1949). Furthermore, white collar crime is a sociological rather than a legal entity. It is the status of the offender rather than the legal uniqueness of the crime that is important (Geis, 2007).

The hazard of identifying white collar crime simply by official definitions is demonstrated by Hirschi and Gottfredson (1987, 1989). They (erroneously) dispute the usefulness of the label “white collar crime” because the four UCR measures of white collar crime (fraud, embezzlement, forgery, and counterfeiting) that they measure show that most offenders are middle class and differ little from traditional offenders. Steffensmeier (1989b) correctly responds that UCR offense categories are not appropriate indicators of white collar crime.

Related Concepts

One of the earliest scholars to discuss types of behaviors that later would be described as “white collar crime” was Edward Ross (1907) in an article that appeared in the *Atlantic Monthly*. Borrowing a term used by Lombroso (Lombroso-Ferrero, 1972), Ross refers to “**criminaloids**” as “those who prospered by flagitious [shameful] practices which may not yet come under the ban of public opinion” (A. E. Ross, 1907, p. 46). Describing the criminaloid as “secure in his quilted armor of lawyer-spun sophistries” (p. 32), Ross views such offenders as morally insensible and concerned with success, but not with the proper means of achieving it. C. Wright Mills (1952) uses a similar notion, “the higher immorality,” to characterize this moral insensibility of the power elite. Mills felt this was a continuing, institutionalized component of modern U.S. society, involving corrupt, unethical, and illegal practices of the wealthy and powerful.

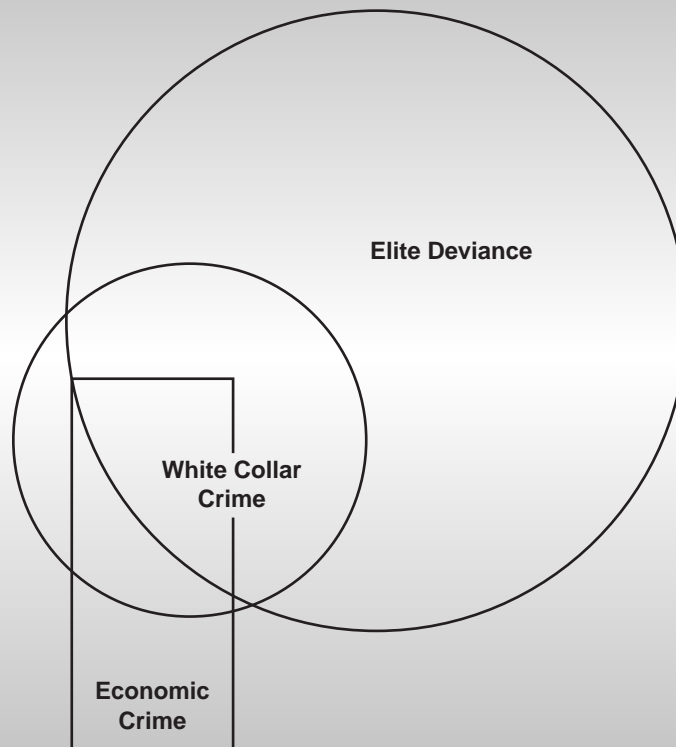
A variety of other terms have been proposed as substitutes, synonyms, variations, or related terms for white collar crime, including “avocational crime” (Geis, 1974a), “corporate crime” (Clinard & Quinney, 1986), “economic crime” (American Bar Association, 1976), “elite deviance” (D. R. Simon, 1999), “the criminal elite” (Coleman, 1994), “occupational crime” (Clinard & Quinney, 1986; G. Green, 1990), “organizations crime” (Schrager & Short, 1978), “professional crime” (Clinard & Quinney, 1986), and “upperworld crime” (Geis, 1974b). (See also Albanese, 1995; Blankenship, 1995; Friedrichs, 1995; Jamieson, 1995; Schlegel & Weisburd, 1994.)

This chapter will concentrate on two key types of criminal activity: occupational criminal behavior and corporate (organizational) criminal behavior. **Occupational crime** refers to *personal violations that take place for self-benefit during the course of a legitimate occupation*, while **corporate (organizational) criminal behavior** refers to *crimes by business or officials, committed on behalf of the employing organizations*. Although organizational crime refers to crime on behalf of the organization, it becomes corporate (business) crime when it is done for the benefit of a private business. Thus, much of what ordinarily would be branded as corporate crime in a free enterprise economy is labeled organizational crime

when committed by state bureaucrats in socialist systems. The organizational, economic crimes discussed in this chapter are also distinct from political crimes by government, which will be discussed in Chapter 7; the latter have more to do with efforts to maintain power, ideology, and social control than with economic advantage.

Figure 6.1 depicts the relationship among the many definitions of white collar crime and is an attempt by this author to address the debate among writers as to whether the best term for this subject of study is elite deviance (D. R. Simon, 1999), white collar crime (Coleman, 1994), or economic crime (various writers). This author views elite deviance as the broadest term, while white collar crime focuses on elite “crimes” but also includes non-elite activities—for example, employee theft and lower-level occupational crime. When observers ignore the status of the offender, economic crime can include minor fraud, embezzlement, and the like, even when it is not committed by individuals of high status. The issue is not which of these concepts is best, but rather how each taps a different dimension of “white collar crime.”

Figure 6.1 Interrelationship Among Elite Deviance, White Collar Crime, and Economic Crime



THE MEASUREMENT AND COST OF OCCUPATIONAL AND CORPORATE CRIME

Even in societies that permit a measure of freedom of information, the collection of accurate data on most occupational and corporate crimes is difficult. Our primary sources of data (discussed in Chapter 1), such as official statistics (the UCR), victim surveys (the NCVS), and self-reports, generally do not include much information on corporate or upper-level occupational crimes.

Problems faced by researchers who attempt to examine occupational crime include the following:

1. The higher professions are self-regulating, and very often codes of silence and protectionism rather than sanctions greet wrongdoers.
2. Many employers simply ask for resignations from errant workers in order to avoid scandal and recrimination.
3. Occupational crime statistics are not kept on a systematic basis by criminal justice agencies or by professional associations.
4. Probes of occupational wrongdoing by outsiders are usually greeted by secrecy or a professional version of "honor among thieves."

The cost of white collar crimes far exceeds the cost of traditional crimes as recorded in official police statistics and as previously discussed in Chapter 1. The Senate Subcommittee on Investigations (Senate Permanent Subcommittee, 1979) estimated that cost at roughly \$36 billion in 1976. Estimates for the early 1980s place the figure at upwards of \$50 billion, a costly sum considering that FBI estimates for all UCR property crimes such as burglary, larceny, and robbery were in the \$10 billion range in the early 1980s. Much higher estimates of costs incurred from white collar crime have been made by the Judiciary Subcommittee on Antitrust and Monopoly, which put the figure between \$174 billion and \$231 billion annually in the late seventies (Clinard & Yeager, 1980, p. 8). By the nineties, the estimated cost of \$500 billion for bailing out savings and loan companies alone, with 5 to 40 percent of the losses due to fraud, justifies even higher estimates.

Among others, Clinard and Yeager (1978, pp. 255–272) and Geis and Meier (1977, pp. 3–4) suggest that there are a number of **reasons for the lack of research on corporate crime** in the past:

1. Many social scientists are inexperienced in studying corporate crime, which often requires some sophistication in areas of law, finance, and economics.
2. Corporate violations often involve administrative and civil sanctions to which criminologists have limited exposure.
3. Enforcement is often carried out by state and federal regulatory agencies rather than by the usual criminal justice agencies.
4. Funds for such studies have not been generally available in the past.

5. Corporate crime is complicated by the very complexity of corporations.
6. Research data are not readily available because of the imperviousness of the corporate board room.
7. Corporate crime raises special problems of analysis and research objectivity.

Despite these obstacles, rising public concern about corporate wrongdoing has encouraged increased research into corporate crime.

THE HISTORY OF CORPORATE, ORGANIZATIONAL, AND OCCUPATIONAL CRIME

Current publicity and concern with corporate, organizational, and occupational crime sometimes create the false impression that such activities did not exist in the past. Nothing could be further from the truth. In fact, history is replete with examples of past corporate wrongdoing; the current business climates probably set higher moral expectations than ever before.

In the early history of capitalism and the Industrial Revolution, fortunes were made by unscrupulous “robber barons,” who viewed the state and laws as negotiable nuisances. Cornelius Vanderbilt, the railroad magnate, when asked whether he was concerned with the legality of one of his operations, was said to have stated, “Law! What do I care about Law. Hain’t I got the power?” (quoted in Browning & Gerassi, 1980, p. 201).

Journalistic “muckrakers,” or specialists in exposing what Becker (1954) calls “sex, sin, and sewage” (p. 145), preceded criminologists in analyzing abuses in high places. Works such as Lincoln Steffens’s *The Shame of the Cities* (1904) and Upton Sinclair’s *The Jungle* (1906) dramatically focused on and aroused public interest in corruption and abuse in public and private organizations. John Kenneth Galbraith tells the story of John D. Rockefeller, the founder of the family fortune, and a lecture he was fond of giving to Sunday school classes: “The growth of a large business is merely the survival of the fittest. . . . The American Beauty rose can be produced in the splendor and fragrance which bring cheer to its beholder only by sacrificing the early buds which grow up around it” (quoted in Peter, 1977, p. 87). Browning and Gerassi in *The American Way of Crime* (1980) claim that the period between the Civil War and World War I was probably the most corrupt in U.S. history and describe this time as a “dictatorship of the rich.” No one valued private property more than the industrial magnates who were stealing it (p. 210). Jay Gould, a captain of industry, gobbled up railroads through stock manipulation, rate wars, the falsifying of profit records, and the intimidation of competitors by means of hired thugs such as the Hell’s Kitchen mob (pp. 133–136). G. Myers in his *The History of Great American Fortunes* (1936, pp. 13, 17) reports an episode in which Russell Sage (a New York financier and politician) and his business associates masterminded a swindle against their creditors; after it succeeded, Sage conned his own partners out of their proceeds from the caper.

Political corruption, bribery, kickbacks, and influence peddling among political officeholders—federal, state, and local—have been rife since the very beginnings of the republic. The widespread acceptance of such corruption has given rise to a number of humorous comments, for example, the description of Mayor Curley of Boston as having been so crooked that when they buried him, they had to screw him into the ground. Another cynical remark claims that it was so cold the other day, the politicians had their hands in their own pockets.

In the post-Civil War period in the United States, political machines were epitomized by “Boss” Tweed’s Tammany Hall (New York City’s Democratic Party), in which widespread vice and corruption were combined with political favoritism and voter fraud. More than one political election was won with stuffed ballot boxes or the “graveyard vote.” S. Ross in *Fall From Grace: Sex, Scandal, and Corruption in American Politics From 1702 to the Present* (1988) documents the fact that political scandals have struck in nearly every decade since before the American Revolution. In 2007, a total of 11 New Jersey officials were charged with taking thousands of dollars in bribes in exchange for promising municipal business to undercover officers posing as insurance brokers (Chen, 2007). More than 100 public officials in New Jersey had been convicted of federal corruption charges between 2001 and 2007.

The first years of the twenty-first century were racked with corporate scandals. On July 14, 2005, Bernard Ebbers, CEO of WorldCom, was sentenced for what was described as “the largest corporate fraud in U.S. history,” an \$11 billion accounting fraud. Around the same time, stiff sentences were handed out to other corporate executives. Adelphi Communications founder John Rigas received 15 years in prison and his son Timothy 20 years for conspiracy, bank fraud, and securities fraud. Others included Tyco International CEO Dennis Kozlowski and Chief Financial Officer Mark H. Schwartz, who were convicted of grand larceny, conspiracy, securities fraud, and falsifying business records. They were found guilty of looting the company of over \$600 million to pay for extravagant lifestyles. Former CEO Richard Scrushy of HealthSouth was acquitted on June 28, 2005, on 36 counts of conspiracy, false reporting, fraud, and money laundering. He pointed the finger at 15 HealthSouth executives who all pleaded guilty. Former Chief Financial Officer of Enron, Andrew Fastow, pleaded guilty to two counts of conspiracy and received a 10-year sentence, and former Enron Treasurer Bill Gilson, Jr., received a 5-year sentence for his role in the fraud. Enron founder Ken Lay was found guilty on fraud charges in May 2006, but he died before further charges could be prosecuted (Eichenwald, 2006).

Sometimes described as the poster girl for white collar crime, Martha Stewart was convicted of insider trading. She served 5 months in prison and an additional 5 months of house confinement for conspiracy, obstruction of justice, and making false statements. Her broker, Peter Bacanovic, also served a five-month sentence. Although Stewart was a client rather than a corporate executive, focus on her case may have been misleading. A 2004 study (AccountingWEB, 2004) by KPMG, a corporate fraud investigation firm, found that, of the 100 fraud cases they had been asked to investigate from 2002–2003, senior managers or directors committed over two thirds of the crimes. In 72 percent of the cases, the perpetrators were all males. Thirteen percent involved males and females, and only 13 percent of the cases involved females only. The finance department was the most likely targeted area with 40 percent of the cases. The *Wall Street Journal* (cited in Tolson, 2002) said, “the scope and scale of corporate transgressions is greater than anything Americans have seen since the years before the Great Depression.”



Photo 6.1 Celebrity Martha Stewart is photographed leaving a courthouse in 2005 where she was later convicted and sentenced for insider trading.

A widely cited typology of white collar crime is the one proposed by Edelhertz (1970). He identifies the following:

1. Crimes by persons operating on an individual ad hoc basis (for example, income tax violations, credit card frauds, bankruptcy frauds, and so on)
2. Crimes committed in the course of the occupations of those operating inside business, government, or other establishments, in violation of their duty of loyalty and fidelity to employers or clients (for example, embezzlement, employee larceny, payroll padding, and the like)
3. Crimes incidental to, and in furtherance of, business operations, but not central to the purpose of the business (for example, antitrust violations, commercial bribery, food and drug violations, and so forth)
4. White collar crime as a business, or as the central activity (pp. 19–20). [This is covered in this text under the label “professional crime”; it refers to activities such as medical and health frauds, advance fee swindles, and phony contests.]

Eliminating Edelhertz's item 4 as more appropriately an example of professional crime, Crime Types 6.1 proposes an **Occupational/Organizational Crime Grid**, which classifies the crimes in terms of both perpetrators and victims. Goff and Reasons (1986) have proposed a similar model for organizational crime.

Crime Types 6.1 The Organizational/Occupational Crime Grid

		Crime Committed by:		
		Individual (Public, Consumer)	Employee	Organization (Corporation, State)
Crime Committed Against (Victim):	Individual (Public, Consumer)	(1) Merchant vs. Consumer Professional vs. Client	(2) Individual Corruption Payoffs	(3) Production of Unsafe Products Deceptive Advertising
	Employee	(4)	(5) Sweetheart Contracts	(6) Occupational Health and Safety Violations Environmental Hazards on Job
	Organization (Corporation, State)	(7) Insurance Fraud Tax Fraud	(8) Embezzlement Inside Trading	(9) Industrial Espionage Unfair Competition Patent Violations

Type Description

- (1) Individual vs. Individual (Public)
- (2)* Employee vs. Individual (Public)
- (3) Organization vs. Individual (Public)
- (4)* Individual vs. Employer
- (5)* Employee vs. Employee
- (6) Organization vs. Employee
- (7)* Individual vs. Organization
- (8) Employee vs. Organization
- (9) Organization vs. Organization

*These crimes may not have direct corporate or occupational ramifications.

While many crimes in fact defy placement in mutually exclusive, homogenous categories, these types offer a useful scheme for organizing the presentation of occupational crime and organizational/corporate crime in this chapter.

LEGAL REGULATION

Occupations and the Law

In Western societies, the legal regulation of occupations is often “self-regulation.” Although laws and codes of ethics purportedly exist to protect the public from harmful occupational activity, much self-governance has been used instead to protect the interests of members of the occupation. The more developed *professions* attempt to convince legislatures that they possess highly sophisticated, useful, esoteric knowledge; that they are committed to serving societal needs through a formal code of ethics; and that they therefore should be granted autonomy, since they and only they are in a position to evaluate the quality of their service. In fact, the actual legal codes that control occupational practice tend to be formulated by the occupations themselves in order to dominate or monopolize a line of work. Playwright George Bernard Shaw (1941) in *The Doctor’s Dilemma* has one of his characters state that “all professions are a conspiracy against the laity” (p. 9). More developed occupations (professions) virtually control the law-making machinery affecting their work. Professional organizations and their political action committees are quite effective in blocking legislation that may be detrimental to their interests.

An example of professional power is the AMA (American Medical Association), which Friedson (1970) describes as “professional dominance” and Harmer (1975) as “American Medical Avarice.” The AMA as a lobbying organization appears more concerned with guarding profit, competition, and private enterprise in the business of medicine than supporting legislation that would improve the quality of medical care delivery. According to the 1968 *Report of the National Advisory Commission on Health Manpower* (cited in Skolnick & Currie, 1982), the health statistics of certain groups in the United States, particularly the poor, resemble those in a developing country.

Occupational crime can be controlled by professional associations themselves, by traditional criminal law, by civil law, and by administrative law. Actions by professional ethics boards can include suspensions, censure, temporary or permanent removal of license and membership, and the like. Traditional criminal prosecution also occurs, such as for larceny, burglary, and criminal fraud; civil actions by the government may include damage and license suspension suits. Administrative proceedings may call for taking away licenses, seizing illegal goods, and charging fines.

The FBI in its early history was involved primarily in investigating and enforcing white collar crimes, such as false purchases, security sales violations, bankruptcy fraud, and antitrust violations; only later did it become preoccupied with its gangbuster image (Lowenthal, 1950, p. 12). As late as 1977, however, the House Judiciary Committee charged that the FBI was soft on white collar crime and that its idea of white collar crime was small-scale fraud (D. R. Simon & Swart, 1984).

Organizations and the Law

A corporation is a legal entity that permits a business to make use of capital provided by stockholders. Although the federal government has had the power to charter corporations since the 1791 *McCulloch v. Maryland* decision, it rarely uses it; most chartering is done by the states. Corporations have been considered legal “persons” since a Supreme Court decision of 1886 (Clinard & Yeager, 1980, pp. 25–28).

In the United States, beginning in the nineteenth century, certain business activities were defined as illegal. These included restraint of trade, deceptive advertisements, bank fraud, sale of phony securities, faulty manufacturing of foods and drugs, environmental pollution, as well as the misuse of patents and trademarks (Clinard & Quinney, 1986, p. 207). In the late nineteenth century, concern grew about the development of monopolies, which threatened to control economies and stifle competition and thereby jeopardized the very philosophy of free-market enterprise.

The Sherman Antitrust Act (1890) was the first of many regulatory laws passed to control corporate behavior. This law forbids restraint of trade and the formation of monopolies; it currently makes price fixing a felony, with a maximum corporate fine of \$1 million, and authorizes private treble (triple) damage suits by victims of price fixing. For the most part, the policing of corporate violations is done by federal regulatory agencies—for example, the Federal Trade Commission (FTC), which was set up in 1914 at the same time as the Clayton Antitrust Act and the Federal Trade Act. There are over 50 *federal regulatory agencies* with semi-policing functions with respect to corporate violations. Among these agencies are the Civil Aeronautics Board (CAB), the Environmental Protection Agency (EPA), the Federal Communications Commission (FCC), the Food and Drug Administration (FDA), the Federal Power Commission (FPC), the Interstate Commerce Commission (ICC), the National Labor Relations Board (NLRB), the Nuclear Regulatory Commission (NRC), the Occupational Safety and Health Administration (OSHA), and the Securities and Exchange Commission (SEC). Some areas regulated by these agencies and discussed in this chapter are air safety, air and water pollution, unfair advertising, safe drugs and healthy food, public utility services, interstate trucking and commerce, labor-management practices, nuclear power plants, health and safety in the workplace, and the sale and negotiation of bonds and securities.

Regulatory agencies have a number of sanctions they can use to force compliance with their orders: warnings, recalls, orders (unilateral orders, consent agreements, and decrees), injunctions, monetary penalties, and criminal penalties (Clinard & Yeager, 1980, p. 83). In addition to criminal proceedings, acts such as the Clayton Act (Section 4) permit “treble damage suits” by harmed parties. Guilty companies, with their batteries of lawyers and accountants, generally have more expertise, time, and staff to devote to defense than the Justice Department, under its Anti-Trust Division, has for prosecution. Indefinite delays and appeals are not uncommon.

If the government appears to have a solid case, corporations are permitted to plead **nolo contendere**, or “no contest,” to charges. This is not an admission of guilt, and thus enables corporations to avoid the label of criminal. Consent decrees amount to a hand slap; that is, the corporation simply agrees to quit committing the particular violation with which it was charged.

A number of criticisms have been levied against federal regulatory agencies and their efforts against corporate crime:

1. Lacking sufficient investigative staff, the agencies often rely on the records of the very corporations they are regulating to reveal wrongdoing.
2. The criminal fines authorized by law are insignificant compared with the economic costs of corporate crime and become, in effect, a minor nuisance, a “crime tax,” a “license to steal,” but certainly not a strong deterrent.
3. Other criminal penalties such as imprisonment are rarely used and, when they are, tend to reflect a dual system of justice: offenders are incarcerated in “country club” prisons or are treated in a far more lenient manner than traditional offenders.
4. The enforcement divisions of many regulatory agencies have been critically understaffed and cut back, as in the Reagan administration’s EPA and other agencies, to inoperable levels.
5. The top echelons of agency commissions are often filled with leaders from the very corporations or industries to be regulated, creating potential conflicts of interest.
6. Relationships between regulators and regulated are often too compatible, with some agency employees more interested in representing the interests of the corporations they are supposed to be regulating than in guaranteeing the public well-being. The fact that many retiring agency employees are hired by the formerly regulated companies lends support to this argument.

In reviewing the state of regulation of illegal corporate activity, Clinard and Yeager (1980) state,

One may well wonder why such small budgets and professional staffs are established to deal with business and corporate crime when billions of dollars are willingly spent on ordinary crime control, including 500,000 policemen, along with tens of thousands of government prosecutors and officials. (p. 96)

Gross (1980) in his book *Friendly Fascism* answers their question by letting us in on what he calls “dirty secrets”:

We are not letting the public in on our era’s dirty little secret: that those who commit the crime which worries citizens most—violent street crime—are, for the most part, products of poverty, unemployment, broken homes, rotten education, drug addiction, alcoholism, and other social and economic ills about which the police can do little if anything. . . . But, all the dirty little secrets fade into insignificance in comparison with one dirty big secret: Law enforcement officials, judges as well as prosecutors and investigators, are soft on corporate crime. . . . The corporation’s “mouthpieces” and “fixers” include lawyers, accountants, public relations experts and public officials who negotiate loopholes and special procedures in the laws, prevent most illegal activities from ever being disclosed and undermine or sidetrack “overzealous” law enforcers. In the few cases ever brought to court, they usually negotiate penalties amounting to “gentle taps on the wrist.” (pp. 110, 113–115)

While every year the FBI publishes its Uniform Crime Reports to give an annual account of primarily street crime, no such annual exists to measure the far more costly corporate crime. Robert Mokhiber (1999), editor of the Washington-based *Corporate Crime Reporter*, ranked the “Top 100 Corporate Criminals of the 1990s.” These were only the tip of the iceberg in that the majority of corporate wrongdoing is handled under civil law. This list includes only those who were caught and criminally fined. The 100 corporate criminals fell into 14 categories of crime (www.corporatepredators.org/top100.html): environmental (38), antitrust (20), fraud (13), campaign finance (7), food and drug (6), financial crimes (4), false statements (3), illegal exports (3), illegal boycott (1), worker death (1), bribery (1), obstruction of justice (1), public corruption (1), and tax evasion (1). The top 10 corporate criminals of the 100 identified by Mokhiber were the following:

1. **F. Hoffman-LaRoche Ltd**—The Swiss pharmaceutical company pled guilty and paid a record \$500 million criminal fine for fixing prices on vitamins.
2. **Daiwa Bank Ltd**—The bank pled guilty to 16 federal felonies and paid a \$340 million criminal fine. It pled guilty to two counts of conspiracy to defraud the United States and the Federal Reserve Bank, misprision (concealment) of felony, 10 counts of falsifying bank records, 2 counts of wire fraud, and 1 count of obstructing a bank examination.
3. **BASF Aktiengesellschaft**—This German pharmaceutical pled guilty and agreed to a \$225 million criminal fine for fixing prices on vitamins.
4. **SGL Carbon Aktiengesellschaft**—The world’s largest producer of graphite and carbon products pled guilty to price fixing and paid a \$135 million fine.
5. **Exxon Corporation**—Exxon pled guilty to criminal charges related to the 1989 Exxon Valdez oil spill and paid a \$125 million fine. This was the largest criminal recovery obtained in an environmental case.
6. **UCAR International Inc**—The largest producer of graphite electrodes in the United States pled guilty to fixing prices and paid a \$110 million criminal fine.
7. **Archer Daniels Midland**—Pleading guilty to charges of price fixing of lysine and citric acid markets, the company paid a \$100 million fine.
8. (tie) **Banker’s Trust**—The bank was fined \$60 million for making false reports of financial performance, having made false entries in books and records.
9. (tie) **Sears Bankruptcy Recovery Management Services**—Sears pled guilty to bankruptcy fraud and agreed to pay a \$60 million fine. The company had already paid over \$180 million in restitution to 188,000 debtors and \$40 million in civil fines to 50 state attorneys general. Sears had systematically misled those in bankruptcy into believing they had to pay certain debts.
10. **Haarman and Reimer Corporation**—A subsidiary of the German Bayer AG, the corporation pled guilty and agreed to pay a \$50 million fine for fixing prices on the citric acid worldwide market.

OCCUPATIONAL CRIME

Crimes by Employees

Although there are cases of overlap, both “crimes by employees” and “crimes by individuals” can be examples of occupational crime—crime committed in the course of a legitimate occupation for one’s own benefit. While the types of activities to be discussed in this section are executed by employees (those who work for someone else), those to be examined in “crimes by individuals” will primarily be crimes by professionals.

Edelhertz’s Typology

One attempt to delineate white collar crime is the widely cited typology and examples provided by Edelhertz (1970, pp. 73–75) (see Crime Types 6.2).

Crime Types 6.2 *Edelhertz’s (1970) Typology of White Collar Crime*

Edelhertz’s typology of white collar crime details a variety of offenses:

- A. Crimes committed in the course of their occupations by those operating inside business, government, or other establishments in violation of their duty of loyalty and fidelity to employer or client.
 1. Commercial bribery and kickbacks, i.e., by and to buyers, insurance adjusters, contracting officers, quality inspectors, government inspectors and auditors, etc.
 2. Bank violations by bank officers, employees, and directors
 3. Embezzlement or self-dealing by business or union officers and employees
 4. Securities fraud by insiders trading to their advantage by the use of special knowledge
 5. Employee petty larceny and expense account fraud
 6. Frauds by computer, causing unauthorized payments
 7. “Sweetheart contracts” entered into by union officers
 8. Embezzlement or self-dealing by attorneys, trustees, and fiduciaries
 9. Fraud against the government:
 - a. Padding of payrolls
 - b. Conflict of interest
 - c. False travel, expense, or per diem claims
- B. Crimes incidental to and in furtherance of business operations, but not the central purpose of the business
 1. Tax violations
 2. Antitrust violations
 3. Commercial bribery of another’s employee, officer, or fiduciary (including union officers)
 4. Food and drug violations

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| <ul style="list-style-type: none"> 5. False weights and measures by retailers 6. Violations of Truth-in-Lending Act by misrepresentation of credit terms and prices 7. Submission or publication of false financial statements to obtain credit 8. Use of fictitious or overvalued collateral 9. Check kiting to obtain operating capital on short-term financing 10. Securities Act violations, i.e., sale of non-registered securities to obtain operating capital, false proxy statements, manipulation of market to support corporate credit or access to capital markets, etc. 11. Collusion between physicians and pharmacists to cause the writing of unnecessary prescriptions 12. Dispensing by pharmacists in violation of law, excluding narcotics trafficking 13. Immigration fraud in support of employment agency operations to provide domestics | <ul style="list-style-type: none"> 14. Housing code violations by landlords 15. Deceptive advertising 16. Fraud against the government: <ul style="list-style-type: none"> a. False claims b. False statements <ul style="list-style-type: none"> (1) Statements made to induce contracts (2) Aiding fraud (3) Housing fraud (4) Small Business Administration fraud, such as bootstrapping, self-dealing, crossdealing, etc., or obtaining direct loans by use of false financial statements c. Moving contracts in urban renewal 17. Labor violations (Davis Bacon Act) 18. Commercial espionage |
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Research Project

Do an online search using the keywords “white collar crime.” What are some types discussed in the articles?

While Edelhertz had two other types of white collar crime in his classification, many of those listed in his “crimes by persons operating on an individual . . . basis” are not necessarily occupational in nature, except that the victims often happen to be organizations (business or the state). Some examples that he gives include bankruptcy frauds and violations of Federal Reserve regulations by pledging stock for further purchases, flouting margin requirements. His category of “white-collar crime as business, or as the central activity” better fits the definition of professional crime as defined in the preceding chapter. Edelhertz’s category A fits our discussion of “occupational crime,” while category B better fits our definition of “corporate crime.”

Crimes by Employees Against Individuals (the Public)

Self-aggrandizing *crimes by employees against the public* (type 2 in Crime Types 6.2) take the form of political corruption by public servants or office holders (public employees), or commercial corruption by employees in the private sector. These activities are distinguished

from corporate or organizational criminal activities of the same type by the fact that in this case the employee personally benefits from the violation.

Public Corruption

“Cigar smoke, booze, and money delivered in brown paper bags”—this is how Hedrick Smith envisions the backroom world of politics in the PBS telecast *The Power Game* (1989). The list of occupation-related crime on the part of political employees or office holders may include furnishing favors to private businesses such as illegal commissions on public contracts, fraudulent licenses, tax exemptions, and lower tax evaluations (Clinard & Quinney, 1973, p. 189). As an example, health inspectors in New York City (“City Inspectors,” 1988) turned the Department of Health into the Department of Wealth and doubled or tripled their salaries by extorting payments from restaurants, threatening to cite them for health code violations if they did not pay up.

In 1999, eight federal food inspectors were arrested in a bribery and kickback scheme that permitted wholesalers to cheat their suppliers. The scheme involved the inspectors grading fruit and vegetables as low quality, gaining lower prices for the wholesalers who then turned around and sold the items as Grade A produce. Some of the inspectors earned over \$100,000 a year in payoffs (Weiser, 1999).

Mark Twain (1899) once said, “There is no distinctly American criminal class except Congress” (p. 98). The use of public office for private gain defines political corruption. Twain was not quite accurate in his observation in that such behavior is widespread internationally. The Transparency International Corruption Perception Index (CPI) rates countries on the basis of seven surveys of business people, political analysts, and the general public. The CPI for the year 2006 ranged from a high of 10 (highly clean) to 0 (highly corrupt). Some selected country ranks and scores included the following:

Corruption Perception Index 2006

<i>Rank</i>		<i>CPI Score</i>
1	Finland	9.6
2	New Zealand	9.6
3	Denmark	9.5
6	Sweden	9.2
11	United Kingdom	8.6
12	Canada	8.5
17	USA	7.3
20	Belgium	7.3
42	Italy	4.9
59	Brazil	3.3
64	Mexico	3.3
123	Venezuela	2.3
131	Ukraine	2.8
133	Indonesia	2.4
144	Nigeria	2.2
145	Haiti	1.8

After a 1999 report commissioned by the European Parliament indicated that 2–10 percent of the value of business transactions involves bribery, 20 European commissioners resigned en masse after criticism of their failure to do anything about it (Partridge, 1999). Dolive (1999), in examining systematic corruption in Italy, Japan, and Russia, claims that the corrupt politicians in those countries were the initiators and perpetrators of systematic corruption. Rather than the system being dependent on particular individuals who are at times exposed or removed, successors continue the system of corruption, which is the driving force of both the economy and politics.

- In France, in the Elf scandal (named for state-owned oil company Elf Aquitaine), slush funds and corruption were traced to former foreign minister Roland Dumas and, in 2000, to former interior minister Charles Pasqua. Also implicated was former German Chancellor Helmut Kohl's political party (Ignatius, 2000).
- In Russia, a group of gangster capitalists called the "oligarchs" looted the assets of the state during the 1990s.
- In the United States, officials at Citibank operated as the "private bank" for unsavory figures such as Raul Salinas, brother of the former president of Mexico, who is now in prison for murder; Asif Zardari, former husband of former Pakistani prime minister Benazir Bhutto, who is in prison for kickbacks; and two daughters of former Indonesian President Suharto, who allegedly stole billions of dollars from that country.
- A Swiss investigation in 1999 uncovered evidence that Mabetex, a construction company, paid \$10–15 million to Russian officials, including then-President Boris Yeltsin, in order to obtain contracts (LaFraniere, 1999).

Joel Henderson and David Simon in their book *Crimes of the Criminal Justice System* (1994) document widespread and persistent corruption and wrongdoing throughout the criminal justice system.

Police Corruption—The Mollen Commission

Between 1992 and 1993, the Mollen Commission, named after a former New York City Deputy Mayor for Public Safety, conducted an investigation of corruption in that city's police department and focused attention on police wrongdoing the likes of which had not existed for 20 years (since the Knapp Commission of the 1970s revealed widespread corruption, particularly associated with narcotics enforcement). The investigation was ordered because five New York City officers had been arrested by Suffolk County (Long Island) police for selling cocaine; Mollen Commission hearings featured informants from within the ranks who revealed police extortion practices, theft and reselling of drugs, rolling of drunks, robbing of dead people, snorting cocaine while on duty, and indulging in brutality—particularly in poor sections of the city. Often higher-ups in the department had blocked investigations ("NYC's Mollen Commission," 1993). A blue wall of silence and loyalty to peers can take precedence over concerns about graft and violation of oath of office (see also Kappeler, Sluder, & Alpert, 1994).

Certainly police wrongdoing was not limited to the nation's largest department:

- In New Orleans in 1993, over 50 officers were convicted on charges including murder, rape, assault, and drug trafficking. One was convicted of killing another police officer while robbing a convenience store.
- In Jersey City, NJ, police officers were accused of, among other things, participating in what police investigators called "Operation Boneyard": stolen and illegally parked cars were towed to the city car pound and converted to city property without the owners being notified.
- In 1987, nearly 100 Miami police officers (1 in 18 on the force) were believed to be involved in serious corruption primarily related to drug trafficking ("Miami Police Scandal," 1987).
- In Cleveland, an FBI sting operation resulted in the arrest of 23 police officers who had served as security guards for illegal gambling dens and warned them of impending raids ("FBI Gambling Sting," 1991).
- In Detroit, former Police Chief William Hart was convicted of helping embezzle \$2.6 million from a special police fund to give his girlfriend lavish gifts ("Detroit's Former Chief Convicted," 1992).

In 1999, at Rampart Community Police Station in Los Angeles, 20 police officers were involved in systematic corruption. Their crimes included planting illegal drugs on innocent people, planting guns on suspects who had been shot by police, burglarizing the homes of petty criminals, and framing roughly 100 people. In a plea bargain, one officer testified that prisoners were routinely railroaded by fabricated evidence and police lies. As a result, a large number of previous convictions have been overturned. In 2000, a jury acquitted four New York officers who mistakenly gunned down innocent citizen Amadou Diallo with 41 rounds, killing him instantly. In 2000, New York City police officer Justin Volpe was sentenced to 30 years in prison for torturing Abner Louima in the bathroom of a Brooklyn stationhouse by sticking a broom handle up his rectum, doing considerable physical harm. As a result of cover-ups by police during the initial stages of these incidents, juries have become more skeptical of testimony by police officers and other witnesses.

While public preoccupation with police corruption is viewed defensively by police, for most people the police officer symbolizes the law and engenders higher public expectations of proper conduct (Barker & Carter, 1986). Coleman (1994) explains that "police officers simply have more opportunities to receive illegal payments than other public employees" (p. 45) because they are asked to enforce inadequate vice laws that try to control very profitable black markets.

Police corruption is mirrored in other agencies of government, in industry, in labor, and in the professions. In Pennsylvania, a large-scale police raid of Graterford Prison by the state police, correctional officers, and U.S. Customs officers closed down wide-scale drug trafficking in the prison. Thirteen guards were arrested because they were believed to have been instrumental in the drug overdose deaths of 11 inmates ("Drug Raid," 1995). In 1988, an undercover investigation in Philadelphia city jails (T. Jacoby, 1988) found over 30 guards involved in, among other offenses, smuggling drugs, money, and weapons into the prison; helping inmates escape; and taking bribes from reputed mobsters. The fact that not much has changed at

Graterford was demonstrated by the arrest of four guards in 2007 who were charged with taking cash and drugs in exchange for smuggling drugs to inmates. A fifth guard was charged with helping a murderer with an attempted escape (“Feds: Philly Guards Gave Inmates Drugs,” 2007).

Judgescam—Operation Greylord

In 1983, Federal Bureau of Investigation agents revealed that for 3 years they had posed as lawyers and criminals to run a “sting” operation on the Cook County, Illinois, criminal justice system. The sting was code-named “Operation Greylord” (referring to the powdered wigs historically worn by judges). This was the largest and most successful investigation into judicial misconduct in U.S. history, and by the fall of 1987 it had resulted in convictions of 61 persons, including 11 judges, as well as police officers, lawyers, and court officials, with additional trials and indictments ongoing (Bensinger, 1987).

In 1998, the *Pittsburgh Post Gazette* published a 10-part series that alleged that federal agents and prosecutors repeatedly broke the law in the pursuit of convictions (Moushey, 1998). Investigators claimed to have found examples of prosecutors lying, hiding evidence, distorting facts, engaging in cover-ups, paying for perjury, and setting up innocent people in order to obtain indictments, guilty pleas, and convictions. Some criminals walked free as a reward for conspiring with the government.

Watergate

Perhaps no one event evokes images of official corruption, deceit, and subterfuge as much as Watergate. This story began with the discovery of an illegal break-in at the Democratic National Committee Headquarters located in the Watergate complex in Washington, D.C. The burglary was carried out by agents in the employ of then-President Richard Nixon.

Nixon certainly was not the first U.S. president to be involved in crooked practices (see Chambliss, 1988a). He was, however, the first to be driven from office in disgrace because of the extent of his activities and the first to be saved from certain criminal prosecution through a full pardon before-the-fact (issued by his successor, President Gerald Ford). At the time, President Nixon’s attitude toward the probe appeared in one of the later-to-be-released “missing tapes”: “I don’t give a shit what happens. I want you to stonewall it. Let them plead the Fifth Amendment, cover up, or anything else if it’ll save the plan” (cited in “The Case of the Doctored Transcripts,” 1974).

Among the offenses of the Watergate team were burglary, illegal surveillance, attempted bribery of a judge (Ellsberg case), selling ambassadorships in return for illegal campaign donations, maintenance of an illegal “slush fund,” destruction of evidence, use of “dirty tricks” in political campaigns planned by the FBI director and the president, requests by U.S. Attorney General John Mitchell (the nation’s top law enforcement officer) for IRS audits on opponents, use of the CIA and FBI to attempt to halt the investigation, perjury, withholding information, altering evidence, and deliberate lying to the American public by the nation’s top officeholder (D. R. Simon, 1996, p. 3).

Abscam

Abscam (Arab or Abdul Scam) was an FBI sting operation in which agents posing as rich oil sheiks bribed a number of members of the U.S. Congress. Whether we call it *baksheesh*

(Middle East), *bustarelle* (Italy), *pot de vin* (France), *mordida* (Latin America), or just plain bribes (North America), kickbacks and corruption are apparently both widespread and international in scope. Individuals in their occupational roles may give or receive bribes for their own personal benefit (occupational crime) or for the benefit of the organization/corporation (organizational/corporate crime). Bribery, influence peddling, and corruption are acceptable patterns of international commerce and are not even illegal in many countries.

Particularly revealing in the Abscam operation was the relative ease with which foreign agents were able to bribe members of the U.S. Congress. Although many regard such federal sting operations as entrapment (causing a crime to happen that would not have occurred if the stimulus had not been put there by the government), others perceive such “aggressive tactics” as the only means of ferreting out “upper-world crime.”

Private Corruption

Commercial bribery and kickbacks (in which the individual personally benefits) can take place in a variety of ways. Buyers for large retail chains may accept gifts or cash in return for placing orders. At the expense of the general public in the form of higher prices, insurance adjusters, contracting officers, and quality control inspectors may all be willing to accept bribes in return for overlooking their duties to employers.

Auto dealers can be both perpetrators and victims of *sharp practices*. In analyzing what they call “coerced crime,” Leonard and Weber (1970) describe how the four major domestic auto producers pressure their roughly 30,000 dealers (who are technically independent proprietors) into bilking their customers. These dealers commit “coerced crime” because in order to retain their franchises, they must meet minimum sales quotas, and in order to meet these, they must often employ “shady practices.” The latter include forcing accessories on the customer, service gouging, high finance charges (at times even employing loan sharks), overcharging for parts, misuse of “book time” (preset and inflated charges for labor time on repairs), and odometer (mileage meter) tampering.

Crimes by Employees Against Employees

While a variety of crimes like theft may be committed by an employee against another employee for personal benefit (type 5 in Crime Types 6.1), many such violations would not necessarily be occupationally related and, therefore, would not be appropriate examples for the “Occupational/Organizational Crime Grid.” But one type of violation that certainly fits is the *sweetheart contract* in labor–management negotiations, which involves labor officials and negotiators secretly making a deal with management to the disadvantage of the workers whom the labor officials represent. For example, the union president and representatives might make a deal with management to take a bribe of \$50,000. They then might indicate to the workers that they have examined the company books and found that management can only afford a 20 cent per hour raise rather than the 50 cents originally promised. Depending on the size of the workforce, management could save millions of dollars.

Another example is workplace violence perpetrated by a fellow employee. Such perpetrators take out their frustrations—usually associated with loss of job—on their fellow workers and supervisors. While murder is the most highly publicized form of workplace

violence, other forms include assaults, rapes, suicides, as well as psychological and mental health episodes. Drug and alcohol abuse may create hazardous work conditions. Hostile, intimidating, and offensive work environments may also foster sexual harassment, sexual assault, and other psychological and emotional damage.

Crimes by Employees Against Organizations

Organizations are vulnerable to a variety of offenses that employees can commit against them (type 8 in Crime Types 6.1). In this section, we will briefly focus on employee pilferage, computer crime, and embezzlement; but employee crimes obviously include many types of offenses discussed under Crimes by Employees Against Individuals (Public), corporate bribery, and the like.

Embezzlement

One form of stealing from one's employer is through embezzlement, which is theft from an employer by an individual who has reached a position of financial trust. The classic work on the subject is Donald Cressey's *Other People's Money* (1953), which contains interviews with 133 incarcerated embezzlers. He proposes the following explanation of why trust-violators steal:

1. Individuals who have achieved a position of trust are faced with what they conceive of as a non-shareable financial problem.
2. They feel they can resolve this problem by violating their position of trust, that is, by "temporarily borrowing" from their employer.
3. This rationalization of "borrowing" eventually breaks down as embezzlers realize they have been discovered and cannot make repayment in time (p. 30).

Gambling, sexual affairs, and high living are often the factors behind the unshareable nature of the financial problem.

The typical embezzler does not fit the stereotype of the criminal. Most are middle-aged, middle-class males who have lived relatively respectable lives and lack a history of criminal or delinquent activity; however, in *Women Who Embezzle or Defraud*, Zeitz (1991) notes increased embezzlement by women as managerial and executive positions open up for females. One example is the case of Dorothy Hutson, a Merrill Lynch stockbroker who systematically cheated investors out of \$1.4 million and used the money to finance Las Vegas and Lake Tahoe gambling junkets (Siconolfi & Johnson, 1991).

In one of the larger embezzlements, Phar-Mor, Inc., a discount drug store chain, disclosed that two executives had allegedly embezzled more than half of the company's net worth. The company estimated its losses at \$350 million ("Phar-Mor Discloses," 1992). In December of 1995, Michael Modus, former president of Phar-Mor, was sentenced to nearly 20 years in prison for fraud, tax evasion, and embezzlement. In 2000, Merrill Lynch discovered a \$40 million embezzlement had been perpetrated by a former employee who stole from elite, private banking clients by using the name of a dead person to transfer the securities from Arab International Bank to Swiss bank accounts (Huang, 2000).

Cressey's analysis of embezzlers has been criticized by Schuessler (1954, p. 604), who claimed that it was limited to an ex post facto (after the fact) study of only caught embezzlers and that his descriptions may not be characteristic of most embezzlers. Nettler's (1974) study found embezzlers to be motivated by greed and temptation as well as by the opportunity to commit the crime. Unlike Cressey, Nettler did not find a non-shareable problem that was a necessary component of embezzlement.

Smigel and Ross in *Crimes Against Bureaucracy* (1970) indicate that individuals—particularly employees—feel less guilt the bigger the victim organization. Many individuals, who would consider themselves criminals were they to steal from other persons, rationalize their theft from large, impersonal organizations by saying that “they can afford the loss.” According to Smigel and Ross, the very size, wealth, and impersonality of large bureaucracies, whether governmental or business, provide a rationalization for those who wish to steal from such organizations. The “Robin Hood myth” holds that theft from such organizations really hurts no one, since the victim is a large, wealthy organization. Combined with this is a certain public antipathy toward the large corporation or big government. Obviously, the Robin Hood rationalization breaks down when we consider the higher cost of goods consumers must pay because of “inventory shrinkage.”

A 1997 study of the crimes of 1,324 employees by the Ethics Officer Association and the American Society of Chartered Life Underwriters and Chartered Financial Consultants found that 48 percent of U.S. workers admitted to unethical or illegal activities in the previous year. This included cheating on expense accounts, discriminating against coworkers, participating in kickbacks, forging signatures, trading sex for sales, and violation of environmental laws. Over half (57 percent) indicated that they felt more pressure to be unethical than 5 years ago, and 40 percent believed that it had gotten worse over the past year (Jones, 1997).

Cameron, in her classic work on retail theft, *The Booster and the Snitch* (1964), suggested that “inventory shrinkage” (loss of goods) in retail establishments was primarily caused by employee theft rather than shoplifting. Store security personnel concur, estimating that as much as 75 percent of such loss is due to employee theft. A familiar story relates to security personnel who suspected that an employee was “ripping off” the company because every day he left work with a wheelbarrow full of packages. Every day they carefully checked the packages to no avail. When finally discovered, the employee had stolen over a thousand wheelbarrows. Employees can be quite ingenious in illegally supplementing their wages at the expense of their employer.

Some common techniques in employee retail theft include

1. Cashiers who ring up a lower price on single-item purchases and pocket the difference, or who ring up lower prices for “needy” friends going through the checkout.
2. Clerks who do not tag some sale merchandise, sell it at the original price, and pocket the difference.
3. Receiving clerks who duplicate keys to storage facilities and return to the store after hours to help themselves.
4. Truck drivers who make fictitious purchases of fuel and repairs, and split the gains with truck stop employees.

5. Employees who simply hide items in garbage pails, incinerators, or under trash heaps until they can be retrieved later (McCaghy, 1976b, p. 179).

Abuses of expense accounts, travel allowances, and company cars are additional means by which employers are robbed of organizational income.

Crimes by Individuals (or Members of Occupations)

Crime in the Professions

Medicine. Medical quackery and unnecessary operations may very well kill more people every year in the United States than crimes of violence. A House subcommittee estimated that the American public was the victim of 2.4 million unnecessary surgical procedures per year, which resulted in a loss of \$4 billion and in 11,900 deaths (Coleman, 1994, p. 37). A Harvard study (Gerlin, 1999) estimates that 1 million American patients are injured yearly by hospital errors and 120,000 die as a result. This is equivalent to a jumbo jet crash every day and is 3 times the 43,000 people killed each year in U.S. automobile accidents. Americans may be becoming overdoctored, having twice the per capita number of surgeons, anesthesiologists, and operations as England and Wales, yet higher mortality rates. Jesilow, Pontell, and Geis (1985) estimate that U.S. physicians defraud federal and state medical assistance programs of up to 40 percent of all program monies.

Some violations that physicians may become involved in include practices such as *fee splitting* (in which doctors refer patients to other doctors for further treatment and split the fee with them). “Ping-ponging” doctors refer patients to other doctors in the same office, “steering” entails directing patients to particular pharmacies, and “gang visits” involve billing for unnecessary multiple services (“White-Collar Crime,” 1981). Quinney’s (1963) analysis, “Prescription Violations by Retail Pharmacists,” reveals higher numbers of violations among pharmacists who see themselves as business persons rather than as professionals. If clients (whom the professional views with concern for their health and the provision of ethical service) are seen as customers (whose greater consumption equals greater profit), then more frequent occupational violations are likely to ensue.

With the end of the Cold War in the nineties, the FBI reassigned agents from counterespionage activity to the investigation of health care fraud, and this began to show dividends. In a 1992 undercover operation, FBI agents arrested 82 pharmacists and physicians for cheating private insurance companies and Medicaid. Some of the schemes involved pharmacists filling prescriptions with generic drugs, billing for brand-name products, and charging payers (insurance or Medicaid) multiple times for the same prescription or for prescriptions that were never written or filled. In 1994, the Public Citizen’s Health Research Group claimed that some 420,000 Caesarean baby deliveries are performed unnecessarily each year in the United States. It is currently the most common surgery performed in the country. In 1970, C-sections accounted for only 5.5 percent of births, but were nearly 25 percent by 1988. The most Caesareans are performed in for-profit hospitals (Neergaard, 1994). Another survey of 449 programs in adult and pediatric critical care found that 39 percent used the bodies of people who had just died to teach medical procedures, but only 10 percent required that the patient’s family give consent (Kolata, 1994).

In 1993, National Medical Enterprises, an operator of psychiatric and acute care hospitals, agreed to pay \$125 million to settle charges by three major insurers for filing fraudulent claims. The company also faced charges by 130 former psychiatric patients who claimed that the company held them against their will, misdiagnosed patients, physically abused them, and administered unnecessary medications and treatments in order to run up bills (Kerr, 1993). In 1998, Allstate Insurance Company sued 45 doctors, lawyers, chiropractors, and others for alleged involvement in systematically staging fake auto accidents and filing phony insurance claims (Abram, 1998). In 2007, as many as 30,000 Medicaid providers were charged with cheating the Internal Revenue Service in seven states and failing to pay more than \$1 billion in federal taxes in 2006. This amounted to 5 percent of Medicaid providers in those states (R. Wolf, 2007).

Finance. Wrongdoing has certainly not been limited to the health and medical professions. “The Great Savings and Loan Scandal,” to be discussed, was the biggest financial public policy failure in U.S. history, with estimated costs of \$500 billion. In *The Greatest-Ever Bank Robbery: The Collapse of the Savings and Loan Industry*, Mayer (1990) indicates,

What makes the S&L outrage so important a piece of American history is not the hundreds of billions of dollars, but the demonstration of how low our standards for professional performance have fallen in law, accounting, appraising, banking and politics—all of them. (p. 298)

The federal government has sued many of these professionals and their firms for collusion in S&L collapses. In *The Big Six: The Selling Out of America's Top Accounting Firms*, Mark Stevens (1991) asks, if CPA firms are truly independent of the clients they audit (who foot the bill), “how can accountants be truly independent of the cash register that pays their bills?” Berton (1991) notes, “Many legislators and the General Accounting Office, an arm of Congress, are rapidly losing confidence in accountants because their independence seems tarnished and they still duck the job given them by government of protecting the public against financial fraud” (p. A12).

Law. Illegal and unprofessional activities by lawyers may include “ambulance chasing,” that is, soliciting and encouraging unnecessary lawsuits (such as fraudulent damage claims) in order to collect commissions (M. H. Freedman, 1976; Reichstein, 1965). Describing the practice of law as sometimes constituting a “con game” against clients, Blumberg (1967) mentions activities in which the lawyer collects fees for defending a client and then simply “plea bargains” to expedite the case, with little concern for the client’s well-being. Other legal rackets include real estate home closings (in which fees are collected on a regular basis for very little work) as well as the collection of contingency fees on liability cases (in which lawyers receive a percentage of anything won) (Merry, 1975, p. 1).

Concern has been raised that, with nearly 1 million lawyers, the United States is becoming an overlitigious society—that is, one in which too many resources are expended on legal actions. Olson (1991) notes that the United States has 3 times as many lawyers per capita as Great Britain, 10 times the number of lawsuits per capita, 30 to 40 times the number of malpractice suits, and nearly 100 times the number of product claims. The

United States is the only society that encourages such lawsuits through our way of financing litigation. Only in the United States must the winning party pay his or her lawyer. Such conduct was even illegal under English law and called “champerty” (lawyers receiving fruits of the successful action) and “barratry” (instigating and maintaining suits and quarrels in courts) (Crovitz, 1991, p. A17).

In 1990, three members of a personal injury law firm in Manhattan were indicted for bribing witnesses to perjure themselves in court and for falsifying evidence in 19 accident cases dating from 1979 (Hevesi, 1990). Fireman’s Fund, an insurance company, hired an auditor to examine how their defense attorneys were spending their funds and exposed 20 lawyers, representing plaintiffs and defendants, who had cooperated in manipulating lawsuits and billing up to \$100 million in dubious fees to insurance companies (Schmitt, 1992, p. A1). In explaining rising thievery by lawyers, bar association officials, while noting that only a minority are involved, point to tough economic times, the high cost of practicing law, substance abuse, and even glamorized images of lawyers on television (A. D. Marcus, 1990).

Until recently, bar associations published minimum fees and sanctioned attorneys who charged less, even though the Sherman Antitrust Act made no exceptions for professional associations in prohibiting price fixing (Coleman, 1994, p. 61). The concentration of legal talent in the defense of wealthy and corporate violators and the underconcentration in representing their victims (the state and the public) raise questions regarding the ethics of the legal profession itself.

Other occupations. Examples of crimes against consumers by professionals, merchants, and members of other legitimate occupations are numerous:

- The “greasy thumb on the scale,” or short-weighting customers and overcharging for products
- “Bait and switch” techniques by small merchants, in which the product advertised is unavailable and a more expensive product is pushed on the customer
- Phony or unnecessary repair work
- Security violations by stockbrokers, such as misleading clients or **insider trading** (making use of inside information for personal benefit)
- Abuses in the nursing home industry in which private owners often place profit ahead of the health and safety of elderly residents. Such practices are described by M. A. Mendelson (1975) as “tender loving greed.”
- While not a blanket indictment of the profession as a whole, Mitford’s *The American Way of Death* (1963, p. 8) describes illegal or unethical activities of funeral directors, including: misuse of the coroner’s office in order to secure business, bribery of hospital personnel to “steer” cases, the reuse of coffins, and duplicate billings in welfare cases.
- “Churning” by stockbrokers, which involves collecting high commissions by running up sales with unnecessary buy-and-sell orders
- In “pump and dump” stock scams, online brokers (day traders) buy an inexpensive stock and then hype it to drive up the price, enticing others to buy the stock. Then the stock is sold at the high price after which the stock dives, costing unaware investors plenty. One such price-rigging scam caused \$10 million in losses to

thousands of customers. Fraud charges were brought by the Manhattan district attorney against three securities firms and 21 brokers. This group manipulated the prices of over-the-counter stocks in certain companies by buying and selling over and over again among themselves ("21 Brokers Charged," 1991).

Insider trading occurs when agents, brokers, or company officials who are aware of pending developments make use of this privileged information to buy or sell stocks before the public learns of these events. Revelations of such wrongdoing led to the collapse and declared bankruptcy of Drexel Burnham Lambert, a major Wall Street investment banking firm. However, in 1989, only 2 months before declaring bankruptcy, the company gave out over \$260 million in bonuses to employees, twice the amount of the debt on which Drexel defaulted. A few executives received \$10 million each while Drexel, on paper, lost \$40 million. While not illegal, such activity certainly fits C. Wright Mills's (1952) theme of the "higher immorality." In 1995, the SEC, in the largest settlement of its kind, had Merrill Lynch and Lazard Frères each agree to pay about \$24 million to settle charges that they were involved in a secret fee-splitting scheme with municipal bond underwriters and officers and municipalities ("There's a New Sheriff in Town," 1995, pp. C1, C7). In 2003, major Wall Street brokerage firms including Saloman, Smith Barney, Credit Suisse, and Merrill Lynch pleaded "nolo contendere" and agreed to pay approximately \$1.4 billion for knowingly causing investors to lose trillions of dollars in bad investments. Dubious research and insider preference in allocation of new stock shares contributed to huge losses (Morgenson, 2002). In 2007, the backdating of stock options, a practice in which executives improperly change the dates of stock-option grants to increase the value of the grants when cashed in, may be the largest business scandal since the 1980s. Prosecutors charge that backdating is hard-core fraud that hurts earnings and siphons millions from investors (Iwata, 2007). In one case, William McGuire, former chief executive of United Health, agreed to forfeit \$418 million in order to settle claims related to backdated stock options. This was in addition to \$198 million he had previously agreed to return to his former employer. These represent the first forfeitures exacted by the SEC based on laws put in place after the Enron collapse that forced executives to disgorge ill-gotten gains (Dash, 2007).

Scandals in education are yet another growth industry in the world of crime. The "Coded-Pencil-Caper," which took place in 1996, took advantage of the U.S. time zone difference to assist people in cheating on the Graduate Record Exam (GRE), Test of English as a Foreign Language (TOEFL), and Graduate Management Admission Test (GMAT). Those taking the test on the East Coast would phone the questions and answers to collaborators on the West Coast, who prepared coded pencils with the answers written on them to be used during the tests. Hundreds of prospective test takers paid the American Test Center \$6,000 each. The company had advertised a "unique method" for preparing for the exams. The test takers were flown to the West Coast to take the tests and receive the promised "uniquely" high scores before the whole scheme was busted (D. R. Simon & Hagan, 1999, p. 83).

In 1999, a total of 52 educators from 32 New York City public schools were charged with helping students cheat on the standardized reading and math tests. In some cases, teachers actually erased and corrected answers. Many teachers felt pressured by their principals

to cheat because success on the tests was tied to school funding (K. Kelly, 1999). In 1995, Steinmetz High School (Chicago) won a statewide academic contest, the Academic Decathlon, by memorizing the answers to a stolen copy of the test. Sponsors of the event became suspicious when they noticed that only 12 students in the country had scored 900 or better on the math quiz and 6 of them were from Steinmetz, a working-class high school. The title was revoked when the students refused to take a validation test. At a 5-year reunion, some of the students indicated they would do it again, with no guilt, because that is the way the world works (D. Johnson, 2000, p. A6).

CORPORATE CRIME

Organizational crime refers to crime committed on behalf of and for the benefit of a legitimate organization. *Corporate (business) crime* is a type of organizational crime committed in free enterprise economies and thus involves criminal activity on behalf of and for the benefit of a private business or corporation.

Corporate crime takes many forms, including price fixing, kickbacks, commercial bribery, tax violations, fraud against government, and crimes against consumers, to mention a few (Blankenship, 1995). Sutherland's studies of white collar criminality in the 1940s set a tone and sparked other studies during that initial period. Surprisingly, however, with the exception of a few scholarly works, investigative journalistic pieces, and consumer studies (particularly by Ralph Nader and associates), there was a considerable hiatus of research activity in this area until the middle to late seventies. In 1977, Geis and Meier (1977, p. 1), in revising their classic reader on white collar crime originally published 9 years previously, found that they were able to add less than a third new material. With the exception, then, of works by Sutherland (1940, 1941, 1945, 1949, 1956a), Clinard (1946, 1969), Hartung (1950), and Nader and associates (see especially Nader, 1965, 1970, 1973), white collar crime was ripe for the research picking.

A new renaissance in studies of white collar crime took place in the late seventies with publications by Clinard and Yeager: *Illegal Corporate Behavior* (1979) and later *Corporate Crime* (1980). Other than Sutherland's pioneering effort, which was modest by comparison, the research conducted by Clinard and Yeager represents a landmark: the first large-scale, comprehensive investigation of corporate crime. They conducted a systematic analysis of administrative, civil, and criminal actions either filed or completed by 25 federal agencies against 477 of the largest manufacturing corporations in the United States during 1975–1976. In addition, they performed a less comprehensive survey of 105 of the largest wholesale, retail, and service corporations (Clinard & Yeager, 1980, p. 110). Among their findings were the following:

- Sixty percent of the large corporations had at least one action initiated against them during the period.
- The most deviant firms (multiple violators) accounted for 13 percent of those charged (8 percent of all corporations studied) and for 52 percent of all offenses. The average for these corporations was 23.5 violations per firm, while the average for all corporations was 4.2.

- Large corporations were the chief violators, with oil, pharmaceutical, and automobile industries the biggest offenders and the most often cited. These three groups alone accounted for almost half of all the violations.
- The general leniency with which corporate violators are treated, noted over 40 years previously by Sutherland, appeared to persist.

Crimes by Organizations/Corporations Against Individuals (the Public)

Included in the discussion of *crimes by organizations against individuals (the public)* are multinational bribery, corporate fraud, price fixing, manufacturing and sale of faulty or unsafe products, inequitable taxes, and environmental crimes, to mention just a few.

Multinational Bribery

Embarrassed by the public disclosure and international scandal of American-based multinational corporations' expending millions of dollars to bribe foreign officials, the U.S. Congress passed the Foreign Corrupt Practices Act (1977). This law forbids the payment of bribes in order to obtain business contracts. Earlier in this chapter, Transparency International's "Corruption Perceptions Index" (CPI) was discussed. In 1999, this same organization began producing a Bribe Payers Index (BPI). The questions used in the construction of the index related to leading exporters having to pay bribes to senior public officials. Only 19 countries were analyzed. A 10 on the index represents negligible bribery, while a zero indicates high levels of bribery. Some select countries and their 2006 bribery scores appear below (www.transparency.org/policy_research/surveys_indices/bpi):

Australia	8.5
Sweden	8.4
Canada	8.1
United Kingdom	6.9
Germany	6.3
USA	5.3
Japan	5.3
Italy	4.1
South Korea	3.9
China	3.5

Corporate Fraud

In 1989, an FBI undercover sting operation of commodities traders at the Chicago Board of Trade uncovered traders who overcharged customers, did not pay customers the full proceeds of sales, used their knowledge of customer orders to "inside trade" for their own benefit, and executed orders for fictitious practices (Berg, 1989). Perhaps one of the biggest computer swindles in history, amounting to an estimated \$2 billion, came to light in 1973

with the bankruptcy of the Equity Funding Corporation of America. Executives at Equity Funding's life insurance subsidiary used the company computer to create roughly 56,000 phony or "ghost" policies (about 58 percent of all policies the company held). Reinsurers who bought the rights to the dummy policies were out millions of dollars; stockholders alone lost over \$100 million. Using computer records rather than hard copy records, the Equity Funding executives mixed genuine and phony policies in the master tape files; thus, printouts showed that the company had nearly 100,000 policies. When auditors took samples to check against hard copies, they were held off for a day or two during which phony hard-copy records were produced ("Conning by Computer," 1973). The president and 24 other employees and officers were indicted. While the former received an 8-year sentence, the others received shorter terms (Blundell, 1978). Convicted of complicity in the case, outside auditing firms were ordered to pay \$39 million to former equity shareholders (Ermann & Lundman, 1982, pp. 43–48).

In 1990, Chrysler Corporation pleaded guilty to selling previously wrecked vehicles as new and disconnecting the odometers on about 60,000 vehicles. Chrysler pleaded no contest and was fined \$7.6 million ("Chrysler Fined for Violations," 1990). In 2001, Chrysler was accused of having spent \$1.3 billion since 1993 in buying back vehicles with chronic defects (lemons) and then reselling the bulk of these to consumers (Suhr, 2001). Other examples of corporate fraud include a 1985 plea bargain by E. F. Hutton for 2,000 counts of defrauding hundreds of U.S. banks through a check-kiting scheme. Hutton agreed to a record \$2 million fine and other settlements (S. Taylor, 1985). In 1992, Sears was accused of overcharging and making unnecessary repairs to customers' vehicles at their auto service centers in California and New Jersey. Undercover investigators documented a systematic fraud in California involving overselling 90 percent of the time (Yin, 1992). Stanford University was accused in 1991 of overcharging the federal government for contracted research. One overcharge was for \$7,000 for bed sheets for the president of the university (Stout, 1991).

General Electric (GE) was fined \$10 million and two executives were sentenced to prison for cheating the government on a contract for battlefield computers in 1990. In 1985, GE paid a fine of roughly \$1 million for illegally claiming cost overruns on Minuteman missiles (Stieg, 1990a, p. 2A). An example of "serial fraud," in 1992 GE pleaded guilty to defrauding the federal government in the sale of military engines to Israel and agreed to pay \$69 million in a settlement of criminal charges and a civil lawsuit ("GE Pleads Guilty to Fraud," 1992).

The Big Four superbrokers of the Japanese stock market admitted to reimbursing 231 major investors to the tune of \$933 million for losses suffered in the 1987 stock market crash. While their actions were not technically illegal, smaller and foreign investors felt they were on the outside of an insiders' game (Ohmar, 1991). In 1999, Cendant Corporation, which owns Days Inn and Ramada hotels, agreed to pay \$2.8 billion to stockholders. The company admitted to irregular accounting practices that were used to inflate earnings and permit insiders to sell at a profit ("Cendant to Pay," 1999). In 1994, Prudential Securities, a division of the Prudential Insurance Company of America, paid out over \$1 billion in settlements and regulatory fines levied by the SEC and state securities regulators. This is a record—the costliest fraud scandal for any investment in Wall Street's history, exceeding the previous record by Drexel Burnham Lambert of \$650 million in 1989 (Eichenwald, 1994). Clients were fraudulently sold risky investments and were lied to and deceived with sales materials. In 1996, Prudential agreed to pay a record fine of more than \$20 million and

repay policyholders millions more for having “churned” (caused unnecessary sales to gain commissions) customers’ accounts. Agents talked customers into trading in paid-up policies in order to finance new, more expensive ones. Some estimate that Prudential may have to pay between \$280 million and \$1 billion in order to reimburse cheated customers (“Prudential Fined Millions,” 1996).

In 1998, Hertz, the rental car company, admitted to overcharging customers and insurance companies \$13 million for accident repairs in which employees forged repair bids (“Hertz Admits,” 1988). However, this was minor fraud compared with the operations of defense firms. In 1989, the FBI launched a major investigation into massive fraud, bribery, and bid rigging in defense industry bids on Pentagon contracts. Particularly under attack was “the revolving door,” a system in which defense company executives serve stints as Pentagon officials and then return to the industries they previously oversaw as contract officers. Such obvious conflict of interest might be viewed as “deferred bribes” in which cooperative defense contract officers will be later rewarded with defense industry jobs. The losers, of course, are the nation’s armed forces and the nation’s taxpayers (Waldman & Gilbert, 1989).

The medical and insurance business has been a particular area of fraud. The United States is the only developed country in the world without national health insurance. It pays 50 percent more to run its system, and special interests effectively block any attempt to extend guaranteed health care to all, as is the case in other developed countries. Big profits attract big fraud. In 1997, Blue Shield of California paid \$12 million to settle charges for submitting false Medicare claims (Howe, 1997).

Systematic fraud by Medicare providers is estimated to cost about 10 percent of total Medicare costs in the United States. Some examples of such fraud include the following (Sparrow, 1998):

- In March 1995, the FBI director said intelligence had indicated that cocaine traffickers in Florida and California were switching from drug dealing to the safer and more lucrative health care fraud business.
- A Medicare contractor in 1998 agreed to pay \$144 million in civil and criminal penalties for concealing poor performance in reviewing and paying claims of Medicare beneficiaries.
- In an early 1998 scheme, more than \$1 billion in phony medical bills using names of unsuspecting patients and doctors had been submitted to private insurers. (p. 2)

In 1995, Caremark International pled guilty to paying kickbacks to doctors for steering patients its way. The company agreed to pay \$159 million (Burton, 1995). In the largest health care settlement in U.S. history, National Medical Care, Inc., agreed to pay \$500 million in civil fines penalties, and restitution including \$101 million in criminal fines for requiring needless tests of Medicare recipients and paying kickbacks for referrals (“Dialysis Chain Agrees,” 2000). While there is no annual index of white collar crime comparable to the UCR for street crime, in 2002 the FBI began publishing an annual *Financial Crimes Report to the Public*. While limited to crimes being investigated in a given year by the Financial Crimes Section of the bureau’s Criminal Investigation Division, it serves as one measure of federal activity in investigating corporate fraud, securities fraud, health care fraud, mortgage fraud, and insurance fraud (see Crime File 6.1). The FBI works closely with other regulatory agencies in undertaking these investigations.

Crime File 6.1 *Financial Crimes: FBI Releases Annual Report to the Public*

The arm of the FBI that investigates financial crimes ranging from underground pyramid schemes to institutionalized fraud in the nation's corporate suites has issued its annual report detailing the most prevalent types of schemes investigators tackled in 2006.

The Financial Crimes Report to the Public is prepared each year by the Financial Crimes section of the FBI's Criminal Investigative Division. The report, which covers a 12-month period ending September 30, 2006, explains in detail dozens of fraud schemes, tallies FBI accomplishments combating the crimes, and offers tips the public can use to protect itself. The full report is available on the FBI Website under Reports and Publications (www.fbi.gov). The FBI's financial crimes investigations are primarily focused on corporate fraud, health care fraud, mortgage fraud, identity theft, insurance fraud, mass marketing fraud, and money laundering. Within each of those categories are dozens of schemes with a single focus: to illegally beat the system.

Here are some highlights of the report's contents:

Corporate Fraud: The highest priority of the Financial Crimes Section, the FBI was pursuing 490 cases at the end of FY2006, which ended last September, including 19 cases that individually cost investors over \$1 billion. Investigations resulted in 171 indictments and 124 convictions, as well as over \$1 billion in restitutions, \$41 million in recoveries, and \$4.62 million in seizures.

Securities Fraud: More than 150 agents were probing 1,655 cases, including "pump and dump" and Ponzi schemes, hedge fund fraud, and late day trading, when mutual funds are illegally traded after the market closes. FBI probes recorded 302 indictments and 164 convictions last year.

Health Care Fraud: The FBI is the primary investigative agency in the fight against health care fraud, an issue that is expected to grow. Some of the most common schemes include upcoding services (billing for more services than

provided), duplicate claims, kickbacks, and providing medically unnecessary services. This section of the report provides tips to protect yourself (review medical bills) and a tip line. More than 2,400 cases investigated last year resulted in 524 convictions, including a doctor whose unnecessary procedures resulted in the deaths of two patients.

Mortgage Fraud: The FBI investigates in two distinct areas: fraud for profit, which often involves insiders inflating a property's value, and fraud for housing, which is typically when borrowers misrepresent their incomes in order to qualify for loans. The report shows a regional analysis of fraud hot spots and lists some indicators of fraud, like requests to sign blank documents or requirements to use an exclusive appraiser. The number of FBI cases has grown steadily in recent years, from 436 in 2003 to 818 last year (2006).

Insurance Fraud: Of the 233 cases investigated last year, 54 resulted in convictions. The number of cases and convictions is expected to rise in the near future as more fraud is uncovered in the wake of Hurricane Katrina, which generated, according to some estimates, more than \$34 billion in insurance claims.

The report also provides tips on how to recognize different types of scams and what to do if you are victimized. To that end, you can also read about different financial scams on the FBI's *Common Fraud Schemes* page. The bottom line of the report: Financial schemes, in the end, are designed to game the system and cheat innocent people of their fare share. Be informed to protect yourself.

Source: Financial Crimes Report to the Public, Fiscal Year 2006, FBI, 2006, Washington, DC: Author. Available at www.fbi.gov/publications/financial/fcs_report2006/financial_crime_2006.htm.

Research Project

Read the Financial Crimes report mentioned above and discuss some areas of crime with which you have now become more informed.

Price Fixing

Collusion and price fixing to set artificially high prices had become the norm in the electrical industry, with the firms taking turns (rotational bidding) submitting the lowest bid. This cost the American public untold millions, perhaps billions, of dollars in higher prices.

The Great Electrical Industry Conspiracy. This conspiracy involved price fixing on Tennessee Valley Authority equipment. In February 1961, seven of the highest executives in the electrical industry, from firms such as General Electric and Westinghouse, were given jail sentences of 30 days, an unprecedented benchmark decision that sent a warning to corporate price fixers, bid riggers, and market slicers. In addition, General Electric was fined \$437,500 and Westinghouse \$372,500. In all, 29 companies and 45 executives were convicted of bid rigging and price fixing estimated at approximately \$2 billion (Herling, 1962). The conspirators were well aware of the illegality of their activities: they met under fictitious names in hotel rooms, called their meetings “choir practice,” and referred to the list of participants as “the Christmas card list.”

Plumbers fix more than leaks. In 1975, the U.S. Department of Justice filed an antitrust suit against three plumbing manufacturers (American Standard, Borg Warner, and Kohler) and three executives for conspiring to fix prices on \$1 billion worth of bathroom fixtures. The case actually began in 1966 with 17 corporate and individual coconspirators named. The others pleaded no contest to the charges, got short jail terms, and were fined a total of \$370,000 (“U.S. Begins Price-Fixing Prosecution,” 1975). The \$1 billion stolen by these organizations from the public dwarfs by far the more “mundane” criminal activity that gains so much media attention. For instance, the Boston Brinks robbery netted only \$2 million and the largest robbery in U.S. history as of 1980—that of the Lufthansa airport warehouse in New York City—scored only \$4 million (Clinard & Yeager, 1980, p. 8). This was superseded in 1983 by the \$11 million robbery of a Sentry Armored Car warehouse in New York City (“Wells Fargo Guard Dopes Boss,” 1983). Thus the “great plumbing equipment rip-off,” which is far less dramatic and well-known, cost the American public the equivalent of 500 “great Brinks robberies.”

The U.S. Justice Department filed suit in 1994 against General Electric Company for fixing prices on industrial diamonds in consort with DeBeers Centenary A.G., which controls 90 percent of the billion-dollar market for synthetic diamonds. This trial constituted the first antitrust case to go to trial in about two decades.

In 1980, the U.S. Department of Energy filed suit against 15 major refining companies and charged them with more than \$10 billion in possible pricing violations. As part of some out-of-court settlements, several of the corporations agreed to reimburse overcharged customers; pay the government; give rebates on past charges; cut prices; and accelerate investment in refining, exploration, and production (Lyons, 1980).

The most expensive series of white collar frauds in U.S. history was “The Great Savings and Loan Scandal.” Crime File 6.2 provides a brief account.

Crime File 6.2 *The Great Savings and Loan Scandal: The Biggest White Collar Crime in U.S. History*

The Great Savings and Loan Scandal, with an estimated cost of \$500 billion, represents the biggest, costliest series of white collar crimes in U.S. history, far exceeding the Teapot Dome Affair of the 1920s or the Great Oil Scam of the 1970s. It represents about 40 years of all other property crime combined, and it also represents the most costly public policy failure in U.S. history. Five hundred billion dollars is more than the cost of all of the bank robberies in the United States since its founding. The U.S. attorney general, the FBI, and the General Accounting Office estimate that at least one third of these losses was due to either regulatory neglect or criminal fraud. The savings and loan (S&L) scandal reflected increased criminal opportunity resulting from an economic crisis and deregulation taken advantage of by greedy insiders who collectively looted financial institutions and sent the bill to the U.S. taxpayers. It represented a criminal justice failure of record-breaking proportions.

A succinct account of the S&L crisis may tend to oversimplify a complex history, but let it suffice to say that the federal government, in order to protect against bank collapses, decided to guarantee bank and savings-and-loan deposits in the 1930s. This \$10,000 per deposit would eventually be raised to \$100,000 per deposit. In return for this, S&Ls were strictly limited to home mortgages and interest loans/payments. By the 1970s, double-digit inflation wreaked havoc on the industry, which was stuck with 6 percent, 30-year mortgages when inflation was 14 to 16 percent. S&Ls began to collapse and, as a rescue attempt, the federal government in 1982 decided to deregulate them. This included permitting them to charge more competitive interest rates and to invest in other commercial activities and banking services. Despite these measures, over 300 federally insured S&Ls collapsed between 1980 and 1986, and many others were "zombies," technically insolvent with negative net

worth (Cranford, 1989; Kane, 1989). The thrift (savings and loan) industry persuaded Congress to continue to postpone inevitable closings, thus raising the final costs. Ignored by Congress and the president, who had their eyes on the next election, S&Ls became unregulated and victimized by congressional incompetence and regulatory ineptitude (Pilzer & Deitz, 1989, p. 126). "Heads I win, tails FSLIC (Federal Savings and Loan Insurance Corporation) loses" became a common phrase in the industry.

Deregulation created a climate of criminal opportunity, a backing of a "junk bond (high-risk) speculative environment" with federal deposit insurance. Wealthy criminals, such as Charles Keating, robbed the S&Ls, and they were aided and abetted by the "best and brightest" professional talent the United States had to offer. More than 80 law firms represented Charles Keating to the tune of \$70 million in legal fees. Six of the "Big Eight" accounting firms were charged by federal authorities with illegal conduct. Wall Street brokerage firms unethically took advantage of unsophisticated thrift managers (Mayer, 1990). Pizzo et al. (1989) claim,

A financial mafia of swindlers, mobsters, greedy Savings and Loan executives, and con men capitalized on regulatory weaknesses created by deregulation and thoroughly fleeced the thrift industry. While it was certainly true that economic factors (like plummeting oil prices in Texas and surrounding states) contributed to the crises, the Savings and Loans would not be in the mess they are today, but for rampant fraud. (p. 289)

Charles Keating had purchased Lincoln S&L with \$50 million in junk bonds purchased from Michael Milken, and then used the S&Ls money almost

exclusively to buy more junk bonds from Milken. Millions in campaign donations and a mistaken overemphasis on constituent service led members of Congress to ignore their oversight function and left the S&Ls as a playground for professional scam artists with the taxpayer as the hapless victim.

Additional Sources: "Fixing the Thrifts," by P. J. Benekos and F. E. Hagan, July 14, 1991, *Journal of Security Administration*, pp. 65–104; "The Great Savings and Loan Scandal," by F. E. Hagan and P. J. Benekos, July 14, 1991,

Journal of Security Administration, pp. 41–64; "What Charles Keating and 'Murph the Surf' Have in Common: A Symbiosis of Professional and Occupational and Corporate Crime," by F. E. Hagan and P. Benekos, Spring 1992, *Criminal Organizations*, 7, 3–26.

Research Project

Locate the online article "Will Charlie Keating Ride Again?" By L. J. Davis. What fears does Davis express?

In 2000, federal investigators claimed that two of the largest auction houses, Sotheby's and Christie's, fixed prices by fixing commissions. The decision was made in secret meetings by the chairpersons of both companies (Frantz, Blumenthal, & Vogel, 2000). While at times it may appear that antitrust enforcement is fruitless, Scott (1989) notes that public exposure of trade conspiracies serves as a deterrent despite weak penalties. Some other examples of price fixing include the case, mentioned earlier in the chapter, of F. Hoffman–La Roche Ltd., which was fined \$500 million in 1999 for leading an international conspiracy to fix prices on vitamins (Mokhiber, 1999). BASF Aktiengesellschaft was fined \$225 million for a similar venture, while SGL Carbon Aktiengesellschaft was fined \$135 million for fixing prices on graphite and carbon products.

Also mentioned earlier, in 1996, Archer Daniels Midland was fined \$100 million for fixing markets on lysine and citric acid, while in 1997 Haarman and Reiman Corporation and Bayer AG pleaded guilty and paid a \$50 million criminal fine for fixing prices on citric acid (Mokhiber, 1999). In 2003, Bristol-Squibb paid \$670 million for illegally blocking generic competition for an anti-anxiety drug, BuSpar, causing consumers to pay more for the drug than they should have (Appleby, 2003, p. 28). Nintendo, the Japanese video game maker, was fined \$147 million by the European Commission for colluding with European distributors to fix prices on the product (Meller, 2002).

Sale of Unsafe Products

The Ford Pinto case. In what turned out later to be a bad pun, the advertising slogan for the Ford Pinto was "Pinto leaves you with that warm feeling." In the early sixties, in order to compete with compact foreign imports, the Ford Motor Company rushed the compact Pinto model into production. Since retooling for the assembly line was already a costly investment, the company chose to proceed with production despite the results of its own crash tests, which indicated that the gas tank exploded in rear-end collisions. Choosing profit over human lives, the company continued to avoid, and to lobby against even 8 years later, federal safety standards that would have forced modification of the gas tank (Cullen, 1984; Dowie, 1977).

An estimated 500 persons were burned to death because of the firetrap engineering of the tanks. Once the word spread, Ford withdrew the commercial that the car gave one a "warm feeling." *Mother Jones* (an investigative magazine) collected documents and called to public attention Ford's wrongdoing (Cullen, Makestad, & Cavender, 1987; Dowie, 1977). While the

company estimated that it could have made the necessary modifications for about \$11 per car, *Mother Jones* estimated the cost at half that. Using the National Highway Traffic Safety Administration estimate of the cost per fatality (assuming lawsuits) of roughly \$200,000, Ford had, according to a company memorandum, performed a cost-benefit analysis of the problem. Paying for deaths, injuries, and damages without changing the tanks was guessed to cost about \$49.5 million, while the cost of modifying the 12.5 million vehicles would run \$137 million. It was “cheaper” to ignore the problem and face the lawsuits.

In May of 1978, the U.S. Department of Transportation finally recalled all 1971 to 1976 Pintos and, although it was the biggest auto recall up to that time, the decision amounted to too little too late for the conservatively estimated 500 dead, maimed, or scarred victims (Ermann & Lundman, 1982, p. 18). The Ford Pinto case was also a landmark, representing the first time in U.S. history that a corporation was indicted for murder. In 1978, Indiana prosecutors charged Ford with homicide after three people were burned alive in a Pinto (Browning & Gerassi, 1980, p. 406). Even though Ford was acquitted, the trial of a corporation for murder may have served as a signal that the public reaction to corporate crime was changing (Swigert & Farrell, 1980). When asked what fate Lee Iacocca, then president of Ford, deserved, one person sarcastically suggested that someone buy him a Ford Pinto complete with Firestone 500 tires (yet another dangerous product whose manufacturer hid its defects until an unacceptable number of human sacrifices sparked federal action).

The Ford Explorer-Firestone tires recall. In 2000, executives of the Ford Motor Company and Bridgestone/Firestone, Inc., both appeared before the U.S. Congress to answer questions regarding possible cover-ups of defects in the Ford Explorer (sport utility vehicle), particularly when equipped with Firestone tires. The tread on Firestone ATX and Wilderness tires would peel off, forcing the Ford Explorer to roll over. By 2000, it became apparent that numerous accidents had taken place due to defects that compounded when the two products were combined. By February 2000, tires were recalled in Thailand and Malaysia. In May, a National Highway Traffic Safety Association (NHTSA) study was begun and Ford recalled 30,000 tires in Venezuela, Ecuador, and Colombia. In August, Firestone recalled 6.5 million tires; Ford CEO Jacques Nasser apologized on television, and Bridgestone/Firestone CEO Masatoshi Ono apologized to the U.S. Congress. By August 31, 2000, NHTSA labeled 1.4 million more tires defective and estimated fatalities at 88 and injuries at 250. Ford had recalled the tires in 16 countries, but had not issued a U.S. recall until later. While both companies pointed the finger at the other for the defects and crashes, in fact neither was as forthcoming as it could have been in identifying problems; it took congressional pressure to force them to act as good corporate citizens.

Reminiscent of C. W. Mills’s (1952) “higher immorality” notion, Heilbroner et al. (1973) in their book *In the Name of Profit: Profiles in Corporate Irresponsibility* maintain that the people who run our supercorporations are not merely amoral, but positively immoral. They and other authors cite examples like these:

- B. F. Goodrich plotted to sell defective air brakes to the U.S. Air Force by faking test records and falsifying laboratory reports. National security and the lives of fighter pilots appeared to be of little concern.
- In the early 1970s, a General Dynamics engineer warned his superiors of dangerous defects in DC-10 cargo doors. They ignored this warning. Two years later, a DC-10 crashed in France when the cargo doors opened in flight, killing all 346 passengers (Nader, Green, & Seligman, 1976).

- Theo Colburn in *Our Stolen Future* (1996) claims that toxic chemicals released in the last 50 years mimic natural hormones and may be responsible for human male sperm counts decreasing 50 percent since 1938 and growing infertility, genital deformities, breast and prostate cancer, and neurological disorders.
- In the 1990s, Ford Bronco II's rollover accident rate for rear-wheel drive was double the sport vehicle average. In 1992, Ford had spent \$113.4 million to settle 334 lawsuits for rollovers.
- In 1994, U.S. Secretary of Transportation Federico Pena made a deal with General Motors (GM) not to order recall of its pickup trucks, whose defects cost 150 lives, in return for a payment of \$51 million to support safety programs. The latter were calculated to have the benefit of saving more lives than the calculated 32 more people who would die due to faulty design of the trucks (J. Bennett, 1994).
- In the largest product liability settlement in U.S. history, a federal judge in 1994 granted \$4.25 billion in a class action suit against 60 silicone breast implant manufacturers. Dow Corning Corporation agreed to pay the biggest share—\$2 billion. The largest previous settlement had been by asbestos manufacturer Manville Corporation for \$3 billion. One study showed that Dow knew of the dangers as early as 1975 (Blakeslee, 1994).
- In 1994, the FBI employed a GE engineer to infiltrate a GE jet engine plant to spy on managers who were later charged with compromising the safety of military and commercial aircraft by covering up engine flaws. GE had been involved in more cases of contractor fraud against the Pentagon than any other manufacturer (Frantz & Nasar, 1994). This included 16 criminal convictions and civil judgments.
- In 1995, top executives of seven tobacco companies told a Congressional committee under oath that they did not know for certain that tobacco was addictive or caused disease. Attorney General Janet Reno asked the U.S. Justice Department if the companies were guilty of fraud and perjury when it was revealed that Brown and Williamson Tobacco Corporation documents indicated that the company's own research had shown for years that cigarettes were addictive and harmful, and it had covered up such knowledge (Hilts, 1995). A record \$368 billion deal was agreed to by the tobacco companies with 40 states, affecting everything from how cigarettes are advertised and sold to punitive damage awards of \$50 billion.

The National Consumer Product Safety Commission estimates that 20 million serious injuries and 30,000 deaths a year are caused by unsafe consumer products (Coleman, 1994, p. 9). When Richardson-Merrell's MER/29, a cholesterol inhibitor, was tested, all the rats died; nevertheless, the company falsified the data and marketed the product. When over 5,000 users suffered serious side effects, it was withdrawn from the market and the company received a minor fine (Coleman, 1994, p. 84). In 1988, the Cordis Corporation pleaded guilty in federal court to concealing defects in thousands of pacemakers (implanted in heart patients to regulate the heartbeat). The company agreed to a fine of \$264,000 plus court costs. Executives were charged separately ("4 Indicted Over Pacemaker Scam," 1988).

Defective products continue to plague consumers. More recent examples are defective breast implants that maim, deform, and destroy immune systems; and flawed heart valves (Ingersoll, 1991).

Environmental Crime

In 1962, the publication of Rachel Carson's *Silent Spring* signaled the beginning of the age of environmental awareness. Specifically attacking toxic chemicals and pesticides, Carson's work very dramatically called attention to the irreversible and final genetic and biological harm the poisoning of the environment could bring about. According to Regenstein (1982), "The accuracy and validity of *Silent Spring* was no inhibition to the chemical industry's attacking and attempting to discredit it, a vicious campaign which started even before the work was published and continues today" (p. 132).

Three Mile Island. Ironically, in the film *The China Syndrome* (so-named because of the false belief that a nuclear meltdown in the United States would bore through the earth to the other side—China), a character indicates that a nuclear mishap could render an area the size of Pennsylvania uninhabitable. Almost prophetically, after the release of the film, the worst potential nuclear plant disaster in history occurred at Three Mile Island, Pennsylvania. The accident released radioactivity into the surrounding area and required the temporary evacuation of young children and pregnant women from the immediate vicinity.

On November 7, 1983, a federal grand jury indicted Metropolitan Edison, the owners of the Three Mile Island (TMI) facility, on criminal charges of faking safety test records before the accident. The indictment alleged that the company attempted to conceal from the Nuclear Regulatory Commission the rate of leakage in the main cooling system, in which water passes over the reactor's radioactive core ("Feds Indict TMI," 1983). Allegations had been made that the corporation was eager to have the reactor online by a certain date in order to take advantage of tax benefits.

In April 1984, Metropolitan Edison pleaded guilty to knowingly using inaccurate and meaningless testing methods and agreed to pay a \$1 million fine. The company also pleaded no contest to six other criminal counts, including manipulating test results, destroying records, and not filing proper notice of cooling system leaks ("Judge Agrees to TMI Plea Bargain," 1984).

Toxic criminals. Potential environmental hazards created by new technologies require that corporations and businesses exercise a higher level of ethical behavior than that exhibited in the Ford Pinto incident or other cover-ups and deceptions of the public and of government regulatory agencies. Bhopal (India), Love Canal, Times Beach, Seveso (Italy), and Chernobyl are well-known environmental disasters. Each year, about 300 health care workers die from hepatitis B after exposure on the job (J. Anderson & Van Atta, 1988a). Toxic wastes also expose the public to possible harm. In 1979, the EPA estimated there were 109 very hazardous dumpsites and 32,254 sites where hazardous wastes were buried. That latter figure was subsequently raised to 51,000, with "significant problems" existing at between 1,200 and 34,000 (M. H. Brown, 1982, p. 305). In the late 1980s, beaches in various parts of the United States had to be closed because illegally dumped medical wastes were washing ashore. Blood gushing out of trash compactors and body parts found in trash piles illustrate the ghoulish proportions of such hazards.

Crime File 6.3 reports on the deadliest air pollution disaster in American history, the Donora Fluoride Death Fog.

Crime File 6.3 *The Donora Fluoride Death Fog: A Secret History of America's Worst Air Pollution Disaster*

An environmental horror story similar to fictional works by Michael Crichton visited Donora, Pennsylvania (near Pittsburgh), on Halloween night, 1948. History tells us that a temperature inversion trapped smog in the narrow industrial valley and produced the worst single air pollution disaster in American history, leaving 20 dead and hundreds injured and dying. This incident resulted in the passage of the 1955 Clean Air Act. Bryson (1998) and L. P. Snyder (1994) describe the Donora cover-up:

Fluoride emissions from the Donora Zinc works and steel plants owned by U.S. Steel caused these injuries. Philip Sadtler, a chemical consultant who conducted research at the scene of the disaster, concluded that U.S. Steel conspired with U.S. Public Health Service (PHS) officials to cover up the role that fluoride played in the disaster (Bryson, 1998). One third of the town's 14,000 residents were affected by the smog, with hundreds evacuated or hospitalized.

While the official PHS report stated "no single substance" was responsible and laid blame on the temperature inversion, Sadtler charged that the PHS report was designed to assist U.S. Steel in escaping liability for the deaths and prevent controls of toxic fluoride emissions. The national fluoride clean-up would have cost billions.

The PHS was then part of the Federal Security Agency headed by Oscar Ewing, a former top lawyer for Alcoa (third-largest aluminum producer). The latter was facing lawsuits at the time for wartime airborne fluoride emissions. Sadtler, in the December 13, 1948, issue of *Chemical and Engineering News* reported fluorine blood levels of the dead and ill patients to be 12 to 25 times above normal. Afterwards, pressure was brought to bear by manufacturers to prevent the journal from publishing any more articles by Sadtler (Bryson, 1998).

Researching the disaster 50 years later, investigators discovered that important records were missing from the PHS archives and U.S. Steel records were not open to researchers. Despite the fact that, at the time, the Donora disaster

was the largest government environmental investigation ever conducted, almost all the records mysteriously vanished when Dr. Lynne Page Snyder was doing research for her dissertation at the University of Pennsylvania. Snyder's dissertation was entitled "The Death-Dealing Smog Over Donora, Pennsylvania: Industrial Air Pollution, Public Health Policy, and the Politics of Expertise, 1948–1949" (L. P. Snyder, 1994). She suspects the archives were determined to be too hot to handle and were gotten rid of.

As a sequel to "The Donora Fluoride Fog," Bryson (2000) describes "Fluoride and the Mohawks" between 1960 and 1975:

Cows crawled around the pasture on their bellies, inching along like giant snails. So crippled by bone disease they could not stand up, this was the only way they could graze. Some died kneeling, after giving birth to stunted calves. Others kept on crawling until, no longer able to chew because their teeth had crumbled down to their nerves, they began to starve.

The cattle belonged to Mohawk Indians on their reservation that straddled the New York–Canadian border when fluoride emissions from nearby aluminum plants devastated their herds and way of life. Crops and trees, birds and bees withered and died. Today, fish caught in the St. Lawrence River by the Mohawks have ulcers and spinal deformities, and Mohawk children also exhibit signs of bone and teeth damage.

In 1980, the Mohawks filed a \$150 million lawsuit against two aluminum companies, but after 5 years of legal costs, the bankrupt tribe settled for \$650,000 in compensation for damage to their cows.

Research Project

Go online and read about the Bhopal disaster in India in 1984. Do you see any parallels with Donora?

Alcoa agreed to pay criminal penalties of \$7.5 million to the State of New York for illegally holding 33 rail cars full of PCB-tainted soil at a Massena, New York, facility over several months while preparing fake documents to dispose of the material as nonhazardous (Milbank & Allen, 1991).

U.S. v. Allied Chemical. In 1976, Judge Robert Merhige (Richmond, VA) fined Allied Chemical \$13.2 million after it pleaded nolo contendere to 153 charges of conspiracy to defraud the EPA and Army Corps of Engineers. Allied had polluted the James River and had deceptively blocked the efforts of these agencies to enforce water pollution control laws. In justifying the largest fine ever imposed in a single environmental case, the judge stated, "I don't think that commercial products or the making of profits are as important as the God-given resources of our country" (Beauchamp, 1983, p. 97).

Much of the work social scientists or federal agencies should have been doing in investigating corporate crime has until relatively recently been shouldered by investigative journalists and consumer advocates, such as Ralph Nader and his associates. A partial list of such studies and their subject matter includes the following:

Cox, Fellmuth, and Schulz (1969), a report on the FTC

Esposito and Silverman (1970), *Vanishing Air*, on air pollution regulation

J. S. Turner (1970), *The Chemical Feast*, on the FDA

H. Wellford (1972), *Sowing the Wind*, on health and environmental hazards

M. J. Green et al. (1973), *The Monopoly Makers*, on antitrust activity

Page and O'Brien (1973), *Bitter Wages*, on occupational safety and health

In addition to these, Nader and his associates have generated numerous other investigations and reports (Nader, 1965; Nader & Green, 1973; Nader, Green, & Seligman, 1976; Nader, Petkas, & Blackwell, 1972). Some success has occurred in the battle against polluters. In 2007, the American Electric Power Company agreed to pay \$4.6 billion to settle 8 years of charges that its acid rain-causing chemicals ate away at parks, bays, and the Statue of Liberty (Barrett, 2007). On the subject of environmental and health assaults on consumers, D. R. Simon (1999) describes some cases of "corporate dumping," a practice whereby corporations sell overseas products that have been deemed unsafe in the United States by the EPA, FDA, or other federal agencies. Toxic crime may indeed be the ultimate and most insidious of crimes. Birth defects, long-term genetic damage and mutation, congenital heart defects, and disorders in children—many of these effects may turn up 20 to 30 years later and be difficult to link to the original causative agents or toxic criminals. In that sense, those who commit environmental crimes may represent the first "intergenerational criminals" the victimized may not have been born at the time the crime was perpetrated, and the criminal may be deceased by the time the victimization takes place.

Radiation leaks. In 1988, in the wake of the Chernobyl disaster in the Soviet Union, investigations began to reveal a massive cover-up by the U.S. federal government of the dangers and harm its nuclear facilities and testing program had posed to unwarned workers and

neighbors. Fallout from atomic tests in the 1950s and 1960s resulted in little warning by the Atomic Energy Commission of exposure hazards such as birth deformities, cancer, and early death (McGrory, 1988). The Department of Energy runs federally owned nuclear plants that produce the fuel for the nation's nuclear weapons. These obsolete plants have worse safety features than most privately owned plants. The radioactive waste problem at the Energy Department's Hanford nuclear weapons reserve in the state of Washington is unbelievable. It is described as (T. W. Lippman, 1991)

the most polluted and dangerous nuclear compound in the United States and perhaps the world—the submarine hulks [21 buried radioactive reactor vessels] are little more than a novelty. In fact, they are a stable controllable form of waste in a nightmare world of volatile, explosive, toxic and radioactive junk.

So great is the mess, so diverse the streams of waste—solids and liquids, above ground and beneath, in the water and in the soil, stationary and migrating—that the most optimistic forecasts say it will take at least 30 years and \$30 billion to clean it up. And that's if all goes well, if none of the tanks of lethal liquids explodes and if scientists can figure out what to do with material for which no disposal technology exists. That's if all the waste can be contained before any more of it seeps into the Columbia River. (p. 33)

More and more of our food is processed and packaged by large corporations and, if recent investigations are to be believed, the food processors have not improved much since Upton Sinclair's (1906) exposés in *The Jungle*. Despite a 1906 federal Meat Inspection Act and a 1967 Wholesome Meat Act, abuses continue. In a Hormel plant in 1969, a Department of Agriculture inspector was bribed \$6,000 annually for overlooking the production of "Number 2" meat (McCaghy, 1976b):

When the original customers returned the meat to Hormel, they used the following terms to describe it: "moldy liverloaf, sour party hams, leaking bologna, discolored bacon, off-condition hams, and slick and slimy spareribs." Hormel renewed these products with cosmetic measures (reconditioning, trimming, and washing). Spareribs returned for sliminess, discoloration, and stickiness were rejuvenated through curing and smoking, renamed Windsor Loins and sold in ghetto stores for more than fresh pork chops. (p. 216)

Corporate violence. From what has been said so far it should be clear that, while the general public tends to view corporate crime as nonviolent, we might be more persuaded by S. L. Hills, who in *Corporate Violence* (1987) describes "'respectable' business executives who impersonally kill and maim many more Americans than street muggers and assailants." He notes that the tools of such violence include

exploding autos, defective medical devices, inadequately treated drugs and other hazardous products that are manufactured and marketed despite knowledge by corporate officials that such products can injure and kill consumers. There are reports of toxic chemical dumps that have poisoned drinking supplies, caused leukemia in children and destroyed entire communities; of cover-ups of asbestos-induced cancer,

and the gradual suffocation of workers from inhaling cotton dust; of radioactive water leaking from improperly maintained nuclear reactors; of mangled bodies and lives snuffed out in unsafe coal mines and steel mills—and other dangers to our health and safety. (p. vii)

Crimes by Organizations Against Employees

Organizational (corporate) crime against employees (type 6 in Crime Types 6.1) may take many forms; the most insidious relates to purposive violation of health and safety laws that may not only threaten workers' lives, but may also genetically damage their offspring.

During World War II, the large German manufacturing corporation I. G. Farben worked captive workers (slave labor) to death in its factories. More recently, according to Harry Wu, a former Chinese political prisoner, many Chinese exports sold in the United States have been produced in the harsh conditions of Chinese labor camps (Southerland, 1991). While most modern manufacturers do not directly kill their workers, health and safety violations by corporations and organizations against their employees can take many forms (see Frank, 1985). Some occupational exposure to injury and disease may be a necessary part of employment, but unnecessary, preventable hazards and their disregard by employers in the United States are regulated by OSHA and can incur criminal penalties. Terms such as black lung (due to coal exposure), brown lung (due to cotton mill exposure), and white lung (due to asbestos exposure) have become familiar to U.S. workers. The sheer number of new chemicals to which workers are exposed and their long-term impact are enormous. Occupational hazards are not new. In 1812 in Lawrence, Massachusetts, sweatshop conditions in the textile mills produced death in one third of the workers by the age of 25 (Browning & Gerassi, 1980, p. 237).

Just to cite one example of corporate negligence and cover-up, an examination of the asbestos industry is enlightening. Carlson (1979), appearing before a Congressional Subcommittee on Compensation, Health, and Safety indicated the following:

- Examination of corporate memos, letters, and other documents from as early as 1934 showed that senior executives at Johns-Manville and Raybestos-Manhattan (two of the biggest asbestos producers) knew of and covered up company-sponsored research findings that described asbestos-caused diseases.
- Asbestos industry-sponsored research in the 1930s and 1940s also showed asbestos dangers, and researchers were prevented from publishing their results.
- One company, Philip Carey, fired its medical consultant when he warned of possible lawsuits from workers exposed to asbestos.
- Years before the companies acknowledged any awareness of asbestos dangers, documents demonstrated that they had quietly settled injury and death claims from workers who had handled asbestos.
- Johns-Manville purposely did not notify employees of the results of their medical examinations that showed asbestosis, despite executives' knowledge that the disease was progressive and fatal unless treated at an early stage (pp. 25–52).

In 1988, OSHA fined meatpacker John Morrell and Company \$4.33 million for having forced hundreds of injured workers in its Sioux Falls, SD, plant to keep working even right after surgery. This was the largest fine against a single employer in the agency's history.

Workers in this industry chronically suffer from carpal-tunnel syndrome and tendonitis, in which joints stiffen because of the erosion of soft tissue (“Meatpackers Hit With Record OSHA Fine,” 1988).

In 1990, USX agreed to pay \$3.25 million for hundreds of alleged worker safety violations, including what OSHA called fatal, uncorrected hazards (K. Ball, 1990). That same year, a federal jury awarded damages of \$26.3 million to a retired insulation worker. Materials once made by Owens Corning Fiberglas Corporation had not been properly labeled as dangerous, causing the worker to develop asbestosis (W. E. Green & Geyelin, 1990).

Larry Agran in “Getting Cancer on the Job” (1982) documents that the cancer epidemic has been primarily fed by many industries’ systematic unconcern for workers’ health, in which company physicians cover up evidence of unsafe exposure to carcinogenic substances. He concludes that the government regulatory agencies are either too timid to enforce the law or lack staff or resources with which to protect workers.

In 1999, apparel workers and human rights groups filed the largest legal challenge ever against sweatshops on American soil. The suit alleged that major American retailers conspired to place thousands of workers in involuntary servitude and horrible work conditions (Greenhouse, 1999). Poor young women from China, the Philippines, Bangladesh, and Thailand are led to believe that they are going to the United States to work; instead, they are taken to Saipan (Mariana Islands), a U.S. possession where many work 12 hours a day, 7 days a week, sometimes without pay if they fall behind in their quotas. In some cases, exits are locked, pregnant workers are forced to have abortions, and workers are housed in barracks surrounded by barbed wire. On top of all of this, the clothing labels can read “Made in USA.”

In 2007, it was reported that in 2001 nine workers in a microwave popcorn plant came down with a rare lung disease due to exposure to an additive that added a buttery taste. OSHA dragged its feet in responding to or enforcing standards even as more workers became ill. The George W. Bush administration vowed to limit cumbersome regulations that it viewed as unnecessary costs on business and consumers (Labaton, 2007).

Such activity represents only the tip of the iceberg in economic globalization, which often represents a “race to the bottom” in a search for the cheapest labor possible, including child labor or, as in China, labor by prisoners. These activities are all in violation of the United Nations’ “Universal Declaration of Human Rights.” In *Nobodies: Modern American Slave Labor and the Dark Side of the New Global Economy*, John Bowe (2007) uses his 6-year field study to describe migrant workers who were murdered as a warning to their peers and workers who are threatened with physical retaliation if they attempt to escape servitude.

If there are any heroes or heroines in the world of corporate crime, they can be found among the ranks of **whistle-blowers**—employees who are willing to step forward, usually at great personal sacrifice, to reveal wrongdoing on the part of their employers (see Westin, 1981). “You don’t bite the hand that feeds you,” states the old adage. The decision to inform on organizational violations has often meant firing; family disruption; ostracism from friends and former coworkers; as well as the end of one’s career, as employers retaliate against the “squealer” or “stool pigeon.”

In 1990, jurors ordered Lockheed Corporation to pay \$45.3 million in damages to three former employees who had been fired for being whistle-blowers regarding safety problems of C-5B military cargo planes. According to the workers, some of these planes with defective mainframes had been used to transport troops to Saudi Arabia (“Lockheed Ordered to Pay,” 1990).



Photo 6.2 Factory workers in a sweatshop in Phnom Penh work in horrible conditions.

Some examples of well-known whistle-blowers include

- Frank Serpico, former New York Police Department officer, who informed on fellow officers during the Knapp Commission investigation in the 1960s.
- John Dean, former legal counsel for President Nixon, who cooperated with the government in the Watergate investigation.
- Daniel Ellsberg, who revealed *The Pentagon Papers* to the press, alleging the government was misleading the public regarding the Vietnam War.
- Engineers at Morton-Thiokol, who had warned NASA regarding unsafe O-rings before the Challenger space shuttle disaster, and who later testified before Congress.
- Ernie Fitzgerald, a U.S. Defense Department employee, who testified regarding a \$2 billion cost overrun in the production of C-5A transports.

In extreme cases, an employer may even threaten an employee's life. While the following horror story is by no means typical, it profiles a true hero in the fight against corporate crime (see Mokhiber, 1988).

The Karen Silkwood case

Congressional hearings (U.S. Congress, 1976) and Rashke's *The Killing of Karen Silkwood* (1981) describe the Silkwood episode. She was an employee of the Kerr-McGee nuclear plant in Guthrie, Oklahoma. The company used plutonium, one of the most lethal of substances, in its plant. A union activist for stricter safety standards at the company, Silkwood had

gathered considerable information documenting the firm's negligence of health and safety measures for employees, as well as dangerous defects in the plutonium compounds being used.

On the evening of November 13, 1974, Silkwood was enroute with documents to a meeting with a union official and a reporter from the *New York Times* when her auto crashed into a ditch, killing her. The documents, which had been observed at the scene by state troopers, disappeared. In a subsequent trial investigating her death, Kerr-McGee was found guilty of negligence in health and safety practices, as well as criminally liable in Silkwood's contamination by radiation leaks during her employment. The Atomic Energy Commission found the company to be in violation in the majority of the union complaints, including in the contamination of 73 employees in 17 safety lapses over a 5-year period (Rose, Glazer, & Glazer, 1982, p. 407). The jury also ordered the company to pay Silkwood's estate \$10.5 million in damages ("Silkwood Vindicated," 1979, p. 40). The company appealed the case, and in January 1984, the decision was upheld by the U.S. Supreme Court.

In 1986, the U.S. Congress passed additional legislation to protect whistle-blowers' jobs, as well as reward them for whistle-blowing. They are entitled to as much as 15 percent of what the government collects. Some whistle-blowers have collected millions.

Environmentally dangerous occupations include those of chemical and insecticide workers, miners and shipyard workers who deal with asbestos, petrochemical and refinery workers, coal miners, coke-oven workers, textile and lead workers, medical radiation technicians, and those employed in the plastics industry. The exposures and risks are enormous; since most workers cannot easily switch jobs, they are even more dependent on federal regulatory agencies to protect their health and safety. Occupational hazards may be a necessary evil in modern industrial societies, but corporate subterfuge in unnecessarily exposing workers to such threats is not. Weak enforcement of OSHA regulations has resulted in the United States having 5 times as many work-related deaths per capita as Sweden and 3 times as many as Japan (J. A. Kinney, 1990).

Crimes by Organizations (Corporations) Against Organizations

Criminal activity by organizations against other organizations (type 9 in Crime Types 6.1) may take many forms, including crimes by private corporations against the state (e.g., wartime trade violations, cheating on government contracts, or income tax violations) and crimes by corporations against corporations (e.g., industrial espionage and illegal competitive practices).

Wartime Trade Violations

Because of their international structure, multinational corporations can sometimes play both sides of the fence in wartime. In *Trading With the Enemy*, Higham (1982) raises eyebrows with the following accusations:

- While gasoline was being rationed in the United States, managers of Standard Oil of New Jersey were shipping fuel through Switzerland to the Nazis.
- Ford trucks were produced for German occupation troops in France with authorization from Ford executives in the United States.
- Chase Manhattan Bank did business with the Nazis during the war.

An early, classic study of “white collar crime” by Marshall Clinard (1969), originally published in 1952, was entitled *The Black Market*. Using records of federal regulatory agencies during World War II, Clinard examined wartime trade violations on the part of businesses. He found extensive violations of rationing, price-ceiling offenses, tie-in sales, and lack of quality control. In a study conducted about the same period, Hartung (1950) found many violations of wartime economic regulations in the Detroit wholesale meat industry.

While it is not uncommon for victors to demand that losing countries pay reparations or war debts for damages, it is surprising that the United States paid for damages to U.S. multinational plants that were ruined during Allied bombing of Nazi-occupied Europe. Parenti (1980, p. 76) describes such postwar payments to GM and International Telephone and Telegraph (ITT). ITT had produced Nazi bombers and received \$27 million in damages, while GM had produced Nazi trucks and obtained \$33 million in compensation. Public furor arose after World War II when it was revealed that many oil companies had collaborated with the Nazis during the war. Although President Truman ordered that the Justice Department investigate and prosecute, the case was finally settled after 15 years of litigation with a minor consent decree (Coleman, 1985, p. 178). In 2007, the U.S. House of Representatives passed new legislation making it easier to convict private contractors who defraud the U.S. government during wartime. Of particular concern were contractors who were charged with overstating the value of goods and services or concealing information or presenting false statements (Flaherty, 2007).

In the 1990s, a renewed effort was undertaken internationally to recover the money of Holocaust victims held in Swiss banks. In addition, survivors of the Holocaust sued German and Japanese companies for damages for slave labor during World War II. Charges were also made that subsidiaries of U.S. auto manufacturers were key elements of Hitler’s war machine. Chase National Bank is also being investigated, along with law firms, for collaboration (Hirsh, 1998).

Industrial Espionage

Until recently, **industrial espionage** has been a relatively neglected area of investigation by criminologists. Much of the work in this area has either appeared in trade magazines or has been done by journalists (see Barlay, 1973; Engberg, 1967; P. Hamilton, 1967). Such espionage (literally spying, or the acquiring of information through deceptive or illegal forms) is performed by three different groups: (1) intelligence agencies, (2) competing firms, and (3) disloyal employees. Bergier’s highly readable *Secret Armies* (1975, p. 51) tells the story of an industrial-espionage agent who traveled from office to office of a corporate headquarters with a pushcart telling everyone that he was doing a check on secret documents, which he then proceeded to wheel away. The documents and their collector were never seen again.

Industrial spying goes back at least as far as 3000 B.C., when industrial and commercial secrets relating to silkworms and porcelain were stolen from China by Europeans. In the Middle Ages, it was so widespread that it led to patent laws. Bergier (1975, p. 15) claims that piracy by industrialists and governments was a significant factor in the spreading of the Industrial Revolution. From 1875 to World War I, Japan had the best industrial spies, after which Nazi Germany and the USSR dominated European spying. In the recent Hitachi case, a Japanese corporation attempted to steal state-of-the-art computer secrets

from International Business Machines (IBM). Some examples provided by Bergier include the following:

- One large Detroit company found nine television transmitters hidden in the air vents of the main drafting room; these were probably transmitting the company's latest drawings to the competition.
- A telephone tap discovered in Manhattan covered 60,000 phone lines, presumably to pick up useful market tips, blackmail information, and the like.
- Several cases in England involved spies posing as typewriter repairmen and removing typewriters for "repair" in order to peruse used ribbons.
- Cars of important figures are stolen only to be quickly recovered—the aim is to bug them.

In free societies, about 95 percent of industrial information is available in the trade and popular publications. In fact, a growing area of investigation is called "competitive intelligence," which involves the use of open sources (unclassified documents) to gather information on one's competition. Sources of information on U.S. industry range from legitimate to illegal, as described by the *Wade System of Sources of Information on American Industry* (P. Hamilton, 1967, pp. 222–223). There has been an unexpected wave of foreign espionage with the end of the Cold War. Some examples of such activity include the following:

- A South Korean rival plants a radio transmitter on the target company's fax machine.
- IBM claims to have lost \$1 billion because of French and Japanese espionage.
- The French Intelligence Service, the Direction Generale de la Sécurité Exterieur (DGSE), has been most brazen, even bugging seats of businesspeople on flights and ransacking their hotel rooms for documents.
- Many companies are canceling plant tours. Americans used to be amused by the number of pictures Japanese business tourists would take when touring their plants. Many of these photographs proved very useful (Hamit, 1991).

In 2000, countries of the European Union alleged that U.S. Intelligence agencies (specifically, the Central Intelligence Agency and the National Security Agency [NSA]) were using "Echelon," a worldwide electronic spy network to benefit U.S. companies in gaining a competitive edge. In effect, the agency had redirected some of its Cold War assets toward economic intelligence. Despite denials, the information is believed to have helped Boeing sell 747s to Saudi Arabia, Raytheon sell a surveillance system to Brazil, and the Hughes Network in contracts for a telecommunications system in Indonesia (Windrem, 2000). The European Parliament alleges that all e-mail and worldwide telephone and fax communications in Europe are intercepted. Whether this is true or not, the NSA appears to have that capability.

A National Institute of Justice survey of the American Society of Industrial Security's list of directors of security in major industries found that 48 percent had experienced the theft of trade secrets (proprietary information) within the past year, and over 90 percent had encountered some theft within the past 10 years (Mock & Rosenbaum, 1988, p. 18). The major targets were research and development data, new technology, customer lists, program plans, and financial data. Misuse of authority/position was the principal method employed, followed by physical theft, computer penetration, subversion of employees, and false documents/authorization (p. 22). Crime File 6.4 gives an account of the "Pirates of the Internet."

Crime File 6.4 *Pirates of the Internet: Criminal Warez Groups*

Let's get one thing straight: we're not talking here about kids who make the occasional illegal download of a popular song from the Internet and share it with friends (though that, of course, is wrong). We're talking about big business—professionals who get up in the morning and put in a day of stealing copyrighted music, movies, games, and software from the Internet, processing them and distributing them through peer-to-peer (P2P) or file-sharing networks. How do these "businesses" work? Known as "warez release groups," these syndicates are highly organized:

- Plants in music, film, and software industries supply the newest/hottest items to the groups.
- "Crackers" strip out the embedded source codes and insert new trademarks.
- "Q & A" test the product to make sure it works.
- Distributors transmit the items through networks.

"Executives" not only control these day-to-day operations, they also recruit new members, manage archive sites, and shield their illegal operations from law enforcement with sophisticated encryption.

What's the harm? Economic harm. Online piracy and trading of music, movies, business, and gaming software adds up to lost revenues—enough to put companies out of business, lose

jobs, negatively impact the economy, and, in the end, take money out of your pockets as the losses are passed on to you, the consumer, in the form of higher prices.

Not just a U.S. crime problem. These acts of piracy are executed on an international stage—and they need an international law enforcement response. Last month [April, 2004], they got one: OPERATION FASTLINK, the largest global enforcement action ever undertaken against online piracy.

On April 21, 2004, the FBI and our international law enforcement partners conducted some 120 searches in 31 states and 10 countries to dismantle some of the best known and most aggressive online piracy enterprises. We seized over 200 computers and servers, including some that actually housed hundreds of thousands of copies of pirated works. We've identified nearly 100 leaders in these groups and expect that number to go much higher in the days ahead. To report cyber crimes, please contact your local FBI Field Office or file a complaint through the Internet Complaint Center.

Source: Quoted directly from "Pirates of the Internet," *FBI Headline Archives*, 2004. Available at <http://www.fbi.gov/page2/may04/051704piracy.htm>.

Research Project

Find other examples of the use of the Internet as a tool of crime.

In 1998, textile manufacturer Milliken and Company was charged with hiring consultants to steal customer, supplier, and manufacturing information from nine competitors. They hired a private firm for \$500,000 to conduct illegal spying operations (Peterson, 1998). The U.S. Economic Espionage Act (EEA) of 1996 now criminalizes the theft of trade secrets. Two of the earliest cases prosecuted under the act were the Avery Dennison case and the PPG case. In the first example, involving the Avery Dennison Corporation near Cleveland, Ohio, two Taiwanese citizens were charged with stealing millions of dollars worth of trade secrets by bribing an Avery Dennison employee. In the PPG case, the company was informed by a

competitor that someone had offered to sell them PPG trade secrets. The suspect (a former PPG employee) had carried secrets out of PPG headquarters in a gym bag. Cooperation of the competitor may have been gained by the fact that under the EEA, they could have been prosecuted as a coconspirator had they not been forthcoming (Nasheri & O'Hearn, 1998).

Warez (pronounced "wares") is derived from the plural form of the word "software" and it means copyrighted material that is illegally traded. It specifically refers to releases by organized groups, a form of commercial profit piracy ("Agents Crack Down on Global Piracy Rings," U.S. Department of State, 2001).

Crimes by private organizations against other private organizations raise problematic areas in jurisprudence, what if the perpetrator is a country? In the 1990s, China and other countries in Asia tolerated widespread patent and trademark violations within which fake name-brand products were copied and sold at a fraction of their cost. While the United States and other countries continue to threaten trade sanctions over such violations, China seems to make only halfhearted attempts to comply. Calling China "The Pirate Kingdom," Choate (2005) estimates China's bogus goods as costing at least \$29 billion annually.

CRIMINAL CAREERS OF OCCUPATIONAL AND ORGANIZATIONAL OFFENDERS

Occupational and corporate offenders generally do not view their activities as criminal; their violations are usually part of their occupational environment. Such offenders maintain a commitment to conventional society while violating some of its laws, because their activities often are supported and informally approved of by occupational or corporate subcultures or environments (see Frank & Lombness, 1988).

Sutherland (1956a) sees many parallels between the behavior of corporate criminals and that of professional and organized criminals:

1. They are recidivists, committing their crimes on a continual and frequent basis.
2. Violations are widespread, and only relatively few are ever prosecuted.
3. Offenders do not lose status among their peers or associates as a result of their illegal behavior.
4. Like professional thieves, businesspeople reveal contempt for government regulators, officials, and laws that they view as unnecessarily interfering with their behavior (pp. 93–95).

Corporate Environment and Crime

Corporate crime does not occur in a vacuum, but is affected by characteristics of an organization and its market structure. For instance, in an analysis of auto makers, Leonard and Weber (1970) found that price fixing requires two market forces: a few suppliers and inelastic demand (i.e., a steady need or demand for a product irrespective of a rise or fall in cost).

Corporate Concentration

The marketplace in postindustrial or advanced capitalistic societies has moved from competitive capitalism among companies to shared monopolies controlled by huge corporations and conglomerates. The growing concentration of markets can be demonstrated by the fact that, in 1960, a total of 450 U.S. firms controlled about 50 percent of all manufacturing assets and made 59 percent of all profits. By 1979, as much as 79 percent of the assets and 72 percent of the profits were controlled by these firms (D. R. Simon, 1999).

Overpricing of products is more likely to occur when four or fewer companies control a market. As a result of such shared monopolies, the FTC estimates that prices are 25 percent higher than they should be and that such concentrated market firms enjoy profits that are 50 percent higher than those of less concentrated industries (D. R. Simon, 1999). In size, complexity, assets, and power, these large corporations dwarf most states and most national governments. Their wealth and power in elections, in private foreign policy, and in the international economy make public sector regulation increasingly difficult.

Rationalizations

Having little or no criminal self-concept, offenders view violations as part of their work. Among the rationalizations, or ways of explaining away responsibility, for white collar criminality are those below (Clinard & Yeager, 1980):

- Legal regulations of business are government interference with the free enterprise system.
- Such regulations are unnecessary and reduce profits.
- Such laws are too complex, create too much paperwork, and are incomprehensible.
- Regulatory laws are not needed and govern unnecessary matters.
- There is little deliberate criminal intent (*mens rea*) in corporate violations.
- “Everybody is doing it,” and I have to keep up with competitors.
- The damage and loss are spread out among large numbers of consumers, thus little individual loss is suffered.
- If corporate profits do not increase as a result of the violation, there is no wrong.
- Violations are necessary in order to protect consumers (pp. 69–72).

SOCIETAL REACTION

The UCR for the early twenty-first century estimated that property crimes such as robbery, burglary, and larceny cost U.S. society nearly \$9 billion. Federal investigators estimate that the federal government is being ripped off by at least \$50 billion a year, primarily through

fraud. In terms of threat and damage to property, health, theft, and corruption of law enforcement agencies, then, corporate crime is the “big leagues.” The cost of the savings and loan scandal of the 1980s was estimated at \$500 billion, while the celebrated “Great Brinks Robbery” netted only \$2 million. The latter is much better known and has received more publicity than the former, even though 250,000 Brinks robberies would be required to equal the cost of bailing out the S&Ls.

Despite growing public pressure for more severe treatment of higher occupational and corporate offenders, the likelihood of prosecution and conviction remains rare. When offenders are convicted, the penalties remain rather minuscule, considering particularly the economic loss to society. High recidivism rates among such criminals continue. Many are even “deadbeats” in paying assessed fines. The “big dirty secret” remains true: judges and government agencies are “soft” on corporate crime. In 2007, it was reported that enforcement against polluters during the George W. Bush administrations in prosecutions, investigations, and convictions was down by more than one third (Solomon & Eilperin, 2007). EPA civil lawsuits were down 70 percent. The number of investigators at the agency had been cut back.

Returning to the previous example of the “Great Savings and Loan Scandal,” the costliest series of white collar crimes in American history, by 1994 the average sentence given for major thrift cases was 36 months compared to 38 months for car thieves and 56 months for burglars. It should be noted that most of the sentences were handed down before more strict federal sentencing guidelines were instituted in 1989 (Pontell, Calavita, & Tillman, 1994).

Why the Leniency in Punishment?

If white collar crimes are economically the most costly crimes to society, why are such acts seldom punished? A number of reasons have been suggested:

- Many acts were not made illegal until recently. For example, many environmental and occupational health and safety regulations are of post–World War II vintage, and not until the twentieth century were false advertising, fraud, misuse of trademarks and patents, and restraint of trade considered criminal matters.
- American business philosophy has been dominated by beliefs in laissez-faire economics (government noninterference in business) as well as the notion of *caveat emptor* (“let the buyer beware”).
- Public concern with corporate crime is a recent phenomenon. Once this resentment becomes organized, public pressure against white collar crime and pressure for legislation and enforcement can be expected. At least one national survey suggests the general public regards white collar crimes as even more serious than conventional crimes such as burglary, robbery, and the like (Wolfgang, 1980a, p. E21). Thus, it seems lenient treatment of elite offenders is not supported by the public.
- In the past, white collar crimes were given less publicity; sometimes the media were owned by businesses that themselves were violators (Snider, 1978). Fear of loss of major advertising revenue may also have an impact.

- White collar criminals and those who make and enforce the laws share the same socioeconomic class and values. They fail to match the public stereotype of the criminal. Vilhelm (1952) suggests that citizens don't oppose such crime because they themselves often violate many of these same laws on a modest scale.
- Political pressure groups often block effective regulation or enforcement. Some of the biggest campaign contributors are also the biggest violators. Funding for such groups may come from previous tax avoidance, laundering, and other shady practices. Since such criminals are seldom prosecuted, many are first offenders and thus are treated with leniency.
- It is easier for politicians and public officials to concentrate on the crimes of the young and lower class, groups that lack political clout.
- The long-term nature of corporate violations and court delays make sanctions difficult.
- Black (2004) suggests a main problem with federal regulatory agencies is that they are in desperate need of criminological expertise. No federal, state, or local government agency has a "chief criminologist" position, and criminologists are excluded from policy debates on these issues.

A 1999 National Public Survey of White Collar Crime conducted by the National White Collar Crime Center (Rebovich & Layne, 1999) revealed that the public regarded many types of white collar crime as serious, or more serious than traditional street crime. For instance, in answering which was more serious, they responded in the following way:

- Someone steals \$100 on the street or a contractor cheats someone out of \$100: Robbery, 41 percent; Fraud, 40 percent; Equal, 20 percent.
- Someone steals \$100 on the street or a bank teller embezzles \$100 from his employer: Robbery, 27 percent; Embezzlement, 54 percent; Equal, 18 percent.
- Person robs someone at gunpoint or auto maker fails to recall a vehicle with a known defective part: Armed Robbery, 46 percent; Defective Product, 40 percent; Equal, 14 percent.
- Person robs someone at gunpoint or a store owner sells a shipment of meat he knows is bad: Armed Robbery, 39 percent; Tainted Product, 42 percent; Equal, 19 percent.

In response to the large number of corporate scandals at the turn of the last century, the U.S. Congress passed the Sarbanes-Oxley Act that compels the SEC to address weaknesses in corporate oversight. Among the reforms were the following:

- Accountants will no longer be considered independent and objective if they or their auditing partners receive non-audit (consultant) pay from publicly traded clients.
- Lawyers are required to become "whistleblowers" and must report legal violations to company officers or the board of directors.
- Mutual fund managers must ensure that shareholder proxies are voted in the best interest of investors and not insiders ("Investor's Guide," 2003).

Finally, in reading the remaining chapters of this text, keep in mind that if we ended our discussion of crime with this chapter, we would have covered the largest, most costly category of crime. All the other forms of criminal behavior together do not equal the costs of occupational and organizational (corporate) crime.

SUMMARY

The formative statement on white collar crime was made by Sutherland in 1939. He defined it as “crime committed by a person of respectability and high social status in the course of his occupation.” Despite the much greater cost of widespread corporate violations, the criminal justice system finds it more politically expedient to concentrate on traditional crimes. Related to Sutherland’s notion is Ross’s notion of criminaloids as “those who prospered by flagitious [shameful] practices which may not yet come under the ban of public opinion” and Mills’s concept of the higher immorality or moral insensibility of the power elite. The concept of white collar crime has been criticized as too global in nature, and a variety of other terms have been suggested. Particularly important are the concepts of “occupational,” “organizational,” and “corporate” crime. *Occupational crime* refers to violations that are committed for self-benefit during the course of a legitimate occupation, while *organizational crime* refers to crimes by businesses or officials on behalf of the employing organization. Organizational crime becomes *corporate crime* when undertaken on behalf of a private business or organization.

The reasons for the lack of research on occupational and corporate crime were detailed in this chapter, indicating that criminologists, because of the lack of readily available data, still rely on many secondary sources. Data and figures from various sources were presented in an attempt to measure the cost of white collar crime. While conservative estimates place the figure at \$36 billion, more liberal estimates place the cost for monopolistic practices at over \$230 billion. Any of the cost estimates far exceed those for traditional crimes.

Myopia must be avoided, so as not to view the current level of white collar crime as the worst in history; historical analysis suggests that this type of crime may actually have been even more prevalent in the past. Analysis of legal regulation of occupational practice points out that the more developed professions have been granted a mandate for self-governance even though such self-policing has been less than impressive.

While different typologies of white collar crime have been offered (Bloch & Geis; Edelhertz), the author suggests an “Occupational/Organizational Crime Grid” as a heuristic device for presentation purposes in this chapter. This results in nine theoretical types based on the criminal (individual, employee, or organization) and the victim (individual, employee, or organization).

Crimes by employees may include a variety of offenses as detailed in Edelhertz’s typological examples. *Crimes by employees against individuals/the public* were portrayed by means of public corruption (the Knapp Commission, Judgescam, Watergate, and Abscam), as well as private corruption and sharp practices by auto dealers. *Employee vs. employee crime* was examined by means of “sweetheart contracts” while *crimes by employees against organizations* were depicted with descriptions of embezzlement, employee fraud, pilferage, and computer crimes (including the argot of electronic “hackers”). *Crimes by individuals* (or



Photo 6.3 Senator Harrison Williams (NJ) was one of eight members of congress convicted in the Abscam sting. Williams became only the second U.S. senator in history to go to prison.

members of occupations) were delineated by describing crooked practices in the medicine, law, and pharmacy fields as well as in business-related trades and occupations.

Reasons for the dearth of studies of corporate crime were detailed. In the United States, the legal governance of business organizations began in the nineteenth century, particularly with the Sherman Antitrust Act (1890). Much regulation of corporate activity takes place through federal regulatory agencies such as the FCC, ICC, and SEC. These agencies can utilize civil and criminal as well as administrative means of assuring compliance, but they seldom do. Most agencies are “out-gunned” by the industries they are supposed to control, and, in fact, they are sometimes controlled by these industries. Gross characterizes this nonenforcement and kid-glove treatment of elite criminals as “the big dirty secret.”

Studies by Clinard and Yeager and associates signaled a new renaissance in studies of corporate criminality—the first large-scale, comprehensive study of corporate crime. In an examination of *crimes by organizations against individuals/the public*, detailed examples were provided, such as multinational bribery, and case examples such as the Equity Funding Scandal, the Great Electrical Industry Conspiracy, and the Great Oil Scam. Other important illustrations presented included the Ford Pinto case, toxic criminals, environmental violations, and corporate dumping of unsafe products.

Crimes by organizations against employees primarily relate to threats to the health and safety of workers, as dramatically illustrated by the tragic Karen Silkwood case. *Crimes by organizations against organizations* were illustrated by examples of wartime trade violations; industrial espionage (such as the Hitachi case); and corporate fraud against government, particularly on the part of defense contractors.

Characteristics of the corporate environment, such as supply and demand, and corporate concentration, such as the number of producers of a product, are predisposing factors in corporate criminality. *Societal reaction* to higher-level occupational and corporate crime has in the past been characterized by leniency. A number of reasons were provided for such indulgence, including policies of laissez-faire economics and a caveat emptor philosophy prevalent in the past. Recently, public reaction to such crimes has hardened and now rivals or exceeds that for traditional crimes. Recent research suggests some improvement in punishing elite offenders but still not in concomitance with the quantity, prevalence, and cost of such activities. Some retrenchment in regulatory activities may be occurring in response to a more conservative, pro-business political climate. *The toleration of white collar criminals and deadbeats* raises a major challenge to claims of equitable standards of justice and indirectly fosters crime in the streets through the perpetration of inequality.

The *criminal careers* of occupational and corporate criminals entail little identification with crime; these offenders enjoy subcultural support and employ rationalizations to explain away responsibility for wrongdoing.

Key Concepts

Abscam	Equity Funding Scandal	Reasons for Lack of Corporate Crime Research
Argot of Computer Crime	Ford Pinto Case	
Big Dirty Secret	Great Oil Scam	Reasons for Lack of Occupational Crime Research
Churning	Higher Immorality	Reasons for Leniency With White Collar Offenders
“Coerced Crime”	Industrial Espionage	
Computer Crime	Insider Trading	Revolving Door
Corporate Crime	Judgescam	Sweetheart Contracts
Corporate Dumping	Karen Silkwood Case	The Power Elite
Corporate Environment and Crime	Nolo Contendere	Types of Computer Crime
Costs of White Collar Crime	Occupational Crime	Watergate
Criminaloid	Occupational/Organizational Crime Grid	Whistle-blowers
Embezzlement	Organizational Crime	White Collar Crime
		White Collar “Deadbeats”

Review Questions

1. Why, despite its cost, has there been so little research on corporate crime?
2. Who polices corporate crime? Name some of these agencies and their jurisdictions.
3. What have been some criticisms of federal regulatory agencies? Do you see any improvements in these activities?
4. How serious are antitrust violations in the United States? Give some examples.
5. Discuss the “Great Savings and Loan Scandal.” How was it possible for what has been described as the “greatest series of white collar crimes in American history” to take place, and why was the American public unaware of this?
6. Discuss Edwin Sutherland’s concept of white collar crime. Why was this considered a Copernican revolution or paradigm shift in criminology?
7. Discuss Cressey’s theory of embezzlement. Does research support his hypothesis?
8. What were some major public scandals of the Reagan era? What happened as a result of these scandals?
9. What are some different types of computer crime? Give an example of each.
10. Discuss and give examples of crime or unethical practices in the field of medicine.