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**CONTROLLING CORPORATE CRIME THROUGH  
REFORM OF THE CRIMINAL JUSTICE SYSTEM**

**By Mary A. Vogt**

Corporate crime, according to Clinard and Yeager (1980: 16), "is any act that is committed by corporations which is punishable by the state, regardless of whether it is punished under administrative, civil, or criminal law". This form of crime is a major social problem within our society (Kramer, 1982). The purpose of this project is to examine a variety of proposals to improve the capability of the criminal justice system to control the problem of corporate crime, and to make specific recommendations for reform.

Corporate crimes cost the society financially and physically. Financially, the "duplicity and cunning" of corporate criminals result in a loss of more than \$50 billion annually in profits and revenues to the government and businesses (McGowan, 1983). A single corporate crime can run into billions of dollars, while the largest robbery in the United States cost the Lufthansa airport warehouse \$5.4 million (Mokhiber, 1988).

Corporate crime can also cause enormous physical harm. Thousands of people have been killed or injured by the criminal acts of corporations. Many workers have died from occupational diseases and industrial accidents as well as from the willful violation of health and safety standards by corporations. The general public is also affected by corporate criminality. Unsafe and defective products have killed and injured thousands of consumers. The general public is also harmed by the pollution that corporations produce.

Because corporate crime is such a major social problem, it needs to be dealt with in a more effective manner (Clinard and

Yeager, 1980). These crimes are often looked at as less serious by the general public, and they are also dealt with less seriously by the criminal justice system. Overall, it is very difficult to successfully detect, prosecute, convict, and punish a corporation for its illegal activity. Thus, many proposals have been made to reform the criminal justice system in order to allow the system to do a better job of controlling corporate crime. Most of the proposed reforms merely scratch the surface in their effort to deal with corporate criminality. Effective reforms must take into consideration the other factors involved ideologically, structurally, and legally before they can be viable solutions to the problem.

Reform of the criminal justice system is a cumbersome, but vital task in the fight to control corporate criminality. Although a wide variety of proposals have been suggested to tackle the problem of corporate crime, no single proposal would seem to be effective on its own. What is needed to combat corporate criminality is a more comprehensive program which attempts to solve the problem from more than just one perspective.

This project will consist of three parts. The first section consists of a description and evaluation of various sanctions to control corporate crime that have been proposed in recent years. The second part of the project consisted of interviews with the U.S. Attorney and Assistant U.S. Attorney within the West Michigan district to obtain their reactions to the various proposals as well as their ideas regarding other possible methods of reforming the criminal justice system to

more effectively deal with corporate crime. Finally, the last section of the project presents my conclusions and recommendations for reform based on the data from the first two sections.

## **REVIEW OF PROPOSALS**

The proposals to be discussed will be listed according to whether they fall under pre-violation suggestions, discovery of an offense, prosecution of an offense, or sentencing.

In the pre-violation area, several suggestions are offered as solutions to controlling corporate crime. These include proposing new laws to specifically apply to corporate criminal acts, applying existing criminal law to corporations, and implementing programs dealing with corporate ethics.

Proposing new laws to more effectively control corporate crime is a suggestion that has received some support (Braithwaite and Geis, 1982; Cullen et al., 1987). The reason that the creation of new laws is proposed is because the existing laws are not effective or are not utilized for dealing with corporate crime cases. The basic premise behind this proposal is that new laws are necessary if we are serious about using the legal system to control corporate crime (Cullen et al., 1987).

Kramer (1982: 4) refers to a 1979 bill which was introduced in the Congress with the intent of placing criminal liability on corporations and their managers for nondisclosure of hazardous products. This is just one small example of proposing a new law

to control corporate crime. Braithwaite and Geis (1982: 293) however, caution us that "criminal statutes should only be applied to business activity where conduct was 'clearly willful, egregious, and malevolent'". Proposing new laws makes quite a bit of sense when trying to suppress crime within corporations. This approach attempts to deal with the most foundational stage of the criminal justice system, the creation of laws. If controlling the crime of corporations is the desired outcome, and if the law does not consider a corporation in the same way it considers a person who commits a traditional street crime, criminal prosecution will be at a standstill. It also seems logical that with the ability to prosecute a corporation for criminal wrongdoing goes the chance to demonstrate general deterrence. By successfully prosecuting and convicting a corporation, hopefully, other companies will see the example that has been set.

Another alternative to deal with corporate criminality is to apply the existing laws to the behavior engaged in by the corporation. This idea entails making existing criminal laws more applicable to corporate behavior. Stone (1977: 57) states that although the idea is not necessarily the best route to take, the most "economical" idea would be to just slide the current laws over the corporation's laws to make them more accessible within the criminal courts. Prior to a revision in the Indiana state law, a corporation like the Ford Motor Company was not considered a "natural person" that could form criminal intent or be convicted of a crime (Cullen, Maakestad, and Cavender, 1987). This change made the Ford Pinto homicide trial

possible.

Another proposal to prevent corporate crime is the development of stronger business ethics. It is argued that this is a way to instill the proper moral attitudes in the people who are entering the corporation. A survey done in 1986 by the Center for Business Ethics at Bentley College found that of those institutions responding, three-fourths had written codes of conduct and one-third had formal ethics training programs (Horton, 1987). When companies have certain principles and their employees also share in these ideas, they financially out-performed those who did not have those principles (Horton, 1987).

According to Clinard and Yeager (1980), the individual corporations are the starting point for strengthening business ethics. Thus, they suggest developing "more effective general corporate business codes". Finally, the executives of the corporation must "censure" other executives who have engaged in misconduct of some kind.

When trying to control corporate crime, detection of violations becomes difficult (Braithwaite and Geis, 1982). Unlike traditional crime, corporate violations are not always as obvious. For instance, when a corporation violates the safety standards of the work place and employees are exposed to harmful chemicals, often the adverse effects of the exposure may not become apparent for years. Even then, if symptoms occur, it has been difficult to positively point a finger at the responsible party. Because of the difficulty of discovering criminality within corporations, a proposal has been introduced. It is for

the law enforcement agencies to adopt a proactive enforcement stance.

Proactive enforcement is an idea considered by Braithwaite and Geis (1982: 297) as a way to control corporate crime. They feel that although a proactive stance within corporations may occasionally border on entrapment, that "investigators have little choice but to go out and discover offenses". They hold this idea because the factors which are considered when dealing with traditional crime are very different from corporate crime. One very important way that the two forms of crime differ is that street crime is usually dealt with through a reactive enforcement stance. Corporate crime, however, cannot be effectively dealt with in this manner (Braithwaite and Geis, 1982). Law enforcement should be retrained, reoriented, and restructured in such a way as to be able to seek out corporate criminality (Kramer, 1982). Proactive enforcement attempts to respond to the difficult detection problems of corporate criminality. Trained law enforcement officers would be a great help in actively seeking out criminality in companies.

The third stage of the criminal justice system in need of reform to more effectively deal with corporate crime is the prosecutorial area. To make the job of prosecuting a suspected criminal company easier, the prosecutor must first give careful thought and consideration to the complexity of the law, the complexity of science, due process rights afforded to the corporation, and its liability.

Braithwaite and Geis (1982) argue that the two major factors that inhibit the effective prosecution of corporate



criminality are the complexity of the laws and the complexity of science. The complexity of the law makes it practically impossible to prove a case beyond a reasonable doubt. Some individuals believe that it is this complexity of the law which shifts the balance of power more on the side of the huge corporations which can then use that power to further their interests (Kramer, 1982).

Scientific complexity also lends a hand in the confusion and frustration of prosecuting a corporation for criminal misconduct, therefore changing the laws for easier conviction in the criminal courts is yet another proposal for dealing with corporate crime. Science makes it difficult for the prosecutor in two main ways. First, the prosecutor must try to present the case to a jury of lay persons. This becomes difficult with the abundance of scientific evidence that is often necessary to try to prove a case. Second, if it is necessary to rely upon scientific data to prove the case, Braithwaite and Geis (1982: 299) point out that "science deals in probabilities, not certainties" and, "Logically, proof beyond a reasonable doubt that a "causes" b is impossible. It is always possible that an observed correlation between a and b is explained by an unknown third variable c". For this reason, many people have proposed that proof "on the balance of probabilities" replace proof beyond a reasonable doubt (Kramer, 1982).

Other changes that are proposed regarding the laws include the use of strict liability and changes in certain due process rights as applied to corporations. The strict liability provision would be added into the revised law to make it

unnecessary for the state to show criminal intent by the corporation and its officers (Kramer, 1982).

Braithwaite and Geis (1982) propose a more controversial idea: certain due process rights should be eliminated from the corporate realm. They argue that the right to trial by jury for many corporate crimes should be ended because of the complexity of scientific evidence involved. Kramer (1982) points out that the privilege against self-incrimination has already been denied to corporations by the United States Supreme Court. These proposals would certainly aid the prosecution in their attempt to adequately and appropriately deal with corporate crime.

The final stage of the criminal justice system, sentencing, also needs to be reformed to control corporate crime. There have been ideas proposed regarding the individual offender as well as the corporate entity as the offender. On the individual level of dealing with culpable people, a fine, incapacitation, and imprisonment are the three primary methods of sentencing.

Some argue that imposing criminal penalties upon responsible individuals is one key to controlling corporate crime. Coffee (1981) states that the individual, as well as the corporation, needs to be focused upon when dealing with corporate crime. This approach has a couple of problems according to Kramer (1982). One is that many corporate criminals and judges have similar social backgrounds and attitudes which will sometimes result in a less harsh sanction. Another problem with focusing upon the individual is that even if a stiff fine is imposed on the individual, the deterrent effect is lost because the corporation often reimburses the

individual directly under certain indemnification provisions of corporate law. The fine, therefore, when placed upon the individual, is often ineffective (Stone, 1977).

Another proposal that is suggested to control corporate crime is imprisonment of corporate executives. Imprisonment is believed to have more of a deterrent effect upon corporate criminals than offenders of the lower-class (Geis, 1973). However, very few corporate executives go to prison for their misconduct (Clinard and Yeager, 1980). When people were surveyed by Cullen et al. (1985), almost 70% of the respondents believed that incapacitation was appropriate for corporate violent offenses. This figure however, was 15 to 30 points lower than "the higher ranked modes of violence" in spite of the fact that corporate violence kills far more people.

Imprisonment can also serve as a deterrent for individuals who consider engaging in criminality. This idea is a very good one provided that there is an identifiable violator to prosecute and convict.

Incapacitation has also been suggested with regards to the individual corporate criminal. On the individual level, the sanction could be disallowing the person from holding any position which requires decision-making of any importance (Braithwaite and Geis, 1982).

Directly punishing the responsible individual seems appropriate when sentencing. Corporate crime will occur less frequently perhaps if those who were convicted of a corporate crime were taken out of their decision-making capacities.

On the organizational level of sentencing, there are many

more suggestions to reduce the level of corporate criminality. The most common way for the court system to respond to corporate convictions is by fining it (Coffee, 1981; Kennedy, 1985). Often these fines are too small and thus insufficient deterrents to the corporations. Many corporations look upon fines as a small price to pay for their illegal behavior. Kennedy (1985: 448) suggests that by creating a penalty far greater than the "theoretically adequate level for deterrence", corporate criminality would be reduced. He also believes that this concept eliminates the profit motive of the corporation.

Kennedy (1985) proposes three alternatives to fining. One mechanism recommended is the "equity" fine, which is a penalty that is levied in stock. A second alternative to control corporate crime is to utilize a "pass-through" fine which is a penalty that is placed upon the shareholder assets. Finally, the "superadded liability" concept alters the limited liability rules within a criminal context.

The alternative mechanisms to fining suggested by Kennedy (1985) seem to try to sidestep some of the problems associated with traditional fines. He takes into account the other players within the company and incorporates his ideas according to the particular player desired.

Incapacitation is another organizational reform suggested for controlling corporate crime. Braithwaite and Geis (1982: 305) hold that incapacitation "can be a highly successful strategy in the control of corporate crime". On the organization level, the concept of incapacitation has taken many forms. Capital punishment could be carried out through the

revocation of the corporation's charter. Offending companies could also be nationalized or be placed in the "hands of a receiver" (Braithwaite and Geis, 1982). The general idea of incapacitation is one of the more dramatic alternatives which "the courts undoubtedly would be loath to adopt" (Braithwaite and Geis, 1982: 307).

Another less drastic measure in which to incapacitate a corporation is to limit their charter. Braithwaite and Geis (1982) propose this option when the company has "flagrantly failed to respect the law".

Corporate crime might also be controlled if the corporation could be made to sell the part of corporation which consistently violates the law, making certain that the "new parent" is "exemplary in compliance" (Braithwaite and Geis, 1982).

Clinard and Yeager (1980) propose federal corporate chartering of large corporations as opposed to the state chartering of corporations which exists today. Under this procedure, the corporation would have to abide by the federal rules and regulations that were imposed upon it. Enforcement would also be taken into consideration within the provisions when proposing the federal charter bill. Clinard and Yeager (1980: 312) do not claim that this alone would end corporate crime, but it would definitely increase accountability.

Clinard and Yeager (1980) have also proposed deconcentration and divestiture. The purpose of this proposal is to decrease the range of power and control that a corporation has. Today, large corporations are very difficult to effectively monitor for law violations, by forcing a large corporation to deconcentrate

itself of certain product lines or subsidiaries, a partial solution to controlling corporate crime is formed. After this has been accomplished, it is much easier to "keep an eye" on the company. An example of a deconcentration plan is the bill introduced into the legislature by Senator Edward Kennedy in 1979. The anti-conglomerate bill proposed that if a corporation had assests or sales of more than \$2 million, the corporation would not be allowed to merge (Clinard and Yeager, 1980).

Another alternative sanction that is proposed to more effectively deal with corporate crime is rehabilitation. Organizational intervention is one method of the "rehabilitation" process and is the most significant reform proposal regarding the sanctioning of corporations in the criminal justice system (Kramer, 1982). The rehabilitative sanction assumes that the crime is embedded within the corporation's organizational structure (Kramer, 1982). The primary goal of rehabilitation, according to Stone (1977: 62), is to change "an offender's behavior so as to reduce the probability of future violations by that offender". Stone (1977) developed many ways to sanction corporations such as reforming the board of directors, creating new management roles, reviewing management plans on a regular basis, and redesigning the decision process within the organization. By using these ideas, future compliance with the law will be encouraged (Stone, 1977). Sometimes, defective control systems or ineffective checks and balances can aid in breeding criminality in corporations (Braithwaite and Geis, 1982). If corporations can cope with these internal problems, the corporation would be

clean from the "inside out".

Rehabilitation can best be implemented if corporate probation becomes a regularly sought option. The Yale Law Journal (1979) sees corporate probation as the preferred method of rehabilitation. It suggests that the special features necessary in the restructuring process can be incorporated into the conditions of corporate probation. Corporate probation requires the corporation to follow the terms established by the court for a specified length of time. The Yale Law Journal (1979: 368) states, "Conditions of probation must be reasonably related to the rehabilitation of the offender and the protection of society". Probation of corporations can be appropriate in three situations; cases in which very dangerous or "inherently wrongful crimes" occur, cases in which "structural crime" has occurred, and when restitution to the victims is a part of the outcome decided upon (Yale Law Journal, 1979).

Rehabilitation and corporate probation were most likely created to perform a corporate "overhaul". With both of these programs being as structured as they are, it seems to be fairly easy to carry out the court-stipulated terms to better the corporate environment.

John Braithwaite's (1982) enforced self-regulation is another proposal which fits into the rehabilitation approach. The self-regulation process begins with the government compelling companies to create a set of rules that are applicable to the uniqueness of that particular corporation. These rules are then subject to the approval of a new regulatory agency. The corporation would then establish an internal team

of inspectors to enforce compliance with the rules. The enforcement costs and jobs would be absorbed by the company, leaving the auditing of this internalized group to the governmental inspectors. Any violation of the rules decided upon would be punishable by law.

Enforced self-regulation is a proposal that, if mixed with the right amount of governmental regulation, could be quite effective (Braithwaite, 1982). This concept also attempts to address the internal organization and its cooperation with governmental bodies.

Community service is another sanction proposed to aid in the control of corporate crime. The goal of this sanction is to restructure the organization thereby reducing corporate crime (Kramer, 1982). The legislature would describe in detail the components of community service as a sanction for corporations, and from this the judge could view this method as an option in sentencing corporations engaging in criminality (Kramer, 1982). Fisse (1981) has noted that although community service has been used as a condition of probation, it has been unsatisfactory. He also contends that community service as a "condition of mitigation of sentence" has been ineffective as well because it is less severe than the fine. According to Fisse (1981), a formal sanction requiring community service should be attached to laws governing corporate behavior.

As of 1981, community service orders as sanctions against corporations had not been developed (Fisse, 1981). This form of punishment however, is seen as far superior to fines because it does not reduce criminality to a "price" (Fisse, 1981). Due to



the fact that it does not price a crime and to the fact that the corporation would be of benefit to the society in some way, community service as a method to control corporate crime is advocated.

Publicity is increasingly gaining prominence as a sanction for controlling corporate crime (Clinard and Yeager, 1980; Fisse and Braithwaite, 1983). According to Clinard and Yeager (1980), mass media publicity about the law violations that a corporation committed was their greatest fear. Publicity is of great value because of "its capacity to expose and thereby police unwanted behavior" (Fisse and Braithwaite, 1983). Use of publicity as a method of controlling corporate crime is necessary for a few reasons: because most corporate crimes cause injury "surreptitiously", publicity is necessary for informing the public; the resentment of the community no longer serves as a constraint upon corporate wrong-doing because the vastness of the corporation obscures the blame; it is believed that publicity would "catalyze" enforcement action and; publicity may offer some new ideas for sanctioning corporations (Fisse and Braithwaite, 1983).

Publicity takes two forms: informal and formal (Clinard and Yeager, 1980; Fisse and Braithwaite, 1983). Informal publicity consists of the news stories that are aired mentioning the law violation (Clinard and Yeager, 1980). Clinard and Yeager (1980) point out that as a sanction, informal publicity is not that hard to bear because often, the news article regarding a corporate violation-if it is even in the newspaper-is hidden in the financial section. Much of the time therefore, the general

public does not even realize the extent of corporate crime via the media. Within the past decade, more adverse publicity has been forthcoming with the Ford Pinto trial and the Firestone "500" cases (Clinard and Yeager, 1980).

Formal publicity more often takes the form of a requirement of the corporation to publish an advertisement which reveals what it has done and the corrective action being taken. Formal publicity has in the past taken three forms: "as a punishment in criminal proceedings, as a penalty in quasi-criminal or administrative proceedings, and as a civil remedy" (Fisse and Braithwaite, 1983). The use of publicity as punishment in criminal proceedings has been rare. As a penalty in quasi-criminal or administrative proceedings, formal publicity has been a popular choice of the U.S. Environmental Protection Agency. Finally, as a civil remedy, formal publicity has been used often for correction and prevention (Fisse and Braithwaite, 1983). Fisse and Braithwaite (1983) recommend a couple of things, that the details of an offense be published as a court-ordered sanction, and disclosure of the disciplinary actions and organization reforms taken to deal with the corporate offender will be available as a part of a pre-sentence or probation order.

Deterrence was once again key in the development of this proposal. Because corporate criminals are more concerned with "saving face" in front of their families and peers, publicity would be effective as a deterrent to corporate criminality. The embarrassment of having an act publicized hopefully would prevent future criminal occurrences.

## INTERVIEWS

The interviews were a very interesting aspect of the project. Initially, interviews with the Federal Court judges within the West Michigan district were desired. This however, was not possible due to a lack of their permission. The U.S. Attorney, John Smietanka, allowed an interview to find out what his reactions were to some of the current proposals. Some of the recommendations he suggested are very unique and well thought-out. Below is a summary of the major points of the interview.

In regards to creating new laws to more effectively control corporate criminality, Smietanka clarified that if monetary loss to the public was involved, victim compensation was necessary first and foremost. He also thought that the law should fulfill a retributive as well as a deterrent function. In my opinion, it seems that Smietanka focused solely upon the creation of laws for improved sentencing. The newly created laws are more controversial because of what actions are made illegal, not merely because of the sentence that the violator would receive.

Interestingly, although applying current criminal laws would make it easier for charging a corporation, Smietanka did not see this idea as a viable alternative. He held that throughout history, society has moved from convicting on mens reas and actus reas (criminal mind and criminal act respectively) toward absolute liability. Absolute liability is not suitable for corporate crime cases. In this case, the

proposal of application of criminal laws to corporations was interpreted too broadly. Smietanka, at least under an assumption that all criminal laws would be applied to corporations, believed that this was a bad idea. However, it would be primarily, the homicide statutes that would be made applicable to corporate entities, not all laws in general.

When asked if the elimination of juries in corporate crime cases would be an option to aid the prosecutor in his endeavor to control corporate crime, Smietanka once again replied no. He supported his response with two reasons: juries perform a common sense role that society needs and society has a right and an obligation to judge what it itself considers to be criminal.

He also responded negatively to the idea of changing the standard of proof to proof "on the balance of probabilities". Smietanka felt that if a case is so complex that it cannot be dealt with within a criminal court "beyond a reasonable doubt", then it should go to a civil court where the standard of proof is only a preponderance of the evidence.

The U.S. Attorney saw the strict liability provision suggested by some as detrimental in the long run because he viewed it as eventually ceasing business. If every corporate executive had "strict liability" hanging over his head, he may not want to be in business.

It is interesting to me that when researching the above three proposals it would seem probable that prosecuting attorneys would jump at opportunities to change the current system in the ways suggested above. However, for Smietanka as well as Murray, those changes were not sought after—in fact,

they were considered to be quite silly ideas for reforming the criminal justice system to combat corporate criminality.

In regards to establishing a proactive law-enforcement team, Smietanka broke it down into two requirements: training and sensitivity. First, the law enforcement officers need to be trained in the specialties of corporate criminality. Unlike street crime which deals with more immediate threats, corporate crime often is hidden within accounting logs or quality control reports. Without proper training, law enforcement would be ineffective.

Second, sensitivity is necessary to realize that the law enforcement agencies fight the crime that society is aware of: street crime. The public would be upset if "their" law enforcement officers were sent someplace else to seek out law violations.

When asked if he thought rehabilitation would be effective toward reducing corporate crime, he stated that it would be a partial solution. What was key, in his eyes, was to place a greater emphasis upon ethics in the business world. Society needs to glorify those in business who make safe products and share their profits with their employees and charities. Here again, Smietanka missed the point. Ethics may be a part of the rehabilitation idea, however, "rehabilitation" of corporations involve restructuring and changing the problems internally to make compliance with the law more like.

Probation was considered effective if it was too difficult to make one person or group of people accountable.

Smietanka's suggestions for increasing the accountability

within a corporation were to make use of the penalties available to the system ie. civil suit damages and criminal penalties.

The above idea supported by Smietanka is an important aspect of accountability, but more should be taken into consideration than is. In regards to corporate criminality, the idea of accountability should be focused upon before criminality occurs.

The main idea behind the effectiveness of making certain people or groups of people accountable is that their recognition as people who can be held responsible for their behavior will be more cautious of the type of acts they engage in. This was not considered in Smietanka's interview.

Smietanka viewed imprisonment of individual offenders as a viable mechanism for deterrence if the sentence was short, e.g. six months to one year.

Community service was a wonderful idea in his mind, provided that it was one alternative and a part of an overall package which included incarceration, fines and public exposure.

The alternative methods of reducing corporate crime that Smietanka came up with, I felt, were excellent points and very unique. There were three main points. First, people who manufacture products should be required to use those products. Second, people who own a factory or manufacturing plant should be required to live next to their plant (as should the managers). This, he feels, will reduce the level of air pollution. Finally, it is important to change the ethical standards through education in schools, media, and research.

The interview conducted with Richard Murray, an Assistant U.S. Attorney, also contained some interesting ideas. I found

it interesting that he agreed with Smietanka when it came to eliminating the jury, changing the standard of proof to on the balance of probabilities, and applying a strict liability standard to corporations. These three responses had similar explanations behind them as well.

When asked about adoption of a proactive enforcement stance, Murray disagreed because he viewed that as soliciting people to be crooked. I have to admit that this was an aspect that I had not considered prior to the interviews with the attorneys. In certain respects, soliciting violations is an accurate description of what takes place with proactive law enforcement, but it is also quite possible to have people fulfilling a law enforcement function without making corporate executives commit criminal acts.

Murray also differed from the U.S. Attorney in his view of rehabilitation. The Assistant U.S. Attorney thought that creating a monetary incentive to reform was a good idea, but to leave the reform to the corporation.

Corporate probation, in Murray's opinion, makes a difficult job even harder. This is primarily due to the inability to properly enforce such a sentence.

When asked about imprisonment of individuals, Murray felt that because the public views the corporate criminals who get caught "unlucky", deterrence really is not served. Although Murray may be correct in assuming that some corporate criminals end up looking "unlucky", I do not feel that he gives the public enough credit. I believe that there is a growing awareness among the public in regards to corporate crime. More of the

general public is learning about corporate crime and know that those people deserve to be punished in some way.

Community service, if not well taught, is a waste of time in Murray's opinion. Murray failed to elaborate any further regarding this topic.

Increased publicity is believed to be an effective way to control corporate crime if 30 second clips that state, "I am a crook" are shown on the television. In my opinion, I think that this would be a great way to deter corporate executives from criminality because the fear of being stigmatized would at least make them think twice before engaging in the act.

Murray believes that corporate fines are hard to adjust properly as an effective punishment. I think that Murray is correct in his position, although if a scale could be produced to fairly sentence corporations to a fine, this idea might be more effective.

Murray had one main objective to fulfill to control corporate crime, it dealt with definitions. One problem, he stated, about trying to more effectively handle corporate crime is that society does not always agree on what corporate crime is. Also, a definition of "criminal conduct" is necessary before controlling it can be successful.

## **RECOMMENDATIONS AND CONCLUSIONS**

From the vast amount of material I have read, as well as the people I have talked with, I have made several conclusions. I believe that what is needed is a combined plan to effectively



combat corporate crime because there is not one proposal that I have researched that when considered alone would adequately fulfill this task.

My conclusions are divided into the three proposals that together, I feel, would be very effective in controlling corporate criminality. One is applying the traditional criminal law to encompass harmful corporate behavior. The second is to institute mandatory ethics courses from high school on through college. The final aspect is utilizing publicity to its fullest extent as a sanction against those who engage in corporate criminal acts.

When I promote the application of certain criminal laws to corporate behavior, I do so for a specific reason. The reason is that the current laws with which to charge a corporation exist but are not being utilized for that purpose. In order to use the present laws to deal with corporate behavior, specific stipulations would be necessary with their application. First and foremost, the criminal laws will have to be applied discriminatively. Not every law will apply to a corporation. A prime example of applying a criminal law to corporate behavior is illustrated with the Indiana law that defined a corporation as a person, thereby allowing prosecution of the Ford Motor Company on criminal charges of reckless homicide for their defective Pintos (Cullen, Maakestad, and Cavender, 1987). Second, what is necessary is a set of guidelines that are somewhat universal in their definitions. This is important because without basic definitions, each corporation could claim that it does not apply to the particular rule(s), and if this

occurs, it is difficult to proceed against it when a violation occurs. One term that would have to be defined is "criminality" because it is the center around which all the laws focus. Finally, I think it is quite important for a regular review and revision to take place to account for the changes in the political, economic, and legal environment.

The second part of my plan involves instituting a mandatory ethics program from high school on. This to me is the most crucial step for several reasons. Before people are adults and get jobs within corporations, they are young adults in school. These young adults are still impressionable and could benefit a great deal from a course of business ethics. I feel that the more a class like that is reinforced the more it will become second nature for the student and aspiring business person. Another reason that I think that education in ethics is vital is because of the attitude that most of society has regarding money. We, as educators, need to start acknowledging the business people who strive to make good products, who do not lie on their accounting logs, or do not cause environmental harm through expansion of their own self-interest.

I believe that an ethics program would take some initial work and money to institute, but the money that it could save in the future would be considerable. Once people get more exposure to the kind of violations that actually take place within corporations, and when they see that good businesses do not have to lie and steal, maybe we will start an upward spiral to better moral standards.

The third stage of my plan is to use publicity to its

fullest extent to deter corporate criminals from further violation. This would be effective because of the increased accountability that goes along with having your own face on the television set or in the newspaper. Most people do not want to have the negative stigma associated with their names and criminal acts. An indirect consequence of a corporate executive having his face on the six o'clock news is that it reflects upon the entire corporation. This in turn can be a deterrent before a violation even occurs, but even more so after a violation is committed.

With publicity as a sanction, the government can force the corporation to pay for all of the publicity costs that are incurred throughout the sentence.

Although no plan is completely foolproof in its attempt to control corporate crime, by reforming certain aspects of the criminal justice system, I believe a foundation upon which to build future proposals is created.

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