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Structural and Organizational Forces in the Etiology of Corporate Crime

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STRUCTURAL AND ORGANIZATIONAL FORCES IN THE ETIOLOGY OF CORPORATE CRIME

by

Bet i Thompson

A Dissertation
Submitted to the
Faculty of the Graduate College
in partial fulfillment of the requirements for the Degree of Doctor of Philosophy
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Western Michigan University
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STRUCTURAL AND ORGANIZATIONAL FORCES IN THE ETCIOLOGY OF CORPORATE CRIME

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Western Michigan University, 1981

In an effort to gain understanding of the etiology of corporate crime, a theoretical framework for examining the problem has been developed. This framework includes structural features such as a capitalistic organization of society, the importance of political economy, the importance of market structure, and the importance of corporate influence over the legal environment, in understanding corporate crime. Corporations within this society are affected by the structural features of society. Organizations are organized according to capitalistic principles and effectively force their employees into certain kinds of actions and activities. It was theorized that such organizational factors might have an influence on corporate crime.

Data for this study came from the Ford Pinto criminal case. Analyzing various data from Ford documents, NHTSA documents, trial transcripts, etc., a number of research questions, which were guided by the theoretical framework, were raised. The data showed, that in this case study, structural factors such as the profit motive, the ability of corporations to influence the political and legal environments in which they operate, and market structure were influential in the ability of Ford to manufacture and sell a defec-
tive automobile. In addition, organizational factors, such as the hierarchy of goals, the normative environment of the organization, and the basis for decision-making within the Ford organization, were examined for their explanatory power in understanding corporate crime.

A number of directions for further research and examination were discovered. The theoretical framework can be further refined and developed through such research. The problem of corporate crime cannot be ignored; it is a costly and serious problem for all people in society today. Through an understanding of the etiology of corporate crime, some mechanisms of control of this serious problem may be developed.
ACKNOWLEDGEMENTS

This dissertation could not have been completed without the help of Doris Cubbernuss who knew exactly what I meant when I said:

We do, doodley do, doodley do, doodley do,
What we must, muddily must, muddily must,
muddily must;
Muddily do, muddily do, muddily do, muddily do,
Until we bust, bodily bust, bodily bust, bodily bust.

- Vonnegut

Let them call me rebel and welcome, I feel no concern from it; but I should suffer the misery of devils, were I to make a whore of my soul...

- Thomas Paine

Beti Thompson
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Western Michigan University

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CHAPTER I

The Problem

The focus in criminology, from its inception, has been on traditional "street" crimes, best exemplified by the FBI Uniform Crime Rates which characterize activities such as assault, burglary, robbery, car theft, murder, etc. as criminal. While such crime cannot be minimized, another broad area of crime has largely been ignored. Sutherland, in the 1930s, first coined the term "white-collar crime" to refer to "violations of law by persons in the upper socio-economic class...in the course of [their] occupation[s] (1949, p. 9).

Examination of such crime has not been multitudinous since Sutherland's time; with the notable exception of Geis, the topic has been largely dormant until recent years. In the 1970s, the topic experienced a rebirth; Clinard and Yeager (1980) have delineated a number of reasons for the renewed interest. These include a recognition of the power and the impact of the corporation, publication of corporate violations, recognition of corporate responsibility, movements by consumer groups, and reawakening of Marxist/conflict theories.

The broader rubric of white-collar crime is bifurcated into two major sections: white-collar crime on the part of individuals and white-collar crime on the part of corporations. Clinard and Quinney (1973) have called these two types of crime 1) occupational crime, which includes crimes committed by individuals in the course

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of their occupation for their own personal gain, and 2) corporate
*crime*, which refers to crimes committed by corporate officials and/
or representatives intended to serve the corporate interests. This
distinction is crucially important since disparate advantages to
commit crimes accrue to individuals and corporations. The serious­
ness and magnitude of corporate crime, that is, crimes committed by
corporate officials in the corporate interest, exceed those of
occupational crime. This may be at least partially attributed to
the power of corporations. The power of corporations in American
society greatly enhances their ability to achieve their own ends,
regardless of the impact of their activities on the public. Clinard
and Quinney note:

...the nation's leading corporations are commit­
ting destructive acts against man and nature.
Specifically, all of this is being done syste­
 matically and repeatedly, rather than randomly
and occasionally. The crimes are being committed
as a standard operating procedure. In order to
ensure profits at a minimum of expense, these
corporations are willfully engaging in crime.
The corporations themselves as legal entities,
as well as some of the corporate officials who
make specific decisions, are criminal. And what
is most frightening is that once these systematic
 crimes become normal operating procedure, they
are not the responsibility of any one individual
in the corporation. Rather, they are corporate
 crimes, in the sense that the corporation itself
is criminal (1973, p. 212).

The relatively new field of corporate crime is plagued with
controversy and many issues. The consequences of corporate cime,
for example, are difficult to ascertain and to measure. A key is­
 sue in the field involves the definition of corporate crime and
important divergencies concerning the appropriate area of study,
exist. An additional issue of controversy is found in explanations of the etiology of corporate crime; some theorists tend to focus on individual explanations of such crime, while others seek explanation in certain organizational characteristics of the corporation or the societal structure within which the organization exists. These issues are the foci of this research.

Research in the area of corporate crime is hampered by the lack of accessibility to the inner structure and workings of large corporations. Occasionally, however, criminal actions on the part of corporations become public knowledge. This may result in the publication, through trials, newspaper accounts, television broadcasts, etc., of certain procedures, structures, and actions within a large corporation. When this occurs, valuable information may become available to researchers who are attempting to develop understanding of corporate crime. This research was initiated by such a public disclosure of a corporate crime.

In this research, a case study of the Ford Motor Company will be used in an attempt to identify various processes involved in the commission of corporate crime. The Ford Motor Company was tried, in early 1980, in criminal court in the State of Indiana for reckless homicide in the deaths of three young women who were killed in an automobile accident when their Ford Pinto automobile burst into flames after being rear-ended. Two months earlier, the National Highway Traffic Safety Administration had forced Ford to "voluntarily" recall the Pinto for its faulty fuel system.
The voluntary recall is only part of a larger story. Evidence had previously been presented (Dowie, 1977) which suggested that Ford continued to market a product even though the dangers of the product were known by Ford engineers and executives. Further evidence uncovered by civil suits (e.g., Grimshaw, 1978) indicated that Ford could have avoided the dangers of the Pinto before the first one was manufactured. National Highway Traffic Safety Administration records (1969-1977) showed that Ford lobbied for eight years against implementation of a standard for rear-end impacts. (See also Dowie, 1977.) Numerous civil suits have been filed against Ford; the Grimshaw case in California resulted in a verdict against Ford of $128 million, $125 million of which were punitive damages.

During the Ford criminal trial, much information concerning the structure and processes of a large corporation was disclosed. The trial supplied an interesting arena of research for the examination of etiological explanations of corporate crime. The criminal trial and related materials furnished the data for this study. Through examination of these data, this research will, hopefully, contribute to a theoretical explanation of the various factors involved in the etiology of corporate crime.

An endeavor of this sort reflects, to a great extent, the philosophical position of the researcher and his/her general framework of thought. Such positions should be clearly elucidated to avoid misunderstandings between researcher and audience. To that end, the philosophical and paradigmatic frameworks used to guide this research will be clearly specified in the following section.
An underlying issue within the field of sociology is the place of values in the sociological enterprise and the relationship of these values to knowledge. Sociologists have long been concerned with values. Historically, European sociologists, with the notable exception of Marx, were primarily concerned with theoretical understanding; that is, knowledge came first and meliorism was secondary, if not peripheral. In the U.S., early sociology took on a more reformist nature which led to substantial interest in social problems. With the rise of structural-functionalist thought, American sociologists adopted a more theoretical orientation to their discipline. In this view, the sociologist could be an objective observer and isolate himself/herself from the society under observation. As Gouldner (1970) put it, "Seemingly subordinating his own claims to personal priority, in apparent conformity to a higher, selfless principle, the theorist puts himself forward modestly, as a discoverer of consensus rather than an originator of ideas" (p. 17). Objectivity and value freedom were, and still often are, associated with sociology for some decades. In the early 1960s, the value-free position again became an issue of discussion and many theorists (e.g., Becker, Goldner, Friedrichs) began questioning the ability of sociologists to be value free. The controversy continues today.

Value-free sociologists maintain that sociologists, like other scientists, can isolate values from their research. The one value such scientists pursue is science (Ross, 1965, p. 425) and the
ultimate goal of science is "truth." Thus, in such a view, sociologists are truth-seekers who are immune from or able to put aside value-orientations. From this viewpoint, one's personal orientations, beliefs, and societal context can be overcome when pursuing truth through the practice of science.

Opponents of this view see value-freedom as a myth (Gouldner, 1964) and argue that sociologists are influenced by personal preferences and biases in all aspects of their work. Nicolaus (1968) argues that there never has been "...objective seeking-out of social truth or reality...the eyes of the sociologists...have always been turned downwards, and their palms upwards" (1968, p. 275). Nicolaus says that criminologists have traditionally studied the lower (subordinate) classes (thus, the "eyes down"), but have also found financial advantage from the upper classes. He adds that this must of necessity involve values. Becker (1967) states that it is impossible for sociologists to do research without involving personal sympathies. Becker advocates explicit support for the "underdog."

Is it possible to separate ideas from values? Karl Marx believed that ideas are closely related to the relations of economic life. He saw ideas as transitory and placed them within a historical context. Ideas, according to Marx, "...are the reflection, direct or sublimated, of the material interests that impel men in their dealings with others" (Coser, 1971, p. 45). In developing a sociology of knowledge, Marx tied the ideas of a society to the social roles and social classes within the society and posited that
the economic infrastructure of the society is the ultimate determinant of the particular societal superstructure (Marx, 1967). The societal superstructure consists of the values, ideas, and culture of the particular society. Ideas too, in his view, are shaped by the infrastructure of society. The ideas of different societies will vary because of the differential superstructure; a capitalist society will develop different ideas than a feudalistic or a socialist society. This is extremely important in the development of knowledge. Knowledge, from this perspective, is not a reality "out there," but rather a dynamic process which changes as societal infrastructures change.

Mannheim carried on the legacy of Marx by developing a sociology of knowledge which was not necessarily tied to the economic infrastructure of society, but was based on the premise that all ideas are influenced by an individual's or group's social and historical environment. Mannheim considered societal structures very important to thought, and argued that all thought is influenced and determined by structural conditions within a society. According to Mannheim, "...in the formulation of concepts, the angle of vision is guided by the observer's. Thought, namely, is directed in accordance with what a particular group expects" (1936, p. 245). Gunnar Myrdal (1969) took the position one step further and observed that knowledge is itself a value and furthermore, has the potential to change values (1969, p. 19).

Manis (1976) carries on this position and argues that "values cannot be compartmentalized from knowledge" (p. 33). He argues that
the two interact and that knowledge can alter values as values can determine knowledge. Scientific knowledge is a value in itself, according to Manis. From this position, it is not difficult to see how the scientific methods of accumulating knowledge are also pervaded with values. As Manis (1976) says, "...from the standpoint of society, these theory-policies (of science) tell us what to do, what to believe, and what to value" (1976, p. 40). Facts, then, are arbitrary and greatly influenced by values, which are determined by the particular structures of societies.

The new leftists of the sixties and seventies were quick to take up the position of Marx and Mannheim. Friedrichs (1970) discusses the return to Marxism in the sixties and says, "...the graduate generation of the sixties tended to see itself in humanistic terms rather than simply in the value-free garments that had come to be associated with the behavioral sciences" (1970, p. 34). Friedrichs goes on to describe the subsequent conflict within sociology as a paradigm clash between the priestly paradigm which advocates the objective viewing and determining of social reality, and the prophetic paradigm which includes an "awareness of the value-laden choices and implicit commitments" of the sociologists. Friedrichs sees the sociologist as prophet, someone who is aware of the values and commitments which are involved in shaping and discovering social reality. It is the sociologist's duty, according to Friedrichs, to encourage a humanistic sociology through the shaping of a humanistic ideal which seeks to solve the problems and inequities within society.
Gouldner (1970) more eloquently than most recognizes the interweaving of ideas and social forces. "The old society maintains itself through theories and ideologies that establish its hegemony over the minds of men, who therefore do not merely bite their tongues, but submit to it willingly" (Gouldner, 1970, p. 5). Gouldner calls for social scientists to take social responsibility for their actions. Sociologists, like all people, are influenced by the social and historical context of their lives, and furthermore have the power and ability to influence that social and historical context.

In the field of deviance, the issue of values has been examined by many theorists. Liazos (1972) discusses the manner in which values have kept sociologists from studying "covert institutional violence" in favor of research on "nuts, sluts, and preverts." Liazos argues that grants and research priorities have been focused on explaining and understanding those individuals who violate certain norms, such as norms of heterosexuality, drug use, mental health, etc., while other forms of deviance, such as white collar and corporate crime, poverty, etc., which are largely perpetrated by an unjust governing system, are ignored by researchers. Thio (1973) discusses the class bias in the study of deviance and argues that the bias "tacitly supports the power elite..." (1973, p. 1). In the field of criminology, Quinney has urged the utility of studying values in law creation. The Schwendingers (1970, 1977) not only emphasize the importance of values, but also urge a melioristic stance; that is, sociologists and criminologists are obliged to in-
Sure the egalitarian principle for all persons.

Few sociologists, however, have been comfortable with an explicit statement of values. This may be seen as a product of the differential philosophies of sociologists. These varying philosophies place different emphasis on values. For some sociologists, values are contaminating and the sociologist must be divorced from values if a body of knowledge is to be developed. For other sociologists, values are closely intertwined with knowledge and are used as the basis for establishing goals for a society. The recognition of the symbiotic relationship between values and knowledge lead some sociologists to a distinct philosophical position in which the interrelationships between knowledge and the social context is recognized. The latter mode is the value position held by this researcher. This position allows one to be holistic and consider all aspects of social phenomena. Within this philosophical position, an understanding of the sources of knowledge and the values which surround and influence knowledge is possible; such understanding enhances explanations of social phenomena.

Just as values are closely intertwined with knowledge the perspective and method one utilizes for discovering knowledge or "truth" will shape one's perception of the world. Sociologists rely on the scientific perspective to disclose "reality." The scientific perspective is an approach to knowledge based on empiricism, generalizations, and verification. Observations about reality are made, verified by other observers, and then ordered, through logical interrelationships, into theories which are then
tested by other observers and observations. The scientific perspective will produce different interpretations of the world than other ways of knowing (e.g., religion, intuition, common sense). One's beliefs as to the origin of the universe, for example, will differ depending on whether one follows the scientific view (evolution) or the religious view (creation). There are only truths within particular ways of knowing.

Given the position that there are only truths within particular ways of knowing, one is hard-pressed to find utility in scientific research. The utility, however, lies in an application of knowledge and research to the material conditions of the social phenomenon under investigation. The test involves the ability of different perspectives to accurately explain what appears to be reality. The relevance of certain theoretical positions to the actual conditions of the phenomenon under study can and must be weighed and evaluated. Some theoretical positions will have more explanatory power in the real world than others. While values are necessarily involved in the evaluation of different ways of knowing, a careful application to the real world provides some idea of the relevance of a particular view.

Paradigms

Within the scientific perspective, there are also divergent ways of interpreting a phenomenon. Most individuals order their thoughts and beliefs within a certain framework. Kuhn (1962) calls these frameworks paradigms. Paradigms supply a structure, a concep-
tual framework, for pursuing a line of inquiry. Ritzer (1975) has extended Kuhn's ideas to sociology and sees a paradigm as:

...a fundamental image of the subject matter within a science. It serves to define what should be studied, what questions should be asked, and what rules should be followed in interpreting the answers obtained. The paradigm is the broadest unit of consensus within a science and serves to differentiate one scientific community (or subcommunity) from another. It subsumes, defines, and interrelates the exemplars, theories, and methods and instruments that exist within it (1975, p. 7).

Kuhn sees paradigm replacement as necessary for the growth of knowledge. In his view, a paradigm endures until a number of anomalies become evident. As these anomalies become increasingly difficult to explain, a new paradigm emerges which can better explain the phenomenon under study. Kuhn uses as an illustrative example, the controversy between the geo-centric Ptolemaic view of the universe and the solar-centric Copernican view of the universe; as the Ptolemaic view became increasingly inadequate in explaining the movement of the planets, the Copernican model gained credibility. Kuhn uses this to point out that there may be in existence, at any one time, contradictory paradigms; most importantly, however, one's view of the world is shaped by the particular paradigm embraced by the individual.

A paradigm dispute occurs when alternate paradigms exist within a science at a particular time. If the fundamental image of the subject matter differs between competing paradigms, a number of tactics are used to support one paradigm at the expense of another. Szymanski and Goertzel (1979) note techniques for descrediting al-
ternate views. These include a belief that the alternate view is concerned with material which simply isn't problematic (thus, "supporters of another paradigm need not be taken seriously because they are naïve, unscientific, ignorant, ideological, or biased" Szymanski & Goertzel, 1979, p. 4), a reassignment of the work to another discipline (e.g., Marxists belong in economics), and reinterpretation of opposing views (e.g., Gove's "testing" of labeling theory).

The field of sociology is currently in the midst of such a paradigm dispute. The arguments are essentially based in the different philosophical positions of sociologists. The differing positions result from views of the world which disclose disparate realities. In sociology, there are two competing paradigms. (It must be noted that some theorists, such as Ritzer (1975), perceive multiple paradigms in sociology. The position taken here is congruent with Kuhn's notion that two paradigms are in conflict at any one time.) The two competing paradigms have been variously dubbed order versus conflict, consensus versus conflict, functionalist versus conflict, and conservative versus radical. The major differences between the two paradigms involve their basic assumptions of society.

The conservative view is based on a perception of society as ordered, enduring, and integrated. The main question concerning this perspective is the problem of social order—how is it maintained? A primary assumption of this view is that societies share certain consensually defined values which are at the heart of the
society and upon which most members of the society agree. Individuals who violate these core norms suffer from faulty socialization and require sanctioning so that the system is not overly disrupted. Within this view, the functionalist position is extremely important. Every element of the system has a function and contributes to the maintenance of the system. Societal order depends on the consensus of its members. (The paradigm provides the basic world-view. Within the conservative paradigm, there are many theoretical perspectives which may differ somewhat in explanations of reality. Merton, for example, was quite concerned with explaining "dysfunctions" within this paradigm and developed a theory of social disorganization to explain how system maintenance could be broken down. The important point, however, is that theorists within the conservative paradigm base their work on the assumptions of the paradigm.)

The radical or conflict view is based on the work of Marx which covers the spheres of history, economics, and political science as well as sociology. Thus, the radical view urges a holistic examination of other disciplines, times, and space as well as a focus on society as an entire system. (This is not to say that conservative sociology is necessarily nonholistic; to the contrary, some conservative sociologists such as Weber and Parsons emphasized a holistic orientation. Modern sociologists, however, tend to ignore holism and fragment their studies into smaller pieces.) The key distinction between the two approaches lies in their assumptions of how society is ordered. The basic assumptions
of the radical view are nicely summarized by Dahrendorf (1958); social change and social conflict are ubiquitous, every element in society contributes to change, and every society rests upon the constraint of some members by others. Rather than focusing on shared values and norms, this view places importance on the study of interest groups, differential power, and economic structure as exploitive mechanisms to constrain others. (As with the conservative paradigm, theorists within the radical paradigm may develop divergent perspectives which may lead to substantial variations among theories within the paradigm. The point again, however, is that radical theorists hold certain basic assumptions about the nature of society.)

**A Paradigm For Corporate Crime**

Examination of corporate crime can occur within both paradigms, but with different foci of study and different results. Within the conservative/consensus framework, criminal corporate activities are perceived as anomalies within a system of shared norms and values and are exceptions which should not occur too often. The study of such crime, in this view, would focus on such activities as deviant behavior. Such a view, based on natural order, might result in examination of breakdowns in social control, psychological maladies, etc. In treating such behavior as deviant, the real conditions of the phenomenon may be overlooked. Evidence suggests that corporate crime is not really exceptional in American society. In a recent study, Clinard and Yeager (1980), using a legalistic definition,
found that in the years 1975 and 1976, 60% of 582 corporations and 477 manufacturers were charged with violations of criminal, civil, and/or regulatory codes; of these, some 47% had multiple violations. These were only official actions and according to Clinard and Yeager (1980), "...are probably only the tip of the iceberg of total violations..." (p. 111). The scope of such activities is also limited by Clinard and Yeager's legalistic framework for ascertaining what type of activity is criminal.

The real conditions indicate that the relevance of the conservative view in explaining corporate crime is somewhat suspect. Certainly, the heavy incidence of corporate crime suggests that the conservative model is deficient in explaining and understanding the etiology of corporate crime.

The radical paradigm emphasizes the power of some over others and the ability of certain individuals and groups to implement their will over the will of others. Within the area of corporate crime, examination of these factors is crucially important. Large corporations have a significant impact on the lives of all members of society. They have become behemoths capable of influencing most institutions within society. To pretend that they represent "core values" and norms of societal members (ala Friedman, 1962 and Epstein, 1972) is naive; they, more than any other entity, significantly shape the political, economic, and social climate of society. The radical paradigm more closely fits the material conditions of corporate crime. Corporate crime, as prevalent as it appears to be, suggests the unequal power distribution in society.
Radical sociology, with its emphasis on the understanding of power relations more closely approximates the real conditions, existing in American society, which enable corporations to so easily commit crimes. The radical paradigm is the basic framework used in this endeavor. (Within a paradigm, many theories may be found. These separate theories are not at issue here. The organizing framework of thought is the radical paradigm. This suggests the direction of the research, the kinds of questions to be asked, the issues to explore, etc. Specific theories will be discussed later.)

**Consequences of Corporate Crime**

There are now on record a substantial number of case studies documenting the real and potential consequences of corporate crime. Vandivier (1972), for example, has documented the manipulation of data in the case of Goodrich brakes which could have led to deaths or injuries of test pilots when the faulty brakes failed. Gellert (1981) discussed the refusal of Eastern Airlines to replace and/or repair faulty autopilots which were responsible for at least one major airline crash. McCarthy (1972) has delineated the financial, physical, and emotional costs to one individual who purchased defective General Motor buses. Elliot (1981) pointed out the hazards of unsafe construction sites. The list could be continued at length, but the important issues revolve around the lack of public recognition of the consequences of corporate crime, the lack of concern about corporate crime, and the unique types of consequences connected with corporate crime. As Geis (1973) noted, in reference
to deterring corporate crime, "The first prerequisite for imposing heavier sanctions on corporate criminals involves the development of a deepening sense of moral outrage on the part of the public" (1978, p. 282).

Rossi, as early as 1907, was aware of the tolerance of the public to white-collar crime when he commented that the "criminaloid" (his term) had "not yet come under the effective ban of public opinion" (1907, p. 48). Such opinions continue to the present. Yet, data on public recognition of the consequences of corporate crime are relatively scarce. Rossi et al. (1974) studied a 1972 sample of Baltimore residents who had ranked the seriousness of 140 crimes. While there was not much approval for white-collar criminal offenses, such offenses ranked lower in seriousness than more traditional offenses (i.e., violent crime, crime against property, drug peddling, etc.). A 1980 replication of the Rossi study by Cullen, Link, and Polanski found that "...white-collar crime has increased in seriousness more than any other offense category, but that it is still viewed as less serious than most other forms of illegality" (1980, p. 1). They also point out a few particular areas where concern has become more apparent; these are violent offenses (e.g., acts which have the potential of physically harming persons such as manufacturing and selling harmful products, refusal to repair machinery of rental units, etc.) and corporate price-fixing. Schrager and Short (1980) note that public perception rates crimes with physical impacts as more serious than crimes with an economic impact, though the latter is most often the focus of study for
students of white-collar crime. Clinard and Yeager (1980) present findings by Wolfgang (1979) and the National Survey of Crime Severity (1978) which indicate that "(t)he public today regards white-collar and corporate crime as serious offenses—in fact as equal to, and even more serious than, many "ordinary" crimes such as burglary and robbery" (1980, p. 5). Until this recent study, however, concern with white-collar and corporate crime has been minimal.

According to Conklin (1977), a primary reason for past public tolerance of white-collar crime "...may be because the offenses themselves and their impact on society are difficult to comprehend" (1977, p. 17). Conklin cites the problems of diffused victimization (both over time and individuals), hidden costs, lack of direct confrontation, and difficulty in perceiving corporations as acting entities as being at least partially responsible for lack of recognition of the consequences of business crime. Clinard and Yeager (1980) argue that the public exhibits less fear of the long term effects of corporate crime; for example, one is less threatened by or fearful of perhaps dying from a debilitating pollution-caused disease than one is by encountering a mugger in a dark alley. Victims can also, according to Clinard and Yeager, be unaware of their own victimization (e.g., "puffery," monopoly-pricing, etc.). Finally, the authors note the relative absence of professional interest (by criminologists) in the study of corporate crime as perhaps perpetuating a lack of public recognition of the consequences of corporate crime. Schrager and Short (1980) concur and
It may be comforting to believe that we merely measure the existing state of opinion in society at large. In the case of white-collar crime it seems evident that we have failed to ask the proper questions that would delineate the dimensions on which seriousness is judged. The consequences of this error are compounded when we then proceed to infer lack of public concern about the phenomenon, and therefore transfer to the public responsibility for the lack of attention given these offenses (1980, p. 29).

While Schrager and Short urge the education of the public as to the harmful consequences of such crime, it should not be inferred that education is sufficient to stir "moral outrage." As Conklin noted, the lack of concern with corporate crime is a complex business.

The consequences of corporate crime are enormous and far more harmful in terms of economic and physical costs than are the consequences of traditional crime (Geis, 1974; Schrager and Short, 1978; Clinard and Yeager, 1980; Conklin, 1977). Clinard and Yeager (1980) point out that the largest single robbery in the United States involved $4 million stolen from the Lufthansa warehouse. This contrasts with oil company overcharges in 1979 which exceeded $1 billion and admitted Lockheed bribes of $30 to $38 million (Clinard and Yeager, 1980, p. 8). The physical costs of corporate crime also outweigh those of traditional crimes; environmental pollution, for example, costs many lives per year. Conklin (1977) estimates the costs of business crime to be $40 billion annually and contrasts that figure with the $3 to $4 billion estimated to be the combined costs of larceny, burglary, robbery, and auto theft. There are a number of types of consequences of corporate crime. These may be
described as economic impacts, physical impact, and social im-

pacts.

**Economic Impacts**

The economic impacts of corporate crime are difficult to ac-
curately ascertain (due to problems of examining large corporations, 
diffusion of victims, etc.). Indications of the severity of the 
economic exploitation, however, can be isolated. The New York 
Times ran a survey (1979) which indicated that violations of federal 
laws cost "billions of dollars" (Clinard and Yeager, 1980, p. 8). 
A subcommittee on antitrust (Philip Hart, chair) determined that 
federal law violations resulted in additional annual costs of $174 
to $231 billion to consumers (Clinard and Yeager, 1980, p. 8). The 
Department of Justice estimated such costs as between $10 and $20 
billion annually (Clinard and Yeager, 1980, p. 8). In addition, the 
IRS reports that unreported corporate income costs the government 
$1.2 billion annually (Clinard and Yeager, 1980, p. 8). Such es-
timates verify the observations of individuals who have long studied 
white-collar and corporate crime. Geis (1973) mentioned the "enor-
mous financial burden" (p. 281) of corporate crime. Sutherland (1949) 
stated that financial costs were paid by "...consumers, competitors, 
stockholders, and other investors, inventors, and employees,... 
the State, in the form of tax frauds and bribery of public officials" 
(p. 217). Green, Moore, and Wasserstein (1972) noted that "Mil-
ions of dollars are involved in antitrust crime, government kick-
backs, and securities frauds..." (p. 527).
Physical Impacts

The physical impacts of corporate crime are even more outstanding than the economic consequences. Over 100,000 deaths per year are attributed to occupationally related diseases, the majority of which are caused by the willful disregard of government health and safety laws (Schrager and Short, 1978). Elkins (1976) notes that the increasing harm caused through pollution and dangerous consumer products requires drastic steps on the part of the law. Physical harm may befall three groups: employees, consumers, and the general public (Schrager and Short, 1978).

Employees may suffer from unsafe working conditions which may not be readily recognized; "black lung," cancer, and liver ailments are some of the delayed consequences to employees. Agran (1979) has researched and documented industrial related cancers and states that the "...U.S. and international authorities have estimated that 80% of human cancers, perhaps even 90%, are environmentally induced... the vast majority...derive from direct and indirect exposure to industrial carcinogens" (p. 433). While Agran cannot establish a true cause and effect relationship, he cites evidence of exposure to carcinogens among employees of fiberglass plants, rubber plants, steel plants, asbestos manufacturers, uranium and other mineral mines, and the plastics industries, and relates such exposure to the increased incidence of cancers.

In addition to the physical impact of exposure to carcinogens, employees may also be subject to dangerous and/or unsafe working
conditions. Elliot (1981) documents the dangers to construction workers when OSHA rules and regulations are ignored. Mine safety rules are often ignored resulting in disasters such as the Scotia mine where 26 miners were killed (Caudill, 1980). Schrager and Short (1978) note that "...more than one-half of all work accidents are caused either by illegal safety violations (thirty percent) or by legal but unsafe conditions (twenty-four percent)" (p. 413).

Consumers also suffer the physical consequences of corporate crime. Consumers seldom have the expertise to decide if products are physically safe, and they generally rely on regulatory agencies to detect harmful products. Many industries acknowledge this; a spokesperson for the automobile industry comments that "...the automobile is a technically complex product, and most consumers do not have the time nor the inclination to become experts on its technical aspects" (White, 1977, p. 179). Regulatory agencies, however, may leave unsafe products on the shelf while determinations of safety are made—a process that may take some time. Certain birth control pills, for example, were kept on the market despite findings which showed potential harm to consumers and were not removed until more conclusive findings were reached. In Michigan, PBB contamination was not only concealed from the public, but contaminated animals were allowed to be sold while determination of levels of harmfulness were being made (Spitzer, 1977). The Ford Pinto was sold for eight years while the NHTSA attempted to certify its deficiencies (Dowie, 1977). MER/29 was kept on the market despite its serious and sometimes fatal side effects (Ungar, 1972).
Until fairly recently, and indeed to some extent today, the doctrine of caveat emptor prevailed, effectively making the consumer responsible for actions on the part of corporations. Magnuson and Carper (1968) document many cases of consumer fraud and conclude that "...the dishonest steal quietly off to count their loot, while the injured consumer is sacrificed..." (p. 43). They discuss the lack of legal recourse available to victims of fraud and argue that caveat emptor is often the order of the day. Braithwaite and Condon (1979) echo this concern and argue that consumers, the victims, are traditionally blamed for their own victimization. Typical examples include flammable nightmare for children where parents may be blamed for not watching the child and keeping him/her from a fire, when in fact the garment is "needlessly flammable." The "nut behind the wheel" ideology, prevalent in the auto industry, blames drivers rather than unsafe automobiles for auto mishaps. As Braithwaite and Condon conclude, "The ideology of individualism seeks to locate blame individually, even for injuries to persons that are the outcome of institutional arrangements..." (1979, p. 233). The dangers to consumers are twofold: firstly, consumer health and safety may be threatened by unsafe products, and secondly, consumers have the added burden of being blamed when their health and safety are affected by unsafe products.

The general public is also victimized by corporate crime. Environmental pollution affects almost everyone. Many environmental risks are unknown to and/or beyond the control of the general public. Oil spills, nuclear and chemical wastes are common phenom-
ena in contemporary times and have some effect on total populations. Threatening conditions are not often discerned by the general public, rendering it incapable of dealing with the condition. Nader (1970), for example, equates "smogging" with mugging and claims the problem has taken on the proportions of a "massive crime wave" (p. viii) and argues that "the efflux from motor vehicles, plants, and incinerators of sulphur oxides, hydrocarbons, carbon monoxide, oxides of nitrogen, particulates, and many more contaminants amounts to compulsory consumption of violence by most Americans..." (p. viii). Further examples abound. Jacobson (1980) notes that American food manufacturers have added to and/or changed the typical American diet so that serious health problems result. Greer (1980) documents the pollution of the Calumet river and its impact on surrounding environs. Acid precipitation has been shown to have caused the pollution of lakes in the Adirondacks so that fish can no longer live there ("Acid from the sky," 1980). All of these examples of environmental destruction are threatening to the general public.

**Social Impacts**

A more intangible aspect (in terms of measurement) of the consequences of corporate crime involves what Geis (1974) calls the "social costs" of such crime. These costs revolve primarily around the cynicism so prevalent in American society today. While such cynicism is not solely due to the power of corporations, there is some sense among the populace that the American economic system does not realize the ideals it purports to provide. Ramsey Clark (1970),
former attorney general of the United States, argues that white-collar crime breaks down faith in people, especially those who hold positions of trust. He argues that white-collar crime "questions our moral fiber" (p. 38). Nader, Green, and Seligman (1977) itemize a number of social consequences of white-collar crime. Included in the list are discrimination, "white-collar" blues, political power which ignores the wishes of individuals, invasion of privacy, deceptive information, irresponsible technology, and the concentration of wealth and income. Edelhertz (1978) argues that such crime "can have a serious influence on the social fabric and on the freedom of commercial and interpersonal transactions" (p. 49). Clinard and Yeager (1980) point out that corporate crime poses a serious threat not only to the "moral fabric" of society, but also to the survival of the American capitalist system. "When the rules of the game by which the free enterprise system operates, particularly the basic tenets of free and open competition, are disregarded, the entire system is endangered" (p. 11).

The consequences of corporate crime are indeed great and include not only economic costs, but also physical costs and social impacts. Detecting these consequences has not been easy and it is only in recent years that there is more public concern with these activities. The consequences far exceed the consequences of traditional crime. This is not to say that traditional "street" crime should be ignored; it too threatens the economic, physical, and social well-being of the American public, however, an examination of the consequences of "crime in the suites" demonstrates that
such crime is also serious and deserves closer scrutiny.

**Definitional Divergencies**

Defining corporate crime is currently an issue of controversy. While there is some agreement among contemporary sociologists as to the need for an examination of corporate crime, there is little, if any, consensus as to how this should be done. Almost all current texts or readers dealing with corporate crime preface their endeavors with an explanation of the problems of definition. Geis and Meier (1977), for example, devote the first chapter and parts of the final chapter of their book to the definition of white-collar crime and the controversial aspects of definition. Clinard and Yeager (1980) treat the definitional issue in the first chapter while Geis and Scotland (1980) spend some time in their introduction reviewing the "...inordinate amount of attention to problems of definition" (p. 11).

There is certainly some basis for the concern of scholars with the definitional issues. Definitions serve a number of purposes. In order to proceed with theoretical analysis of a phenomenon, Conceptually clear definitions are required. These help to delineate the parameters of a field so one knows what is being discussed. Unfortunately, definitions may also instill blinders as well as removing others. Jackall (1980) notes "By insisting on a strict definition of the field, the "legalists" claim not only to stake out a sharply focused field of inquiry but also to avoid the moralistic pitfalls which have beset the sociology of deviance. In
the process, however, they may have excluded some of the most interesting, if ambiguous, issues from examination" (p. 355).

Geis and Stotland (1980) concur with this view and attest that "...definitions also inevitably represent somewhat arbitrary conclusions superimposed upon individualistic "real" matters. In short, definitions both clarify and obfuscate, lighting up one segment of a situation at the expense of pushing another into the shadows" (p. 11).

The controversy over definitions is seen by Aubert (1977) as innately important in itself. Aubert argues that the ambivalence over definition is itself of sociological interest; through examination of such ambivalence, the process of "...important norm conflicts, clashing group interests, and maybe incipient social change ..." (p. 268) can be discerned. Thus Aubert believes examination of white-collar crime should begin with the ambivalent attitudes rather than by classification of "crimes" and "not crimes." A similar approach is taken by Carson (1980) in an attempt to skirt the definitional issue. The position taken by Aubert and Carson is an attempt to understand the features of corporate crime which make definition so difficult. Both Aubert and Carson urge an interactionist approach which seeks to understand the processes involved in defining certain activities as criminal. While their approach does not result in a definition of corporate crime, it does show the struggle within the area to realize a common definition of the phenomenon.
Historical Views

The field of white-collar crime has been plagued by definitional problems since its origin as a field of study. Ross (1907) identified the appropriate field when he noted that crimes, tolerated by the public, were committed by individuals who "occupy the cabin rather than the steerage of society" (p. 30). Ross dubbed such criminals as "criminaloids" and identified a number of their characteristics which facilitated their ability to commit white-collar crime.

Sutherland (1940) first identified a phenomenon which he called "white-collar crime" when he noted the inability of theories of crime causation to account for crimes by individuals in high status positions. Sutherland argued that people in high status positions committed crimes comparable in seriousness to traditional crimes, but that these people were differentially viewed and sanctioned because of their positions. "Because of their social status, they have a loud voice in determining what goes into statutes and how the criminal law as it affects themselves is implemented and administered" (Sutherland, 1940, p. 45). Sutherland stated that white-collar crime is "real criminality...violation of the criminal law" (p. 49). He, thus, implicitly defined white-collar crime in terms of law, and more specifically, the criminal law. Sutherland urged, however, that criminologists broaden the concept of crime from "conviction in the criminal courts" to include sanctions by administrative or regulatory agencies and "convictability" (when criminal
action occurs but the perpetrator is not convicted) as indicators of crime (1940, pp. 5-6). He also added a social component by saying that white-collar crime occurred in civil violation only when it resulted in some social injury. Sutherland's major contribution is seen to be the identification of the phenomenon, emphasis on the upperworld or "respectable classes" as perpetrators of crimes, and identifying linkages between occupational position and the criminal act.

In reaction to Sutherland, Tappan (1947) argued that only those activities legally proscribed can be considered crimes; that is, "antisocial behavior" is a phrase laden with subjective value judgment and is therefore unsuitable as an area of study. Tappan argues, furthermore, that the appropriate individuals for study are only those criminals who have been adjudicated (1947, p. 277), since they provide a sample of all criminals. Tappan's view is extremely conservative for by his definition and research guidelines, there are few, if any, criminals who may be considered white-collar criminals. The dearth of studies dealing with white-collar crime is thus natural, since there are so few adjudicated white-collar criminals.

Despite Tappan, Sutherland's notion of white-collar crime dominated the field (small as it was). Hartung (1950) further refined the definition by requiring that white-collar crime be limited to proscribed acts with sanctions, adding that sociologists "cannot properly be concerned in criminology with what should be criminal, but only with what is criminal" (p. 156). Lane (1953)
also supports the view that criminal and civil violations constituted the field of white-collar crime as did Quinney in an early work (1964).

A major problem in the field was pointed out by Newman (1958) who noted that the definition of white-collar crime could be broadened to include all occupational levels, not merely Sutherland's "respectable classes." Clinard and Quinney (1973) took heed of this suggestion and divided Sutherland's field into two types: occupational crime and corporate crime. Occupational crime was to include those crimes committed by individuals in the course of their occupations for their own self-interest, while corporate crime included those illegal activities committed by corporations or corporate officials intended to serve the interests of the corporation. This useful distinction tends to prevail today and its conceptualization contributed a great deal in separating individual acts from organizational acts (to be discussed in more detail later).

**Contemporary Views**

The current state of the definitional dilemma is best described by Jackall (1980) who says, "Perhaps the most fundamental dispute is the definitional one over what actually constitutes the purview of the field" (pp. 354-355). There are a number of basic issues involved in finding a solution to this quandary.

**Defining Criminology.** A basic issue involves the appropriate field of criminology; that is, is criminology more than mere legal-
ism? Sutherland never intended for the study of white-collar crime to be a separate and unique field of criminology; rather, he argued for an expanded scope of criminology. He used, as an example, the addition of the field of juvenile delinquency to criminology even though delinquency is quite often different than criminal violations. Similarly, in posing an arena of white-collar crime, he went outside of the strict criminal law to include civil violations. His intentions were "...an attempt to reform the theory of criminal behavior...." (1940, p. v) so that all types of criminal behavior could be explained.

His view has been shared by other sociologists. Burgess (1950) in response to Hartung's examination of wartime offenses in the meat industry, argues that there are and should be distinctions between legalistic and sociological positions. Burgess prefers to look at sociological differences between law violators and defines that as an appropriate field of study. Blumberg (1974) states that criminology is more than legalism; in his view, social and historical factors are also important in determining definitions of crime. Blumberg, further, sees a legalistic definition as overly simplistic; rather, he argues, the field of criminology must question and examine the process whereby social order is created, especially in terms of distribution of power. Such an examination will reveal the process of criminalization.

The discussion of what is appropriate for the field of criminology is evident within the area of corporate crime. Criminologists within this area of study have tended to divide themselves
into two basic frameworks: a legalistic framework and a social harm framework. The legalistic view relies on legal definitions of crime (this may include criminal and civil violations) as delineating the parameters of the field of corporate crime while the social harm view uses broader criteria (often idiosyncratic) to set the boundaries of the field. In addition to these two broad frameworks, a small group of writers have sought to redefine the field and thus sidestep the definitional issue. These will be more carefully examined below.

**Legalistic Views.** The legalistic view is based on the premise that crime is whatever the law defines it to be. Implicit in such a view is the notion that the state or government is value-neutral and the law is a means of achieving the good of the majority. The view hinges on value-consensus, with theorists arguing that the law, in some way, reflects the common good or collective sentiments of society. Again, implicit in this view, is the belief that there exists underlying or basic values of society—consensual values—which should be reflected in law. Such a position has been taken by many students of corporate crime. Sutherland, for example, restricted his definition to acts that were proscribed through criminal law, civil law, or administrative agencies. Hartung (1950) limits his definition to "...a violation of law regulating business..." (p. 154). Newman (1958) restricts the field to deviations from administrative and regulatory laws. Edelhertz (1970) restricts his definition to an "...illegal act or series of illegal acts..." (p.
Geis (1974) confines his definition to legally defined crimes, but also includes those acts committed by persons or groups with high status positions which are criminal in nature but subject to other administrative decisions. He omits acts deemed socially harmful (but not illegal) because of the "definitional quicksand" involved. Jackall (1980) also is concerned over expanding the definition of corporate crime, arguing that inclusion of social harm criteria are "morally problematic." He prefers the legalistic view since it avoids "moral pitfalls." Schrager and Short (1978) suggest a definition which has room for social harm criteria, but preface that definition by including only "illegal acts" (p. 411). In effect, they have added to the murkiness of the definitional problem by requiring that acts be both illegal and socially "have a serious physical or economic effect" (p. 412). Numerous other theorists have used and supported the legalistic view (e.g., Clinard, Quinney, and Conklin). A recent statement used by Clinard and Yeager (1980) in their comprehensive examination of corporate crime typifies current legalistic thought. "A corporate crime is any act committed by corporations that is punished by the state, regardless of whether it is punished under administrative, civil, or criminal law" (p. 16).

Social Harm Views. Within this position, the legal responsibility of individuals and groups is not necessarily synonymous with moral, ethical, or responsible behavior (See, for example, the
Schwendingers, 1970). The interrelationship between interest groups and the law-making process preclude value-consensus and tend to produce laws which are favorable to certain groups at the expense of others. This emphasis has only recently gained importance in criminology and the sociology of law. Some early criminologists (e.g., Bonger, Sutherland, & Tannenbaum) were troubled by the unquestioned acceptance of law as arbiter of behavior and raised issues which questioned the value-consensus approach. Honigman (1959), a contemporary sociologist, rediscovered the connection between "value-conflict and legislation." In his view, law as the determiner of conflicts runs the risk of not being value-neutral. "It is possible that the moral power of a legislature or legislator may be so great that the act of legislation converts a section of the population to new beliefs and in so doing removes support from a set of conflicting values" (1959, p. 36).

Chambliss (1971) argues that the state cannot be value-free, either in enforcement or creation of law. He finds the origin of laws not in some natural law or consensus, but in certain interest groups which are closely connected to the political and economic structure of society. "...(E)very detailed study of the emergence of legal norms has consistently shown the immense importance of interest-group activity, not "the public interest," as the critical variable in determining the content of legislation" (Chambliss & Seidman, 1971, p. 73).

Because of the belief that law does not always reflect social concerns, nor necessarily advance values important to all members of
society, radical theorists reject a legalistic definition of corporate crime. Clinard and Quinney (1973), for example, argue that law may be oppressive. Quinney (1975) also adds that law tends to preserve existing systems rather than reflecting the wishes of the public. He adds that law must be demystified. Platt (1975) adds that it is not feasible to "accept the fiction of neutral law" (p. 103). Goff and Reasons (1980), after presenting an empirical examination of Canadian combines (antitrust) laws, determined that the hegemony of ruling elites results in support of "the general interests of capitalism rather than necessarily the specific interests of particular capitalists" (p. 136). This often results in the state receiving great pressure to support business to the possible exclusion of the public. In their view, crime cannot be examined without looking at the social, political, and economic context in which it occurs.

While many theorists are content to criticize the existing system, some others attempt to broaden the concept of criminality to compensate for the biased legal order. The Schwendingers (1970) argue that corporate crime in capitalist societies is often rewarded and that reliance on legalistic views ignores a large group of activities which are socially harmful. They wish to supplant legalistic views with a human values or "natural rights" approach. They loosely define crime as a violation of politically-defined human rights. Included among these human rights are food, shelter, clothing, dignity, self-determination, and challenging work. While the Schwendingers recognize that their definition is cursory and
arbitrary, they add, "In this process of redefining crime, criminologists will redefine themselves, no longer to be the defenders of order but rather the guardians of human rights. In reconstructing their standards, they should make men, not institutions, the measure of all things" (p. 138). Platt (1975) also urges a human rights definition of crime and argues that "The State and legal apparatus, rather than directing our investigations, should be a central focus of investigation..." (p. 103). Turk (1977) summarizes the radical position by noting that "criminality is behavior that exploits vulnerable others, whether or not it is defined as crime in legal formulas or practice" (p. 216).

**Redefiners.** A number of theorists dodge the issue of legalistic versus social harm definitions by redefining the activities of large corporations and their agents. Sutton and Wild (1979), for example, wish to avoid the labeling of activities as criminal and "...content that social scientists should set aside these emotions and attempt an empathetic or intuitive understanding from within (verstebeo)..." (p. 314). In their view, study of the activities, without judgment, is the appropriate solution to definitional problems. Jackall (1980) argues that a legalistic definition, the proper field for the study of criminology, is inadequate for examination of corporate activities which occur within a larger moral context. He sees the appropriate field of study as being not criminology, but "the sociology of corporate and government scandal" (p. 355). Pepinsky (1974) urges a broader definition of white-
collar crime, arguing that Sutherland's definition is not adequately conceptualized and does not eliminate social bias. Pepinsky proposes to broaden the area to one of exploitation. In his view, exploitation is a process to "deprive others of the use of private property" (p. 230). Challenges to "an alleged use of private property" (p. 229) are as important as a focus of study as the actual act of deprivation. Pepinsky wishes to combine all kinds of acts for "conceptual unity;" thus, no new field is created but better explanation of human behavior may be derived.

Ermann and Lundman (1978) argue that the appropriate field is deviance. Their focus is on organizational acts which come to be defined as deviant; in fact, they emphasize that "organizational acts, however much they are abhorred by the authors of this book, our readers, or others, are not deviant until they are consensually defined as deviant by others" (pp. 17-18). While such a definition may raise some methodological issues (how many make a consensus? what others?), it effectively eliminates the legalism versus social harm issue.

**A Working Definition**

The problem of definition is not easily resolved and one is tempted to be content with Geis and Stotland's (1980) "intuitively satisfying understanding" of the subject. They argue, with some validity, that white-collar crime is a "broad term that encompasses a wide range of offenses, abuses, and crime whose outer boundaries are as yet ill-drawn and perhaps not precisely definable" (p.
The problem of setting parameters is somewhat minimized, however, when the scholar and/or researcher recognizes the inherent biases and the reification involved in setting definitions.

In keeping with a radical/Marxist framework, definitions based on legal views will not be sufficient to define the field of corporate crime. Legalistic views do not consider the power of corporations and/or a ruling elite in formulating and enforcing law. Such views are largely ahistorical and do not include in their parameters a study of the origin of law which is vital to an understanding of corporate power.

A working definition of corporate crime must be based on an understanding of the political economy of the United States and the resultant impact of that political economy on the legal system. Thus, a social harm criterion-based definition is seen as more viable for this research. Such a definition includes behaviors (detected or not) which violate the legal code (criminal, civil, or administrative), but expands the parameters to include actions which may not be illegal, but nevertheless contribute to the economic, physical, or social deprivation of individuals within society. Such a definition expands the scope of criminology as advocated by Blumberg (1974), to question and examine the process whereby order is created.

The working definition will also be confined to corporate crime; that is, activities by corporations or their agents or officials which are intended to serve corporate rather than individual aims. (Sometimes the two may overlap; the key determinant, however,
as to whether an action is corporate crime is dependent on whether or not the action was intended to serve the corporation's interest. In other words, individual white-collar crime may, under the right circumstances, also be corporate crime. Such intent may not be easily ascertained, nor indeed, conscious on the part of the individual. The distinction may be somewhat simplistic, yet it provides a criterion by which one can attempt to measure certain actions.) This is congruent with the Clinard and Quinney (1973) distinction between occupational and corporate crime.

A major problem in using a social harm definition is that "harm" is a value-laden term. The Schwendingers (1970) have sidestepped the issue by requiring that rights be politically determined (some sort of political consensus, one supposes). More importantly, the Schwendingers claim some rights are basic human rights and actions which violate such rights are criminal. While there may be arguments as to what constitutes human rights, a working definition should include activities which violate these human rights. Recognizing that agreement on the definition is not likely, but simultaneously recognizing that some parameters should be set, the following working definition of corporate crime is offered:

Corporate crime consists of actions by corporations or their agents or officials which are in the corporate interest and which destroy or threaten to destroy the basic liberties of individuals or groups within society, whether or not those actions are constrained by the legal system.

The basic liberties of individuals or groups must be carefully examined. A purely "natural rights" perspective allows the
inclusion of almost any corporate behavior as criminal; this obvi­ously broadens the definition too much. When speaking of basic liberties, the notion of degrees may help clarify the definition. Dworkin (1977) advocates the arrangement of rights into a hierarchy so that some rights are superordinate to others.

Any political theory...may arrange the collective goals, individual rights, and individual duties in such a way as to make one set of these fundamental and the others derivative. It will, for example, argue that citizens must have certain duties because these are necessary to protect the rights of others or to secure a collective goal, or it may argue that they must have certain rights, or pursue certain collective goals...(Dworkin, 1977, pp. 13-14).

Using a notion of hierarchy, the basic liberties of individuals or groups may be evaluated to determine the extent to which collective good is threatened. Antitrust legislation, for example, limits the basic liberty of profit making, but does so for the economic good of the larger society. In such a case, then, group liberties predomi­nate over the best interests of the corporation. Forced integra­tion, which threatens the basic liberties of some individuals en­hances the community as a whole (or is purported to) and is thus not a violation of basic liberties when considered from a group perspec­tive.

This is congruent with the Marxian perspective which also is concerned with the common good. Weichelt (1975) sums up the impor­tance of a hierarchy of "good:"

...the free unfolding of the personality does not take place at the expense and to the detriment of others, and where selfish motives
and corresponding measures cannot transform the freedom into non-freedom for others, but where each disposes of all possibilities for promoting his personal inclinations, talents, and abilities, thanks to the orientation on the common good (Weichelt, 1975, pp. 6-7).

Thus, the hierarchy of rights must be considered in determining what is crime.

Dworkin, furthermore, recognizes the changing nature of laws, arguing that concern over behaviors and laws "...will, of course, have a different content at different times, because it will be aroused when the actual law, or some proposed law, seems...unjust" (1977, p. 7). The nature of crime, then, is contingent on societal conditions, a hierarchy of liberties and rights, and the recognition of "unjust" acts. This poses limitations for the above definition of corporate crime.

Crime, from such a view, is not static; thus, neat categorizations of what is and what is not crime cannot be made. Each case must be considered on an individual basis and examined so that it may be ascertained to what extent basic liberties have been violated. It must be further determined to what degree of importance such violation is offensive to the "communal good." It is probably impossible to produce a definition which applies on a universal basis. Nevertheless, an individual examination of cases may define some large areas of violation. For example, few people would argue that, in the hierarchy of rights, pollution poses a dangerous threat to individuals which is justified by the rights of corporations to make profits. Such actions, then, fall within the scope of the
definition offered for corporate crime. Similarly, there is some logic to affirmative action, for though it may threaten the personal rights of an individual belonging to a predominant social group in society, it addresses the higher rights of other groups which occupy lower statuses in American society. Problems will occur within "grey" areas; that is, areas where it is difficult to ascertain a hierarchy of rights. This problem must be left, at least for the moment, unsolved. The dynamic nature of society implies that hierarchies of rights also shift and change. The working definition should not be taken as an indication of absolute determination of criminal or noncriminal behavior; it simply supplies a framework for this research and is considered more satisfying than Geis and Stotland's (1980) "intuitive satisfying understanding."

Organizational Aspects of Corporate Crime

The study of corporate crime has been largely confined to the study of individuals who commit such crimes. Sutherland (1940) in identifying the phenomenon of white-collar crime, examined seventy large corporations which had been administratively or legally sanctioned, and developed an explanatory theory of white-collar crime based on differential association; that is, white-collar crime is learned in interaction with other white-collar criminals. Although Sutherland recognized (and devoted a chapter in his book to) the many factors such as social disorganization, age of corporation, corporate position in the economic structure, etc. which could supplement individual explanations of white collar crime, he focused
on the individual level, arguing that the individual learns to commit crime and if conditions are favorable, commits such crime on an individual basis. Sutherland's (1940) theory has received limited support from Clinard (1946) in a study of violations of wartime regulations, Lane (1953) in a study of regulation violations in the shoe industry, and Geis (1967) in a study of the heavy electrical equipment price-fixing case.

Differential association focuses on the individual and the social-psychological processes of learning. Many sociologists argue that such an explanation cannot be adequately applied to corporate crime; rather, there is in the criminological literature an increasing emphasis on organizational explanations of such crime.

Quinney (1964) advocates the establishment of a typology to more accurately separate offenders and offenses. Leonard and Weber (1970) studied illegalities in car dealerships and cited the importance of market structure and the corporate organization's response to it, in commission of such crime. Schrager and Short (1978) have recognized the importance of the organizational aspects. They urge criminologists to see organizations as potentially criminogenic and call for an examination of organizational characteristics. Ermann and Lundman (1978) argue that an organizational level of analysis is needed to explain corporate deviance.

The notion of organizational crime or deviance is becoming increasingly important in this field. Coleman (1974) argues that corporations are made up of positions, not individuals who temporarily occupy those positions, and that the power of an organiza-
tion lies in its structure. Coleman (1974) sees organizations as *sui generis*. In his view, cases such as the heavy electrical equipment antitrust case are examples of corporate malfeasance rather than crimes on the part of individuals who are employed by the corporation. Coleman also points out the increasing recognition of this phenomenon by noting the emergence of "juristic persons" which are legal descriptions of organizations or other entities which may be culpable under the law. The importance of the concept of organizational, rather than individual, crime cannot be minimized and will be further discussed in the next chapter. Some implications of such a view are clear. Within such a framework, in criminal courts individuals within organizations will not necessarily be held solely responsible for the consequences of organizational activities. In terms of explanation, new theoretical views will be necessary as most contemporary theories of crime are concerned with the individual and his/her act. Theories must be developed which can explain how and why an organization can act in deviant ways. An organizational explanation does not preclude an individual explanation—indeed, individual behavior should not be dismissed in terms of its contribution to the explanation of corporate crime—but promises to enhance explanations made on the social-psychological level.

**Structural Aspects of Corporate Crime**

Organizations, such as corporations, must operate within the larger society; the structure of the larger society has a significant impact on the goals, values, and structure of the corpora-
tion. In understanding corporate crime, it is vitally important to ascertain the type and extent of influence of this external societal structure upon the nature of the organization. Modern, industrialized societies develop specific and unique economic and political systems which result in the development of certain types of organizations. An examination of these economic and political systems may help to determine the nature and extent of their influence on the corporation and its activities.

In the United States, the polity and the economy have combined to form a political economy where the polity is more responsive to business than to the public interest. Parenti (1974) sees a blurring of the public and private sectors and acknowledges that government is responsible for the economic state. The major reason for the existence of a political economy responsive to business is that the economic sector, represented by large corporations, has an advantage in promoting its own interests. This advantage is a common thread throughout all aspects of the American state system. Corporations are able to manipulate political decisions which give them economic advantages (e.g., witness the recent loans to the Chrysler Corporation). Additionally, they are able to manipulate the legal environment in their own interests.

Evidence shows many interlocks between the government and business (Freitag, 1975; Useem, 1977; Domhoff, 1967). Corporations are an important factor in the law-making process. In an examination of government policy-making, Freitag (1978) determined that the interests of large corporations consistently win out. Even when
laws are passed which are seemingly antithetical to the corporate power argument, the corporations have the ability to manipulate, if not the law, then enforcement of the law, to maintain their advantage. The Sherman antitrust law is a good example of a "manipulated" legal proscription. There is some argument as to the origins of the antitrust movement. Some theorists, such as Gunton (1888), argue that antitrust legislation was actually initiated by business in an effort to restrict industrial enterprise and competition, while others, such as Dudden (1957), argue that the law was initiated by "trust-busters" or anti-monopolists. Regardless of the source of the initial impetus, the law was passed. Business, however, had some influence in shaping the legislation and when it passed, the law emphasized conduct rather than structure (Barnett, 1980). This meant that monopolistic structures could exist as long as conduct of those structures was not monopolistic; the implications are staggering when one considers the possibilities of concealing behaviors and activities, the difficulty in finding individuals to press charges, and so on. Furthermore, no funds were allocated to enforce Sherman, no cases were filed until 1907, and six of the first seven cases were filed against labour rather than business. McCormick (1977) summarizes the Sherman antitrust law by calling it a "symbolic crusade" (ala Gusfeld) rather than meaningful legislation.

The United States economy is based on capitalistic principles which have led to the development of particular organizations with capitalistic goals. Capitalism requires profit and profit requires
ever-expanding markets and resources. Corporations, existing within the capitalist system, have as their primary activity the maximization of profit and growth. A result of unrestrained capitalism is the growth of a concentrated economy where monopolies or oligopolies dominate industries (Hunt & Sherman, 1975). The rules of "free enterprise" no longer apply in such an economy where markets are controlled by one or a few industries. The implication of a concentrated market is that the

...effects are complicated as well as profound. It is not just that the American economy has grown more slowly than it should in the recent past, but that it has grown in the wrong ways.... Measures that simply fuel corporate growth—without redefining the goals of that growth and changing the process through which it is achieved—will not solve problems that are inherent in the nature of our kind of economic growth itself (Skolnick & Currie, forthcoming).

The influence of the capitalistic structure must be examined for its contribution to organizational goals which help shape the activities of the organization.

In addition to the influence of the larger society upon corporations, the economic structure of that society will also determine the environment within which corporations operate. The United States economy is based on the "market" where individuals exchange goods and services. The particular market structure of an industry, the pattern of the exchange of goods and services, will help determine operating principles for corporations. In the United States, the market structure for many industries is concentrated. In the auto industry, for example, the two largest automakers, Ford and
General Motors, had annual sales of 43 and 63 billions of dollars (Fortune 1979 directory) which placed them among the fifty largest economic concerns (countries or corporations) in the world and well ahead of many countries. In 1936, one-half of all manufacturing was controlled by one percent of American corporations; that same one percent, by the late 1970s, controlled two-thirds of all manufacturing (Skolnick & Currie, forthcoming, pp. 6-7). In the auto industry, a concentrated market means that "...well over nine out of ten motor vehicles in America are made by 4 companies, as are three-fourths of the tires and three-fourths of the petroleum products that make them run" (Skolnick & Currie, forthcoming, p. 10). The implication of a concentrated market structure is that the market forces intended to provide a free choice for consumers as well as incentive for improving products and reducing product costs, are no longer operative. This results in great freedom for the large corporation to force its products and prices on the populace with little or no control through competition from other corporations within that industry. It is not unreasonable to assume, then, that the shape of the market structure may contribute to certain types of behavior on the part of organizations.

In sum, the etiology of corporate crime unites a number of factors at different levels. These factors will be more carefully discussed in the next chapter. The factors occur at two levels of analysis. At the structural level, factors such as capitalism, the political economy, the legal environment, and the market structure of an industry are important features of the total environment
within which corporations operate. At the organizational level, corporate goals, the hierarchy of goals, and normative environments guide the activities of a corporation's employees. These structural and organizational levels of analysis are the foci of this research.

**Summary of Intent**

The effects of the structural and organizational factors delineated above upon the etiology of corporate crime will be examined by looking at a case study of the Ford Pinto. The Ford Pinto criminal trial provided a rich source of data concerning the organizational decision-making process. In addition, the structural environment within which Ford operated, can be determined through a variety of resources such as automotive journals, government records, etc. The manufacturing of an unsafe automobile falls within the definition of corporate crime set forth earlier in this chapter.

While it is difficult to pose hypotheses at this point, some general research questions relating the factors discussed earlier to the specific criminal action of Ford can be suggested:

1. What aspects of capitalism were influential in the ability of Ford to commit this crime? Specifically, what influence did the capitalist characteristic of the "maximization of profit" have on Ford's action?

2. Did the prevailing political economy influence the ability of Ford to take this action? Specifically, were political actions (e.g., lobbying) used to promote Ford's interests over the interests of others?
3. What was the legal environment within which Ford existed? Did Ford attempt to manipulate that environment?

4. What was the state of the market structure of the automobile industry at the time of Ford's action? Was the market concentrated or threatened? Did the market structure influence Ford's activities?

5. What features of Ford's internal organizational structure may have been influenced by the structural forces? How did Ford's internal structure support such actions? What key elements of Ford's organization helped contribute to a "normative environment" in which criminal activities could occur?

These will be the primary issues addressed in this research. Hopefully, examination of these issues and questions will provide some preliminary understanding of the factors crucial to the development of a theoretical explanation of the etiology of corporate crime.
CHAPTER II

The Theory

Organizations must exist within the larger society. In order to understand the etiology of corporate crime, the nature of the organizational environment must be examined. An understanding of the macro factors leading to the development of organizations within the United States will provide this structural framework. Through such examination, factors related to organizational crime may be isolated.

Capitalism

Capitalism is a system wherein one class owns the "means of production," such as factories, tools, machinery, and the capital to purchase raw materials, and another class, the workers, who sell their labor. The workers do not belong to the owners of the means of production, but are dependent on them in the sense that the owners must purchase their labor so that the workers might acquire the basic necessities of life since they "own nothing productive but their labor power" (Sherman and Wood, 1979, p. 361).

Capitalism developed out of European feudalism. While there is some dispute as to the reasons for the development of capitalism (Weber, for example, cited Protestantism as well as social institutions as responsible for the development of capitalism), common threads in the literature revolve around colonial expansionism, the
growth of a craftsmen class, and the growth of technology (See Sherman & Wood, 1979 and Szymanski & Goertzel, 1979). As the feudal population grew and demands for export products (such as wool) increased, more and more "free labourers" came to the cities. The craftsmen within the cities hired some of these laborers and found they could increase their production, and subsequently, their profits. Within a short time, the advantages of centralized production were realized and small-scale production was recognized as wasteful and inefficient. Capitalists, who evolved from state or monarch sponsored artisans, soon entered into competition with one another. Competition led to technical innovations in an attempt to make products superior and/or more profitable. A shortage of human labor (because many peasants were still on the land) motivated even more innovation and new energy sources, such as water power, were discovered. The innovations, in turn, led to more concentration of capital. The cycle continued and led to and fed the industrial revolution.

Competitive capitalism has an inherent contradiction. As Syzmanski and Goertzel (1979) note:

The inherent logic of competitive capitalism meant that the least efficient producers were constantly being forced out of business by the more efficient, the size of enterprises increasing in the process. The size of businesses increased, both because the more efficient were buying up the least efficient and because as technology developed, a larger and larger minimum investment was necessary. The result of this process was the undermining of the competitive basis of early capitalist productive relations and their succession in the latter part of the nineteenth century by monopoly relations (p. 85).
In short, the competition required for technological innovation and growth, by the late nineteenth century vanished almost completely as business entry requirements became prohibitive. Monopolies, rather than competitive industries, were the norm and an attitude of "laissez faire" prevailed.

Within the United States, a number of different trends preceded the development of the modern corporation. According to Hurst (1970, 1977) three major stages of corporate development can be identified prior to the late nineteenth century. During the first half of the century, there existed a distrust of granting groups powers beyond that of individuals. As a result, "formal public policy jealously guarded the grant of corporate status for doing business" (Hurst, 1977, p. 239). Special charters were necessary during this time when a deep-seated belief in the self-regulation of the market was predominant. From about 1840 to 1970, "special charters" became commonplace and were generally not much more than permission to do business, and corporate entities came to be seen as "simply a handy, utilitarian instrument for doing business, which the community welcomes" (Hurst, 1977, p. 240). The third stage, which developed in the last quarter of the century, recognized the utility of the corporation, but also recognized that some restrictions and regulations were necessary so that a free market could exist.

During this time, there were some government attempts to regulate the economy (such as Sherman antitrust in the late 1800s), but the state's role was largely relegated to the preservation of
property rights and law and order and to control over unions and workers. A common view was that the laws of the market controlled the economy and that the state should not overly interfere in this process.

By the end of the nineteenth century, states, led by New Jersey and Delaware, were openly welcoming corporations into their borders. As Hurst (1977) notes, "Moved by desire for the revenue from chartering fees, New Jersey and Delaware set off a competition among states to offer charter terms more and more favorable to corporate entrepreneurs at the expense of protection of investors and the general public" (1977, p. 241). The regulatory provisions were largely dropped. The results were impressive; Means (1972) shows mergers in manufacturing and mining increased from less than fifty in 1896 to 1200 in 1899. Despite Sherman Antitrust and other regulatory measures, a prevalent belief, reflected in corporate law, was that corporate power should be regulated in the interests of the corporate managers rather than the public interest (Hurst, 1977).

The depression of the 1930s caused another stage in the development of the capitalistic economic system. The depression showed that the "invisible hand" of the market and the interests of corporate managers were fallacious as methods of regulating the economy. In reaction, the state took a more explicitly active role in controlling the economy. Under the "New Deal," the power of big business could ostensibly be controlled by the state which supposedly reflected the wishes of the public (See Lazarus, 1973). Unfor-
tunately, however, as economic stability and predictability became the operative goals of the state, big business also benefitted. Some authors additionally argue that regulatory reforms of the New Deal era were the result not of public pressure, but industry pressure. Lazarus (1973), for example, states that industry "wanted to stabilize competitive and/or technologically volatile markets, and in this hope they have not been disappointed" (1973, p. 217). Regardless, the controlled economy works largely to the benefit of the capitalist class. State involvement during the New Deal meant that interest rates could be regulated, prices and wages could be regulated, the state took over unprofitable sectors, and trade unions were somewhat controlled (Szymanski & Goertzel, 1979).

The type of corporation which is prevalent in American society today has been greatly influenced by historical trends. These trends have led to the development of a goal-oriented type of corporation with specific goals of profit-maximization which shape the activities of the corporation. Furthermore, the corporation operates within a political and legal environment which encourages the attainment of those corporate goals and activities. The type of corporate capitalism which has resulted requires an examination of many pertinent factors. Among these are two principles of capitalism: private ownership and the profit motive.

**Capitalism and Private Ownership**

Capitalistic societies are characterized by private ownership of property. Justifications and rationalizations of such private
ownership have been abundant throughout history. The Lockean view justified private ownership by stating that "...private property is based upon, and derives its sanction from, the labor of the owner" (Sweezy, 1949, p. 197). Locke argued that as property was based in labor, it became a "natural right" which must be protected by the state.

Another view of private property was offered by Burke, who argued that "prescription—a legal term which is roughly synonymous with traditional occupancy or possession—is the only safe title to anything; it embodies the experience of the ages and has the great advantage of stability, which comes with custom and habit" (Sweezy, 1949, p. 200). Such a view, embedded in traditional and legal prescription, looked to the state to defend such titles.

Another argument advanced in support of private ownership continues to be important today. "According to this theory, private property is a convention which men obey, and ought to obey, because it is in their best interests to do so" (Sweezy, 1949, p. 198). Much of this view is based on an emphasis on individuality and a particular view of the nature of man. Scholars of the time (e.g., Hume and later Bentham) viewed human nature as selfish; individuals were motivated by pleasure and repulsed by pain. Private owners (and other elites) were motivated by their self-interests and developed ambitions, which if allowed to see fruition, would lead to personal economic growth. This view was at least part of the basis of utilitarian theory.
The implications of private ownership are significant for the development of corporate capitalism. Rights, be they "natural," historical, or based on individual ambition, imply a need for enforcement of those rights. The role of the state in defining and enforcing those rights becomes crucial.

In capitalistic societies, the state is seen as having certain obligations in terms of enforcing private ownership rights. Adam Smith (1937) argued that protection of rights of ownership could only be beneficial to society:

...he intends only his own gain, and he is in this, as in many other cases, led by an invisible hand to promote an end which was no part of his intention. Nor is it always the worst for society that it was not a part of it. By pursuing his own interest he frequently promotes that of society more effectively than when he really intends to promote it (Smith, 1937, p. 423).

The duty of the state, according to Smith, in terms of its obligations to the economy consisted of supporting and undertaking huge, expensive public institutions which would not be profitable if financed by individuals in the private sector. The state, rather than ignoring these public needs, was to take over where private enterprise would not become involved (such as the areas of communication, highway transportation, etc.). Interpretation of Smith's notion of government's role (and there is some controversy as to his intent) has resulted in public institutions (e.g., currency, communication systems, etc.) which aid in the accumulation of private property. The philosophy of laissez faire capitalism, while expounding the virtues of a free market, hands-off economy, actually
supported the capitalists' interests.

As the state continued to support the rights and interests of capitalism, the economy of this society became increasingly politicized. Best and Connolly (1976) argue that all aspects of the economy, including production, work, exchange, and consumption, have become politicized. Many social theorists (e.g., C. Wright Mills, Alvin Gouldner, and William Chambliss) agree that the economy is greatly politicized and does not operate as a free market; rather, the economic sector receives much support from the political sector. (This will be more closely examined later.)

The politicized economy results in state enforcement, as well as state support, of capitalistic interests. As Lefcourt (1971, p. 2) states, "...priorities of law enforcement and in the criminal court (show) criminal courts protect existing economic, political, and social relations." Recent examinations of the interlocks between the economic and political sectors illustrate the state's inability to be an impartial arbiter of public or individual interests. (See, for example, Domhof, 1967 & 1978; Freitag, 1975; Useem, 1977.)

**Capitalism and the Profit Motive**

An inherent element of capitalism is the profit motive. The basis of the capitalistic system is to maximize one's profits. The effects of this are enormous. Hunt and Sherman (1978) claim the profit motive to be the predominant impetus behind the industrial revolution. "Thus profit seeking was the motive that, stimulated by increasing foreign demand, accounted for the virtual explosion
of the technological innovations that occurred in the late 18th and early 19th centuries..." (Hunt & Sherman, 1978, p. 33). (Their view neglects to take notice of the scientific revolution in the sixteenth and seventeenth centuries which also contributed substantially to the industrial revolution.)

While the origins of the profit motive remain a matter of dispute, the strength of the profit motive in business is seldom questioned. As Sweezy (1949) so aptly put it:

We must be clear on one point: the making of profits remains the objective of the corporation as such. Within the economic and legal framework of capitalism there is no other possible goal for a business unit to pursue, whatever its form may be. In order to convince ourselves that this is the case, it is necessary only to reflect that if the officials of a corporation were to deliberately set out to pursue some other objective—say, the maximum welfare of the community in which its factories happened to be located—a shareholder would be able to go into court and set an injunction restraining them from following this course on the ground that they were failing in their legal obligation to manage his property with reasonable diligence and prudence. In other words, the law imposes on corporate officials a positive obligation to make profits... (Sweezy, 1949, pp. 209-210).

Similarly, Jacques Maisonrouge has stated:

A corporation is a business structure whose sole reason for existence is the earning of profits by manufacturing products for as little as possible and selling them for as much as possible (Quoted in Barnet and Mueller, 1974, p. 24).

Max Weber (1958) also succinctly stated that the primary goal of capitalism was "for the pursuit of profit and ever renewed profit" (Weber, 1958, p. 59).
The implications of the profit motive are significant within many spheres. An extremely important implication is the effect of the profit motive on organizational goals. Organizations, within a capitalist system, can have a variety of goals. Etzioni (1961) has distinguished a hierarchy of goals: utilitarian goals are associated with production and profit, order and control goals are associated with state bureaucracies of social control, and cultural goals are associated with education, religion, and socialization. The utilitarian goals are the goals which are important in understanding how the possibility of corporate crime may arise.

Utilitarian goals emphasize, within the larger society, production and profit. To the extent that such goals are dominant they may override other goals. Although organizations exist within a social context—a context which has sets of values and societal goals—the emphasis on utilitarian goals of production and profit may supersede societal goals. For example, the American legal system, which is ideally based on the predominant societal values, requires that business organizations and corporations refrain from monopolistic practices. A corporation, though operating within this social milieu, may consider its utilitarian goal of profit making to be its first and highest priority. When this situation occurs, the probability of corporate crime, to attain that goal, may increase. Gross (1979), for example, sees the utilitarian goal of profit making as being crucially important in the understanding of corporate crime. He states, "...when private organizations have trouble reaching their profit goals, they engage in il-
legal acts to try to do so" (Gross, 1979, p. 200).

**Corporate Capitalism**

The ability to commit corporate crime can be enhanced by a system of corporate capitalism. (This is not to say that corporate crime cannot exist in other types of economic systems; rather, corporate capitalism provides a milieu in which opportunities for corporate crime are prevalent.) A number of events, based on private ownership and the profit motive, have occurred within American society and have led to the development of corporate capitalism.

The spirit of capitalism requires a free market. In such a market, individual capitalists and small businesses compete with each other for a share of the market. Under such conditions, the "invisible hand" of the market, through supply and demand, will result in high quality goods at the most reasonable prices. Competition will enable consumers to select from a number of sources of merchandise, and those producers who are most efficient in production will have lower costs, resulting in a higher volume of business. With the possible exception of capitalism in the early stages of the industrial revolution, such a practice of capitalism has seldom if ever existed.

Through the process of modernization, a number of trends have appeared. The great depression of the thirties pointed out the relationship of the economic sector to the rest of social life. This was an inevitable outcome of the industrial revolution and capitalism. As technology became increasingly developed, speciali-
zation of tasks became increasingly more common. This led to a high degree of interdependence between members of society who had to rely on others for their basic needs of survival. As this interdependence became institutionalized, the social power of particular groups, especially those controlling the production of needed goods, increased. During the depression of the thirties, this power was aptly demonstrated when huge factories lay idle.

A realization of the interdependence of societal institutions and the amount of power wielded by business entrepreneurs led the government to intervene. Regulation of industries, government subsidies, and other government interference in the economic order resulted in a final death blow to the free market system. This, coupled with an increasingly sophisticated and costly technology, led eventually to the consolidation of power of the giant corporations which exist in our society today.

The rapid technological growth so prevalent in the last two centuries has resulted in less, rather than more, competition. The costs of research and development are prohibitive for small industries, indeed, even large industries depend on state support (through the public sectors of the military, communications, federal grants, etc.) to subsidize their research and development. Small business enterprises have difficulty surviving in such an economic and technological environment and the result has been, in many industries, a market controlled by oligopolies; that is, a few large corporations dominate their markets. (See Galbraith, 1967, for a detailed explanation of the influence of technology upon the de-
The implications of corporate capitalism are enormous. The interdependence of societal institutions continues within such a system. In an oligopolized market, the power of the corporations has been magnified, so much so that John Powers, a corporate executive for Pfizer's, has stated that the multinational corporations are "agents of change, socially, economically, and culturally" (Quoted in Barnet and Mueller, 1974, p. 31). The power of corporations, then, extends beyond the economic sphere; it delves into the social, cultural, and, most importantly, the political aspects of human life. There no longer exists a sharp demarcation between the public and private sectors. The implication is that the "private" sector has all the rewards and advantages of being private, but none of the responsibilities of being private; that is, the state is to look out for preservation of the sphere within which private corporations operate and corporations are not necessarily accountable for their actions (such as pollution, shoddy products, etc.). The motive for the existence of the private corporation is profit making, while the public sector must be concerned with the public good. This ideal separation, which does not exist in reality, fosters an emphasis on utilitarian goals of profit making to the exclusion of goals of public interest. As a result, corporations can and have engaged in behavior which may be socially disruptive. As Barnet and Mueller conclude:

The underlying reason for the socially disruptive effects of global corporations is that they still are treated as private organizations.
despite their increasingly public role. Public authorities are incapable of dealing with them because our laws are still based on the old myths of nineteenth century free-market capitalism in which private entrepreneurs take private risks for private rewards...The free market is largely a historical relic... (Barnet and Mueller, 1974, p. 374).

Political Economy

The influence of the overlapping of private and public sectors has implications for the etiology of corporate crime. Ross, as early as 1907, was concerned with the criminal actions of higher class members of society—those who "occupy the cabin rather than the steerage of society"—who had the power to shape law and definitions of behavior to their own interests. By the late 1930s, Sutherland had presented his notion of a broader criminology which included an examination of white-collar crime and recognized the influence of certain groups of people on the law-making process. In the 1970s, a revived interest in the origin of law led many criminologists (e.g., Quinney, Chambliss, Shover) to examine the relationship between law and powerful groups within society. Working within the conflict paradigm, such theorists view the legal system as reflecting the will of certain, elite groups who attempt to maximize their own interests. In the area of corporate crime, examinations of the interrelationship of elites and the legal system have been made by Beirne (1979), Shover (1979), Snider (1979), and Goff and Reasons (1978).

A primary dispute permeating the field of corporate crime
revolves around its definition (See Chapter One). Crucial to this definitional controversy is a recognition by some theorists that legalistic views are biased since the legal system is not based on consensus but rather on the differential power of certain groups. Many theorists of this viewpoint argue that political influence is closely tied to economic influence. Theorists within the conservative paradigm argue that political and economic sectors may overlap, but are distinct. Milton Friedman (1962) is one of the most vocal spokespersons for the conservative position. He argues that the economy and the polity are separate and distinct even though they may occasionally affect each other. The business of business is profits, according to Friedman, and economic freedom will result in political freedom. In this view, the role of government is to protect the public interest by protecting economic freedom and political freedom. This view of the role of government is echoed by many. The polity, according to Parenti (1980) is to protect the public interest and insure that the private sector does not wield undue power. Ermann and Lundman (1978) state that government agencies are intended to serve the public. Clinard and Yeager (1980) echo the theme by stating that the public gives the government license to represent the public and, furthermore, the public believes in the need for government to tend to public interests.

The reality of the role of government, however, is considerably different. The polity and the economy are not separate. Parenti (1980) spends an entire volume examining the relationship between the polity and the economy and concludes that "the bulk of public
policy is concerned with economic matters" (1980, p. 4). Parenti argues that the separation of public and private interests is artificial and adds:

Politics and economics are but two sides of the same coin. Economics is concerned with the allocation of scarce resources for competing ends, involving conflicts between social classes, and among groups and individuals within classes. Much of politics is a carry-over of this same struggle. Both politics and economics deal with questions affecting the material survival, prosperity, and well-being of millions of people...

(1980, p. 4).

Best and Connolly (1976) argue that the United States economy is increasingly politicized though the populace may be unaware of it. They point out the power element involved and state, "Underlying market transactions in the American economy are power relations that subordinate the worker to the owner, the consumer to the producer, the small producer to the large corporation and the community interests to private interests" (1976, p. xi).

Epstein (1966) notes that the interdependence of public and private institutions is permanent. Arguing that this mixed or political economy became overt after World War II, Epstein identifies a number of developments "relevant to an understanding of the changes in recent patterns of corporate political involvement" (p. 38). Among these are official government roles in maintaining economic stability (e.g., Employment Act of 1946), an increase in military and foreign aid expenditures causing an increase in federal economic activity, enormous costs of technological developments which have resulted in collaboration between government and busi-
ness, and public pressure on the government to "do something" about social problems. Because of the resultant political economy, corporations are able to effectively act in the political arena. The desire of corporations to deal with public authority in a way favorable to corporate interests is inevitable. As Epstein notes, "No other single factor has functioned more effectively to necessitate and to legitimate corporate political involvement..." (1966, p. 61).

Sutton and Wild (1980) argue that pluralism simply doesn't work. Pluralism is only effective if all sectors of society have access and ability to influence law-making. Equating the influence and power of giant multinational corporations such as General Motors, Standard Oil, or International Telephone and Telegraph with the influence of the general public is synonymous with claiming equal power for both parties when "elephants dance among the chickens."

**Interlocks**

Examinations of interlocks between the polity and the economic sector have occupied at least a portion of American sociologists since C. Wright Mills advanced his theory of a power elite. Clinard and Yeager (1980) have examined the interlocks in the oil industry. Freitag (1975) studied United States cabinet members and secretaries who held office from 1897 to 1973. Utilizing a number of resources, Freitag established that a high percentage of interlocks existed between cabinet members and business (76.1%). He further broke
down the data to party differences, cabinet posts, direction of interlocks, and interchange between elites and concluded that his study provided support for the elitist position which is based on the view that only a small number of people control the power within American society. Useem (1977) also addressed the problem of concentrated power by looking at the interlocks between the business elite and nonbusiness institutions (government, research organizations, philanthropic organizations, etc.). He concluded that there is a structure in U.S. society by which an elite class can become disproportionately involved in governance. He further verified the higher extent of interlocks between government and business. Jensen (1972) termed the connection between business and government one of "musical chairs" whereby top government officials and corporate directors exchange positions of power. Some pertinent examples include Clarence D. Palmby who moved from a position as assistant secretary of agriculture to vice-president of the Continental Grain Company. While in government, Palmby visited Russia; after joining Continental, a $1 billion grain deal between Russia and Continental was consumated. Katzenbach, former head of the Justice Department, now oversees the defense of IBM in an antitrust suit which was initiated when he was head of the Justice Department. James Needham, Commissioner of the Securities and Exchange Commission under Nixon, is now chairman of the New York Stock Exchange.

In spite of some arguments against interlocks, the evidence shows that large corporations and their agents are intricately involved in politics and the formation of laws. Epstein argues that
this is an accommodative process with laws and regulations influenced by large corporations. Shover (1979), in an attempt to explain the apparent contradiction of corporate influence and the regulatory process, notes that corporations may initially oppose regulations, but eventually realize that some regulation is inevitable and change tactics so as to shape legislation to their own benefit. Shover examines coal mining regulations which exhibited such a process. His findings are echoed by Graham in a study of amphetamine regulation.

The State

Some may argue that the regulation process is somewhat antithetical to the ruling elite position which holds the view that laws are shaped by the economic elite to legitimate the established structure. An understanding of the relationship requires an examination of the state. The state and its origin, role, and nature, has long been of interest to social philosophers. Perceptions of the state are fundamentally twofold: the conservative view, in which the state is perceived as the governing mechanism representing, for the most part, the consensual views of societal members; and the Marxian view, in which the state is seen as a coercive system which expresses the economic substructure of society. For both positions, the state may be conceptualized as an institution concerned with governing, policing, judiciary functions, and administrative service within society. The major disagreement arises in regard to the origin of the state, and by implication, the role of the state.
The Marxian view, arising largely in reaction to Hegel's perception that the state is "logically prior to the individual" (Giddens, 1971, p. 5), is based on the idea that the state develops out of the antagonistic nature of the relations of production and constrains individuals within society rather than representing communal interests.

And out of this very contradiction between the interest of the individual and that of the community, and at the same time as an illusory communal life, always based, however, on the real ties existing in every family and tribal configuration—such as flesh and blood, language, division of labour on a large scale and other interests—and especially, as we shall enlarge upon later, on the classes, already determined by the division of labour, which in every mass of men separate out, and of which one dominates all the others, it follows that all struggles within the State...are merely the illusory forms in which real struggles of the different classes are fought out among one another (Marx, 1972, pp. 53-54).

For Marx, the state was not representative of the citizens of society until "the various disabilities of civil life which affect[ed] [the citizen] politically [were] removed" (Arthur, 1972, p. 11). The bourgeois state, which expresses the economic structure of capitalist society, according to Marx, sanctions the interests of the prevailing economic class. "The bourgeois state is nothing but a mutual insurance pact of the bourgeois class both against its members taken individually and against the exploited class" (Marx, quoted in McMurty, 1978, p. 105).

Marx points out, however, that such an analysis should not be construed to imply that the state always overtly and simply carries
out the wishes of any particular capitalist interests. Marx argues that the state must be concerned with the collective interests of the economic elite. "Just because individuals seek only their particular interest, which for them does not coincide with their communal interest, the latter will be imposed on them as an interest 'alien' to them, and 'independent' of them, as in turn, a particular, peculiar 'general' interest; or they themselves must remain within this discord..." (Marx, 1972, p. 54).

Marx planned to write a more thorough exposition of the role of the state, but his work remained incomplete. Some contemporary Marxists have attempted to clarify the nature of the state. Miliband (1969), for example, addresses the role of the state "in light of the concrete socioeconomic and political and cultural reality of actual capitalist countries" (p. 6). Miliband acknowledges the presence of an economic dominant class, but notes that the important issue is whether or not this class is a ruling class with the ability to shape aspects of society in its own interest. "This question is a different one altogether, namely whether this dominant class also exercises a much greater degree of power and influence than any other class; whether it exercises a decisive degree of political power; whether the ownership and control of crucially important areas of economic life also insures its control of the means of political decision-making in the particular political environment of advanced capitalism" (Miliband, 1969, p. 58). Miliband argues that the state system, composed of the government, the administration, including public corporations, banks, and regulatory agencies, military and
police, the judicial system, subcentral government, and parliamentary assemblies, has a fundamental commitment to capitalism and this commitment limits actions. Government intervention in business affairs, for example, is geared to the purpose of helping the capitalist enterprise, and business can generally rely on the good will of government. Such support, however, is not always explicit or blatant. To the contrary, government and state servants are usually viewed as neutral, however, as Miliband notes, the prevailing conservative ideology in capitalist societies permeates all levels of the government and the rest of the state system. This is not to say that homogeneity is the rule; rather, arguments and apparent conservative thought. Exceptions and divergent interest groups do exist, but their power is largely dependent on the good graces of the state; at times, the state will placate such groups by granting their wishes. The important point is that, in the long run, the capitalist interests are upheld by the state.

Freitag (1978) notes that simple identification of the state and members of the ruling class does not satisfactorily support the ruling elite position. The Marxist alternative to power elite and pluralist theory focuses on relationships between classes. "The determination of the existence of a ruling class is not proven by demonstrating the presence of individuals who are members of an upper social class or business elite in positions of political authority...Rather, the proof lies in an examination of the processes of policy formation and those issues which are excluded from this process. It is not to be confined to the study of observable out-
comes...the primary interest of the ruling class is the preservation of the capitalist system..." (1979, p. 14). The answer as to whether a ruling class exists depends on attempts to promote a certain class' interests.

Freitag urges an examination of policy formation processes to ascertain the existence and influence of a ruling class. In this way, all influences on policy making (private sector, working class, government, other organizations) must be explored so that changes in policy can be determined. Such changes must then be examined in terms of whether or not broader social change occurred as a result of the change in policy.

Freitag urges the study be made in terms of the state and its origins, policy and its origins, processes of decision making and administration, and the role of individuals. Freitag also presents an analytical example in which the Great Strike of 1877 and its relation to the formation of the Interstate Commerce Commission is examined. Utilizing this example, he points out that the state is used as an instrument of repression by capitalist interests and yet simultaneously provides some relief for the working class. Thus the state has a contradictory role. Ultimately, however, the state is both instrumental and structural; in the long run, the state preserves the status-quo even though some policy making may be specifically or temporarily detrimental to ruling interests. Reasons and Goff (1980) point out that hegemony of the ruling class does not mean homogeneity of the ruling class; rather, inter-elite conflict occurs which gives an appearance of pluralism. The heterogeneity of
the elites and their interests will sometimes overlap the public interest. The state is bound to support capitalist interests and corporations are able through interlocks and instrumental and structural control of the state to shape laws which rationalize their own enterprise (Shover, Graham). As Snider so aptly said, the state is "ou'muscled" in its interactions with the corporate elite.

The relationship of the state and the capitalist interest is a complex one. The relationships is not merely structural nor instrumental, but some subtle combination of the two which results in many actions which sometimes appear to be at odds with the capitalist interest. Indeed, the state is somewhat independent of these interests as indicated by its ability to somewhat control capitalist endeavors. Nevertheless, it is clear that while the role of the state is mixed, many theorists (Freitag, Graham, Shover) have presented evidence which suggests that the state supports, either directly or indirectly, capitalist interests.

The implications of the Marxist conception of the state on the power of corporations within a capitalist society can be identified by an examination of the legal system (part of the state) which purports to control the activities of corporations.

Since the State is the form in which individuals of a ruling class assert their common interests... it follows that the State mediates in the formation of all common institutions and that the institutions receive a political form. Hence the illusion that law is based on the will, and indeed on the will divorced from its real basis--on free will. Similarly, justice is in its turn reduced to the actual laws (Marx, 1972, p. 80).
It follows, for Marx, that limits on corporate behavior are largely dependent on the state; to the extent that limiting behavior is in the collective interest of the economic elite, laws will be established to control corporate behavior. It must be recognized, however, that occasionally it may be in the interest of the ruling economic class to control corporate activities. Marx discussed, for example, the "ten hour" legislation in England which limited working hours of the labor forces. Though superficially it was against the interest of the economic elite, it preserved the labor force required by bourgeois industrialists (Marx, 1902, pp. 805-814). The limits on corporate activities, then, in the Marxian sense, are dependent upon the collective and general interests of the economic substructure. If corporate activities threaten those collective interests, the state, through the legal institution, may place restraints upon corporate power. There is, as previously discussed (Miliband, Freitag) no simple explanation for the activities of the state; the state is a complex system which in the long run supports the capitalists' collective interests.

The corporation, as has been shown, operates within a complex economic system which fosters private property (and the enforcement of rights to private property) and the profit motive. These factors, along with the ever-increasing and sophisticated and costly technology and the interdependence of social institutions have resulted in corporate capitalism. Corporate capitalism is accompanied by a real overlap between the private and public sectors, but an ideal image which separates the public and private sectors. Thus, cor-
porations function as though they are private and pursue the primary goal of profit making, while they relegate social responsibility to the public sector. It is not difficult to see how such a system may encourage illegal and/or criminal behavior in an attempt to maximize goals. The above factors, however, are not inclusive; other structural factors may also encourage corporate crime.

**Market Structure**

A market system is a system where the exchange of money and the determination of prices occurs within specified patterns which are governed by informal and formal norms. The market structure refers to those particular features of a market which may affect price determination, supply and demand, and the potential profits for any particular industry. "At all points the guiding force is the capitalists' constant search for profits. The decisions concerning which goods to produce (or even whether to produce), what imports to buy, what wages to pay, and so forth are all determined by the criterion of profitability. All economic relations between people are mediated by the institution of the market" (Hunt & Sherman, 1978, p. 160).

There are a number of salient features in the determination of market structure. As previously stated, many corporations within this society operate within oligopolistic markets. As White (1977) points out, "The size distribution of firms in the industry tells us something about the likelihood of oligopolistic interdependence and implicit or explicit coordination of behavior. The fewer the
firms, the more concentrated is the market structure..." (White, 1977, p. 181). Thus, an oligopolistic market will have a different market structure than a competitive market. While there is some controversy as to price determination in an oligopolistic market (see, for example, E'las, 1967), the fact that such industries operate within a profit making environment suggests that price determination is regulated by profits. Hunt and Sherman (1978) argue that oligopolistic industries recognize their interdependence and act together in monopolistic fashion, to set prices. "...The large corporations prevent price competition, although they do compete through alleged quality differences and advertising. With no price competition, the sellers of a given commodity have an interest in seeing that price or prices established are such as to maximize the profits of the group, so each product is priced as if it were sold by a single monopoly corporation" (Hunt & Sherman, 1978, p. 277).

Such price determination and profit making depends on the stability of the oligopolistic market. Events which threaten the market may have severe impact on individual shares of the market. Corporations may resort to criminal or illegal activities to stabilize the market and return it to its profitable status.

The automobile industry is typical of an oligopolistic market. In the United States, three automobile manufacturers (General Motors, Ford, and Chrysler) dominate the market. During the years from 1951 to 1955, the big three had 90.5% of the automobile market, other domestic firms had 8.9%, and imports had the remaining 0.6% (White, 1977, p. 180). By 1970, however, imports had crept up to capture
10.6% of the market (White, 1977). This was largely due to the increased popularity of compact cars which were not available in the 1960s from the big three. This disruption of the automobile market structure led to the entry of Ford and General Motors into the compact car field (Ford Pinto and G. M. Vega). The market structure is dominated by the profit motive. When profits are threatened, as they were by the ever-growing share of the market captured by imports, industries must attempt to regain control of the market. When the share of the market is substantial, as it was in this case, the possibilities of crime or illegal behavior to regain control of the market share increase. Collusion, through "price leadership" is one possible alternative. Shoddy, unsafe, but competitively priced products are another possibility.

The market structure, coupled with the primary motive of capitalism, profit making, are structural factors which may lead to or encourage corporate crime. Corporate crime, or the possibility of corporate crime, is also influenced by the organizational structure of American industry.

**Organizational Aspects**

Historically, criminology has focused on the study of the individual criminal. Corporate crime has been no exception; the study of such crime has been largely confined to the study of individuals who commit such crimes. Sutherland (1940) in identifying the phenomenon of white-collar crime, examined seventy large corporations which had been administratively or legally sanctioned and developed
a theory of white-collar crime based on differential association; that is, white-collar crime is learned in interaction with other white-collar criminals. Sutherland's (1940) view of such crime is confined to individuals; the individual learns to commit crime and if conditions are favorable, commits such crime by himself/herself. Similarly, Geis (1978) continues to emphasize the importance of identifying criminally responsible corporate officials and argues that blaming the corporation is an anthropomorphic practice. In sum, many theorists urge that individuals involved in corporate crime be identified and tried for their crimes.

In recent years however, some theorists have come to view the organization as an acting entity which is responsible for the activities of its members. Ermann and Lundman (1978), for example, argue that a sociology of organizational deviance is required. Coleman (1978) notes that corporations are "juristic persons" and more than the sum of their parts. Reiss (1978) says "...we have been preoccupied with defining persons as deviant at the expense of examining organizational deviance" (p. 35). Thus, there are indications that there is a shift in thinking from examining the individual criminal to the criminal organization.

Such a trend should not be surprising in light of the tremendous importance of corporations in shaping the world and influencing world views. Baran and Sweezy (1966) point out the influence of American corporations on the lives and activities of people throughout the world. Barnet and Mueller (1974) note that the global corporation is "the most powerful agent for the internationalization of human
society" (1974, p. 13) and that corporations are instruments of social progress. Ermann and Lundman (1978) maintain that organizations intended to serve the public interest have too much power and, in fact, do little to serve the public interest. Clinard and Yeager (1980) describe corporations as having "awesome aggregates of wealth and such vast social and political power" (p. 3). This power is seen by Gross (1978) as contributing to inherent criminogenesis of an organization.

A major issue in this field is whether organizations can be acting entities or whether individuals should be blamed for corporate crime. There is a prevailing ideology in the United States that individuals are responsible for their behavior, whether they are victims (Braithwaite and Condon, 1980) or perpetrators (Geis, 1978). "The ideology of individualism seeks to locate blame individually, even for injuries to persons that are the outcome of institutional arrangements...it is not capitalism which is seen to be at fault, nor is it the members of the ruling class...it is the victims" (Braithwaite and Condon, 1980, p. 233). Geis (1978) demands "...isolating the offender from reinforcement and rationalization of his behavior, of making him appreciate that nobody morally sanctions corporate crime..." (p. 287). Similar views of focusing on the individual have been advocated by Ross, Sutherland, and others.

The idea of looking for organizational culpability, however, is not without historical precedence. Sutherland urged the trial of accessories as well as individuals who had the final responsibility in committing crimes. He muddles the issue of etiology between
organizations and individuals by recognizing that actors are often anonymous and that rational behavior is the order of the day within large organizations. Sutherland appears, however, to take a nomi­nalist perspective (Sherman) and appears to view organizations as a collection of individuals who separately make decisions concerning their individual participation in corporate crime.

Haworth (1959) argues that organizational activities are not always reducible to individuals. He distinguishes between the organization as a collection of individuals and the organization as an acting entity. Organizational acts, in his view, are the outcome of the organization's patterns of functions and unaffected by the personal qualities of the individuals involved (Note, however, that such actions may not always be conscious nor identifiable). The pattern of functions is characteristic of the organization itself and individuals are interchangeable. "...in the degree that this interchangeability occurs, not individuals as such, but organizations must be credited and blamed for activity" (Haworth, 1959, p. 61). The power of an individual within the organization is related to the function of the position he/she occupies; the position gives the individual the right and duty to act in a certain way. Haworth acknowledges that individual and organizational acts may overlap dependent on the contribution of each in the power to act. When the organizational contribution, in the power to act, is dominant, then attempts to change the act by changing the individuals involved are useless. Personnel change in such acts is often irrelevant. Thus, Haworth points out the folly of reductionism and concludes that in
certain circumstances organizations are acting entities.

March and Simon (1958) address the issue of individual acts by looking at the context in which such acts occur. In their "theory of domination" they show how the organizational environment is controlled by superiors in an attempt to influence the activities and decisions of employees. This includes techniques such as control of communications, fostering ideological commitments, and indoctrination into the organization.

Coleman (1978) bases his argument on Weber's theory of bureaucracy and concludes that large contemporary corporations fit Weber's model. "One of the central elements of the new corporate actors of modern society is that persons in them are replaceable" (Coleman, 1978, p. 26). Coleman traces the history of law to determine that law recognizes "juristic persons" which include corporations and other organizations. The interests of these juristic persons may clash with the interests of "natural persons." Coleman urges an examination of these new "corporate actors" (another term for juristic persons) and the emergence of the social structure in which their relationships with natural persons occur. His major focus is summed in his concluding remark, "The point is that the power held by corporate bodies...is in the hands of no person, but resides in the corporate actor itself" (Coleman, 1978, p. 27).

Ladd (1970) notes, "a distinctive mark of such (formal) organizations is that they make a clear-cut distinction between the acts and relationships of individuals in their official capacity within the organization and in their private capacity. Decisions of
individual decision-makers within an organization are attributed to the organization and not to the individual. In that sense they are impersonal. Individual office-holders are in principle replaceable by other individuals without affecting the continuity or identity of the organization. In this sense it has sometimes been said that an organization is immortal" (Ladd, 1970, p. 488). Ladd goes on to say that this structure of organizations, which impersonalizes the individual, distinguishes it from other social systems.

Beginning with the premise that organizations are acting entities, then, many theorists have attempted to show how and why organizations, rather than individuals, are responsible for organizational activities. There are a number of issues involved in the assignment of responsibility, but three main issues dominate the field.

**Inability to Assign Individual Guilt**

Many case studies show the difficulty of assigning individual guilt where irresponsible and criminal corporate acts are concerned (e.g., Geis, 1977; Maltz & Polluck, 1980; Vandivier, 1972). Often, due to a particular corporate environment, individuals may not be able to resist general orders to "solve a problem" even if it involves criminal acts. In addition, products and decisions are often made on an incremental basis, with no one individual responsible for the ultimate product or decision. Elkins (1976), for example, admits that cases exist where individuals may be held responsible, but he also sees the large corporation as an unique structure which may
hamper identification of any particular individual as criminally responsible. "The size and structural diffusion of the modern corporation often masks "individual" responsibility and makes it extremely difficult to investigate and successfully prosecute corporate-related crimes" (Elkins, 1976, p. 96).

Stone (1975) spends a great deal of time arguing against individual culpability. Individuals within a corporation shed their uniqueness and become part of an elaborate subsystem. Through such subsystems, a number of factors prevent those individuals who have final responsibilities for decisions from being culpable for those decisions. These factors include 1) a limited knowledge of everyday decisions (by those at the "top"), 2) a natural screening process of information to those at the top (by others who wish to keep their jobs), 3) a legal system which discourages knowledge by those at the top (not knowing is often equivalent to not being culpable), 4) the ability of other social characteristics (such as being well-dressed, upperclass, etc.) to influence evaluations of criminal acts, and 5) the tendency of the corporation to provide protection for the individual.

Collective Goals

Some theorists differentiate between instances of individual guilt and instances of organizational guilt. Such views often are concerned with the goals of a particular behavior; individual goals, or activities that result in gains for the individual are not necessarily organizational acts. Organizational acts and culpability
occur when individuals act in the interest of the collective goals of the organization. Gross (1978) says that organizations "coordinate effort toward the attainment of collective goals" (p. 56). Hopkins (1979) also distinguishes between individual and collective goals, maintaining that when an individual acts on behalf of the corporation or in accordance with its norms, then the corporation rather than the individual is responsible for the activities. Nachmias and Rosenbloom (1980) add that corporations and other bureaucratic structures develop a "collective personality" which does not belong to any individual within the corporation. Collective goals congruent with this personality include a drive for survival (even if new goals must be created to justify the existence of the organization) and a drive for rationality. Ermann and Lundmann (1978) also stress the importance of the collective goals and organization. One of their prerequisites for organizational deviance is that the activity is "supported by the internal operating norms of the organization" (p. 7). In other words, activities congruent with collective goals are organizational, not individual, activities.

**Organizational Processes**

A variety of organizational characteristics go into the organizational process of decision-making. This process has been seen by some to be indicative of organizational rather than individual responsibility for activities. Vaughn (1980) cites variables such as size, wealth, impersonality, internal structure, delegation of authority, subunit autonomy, and specialization as various organiza-
tional characteristics which will have some impact on the decision-making process. As she notes, organizational characteristics, as well as environmental conditions and a legitimating ideology, have resulted in more opportunities for criminal behavior as a part of the structure of the organization.

Most examinations of organizational processes in relation to corporate crime occur within the Weberian perspective of formal rationality. Ladd (1970) emphasizes that organizations are structured by specific goals whose attainment is possible through organizational decision-making. Utilizing Weber's ideal type description of bureaucracy in action, Ladd notes that organizations are a "language-game model" of decision-making. The purpose of the model is to point out that decision-making occurs within a specific environment; that is, certain "rules" determine what may be done. Like the game of chess, for example, moves are analyzed by such rules. In the case of formal organizations, the rule is rationality. Individuals do not make organizational decisions, rather the decisions are made in the interest of the organization by its representative or agent. More importantly, in Ladd's view, the goals of the organization determine the responsibility of the organization when decisions are made. (Again, it must be noted that such actions are often not conscious and may not be easily identified.) An example, used by Ladd, is the knocking down of an opponent's chess piece; such an action is outside the rules of the game. Similarly actions of individuals outside of the organization's rules make no sense.
Sutton and Wild (1980) also use a Weberian framework and argue that rationality is the key for large organizations. They argue that corporations "rationally" need to shape and control decision-making in order to meet their goals. Braithwaite and Condon (1980) share the concern with the importance of rationality for large corporations, but point out that "contrary to the theory of liberalism, a practical consequence of businessmen rationally seeking their self-interest is that a lot of workers and consumers are needlessly killed and injured" (p. 249). Clinard and Yeager (1980) discuss the "culture of the corporation" as one that may encourage corporate crime. Corporate goals and norms, for example, may be perceived by lower level workers and/or subunits as absolute requirements. Bureaucracy makes the individual dispensable and by removing the only real check—whistle-blowers—the normative structure (which may be rational but criminal) of the corporation remains intact. Ethics, or morality, are almost inevitably secondary to the corporate goals of profit, growth, and security.

An important implication of the focus on rationality for the field of corporate crime is that "the very rationality which makes bureaucratic structures effective administrative tools seems to erode moral consciousness" (Jackall, 1980, p. 356). Morality is generally not relevant within the organizational decision-making process. Organizations, as rational entities, are similar to machines and one cannot expect morality from a machine. The rules of decision-making within an organization are violated if individuals allow their own moral scruples to interfere with the goals of the organization. The
problem comes down to a basic contradiction for individuals: organizational decisions governed by rational efficiency versus individual standards of morality. Ladd determines that organizations are not moral entities.

Needleman and Needleman (1979) have used the ideas of organizations as acting entities and rationality to devise two models of organizational criminogenesis. They argue that organizations may be either crime-coercive or crime-facilitative. Crime-coercive organizations are those most concerned with profit making. Individuals in such systems are pawns and subject to the goals of the organization. Needleman and Needleman argue that such a model fits only isolated cases, and that a more realistic view may be the crime-facilitative model. Such a model is based on rationalism which may lead to "criminal activity as an unwelcome but unavoidable cost of doing business" (Needleman & Needleman, 1979, p. 521).

Obviously there is considerable evidence that individuals cannot always be held responsible for corporate crime. Indeed, the idea of organizations as acting entities has gained much credence. Many theorists have presented the view that rationality and the attainment of goals at all costs become the standard operating procedure for large organizations. More important, however, is the distinction between rationality and morality which shows organizations as largely bereft of morality and producing relationships which are "purely mechanistic and materialistic ones" (Ladd, 1970, p. 512). This is not to imply that rationality and morality are mutually exclusive; a truly rational view would include morality as part of the basis for
decision-making. In many modern corporations, however, the two appear to be antithetical with rationality devoid of morality. The erosion of moral consciousness enhances the possibilities of corporate crime.

As has been shown, organizations operate within a social and economic milieu which makes certain, often conflicting, demands upon the organization. It has already been shown that a capitalistic environment and market structure make specific demands on corporations: primarily profits. To the extent that this is the primary and overriding goal of an organization, it may result in other goals being pushed into the background or being disregarded while the primary goal is sought.

A caveat must be made here. While the theory as presented here is largely confined to a capitalistic structure, it may be broadened to include societies organized on different economic structures. "Profits," in American society, tend to be thought of in terms of monetary gain; in fact, however, profits may imply and/or include other rewards. In some state-socialist societies such as Hungary and Yugoslavia, there is some evidence that prestige, autonomy, and/or self-management are important goals of productive organizations (Szelenyi, 1978). Conceivably, such goals may be construed as part of the "profits" of a particular organization. Abstracting the notion of profits to include other valued societal commodities, then, may make the theory applicable to non-capitalist societies as well as capitalist ones.
Formal organizations tend to achieve effectiveness and efficiency through rationality (in the manner described by Weber). An assumption of such rationality is that precise, clear-cut, rank-ordered goals can be found within such an organization. (Weber calls this "neutrality of goal-development.") Unfortunately, such goals are often stated as though the organization exists within a social vacuum. As previously discussed, the primary goal of business organizations appears to be the making of profits. Such a goal seems precise and prioritized. Organizations, as elements of society, however, have a responsibility to that society at least in terms of survival. Without society, the organization would die. The organization, then, must not threaten societal survival. Rationality, as a decision-making tool, within such a context must include an element of morality so that decisions are congruent with the public, as well as the private interest. Thus, there are contextual values and goals which, at least implicitly, govern the goals of the organization. To the extent that such conceptual goals are not recognized, the organizational goals will take precedence, often resulting in actions contrary to contextual goals.

Friedman's vitriolic attack on the social responsibility of business shows a basic misunderstanding of this problem:

The view has been gaining widespread acceptance that corporate officials and labor leaders have a "social responsibility" that goes beyond serving the interests of their stockholders or their members. This view shows a fundamental misconception of the character and nature of a free economy. In such an economy, there is one, and only one, social responsibility of business --to use its resources and engage in activities
designed to increase its profits, so long as it stays within the rules of the game, which is to say, engages in open and free competition, without deception or fraud (Friedman, 1962, p. 133)

What Friedman does not understand is that organizations must have a degree of responsibility for their actions. Lack of responsibility may threaten their very existence. Friedman would have the consumer make the rational judgment as to the value of the organizational product or outcome. He naively assumes that consumers are qualified to make such choices. White disagrees, at least concerning the automobile. "The automobile is a technically complex product, and most consumers do not have the time nor the inclination to become experts on its technical aspects" (White, 1977, p. 179). The old notion of caveat emptor is unrealistic in today's highly technical society. The buyer cannot be aware of the entire spectrum of implications of a product. The organization must recognize the contextual values and goals of a society if it wishes to have long term survival. Organizations, thus, operate within a complex environment that not only mandates the making of profits, but also requires the organization to be responsible for its actions in terms of possible effects on the rest of society.

If organizations lose sight of social values, they may operate entirely on the basis of organizational goals. When the primary goal is profit making, the goal may be pursued while violating both the contextual goals and lesser or lower-order organizational goals. The Ford Motor Company, for example, demanded the rapid production of a compact car when it perceived its share of the market threatened
by imports (Dowie, 1977). Although Ford also has a goal of producing a "safe" car (at least in conformity with government standards), evidence suggests that the profit motive was, in this case, a higher-order goal. Upon discovery of a serious safety defect in the Pinto, Ford conducted a cost-benefit analysis of the problem—a practice that is common in industry regulated by rationality. Setting a value on human life and calculating the estimated lives to be lost or injuries to occur versus the cost of correcting the defective fuel system, the cost-benefit analysis showed greater profitability in continuing to manufacture the automobile and "pay off" survivors and their families, than in recalling, correcting, and/or retooling the fuel system of the Pinto (From Ford Internal Memorandum cited in Dowie, 1977, p. 24). Obviously, in this case, the goal of profit was primary.

Goals are not the only aspect of organizational structure which may influence the possibility of organizational crime. The nature of organizational communication is ideally characterized by internal integrity; that is, ideally, accurate processing of information within the organization can and does occur. The ideal, however, is seldom found in the real world. Distorted communication is a real possibility in organizations, especially when higher-order goals (such as profit making) take precedence over accurate communication. Communication may be distorted through a number of factors.

The size and complexity of the organization may prevent accurate transmission of information. Deliberate distortion of communication by individuals within the organization may have reper-
cussions throughout the organization. Communication distortion may encourage executives who tell engineering personnel to "handle problems" but "meet the objectives" may be interpreted in ways quite divergent from the executive perception of the communication. To the extent that such communication ambiguities occur, the opportunities for corporate crime may be enhanced.

Organizational factors, then, must also be seen as potential contributors to corporate crime. Organizational goals and organizational communication are of vital importance in determining the activities of the corporation.

Toward an Explanatory Model

In developing a theoretical explanation of corporate crime, the focus will be on the structural and organizational levels. At the structural level, the capitalist economic system is based on profit and private ownership. The "profit motive," a prime feature of capitalism, must be examined for its contribution to corporate crime. The profit motive was seen as the single most important function of corporations. It was viewed as essential, "natural," and legal. The utilitarian goals of production and profit were seen to occupy a crucially important role in the corporation, and to the extent that they supersede other goals, the possibilities of corporate crime increase.

The capitalist economic system with its focus on private ownership has led to the politicization of the economy as the "rights" of private ownership must be protected. Such a political economy is
almost blatantly on the side of the capitalists and this has severe implications in terms of the freedom of corporations to achieve their goals. With increased interlocks between government and business, the political sector no longer effectively controls the economic sector, but greatly supports it. To the extent that such interlocks exist for specific industries, the possibilities of corporate crime, within those industries, are enhanced.

The political economy, with the subsequent power of corporations to shape the legal environment in which they operate, also may influence a corporation's ability to commit corporate crime. The legal environment can be affected by corporations operating in a political economy which supports the corporate goals of profit-maximization. To the extent that a corporation is able to directly, as well as indirectly influence and shape the legal environment, the possibilities of corporate crime increase.

Corporate capitalism, with its lack of a free market and its ability to influence other major social institutions, is another factor affecting corporate crime. The development of oligopolies with their control over some markets, the economy and employment, exemplify again the increasing politicization of the economy and its influence on social life. The market structure, particularly oligopolistic markets, of American industry must also be examined for its potential contribution to corporate crime. The importance of the market structure in shaping activities of corporations can hardly be overemphasized. When market structures are threatened or change, corporations may act to maintain or increase their share of
the market. The extent to which the existing market structure is threatened increases the possibilities of corporate crime.

At the organizational level, the hierarchy of goals within an organization is extremely important in forming the normative environment of the organizations. The hierarchy of goals within an organization must be ascertained in order to understand organizational pushes which may lead to corporate crime. For example, to the extent that organizational goals of profit making override other goals such as fair trade practices, safety, and/or social responsibility, the likelihood of corporate crime to achieve those overriding goals increases. In addition, organizations which are influential in the public sector, yet operate as though they are private, may pursue profit making to the exclusion of public interest. To the extent that the public interest is not congruent with private profit making, the possibilities of corporate crime may increase.

Within the organization, knowledge of internal processes are also important to gain understanding of corporate crime. An important issue is the normative environment of the organization and the way in which the operating procedures are transmitted to personnel within the organization. The internal processes of goal-ordering and the hierarchy of responsibility must be examined, as well as the communication system by which such standards are communicated throughout the organization. The study of the internal processes must also include an examination of the organizational decision-making processes. A study of the "rules" by which deci-
sions are made may be useful in understanding how rationality (without morality) may lead to corporate crime.

The factors which have been reviewed may have an impact on the etiology of corporate crime; that is, they may result in structural and organizational environments which enable corporations to act in ways which threaten the economic and/or physical well-being of individuals within society. When such environments exist, the possibility of corporate crime increases.

The following figure illustrates how the structural and organizational factors listed above may be combined in an attempt to explain the etiology of corporate crime.

The following research questions more specifically focus and clarify the direction of this research. Answers to these questions may help to ascertain the utility of the theoretical model and may also contribute to refinement of the problem.

Structural Level

1. How did the two principles of capitalism affect the behavior of Ford?
   a. How was Ford influenced by the principle of maximization of profit?
   b. What influence did Ford have on the political economy? Were there interlocks between Ford and the political sector?

2. Did Ford attempt to manipulate the prevailing legal environment? Were political actions taken to promote Ford’s interests?
Figure 1: An Explanatory Model
3. How was the market structure of the automobile industry influential in Ford's action? Was the market stable, concentrated, and/or threatened? Was Ford's share of the market threatened?

Organizational Level

4. What was the hierarchy of goals within the Ford organization? Did the utilitarian goals of production and profit supersede other goals? Did the corporate goals of private profit making clash with public interest goals?

5. What was the normative environment of the Ford organization? What were the important goals? How were these transmitted?

6. How were decisions made within the Ford organization? How was rationality valued? What were the rules for decision-making?

These are the key questions to be addressed in this research. Answers to these questions will enable a clarification of and refinement of the model proposed for an explanation of the etiology of corporate crime. The model is intended to serve as a theoretical guide for the examination of these issues; it is not intended that the model be tested, but rather that it supply an organizing framework for the study of this phenomenon.
CHAPTER III

The Methods: Part I

Part 1

Research in the social sciences has recently been characterized by a bifurcation of methods. The positivistic tradition, emphasizing rigor and value-neutrality has been the dominant position while conflict methods, emphasizing holism and ideology, are emergent in their influence on the social sciences. The distinction between positivistic methods and conflict methods parallels the dispute between the theoretical positions of functional and conflict sociology. Sociologists, in their emphasis on the dominant paradigm, have not sufficiently defined nor developed the scope, uniqueness, and utility of conflict methods. Before proceeding to a discussion of the "hard" methods used in this study, an attempt will be made to address the unique philosophical bases of conflict methods.

Paradigmatic Differences

The primary differences between the functional and conflict explanations of social behavior may be found in their basic assumptions of society. The functional approach is based on the assumptions that society is a lasting system, it is well integrated, every element within the society has a function, and that society rests on the consensus of its members. The conflict view is based on the
assumptions that social change and social conflict are ubiquitous, every element in society contributes to change, and every society rests upon the constraint of some members by others (Dahrendorf, 1958).

The controversy between the two approaches takes on paradigmatic dimensions. Kuhn (1962) developed the notion that knowledge does not grow in a linear fashion, but rather, grows as theoretical revolutions occur within science. Ritzer (1975) has applied and elaborated upon Kuhn's ideas within the field of sociology. According to Ritzer, a paradigm is:

...a fundamental image of the subject matter within a science. It serves to define what should be studied, what questions should be asked, how they should be asked, and what rules should be followed in interpreting the answers obtained (Ritzer, 1975, p. 7).

A paradigm dispute occurs when the fundamental image of a subject matter changes. The dispute between functionalism and conflict has reached that point. The functionalist or value-consensus approach looks at society in terms of social order and shared values. The fundamental image of the conflict approach is one of interest groups, differential power, and constraint of societal members. The assumptions of each position prevent effective communication between the positions, since proponents of each view study different phenomena which may be viewed as irrelevant by proponents of the opposing view. A consequence of a paradigm dispute is that much rhetoric results.

The lack of common ground is further perpetuated by a lack of
agreement concerning methodology. Value-consensus theorists stress a positivistic, scientific methodology, while conflict theorists are more likely to use alternative techniques such as historical research and qualitative methods. Their studies are then criticized because they do not adhere to positivistic methods. Paradigms tend to be selective in developing a methodology, usually picking one which is best suited for their image. Like the focus of study, paradigm methodology may have little or no relationship to the methodology of alternate paradigms.

The functional theoretical view is based in the philosophical position of positivism. Positivism is a specific way of knowing. It is based on the belief that knowledge is gained from sensory experience. The methods of the physical sciences, that of empiricism and quantitative techniques, are seen as appropriate ways of viewing and understanding the world. Ways of knowing which are not positivistic (e.g., metaphysical speculation, subjective knowledge, intuitive understanding, non-empirically supported logic, etc.) are not considered part of knowledge; "...nonquantitative approaches to the study of human behavior [are seen] as peripheral in sociological analysis" (Theodorson & Theodorson, 1969, p. 274).

A very real danger in a positivistic approach (as in any approach to knowledge) is a supposition that "ultimate truth" awaits the researcher. This truth, furthermore, is unique to this method; other ways of knowing are not respected, nor do they disclose "ultimate truth" (See Chapter I for a discussion of truth). The positivistic approach, by closing other routes to the attainment
of knowledge, suffers from a number of problems.

1. Positivism tends to be ahistorical. In its concern with explanations and predictions, it tends to consider factors and variables independently of history; that is, variables and factors which can be quantitatively measured are the focus of theory and research with the result that qualitative factors such as history and the organization of society are often omitted for their explanatory value. (This is not meant to suggest that positivism requires an ahistorical approach; rather, this has been the tendency in twentieth century sociology and criminology.)

2. Positivism tends to support the status-quo, in the sense that assumptions are made concerning the origins of order, values, norms, consensus, etc. The positivistic school often focuses on "natural order" which is seen as a law of nature. A belief that society, like nature, is in equilibrium leads to the belief that what is (the status-quo) is natural. These kinds of blinders stifle creativity in theory building. For example, in the area of corporate crime, definitions of such crime tend to be limited to legalistic ones—within the existing law—rather than focusing on the harmful aspects of corporate behavior.

3. Positivistic methods seldom question the existing relationships and definitions within the social order. Current, existing definitions are accepted as right and as the basis for further theoretical development. In the area of crime, for example, behavior called criminal is assumed to be intrinsically real (Thio, 1978); that is, the historical and economic situations which led
to the creation of certain "crimes" are ignored for examination of antecedents, explanation, and prediction of behavior already defined as crime. Only recently have some criminologists (Quinney; Chambliss; Taylor, Walton, & Young) within the critical/radical framework examined the origins of law and crime.

4. Positivists assume that it is possible to remove the observer from the observed and that it is possible to separate facts from values. This last criticism combines some elements of the other criticisms. The ahistorical nature of positivism allows the observer to assume objectivity and a belief that one can separate self from past and current political, economic, and social influences. Objectivity, however, exists only as an ideal type; all individuals have values and influences on their lives which also influence observations. (See Chapter I for a more comprehensive discussion of these issues.)

Theorists within the positivistic tradition are unlikely to agree with theorists following non-positivistic theory (e.g., dialectical materialism). Paradigm disputes are based in the accumulation of knowledge. Kuhn advanced the idea that the process of knowledge is not mere accumulation; rather, knowledge or science progresses through a series of revolutions. As the anomalies of one paradigm become apparent, a new paradigm arises to challenge the old. An interesting point, made by Kuhn, is that while two paradigms exist concurrently, there is much argument as to what is "truth." Each paradigm has different assumptions, concepts, and methodology and the differences are hotly disputed. The paradigm
used in this research is the radical/conflict paradigm (spelled out in Chapter I) and the methods utilized are conflict methods.

**Philosophy and Techniques in Conflict Methods**

Some sociologists (e.g., Lundman & McFarlane) argue that conflict methodology is limited to the utilization of data-gathering techniques. Such views focus on the "invasion" of previously inaccessible research settings (e.g., large organizations) and the issue of informed consent. "Conflict methodologists, then, distinguish themselves from consensus methodologists by denying elite members of large scale organizations the right to refuse research involvement" (Lundman & McFarlane, 1976, p. 508). While the techniques are an important part of conflict methodology, they are neither necessary nor sufficient for a conflict methodology.

The notion of "conflict strategies" (Nolen & Galliher's term) provides a limited view of conflict methodology. There are two aspects vital to conflict methodology: 1) The philosophical interpretations of social science data and 2) the strategies used to gather data. The strategies per se of gathering data may be either conflict or consensus strategies; it is the philosophical interpretation of the data that identifies a conflict methodology.

Collin argues that the role of the researcher requires interpretation or conceptual reconstruction of data. Such interpretations, from the Marxian perspective, are influenced by the economic, political, cultural, and social forces of society. Since values and reality cannot be separated, the researcher, regardless
of paradigmatic preference, is constantly conceptually restructur­
ing the data. The conflict methodologist recognizes this inter­relationship and interprets data in a manner congruent with a
specified philosophical position. Data without a philosophical in­terpretation, from this view, is not possible.

The data gathering techniques, the usual focus of attempts to
explain conflict methodology (e.g., Lundman & McFarlane), are not
limited by the paradigms in which they were developed; rather, with
the appropriate conceptual reconstruction of the data, any and all
data gathering techniques may be utilized within this framework.
"...any methodology may be adapted for use by conflict theorists and
no method is unusable...creative use of any methodology would result
in significant findings compatible with conflict theory" (Duke, 1976,
p. 205). The techniques, in this particular case, are not incon­
gruent with traditional participant observation. The techniques,
indeed, may have been developed within either the functionalist or
the conflict paradigm. Participant observation, however, within
the functionalist paradigm assumes the "rightness" of the system
and occurs within the framework of positivism. The assumptions of
positivism do not encourage a critique of the system nor a subjec­
tive understanding of the processes under examination. The ahi­
torical nature of positivistic research, coupled with its emphasis
on stability and order, minimize its usefulness for analyzing
phenomena beyond a specific situational level; that is, positivism
tends to de-emphasize the processual nature of human events in its
enthusiasm for explaining the static details of those events.

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On the other hand, participant observation as an entree technique of conflict methods is based on the assumption that the system not only can, but must be questioned. The purpose of participant observation in the conflict paradigm is two-fold: 1) to provide information about the phenomenon under study (as in the positivistic framework), and 2) to establish the links between the phenomenon under study and the system in which it occurs. In this way, processual and structural characteristics are available for interpretation by the researcher.

In order for the methodology to be conflict methodology, two conditions must be satisfied. First, the entree techniques must be consistent with the assumptions of the conflict paradigm. That is, care must be taken to include variables for observation which examine process as well as structure. Second, the data gathered by these entree techniques must be interpreted within the framework explicated by the conflict paradigm. The philosophical implications, then, of conflict methodology, lead to an interaction between data gathering and theoretical interpretations within the assumptions of the framework.

Conflict methodology begins with an awareness of the importance of history. The origin of law, and the subsequent legal system, is not taken for granted; rather, it is viewed as the product of the particular economic/political system in which it exists. The emphasis on process allows interpretation of the events with clear explication of the values involved and requires that the events of the trial be examined in terms of the wider society rather than as an
isolated phenomenon. In the conflict framework, then, the trial process is viewed as a product of the system in which it exists. The origins and functioning of the legal system reflect the unequal distribution of power in the wider society.

The two frameworks provide vastly different interpretations of the same event. The differences can be attributed to the divergent assumptions made about the legal system and the society. These assumptions are, in effect, statements of values. The utility of the value positions, and therefore the frameworks, is not at issue here. At issue is the appropriateness of the assumptions and the value positions. This appropriateness must be judged according to the material conditions of our society.

To assume that the criminal justice system neutralizes power differentials is inconsistent with the stratification system that exists in our society. Material conditions support the view of law as a prize in the hands of the powerful by which their views can be enforced. According to Quinney (1970), law is "...formulated and administered by those segments of society, which are able to incorporate their interests into the creation and interpretation of public policy" (1970, p. 39).

Methods: Part II

Part 2

The proper methods for analysis in the conflict mode include many of the methods used by conservative and functional sociologists
(see previous section). These include historical research of documents, government statistics, etc., survey methods to determine levels of consciousness, observation of conflict situations, experimentation on societal levels, etc. An important aspect of this approach is that the "whole" must be considered; in other words, an examination of the incidence of a phenomenon such as corporate crime is of little use without consideration of the economic structure and other structural features of the society in which such crimes occur. Research in this area must be tied to theoretical bases, otherwise it is of little utility. The methods, then, to be used in this research, are selected for their usefulness in furthering the development of more accurate theoretical models. While description is sometimes germane and interesting, it must be tied to general theoretical utility to advance scientific thought. The specific intent of the methods used in this study is to contribute to theory building within the area of corporate crime. As discussed in the previous section, the general framework used is the conflict/Marxist framework and the theory used to guide the research is the one delineated in Chapter II.

**Data Gathering**

The study of corporate crime requires a different type of method than is generally used in traditional crime research. The subject is currently not amenable to survey research or other large scale investigatory schemes. Wheeler (1976) examines some of the unique problems in studying corporate crime. A most immediate con-
cern is the matter of record-keeping. "...our official record-keeping system makes it easier for us to study some things rather than others" (Wheeler, 1976, p. 530). As Wheeler points out, records are kept on traditional crimes, but not on corporate crimes. Besides dissuading potential examination of such crime, the lack of records on corporate crime requires more energy and innovation in attempts to determine the incidence (let alone the causes) of such crime.

A second methodological reason for the dearth of studies in corporate crime "is the sheer difficulty of locating and organizing our inquiry so as to learn systematically and in detail about hidden activities" (Wheeler, 1976, p. 530). Wheeler argues that it is difficult to gain access to groups and individual situations in which corporate crime is involved. In addition, the study of such crime is avoided because "there is a degree of complexity to forms of organized criminal activity of the white-collar variety that may require a longer period of training and preparation before observers are in a position to really make sense of the activity" (Wheeler, 1976, p. 530).

Such problems in researching corporate crime preclude the use of many methods. Since the field is largely in an exploratory stage, we must seek to maximize our information about both corporate crime and the processes involved in such crime. "...this problem requires carefully done qualitative investigations of selected cases" (Clinard & Yeager, 1978, p. 265). "...there is a pressing need for accumulation of case studies, for hypothesis development and testing, and
for the kind of research that moves forward by careful, additive processes" (Geis & Meier, 1977, p. 4). In order to achieve a comprehensive understanding of corporate crime, all aspects of and processes related to the phenomenon must be examined. This can best be achieved through the case study method for it offers a total view which other methods often lack. The case study approach will be used in this investigation.

Case studies require intensive and complete examination of the entity under study. (These entities may include individuals, organizations, processes, etc.) Proper data sources for case studies include "any document that bears a relationship to a person's ongoing definitions and experiences" (Denzin, 1970, p. 223). The goal of the study is to use any documents or information which can be systematically analyzed to contribute to an understanding of the phenomenon at issue.

Data Sources. There are a number of documentary and other sources available for this study. These include the criminal trial and its records, records of the governmental regulatory agencies involved in controlling the automobile industry, court records of civil cases, records of the Ford Motor Company, and media sources.

A most important data source is the criminal trial against the Ford Motor Company which occurred in the early months of 1980. Much information concerning the Ford organization and goals were revealed at the trial. Copious and thorough notes of the trial proceedings were made and these notes will be analyzed in a search
for relevant factors contributing to the Ford decision to manufacture the Pinto. The prosecutor for the case, Michael Cosentino, has been contacted and has agreed to release records and information to the researchers. In addition, the clerk's office for the County of Elkhart (Indiana) has been contacted and copies of the indictment against Ford, the appeal by Ford, and the decision against the appeal have been made available.

Although the trial will be of prime importance as a data source, corroborative information concerning the Ford Pinto and its problems will also be obtained. The National Highway Traffic Safety Administration (NHTSA) is a government agency mandated to regulate and control the automobile industry. The agency has the authority and the duty to establish safety guidelines for automobiles on the American market. There is some evidence (Dowie, 1977) which suggests that NHTSA and the Ford Motor Company debated the matter of the Pinto fuel system for some time before the Pinto was recalled. Documents and reports from this agency should provide information in understanding some of the processes involved in the commission and suppression of corporate crime.

A number of documents relative to this matter have been reviewed and pertinent materials have been gathered. These documents include both NHTSA documents, Ford documents (including Ford crash tests), as well as communications between NHTSA and Ford. An analysis of the content of these documents will help isolate and identify factors important to a theory of corporate crime.
A third source of information involves court records of civil suits. Civil suits against the Ford Motor Company have mounted since the controversy concerning the Pinto fuel system has become public. (An example of public feeling is indicated by the Grimshaw case in which a California jury awarded Richard Grimshaw $125 million in punitive damages.) These civil suits have revealed much information concerning the actions of the Ford Motor Company and thus, promise to be of considerable interest in this study. Records of such cases are public; thus, they are readily accessible.

Some records of the Ford Motor Company can be accessed. Records sent to stockholders, for example, can identify changes in organizational management, organizational goals, changes in profit structure, etc. which may be useful for this research. The Ford Motor Company library holds potential for information on the organizational structure of the corporation as well as changes and trends in its economic position in the automobile industry. These records will be perused in an attempt to gain corroborative information for this study. In addition, some records of the Ford Motor Company have entered the public domain through NHTSA and the criminal/civil trials. These too will be included under this data source.

The media have also been concerned with the Pinto controversy. Major news shows on television, such as 60 Minutes (CBS) and 20/20 (ABC) have examined the Pinto problems. Columnists Jack Anderson and Paul Harvey have expressed opinions concerning the Pinto. Dowie, in a journalistic expose, (Mother Jones, 1977) has amassed quantities of data in his investigation of the Pinto. All of these
media examinations of the Pinto can be invaluable data sources for this project. Contacts have been made or are being made with these various sources to gain access to the materials collected by these diverse investigation teams involved in media presentations. Other media sources include publications such as *Automotive News*, *Business Week*, and other industry-directed newspapers and magazines. These publications often deal with changes and trends in market structure, organizational management changes, and "inside" information concerning the impacts of organizational strategy, products, industry markets, etc. upon a corporation. These data sources will also be explored in this research.

**Validity and Reliability.** The use of a wide variety of data sources are necessary to achieve good reliable and valid data. In doing any research, many scholars (e.g., Denzin, 1970; Webb et al., 1966) argue that "triangulation is the best strategy" (Denzin, 1970, p. 237). The use of many data sources is viewed by Denzin as a means to "maximize the validity of field efforts" (1970, p. 310). The sources used here may be broken into two main types: 1) documentary sources which include public and private documents and 2) observation which includes observations and notes made at the criminal trial.

The documentary sources have already been described and include public documents from NHTSA and civil trials and private documents such as Ford documents and mediated reports. There are advantages and disadvantages to using these kinds of data. A major advantage
is that data gathered from documents is nonreactive (see Webb et al., 1966) and unlikely to be contaminated by the researcher. In addition, public documents are readily accessible, are cheap to obtain, and they provide potential for examining trends and temporal changes. Documentary sources also, however, have a number of limitations and disadvantages. Two major sources of bias are noted by Webb et al. (1966). These are "selective deposit" and "selective survival." Both of these phenomena apply to public and private records. At some point, choices must be made as to what documents to keep and which must be discarded. This introduces bias into the preservation of documents. Someone or some group makes decisions as to what is important enough to "deposit" for perpetuity. In addition, documents may be edited (e.g. Congressional Record) from the time events occurred until the time the events are recorded. This introduces a further potential for bias. In the matter of private documents, the risk of selective deposit is even greater since individuals and organizations frequently sift out materials which are not favorable to themselves. Thus, bias may enter into the documents in a number of ways at the "deposit" level. Even assuming one could control for "selective deposit," thus establishing validity, the biases at the level of "selective survival" must also be addressed. Selective survival refers to missing documents whose absence sheds suspicions upon the validity of the data. For example, are documents missing because of "house-cleaning" or error or would their presence be threatening to a particular group? Unless the researcher is aware of gaps, the records
may appear complete and the researcher may reach biased conclusions. Since "the validity of the conclusions must rest on assumptions of the adequacy of the original material," care must be taken to insure the accuracy and thoroughness of the records. One way to achieve this is through the use of multiple data sources as proposed in this research. Another technique is the continuous evaluation by Blumer's criteria (Mariampolski & Hughes, 1975) for evaluating social science data. The four criteria are: a) representativeness of data. This includes the problems of selective deposit and survival already discussed. Mariampolski and Hughes suggest the researcher remain skeptical and assume bias exists. Essentially, "items written without regard to their possible use as interpretive materials should offer a wider representation of experiences and present fewer problems..." (Mariampolski & Hughes, 1978, p. 107). Since many of the documents in question are quantified tests, internal memos, public court records, etc., they fall into that broader genre, regarded by Mariampolski and Hughes as "more representative." b) adequacy of data. This problem can be partially overcome by looking for a broad range of responses and activities which indicate that all aspects of a phenomenon are covered. Obvious gaps in response require skepticism and further searching to fill the gaps. c) reliability of data. Two factors are relevant here: credibility of data source and accuracy of data transmission. The credibility of data sources for this study can be fairly well-established. The trial records are public records, and are credible in that they are carefully recorded. (The credibility of the trial witnesses, how-
ever, may not be as easily established.) NHTSA sources and Ford sources are appropriately stamped, lending them an air of credibility. (It must be noted, however, that a stamp and inclusion in files is not a foolproof method of ascertaining credibility; a defense lawyer, in the criminal trial against Ford, effectively argued that a revenge-seeking person may have placed incriminating documents in Ford's files.) Credibility in the case of media sources is more difficult to determine. Media approaches to controversial matters may be oriented to horror and exposure and require more skepticism as to their reliability. Accuracy of transmission of data is best determined through the use of corroborative documents which present the same general data. In this study, corroborative documents are used wherever possible and indeed, there is much overlap in information from trial records, NHTSA records, and Ford records.

d) validity of interpretation. The study of social phenomena should be reflexive; the use of document sources is probably more amenable to reflexiveness than other forms of data gathering. Immersion in the data, along with a healthy skepticism which requires "just a little more digging" will result in adjustment of theory and models which explain the phenomena under study. In other words, the researcher is likely to have fewer blinders in a study of this sort than a strictly quantitative study. As Mariampolski and Hughes (1978) note, "the historical sociologist is frequently forced to find alternative ways of explaining relationships between the variables under examination. A careful argument supported by the cautious exposition of evidence which has gone through a skeptical
analysis is the historical sociologist's substitute for statistical inference" (Mariampolski & Hughes, 1978, p. 110). The advantages and disadvantages of using documentary sources are perhaps best summed by Webb et al.:

We should recognize that using the archival records frequently means substituting someone else's selective filter for your own. Although the investigator may not himself contaminate the material, he may learn that the producer or repository already has. A thoughtful consideration of the sources of invalidity may provide intelligence on these, either by suggesting astute hedges or new analyses to answer rival hypotheses. In any event, the Chinese proverb still holds:

The palest ink is clearer than the best memory (Webb et al. 1966, p. 11).

The second major data source involved observation of the Ford criminal trial. Simple observation, where the researcher has no impact on the proceedings is also advantageous in that nonreactivity is high. An argument may be made that such nonreactivity prevailed in this case. The observers were part of a courtroom of spectators, trial principals, and newspeople; the observer's note-taking was hardly unique or threatening in that situation. The advantages of observation are that they allow the researcher to check on documentary sources and allow the systematic notation of data considered important by the researcher. A distinct disadvantage is that the observer cannot remain constant in his/her observations; rather, personal mood swings, boredom, differential attention, and other behavioral differences may lead to uneven data gathering. Again, however, the use of multiple data sources can increase the validity
and reliability of the data.

Coding

A problem with the documents and observations used in this research is that they have not been indexed, nor are they presented in a form which can be easily coded or quantified. In essence, the data are open-ended and require careful coding and rigorous content analysis. The coding of the data will involve a careful search for the factors and variables related to corporate crime. Market structure, for example, will be ascertained by a review of industry journals which present figures concerning market shares, percentages of imports sold, factors affecting auto sales, etc. Legal environment can be determined by a study of NHTSA regulations, while Ford's influence on that environment will require an examination of the interaction between NHTSA and Ford and changes in the shape of proposed versus final regulations compared with industry input into the writing of the regulation.

Analysis

Qualitative data are extremely complex and require less precise analytical techniques than quantitative data. As previously discussed, this type of analysis requires an interaction between the researcher, his/her theory and data. This is an interactive process with the researcher constantly moving from the data to the theory and back again until a "goodness-of-fit" is achieved. In this study, no hypothesis-testing will be attempted; a case study is
intended to discover descriptive materials and theoretical ideas rather than test hypotheses. The research and analysis will be focused by the research questions which specify key concepts and linkages toward the development of a theoretical model. Analysis will consist largely of the discovery of classes of data which link one theoretical concept to another. The communication of the data will be largely descriptive. Primarily, the data will be described and prioritized through verbal description, tables and graphs. This description of the data will be tied to the theoretical base delineated earlier in this work. More importantly, the data will be "interrogated" (Schatzman & Strauss' term, 1973) to find a data response to theoretical questions. Through such a process of deduction and induction, some understanding of this phenomenon may be obtained.
CHAPTER IV

The Evidence

The case study used in this work revolves around the Ford Pinto. The Pinto was Ford's first attempt at an American subcompact and it was first placed on the American market in 1971. It was a popular item with American consumers and 2 million were sold during the first five years of production. In 1977, Mark Dowie, a journalist for *Mother Jones*, released an article in which he claimed that Ford engineers and managers were aware of a deadly defect in the Pinto. This defect involved an inadequate fuel system which had a propensity to rupture and send gasoline into the passenger section of the automobile when Pintos were rear-ended. Any spark, generated by friction, the car's electrical system, etc. could ignite the gasoline, resulting in a fire which potentially could be lethal for the occupants of the car. Dowie's article led to a great deal of publicity, an investigation of the Pinto by the NHTSA, and a number of civil suits against Ford. The accusations made by Dowie were serious and comprehensive and provide a beginning for a careful examination of this action by Ford.

Before proceeding to an analysis of pertinent documents and issues, however, a brief discussion of the history of the Pinto, the history of the NHTSA which is mandated to regulate the automotive industry, and the history of the standard regulating fuel systems, is required to more accurately comprehend the issues in-
History of the Pinto

According to the testimony of Harley Copp, a former Ford engineer who worked on the design of the Pinto, the Ford Pinto was developed in the late 1960s. Ford management began to think about competing with Volkswagen and the Japanese subcompacts which were cornering an ever-increasing share of the American automobile market (from 1.6% in 1956 to 10.5% in 1968). According to Copp, Lee Iacocca, then President of Ford, both originated and implemented the design and manufacture of the Pinto. The objectives for the Pinto included a 2000 pound and $2000 total cost for the vehicle. These objectives were stated by Copp, by Camps, a design engineer on the Pinto project, and by Olsen who presented a paper on the Pinto's objectives at a congress for the Society of Automotive Engineers (1971). In his paper, Olsen notes that "...the Pinto was to be a true subcompact in overall size and compete directly with the subcompact imports" (1971, p. 1). In citing objectives, Olsen says:

...it had to be a true subcompact in overall size and weight, but with interior package improvements. The Pinto design meets this objective very well for it really is a small car, and the weight is less than 2000 pounds as shipped from the factory.

The second objective was that it had to be designed for low cost of ownership based on initial price, fuel consumption, reliability, and serviceability. The base Pinto meets this objective—the price is $1919...
The third objective was to design a car that would have clear product superiority over other subcompacts in appearance, comfort, features, ride and handling, and performance (Olsen, 1971, pp. 1-2).

Olsen's description of the Pinto's objectives are summarized in the following figure taken from his paper (Olsen, 1971, p. 2).

1. True Subcompact
   - Size
   - Weight

2. Low Cost of Ownership
   - Initial Price
   - Fuel Consumption
   - Reliability
   - Serviceability

3. Clear Product Superiority
   - Appearance
   - Comfort
   - Features
   - Ride and Handling
   - Performance

Figure 2. Pinto Objectives

Copp, during the Pinto criminal trial (but outside of the jury presence) noted that in the very preliminary stages, then-President Knudsen was opposed to developing a subcompact in the United States and advocated development of a subcompact in Europe where engineers were used to small cars. Dowie (1977) described this disagreement as a power struggle within the Ford management. Iacocca persisted and the car was a "rush project" according to Copp. The styling of the car, "a low, sporty look emphasized by a wide grille, ventless door windows, curved side glass, fast windshield slope and flowing fastback lines" (Olsen, 1971, p. 2) was determined by September,
1968, according to Copp, and this presented problems for the engineers who worked on the project. "Freezing" the styling meant that engineers had little leeway in designing components of the car, such as the fuel system. Copp noted that the design of the Pinto left engineers with little space for the spare, muffler, fuel tank, etc., and called attention to the "weird shape" of the fuel tank as an indication of the difficulty experienced by Ford engineers.

Frank Camps, a Ford design engineer, witnessed the inflexibility of engineering changes. In a 1981 article, Camps notes that the Pinto windshield could not pass the Federal Safety Certification tests.

The windshield failure that occurred that day in July 1970 was repeated many times that summer and in the following months and years. My problem was that I was directed to "forget" about failures by such devious means as the subtle manipulation of documents and crash data. I was instructed to inform the federal government only of our successful test crashes and not the many failures (Camps, 1981, p. 119).

Camps goes on to add information concerning the restrictions surrounding the engineering of the Pinto:

Customarily, the engineering analysis of a crashed vehicle brings out areas of design deficiencies that are arrested with a methodical well-planned approach. Once the barrier crash sequence is concluded, management equates crash results with weight and cost factors to determine what course to follow. Not so for the Pinto. In this case, we were to use a fix-it-with-a-Band-Aid approach because management ruled at the inception of the program that to be competitive this vehicle must weigh no more than 2000 pounds and cost no more than $2000 (Camps, 1981, p. 120).
Copp stated that the Pinto received approval for production in early 1969, before research crash tests had taken place. He stated that it was not "important" in the eyes of the Ford directors. Dowie (1977), uncovered further evidence that the Pinto was rushed into production before adequate tests were made. He claims that the Pinto tooling occurred while the Pinto was being developed. "So when crash tests revealed a serious defect in the gas tank, it was too late. The tooling was well underway" (1977, p. 21). Camps (1981) concurs that the car was rushed into production before adequate tests were made. "The simple fact was that we were already tooled for production before our certification testing program began. Any substantive design changes would have jeopardized Ford's production schedule" (Camps, 1981, p. 120).

Ford did eventually crash test the Pinto and some earlier prototype versions of the car. In respect to the fuel system, rear-end crash tests, beginning in 1970 (Test Number 1616) and continuing from that time to the "fix" (an industry term indicating appropriate procedures and parts to be used in raising a car to standard) in 1978, showed that the Pinto was not capable of withstanding a 20 mph rear-end impact without a substantial amount of damage to, and leakage from, the fuel system. Ford's own tests, marked "confidential," repeatedly told of fuel system failure in the Pinto sedans. These failures were verified by Copp in civil trials and the criminal trial and were confirmed by independent tests ordered by the NHTSA in 1979. In 10 tests of Pintos manufactured from 1971 to 1976, Pinto fuel tanks leaked Stoddard Solvent (a non-flammable substitute
for gasoline) at varying rates ranging from 6 ounces per minute to
total tank leakage in one minute ("Fuel System Integrity," 1979).

When Dowie's expose of the Pinto was released (September,
1977), a number of issues were raised concerning the history of the
Pinto. A basic issue revolved around the percentage of Pintos in­
volved in rear-end crashes and fires. Ford claimed their Pintos
had no higher incidence, proportionately, of fires resulting from
rear-end crashes than any other car. Ford claimed (Misch, 1977)
that Pinto fire-related deaths amounted to 1.4% of total fire deaths
while Pintos made up 1.8% of all passenger cars on the road (1975
figures). Ford's figures were based on statistics reported by
Fatality Analysis Reporting Service (FARS), a data bank which com­
piled national accident statistics. The NHTSA, after investigating
the FARS data, found Ford's figures inaccurate and discovered at
least twice as many fire fatalities as those reported by Ford
(Murray, 1977). Even more surprising, a 1973 Status Report
(Locati & Franchini, 1973) indicated that in 1973, Ford cars con­
stituted 20% of the cars on the road and yet Ford automobiles had
35% of all the ruptured fuel systems reported in accidents. Ford
itself, in response to NHTSA requests for information acknowledged
35 accidents involving rear-end crashes and resultant fuel system
failures in Pintos in which 25 people suffered fatal injuries and 32
people suffered varying degrees of burns and other injuries
R. L. Polk (referred to by Consentino in the criminal trial, Feb­
uary 2, 1980), evidence was presented that "Pinto fires account
for .8% of all accident fatalities while fires in all other 1973 cars account for .4% of accident fatalities." A number of civil cases (Kaminski vs. Ford, Grimshaw vs. Ford) were brought against Ford and judgements against Ford were common. A landmark case was Grimshaw vs. Ford in which a jury awarded the plaintiff $128 million.

By 1978, the NHTSA had made an initial determination that a defect did exist in the fuel system of the Pinto and its Mercury companion, the Bobcat (Dugoff, 1978). The NHTSA sent Ford a notice of a hearing to answer the NHTSA charges. Ford, rather than facing an involuntary recall and more adverse publicity, agreed to voluntarily recall the Pintos and Bobcats. Misch, a Ford Vice-President, however, stated that Pintos were no better or worse than any other small car, but that the NHTSA had found that Ford could reduce the "risk of fuel leakage" and thus Ford, "to end public concern" would offer the modifications (Misch, 1977). Ford subsequently offered a "fix" which failed independent crash tests ordered by the NHTSA. This first modification utilized a polyethylene shield over the front of the tank and a longer filler neck sealed to the tank. The next "fix" included the above, but added a better sealing gas cap. This "fix" also failed crash tests. The next "fix" deleted brittle "U" bolts, added a hanger strap reinforcement, and all of the above fixes. In tests, puncture holes still appeared on the tank because the polyethylene shield became loose. In the final "fix," approved by the NHTSA on August 18, 1978, all of the above remedies plus an additional small polyethylene shield and a rounding off of sharp
corners of the mounting bracket were implemented (Lederman, 1978).

Ford began sending out recall letters to Pinto and Bobcat owners in September, 1978.

History of the National Highway Traffic Safety Administration

The NHTSA was created in 1966. The Congress of the United States enacted the National Highway and Motor Vehicle Safety Act and stated the purpose of both the Act and the agency created as a result of the Act (NHTSA) as follows:

...Congress hereby declares that the purpose of this Act is to reduce traffic accidents and deaths and injuries to persons resulting from traffic accidents. Therefore, Congress determines that it is necessary to establish motor vehicle safety standards for motor vehicles and equipment in interstate commerce; to undertake and support necessary safety research and development; and to expand the national driver register" (NHTSA, 1966, p. 179).

The NHTSA Act consists of three titles with 42 different sections. The three titles address 1) motor vehicle safety standards, 2) tire safety, and 3) research and test facilities. The following list summarizes the content of the various sections:

Title I, Part A - Motor Vehicle Safety Standards
Section 101 Names the Act
Section 102 Defines and gives general provisions
Section 103 Procedures for ordering standards
Section 104 Provisions for establishing an advisory council
Section 105 Procedures for dealing with controversy over orders
Section 106 Research rights of NHTSA
Section 107 Admonishment to cooperate with other federal and state agencies
Section 108 Agency rights to records, call for conformity to standards, and liability under common law
<table>
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<th>Section</th>
<th>Description</th>
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<tr>
<td>Section 109</td>
<td>Penalties for violations</td>
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<tr>
<td>Section 110</td>
<td>Agency right to recall, fine, sue</td>
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<td>Section 111</td>
<td>Manufacturers responsibilities in recalls</td>
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<td>Section 112</td>
<td>Authority to inspect</td>
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<tr>
<td>Section 113</td>
<td>Procedures for manufacturers to oppose, amend, comment, etc. on standards</td>
</tr>
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<td>Section 114</td>
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<td>Section 115</td>
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<td>Section 116</td>
<td>Antitrust laws upheld</td>
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<tr>
<td>Section 117</td>
<td>Repeal of previous rules</td>
</tr>
<tr>
<td>Section 118</td>
<td>Use of public test facilities</td>
</tr>
<tr>
<td>Section 119</td>
<td>Rights of bureau secretary</td>
</tr>
<tr>
<td>Section 120</td>
<td>Call for annual report</td>
</tr>
<tr>
<td>Section 121</td>
<td>Money allocations for bureau</td>
</tr>
<tr>
<td>Section 122</td>
<td>Effective date of Act (when first Standard is issued)</td>
</tr>
<tr>
<td>Section 123</td>
<td>Procedure to handle publications and comments, includes list of exemptions from public domain</td>
</tr>
<tr>
<td>Section 124</td>
<td>Procedures for people to call for orders</td>
</tr>
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<td>Section 125</td>
<td>Order for seat belts</td>
</tr>
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</table>

**Title I, Part B - Discovery, notification, and remedy**

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<th>Section</th>
<th>Description</th>
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<td>Section 151</td>
<td>Order for manufacturer to notify of defect (whether standard exists or not)</td>
</tr>
<tr>
<td>Section 152</td>
<td>Secretary's duty to warn and procedures for determination of defect</td>
</tr>
<tr>
<td>Section 153</td>
<td>Rules for notification</td>
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<td>Section 154</td>
<td>Manufacturers' choices to remedy</td>
</tr>
<tr>
<td>Section 155</td>
<td>Enforcement of notification</td>
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<tr>
<td>Section 156</td>
<td>Petition to show reasonable notification and/or remedy</td>
</tr>
<tr>
<td>Section 157</td>
<td>Exemptions</td>
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<td>Section 158</td>
<td>Order for manufacturer to notify bureau of fix or remedy</td>
</tr>
<tr>
<td>Section 159</td>
<td>Tire rules</td>
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<tr>
<td>Section 160</td>
<td>Statement of warranty obligations</td>
</tr>
</tbody>
</table>

**Title II - Tire Safety**

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 201</td>
<td>Tire labeling required</td>
</tr>
<tr>
<td>Section 202</td>
<td>Must meet load standards</td>
</tr>
<tr>
<td>Section 203</td>
<td>Uniform quality grading system</td>
</tr>
<tr>
<td>Section 204</td>
<td>No sale of regrooved tires</td>
</tr>
<tr>
<td>Section 205</td>
<td>Supersedes old orders</td>
</tr>
<tr>
<td>Section 206</td>
<td>Safety standards for tires must be established within one year of act</td>
</tr>
</tbody>
</table>
Title III - Research and test facilities

Section 301 Mandate for bureau to plan and construct test facilities

It should be obvious from the foregoing that the scope of the Act is broad and that the Act grants much power to the bureau which it created. Various sections of the Act are more pertinent to this study than others, and these will be discussed in more detail as they relate to the specific research questions.

The NHTSA began issuing standards in 1968. These standards covered many items involved in automobile manufacturing, including performance standards for brakes, windows, tires, controls, warning devices, crash protection, windshield retention, etc. The standard involved in the Ford Pinto case is Federal Safety Standard 301 which sets guidelines for fuel systems in the form of fuel tanks, fuel tank filler pipes, and fuel tank connections under the general title of Fuel System Integrity ("Summary Description," 1976, p. 3).

Standard 301 - Fuel System Integrity

The NHTSA has a policy of rule-making which allows petitioners or the agency to propose a rule. Following such proposals, a notice of rule-making is issued (in the Federal Register) and interested parties have 90 days in which to respond to the proposed rule. Responses may include cost-benefit analyses, arguments opposed to or in support of the proposed rule, and/or may include any additional information to the matter at issue. Following such "comments," the NHTSA will review the matter and either amend the proposed rule (starting the comment/amend process all over again) or
may accept the rule as proposed. Rules are seldom implemented after only one notice, and Standard 301 was no exception.

Federal Motor Vehicle Safety Standard (FMVSS) 301 was first issued in 1967. It basically stated that fuel spillage following a 30 mph front barrier impact could not exceed one ounce per minute from the fuel tank, filler pipe, and their connections. The NHTSA also issued in 1967 "advanced notice of rule-making" which would alter the standard to include rear and side impacts, as well as rollover fuel spillage. An advanced notice of rule-making indicated that such a rule would soon be proposed to be effective in the near future. In 1968, a new notice of rule-making, requiring 20 mph rear and side impact crash tests, was issued. This standard was to be effective commencing January 1, 1970. In 1970, another notice of rule-making was issued, adding a 30 mph rear impact standard to be effective in January, 1973. Again, the proposal was not put into effect. On August 20, 1973, James B. Gregory, then administrator of the NHTSA, issued a "Preamble to amendment to MVSS 301," along with a revised standard. In this amendment, the standard remained at a 30 mph rear-end collision, but allowed one ounce per minute fuel spillage during the tests rather than zero fuel spillage as had been proposed. This was changed because "the proposal that there be zero fuel spillage was almost universally opposed for cost/benefit reasons" (Gregory, 1973, p. 1).

The notice of rule-making was sent out for comment and on March 21, 1974, further amendments were made. The amendments concerned the use of a static rather than dynamic rollover test and the use of
Stoddard Solvent (a less flammable fuel than gasoline) rather than gasoline. The amendments were adopted and the new notice of rule-making specified September 1, 1975 as the effective date of the standard. Gregory issued another preamble to amendment on November 21, 1974. In this notice, testing procedures were clarified, the NHTSA disregarded negative cost/benefit analyses, and refused to lengthen the time for implementation.

On August 6, 1975, a sixth amendment to Standard 301 was given. Again, changes in test procedures were clarified. Changes were minimal and the standard was to be effective 180 days after the publication of the notice (February, 1976). A petition for reconsideration led to the final rule issued in October, 1975. The implementation of the standard was delayed until September 1, 1976 so that manufacturers would have sufficient lead time to conclude testing. The final standard called for a 20 mph lateral impact moving barrier of 4000 pounds, and a 30 mph front-end and rear-end moving barrier impact.

Corporate Crime?

Before examining the research questions in relation to this case study, the issue of definition must be addressed. Was Ford's action in the case of the Pinto actually a corporate crime? In the very broad definition, as given in Chapter I, Ford's action certainly did "destroy or threaten to destroy the basic liberties of individuals and groups within society." The crime becomes even more heinous (thus a more serious crime, although that is not a criterion
for the definition) upon the examination of evidence which suggests that Ford knew of the potential threat to human life, but neglected to fix or call public attention to the defect.

A number of documents indicate that Ford had prior knowledge of the Pinto's defective fuel system. Earlier Ford models, which utilized a similar gas tank design, were criticized for their poor performance in fuel system integrity. In a letter written to the Department of Transportation (DOT) on September 11, 1968, Coast Guard Captain Williams (Director of Safety) complained of the drop-in tank where the floor of the trunk consists of the top of the fuel tank (Williams, 1968). A frequency distribution of passenger car fires and "collision-ruptured fuel systems" by passenger cars in use (July 1, 1973) showed that Ford failures constituted 35% of all fires while Ford products made up only 20% of all passenger cars in use (Locati & Franchini, 1973). According to Hare, attorney for the plaintiff in Kamiski vs. Ford (1977), "Ford, themselves, accepted a figure of six or seven hundred deaths from fires in automobile collisions" (Kaminski vs. Ford, 1977, p. 7).

Hare's arguments are most convincing when he discusses proof of Ford's prior knowledge:

I want to go to their own crash tests. What does Ford know, not guess, not whether they've read the literature in their big library, but what do they actually know before they turn this Pinto loose. They've got crash tests on other cars, the ones they are modeling after. Tests after tests, after tests failures, penetrations, fill tube pulling out, leaks on Falcons, Mustangs, Mavericks, they've got those crash tests...every single crash test a failure...every single test conducted by Ford
on their own Pintos in a rear-end collision to demonstrate this hazard—100% failed. And they release it, and don't tell the public and they don't tell the government, and they don't make a single change (Kaminski vs. Ford, 1977, pp. 15-16).

Testing of Pinto fuel systems began before Pintos were put on the market. Four tests on Pinto prototypes, called "special Mavericks," were conducted on May 12, 1969 (Test order T-0109 and T-0111), June 26, 1969 (T-0210), and November 7, 1969 (T-0386). The results of these tests were that the fuel system was lacking integrity and leaked fuel at speeds less than 20 mph. Additional tests were conducted throughout the life of the Pinto and most of these indicated failure of the Pinto fuel system. The table below summarizes a few of Ford's own tests on the Pinto.
<table>
<thead>
<tr>
<th>Test</th>
<th>Date</th>
<th>Car</th>
<th>Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.615</td>
<td>10/9/70</td>
<td>1970 Capri w/over axle tank</td>
<td>no leakage</td>
</tr>
<tr>
<td>1.616</td>
<td>10/10/70</td>
<td>1971 Pinto Sedan</td>
<td>Filler pulled out, punctures</td>
</tr>
<tr>
<td>1.657</td>
<td>12/2/70</td>
<td>Pinto with rubber bladder</td>
<td>Tank punctured, bladder held</td>
</tr>
<tr>
<td>1.668</td>
<td>12/15/70</td>
<td>1971 P. Sedan</td>
<td>Filler out, excessive leakage</td>
</tr>
<tr>
<td>1.682</td>
<td>1/7/71</td>
<td>Stiffened rear end, heavier</td>
<td>no leakage</td>
</tr>
<tr>
<td>1.716</td>
<td>1/15/71</td>
<td>1971 w/bladder</td>
<td>punctured, filler out, bladder held</td>
</tr>
<tr>
<td>2.666</td>
<td>9/26/73</td>
<td>Pinto prototype</td>
<td>Excessive leakage</td>
</tr>
<tr>
<td>2.679</td>
<td>10/17/73</td>
<td>Pinto Wagon</td>
<td>Excessive leakage</td>
</tr>
<tr>
<td>2.736</td>
<td>1/21/74</td>
<td>74 prototype</td>
<td>Filler out, strap broke, leakage</td>
</tr>
<tr>
<td>2.832</td>
<td>7/1/74</td>
<td>Runabout/Mustang tank</td>
<td>Punctured by differential, excessive leakage</td>
</tr>
<tr>
<td>2.934</td>
<td>10/22/74</td>
<td>74 Pinto Sedan</td>
<td>Filler out, strap broke, puncture, excessive leakage</td>
</tr>
<tr>
<td>2.955</td>
<td>11/25/74</td>
<td>74 Pinto Sedan</td>
<td>Tank tore, seam burst, excessive leakage</td>
</tr>
<tr>
<td>2.976</td>
<td>1/8/75</td>
<td>75 Wagon</td>
<td>Tank folded after contact with axle excessive leakage</td>
</tr>
<tr>
<td>2.989</td>
<td>2/12/75</td>
<td>75 Pinto Sedan</td>
<td>excessive leakage</td>
</tr>
<tr>
<td>2.063</td>
<td>5/27/75</td>
<td>75 Pinto Sedan</td>
<td>Puncture, filler out, excessive leakage</td>
</tr>
<tr>
<td>3.096</td>
<td>6/26/75</td>
<td>75 Pinto Runabout</td>
<td>Multiple punctures, leakage</td>
</tr>
<tr>
<td>3.097</td>
<td>6/26/75</td>
<td>75 Pinto Runabout</td>
<td>Filler out, excessive leakage</td>
</tr>
<tr>
<td>3.123</td>
<td>7/24/75</td>
<td>75 Wagon</td>
<td>excessive leakage</td>
</tr>
<tr>
<td>3.320</td>
<td>5/3/76</td>
<td>77 prototype</td>
<td>excessive leakage</td>
</tr>
<tr>
<td>3/278</td>
<td>6/10/76</td>
<td>77 Bobcat</td>
<td>excessive leakage</td>
</tr>
</tbody>
</table>
In the above table, note that test number 1.615 involved a 1970 Capri with an over-the-axle fuel tank. This particular fuel system passed the rear-end impact test, indicating that Ford had the technology to strengthen the Pinto's fuel system integrity. Similarly, in test 1.657 and 1.761, Pintos with rubber bladders were able to pass the rear impact test. Note also that test 1.682 shows that fuel leakage could have been avoided with a heavier car with a stiffened rear-end. Hare, in *Kaminski vs. Ford*, discussed the failure rate of all the Ford tests—some fifty or more tests, according to Ford documents ("Rear Crash Tests, 1978). Hare said, "A hundred percent failure of the tests for the purpose of seeing if it's safe, a hundred percent failure; no warning, no notice, no change" (*Kaminski vs. Ford*, 1977, p. 12).

Ford's tests were further substantiated by independent tests ordered by the NHTSA. In tests of 12 Pintos (See Table II), fuel system damage, sufficient to cause fuel spillage beyond the acceptable one ounce per minute, was consistent.
Table 2
NHTSA-Contracted Tests of Pinto

<table>
<thead>
<tr>
<th>TEST</th>
<th>DATE</th>
<th>MODEL</th>
<th>OUTCOME</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2/1</td>
<td>1971 Pinto Sedan</td>
<td>Fire</td>
</tr>
<tr>
<td>3</td>
<td>2/15</td>
<td>1972 Pinto Sedan</td>
<td>Fire</td>
</tr>
<tr>
<td>5</td>
<td>2/16</td>
<td>1972 Pinto Sedan</td>
<td>Leakage &gt; 6oz/pm</td>
</tr>
<tr>
<td>7</td>
<td>2/20</td>
<td>1971 Pinto Sedan</td>
<td>Leakage &gt; 100oz/pm</td>
</tr>
<tr>
<td>9</td>
<td>2/23</td>
<td>1971 Pinto Sedan</td>
<td>Leakage &gt; 10 oz/pm</td>
</tr>
<tr>
<td>1.1</td>
<td>2/27</td>
<td>1972 Pinto Sedan</td>
<td>Leakage &gt; 12 oz/pm</td>
</tr>
<tr>
<td>1.4</td>
<td>3/21</td>
<td>1974 Pinto Sedan</td>
<td>Leakage &gt; 500oz/pm</td>
</tr>
<tr>
<td>1.6</td>
<td>3/22</td>
<td>1976 Pinto Sedan</td>
<td>Leakage &gt; 450oz/pm</td>
</tr>
<tr>
<td>1.7</td>
<td>3/23</td>
<td>1974 Pinto Sedan</td>
<td>Leakage &gt; 10 oz/pm</td>
</tr>
<tr>
<td>1.9</td>
<td>3/28</td>
<td>1976 Pinto Sedan</td>
<td>Total tank contents</td>
</tr>
</tbody>
</table>

(Sources: "Ruel System Integrity," 1979)

An investigative report on the Pinto by the Office of Defects Investigation includes the following corroborative information:

Reports of 55 barrier crash tests conducted...on both production vehicles and vehicles with experimental components and/or modified structures...were provided, including tests of Mercury Bobcats. While these tests were reportedly performed, in part, in connection with proposed NHTSA rule-making activities, three items developed a history of consistent results:

a. At impact speeds as low as 21.5 miles per hour with a fixed barrier (Crash Test 1616), the fuel tank was punctured by contact with the differential housing and/or its bolts, or with some underbody structure.

b. Under similar test conditions as (a), above, the fuel filler neck was pulled out of the tank completely.

c. Again, under similar conditions as (a), above, structural and/or sheet metal damage to the vehicle was sufficient to jam one, or both of the passenger doors closed ("Alleged fuel tank and Filler neck damage," 1978, p. 7).
Ford's prior knowledge is verified by studies done by Ford in which the cost of remedying the defect was examined. A Ford confidential Cost Engineering Report dated February 9, 1971 examines the costs of two alternative fuel tanks to meet the "30 mph Safety Standard" (Mancini, 1971). The first proposal consists of a fuel tank over the rear axle along with a body sheet metal barrier at a proposed cost over the 1971 model of 19.95. The second proposal involved a tank-in-tank with polyurethane foam between the tanks. This plan added an additional $5.08 to the cost of the 1971 model.

In 1977, the NHTSA undertook an investigation of the Ford Pinto. In a letter dated September 8, 1977, Lynn Bradford asked Ford to respond to a number of questions concerning the Pinto fuel system. Questions 1, 2, 4, and 5 were directed specifically to the changes Ford made to strengthen fuel system integrity. In response to those questions, Ford said that 82 changes had been made relative to the fuel system. Those items particularly concerned with fuel system integrity in rear-end impacts did not occur until model year 1977 when a plastic shield was added between the fuel tank and straps, the filler tube was lengthened, revised tank straps and brackets were added, a tank shield was added, and special bolts were added. Note from the above that it took a combination of methods to enable the Pinto to eventually pass Standard 301. As the Office of Defects Investigation Enforcement, NHTSA, reported, "Review of the test reports in question suggested that Ford had studied several alternative solutions to the numerous instances in which fuel tank deformation, damage of leakage occurred during or after impact"

The 1977 Pintos were reengineered to better meet Standard 301. Indeed, Ford, in an advertising campaign boasted of "Another Design Feature. Since the 1977 model year, all Pinto Sedans included re-designed fuel system features: a new, longer filler pipe, and a polyethylene shield for improved puncture resistance" (Bloch, 1978, p. 2).

The evidence indicates that Ford was indeed aware of the problems and the potential threat to life of the Pinto. While this is not a criterion of corporate crime, it makes the act more deliberate and probably more serious. The other aspect of corporate crime involves actions on behalf of the corporation as opposed to actions in the interests of particular individuals. Was this indeed a corporate act as opposed to an individual act?

Camps (1981) outlines the influence of the corporate benefit in the case of the Pinto. Camps was one of many engineers working on the Pinto, and one of his major duties was to see that the Pinto was certified. When the Pinto windshield could not be certified because of the retention requirement, Camps said, "We intentionally channeled some of the kinetic energy generated in the crash away from the windshield and transmitted that energy via the driveshaft to the differential housing, causing contact with the gas tank. The corporate reasoning was sound. Windshield retention was a federally mandated area of certification. Fuel system integrity, at that time, was not" (1981, p. 120).
Camps repeatedly called the Pinto problems to the attention of corporate management. He states, "After pointing out that I faced the dilemma of either serving the best interest of the Ford Motor Company or submitting to the directives of my immediate superiors, I charged that "certain members of management are totally aware of violations of federal law as they relate to windshield strength and retention and have willfully and knowingly suppressed this information" (Camps, 1981, p. 123). Camps went to the highest echelons in his attempt to change corporate policy. "I met in October with Jack Eckhold, the Director of Safety for the Ford Motor Company. Mr. Eckhold was gracious and disarming, but when we parted after two hours of discussion, he escorted me to the door with the final comment: Mr. Ford does not take too kindly to "whistle-blowers" and added that it would be prudent for me to keep my mouth shut" (1981, p. 125). Camps sums up his experience as follows:

My experience at Ford also taught me a disheartening lesson about the distorting effects that the company can have upon the individual worker. After I brought my concerns to the attention of the Office of General Counsel, I sought among my co-workers—as did Diogenes—an "honest man" to stand with me against management. I thought I had found two or three persons who would support my claims. But my hopes were quickly dashed. I discovered that my colleagues, who previously had shared my views, had received promotions in grade and substantial salary increases by following orders. Needless to say, they were no longer interested in voicing their displeasure with company safety-testing procedures. It is not surprising that a corporation with unlimited resources can buy or intimidate people (Camps, 1981, p. 127)

The Grand Jury in Elkhart recognized that the Pinto defect was

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"... through the acts and omissions of its agents and employees acting within the scope of their authority with said corporation..." ("Indictment," 1978, p. 1). Cosentino, the prosecuting attorney in the criminal case reiterated more than once that the corporation, not individuals within it, were on trial. "We never from the beginning said that we intended to indict individuals. The investigation, which covered hundreds and hundreds of hours, was directed toward the corporation" (Schrieber, 1977, p. 3).

Harley Copp too, in testimony at the criminal trial, stated that Ford knew of the Pinto's defects, that there were dangerous design defects, and that individuals were helpless to change the situation because "they were locked into style and cost" (Trial Notes, February 2, 1980). He added that engineers were kept from exercising their best judgment by Lee Iacocca (then President) whose "ambition overshadowed his morality" (Trial Notes, February 12, 1980).

With the exception of Iacocca, who individually could gain prestige, increased bonus, job security, etc., by the successful meeting of Pinto's 2000 pound/2000 dollar objectives, other individuals within the Ford group had little individual vested interest in the action. Iacocca was involved in overseeing the project rather than its actual development and testing. No single individual can be identified as having committed the act of manufacturing a defective car; rather, it appears to have been a corporate act—that is, an action by a corporation or its agents—in the
terest of the corporation. The corporate interest appears to have been, primarily, one of profit. Thomas Feaheny, a Ford engineer, commented, "This is a complex business. Whatever we do, however, must appeal to the buyer. It's got to sell or we have lost the ballgame" ("72 Ford models," 1969, p. 43).

Research Questions

The Ford case, then, meets the criteria of corporate crime and is a suitable case for investigation. The factors involved in this crime will become evident through examination of the individual research questions.

Research Question 1

How did the two principles of capitalism affect the behavior of Ford?

A. How was Ford influenced by the principle of maximization of profit?

The principle of maximization of profit is quite evident in documents pertinent to the Ford matter. Henry Ford II, in a Look magazine interview (1968, cited by Camps, 1981) said, in response to a question about the biggest problem at Ford, "That's easy--making more money" (p. 121). Such sentiments have been echoed by Ford employees. Camps, 1981, states, "Our main purpose as Ford employees was to increase corporate profits" (p. 120). In a 1969 speech at Harvard Business School, Henry Ford II addressed the issue of corporate influence over the quality of life. He stated, "...we should start thinking about changes in public values as opportuni-
ties to profit by serving new demands" ("Ford sees danger," 1969, p. 6). He further added, "We have to think more like entrepreneurs and innovators, and less like administrators and problem solvers" (1969, p. 6). Henry Ford II concluded his speech by noting the increase of expenditures required to meet increasing government standards, but implied that meeting such demands provided a greater opportunity for profit. Thomas Feaheny also expressed concern over profits by noting that appeals to the buyer were crucially important. "It's got to sell or we have lost the ballgame," he stated to a panel sponsored by the National Association of Independent Insurers ("72 Ford Models," 1969, p. 43).

Profits at the Ford Motor Company appeared to be a matter of concern during the late 1960s and early 1970s. Table 3 shows the net profit of Ford from 1969 to 1975, and it is evident that, except for a two year surge in 1972 and 1973, the trend in profitability has been downward.
Table 3
Trends in Profit for Ford Motor Company

<table>
<thead>
<tr>
<th>YEAR</th>
<th>NET PROFIT FOR FORD</th>
<th>NET PROFIT FOR ALL MANUFACTURING CORPORATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>1968</td>
<td>7.0</td>
<td>8.7</td>
</tr>
<tr>
<td>1969</td>
<td>5.9</td>
<td>7.1</td>
</tr>
<tr>
<td>1970</td>
<td>5.2</td>
<td>5.0</td>
</tr>
<tr>
<td>1971</td>
<td>6.3</td>
<td>5.5</td>
</tr>
<tr>
<td>1972</td>
<td>7.5</td>
<td>6.5</td>
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<tr>
<td>1973</td>
<td>7.0</td>
<td>7.9</td>
</tr>
<tr>
<td>1974</td>
<td>2.5</td>
<td>6.1</td>
</tr>
<tr>
<td>1975</td>
<td>2.3</td>
<td>7.7</td>
</tr>
</tbody>
</table>


Profit margins have worried Ford. "In 1971, before the oil crisis, Ford was complaining that its profit margin, at 4.1% of sales compared unfavorably with an average 5.7% for the thirty companies in the Dow-Jones industrial index and 4.7% for the nation's largest industrial firms" ("The Ford Motor Company," 1978, p. 8).

The importance of the profit motive for Ford is nicely summed up by the CIS (Counter Information Service) report:

Profits mean power, and power protects and maintains profits. The Ford Motor Company will not tolerate constraints on its behavior, and its multinational operation, and sheer economic muscle give it a great deal of independence of and control over conditions in any one country ("The Ford Motor Company," 1978, p. 9).

In the matter of the Pinto affair, the loss of profits, through recalls, adherence to standards, adjustments to the fuel system, etc., repeatedly surface as an explanation for Ford's failure to
"fix" a known defect. Hare, for example, in answering the question as to why Ford did not fix the Pinto, remarks,

The answer to this question goes back to the original management motivation for the development of the Pinto which was in response to a management felt necessity to obtain a competitive position in the subcompact market; in other words, for profit (Kaminski vs. Ford, 1977, p. 20).

Harley Copp, in testimony at the criminal trial, responded again and again that increased costs (and by inference, decreased profits) were the reason for Ford's inaction.

Question (by the prosecuting attorney): Did Ford know the crush space was inadequate?

Answer (By Copp): They knew it.

Question: What did they do about it?

Answer: Nothing, because of costs.

Question (concerning reinforcement of the Pinto): Anything else?

Answer: Nothing significant.

Question: Why not?

Answer: Costs of tooling, etc.

Question (concerning filler tube pullout): Why didn't they do anything?

Answer: Costs.

Question (concerning floor pan welds): Did Ford know of the problem?

Answer: They knew.

Question: What did they do?

Answer: Nothing.

Question: Why?
Answer: Redesign costs.

Question (concerning the shape of the gas tank): Did Ford know of the defects?

Answer: Sure, it was a basic engineering principle.

Question: Why didn't they do anything?

Answer: Cost.

Question: Can you tell us how reduction in the 1973 Pinto fuel system integrity came about?

Answer: To save $6.55.

Question: How did $6.55 affect policy concerning the Pinto?

Answer: Improved profitability.

(Trial Notes, 2/7/80)

Trial notes also show the attention paid to the issue of profitability by both Ford and the prosecution. Neal, the chief defense attorney, during the voir dire asked prospective jurors, "Do you think corporations have a right to make a profit?" (Trial Notes, 1/7/1980). Consentino later asked, "Do you think corporations have a right to make a profit at the expense of safety?" (Trial Notes, 1/7/1980). Consentino continued this line of reasoning in his opening statement by arguing that Ford management vetoed possible remedies for the defect because they were "too costly" and that "Ford chose profit over safety" (Trial Notes, 1/15/80).

Much was made at the criminal trial, as well as in civil suits, of Ford's use of cost-benefit analysis to determine whether or not safety features were cost-effective. The highly publicized document at issue here is the Grush-Saunby report which was used by Ford in
response to Notice 2 of proposed rule-making, Standard 301-Fuel

System Integrity. The Grush-Saunby report examined only one aspect of the standard, but is useful as illustrating the arguments used by Ford:

The cost of implementing the rollover portion of the amended Standard has been calculated to be almost three times the expected benefit, even using very favorable benefit assumptions. The yearly benefits of compliance were estimated at just under $50 million, with an associated customer cost of $137 million. Analyses of other portions of the proposed regulation would also be expected to yield poor benefit-to-cost rations (Grush & Saunby, 1973, p. 3).

In addition, Ford complains, "The above listed product changes result in an increased Retail Price Equivalent (the customer sticker price with no provision for Ford profit)...." (Eckhold, 1973).

The Grush-Saunby report led Jack Anderson to title a column, "Ford Motor Company put profit ahead of lives" in which Anderson reveals, "Buried in secret files of the Ford Motor Company lies evidence that big auto makers have put profit ahead of lives" (Anderson & Whitter, 1976). In Grimshaw vs. Ford, a civil suit, Mr. Hews, attorney for the plaintiff comments:

...the documents we have referred to were kept in the ordinary course of business; that they represented two approaches by the company, one, the approach of corporate savings, and the other as it related to the cost, and the other the conversion of human lives into a dollar and cents figure as it related to corporate cost of making the change" (Grimshaw vs. Ford, 1977, p. 7).

Ford, in the Indiana criminal trial argued that "NHTSA requires such cost-benefit analysis" (Trial Notes, 1/14/1980), and that the Grush-Saunby "document can be misconstrued" (Trial Notes, 1/14/1980).
Mr. Hews, in *Grimshaw vs. Ford*, argued that Ford has misinterpreted the extent of the NHTSA cost-benefit analysis program. He argued that the article in question (used by Ford to justify Grush-Saunby) was prefaced with the statement, "That we are in no way attempting to measure the value of human life" (*Grimshaw vs. Ford*, 1977, p. 9).

There is evidence, then, to support the importance of the profit principle in the case of Ford. Many individuals within Ford, as well as Henry Ford II, argue that profit-making is a primary concern at Ford. The influence of the principle of maximization of profit is poignantly realized through an examination of the Grush-Saunby report in which human lives were assigned dollar values and those benefits were subsequently weighed against the costs of remedying the defects.

B. What influence did Ford have on the political economy? Were there interlocks between Ford and the political sector?

This question is rather difficult to answer. There are indications that Ford and the other automobile companies form an oligopoly which yields considerable economic power. For example, "The Cost of Living Council exempted the auto industry from Phase IV wage and price controls on December 10, 1973. In exchange, GM, Ford, and AMC agreed not to raise prices by more than $200 on average-sized 1974 cars nor more than $150 on compact and subcompacts unless forced to by "unforeseen major economic events" (Costello, 1974).

The interrelationships of the automobile industry and the political process are indicated in a number of ways. U.S. Secretary of State William Rogers (1971) told executives of large corporations,
including Ford, that "...the Nixon administration is a business administration. Its mission is to protect American business" ("The Ford Motor Company," 1978, p. 6). In return (as it were) Ford contributed to the Committee to Re-elect the President (Nixon), a sum of $133,441. $102,776 of this was a secret contribution (2074, p. 3). Of the total Ford contribution, $49,776 was a personal contribution from Henry Ford II (Aspin, 1973, p. 3). The press release from Congressman Les Aspin (D-Wisc) noted the "solid evidence of the endless trade-off between big business and the Pentagon. It shows unmistakably the stake big business has in maintaining a bloated military budget" (Aspin, 1973, p. 3).

The above is not surprising in view of the interlocks between Ford and the political system. Robert McNamara, for example, held various executive positions at Ford from 1946 to 1961. In 1961 he was appointed Secretary of Defense. Other interlocks go in the opposite (public to private) direction. Douglas W. Toms, who headed NHTSA from 1969 through 1973, is now the President of a recreational vehicle company which does "substantial business" with Ford.

A further example of the interrelationship of the automobile industry and the polity came to light in a document concerning White House involvement in the regulation process. This memo "...sets out the statement of White House concern for the air bag and other regulatory burdens on the auto industry" (Heffelfinger, 1971). The memo refers to the REGAT (Regulatory Effects on the Costs of Automotive Transportation) which addresses the question, "How far can and should the government enter into regulation and establishment of
standards for automotive design and inspection?" (Heffelfinger, 1971). The memo suggests that active White House involvement in weakening regulatory power is occurring.

The lack of activity of the NHTSA was not going unnoticed. Ralph Nader in a 1968 communication to then-head of NHTSA, William Haddon, wrote:

The Bureau must take increasing care that the companies do not make laughing stocks out of already anemic standards in their self-determined levels of production safety. The Bureau was not established to lag behind one, two, or more years, but to lead, repeat, to lead" (Nader, 1968).

Again in 1973, the DOT (Department of Transportation) was taken to task for its slowness in responding to safety measures. Congressman John Moss (D-Calif) talked of "adding amendments to pending motor-vehicle legislation, if DOT fails to act" ("Fiery Car Collisions," 1973, p. 8). In 1976, the Oversight and Investigations committee of the House Commerce Committee sharply criticized NHTSA for "the virtual halt of the federal motor vehicle safety program over the last two years" ("Virtual halt of vehicle safety," 1976, p. 1). Noting the provision in the National Traffic and Motor Vehicle Safety Act of 1966 for comments on proposed rules, the subcommittee stated, "the vast majority of written comments are submitted by the regulated industry..." ("Virtual halt of vehicle safety," 1976, p. 1). The subcommittee also accused NHTSA of bowing to "increased resistance from industry" thus losing effectiveness. In addition, the subcommittee chided that lack of NHTSA action was also due to "political interference in NHTSA rule-making by the White
House Domestic Council, the Office of Management and Budget, and others" ("Virtual halt of vehicle safety," 1976, p. 2).

In sum, the evidence suggests that Ford did have some degree of influence on the political economy through interlocks between itself and the public sector though interlocks in and of themselves are not conclusive. In addition, there are suggestions that lobbying and/or other efforts on the part of Ford and the auto industry affected the ability of the regulatory agency, NHTSA, to effectively regulate the automobile industry.

Research Question 2

Did Ford attempt to manipulate the prevailing legal environment? Were political actions taken to promote Ford's interests?

There are three main areas in which Ford actively attempted to shape the legal environment in which it operated. These are: 1) Ford's activities in response to the proposed National Highway and Motor Vehicle Safety Act of 1966, 2) Ford's lobby efforts in response to Standard 301 (the Federal Standard for fuel system integrity), and 3) Ford's activities in response to the NHTSA investigation into the alleged deficiencies of the Ford Pinto fuel system.

Ford's Lobby Efforts Against the Safety Act. The CIS report on the Ford Motor Company summarizes Ford's response to the National Highway and Motor Vehicle Safety Act:

People who know him cannot remember Henry Ford II taking a stronger stand than the one he
took against the regulation of safety design.

By 1965, most pundits and lobbyists saw the handwriting on the wall and prepared to accept government "meddling" in the last bastion of free enterprise (the automobile industry). Not Henry. With bulldog tenacity, he held out for defeat of the legislation to the very end, loyal to his grandfather's invention and to the company that makes it. But the Safety Act passed the House and Senate unanimously and was signed into law by Lyndon Johnson in 1966.

While lobbying for and against legislation is pretty much a process of high-level back-slapping, press-conferencing and speech-making, fighting a regulatory agency is a much subtler matter. Henry Ford II headed home...and a plane-load of the Ford Motor Company's best brains flew to Washington to start the "education" of the new federal auto safety bureaucrats.

Their job was to implant the official industry ideology in the minds of the new officials regulating auto safety. Briefly summarized, that ideology states that auto accidents are caused not by cars, but by 1) people and 2) highway conditions ("The Ford Motor Company," 1978, p. 44).

Henry Ford II continued to oppose government "interference" in the area of automobile regulation. In a 1969 speech to Harvard Business School, he argued that the "danger of losing our business freedom is greater than ever" ("Ford sees danger," 1969, p. 6) and added that Ford is "now spending $500,000 a year in the U.S. and Canada to keep up with government standards and catch up with public expectations with respect to automobile safety and air pollution."

Ford's involvement in shaping the regulatory environment is also suggested in press reports surrounding the 1973 RECAT (Regulatory Effects on the Cost of Automotive Transportation) report. As
previously mentioned, the committee which produced RECAT, a sixteen man panel appointed by then-President Nixon, recommended that careful examination be paid to the costs of regulation within the auto industry. For example, in regard to airbags, the RECAT report suggests that not enough lives and property would be saved to justify the cost of mandated airbag installation.

The role of Ford in the initiation of the RECAT committee was disclosed (or at least suggested) by the Center for Auto Safety, then a Ralph Nader consumer group:

Ralph Nader's CAS questions the curious sequence of events that occurred about the time the study began. Last April 27, accompanied by Ford Motor Company President Lee Iacocca, Henry Ford II met with President Nixon to discuss "matters relating to the auto industry." Ford denies suggesting RECAT, but two days later a White House memorandum circulated through various Federal departments proposing a cost study. Now, shortly before oral arguments on the airbag regulation are scheduled to begin in Cincinnati Federal Appeals Court, RECAT pops up. This week, Iacocca said, "the report comes none too soon" to show the dangers of boosting consumer costs without carefully considering the nation's economy ("A backlash against new-car standards," 1972, p. 23).

**Lobby Efforts Against Standard 301.** Standard 301 was first proposed in 1967, but was not finally approved until 1975 with implementation required in September, 1976. During this time, Ford was actively involved in providing input into the rule-making process.

Ford's actions and motives in delaying the Standard have been addressed in court. Hews, for example, in *Grimshaw vs. Ford*, states:
The next document is entitled "Fuel System Integrity Program Financial Review." I bracketed a portion on page 2 which points out in the document ... that it was company policy to delay any fuel tank changes until forced to adopt them by a law established by the government and to do everything to delay that law as long as possible (Grimshaw vs. Ford, 1977, p. 6).

Hews goes on to add:

...no matter what figure you accept, what they did is they took a mode and they misrepresented it in its presentation to the federal government in order to delay the passing of 70-20 (Standard 301) and in order to save corporate profits by delaying the passage of the legislation (Grimshaw vs. Ford, 1977, p. 8).

Camps (1981) concurs in this reasoning when he states, "The corporate reasoning was sound. Windshield retention was a federally mandated area of certification. Fuel system integrity, at that time, was not. Let unsuspecting customers beware. Our main purpose as Ford employees was to increase corporate profits" (Camps, 1981, p. 120).

The actual manipulation by Ford involves a provision in the rule-making process of NHTSA that requires a period of time following publication of proposed rules, during which comments may be made to the proposed rules. Ford took advantage of this provision a number of times. In response to the first notice of proposed rule-making, Ford on November 30, 1970 (the full 90 days allowed for comments to proposed rule-making) objected to a number of the technical aspects of the provision. Briefly, they opposed a zero-fuel-spillage clause and a fixed barrier impact, noted that rear-end impacts with fire "appear to be a small percentage in relation to total accidents"
(Eckhold, 1970, p. 2) and thus the benefits were not great enough to justify the costs, and argued that the implementation of the standard should be delayed because, "the Company cannot contain the design, development, prove-out, and tooling changes involved to meet that level by January 1, 1972" (Eckhold, 1970, p. 4). At this time, Ford does state: "It is believed, however, that it would be possible to meet the 20 mph movable barrier impact specified in the previous proposal by January 1, 1973, if allowance is made for a minimal amount of fuel loss and the demonstration procedures specify unladen vehicle" (Eckhold, 1970, p. 5).

The NHTSA responded with a second notice on August 20, 1973. In this proposed rule-making action, a 30 mph standard was proposed (the previous standard called for 20 mph). Ford responded to this notice by producing the Grush-Saunby cost-benefit analysis which claimed that the costs of at least part of the standard far outweighed the benefits. Citing a statement in the NHTSA's Program Plans Book which reads, "Approval of rule-making plans is based on a careful analysis of safety payoff in terms of lives saved and reduction in injuries and on estimates of costs to the consumer" (Grush & Saunby, 1973, p. 2), Ford argued that the proposed rule should be abandoned. In addition, Ford argued that:

The above listed product changes result in an increased Retail Price Equivalent (the customer sticker price with no provision for Ford profit) to assure conformance to the amended Standard of $18.95 for the average passenger car...For the rollover requirement alone, the Retail Price Equivalent is $11.20 for a passenger car" (Grush & Saunby, 1973, p. 2).
Ford concluded by saying that the Standard yielded extremely poor cost-benefit ratios and should, therefore, be amended.

In response to Notice 3 which was published November 21, 1974, Ford stated that NHTSA had violated procedures. "We submit that this amendment was made without providing any opportunity for manufacturers to comment..." (Eckhold, 1974, p. 1). Ford was particularly concerned with testing procedures and techniques which, they argued, increased "the stringency of the Standard's performance requirements" (Eckhold, 1974, p. 1). The entire position, in this case, was devoted to changes NHTSA had made in testing procedures.

Ford was not the only interested commentator in respect to Standard 301. Other auto industry representatives also submitted comments. AMC, for example, asked for more "lead time" to meet the Standard. The NHTSA has stated that the Standard had been proposed more than three years earlier, hence implementation should be hasty. AMC, however, argued that "the Administration expects the automotive industry to initiate active production engineering programs each time a notice of proposed rule-making is issued" (Stewart, 1975, p. 1). NHTSA did agree, and once more the effective date of the Standard was delayed.

The CAS (Center for Auto Safety) also had an interest in the Standard, urging in 1968 that standards be promptly implemented so that "companies do not make laughing stocks out of already anemic standards" (Nader, 1968). They updated their particular concern over Standard 301 in 1972, after 2 years of waiting, with a letter to NHTSA calling for quick implementation ("Fuel Fed Fires," 1967).
Again in 1973, they urged NHTSA to implement the Standard (O'Meara, 1973).

**Manipulation of the Recall.** Another example of Ford's manipulation of the legal environment concerns Ford's efforts and abilities to delay the investigation of the Pinto after NHTSA had ordered an examination of the alleged defects.

On September 8, 1977, the NHTSA requested information from Ford regarding the Pinto fuel system. Ford responded as follows:

**September 19, 1977**

As Mr. Schroeder informed you, considerable effort is required to locate and organize the large number of design changes which have been made since 1971 to the "fuel tank, fuel filler neck and associated hardware" and to the "underbody structure on all sides of the fuel tank." Further, as Mr. Schroeder explained, your letter dated September 8, 1977 was received on September 12, 1977, leaving insufficient time for Ford to retrieve and review historical records and compile all of the necessary information for submission to the administration by September 29, 1977. It was agreed that a work plan and a timetable would be provided to you concerning any of the requested information which we could not submit by the September 29 due date.

Accordingly the following information is provided relative to the individual questions cited in your inquiry. We expect to be able to submit our response to questions 1, 2, 4, 5, and 7 by September 29, 1977. Questions 3 and 6 require that considerable effort be expended to obtain and review voluminous information which could be pertinent to your questions. Initially, detail and assembly drawings must be obtained for the 1971 to 1977 Pinto rear underbody and bumper-related components...In addition, engineering changes which affect those components must also be defined. We are informed by Body and Electrical Product Engineering that these records are on microfilm in a remote storage location, and thus, the retrieval process is very time consuming. Body and Electrical Product Engineering has organized a task force which is working on an overtime basis to retrieve necessary information and identify
and catalogue the relevant design changes. In addition, all design changes to the bumper-related components must be analyzed and correlated with fuel tank changes to determine the effect if any, on the distance of the nearest object aft of the fuel tank. Based on the timing estimates received from the Body and Electrical Product Engineering Office, we expect to be able to submit our response to questions 3 and 6 on or about October 11, 1977. It is requested therefore, that the due date for these two questions be extended to that date (Eckhold, 1977, pp. 1-2).

January 19, 1978. NHTSA sent another request to Ford containing 28 specific questions for Ford to answer.

February 20, 1978. Ford responds with the following telegram:

As Mr. Schroeder informed you considerable effort must be expended by several affected activities to locate, gather and review information and historical records and establish their applicability to your investigation. Your letter received on January 23, 1978 does not provide sufficient time for Ford to retrieve and compile all of the necessary information for submission of our response to the administration within the 20 working days specified.

Based on timing estimates developed by the affected activities, we expect to be able to submit our response to questions 1 through 9 by February 22, 1978. Due to a snow emergency that was imposed in southeast Michigan on January 26 and 27, 1978 our timing estimates were adjusted accordingly.

To locate and compile the materials covered by the balance of the questions 10 – 29 requires the coordinated input of several affected organizations operating at various times in sequence. A large number of test reports must be reviewed along with various engineering changes and other correspondence to ascertain their interrelationships. As a result of these reviews other documents may be identified that could fall within the scope of various of the questions. Since voluminous records of several organizations must be searched for applicable materials the overall research becomes very time-consuming.

We are working diligently with elements of the company that are believed to have records that may
relate to the subjects of your inquiries. As soon as a dependable timing estimate is available we will advise you as to when it would be possible for us to respond to the balance of your inquiry (Sorenson, 1978a, pp. 1-2).

February 22, 1978. Ford sent a partial list of answers to the specific questions asked by NHTSA and concluded the letter with:

In accordance with my telegram to you of February 20, as soon as a dependable timing estimate is available we will advise you as to when it would be possible for us to respond to the balance of your inquiry (Sorenson, 1978b, p. 7).

February 28, 1978. Ford sent out a revised estimate of the time required to respond to NHTSA’s investigation:

This is to report in accordance with my telegram to you of February 20, 1978, that it now appears that we should be able to reply to your questions 11, 12, and 16-19 by March 23, 1978.

At this time we are still unable to establish an estimate of the time that will be required to complete the process, described in my telegram, that is required to locate, evaluate and ascertain the relationships of the numerous documents and materials from various Ford operating components that may relate to the subject matter of the balance of your inquiry. We are diligently pursuing that task and, as soon as a dependable estimate is established, I will advise you further (Sorenson, 1978c).

March 22, 1978. NHTSA requested more information in response to the questions it had asked:

By letter dated February 22, 1978, the Ford Motor Company (Ford) provided a partial response to the National Highway Traffic Safety Administration’s (NHTSA) letter of January 19, which requested certain information relevant to the investigation of fuel tank damage in rear-end collision of subcompact cars, including the Ford Pinto. By your letter of February 28, a projected date of March 23 was given for furnishing answers to questions 11, 12 and 16-19; we fully expect that this information will be produced in Washington, D.C. within this time frame.
Approximately three weeks have elapsed since your last response, and no further indication has been given as to your anticipated delivery of answers to the remaining questions. We cannot permit further delay in Ford's providing information which we have required to be produced by our earlier written request. Therefore, you are hereby directed to furnish your responses to all unanswered items within five days of your receipt of this letter. We expect that this information will also be delivered to our Washington, D.C. Headquarters within that five-day time limit. Failure or refusal to furnish this information may result in injunctive sanctions and the imposition of civil penalties, or other actions as may be deemed appropriate by our Office of Chief Counsel (Bradford, 1978).

March 23, 1978. Ford sent answers to questions 11, 12, 16, 17, 18, and 19 and concluded their letter with the following:

We have not yet established an estimate of the time required to complete our response to the remainder of your inquiry. As we indicated in our letter of February 28, 1978, we will advise you as soon as a dependable timing estimate is established (Sorenson, 1978d, p. 5).

April 3, 1978. Ford replied to the NHTSA threat of an injunction as follows:

We find it difficult to believe that you fully appreciate the highly subjective nature of the as-yet unanswered questions or the magnitude of the task that is involved in obtaining the information and locating whatever documents and other materials Ford may have that would be responsive to your request. The purpose of this letter is to invite your attention to the content of the "unanswered items" of your January 19 letter request and describe the efforts we have undertaken in attempting to comply with the onerous requirements specified in those "items." We are confident that, upon closer examination of the questions, you will agree with us that a return date of "...within 5 days of (Ford's) receipt of (your) letter..." is an insufficient amount of time in which to comply. Indeed, we are hopeful that you will give favorable consideration to modifying the wording of your January 19 letter along the lines suggested below and establish a realistic time limit for the balance of our response. To the extent that we can do so with a sufficient de-
gree of confidence that a response is reasonably comprehensive and accurate we have also set forth information now known to us as certain of the "unanswered items."

In summary, Ford has neither failed nor refused to respond within reasonable periods to any of your requests of January 19, including the "unanswered items" referred to in your letter of March 22. Rather, we have diligently pursued the information and related materials that must be located if we are to complete our response with reasonable confidence that we are doing so accurately and comprehensively.

We fully intend to continue that effort. We cannot, however, do the impossible, and, in our opinion, it is unreasonable for the Administration to demand that we do so (Eckhold, 1978, p. 1., p. 6).

May 8, 1978. NHTSA notified Ford that it had made an initial determination of a defect and called for a public hearing on the matter, to be held June 14, 1978.


This is to request a postponement for forty-five or more days of the public proceeding heretofore scheduled for June 14, 1978 in Washington, D.C., on the Administration's initial determination of May 8, 1978 regarding an alleged defect related to motor vehicle safety in certain 1971-1976 Pinto and Bobcat automobiles.

The requested postponement is necessary to afford Ford Motor Company minimally adequate time in which to review the technical bases on which the Administration's determination rests, an essential prerequisite to our ability meaningfully to prepare data, views and arguments for presentation at the proceeding. That review necessarily will require careful engineering examination of the test procedures employed in, and the data, films and reports that resulted from, tests conducted for the National Highway Traffic Safety Administration by Dynamic Science Incorporated of Phoenix, Arizona, as well as thorough technical examination of the vehicles tested in that program (Misch, 1978, p. 1).

The foregoing shows how Ford quite effectively was able to manipulate the legal environment to postpone any action on the Ford Pinto for nearly a year from the time NHTSA opened the investigation until the recall.

A final indication of Ford's ability to manipulate the legal environment involves Ford's activities to keep knowledge of the Pinto's problems out of the public domain. As early as 1975, Ford petitioned NHTSA to treat Pinto test crashes as "confidential" and NHTSA granted such treatment (Berndt, 1975). In 1978, the CAS petitioned for items pertaining to the Pinto matter to be released to the public domain (Ditlow, 1978). In November, 1978, NHTSA did agree to release the crash tests results (Claybrook, 1978), but some other items pertinent to the matter remain confidential.

In sum, there appears to be substantial evidence that Ford was able to manipulate the legal environment to some extent in an attempt to gain its own interests. Ford succeeded primarily in achieving delay in implementing a standard as well as delaying the finding of defect.

Research Question 3

How was the market structure influential in Ford's action? Was the market stable, concentrated, and/or threatened? Was Ford's share of the market threatened?

The automobile industry in the United States is characterized by its oligopolistic nature. The history of early automobile manufacturers is summarized in Table 4.
Table 4

Entry Into and Exit from the Automobile Industry

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Entrants</th>
<th>Number of Exits</th>
<th>Remaining Firms</th>
</tr>
</thead>
<tbody>
<tr>
<td>1902</td>
<td>-</td>
<td>-</td>
<td>12</td>
</tr>
<tr>
<td>1903</td>
<td>13</td>
<td>1</td>
<td>24</td>
</tr>
<tr>
<td>1904</td>
<td>12</td>
<td>1</td>
<td>35</td>
</tr>
<tr>
<td>1905</td>
<td>5</td>
<td>2</td>
<td>38</td>
</tr>
<tr>
<td>1906</td>
<td>6</td>
<td>1</td>
<td>43</td>
</tr>
<tr>
<td>1907</td>
<td>1</td>
<td>0</td>
<td>44</td>
</tr>
<tr>
<td>1908</td>
<td>10</td>
<td>2</td>
<td>52</td>
</tr>
<tr>
<td>1909</td>
<td>18</td>
<td>1</td>
<td>59</td>
</tr>
<tr>
<td>1910</td>
<td>1</td>
<td>18</td>
<td>52</td>
</tr>
<tr>
<td>1911</td>
<td>3</td>
<td>2</td>
<td>53</td>
</tr>
<tr>
<td>1912</td>
<td>12</td>
<td>8</td>
<td>57</td>
</tr>
<tr>
<td>1913</td>
<td>20</td>
<td>7</td>
<td>70</td>
</tr>
<tr>
<td>1914</td>
<td>8</td>
<td>7</td>
<td>71</td>
</tr>
<tr>
<td>1915</td>
<td>10</td>
<td>6</td>
<td>75</td>
</tr>
<tr>
<td>1916</td>
<td>6</td>
<td>7</td>
<td>74</td>
</tr>
<tr>
<td>1917</td>
<td>8</td>
<td>6</td>
<td>76</td>
</tr>
<tr>
<td>1918</td>
<td>1</td>
<td>6</td>
<td>71</td>
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<td>1919</td>
<td>10</td>
<td>4</td>
<td>77</td>
</tr>
<tr>
<td>1920</td>
<td>12</td>
<td>6</td>
<td>84</td>
</tr>
<tr>
<td>1921</td>
<td>5</td>
<td>1</td>
<td>88</td>
</tr>
<tr>
<td>1922</td>
<td>4</td>
<td>9</td>
<td>83</td>
</tr>
</tbody>
</table>


During the 1920s, General Motors, Ford, and Chrysler took the leadership in the automobile industry. Ford and GM both moved into overseas markets as well as into vertical integration; that is, they began manufacturing component parts such as transmissions, electrical products, etc. As White describes the results:

By the end of the 1920s, then, the automobile industry had taken on a shape that has persisted to the present. Three large firms dominated the automobile market, accounting for 4.6 million units in 1929. The smaller firms
still appeared to be successful, but they no longer posed a serious threat to the position of the Big Three (White, 1977, p. 176).

The Big Three, who were the market leaders, continued to be relatively stable, with GM surfacing as the overall leader by 1933. Table 5 summarizes market shared of the Big Three from 1913 to 1955.

Table 5

<table>
<thead>
<tr>
<th>Year</th>
<th>GM</th>
<th>Ford</th>
<th>Chrysler</th>
<th>Other U.S.</th>
<th>Imports</th>
</tr>
</thead>
<tbody>
<tr>
<td>1913</td>
<td>12.2</td>
<td>39.5</td>
<td>n.a.</td>
<td>48.3</td>
<td>n.a.</td>
</tr>
<tr>
<td>1923</td>
<td>20.2</td>
<td>46.0</td>
<td>1.9</td>
<td>31.9</td>
<td>n.a.</td>
</tr>
<tr>
<td>1929</td>
<td>32.3</td>
<td>31.3</td>
<td>8.2</td>
<td>28.2</td>
<td>n.a.</td>
</tr>
<tr>
<td>1933</td>
<td>41.4</td>
<td>20.7</td>
<td>25.4</td>
<td>12.5</td>
<td>n.a.</td>
</tr>
<tr>
<td>1937</td>
<td>41.8</td>
<td>21.4</td>
<td>25.4</td>
<td>11.4</td>
<td>n.a.</td>
</tr>
<tr>
<td>1946-50</td>
<td>41.8</td>
<td>21.4</td>
<td>21.6</td>
<td>15.1</td>
<td>0.2</td>
</tr>
<tr>
<td>1951-55</td>
<td>46.2</td>
<td>25.7</td>
<td>18.6</td>
<td>8.9</td>
<td>0.6</td>
</tr>
</tbody>
</table>


It is obvious from the foregoing that the market is highly concentrated.

White noticed a change in automobile manufacturers' policies concerning small cars. Noting that, "the Big Three have traditionally been unenthusiastic about small cars" (White, 1977, p. 193) because they are less profitable than large cars, White discusses the impetus behind the U.S. manufacturers decision to enter the
small car market as coming externally. "The external pressures have come from foreign manufacturers--imports. In the late 1950s, consumer tastes had turned toward smaller cars, and foreign manufacturers were ready and eager to meet the demand. Imports grew from 0.5% of the market in 1954 to 10.2% in 1959" (White, 1977, p. 194). The Big Three responded with smaller cars (although larger than the imports) in 1959, but during the 1960s, the "compacts grew in size, luxury, and price" (White, 1977, p. 195). The import share of the market began increasing again, and by 1969, Ford and GM decided that "low-profit customers were better than lost customers" (White, 1977, p. 194). They began designing new small cars. The percent-share of the market captured by the imports through 1975, is summarized in Table 6.
Table 6
Import Percent of the Automobile Market

<table>
<thead>
<tr>
<th>Year</th>
<th>Percent of Industry</th>
</tr>
</thead>
<tbody>
<tr>
<td>1956</td>
<td>1.65</td>
</tr>
<tr>
<td>1957</td>
<td>3.46</td>
</tr>
<tr>
<td>1958</td>
<td>8.13</td>
</tr>
<tr>
<td>1959</td>
<td>10.17</td>
</tr>
<tr>
<td>1960</td>
<td>6.47</td>
</tr>
<tr>
<td>1962</td>
<td>4.89</td>
</tr>
<tr>
<td>1963</td>
<td>5.10</td>
</tr>
<tr>
<td>1964</td>
<td>6.00</td>
</tr>
<tr>
<td>1965</td>
<td>6.11</td>
</tr>
<tr>
<td>1966</td>
<td>7.31</td>
</tr>
<tr>
<td>1967</td>
<td>9.32</td>
</tr>
<tr>
<td>1968</td>
<td>10.48</td>
</tr>
<tr>
<td>1969</td>
<td>11.14</td>
</tr>
<tr>
<td>1970</td>
<td>14.8</td>
</tr>
<tr>
<td>1971</td>
<td>15.1</td>
</tr>
<tr>
<td>1972</td>
<td>14.6</td>
</tr>
<tr>
<td>1973</td>
<td>15.2</td>
</tr>
<tr>
<td>1974</td>
<td>15.8</td>
</tr>
<tr>
<td>1975</td>
<td>18.2</td>
</tr>
</tbody>
</table>

Source: Automotive News, 1969 and 1976

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1969 was an especially good year for imports with seven consecutive monthly records for imported new car registration increases. As Automotive News reported in October, 1969, "Imported cars accounted for better than one out of every eight new car registrations..." (p. 2). In the 1969 Automotive News Almanac, a new trend in U.S. auto manufacturing was disclosed: "This is the year that domestic makers start putting their chips down in the small car game where imports have been doing most of the winning in recent years. The name of the game, as Detroit sees it, is "Subcompact"" ("U.S. Subcompacts," 1969, p. 86).

The particular threat appeared to come from the German Volkswagen, which captured 58.13% of the import market in 1967, 57.17% in 1968, and 51% in 1969 ("U.S. Subcompacts," 1969, p. 86). The impact of the threatened market meant that "Ford (was) fighting to maintain its share of a restricted market in the USA" ("The Ford Motor Company," 1978, p. 4). Furthermore, "Ford, which for years extolled the virtues of competition and the free enterprise system, is now sufficiently worried by imports to be talking about the possibility of import tariffs to protect the home producers" ("The Ford Motor Company," 1978, p. 4).

The evidence suggests that the market was indeed threatened and that imports were claiming an ever-increasing share of that market. Ford, in 1968 and 1969, had a new car in the plans, the Pinto, which would directly challenge the imports. As Hare comments, "...the original management motivation for the development of the Pinto...was in response to a management felt necessity to obtain a
competitive position in the subcompact market..." (Kaminski vs. Ford, 1977, p. 20). Hare, in summarizing Ford's defense asked,

Mr. Tubben, Ford Motor Company, do you have any statistics or figures to contradict that? No. What do you design your cars to do? To compete with the foreign imports, to compete with European and Japanese cars; that is, the reason we are doing it (Kaminski vs. Ford, 1977, p. 18).

In the criminal trial, Mr. Neal, in his opening statement said, "The Pinto program was started—yes, in response to the foreign market. Ford felt American workers should make cars for American drivers" (Trial Notes, 1/15/80). Harley Copp reiterated the rationale in testimony in the criminal case against Ford:

Consentino: Are you familiar with the planning of the Ford Pinto?
Copp: Yes.

Consentino: What first gave rise to its planning?
Copp: The success of foreign subcompacts on the market—about 15%.

Copp reaffirmed his understanding under cross-examination:

Neal: Wouldn't a car manufacturer rather make larger cars?
Copp: Yes.

Neal: Weren't American manufacturers trying to regain some of the market grabbed by foreign cars—15% and rising?
Copp: Yes.
Neal: Don't car manufacturers have to compete?
Copp: Absolutely.

(Trial Notes, 2/11/80)

The evidence strongly suggests that market structure is important in terms of decisions to manufacture certain types of auto-
mobiles. The Ford Motor Company was threatened by the imports' penetration into the automobile market, and their decision to manufacture a subcompact car was shaped by that threat.

Research Question 4

What was the hierarchy of goals within the Ford Motor Company? Did the utilitarian goals of production and profit making supersede other goals? Did the goals of private profit making clash with public interest goals?

While many goals may be associated with an organization, the goals of particular interest in the Ford case are the goals of profit making and the public interest goal of safety in automobiles. There is evidence that Ford was concerned with both types of goals. The goal of profit making was previously seen to be an important goal of Ford.

The public interest goal of safety has also been addressed by Ford. In a 1970 communication to NHTSA, Ford notes:

Aside from cost, there are valid safety related arguments which speak against increasing the test severity of rear-end impacts...We believe that the public interest cannot be served until the facts reveal where these equities are balanced...Ford recognizes the Bureau's desire to eliminate any unreasonable risk of injury to the motoring public. We concur in this goal and believe that fuel system integrity is a proper subject to address in accomplishing this aim. But as noted above, we must examine the facts in order to balance all of the safety features of the vehicle (Eckhold, 1970, p. 3).

Similarly, for some models of cars (e.g., Capri and Fiesta), Ford "advertisements boast of safety of fuel tank system" (Trial Notes, 1/4/80).
On a broader level, the "Canons of Ethics for Engineers" released October 1, 1956 "represent the ethics which the Ford Motor Company expects of its engineers" ("Canons of Ethics For Engineers," 1956, preface). Pertinent sections relevant to the public interest include the following:

Section 4: He (the engineer) will have due regard for the safety of life and health of the public and employees who may be affected by the work for which he is responsible.

Section 11: He will guard against conditions that are dangerous or threatening to life, limb, or property on work for which he is responsible, or, if he is not responsible, will promptly call such conditions to the attention of those who are responsible.

Section 12: He will present clearly the consequences to be expected from deviations proposed if his engineering judgment is over-ruled by nontechnical authority in cases where he is responsible for the technical adequacy of engineering work.

Section 23: He will not directly or indirectly injure the professional reputation, prospects, or practice of another engineer. However, if he considers that an engineer is guilty of unethical, illegal or unfair practice, he will present the information to the proper authority for action ("Canons of Ethics For Engineers, 1956, pp. 4-6).

The obligation to Ford engineers is summarized in the foreword of the statement of ethics. "It is his duty to interest himself in public welfare and to be ready to apply his special knowledge for the benefit of mankind" (Canons of Ethics For Engineers, 1956, p. 3). In 1976, Henry Ford II sent down a new policy letter entitled "Standards of Corporate Conduct" in which he addressed ethics:

To succeed and even to survive, Ford Motor Company must have the trust and confidence of its many publics. A good reputation is a priceless business asset which can be earned only through consis-
tently trustworthy behavior...particular care should be taken to act legally in those areas where the law is evolving rapidly...Among those areas are...vehicle safety and emissions...(Camps, 1981, p. 125).

While there is evidence, then, that Ford goals included both profit making and public interest, the crucial issue hinges around the ranking of these goals within the corporation. There are a number of documents which suggest that the profit making goal was more important to Ford than the public interest goal.

A strong suggestion of the preponderant influence of the profit motive involves Ford's extensive use of cost-benefit analysis to determine whether improvements to the fuel system of Pintos can be justified on a cost-effective basis. As early as 1965, Arjay Miller of Ford testified before the Senate that:

In racing, we are now using fabric gas tanks as safety devices. This is one way we can test out something which, if it proves out, may be a feature that you will see later on our standard cars. Five years from now, you may be asking, "why didn't you put it on three years ago?" ("Traffic Safety," 1965, p. 990).

In 1971, Ford ordered tests of improvements to "drop in" fuel tanks. A confidential cost engineering report estimated two different types of alternatives. These included the fuel tank over the rear axle with a body sheet metal barrier and a tank-in-tank with polyurethane foam between the tanks. Costs of the devices were $9.95 and $5.08 respectively (Mancini, 1971). Ford used those and other figures to argue that:

...The vehicle changes required to meet the criteria of this Standard (301) must be weighed against:
1. the cost of modification to meet the criteria, and
2. the benefits to be derived from avoiding such deaths and injuries as now actually result from the kinds of fires that the amended Standard could be expected to prevent (Eckhold, 1973, p. 1).

Ford went on to attack the Grush-Saunby (1973) report which stated that NHTSA had over-estimated fire-related crashes which actually were closer to "600 to 700 fire deaths each year" and thus the roll-over portion of the standard was not cost-effective while "analyses of other portions of the proposed regulation would also be expected to yield poor benefit-to-cost ratios" (Grush & Saunby, 1973, p. 12).

In the criminal trial, Harold MacDonald—"father of the Pinto"—concurred when he stated, "In response to 70-20 (Standard 301), I felt the standard was too severe and the time period too short. Literature suggested that fires for rear impact were rare and occurred usually under high speeds--speeds too high for manufacturers to do anything about it" (Trial Notes, 2/18/80).

NHTSA, although commonly agreeing somewhat with cost-benefit analysis, disagreed with Ford's conclusions:

The NHTSA does not accept Ford's argument. Ford postulated a cost-benefit analysis based upon the purported effect of only one aspect of the Standard. This agency is in disagreement not only with Ford's narrow analysis; but with the figures it relies upon in reaching their conclusions. In determining the cost-benefit ratio of the standard, the NHTSA took into account the impact of the standard as a whole and considered the cost of model changes and new tooling as well as the number of lives currently lost due to fuel system fires and the number of lives expected to be saved through implementation of the standard. Although the NHTSA uses cost-benefit analysis as a decision-making tool, it is not a perfect one, depending necessarily on extremely imprecise assumptions.

There are many indications that Ford was aware that the Pinto would not be serving the public interest goal of safety. The crash tests and examination of alternatives address Ford's knowledge of the matter. In addition, as early as Summer, 1970, Ford, in an internal document noted:

The 20 and 30 mph rear fixed barrier crashes will probably require repackaging the fuel tanks in a protected area such as above the rear axle...Improved seals for the filler cap and filler pipe connections will also be required (Quoted in "1971-1978 Pinto Fuel Systems Reference," 1978, p. 6).

Within the same document, Ford ordered baseline tests to determine what action must be taken to meet the standard requirements. Their knowledge of the problem, then, went back to late 1970. Nevertheless, the public interest goal of safety was not met because, according to Copp, "it was company policy to delay any fuel tank changes until forced to adopt them by a law established by the government..." (Grimshaw vs. Ford, 1977, p. 6). Evidence also emerged during the criminal trial:

Consentino: Did Ford know prior to sale that Ford Pinto could not withstand crashes of more than 25 mph?

Copp: Yes.

Consentino: How did they know?

Copp: From tests they had run on Pintos modified to represent the '73 fuel system—changes in structure of the rear of the base Pinto—they put 73 components in 73 sedan and tested it with anthropomorphic dummies. This was a fixed barrier 20 mph.

Consentino: Any other crash tests (that helped shape your opinion? 

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Copp: The test of Capri. It withstood 43 mph car-to-car.

Cosentino: What does that show you?

Copp: That it can be done.

(Cosentino questions Copp concerning the proposed standards and Ford's reaction to them.)

Cosentino: Then what?

Copp: The standards were sent out for review.

Cosentino: Did Ford agree with those standards?

Copp: Vehicles were built and tested that met the standard.

Cosentino: What is the relationship of balanced design to fuel system safety regarding the safety of passengers in the 1973 Pinto?

Copp: Balanced design would result in ability to withstand 40 to 50 mph. With fire being the cause of death or maiming of passenger, the interior protection should be balanced with fuel system integrity.

Cosentino: What is the survivability of passengers?

Copp: Maintenance of life by exclusion of fire.

Cosentino: Did Ford build Pinto with balanced design concept?

Copp: No, the 73 Pinto could take rear-end impacts of 40 to 50 mph. The passengers would have survived without the fire.

(Trial Notes, 2/6/80 & 2/7/80).

Another indication for the lack of attention to public interest goals concerns the objectives of the Pinto. Hare, in a brief to an Alabama circuit court, states:

Ford designed and manufactured the Pinto to be used by members of the public as a means of transportation on the public roads. It is the duty of an automobile manufacturer to exercise due care in the design and construction so that the vehicle provides reasonable protection to its occupants within its "environment of use." The above is not merely an accurate statement of law—Ford admits that they, in fact, accept it as
a basic and essential design objective; that is, it is an actual engineering "undertaking" on their part (Kaminski vs. Ford, 1977, p. 6).

In the engineering objectives for the Pinto, presented to the Society of Automotive Engineers by F. G. Olsen (1971), however, safety is not an objective. When Ford pleaded ignorance of the hazard of the Pinto, Hare (Kaminski vs. Ford) notes:

What do the other experts say? Automotive design check lists: Gas tank placed in location vulnerable to crush damage, these are on the cars they are modeling themselves out of, fill tank, fill tube, you make a safe fill tube. Same article talks about a check valve, this is back in 1965, these were fuel systems designed in 1966. Modern research indicates that the fuel tank can be built today, in 1966 capable of preventing hazardous fuel spillage (1977, pp. 8-9).

Hare goes on to illustrate that the "state of the art" was such that Ford had knowledge of remedies as well as knowledge of the hazard. Furthermore, he argues:

Then they did the Ford ESW where they had safety as a stated objective. 60 miles an hour with the gas tank above the axle, 38 inches of static crush, not a leak...Safety wasn't a stated objective (in Pinto) and they didn't accomplish it...They never planned to accomplish safety, they never did obtain it (Kaminski vs. Ford, 1977, p. 19).

Ford argued in the criminal court that as there was no Federal Standard in effect when the car (a 1973 Pinto) was manufactured, Ford was not guilty of reckless homicide. Cosentino, the prosecutor attempted to get at the issue of public interest goals:

There is not now or ever been standards regarding fuel tank placement on the Pinto, so if Ford strapped the tank to the rear bumper they would not be violating a Federal Standard. That can't mean that Ford has no responsibility to place it in a safe place (Trial Notes, 1/14/80).
The evidence, then, suggests that the Ford organization does place values on both the goals of profit making and the public interest. The public interest goal of safety, however, appears to be ranked below the goal of profit making. The use of cost-benefit analysis to determine the cost-effectiveness of safety suggests that the profit making goal supersedes the public interest goal.

Research Question 5

What was the normative environment of the Ford organization? What are the important goals? How are these transmitted?

The normative environment at Ford is ambiguous. Officially, Ford supports a "Canon of Ethics for Engineers" which requires that engineers follow guidelines which are summarized in the foreword:

Honesty, justice, and courtesy form a moral philosophy which, associated with mutual interest among men, constitutes the foundation of ethics. The engineer should recognize such a standard, not in passive observance, but as a set of dynamic principles guiding his conduct and way of life. It is his duty to practice his profession according to these Canons of Ethics.

As the keystone of professional conduct is integrity, the engineer will discharge his duties with fidelity (to his employers and the public) and with fairness and impartiality to all. It is his duty to interest himself in public welfare and be ready to apply his special knowledge for the benefit of mankind. He should uphold the honor and dignity of his profession and also avoid association with any enterprise of questionable character. In his dealing with fellow engineers, he should be fair and tolerant (1956, preface).

In the specific sections of the document, Ford admonishes engineers to exchange information with other engineers, to further public knowledge, have regard for life and health, avoid conflicts of
interest, inform superiors of hazardous practices, etc.

In addition, the problem of engineering responsibilities has been delineated within the profession. The Ford Motor Company recommends that its engineers "cooperate in extending the effectiveness of the engineering profession by interchanging information and experience with other engineers and students and by contributing to the work of engineering societies, schools, and the scientific and engineering press" ("Canons of Ethics," 1956, p. 4). Information regarding normative conduct for engineers is disseminated within professional journals. Articles suggesting appropriate behavior are common. Alpert, for example, states:

Where our galloping technology has created problems for society our responsibilities as engineers are clear...We will recognize and discharge our responsibility as engineers within our society either voluntarily or involuntarily (1970, p. 27).

Alpert goes on to add that engineers, operating through the business environment, must be cognizant of the social good, not mere profit. Similarly, Riccardo, former President at Chrysler, admonished engineers:

They (the public) expect a bigger contribution to social progress. And the public is dead-serious in making these demands. We cannot ignore the angry voices making new demands on our time and talents...we must remember that our basic job remains what it always has been--produce automobiles that are safer, have fewer undesirable emissions, are more durable, more reliable...we and the government can work in an atmosphere of cooperation, not confrontation... (Riccardo, 1970, p. 33).

Thus engineers within Ford are faced with an official normative environment which supports morality, honesty, safety, whistle-
blowing, if necessary, etc. Officially too, however, is the normative environment of profit making. Camps said, "Our main purpose as Ford employees was to increase profits" (1981, p. 120). Henry Ford II commented about Ford's biggest problem, "That's easy--making more money" (Camps, 1981, p. 121). While the two normative environments are not necessarily disjoint, they may become disparate when the requirements of any one are given more weight than the other.

The normative environment within which the Pinto was developed was shaped by the engineering objectives. The engineering objectives for the Pinto emphasized size and weight. Evidence has previously been provided which suggests that the objectives locked engineers into certain kinds of fuel systems. The importance of this for the normative environment is illustrated by the following testimony from the criminal case:

Cosentino: You mentioned the names of Olsen, Freers, and MacDonald and stated that they were good engineers?

Copp: Yes.

Cosentino: Were they free to exercise their best judgment for fuel system integrity on the 73 Pinto?

Copp: No they were locked into a design which restricted their judgment.

Cosentino: Who restricted them?

Copp: Lee Iacocca.

Cosentino: Was Iacocca a responsible man?

Copp: I think his ambitions overshadowed his morality.

Cosentino: Were others free to exercise good judgment?

Copp: No.
Cosentino: Were engineers locked in by measurements prior
to hardpoint approval?

Copp: Yes.

Cosentino: Did styling approval restrict engineers' judgment?

Copp: Engineers were left with a minimal amount of space. If
you don't believe it, look at the shape of that fuel tank!

(Trial Notes, 2/12/80)

Within such a normative environment, some goals may be virtually
ignored because of the importance of other goals. In the case of
the Pinto, the public interest goal of safety was ranked lower than
the size and weight, thereby setting up a normative environment in
which good engineering judgment was constrained.

When such normative environments prevail, individuals within
the company may have difficulty convincing others to change the
hierarchy of goals. When Dowie was researching his expose, he found
that:

Some of the people lied to me. I was interviewing
one of the men at the Ford Motor Company and while
we were talking, four young Turks overheard part
of our conversation. I walked out of the executive's
office, and two of the younger men were out in the
hall. They came up to me and said, "We don't know
who you are and what you were asking about, but
that man told you a complete lie and we would like
to tell you the truth. We can't talk now, but would
you meet us at home after work?" So I went to one
of their homes after work and they gave me basically
the whole inside story. They are corporate whistle-
blowers...They wanted to straighten it out. They'd
been crusaders to clean up the Pinto all along,
these two young guys, and they told me about the
inside struggle and how high up the controversy
went in the company (Winston, 1978, p. 11).

Dowie goes on to add:
In investigating corporations, corporate PR people have told me things that I knew were boldface lies. But they thought they were telling me the truth, they believed what they were telling me... PR people are lied to by top management (Winston, 1978, p. 12).

It is difficult to determine how goals and the normative environment are transmitted through the corporation. Official norms, such as the Canon of Ethics, are freely disseminated. More difficult to ascertain are instructions to follow some norms at the expense of others. Dowie's last comment states that top management actually lies to underlings, thereby communicating a certain normative environment. A more complex explanation, and more subtle, emerges from Camps' analysis of his role as a whistle-blower in the Pinto matter:

In those early days of Pinto testing, Ford's management was adamant that the vehicle be certified to comply with Federal Standards without delay—no questions asked—to meet the challenge of Volks-wagen...Orders came down from the Glass House (our in-house term for Ford's headquarters) to certify the Pinto at all costs—even if it meant changing long-standing procedures...In my position as principal design engineer, I became a part of the Ford scheme. I was expected to be loyal to the company's policies and to ignore my own uneasiness about the safety of the cars we were approving... some people might reasonably ask why I waited more than two years—until early 1973—before putting my concerns in writing. The answer is simple! I was afraid of losing my job...I was worried that a written memo to my superiors might put an abrupt end to my career at Ford.

On February 18, I sent what was to be the first of many letters to Ford's management expressing my deep concern about the questionable procedures used in safety testing the Pinto...After pointing out that I faced the dilemma of either serving the best interests of the Ford Motor Company or submitting to the directives of my immediate superiors, I charged that "certain members of management are totally aware of violations of
It was subsequent to my many letters to management that I found in my 1973 appraisal a general downgrading of factors relating to my performance. My concern about safety was duly noted, but with different results than I had anticipated. The punitive action was beginning; ultimately it would lead to my being demoted to a position that did not involve vehicle testing. Refusals on my part to concur with management's appraisal of my work resulted in a steady decrease in involvement in the normal activities of a senior principal design engineer. I was not included in various management development programs; and I was shuttled from one inconsequential job to another.

In other words, my punishment was to be banished to a corporate purgatory where all manner of disbelievers, boat rockers, and whistle blowers reside...

After months of delay, I met with Jack Eckhold, the Director of Safety for the Ford Motor Company. Mr. Eckhold was gracious and disarming, but when we parted after two hours of discussion, he escorted me to the door with the final comment, "Mr. Ford does not take too kindly to whistle blowers," and added that it might be prudent for me to keep my mouth shut. Otherwise I might find myself out of a job (Camps, 1981, pp. 119-125).

Although the communication of the normative environment and goals are not clearly certain, some clues concerning their transmission are revealed in Camps' account. The management at Ford sent down specific orders to "certify the Pinto at all costs." Camps was expected to be loyal to the company's goals. Camps attempted to communicate his concerns, but was repeatedly rebuffed by superiors. The management communicated their disapproval of Camps' action by demoting him to a less threatening position. When these "subtle" clues were not sufficient, Camps was told to keep his mouth shut by

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a high ranking official. Because management has sanctions, positive
and negative, at its disposal, it has the ability to manipulate the
actions of its employees. For years, Ford's inaction, in response
to Camps' concerns, communicated what company policies were to Camps
as well as to his fellow employees.

The transmission of corporate goals and norms occurs on an of-
fical level—the "Canons of Ethics" and "Standards of Corporate Con-
duct"—as well as on a more discreet level in which employees are
made aware, by means of subtle and not-so-subtle actions on the part
of management, of the corporate policies. In the case of the Pinto,
the discreet level formed the operative environment in which the
Pinto development occurred. The normative environment required that
the safety objective be placed lower than the size and weight objec-
tives. Problems in the Pinto performance were to be overcome within
the scope of the engineering objectives.

Research Question 6

How are decisions made within the Ford organization? How is
rationality valued? What are the rules for decision-making?

The answer to this research question is, to a large extent, re-
petitive of answers to the other research questions. The importance
of the profit motive, for example, indicates that decision-making is
largely influenced by costs of a product. As Copp repeatedly an-
swered in response to prosecution questions, cost was often the basis
for decision-making.
Consentino: What is your opinion of the fuel system integrity of the Pinto?

Copp: It is inadequate compared to other cars.

Consentino: In what respects?

Copp: The crush zone—distance from axle to tank to bumper.

Consentino: Why is this inadequate?

Copp: For profits.

Consentino: Did Ford know the crush space was inadequate?

Copp: They knew it.

Consentino: What did they do about it?

Copp: Nothing, because of costs.

Consentino: Were there other problems?

Copp: The filler tube. As the rear-end collapsed, the left rear quarter panel buckled the filler tube. The pull out provided natural means of escape for fuel.

Consentino: What was Ford's knowledge of this problem?

Copp: They knew.

Consentino: Why didn't they do anything?

Copp: Costs.

Consentino: Were there other problems?

Copp: The fuel tank had sharp edges immediately in front of it.

Consentino: Identify them.

Copp: The differential, axle casting, left shock absorber, etc. were two to three inches from the main portion of the fuel tank.

Consentino: Did Ford have knowledge of this problem?

Copp: They knew.

Consentino: What did they do?
Copp: For the 73 Pinto? Nothing.

Cosentino: Why?

Copp: Costs of redevelopment.

(Trial Notes, 2/7/80).

Even more suggestive of the basis of decision-making is the following interchange where Copp, based on an unadmitted internal Ford document, states that Ford made the conscious decision to save money by not modifying the Pinto:

Cosentino: Did the 73 Pinto meet the 30 mph moving barrier standard?

Copp: No.

Cosentino: Why?

Copp: Because in a meeting, Ford decided to save $6.55.

(Objection and arguments; objection overruled)

Cosentino: Can you tell the court how the reduction in the 73 Pinto fuel system integrity came about?

Copp: Yes, to save $6.55.

Cosentino: How do you know?

Copp: The results of PRM (Product Review Meeting) and my own knowledge.

Cosentino: Who attends PRMs?

Copp: The upper eschelon—managers, executives, etc.

Cosentino: Do the decisions that come out of PRMs help affect corporate policies?

Copp: Some effects. Corporate policies generally are set by officers of the corporation.

Cosentino: How did the $6.55 affect policy concerning the Pinto?

Copp: Improved profitability.
Finally, as previously discussed (Research Questions 2 and 4) Ford conducted tests to determine the costs of bringing its cars' performance up to the level demanded by Standard 301, by examining alternative fuel systems as early as 1970 and 1971. The cost estimates of over-the-axle tank ($9.95) and tank-in-tank ($5.08) were minimal per car, yet Ford did not act on either suggestion.

The basis for Ford decision-making appears to be "rationality." This is indicated by Ford's heavy reliance on cost-benefit analysis in the decision-making process. The Grush-Saunby cost-benefit analysis has been previously discussed. In this analysis, Ford placed a dollar value on lives, then compared lives and injuries saved with the costs of implementing that particular portion of Standard 301. Ford justifies or rationalizes such analyses on the following basis:

Wheeler (attorney for Ford): This document (Grush-Saunby) is prejudicial—it especially says Ford must not accept a dollar value on life. This is the cost-benefit one. Ford does not concur with the values and declines to adopt the figures here. NHTSA requires such cost-benefit analysis. (emphasis mine) This document can be misconstrued. On page 3, referred to product change, not the statement, "no provision for Ford profit" as it has been construed to be (Trial Notes, 1/14/1980).

Wheeler is referring to the letter from Ford to NHTSA in which Ford estimates the "Retail Price Equivalent" increase for bringing cars up to then-proposed Standard 301. A phrase within that letter, "the customer sticker price with no provision for Ford profit" (Grush & Saunby, 1973, p. 3), worried Wheeler who thought the jury might
question Ford's concern with profit rather than meeting the proposed standard. (Incidentally, the document was not admitted.)

Another example of the importance of cost-benefit analysis was given by Copp.

Cosentino: Did you have any cost-benefit analysis?

Copp: Yes.

Cosentino: What does it mean?

Copp: It's estimates of costs and review of costs by themselves or in comparison with something else. Design costs are direct labor and direct material costs of one design versus another. It's used for decision purposes. A specific group of people specialized in this but we did it ourselves.

Cosentino: Why is it important?

Copp: Because cost is a major criterion for decisions. If you missed your cost objectives, you were up the creek!

(Trial Notes, 2/4/1980).

An indicator of rationality as used by Ford involves Ford's defense at the criminal trial as well as Ford's news release in response to Dowie's allegations. Ford comments,

It is true, for example, that early Pinto models did not pass rear-impact tests at 20 mph. It is not true, however, that these test results mean the early Pintos were unsafe compared with the range of other cars of that era, or on any other basis of rational judgment...The truth is that in every model year the Pinto has been tested and met or surpassed the Federal fuel system integrity standard applicable to it. It simply is unreasonable and unfair to contend that a car is somehow unsafe if it does not meet standards proposed for future years or embody the technological improvements that are introduced in later models (Misch, 1977, pp. 3-4).

Within this argument, Ford uses the delaying of the official Standard—a delay actively supported by Ford—as a rationalization for
not including technical innovations which were known and tested in 1970, until ordered to do so by the government. The situation was summarized in a news article, "...this is a cost-conscious industry and it rarely moves on safety matters until pushed firmly by government, public opinion, or disaster" ("The Pinto Controversy," 1977, p. 4A).

There is evidence, then, that Ford utilizes rationality, through cost-benefit analysis in its decision-making process. While other factors may also enter in, there appears to be a concerted attempt on the part of Ford to base decision-making on minimized costs.

**Summary of the Evidence**

The evidence varies by research question with some questions being answered more thoroughly than others. The research questions are all addressed somewhat by the available data and preliminary, if somewhat tentative, answers to the questions can be discerned. The following brief overview of answers to the particular research questions indicate general directions suggested by the data.

Research Question 1A: There is much evidence that maximization of profit is an important aspect of the Ford Motor Company. Ford found profits decreasing and was eager to find new avenues of profit making (e.g., the subcompact market, profit from new public demands, etc.). Many representatives of Ford argue that profit making is the primary concern of the organization.
Research Question 1B: Evidence suggests that interlocks exist between Ford and the political sector and that these interlocks were influential in shaping the regulation of the automobile industry, though not necessarily sufficient to fully protect the automobile manufacturers.

Research Question 2: The evidence of Ford's attempt to influence the legal environment is overwhelming. Techniques of delaying the NHTSA in its inquiries were plentiful so that it appears as though Ford was able to manipulate, to a certain extent, the very agency mandated to regulate it.

Research Question 3: The market structure was seen as concentrated and threatened. Evidence was presented which indicated that Ford entered the subcompact market because foreign shares of that market were increasing while domestic shares of that market were decreasing. The evidence shows the importance of the market structure in determining which products to manufacture.

Research Question 4: Ford was concerned with the goals of production and profit over the goals of public interest, although concern for public interest goals was also expressed. The engineering objectives for the Pinto, which did not include safety, superseded other values which might have been connected with the manufacture of this product.

Research Question 5: The normative environment of Ford is ambiguous and encompasses an official environment of morality, justice, and honesty, along with an unofficial environment which stresses norms to "go along with management" at all costs. The trans-
mission of the unofficial environment and norms is subtle and involves various company powers such as the ability to promote, demote, fire, etc.

Research Question 6: Decision-making within Ford appears to be based on rationality. Cost-benefit analysis, for example, is a tool by which decisions are made concerning appropriate actions within the corporation.

In this section, the evidence has been reported. The importance of the evidence is another matter. The importance and weight of the evidence in regard to the theory set out in Chapter II must be examined if an increased understanding of corporate crime (at least this corporate crime) is to occur. That will be the task in the next chapter.
CHAPTER V

The Conclusions

In this section, some sense must be made of the findings presented in the last chapter. Since the examination of the Ford Pinto matter is a case study, nothing definitive can be said concerning the relationship of the evidence to the theoretical ideas posited in Chapter II. The evidence, however, does suggest directions and approaches to be further investigated in the study of corporate crime. In this chapter, then, the evidence will be combined with the theory in a search for pertinent factors which should be further investigated to enhance an understanding of the etiology of corporate crime.

The Importance of the Evidence

One note must be made; much of the evidence is scanty, some evidence is not properly documented, and some evidence has been challenged by Ford. (A ploy at the criminal trial, for example, was for Ford to deny authentication of documents which Cosentino tried to admit into evidence. This occurred even when the documents were stamped "Ford." Ford lawyers claimed it was possible that a revenge-seeking janitor might slip false documents into files, or that typographical errors might have been made.) The evidence offered in the previous chapter is not always offered for "the truth of the matter," but should be weighed for its importance.
The Profit Motive

In the first research question, the importance of the principle of profit-maximization was explored. It was seen that profit was indeed a motivating factor in the actions of Ford. Henry Ford II, himself, made statements concerning the desirability of profits as well as urging that business look to new public demands such as safety as "opportunities to profit." Henry Ford II reiterated on more than one occasion the main goal of the Ford Motor Company; that is, profits. It also appears as though Ford profits were falling—a situation which was probably not well-received by stockholders and managers of Ford, and possibly this provided an impetus for actions to regain profit levels.

There is little doubt that the profit motive plays an important role in the goals and operation of the Ford Motor Company. This is hardly surprising, for United States corporations operate on that premise. The key question here is the influence of the profit motive on the activities of Ford. Was the threat to Ford's profits a contributing factor in this corporate crime? This question cannot be answered definitively, but certainly the emphasis on profits suggests that the answer is yes. Recall Harley Copp's testimony concerning Ford's knowledge of the Pinto's deficiencies and Ford's ability to remedy those deficiencies. In all cases, he responded that "costs" and "improved profitability" were the reason Ford did nothing. The profit motive was obviously an important factor in this corporate crime. It may have contributed significantly to
Ford's decision to continue the manufacture of a defective auto-
mobile. Further, an examination of the profit structure and the
slipping market shares indicate that Ford was probably an "organiza-
tion in crisis." Such a situation may have contributed to Ford's
decision to rush into production and sell a product (any product)
which might stabilize the corporation's profit and market situation.

**Interlocks**

The next research question addressed the influence of Ford in
the political economy. Essentially, the question is whether or not
the economic power wielded by Ford spilled over into the political
sector. There is no doubt that interlocks have existed between
Ford and the political sector. Individuals have traveled from Ford
to government positions. The automobile industry has traditionally
had much clout in Washington. The NHTSA has also come under cen-
sure for bowing to the will of automobile manufacturers instead of
regulating them effectively.

The importance of the evidence regarding Ford's influence in
the political sector is related to Ford's ability to obtain politi-
cal benefits to enhance its own position, often at the expense of
the public. Henry Ford II's actions (or alleged actions) concerning
the RECAT report, though highly speculative, indicate that Ford had
an ear, if not an ally, in a very important and powerful position in
the political sector.

The extent of the influence is perhaps best indicated by the
action taken in 1973 by Congressman Moss. He urged Congressional
intervention if the DOT failed to act on motor vehicle legisla-
tion. Although the Safety Act had been effective since 1966, Moss
felt that very little effective regulation was coming from the
NHTSA. The 1976 Committee on Oversight also criticized the lack of
action taken by the NHTSA in motor vehicle safety. While it would
be highly speculative to state that activities of Ford led directly
to the ineffectiveness of regulatory agencies, the evidence strongly
suggests that Ford was able to influence the political sector to a
great extent and this influence, in turn, "took off the heat" in
regulation expenses which might have hindered Ford in their profit-
making goal.

While the examination of interlocks indicates that Ford was
able to somewhat influence the government, at least in the sense of
delaying standards and obstructing federal inquiries, it must be
recognized that Ford's economic power was insufficient to totally
gain their own interests. The government was able to, eventually,
enforce the Safety Act so that automotive standards were imple-
mented. Ford's influence in the political economy was not abso-
lute.

The Legal Environment

Ford's influence on the legal environment is closely tied to
its influence on the political economy. Evidence indicates that
Ford not only actively attempted to manipulate the legal environ-
ment, but also that it was highly successful in doing so. From the
time of the NHMVS Act's proposal, Ford (and others) fought its pas-
sage. After the Act was passed, Ford attempted to weaken its efs-
effects (via, for example, RECAT). Most importantly, however, the Act
provided for interested parties to respond to proposed rules and
Ford used this provision to question, suggest amendments, and other-
wise "interfere with" the regulatory process. The nit-picking
(perhaps better described as adhering to the letter but not the
spirit of the law) by Ford is well exemplified in their response
to Notice 3 of proposed rule-making. In this response, they ques-
tion NHTSA's testing procedures, arguing that the new procedures
change the standard, etc., thus new notices of rule-making, etc.
must be issued. Such attention to procedures effectively diverts
attention from the intent of the standard; that is, increased auto-
mobile safety.

Ford's manipulations, in response to NHTSA demands for infor-
mation, are a blatantly vivid example of delaying tactics. Citing
reasons such as "remote storage locations" and the "magnitude of
the task" Ford managed to stall the NHTSA inquiry for nearly a year.
Again, Ford's manipulation of the legal environment is obvious.

Another example of Ford's influence over the legal environment
involves information submitted to NHTSA by Ford, Ford petitioned
for and was successful in keeping much of the information concerning
the Pinto out of the "public domain." In 1975, for example, John
Martin from Ford's Office of General Counsel, sent a letter to Frank
Berndt of NHTSA, thanking him for "confidential treatment" of test
results. Those tests were not made public until 1978, despite
court cases then in progress and pending against Ford.
Ford's influence on the legal environment occurred at many levels from arguments against passage of a regulatory act to activities which hampered NHTSA in their attempt to ascertain whether or not the Pinto was defective. This type of influence gave Ford much extra time in which to continue selling the Pinto without modifications, thereby increasing the company's profits. This influence had a significant effect on Ford's ability to act in certain ways.

Market Structure

The research question concerning the market structure within which Ford operates shows that the market was concentrated and threatened by the increasing share garnered by the imports. The imports went from a 1.6% market share in 1956 to an 18.2% market share in 1975. Ford, as well as other automobile manufacturers attempted to regain a portion of that market by producing small cars of their own. Individuals testified that the Pinto was developed to compete directly with Volkswagen which had, in the late 1960s, the greatest share of the import market.

Dowie (1977) has cited evidence as has Harley Copp, that the Pinto was rushed into production in an attempt to quickly regain share of the market. Copp, for example, in the criminal trial, stated that normal approval of a new car takes from 24 to 28 months, while the Pinto was approved in 20. This evidence, along with evidence by Copp and Camps stating that engineers were locked into a particular design, has been construed by Dowie to mean that Ford
rushed Pinto into production by "tooling up" for the car before crash tests were completed. The reasoning is somewhat speculative, although some evidence substantiates that reasoning. The connection, however, between the market structure and Ford's actions, while suggestive, is not definitive. Certainly there are indications that the market structure had a significant influence on Ford's decision to manufacture a subcompact; whether or not that led directly to corporate crime must be conjecture. Surely, however, it may be inferred that a decision to rush into competition with another automaker could mean that less care than usual might be taken over the development of such a car.

**Goals**

There is every indication that the goals of profit-making at the Ford Motor Company superseded the goals of public interest. This is not to say that Ford was not interested in safety; rather, safety was ranked lower in the hierarchy of goals than the goal of profit-making. Despite engineering goals which specifically evoke "due regard for the safety of life and health of the public," Ford relied heavily on cost-benefit analysis which put a price tag on human life and safety and then disregarded those lives if the cost in saving those lives exceeded the dollar benefits placed upon them.

Ford tested a number of alternative fuel systems—systems which could sustain a rear-end impact better than the system which was installed in the Pinto. Ford Pinto systems, on the other hand, repeatedly failed when tested in rear impacts. The obvious logic is
that Ford, in the interest of safety, should incorporate those alternative fuel systems in the Pinto. As early as 1970, however, Ford asked for the projected costs of implementing improvements and then did not incorporate those changes because of the costs involved. Obviously, in this case, the safety of fuel systems was a lower-ranked goal than profit.

Of further interest, is Ford's response to Notice 2 of the proposed rule-making (Standard 301). In this response, Ford notes that adherence to Standard 301 will result in an average increase of $18.95 per passenger car with no provision for Ford profit (emphasis mine). Such a statement indicates, to some extent, the importance that Ford placed on profit over safety.

A further indication concerning the ranking of safety in the hierarchy of goals at Ford concerns the engineering objectives of the Pinto. In Olsen's presentation to the Society of Automotive Engineers, size, weight, price, fuel consumption, etc. were all objectives for the Pinto, but safety was not mentioned. While this in itself is not crucial since safety may have been an assumed objective for all Ford cars, the subsequent actions taken concerning the Pinto suggest that safety was not a key objective in this car.

In sum, there are probably many goals within the hierarchy of goals at the Ford Motor Company. Two of those goals, profit-making and public safety, were compared, with profit-making seemingly a higher-ranked goal than public safety. In a clash of these two goals, profit-making apparently took precedence over public safety. This ranking is suggested from the cost-benefit analyses con-
ducted within Ford in response to NHTSA's notices of rule-making.

**Normative Environment**

There is some ambiguity concerning the normative environment at Ford. On the one hand, engineers are expected to adhere to a code of ethics and are expected to be concerned with problems created by technology. On the other hand, however, they are ever cognizant of their roles as Ford employees and the primary responsibility of that role—profit-making. In the case of the Pinto, the normative environment required that engineers get the car into production within the "hardpoint approval" design. As Copp noted, this meant engineers could not exercise their best judgment in terms of making the car sound and safe from an engineering standpoint.

The normative environment may force certain activities as well as beliefs. Camps, in an effort to certify the Pinto's windshield, directed impact energy to the driveshaft which often ended up puncturing the fuel tank (via the differential) in rear-end impacts. His activities, however, were congruent with the normative environment which required that existing standards be met while pending standards could be ignored.

Dowie addresses the problem of beliefs within a particular normative environment. He notes that corporate officials "...thought they were telling me the truth, they believed what they were telling me..." (Winston, 1978, p. 11). Dowie claims that underlings are lied to by top management and he also implies that management
is responsible for transmitting the norms of the corporate environment.

Camps' experience suggests that the transmission of the normative environment is more subtle than lies on the part of top management. His experience suggests that Ford, through its ability to promote, demote, fire, and transfer is able to control the behavior of its employees. Furthermore, all kinds of tactics, such as overt concern with safety, fruitless meetings with superiors, and suggestions that whistle-blowers don't get anywhere, are used to ensure "appropriate" behavior on the part of employees.

Rationality

Rationality appears to play a big role in the decision-making process at Ford. Rationally, profit-making is most important and thus, Harley Copp shows how the defective fuel system could be disregarded from a rational point of view.

The emphasis of cost-benefit analysis at Ford also suggests heavy reliance on rationality. Measuring effectiveness in terms of costs and benefits is a logical way to make decisions. With such a system, however, morality is often ignored. (This is not to imply that morality must be excluded from cost benefit analysis. Such analysis is certainly an effective tool for decision-making. Unfortunately when hard-to-quantify factors, such as human life, are put into the formula, the temptation to omit non-quantifiable aspects of a cost or benefit is hard to resist. For example, Ford's estimate of $180,000 as the cost of a human life was unfairly and
probably unequally matched against a potential profit savings. The practice, at least at Ford, appeared to focus on dollars and cents rather than the moral aspects of a decision.) Thus, Ford found it easy to place a price on human life so that it too could be figured into cost-benefit analysis. While this may make "rational" sense, the "moral" sense is questionable. It was not, however, at issue for Ford since morality does not properly enter into rational decisions.

Even more "rational" is the argument used by Ford at the criminal trial in Indiana. Ford argued that a 1973 Pinto did not have to meet a minimum rear impact crash test because there was no standard in effect at the time. Ford was able to disregard its own tests and alternative fuel systems because it made rational sense to do so. Only after the standard was finally made effective, did Ford retool the Pinto to meet the new standard despite the fact that it could have improved the fuel system integrity as early as 1970.

The problem of excessive rationality was succinctly stated by a newspaper journalist:

If indeed, Ford placed the Pinto gas tank where it can be pushed forward into a projecting differential bolthead and be punctured, it left a fault that could have been detected by any first year engineering student.

But supposing a young engineer saw the hazard and spoke out about it. Would management listen?

That is the key. If industry is to fight off growing government meddling, it must make its safety engineers superior to the cost accountants where safety is in question ("The Pinto Controversy," 1977, p. 4A).
Although Ford used rationality as a basis for decision-making, an argument can be made that using such a narrow view of cost benefit analysis was not rational. As previously discussed (See Chapter II), a rational decision must be cognizant of the contextual values and goals. Cost benefit analysis is not necessarily immoral; rather, Ford's use of the tool was made within an environment where one goal—profit-making—superseded all other goals. While Ford could, and indeed did, argue that this was rational and acceptable behavior, the perception of "rationality" was based on a distorted hierarchy of goals in which safety was not even mentioned.

The Importance of the Theory

The responses to the research questions addressed in this study indicate that corporate crime is a complex phenomenon. In terms of etiology, many factors appear to be important in the commission of corporate crime. The capitalist system, for example, appears to "encourage" the possibilities of corporate crime through an emphasis on profit-making. In such a system, furthermore, economic power, gained through profit-making, is often synonymous with political power which allows some organizations and/or groups of people to be more powerful than others. This power may be used to enhance positions at the expense of others.

A revelation appeared during the course of this study. Ford, apparently because of its economic power was able, in the criminal trial, to manipulate information to such an extent that the prosecution was precluded from accurately presenting its case. Mr. Camps,
for example, was not allowed to testify. Some NHTSA documents were
not allowed to be entered into evidence. Ford documents could not
be entered unless authenticated. All of these, and other, attempts
to enter evidence against Ford were denied not because of the "truth"
of the documents, but because of technicalities. The American jus­
tice system relies on a jury of one's peers to decide guilt; in the
Ford case, the evidence presented to the jury of one's peers was
sketchy, fragmented, and inadequate. How then can a jury make a
reasonable decision?

This is extremely important in terms of the theoretical model
delineated earlier in this work. The power of corporations to work
within the system to gain their own ends is nowhere more apparent
than in the political economy. The power wielded there allows cor­
porations to manipulate not only the legal environment within which
they operate, but the very definitions of their conduct. Ford was
vindicated in Winamac and the general public will believe that such
vindication stems from the reality of the situation. Trial ob­
servers and those individuals who perused the evidence (both ad­
mitted evidence and not) will perceive a different reality. The
crucial factor, however, is the corporation's ability to influence
the political economy and the ideology of society so that their
position is enhanced. This not only gives them the ability to com­
mit corporate crime, but also the ability to define what they are
doing as normal and proper.

In the case of the Ford Pinto, this tactic was used in civil
suits, the criminal trial, and news releases. Again and again,
Ford spokesmen stated that no crime was committed, no negligence had occurred, and Pintos were as safe as any car because no standard was in effect concerning rear-end impacts until 1976. The reasoning is that this should exonerate Ford of all guilt (and damages). Ironically, this logic is probably accepted by most people at Ford as well as by the general public. The activities of Ford in delaying the standard are seldom considered, yet it was seen that such tactics had a considerable effect in controlling the regulatory environment. This indicates the clout that Ford had in shaping the politics of automobile regulation as well as Ford's ability to shape ideology. As previously stated, such abilities give corporations much control over their activities.

The influence over the political economy as seen above filters down to the specific legal environment within which particular corporations operate. The automobile industry may not by a typical example of a corporation's ability to manipulate that environment. The examination of the market structure of the automobile industry showed that it was oligopolistic and concentrated. Less oligopolistic and concentrated industries may not be able to control their environments as effectively as the automobile industry. Thus, although control of the legal environment appears to be an extremely important factor in the etiology of corporate crime in this case, it may vary in importance depending on the structure of the particular industry under study.

Market structure appears to have quite an influence on the activities of a corporation. It only makes sense that in a system
governed heavily by the profit motive, threats to a market or
market share will not be taken lightly. In an oligopolistic market,
market shares are rather predictable; that is, threats to that mar-
et are not congruent with oligopolistic "arrangements." There is
little doubt that most corporations would engage in activities to
regain lost market shares. To the extent that the political
economy and legal environment can also be controlled, the necessary
activities may include corporate crimes as well as more reasonable
activities. In a study of particular corporate crimes, then, the
market structure should be closely examined for contributions to
corporate crime.

At the organizational level, corporate crime appears to be
endemic. Organizations within capitalist societies are structured
in such a way that rationality (without morality) tends to prevail
over a hierarchy of goals that is topped (in most corporations) by
the profit motive. That highest ranked goal sets the pattern for
the corporation's activities and the rationale for those activities.

At Ford, for example, there was a heavy emphasis on cost-
benefit analysis. Rationally, in their view, everything can be re-
duced to dollars and cents and decisions should be based on whether
or not actions are of benefit (i.e., profitable) to the corporation.
Such reasoning is a good example of Ladd's (1970) analysis of ra-
tionality versus morality. Morality, according to Ladd, is not a
factor involved in decision-making in large organizations; rather,
rationality is the chosen tool. Some evidence from the Ford Pinto
nicely illustrates that. As Attorney Hare points out, the decision-
making process may have nothing to do with the morality of the individual who is making the decision:

But Mr. Tubben takes the stand and I can see why they chose him as a witness. He is one of the most attractive, gentlemanly people I believe I ever saw (Kaminski vs. Ford, 1977, p. 18).

Similarly, in the criminal trial, Harold MacDonald was described by Harley Copp as a "safety-conscious" person. These examples of individuals seem incongruent with the picture painted of the bad corporation. Ladd (1970), however, noted that there is a distinction between acts within an official corporate capacity and within a private capacity. The organization demands that its employees act in certain ways and sanctions those employees who blow the whistle or rock the boat. It appears as though private morality has very little to do with decisions made on an organizational level.

The justification used by Ford (for not correcting the Pinto fuel system integrity in the early 1970s) was that "everyone is doing it." While this may not be much of a defense (Prosecuting Attorney Burner said, "Can a robbery defendant claim that others are robbing and so therefore his activities are okay?" (Trial Notes, 2/13/80), it is probably common practice among large corporations. Anything that cuts into profits should, rationally be eliminated. The entire organizational environment stresses this rationality thereby calling for certain, predictable decisions on the part of corporate managers.
Limitations of the Evidence and the Theory

The theoretical model presented earlier in this study appears to have some practical value in approaching the study of corporate crime. Unfortunately, given the fact that the application of the theory involved a case study, nothing definitive can be stated from an examination of the data within this theoretical framework. There are no samples, no statistics, no hypotheses, and no probability levels.

The data themselves are qualitative and there are obvious holes and gaps. Although attempts have been made to ensure the validity and reliability of the data, in a study of this nature, the probability of getting the whole story is rather slim. Some documents have been kept out of the public domain, while sources of other documents are second or third hand so that authenticity cannot be assumed.

In short, this study suffers from many methodological shortcomings. The study is exploratory. It certainly has yielded some interesting data and relationships to the theoretical premises set forth. In this study, the importance of structural features of a society as contributing factors to the etiology of corporate crime was shown to be pertinent in this one case of corporate crime. Those structural factors should be more thoroughly explored in other case studies and applications to further refine and develop the explanatory power they provide. Organizational factors also seemed important to the understanding of corporate crime. In this study,
only a few organizational characteristics were examined; very likely, there are many other aspects or organizations which should also be studied to determine how they contribute to corporate crime. In addition, other explanations of organizational behavior could be explored. The notion of an organization-in-crisis, for example, may provide a useful avenue for investigation. An examination of the leadership at Ford may indicate why managers rather than engineers were given important decision-making capabilities. Weber's (1958) theory of organizations of scale may also be useful in understanding the apparent lack of effective communication and rationale among members of an organization and, indeed, may account for the particular short-sightedness of the actions at Ford in regard to the Pinto.

The limitations of this study should not negate its usefulness. Many important factors relative to corporate crime have been uncovered. Certainly evidence suggests further directions for research in this vitally important area.

Further Issues

Where does one go from here? Exploratory studies tend to whet the appetite and probably raise more issues and questions than they address. This study is no exception.

Further study of the structural and organizational factors relative to corporate crime is certainly needed. More case studies, similar to this one where data are sought from and substantiated by a number of sources, will help build a body of studies which
identify with more precision the contributing explanatory power of
the various factors. Refinement is also needed. Market structure,
for example, obviously influences corporate activities, but the con-
nection between degree of market disruption and decisions to commit
crimes is not clear. In addition, questions must be asked concern-
ing non-oligopolistic markets. How do threats to such markets in-
fluence corporations within that specific industry?

Also of further interest is corporate crime within non-
capitalist societies. Are different factors applicable to corporate
crime in such societies? Weber (1958) suggested that bureaucracy
led to certain types of behavior. Is corporate crime, then, an in-
evitable part of modern, bureaucratically society? These are ques-
tions which must be carefully explored before an understanding of
the etiology of corporate crime can be achieved. The theory de-
lineated in this work can, as previously discussed, possibly be more
abstractly stated to include societies organized upon different re-
lations of production. The capitalistic goals of profit-making and
private ownership, for example, may be translated into goals of
prestige, productivity, quota-making, etc. within state socialist
societies. An explication and testing of such factors may con-
tribute to a more thorough understanding of corporate crime.

Even more important to an understanding of the etiology of cor-
porate crime, is a careful examination of the power of corporations.
Although some examinations have been done (e.g., Barnet & Mueller,
1974; Baran & Sweezy, 1966), they have not tended to directly con-
nect such power with the ability to commit corporate crime. In
this study, the evidence suggests that the power of corporations helps to shape the entire milieu within which they operate, effectively allowing corporations to define what is criminal as well as having the power to commit crimes. The power factor must be carefully examined at both structural and organizational levels to understand how corporate crime is possible.

Finally, the matter of social control of corporate power must be investigated. Evidence uncovered in this study suggests that large corporations such as Ford are able to protect themselves from the American justice system not only at the definitional level, but also in the criminal justice system. Through economic power, Ford was able to present its case in criminal court and simultaneously was able to prevent the prosecution from presenting its case. Additionally, Ford had power over NHTSA to keep certain documents out of the public domain. All of these actions indicate power which is not available to the average citizen. The effects of this power on the control of corporations must be examined.

Summary

In this study, an examination of corporate crime was undertaken. After determining that corporate crime is costly in economic, physical, and social terms, the issues within the field were examined. A definition of corporate crime was given. This definition ignored legalistic views because of their biases and focused on a social harm criterion.
In an attempt to gain understanding of the etiology of corporate crime, a theoretical framework for examining the problem has been developed. This framework includes structural features such as a capitalistic organization of society, the importance of a political economy, the importance of market structure, and the importance of corporate influence over the legal environment, in understanding corporate crime. Corporations within this society are affected by the structural features of society. Corporations are organized according to capitalistic principles and effectively force their employees into certain kinds of actions and activities. It was theorized that such organizational factors might have an influence on corporate crime.

Data for this study came from the Ford Pinto matter. Analyzing various data from Ford documents, NHTSA documents, trial transcripts, etc., a number of research questions, which were guided by the theoretical framework, were raised. The data showed, that in this case study, structural factors such as the profit motive, the ability of corporations to influence the political and legal environments in which they operate, and market structure were influential in the ability of Ford to manufacture and sell a defective automobile. In addition, organizational factors, such as the hierarchy of goals, the normative environment of the organization, and the basis for decision-making within the Ford organization, were examined for their explanatory power in understanding corporate crime.

Although this was a case study and offered no definitive statements to the problem of corporate crime, a number of directions for
further research and examination were discovered. To fully understand the etiology of corporate crime, more research is needed within the area. This can best be accomplished through a number of case studies which can further refine and develop the theoretical framework developed here.

The problem of corporate crime must not be ignored; it is a costly and serious problem for all people in our society today. Through further study and research, an understanding of the etiology of corporate crime can be achieved. Through such understanding, some mechanisms for the social control of this serious problem may be developed.
FOOTNOTES

1. This section is taken, in large measure, from a paper, "The Philosophical Implications of Conflict Methodology: Theoretical Bases for Researching the Ford Pinto Trial," written with Doris Cubbernuss and presented at the ASC meetings, November, 1980.


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