Federal Probation

SEPTEMBER 1985

Federal Probation is published by the Administrative Office of the United States Courts and is edited by the Probation Division of the Administrative Office.

All phases of preventive and correctional activities in delinquency and crime come within the fields of interest of FEDERAL PROBATION. The Quarterly wishes to share with its readers all constructively worthwhile points of view and welcomes the contributions of those engaged in the study of juvenile and adult offenders. Federal, state, and local organizations, institutions, and agencies—both public and private—are invited to submit any significant experience and findings related to the prevention and control of delinquency and crime.

Manuscripts, editorial matters, books, and communications should be addressed to FEDERAL PROBATION, Administrative Office of the United States Courts, Washington, D.C. 20544. See inside back cover for information about manuscript preparation and submission.

Subscriptions may be ordered from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, at an annual rate of $11.00 (domestic) and $13.75 (foreign). Single copies are available at $3.50 (domestic) and $4.40 (foreign).

Permission to quote is granted on condition that appropriate credit is given to the author and the Quarterly. Information regarding the reprinting of articles may be obtained by writing to the Editors.

FEDERAL PROBATION QUARTERLY,
Administrative Office of the United States Courts, Washington, D.C. 20544

SECOND-CLASS POSTAGE PAID AT WASHINGTON, D.C.
Publication Number: USPS 356-210

Federal Probation

A JOURNAL OF CORRECTIONAL PHILOSOPHY AND PRACTICE

Published by the Administrative Office of the United States Courts

VOLUME XLIX SEPTEMBER 1985 NUMBER 3

This Issue In Brief

The Myth of Corporate Immunity to Deterrence: Ideology and the Creation of the Invincible Criminal.—Commentators frequently assert that the criminal law is ineffective in deterring corporate crime because either (a) the public will not support sanctions against businesses or (b) companies are too powerful to be swayed by existing legal penalties. Authors Francis T. Cullen and Paula J. Dubeck suggest, on the contrary, that studies reveal the public favors the use of criminal sanctions against offending corporations and such sanctions will ultimately diminish future illegality.

Racism, Sexism, and Ageism in the Prison Community.—A survey of literature suggests that blacks, women, and the elderly experience differential treatment in prison and that such treatment is somewhat in concert with that afforded them in the outside community, according to Professor Ann Goetting of Western Kentucky University. She concludes that such discrimination is likely to persist in the institutional setting until such time it is no longer tolerated in society at large.

Sentence Planning for Long-Term Inmates.—Recent sentencing law changes throughout the United States are likely to produce an increase in size and proportion of long-term prisoners in state and Federal correctional facilities. Professor Timothy J. Flanagan of the State University of New York at Albany addresses a number of issues involved in planning constructive sentences for these prisoners and discusses administrative structures for the implementation of long-term sentence planning.

Profiles in Terror: The Serial Murderer.—One alarming aspect of contemporary serial murder is the extent to which its perpetrators believe that violence against human beings is a normal and acceptable means of implementing their goals or motives, assert University of Louisville professors Holmes and DeBurger. Their article describes a systematic typology of serial murders and indicates some of the general characteristics of the offender.

Computers Can Help.—Until recently the computer-assisted instructional options available to correctional educators were not very practical, reports Federal prisons education specialist Sylvia G. McCollum. The situation has changed sharply, however, and correctional educators can now choose

CONTENTS

from a wide variety of user-friendly equipment and software which includes vocational, high-school equivalency, career assessment, job search, and life-skill courses. Those interested in using computers in correctional education may benefit from the Federal prisons experience.

FCI Fort Worth Substance Abuse Evaluation: A Pilot Study.—Dr. Jerome Mabli, research administrator for the South Central Region of the Federal Bureau of Prisons, and members of his staff, discuss the preliminary results of a pilot Substance Abuse Program Evaluation. The unit evaluated after 8 months of testing was the FCI Fort Worth STAR (Steps Toward Addiction Recovery) Unit which houses 200 inmates. The authors present a research paradigm which concentrates on cognitive-attitudinal variables and outline recommendations for future evaluation.

Female Correction Officers.—Author Peter Horne presents a current overview of the status of female correction officers in the American penal system, examining data and levels of utilization of females in corrections. The limited progress that female correction officers have made in working in all-male prison facilities is noted and the problems which have impeded their progress are explored. Recommendations are made and administrative strategies outlined in order to promote increased employment of females in opposite sex prisons.

Protective Custody: The Emerging Crisis Within Our Prisons?—The use of protective custody (PC) in North American prisons has increased dramatically over the last two decades with current rates varying from 6 percent to 20 percent of prison populations. According to authors Gendreau, Tellier, and Wormith, the increased use of PC was probably caused by changes in judicial and court-related practices, changing trends in prison populations, and liberalized institutional regulations. They express concern for equitable treatment and an acceptable quality of life in PC .

Changing the Criminal.—Gad Czudner describes a theoretical proposal for a way to change the criminal. The proposal is for a cognitive model with an added moral component which assumes that, only if a person is capable of feeling "bad" about doing "bad," is he able to feel "good" about doing "good." He believes that guilt can be a guide for moral behavior and that awareness of others is the key to this approach.

The Probation Perspective: Analysis of Probationers' Experiences and Attitudes.—Using the theoretical perspectives of rehabilitation, deterrence, desert, and the justice model as points of reference, this study evaluated probationers' experiences and obtained their ideas as to what the mission of probation should be. Author G. Frederick Allen's findings suggest that probationers are able to conceptualize criminal sanctions as rehabililtation, deterrence, desert, and within a justice model perspective, simultaneously; and that they have useful suggestions for improving the system.

ERRATA: The concluding lines of the article "The Effect of Casino Gambling on Crime" by Jay S. Albanese, which appeared in the June 1985 issue, were eliminated during the printing process. The last two paragraphs of that article should have read as follows:

As a result, states having support for the legalization of casino gambling should not fail to consider legalization due to fear of increases in serious crimes against persons and property. Based on this analysis of the Alantic City experience, the advent of casino gambling has no direct effect on serious crime. Such finding suggests that any city which undergoes a significant revitalization (whether it be casino-hotels, theme parks, convention centers, or other successful development) that is accompanied by large increases in the number of visitors, hotels, and/or commercial activity, may experience increases in the extent of crime but a *decrease* in the *risk* of victimization—due to even faster increases in the average daily population of the city.

Although crimes known to the police have increased in Atlantic City since the introduction of casino-hotels, this increase has been more than offset by changes in the average daily population of the city and a general statewide increase in crime. States that follow New Jersey's example in providing a significant crime prevention effort as part of their casino legislation are also likely to experience success in introducing casino-hotels to revitalize a local economy, without an increase in the risk of victimization of its citizens. As this investigation has found, the average visitor to Atlantic City in 1982 was less likely to be the victim of a serious violent or property crime than he or she was before casinos were introduced there.

The Myth of Corporate Immunity to Deterrence: Ideology and the Creation of the Invincible Criminal*

By Francis T. Cullen and Paula J. Dubeck**

In 1975, Christopher Stone voiced the thesis that the "social control of corporate behavior" can only begin "where the law ends." Legal sanctions, Stone argued, either prove impotent in the face of immense corporate power or are ineffective because they do not penetrate to and transform the criminogenic forces that lie at the core of a business organization. Corporate illegality, Stone added, will continue to flourish unless innovative steps are taken to reform the very structure of organizational descisionmaking and the corporate culture which informs it; and most of these urgently needed measures cannot be stimulated through the application of formal legal controls.

Not all commentators studying corporate crime are in agreement with every aspect of Stone's argument. For instance, scholars further to the left assert that to diminish the lawlessness of big business, reforms must reach beyond the organization and refashion the very nature of the political economy. Yet despite these differences, Stone's *Where the Law Ends* succeeded in capturing a popular theme that had coalesced by the mid-1970's and continues to be widely accepted: Corporations are beyond the control of current legal sanctions. Indeed, the consensus on this point contributed much to the celebrated status his work immediately received and is accorded even today.

It would be naive to minimize either the power corporations exercise or the role they play in shaping the laws that ostensibly regulate them. Yet it is our contention that scholars have often overestimated the capacity of corporations to deflect legal sanctions and, alternatively, have underestimated the power of criminal prosecutions to effect organizational change. Taken together, analysts embracing the line of reasoning by Stone have fostered the image that big businesses are invincible to legal interventions. On an ideological level, the message conveyed is that it is fruitless within the existing system to employ the criminal law to control the injurious conduct of corporate enterprises. Ironically, this ideology may unwittingly serve the interests of corporate America by creating a cynicism about the potential efficacy of criminal sanctions that undermines the motivation needed to bring corporations within the reach of the law.

This article explores the various strands of this position and then argues in favor of a more balanced view of the limits and possibilities inherent in the application of legal penalties against corporate entities.

The Morally Neutral Public

Beginning with the earliest essays on the problem of controlling big business, scholars have popularized the conception (indeed, the misconception as we will attempt to demonstrate) that the public is largely unconcerned about the practices of big business (Conklin, 1977:17). Some commentators—such as Ross (1907), Sutherland (1940), and later Geis (1977:282-290; cf. 1972:390)—have held that this apathy is rooted in the public's ignorance of the ravaging consequences of corporate malfeasance. If citizens could only be made aware of their victimization, these commentators have claimed, then they would rise up and support the use of the criminal law against corporations and their executives. In turn, this would encourage the application of criminal sanctions and teach business leaders that crime does not pay. As such, the key to deterring corporate lawlessness rests in awakening the public to the problem at hand. The invincibility of corporations will fade once reformers successfully educate the American citizenry.

The supposed absence of public outrage over corporate practices has suggested a more conservative

*This paper was presented at the 1984 meeting of the Midwestern Criminal Justice Association, Chicago, October 4.

**Francis T. Cullen is associate professor, Criminal Justice Program, University of Cincinnati. Paula J. Dubeck is associate professor, Department of Sociology, University of Cincinnati.

conclusion as well: that criminal penalties against businesses would never be a viable solution to corporate illegality because it is unlikely that the public will ever be much concerned about this "problem." Kadish (1977) is perhaps the most notable example of this thinking. According to Kadish (1977:304-305), "it is a widely shared view . . . that the criminal sanction has not proved a major weapon for achieving compliance" to the law by corporations. This is surprising since "the conduct typically proscribed by economic regulatory legislation for the purposes of criminal enforcement" is "calculated and deliberative and directed to economic gain . . . a classic case for the operation of the deterrent strategy." Yet there is a missing ingredient essential to the efficacy of any criminal sanction: public support.

Kadish thus asserted that there is a "problem of moral neutrality" in that citizens do not see business violations as "morally reprehensible." What is more, this is not due to the manipulation of consciousness by economic elites. Rather, "the springs of the public sentiment reach into the national ethos, producing the values that the man of business himself holds, as well as the atttude of the public toward him and his activities." Indeed, "the conduct prohibited by economic regulatory laws are not only socially acceptable, but also affirmatively desirable in an economy founded upon an ideology . . . of free enterprise and the profit motive." The very nature of the social fabric thus undergirds the "absence of sustained moral resentment" and robs the criminal sanction of its legitimacy and power to command corporate conformity to existing legal standards (1977:306).

Now the positions articulated above differ in a significant respect: The first asserts that criminal sanctions would be effective if the public could be sensitized to the harms of corporate crime; the second, Kadish's view, contends that such sanctions inherently lack public support and thus their effects are inevitably blunted. Yet despite this difference, the two share the conclusion that the public is currently neutral toward corporate conduct and that this fundamentally diminishes fear among executives that criminal sanctions will be applied or applied in a meaningful way. It is our contention, however, that these two positions also share another commonality: a misreading of public sentiments about the behavior of big business and in turn a misunderstanding of the willingness of the public to sanction lawlessness in the upperworld.

While few would still dispute that social experience and ideology shape academic theorizing, it seems that thinking about corporate and white-collar crime has been particularly susceptible to social influence. Conservative commentators feel comfortable in dismissing the illegalities of the rich as inconsequential in the public's mind. Wilson (1975:x) thus chose not to "deal with white-collar crimes" because of his "conviction, which I believe is the conviction of most citizens, that predatory street crime is a far more serious matter than consumer fraud, antitrust violations . . . " Yet even more liberal scholars, upset about the corporate crime problem, have been prone to base their view of public opinion more on impression than on a scrutiny of empirical evidence. To an extent, the early students of business illegality can be forgiven for this oversight, since research was lacking and they were not prepared to conduct their own surveys. But starting with Newman's study in 1957, the easy conclusion that the public was fully unconcerned about white-collar crimes should have at least been questioned (as Geis, 1977 admittedly did). Hence, Newman's study revealed that 78 percent of a public sample felt that businessmen violating pure food laws should be accorded harsher penalties than those actually handed down by the court. Two pieces of research published in 1969 further reinforced this finding. Gibbons reported that 87.7 percent of the public favored prison terms of embezzlers, 69.8 percent for antitrust offenders. and 42.9 percent of false advertisers. Similarly, a 1969 Harris poll discovered that the public judged a manufacturer of unsafe automobiles as worse than a mugger (68 percent to 22 percent) and a businessman who fixes prices as worse than burglar (54 percent to 28 percent).

As several commentators have observed, more recent research has continued to demonstrate that the public is anything but "morally neutral" about corporate and white-collar illegality (Braithwaite, 1982; Conklin 1977; Kramer, 1984). Thus, in a reanalysis of Rossi, et al.'s (1974), study of crime seriousness ratings among Baltimore residents, Schrager and Short (1980) showed that Rossi, et al., (1974:227), had erred in making the sweeping conclusion that "white-collar crimes . . . are not regarded as particularly serious offenses." By examining different types of "organizational crime," Schrager and Short (1980:27) revealed that the data point "to the high degree of public concern for illegal actions with serious adverse physical impact." Two subsequent surveys of Illinois samples conducted by Cullen and his associates help to confirm this insight.

The first, a replication of the Rossi, et al., study using Macomb residents in 1979, found that citizens were clearly concerned with white-collar violations that had violent consequences and, more generally, evaluated white-collar crimes as a whole to be much more serious than did the Baltimore sample polled in 1972 (Cullen, et al., 1982). The second study, a 1981 survey of Galesburg citizens, revealed similar results. When asked to judge a variety of crime types, nearly 70 percent of the sample favored prison terms for "corporate violent offenses." Although not as pronounced, one-third of the sample also supported a prison term for executives committing "corporate property offenses, violent offenses," and the average sanction for this category fell between 3 years probation with a $5,000 fine and a 6-month jail sentence (Cullen, et al., forthcoming). Apart from evaluating specific illegal acts, the Galesburg respondents were also asked to state how they generally felt about the criminal sanctioning of white-collar offenders. It is instructive that few in the sample thought that such offenders should be spared criminal punishment. Thus, nearly 90 percent agreed that "white-collar criminals have gotten off too easily" and "deserve to be sent to jail for their crimes just like everyone else," and almost three-fourths were convinced that "stiff jail sentences will stop most white-collar criminals from breaking the law" (Cullen, et al., 1983:485).

Other research lends additional support to these findings. In a release of a 1977 national survey of 60,000 people who judged the seriousness of 204 acts, the Justice Department reported that Americans "view purposeful dumping of hazardous waste as a worse act than some homicides" *(Cincinnati Enquirer,* 1984:A-5). A more recent study by Frank, et al., (1984) of Cincinnati residents similarly reveals widespread public support for sanctioning corporate criminality. Employing a design which varied the amount and type (economic, physical) of harm as well as the degree of culpability for a legal violation, Frank, et al., found that a clear majority of the respondents favored the use of criminal sanctions against both executives and the corporate entity, regardless of the harm involved, when the act was committed either "knowingly" or due to "recklessness." Support of criminal sanctions was particularly pronounced when culpability was clear and physical harm was involved.

Taken together, existing survey research is impressive in falsifying Kadish's (1977) moral neutrality thesis. While it may by true that the public is generally more concerned about street crime and not fully aware of all aspects of the corporate crime problem (Cullen, et al., 1983), the evidence consistently indicates that the public views business violations, particularly those with violent consequences, as both serious and as a proper domain for criminal intervention. Those who would suggest otherwise risk bolstering the myth that corporations cannot be vigorously prosecuted due to the public's dearth of support for a campaign against lawlessness in the upperworld. If corporations are in fact invincible against legal sanctions, there is little reason to believe that this can be blamed on the public.

Indeed, if anything, corporate America has fallen into disfavor with the public. After reviewing the results of numerous opinion polls, Lipset and Schneider (1983a:31) discovered that "the period from 1965 to 1975 . . . was one of enormous growth in anti-business feeling." One illustration is that in 1965, an average of 68 percent of citizens surveyed on their attitudes toward eight major industries stated that they had "very" or "mostly" favorable feelings. By 1977, this figure had dropped to 35.5 percent (1983a:36). Another indicator of this trend is the concern voiced by the *Wall Street Journal* that "a huge share of Americans have adopted a cynical view of the ethics practiced by the country's leaders in . . . business . . ..[T]he public gives executives low marks for honesty and ethical standards" (Rickleffs, 1983:31).

Equally telling is that this mistrust of corporate leaders is not likely to be a transitory event. As Lipset and Schneider (1983b:44) have illuminated, the loss of faith in corporations and their executives is an integral part of an unprecedented "confidence gap" or "cynicism toward all major institutions in American society" that emerged in response to the turmoil and political dissent of the late 1960's and early 1970's. They have further maintained that the level of mistrust has not been significantly diminished by recent social and economic events. Of course, other progressive commentators have similarly observed the onset of the "confidence gap" and have argued that the Nation is entrenched in a "legitimacy crisis" (Friedrichs, 1979; Cullen and Gilbert, 1982; Rothman, 1978). Regardless of the terminology employed, one conclusion is clear. Corporate America does not enjoy an exalted status that protects it from suspicion and public scrutiny. Rather, as Lipset and Schneider (1983a:380) show, the public has come to associate "bigness and badness" and, we suggest, to see corporations as appropriate targets for criminal sanctions.

Immunity to Sanctions

If some scholars have located the inability to deter corporations in the moral neutrality of the public, many others have instead attributed the impotence of the criminal law to the immense power exercised by corporations. This thesis has taken various forms. As mentioned, Stone (1975) has argued that current criminal sanctions are ineffective because they do not induce the organizational change needed to ensure compliance with existing laws. Radicals move this analysis to a broader level and observe that the collusion between the state and business interests in a capitalist society precludes both the formulation and application of laws that would limit the public's victimization at the expense of reducing corporate profits. In this context, thoughts of deterrence are difficult to sustain. Thus, Balkan, et al. (1980:175), have noted that "some suggest that stronger criminal justice sanctions should be applied, as businessmen are sensitive to the loss of status and income. All these proposed solutions fail to consider the power wielded by corporations and the close relationship between business and government agencies designed to regulate it." Indeed, it is apparent that "changes in the political economy will have to precede a reduction in corporate and business crime" (1980:185). Echoing this theme, Quinney (1979:200) has posited that "only fundamental change in the political ecomony will make possible a solution to corporate crime."

Although concurring that corporations are substantially immune to *existing* controls, other authors are more sanguine about the possibility of achieving a measure of law and order in the upperworld by invoking new sanctioning strategies. The *Harvard Law Review* (1979:1368), for instance, has argued that "corporations will not be deterred by the threat of prosecution as long as corporate fines remain small" (cf. Ermann and Lundman, 1982:233-235; Lauderdale, et al., 1978:150). While this may not be accomplished through the criminal law, they believe that "larger fines, enforced through civil procedures, should better serve to deter proscribed conduct" (1979:1375). Another variant here is the position that sanctions will only be effective if they are directed against individual executives. The punishment meted out to corporations is either dwarfed by company profits or passed on to consumers or stockholders. Meanwhile, unscrupulous executives remain unscathed and are left free to use illegal means once again to accumulate corporate profits and commensurate career advancement.Coleman (1975) has captured the sentiments of many in the field in remarking that "a better policy" than attacking the corporate entity itself would be to punish the guilty individuals within the corporation, especially if the offense involves a jail sentence." Similarly, Geis (1972:390) has concluded that corporate sanctions lose their effect "unless one or more of the individual officers is also proceeded against . . .. Corporate crimes simply are not regarded in the same manner as traditional crimes, despite the harm they create, and they will not be so regarded until the criminals who commit them are dealt with in the same manner as traditional offenders."

In short, there is a significant consensus in the field that corporations are unaffected by attempts to use the current criminal law to deter their wrongdoing. Radicals, as noted above, have portrayed corporations as invincible to control efforts undertaken within the boundaries of the existing political economy. Authors like Stone see reform beginning only "where the law ends." And others see deterrence as a possibility only if penalties are substantially escalated and/or directed toward individual executives. Although all these observations contain important elements of truth, they are also shaped by ideology and conjecture. To an extent this is a necessary circumstance, since systematic empirical data on the control of corporations are still sparse. Nonetheless, available evidence suggests that corporate entities may be far less invincible against existing criminal sanctions than commentators have often led us to believe.

Support for our position is drawn most heavily from Fisse and Braithwaite's (1983) detailed study of 17 instances of corporate misconduct. Two criteria were used in the selection of cases: The corporation was transnational (the smallest ranking number 268 on the Fortune 500), and the violation received substantial publicity. Further, nearly all of the cases involved some attempt to criminally sanction the corporate entity (e.g., grand jury hearing, plea bargain, trial). At the very least, civil suits were filed or an administrative inquiry was undertaken.

Notably, Fisse and Braithwaite (1983:233) discovered that in all 17 cases, the action taken against the corporation and the subsequent publicity produced corporate reforms that promised to "reduce the probability of a recurrence of the offense or wrongdoing alleged (and often other kinds of offenses as well)." Admittedly, these cases all received considerable media exposure, and the amount of deterrence was neither systematically measured nor anticipated to be equally strong across all corporations. Nonetheless, the corpora-

tions in the sample were the kind of business giants that commentators have portrayed as being immune to any existing sanctions, and particularly to those that merely imposed financial penalties. And in a number of instances, the companies were in fact successful in defeating attempts to sanction them and not significantly damaged by any sort of financial loss (either from the fine imposed or from loss of sales). Despite these facts, the corporations uniformly took steps to minimize future legal difficulties. These included disciplining middle managers who participated in the scandal, rewriting company policies, tightening internal controls, improving communication channels with top management, and trying to introduce a "climate of control" into the organization (Fisse and Braithwaite, 1983:233-235).

But why would corporate giants be prompted to implement the type of organizational reforms that authors like Stone (1975) have suggested if profits were not seriously jeopardized? The key to this puzzle, Fisse and Braithwaite discovered, is that executives are markedly influenced by the disruption to their lives and the tarnishing of their reputations which occur when attempts are made to sanction their corporation. From extensive interviews with executives involved in the cases, they learned that "it was non-financial impacts that executives in all of the companies reported as the factors which truly hurt and which made them want to avoid a recurrence even if it cost a great deal of money to try to guarantee this." Thus, "at the level of subjective management perceptions, financial impacts were not a strong deterrent, while non-financial impacts—loss of corporate and individual prestige, decline in morale, distraction from getting on with the job, and humiliation in the witness box—were acutely felt" (1983:243; cf. Braithwaite and Geis, 1982:303).

Again, these nonfinancial impacts were experienced in cases in which the corporation and not the executive was sanctioned and even in cases in which corporations were not convicted. By offering these insights, Fisse and Braithwaite have reminded us that corporate giants are run by people and that publicized attacks, regardless of their outcome, impose strains on management that are not always easily dismissed. For many executives, then, "the process is the punishment" (Feely, 1979), and this is sufficently discomforting to move them to avoid future difficulties.

Most commentators have missed this point. While they have realized that an individual prosecution can inflict a range of disabilities on an executive and scare others straight, they have implicitly assumed that sanctions directed at corporate entities leave executives personally unaffected. In a very real sense, this is a manifestation of the reluctance of criminologists to study the range of people who manage corporations. While recent years have produced a burgeoning literature on corporate crime and its control, relatively little of this research has sought to interview or survey executives to see how they view and negotiate the ethically questionable situations they encounter. Instead, implicit in much of this literature is an oversocialized conception of the corporate manager—the image that the criminogenic conditions of organizaional life turn even the most moral among us into profit-seeking sociopaths.

Perhaps we overstate our case. Regardless, the few studies which are available support the conclusion that no easy caricature of business executives is possible. For instance, Brenner and Molander's (1977) survey of 1,227 readers of the *Harvard Business Review* revealed widespread recognition of the legitimacy of the goal of corporate social responsibility. "Those critics who continue to characterize the American business executive as a power-hungry, profit-bound individualist, indifferent to the needs of society," they concluded, "should be put on notice that they are now dealing with a straw man of their own making" (1977:68-69). To be sure, this broad ideology may bend in the face of job pressures to maximize profits. Yet it would be wrong to believe that it exercises no constraint whatsoever. Notions of social responsibility raise questions of ethics, make rationalizing deviance more difficult, encourage "whistle-blowing," and potentially heighten sensitivity to sanctions.

At the very least, current attention to corporate morality furnishes a conducive context for reform. Clinard's (1983) research on 64 retired middle managers from Fortune 500 companies is instructive here. In his interviews, Clinard found that the former executives felt that the top management of a company is crucial in "setting the corporate ethical tone." Legal violations were seen to be likely where there was "an aggressive 'go—go' type of top management, especially the chief executive officer seeking to achieve power and prestige rapidly, both for himself and the corporation" (1983:157). This finding is important in two respects. First, it suggests that most middle managers are aware of ethical issues and feel discomforted at being pressured to violate legal standards. Phrased differently, they would prefer to work in an environment where lawlessness is not encouraged and thus

would not resist reforms aimed at eliminating illegalities. Second, it indicates that attempts to deter corporations will be effective if they succeed in influencing the executive elite which "sets the moral tone" for the organization. The nonfinancial impacts of sanctions illuminated by Fisse and Braithwaite (1983) are especially relevant since they tax the energy of the aggressive executive and thus help to restructure career interests in favor of greater legal compliance.

Thus, our analysis suggests that criminal sanctions directed against the corporate entity do make a difference. In offering this conclusion, we are not unmindful of the organizational and broader structural conditions that nourish corporate criminality. Nor are we positing that the criminal law is without limits and capable of effecting a complete solution to the corporate crime problem. However, this insight is important to the extent that it indicates that the most pragmatic policy for dealing with this problem is not to create new laws with more stringent sanctions or to try exclusively to undertake the difficult task of establishing the criminal culpability of individual executives (Fisse, 1984); instead, it is to realize the potential of *existing corporate* sanctions to effect meaningful change. As Fisse and Braithwaite (1983:244) have aptly concluded, "this all means that there is a lot to be said for keeping after corporations." At the very least, the discussion above calls for a reconsideration of any simplistic notion that corporations are invincible creatures, and in turn calls for an examination of the conditions under which sanctions may have deterrent effects of both a specific and general nature.

Conclusion

Prevailing interest in corporate crime cannot be understood apart from the context which encouraged its growth. Criminological concern with lawlessness in the upperworld was intermittent until the crises of recent decades exposed scholars to the realities of social conflict, state power, and corruption in high places. The outgrowth of this experience was that a large segment of the current generation of criminologists grew convinced that corporations were powerful and fully capable of disregarding legal prohibitions and victimizing citizens in the pursuit of profit.

Much good has come of the spread of the belief that crime exists not only in urban streets but also in corporate suites. Sustained academic writing has helped to raise the consciousness of fellow criminologists, the public, and criminal justice officals regarding the prevalent and often violent nature of corporate deviance (Cullen, et al., 1984; Schudson, et al., 1984). Yet it appears that the same circumstances that nourished academic interest in and personal concern about corporate crime have placed blinders on many scholars as well. Belief in the immense economic power and commensurate political influence of big business has given legitimacy to the corresponding maxim that corporations are now beyond the reach of the law.

On a policy level, the ideology of the invincible corportate criminal has unfortunate results. Stone (1975:248) is correct in arguing that "the public little cares to be reminded, over and over, that it is being victimized by impersonal forces, without being told what it can do about it." Even worse, we suspect, is to be told not only that "nothing now works" but also that the only way to make a difference is to undertake the grand task of changing the political economy or, at the very least, of transforming the very structure of corporate control. A more realistic and encouraging agenda is not to diminish hopes by concentrating solely on the real constraints that exist, but rather to show, as Fisse and Braithwaite (1983) have done, the possibilities of meaningfully attacking corporate crime within present arrangements. David Greenberg (1981:489) understood this when he observed that larger movements are built through "participation in concrete struggles, struggles that win real, though necessarily partial victories. After all, people join movements that show some possibility of improving their lives. What would be the point of joining a movement that only loses?"

References

Balkan, S., Berger, R.J., and Schmidt, J., *Crime and Deviance in America: A Critical Approach.* Belmont, CA: Wadsworth, 1980.

Braithwaite, J. "Challenging Just Deserts: Punishing White-Collar Criminals." *Journal of Criminal Law and Criminology,* 1982, *73*(Summer), 723-763.

Braithwaite, J. and Geis, G. "On Theory and Action for Corporate Crime Control." *Crime and Delinquency,* 1982, *28* (April), pp. 292-314.

Brenner, S.N. and Molander, E.A. "Is the Ethics of Business Changing?" *Harvard Business Review,* January-February 1977, pp. 57-71.

Cincinnati Enquirer. "Poll Finds Pollution Viewed as Crime." Februrary 6, 1984, p. A-5.

Clinard, M.B. *Corporate Ethics and Crime: The Role of Middle Management.* Beverly Hills: Sage, 1983.

Coleman, B. "Is Corporate Criminal Liability Really Necessary?" *Southwestern Law Journal,* 1975, *29,* 908-927.

Conklin, J.E. *Illegal But Not Criminal: Business Crime in America.* Englewood Cliffs, NJ: Prentice-Hall, 1977.

"Corporate Crime: Regulating Corporate Behavior Through Criminal Sanctions." *Harvard Law Review,* 1979, *27,* pp. 1227-1375.

Cullen, F.T., Clark, G.A., Link, B.G., Mathers, R.A., Niedospial, J.L. and Sheahan, M. "Dissecting White-Collar Crime: Offense Type and Punitiveness." *International Journal of Comparative and Applied Criminal Justice 9* (Spring), forthcoming.

Cullen, F.T. and Gilbert, K.E. *Reaffirming Rehabilitation.* Cincinnati: Anderson, 1982.

Cullen, F.T., Link, B.G. and Polanzi, C.W. "The Seriousness of Crime Revisited: Have Attitudes Toward White-Collar Crime Changed?" *Criminology,* 1982, *20* (May), 82-112.

Cullen, F.T., Maakestad, W.B. and Cavender G. "The Ford Pinto Case and Beyond: Corporate Crime, Moral Boundaries, and the Criminal Sanction." In E. Hochstedler (Ed.), *Corporations as Criminals.* Beverly Hills: Sage, 1984, pp. 107-130.

Cullen, F.T., Mathers, R.A., Clark, G.A. and Cullen, J.B., "Public Support for Punishing White-Collar Crime: Blaming the Victim Revisited?" *Journal of Criminal Justice,* 1983, *11*(6), 481-493.

Ermann, M.D. and Lundman, R.J. *Corporate and Governmental Deviance: Problems of Organizational Behavior in Contemporary Society.* (2nd ed.). New York: Oxford, 1982.

Feely, M.M. *The Process Is the Punishment: Handling Cases in a Lower Criminal Court.* New York: Russell Sage Foundation, 1979.

Fisse, B. "The Duality of Corporate and Individual Criminal Liability." In E. Hochstedler (Ed.), *Corporations as Criminals.* Beverly Hills: Sage, 1984, pp. 69-84.

Fisse, B. and Braithwaite, J. *The Impact of Publicity on Corporate Offenders.* Albany: State University of New York Press, 1983.

Frank, J., Cullen, F.T. and Travis, L.F. "Sanctioning Corporate Crime: How Do Business Executives and the Public Compare?" Paper presented at the annual meeting of the Midwestern Criminal Justice Association, 1984.

Friedrichs, D. "The Law and the Legitimacy Crisis: A Critical Issue for Criminal Justice." In R. Iacovetta and D. Chang (Eds.), *Critical Issues in Crimminal Justice.* Durham: Carolina Academic Press, 1979, pp. 290-311.

Geis, G. "Criminal Penalties for Corporate Criminals." *Criminal Law Bulletin,*1972, *8* (June) pp. 377-392.

"Deterring Corporate Crime." In M.D. Erman and R.J. Lundman (Eds.), *Corporate and Governmental Deviance.* (1st ed.). New York: Oxford University Press. 1977, pp. 278-296.

Gibbons, D.C. "Crime and Punishment: A Study of Social Attitudes." *Social Forces,* 1969, *47,* 391-397.

Greenberg, D.F. *Crime and Capitalism.* Palo Alto: Mayfield, 1981.

Harris, L. "Changing Morality: The Two Americas." *Time,* June 6, 1969, pp. 26-27.

Kadish, S.H. "The Use of Criminal Sanctions in the Enforcement of Economic Regulations." In G. Geis and R.F. Meier (Eds.), *White-Collar Crime.* New York: The Free Press, 1977, pp. 296-317.

Kramer, R.C. "Is Corporate Crime Serious Crime? Criminal Justice and Corporate Crime Control." *Journal of Contemporary Criminal Justice,* 1984, *2* (June), 7-10.

Lauderdale, P., Grasmick, H. and Clark, J.P. "Corporate Environments, Corporate Crime, and Deterrence." In M.D. Krohn and R.L. Akers (Eds.), *Crime, Law and Sanctions.* Beverly Hills: Sage, 1978 pp. 137-158.

Lipset, S.M. and Schneider, W. *The Confidence Gap: Business, Labor, and Government in the Public Mind.* New York: Free Press, 1983.

"Confidence in Confidence Measures." *Public Opinion,* August-September, 1983, pp. 42-44.

Newman, D.J. "Public Attitudes toward a Form of White-Collar Crime." *Social Problems,* 1957, *4,* 228-232.

Quinney, R. *Criminology.* (2nd ed.) Boston: Little, Brown, 1979.

Rickleffs, R. "Public Gives Executives Low Marks for Honesty and Ethical Standards." *Wall Street Journal,* November 2, 1983, p. 31.

Ross, E.A. *Sin and Society: An Analysis of Latter-Day Inequity.* Gloucester, M: Peter Smith, 1907.

Rossi, P.H., Waite, W., Bose, C.E. and Berk, R.E. "The Seriousness of Crimes: Normative Structure and Individual Differences." *American Sociological Review,* 1974, *39* (April), 224-237.

Rothman, D.J. "The State as Parent: Social Policy in the Progressive Era." In W. Gaylin, et al., *Doing Good: The Limits of Benevolence.* New York: Pantheon, 1978, pp. 67-96.

Schrager, L.S. and Short, Jr., J.F. "How Serious a Crime? Perceptions of Organizational and Common Crimes." In G. Geis and E. Stotland (Eds.), *White-Collar Crime: Theory and Research.* Beverly Hills: Sage, 1980, pp. 14-31.

Schudson, C.B., Onellion, A.P. and Hochstedler, E. "Nailing an Omelet to the Wall: Prosecuting Nursing Home Homicide. In E. Hochstedler (Ed.), *Corporations as Criminals.* Beverly Hills: Sage, 1984, pp. 131-145.

Stone, C.D. *Where the Law Ends: The Social Control of Corporate Behavior.* New York: Harper and Row, 1975.

Sutherland, E.H. "White-Collar Criminality." *American Sociological Review,* 1940, *5* (Februrary), 1-12.

Wilson, J.Q. *Thinking About Crime.* New York: Vintage, 1975.