Objectives

after completing this lesson, YOU will be able to

» Understand the difference between **organizational and individual white-collar crime**;

» Discuss the *internal forces* that can influence and lead to white-collar crime, including market structures and regulatory structures; and

» Discuss the *external forces* that play a role in white-collar crime.

For this lesson, please read:
» Pontell and Shichor, *Contemporary Issues in Crime and Criminal Justice:*

- **Braithwaite, "Conceptualizing Organizational Crime in a World of Plural Cultures"**

Up until now we have dealt largely with individuals.

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What about *organizations*?
What about *corporate crime*?

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As we will see, **there is a difference between organizational and individual white-collar crime.** Perhaps the most influential typology was set forth by **Marshall Clinard** and **Richard Quinney** (1973). They divided white-collar crime into two main types:

> **.» *Occupational crime*,** such as employee theft, is committed by an individual during the course of his or her occupation for personal gain.

> **.» *Corporate crime*,** although committed by executives in the corporation, is committed on behalf of the corporation. That is, it directly benefits the corporation and not the individual.

As *Diane Vaughan* has noted, although executives may also benefit from any corporate success that results from their illegal activity (such as pay raises, promotions, bonuses, and so on), the primary intention is to **benefit the corporation.** Some scholars have opted for a more general category of *organizational crime,* since similar offenses can occur in smaller businesses that are not corporations.

It is sometimes easy to distinguish occupational from organizational crime. But at other times, as we will see in the case of health care fraud, it is not.

Another distinction involves occupational crimes **within** *an organization* (such as embezzlement) versus crimes **by** *the organization* (such as price-fixing).
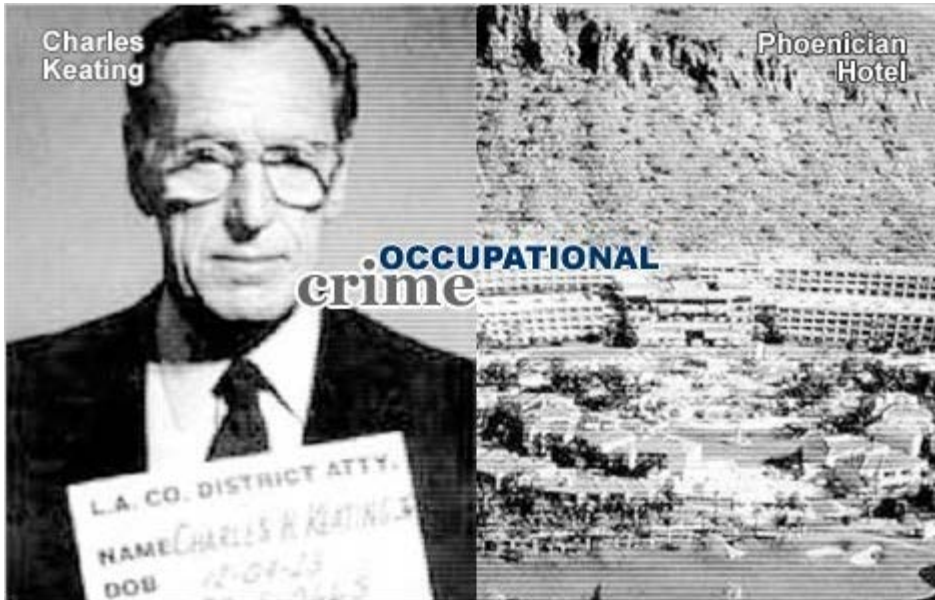
As we will see when we look at financial institution fraud, in some cases that involved savings and loans we even find crimes *by* the organization *against* the organization itself. Calavita and Pontell have labeled this *collective embezzlement:* managers collectively looting their own organizations and driving them into insolvency.

A number of factors are salient in examining the *genesis of organizational crime.*

» As many writers note, **organizations place particular demands upon those who work inside of them.** Modern organizations can control behavior in numerous ways.

BUSINESS people

The threat of dismissal is a major one.

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Simply put, every employee knows *going against their company's demands can put their job at risk, mean they may be passed up for promotion, or be given a less important assignment.* Dedication and performance are usually demanded in such settings, and determine one's climb up the organizational hierarchy.

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Organizational control involves much more than mere

rewards & punishments, however.

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Large organizations can have **particular and sometimes unique subcultures** within them that help shape members' behaviors in numerous ways. The way work is defined and roles are viewed make up the social world of the organization, providing the environment within which illegality can take place.

The **moral tone** of a company provides an ethical compass for those who work within its confines. Attitudes toward illegal behavior are shaped within this working environment.

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This ethical behavior of employees is usually determined by the example set by top management, according to research conducted by **Marshall Clinard and Peter Yeager.**

MORAL tone

"If anyone is going to set the moral tone around here, Foster, it will be me!"

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Such ethical standards that tend to *trickle from the top down* are not merely the personal beliefs of top managers.

Their **outlooks** were shaped by the same socialization process as lower level managers. Their **views** were molded by the corporation, and require a higher degree of ethical conformity than is expected in lower-level employees.

Moral sensibilities can also be numbed in large organizations. This was documented by William H. Whyte, who coined the term ***organization man*** — a person who sacrifices personal ethical standards and individuality for the sake of a career.

One person described this ethic as that of **"the good soldier: take the order and do the job."** Bureaucracies rely on such individuals for smooth functioning. This is a good thing when it comes to efficiency and internal functioning through moral conformity. But it can also present a bad outcome when amoral functionaries commit corporate crimes.

C. Wright Mills, a famous sociologist of the mid-20th century, observed that the *"well-socialized executive"* tends to show a rather narrow, pragmatic approach to work, acting in the best interests of the corporation, and with little thought to the moral implications or outcomes.

» He claims that such a stance was part of the **"structural immorality"** of American society. But as others have noted, it might be better termed **"structural amorality,"** since the bureaucrat described may not oppose popular morality, but may simply be indifferent toward it.

C. WRIGHT Mills
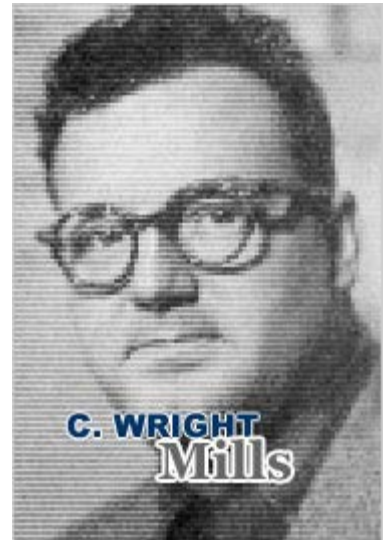
The socialization processes of bureaucratic organizations do more than dull the ethical sensibilities of new members: **They also control definitions of situations that employees face every day.**

What needs to be done, the importance of various tasks, and the goals to be pursued all *give direction as to what is to be done and how.* This leads employees to place attention on certain aspects of their jobs, and allows them to neglect other elements that are not that important from an organizational standpoint.

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This network of definitions can make **unethical or even illegal activities seem "normal"** within ordinary occupational routines. It thus can provide an environment that allows employees to easily drift into illegal activities.

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The **complexity of organizational structures** can sometimes shield employees from understanding the ethical implications or consequences of their work. Increasing specialization and fragmentation of work tasks gives workers only a partial view of the overall impact their work may eventually have in the organization.

» **Carrying out one's duty** usually doesn't include worrying about the implications for someone else, or for other things that are the responsibility of top management. This further isolates their work — not only from others within the organization, but from the outside world as well.

Besides the factors that help provide for motivations for white-collar and organizational crimes, there also must be the *opportunity* to commit such acts in order for them to occur.

Clearly, **various occupational positions present numerous opportunities for lawbreaking.**

In examining white-collar crime, it is important to understand how these opportunities are distributed throughout society and why they are distributed they way they are.

Using **statistics** to measure this is difficult.

The reports of *regulatory & criminal justice* agencies are likely to highly underestimate white-collar crimes because of the hidden nature of many offenses, and the practices and priorities of the agencies themselves. **Market structures** have been seen as important in the process of corporate crime.

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For example, it has been argued that **competitive markets make it necessary for many firms to struggle for business,** *and are thus characterized by higher rates of fraud, false advertising, and espionage. In more concentrated industries with a few big firms and less competition, more collusion and antitrust activities would be expected.*

The rise of *a global economy that transcends* **national borders and legal jurisdictions** has complicated the situation.

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International markets can be extremely competitive, and bribes are a common form of promoting international sales in various industries that may be more concentrated domestically. Bribery can also be used to maintain and enhance political regimes favorable to the operations of industries where less competition is present.

GLOBAL
economy
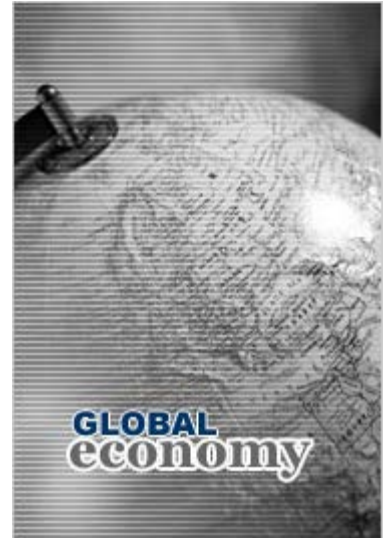
One major perspective on corporate criminality has been offered by **Martin** and **Carolyn Needleman**, who have critiqued studies that show *particular market structures "forcing" participants into engaging in crime.*

» They claim, instead, that it is better to consider *crime facilitative* rather than "crime coercive" environments or systems. That is, various conditions can exist that make crime a lot easier to commit, but do not actually force participants to engage in such acts.

Differences in the regulatory environment also play a big role in creating opportunity structures in various industries.

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The more an industry is regulated, the more likely it is that attractive opportunities are illegal, and the more likely it is that white-collar crimes will take place.

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The nature of what an industry produces generally determines its regulatory environment. Those industries whose products could cause serious harm to consumers or the environment tend to be regulated more, such as the pharmaceutical, chemical, automobile, and petroleum industries. Clinard and Yeager found that these industries experience significantly higher rates of crime.
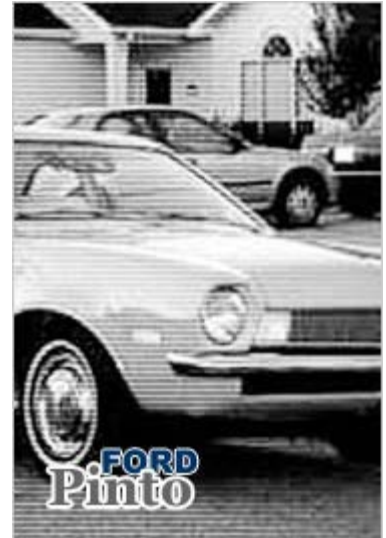
Forum *discussion*

Discuss **Braithwaite's** *article* on organizational crime as it relates to the concepts discussed in this lesson.

» Write two or three paragraphs on this topic.

Another point in considering corporate crime regards what could be called the *diffusion of motivations and rationalizations* from one company and industry to another.

» *For example, having a competitor increase profits through illegal means is likely to enhance the attractiveness of such behavior in another firm. Similarly, failures of such techniques would probably have the opposite effect.*

Considerable evidence in the research literature supports the idea that **illegal practices spread from one organization in an industry to another.**

Profit is undoubtedly an important **goal of contemporary businesses**.

This, of course, does have boundaries, as managers may not always struggle for every cent of profit. They must also realize other goals of running a business or corporation, which can include other important concerns as well (community relations, service to customers, and so on).

Managers are also aware, however, that **a decline in profits may negatively affect their careers**. Once a **"satisfactory" level of profit is achieved,** other goals can be more easily pursued. Nonetheless, research has shown that profit criteria remain the most important standard by which corporate heads are judged.

In other words, allowing a decline in profit is an excellent way to be fired.

Complex organizations do not merely strive to achieve a single goal.

Many other goals — *subgoals* —
must be reached to achieve the overall goals.

» *For example different divisions of an organization may have different goals in producing or marketing a product. Managers have discretion with regard to these subgoals, and varying amounts of power in attaining them. They may also have varying orientations (financial versus technical and professional, for example) that may come into conflict.*

A balance must also be **struck with the political and structural realities that act to constrain managerial discretion.** In other words, sometimes persons in lower positions can have power over certain types of organizational decisions, and violations that may occur as a result.

* In addition to these internal forces that are at play in organizational decision-making, top **managers may also be restrained by the external environment of the company.** The overall corporate culture and the industry itself produce many definitions and beliefs that affect organizational decisions.

Government and public opinion also are part of the

larger environment.

When organizational demands (including those aimed at producing profits) clash with expectations on the outside, there may be little choice but to **engage in illicit activities.** *If a competitor is violating pollution and safety laws to cut costs, then another company may have to do the same thing to remain competitive in that particular market.*

ORGANIZATIONAL
demands
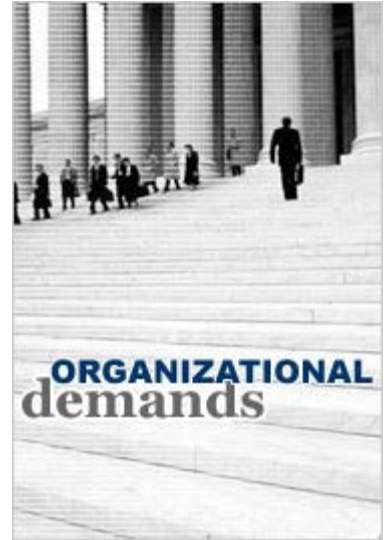
Research has demonstrated that, given the primacy of the profit motive, *firms with declining profits are more susceptible to breaking the law and those with rising profits are not.* As **Clinard** and **Yeager** note:

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Firms in depressed industries as well as poorly performing firms in all
industries tend to violate the law to a greater degree.

"

» Similarly, **Sally Simpson** has found that **antitrust violations are more serious among firms in a difficult economic environment, and are minor in a good economy.**

» Research by **Jenkins** and **Braithwaite** found lower rates of fraud among nonprofit nursing homes than among those that operated for a profit.

No evidence has been found for whether or not the size of a company affects its propensity to violate the law.

Summary
a brief overview of what you learned

» Occupational crimes are committed by individuals during the course of their occupation for personal gain. Corporate crimes are committed by individuals on behalf of the corporation. These crimes directly benefit the corporation, not the individual.

» Large organizations can have **particular and sometimes unique subcultures** within them that help shape members' behaviors in numerous ways. The moral tone of a company provides an ethical compass for employees.

» The **socialization processes of bureaucratic organizations** can make unethical or even illegal activities seem *"normal."*

» **Both market structures and differences in the regulatory environment** have been seen as important in the process of corporate crime.

» *The diffusion of motivations and rationalizations from one company and industry to another can also influence corporate crime. Considerable research supports the idea that illegal practices spread from one organization in an industry to another.*

» *External forces — including overall corporate culture, the industry itself, government, and public opinion — can all influence corporate crime.*