

## *The Ford Pinto case*

### Incident facts

On May 28, 1972 Mrs Gray was travelling with 13 year old Richard Grimshaw in a 1972 Ford Pinto. The Pinto was then 6 months old and had been driven approximately 3000 miles. During the first few months of ownership the Grays had trouble with the car and were forced to return it to the dealer for repairs a number of times (their car problems included excessive gas and oil consumption, down shifting of the automatic transmission, lack of power, and occasional stalling).

Along its way from Anaheim to Barstow the Pinto was struck by another car, a 1962 Ford Galaxie, whose driver was unable to avoid colliding with the Pinto. The Galaxie had been travelling from 50 to 55 miles per hour, but before the impact had been braked to a speed of from 28 to 37 miles per hour.

At the moment of the impact the Pinto caught fire and its interior was engulfed in flames. As a result of the explosion Mrs Gray died a few days later of congestive heart failure while Richard Grimshaw, the 13 year old boy suffered devastating injuries. As a consequence of the accident he had to undergo numerous end extensive surgeries and skin grafts.

During the following judgments rendered to Ford, the plaintiff's expert argued that the impact of the Galaxie had driven the Pinto's gas tank forward and caused it to be punctured by the flange or one of the bolts on the differential housing so that fuel sprayed from the punctured tank and entered the vehicle.

Following a six month trial, verdicts were returned in favour of plaintiffs against Ford Motor Company. Grimshaw was awarded \$2.516.000 compensatory damages and \$125 million punitive damages; the Grays were awarded \$ 559.680 in compensatory damages. On Ford's motion for a new trial, Grimshaw was required to remit all but \$ 3 ½ million of the punitive award as a condition of denial of the motion.

A petition for a rehearing of the case was denied June, 18, 1981, and the petitions of appellants Gray et al. for a hearing by the Supreme Court were denied September 10, 1981. The judgment awarding punitive damages was affirmed as reduced because the reduced punitive damage award was reasonable and just, and was not excessive, in light of its deterrent purpose, appellant's wealth, and the size of compensatory awards. The court also held that a rational justification existed for the legislative denial of the right to seek punitive damages for wrongful death actions.

A few years later Ford was involved in yet another case concerning the Pinto. On August 10, three teenagers, driving from Goshen, Indiana, were hit by a van after pulling out of a gas station. The rear-end collision caused the Pinto to burst into flames. It was later discovered that the explosion was caused by a rupture of a fuel tank in the car.

This time Ford Motor Company was indicted on three charges of reckless homicide. Even though Ford was not found guilty at the end of the trial, an important precedent had been set.

As it had been pointed out<sup>1</sup> *one paradox here is that Indiana is a conservative State, not given to the kind of innovation necessary to initiate homicide charges against a major corporation.*

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<sup>1</sup> David R. Simon, *Book Review, Corporate Crime Under Attack: the Ford Pinto Case and beyond.* By Francis Cullen, William Makestad and Grey Cavender



The fact that Ford was brought to trial is considered as a proof that the social movement against corporate crime continues even in the conservative Eighties.

Edwin Sutherland was the first criminologist to draw attention to this kind of crimes which were not ordinarily included within the scope of criminology. In 1949 he defined white collar crime as *a crime committed by a person of respectability and high social status in the course of his occupation.*

The above-cited definition stresses the association of the term “white collar” with business managers and executives so as to distinguish their offences from the confidence games of the underworld<sup>2</sup>. The truth about white-collar crimes is that they do not represent a clear category of crime.

Sutherland himself included in his definition of white-collar crime not only misbehaviours with criminal penalties, but also those, which carried only civil or administrative sanctions.

In the Pinto case the central debate concerns the fact that Ford went ahead with its dangerous design for the Ford Pinto rear engine because it estimated that the potential payment of damages would be less than the cost of recalling the cars (Dowie, 1988).

### **Ford’s risk/benefit analysis**

The idea for the Pinto was conceived in the Sixties. In order to be highly competitive in the international car-market, the executive vice-president of the Company, Mr Lee Iacocca, set “limits for 2000” for the Pinto. That meant the car “was not to weigh an ounce over 2000 pounds and not to cost a cent over \$ 2000”.

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<sup>2</sup> Hazell Croall, *Understanding White Collar Crime*, Openn University Press, Philadelphia, 2001

As soon as the crash test began, the Company realized that when the Pinto was struck from the rear at speed of 31 miles per hour or above, the gas tank ruptured.

Ford could have improved the safety of the Pinto by lining the gas tank with a rubber bladder, but the Company alleged that the change would cost an additional \$ 11 per vehicle. Ultimately, the Ford Motor Company, despite the results of the crash test, decided to produce and continued to market the Pinto.

The decision was based on the following cost/benefit analysis, performed by Ford:

### **Benefits**

Savings: 180 burn deaths, 180 serious burn injuries, 2100 burned vehicles

Unit cost: \$200.000 per death, \$ 67.000 per injury, \$ 700 per vehicle

Total benefit:  $180 \times (\$ 200.000) + 180 \times (\$ 67.000) + 2100 \times (\$ 700) =$   
\$49,5 Million

### **Costs**

Sales: 11 million cars, 1.5 million light trucks

Unit cost: \$ 11 per car, \$ 11 per truck

Total cost:  $11.000.000 \times (\$ 11) + 1.500.000 \times (\$ 11) = 137 \text{ Million}^3$

The analysis assumed that each death which could be avoided would be worth \$ 200.000, that each major burn injury that could be avoided would be worth 67.000 and that an average repair cost of \$ 700 per car involved in a rear end accident would be avoided.

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<sup>3</sup> Source: Douglas Birsh and John H. Felder, *The Ford Pinto case: a study in applied ethics, business and technology*

It further assumed that there would be 2100 burned vehicles, 180 serious bur injuries and 180 burn deaths in making their calculation. When the unit cost was spread out over the number of cars and light trucks which would be affected by the design change at a cost of \$ 11 per vehicle, the total cost was calculated to be \$ 137 million, much greater than the 49.5 million benefit.

Following to Ford's decision not to bring changes to the fuel system design, the journalist Mark Dowie held a press conference in Washington D.C., on August 10, 1977, to draw national attention to the case.

In his famous article ("Pinto Madness"), published in the Mother Jones Magazine, he made strong accusations against the Ford Company, among which:

- *Ford engineers discovered in pre-production crash tests that rear-ended collisions would rupture the Pinto's fuel system extremely easily;*
- *Because assembly-line machinery was already tooled when engineers found defect, top Ford officials decided to manufacture the car anyway – exploding gas tank and all – even though Ford owned the patent on a much safer gas tank.*

Then Dowie drew the attention of the public to Ford's product objectives, which were to be found in the Pinto's "green book", a top secret manual in green covers containing a step by step production plan for the model, detailing the metallurgy, weight, strength and quality of every part in the car.

*The product objectives for the Pinto are repeated in an article by Ford executive F.G. Olsen published by the Society of Automotive Engineers. He lists these product objectives as follows:*



*TRUE SUBCOMPACT*

*size*

*weight*

*LOW COST OF OWNERSHIP*

*Initial price*

*Fuel consumption*

*Reliability*

*Serviceability*

*CLEAR PRODUCT SUPERIORITY*

*Appearance*

*Comfort*

*Features ride and handling*

*Performance*

*Safety is not mentioned in the entire article*

And yet, when Ford made the decision to reject the product design change, it wasn't breaking the law. As a matter of fact the Federal Motor Vehicle safety Standard n. 301, which originally proposed that all cars should be able to withstand a fixed barrier impact of 30 m.p.h. (without losing fuel, and with reference to rear end collisions), was not adopted until 1977.

The point is whether Ford was justified to decide not to recall the pinto, even after it discovered that the placement of the Pinto's gas tank made the car susceptible to explosion.

During the Grimshaw trial several documents were introduced into evidence in order to demonstrate that Ford decided to defer corrective measures regardless of the management's awareness that the Pinto's fuel system could be made safer.

One key document which came to light as a result of the Grimshaw case was the infamous Grush and Saunby memo (1973), a Ford interoffice memorandum analysing the costs and benefits of meeting proposed motor vehicle safety standards.

Although the memo was not allowed into evidence at trial, Judge Leonard Goldstein did permit Mr Copp to testify on direct examination to the contents of the literature, reports and tests on which he relied in forming his opinions.

Mr Harley Copp was a former Ford engineering executive, who turned out to be plaintiffs' principal witness on the subject of defects in the design placement and protection of the Pinto's gas tank and on Ford's management's decision to place the car on the market with knowledge of the defects.

On direct examination he also testified that he was forced to take an early retirement and he was permitted to explain that this was because he spoke out on matters of safety.

The fact that a high ranking engineering executive had been fired for having supported automotive safety was perceived as indicative of Ford's management's attitude towards safety in car production. The public found it scandalous that Ford had balanced safety against costs.

### **Punitive damages**

Since punitive damages are intended to punish the manufacture and distribution of defective products and to deter Companies from future wrongful conduct. The jury awarded Richard Grimshaw \$ 125 million in punitive damages for injuries. Even though the award was later reduced to

3 ½ million, the jury's reason for the figure of \$125 million was that there was evidence that Ford Motor Company had marketed the Pinto with full knowledge of the design defects. As the decision was based on a cost-benefit analysis balancing human lives and limbs against corporate profits, the punitive damages should be more than Ford had made in profit on the Pinto since its introduction, which was \$124 million.