

READING 4

THE RICH GET RICHER AND THE POOR GET PRISON AN OVERVIEW OF THE BOOK BY JEFFREY REIMAN

TARA GRAY

In his thought-provoking book *The Rich Get Richer and the Poor Get Prison*, Jeffrey Reiman shows that the criminal justice system favors upper-class criminals over poor criminals, whether they commit street crime or white-collar crime. First, poor people are more likely than rich people to be arrested, charged, convicted, and sentenced to prison for street crimes (Reiman, 2001:110). For example, one study found that boys from the lowest socioeconomic class committed street crimes at a rate 1.5 times higher than boys in the highest socioeconomic class; however, boys from the lowest class were arrested five times as often as those in the highest class (Gold as cited in Reiman:115). Similarly, the ratio of sentences given for possession of powder cocaine to crack cocaine is 1 to 100. This difference is significant because powder cocaine is popular in suburbs, but crack is popular in poor, inner-city neighborhoods. Federal laws require a five-year mandatory sentence for either 500 grams of powder cocaine, or only 5 grams of crack cocaine. This means that a first-time drug offense for possession of crack with no aggravating factors yields a sentence harsher than that for kidnapping, and only slightly less harsh than that for attempted murder. (McDonald and Carlson, as cited in Reiman:130).

Second, the wealthy disproportionately commit white-collar crimes, which are not always defined as crimes and are punished less severely than street crimes. White-collar crimes are sometimes called occupational crimes because they are committed “in the

course of a legal business or profession” (Cole, 1995:47). Reiman tells us that white-collar crime is serious, but its treatment is lenient. He addresses the myths that surround white-collar crime, especially the myth that such offenses are not serious because they do not typically result in injury or death. Reiman argues that the way we define crime has meant that white-collar crime is not even defined as illegal behavior. And when we do acknowledge the deeds of white-collar offenders as crime, we still make excuses for their actions, and punish them leniently. In contrast, we demonize street criminals and punish them harshly. Why? Reiman explains that people in power benefit when they scrutinize the “criminal” actions of the poor, while ignoring the actions of the rich. In summary, Reiman asserts that white-collar crime is more serious than street crime but is punished leniently because of the way crime is defined, and excuses are made for “higher-class” criminals—excuses that serve the interests of people in power.

WHITE-COLLAR CRIME—SERIOUS, BUT PUNISHED LENIENTLY

There are many ways to steal, including crimes such as fraud and embezzlement, and they all cost Americans a great deal of money, but white-collar crimes are not as easy to understand as street-level theft. For example, fraud is stealing through deceit or misrepresentation. Embezzlement occurs when someone steals

or “misappropriates” money or property entrusted to his or her care, usually because the person is in a position of power or responsibility. Many people assume that the losses from this kind of theft are absorbed by big corporations, but they are not. Corporations pass their losses onto consumers by charging higher prices. In fact, white-collar criminals “take money out of the very same pocket muggers do: yours!” (Reiman:124).

Most people know that white-collar criminals steal far more in dollars than street criminals do, but white-collar criminals are punished less often and less severely. In 1997, the cost of embezzlement alone was more than four-fifths the total value of all stolen property and money listed in the FBI Index of street-level crimes. That is, one type of white-collar crime cost almost as much as the most serious street level property crimes combined. Although the costs were comparable, the number of arrests made for street crimes in 1997 was 90 times greater than arrests for white-collar crime; there was one arrest for every \$8,000 stolen but one for every \$726,000 “misappropriated” (Reiman: 124). The biggest case of fraud ever recorded was the savings and loan scandal, involving about 400 billion dollars. Considering the amount stolen, the punishments were very small. The average savings and loan officer stole \$500,000 in contrast to the average property offender who steals only \$1,250; however, the average prison sentences were similar: 36 months for the savings and loan officers, and 38 months for motor vehicle theft. Reiman quotes one official who concluded, “The best way to rob a bank is to own one” (Reiman 136–137).

Many people assume that white-collar crime is relatively harmless, but it is actually deadly. Reiman cites several studies that estimate the number of deaths due to unnecessary surgery, which was not performed to save the life of the patient. In one study, the number of deaths resulting from surgeries recommended and performed by doctors who are paid for individual operations they do was compared to the number of deaths resulting from surgeries recommended and performed by salaried doctors who receive no extra income from surgery. According to this research, about 16,000 people die every year from unnecessary surgery (Wolfe, as cited in Reiman:85–86). Far fewer

people die from what the FBI calls a “cutting or stabbing instrument.” Reiman concludes that:

obviously the FBI does not include the scalpel as a cutting or stabbing instrument . . . No matter how you slice it, the scalpel may be more dangerous than the switchblade (86).

Moreover, work may also be dangerous to your health. In 1997, the number of work-related deaths was 31,000; in contrast the number of workers murdered was about 9,000 (75). The typical murderer serves eight years in prison, but the typical fine to a company for a work-related death is only \$480 (84).

Pollution is the single biggest killer of Americans: One in four of us will die of cancer, with 70 to 90 percent of these deaths caused by pollution, which is theoretically preventable. Of course, reducing pollution would require a massive effort and an incredible amount of money. Nonetheless, Reiman suggests that we would make this kind of effort if another nation were systematically killing this many people: “How much of an effort . . . would the nation make to stop a foreign invader who was killing a thousand people a day and bent on capturing one-quarter of the present population?” (88). In 1992, the United States allocated only \$1.9 billion to the National Cancer Institute, but spent at least \$45 billion to fight the Persian Gulf War.

The simple truth is that the government that strove so mightily to protect the borders of a small, undemocratic nation 7,000 miles away is doing next to nothing to protect us against the chemical war in our midst (Reiman:88–89).

There is a moral to this story: When the harm caused is one-on-one, we take notice and punish the crime severely; however, when the harm is caused less directly, we turn a blind eye.

HOW WHITE-COLLAR CRIME IS EXCUSED

We excuse white-collar criminals in several ways: we define crime in a way that excludes white-collar crime, we focus on criminal intent, we emphasize that one-on-one crime is more terrifying, we consider corporate crime a means to a legitimate end, and we assume that workers freely choose the dangers of the workplace. Reiman acknowledges that each of these

views has some merit; however, in each case, he asks whether the idea has enough merit to justify vast differences between the treatment of street criminals and white-collar criminals.

First, we define crime so that white-collar crime does not fit our definition:

The fact is that the label “crime” is not used in America to name all or the worst of the actions that cause misery and suffering to Americans. It is primarily reserved for the dangerous actions of the poor (Reiman:58).

Reiman cites the example of a 1993 mining accident in which ten workers died. The company plead guilty to a “pattern of safety misconduct,” including falsifying reports of methane levels, requiring miners to work beneath unsupported roofs, and systematically hiding these violations from safety inspectors. The company was fined \$3.75 million (59). The acting foreman of the mine was the only person charged with a crime, but because he cooperated with the investigation, prosecutors recommended that he receive the minimum sentence—probation to six months incarceration (59). In contrast, in another 1993 incident, a man boarded a commuter train in Long Island, New York, and shot passengers, killing five and wounding eighteen. This man was clearly a murderer. But were those responsible for the death of miners also murderers?

Why do ten dead miners amount to “an accident,” a “tragedy,” and five dead commuters a “mass murder”? “Murder” suggests a murderer, whereas “accident” and “tragedy” suggest the work of impersonal forces (Reiman:59).

Note that “even the language becomes more delicate as we deal with a better class of crook” (Reiman:124). In the end, we need to reexamine “*what* will be called crime and *who* will be treated as a criminal” (Reiman:60).

We also excuse corporate crime by saying that the degree of intent is less for the executive who kills than for the street murderer. Indeed, the intent of street murderers is clearer because they harm purposefully, but executives often do not. Still, executive killers may be punished criminally because we have criminal laws against both reckless and negligent acts. And although

the street criminal purposefully harms a particular person, the executive criminal knowingly risks the lives of a large number of workers. The street criminal may act in the heat of passion, whereas the executive may act with cool reckoning:

Two lovers or neighbors or relatives find themselves in a heated argument. One (often it is a matter of chance which one) picks up a weapon and strikes a fatal blow. Such a person is clearly a murderer and rightly subject to punishment by the criminal justice system. Is this person more evil than the executive who, knowing the risks, calmly chooses not to pay for safety equipment (Reiman:74)?

Although executive killers may have weaker intent, their crimes are still serious because they risk more people’s lives, and they kill with premeditation, not in the heat of passion.

We also excuse white-collar crime by emphasizing that direct personal injury is more terrifying than indirect personal injury—and it is. But both types of crime have very serious consequences:

After all, although it is worse to be injured with terror than without, it is still the injury that constitutes the worst part of violent crime. Given the choice, seriously injured victims of crime would surely rather have been terrorized and not injured than injured and not terrorized (Reiman:76).

Therefore, we should not treat a workplace “tragedy” as a minor crime or a regulatory matter. Instead, despite different levels of terror, we should acknowledge that both street murder and corporate murder are dangerous acts with grave consequences.

Another excuse we make for white-collar crime is that street crimes are committed for self-interest, but corporate crimes are a means to an important end (i.e., productivity and profit). However, in neither case does the end justify the means. Besides, in one important sense, the corporate criminal actually does act in self-interest because he or she is likely to be rewarded for keeping costs down, even though his or her actions could lead to increased workplace injury and death.

The final excuse made for white-collar crime is that workers freely choose to work, and thus they consent to the dangers of the job in advance. However, workers can consent to dangers only if they know

about them, and the dangers are often concealed. Although it is true that “no one is forced at gunpoint to accept a particular job” (Reiman:76), virtually everyone must take some job. In an economy where there are more workers than jobs, some workers end up with dangerous jobs, and these workers may or may not know the risks of the jobs they take. In the end, this excuse like each of the others, has some merit, but not enough merit to account for the vast difference in the treatment of white-collar criminals compared to that of street criminals.

EXCUSES SERVE PEOPLE IN POWER

The excuses we make for white-collar criminals serve the self-interests of people in power because they suggest two other self-serving ideas: that there is a real threat to law-abiding middle America, and it comes from the poor, not the rich; and that the poor are criminally inclined and therefore are moral degenerates who deserve poverty. If it were true that the real threat always comes from the poor, then the public would be wise to ignore the way it is injured and robbed by the rich, and focus instead on law-and-order tactics aimed at the poor. These tactics take the heat off the rich and mask white-collar crime.

If it were true that the poor are always criminally inclined and moral degenerates, then the public should not demand a more equal economic system, which again would help the rich by leaving them rich and leaving the poor, poor. Indeed, those in power benefit when others do not demand a more equal economic system:

The have-nots and the have-littles could have more if they decided to take it from the have-plenties. . . . [Therefore], the have-nots and the have-littles must believe it would not be right or reasonable to take away what the have-plenties have. In other words, they must believe that for all its problems the present social, political, and economic order, with its disparities of wealth and power and privileges, is about the best that human beings can [reasonably do] (Reiman:178).

However, it is a myth that our system is “about the best that human beings can [reasonably do].” The distribution of wealth in this country is very unequal, and

is becoming more skewed over time. At no time in our history has the majority of our population owned more than about ten percent of the nation’s wealth. The top one-fifth of households, by contrast, owns 84 percent of our wealth (Reiman:179). Reiman concludes that

Because we are nowhere near offering all Americans a good education and an equal opportunity to get ahead, we have no right to think that the distribution of income reflects what people have truly earned. . . . Few people who are well off can honestly claim they deserve all they have. Those who think they do should ask themselves where they would be today if they had been born to migrant laborers in California or to a poor black family in the Harlem ghetto (179–180).

The have-plenties need everyone else to believe the system is fair as it is. If we accept this, we will not demand changes that will adversely affect the have-plenties.

CONCLUSION

If our justice system is to be truly just, we must work hard to educate the public about the seriousness of white-collar crime. To do so, we must redefine crime to include all dangerous actions rather than only the dangerous actions of the poor, and we must redefine the image of the typical criminal to include the upper-class criminal. We must stop making excuses for white-collar crimes. This is difficult because excuses make the lives of the have-plenties easier in two ways: The excuses keep the “heat” on street criminals rather than on those in power, and they demonize poor people so that there is little popular support for reducing poverty.

Those in power do not intentionally downplay the seriousness of white-collar crime. Historically, one-on-one crimes have been the main way that people have harmed each other, especially in pre-industrial societies. Therefore, confusion about the seriousness of white-collar crime comes not from a conspiracy on the part of the rich, but from historical inertia. The current system generates no effective demand for change (Reiman:161). As a result, those in power continue to focus on individual wrongdoers, which means the attention of the public is diverted away from issues of equality. To focus on individual guilt is to ask whether the individual has fulfilled his or her obligations to society—but not whether the society has fulfilled its obligations to the individual. Reiman states, “Justice is a two-way street—but criminal justice [has become] a one-way street” (157).