

Eggs, Wine, and Doing Time

White collar crime has dramatic effects on individuals and the economy and offenders should certainly suffer stiff penalties. There has been concern in the past that sentences were too lenient, while post Enron changes have been deemed too excessive and dramatic. When looking at an independent case, one may assume the sentencing is justified for the crime. It is often when cases are compared, that the disparity in sentencing really seems pronounced and often unfair.

I reviewed two separate FBI white crime stories. The first, "Vintage Fraud, (FBI 2014)" involved production and distribution of counterfeit vintage wine. The second, "Profits Over Safety, (FBI 2015)" regarded production and distribution of eggs that failed quality standards. At the most basic level, the similarities in these cases are businessmen wanting max profit. The winemaker bottled mixed wines as vintage, then sold them to collectors at exceptionally high prices. The owner of the egg company misbranded eggs to avoid losing profits on eggs that did not meet quality standards. The significant difference in these two cases is that one product simply cheated consumers while the other made a lot of people very sick. The disparity in sentencing between these two cases is pretty significant. To determine if the sentencing fits the crime, it is important to understand how sentencing is determined.

According to the United States Sentencing Commission, federal sentencing guidelines assess the following general categories when determining an appropriate sentence (USSC 2015):

- 1) Seriousness of the Offense-based on 43 levels, the more serious the offense, the higher the level
- 2) Base Offense Level- serves as the starting point for evaluating the seriousness of the crime
- 3) Offense Characteristics-offense specific considerations that may increase the offense level such as amount of the financial loss, or use of weapons during the commission of the crime.

- 4) Adjustments-considerations that apply to any crime which may also increase the offense level and may include the depth the individuals involvement, number of counts, number of victims, victim type (especially vulnerable population-kids, disabled, elderly), obstruction of justice, and whether or not the offender accepts responsibility for his/her acts.
- 5) Criminal History- categorized offenders between Level I- first time offenders and Level IV- chronic serious offenders.

Understanding that there are multiple considerations when determining sentencing helped explain how fines and jail time become additive, however, the end result of this system is often inconsistent and seems more subjective rather than objective. Again, when considering an individual sentence, it may seem reasonable until it is compared to the sentence of another. According to the FBI report, the counterfeit wine maker, Rudy Kurniawan, collected nearly \$30 million selling counterfeit wine. He was found guilty of counterfeiting and bank fraud then sentenced to a “ten year prison sentence, ordered to forfeit \$20 million, and pay more than \$28 million in restitution to his victims (FBI 2014).” The owner and operator of Quality Egg, Austin “Jack” DeCoster and Peter DeCoster, were charged with bribing a federal employee of the USDA, misbranding eggs with the intent to defraud, and multiple other charges related to the distribution of eggs that failed to meet quality standards (FBI 2015). A report from the Department of Justice indicated that Jack and Peter were each sentenced to “three months in prison followed by one year of supervised release, and fined \$100,000.” The company was ordered to “pay a fine of \$6.79 million and was placed on probation for three years and agreed to forfeit \$10,000. All three defendants were ordered to make restitution in the total amount of \$83,008.” (USDOJ 2015).

When reviewing these cases individually, I originally accepted both to be relatively reasonable. It was not until I paused and compared the two cases that I found the difference in sentencing to be profoundly illogical. I considered the crime and punishment at the most basic level. Essentially, Rudy upset a group of wealthy wine collectors when he duped them into buying faux collectible wine. Rudy paid with 10 years and \$48 million dollars. The Department of Justice reported that Quality Egg knowingly misbranded eggs for years and was responsible for “a nationwide outbreak of salmonellosis

which was linked to approximately 1,939 reported consumer illnesses.(USDOJ 2015)” The DeCoster’s each served three months in jail with one year probation and collectively paid just over \$7.08 million. When considering the totality of the circumstances, the federal sentencing guidelines, and the true effect the crime had on people, neither punishment seems fitting for either crime.

SOURCES:

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