

The Divide: American Injustice in the Age of the Wealth Gap Study Guide

The Divide: American Injustice in the Age of the Wealth Gap by Matt Taibbi

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Contents

The Divide: American Injustice in the Age of the Wealth Gap Study Guide.....	1
Contents.....	2
Summary.....	3
Chapter One: Unintended Consequences.....	4
Chapter Two: Frisk and Stop.....	11
Chapter Three: The Man Who Couldn't Stand Up.....	15
Chapter Four: The Greatest Bank Robbery You Never Heard Of.....	21
Chapter Five: Border Trouble, Part 1.....	28
Chapter Six: Border Trouble, Part 2.....	34
Chapter Seven: Little Frauds.....	41
Chapter Eight: Big Frauds.....	46
Chapter Nine: Collateral Consequences.....	50
Important People.....	53
Objects/Places.....	56
Themes.....	59
Styles.....	62
Quotes.....	64
Topics for Discussion.....	67

Summary

“The Divide – American Justice in the Age of the Wealth Gap” by Matt Taibbi is an examination of the great and ever-expanding divide between the very wealthy and everyone else. The 2008 financial crisis that destabilized the economy of the entire world, Taibbi asserts, was brought about by the lax regulatory overseers including the SEC and the repeal of the Glass-Steagall Act that had been established after the Great Depression. Glass-Steagall basically required banks to stay in the business of keeping money and making small loans, and not get into the investment and insurance markets. Therefore, with its repeal, banks were fundamentally able to do whatever they wanted in order to make a profit.

It has subsequently been demonstrated that many of the activities and transactions that were taking place on Wall Street were corrupt, unscrupulous and criminal. However, not one individual in charge of these banks or hedge funds has been held accountable for their actions. Strangely, the U.S. Justice Department pursued litigation against employees of only one bank – Abacus Federal in Chinatown, New York. This prosecution was intended to be an example to the nation of the government’s pursuit of justice. However, the minor violations that Abacus committed amounted to nothing compared to what had happened on Wall Street. Abacus was just a scapegoat and a cover for the Justice Department’s failure to prosecute the truly egregious crimes committed by larger banks and financial institutions.

The Glass-Steagall Act was repealed during the Clinton Administration and was largely responsible for the economic boom during those years. Taibbi argues that the boom was based on fraudulent deals and exotic home loans that under ordinary circumstances would have never been approved. A harsher, tighter approach to welfare was also established under the Clinton Administration. This led to the bullying and abuse of those applying for government assistance, most of whom were women and minorities. If an individual provided any false information to the government – even the slightest misstatement – the person would lose eligibility for assistance and face both prosecution and prison time.

While Wall Street moneymakers oversaw operations that were corrupt and criminal, and walked away even richer, poor minority women were being sent to jail for providing false information to get \$300 a month. While those seeking financial assistance had to be completely honest and forthcoming on the applications, Wall Street executives were known to tell their underlings not to delve too deeply in the qualifications of those seeking loans. One executive told a processor to not even worry if the people were employed.

Throughout “The Divide”, Taibbi continually draws comparisons of the disparities that exist between the very wealthy and everyone else. Those who suffer the most, Taibbi asserts, have the least. Among those who suffer most are African Americans and Hispanic women. The author provides specifics with accounts of actual interviews with many of those described in the book.

Chapter One: Unintended Consequences

Summary

On July 9, 2013, in New York City, author Matt Taibbi, sat in a small crowded courtroom to witness a rare occurrence – the prosecution of a bank. It was a pre-trial hearing with 19 defendants. The case involved no high-profile banks, however. Though CitiGroup, Morgan Chase, Bank of America, and others had destroyed 40 percent of the global economy in 2008, it was a small ethnic bank that was being taken to task to demonstrate that the government was indeed holding banks responsible for the worst economic disaster since the Great Depression.

Abacus Federal Savings Bank of Chinatown, however, had cost none of its customers any money, and had not destroyed any individuals or businesses. It was being held to account for the fact that many of its customers had lied about their income on home loan applications. These individuals did not lie about how much they made – they did not reveal their full incomes because a portion of what they made was under the table, and hadn't been reported to the IRS. Abacus was being used as the scapegoat for the rupture of the global economy, in place of larger banks and financial institutions that were deemed too big to fail. Taibbi was sad to hear that the 19 mainly low-level employees had initially been marched into court handcuffed and chained to one another like they were serial murderers.

While Abacus did not have the best oversight on loans, their shortfalls paled in comparison to the rest of the financial industry at large. However, those involved in the prosecution of Abacus all walked away with something: the city was able to claim it was tough on bank crimes, and the press reported on a measure of justice against the financial industry. However, that the larger banks and financial institutions were not prosecuted was a failure to the American people.

Sanford "Sam" Talkin, one of the defense attorneys for the Abacus employees, asked that the judge compare his defendants to Citigroup, which just the week before settled for \$968 million for their illegal loan activities. Talkin pointed out that the Citigroup settlement paled in comparison to the Bank of America, which paid \$6.8 billion for their violations. The judge was not impressed by Talkin's defense. Another defense attorney, Kevin Puvalowski, pointed out that it was impossible to charge the Abacus employees with larceny when no one lost any money. He ended his remarks by stating that if every bank had done as good a job as Abacus, there wouldn't have been a financial crisis at all.

In June 1999, Eric Holder, then a little-known official in the Clinton Administration, wrote a memorandum entitled, "Bringing Criminal Charges Against Corporations." At first review, it seemed to be a call for more prosecutions against white-collar crime.



Opponents considered it to be an anti-business doctrine. Holder wrote that corporations should be treated leniently because of their “artificial nature.” He suggested that if corporations were suspected of using client-attorney privileges to shield the crimes of employees, the Justice Department should be pushed more forcefully toward prosecution. He suggested that to show their willingness to cooperate, corporations should waive their privilege. Holder’s suggestion that corporations should be looked at suspiciously for paying their employees’ legal fees was not a viable one.

Holder’s memo also had an unintended consequence that would later be interpreted as supporting corporations in legal proceedings. In his recommendation, Holder wrote that it was appropriate to consider the crime’s seriousness and how the prosecution of the crime would impact the corporation and its officers and shareholders. Consider the collateral consequences, Holder urged. There were ways to punish other than with prosecutions: fines, deferred prosecutions, cease and desist orders, civil sanctions, and others were suggestions Holder promoted.

Holder’s memo pointed out the need for new prosecutorial and regulatory tools to deal with corporate crime due to factors such as globalization. Companies in the contemporary world often extend far beyond state and country boundaries. The actions of a bank or business in the United States could affect employees, families, and the overall economy of entire foreign nations. Intense lobbying for the reduction of regulations to make it easier for businesses to conduct their affairs and keep people employed led to the repeal of the Glass-Steagall Act which had prevented mergers of commercial banks, investment banks, and insurance companies. Between the repeal and other legislative maneuvers, companies were able to grow at staggering rates, and became impossible to regulate. By the time Holder returned to the White House under Barack Obama eight years later, there were companies so huge and dominating that their collapse would threaten the entire global economy.

When George W. Bush became president, he and Attorney General John Ashcroft prosecuted some high-profile corporations, including Enron and Tyco. Despite the Bush administration’s willingness to tackle even corporate crime, Bush and the Republicans were considered to be in the pocket of corporate America. The Medicare Modernization Act was viewed as a huge gift to the pharmaceutical industry; the Bankruptcy Abuse Action was viewed as a handout to the consumer credit industry; and the Clear Skies Act was seen as a big boon to the energy sector. There were also regulatory changes, including the SEC’s 2004 decision to lower capital reserve standards for the top five investment banks, which ultimately led to the demise of three of those banks – Merrill Lynch, Bear Stearns, and Lehman Brothers – which all borrowed themselves out of existence.

The Bush Justice Department, however, did not shy away from corporate crimes. It did launch criminal investigations on high-profile companies and their owners, such as Adelphia Cable and its CEO, John Rigas, who had embezzled millions from the company. The Arthur Andersen accounting firm was criminally charged for destroying files in Enron’s downfall. Although the Justice Department offered Andersen a deferred prosecution, Andersen turned it down, echoing Holder’s letter about collateral damage.

Undaunted, the Bush Justice Department went ahead and filed a single felony count against the firm. The firm was ultimately found guilty; the firm subsequently collapsed and 28,000 jobs were lost.

However, in 2005, The Supreme court overturned the Arthur Andersen conviction ruling that the jury instructions had been too broad. The prosecution had failed to show “consciousness of wrongdoing” (21). The Justice Department decided not to pursue another prosecution of Andersen. The press and academics alike focused on the fallout of prosecuting large corporations. Henceforth, there was a sea change in considering the prosecution of large firms.

The Bush administration based a 2003 memo on Holder’s 1999 memo. In this memo, Attorney Larry Thompson repeated the guidelines set out in Holder’s memo. This came into play when the government had KPMG, a large auditing firm, dead to rights in a case of unlawful conduct. KPMG acted preemptively and cited the collateral consequences aspect of a prosecution. The Washington Post was on board with an article entitled, “Don’t Destroy KPMG,” pointing to the thousands of jobs that would be lost. As a result, KPMG accepted a deferred prosecution and a \$456 million fine. KPMG was threatened not to pay the legal fees of guilty employees which was later seen as denying defendants adequate representation. In fact, a judge threw out thirteen of the indictments based on the Sixth Amendment which guarantees everyone the right to counsel. This judge’s decision was upheld on appeal.

After the Andersen reversal, the number of deferred prosecutions and non-prosecutions were on the increase. In deferred prosecution agreements and non-prosecution agreements companies pay fines and enter into restrictive agreements. Frequently they are allowed to settle without admitting any wrongdoing. In this approach, the prosecutors and companies work together to keep everyone out of jail and keep the corporation from being sued in civil court. The evidence is often kept secret from the public. However, in some cases, the deferred prosecution agreement requires a plea in court. But the deferred prosecution began to fall out of favor just when Barack Obama was taking office. Fines were becoming the preferred punishment in settling white-collar crime. Under the Obama Justice Department, such fines grew to the billions in 2011. The Holder Justice Department ultimately advocated the Collateral Consequences policy.

Politics began to have a bigger presence in the prosecution of corporations. Politicians began to believe that prosecuting a large corporation was a vote loser. Many political appointees were being made to bring Justice. Obama ushered in a herd of Ivy Leaguers and former corporate defense lawyers into the crime-fighting branch of government. Many had the same attitude as corporate lawyers who often stuck their noses into regional prosecutions.

The prosecution of Senator Ted Stevens of Alaska had unexpected consequences. He was charged with and found guilty of major corruption yet he walked free. It came out later that there was exculpatory evidence that could have found Stevens not guilty but had not been revealed by the prosecution. Learning this, an appellate judge dismissed

the charges against Stevens and appointed an attorney to investigate the case. Three years later, the lawyer reported that the Obama administration had reported a young attorney to lead the prosecution giving the Justice Department direct access to the case. It was the conclusion of the report that in their zeal to convict the Republican senator, they had botched the case by leaving out key evidence.

Two of the prosecutors were blamed for the debacle and transferred to outback jobs. One of them, Nicholas Marsh, committed suicide in advance of the release of the attorney's report. Ironically, Marsh was not targeted in the report. There was great dissension in the Justice Department. Many of the lawyers worried that their cases would be tampered with and that they wouldn't be defended if problems arose. Larry Breuer of the Justice Department announced that he was looking to revamp the Fraud Unit of the Justice Department even though it had been effective during the Bush years. Breuer wanted a "superstar" to head the unit and named Dennis McNerney to fill the position. McNerney's claim to fame was defending Arthur Andersen in its obstruction-of-justice case. He hadn't prosecuted a case in fifteen years. But the Fraud Unit was soon outshined by Obama's new Financial Fraud Enforcement Task Force.

Morale at Justice plummeted after Holder's decision not to retry Senator Stevens. Angelo Mozilo head of Countrywide Financial who had settled a civil suit was quietly told by Justice that he wasn't being criminally targeted even though he admitted that his products were "toxic." Justice also decided against investigation several other prominent financial fraud targets. At the same time, Justice continued to pursue the case against Roger Clemons for lying about steroid use ended in a mistrial. During the first years of the Obama administration, there was a huge emphasis placed on not losing cases which caused the number of decisions based on the Collateral Consequences theory to increase. By doing so, Justice was also able to avoid its own collateral damage in the press along with political concerns. By deciding that some prosecutions of large corporations were "losers", they were also deciding that some small companies promised to be "winners" in court. Unfortunately, this lack of spine in the Justice Department arose during a white-collar crime wave.

During Obama's second term, it had become crystal clear that the financial crash had been caused in the most part by crime. Banks created sub-prime loans and sold them off to other financial entities as AAA bonds. It drove institutional investors from around the world to want to invest in the American home mortgage industry. Millions of new homeowners came on the scene who wouldn't normally qualify for a loan. It was a Ponzi scheme that would work as long as home prices kept increasing. But as history shows, the bubble burst and the world economy almost tanked. However, almost no bank or investment company intimately involved in this crime was held accountable. Banks and home loan companies like WaMu and Countrywide folded. Between 2002 and 2010, Wells Fargo home loans were found to be "seriously deficient." (41)

CitiGroup and Goldman Sachs defrauded and falsified loan documentation. Between 2005 and 2007, Goldman was the underwriter for more than \$11 billion in mortgages backed by the federal government and then "sold billions more in mortgage-backed products." (41) Michael Winston of Countrywide told his staff to fund loans even though

the applicant had no job. The rating agencies like Moody's and Standard & Poor's knowingly overrated toxic mortgage securities. Often, the banks and lenders hired outside companies to do their processing – their dirty work. There was undeniable evidence that loan approvals were being forged – “Linda Green,” one of many “corporate phantoms” was discovered to have signed multiple approvals in twenty-two different writing styles. There was also widespread tax evasion in the processing of these toxic loans.

The banks created an electronic registry system called MERS which was tasked with maintaining the records on 67 million mortgages although the company had less than 50 employees. Later, it was found that many of the phony documents that surfaced were MERS mortgages. The banks and Wall Street were failures at policing themselves. Although the bigwigs vowed to report any fraud that was discovered, nothing was ever reported to the government. When the register of deeds of Salem, MA, sent Holder evidence of fraud on over 31,000 documents, Holder ignored it.

Although there were mountains of evidence of crime, lawyers on all sides of the issue were perplexed about exactly what crimes had been perpetrated. There were scores of choices – fraud, tax evasion, larceny, embezzlement just to name a few. The only time RICO laws were tapped was to pursue a black gangster who ripped off some banks and lenders. The federal government maintained radio silence on the whole mess. The sub-prime market imploded and caused the collapse of Bear Stearns who was heavily into hedge funds. It was that that the federal government shied away from major prosecutions because publicizing the details of the collapse could cause panic and a run on major banks which could lead to a worse disaster. Timothy Geithner wanted to calm the markets. However, after things did settle down, the reason not to pursue prosecutions of the major offenders dissipated. The federal government left prosecutions up to the states. The states only came up with one target – Abacus Federal Savings Bank.

The decision to target Abacus stemmed from a report that the bank made to authorities. They had discovered that a loan processor had virtually taken a bribe to falsify earnings on an application. Abacus contacted two federal agencies to report the crime. The result was that a year later, Abacus was told to overhaul their loan practices. Employees were fired but the bank wasn't punished over the incident. The prosecution of Abacus arose when the applicant in question lost the house and her deposit and reported Abacus to the local police.

Although large banks and Wall Street firms were guilty of egregious crimes, they were only made to pay fines – hefty ones – but they were not criminally prosecuted. Abacus was never offered a deferred prosecution. The FDIC was at the bank when its employees were facing the judge. They feared a run on the bank and were preparing to take action if that were to happen. The federal government's excuse for not prosecuting the large banks was the fear of a run on the banks. They feared a run on Abacus as well but that didn't keep them from prosecuting it - probably because they weren't well-connected politically. Abacus was the only bank in the entire country to be indicted. It was small enough to fail.

At the same time, on the streets of the nation police were arresting poor and homeless citizens by the thousands. There was no consideration of “collateral consequences.” The wealthy and well-connected on Wall Street were untouchable. What the federal government had done was spawn a revolution in which it was okay for the police to determine who could be arrested and who shouldn't be arrested. Classism was alive and well in America.

Analysis

While most people blame the 2008 economic recession on Wall Street, billionaires, and Republicans, the truth is much broader in scope. Matt Taibbi, in his book "The Divide: American Justice in the Age of the Wealth Gap", seeks to demonstrate that the economic recession - both in cause and consequence - proves that justice in the United States varies between the rich, and everyone else.

The 2008 collapse of financial banks, Taibbi explains, owes as much to corporate crime and irresponsibility as it does to loosened regulations and how the government approaches corporate crimes. Deregulation under the Clinton and Bush administrations enabled companies to grow in both the United States, and abroad, and led to economic growth that was more bubble than boom. But as corporations increased in size, so did the nature of their crimes and how those crimes would affect the country.

Eric Holder contended that the way in which justice must be dealt to offending companies had to change. Massive companies employed massive numbers of people, and greatly affected not only the American economy, but the global economy as well. Whereas the prosecution and failure of a company in the past may have put a few dozen people out of work, or a few hundred at most, tens of thousands of people now stood to lose jobs. Holder argued that there were other ways to punish offending companies, such as fines and delayed prosecutions. To punish a handful of people would ultimately hurt thousands. In the case of a global economy, which depended upon numerous large institutions and banks, the risks of total collapse were enormous. The federal government ultimately left prosecution up to the states, during which time, only Abacus was officially held to account.

Nevertheless, even when evidence of crimes was produced - such as that sent by the register of deeds in Salem, Massachusetts, to Holder when he became attorney general under President Obama - such evidence was outright ignored. Holder, who had argued for creative ways to enact justice against offending corporations, had opted not even to pursue justice at all. This did not sit well with most Americans, no matter where they fell on the political spectrum: crimes were crimes, and some measure of justice had to be done. Whatever reasons Holder and others had for not prosecuting financial crimes, the lack of prosecution only sought to demonstrate that the rich were treated far differently from everyone else - especially the very poor.

Vocabulary

audacity, curmudgeon, wraithlike, idiosyncratic, ostentatiously, dystopia, pariah, manifesto, collateral, globalization, incentivized, tantamount, jocular, adversarial, timorousness, exculpatory

Chapter Two: Frisk and Stop

Summary

On August 9, 2012, 26-year old red-headed Tory Marone was drunk and looking for a place to sleep in Manhattan. One of his favorite places to sleep was a park across from Twenty-Fourth Street near Chelsea Piers. He fell asleep that night but was awakened a short time later by two cops who flashed light in his eyes and ordered him to get up. Although he promised to walk out of the park, he was detained. One of the cops was writing up a summons. He became enraged and foul-mouthed over the absurdity of getting a ticket for sleeping on a park bench. He screamed as the cops grabbed him and headed for their squad car. He was arrested for resisting, disorderly conduct and loitering on city property. He was released the next day and given a court date for a month later, which he missed. The city issued a bench warrant for his arrest.

Four months later, he was high and drunk and walking around the streets when he was stopped again. The police found a half a joint on his person. The new stop and frisk program allowed the cops to stop anyone who looked suspicious, search them and arrest them even for having a small amount of pot on him. In 2011, while Wall Street criminals weren't being arrested, the New York City police stopped and searched 684,724 people – 88 percent black or Hispanic. The justification for the program was that the cops were looking for guns. Marone was arrested again. He couldn't pay the fine of several thousand dollars so he was sentenced to do 40 days at the Rikers Island prison, considered to be one of the most dangerous places in the nation.

At around the same time, Lanny Breuer of the Justice Department called a press conference at which he announced that Justice was levying a record fine against HSBC for a long list of white-collar crimes. The bank had admitted to laundering billions of dollars for Mexican and Colombian drug cartels as well as for Middle Eastern terrorist organizations among other crimes. One senate investigator commented that they had violated every law on the books. Breuer began his statement saying that HSBC was being held accountable for their crimes. Their fine was a hefty \$1.9 billion. They had been warned that if they didn't comply with the agreement they signed on to the federal government reserved the right to prosecute them. No HSBC employee would be punished or sent to jail. The fine seemed huge but HSBC drew in \$22 billion a year. "The cops had let HSBC walk out of the park." (62)

Breuer defended himself when reporters asked if HSBC was getting off easy. They had aided and abetted drug cartels and terrorists that tortured and murdered people, yet no one was behind bars and just a short distance away Marone was serving his 40 days. Although the media had been largely silent through the years of deferred and non-prosecutions, they woke up after the HSBC settlement. One headline screamed, "What's a bank got to do to get into some real trouble around here?" Others commented that the "I'll never do this again" defense had never worked before in U.S. courtrooms. The New York Times wrote that, "It is a dark day for the rule of law." (63) Former

prosecutors were appalled along with the press. Bank and Wall Street executives were being told that crime did pay.

The next scandalous settlement was with UBS a huge Swiss bank which was guilty of worldwide price-fixing known as the LIBOR affair. At the time it was the biggest antitrust case and the biggest price-fixing case in history. Their price fixing, in collusion with a number of huge European banks, impacted financial products in the hundreds of trillions. When the settlement with UBS was announced, Breuer all but apologized to the bank for bringing any action against them. Eric Holder even showed up to help Breuer grovel. While HSBC had a deferred prosecution agreement, UBS walked away with a non-prosecution agreement and a \$1.5 billion fine. At the press conference, a reporter asked Breuer why no one was indicted. He responded that it was a robust resolution that took many factors into consideration, making a reference to collateral consequences. Holder took the microphone and reiterated Breuer's statement, focusing on collateral consequences. He told the reporters that Justice actually reaches out to Wall Street for advice on their prosecutions. The reporters were stunned. Holder even referenced his 1999 memo. But the breadth of it had been expanded. The memo spoke to collateral consequences if a corporation were destroyed. How could arresting a few criminal executives at the top have collateral consequences and cause lower level jobs to be lost? How could that cause a "ripple effect" that the Justice Department and Treasury apparently feared?

Holder appeared before the U.S. Senate committee citing his collateral consequences policy. He told the Senators that the too-big-to-fail banks and concerns tied his hands. He spoke of the fear that such prosecutions could bring on another financial crisis. Breuer was in the process of returning to private life and would be representing CitiGroup in the LIBOR prosecution. A raging debate took place about the collateral consequences policy. Some again pointed out that indicting an executive wouldn't ruin a company. Others commented that if a bank is too big to fail, part of their settlement agreement should be to downsize. Once the Justice Department allowed UBS and HSBC to walk on "systemic importance" then allowed it to maintain its "systemic importance" was just inviting more violations. Many thought that Justice's policy was a cover for lazy and timid prosecutors. None of the settlements included anything about breaking up the companies and making them smaller and, therefore, more prosecutable.

The U.S. Attorney General planned to contact the criminals (Wall Street) to ask for their advice on the best prosecution while on the street it was arrest first and ask questions later. In 2011, two black men, Michael and Anthony, who had problems in their youth, were driving a Range Rover in the South Bronx and stopped at a red light where they were apprehended by two uniformed cops and thrown into a van, their hands cuffed to the wall. They had done nothing wrong but apparently an undercover cop, known as a "ghost," had fingered them for arrest. They had committed no crime. After an hour or so, the van was filled with arrested citizens. They overheard the driver of the van say that they needed "three more." The cops were responsible for quotas; each man had to bring in at least one "body."

After riding around cuffed in the van all day, Michael and Anthony were thrown into a cell and learned that they had been arrested for suspicion of possession of marijuana. They were released and fought the case demanding that evidence of marijuana be produced. Finally the DA offered them a deal – plead and pay a \$25 fine. They rejected that because they weren't guilty and then were offered two hours of community service which they also rejected. After a year, the city finally dropped the charges. Before the case was dropped, Anthony lost out on a job because of his drug arrest. To Anthony, his arrest caused him collateral consequences. But that was acceptable. He was a black guy in the Bronx not a money launderer who dealt with terrorists and drug cartels.

In January 2013, Taibbi visited Tory on Rikers Island. After being patted down and warned about bringing contraband into the visitor's room, Taibbi was able to meet with Tory. His jump suit was a different color – lime green – than the other prisoners. He'd been found with money on him and was forced to wear the lime green suit and had to spend another seven days in the prison. Taibbi explained that he found his name when he was looking for someone who had been imprisoned for a dubious charge and that white-collar criminals who committed much more serious offenses were walking free. Tory said that people get arrested for who they are not what they did.

Analysis

Having established his thesis - that the rich, especially in lieu of the 2008 economic recession, are dealt with differently in terms of legal justice - Taibbi moves on to provide hard evidence to prove it. The example of HSBC, which laundered billions of dollars for drug cartels and organized crime, was slapped with a \$1.9 billion fine, whereas a homeless drug-addict was given prison time stemming from the offense of sleeping on a park bench in New York. The press and the public were incensed that a bank which had aided and abetted the criminal activities of drug cartels - which included murder and drug smuggling - was receiving a fine, and no one in the bank was receiving jail time. When the largest price-fixing scandal in history broke out, revolving around UBS, a huge Swiss bank, justice was again essentially a slap on the hand with reference to the idea of collateral consequences.

Arrest and imprisonment are considered to be deterrents, but when large banks and financial institutions are made to pay fees that are insignificant and inconsequential compared to the company's revenue, the result is an anti-deterrent. Corporations realize they can push limits, and stretch and break laws without having to do more than pay for them. Prosecutors, likewise, aren't ashamed of these deals – they seem to be proud of them because a win is a win. If a street criminal isn't sent to jail, there is public outrage. But when a person is tried for white-collar crime, though the public is angered about the crime, juries are often difficult to convince and judges are often political appointees who were elected with big-business backing. Frequently, it is revealed in white-collar crimes that regulators had approved the corporation's actions. The jails are over-filled with welfare moms and dope dealers. City courts have become factories for turning the poor into prisoners while prosecutors of white-collar criminals help wipe out their crimes for a fee. Apart from collateral damage, it is possible that financial crimes are not seen as



something that most people believe affect them on a daily basis, whereas drug-dealers in parks will have a direct and immediate effect on daily lives.

Vocabulary

rousted, recognizance, ostensible, arraigned, illicit, derivative, dysfunction, aneurysm, antitrust, iterations, commissary, attrition

Chapter Three: The Man Who Couldn't Stand Up

Summary

Andrew Brown wanted to be a cop when he was little but instead got into trouble with the police. He grew up in the Bedford-Stuyvesant projects in Brooklyn. His father was mainly absent from his life. Other than some time in jail, he spent his whole life in the area. At nine years of age, Andrew's mother's drug problem was becoming a crisis for the family which resulted in his aunt taking custody of him and his sisters for three years. This was during the 1980s when racial tensions were at an all-time high in New York City.

As a teenager, Andrew who didn't get along with his aunt and returned home to his mother when she cleaned up, became angry and hurt and began to get into trouble. The cops caught him and his friends vandalizing a car. They merely brought him home to his mother who was seriously ill and increasingly upset with her son's behavior. Andrew's crime escalated and he began to steal and sell drugs. In May 1992, he was arrested for assault. He spent that entire summer in a juvenile detention center for the crime. His mother died that winter. Andrew was selling crack when he got word about her death. Andrew had to deal with overwhelming guilt over his mother's death. But for the seven years after her death, his criminal activity escalated. He was in and out of jail for years.

After he got out of jail the last time, his father had a talk with him and asked him how he'd feel if someone robbed him. Andrew never robbed anyone again. He tried to get a job a few times but had no luck. He had no experience. He was a product of the mean streets. He had a run-in with his old mentor. Later, when Andrew was selling drugs, the mentor showed up with a gun and shot Andrew in the arm. Andrew was taken to the hospital and his mentor was arrested and eventually found guilty and sent to jail on a lengthy sentence. The incident helped to straighten Andrew out. A lot of people he knew were in jail on long sentences or they were dead. It could have been him. He realized he had to change his life. He was 23 years old.

There was a subtle change in policing in New York City that largely went unnoticed until a professor named Harry Levine noticed multiple arrests for simple possession. Between 1798 and 1998, there was an average of 3,000 arrests for simple possession. Between the years of 1998 and 2008, it increased to about 30,000 arrests a year. The change came under the leadership of Howard Safir, Mayor Rudolph Giuliani's second appointed police commissioner. Giuliani's first police commissioner, Bill Bratton, had instituted the "broken window" policy which directed police to focus on petty crimes – like jaywalking, littering and broken windows. It was felt to be an incentive for criminals to leave their guns at home.

When Bratton got more attention for his crime prevention methods, Giuliani got rid of him and appointed Safir who established both the stop-and-frisk policy and CompStat which was a giant database that contained the identification of everyone stopped in New York by the police. It incentivized cops to make as many arrests as possible. Crime was dropping which worried NYC cops who were underpaid. They had to find a way to make more money. As a result, they manufactured arrests and increased their overtime. The vast majority of those detained under stop-and-frisk were either guilty of minor offenses or nothing at all. By 2012, the number of summons issued under this policy rose to 600,000 annually. Twenty-thousand of these summonses were for riding a bike on the sidewalk. When their already meager earnings were slashed in the mid-2000s, more than 4,000 NYC cops quit and those remaining became known as the “sub-misdemeanor” cops because of the petty “crimes” they focused on. Of course the big change was felt chiefly in the poor neighborhoods of the city.

In November 2003, Andrew was still selling weed but he was growing tired of the life. His mind was toying with ways to get out of it. An off-duty detective witnessed an exchange between Andrew and a customer. Andrew heard the police sirens heading his way and walked off. A police van screeched to a stop and a white officer jumped out wielding his gun and ordering Andrew to run – run so the cop could chase him. He didn't run so the cop lunged at him and knocked him to the ground. He heard a second cop say, “Get the mace!” An entire canister of mace was sprayed in his eyes. That summer he was detained by cops, nearly stripped on the street and arrested again even though their search never turned up any drugs. The case didn't go anywhere. A short while later, he was arrested when he was seen talking on a cell phone. A cop grabbed his phone, threw it on the ground and broke it. It wasn't even Andrew's phone. He watched as they rifled through his friend's car and also found nothing. Andrew asked the cops to help him up but they refused.

Andrew straightened up after these incidents. He began seeing a girl he had known for a long time. They ultimately married and had three kids and moved to a nice apartment. He got his commercial driver's license so he could get a job as a bus driver. He had left the streets behind him but the cops still pursued him. Andrew kept in mind some advice an attorney gave him about what constituted police abuse. Looking back even to when he was a child, he saw that the police had been a negative presence in his life. He wanted to stay away from them but that wasn't possible it seemed.

One day walking home from driving lessons, he was apprehended by two plainclothes detectives who both handcuffed him. When he asked what he did, they responded that he fit the description. The cops roughed him up, threw him to the ground and pushed his face in the sidewalk. He was cuffed into a van, but as the night wore on he had the option of just going home. But Andrew passed on the opportunity. They weren't going to cuff him and shove him on the ground and then just walk away. He wanted to go to the precinct. Since he had to be charged with something, the cops wrote him up for “disorderly conduct” and “Obstructing pedestrian traffic.”

Andrew was arrested another time when he was walking his dog on the same charges. Another time he was apprehended when he “fit the description” of a grocery store

robber. He was brutally shoved up against a wrought iron gate and thrown into a squad car where he suffered more abuse. At the precinct it was the same routine – strip searched, charged with disorderly conduct and thrown into a cell.

In November 2012, Andrew had a real job, a good job, driving a shuttle bus for a casino. One late night after his shift was over, he ran into a friend when he returned home. They walked over to a food shop to get something to eat. As they stood in front of Andrew's apartment building listening to a song that Andrew had written two detectives came rushing toward them. One of the cops told them that they were blocking pedestrian traffic – at one in the morning! He was cuffed, arrested, thrown in a van, and strip searched at the precinct. Andrew was charged with obstructing pedestrian traffic.

Taibbi met with Andrew shortly after this incident. Andrew said that the main emotion he felt was frustration. The police had been harassing him for literally years, over a decade. Taibbi went to court with Andrew on the latest obstructing pedestrian traffic charge. The wait was a long one. Andrew told Taibbi he had to make a call and would be right back. When the bailiff called, "Andrew Brown," Taibbi told her that he was out in the hall. As it turned out Andrew got into an argument with his attorney. He wanted to pay the fine on the smoking in public charge and contest the bogus obstructing pedestrian traffic count. The court officer had to get Andrew's other lawyer. Taibbi tried to help Andrew explain what he wanted to do to his lawyer but a cop told Taibbi that he'd have to butt out. Even though the lawyer said the judge would probably only charge him \$50 for both fines, Andrew wasn't interested. It was the principal of the things – he was standing in front of his own building at 1 a.m. after work.

Back in the courtroom, Andrew pleaded to the first case. On the second charge, he told the judge that he hadn't done anything wrong. After the judge understood the circumstances, he declared Andrew not guilty of the obstruction charge. Afterwards, Taibbi had a private conversation with Andrew's attorney. Taibbi asked if he'd ever seen a white man arrested for obstructing pedestrian traffic. The attorney's reply was that "low-class people do low-class things." (114)

Taibbi observed another court case in which a prostitute was facing charges for accepting \$20 from an undercover cop for a sexual act. But there was something about the arrest that wasn't kosher. They were going on with the case anyway, since the woman had 35 priors. In the end, the woman agreed to accept the violation, pay a fine and have a short stay in jail unless she was granted and could pay bail. Taibbi was beginning to understand that the process was the punishment. Since the wait is so long for trials, charging the woman with a B misdemeanor was the same as convicting her if she couldn't make bail. Having a conviction goes on the record and would mean more trouble when she was arrested the next time. She was probably looking at two weeks to three months in jail and a \$200 fine.

In the speeded up process and obsession to make as many arrests as possible, the cops tend to get impatient and instead of really making a prostitution case, they arrest the woman for loitering to commit prostitution before the act. Hookers are arrested for

loitering, attempting to stop a man on the street, making eye contact with a passing driver, engaging in conversation in addition to actual prostitution.

How many white upper crust residents of New York City have been arrested for public drunkenness or a tryst with a prostitute or for having a knife on their person or a bottle of pills? The cops could make serious drug arrests if they patrolled the night clubs of Lower Manhattan on the weekend. There is a huge and growing disparity between the arrests of prostitutes versus the arrests of their johns. Misdemeanor arrests have skyrocketed across the nation. A healthy percentage of those arrested for misdemeanors spent time in jail for there “non-crimes” because they couldn’t make even a small bail. The targets of the police are in poor and minority areas. Black and Hispanics made up 91 percent of all these “quality of life” arrests in a 1999 study. The police department’s defense was that those who committed minor crimes committed the majority of major crimes. Those people who were targets of the police were aware that bail was usually set high enough that they couldn’t pay it but too low for bail bondsmen to take it on.

The attitude that street criminals will become law-abiding citizens after numerous arrests for misdemeanors has faulty reasoning. Firstly, white-collar criminals may also commit serious “street” crimes but will probably never be arrested for either. Secondly, if a person is repeatedly arrested for bogus crimes how will that be a lesson learned? It would more probably create angry people instead of law-abiding citizens.

Taibbi encountered another man who had been charged with riding a bicycle on the sidewalk. He was on government assistance at \$300 a month and couldn’t pay the \$100 fine. He would serve time or do community service but the fine was a burden for him. He was also frustrated that he’d shown up several times but the cops didn’t and the case had to be rescheduled. After a year and multiple trips to court, his case was dismissed by the judge. New York has a “speedy trial” law that is largely ignored. The courts are used to “bully” misdemeanor defendants into copping a plea.

In November 2011, there was a protest against stop-and-frisk at a police precinct in Brooklyn. Many of the protestors were arrested for “obstructing government administration.” Video tape later showed that the protestors weren’t obstructing the passage of any government employees. Daniella Korotzer who represented the protestors asked a pointed question: “Do the police have the right to just tell you to move no matter what? And can you be arrested if you refuse?” (129) What occurs is that the police canvass the poor neighborhoods trolling for target arrestees. When these people don’t cooperate, they are arrested for a misdemeanor, often “loitering.” One young man told Taibbi that he was arrested sixty times before he was nineteen. He had wanted to be an attorney and was trying to get accepted into John Jay College. He had no record and was committing no crimes but he had a “big mouth” and would be arrested for the protests and comments he made.

Judge Noach Dear challenged the many “drinking from an open container” cases that came through his court. He told The New York Times that he tried to recall a white defendant appearing before him for that violation but couldn’t. The truth was that the



cops could arrest anyone for anything they wanted to arrest him for. The danger of taking a plea to just get it over with is that one could lose financial aid for school, welfare payments even beds at homeless shelters. The cops claimed they were looking for guns but what resulted was a whole segment of the community being constantly on edge and on the defensive.

There was a rogue group of police officers in one precinct that lied in court and to grand juries and caused numerous lawsuits to be filed against the department. Yet they went unpunished and worse they were still out there doing their thing. It's next to impossible to subpoena the records of a police officer. Citizens can sue the police department and the department may settle if they lose but there are little or no consequences for the offending officer. The situation is the mirror image of the white-collar criminal organizations that are granted deferred or non-prosecutions. The white collar criminals go free even if the corporation pays a big fine. The guilty cops go free even if the police department loses a lawsuit and has to pay a fine. Taibbi looked into the prosecution of AIG which resulted in a few soft-ball sentences – vacated later on technicalities – for lower level employees but the CEO was an untouchable and went unpunished. The judge was swayed by the defendants' supporters who pleaded for light sentences for the defendants who were really "good" men even though they stole millions of dollars. Judges do react to pleas for leniency but only selectively.

Analysis

Apart from the disparity in the way that the rich and everyone else are treated for crimes of varying natures (arrest for sleeping on a park bench and fines for aiding and abetting a murderous drug cartel), the handling of identical crimes among the rich and everyone else varies greatly. While the non-rich may be arrested numerous times for a crime, the rich are never even arrested once. Prostitution, for example, is cracked down on in poor areas, Taibbi explains that numerous arrests for prostitution could be made in wealthier areas if the police patrolled nightclubs. Furthermore, it is hoped that numerous arrests, rather than outright convictions, will reform criminals - but if criminals are not arrested, there can be no attempt at reform. Likewise, Taibbi explains, multiple arrests of an individual will probably do more to anger the individual, rather than encourage reform.

Indeed, many of these arrests come from simple and unusual causes, such as "drinking from an open container" or riding a bicycle on the sidewalk. But rather than attempt to fight these reasons for arrests, most people take the easy way out, and do plea-deals. But while pleas make things easier for the police and the arrested individual in terms of not having to go to court, the arrested individual usually has much to suffer from taking a plea, such as loss of financial aid for school, welfare, and even beds at homeless shelters. Far from being reformatory, continual arrests can be a serious hindrance, such as with one man who was arrested sixty times before turning nineteen. Likewise, most of those incarcerated for misdemeanor crimes are put in jail because they can't afford bail, and so their records are permanently marred for misdemeanor crimes with prison stays.

Vocabulary

testosterone, nondescript, influx, quantitative, arbitrator, preposterous, unfurled, monotonous, obnoxious, arraignments, partisans, entrapment, glowering

Chapter Four: The Greatest Bank Robbery You Never Heard Of

Summary

For years after the financial crisis of 2008, the debate was whether Wall Street denizens had committed crimes or if they were just greedy and irresponsible. The truth was that their actions or crimes were probably outside the law – there were no specific laws to nail them to. There are regulated high finance entities like the NYSE and NASDAQ that are safe for investors. But what happened leading up to the collapse was that lawyers turned Wall Street into a mysterious black box. Lehman Brothers is a perfect example. The fraud and conspiracies that took place at Lehman's and at Barclays who bought them one dark night were unknown to outsiders. When the truth came out, it was just too much for the courts to deal with. The late night merger was known as "the greatest bank robbery in history." Both companies were big players in the economic collapse and the LIBOR interest-rate-rigging scandal. Had regulators done their job, the two firms would not have been able to carry out their dirty deeds. The companies were allowed to keep their actions secret.

Lehman Brothers was a corrupt bank that committed crimes and stole from investors all over the world. Their "get-away" bewildered everyone including the best lawyers in the world. Lehman had run up a \$700 billion tab while engaging in their thievery. They sold products that were so flawed that Lehman alone nearly pushed the world economy off the cliff. The bank went bankrupt, but before they did, a small circle of executives sucked all the cash from the company through bonuses and by selling themselves to Barclays leaving investors and lenders high and dry. Literally billions were secretly transferred from Lehman to Barclays where Lehman investors had no access.

Although in its early days, it was a legitimate bank, in the late 2000s, they were led into corruption by its much-hated, power-hungry leader, Dick Fuld who never admitted any guilt or expressed any regret for nearly destroying the world economy. Throughout the 2000s, Fuld and his minion Joe Gregory fired capable employees and filled the empty positions with puppets that would do as they bid. Their goal was to transform the bank for their personal compensation and to become billionaires. Like other banks and lending entities during this period, they built their financial fraud on the back of the home housing market which was a house of cards that would eventually fall. Fuld and Gregory weren't bankers or lenders, they were gamblers. The problem was they were using other people's money – in the billions – to gamble with.

What sparked the economic downturn was when Goldman Sachs became concerned about the sub-prime overload they possessed. They began unloading these toxic loans on unsuspecting clients. Unfortunately, for Lehman this was occurring at the same time that they decided to increase their sub-prime business. Even after the collapse began,

Fuld felt it was an opportunity to jump in the sub-prime market more vigorously. When he finally saw the light, it was too late.

After Bear Stearns went belly up, regulators became suspicious of Wall Street in general – what other financial concerns were up to their ears in the sub-prime market? Lehman looked like a good possibility. Federal investigators and the SEC began monitoring their business. But regulators for some reason believed Lehman who continued to claim that they were just fine. In reality, Lehman was borrowing money from overnight “repo” loans just to stay open. They would borrow as much as \$200 billion a day! They would borrow at night, pay debts in the morning and borrow more money that night. Lehman simply had to provide collateral in the form of their worthless loans to make the loans. Later, as things heated up, they lied about the amount of their liquid assets. Investigators later learned that in the bank’s last days, they claimed \$30 billion in cash but actually had only between \$1 and \$2 billion. Lehman also showed loans as sales on their balance sheet.

After many of his top executives mutinied, Fuld fired Gregory and stated his intention to clean things up. But it was too little too late. Lehman was too far in debt. When the repo lenders got nervous and stopped the flow of money to Lehman, it was all over. The SEC was informed that Fuld had been underreporting his income and was apparently guilty of tax evasion. But the SEC blew it off. There were other warning signs that - if followed up on - could have prevented more loss but that didn’t happen and investors, unaware, continued to throw money down the black hole of Lehman Brothers. JP Morgan Chase was a big lender to Lehman. They were warned ahead of the collapse by none other than the Federal Reserve about Lehman’s shaky situation. Ironically, the Fed didn’t warn the public.

By the end of the summer of 2008, Fuld knew the he could no longer keep the company afloat. Treasury Secretary warned Fuld that if Lehman reported one more quarter of loss, they were done. Lehman contacted the heads of other banks and financial institutions looking for a merger. No one was interested until he contacted the Bob Diamond, CEO of Barclays. Diamond was only interested in Lehman if he basically got it for nothing. Fuld told the Lehman board that a deal with Barclays was in the works. At the same time, the New York Fed was developing a rescue plan for the insurance giant, AIG. As a consequence of this deal, the New York Fed saved Goldman and Deutsche Bank billions. Goldman and Morgan Stanley a short time later were allowed to convert their banks into commercial bank holding companies making them eligible for emergency funding from the Federal Reserve. Fuld asked that Lehman be permitted to convert as well but was told no. Fuld did more begging for a deal, but no one was interested, so he stepped down. Bart McDade, a Lehman official who reportedly had integrity, and a small group of managers took over.

The new leaders of Lehman pleaded for a rescue but there was no interest. They then decided to rob themselves. They decided that the only way they could make money was to mark everything down and convince Barclays to give them big bonuses. Diamond was still interested in taking over Lehman at \$0. The remaining Lehman executives began working up two deals – one a real one and a fake one. Workstations were set up

to make it look like the fake deal they were working on was legitimate. Accountants and lawyers were rushing around crunching numbers. The real deal was that Barclays would buy just the parts of Lehman they wanted and let the rest go down in bankruptcy. At the end of the day, Barclays assessed the part of Lehman they wanted at \$70 billion. But debts that had to be paid off were also worth \$70 billion. It was a wash. So Barclays agreed to pay \$250 million for the Lehman name and business. The bankruptcy judge found the deal acceptable as did the Lehman board.

However, Diamond pulled Lehman officials aside and had them work on the real deal, a secret deal that only that small group would know about. This deal was the legal equivalent of a dark pool created by secret stock trades without announcing it to the public via trusted stock exchanges. It was literally done in the dark of the night. The nine remaining executives including McDade who took Fuld's place would collectively be offered \$302.9 million in payment for this one deal. Three of the top Lehman executives even struck deals for future compensation of \$112 million more. When the Lehman executives were later asked what they thought the money was for, they didn't really seem to know.

All these "deals" were confirmed before dawn and before the Lehman board meeting taking place in the morning. All the executives were understandably enthusiastic about going forward with the Barclays deal but failed to mention the bonus or future employment deals that they had agreed to. The executives emphasized to the Lehman board members the deal was a "wash" for Barclays. Their package would be equal in good and bad stuff. The board members had been told that they basically would be beholden to Lehman creditors. Convinced that no one was being shafted, the board approved the deal. The bankruptcy judge approved the deal which was fundamentally a three-way trade. The sale was set for the next Monday, but over the weekend lawyers developed a clarification letter as an addendum to the deal that gave Barclays at least \$5 billion more in the deal.

Saul Burian was the managing director of the restructuring division of the investment bank hired to oversee the bankruptcy. He was kept in the dark about what was really going on. He basically represented the unsecured creditors who were being treated like a fifth wheel. He was to monitor the huge sale of Lehman to Barclays. Ostensibly, Barclays was rescuing Lehman and perhaps preventing a global economic collapse. Lehman was an important entity in the world's financial and investment sector. After Lehman's collapse, some 76,000 creditors would surface and claim losses. Charities, missionaries, celebrities, unions and many other organizations and individuals all were impacted. The city of Long Beach, California, had invested \$20 million just two weeks before Lehman's crash. The only hope of the creditors was Burian who represented their interests. These investors would only salvage something from the bankruptcy if the deal between Lehman and Barclays was a "wash" and not lopsided. The fact that Barclays had hired and offered bonuses to all the Lehman officials who were responsible for providing an honest accounting of the firm's assets. These officials played with the numbers and made a deal that was in Barclays' favor by billions of dollars. The switch was contained in the "clarification letter" created that weekend and largely ignored by the bankruptcy judge. While this letter was being crafted, Burian and

his team were excluded from the rooms where this nefarious deal was being hammered out. When Burian would encounter one of the Lehman-Barclays team in the hall, he'd ask them how things were going. He got no response of substance and definitely not what exactly Lehman was selling to Barclays, which he relayed to disappointed creditors around the world in a conference call.

Growing angry and frustrated, Burian demanded an answer. Michael Klein who was hired just for the deal and earned \$10 million for his work that weekend, lied to Burian by telling him that there was a deal but that Lehman's value had dropped from \$49 to \$45 billion. Klein lied further by telling him that Barclays was allowing Lehman creditors to have the edge in the deal. Burian and the lawyers for the creditors were suspicious but there was no time left to do any due diligence. The sale was the next day. Billions would disappear after the sale and it would take years for lawyers to figure it out. Although there was evidence that many crimes had been committed, it was a complicated Wall Street crime which prosecutors were too slow and too weak to deal with.

The Lehman bankruptcy swindle was important just because of its huge size. However, everyday on Wall Street money is stolen or embezzled. Wall Street criminals are bold and count on the timidity of regulators in carrying out their dirty deeds. Many "crimes" are therefore declared to be "civil" matters by prosecutors.

A few months after the Lehman sale, lawyers for the creditors were increasingly suspicious that their clients had been duped and had not received what they should have in the deal. The lawyers were astounded to see that Barclays had included in their fourth quarter SEC filing this comment: "the excess of fair value to net assets over consideration paid [to Lehman] resulted in £2,262 m of gains on acquisition." (177) Converted to dollars, the amount was \$4.2 billion. Barclays was announcing that it made over \$4 billion on the Lehman acquisition despite the fact that Lehman and Barclays had touted that the deal would be a "wash" for Barclays.

The lawyers for the creditors demanded answers from Lehman-Barclays lawyers but no responses were forthcoming. They reminded the creditor lawyers that the sale was a done deal and any relief being sought by creditors was a dead issue. New attorneys for the creditors filed a discovery request with the courts. It was approved and would allow them to investigate the sale, issue subpoenas and depose witnesses. The lawyers further planned to file a Rule 60 motion asking the judge to look into the transaction again with the hope that he would grant some financial relief to Lehman creditors. The team of creditor lawyers had only two months to file the Rule 60 motion because it had to be filed within a year of the sale.

During this frantic two-month prep period in which the lawyers had to sift through hundreds of thousands of documents, they discovered an email from Lehman's CFO in which he said that Lehman and Barclays "had negotiated a discount for Barclays—that Barclays was going to get its package of inventory for \$5 billion less than 'our marks' — where Lehman had actually valued the stuff." (180) the lawyers had discovered evidence that Barclays had worked a windfall for itself into the deal. The creditor

lawyers met their deadline by just two days, laying out everything in an 87-page motion including how the bankruptcy judge had been duped and that Lehman officials had all been offered lucrative contracts with Barclays. The creditor lawyers also laid out an argument for reopening the case.

Barclays were rightly panicked and brought in famed attorney David Boies. The trial went on for months and Lehman and Barclays executives who were involved in the weekend deal shamelessly revealed what had taken place behind closed doors prior to the sale. They all testified that all along the plan had been to tilt the deal in Barclays' favor. Not setting up the deal for Barclays to profit would have been a deal breaker.

The \$5 billion profit that Barclays realized upon the sale of Lehman Brothers was just phase one. Phase two was instituted when Barclays executives decided that \$5 billion wasn't enough. They directed Lehman executives to scour the books for more. They found so much that it nearly frightened Barclays executives. Were they getting too greedy?! The total amount Barclays extracted from Lehman was between \$5 and \$7 billion.

There was one final obstacle that presented a problem for the sale. On September 19th, the Friday before the Monday sale, Lehman filed for bankruptcy. Under bankruptcy law, all open contracts are to be frozen to protect creditors who are owed money by the company. If this law were to be followed by Barclays, they would have had to leave their \$5 billion behind for the creditors. Barclays plan to get the money despite the bankruptcy filing was the aforementioned "clarification letter."

Although this letter was full of confusing legalese, what it said was that the termination of Barclays' termination of the repo loan that was terminated the day before really didn't happen the day before - it was happening on that day, the Saturday before the sale. This letter avoided Barclays having to report to the bankruptcy judge that they were keeping \$5 billion in assets from the sale. The lawyers all agreed that this change as stated in the "clarification letter" didn't rise to a level that called for a review and second approval by the judge. They colluded to tell the creditors that the market had moved and that Lehman assets had been devalued by \$5 billion since the first agreement was written up; thus, the missing \$5 billion was accounted for. The sale went through and the clarification letter was buried in a mountain of documents. Barclays and Lehman executives testified to these goings-on.

Barclays' attorneys didn't deny what had occurred. They argued that it was legally inappropriate to reopen the matter. Boies and his team of defense lawyers argued the sour grapes defense that the creditors were jealous of their client's wealth. In closing, Boies argued that the creditor lawyers as well as the judge himself knew about the clarification letter. The creditors were just waiting to see how well Barclays would prospect after the sale and then pounce on them then. Peck pointed out that he had never approved the clarification letter. All during the trial, the judge hinted that there were disclosure issues on the part of the defendant which made the creditors hopeful that they would recover some of their money.

Unfortunately, the judge found in favor of the defendants and the creditors were given no relief. His reasoning was based on his view that nothing would have been different if all the facts had been known. In essence, this was the civil version of collateral consequences. The judge did refer to the egregious failures to disclose all information and that the clarification was not insignificant as Barclays' claimed; it made major changes in the deal. Yet the judge proclaimed that he would treat the document as if it were approved. Peck concluded that there were no crimes and attributed the actions taken by Barclays a result of the "fog" of Lehman. The firm had an emergency that was far more dire than before it.

The impact of the Lehman collapse has been felt years afterwards. The city of Long Beach has been forced to make sweeping cuts to its budget. Union workers lost their pensions across the nation. Banks from four countries found that Barclays had been manipulating rates resulting in the LIBOR scandal. They were manipulating rates so they could make more money on trades. Barclays finally received punishment; the Bank of England fined them \$453 million and called for Bob Diamond to step down. However, the majority of lawsuits involving the LIBOR matter died on the vine.

Analysis

While many of the actions of large banks and financial institutions could be considered irresponsible at best, and criminal at worst, there were no laws on the books with which to actually prosecute them, making their actions not criminal legally. There were, however, some actions that were indeed criminal legally, including those committed by Lehman Brothers, which secretly stole money and sold off the company without letting people know. In the process, the company buying out Lehman - Barclay's - worked out a windfall profit deal for itself while numerous investors in Lehman were left with nothing.

Despite the failures to disclose important information, and the fact that Lehman had filed for bankruptcy and could not guarantee Barclay's a profit, the judge in the trial ruled in favor of the defense. Though he exonerated Lehman and Barclay's of crimes due to the understanding that, with or without the facts being known, nothing would have changed, the judge did slam them for willfully refusing to disclose all information. Such a failure to disclose is considered obstruction to the non-rich when dealing with the law.

The use of the Lehman Brothers-Barclay's secret deal adds more evidence to the claim that Taibbi makes, that the rich and the non-rich are treated differently when it comes to the law. Given a smaller company, or individuals, the penalty for such activities would have been prison. Taibbi consistently returns to the concept of collateral consequences, in which the understanding that the collapse of either Lehman or Barclay's, due to excessive fines or imprisonment, would surely have affected millions of lives across multiple countries and their economies.

Vocabulary

parsed, recoup, convoluted, narcissistic, intransigence, congenital, neophytes, foraging, lurid, veritable, coup d'état, iconic, arcane, idiosyncratic

Chapter Five: Border Trouble, Part 1

Summary

Taibbi was in Gainesville, Georgia, riding in the front passenger seat of a large taxi. The driver was named Jose. He was able to drive because he had a license. Another passenger, Alma, was undocumented and related that she got a ticket for driving without a license. Jose was surprised that she wasn't deported. Gainesville has a population of 34,000 and all eight taxi cab companies are owned by Latinos. It recalled to Taibbi the private taxi services that Martin Luther King, Jr., and his followers established in Montgomery in 1955. The taxi services were established so that African Americans could avoid the segregated bus system.

The Latino-owned cab companies in Gainesville mimicked the MLK private taxi services so that Latinos would avoid punitive immigration laws. In this small city, all law enforcement officers were given the authority to arrest undocumented or illegal aliens. Under the federal Secure Communities Initiative all arrestees were subject to fingerprinting and checks on their immigration status. States could opt out of the program – New York and Massachusetts did so immediately after its passage. However, the federal government notified the states that they had been opted back into the program. This meant that all law enforcement officers in all states were ICE deputies. Any minor traffic violation could lead to deportation for an undocumented immigrant.

Police checkpoints were set up in Latino areas, even by churches, in some cities ready to pounce. It was potentially a lucrative tactic for the cops. Driving without a license could garner \$1,000 in some communities. In these areas, people were fundamentally denied their rights. There was no due process for them, no one phone call after arrest and no Miranda rights read to them. It caused people to withdraw and live in the shadows. Even search and seizure laws were generally ignored by law enforcement when it came to undocumented immigrants.

Immigration judges work for the same branch of government as the prosecutors do. Most of these immigrants feel they are living in a police state. Taibbi encountered a woman named Ella who had been a doctor in Mexico which she fled because of the violence there. Ella wound up cleaning houses and her husband, also a doctor in Mexico, was doing construction work. She was arrested in the U.S. one day when she was rear-ended by another car. She spent two days in jail and was badgered by ICE officials to sign a waiver of rights which would have caused her immediate deportation. This waiver of rights had been used to deport 160,000 between 2000 and 2010. Under President Obama, the deportations have increased. There were nearly 400,000 deportations in 2011, most of whom were not hardened criminals but, rather, guilty of minor or trumped up violations. In all, one million people have been deported under the Obama administration. Many immigrants are pressured to sign the waiver of rights before they are able to contact a lawyer. Ella, a highly education individual, refused to

sign the waiver. After her release, she had to face the prospect of a deportation hearing which she would probably lose.

While this goes on across the nation on a daily basis, not one employee of any foreign bank has been held accountable for their far more egregious crimes. Instead, they use their position to steal from the people and take their profits offshore to avoid paying taxes on them. On the other side of the spectrum, is a class of people who live below the level of citizenship, fearful and in the shadows.

Gainesville is the Poultry Capital of the World. In the past, the chicken industry in the city has depended on labor forces consisting of minorities including African Americans and Vietnamese and then currently the Latinos. Twenty years ago, Latinos made up only eight percent of Gainesville's population. By 2010, it had increased to 42 percent. But the chicken industry is hurting now that the economic crisis is driving Latinos out of Gainesville and back to Mexico where at least they wouldn't have to be worried about being thrown in jail for a minor traffic violation. A law passed in the Georgia legislature in 2008 didn't help lure the workers to stay. The law essentially stated that if a citizen was caught driving without a license, it would be considered a minor matter with no fine. If an undocumented immigrant was driving without a license, they would be fined up to \$1,000 and convicted of a misdemeanor or even a felony. This is why there are so many Latino cab companies in Gainesville.

Alvaro Fernandez was a native of Colombia. He was in America for ten years and ran a successful construction concern near Gainesville. With all the equipment and tools he had to transport on a daily basis, he couldn't take a cab but had to drive his pick-up truck. Knowing that he needed a license, he bought a fake Mexican license. He was in an accident and the information from his license was included in a police report. In 2010, he was apprehended one night at a checkpoint and thrown into jail. He knew his fake Mexican license would show up. He also knew that if he were deported to Colombia it would be a very long time before he'd see his wife and family again. He decided to remain silent about his Colombian heritage and sign the documents that would waive his rights. He'd be sent to Mexico but it would be much easier to return to the U.S. from Mexico than from Colombia.

Alvaro planned to call his nephew the next morning so they could plan his return. The prisoners were allowed to use the phone 30 minutes each day. The phone wasn't in use so he walked over and began dialing. He didn't know that the black inmates "owned" the phone and that he needed their permission to make a call. They began beating him and he took a serious blow to the head. The jailers stopped the fight and put Alvaro in the "hole", a three by four foot cell with no toilet. He didn't have to stay long and was soon on his way to the North George Detention Center to await deportation.

It was a clean and much nicer facility than the jail and was a privately owned jail, the new wave of incarceration in the U.S., the owners of which received \$166 a day per prisoner from the government. The owner of this facility, the Corrections Corporation of America or CCA, had revenues of \$1.7 billion in 2011. Firms like CCA donate generously to local politicians to secure their relationship. Local police departments also

benefit from the arrest and incarceration of immigrants. A program called State Criminal Alien Assistant Program pays local police for detained immigrants who meet their standards. \$1.6 billion is divvied up among the 50 U.S. states each year for this program. Ironically, Wall Street benefits as well. Some of the biggest investors in the private prison industry are Wall Street bigwigs. The number of incarcerated Americans (including undocumented immigrants) has increased from under 500,000 in 1980 to over 2 million in 2006 and is still on the rise.

At the CCA facility, immigrant prisoners are told nothing about their fate. Alvaro wasn't allowed to talk to an ICE officer for almost two weeks. It was his first opportunity to sign the waiver and he did so without any convincing. After several more weeks, Alvaro and other immigrant inmates were roused out of sleep at 5 am, placed in leg and waist chains and handcuffed and marched out of the facility to a waiting bus. They first traveled to Atlanta. Most of the prisoners on the bus were like Alvaro, honest people who worked for a living and had been trapped in the dragnet. In Columbus, Georgia, they were boarded onto a huge plane that would take them to the border. Alvaro estimated that there were 450 prisoners on the plane. They flew to Texas and were driven to an international bridge that led across the border to Nuevo Laredo, Mexico. As they neared their destination, there was a commotion at the front of the bus. One of the prisoners got into a nasty verbal exchange. Four guards descended on the guy. He was taken off the bus and the other prisoners didn't see him again. There were more than 100 deaths of undocumented immigrants in ICE custody between 2003 and 2010.

The remaining prisoners were given a box with their belongings and directed to cross the border. They walked over the Rio Grande into Mexico. Alvaro had \$60 in his pocket and no clue how everything would turn out. Alvaro decided to call his nephew. As soon as he picked up the pay phone to dial, he was interrupted by a bicycle cop who told him that he was under arrest for making an illegal phone call. Alvaro stood his ground and the bicycle cop eventually moved on. An old man who had watched the episode offered Alvaro a place to stay for the night. The old man took Alvaro to a decrepit neighborhood with many burned down houses. Alvaro got the feeling that something strange was going on. The old man was well into his sixties but his wife was in her early twenties and apparently pregnant with his child. There were other small children in the house as well.

Alvaro slept well that night. The next morning the old man introduced him to a Mafioso named Fitus who could arrange for a "coyote" or immigrant smuggler to take him back across to the U.S. But it would cost him. Alvaro arranged for the money to be wired to him. He returned to the old man's house but things had gone downhill. The old man was drunk and beating his young wife. When Alvaro tried to intercede, the old man threw him out. He found his way to a hotel and got a room. He decided to call relatives in Colombia. That call represented the second side to the immigrant dragnet.

The call came to the attention of the Zetas, gangsters known for their cruelty and crimes. A short time after making his call, men arrived at his hotel room, abducted him and threw him in their car. He was taken to a large house and was shocked to see at least 25 of the people he had been deported with. They were each being held for \$5,000 to \$7,000 in ransom. When he was questioned, Alvaro told the Zetas that he

was working with Fitus. That impressed the gang members and after a brief discussion and a check with Fitus, Alvaro was released from the house.

Next, Fitus had him taken to a safe house where still more immigrants were housed in a filthy room waiting to return to their jobs and families in America. They were eventually taken to the desert where they met up with two coyotes; one of them was extremely inebriated. They boarded a bus and headed out, picking up more people along the way. By the time they arrived at the border crossing there were more than 200 returning immigrants. They waited to make passage on a boat near the Rio Grande for days with little to eat or drink. Finally, men on inflatable rafts appeared and took everyone across. Alvaro walked through the desert for untold miles after making the crossing only to be facing a twelve-foot high fence which they climbed over. After this excruciating journey, Alvaro was devastated when he saw ICE copters circling over them. Alvaro's group split up and when they were able to reunite again, a number of adults and several children were missing.

Alvaro and the group continued walking for two more days. They met up with more coyotes who drove them to a mobile home in San Antonio. The outside looked fine but inside it was all burned up. The deal on the Mexican side had been \$1,000 to get them to this point. Now they were told that each person had to pay an additional \$200. Although Alvaro refused to pay at first, he eventually had his family wire the \$200. He hitched a ride to Mississippi where his nephew picked him up and took him home. His ordeal had lasted a month.

Shortly after Alvaro's return to Gainesville, the city's local business leaders met to lament the shortage of good workers and housekeepers. Some of these leaders traveled to Atlanta to complain where they pleaded with the legislators not to pass any more laws that would compel the Hispanic workers to be deported or to vacate their jobs and the city because of the harsh laws. This happened across the country and the restrictions were relaxed and cops no longer had to act as ICE officers. A kinder and gentler immigration policy that eased up on deportations was issued forth by ICE. Further, emphasis was to be placed on dangerous criminals and felons.

The only result was less deportations. The petty arrests and ridiculous fines against the immigrants only increased. Everyone – except the immigrant targets – were happy; the business leaders got to keep their labor force and the cops continued to bilk money out of the immigrant community. Deportations didn't cease but the new policy allowed the immigrants to stay home while waiting for final disposition. The CCA detention center eventually closed for lack of "business." ICE claimed they were hunting down real criminals but in essence it was the same non-criminal immigrants who were their targets. Corporate America saw that they could extract time and labor from these people who virtually had no rights.

Taibbi traveled to the Boyle Heights section of Los Angeles. It is a poverty-stricken area that is populated largely by Hispanics. He met with Natividad (Nati) Felix to discuss her three experiences with one of the most draconian laws in the land. Nati came to America when she was 15-years old and just married. She realized after she was in the

U.S. for a while how much her large family in Mexico meant to her. Her and her young husband, Gabriel, had crossed over the border illegally at San Isidro eventually winding up in Los Angeles. They got a small apartment. Gabriel picked up day construction jobs by hanging out at Home Depot. He worked long, hard hours with only little pay.

Years went by and the couple had six children. Gabriel continued working construction and carpentry jobs. He got into a conflict with a gang member in the neighborhood. Gabriel was being harassed by this guy for some time and finally blew up and attacked him with a hammer. Gabriel was arrested. The courtroom was the last time that Nati ever saw him. Under pressure, he signed the waiver and was deported. Nati can't go visit him and he can't return to the U.S. They eventually lost contact.

Nati had no money and no one to help her. She and her children were evicted from her apartment. An old man in the neighborhood had given her an old van. That van became the family's home for the time being. They didn't have any money or food or a bathroom. The family ate at a downtown meal services cafeteria once a day. She tried but failed to get food stamps. Her children were all U.S. citizens. The family was in danger and was harassed by area gang members.

After months, Nati finally got the kids into a shelter. After several months, she found a room in a half-way house in a neighborhood filled with criminals and the mentally ill. The van was her life-line. She drove the kids to school and was able to look for work. She found some work as a cook and housekeeper. One day after dropping off two of her kids off at school, she noticed that a police car was following her. At the time, it was illegal for Nati to have a driver's license and, therefore, she was driving without a license and was given a ticket with a \$500 fine. Because Nati had no registration, the cops confiscated her van and forced her and her four kids to get out. It would cost her \$1,000 to get the car back and \$500 to pay her ticket. She didn't have money to pay either one so she had to do 50 hours of community service. After losing her van, she had to take her kids to school on the bus.

One night one of her sons, Adan, woke with a high fever and needed to get medical treatment for him. She called a taxi company but they refused to come into her neighborhood at night. She took all her kids, five healthy ones and one sick one, and walked a mile to a pre-arranged place where a taxi was waiting for her. In 2009, she got another car and soon after was caught at a checkpoint. She lost that car and couldn't pay the \$1,200 to reclaim it. In 2010, she had saved up and got another car but got caught again. She was ticketed for driving without a license and her car was confiscated. She had never paid the other tickets and now owed \$1,700. She opted to appear before the judge and ask for leniency.

The judge apparently thought she was being lenient when she reduced Nati's fine to \$500 from \$1,700 and required her to work 170 hours in community service to be completed over the next three months. Nati almost collapsed. Completing the community service requirement would prove to be a real challenge. For the next three months, she got up at 5 am and after Nati took her kids to school by bus, she worked at her job at Homeboy and clean bathrooms and vacuumed until the afternoon when she'd



pick her kids up and bring them back to work with her. In the evening she did her community service time by cooking at a homeless shelter, her kids having to sit there and wait for her. She got home every night at nearly midnight. She recalled that she cried for most of those three months.

The laws changed and Nati and her older kids could get a license. But after what Nati went through, they all prefer to take the bus or a cab. Nati was an undocumented immigrant who was arrested for minor violations while American-born citizens are committed felonies and just walking away from them.

Analysis

Taibbi, in the fifth chapter, shifts his focus from non-rich American citizens to undocumented residents, or illegal immigrants, and those of the Hispanic community at large. That the police have the power to arrest illegal aliens proved to be lucrative to them, according to Taibbi, so they routinely set up traps in heavily-Hispanic areas with the intent of rooting them out. Minor infractions could ultimately lead to deportation. In many such cases, due process was not afforded those arrested. Subsequently, more than one million have been deported under the Obama administration. Taibbi goes on to point out that many of these deportations were over minor crimes committed, while once again, the rich - especially those of the big banks and financial institutions - commit crimes daily, and are never brought to account for them.

Often, deportation of illegal immigrants is not just being returned to their home country: they are often targeted by gangs, the mafia, and other criminal organizations which seek to use them to make money by way of offering to get them back into the United States - for thousands of dollars. These sorts of incidents can become violent and terrible, as those who cannot pay are often killed, forced into drug smuggling or sex slavery, or have their families held hostage until debts can be repaid. Taibbi also presents the story of Nati, an illegal immigrant who was caught driving without a license multiple times, fined \$500, and ordered to 170 hours of community service. For a seemingly simple infraction, Nati was faced with a serious punishment; meanwhile, Taibbi reiterates, the rich commit felonies everyday, which they are free to walk away from.

Vocabulary

querulously, apartheid, mandatory, draconian, archipelago, torrent, inherent, odyssey, gulag, paradigm, repatriated

Chapter Six: Border Trouble, Part 2

Summary

Spyro Contogouris sat down at his computer in August 2005 typing out reassurances to his boss. Spyro worked for a hedge fund. He would be arrested for felony embezzlement in a real estate scam the next year but of course didn't know that at the time. Spyro had been hired to destroy Fairfax Financial Holdings, a Canadian insurance company. His billionaire boss not only wanted the company to fail, he wanted its Indian CEO and Canadian immigrant Prem Watsa to be disgraced. On that day Spyro was assuring his impatient boss that he would fulfill his duties. The vindictive hedge fund boss was a fixture in high society and received the adulation of the press for his great taste in art and his vast art collection.

This boss was Adam Sender, CEO of Exis Capital. Two years before he and a number of fellow billionaires – known collectively as the “Masters of the Universe” – placed a short term bet against Fairfax. If Fairfax failed, each of these wealthy men would gain millions of dollars. Their first attempt to destroy the company with an insider trading scheme, failed. As the plans advanced, most journalists stayed away from the story because it was just too unbelievable. It seemed like a really bad conspiracy theory.

What occurred was unbelievable. In their efforts to make the company collapse, the billionaires had their minions follow Fairfax executives, hack their bank accounts, gathered intelligence about their sexual preferences for blackmail purposes, broke into their hotel rooms and threatened them among other nefarious deeds. They also waged a campaign to scare away investors and urge rating agencies to downgrade them. Even though Sender and his billionaire friends committed multiple crimes, they went unpunished. Somewhere along the line, it stops being about money and it shifts to being about power and hatred.

Prior to January 2003, Prem Watsa was considered an immigrant success story in Canada. He came to Toronto from India almost penniless. He attended the University of Western Ontario and after graduation he secured a job with Confederation Life where he learned about investing and investment strategies and became an expert in stock-picking methodology. Although Prem wasn't wealthy as a result of his expertise, he was well-respected and had a growing reputation in the business community. Prem and some other associates went together to purchase a small company called Markel Insurance which they changed to Fairfax. The owners were a kind and honest bunch. By the mid-1990s, Fairfax was one of the leaders in the North American insurance business. Its stock had risen from \$70 in 1995 to over \$605 in 1999.

In December 2002, Fairfax was listed with the NYSE. A few months later, things started to seem a little odd. The NYSE was trading 200,000 to a million shares a day. This run-up on Fairfax stock was followed by some very negative reports about the company suggesting that Fairfax executives were engaging in fraud. One report said that the

company was \$5 billion underwater. Prem and his colleagues thought it had to be a joke. It was so far from the truth. By mid-January, Fairfax stock was taking a nose dive on the Canadian exchange. The Canadian authorities contacted Fairfax demanding to know what was going on. Fairfax issued a press release that the reports were completely false.

A Wall Street acquaintance told Prem that Fairfax was being besieged by short sellers. Prem really didn't get the full meaning of his friend's words. Prem knew there was nothing wrong with his company and figured that investors could take advantage of its falling stocks. Prem and the others continued to reassure investors that Fairfax was solid and not in trouble. Prem had no idea what was going on with his company.

In the early 1990s, a new presence surfaced on Wall Street in the form of hedge funds. Many of the hedge fund managers were young grads who didn't want to go down the traditional Wall Street path. They wanted a shortcut to earning big money and were drawn to the hedge funds because they were largely unregulated. There were no loyalties among hedge fund managers. They got aboard a company for a few days or even minutes, robbed it for as much as they could and then moved on. One of the most successful traders was Stevie Cohn who founded SAC Capital, a secretive hedge fund, and rose so rapidly that it made Fairfax look like a hamburger stand. Less than ten years after Cohn founded SAC, he was earning \$350 million a year. A short three-years after that, he was earning a billion a year. Cohn earned his stunning income by overcharging investors for his fee which he set at 50 percent of the profits earned for them. Everyone on Wall Street knew that Cohn was cheating. Regulators eventually did catch up with him but it was years later. Adam Sender, who founded Exis in 1998, was one of Cohn's managers. Sender had learned from the master and began emulating his practices in his own hedge fund.

Like Cohn before him, Sender became a fan of pop-art. Cohen paid an astonishing \$12 million for a single sculpture – the highest price ever paid to a living artist. The piece was hideous by most accounts – a pickled shark fourteen feet long and suspended in formaldehyde. To Cohen it was a self-portrait. The shark began to rot almost after Cohen purchased it. Dan Loeb was another hedge fund billionaire. His fund would invest heavily in large companies and then trash them in the media. He was rude and obnoxious to most people he encountered. He was known as the angry investor who wasn't afraid to tear down a CEO in the most public way. There were others in this club including Jim Chanos he exclusively bet against companies. He actually did a good deed by helping expose Enron's crimes. But Chanos and other high-octane short-sellers was a little unbalanced because of the enormous risks they take. Short-sellers have to pay fees to borrow stocks before the hedge fund manager can "short" it. By the early 2000s, four men – Loeb, Cohen, Sender and Chanos – managed tens of billions of dollars and had unlimited influence. They got together and decided to target Fairfax.

Short sellers do their homework and generally know more about corruption in the markets than the press and regulators. They usually bet right. Fairfax had a value of between \$20 and \$30 billion and was struggling with two companies it had just acquired. Chanos was the first to bet against Fairfax. Chanos did his best to bad-mouth



Fairfax and in New York it was considered a third-rate insurer. A report prepared by a hired analyst and former hedge fund manager began circulating before it was completed. It was common for analysts to share their research with hedge fund managers ahead of a public report giving them a huge advantage. It was a form of insider trading that was exposed by New York Attorney General Eliot Spitzer. The arrangements were quid pro quo – insider information for further business. With the hedge funds having all the advantage, the small individual trader had no chance. By mid-January 2003, staffs at a dozen big hedge funds were already trading Fairfax and had seen the unpublished report from the analyst. The analyst was congratulated by hedge fund bigwigs before the report was issued. When Chanos became aware of the contents of the report, he doubled down on his bets against Fairfax. He made tons of money and boasted about his insider trading.

After the report came out, Fairfax stock lost 25 percent in value. Their apparent demise was celebrated on Wall Street. It was later learned that one of the hedge fund executives was instrumental in getting the analyst hired to write the report on Fairfax. Years later, many hedge fund employees claimed that betting against Fairfax was justified because Fairfax was a corrupt company operated by inept executives. The analyst report and the bad press spread by hedge funds could have been enough to bring Fairfax down since it was the kind of company that relied upon public trust. But people began to question the accuracy of the analyst's report. At the same time, Fairfax issued its own positive financial report which made some question the other report even more. Fairfax stock began to slowly increase in value. The hedge funds pressured the analytical company to continue trashing Fairfax. They wanted a new report that was even more negative than the first.

John Gwynn the analyst who authored the first report would issue an incredible sixty-four negative reports about Fairfax over the next three years. Gwynn was eventually terminated by his company. The efforts by the hedge fund managers did only little damage to Fairfax. If a company is to be destroyed, the boat has to really sink and Fairfax did not. When Fairfax stock increased after it had taken a beating, it was more and more difficult and expensive for the hedge funds to pay increasingly higher fees to borrow the stocks in order to bet against it.

As it became more and more evident that Fairfax wasn't going to collapse, the hedge funds knew that it would be them who would be losing. In order to reverse this inevitability, the hedge funds decided to contact the rating agencies and convince them to downgrade Fairfax which could provide the negative pressure and finally bring Fairfax to its knees. Had Fairfax failed it would have meant literally thousands of jobs in Canada and America. When the victims are small investors spread out all over the globe sometimes the damage is difficult to detect. And when the victims are professional investors, no one feels sorry for them. This reasoning is why many believe that insider trading and similar activities aren't really crimes. The innocent investor hardly feels it and the professional should have known better.

On November 9, 2005, Barry Parker the pastor of St. Paul's Anglican Church in Toronto received a FedEx package which he found odd. The address looked familiar so he

looked it up. The address was St. Patrick's Catholic Church in New York City. On the pretense that the writer was concerned about the church's finances, it accused Prem of fraud and money-laundering and that he was using a false identity. There was a long article attached to the letter about a scam artist who the writer claimed was Prem's true identity. The letter was signed "P. Fate." Parker didn't believe the letter. He had known Prem for years. But the letter disturbed him. The same package was sent to Prem.

This letter was just one of a dozen attempts to discredit and ruin Prem. Letters to associates and employees were harsh and threatening. His assistant got threatening calls in the middle of the night. Messages about Prem and his crimes appeared on the Internet. Employees were even visited at home by goons with threats and warnings about Prem. Rating agencies were receiving the similar garbage. When Prem was in Stamford, CT, on business. When he returned to his room from a meeting, there was a book entitled, "The Tipping Point." Someone had gone into his room and left the book while he was out with a title that threatened his end.

Paul Rivett, the Fairfax general counsel, was relatively new to the company and believed that gathering evidence against its enemies was a better strategy than just performing well. He meticulously recorded all acts of harassment Fairfax employees were being subjected to and there were many. Rivett was a target himself. Rivett believed that all these acts were connected. What really freaked Fairfax executives was the rumor that Watsa had sold his home and that Royal Canadian Mounted Police were occupying Fairfax offices. The rumor had a lasting impact even though it was completely false. At the time, no one at Fairfax had any idea that all these subservice actions came from hedge fund managers on Wall Street and that Spyro Contogouris had led the charge. He vowed to the Wall Street billionaires that he would bring Fairfax down. Contogouris' journey to Wall Street was a long and murky and storied one.

Contogouris planned to bring Fairfax down by "closing access to the capital markets" (288) by ruining its reputation and credit worthiness. By creating a crisis of confidence, Fairfax would fail. His style was to hit Fairfax from all sides – from the regulatory and credit agencies, the press and Fairfax employees. His antics were pleasing Sender and Chanos and even participated in the harassment tactics. Contogouris and his minions, including a former FBI agent, even researched the sexual orientations and habits of Fairfax principals as well as their religious beliefs. Contogouris and the former FBI agent got themselves registered as FBI informants. And apparently for a time they were working with the FBI and used this connection to compel Fairfax employees to spill secrets.

Contogouris connected with a Fairfax executive named Trevor Ambridge. He promised that nothing would be held against him if he agreed to meet with the FBI. He arranged a meeting and got the FBI to agree to send some agents. Unknown to Contogouris the time, Ambridge was working with internal Fairfax personnel and the company's attorneys. They wanted Ambridge to meet with Contogouris to see what he was up to. But when Contogouris refused to meet in public, the security team had Ambridge cancel the meeting. As an FBI informant, Contogouris was not to discuss his activities with

anyone but he couldn't contain himself and jubilantly shared his progress with Ambridge with Sender.

After Ambridge cancelled the meeting, Contogouris began threatening him. He warned him that he would expose all the emails they had exchanged. Contogouris was working with a New York Post reporter on an expose on Fairfax. The Wall Street billionaires who were bent on bringing Fairfax down were jubilant – they were certain it was a done deal. The expose ran in July 2006 when the reporter was on vacation. When he returned, he began to have a change of heart. By this time, the hedge fund managers had been trying to destroy Fairfax for three years.

In 2005, Rivett had made repeated attempts to get the regulators to listen to his story – that they were under assault by small group of billionaire hedge fund managers. The regulators all looked at him like he was crazy. He even met with members of the U.S. Congress, the FBI and the SEC but got nowhere. Fairfax executives were in a quandary about what to do. If they took action, the “Masters of the Universe” would crush them. But Watsa and Rivett knew they were up against the wall and there was no option other than to fight back. The law firm that was helping them investigate the situation had heard that the hedge fund managers were already popping the champagne bottles.

Fairfax wasn't facing a serious investigation by regulators; they were facing the loss of investors from all the lies. If their value took a nosedive, they'd be out of business. Fairfax answered every accusation leveled by the hedge fund managers and filed a lawsuit against them. Filing – not winning – the lawsuit is what saved Fairfax. The Fairfax lawyers had no doubt that when pushed to explain their accusations, that the Wall Street billionaires would be unable to present one iota of fraud on Fairfax's part. Jonathan Kalikow worked for Standard Capital, another hedge fund. In a sworn deposition testifying against his fellow hedge fund managers, that Kalikow took a loss of \$60 to \$70 million dollars on the deal.

Although Fairfax admitted some accounting errors in the years 2001-2005, they were relatively minor ones compared to billions of dollars lost by companies like Enron. The Fairfax restatement made Kalikow bail out on his Fairfax short bet. Fairfax was one of the only companies that defended itself against an onslaught from Wall Street. What really sunk the hopes of the hedge fund managers for a Fairfax collapse was that the New York Post expose stated that Contogouris had been deputized by the FBI which wasn't true. The FBI does not have the authority to deputize citizens. The article was a huge embarrassment for the FBI. Contogouris was arrested in November 2006 on federal charges relating to defrauding a former employer out of \$5 million. The FBI had cause to arrest Contogouris but they also wanted to send him and his associates a message about blabbing and lying about the FBI to the New York Post.

Fairfax's value began to increase, regaining \$2 billion in stock value. This uptick wasn't based on performance or the lies being told about Fairfax, it was all about their filing a lawsuit and Contogouris' arrest. The trial was held in January 2012 in Morristown, New Jersey. Fairfax, the plaintiff had three lawyers; there were 36 defense lawyers. The judge dismissed Steve Cohen's SAC fund from the case, convinced that they couldn't



have been a part of a scheme to destroy Fairfax. The judge chose to ignore evidence that proved SAC was culpable. A month later, the judge also dismissed Chanos and Loeb mainly because they worked out of New York, not New Jersey. Fairfax had chosen to file the lawsuit in New Jersey so they could bring RICO charges in a civil case which wasn't allowed in New York. RICO stands for Racketeer Influenced and Corrupt Organizations statute.

The next decision the judge would make was whether Fairfax had the right to use the RICO statute. If they would be disallowed from doing so, they had no chance of winning. On the day that the judge was to decide, one of the defense attorneys presented a list of the plaintiff's complaints along with an approximation of which ones took place in New Jersey. The lawyer concluded that only 4.6 percent of the crimes took place in the state. It was clear that the judge feared that Fairfax was trying to use New Jersey to get money from a group of New York hedge funds. He was afraid that it would open the flood gates for a deluge of lawsuits that didn't work in New York. A year later the entire case was dismissed. The judge would allow Fairfax to only continue on with a suit for \$19 million against just Exis and Morgan Keegan. Fairfax decided to appeal the case later and bring all the defendants back in.

Several months later, the federal government was pursuing an insider trading charge against SAC. It was the most lucrative the feds had ever seen. One of SAC's employees learned about a failed trial on an Alzheimer's drug that was being tested by several companies SAC had invested in. Acting on this information, SAC liquidated its \$700 million investment in these companies. Cohen was fined \$616 million which didn't faze him and his \$8 billion personal wealth. SAC was criminally indicted on insider trading charges and Cohn was sued in civil court for his failure to supervise the case in question.

When two black men drove down the street in a Range Rover, they were immediately profiled by the police. When Steve Cohen openly boasted about making an impossible profit on his Wall Street dealings, no one said a word. And when there is evidence that an honest company like Fairfax was being criminally targeted, the matter drags out for years and finally disappears.

Analysis

The arrogance and utter cruelty of certain rich people paves the way for Taibbi's sixth chapter, in which Adam Sender, CEO of Exis Capital, and various billionaire friends take bets to bring down Fairfax Financial Holdings. To do this, they engaged in everything from insider trading to following the personal lives of Fairfax employees to discredit them and their company. Ultimately, Fairfax became known as a third-rate insurer, and ultimately, the shady dealings of Sender and his friends caused an investigation into the affairs and conduct of Fairfax. Fairfax ultimately went to court to defend itself against its predators, but most charges against the predators were dismissed for one reason or another. Fairfax ultimately opted to pursue appeal.

The tragedy of such situations, Taibbi asserts, is that all too often, the rich are never punished, but the non-rich are punished routinely. While the rich are able to brag about the crimes they commit - such as Steve Cohen boasting about making an impossible profit - the non-rich are targeted for merely being under suspicion of a crime, such as the case presented of two black men driving down the street in a Range Rover. Meanwhile, the wealthy are never profiled, despite the fact that they, too, commit crimes.

Vocabulary

fiasco, instigate, protracted, bloodlust, seminal, beatific, trite, homage, ostentatious, eschewed, formaldehyde, ombudsman, aesthetic, antagonist

Chapter Seven: Little Frauds

Summary

Maria Espinosa answered her apartment door to find a man, Hispanic like her, standing there. He pushed her aside and went directly to her kitchen. Maria thought it was the police. Her boyfriend, Eduardo, had beat and harassed her frequently. He was worse when he drank. She was fearful of his violence and that he might harm her and their small son. She had finally kicked him out of her apartment. Finally, the man asked if she had applied for food stamps. She had applied for help at the local welfare office. She had legal status and qualified for help due to the domestic violence.

The man asserted that she had a problem with drugs which she vehemently denied. Then he accused her of having lots of problems with the police which she also denied. The man rooted through her kitchen cabinets and then moves to her bedroom and goes through her drawers. Maria told the man that Eduardo was gone and she would never take him back. He asked her why she didn't go back to Mexico. She responded that she had no money for such a move. The man warned her that if she allowed Eduardo to live with her again, the government could take her child away from her. She was shocked.

The man was, of all things, a social worker.

Twenty-two years later, Maria shared her story with Taibbi from her new home city of San Diego. She related that the man treated her like garbage. Preemptive searches like the one that Maria was subjected to still go on. Now the searches are done by law enforcement officials. No excuses are accepted. There must be one hundred percent compliance. No fraud is allowed. Taibbi found many other women who had similar experiences. A Vietnamese woman was so terrified from her visit by the social worker investigating her claim for welfare that she didn't open her door to anyone for a year. The male social worker had held up a pair of her panties telling her that they were too sexy for a woman by herself – a man had to live there. A white woman was investigated and told that she had too much food in her fridge. When the man found two toothbrushes in the bathroom, it was his aha moment. He didn't believe that they were both hers. Years later when the woman joined a lawsuit against the P100 program as it was called, she was asked again why she had two toothbrushes.

Women were rejected for assistance for unbelievable reasons. One was rejected because she had a Victoria's Secret bra which was deemed too expensive. Another woman was rejected because she had failed to label her food in the fridge and may have been eating her roommate's food. After thirty thousand of the P100 searches, some of the targets who were mainly African American and Latina women decided to go together and sue the government. Surely the behavior of the investigators was unconstitutional. The case of Rocio Sanchez et al v. county of San Diego was filed in 2004 with the help of the ACLU. It was a class action suit that had six litigants including the toothbrush lady.



Taibbi found that poor people, minorities, single women and people who rent don't have the full protection of the constitution. People who are well off seem to have full rights and even some extra rights. Their lawsuit was based on the Supreme Court case from the 1970s, *Wyman v. James*. Barbara James was on welfare which was cut off when she refused to meet her social worker in her apartment. The Supreme Court decided that since those on welfare are benefiting from tax dollars that the government has a right to see that the tax money isn't being used in a fraudulent way and that those on welfare are not protected under the Fourth Amendment. The dissenting justice pointed out that everyone benefits from the government in one way or the other. If the Fourth Amendment protection was taken from everyone who receives government assistance in one form or another, it would be unending. In reality, only black welfare mothers are usually the ones who lose their rights.

In the Sanchez case, the judge decided that there was nothing unconstitutional about the P100 policy and the behavior of investigating social workers. It was reasonable, the judge wrote, that the government would ensure that tax dollars were being used as they were intended. The difference in the treatment of people by law enforcement and the judicial system has become more visible since the 2008 financial crash. During the lead-up to the crash, lending companies located in San Diego were selling junk to Fannie Mae and Freddie Mac, government housing agencies while social workers were barging in on women who applied for aid and searching their houses. Even though the government was taken by the lending agencies, they chose not to go after them yet took the Fourth Amendment rights away from the women. Countrywide alone cost the taxpayer \$26 billion. The IMF estimated the worldwide loss caused by hedge fund managers and others at a dizzying \$4 trillion. The FBI warned about the possibility of widespread fraud in the housing industry, but the SEC and other regulators turned a blind eye. Although companies were fined, no one single individual was made to admit wrongdoing or was punished for his actions.

Society, Taibbi claims, has changed in its view of the rich and poor. The rich are admired and idolized regardless of their intellect or talent. The poor are hated and ridiculed because they are poor. The treatment of the wealthy men who committed crimes and caused a worldwide economic collapse and the suffering of untold millions confirms this attitude shift. "Need" is seen as a crime. It is extremely difficult for an individual to climb out of poverty with all the headwinds he faces. The laws favor the rich and will continue to favor them because they can afford an army of lobbyists who hang out in the U.S. capital to protect clients. Poor people can't afford to hire lobbyists for their interests. Poor people or those in the middle class don't have the money to hire teams of lawyers to get their way in the judicial system. Minorities suffer the most. Racism has become part of the government in a silent but powerful way. If one is rich, defrauding for big money is a virtue. When a former Goldman Sachs executive spilled his guts in a letter about how his company "screwed" its clients, Wall Street was angry that the New York Times printed the letter. After all, weren't these financial concerns in business to make a profit? Wall Street thieves are considered sophisticated and use it as a defense.

Markisha Powell had a baby when she was sixteen. She was high on meth and lost custody of the baby as soon as it was born. She did this three more times. Then she



met a nice man who her mother liked. Her mother, who Markisha had always stayed close to, urged her to get clean and straighten up her life. Markisha went into detox and was doing very well until her aunt came to visit one day and told her that her mother had died of a burst blood vessel.

After her initial rage and sorrow at losing her mother, Markisha settled down in an apartment with her boyfriend, Eric, and her five younger siblings and her stepfather who was ill. She got a job and stayed clean. She and Eric had a baby boy and when the baby was nine months old she got a call from the state-run day care clinic that was taking care of him. Eric hadn't come to pick the baby up. The clinic threatened to call CPS if no one came right away. Eric had the car so Markisha took a bus to get the child. She went home to her apartment and found Eric in bed with another woman. Markisha threw the naked girl out without her clothes and started beating on Eric. She was charged with domestic violence and lost custody of her fifth child.

Markisha was back on the streets and back on meth. She was homeless and got arrested. One of the requirements of her punishment was to go into detox. She patched things up with Eric but they didn't get back together. All she wanted was her son back. Eric agreed to let her have custody of the baby if she got her own home and kept it. She got an apartment with a roommate and applied for some government assistance -- \$300 a month and food stamps. For this assistance, she was about to receive more scrutiny than Wall Street hedge fund managers who brought the world economy down. Racism was always a presence. Politicians could score easy points when speaking of black women on welfare.

When Markisha had to appear at the welfare office, she came at 8 am and she was still waiting at 5 pm. Arguments were breaking out among the social workers and the applicants. Hungry kids were crying; other kids were running around like wild animals. Markisha took a video of the scene with her phone. When she finally talked to a counselor, she learned that it would be 45 days before her application would be processed. The counselor asked if her "baby daddy" was giving her money to which Markisha replied that he was not. She also told Markisha that someone from the DA's office would be by to search her home.

Markisha had no idea when the search would take place. If she wasn't home when the investigator came, a card would be shoved under her door that since she wasn't there, she wouldn't be getting any benefits. When the investigator came he repeatedly asked her if her baby daddy lived with her. He didn't like the fact that her son wasn't home -- Eric had taken him to school. The investigator told Markisha that he had concluded his investigation but wouldn't tell her what he had concluded. A few weeks later she learned that she was rejected. The investigator didn't believe she was living with her son. She lost her apartment, is living with her aunt and is appealing the decision.

When applying for assistance in California, an applicant is required to fill out a very complicated form. Whatever is written on that form is what the applicant must live by or else she will lose her benefits. Applications are required to attest to the truthfulness of the contents of the application and are warned of the consequences if they lie. The

punishment for fraud is anywhere from three to twenty years. This form has to be renewed every quarter that an individual is receiving assistance. A young couple, Anna and Diego, were approved for food stamps and began receiving them. Then the assistance was revoked because Diego didn't qualify and Anna and Diego were informed that they owed the money back. The state was wrong – Diego did qualify but that didn't matter. The state wanted their money back. If Diego didn't pay, the state would garnish his wages. Anna was due to have their first child when Diego was notified that he owed the state over \$500 when he had actually only received \$200 in aid. They received a letter that because Diego wasn't repaying what he owed, Anna would be permanently denied her benefits. They were accused of committing fraud three times – the state was wrong on each one of them. None the less, the young couple lived in fear of what would happen.

The states make many mistakes which doesn't serve either the applicants for assistance of the state itself. The welfare caseworkers are swamped with a constant stream of paperwork. In many states, including California, the welfare workers and fraud investigators work out of the DA's office. Many times, applicants for aid or those receiving aid speak with fraud investigators without knowing their positions. Lobbyist organizations to increase investigations and more aggressively prosecute fraud exist in many states. Their efforts have resulted in multitudes of fraud cases which further stress the investigators and case workers. People really go to jail for mistakes made by the states in cases of welfare fraud.

While writing this book, Taibbi covered a Wall Street fraud case that had already dragged out for fifteen years. Finally, the defendants were found guilty and sentenced to multi-year sentences. However, they were freed by a judge on appeal. The names and "crimes" of those convicted of welfare fraud in Riverside, California, are publicized. The overall problem can be traced back to the Clinton administration who cracked down on the welfare system while at the same was responsible for widespread deregulation of the financial services industry. Clinton is a great politician. He had a nose for what the people wanted to hear. He promised that he would be behind "the end of welfare as we know it." (349) When the world economy tanked, Clinton was criticized for repealing the Glass-Steagall Act and the Commodity Futures Modernization Act of 2000 which deregulated the derivatives market, the market that ultimately caused many of the problems in 2008. The housing market boomed but the increased was based on watered down loan requirements for homes and cars. Another mistake made by the Clinton administration is that despite the lending that was going on, the government did not demand that financial firms increase their capital to match.

It was party time for Wall Street. Credit was easy to come by and regulators were hands-off, laying off much of their staffs. At the same time, welfare fraud was investigated and prosecuted like never before. Clinton's policies caused money to be tight among the poor but flowing free on Wall Street. Those seeking financial assistance from the government had to fill out long, detailed forms while lending companies did much of their speculation without filling out one page of a form. Clinton was driven by his quest to compete with the Republicans for Wall Street and he succeeded in doing so. "One lie in San Diego is a crime. But a million lies? That's just good business." (352)

Analysis

Social service workers often go above and beyond in their effort to root out real corruption when it comes to abuse of social assistance programs. Taibbi presents numerous instances of punishments being meted out for seemingly innocuous things -such as having too much food in the fridge or owning lingerie that is deemed too expensive. In other cases, women were rejected for social services for similar reasons. The lengths that investigators go to in order to assess welfare recipients or welfare seekers can sometimes indeed be unconstitutional. It is this disdain for the poor that Taibbi seizes upon to make his next points.

Taibbi asserts that in present-day America, the rich are idolized and admired, regardless as to whether or not they deserve it. The poor, meanwhile, are hated and ridiculed for being poor. This is borne out not only in the way that social workers deal with the poor, but in the way that the justice system deals with the rich. The laws favor the rich, and prevailing attitudes and cultural climates make it nearly impossible for the poor to rise above their station, Taibbi further argues. This is compounded by the Clinton administration's policies of welfare reform and his desire to put Wall Street in the pockets of the Democrats by supporting deregulation, which in turn gave rise to the Wall Street and financial industrial bubble that was to burst in 2008.

Vocabulary

cursory, ramshackle, preemptively, outliers, litigants, largesse, dichotomy, impunity, dystopia, aggrandizing, cumulative

Chapter Eight: Big Frauds

Summary

Taibbi met with Linda Almonte in her father's rundown house in Satellite Beach, Florida. She had been an executive with GE some years back and was a shopaholic and always drove nice cars. As a single mother of three, she was living temporarily with her father and living off her social security checks. At one time she was on public assistance. Linda had a long story to tell. She worked at Chase via Washington Mutual as a kind of roving trouble-shooter. When banks got into messes, she would help them work out of it. Her job took her cross country. WaMu collapsed in 2008. At that time, it was the sixth largest bank in America and the biggest to ever fail. WaMu fundamentally failed because of its penchant for fraudulent subprime mortgages. One executive had the goal of making WaMu the Wal-Mart of debt. On their way down, they acquired Long Beach Mortgage. Together they became a factory of subprime mortgages. After an investigation, it was revealed that WaMu knew that the loans brought in by Long Beach were largely fraudulent. Those who headed the campaign weren't fired but were celebrated for their performances. What put the final nail in WaMu's coffin was that they failed to rid themselves of their horrid products. They warehoused too much of their own junk.

There was a run on the bank, something that the feds always feared. In order to avoid owing WaMu customers their money and investments, the government seized the bank and arranged for JP Morgan Chase to take it over for a mere \$1.9 billion. Jamie Dimon, Chase's CEO, had been instrumental in taking over the investment bank Bear Stearns just months before also for a song. The official reason for allowing Chase such sweetheart deals was that it would stabilize the market. But the deal also concealed massive crimes and corruption. Chase had to keep all this under the radar.

Taibbi met with Linda in the summer of 2011 a year after she had been terminated from Chase. She had been unable to get any kind of job, even waiting tables. WaMu closed its doors at the peak of the 2008 collapse. She became an employee of Chase who sent her to work with one of its subsidiaries, a debt-buying firm called NCO. The company bought bad debt from other companies who had grown tired of trying to collect. NCO would purchase bad debt for pennies on the dollar. When they were able to collect, the profit was big. NCO is basically a lawsuit factory, filing thousands of lawsuits each year against delinquent account holders. Linda was the liaison between NCO and the law firms that worked for them – more than 150 firms in all.

Linda was transferred to San Antonio to help manage Chase's credit card litigation department. Detailed information is contained in the huge computer system on delinquent account holders. Linda thought her job would be similar to positions she held in the past but she soon found out that there were stark differences. First, she observed that all correspondence from delinquent account holders was shredded without reading it. Some were undoubtedly wishing to settle their accounts. Some active service

members dispatched to Iraq found their bank accounts wiped out by NCO for delinquencies. Normally, when a person is sued for not paying their credit card debt, an executive from the bank submits an affidavit attesting that the bank's claims are truthful. At NCO, young, entry-level workers provided the affidavits and were given fake titles that clearly overstated their real positions. Other entry-level employees were dispatched to partner law firms to audit their operations. Linda was very dubious about their credentials to do any of the work they were assigned to do. She also noted that lawsuits were created en masse by computers with no personal oversight. The "robo-signers" would then sign the lawsuits that were spit out by the computers. No one checked the calculations and figures contained in the documents. A notary would notarize large stacks of lawsuits without really attesting to anyone's signature. It was mass perjury and fraud and no one was punished for these crimes.

A few months after she was transferred to San Antonio, she was told that she would be overseeing the gathering of documentation for "the biggest judgment sale in Chase's history." (366) There were more than 23,000 accounts in this sale. Those accounts being sold to a third party all already had judgments against them. Gathering all the necessary documents was a huge undertaking. After spot checking the documentation that was coming in, she ultimately concluded that between 50-60% did not have judgments against them. They would be selling the third party debt collector a bunch of fraudulent files. In some cases, account holders were not even delinquent or were owed money by Chase. She emailed her immediate boss about this revelation. She was told not to worry about it. When Linda was faced with verifying to the third party company that all the accounts had judgments against them, she went over her boss' head and reported it to upper management. She was fired.

A few months after Linda was fired, a courthouse in Staten Island received a stack of over 100 legal filings from a collector called DebtOne. The clerk knew that it was an inordinate amount of filings and brought it to the judge's attention. The judge decided to take a closer look. Out of all such filings sent to courts all over the nation, Judge Strainiere of Staten Island was the only judge who didn't just push them on through. Committing fraud and thus breaking the law was the only way for Chase and the like to make "real" money. Fully automating the process from the computer-generated lawsuits to the robo-signers and robo-notaries was a must if they were to succeed. Although the party being sued is supposed to be served in person, most of them are not although the records indicate that they were served – referred to as gutter service practices. The head of a Long Island firm called American Legal Process was arrested for these gutter services. Multiple law firms were asked if they used this process service, including those connected with Chase.

Ultimately, several states sued Chase based in part on the information Linda provided to authorities. It was learned that in the vast majority of cases, defendants were unaware that they were being sued. Regardless of whether those being sued were served or not, Chase wasn't concerned because most of the time defendants failed to show up in court with documentation to prove their case. Chase banked on defendants not showing up to make their big money. Files sold to third party collectors are often scant and if information is missing, a bank like Chase will make these companies purchase the

missing information. The majority of credit card collection business is conducted without the proper documentation and most don't make it to court. It's a game of bluff on the part of the collectors. If a lawsuit is won by default, the collection companies can take a defendant's bank account and other possessions and place liens on property. Going after small amounts of debt was formerly avoided as too much trouble. Now with the speed and ease of computers, banks routinely go after even small debts.

Judge Straniere saw a number of problems with DebtOne's filings. The documents were signed by robo-signers and not by attorneys. DebtOne was not licensed to do business in New York. Also, Chase failed to notify their customers that their debt was being sold to a third party. He was also dubious about whether defendants had been properly served. For those reasons, the judge vacated all of DebtOne's 133 filings. The judge discovered that the filings were error-filled and sloppily transferred. As a result, a few months later Chase dropped a thousand collection lawsuits. It was a big loss for Chase but it would do absolutely nothing to their bottom line.

Linda had filed a whistleblower complaint with the SEC in 2010. A year later in 2011, they told her that they had no record of her complaint. Another year later in 2012, a representative of the SEC testified before the House. She informed the members that progress had been made in whistleblower cases but when pushed admitted that not one case had been made. At the same time Chase was committing this fraud, the federal government was supporting them financially with billions of dollars to purchase WaMu and Bear Stearns and other properties. Had they not paid the loans back, the taxpayer would have been stuck with the loss. The loans that the federal government provided to banks to support them through the financial crisis was known as TARP (Troubled Asset Relief Program). During this period, the federal government and the SEC allowed banks to over value their portfolios. They were able to borrow billions without interest. In all, banks had borrowed \$16 trillion from the government. It was learned that the banks paid kickbacks to local sheriffs to oversee the evacuation of foreclosed upon homes.

Chase was made to pay large fines. In 2011, it paid \$211 million for bid fixing and \$722 million for their involvement in the bribing of city officials in Birmingham, Alabama. Despite their record of criminality, Chase won the top spot among American banks for the government's bond business. There is no difference in the level of fraud between a woman who receives welfare yet lives with her boyfriend and the bank that uses robo-signers to verify customers' records. The difference is that the woman tries to hide her fraud while the bank operates overtly.

Analysis

Taibbi continues on in his argument to demonstrate how society has come to view the rich and the poor differently. He does so through the story of Linda Almonte, formerly rich, now living with three kids in her father's run-down house. She had been working with Chase, and was transferred around as needed to do everything related to accounting from sweetheart deals to credit card debt collection. Discovering fraud, Linda was subsequently fired from her job for reporting it. Ultimately, litigation was

pursued against Chase, though more often than not, defendants did not show up to court because they did not have sufficient documentation to demonstrate wrongdoing on the part of Chase.

However, the judge noted that there were serious problems with Chase's DebtOne collection services, from the fact that they were not able to do business in certain states to the fact that documents were signed automatically rather than by hand. Ultimately, Chase was made to pay fines in hundreds of millions of dollars for crimes it committed, including bribing city officials in Birmingham, Alabama. Here, Taibbi plainly demonstrates that fraud, whether it occurs at the individual level of a welfare recipient, or in a massive financial company, is still fraud. Yet, while the individual attempts to hide the crime, the financial companies act in broad daylight and get away with the crimes they commit apart from heavy fines.

Vocabulary

peripatetic, audacious, veritable, pariah, liaison, ostensibly, rampant, anomaly, rife, portfolio, temerity

Chapter Nine: Collateral Consequences

Summary

A young white musician named Patrick Jewell lived in Brooklyn; he had just fallen in love with a girl he met and life was good. On March 23, 2011, he walked his girlfriend to the subway. As he watched her leave, someone grabbed his arm. It was a Hispanic guy who dragged him to the brick wall. He wanted to know why Patrick was in his neighborhood. Two others joined the first guy. They were dressed alike and surrounded Patrick. He thought he was being robbed so he offered them his money. They were enraged. He screamed for help but no one came to his aid. One of the men pulled out a set of handcuffs. He tried to run but was knocked down. Then they pulled out badges but Patrick thought they looked like fakes. He ran again but was caught. His head was slammed repeatedly on the sidewalk. He began bleeding heavily.

A police car drove up. He was relieved that help was coming but then was dashed when he realized that the thugs who beat him up were actually cops. He realized that the undercover cops were framing him for possession. He was thrown into a police van that arrived on the scene. In the van, the undercover cops started going through his cell phone. He was thrown into a cell in the precinct. Initially, no one would tell him what was going on. Finally, one of the detectives told him they arrested him on crack, weed and resisting. He was fingerprinted and photographed and stayed in jail for twenty-four hours. His father, a lawyer in Kentucky, got him a lawyer who got him out. Although the entire incident was bizarre to Patrick, it seemed to be routine to everyone else including the other prisoners and even his attorney. When he appeared in court the judge dismissed the case as long as he stayed out of trouble for the next six months.

Patrick began having nightmares and panic attacks. He couldn't concentrate and began to isolate himself. He went into therapy and discovered that he was suffering from post traumatic stress disorder. The incident changed his life forever. It was a "collateral consequence" that one can live with. Imagine Patrick's story a million times over when it comes to blacks and Hispanics, also a collateral consequence society has decided is tolerable.

The SEC in avoiding the prosecution of the Masters of the Universe, go after smaller prey in order to keep a flow of capital into their coffers. The Wall Street executives claim that what they and their companies did was not illegal. They were just making profits for their shareholders. Top officials in the government see a distinction between breaking the law and committing crime. Wall Street bankers saw their actions as a good thing – being aggressive. People who are bright enough to do the impossible are highly admired – even if their deeds are criminal.

What happens over time with the disparity that created the divide is that law enforcement becomes ineffective. Two individuals who commit the same type of crime are not punished the same – depending on who they are and what class they fall into.

Gary Aguirre who was an attorney hired by the SEC in 2004 became a whistle blower. He became suspicious of the dealings of a hedge fund trader who appeared to have insider trading information. After reporting it through the chain of command, Aguirre learned that the SEC was refusing to investigate the matter. What is not widely known is that the SEC did pursue an insider trading case against the hedge fund – but targeted two low level employees leaving the executive to walk free and clear.

Ten years ago, WaMu would literally approve a mortgage for anyone – including O. J. Simpson. One employee was admonished for collecting too much information on a mortgage applicant. A Dutch state pension fund was one of the buyers of a pool of mortgages that included the Simpson loan. The fund lost huge amounts of money and was forced to cut the pensions of three million workers. WaMu was guilty of tens of thousands of cases of fraud but no one was ever prosecuted. Yet every day, minority women are prosecuted for much more minor fraud offenses. Selling bad loans and defrauding thousands of investors doesn't merit punishment. Those forms were just being 'aggressive'. This current mindset has caused the divide to grow larger and larger.

A racetrack owner was arrested for laundering \$16 million when he purchased racehorses from a Mexican drug lord. At the same time HSBC admitted to laundering \$800 million. The racetrack owner could get up to 20 years in prison. No one at HSBC has been arrested. The argument that prosecutors put forward is that it is difficult to gather evidence against individuals in insider trading and other shenanigans perpetrated by financial and lending concerns. They also question the wisdom of throwing a few mid-level employees into jail. And the large fines collected by regulators like the SEC can go right to the victims in reparation for their losses. Federal prosecutors also complain about a lack of resources to carry out investigations. The fines charged to the large banks are numerous and sky-high and obviously based on evidence of wrong-doing. Oddly, the prosecutors are not able to track that evidence to executives who were in charge of the operations.

The federal government budgeted a relatively small amount for the investigations of the Wall Street denizens that nearly brought the world economy to its knees while at the same time the federal drug enforcement budget rose by a significant amount. The federal government enables the Wall Street crowd to continue to be “aggressive” in their quest for profits by allowing them to get by with just fines which they can easily afford.

As this book went to press, the Justice Department was making noises that they have realized their mistake in not prosecuting Wall Street executives who committed fraud and other crimes that negatively impacted the world's economy. Their actions caused misery and suffering to the full spectrum of victims – from small investors all the way to sovereign countries. There is word that the Justice Department is gearing up for some prosecutions against Wall Street executives and hedge fund managers. This change of attitude is most probably attributable to political concerns – there is growing public outrage. Likewise, there is growing objections to the stop-and-frisk laws that target minorities.

Analysis

When it comes to the poor being targeted, Taibbi reveals, it isn't just minorities. Even whites will be targeted and framed for things like possession, such as in the case of Patrick Jewell. At court, the case was dismissed pending good behavior from Patrick; Patrick, meanwhile, began to experience post-traumatic stress disorder from the incident. Taibbi urges the reader to translate Patrick's experience writ large, to millions, including blacks, Hispanics, and others - and describes this as also a form of collateral damage akin to the failure of big businesses, though the experiential factor varies between individuals that are rich and non-rich.

Taibbi makes a forceful argument for the ultimate ineffectiveness of laws when justice is improperly and disproportionately applied. While lawyers and judges argue that it would do little good to throw mid-level employees of companies into prison, they have no qualms about going after small businesses and individuals. However, Taibbi concludes his book by explaining that the Justice Department has apparently realized its mistakes, and is preparing to go after large companies and financial corporations, as well as to provide better safeguards for the individual liberties of the non-rich.

Taibbi's thesis, that the non-wealthy are treated far differently than the wealthy, especially when it comes to the law and justice, appears to be solidly borne out by numerous accounts of companies, corporations, and institutions - especially those of a financial nature - that receive punishments that are not commensurate with the crimes they have committed, while the non-wealthy, of all types, are penalized heavily for the crimes that they commit.

Vocabulary

absurdity, metaphor, mantra, larval, prism, myriad, insidious, fiasco, corollary, misfeasance, proliferate

Important People

Prem Watsa

Prem Watsa was the CEO of a Canadian insurance company named Fairfax. Prem was considered an immigrant success story in Canada. He came to Toronto from India almost penniless and attended the University of Western Ontario. After his graduation he was hired by a life insurance company where he learned about investing and investment strategies and became an expert in stock-picking methodology. Although Prem wasn't wealthy from his employment, he was well-respected and had a growing reputation in the business community. Prem and some other associates went together to purchase a small company called Markel Insurance which they changed to Fairfax. By the mid-1990s, Fairfax was one of the leaders in the North American insurance business. Its stock had risen from \$70 in 1995 to over \$605 in 1999.

Prem noticed that after Fairfax was listed with the NYSE in December 2002, there was an odd occurrence relative to the company's stock. The exchange was trading 200,000 to a million Fairfax shares a day. After this run up in their stock, some very negative reports began being published in newspapers. One report falsely claimed that Fairfax was \$5 billion in debt which wasn't true. But the damage was done and the company's stock started to tank.

A friend in the know told Prem that Fairfax was being targeted by Wall Street short sellers. Prem didn't get the full impact of what he was told. He continued to assure his investors and employees that everything was fine with Fairfax. Finally, Prem learned the hard way when Fairfax almost collapsed that his company was indeed the target of short sellers who were trying to destroy Fairfax for their own benefit. Prem wouldn't give up and held on tenaciously to his company and saw it through the storm much to the chagrin of the Wall Street billionaires who tried but failed to destroy Fairfax. Prem Watsa and Fairfax were among the few targets of the Masters of the Universe who defeated them.

Linda Almonte

Linda Almonte was a manager at WaMu. When it closed its doors at the peak of the 2008 collapse, she became an employee of Chase Bank who acquired the dying company. Linda was assigned to one of Chase's subsidiaries, a debt-buying firm called NCO. NCO purchased bad debt for pennies on the dollar and when they were able to collect on this debt, they enjoyed big profits.

Linda was the liaison between NCO and the law firms that worked for them – over 150 firms in all – and was transferred to Chase's credit card litigation department. She began to notice practices that she felt were unethical and even criminal. Linda was put in charge of overseeing the gathering of documentation for a large sell-off of credit card



debt. Linda was told that the thousands of accounts being sold to a third party all already had judgments against them.

After reviewing some of the documents, however, she ultimately concluded that between 50-60% did not have judgments against them. If the sale was to go through, the third party debt collector purchasing the bundle would be receiving a huge number of fraudulent files. When she notified her immediate boss about the matter, she was told not to worry about it. She went over her boss' head and reported it to upper management after which she was fired.

Tory Marone

Tory Marone was a 26-year old young man who lived in New York City. He had a drinking problem and was repeatedly harassed and arrested by cops under the Stop-and-Frisk program although he committed no crimes.

Eric Holder

Eric Holder who was a little-known official in the Clinton Administration when he wrote a memorandum entitled, "Bringing Criminal Charges Against Corporations." Initially, it seemed to be a call for more prosecutions on white-collar crime but in the end it was the precursor for the too-big-to-fail mentality that took over the Justice Department.

Senator Ted Stevens

Senator Ted Stevens of Alaska was prosecuted by the Justice Department. He was charged with and found guilty of major corruption but it came out later that there was exculpatory evidence that could have found Stevens not guilty. An appellate judge dismissed the conviction.

Bill Bratton

NYPD police commissioner Bill Bratton instituted the "broken window" policy which directed police to focus on petty crimes – like jaywalking, littering and broken windows. It was felt to be an incentive for criminals to leave their guns at home. This policy led to the unpopular stop-and-frisk program.

Spyro Contogouris

Spyro Contogouris worked for a hedge fund called Exis Capital. The head of Exis was determined to destroy a Canadian insurance and investment company called Fairfax Financial Holdings. Contogouris was the ring-leader in trying to destroy Fairfax and did

everything from planting lies with the media about the company to threatening the CEO and employees of Fairfax. Exis failed in their attempt to destroy the company.

Jamie Dimon

Jamie Dimon was the CEO of Chase Bank and pulled off several profitable deals after the 2008 financial crisis including the acquisition of the failing Washington Mutual and the investment bank Bear Stearns. With the government's help, Dimon acquired both companies for pennies on the dollar.

Judge Strainiere

Judge Strainiere of Staten Island was notified by a clerk that a credit card debt collector had filed an inordinate amount of filings against account holders. The judge looked into the matter and dismissed all 133 cases. He was the first judge to question such filings and woke up other jurisdictions about the corruption and fraud that was taking place within the debt collection industry.

Gary Aguirre

Gary Aguirre was an attorney with the SEC. He became suspicious of a hedge funder trader who appeared to be acting on insider information which is illegal. After reporting it up the chain of command, he was astonished to learn that the SEC was not going to investigate the matter. Aguirre blew the whistle on his superiors and reported them to the Justice Department for not acting.

Objects/Places

Wall Street

The billionaire bankers and lenders on Wall Street oversaw operations within their organizations that led to the financial collapse that impacted the entire world. To date, not one of these men has been investigated, arrested or prosecuted despite the irreparable damage they did to companies, investors and even entire countries.

New York City

While Wall Street billionaires were playing with other people's money, the NY Police Department was following a policy known as "stop-and-frisk." Minority neighborhoods were targeted and their residents were profiled, arrested, framed and brought up on bogus charges like riding a bike on the sidewalk, loitering or obstructing pedestrian traffic.

Gainesville, Georgia

Undocumented immigrants in Gainesville had to be careful not to be caught by the police driving a car without a license which was impossible for them to obtain. The laws in Georgia were so harsh that it drove Gainesville's workforce away. Businessmen in the city pleaded with the state government to ease up on their anti-immigration legislation.

San Diego

The author interviewed a number of San Diego residents who were on government assistance or who had applied for it. They were abused, bullied and humiliated by representatives from the DA's office who were investigating the applicants for possible fraud. These investigators would barge into the homes of these individuals and go through all their personal belongings with no warning or apology.

Canada

The heads of several Wall Street hedge fund CEOs – billionaires all – decided to make a quick profit and destroy a Canadian insurance and investment company called Fairfax. They did everything in their power to bring the company down after placing short bets on it to falsely inflate the value of their stock, make a big profit and then planted stories that would destroy its reputation and put it out of business.

Too Big to Fail

Large banks that were on the brink of collapse at the height of the 2008 economic decline were saved by the government because their ruination would bring down the world economy.

Stop-and-Frisk

The NYPD's Stop-and-Frisk policy was unfairly targeted to minor crimes or alleged crimes in minority neighborhoods. The police department defended the policy by claiming that it was a way to get guns off the street.

TARP

The Troubled Asset Relief Program (TARP) was established by the federal government to save the big banks who were on the verge of collapsing which, it was believed, would have brought the global economy to ruin.

The Glass-Steagall Act

The Glass-Steagall Act was passed into law after the Great Depression. It established a regulatory agency that would oversee bank activities and make sure they were dabbling in business that would put their investors and customers at risk. Bill Clinton repealed Glass-Steagall which many feel was in part responsible for the unregulated bank activities that led to the 2008 financial crisis.

Hedge Funds

Hedge Funds led the world economy to near ruin due to the greedy individuals who ran them. Hedge funds specialize in risky and exotic investment opportunities like short bets and derivatives trading.

Masters of the Universe

The Wall Street billionaires who ran the toxic hedge fund and lending institutions that led to the 2008 financial collapse were often referred to as the "Masters of the Universe" because of their power, influence and wealth.

Derivatives

Derivatives are risky investments whose value is determined by the value of another property or underlying asset.

Short Sellers

Short sellers sell stocks owned by investors believing that the value will drop, sometimes even taking action to bring the price down. The short sellers can purchase the stock when it falls, sell it again when the value increases, keep the profit and then return the stock to the investor.

Economic Crisis

Due to the aggression and greed of Wall Street financial billionaires who headed the world's top investment and banking concerns and the lack of regulatory bodies to oversee their operations, the global economy nearly collapsed.

SEC

The Security and Exchange Commission is an arm of the U.S. government and is charged with the responsibility of enforcing securities laws and regulating securities. They proved to be largely ineffective and even lax in their duties leading up to the 2008 economic crisis.

Themes

Prosecution Disparity

A major theme of “The Divide” by Matt Taibbi is the different approaches by prosecutors when a minority is accused of fraud and when one of the Masters of the Universe on Wall Street obviously is involved in fraud and on a much larger scale. Although Wall Street executives and hedge fund managers through their dubious and even criminal actions were largely responsible for the 2008 financial crisis that nearly brought down the global economy, not one of these individuals was prosecuted.

It is the law that when a person seeks financial aid from the government that the individual cannot lie on his or her application. Doing so is committing fraud and places the welfare recipient at risk for prosecution and sentencing. At the same time a minority woman who needs \$300 a month in order to feed and care for her children is in jeopardy of prosecution if one word on her application proves to be untruthful, the denizens of Wall Street who heralded in the worst economic crisis since the Great Depression walk free and clear. The banks and financial concerns that they head are too big to fail and they themselves are too big to jail.

The prosecutorial disparity, the different treatment of those suspects of fraud, is a reality in this country. Prosecutors defend their lack of action against the big shots on Wall Street because they claim that it's too difficult to trace evidence of insider trading and other acts of fraud to an individual. They also claim that they don't have the resources to go after these individuals and that large fines levied against the banks are more beneficial since these funds can be used to compensate losses from the Wall Street crimes.

Law enforcement has been weakened by this mindset. The gap between the very wealthy and everyone else is ever-widening. That the very wealthy can commit crimes without punishment to feed their greed makes the divide even greater.

Racism

There is a strong and persistent theme of racism in “The Divide – American Justice in the Age of the Wealth Gap” by Matt Taibbi. The author juxtaposes the crimes of the elite Wall Street billionaires against the minor offenses – some even trumped up – of residents of minority neighborhoods in New York City. The egregious crimes committed by denizens of the financial world nearly brought the entire world's economy down. It destroyed the lives, ruined reputations, bankrupted small investors and nearly destroyed entire countries. Yet, these men were not prosecuted, arrested or even accused of any wrong doing by authorizes. Meanwhile, on the other side of town, African Americans and Hispanics were being denied, harassed and arrested under a policy called “stop and frisk”.



These individuals who lived in the poor neighborhoods of New York City didn't have any part in the corruption and felonies that nearly destroyed the economy. Their offenses included, among others: loitering, riding bikes on the sidewalk and obstructing pedestrian traffic. Unlike the Wall Street billionaires, these "criminals" were thrown into jail and were made to pay large fines that they could ill afford and would take time away from their jobs for endless court appearances and to perform community service for their "crime".

At the same time, Wall Street tycoons walked away with billions while destroying lives and companies, poor people who applied for government assistance were treated like criminals. The vast majority of those receiving help were minority women. These individuals were humiliated and harassed by government agents who investigated them for defrauding the government. To get their \$300 a month, they had to put up with unannounced searches, insults and emotional abuse from these uncaring and unhelpful agents. If fraud was proven in a case, the guilty party lost benefits for life, had to return the money and faced jail time. Three-hundred dollars a month for a year is \$3,600. The heads of banks and hedge funds were committing fraud on billions of dollars sometimes in just one day. Yet not one of these individuals was ever punished.

Plight of Undocumented Immigrants

Undocumented immigrants faced punishment, deportation and arrest while trying to work and take care of their families at the same time the Masters of the Universe were sailing on their yachts and flying in their Lear jets. One immigrant mother, Nati, worked for years and years in order to save enough money to buy a car. But she lost the car when she was stopped by the police. She had no license or registration and the car was confiscated from her. This happened to her an incredible three times. The cars were old and beat up but they were everything to this mother of four. Comparing her plight to the privileged lives led by the criminals on Wall Street is a prime example of the disparity and the unfairness that exists in America.

Although undocumented workers crossed the border illegally, they have become a huge segment of our society that must live in the shadows. There is no open and fair way for them to come forward and earn their way into the country. They fear deportation and separation from their family on a daily basis. Nati had four children who were all born in America. Her husband got into a physical altercation with a neighbor and was subsequently deported. He was returned to Mexico and Nati never saw him again.

In Gainesville, the undocumented workers made up most of the labor force in the local factories. The owners and managers were well-aware that their workers were in the country illegally but they took advantage of the situation and undoubtedly paid them less and gave them no benefits. The Georgia state government issued so much anti-immigrant legislation that it began to erode the work force in Gainesville. The business owners in Gainesville pleaded with the government to ease up on the immigrants because they were losing all their workers. The undocumented workers weren't wanted

in the country but when it came to the bottom line, business exploited them and took advantage of their vulnerability.

Styles

Structure

“The Divide – American Justice in the Age of the Wealth Gap” by Matt Taibbi is comprised of nine very long chapters. The story of the causes for and the aftermath of the 2008 economic crisis is the focus of the book. The structure of this account is based on the juxtaposition of how those who headed the world’s top banks and caused the financial crises are treated by the government and law enforcement versus how the struggling poor and minorities are.

The story begins in a criminal courtroom where over a dozen employees of an obscure bank – Abacus in Chinatown in New York City – are being tried for committing fraud and other crimes during the 2008 financial crisis. The author compares the minor violations that these largely low level employees committed versus the egregious crimes that nearly destroyed the world economy. The Abacus employees were scapegoats and their prosecutions were tokens that enabled the Justice Department to claim they were prosecuting banks. Employees of Abacus were the only individuals to be prosecuted for fraud during the crisis – leaders of CitiBank, Goldman Sachs, Bank of America, JP Morgan Chase and all the other Wall Street billionaire criminals who were the real cause of the collapse walked free and are making more money than ever.

Taibbi also contrasts the treatment of these Masters of the Universe with the treatment of minorities on the other side of town who were being profiled and targeted by the NYPD in their “stop-and-frisk” program. Arrests rose by the hundreds of thousands in these neighborhoods on this policy. The vast majority of arrests were for minor offenses like blocking the sidewalk or loitering. They had no part on nearly bringing the world economy to its knees.

By the author’s consistent comparison between the billionaires on Wall Street and the poor and struggling minorities, Taibbi brings the message home about how “The Divide” is becoming “the Great Divide.”

Perspective

“The Divide – American Justice in the Age of the Wealth Gap” by Matt Taibbi is a non-fiction work which addresses the financial disparity between the very wealthy and everyone else. He delves into the 2008 worldwide financial crisis that was brought on in main part by wealthy and greedy Wall Street denizens who have all gone unprosecuted.

Taibbi is a reporter and conducted his own research in writing this book. He is a reporter and contributing editor with The Rolling Stone. Taibbi reports the facts he found in his many interviews with principals and in his research in confirming stories and seeking the facts.

The Rolling Stone would be considered a publication with a liberal slant, Taibbi may naturally come down on the left side of an issue; however, while he places a big share of blame on President George W. Bush's administration, he is not easy on President Clinton and President Obama, two Democratic presidents. He faults Clinton for easing up on regulatory agencies that oversee bank operations and on pressing for harsher standards for those on government assistance. He criticizes Obama for not prosecuting Wall Street executives who were behind the financial downturn.

In general, Taibbi seems to follow the facts of the issues that he addresses and leaves his personal political leanings behind.

Tone

"The Divide" is filled with terms that reference Wall Street, the financial world and the economic crisis of 2008. For example, leading up to the decline Wall Street banks and financial concerns were involved with exotic loans and investments that included "short bets" and "derivatives." These financial institutions were left mainly on their own without the oversight of "regulatory" entities like the SEC. A number of the Wall Street investors who nearly brought down the world economy were "hedge fund" managers.

These concerns were extremely aggressive and their executives agreed with actor Michael Douglas in the movie, "Wall Street" when he told a group of potential investors that "greed is good." The most elite group of Wall Street tycoons were all billionaires and were known as "The Masters of the Universe" because of their power, influence and wealth.

A memo was written by Eric Holder when he was an attorney with the Clinton Administration. Although it was not his intention, his memo was the fundamental defense for not prosecuting "white collar" crime. His memo was widely read and was entitled, "Bringing Criminal Charges Against Corporations." This document eventually led to "non-prosecutions" and "deferred prosecutions" of corporations who had committed fraud and other crimes during the economic collapse.

There is much focus on the poor in this book and descriptions of the humiliation and stress that applicants for "government aid" were subjected to. There were searches of their homes to make sure that they had not lied to the government. Minorities in New York City were subjected to racial profiling and targeted for minor crimes like "loitering," "riding a bike on the sidewalk" and "obstruction of pedestrian traffic." This overall program was known as "stop and frisk" and was roundly detested by those who were targeted. Many believed that it was unconstitutional. The police department defended this policy by claiming that they were trying to get guns off the street.

Quotes

You can't throw a rock [in the direction of Wall Street] without hitting a bank that cost Fannie Mae billions of dollars in loss, but you know it's not in this courtroom.

-- Kevin Puvalowski (Chapter 1 paragraph Page 12, 3)

Importance: Puvalowski was making the point that the big banks that had caused the financial crisis were responsible for it but were not being prosecuted like his defendant, Abacus, a small bank in Chinatown.

There were two pieces of evidence in that case; the needle and the trainer, and it still took them ten weeks to put on the trial. And they lost.

-- Federal Prosecutor (Chapter 1 paragraph Page 37, 2)

Importance: An unnamed federal prosecutor is lamenting the prosecution of Roger Clemens for lying about using steroids.

We were now officially in the realm of an Edward Lorenz 'butterfly effect' theory of crime fighting: a single indictment might be felt all the way around the world, and forever.

-- Author Taibbi (Chapter 2 paragraph Page 68, 6)

Importance: Taibbi points out that the U.S. Justice Department was reluctant to prosecute the criminals of Wall Street because it "might" cause problems for everyone.

Low-class people do low-class things.

-- Author Taibbi (Chapter 3 paragraph Page 121, 4)

Importance: Taibbi summarized the NYC Police Department's justification for making an inordinate amount of misdemeanor arrests under their stop-and-frisk police. The police claimed that most major crimes were committed by people who also committed minor crimes.

White-collar crime by its very nature involves a high degree of self-control and planning. It's committed almost overwhelmingly by people who had enough self-mastery to make it through high school and college and hold down good jobs.

-- Travis Hirschi (Chapter 3 paragraph Page 122, 2)

Importance: The admiration for white-collar crime versus street crime is obvious in this comment.

When one of the biggest bank heists ever took place right in the middle of the 2008 financial crisis, few people knew about it. Even to the victims, it was a secret for years.

-- Author Taibbi (Chapter 4 paragraph Page 141, 1)

Importance: Author Taibbi is referring to the bankers and executives who stole money



from the people and from the economy in such a stealthy manner that no one really knew until years later.

What went down between Barclays and the Lehman insiders was something very similar: a dark pool merger, executed outside the dreary confines of courts and board meetings.

-- Author Taibbi (Chapter 4 paragraph Page 161, 1)

Importance: This summarizes the illegal deal between Barclays and Lehman when Lehman was ready to collapse and Barclays wanted to take advantage of the situation.

There's no way to look at the financial picture and not conclude that the explosive combination of anti-immigrant politics and easy profits turbocharged the construction of the Big Dragnet. Ironically, the very brokest people in America, Hispanic immigrants, are on the American's last great cash crops.

-- Author (Chapter 5 paragraph Page 217, 2)

Importance: The author is pointing out that privately owned prisons are a new cash cow for investors including too-big-to-fail banks on Wall Street. They prey on the weakest segment of society in order to make big money.

It turns out that it's a waste of absolute political power to simply throw undocumented aliens over the border. When you have a group of people who have no rights at all, the more inspired corporate solution is to extract as much value from them as possible. That can be money, that can be property, and if they don't have either of those things left, you take their time and labor.

-- Author (Chapter 5 paragraph Page 231, 1)

Importance: The author is pointing out how Corporate America takes advantage of undocumented immigrants who have no rights.

The rich have always gotten breaks and the poor have always had to swim upstream. The new truth is infinitely darker and more twisted.

-- Author (Chapter 7 paragraph Page 324, 1)

Importance: The author is summarizing the two Americas that exists and that the gap between them is growing ever wider.

The cumulative effect of all this was an explosion of easy credit for the financial services sector, wedded to an across-the-board relaxation of economic regulations.

-- Author (Chapter 7 paragraph Page 351, 2)

Importance: The author describes the policies during the Clinton administration that ultimately led to the economic turndown.

At the same time that Chase was pumping out tens of thousands in bogus collection notices into the economy, the company was being supported, financially, by the federal

government in a dozen different ways.
-- Author (Chapter 8 paragraph Page 381, 2)

Importance: This quote illustrates the schizophrenic nature of the relationship of the federal government with banks that were too big to fail.

Topics for Discussion

Topic 1

How did the activities of banks get so out of control that their criminal practices nearly destroyed the world economy?

Topic 2

What was the LIBOR scandal and why is it important?

Topic 3

How was Fairfax Investment in Canada targeted for failure by Wall Street?

Topic 4

Describe the central thesis in "The Divide", and what its effects are.

Topic 5

What is collateral consequence? Who coined this term? How does it apply to the financial meltdown of 2008?

Topic 6

Taibbi provides numerous examples to prove his thesis throughout the book "The Divide". Describe three examples listed in the book that support Taibbi's thesis, and how these support his thesis.

Topic 7

Taibbi asserts that at one time, the rich were viewed with scorn and the poor with admiration, and that now, it is the other way around: the rich are idolized while the poor are hated. Do you believe this is true in contemporary American culture? Why or why not? Provide evidence to support your claim.

Topic 8

What are the primary causes listed by Taibbi that led to the 2008 financial meltdown? How did each of these causes affect the economy and the businesses operating within it? What was the result in terms of justice?

Topic 9

Describe the concept of "collateral consequences" and "collateral damage" according to Eric Holder. On a purely theoretical basis, do you agree or disagree with this idea? Why or why not? On a practical basis, do you agree or disagree with this idea? Why or why not? If you could, how would you replace or reform this practice?