



Inquiry into white collar vs. blue collar crimes: do current sentences reflect the economic and social impacts of these crimes?

Recommendation

The report of the Justice Committee makes the following recommendations to the Government

- that the Government examine the feasibility of establishing sentencing councils in New Zealand
- that the Government look at increasing the severity and consistency of sentences for all crimes
- that the Government amend the Parole Act 2002 to increase the time an offender must serve in custody before he or she is eligible for parole
- that the Government legislate for judges to sentence first-time offenders to short-term prison sentences, or to consider other non-custodial sentences, to deter these offenders from embarking on future criminal activity
- that the Government examine how it could better assist offenders in their endeavour to become contributing members of society.

Introduction

Both white and blue collar criminal offending have a number of social and economic impacts, detrimentally affecting the well-being of victims, offenders, and communities. The economic costs of crime are considerable and maintaining the criminal justice system is costly. The best estimates of the Treasury put the total cost of crime at \$9.1 billion per year.

The purpose of this report is to summarise our consideration of the whether current sentences for white collar and blue collar crimes reflect their social and economic impacts.

Purpose of criminal justice system

We consider that this inquiry should take a first principles approach to the question posed. We posited the question: what is the aim of a criminal justice system? The primary purpose of a criminal justice system is to reduce crime. Sentences must work towards this end by removing dangerous people from the community and/or deterring others from committing crime.

Related to this, another purpose of the justice system is to achieve justice for victims of crime or families of victims of crime. To achieve this we suggest that harsher sentences need to be imposed, and we discuss this matter later in our report.

A secondary purpose of a criminal justice system is to rehabilitate offenders. We consider that offenders should have the opportunity to engage in rehabilitation programmes in order to become better, more productive members of society and to prevent further offending.

White collar and blue collar crime

White collar crime can be loosely defined as non-violent offences committed by people or groups in positions of power, often in the course of their job, with the aim of achieving significant financial gain. People who engage in white collar crime are typically perceived to be well educated, technologically literate, and well respected in their communities. Some examples of white collar crime include corporate fraud, tax evasion, and embezzlement.

The impacts of white collar offending are social and economic. A loss of revenue is prominent, as are significant breaches of trust. Because white collar crime is typically associated with financial loss it is often easy to work out the value or cost of the crime. White collar crimes are often considered to be indirect and impersonal.

Blue collar offenders are perceived to have a lower social status than white collar offenders. This form of crime is more likely to be practised by young people of a low socio-economic status. Blue collar crime is generally thought to be more physically noticeable than white collar crime, and participating in such crimes requires little “market skill”. Examples of crimes committed by blue collar offenders include burglary, assault, and rape.

Blue collar offending can have a range of impacts on victims, including financial loss and physical, emotional, and mental injury. This form of offending is almost always personally felt by the victim. The impact may be small or it may be significant and it can be felt over the short and long term.

Our view on the terms “white collar” and “blue collar” crime

We consider that the terms “white collar crime” and “blue collar crime” are too ambiguous to be useful indicators for progressing this inquiry. We note that people, whatever their socio-economic status, can commit a range of offences and these should not be simply classed as either blue or white collar offending. All crimes should be sentenced under the same criteria.

We consider that it is better to sentence offenders for the type of crime they commit rather than whether offenders are considered to have engaged in blue collar or white collar crime.

Current sentencing in New Zealand

The Sentencing Act 2002 sets out the legal framework for how offenders are sentenced and what judges must take into account when making sentencing decisions. During sentencing a judge considers the maximum penalty for the committed offence and how serious the offending was. The judge then considers any other relevant facts about the offender such as age, their plea, and the effect of the offending on the victim or the victim's family. The judge must also take into account other sentences imposed on similar offenders for comparable offending to ensure that, as far as possible, sentencing is consistent.

The hierarchy of sentences and orders that a judge may impose on an offender is set out as follows:

- discharge or order to come up for sentence if called on
- fines and reparation
- community-based sentences of community work and supervision
- community-based sentences of intensive supervision and community detention
- home detention
- imprisonment.

There are two broad desired outcomes from sentencing—individual and general deterrence and protection of the community.

Our views and recommendations on sentencing

We agree, on the whole, with the current framework of what judges must take into account when making sentencing decisions. However, we note that sentences for a number of crimes appear to be too lenient whether it is burglary, assault, or tax evasion.

We recommend that sentences for all forms of crime should be made more consistent and in, some cases, more severe. In particular, we consider that sentences for financial crimes are too lenient and recommend that sentencing for these crimes should be made consistent with their social and economic impact. For example, we consider the current fine rate for crimes such as tax evasion to be unreflective of the economic impact of the crime.

We note with interest the use of sentencing councils in comparable jurisdictions. Sentencing councils are made up of expert bodies to assist with the development of sentencing policy. Their role is to manage possible sentencing inconsistencies and to ensure that an appropriate range of sentences is available to judges. We consider that this could alleviate some of the issues with current sentencing practices. We recommend that the Government examine the feasibility of establishing sentencing councils in New Zealand.

We were concerned to hear from a submitter that in some circumstances it can take up to nine convictions before an offender receives a custodial sentence. We consider that more needs to be done earlier in an offender's interaction with the justice system to steer him or her away from crime. Some of us recommend that the Government legislate for judges to sentence first-time offenders to short-term prison sentences to deter them from embarking on future criminal activity. However, others of us disagree with this measure and recommend that the Government investigate other non-custodial measures to achieve this same deterrent effect.

We note that under the current system some offenders may apply for parole after serving only one third of their custodial sentence. We consider that criminals serving custodial

sentences should be made to serve the majority of their term before they are eligible for parole. We recommend that the Government amend the Parole Act 2002 to increase the time an offender must serve in custody before he or she is eligible for parole.

Once offenders are convicted the corrections system should take an active role in the reformation of these offenders in order to facilitate their reintegration into society. We suggest rehabilitation in prison should take a two-pronged approach: firstly, to provide compulsory treatment for addictions and other psychological issues; secondly, to provide life skills classes, such as financial literacy, that would enable the smooth transition of an offender back into society.

We note that rehabilitation services should continue to be run outside of prison in order to offer support during an offender's reintegration into society. We consider there is scope for the Government to provide extra support to rehabilitation service providers in the community, such as work placement providers and counselling services. We recommend that the Government examine how it could better assist offenders in their endeavour to become contributing members of society.

Conclusion

We consider that this inquiry must take into account, first of all, what the purpose of a justice system is. We consider that the primary purpose of a justice system is to prevent crime.

We consider that the terms "white collar crime" and "blue collar crime" are too vague to use as indicators in this inquiry. Instead, we consider that offenders should be sentenced on the nature of the crime itself.

Currently, judges must take a number of factors into account when sentencing an offender. We agree broadly with this framework. However, we would like to see an increase in the consistency of sentences handed down, and we recommend the introduction of sentencing councils to facilitate this. Moreover, we recommend an increase in the length of time an offender must serve before being eligible for parole. We also recommend that first-time offenders be handed a harsher sentence, be it custodial or non-custodial, in order to deter them from engaging in future criminal activity. We also consider that the Government should take a more active role in the reformation of offenders and their reintegration into society.

Appendix

Committee procedure

The committee met on 16 and 17 July 2013 to consider the inquiry. The committee received and heard three submissions. Evidence was heard from the Ministry of Justice, Rethinking Crime and Punishment, and the Sensible Sentencing Trust. Advice was received from the Ministry of Social Development.

Committee members

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