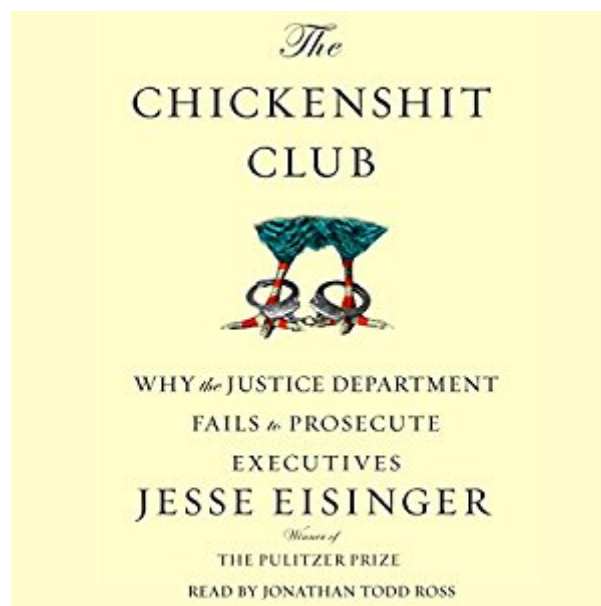


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# The Chickenshit Club: Why The Justice Department Fails To Prosecute Executives



## Synopsis

From Pulitzer Prize-winning journalist Jesse Eisinger, a blistering account of corporate greed and impunity and the reckless, often anemic response from the Department of Justice. Why were no bankers put in prison after the financial crisis of 2008? Why do CEOs seem to commit wrongdoing with impunity? The problem goes beyond banks deemed "too big to fail" to almost every large corporation in America - to pharmaceutical companies and auto manufacturers and beyond. The Chickenshit Club - an inside reference to prosecutors too scared of failure and too daunted by legal impediments to do their jobs - explains why. A character-driven narrative, the book tells the story from inside the Department of Justice. The complex and richly reported story spans the last decade and a half of prosecutorial fiascos, corporate lobbying, trial losses, and culture shifts that have stripped the government of the will and ability to prosecute top corporate executives. The book begins in the 1970s, when the government pioneered the notion that top corporate executives, not just seedy crooks, could commit heinous crimes and go to prison. The book travels to trading desks on Wall Street, to corporate boardrooms and the offices of prosecutors and FBI agents. These revealing looks provide context for the evolution of the Justice Department's approach to pursuing corporate criminals through the early 2000s and into the Justice Department of today. Exposing one of the most important scandals of our time, The Chickenshit Club provides a clear, detailed explanation as to how our Justice Department has come to avoid, bungle, and mismanage the fight to bring these alleged criminals to justice.

## Book Information

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## Customer Reviews

James Comey gave Eisinger the title for his book when he took over as prosecutor for the Southern District of New York under a newly elected George W. Bush. It was composed of prosecutors who were too timid to take a case to court, especially one against individuals. Eisinger says that the very moment Comey gave that speech may have represented the apogee of prosecutorial zeal on the part of the financial enforcement regime. Corporations grew stronger, and court rulings made it more difficult to go after individuals. No individuals from the higher levels of the "Too Big to Fail" banks have been prosecuted. Eisinger is a dogged reporter. He lives in a world of corrupt souls, and he knows his way around pretty well. I include a comment about my own contact with him which leads me to respect his skill and tenacity. The first quarter of his book is a lengthy preamble about the Enron and Arthur Anderson cases. Though the government won both, the fallout was so strong that they came to decline to prosecute either companies or individuals with much vigor, choosing instead to work out financial settlements. The incentives for executives to avoid fraud were minimized, and fraud is what emerged. My experience with the short sellers, and the prevalence of fraud in corporate reporting, leads me to believe that whatever ill might be said about these vultures of the capitalist world, they are essential. As Eisinger reports so well in this book, the official bodies appointed to protect the public interest simply do not do so. The investor has to look out for himself. Even sadder, there is nobody looking out for the interests of the taxpayer, who is the pigeon of last resort, picking up the tab when the abuses that have been covered up by financial shenanigans finally cause a massive collapse.

Any book that can definitively answer the question of why no executives have gone to jail for the Financial Crisis deserves our attention. And in this case a Pulitzer Prize. The Chickens--t Club is a fast moving, fly on the wall, disheartening look at the deterioration of the Justice Department and the Securities and Exchange Commission, written sympathetically, thoroughly, but mostly - engagingly. It is a book of superheroes. There are 94 US Attorney offices around the country. They operate on their own, independent of the Justice Department, their dotted line overseers. They fight over cases, work (and fight) with the FBI and the SEC, or work around them, and seem to take their cues from the news. From the 60s to the 90s, they developed into the good guys, fighting the good fight and taking great pride in their accomplishments. They turned up clues, did forensic accounting, and turned (Ã¢ÂflippedÃ¢Â) lower level criminals to get the executives. They were saving the country from itself. But the days of young aggressive lawyers nailing an Ivan Boesky or a Michael Milken are gone. With George W. Bush, Justice deteriorated under Secretary Alberto Gonzalez, who

was forced to resign, and the SEC deteriorated under Christopher Cox, whose intent appeared to be to simply let it collapse from inactivity. Budgets were slashed and staffs reduced at the same time as demand for action increased. This is standard procedure for discrediting an institution. The stories of confusion, conflict, lack of direction, leadership or policy are all detailed here. The frustration of the prosecutors is palpable. In the current administration, you can see it real-time at Education, State, and the EPA for example. The answer to the question is that everything changed. Prosecutors today are actually afraid to file suit, fearing they might lose and have black marks on their CVs. (James Comey famously called them chickenshits.) They have little or even no trial experience any more. Everything is a negotiated fine (never paid by the perpetrators). They have been battered by the collapse of Arthur Andersen, which put a lot of employees on the street, and has given us ridiculous arguments over "too big to fail" and markets that "self-regulate". They no longer work for the "public good". They work to get better jobs in big law firms. They want to take their faultless experience in government to make themselves millions from the other side. The revolving door makes this one huge club. This is so far removed from their predecessors as to be unrecognizable. And Eisinger makes this shockingly clear as he proceeds from decade to decade. What's great about The Chickenshit Club is that Eisinger has created a huge cast of great characters. You see them giving news conferences or running from courtroom to courtroom, but these federal prosecutors are a different breed of human, and Eisinger profiles them in depth. They spend 16 hour days in crummy offices, scream and yell at each other, swear constantly, and have no fear of taking on the biggest and the wealthiest. Equal treatment under the law actually meant something to them, and they sought out prosecuting positions for the wide-ranging freedom and satisfaction they offered. There are several larger than life heroes here. The most notable is probably (Judge) Jed Rakoff, who began at the SEC and as a judge, had the temerity to refuse settlements between the government and the corporate criminals, because they were superficial, trivial, insufficient, and demonstrated no sense of justice whatsoever. As a result, settlements now avoid approval by the courts. The final impression is that there is an absolute rainbow of crime constantly glowing over corporate America. Business is inventive, sneaky, and determined to take every underhanded shortcut it can, at the expense of its customers and shareholders. What The Chickenshit Club points out is that now more than ever, we need strong overseers, strong regulations, strong deterrents, and strong justice. Today, we have none of them, and they continue to decline from their low positions. David Wineberg

Like a lot of people, I found the 2008 meltdown pretty hard to understand. I knew that some rich and

powerful people had done some controversial things, and I knew that the government had given a lot of money to banks and businesses that were "too big to fail", and I knew mortgages were involved somehow. But the whole thing was so complicated, and I don't have 5 hours a day to study financial terminology, so I just shrugged and moved on with my life (which, coincidentally, seemed much harder than it did before 2008). Jesse's book cut through all the jargon and the purposefully dense legalese and explained the financial scandal in clear, understandable terms that have opened my eyes. He doesn't dumb anything down; he's just really good at explaining complex topics in an understandable way. The whole book is very well-researched and even-handed. He cites multiple sources for each point, and he gives each side a chance to tell their own story. In the end, the scoundrels are hung by their own ropes. It's a great story full of fascinating characters and anecdotes. Highly recommended.

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