



# Department of Justice

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ADDRESS

BY

THE HONORABLE GRIFFIN B. BELL  
ATTORNEY GENERAL OF THE UNITED STATES

BEFORE THE

U. S. CHAMBER OF COMMERCE  
BUSINESS ADVISORY PANEL ON WHITE COLLAR CRIME

1:00 P.M.  
THURSDAY, NOVEMBER 30, 1978

MT. VERNON ROOM  
SHERATON-CARLTON HOTEL  
WASHINGTON, D.C.

It is indeed a pleasure to address this first meeting of the National Chamber's Business Advisory Panel on White Collar Crime. As your chairman Kevin Murphy has said in Nation's Business, "There have been enough studies on this national problem. Now we need to find solutions and ways to implement them." I will tell you shortly about some of the plans of the Department of Justice and some thoughts on your help.

Crimes against business have been rising steadily throughout the 1970's. So too have crimes against consumers and crimes against the government. However, until recently the public out-cry against white-collar crime has been very muted. We are not certain if the reason for this limited public response was that people did not realize when they were victimized, or, perhaps, were too embarrassed to admit it. It is true that some in business, especially those connected with the financial area, are very concerned about their public image and have long failed to report sophisticated white-collar crimes to law enforcement officers for fear of loss of respect and business.

Many in our country hold the mistaken belief that white-collar crime injures only those that can easily afford such losses. The fact is that the costs to society are enormous, not only in dollar losses but also in the human loss and suffering of individuals. Furthermore, a fraudulent scheme often has indirect economic consequences that can be more onerous than the direct and immediate loss.

There is one final victim of white-collar crime: the respect that we Americans should have for our system of justice and laws. Each time that such a crime is successfully perpetrated, the criminals will have less regard for that system. But, even worse, the public will begin to doubt the integrity of our criminal justice apparatus. I must add here my own observation that if such doubt is allowed to grow we shall suffer in the decline of our nation's moral and ethical values, which must surely follow.

In spite of all this, the traditional response to white-collar crime at all levels of law enforcement has been sporadic, reactive, and inconsistent. In the past, throughout the criminal justice system -- federal, state and local -- only minimal resources have been specifically earmarked for combatting white-collar offenses. That low response and those minimal resources are of course the direct result of very few people being concerned about white-collar crime.

The criminal elements in our society have been encouraged by this fact, and today we are faced with an enormous growth in the quantity and sophistication of white-collar crime. Frauds of unprecedented magnitude, often employing novel techniques, are being committed every day.

This, then, is the picture of white-collar crime. For these reasons, I have made white-collar crime one of my four chief priorities in our criminal law enforcement effort.

What is needed, and what the Department of Justice is seeking to develop and implement, is a national enforcement

strategy focusing on five key elements: (1) prevention, (2) detection, (3) investigation, (4) prosecution, and (5) punishment. I would like to share with you my thoughts on this five part strategy.

Number one is prevention. A large portion of white-collar crime is preventable, but certainly not by law enforcement alone. In this regard all segments of society have a role to play -- government, the business community and the private citizen. We have slowly learned this in street crime and are applying the same premise to white-collar crime. But the focus should not be only on physical security; there must be a strong concentration on sophisticated crimes involving manipulation of financial data, computer related crimes, inventory control systems, commercial bribery and the like.

One of the most important aspects of prevention involves awareness of the "badges" of fraud. The public and the business community particularly must learn to recognize the tell-tale signs of white-collar crime schemes and quickly report their existence to the appropriate authorities.

The business community must be wary of promises of unusual and guaranteed high returns; unverified financial statements; fancy company titles with only answering services or mail drops for offices; the availability of easy credit during a tight money time; obscuring the identity of new management; the bargain-no-one-else-can-match; back-dating and post-dating of communications and other documents. All

such signs of fraud should be repeatedly publicized to the public. Publications such as the National Chamber's handbook on white-collar crime should be on every businessman's bookshelf.

While businesspeople quite understandably are reluctant to become involved in the lengthy process that comes from signing a complaint when a crime occurs, there must be a better system devised for at least reporting these crimes. This is an area where we should work closely together.

Also, while you are troubled by your lack of access to criminal history of prospective employees, there is a clear Congressional mandate we must follow. There too is an area we can explore together.

The second area of white-collar enforcement that must be improved upon is detection. Crime detection techniques developed in response to street crimes have not generally been applicable to white-collar offenses. White-collar offenses are low visibility crimes. Some victims may never be aware of their victimization, as in computer crime or purchase order solicitation schemes. Some victims may only discover their loss years after the commission of the actual offense. Criminal investigative agencies and private agencies historically have been compelled to be reactive in their approach to crime. They respond to specific allegations of wrongdoing and rarely can embark on efforts to ferret out such offenses on their own initiative. Nevertheless, the covert nature of white-collar illegality requires us to move from a reactive

enforcement posture in which we wait for a complaint to be filed by a "victim" to a proactive posture in which we affirmatively seek out and pursue the evidence of white-collar illegality even absent the filing of a formal complaint. I am pleased that law enforcement bodies throughout the country are readily adopting such a meaningful proactive approach and analyzing potential trouble spots. Businesses can learn a great deal from this approach, but it takes a commitment from top management to do it right.

The third enforcement prong concerns the investigation phase. Investigations of significant white-collar or economic crimes are difficult and time consuming. We need to reconstruct intricate transactions and establish the criminal intent. Often investigators must look at an entire course of conduct spanning months and even years instead of single discreet act constituting the offense. Relevant evidence may be spread out across the nation or around the world in thousands of records and documents. Unlike street crime where the crime is evident and the investigation focuses on establishing the identity of the culprit, and investigation of white-collar illegality centers primarily on determining if and when a crime actually occurred and the development of sound proof.

Allocating investigative resources therefore becomes critical. The Department of Justice has chosen as a matter of policy to focus our resources primarily on those cases which are perceived to have maximum impact and deterrent

value. In furtherance of this approach, the FBI, and many more investigative bodies, has adopted a "quality over quantity" program to ensure that major cases are afforded maximum investigative priority.

These measures lead to effective and successful prosecution of white-collar offenses, the fourth area of focus. The overall success of our current efforts to prosecute white-collar offenses necessarily depends upon the legal weapons at our disposal. At this time there are gaps in our arsenal which need to be filled by new legislation. Many such statutes have already been proposed that would, among other things, specifically proscribe computer fraud and abuse, clarify internal corporate responsibility, outlaw pyramid sales schemes, and provide prosecutors with an effective injunctive procedure for stopping criminal schemes as soon as they are detected, rather than waiting until sufficient evidence is gathered to begin criminal proceedings.

Merely having appropriate statutes on the books will not, however, be sufficient to control the problem. Vigorous prosecution of significant cases is required to achieve maximum deterrence and impact. That is why I announced white-collar crime prosecutions were one of my top priorities and directed all United States Attorneys to devise enforcement programs for white-collar crime and public corruption.

At the present time some of the larger United States Attorney's Offices have established specialized white-collar crime units.

We recognize, however, that a more comprehensive approach to the problem is required if we are to have a larger impact in this area. Accordingly, we are now implementing a plan designed to ensure that maximum available prosecutive and investigative resources are directed at significant white-collar crime cases. The basic outline of the plan involves establishing specialized economic crime units to be formed in 27 of the larger federal judicial districts around the nation. Each unit would consist of no less than three attorneys plus an economic crime enforcement specialist that would be responsible for maintaining liaison with all relevant program and investigative agencies, with state and local prosecutors, and with the business community.

Finally, treatment of convicted white-collar offenders is a difficult and often emotionally charged public issue.

As "rehabilitation" has little relevance for many of them, questions can be raised about the efficacy and purpose of penal sanctions in white-collar crime cases. I submit that such sanctions can and must play a vital role in our attempts to control white-collar crime.

We must increase the cost to the offenders of committing such crimes by ensuring his or her detection, quick prosecution and punishment more severe than only the possible loss of reputation and community standing. Imposition of prison sentences joined with appropriate fines should be the rule, with probation and early parole reserved only for the most exceptional cases. Imposition of severe punishment in white-



collar crime cases would reflect the gravity of the offense and also serve to assure the public that justice is truly being administered equally in this country. In short, only by "criminalizing" white-collar crimes can we hope to deter would-be-offenders.

Most of the measures I have outlined relate particularly to the Justice Department's attack on white-collar crime. It is, however, a larger problem and requires a coordinated effort to combat it. The Department will do its part to provide creative leadership in this effort and welcomes your support. I look forward to receiving the report of the National Economic Crime Project. I am grateful to Larry Gibson, the director of the project, and to you for your great assistance and I look forward to working with you in the future.

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