

ATTORNEY GENERAL'S COUNCIL ON WHITE-COLLAR CRIME

I. PURPOSE

- This is the first meeting of the Attorney General's Council on White-Collar Crime.
- The United States Attorneys and the federal investigative agencies are looking for a signal from Washington that elevates white-collar crime as an area of importance to the Administration. This meeting will serve that purpose by increasing the profile of white-collar crime.
- A greater public perception of its significance to the Administration can be maintained through the Council meeting twice a year.
- The Council can also better define the distinctly federal aspect of the white-collar crime problem and encourage greater federal-state-local cooperation.
- Finally, the meeting will result in an action plan to both raise the visibility of the current federal effort, to establish new initiatives that will be effective in the future, and to orient law enforcement to work with industry on prevention efforts to correct vulnerabilities in systems that allowed for the fraud to occur.

II. BACKGROUND

In 1983 the Attorney General created an Economic Crime Council to provide advice on approaches to better enforcement in the economic crime area. The last designation of national priorities by that Council in 1991 was: (1) financial institution fraud, (2) defense procurement fraud, and (3) health care provider fraud.

The role and efforts of the former Council and its replacement, the Council on White-Collar Crime, have been augmented by the interagency coordination and initiative "working groups" on bank fraud, health care provider fraud, telemarketing fraud, insurance fraud, and computer crime. These are important, have proved to be successful vehicles for communication and should continue as a part of this Council.

The breadth of white-collar crime does not lend itself to singling out one or two national priorities. While bank fraud may be significant to one district, telemarketing may be the most critical in another. It will be more effective if each agency identifies for the field the several problem areas it sees in the white-collar area and the U.S. Attorneys, working with the respective agencies, can then focus on those white-collar problem areas that are most pressing in their districts. Coupled with this will be a new concept in white-collar crime enforcement under which, instead of shifting from one priority to another, we will develop continuing initiatives in multiple areas along the

lines of the recently developed initiatives of Rogue Broker, Senior Sentinel Telemarketing and Bankruptcy Fraud.

While the federal government handles only five percent of all crimes, the federal role in white-collar crime is unique. Fraud not only affects the victim of the particular crime but weighs against economic stability by creating restrictions on the freedom of commercial and interpersonal transactions. For many complex white-collar crimes there is no law enforcement presence if the federal government does not address it. Local enforcement is hard pressed to divert resources from violent crime to the long term investigations that white-collar cases require. The financial analyses and audits often critical to a successful white-collar prosecution is the bread and butter of federal agencies and not the offices of local police and prosecutor.

Moreover, this is an area where perception is very important to the general public. While resources for white-collar crime have not been reduced, the increased attention to areas of violent crime and the federalization of local crime has created an impression of a diminution of interest.

In seeking to define the crime problem in this area we will continue to devote resources to health care fraud, financial institution fraud and the priorities established earlier that are still significant crime problems. However, we should also identify additional white-collar problems of national concern, examine the adequacy of state law and the ability of state and local law enforcement to solve significant aspects of the problems, examine the ability of the affected industry to correct the problem and look especially to whether federal government involvement would make a qualitative difference.

We met on December 4th at the staff level with the larger law enforcement agencies. They have similar interests from which can be developed both joint and individual initiatives within problem areas, as set out briefly in the attachments. Just as we recommend that the Council meet twice during the year, staff meetings will be held quarterly to develop initiatives for implementation in the field. The Rogue Broker initiative culminated in November, the Senior Sentinel on December 7th, and the Bankruptcy Fraud initiative is set for February of 1996. The staff meetings will establish and coordinate new initiatives and work to correct systemic vulnerabilities.

The work of the Council in the future will include addressing whether the structure of the Sentencing Guidelines is adequate for white-collar crime or whether career swindlers as described in the *Wall Street Journal* article of May 24, 1995, are able to survive because of the lenient treatment for their crimes, and the lack of coordination among law enforcement in combatting white-collar criminals. The coordination resulting from this first Council meeting should go some distance toward addressing the latter problem.

III. PARTICIPANTS

Department of Justice

Attorney General (Council Chair)	Janet Reno
Deputy Attorney General	Jamie S. Gorelick
Deputy Assistant Attorney General, Criminal (Council Executive Director)	Robert S. Litt
Assistant Attorney General, Antitrust (with DAAG Gary Spratling)	Anne K. Bingaman
Assistant Attorney General, Civil (with DAAG Stuart Schiffer)	Frank W. Hunger
Assistant Attorney General, E&NR	Lois J. Schiffer
Assistant Attorney General, Tax	Loretta C. Argrett
Chief, Fraud Section, Crim. Div.	Mary Spearing

United States Attorneys

Representing Chair, AGAC	Kent B. Alexander USA, N.D. GA
Chair, Subcom. White-Collar Crime	Michael Yamaguchi USA, N.D. CA
Vice-Chair, Subcomm. White-Collar Crime	Patrick NeMoyer USA, W.D. NY
Director, EOUSA	Carol DiBattiste

Federal Bureau of Investigation

Assistant Director, Crim. Invest. Div. (with Charles Owens)	William J. Esposito
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Department of the Treasury

Under Secretary for Enforcement	Ronald Noble
Assistant Commissioner, IRS	Donald Vogel
Customs	Allan Doody
Secret Service	Robert Rasor

Securities and Exchange Commission

Director, Division of Enforcement

William McLucas

U.S. Postal Inspection Service

Manager, Fraud & Prohib. Mailing Grp.
Representing Deputy Chief Inspector

Al Lamden

President's Council on Integrity and Efficiency

Vice Chair, PCIE

June Gibbs Brown
IG, Health and Human
Services

Council Assistance, Criminal Division

Director, Policy and Mgmt Analysis
Office of Policy and Legislation

Julie Samuels

Deputy Chief, Fraud Section

Donald Foster

Chief, Computer Crime Unit
General Litigation and Legal Advice Section

Scott Charney

Special Assistant, Fraud Section

Mary L. Schnell

Supervisory Paralegal, Fraud Section

Audrey Word

IV. SEQUENCE OF EVENTS

- INITIAL MEETING Room 4118 1:00 to 2:30

A. Executive Director Robert S. Litt: Mission of the Council

B. Views of the Law Enforcement Agencies concerning the significant economic crime problems they see:

1. FBI--William Esposito
2. Treasury--IRS--Donald Vogel
Customs--Allan Doody
Secret Service--Michael Stinger
3. Postal Inspection Service--Al Lamden
4. SEC--William McLucas
5. PCIE--June Gibbs Brown

C. Response of the Department

1. AGAC: Kent Alexander and Michael Yamaguchi
2. Assistant Attorneys General
(Criminal, Antitrust, Civil, Environment, Tax)

D. Mary Spearing

Wrap-Up: Consensus on the salient points to present to the Attorney General and Deputy Attorney General.

- BRIEFING OF THE ATTORNEY GENERAL AND THE DEPUTY ATTORNEY GENERAL by Robert S. Litt and Mary Spearing 2:30 to 2:45

- MEETING WITH ATTORNEY GENERAL AND DEPUTY ATTORNEY GENERAL 2:45 to 3:15
AG Conference Room

Recommendations of Council

Discussion with Attorney General and Deputy Attorney General

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V. PRESS PLAN - NOT APPLICABLE

VI. REMARKS

The briefing book was prepared by Mary Spearing, Chief, and Donald Foster, Deputy Chief, Fraud Section, Criminal Division.

VII. ATTACHMENTS

Attachment A: Order creating Council

NOTE: We asked the investigative agencies on the Council to prepare an overview of the areas that could be the subject of special initiatives. Initiative information is not available for all agencies. We did not ask the individual U.S. Attorneys, AGAC, or the Divisions to prepare any material.

Attachment B: Federal Bureau of Investigation

Attachment C: Internal Revenue Service

Attachment D: U.S. Secret Service

Attachment E: U.S. Postal Inspection Service

Attachment F: Securities and Exchange Commission

Attachment G: EOUSA ACE Program

Attachment H: Action Plan



Tab A

Office of the Attorney General
Washington, D. C. 20530

ORDER NO. 1976-95

THE ATTORNEY GENERAL'S COUNCIL ON WHITE-COLLAR CRIME

By virtue of the authority vested in me as Attorney General, including 28 U.S.C. §§ 509 and 510, it is ordered that the Attorney General's Council on White-Collar Crime be established as an advisory body to the Attorney General regarding the Department of Justice's law enforcement efforts and resources in combatting white-collar crime. White-collar crime robs the government, private industry, and unsuspecting citizens through guile and trickery, causes devastating economic harm to its victims, and undermines the operation of our financial systems. This order recognizes that certain white-collar crimes rise to a nationally significant level and, thus, that a close working relationship is required among pertinent Department, law enforcement, and other governmental components.

This order applies directly to the United States Attorneys, the Criminal, Civil, Tax, Antitrust, and Environmental and Natural Resources Divisions, the Federal Bureau of Investigation (FBI) and the Executive Office for United States Attorneys (EOUSA).

The Attorney General shall be the Chair of the Council and a member thereof. The Assistant Attorney General, Criminal Division, shall be the Executive Director of the Council and a member thereof. Membership also shall include: the Deputy Attorney General; the Chair, Attorney General's Advisory Committee, and the Chair and Vice-Chair of its Subcommittee on White-Collar Crime; the Assistant Attorneys General of the Antitrust, Civil, Environment and Natural Resources, and Tax Divisions; the Chief, Fraud Section, Criminal Division; the Director, EOUSA; and a representative of the FBI. Other Departments and agencies may be invited to participate in the work of the Council, including a representative of the United States Postal Inspection Service, Department of Treasury, Internal Revenue Service, Securities and Exchange Commission, and President's Council on Integrity and Efficiency.

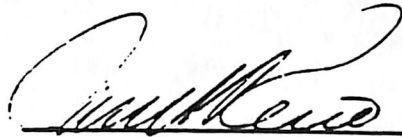
The Council shall provide advice on the identification of white-collar crime problems, successes, and evaluation of trends, refinement of the national strategy for combatting such crime, and immediate and future priorities.

It is recognized that no white-collar crime will occur in or to the same degree in all districts. White-collar crimes identified by the Council as rising to the level of national significance should be evaluated for local significance by the United States Attorneys and, where applicable, emphasized by those United States Attorneys in developing district priorities and in working with Law Enforcement Coordinating Committees.

Attorney General Order No. 1182-87 is hereby revoked.

Date:

July 5, 1995



Attorney General

FEDERAL BUREAU OF INVESTIGATION

The Federal Bureau of Investigation (FBI) has established 11 priority crime problem areas in its white-collar crime program:

(1) health care fraud (focus on most egregious and costly--staged accidents/workers compensation, laboratories, psychiatric hospitals, ambulance services/medical transportation, home health/durable medical equipment/nursing homes),

(2) telemarketing,

(3) environmental crimes (particularly, illegal transportation and disposal of hazardous materials in violation of government contracts that amounts to fraud against the government),

(4) financial institution fraud (peaked in July 1992 with 758 active cases; by end of 1995, less than 400 pending bank failure investigations; although financial institution failure investigations have declined over past several years, major financial institution fraud cases (losses in excess of \$10,000) have increased significantly during the past five years--currently 8,750 pending financial institution fraud matters nationwide, of which 51 percent are failures or major cases; with advances in technology, use of computers and the international nature of banking affecting the complexity and severity of the bank frauds being perpetrated; recently, investigative efforts have focused primarily on check fraud, counterfeit negotiable instruments, check kiting and loan fraud),

(5) public corruption,

(6) insurance fraud,

(7) bankruptcy fraud,

(8) securities and commodities fraud,

(9) computer crimes (aggressively pursuing computer crimes involving impairments, theft of information, and intrusions, with primary focus on intrusions into major computer networks including the telephone network),

(10) frauds against the government programs/agencies [particularly Departments of Defense, Housing and Urban Development, Transportation (as in DOD fraud, substitution of bogus, inferior or surplus/scrap, parts for certified aircraft parts by unscrupulous companies in attempt to increase their profits illegally), and Education--where size of budgets and critical application of the products procured dramatically increase the potential for fraud and corruption, as well as antitrust matters], and

(11) international crime/money laundering.

Tab C

INTERNAL REVENUE SERVICE

Currently, the Internal Revenue Service (IRS) is focusing its law enforcement efforts in the following areas: (1) bankruptcy fraud (increasing voluntary compliance with federal tax laws through selective prosecution of persons committing tax crimes in the bankruptcy area), (2) health care fraud (work with United States Attorneys' Health Care Fraud Task Forces by investigating fraudulent tax returns or unreported income and money laundering), (3) insurance fraud, (4) public corruption, and (5) excise tax fraud (concentrating investigative efforts to combat theft of over \$1 billion in revenue annually from elaborate schemes to steal federal and state motor fuel excise tax revenue, focusing on major metropolitan areas where the corrosive influence of organized crime is most prevalent). Also, two other areas in which the IRS is working with multi-agency law enforcement task forces are: (1) financial institution fraud (unreported income obtained by violators who operate inside and/or outside the financial institution and mortgage loan fraud) and (2) telemarketing fraud.

Tab D

U.S. SECRET SERVICE

The United States Secret Service (USSS), which views white-collar crime essentially as repetitive attacks against national financial systems in areas of systemic weakness, has developed a financial crimes program within its areas of criminal jurisdiction that is a two-pronged approach: (1) traditional criminal investigative action combined with (2) calculated and proactive risk analysis designed to identify and "fix" the systemic weaknesses that inevitably invite and encourage recurring white-collar crime activity.

The priority issues identified are: (1) access device fraud investigations (with special task forces focused on illegal activity by certain organized ethnic criminal groups), (2) counterfeiting of fraudulent financial documents (commercial and governmental securities and other financial instruments fueled by new technology that permits production of highly deceptive counterfeit financial instruments--also often involving organized criminal ethnic groups--on computers, scanners, and other related electronic equipment offered in any electronic store), (3) electronic crimes and other payment card systems (e.g., smart cards and electronic benefits transfer (EBT) cards, an online account debt system), (4) cybercash and other futuristic monetary systems (e.g., ongoing developments toward E-cash, electronic wallets and other systems and instruments that carry monetary value and are potentially vulnerable to laundering of illicit funds and for fraud), (5) the role of partnerships (formal and informal multi-agency task forces) in financial crimes investigations (emergence of organized criminal groups of various nationalities and ethnic origins that are systematically attacking financial institutions and undermining the security of the country's financial system).

U.S. POSTAL INSPECTION SERVICE

The United States Postal Inspection Service (USPIS) has divided its anti-fraud efforts into three categories according to the type of Postal Service "customer" targeted by the particular fraud scheme executed by use of the mails, i.e., the societal sector within which the fraud and losses occur: (1) fraud against business (primarily general health care fraud in which businesses victimized, insurance fraud in which businesses victimized, financial institution fraud, telemarketing fraud in which business or financial institution is victimized), (2) fraud against consumers (primarily investment fraud, telemarketing fraud in which consumers victimized, merchandise misrepresentations/sweepstakes fraud, advance fee schemes), and (3) fraud against government (health care fraud in which Medicare/Medicaid programs victimized, bribery and kickbacks in which government/society at large aggrieved, and embezzlement in which government agency/program victimized).

In combatting the various frauds, the USPIS will employ the most effective civil, administrative, and/or criminal remedies. Aggressive attention will be given to recidivist perpetrators. The USPIS will leverage its resources by forming partnerships with other government law enforcement agencies and business and consumer groups. It will work to improve communication within the USPIS and with Postal customers in each sector group and the media to alert potential victims to emerging fraudulent schemes, educate its consumers, and publicize its anti-fraud efforts.

T.6 F

SECURITIES EXCHANGE COMMISSION

In addition to its ongoing criminal referrals of insider trading, financial reporting and other traditional varieties of securities fraud, the Securities Exchange Commission (SEC) has identified the following current fraud categories for a greater commitment of criminal law enforcement resources at the local or national level: (1) broker fraud (broker thefts and fraud against clients), (2) telecommunications fraud (fraudulent investment schemes in technologies such as wireless cable television, specialized mobile radio systems, interactive video data services, 900 numbers, and paging systems), (3) prime bank fraud (fraudulent issuance, sale, or use, often across national borders, of "prime" European bank or "prime" world bank financial instruments in the form of notes, debentures, letters of credit or guarantees, that commonly target both institutional and individual investors, possibly involving pooling of funds from numerous investors in Ponzi schemes), (4) pyramid schemes/affinity frauds (significant pyramid/Ponzi schemes in which early investors in various get-rich-quick promotions initially receive payments, but in which collapse ultimately results in loss of most of the invested funds to the promoters, with schemes sometimes being "affinity" frauds in which investors are solicited from specific ethnic or racial groups, with the ethnic or racial affinity between promoters and investors being a significant part of the fraudulent sales pitch), and (5) frauds perpetrated by means of the internet (fraudulent offerings on the internet of unregistered securities and attempts to fraudulently promote or manipulate the price of securities).

AFFIRMATIVE CIVIL ENFORCEMENT

Affirmative Civil Enforcement (ACE) is a civil initiative designed to address fraud and other misconduct against the government. The False Claims Act, the most frequently used statute in ACE litigation, provides for three times actual damages and penalties of \$5,000 to \$10,000 per false claim. As a result, ACE serves an important law enforcement function, while at the same time recovering large damage awards on behalf of the government. This combination yields a cost-effective approach to fighting frauds against the government.

The United States Attorneys' offices (USAO) and the Civil Division have sufficient resources, with each USAO having civil Assistant United States Attorneys (AUSAs) who are trained and available to handle ACE cases in coordination with investigators and criminal prosecutors on white-collar crime matters. Thirty-seven districts have ACE teams solely dedicated to pursuing and prosecuting civil fraud. In addition, the Commercial Litigation Branch of the Civil Division has a staff of Trial Attorneys who specialize in the area of civil fraud.

The USAOs are taking steps to coordinate criminal and civil prosecutions. USAO's are being encouraged to designate an ACE Coordinator, amend criminal initiation forms to identify ACE potential, establish a parallel proceeding protocol, and train criminal prosecutors on civil fraud remedies. However, in addition, the investigative agencies and Inspector Generals must recognize the merits of civil fraud litigation and dedicate sufficient resources to civil investigations. Benefits to pursuing a matter civilly include a reduced standard of proof and significant monetary damages. Useful activities to encourage civil investigations include issuing an agency directive that civil fraud matters should be investigated by the agents; giving credit to agents who work civil cases; and providing training in civil fraud remedies.

ACTION PLAN

The Council has endorsed that the following steps be taken and approaches be recommended to the Attorney General:

- (1) Renew the traditional federal emphasis on white-collar crime investigations and prosecutions by having the Attorney General make a major address with respect to the approach of law enforcement in combatting white-collar crime.
- (2) Rather than setting one or two nationwide priorities in this area, develop ongoing and seriatim initiatives in white-collar crime to assert a constant presence while attending to the diverse crime problems in this broad area.
- (3) Emphasize to the United States Attorneys and federal law enforcement agencies the importance of working closely with state and local authorities in white-collar crime cases. Using "Operation Senior Sentinel" as a model of a cooperative effort, encourage similar strategies for future operations.
- (4) Prevention: Combat problems that make the systems themselves vulnerable to criminal activity. Go beyond the point of declaring success in combatting a certain type of fraud after obtaining a number of successful convictions and take what has been learned from those investigations to work with industry groups to address the vulnerabilities. This approach will ultimately be a more beneficial expenditure of law enforcement efforts.
- (5) Convene the Council on White-Collar Crime meeting twice a year, and hold quarterly meetings of staff of the member agencies.
- (6) Communicate the results of the Council on White-Collar Crime's meetings with a report to the United States Attorneys.