

SPEECH
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WHITE COLLAR CRIME
FEDERAL/STATE LAW ENFORCEMENT COMMITTEE
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DEFINITION

Perhaps the most difficult problem with white collar crime is definition.

Just about every law enforcement official will give you a different summary of the types of offenses which should be considered white collar crime.

Definition is important, for only with a clear conception of the problem can we attempt to attack the causes and manifestations of white collar crime.

White collar crime is a social concept much the way juvenile delinquency describes a class of violators, rather than a specific crime.

I would define white collar crime under two broad headings, private and public. In the private sector, there are crimes against consumers, crimes against employers, crimes against regulatory statutes such as the Environmental Protection Act, and corporate bribery and embezzlement.

There is another broad area of white collar crime, and let me assure you that it is as old as man, and that is, public sector crime or governmental

white collar crime. Here I would identify crimes against the people, public corruption, fraud, bribery or abuse of office or funds.

These are broad areas of definition, but I believe that they give you the scope of the problem, while at the same time demonstrating the social nature of the problem.

COSTS

Using the categories that I have described, the Chamber of Commerce estimated in 1974 that white collar crime cost us some \$40 billion annually. In 1976, the

Joint Economic Committee estimated the cost at \$44 billion. In 1977, the Law Enforcement Assistance Administration estimated that crimes against business alone cost some \$30 billion; this includes such crimes as credit card fraud which totalled some \$100 million and bad checks which ran an astounding \$1 billion.

This figure is amazing when you consider that the \$40 billion figure is 200 times the amount of money lost through bank robberies. In other words, a crime which everyone abhors and views as the classic example of criminal activity only costs us less than one half a percent of the cost of white collar crime.

If you add antitrust violations which are a crime and are passed on to the consumer as higher prices, the total for white collar crime approaches a conservative estimate of \$140 billion a year.

PROBLEMS IN DEALING WITH
WHITE COLLAR CRIME --
PUBLIC ATTITUDE

Several studies have pointed to major problems facing law enforcement in dealing with white collar crime.

The first problem is the public attitude which now borders on apathy. There can be nothing worse

than a crime which creates no public outcry yet costs the public so much. Every law enforcement official knows that without public support, prosecution of any crime is nearly impossible.

The reason for this apathy is rooted in public outrage over light sentences, lack of knowledge that white collar crime affects almost all of us and even endorsement of the criminal as a smart individual who has beaten the "rich man's system".

Another reason for apathy is a lack of faith in the government and our legal system. There is distrust of the mechanisms of government and, with

events such as Watergate and the General Services Administration scandal, a lack of faith in the men and women who serve the public. With government officials held in low esteem and reports of criminal acts by respected members of society, such as the involvement of doctors in Medicaid and Medicare fraud, there is a hopeless feeling among our people.

ABSENCE OF UNIFORM STANDARDS OF ENFORCEMENT

Another problem which we face at the federal level is a lack of uniform enforcement by the regulatory agencies. Often civil penalties are

pursued with little attention paid to criminal sanctions. Many agency budgets take into account inspections, recordkeeping and civil enforcement, but neglect rigorous criminal prosecution. I will touch briefly on what has been done to correct this problem in a few moments.

PROBLEMS OF DETECTION AND PROSECUTION

There are several enforcement problems which are unique to white collar crime. First, there is the problem of detection. Often white collar crimes are not reported. Corporations may be more embarrassed to report crimes than to pass along

the cost of the crime to the public. On the other hand, victims of price-fixing, an antitrust violation, often don't know that they have been the subject of such an illegal activity. Other victims, such as those enduring consumer fraud, are either too poor or too afraid to pursue a suit against a retail merchant.

White collar crime also involves methods which are difficult to detect. Commercial transactions are complex enough without attempting to detect some impropriety. There are acts of omission and there are blatant actions such as use of computers, which

are difficult to detect.

Another law enforcement difficulty is that of investigation. Time-consuming, resource-consuming and requiring special skills, white collar crime investigations pose a special problem for law enforcement officials in both large and small cities. The Antitrust Division at the Department of Justice faced with some \$100 billion in antitrust violations, has only \$28 million in budget to prosecute the antitrust criminal.

Another law enforcement problem is one of attitude. An LEAA-funded study found that many

law enforcement officials consider white collar crime a low priority. They feel that the victim is a gullible individual who deserved what he got or that the crime is between private parties and thus there is no proper jurisdiction. These are all rationalizations by the law enforcement agency for not dedicating greater resources to the white collar area. I am not placing blame by this statement, but rather stating a situation which I believe to exist in large measure because of a lack of public support for white collar crime enforcement efforts.

THE ISSUE OF SENTENCING

How to sentence the white collar criminal remains a difficult task for many. Should it be very stiff to make an example or should it be lenient taking into account the attendant punishment of social fallout from a criminal conviction?

There are two schools of thought, but I come down on the side of stricter penalties. With the public awareness so low and apathy so high, the time has come to bring these criminals to the forefront, rather than inducing others to commit crimes because of low sentencing.

A study by the Bureau of National Affairs entitled "White Collar Justice" noted that a white collar criminal stood a 36% chance of going to prison, while a nonviolent criminal or street criminal stood a 53% chance and a violent criminal stood an 80% chance. In short, imprisonment on conviction for bank embezzlement is 20%, while imprisonment on conviction for bank robbery is 89%. As I noted earlier, embezzlement costs quite a bit more than robbery.

PROGRESS

Let me report to you on some progress that has

been made in this area which should be of interest to you.

A. CONGRESSIONAL ACTION

Clearly much of white collar crime is a federal problem. Antitrust violations and securities fraud are often more susceptible to Justice Department and Securities and Exchange Commission action than state programs.

In response to this, the 95th Congress passed legislation prohibiting bribery of foreign officials and increased penalties for defrauding Medicare and

Medicaid. The Criminal Code Reform bill, which will clarify and coordinate the law on white collar crime, passed the Senate but no House action was taken. We will be renewing discussions on this legislation this year.

In the area of public corruption and impropriety, the House and Senate have done extensive investigations concerning the Koreagate scandal. There have been several prosecutions initiated regarding these cases and the Senate Ethics Committee on which I serve has been taking many hours and days to investigate allegations of impropriety against past and present

members of the Senate. This is an arduous task, but essential to assuring the American people that the Senate will act to "police its own".

On the horizon, I can say that the most important issue for law enforcement in the Congress is LEAA.

Last year in testimony before the Senate Judiciary Committee, I stated my basic support for the continuation of LEAA. While I do not agree with every aspect of the planned reorganization, I indicated that certain streamlining and reduction in red tape

WOULD BE BENEFICIAL,

WE WILL BE TAKING UP THIS MATTER AGAIN ON MONDAY. I WILL BE WORKING TO INSURE THAT ADEQUATE LEAA FUNDING EXISTS TO DO THE JOB.

LAST YEAR LEAA HAD SOME \$600 MILLION IN ITS BUDGET. THIS YEAR THE SENATE IS PROPOSING SOME \$800 MILLION. ON THE OTHER HAND, THE BUDGET COMMITTEE HAS TARGETTED ONLY \$400 MILLION. THIS WILL BE A TOUGH ISSUE FOR THE SENATE, BUT I WILL BE WORKING TO SEE THAT THERE IS NO VOID CREATED IN OUR SUPPORT FOR LOACL LAW ENFORCEMENT EFFORTS.

B. EXECUTIVE ACTION

THE AMERICAN BAR ASSOCIATION HAS MADE TWO INDICTMENTS AGAINST THE ADMINISTRATION'S ANTI-WHITE COLLAR CRIME EFFORTS -- THEY ARE CRITICIZED AS BEING

underfunded and uncoordinated. The funding is a legislative issue, but the coordination is an executive problem.

Reorganizing LEAA is only one approach. There needs to be better coordination between the Justice Department, the FBI, the Securities and Exchange Commission, the Federal Trade Commission and the other agencies and departments charged with fighting white collar crime. There has been an inter-agency task force formed on white collar crime and we will have to see the degree of cooperation which emerges from this first effort.

There is other good news to report. The Securities and Exchange Commission has sent an increasing number of cases to the Justice Department for prosecution. In 1972 only 38 cases were referred to Justice for criminal action; by 1976 this number reached 114. In the Antitrust Division at Justice, appropriation for enforcement of antitrust and consumer protection rose from \$14.5 million in 1974 to \$36.4 million this year.

The Federal Bureau of Investigations white collar crime cases have risen 25% from 1971 to 1975 and the FBI has adapted to the needs of combatting

white collar crime by adding some 800 accountants to its staff.

Yet there are still problems in the enforcement area. Although expenditure of money is neither a sign of success or failure, the General Accounting Office issued a report on March 19 of this year criticizing the Justice Department for devoting only 5.1% of its available resources to fighting white collar crime during 1977, 1978 and 1979. Faced with the immensity of the problem, it does appear that some reallocation is in order.

Assistant Attorney General Benjamin Civiletti responded to this criticism by announcing a major white collar crime effort. Twenty-seven cities will have special units established in the next two years to attack white collar crime, and in Washington a new Economic Crimes Division will be set up to manage the program. In each of the target cities there will be a minimum of three full-time lawyers at work on the problem.

C. NEED FOR LOCAL ACTION

On the whole there is progress being made

at the federal level. The awareness of the problem has grown and efforts are being made to rearrange enforcement efforts and priorities. One simple approach which has produced results is the creation by GAO of a fraud hotline for anyone who wants to report misuse of government funds or property. Over ~~2,000~~^{5,000} leads have already been received.

Yet where does that leave local and state enforcement efforts in the effort to deal with white collar crime?

Much of this crime merits attention by the

states and not by the federal government. Credit fraud, embezzlement, bribery and theft against employers usually take place within the confines of a state border.

As I see it, the challenge for local law enforcement is first to educate the public. Law enforcement projects, many supported by LEAA, which call to the attention of the public the criminal nature and available punishment for white collar crime, ARE a starting point. There must be a reversal of the apathy and we must restore a sense of outrage and a feeling that government can help and can make

inroads against white collar crime to restore public confidence. Cooperation between business and law enforcement will go a long way toward producing a workable education program.

Next, there must be a review of local priorities.

Often this requires a shift in resources and manpower.

Often this means re-education of law enforcement

officials to the special problems created by dealing

with white collar crime. The resources in North

Carolina for this education process are readily

available through Raleigh and the Institute of

Government in Chapel Hill. Once local and state

needs are explored, then a reorganization and effective attack on white collar crime can begin.

Assistance from the Federal government, where needed and merited, should be available and I can assure you that I will continue to support appropriate federal cooperation and assistance for state and local efforts. Personally, I would like to see greater cooperation among the states without federal involvement, but as I noted earlier, there are many instances properly within the domain of federal expertise.

Finally, you need to review current laws and

work with the federal government on creating legislation updating and revising our statutes which deal with the problem.

CONCLUSION

Let me end by noting that white collar crime is a social problem. There are limits on what law enforcement can do with such a criminal activity. Just as prohibition required immense law enforcement efforts and patience, so white collar crime requires diligence and special skills. We must work to improve ~~SOCIETAL~~ attitudes -- a process beyond the scope of law.

enforcement -- and to improve our law enforcement skills. I will support you in your job and I hope that we can work together in educating our people to the seriousness of this problem.