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WHITE COLLAR CRIME

NORTH CAROLINIANS, LIKE ALL AMERICANS, ARE INCREASINGLY CONCERNED WITH CRIME AND CORRUPTION. CRIME HAS MANY FACES: THE MOBSTER WHO GUNS DOWN SOMEONE ON ORDERS FROM HIS CHIEF; THE HOODLUM WHO ASSAULTS A STRANGER AND TAKES HIS WALLET; THE DRUNK WHO MAKES A DISTURBANCE IN A TAVERN; THE YOUNG PERSON WHO SOMETIMES SHOPLIFTS; THE OTHERWISE HONEST CITIZEN WHO CHEATS ON HIS INCOME TAX; THE CON MAN WHO SWINDLES PEOPLE OUT OF THEIR SAVINGS; AND THE POLITICIAN WHO ACCEPTS A GIFT IN RETURN FOR INFLUENCING A CONTRACT. THESE ARE ALL CRIMINALS, AND WE NEED TO GREATLY IMPROVE OUR EFFORTS TO DEAL WITH THEM.

I'D LIKE TO TALK TO YOU ABOUT ONE GROUP OF CRIMINALS, PROBABLY THE LARGEST GROUP — THOSE WHO COMMIT WHITE COLLAR CRIMES. THIS TERM ISN'T IN OUR LAWBOOKS, BUT HAS COME INTO BEING TO DESCRIBE A WIDE RANGE OF OFFENSES. THESE ARE THE CRIMES WHICH SELDOM INCLUDE FORCE OR VIOLENCE — INSTEAD, THEY RELY ON FRAUD AND DECEPTION. THEY ARE USUALLY COMMITTED BY PEOPLE WE DON'T RECOGNIZE AS CRIMINALS — BUSINESSMEN, SALESMEN, REPAIRMEN, AND OTHER RESPECTED MEMBERS OF THE COMMUNITY. AND THESE WHITE COLLAR CRIMES ARE SELDOM PROSECUTED.

THERE ARE MANY REASONS WHY WE'VE DONE SO LITTLE ABOUT WHITE COLLAR CRIME. ONE IS THAT WE'VE CONCENTRATED ON CONTROLLING VIOLENT CRIME AND STREET CRIME, WHICH IS IMMEDIATELY AND DRAMATICALLY VISIBLE. ANOTHER IS THAT WE TEND TO TAKE BUSINESS CRIMES FOR GRANTED — CRIMES THAT INVOLVE MAKING A "FAST BUCK" DON'T HOLD THE SAME STIGMA AS VIOLENT CRIMES. ANOTHER IS THE DIFFICULTY OF INVESTIGATING AND PROSECUTING WHITE COLLAR CRIME.

LET ME GIVE YOU AN EXAMPLE. SUPPOSE A THUG COMES UP TO YOU ON THE STREET, PUTS A GUN IN YOUR FACE, AND DEMANDS YOUR PURSE OR WALLET. CHANCES ARE THAT YOU'LL GIVE IT TO HIM, THEN IMMEDIATELY CONTACT THE POLICE. YOU CAN GIVE AN EXACT DESCRIPTION OF THE CRIMINAL AND OF THE CRIME. THE POLICE CAN SEARCH FOR THE SUSPECT. IF HE IS FOUND, YOU CAN IDENTIFY HIM. THERE HAS BEEN A CLEAR VIOLATION OF THE LAW, SO THERE IS NO PROBLEM IN BRINGING CHARGES. IF HE IS CONVICTED, THE CHANCES ARE THAT HE'LL BE PUT IN PRISON FOR A WHILE.

NOW, SUPPOSE THAT YOUR CAR MOTOR SOUNDS ODD AND YOU TAKE IT INTO A SHOP FOR REPAIRS. YOU COME BACK, AND ARE GIVEN A HEFTY BILL. SUPPOSE THAT THIS BILL INCLUDES A LOT OF UNNECESSARY OR NONEXISTENT REPAIRS. THE CHANCES ARE THAT YOU'LL PAY, AND NOT EVEN KNOW THAT YOU'VE BEEN ROBBED. MAYBE YOU DO EVENTUALLY LEARN WHAT HAPPENED. HOW DO YOU PROVE IT? WHAT CHARGES ARE BROUGHT? IN THE UNLIKELY EVENT YOU CAN BRING CHARGES AND GET A CONVICTION, HOW LIKELY IS IT THAT A RESPECTABLE AUTO

MECHANIC WILL BE SENT TO PRISON?

THE AUTO MECHANIC'S CRIME WILL PROBABLY GO UNDETECTED AND UNPUNISHED. YET HE MAY HAVE ROBBED YOU OF MUCH MORE MONEY THAN THE HOLDUP MAN. HE PROBABLY HAS A CONSIDERABLY HIGHER NUMBER OF VICTIMS. HE CAN EVEN CAUSE PHYSICAL HARM, IF HE LEAVES YOUR CAR IN DEFECTIVE CONDITION. WHITE COLLAR CRIME, DESPITE ITS LOW VISIBILITY, IS WIDESPREAD AND VICIOUS.

LET'S TALK ABOUT SOME OF THE PROBLEMS OF WHITE COLLAR CRIME, AND WHAT CAN BE DONE ABOUT THEM. FIRST, THE PREVALANCE OF WHITE COLLAR CRIME REFLECTS A BASIC PROBLEM OF MORALITY. WE HAVE TOLERATED TOO GREAT A GAP BETWEEN OUR PRINCIPLES AND OUR PRACTICES. THIS IS NOT A MATTER THAT CAN BE LEGISLATED, BUT IS UP TO US AS INDIVIDUALS. WE HAVE SEEN TOO MUCH OF DECEPTION AND CORRUPTION. WE MUST DEMAND OF OURSELVES AND OF OTHERS HIGH STANDARDS IN OUR BUSINESS AND PROFESSIONAL LIFE, AS WELL AS IN OUR PERSONAL CONDUCT.

WE MUST DO MORE TO PROTECT THE CONSUMER. OF ALL THE THINGS WE'VE BEEN ABLE TO DO DURING MY FIVE YEARS AS ATTORNEY GENERAL, NOTHING HAS GIVEN ME AS MUCH SATISFACTION AS OUR CONSUMER PROTECTION DIVISION. WE RECEIVE AN AVERAGE OF 1,200 COMPLAINTS A MONTH. MOST OF THEM ARE RESOLVED TO THE SATISFACTION OF THE CONSUMER, THROUGH NEGOTIATIONS WITH THE PERSON COMPLAINED ABOUT. WE SELDOM HAVE TO GO TO COURT, BECAUSE THEY KNOW WE MEAN

BUSINESS.

WE NEED TO STRENGTHEN CONSUMER PROTECTION PROGRAMS, PARTICULARLY AT THE STATE LEVEL. NOT TOO LONG AGO, THE CONSUMER COULD USUALLY SEE MOST OF WHAT HE BOUGHT AND HE USUALLY KNEW THE MERCHANT. THE COMPLEXITY OF THE MODERN MARKETPLACE AND THE SOPHISTICATED NATURE OF MUCH OF OUR PURCHASES HAVE REMOVED THESE TRADITIONAL SAFEGUARDS. FEW PEOPLE WHO PURCHASE A CAR COULD INSPECT IT INTELLIGENTLY. MOST OF OUR GROCERIES, CLOTHES, AND HOUSEHOLD GOODS ARE BOUGHT FROM STORES THAT ARE OWNED BY CONGLOMERATES OR CORPORATIONS, RATHER THAN A NEIGHBORHOOD MERCHANT. BECAUSE OF THESE CHARGES, GOVERNMENT HAS HAD TO HELP PROTECT THE CONSUMER.

WE NEED TO ENSURE THAT THE VAST NETWORK OF LOCAL, STATE AND FEDERAL REGULATING AGENCIES OPERATE EFFECTIVELY TO PROTECT THE CONSUMER. OVER THE YEARS, MANY GOVERNMENT AGENCIES HAVE COME INTO BEING TO REGULATE BUSINESS. AT THE FEDERAL LEVEL, WE HAVE SUCH AGENCIES AS THE FEDERAL TRADE COMMISSION, THE SECURITIES EXCHANGE COMMISSION, THE CONSUMER PRODUCT SAFETY COMMISSION, THE FEDERAL POWER COMMISSION, AND THE INTERSTATE COMMERCE COMMISSION, TO NAME JUST A FEW. WE NEED TO SEE THAT THESE AND SIMILAR GROUPS ARE COMPOSED OF PERSONS WHO ARE RESPONSIVE TO THE CONSUMERS' NEEDS AND INTERESTS, AND THAT THEY HAVE THE KIND OF STAFF AND FUNDING THAT MAKES IT POSSIBLE FOR THEM TO FUNCTION EFFECTIVELY.

WE NEED TO DEVELOP NEW TECHNIQUES FOR INVESTIGATING THESE KINDS OF CRIMES. MANY WHITE COLLAR CRIMES INVOLVE COMPLEX FINANCIAL TRANSACTIONS THAT ARE VERY DIFFICULT TO IDENTIFY AND THAT POSE PROBLEMS OF PROOF. IT MAY BE DIFFICULT TO PROVE FRAUD. IN OUR CONSUMER PROTECTION DIVISION, FOR EXAMPLE, THE BEST INVESTIGATORS ARE ACTUALLY THE PEOPLE WHO FILE COMPLAINTS — THEY TELL US WHEN SOMETHING IS WRONG. BUT WE SOMETIMES HAVE TO GET FURTHER PROOF. FOR EXAMPLE, WE HAD MANY COMPLAINTS ABOUT ODOMETERS BEING RESET TO SHOW LOWER MILEAGE. TO PROVE THIS, WE SOMETIMES HAD A STAFF MEMBER TAKE A CAR OUT FOR A TEST DRIVE, THEN HAVE IT EXAMINED BY EXPERTS TO SEE IF THE MILEAGE WAS ACCURATE.

WE NEED TO MAKE SURE THAT OUR LAWS ARE ADEQUATE TO DEAL WITH WHITE COLLAR CRIMES. AS I SAID, THE STATUTES DON'T REFER TO "WHITE COLLAR CRIME" AS SUCH. BUT THERE ARE MANY LAWS THAT CAN BE USED, AT BOTH THE STATE AND LOCAL LEVEL. IN NORTH CAROLINA, WE WERE ABLE TO GET ONE OF THE BEST CONSUMER FRAUD LAWS IN THE NATION ENACTED. WE HAVE LAWS AIMED AT SPECIFIC OFFENSES, SUCH AS A LAW PROHIBITING ODOMETER RESETTING THAT WAS SPONSORED BY OUR OFFICE. ALL STATES HAVE TAX LAWS THAT CAN BE USED, AND LAWS REGULATING BUSINESS AND THE PROFESSIONS. MANY OF THESE LAWS HAVE BEEN IN THE BOOKS FOR GENERATIONS, AND NEED TO BE REVIEWED TO MAKE SURE THAT THEY ARE EFFECTIVE TOOLS TO USE AGAINST TODAY'S WHITE COLLAR CRIMINAL.

WE MUST GREATLY INCREASE THE NUMBER OF PROSECUTIONS THAT ARE BROUGHT FOR WHITE COLLAR CRIME. FEW BUSINESSMEN, PROFESSIONALS, OR PUBLIC SERVANTS WOULD ENGAGE IN CORRUPT OR FRAUDULENT ACTIVITIES IF THEY WERE ALMOST CERTAIN TO BE CAUGHT AND PUNISHED. THEY FEAR NOT ONLY FINES AND IMPRISONMENT, BUT LOSS OF REPUTATION. UNLIKE MANY CRIMINALS, THEY FUNCTION AS RESPECTABLE CITIZENS, AND CONVICTION WOULD MEAN DISGRACE TO THEM AND THEIR FAMILIES, AND LOSS OF BUSINESS. SO FEW WHITE COLLAR CRIMINALS ARE NOW CONVICTED THAT THE POSSIBILITY OF PUNISHMENT IS NOT A REAL THREAT TO THEM.

WE NEED TO ENSURE THAT THOSE WHITE COLLAR CRIMINALS WHO ARE CONVICTED ARE PUNISHED SEVERELY ENOUGH THAT THE PUNISHMENT SERVE AS A DETERRENT TO THEMSELVES AND TO OTHERS. THIS IS NOT NOW THE CASE.

ONE STUDY SHOWED THAT, IN THE DISTRICT OF COLUMBIA, A TOTAL OF 82 PERSONS WERE SENTENCED IN 1970, 1971 AND 1972 FOR SIGNIFICANT FRAUD OR CORRUPTION. OVER HALF OF THEM (43) RECEIVED PROBATION OR SUSPENDED SENTENCES. ONLY ONE-FOURTH RECEIVED PRISON TERMS WITH A MAXIMUM OF 3 YEARS, AND FIVE OF THESE WERE LATER REDUCED BY THE SENTENCING JUDGE. ALL OF THOSE SENTENCED WOULD BE ELIGIBLE FOR PAROLE AFTER SERVING ONE-THIRD OF THEIR SENTENCES. REMEMBER, THESE WERE THE SERIOUS CASES, EACH REQUIRING A SUBSTANTIAL COMMITTMENT OF PUBLIC RESOURCES TO INVESTIGATE AND PROSECUTE.

UNFORTUNATELY, THIS SORRY RECORD IS PROBABLY TYPICAL. THE MAXIMUM PRISON TERM UNDER FEDERAL LAW FOR MANY FRAUD OFFENSES IS 5 YEARS, WITH THE PRISONER BEING ELIGIBLE FOR PAROLE AFTER 20 MONTHS. IF "GOOD TIME" IS TAKEN OFF HIS SENTENCE, HE MAY GET OUT EVEN SOONER. MAXIMUM SENTENCES SHOULD BE SHARPLY INCREASED, SO THAT THE JUDGES CAN HAND DOWN SENTENCES THAT WILL ACT AS DETERRANTS.

THE WHITE COLLAR CRIMINAL KNOWS THAT THE RISKS OF GETTING CONVICTED ARE VERY SLIGHT. HE KNOWS THAT EVEN IF HE IS SENTENCED, HE WON'T SPEND LONG IN PRISON. THESE ARE PRETTY GOOD ODDS, AND MANY PERSONS ARE WILLING TO TAKE A CALCULATED RISK AND ENGAGE IN WHITE COLLAR CRIME UNDER THESE CIRCUMSTANCES.

I'M NOT SAYING THAT EVERY EMBEZZLER OR CON MAN SHOULD GO TO PRISON FOR 30 YEARS. MAYBE THIS IS THE WRONG APPROACH IN TERMS OF EITHER PUNISHMENT OR REHABILITATION. WE DON'T KNOW ENOUGH ABOUT THE PROCESS OF CORRECTION TO BE ABLE TO SAY WITH ANY CERTAINTY WHAT SHOULD BE DONE WITH THESE PEOPLE. WE NEED TO RE-THINK OUR CORRECTIONS PROCESS, IN VIEW OF ITS EFFECT ON WHITE COLLAR CRIMINALS. DIFFERENT APPROACHES MAY BE NEEDED FOR THEM THAN FOR OTHER CRIMINALS. OF COURSE, NOT ALL WHITE COLLAR CRIMINALS ARE ALIKE AND NOT ALL WOULD RESPOND TO THE SAME TREATMENT.

WE NEED ALSO TO RE-EVALUATE THE PROCESS OF PROBATION AND PAROLE AS THEY EFFECT THE WHITE COLLAR CRIMINAL. NOW, WE DON'T USUALLY PREVENT PEOPLE FROM GOING BACK TO THEIR ILLEGAL ACTIVITIES. THE SWINDLER CAN GO STRAIGHT FROM PRISON TO HIS OFFICE AND BE RIGHT BACK IN BUSINESS. OR HE MAY BE OUT ON BAIL FOR LONG PERIODS, CONDUCTING BUSINESS AS USUAL.

FINES SHOULD BE LARGE ENOUGH TO IMPOSE A REAL HARDSHIP; OTHERWISE, THEY MAY JUST BE VIEWED AS A COST OF DOING BUSINESS. THIS IS PARTICULARLY TRUE OF LARGE CORPORATIONS AND BUSINESSES, WHICH COULD PAY PENALTIES UNDER MOST EXISTING LAWS WITHOUT DAMAGE TO THEIR OPERATIONS.

JUDGES, JURIES, AND THE PUBLIC IN GENERAL ARE SOMETIMES RELUCTANT TO CRACK DOWN ON WHITE COLLAR CRIMINALS, BECAUSE THEY USUALLY SEEM TO BE RESPECTABLE PEOPLE. THIS SHOULD NOT BE SO. MOST PEOPLE WHO COMMIT SO-CALLED STREET CRIMES ARE YOUNG, DISADVANTAGED, AND SOCIALLY DEPRIVED. WHILE THIS DOES NOT EXCUSE THEIR CRIMINAL BEHAVIOR, IT HELPS EXPLAIN IT. THE WHITE COLLAR CRIMINAL DOES NOT HAVE THIS EXCUSE. HE HAS A PLACE IN OUR ECONOMIC AND SOCIAL STRUCTURE, BUT HAS DELIBERATELY TURNED TO CRIME.

WE NEED TO EDUCATE PEOPLE SO THAT THEY RECOGNIZE WHITE COLLAR CRIMES WHEN THEY ARE COMMITTED, AND THAT THEY SUPPORT THE POLICE, PROSECUTING AND COURTS TO SEE THAT JUSTICE IS DONE.

AN ALERT AND INFORMED PUBLIC CAN ASSURE THAT GOVERNMENT RESOURCES ARE MOBILIZED AGAINST WHITE COLLAR CRIME.