



AMERICAN BAR ASSOCIATION

Criminal Justice Section

## WHITE COLLAR CRIME COMMITTEE NEWSLETTER

SUMMER/FALL 2022

[ABA CRIMINAL JUSTICE SECTION](#) [WCC Committee](#)

### MESSAGE FROM THE EDITOR

The *White Collar Crime Committee Newsletter* showcases content and opinion of leading experts, scholars, and practitioners through articles written by our American Bar Association [Criminal Justice Section](#) members. The [White Collar Crime Committee](#) seeks your participation in its 20 regional committees and 20 substantive committees; and encourages your attendance at its national and international conferences, CLEs, and workshops.

The White Collar Crime Committee encourages you to participate year round, and also looks forward to reading your submissions for our upcoming Winter/Spring 2023 issue. If you would like to submit an article for our next edition (submission deadline: Jan. 15, 2023) or have ideas on a subject for a topical Newsletter, please contact the WCCC Newsletter Subcommittee Chair, **Salma S. Safiedine** at [S.Safiedine@SPartnersLaw.com](mailto:S.Safiedine@SPartnersLaw.com).

*Please note these upcoming CJS programs related to white collar crime:*

- September 7-9: **The Southeastern White Collar Crime Institute**, Braselton, GA
- October 10-11: **The 10th Annual London White Collar Crime Institute**, London, UK
- November 2022: **The CJS Fall Institute**, Washington, DC (Includes *The WCC Town Hall*)
- Coming in 2023: **The Global White Collar Crime Institute**, Buenos Aires, Argentina

See the complete *CJS Calendar of Events* at [www.ambar.org/cjsevents](http://www.ambar.org/cjsevents)

### FEATURED ARTICLES

#### [FCA LIABILITY TRENDS FOR PRIVATE EQUITY FIRMS](#)

By **Johnjerica Hodge, Ryan Meyer, and Ny'esha Young**

Historically, private equity firms generally have escaped scrutiny under the False Claims Act (FCA) stemming from their investment in the healthcare field—one of the most heavily regulated industries in the country. That enforcement landscape has changed significantly in the last decade. The Department of Justice's recent emphasis on combatting fraud has led to private equity firms incurring millions of dollars to resolve FCA claims. All signs point to private equity firms continuing to be a point of focus in these cases. Below, we walk through the key cases in this area and highlight steps private equity firms can take to reduce their liability. [READ MORE](#)

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## **CHALLENGING ERRONEOUS GRAND JURY INSTRUCTIONS**

**By John Hanusz**

A grand jury is intended to be a “barrier to reckless or unfounded charges.” Practitioners know it to be anything but. “Any experienced prosecutor will admit that he can indict anybody at any time for almost anything before a grand jury,” including the proverbial ham sandwich. A grand jury does not serve as any kind of bulwark against a prosecutor determined to bring formal charges. Instead, the available data shows that federal grand juries rubber-stamp the indictments presented by prosecutors in more than 99.9 percent of cases. [READ MORE](#)

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## **PRACTICE TIP: BEWARE INDIVIDUAL CRIMINAL LIABILITY FOR CEOS AND CCOS AS DOJ BEGINS REQUIRING COMPLIANCE CERTIFICATIONS**

**By Andrew S. Boutros, David N. Kelley, and Jay Schleppenbach**

Corporate executives and the attorneys who advise them are certainly not strangers to being required to make certifications under oath by various provisions of federal law. Certifications under the Sarbanes-Oxley Act (“SOX”) and the Volcker Rule have been mandatory for years. But companies may be surprised (and not pleasantly) to learn that additional certification requirements may be on the way. [READ MORE](#)

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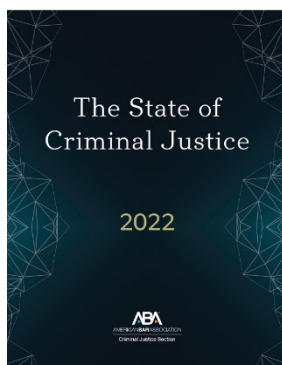
## **THE POSSIBILITY TO ENTER INTO A NON-PROSECUTION AGREEMENT IN CASE OF INTERNAL INVESTIGATION AND SELF REPORTING**

**By Andrea Puccio**

While in the U.S. judicial system NPAs between companies and Public Prosecutors Offices are widely used in the criminal proceeding against corporations, in Italy this mechanism of pre-trial diversion is not provided for by law, but there is a glimpse of an opening of the Public Prosecutor's Offices toward informal interlocutions with companies. [READ MORE](#)

### **RESOURCES**

*Recent Book from the ABA Criminal Justice Section:*



#### ***The State of Criminal Justice 2022***

**Edited by Mark Wojcik**

***Includes a chapter on White Collar Crime***

This annual publication examines and reports on the major issues, trends and significant changes in the criminal justice system. Authors from across the criminal justice field provide essays on topics ranging from white collar crime to international law to juvenile justice. As one of the cornerstones of the Criminal Justice Section's work, this publication serves as an invaluable resource for policy-makers, academics, and students of the criminal justice system alike.

See more CJS books at [www.ambar.org/cjsbooks](http://www.ambar.org/cjsbooks)

VISIT THE [WHITE COLLAR CRIME COMMITTEE WEBSITE](#) FOR COMMITTEE UPDATES AND RECENT NEWS

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The **WCCC Newsletter** is published two times a year.  
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