



AMERICAN BAR ASSOCIATION

Criminal Justice Section

WHITE COLLAR CRIME COMMITTEE NEWSLETTER

WINTER/SPRING 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 Summer/Fall 2022 issue. If you would like to submit an article for our next edition (submission deadline: June 15, 2022) 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.

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

- April 7-10, 2022: [CJS Spring Meeting](#), Savannah, GA
- May 13, 2022: **Frankfurt White Collar Crime Institute**, Frankfurt, Germany (In collaboration with WisteV)
- June 10, 2022: **Paris White Collar Crime Institute**, Paris, France (In collaboration with Paris Bar)
- August 4-9, 2022: **ABA Annual Meeting**, Chicago, IL
- September 7-9, 2022: **Southeastern White Collar Crime Institute**, Braselton, GA
- October 10-11, 2022: **10th Annual London White Collar Crime Institute**, London, UK
- November 2022: **CJS Fall Institute**, Washington, DC (Includes The WCC Town Hall)
- Postponed to 2023: **Global White Collar Crime Institute**, Buenos Aires, Argentina

See the complete *CJS Calendar of Events* at www.ambar.org/cjsevents

FEATURED ARTICLES

[DEFICIENCIES IN FEDERAL SENTENCING DATABASE PROMOTE HARSH SENTENCING OUTCOMES](#)

By John Hanusz

Although the United States Sentencing Commission recently heralded the arrival of a new tool to be used by judges with the goal of promoting uniformity in federal sentencing, this tool employs a methodology which will likely result in harsh sentencing outcomes. [READ MORE](#)

WHAT'S THE IRS CRIMINAL INVESTIGATION DIVISION TELLING US ABOUT ITS PRIORITIES AND UPDATE ON THE EROSION OF THE ATTORNEY-CLIENT PRIVILEGE IN TAX CASES

By Charles Ruchelman and Akiva Mase

The Internal Revenue Service Criminal Investigation Division (“IRS-CI”) touted the year’s prominent and high-profile cases in Information Release 2022-04 (January 7, 2022). The top ten list provides insights into the types of cases that have caught IRS-CI’s attention and where IRS-CI has devoted its resources. The IRS’s 2021 list provides insights into what can be expected in 2022. [READ MORE](#)

REASSESSING THE OVEREXPANSION OF RICO IN WHITE COLLAR CASES

By Joe Whitley, Luke Cass, Britt Biles, Will Curtis and Brett Switzer

La Cosa Nostra, biker gangs, drug cartels. All of these organizations have at least one thing in common: they are archetypal targets of the Racketeer Influenced and Corrupt Organizations Act (“RICO” or the “Act”). Enacted as Section 901(a) of the Organized Crime Control Act of 1970, RICO was a profound leap forward in the federal government’s fight against organized crime and its infiltration of legitimate business and other aspects of daily life. [READ MORE](#)

COVID-19 ENFORCEMENT: WHAT DOES THE FUTURE HOLD?

By Ryan Meyer, Johnjerica Hodge, Grace Caputo and Enzo Hernandez

The Federal Government distributed significant funds to address the COVID-19 pandemic. Although some of those funds were distributed and used as intended, some did not. As a result, the Government has deployed a number of resources to investigate the improper use of those funds. [READ MORE](#)

THE CASE FOR EARLY-STAGE COMPLIANCE

By Miranda Hooker and Allison DeLaurentis

The pharmaceutical industry contains many examples of startups that fail to focus on compliance in the early stages — particularly by the time they designed their commercial strategies — which resulted in preventable consequences for the startups or their acquirers. [READ MORE](#)

DESPITE INHERENT RISKS TO THE ATTORNEY-CLIENT RELATIONSHIP, TAINT TEAMS ARE HERE TO STAY (FOR NOW)

By Daniel Suleiman and Molly Doggett

When the U.S. Department of Justice (“DOJ”) executes a search warrant and seizes potentially privileged files, the fundamental protections offered by the attorney-client privilege, attorney work product protection, and other privileges and protections are put at risk. “Taint teams,” also referred to as filter teams or privilege teams, have often been the government’s answer. [READ MORE](#)

[THE ENDURING VALUE OF DEPARTURES IN A POST-BOOKER WORLD](#)

By Benjamin Z. Eisenstat

In the 17 years since the Supreme Court issued its ruling in *United States v. Booker*, 543 U.S. 220 (2005), and the United States Sentencing Guidelines (the “Guidelines”) became advisory, variances have become ever more prevalent while downward departures have become increasingly rare.

[READ MORE](#)

[RICO TO THE RESCUE?](#)

By James Trusty

When a successful trial verdict was obtained in 2006, the Department of Justice’s civil RICO claims against Big Tobacco became a driving force for changing the cigarette industry. The ruling was a painful one for the purveyors of a seductive habit that brought years of addiction and horrific health consequences. **[READ MORE](#)**

[THE ANTI-MONEY LAUNDERING ACT OF 2020 AND THE MODERNIZATION OF U.S. FINANCIAL CRIMES LEGISLATION](#)

By Stan Twardy, Jr. and Joseph W. Ritter

On the first day of 2021, Congress for the first and only time overrode the veto of President Donald J. Trump and passed the National Defense Authorization Act for Fiscal Year 2021 (NDAA). Included within this bill was the Anti-Money Laundering Act of 2020 (AMLA), the most significant update to the United States’ anti-money laundering regulations since 1970— the Bank Secrecy Act (BSA) — and financial terrorism apparatus since the USA PATRIOT Act of 2001. **[READ MORE](#)**

RESOURCES

Recent Books from the ABA Criminal Justice Section:

[An International Guide to Corporate Internal Investigations](#)

Edited by Mark Beardsworth, Patrick R Hanes, Ibtissem Lassoued, Saverio Lembo, and Frances McLeod

Written by more than 40 highly skilled practitioners from 11 key jurisdictions, this book introduces readers to the complex and developing area of corporate internal investigations and uncovers a myriad of issues for additional legal consideration and advice. It considers the landscape and legal framework of the specific jurisdiction and provides a practical narration as to best practice in each.

[Federal Criminal Discovery, Second Edition](#)

By Robert M Cary, Craig Singer, and Simon Andrew Latcovich

This second edition brings this essential guide up to date with the latest significant cases and developments in the law. All chapters have been updated with new authorities and changes to the law since the first edition.

[The Rights of the Accused under the Sixth Amendment: Trials, Presentation of Evidence, and Confrontation, Third Edition](#)

By Paul Marcus, David Duncan, Tommy Miller, and Joelle Moreno

This book examines the wide range of criminal justice topics that fall within the scope of the Sixth Amendment. It offers fascinating historical perspective, modern interpretations, and insight on this critical component of the U.S. Constitution.

See more CJS books at www.ambar.org/cjsbooks

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

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