



AMERICAN BAR ASSOCIATION

Criminal Justice Section

## WHITE COLLAR CRIME COMMITTEE NEWSLETTER

WINTER/SPRING 2023

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 2023 issue. If you would like to submit an article for our next edition (submission deadline: June 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).



*The 2023 National White Collar Crime Institute was convened March 1-3, 2023 in Miami, with record-high attendance. The 2024 Institute will be on March 6-8, 2024 in San Francisco.*

### **Please note these upcoming CJS programs in 2023 related to white collar crime:**

- March 30-31: **The Global White Collar Crime Institute**, Buenos Aires, Argentina
- September 6-8: **The Southeastern White Collar Crime Institute**, Braselton, GA
- October 9-10: **The London White Collar Crime Institute**, London, UK
- November 2-3: **The CJS Fall Institute**, Washington, DC (Includes *The WCC Town Hall*)

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

**[Determining Whether Your Corporate Compliance Program Is “Good Enough”](#)**

**By Rich Kando, Sean Dowd, and Robert Coffey**

Business leaders of companies operating outside of the financial services industry (“corporates”) are more frequently asking their legal and/or compliance departments a variation of the following question: “Is our company’s compliance program good enough?” This is a simple question with a complicated answer, and there is no one-size-fits-all approach. However, there are certain attributes, based on previous Department of Justice (“DOJ”) resolutions and our historical compliance experience, that are necessary for a compliance program to be “good enough.” “Good enough” sets a floor that corporates will want to meet or exceed as their compliance programs mature.

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**[The U.S. Sentencing Commission Should Solve the 3E1.1 Circuit Split by Eliminating the Possibility of Punishing Defendants for Exercising Their Constitutional Rights](#)**

**By Sami Azhari and Aliza Hochman Bloom**

The newly reformed U.S. Sentencing Commission is preparing to make the first amendments to the criminal sentencing guidelines in five years. In January, the Commission published proposed guideline amendments on various topics, subject to a 60-day period of notice and comment.

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**[The EU Cross-Border Fraudulent Schemes and Potential Implications of Non-EU Corporations: A General Overview](#)**

**By Andrea Puccio**

A discussion about the potential impact of EU cross-border tax frauds on international corporations cannot prescind from mention of potential involvement of non-European legal entities in the transnational mechanism.

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**[COVID-19 Enforcement Under the Biden Administration—  
Winding Down or Just Getting Started?](#)**

**By Ryan Meyer, Johnjerica Hodge, Grace Caputo, and Reid Gordon**

In the ABA’s Winter 2022 White-Collar Crime Newsletter, we published a look back at the first year of COVID enforcement under the Biden Administration and identified several areas of clear risk (i.e., borrowers from COVID-related loan programs) and some areas of risk that had not yet fully materialized (i.e., False Claims Act enforcement and lender risk for COVID loan programs). After another year of the Biden administration settling into power, the Garland-led Department of Justice (DOJ) has moved aggressively on all COVID-related fronts. We discuss below trends related to DOJ’s activity in this area.

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## [Searches Without Borders: A Primer on Digital Searches and The Plain View Doctrine](#)

**By Scott Gilbert and Sidney Lampton**

In application, many aspects of the Fourth Amendment can be more challenging than putting together a jigsaw puzzle when all of the pieces are face down. Conversely, some aspects of the Fourth Amendment are so clear that any lay person can understand them without seeking the guidance of legal counsel. For instance, when government agents (“agents”) execute a search warrant, where does the plain language of the warrant permit them to search, and what does that same plain language say they can seize?

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## [Construction Fraud and The False Claims Act](#)

**By Noah H. Baird and Kelsey Bonner**

The construction industry is not typically synonymous with the term “white collar.” However, the FBI defines white-collar crime as “the full range of frauds committed by business and government professionals,” which includes construction. In fact, construction fraud on both federal and non-federal contracts is a prevalent form of white-collar crime with a high potential loss for companies.

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## [Overview & Legal Analysis on “Corruption & Bribery: Business & White Collar Crime” in the Republic of Turkey, EU, UK & USA](#)

**By Hakan Hanli**

Corruption & Bribery is increasingly serious threat against Turkey as well as the rest of the world in many aspects. In particular, the fight against Corruption & Bribery is crucial: 1) to achieve an economic development and growth, social welfare and political stability; 2) to attract foreign investors; and 3) to establish the rule of law.

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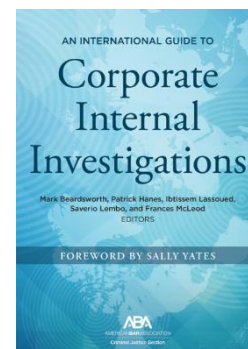
## RESOURCES

*Recent Book 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.



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

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WCCC Co-CHAIRS: JASON LINDER, AISLING O'SHEA

### [The White Collar Crime Committee Newsletter](#)

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