

WHITE COLLAR CRIME

LAW AND PRACTICE

Second Edition

Jerold H. Israel
Ellen S. Podgor
Paul D. Borman
Peter J. Henning

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WHITE COLLAR CRIME: LAW AND PRACTICE

SECOND EDITION

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Preface

This course grew out of materials originally prepared for a seminar jointly taught by Paul Borman and Jerry Israel at the University of Michigan Law School. The objective of that seminar was to take a narrow slice of criminal justice practice - the investigation and prosecution of white collar crime in the federal system - and apply to it what is commonly described as a "transactional" analysis. We wanted the students to appreciate how the practice was impacted by the interaction of legal doctrines that traditionally were taught in a wide range of separate law school courses. In the field of white collar crime, they would see how the legal transactions involved in a single case often required consideration of substantive criminal law, criminal procedure, administrative procedure, corporate law, evidence, civil procedure, sentencing law, and even highly specialized regulatory law. We also wanted students to appreciate the influence of administrative policies (in particular, the Department of Justice's internal guidelines) and the influence of the basic "culture" of white collar criminal practice.

Since these materials are designed for a course on White Collar Crime, they are more comprehensive than the Michigan seminar materials, but in large part, the basic objectives remain the same. Accordingly, we utilize a combination of traditional materials (cases and statutes) and not-so-traditional materials (e.g., newspaper articles, forms, and practice manuals). We have sought to keep to a minimum our own shaping of the discussion of these materials. Our "Notes and Questions" contain many more notes than questions, and most of the questions are designed simply to suggest the relevance of additional material.

The conversion of the original Michigan seminar materials into a full fledged set of course materials came about with the addition of Ellen S. Podgor to this project, who added several chapters and filled in gaps in others. In writing this Second Edition we have been fortunate to have Peter Henning joining us to add new materials and reshape some of the older material. He has been the leader in designing and compiling the materials for the statutory and document supplement that now accompanies this casebook.

Notwithstanding the editorial efforts of all of us, we are sure that there are flaws here and there, and hope that the reader will call them to our attention so that they can be corrected in future editions.

Far too many people assisted us in this venture to list them all. The product was enhanced by discussions with many colleagues. We would like to thank, in particular, Nancy King of Vanderbilt Law School, who used an earlier

version of those materials and pointed us in the direction of some needed cuts and additions. We also thank Eli Lederman of Tel Aviv University Faculty of Law, who provided a much needed encouragement in initially bringing about this project. We also appreciated the response of faculty, such as Lance Cole, and students who used portions of these materials in courses we taught at the University of Florida, Georgia State University, the University of Michigan, University of Alabama, and Kansas University.

There was, of course, a considerable amount of typing involved in producing these materials, and for that, we are most grateful to Carolyn Lloyd, and Myrtle Smith. We also thank Christina Nwakamma and Olive Hyman who assisted on this second edition. We would also like to thank research assistants Jonathan M. Adelman, Rebecca Guinn, Robert J. Kiser, Wendy N. Kurtzer, and Sean McIlhinney and Librarians Rhea Ballard-Thrower and Joe Morris who assisted with the First Edition of this book.

Professors Podgor and Henning and Judge Borman add a special thank you to Professor Jerold H. Israel for his wonderful suggestions throughout this project. He has been a teacher to all in the process of writing and editing a casebook.

J.H.I.
E.S.P.
P.D.B.
P.J.H.

June, 2003

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