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Department of Justice

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STATEMENT

OF

D. LOWELL JENSEN  
ASSOCIATE ATTORNEY GENERAL

BEFORE

THE

**NCJRS**

MAY 17 1985

**ACQUISITIONS**

SUBCOMMITTEE ON CIVIL AND CONSTITUTIONAL RIGHTS  
COMMITTEE ON THE JUDICIARY  
HOUSE OF REPRESENTATIVES

CONCERNING

ECONOMIC CRIME INDEX/NCIC

ON

APRIL 25, 1985

Mr. Chairman, and Members of the Subcommittee:

I appreciate this opportunity to make clear the position of the Department of Justice on the problem of certain aspects of economic crime in this country, and to discuss the proposed Economic Crime Index. Let me state at the outset that we view the Index primarily as a way to take law enforcement coordination out of the horse-and-buggy days. Just as modern technology can be used to carry out criminal schemes employing fraud, stealth, and cover-up, it can be used to detect, apprehend, and successfully prosecute the criminals among us.

The Problem of White Collar Crime

This country faces an economic crime problem of disturbing dimensions. Moreover, we often confront a tendency to dismiss so-called white collar crime as some lesser form of criminality. When the subject is touched upon in our fiction, we often find an inventive, glamorous figure who steals only from the dishonest, the rich, or the greedy. When the subject is touched upon in more serious tomes, it tends to be approached from the opposite direction -- a presentation of abstract concepts and statistics only distantly related to the lives of individual citizens.

The reality is, of course, that white collar crime affects innocent people who frequently can ill afford to bear the loss, and whose lives are sometimes affected very directly and very tragically. Among the true victims are:

- the 100 elderly citizens in Florida who lost their life savings on a retirement village real estate scam, half of whom also lost their self-sufficiency as a consequence and were made destitute;
- farmers in the Midwest who, unable to obtain loans from local sources, sold their few remaining possessions to pay an advance fee to an out-of-town confidence man in a last ditch effort to save their farms;
- the hospital patient who, because of a diploma mill selling phony medical degrees, was left "brain dead" by a degree-buyer posing as an anesthesiologist;
- the patients whose proper treatment for cancer and other diseases was delayed for a protracted period while they pinned their hopes on the efficacy of a "wonder machine" touted by a medical "quack."

It is only by keeping in mind the effects on individual victims

that we can begin to appreciate the real extent of the losses caused by white collar crime.

Even when viewed in more abstract terms -- dollar amounts -- the direct loss caused by white collar crime is staggering. In 1974, the National Chamber of Commerce estimated the annual loss through white collar crime at \$40 billion. In 1982, the accounting firm of Peat, Marwick, and Mitchell then estimated the loss to be \$200 billion. Over \$100 million is lost annually through "boiler room" operations selling commodities such as precious metals by telephone. Over \$100 million per year, in each of the last five years, has been lost in real estate investment schemes in California alone. Hundreds of millions of dollars have been lost by tens of thousands of investors who have been victimized by fraudulent financial service brokers operating in Florida, California, Utah, Ohio, and New Hampshire. About \$80 million was lost in a single investment fraud scheme on the West Coast -- a scheme that culminated last month in a financier's entry of a plea of guilty. Almost \$700 million in losses resulted from a Tennessee bank fraud scheme that concluded with a banker's entry of a plea of guilty three days ago.

White collar crime, therefore, carries unusually serious consequences for the well-being of our nation. It siphons billions of dollars a year from our economy. It adds to the costs of goods and services, and subtracts from the revenues otherwise available to the federal and state treasuries. It

thereby aggravates the financial burdens of all Americans, the indirect victims of fraudulent offenses as well as the direct ones.

The Problem of Investigating White Collar Crime

The problem of white collar crime is compounded when we realize that it is extraordinarily difficult to investigate successfully. Since it frequently succeeds by deception, cover-up, and record manipulation, its victims may be unaware that a crime has been committed until long after the event. Its practitioners are quick to grasp the advantages of employing both the latest advances in business techniques and the latest advances in supporting technology. Moreover, the operators may work in one location, while their victims may be in another city, another state, or even another nation. In fact, we have had convicted offenders tell us that they deliberately set up operations in areas separate from the victims in order to disrupt the normal investigative process where the offender and the victim are within the same jurisdiction. Consequently, when white collar crime occurs it is often difficult to detect, and when it is detected it is often difficult to obtain all the evidence necessary to prove the offense beyond a reasonable doubt. As a result, white collar crime poses special investigative challenges at all levels -- federal, state, and local. It also presents a special need for effective inter-agency coordination.

Sometimes it is useful to have our views confirmed by the observations of outsiders. In 1973, a Wall Street Journal reporter, Jonathan Kwitney, published a book about white collar crime -- the "Fountain Pen Con\$piracy." He entitled the last chapter "Why Aren't These Guy\$ In Jail?" In response to the question posed by the chapter title, he cited a number of reasons -- including lax reporting by banks of attempted swindles, statutory loopholes, and a lack of interest by investigators and prosecutors. Many of these difficulties have been corrected in the last ten years. He also cited, though, the minimal coordination that existed at the law enforcement level, and the need to go to "a hundred different sources" to get information on even the most well established confidence artists. This difficulty has not yet been corrected.

We have over the last few years begun to develop an increased appreciation of the shortcomings of our past efforts to deal with this form of crime. It is manifest that a principal shortcoming is the lack of an efficient means of exchanging information about white collar criminals whose crimes, either simultaneously or sequentially, affect victims in several jurisdictions. This hinders, to some extent, investigations of major procurement frauds and bank frauds. It hinders, to a significant extent, investigations of more direct exploitation of individual citizens on a large-scale, systematic basis.

The Federal Bureau of Investigation and other agencies have

found that a small number of criminal offenders are responsible for a disproportionate amount of the fraud occurring in this country. The information about these offenders, however, is scattered among the numerous jurisdictions in which they have operated. There is today no system for making that scattered information available to the investigators in need of it.

Today, exchanges of information among investigative agencies are attempted, in accordance with the various laws and regulations applicable to the different jurisdictions, but they are accomplished only on an ad hoc, hit-or-miss basis. The attempts possess none of the routine efficiency that is required for uncovering sophisticated offenses. As an example, if an officer of one police department investigating a financial swindler wishes to learn whether another police department has any information about his operations, the officer can telephone the other department to determine if it has an open investigation on the suspected offender. But a thorough investigation of such police records would require another 60,000 phone calls, an obviously impossible and inappropriate task. It can be rendered possible and appropriate, however, by technology.

#### The Proposed Economic Crime Index

Recognizing the above facts, the Economic Crime Council of the Department of Justice recommended the development of the Index we are discussing today. The Council is comprised of 21

United States Attorneys and other selected officials of the Department of Justice. It was founded in May of 1983 as an advisory body to the Department on matters related to economic crime enforcement. In December of 1983, the Council discussed the fragmented nature of law enforcement in dealing with career white collar criminals, and concluded that there was a serious need for some form of Economic Crime Index by which the FBI, the Securities and Exchange Commission, the U.S. Postal Inspection Service, the Commodity Futures Trading Commission, and state and local law enforcement agencies, could ascertain whether other agencies were conducting investigations of the same suspected offenders.

On further review of the Council's proposal, we have found it to be well based. In view of the fact that nationwide fraud schemes are being perpetrated with the latest in communications, marketing, and computer technology, it is not only anomalous -- we believe that it is embarrassing and intolerable -- that law enforcement officials are left without an effective ability even to ascertain if a police department in a nearby city, or if the FBI or the Postal Inspectors, are investigating the same person or scheme. It is for that reason that the Department is determined to develop a mechanism whereby various federal, state, and local law enforcement agencies examining a series of offenses can at least learn quickly of the existence of parallel investigations. This Economic Crime Index would be a pointer system by which the Nation's law enforcement agencies could

ascertain whether other agencies were conducting investigations of the same individual, the same group of individuals, or the same scheme. Once two agencies learned of their common interest, they could proceed in the normal manner, through existing legal and administrative procedures, to exchange information concerning their two investigations. Although it would be only a simple, basic system, once the concept is fully developed and put in place it should prove to be very effective.

It is our view that such a system is practical, lawful, and reasonable. It will materially assist in the effectiveness of the federal and state efforts against white collar crime, without in any way infringing upon other legitimate private or governmental interests. We are confident that, upon examination, this Subcommittee will find it to be a balanced and responsible approach, and we look forward to the Subcommittee's future support in our efforts to reduce the adverse impact of white collar crime upon the citizens of our Nation.

**END**