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Victims' Advocacy Organizations

The Missing Link in the Fight Against Fraud

The anti-fraud movement is lacking a private, grassroots advocacy movement that would be the voice for fraud victims.

A friend of mine (I'll call him Dan) spent several years as the sole prosecutor of fraud cases in the county in which he lives. The former elected prosecutor, who was Dan's boss (I'll call him Sam), developed the county's anti-fraud unit. He believed that his office – the county's district attorney's office – needed to start a criminal practice devoted to combating white-collar crime with prosecutors who could concentrate their efforts solely on understanding how to bring these cases to justice. Yet due to fiscal restraints, Dan had to fund his anti-fraud education by attending ACFE seminars and purchasing training materials. In the several years that he prosecuted fraud cases, he was able to resolve several high-dollar cases and implement a case review protocol with the local law enforcement investigation agencies, which increased the efficiency of case analyses prior to seeking charges against the perpetrators.

Sam was well on his way to satisfying the mandate of the white-collar crime unit because he allowed Dan to specialize in prosecuting only fraud cases. Sam understood that it wasn't practical for prosecutors to have hybrid caseloads of white-collar and non-white-collar crimes because fraud prosecutions, from inception to conclusion, required sophisticated skill sets and different expectations. In the past, fraud cases would languish because there was never enough time to synthesize their complicated twists.

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But then Sam retired and a new elected prosecutor (I'll call him Paul) assumed the office's responsibilities. Dan kept his job, but Paul shuffled him to narcotics prosecution. Dan's fraud cases, involving millions of dollars, sat collecting dust awaiting reassignment to prosecutors with no anti-fraud experience and little time to devote to understanding how fraud occurred. The office left victims in limbo not knowing who was handling their cases. Cases ran the risk of not being prosecuted because of statutes of limitations.

FEDERAL SCENE

Lack of resources in fighting fraud isn't just a state and county prosecution problem – it's also a federal problem. For example, federal prosecutors in Arizona are interested in pursuing all kinds of white-collar cases, but many more resources understandably go toward fighting drug and smuggling rings in this border state. For the first half of 2009, there were 40 major federal fraud indictments in Arizona, compared to 1,600 felony indictments related to drug-related crimes, according to "Border Crimes Distract Prosecutors from White Collar Crimes," by Mike Sunnucks in the Oct. 15, 2009, issue of *Phoenix Business Journal*.

Arizona Attorney General Terry Goddard has been going after mortgage fraud and predatory lending, among other white-collar crime cases, but he has had to eliminate 49 positions this year because of state budget cuts, according to the *Phoenix Business Journal* article.

Former U.S. Attorney John Tuchi said drug and smuggling cases are often easier to prosecute than complex fraud and embezzlement charges. "It just takes a lot more time to work up," Tuchi said in the *Phoenix Business Journal* article.

Tuchi said juries can easily grasp cases when someone is caught with five kilograms of cocaine in the trunk of his or her car. "The jury pretty much knows what the intent was," he said.

Joe Epps, a forensic accountant and president of Epps CPA Consulting PLLC, in Scottsdale, Ariz., said the focus on border-

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related crimes over white-collar crimes often begins with police investigators, according to the *Phoenix Business Journal* article. The key to a fraud prosecution is to find victims and build a case that resonates with investigators and the public, Epps said. “What police will often say is, ‘If there is not a victim there is no crime.’”

Fraud has an intangible quality that for many translates into a victimless crime. In other words, even in the post-Madoff era if you can’t physically see evidence such as a murder weapon or an illegal substance, the general public and some in law enforcement might believe the degree of harm is comparatively minimal.

Part of the issue is projecting a positive public perception. For example, does the public perceive that law enforcement and the district attorney’s office are doing their jobs better if they can show 1,600 felony indictments for drug and smuggling cases versus 40 white-collar crime cases?

Yet, according to the 2005 “National Public Survey on White Collar Crime” published by the National White Collar Crime Center (NWCCC), the public views certain white-collar crimes to be more than, or equally as, serious as other non-fraud crimes especially because white-collar crime victims are increasing.

However, according to the NWCCC survey, law enforcement and prosecution offices don’t reflect the shift in public perceptions of the harm white-collar crimes cause victims. Also, more than half of the participants in the survey don’t believe resources are adequately distributed to government agencies to fight fraud. Thus there’s a disconnect between how the public views fraud and how law enforcement and prosecutorial offices are responding to the increase of fraud perpetrated on citizens.

NEED FOR FURTHER RESOURCES AND ADVOCACY

I believe that the worldwide fight against fraud is at a great disadvantage and fraud crimes stand to become riskless offenses without further resources pumped into law enforcement agencies and prosecutors’ offices.

In some respects, the fight against fraud becomes moot when criminals realize that the allocated resources to fight fraud are seriously lacking. Perhaps this is one reason why terrorist organizations and drug/smuggling cartels have increasingly used white-collar crimes to fund their activities.

According to the NWCCC’s 2004 report, “Identifying the Links between White Collar Crime and Terrorism,” white-collar crimes play a crucial role in the daily operations and overall effectiveness of terrorist organizations. Terrorists rely on identity theft, charitable fraud, insurance fraud, and credit card fraud to fund their activities, according to the report. Terrorist groups also use shell companies to receive and distribute money. These companies provide a legitimate appearance and might engage in

legitimate activities to establish positive reputations, according to the NWCCC. Communities can have the best fraud examiners uncovering fraud, but without well-funded prosecutorial and law enforcement agencies to see cases through to their ultimate conclusions, anti-fraud professionals’ hard work and good will are lost.

What appears to be lacking at the heart of the fight against fraud? As I’ve worked in the criminal justice system, I’ve noticed that fraud victims often have no advocates in the criminal justice system who would put elected officials on notice that fraud shouldn’t be trivialized as a victimless crime.

The anti-fraud movement is lacking a private, grassroots advocacy movement that would be the voice for fraud victims. For example, many prosecutorial offices are sensitive to family members who have lost loved ones to drunk drivers, partially because organizations such as Mothers Against Drunk Drivers (MADD) have actively sought tougher sanctions against those who violate the law. Victims of drunk drivers have become a political force that seeks justice and has challenged prosecutorial and law enforcement agencies to devote resources to this area of criminal law.

Prior to the 1980s, driving-under-the-influence (DUI) crimes weren’t vigorously enforced. Some lawmakers actually wanted to reduce what they thought were draconian penalties. However, private groups such as MADD waged vigorous media campaigns that transformed defendants from troubled individuals with alcohol problems into serious criminals who risked the lives of law-abiding citizens. Tough DUI laws now send many repeat offenders to jail and lives are saved.

The United States and global media have highlighted how the Enron, WorldCom, and Madoff debacles, among others, have devastated everyday citizens’ lives. We saw the anguished faces of those who lost jobs, investments, and pensions. But that’s where it stopped. Unlike the MADD example, the media reports haven’t translated into a grassroots campaign against occupational and consumer fraud.

Now, granted, fraud is much more diverse than drunk driving; but perhaps society has matured to the point where we have begun to view fraud as equal as, or more injurious than, some crimes that would be classified as violent.

According to criminologists Ray Surette and Charles Otto, who have studied the role the media plays in defining what’s considered crime in the public consciousness, their research, “The Media’s Role in the Definition of Crime,” has revealed that when there’s ambiguity in how a society views a crime, media endorsement of the harm that the crime causes can unify the criminality of a crime in the public conscience. (Their research results are contained as a chapter in the 2001 book, “What is Crime?” edited by Stuart Henry and Mark Lanier and published by

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Rowman & Littlefield.)

The media could endorse a private grassroots movement devoted to exposing the harm that fraud causes people, which, in turn, could grow into a national organization with real influence analogous to MADD.

FRAUD VICTIMS NEED TO ASSIST

Also, as hard as it can be, fraud victims need to assist law enforcement and prosecutors in putting a case together. Often, victims believe that just by notifying law enforcement, culprits will be brought to justice in a short time. But most cases take months to properly investigate and additional months to resolve in the court system.

Victims have to be prepared to use CFEs' and law enforcement's investigative services to assemble documents and evidence into a comprehensive package to refer to prosecutors.

Fraud victims globally need to organize together at the grass roots to appeal to investigative agencies for greater allocation of funds toward fraud fighting and balance the scales of justice.

United calls from ordinary citizens will spur countries to challenge political systems to spend more dollars, euros, pesos, pounds, lira, francs, yuan, guilders, and other global money on anti-fraud investigations and prosecutions. Fraud won't be seen as a riskless crime. More fraudsters will be investigated, caught, prosecuted, and sentenced.

My friend, Dan, should have been allowed to continue as the sole white-collar crime prosecutor in his county. Elected officials should have expanded his anti-fraud unit. Organized advocates around the globe should make sure their jurisdictions don't ignore the efforts of hard-working fraud fighters. 🔍

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