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Introduction to the Symposium: Prosecuting White Collar Crime

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SYMPOSIUM: PROSECUTING WHITE-COLLAR CRIME

INTRODUCTION

Paul Marcus

On March 21, 2003, a rather remarkable group of about two dozen individuals gathered in Williamsburg, Virginia to discuss key issues involved with the prosecution of white collar crime. In that group were judges — both federal and state — practicing lawyers — both defense counsel and prosecuting attorneys — and academics from throughout the United States, and also from Australia and Brazil. This conference, under the auspices of the College of William and Mary Institute of Bill of Rights Law, was convened in order to consider the many difficult problems domestically and internationally increasingly raised by prosecutions of white collar criminals.

As reflected in this issue, the range of problems with white collar crime prosecutions is wide and troubling. The articles you will find offer a variety of points of view as well as a most sophisticated outlook. These topics were discussed at the conference and comprise this special issue of the Journal:

- Sandra Guerra Thompson's work evaluating the major shift in recent times toward civilian participation in the criminal justice system through the use of duty to report statutes.
- My article on the law of venue and joinder found in the large multiple defendant criminal trials in both the state and federal criminal justice systems.
- The alert given by law professor and former prosecutor John Douglass as to the unforeseen difficulties created by attempts to restrict federal lawyers in the pre-trial process, most notably with the so-called McDade Amendment.

- The thoughtful piece by Bernard Bell on an under reported concern, privacy rights in connection with undercover operations designed to identify white collar criminals.
- Thomas Snow's unique take on the tools available to American prosecutors in looking to investigate, locate, and prosecute international white collar criminals.
- Brazilian law dean Peter Ashton's incisive exploration of the limited number of criminal prosecutions in this area by prosecutors in the largest and most powerful nation in South America.
- The analysis of the criminal procedure issues raised by searches in the traditionally civil law subject of bankruptcy, as so nicely laid out by A. Mechele Dickerson.
- I. Trotter Hardy's look at the use of the criminal sanction as a way of promoting the policy behind the copyright law, particularly in connection with infringement cases.

In reading through this issue, the reader will be struck, I believe, by the overriding and recurrent themes found through the pieces: the need to hold individuals accountable for crimes in this area, the controversies raised by criminal procedure tools created to assist or limit law enforcement, the consideration that must be given to the national and indeed international reach of our rules, and the review of individual rights which come to the fore when government seeks to vigorously prosecute the commission of white collar crimes. We hope very much that the writings in this issue will stimulate an intense discussion of these and other related issues.