

## U.S. Attorney General announces planned surge in DOJ's white collar prosecutions with focus on company executives



Jennifer Dowdell Armstrong | Friday, March 4, 2022

Attorney General Merrick Garland, [speaking](#) at the ABA Institute on White Collar Crime on March 3, 2022, emphasized the DOJ is laser-focused on corporate criminal enforcement and will pursue that agenda through the prosecution of individuals. Garland said that “the Department’s first priority in corporate criminal cases is to prosecute the individuals who commit and profit from corporate malfeasance.” That is because “corporations only act through individuals” – and, as a result, prosecuting individuals is “the best deterrent to corporate crime.”

Garland said that he “knows full well that obtaining individual convictions rather than accepting big-dollar corporate dispositions is a difficult and resource-intensive rose for the Department of Justice.” The DOJ is therefore “marshaling its resources to enable us to successfully take that road” by seeking increases in the DOJ’s FY2022 budget for corporate criminal enforcement efforts.

Garland plans to spend an additional \$36.5 million for the U.S. Attorneys’ Offices and the Criminal Division to bolster efforts to combat pandemic fraud. He also intends to hire 120 additional attorneys in U.S. Attorneys’ Offices, as well as to the Criminal, Antitrust, Tax, and Enforcement Division. That is on top of the 34 attorneys hired in 2021 in the Criminal Division’s Fraud Section. And Garland also seeks \$325 million to fund more than 900 FBI agents to support the FBI’s White Collar Crime Program.

Garland discussed three “force-multipliers” to bolster resources to combat corporate crime.

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## **Criminal acts that enable Russia, pandemic fraud, and healthcare fraud**

First, DOJ is partnering with “every level of government and around the world” to prosecute criminal acts that enable the Russian government to continue its war against Ukraine. As referenced in President Joe Biden's State of the Union address, Garland also will soon name a chief prosecutor to lead specialized teams dedicated to combatting pandemic fraud consisting of nearly 30 agencies that administer and oversee pandemic relief funding, including the Labor Department, the Treasury Department, and the Small Business Administration. And the drum beat of the government’s healthcare enforcement agenda is not letting up. Indeed, Garland said that “the Justice Department is also working more closely than ever with Inspectors General across the federal government to identify perpetrators of health care fraud, procurement fraud, and every other kind of government-program fraud.”

## **Data analytics**

Another “force-multiplier” the DOJ will apply is data analytics. Specifically, Garland said that “we are using big data – our own, and the data of other departments and agencies – to identify payment anomalies that are indicative of fraud.” And the DOJ has provided the Criminal Division’s Fraud Section with a new, embedded squad of FBI agents to further strengthen our ability to bring data-driven corporate cases nationwide.”

## **All or nothing cooperation credit**

The final “force-multiplier” Garland discussed is the DOJ’s restoration last fall of guidance that “to be eligible for any cooperation credit, companies must provide the DOJ with all non-privileged information about individuals involved in or responsible for the misconduct at issue.” Garland said that means that “when we give a company the opportunity to come clean, it must come clean about everyone involved in the misconduct, at every level.” Applying this policy, U.S. Attorneys’ Offices throughout the country in FY2021 increased white collar crime prosecutions against individuals by over 10%. And the Antitrust Division is now trying or preparing to try 18 indicted cases against 10 companies and 42 individuals, including eight current or former CEOs or company presidents.

The takeaway for Garland’s speech was actually provided by Garland himself. He said that “as a defense attorney, prosecutor, and judge, I have seen the Justice Department’s interest in prosecuting corporate crime wax and wane over time. Today, it is waxing again.”



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