



The 33rd Annual National Institute on White Collar Crime

March 6-8, 2019
Hilton New Orleans Riverside
New Orleans, LA

Visit www.ambar.org/wcc2019 to register





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Description of Proceedings

The 2019 White Collar Crime National Institute will take place from Wednesday, March 6 to Friday, March 8, 2019, in New Orleans, Louisiana. On March 6, after the luncheon break, we will have a panel devoted to corporate general counsel, followed by a discussion with the heads of enforcement of the Department of Justice Criminal Division, the Securities and Exchange Commission and the Commodities Futures Trading Commission.

In addition to those two plenary sessions, we will have three other such panels, including the much acclaimed panel of United States District Judges, an ethics panel of leading trial lawyers analyzing the complexities of representing multiple defendants in an investigation, and lastly, on Friday morning, distinguished speakers exploring the ethical issues and challenges that confront prosecutors, defense counsel, and legal commentators during high profile investigations.

Our average attendance each of the past two decades has exceeded 1,200 at this nationally recognized annual gathering of the national white collar bar. The Institute is proud to continue to present outstanding panelists who deal with some of the most significant and immediate issues of our time. This year we will continue to have the popular regional panels as well as the many analyses of recent developments in the various substantive areas that comprise white collar law. In light of the ever expanding globalization of the practice, several of the panels will tackle international issues faced by practitioners, including the complexities of foreign data privacy laws and the ever expanding role of monitorships in multi-country settlements. A group of leading lawyers from Canada, England, France, Germany, and Brazil will also discuss important recent developments in each of those countries that should be of interest to US lawyers.

Since its establishment in 1987, the Institute has been attended by leading federal and state judges and prosecutors, law enforcement officials, defense attorneys, corporate in-house counsel, and members of the academic community. The faculty regularly includes some of the top members of the white collar bar in the United States and abroad. Among the audience are nationally-renowned lawyers, as well as many who are beginning to concentrate in the white collar area. Attendees have consistently given the Institute high ratings for the exceptional quality of its publication, the panelists' presentations, the valuable updates on new developments and strategies, as well as the rare opportunity to meet colleagues in this field, renew acquaintances and exchange ideas.

Once again, we will have three panels that will qualify for ethics CLE credit. The Institute will have excellent representation from the corporate sector and the judiciary, including Chief Judges Brian Jackson and Patti B. Saris, United States District Judges Denise Cote, Paul Friedman, Paul Huck, Amit Mehta, Carlos Mendoza, Carlton Reeves, Yvonne Gonzalez Rogers, and United States Circuit Judge Amy St. Eve. The general counsel of American International Group, Inc. (AIG), BAE Systems, Inc., Cloudflare, Inc., General Motors, FleishmanHillard, Ingersoll-Rand Plc, and PayPal will be participating, as will as senior members of the legal and compliance groups of Barclays Plc, Bechtel Corp., Computer Forensics Services, Google, Inc., Medtronic, and PIMCO. The Institute will also include senior members of the Department of Justice and distinguished members of academia.

ABA CLE National Institutes bring you face-to-face with nationally recognized experts on substantive topics—often while fulfilling most of your annual CLE requirements.



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PROGRAM FOCUS

- A plenary panel devoted to several leading members of the federal judiciary
- General counsel of major corporations discussing their roles in white collar investigations
- Special session—discussion with the enforcers
- *Ethics*—Preserving privileges during internal investigations
- *Ethics*—Ethical issues and challenges raised by the conduct of prosecutors, defense counsel, and legal observers during high profile investigations
- *Ethics*—Corporate governance during an internal investigation
- Crisis management during internal investigations
- Defending sexual harassment investigations and prosecutions
- Best practices for effective trial advocacy
- Recent foreign legal developments of interest to US lawyers
- Corporate compliance with government imposed monitors
- Complying with foreign data privacy laws

- Sentencing and its collateral consequences
- Role of new technologies during trial phases
- Four panels discussing recent developments in the Northeast, Southern, Midwest-Central, and Western regions

SUBSTANTIVE TOPICS

- Recent developments and new trends in FCPA enforcement
- Securities enforcement in 2019 and beyond
- Data mining and other health care fraud enforcement trends
- National security, economic espionage and sanctions
- Antitrust enforcement trends
- Environmental crimes in a global world
- Developments in tax enforcement
- Recent developments in anti-money laundering and asset forfeiture efforts



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General Public	\$1,275	\$1,430	\$1,525
ABA Members	\$1,235	\$1,325	\$1,405
Criminal Justice Section, Section of Science & Technology Law, Solo, Small Firm and General Practice Division	\$1,075	\$1,150	\$1,230
Student Lawyers	\$150	\$150	\$150
Government Lawyers	\$600	\$625	\$650

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Agenda

Day One — Tuesday, March 5, 2019

2:00 p.m.– **Registration**
6:00 p.m.

Day Two — Wednesday, March 6, 2019

8:30 a.m. **Registration**

9:00 a.m. **Significant Legal Developments in the Regions**

A. Northeast Region

Carrie H. Cohen, Moderator
Virginia A. Gibson, Giselle J. Joffre, Alexandre H. Rene, Caitlin R. Sainsbury

B. South Region

Brian F. McEvoy, Moderator
Ty E. Howard, Anna Laniado, Jamila M. Hall, Sarah Wirskye

C. Central and Midwest Regions

Caryn L. Trombino, Moderator
Robert C. Blume, Thomas W. Cranmer, Beth A. Savage, Claire Schenk

D. Western Region

Patty A. Eakes, Moderator
Joshua Hill, Jr., Margaret L. Carter, Jessica K. Nall, Lee Stein

The panels will discuss new developments and trends in the region to better inform attorneys of case opportunities, contacts, strategies, and arguments used in litigating these cases.

10:15 a.m. **Coffee Break**

10:30 a.m. **Breakout Sessions I**

A. Best Practices for Effective Trial Advocacy in White Collar Criminal Cases: Perspectives from the Defense, Prosecution, and the Bench

Andrew S. Feldman, Moderator
Brian S. Cromwell, Sharan E. Lieberman, Hon. Jane Triche Milazzo, Ryan K. Stumphauzer

This panel will focus on jury selection, cross examination of cooperating witnesses and experts, and closing statements, address the dilemma presented by an inflexible plea offer, and propose strategies for taking specific cases to trial under those circumstances.

B. Foreign Recent Legal Developments of Interest to US Lawyers

Norm Keith, Moderator
Ludmila de Vasconcelos Leite Groch , Eric Dezeuze, Judith Seddon, Dr. Tobias Eggers

Panelists from five different countries will discuss major developments in each of their respective jurisdictions that should be of particular interest to US white collar practitioners.

C. Environmental Crimes Enforcement Trends

David Gerger, Moderator
Cristina C. Arguedas, Deborah L. Harris, Steven P. Solow

This panel will analyze recent developments in this enforcement area, including the adoption of new policies by prosecutors, the manner in which they have been applied, and the reaction of the courts, and will offer advice on adjusting defenses to this new environment.

D. Money Laundering And Asset Forfeiture

M. Kendall Day, Moderator
Deborah Connor, Monty Raphael QC, Frederick Reynolds, Sung-Hee Suh, Mara Senn

Panelists will review both domestic and international developments, and discuss the extent of anti-money laundering liability for individuals and corporations, including for compliance program deficiencies, with a focus on lessons that can be gleaned from recent enforcement actions.

11:45 a.m. **ABA Women in White Collar Crime Luncheon | Ticketed Event**

Agenda

1:00 p.m. **Welcoming Remarks**
Prof. Lucian Dervan, Chair of the Criminal Justice Section

1:15 p.m. **General Counsel Forum - General Counsel and the Regulators: Shaky Alliances and Dangerous Liaisons**
Michael S. Pasano, Moderator
Lucy Fato, Ian T. Graham, Maria Green, Ruth E. Kim, Larry D. Thompson, Wanji Walcott
This panel of general counsel will discuss the realities of working GCs in a post-Yates world and will focus on how General Counsel navigate contacts, relationships and inquiries with the DOJ, the SEC and other regulatory bodies, including handling privilege waivers, joint defense agreements, protective orders, DPAs, NPAs and more.

3:00 p.m. **Coffee Break**

3:15 p.m. **Special Session - Meet the Enforcers**
Pamela R. Chepiga, Moderator
Steven Peikin, Sandra Moser, James McDonald
The directors of the SEC and CFTC Division of Enforcement and the head of the DOJ Criminal Division's Fraud Section will discuss their respective agency's enforcement priorities.

4:15 p.m. **Breakout Sessions II**

A. The Explosion of Digital Currency and ICO Enforcement Actions – The Current Landscape and What the Future Holds

Nina Marino, Moderator
Brian E. Klein, Michelle R. Korver, Mark Lanterman, Patricia Pelaez

Since the explosion of ICOs (initial coin offerings), the SEC and CFTC have been aggressively pursuing investigations and enforcement actions. The DOJ has also been investigating and charging high profile cases involving digital currency. This panel will explore the current landscape and what the future might hold.

B. New Developments in Criminal Tax Enforcement

Caroline D. Ciralo, Moderator
J. Donald Fort, Paula M. Junghans, Carlos F. Ortiz, Steven Toscher

This panel will consider the ever-expanding role of the IRS Criminal Investigation Division and its new specialized units in the investigation and prosecution of criminal tax cases, and will offer practice tips for dealing with such situations. It will also discuss the use of tax charges in otherwise non-tax cases, and the expansion of international collaboration in such cases.

C. Antitrust Enforcement

Lisa Tenorio-Kutzkey, Moderator
Kathryn Hellings, David Oscar Markus, Mark R. Rosman, Richard Powers

Panelists will focus on emerging trends in the investigation, prosecution and defense of corporations and individuals in criminal antitrust matters, including the proliferation of such cases with international ramifications, and explore key components in developing an effective defense.

D. National Security, Economic Espionage, and Sanctions: The Challenges of a Flattening World

Paul F. Enzinna, Moderator
Julie Edelstein, Jeffery B. Vaden, Joe D. Whitley, Wendy Wysong

The world has grown "flatter" in the 21st century, and technological advances, globalization, and international terrorism pose new challenges to the rule of law. This panel will address those challenges, and the legal system's response to them, from border security to individual privacy and government secrecy, and from economic espionage to international trade.

E. International Data Protection Laws and their Impact on White Collar Practitioners

Jonathan S. Sack, Moderator
Stéphane Bonifassi, Christine Braamskamp, Björn Gercke, Lisa van der Wal

The risks associated with gathering and using personal data have increased in recent years, culminating in the adoption by the European Union (EU) of the General Data Protection Regulation (GDPR) (effective May 2018), which extends the reach of EU law to many entities that conduct business in the EU, even though located in the United States, and imposes increased penalties for noncompliance. Panelists will discuss the GDPR and the individual laws of each represented country, and their impact on businesses that handle personal data of individuals and on defense of white collar cases.

Agenda

5:15 p.m. **White Collar Crime Committee Meeting**

6:00 p.m. **Young Lawyers Reception**

Day Three — Thursday, March 7, 2019

8:00 a.m. **Registration Continues**

9:00 a.m. **Opening Remarks**
Raymond Banoun, Chair of the Institute

9:20 a.m. **E. Lawrence Barcella Memorial Address**
Keynote Speaker: *To be announced*

10:00 a.m. **The Evolving Challenge of Judging: 2019 Edition**
Hon. Paul L. Friedman, Moderator
Hon. Denise L. Cote, Hon. Brian A. Jackson, Hon. Carlos E. Mendoza, Hon. Carlton W. Reeves, Hon. Yvonne Gonzalez Rogers, Hon. Patti B. Saris
Six noted federal judges, led by United States District Judge Paul L. Friedman, will again consider some of the personal and professional challenges and difficult substantive issues they confront in the daily administration of justice. This continuing annual judicial panel explores the evolving task of judging in the 21st century.

12:00 p.m. **Lunch (on your own)**

1:15 p.m. **Sexual Abuse and Workplace Misconduct: Investigation, Prosecution and Defense in the #MeToo Era**
Joan McPhee, Moderator
Tammy Albarrán, Hon. Louis J. Freeh, Nancy Kestenbaum, Hon. Cyrus Vance, Jr.
Fueled by social media and lightning-speed repercussions for institutions and individuals, the #MeToo movement has transformed the way allegations of sexual abuse and misconduct are being addressed across organizations and industries. Gone are the days when these matters could be handled internally and privately. This panel of government and defense counsel, independent investigators, and in-house counsel, will discuss the heightened corporate and individual exposure in the wake of recent developments, best practices for companies, and particular challenges for counsel in the investigation, prosecution and defense of these matters.

2:30 p.m. **Coffee Break**

2:45 p.m. **Breakout Sessions III**

A. The Foreign Corrupt Practices Act: Recent Developments and Government Priorities
Robert W. Tarun, Moderator
Manny A. Alas, Charles E. Cain, Karen P. Hewitt, Daniel S. Kahn
Panelists will review bribery enforcement during the past year, DOJ and SEC priorities for 2019, the results of the 2017 DOJ FCPA Corporate Enforcement Policy to date, the effect of the DOJ's 2018 anti-piling policy, the DOJ extension of declination presumptions to M&A activities, the impact of the Supreme Court *Kokesh* decision on SEC enforcement and penalties, and what constitutes effective anti-corruption compliance monitoring.

B. Corporate Governance During Internal Investigations—the Interplay Between Management, the Board, the Audit Committee, Outside Auditors, Employees and Government Agencies

Mark P. Schnapp, Moderator
Ralph J. Caccia, John J. Carney, Prof. Roger A. Fairfax, Jr., Cheryl J. Scarboro, Hon. G. Zachary Terwilliger
This session will address ethical issues that arise during communications between those parties, as well as with governmental agencies and individual employees, during the course of an investigation, highlighting the need to identify and clarify existing and potential conflicts, protect the separate interests of each party, including potential whistleblowers, and ensure that there is separate representation where needed.



Agenda

2:45 p.m. **Breakout Sessions III (cont'd)**

C. Protecting and Preserving Attorney-Client Privilege in Multi-National Investigations

Janet I. Levine, Moderator

Ann Brickley, Saverio Lembo, Lee-Anne Mulholland, Scarlet Reid, Jennifer L. Saulino

Panelists will explore the legal and ethical issues that arise in asserting and maintaining the attorney-client privilege during multi-national investigations, including, among others, who is entitled to the privilege, who determines if a privilege exists and which jurisdiction's law applies.



D. Corporate Compliance with Government Imposed Monitors - Lessons Learned and Tips from Recent Monitorship

Prof. Lucian E. Dervan, Moderator

Gene Cahill, Christine Gordon, Kathleen L. Matsoukas, Adria L. Perez, R. David Walk, Jr.

Join key players from the Olympus Corp. monitorship team, including its Deputy Chief Compliance Officer and the DOJ attorney on the matter, as they discuss lessons learned and provide tips for a successful monitorship. A member of the Volkswagen monitorship team will offer further insights into the global role of monitorships today.

E. Sentencing and its Collateral Consequences

James E. Felman, Moderator

Barry Boss, Sean Hecker, Hon. Jessie Liu, Hon. Amit P. Mehta, Hon. Nancy Gertner (Ret.)

The panel will discuss the recent amendments to the sentencing guidelines for economic offenses and other developments, and consider strategies for effective sentencing advocacy, including with regards to the calculation of loss, multiple and often overlapping specific offense characteristics, and effective arguments for obtaining sentences below advisory guidelines ranges.

4:00 p.m. **Coffee Break**

4:15 p.m. **Breakout Sessions IV**

A. Crisis Management During Investigations—When Stoic Silence is Not the Best Defense

Ira H. Raphaelson, Moderator

Lanny A. Breuer, Mark Fabiani, Hon. Amy J. St. Eve, Gloria Santona, Alyssa Starzak (Invited)

In an age of instant, around the clock news coverage, the perception of a client or case can be shaped or distorted in a single news cycle. Panelists will discuss the strategic and ethical implications of communications as an increasingly essential tool in mounting a vigorous defense, without breaching ethics rules or upsetting courts or prosecutors.

B. A Deep Dive Into the Complexities of Representing Multiple Defendants in Investigations

Jennifer Z. Belveal, Moderator

Nanci L. Clarence, Amy Jeffress, Jessica K. Nall, Jeffrey A. Taylor, Robert Zink

Panelists will consider the practical advantages and disadvantages of using pool counsel in internal investigations, including such factors as the impact of joint representation, whether the various clients' interests are sufficiently aligned, the types of agreements entered with the company, the logistics of the engagement (disclosure and waiver of conflicts, protection of privileges when fees are paid by the company), consequences of one client being charged or cooperating, and managing client information to avoid potential cross-contamination.



C. Securities Enforcement in 2019 and Beyond

Jan Nielsen Little, Moderator

Antonia M. Apps, Robert Khuzami, Gary S. Lincenberg, Gary P. Naftalis

Panelists will analyze recent enforcement actions by The DOJ and the SEC, consider the evolving landscape of securities practice, and offer tips on defending cases.

D. Data mining and other health care fraud enforcement trends

Marissel Descalzo, Moderator

Joseph Beemsterboer (DOJ, Chief HCF), Maria R. Durant, Adam Morris, Kirk Ogrosky

Panelists will consider the way the government uses data mining in health care fraud prosecutions, how such data was used in *Melgen*, strategies to defend such cases, and other recent trends.

E. Visual Persuasion: Effective Visuals for White Collar Trials

Kerri L. Ruttenberg, Moderator

Shay M. Anderson, Hon. Paul C. Huck, A. Margot Moss

Panelists will offer strategies and tips, for more effectively designing and using visual images, including timelines, charts, graphs, maps and photographs, during trials to better assist the judge and jury to understand and remember key facts and themes.

Agenda

5:30 p.m. **End of day**

5:30 p.m. – **Cocktail Reception—Sponsored by Zuckerman Spaeder LLP**
7:30 p.m.

Day Four — Friday, March 8, 2019

9:15 a.m. **Keynote Speaker**
Hon. Brian Benczkowski, Assistant Attorney General, Criminal Division

9:45 a.m. **Ethical Challenges Raised by the Conduct of Prosecutors, Defense Counsel, and Legal Commentators during High Profile Investigations**

Morris “Sandy” Weinberg, Jr., Moderator

Alan M. Dershowitz (Invited), W. Neil Eggleston, Gary P. Naftalis, Mythili Raman, Prof. Jonathan Turley

Panelists will focus on the numerous ethical and professional conduct issues and challenges arising out of the Mueller investigation for both prosecutors and defense counsel, including the search of an attorney’s office, the frequent communications with the media by several of the attorneys involved, the establishment of legal defense funds, and the conduct of members of the bar who offer a wide range of views about the significance of leaked evidence on television programs.



11:45 a.m. **End of Conference**

Register

Step 1: Registration Rates

	Early-Bird Rate June 29, 2018	Advance Rate Jan. 14, 2019	Standard Rate Feb. 11, 2019
General Public	\$1,275	\$1,430	\$1,525
ABA Members	\$1,235	\$1,325	\$1,405
Criminal Justice Section, Section of Science & Technology Law, Solo, Small Firm and General Practice Division	\$1,075	\$1,150	\$1,230
Student Lawyers	\$150	\$150	\$150
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- Criminal Justice Section - \$45
- Section of Science & Technology Law - \$55
- Solo, Small Firm and General Practice Division - \$60

Step 3: Course Materials

Electronic course materials will be provided via download at least 48 hours prior to the start of the Institute. Printed course materials are available on-site for an additional \$75 fee.

- Please provide printed course materials on-site for \$75. **Enter your \$75 fee on line 5E.**

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Three or More People Registering (from Step 1) Save when you register three or more attorneys for this National Institute. 3-5 attendees - save 5% 6-10 attendees - save 10% 10+ attendees - contact the ABA Center for Professional Development To register your group of 3 to 10 and receive the discount, please call the ABA Service Center at 800-285-2221.	5B \$ _____
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Women in White Collar Crime Luncheon - \$55 (Ticketed Event)	5G \$ _____
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Attire

Business casual attire is appropriate for all activities.

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Please specify your special needs below. To ensure your request is fulfilled, the registration form must be received by January 31, 2019. For questions, please contact staff designee Donna Williams, Meetings Manager, at donna.williams@americanbar.org; 312.988.6210.

Every effort will be made to accommodate advance requests; onsite requests cannot be guaranteed.

I will need the following accommodations:

Interpreters: ASL Transliterater Oral Tactile

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Cancellations received five business days or more before the program will receive a full refund, less a \$50 cancellation fee. No refunds will be provided for cancellations after that date; however, substitute registrants are welcome at any time. To cancel your registration or substitute another individual, please call the ABA at **(800) 285-2221** or fax your request to **(312) 988-5850**. Registrants who do not cancel within the allotted time period and who do not attend the program will receive a copy of the program course materials after program completion.

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Hilton New Orleans Riverside

2 Poydras Street

New Orleans, LA 70124

Group Rate: \$259/night

Hotel Deadline: February 13, 2019

Reservations can be made by calling the Hilton New Orleans Riverfront directly at 504-561-0500 or 800.HILTONS or online at <https://book.passkey.com/e/49644102>. Refer to the ABA National Institute on White Collar Crime to get the group rate.

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