

so you want to make
a federal case of it...



so you want to make
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- Navigating the reporting process
- Investigation/formal charges/trial--
what to expect
- Sentencing: victim rights and restitution

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Navigating the reporting process



Navigating the reporting process

When should I report a crime?

As soon as evidence reasonably demonstrates that a crime has likely been committed.

Navigating the reporting process

When should I report a crime?

delay and continued
internal investigation risks:

Culprits being alerted

Element of surprise lost

Evidence destroyed

Undercover investigation impossible

so you want to make a federal case out of it...

Navigating the reporting process

- Who...
do I call?
- What...
do I do to get an investigation started?
- When...
should I report a crime?
- Where...
should charges be reported?
- Why...
is it a potential federal case?

Navigating the reporting process

What do I do to get an investigation started?

Contact the appropriate **investigating** agency--
i.e., FBI, Secret Service, Postal Inspection, etc.

Navigating the reporting process

What do I do to get an investigation started?

USAO employs lawyers, not investigators;

Investigating agencies are not directed by us,
but will entertain our **requests** for
investigation; and

USAO available for consultation and guidance.

Navigating the reporting process

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Navigating the reporting process

Who do I call?

Investigating Agency: Duty Agent

USAO: Duty Attorney

Navigating the reporting process

Who do I call?

Which Agency?

Generally...

FBI (wire fraud, bank fraud, internal theft);

Secret Service (credit card fraud, internet fraud,
ID theft, counterfeit checks);

Postal Inspection Service (mail fraud).

Navigating the reporting process

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Navigating the reporting process

Where should charges be reported?

Where prosecution is proper.

Two considerations:

- (1) Legal venue-- prosecution proper **only** in jurisdiction where criminal conduct occurred; may be options if multiple jurisdictions involved
- (2) Convenient forum-- if conduct occurred in multiple jurisdictions, prosecution proper where most witnesses are located.

Navigating the reporting process

Where should charges be reported?

Legal venue and convenient forum do not always coincide...

Example: music piracy occurs only in one district, but victim record label and witnesses are all situated in another...

prosecution is only proper *where crime occurred*.

Navigating the reporting process

Where should charges be reported?

General Rule:

Evaluate and report criminal conduct
where it **occurred** as opposed to
where it was **discovered**

Navigating the reporting process

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Navigating the reporting process

Why is it a potential federal case?

most federal crimes include
a federal jurisdictional element
prerequisite for federal action, i.e.

Robbery-- of **FDIC** insured bank;

Murder-- of a **federal** employee

Theft-- of **government** property

Navigating the reporting process

Why is it a potential federal case?

Common bases for federal prosecution:

Conduct across state lines? (i.e. wire fraud)

Federal facility utilized ? (i.e. mail fraud)

Interstate commerce affected ? (i.e. theft of goods
in transit/credit card fraud/counterfeit checks)

Government property placed at risk? (i.e. federal
program fraud, fraud on federally insured bank)

Navigating the reporting process

Not all potential federal crimes are
accepted for prosecution by USAO– limited by...

Personnel

Resources

Crowded court dockets

Particularly if state charges are available

Navigating the reporting process

Not all potential federal cases
accepted for federal prosecution...

Office guidelines/thresholds for acceptance, i.e.

Drug case: quantity

Firearm violation: offender's record/likely
federal sentence

Fraud: dollar loss

Generally: \$100,000 (flexible)

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Investigation/formal charges/trial-- what to expect



Investigation/formal charges/trial-- what to expect

Investigation

Duration?

Weeks * Months * Years

Variables:

complexity

other jurisdictions involved

personnel available/existing caseloads

Investigation/formal charges/trial-- what to expect

Formal charges— case goes to court

Two options:

Criminal Complaint / Warrant (by magistrate)--
if immediate arrest necessary to
prevent flight/loss of evidence or stolen
property

the negative: **MUST INDICT IN 30 DAYS**

Investigation/formal charges/trial-- what to expect

Formal charges

Indictment (warrant automatically issues)

federal grand jury (finding probable
cause)

only attended by AUSA and

1 witness at a time

most often— case agent sufficient

Investigation/formal charges/trial-- what to expect

Trial



Investigation/formal charges/trial-- what to expect

Trial

No pretrial depositions
in federal criminal cases

Discovery provided (records, photos,
expert reports, defendant
statements, etc.) and

Impeachment information re witnesses

Investigation/formal charges/trial-- what to expect

Trial

Pace: 5-6 witnesses per day on average

Rare for trial to last more than 1-2 weeks

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Sentencing: victim rights and restitution



Sentencing: victim rights and restitution

Court must determine loss/restitution as part of sentencing

Order of restitution mandatory in most cases

Installment payments a condition of supervision after prison

Unpaid restitution: judgment good for 20 yrs

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