



## Are We Losing That White-Collar Distinction?

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A recent speech by a U.S. Attorney sent white-collar defense attorneys a strong message: The government often doesn't see much difference between your white-collar client and a drug lord – and you'd better prepare your defense accordingly.

After all, most people think they intuitively understand the difference between white-collar crime and its counterpart, violent or street crime.

But in a recent and little-noticed speech, Preet Bharara, the United States Attorney for the Southern District of New York, said the distinction between the two seems to be “growing more blurry.”

Bharara, who heads an office that has historically prosecuted a large number of securities fraud, insider trading, and international criminal cases, was speaking on white-collar crime trends on Oct. 20, 2010, at the New York City Bar Association.

Bharara noted, for example, that his office had recently charged dozens of people with alleged organized crime connections and pinned racketeering offenses on them – but that the central crime charged involved Medicare fraud, a classic white-collar crime.

Recently, the same U.S. Attorney's office arrested a number of people in a so-called “pump and dump” scheme, which is a typical form of securities fraud. But these people were also involved in a suspected massive drug conspiracy at the same time.

“In a way, even bank robbery is morphing into a white-collar crime,” Bharara said. “The modern, high-tech bank heist does not require a gun, a mask, a note, or a getaway car. It requires only the Internet and ingenuity.”

What this means for white-collar defense attorneys, among other things, is that the government is prepared to use techniques in so-called white-collar cases that it has perfected in so-called street-crime cases. Wiretaps are one example. In that same speech,



Bharara said the government uses wiretaps to investigate insider trading “to get at the truth.”

When “an essential element of the crime is a communication it does not take a rocket scientist to understand that it would be helpful to have the actual recording of the communication,” Bharara said.

There’s no reason that this should be restricted to wiretapping, or to the Southern District of New York, or to insider trading. Defense attorneys need to be aware of all of the possible investigative techniques at the government’s disposal, to expect them to be used in many cases, and to be prepared to challenge them when necessary.

*Crime in the Suites is authored by the [Ifrah Law Firm](#), a Washington DC-based law firm specializing in the defense of government investigations and litigation. Our client base spans many regulated industries, particularly e-business, e-commerce, government contracts, gaming and healthcare.*

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