

CLIENT ALERT

Attorney General Commits to 'Smart on Crime' Approach to Economic Crimes

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In an address on August 3, 2009, at the American Bar Association's annual convention, Attorney General Eric H. Holder Jr. touted the administration's efforts to date in prosecuting health care fraud, and committed to a "smart on crime" approach to economic and other crimes. Highlighting last week's indictments by a Houston grand jury of thirty-two health care executives, providers, and operators who allegedly made \$16 million in fraudulent Medicare claims, Holder noted that the indictments were examples of the success of this "smart on crime" policy. The operation relied on the innovative tactic of real time data analysis of Medicare billing records. Real time data analysis allowed fraud investigators to contemporaneously review billing claims as they were filed by Medicare providers and thereby immediately identify irregularities - a strategy that varies greatly from the previous complaint-driven approach taken by fraud investigators.

Holder hailed these indictments as paradigmatic of the Department of Justice's ("DOJ's") commitment to not only being "tough on crime" but also being "smart on crime." The DOJ will use "science and data to shape policy" and apply a "data-driven, non-ideological approach" to the detection and prevention of economic crimes and related civil enforcement efforts. Holder noted that such "smarter, research-driven" tactics founded on evidence-based methods have previously been employed in the areas of occupational safety and public health.

The Attorney General suggested that the DOJ's smart on crime approach is already paying dividends - noting that in the fewer than nine months this year, the DOJ and the Department of Health and Human Services ("HHS") have nearly matched the \$1 billion in health care fraud judgments and settlements secured during the entire 2008 fiscal year. Holder observed that for every one dollar spent by the DOJ and HHS on federal health care fraud enforcement, four dollars is recovered.

Holder's expression of a renewed commitment, focus and determination to prosecute healthcare fraud and return significant amounts of taxpayer monies to the public were part of a larger statement of the DOJ's priorities. In addition to outlining a greater effort to detect and prevent economic crimes and healthcare fraud, Holder committed to (i) redefining the DOJ's approach to non-violent drug crimes; (ii) identifying evidence-based methods for preventing crime before it occurs; (iii) a comprehensive, evidence-based review of federal sentencing and corrections policy; (iv) enhancing resources for indigent defense; and (v) improving handling of forensic sciences.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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