

Federal Investigations and Prosecutions

Federal Criminal investigations, into white collar offenses, tax offenses, mail fraud, medicaid fraud, drug cases and numerous other federal crimes are often initiated with a visit to the target's business, or residence. The investigators, usually FBI, IRS, postal inspectors or other federal agents, hope to obtain statements useful to the investigation. Additional federal investigative methods include executing search warrants and Title III electronic surveillance (wire taps), among others. After gathering the evidence a federal prosecutor then submits the case to a grand jury and obtains indictments.

Following indictment, the indicted defendants are either arrested or summoned to appear in the district court for an arraignment. The arraignment is a critical juncture of the proceedings. At the arraignment a plea of not guilty is usually entered and bond is set. However, upon motion of the government, even a white collar business defendant can be held pending a pretrial detention hearing at which the court may, under specific circumstances, deny bond and hold him or her in custody until the case is resolved.

After arraignment one or more pre-trials are held during which the court will want to know about the progress of discovery and whether the defendant will enter a plea of guilty or go to trial.

The discovery process is important—especially so in complex white collar, tax, mail fraud, and conspiracy prosecutions. The government is required to provide or notify defense counsel about the existence of certain evidence. However, the government is not required to provide everything in its possession. Discovery rules are fairly specific about what the government must provide and that which is not discoverable.

Although courts usually schedule trial quickly in complex cases, the court may continue the trial to provide sufficient opportunity for the government and defendant to complete discovery. If the matter cannot be settled through a negotiated result (plea bargain), the case will go to trial, usually before a jury. However, with the agreement of the government, a defendant may waive trial to a jury and try the case to the court for resolution by the judge assigned to the case. In either event, certain constitutional rights apply at trial: the right to counsel; the right to have the government carry the burden of producing evidence; the right to confront and cross-examine witnesses; the right to subpoena witnesses on the defendant's behalf; the right to testify or not, as the defendant may choose; and the right to force the government to produce evidence that convinces the jury, or the court in a bench trial, of guilt beyond a reasonable doubt.

Although the defense of a federal case may appear to be very technical, and it is, protection of targets of federal prosecutions is paramount for experienced defense counsel. The federal government possesses awesome power to investigate all federal offenses, and will bring it to bear on the white collar, fraud or drug defendant in federal court. Anyone who learns that he or she may be the subject of a federal investigation is urged to seek the advice of an attorney experienced in the defense of federal cases.

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