October 20, 2022

The Honorable Merrick B. Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530

Dear Attorney General Garland:

We write to urge the Department of Justice (DOJ) to collect, analyze, and publish more robust corporate crime data. Comprehensive Department-wide data collection and a searchable public database of the resolutions of Department actions against corporations and individual actors engaging in corporate misconduct would be critically important tools to bolster corporate crime law enforcement.

Currently, there is no comprehensive national data collection on corporate crime. We understand that the Department internally tracks Non-Prosecution Agreements (NPAs) and Deferred Prosecution Agreements (DPAs), and the Criminal Fraud Section publishes year-in-review reports that include annual statistics and highlights of some corporate crime resolutions. Additionally, non-governmental corporate crime databases, such as the Corporate Prosecution Registry produced by the University of Virginia and Duke University,[1] and the Corporate Research Project's Violation Tracker,[2] provide some information on corporate crime trends. However, an official federal corporate crime database that presents a complete view of Department-wide actions would provide significant benefits for law enforcement agencies, researchers, and the general public.  In fact, the last comprehensive DOJ report on corporate crime, published in 1979, recommended that the Department begin collecting comprehensive corporate crime data through its Bureau of Justice Statistics, including information from DOJ, other federal regulatory agencies, and state and local governments; and that the Department analyze the information in annual public reports.[3]

Last year, Deputy Attorney General Monaco acknowledged the significance of corporate crime data in her keynote address at the ABA's 36th National Institute on White Collar Crime, stating

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[1] Duke Univ. & Legal Data Lab at the Univ. of Va. Arthur J. Morris Law Library, *Corporate Prosecution Registry*, https://corporate-prosecution-registry.com/
[2] Good Jobs First Corporate Research Project, *Violation Tracker*, https://www.goodjobsfirst.org/violation-tracker
[3] Marshall B. Clinard, *et al.*, *Illegal Corporate Behavior* (U.S. Dept. of Justice Nat'l Inst. of Law Enforcement & Crim. J. 1979), https://www.ojp.gov/pdffiles1/Digitization/57893NCJRS.pdf

that "data analytics plays a larger and larger role in corporate criminal investigations."[4] We commend the Department for the recently announced updates to its corporate criminal enforcement strategy and policies, including: (1) steps to ensure an individual's accountability; (2) consideration of a corporation's history of misconduct; (3) taking into account a corporation's voluntary self-disclosure; (4) evaluating a corporation's existing compliance program; and (5) assessing the need for an independent monitor on a case-by-case basis.[5] We are especially encouraged by the Department's establishment last year of its Corporate Crime Advisory Group,[6] which has been responsible for recommending revisions and reforms such as those outlined above.

While DOJ's recent announcement includes a commitment to publishing corporate crime resolutions on its public website, absent exceptional circumstances, we urge the Department to begin collecting corporate crime data Department-wide and publicizing that information through annual reports and a regularly updated database. These steps would further improve DOJ's corporate crime enforcement process and bolster the American people's faith in a fair and equal justice system for all.

In the meantime, we ask that you provide additional clarity regarding DOJ's current corporate crime data collection practices by providing answers to the following questions no later than November 10, 2022:

1. Why does DOJ only collect corporate crime data at the component-level, and not Department-wide?

2. When will DOJ publish another comprehensive report on corporate crime data and trends?

3. Does DOJ collect data on other federal agencies' actions addressing corporate criminal violations? If not, what steps would need to be taken in order to make DOJ collection of such data feasible?

4. Would DOJ need additional authorities or resources in order to provide the public with a complete and searchable corporate crime database? If so, please explain.

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[4] Press Release, *Deputy Attorney General Lisa O. Monaco Gives Keynote Address at ABA's 36th National Institute on White Collar Crime* (Oct. 28, 2021), https://www.justice.gov/opa/speech/deputy-attorney-general-lisa-o-monaco-gives-keynote-address-abas-36th-national-institute
[5] Memorandum from Dep. Atty. Gen. Lisa Monaco, *Further Revisions to Corporate Criminal Enforcement Policies Following Discussions with Corporate Crime Advisory Group*, (Sept. 15, 2022), https://www.justice.gov/opa/speech/file/1535301/download
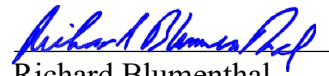[6] Memorandum from Dep. Atty. Gen. Lisa Monaco, *Corporate Crime Advisory Group and Initial Revisions to Corporate Criminal Enforcement Policies* (Oct. 28, 2021), https://www.justice.gov/dag/page/file/1445106/download

We are eager to support the Department in its efforts to curtail corporate crime, and we look forward to your prompt response. Thank you for your attention to this matter.

Sincerely,

Richard J. Durbin
United States Senator

Richard Blumenthal
United States Senator

Mary Gay Scanlon
Member of Congress