STATEMENT ON

THE INVESTIGATION OF
VIOLATIONS OF FEDERAL CRIMINAL STATUTES
IN FDIC-SUPERVISED BANKS

PRESENTED TO

COMMERCE, CONSUMER, AND MONETARY AFFAIRS
SUBCOMMITTEE
of the
COMMITTEE ON GOVERNMENT OPERATIONS
HOUSE OF REPRESENTATIVES

BY

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Room 2154, Rayburn House Office Building

Mr. Chairman:

On June 20, 1983, the FDIC provided some extensive information to the Subcommittee staff responding to the questions raised by your letter of June 1, 1983. Therefore, I will restrict my remarks to some brief observations and answer any questions you may have.

The FDIC is vitally interested in the early detection of apparent criminal violations by insured banks, their customers, officers, directors and employees. Early discovery of such infractions limits the risk to the FDIC's deposit insurance fund and aids in maintaining confidence in the nation's banking system. The FDIC's responsibility is, first and foremost, to ensure that appropriate federal law enforcement authorities are apprised of any potential violations of federal criminal statutes in FDIC-supervised banks. As a matter of policy, we encourage bank managers to notify federal and state law enforcement authorities of any misconduct that may constitute a criminal violation. In cases where banks have failed to notify the authorities or are hesitant to do so, the FDIC will make the appropriate notifications. The vehicle used is a referral-letter to a United States Attorney transmitting a Report of Apparent Criminal Irregularity.

The full resources of the FDIC's examining staff and liquidation staff are called upon to ensure that Federal prosecutors are apprised of any potential criminal activity that might have occurred in connection with the operations of

insured state nonmember banks or if discovered during the liquidation of failed banks. These resources are believed to be adequate -- recognizing that the FDIC's primary purpose as bank regulator is to enforce civil banking laws. As a supervisory agency, the FDIC has traditionally referred all criminal cases to the federal investigative and prosecuting authorities. The FDIC does not conduct criminal investigations, therefore, criminal referrals to the Department of Justice generally convey preliminary information about a suspected offense and require the federal authorities to conduct any further investigation.

As you have undoubtedly observed from the information we submitted, we have made numerous referrals.

While the FDIC does not conduct criminal investigations, if detailed information has been compiled in the course of a bank examination, it is made available to the U.S. Attorney. As a matter of policy, FDIC examiners in potential criminal matters do not conduct interviews or attempt to determine the motives or intentions of the individuals involved. The United States Attorney exercises prosecutorial discretion over all potential federal violations in the respective district. When a criminal referral is received from the FDIC, the U.S. Attorney decides whether or not to prosecute the matter. If an investigation is initiated, FDIC officials will usually be consulted or asked to provide additional information.

We believe the present system of criminal referrals as practiced by the FDIC represents a fair balance between the needs of federal prosecutors and the legitimate rights of individuals to privacy in their financial dealings. According to FBI statistics, federal investigations and conviction of bank fraud and embezzlement cases have increased significantly in recent years. The Justice Department's shifting of investigative and prosecutorial resources to white collar crime from other types of street crime, such as bank robbery, is at least partially responsible for this trend and we support the action wholeheartedly.

Mr. Chairman, we appreciate the opportunity to appear before your Subcommittee and would be pleased to respond to any questions you may have.