

Economic Crimes: Accountability, Enforcement & Deterrence

Economic crimes may not be as visible as the proverbial dead body, but they are widespread and pernicious. An individual intent on committing a crime can often do more harm with a computer and an internet connection, or a pen and paper, than with a knife or fist. In fact, across the country, financial crime is the single most costly category of criminal activity.¹ That's why it has long been the tradition of the Manhattan District Attorney's Office to fight economic crimes, alongside violent ones, as part of its core mission. As Manhattan DA, Tali will hold accountable those who commit economic crimes — no matter who they are, what power they yield, their wealth or social status, or what offices they occupy. And she will pursue a prosecution agenda that goes beyond vigorous enforcement to put would-be offenders on notice and to deter future criminal behavior.

Manhattan deserves a district attorney who can counter the increasingly sophisticated tactics employed by perpetrators of economic crimes and Tali is uniquely qualified to take on the challenge. As a federal prosecutor, she spent years in the Public Integrity Section and pursued financial crimes, running complex investigations ranging from tax evasion and bribery to economic sanctions violations. In Brooklyn, she was an instrumental part of DA Gonzalez's leadership team that restructured the office, including its Investigations Division, to deliver maximum impact and deterrence through white collar prosecutions.

As Manhattan district attorney, Tali will harness her prosecution and management experience to hold accountable those who commit economic crimes — no matter who they are, what power they yield, their wealth or social status, or what offices they occupy. And she will pursue a prosecution agenda that goes beyond vigorous enforcement to put would-be offenders on notice and to deter future criminal behavior.

OVERVIEW

The scope of economic crime is extensive and occurs across industries and sectors — from sophisticated and complex corporate malfeasance and money laundering to wage theft, deed theft, elder fraud, tax crimes and more. And more than a quarter of felony indictments currently filed in Manhattan now involve a cyber component.² Economic crimes occur everywhere from Wall Street to hospitals and doctors' offices, schools, retailers, utility providers, and city government agencies.³

The harm is expansive. More than 35,500 New York residents were victimized by financial cybercrime in 2020,⁴ and at least a quarter were 60 and older.⁵ These crimes cost New York victims \$415.8 million last

¹ The annual cost to victims of white collar and financial crime is estimated at \$300 billion to \$800 billion. By comparison, the cost of burglary, larceny, and other property crime to victims is about \$16 billion, per FBI and the American Association of Certified Fraud Examiners, via *The Handbook of White Collar Crime*, Wiley, 2020, <http://71.248.165.151/Books-Mags/The%20Handbook%20of%20White-Collar%20Crime.pdf> and <https://www.wiley.com/en-us/The+Handbook+of+White+Collar+Crime-p-9781118774885>; "Measuring White Collar Crime," *The Handbook of White Collar Crime*, Wiley, 2020, <https://onlinelibrary.wiley.com/doi/abs/10.1002/9781118775004.ch3>; "FBI Releases 2019 Crime Statistics," FBI press office, 9/29/2020, <https://www.fbi.gov/news/pressrel/press-releases/fbi-releases-2019-crime-statistics>

² "Cybercrime," Office of the Manhattan District Attorney, accessed 3/25/2021, <https://www.manhattanda.org/our-work/cybercrime/>

³ "The Industries Most Vulnerable to Cyber Attacks in 2021," CDNet, accessed 3/25/2021, <https://www.cdnetworks.com/cloud-security-blog/the-5-industries-most-vulnerable-to-cyber-attacks/>; "Top Eight Most Vulnerable Industries for Cyber Attack," TechGarden, accessed 3/25/2021, <https://techgardens.com/top-eight-vulnerable-industries-cyber-attack/>

⁴ "2020 Internet Crime Report," Page 23, Internet Crime Complaint Center, Federal Bureau of Investigation, 3/17/2021, https://www.ic3.gov/Media/PDF/AnnualReport/2020_IC3Report.pdf

⁵ 2020 Internet Crime Report State Reports: New York," Internet Crime Complaint Center, Federal Bureau of Investigation, 3/17/2021, <https://www.ic3.gov/Media/PDF/AnnualReport/2020State/StateReport.aspx>

year, second only to California.⁶ Over a year, one in four US households report falling victim to mortgage or credit card fraud, false information from financial professionals, fraudulent business ventures, identity theft, or cyber scams.⁷ Some data suggest that number is even as high as 50 percent.⁸

The effect on victims is devastating: lost jobs, retiree pension funds stolen, immigrants and low-income workers cheated of a fair wage, and a city cheated of tax revenue it needs, especially now. The siphoning of wealth to greed and graft undermines the stability of city economies. Financial crime leads to psychological and emotional trauma, serious physical injury, and even death.⁹ Many victims feel there is no avenue for justice and that they must weather the harms alone.

The COVID-19 pandemic has only worsened this problem, sparking multiple schemes preying on vulnerable city residents, and shady businesses fraudulently claiming relief funds.¹⁰

The late Robert Morgenthau was fond of saying the Manhattan District Attorney's Office prosecuted from "the streets to the suites,"¹¹ ¹² putting the con artist and embezzler on notice and holding everyone, including the ultra-powerful, accountable. Under his leadership, the office honed its expertise in investigating and prosecuting schemes to defraud, tax crimes, money laundering, securities and regulatory fraud, bribery and kickbacks, coercion, falsifying business records, identity theft, forgery, insurance and health care scams, and more, and pioneered the use of enterprise corruption, the state's anti-racketeering law, in appropriate cases. In recent years, the office has faced criticism for a loss of focus and a reluctance to investigate aggressively the wealthy, privileged, and well-connected.¹³

New York State and the Manhattan DA's office do not publicly disclose detailed financial crime prosecution data — something Tali will change as district attorney. But we know that at the federal level, white collar criminal prosecution has dropped to historic lows, from 10,000 cases in 2011 to about half that in 2020.¹⁴ The decline of cases and new manifestations of such crimes prompted one former prosecutor to note, "There's never been a better time to be a white collar criminal."¹⁵

This paper does not address every variety of economic crime — some of which, like wage theft and elder fraud, Tali addresses separately in other parts of her platform — but offers a statement of priorities and principles, commitment and approach. Tali will reinvigorate the Manhattan DA's storied commitment to

⁶ "2020 Internet Crime Report," Page 24, Internet Crime Complaint Center, Federal Bureau of Investigation, 3/17/2021, https://www.ic3.gov/Media/PDF/AnnualReport/2020_IC3Report.pdf

⁷ "National Public Survey on White Collar Crime 2010," National White Collar Crime Center, 2010, <http://www.fulltextreports.com/category/resources/gov-us/national-white-collar-crime-center/>

⁸ *The Handbook of White Collar Crime*, Wiley, 2020,

<http://71.248.165.151/Books-Mags/The%20Handbook%20of%20White-Collar%20Crime.pdf> and <https://www.wiley.com/en-us/The+Handbook+of+White+Collar+Crime-p-9781118774885>

⁹ "White Collar Crime: A New York Focus," Eren, William Paterson University, 8/2018, https://www.researchgate.net/publication/327350726_White_Collar_Crime_A_New_York_Focus

¹⁰ "Coronavirus (COVID-19) Fraud Schemes," New York State Dept. of Financial Services, accessed 2/28/21, <https://www.dfs.ny.gov/consumers/coronavirus/scams>

¹¹ "Morgenthau Leaves Legacy of Fighting Tax Havens, Tyco CEO," Law360, 7/24/2019, <http://www.lbkmlaw.com/news-morgenthau-legacy-fighting-tax-havens.html>

¹² "Robert Morgenthau, Longtime Manhattan District Attorney, Dies at 99," New York Times, 7/21/2019, <https://www.nytimes.com/2019/07/21/nyregion/robert-morgenthau-dead.html>

¹³ "Why Didn't the Manhattan D.A. Cyrus Vance Prosecute the Trumps or Harvey Weinstein?," New Yorker, 10/13/2017, <https://www.newyorker.com/news/news-desk/why-didnt-manhattan-da-cyrus-vance-prosecute-the-trumps-or-harvey-weinstein>; "The Rich, the Powerful and the Manhattan D.A.," New York Times, 10/14/2017, <https://www.nytimes.com/2017/10/14/opinion/cyrus-vance-campaign-donations.html>

¹⁴ "Corporate and White Collar Prosecutions at All-Time Lows," Transactional Records Access Clearinghouse (TRAC) at Syracuse University, accessed 3/2/2021, <https://trac.syr.edu/tracreports/crim/597/>

¹⁵ "There's Never Been a Better Time to Be a White-Collar Criminal," The New Republic, 7/23/2020, <https://newrepublic.com/article/158582/theres-never-better-time-white-collar-criminal>

investigation and prosecution of economic crimes — without regard to social stature or influence — and demonstrate that all of us are equal under the law.

POLICY PRIORITIES

Cybercrime

Tali will aggressively prosecute the burgeoning scourge of financial cybercrime. As district attorney, she will invest significant resources — including personnel, technology and data analyses — in this sector.

Cyber financial scams soared 70 percent in the US in 2020, with cyber-savvy criminal actors stealing more than \$4.2 billion, according to new FBI data.¹⁶ ¹⁷ Officials said the COVID-19 pandemic provided the chance for cyber criminals to “go on an internet crime spree,”¹⁸ further exacerbating the existing problem.

In 2020, New York victims lost \$20.5 million to investment schemes and \$268.3 million to fraud through social engineering or computer intrusion techniques that compromised business and personal emails to conduct unauthorized fund transfers.¹⁹ Nearly \$15.8 million was lost to identity theft, \$13.5 million to credit card fraud, and \$14.5 million to real estate scams.

These numbers are staggering, and underscore the need for immediate and sustained action to protect Manhattanites — especially seniors, immigrants and other particularly vulnerable populations — from the rapidly-evolving public threat of online identity-, property- and credit card theft, investment schemes, hacking, email and phishing scams, insurance fraud and other cyber financial threats.

As district attorney, Tali will:

- Dedicate significant resources to increasing the office’s cybercrime investigatory capacity, digital evidence collection and data analyses.
- Integrate strategies and data-, emerging threat-, and trend-sharing across all Manhattan DA financial crime bureaus and units to enhance investigations and close potential information gaps.
- Emphasize collaboration with other city, state, national and international partners in identifying and acting on multi-jurisdictional schemes, including cyber attacks by offshore actors, business email compromise (BEC), and ransomware threats.
 - Continue the office’s leadership role in the nonprofit Global Cyber Alliance, which now includes 20 countries working to combat cyber risks.²⁰

¹⁶ Cybercrime is often underreported, according to the FBI, per “An ‘Iceberg’ of Unseen Crimes: Many Cyber Offenses Go Unreported,” New York Times, 2/5/2018, <https://www.nytimes.com/2018/02/05/nyregion/cyber-crimes-unreported.html>

¹⁷ “2020 Internet Crime Report,” Internet Crime Complaint Center, Federal Bureau of Investigation, 3/17/2021, https://www.ic3.gov/Media/PDF/AnnualReport/2020_IC3Report.pdf

¹⁸ “2020 Internet Crime Report,” Page 3, Internet Crime Complaint Center, Federal Bureau of Investigation, 3/17/2021, https://www.ic3.gov/Media/PDF/AnnualReport/2020_IC3Report.pdf

¹⁹ “2020 Internet Crime Report State Reports: New York,” Internet Crime Complaint Center, Federal Bureau of Investigation, 3/17/2021, <https://www.ic3.gov/Media/PDF/AnnualReport/2020State/StateReport.aspx>

²⁰ “Founding Organizations,” Global Cyber Alliance, accessed 3/31/2021, <https://www.globalcyberalliance.org/founding-organizations/>; “Our Mission,” Global Cyber Alliance, accessed 3/31/2021, <https://www.globalcyberalliance.org/our-mission/>

- Invest in ongoing professional development, internal and external training and expert resources for an across-the-board understanding of cybercrime, digital trends, computer forensics, and other relevant subjects.
- Engage community organizations, senior centers, the NY Department for the Aging, and the Mayor’s Office of Immigrant Affairs to educate New Yorkers on the varieties of cybercrime, new and trending schemes and how to protect themselves from being scammed.

Emphasize A Proactive Prosecution Culture

Economic crimes pose particular investigative challenges. Unlike many acts of violence, the existence of the economic crime is not often readily apparent. There is no obvious crime scene. Prosecutors and their law enforcement partners need particular investigative tools, training and techniques to know where to look and how to build a case. That is why it is critical for the Manhattan district attorney to foster a proactive culture that encourages building economic crime cases, and to cultivate ADAs who are prepared to address new avenues of criminal economic activity.

As district attorney, Tali will:

- Increase capacity and expand on DANY’s various white collar and economic crimes divisions, such as the Financial Intelligence and Suspicious Activity Review (SAR) teams, to investigate proactively potential illicit activity, support prosecutions across the office, and identify opportunities for bolstering deterrence.
 - Take advantage of the recently-passed Corporate Transparency Act, requiring US entities to report the identities of the owners of limited liability companies to Treasury officials and make that data available to law enforcement, and support measures to end anonymous, all-cash real estate purchases.
 - Mine internal and broader crime data and trends to anticipate emerging threats and identify potential sectors or individual businesses that could be susceptible to fraud or other criminality, for instance, those operating in the crypto currency space or abusing the paycheck protection program.
 - Maximize deterrence and close enforcement gaps by amplifying partnerships with state and federal regulatory and enforcement agencies, such as the FBI, DOJ, state attorneys general, the NY Dept. of Financial Services, NYC’s Dept. of Investigations, and others.
- Strengthen the Manhattan DA’s role in facilitating reporting, with emphasis on protecting whistleblowers and other reporters and encouraging the most vulnerable to come forward. Employee and community involvement is critical in helping identify potential incidents of economic crime, yet only about 11 percent of victims of white collar / economic crime report the incident to law enforcement.²¹
 - Work with labor unions, community groups, and others to serve as “eyes and ears” and to bring attention to wrongdoing.
 - Reinforce avenues for community reporting, creating a robust online portal to track and investigate tips and facilitate communication with prosecutors.
- Establish a commitment to holding both individuals and corporations accountable for wrongdoing.

²¹ “National Public Survey on White Collar Crime 2010,” National White Collar Crime Center, 2010, <http://www.fulltextreports.com/category/resources/gov-us/national-white-collar-crime-center/>

- In considering whether a deferred prosecution agreement would adequately resolve a corporation's criminal liability, for example, ADAs must scrutinize the company's willingness and efforts to disclose individual wrongdoing.
- Where a deferred prosecution agreement is not accompanied by prosecution of individuals, ADAs must be able to explain why prosecuting individual actors did not serve the interests of justice.
- Incentivize line prosecutors to take on hard cases — here, as in all units of the DA's office, conviction rates alone cannot be the measure of success. Instead, line prosecutors must be supported to take on difficult cases, knowing their efforts will be recognized accordingly.
 - As such, when evaluating an ADA's performance, senior staff will consider the character of the cases handled by the line prosecutor, including: (1) how many people were harmed by the conduct at issue, (2) the impact to the financial health and well-being of victims and the borough as a whole, and (3) the complexity of the case.

Increase Investigative Capacity

Even “traditional” economic crime — like tax evasion and insurance fraud — can be difficult to detect and establish. The increasingly globalized nature of business, and our national and city economies, makes investigation and prosecution even more difficult. Coupled with constantly evolving technology, this reality has spawned new crimes — and new methods for carrying out traditional crimes:

- The city's businesses are susceptible to cyber-attacks from individuals who have never set foot on American soil;
- Its elderly and immigrants are targets of internet and phone scams that originate abroad;
- Offshore LLCs use the real estate industry for money laundering; and
- City institutions are exposed to ransomware attacks.

Manhattan deserves a district attorney who can meet these challenges head-on and counter the increasingly sophisticated tactics employed by perpetrators of economic crimes. Tali is committed to this work and understands it will require a significant investment of human and financial capital. As district attorney, Tali will:

- Hire in-house investigators, certified public accountants, computer security analysts, and other financial sector specialists to provide investigatory support and expertise in various cases, including proactive investigations of financial fraud, money-laundering, and cybercrime.
- Retain third-party forensic accountants, certified fraud examiners, anti-money laundering specialists, cryptocurrency analysts, and other qualified experts as needed. These professionals help navigate and explain complex case issues to juries, and necessary for taking on more difficult cases
- Support the DA's experienced line prosecutors with new lateral hires experienced in white collar criminal defense, complex tax and financial cases, and/or prosecution at the federal level.
- Redirect resources to economic crime investigations as the office makes an informed pivot away from prosecuting those low-level misdemeanors that do little to improve public safety.
- Ensure prosecutors have access to the trial advocacy training and financial sector literacy necessary to make these cases, and effectively communicate with a jury about the often complex

and confusing matters at the heart of financial crime cases. Trial readiness and the ability to streamline and build a clear narrative are paramount.

Create a Comprehensive Data Infrastructure

Despite the disproportionate detrimental effects of economic crime, there is an enormous deficit of data, both nationally and at the local level, about it. This lack of transparency is not surprising as there is no universally accepted definition of “white collar crime.”²² In part, the lack of data may be the product of focus on violent crime traditionally considered to be the province of local prosecutors.

Tali’s administration will be evidence-based and result-driven, with regular audits and analyses critical to evaluating prosecution policy effectively. It will establish tracking and reporting protocols for:

- Case sourcing, including complaints and referrals;
- Case investigations and processing, with data on case type, charges and individual/corporate defendants;
- Case outcomes or resolutions, with data on financial penalties and/or sentencing; and
- Types of crimes committed, the frequency of such crimes and other measurable data.

This data collection effort will help assess office success and facilitate modifications to policies in response to documented failures. Data and findings will be regularly reported to the public.

²² *The Handbook of White Collar Crime*, Wiley, 2020, <http://71.248.165.151/Books-Mags/The%20Handbook%20of%20White-Collar%20Crime.pdf> and <https://www.wiley.com/en-us/The+Handbook+of+White+Collar+Crime-p-9781118774885>