

Latest Trends & Hot Topics in Internal Investigations

CLE Credit

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Agenda

01 Privilege Protections for Internal Investigations

02 Key Strategic Considerations in Investigations

03 Trends in Government Investigations

04 Virtual Investigations in a Post-COVID World

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**Privilege
Protections for
Internal
Investigations**

Privilege Protections for Internal Investigations

- Companies often conduct internal investigations under attorney-client privilege, because this process:
 - Permits companies to **evaluate the legal ramifications** of the conduct under review;
 - Encourages **full and frank communication** between attorneys and their clients; and
 - Prevents **government regulators and private plaintiffs** from inappropriately prying into internal investigations.
- Since the Supreme Court's seminal decision in *Upjohn Co. v. United States*, 449 U.S. 383 (1981), there have been robust attorney-client privilege protections for internal investigations.
 - Communications with counsel
 - "Need to know" test
- The **Supreme Court is now revisiting aspects of privilege**, which could have a profound impact on how internal investigations are completed.

Privilege Protections for Internal Investigations

- **Attorney-Client Privilege**
 - A communication
 - Made between an attorney and a client (or between individuals with a “need to know”)
 - In confidence
 - For the purpose of seeking, obtaining, or providing legal advice
- The attorney-client privilege protects **confidential communications** where there is an expectation that the communication will not be disclosed.
- The attorney-client privilege protects only communications between the attorney and client; it **does not protect the underlying facts**.
- The attorney-client privilege attaches only when an **attorney acts in their capacity as an attorney**.

Privilege: Recent Developments



In re Grand Jury, No. 21-1397 (S. Ct.)

1. The Supreme Court just heard a case on Monday, January 9 from the Ninth Circuit, *In re Grand Jury*, that will clarify the standard for the legal advice element of the attorney-client privilege – i.e., **when is a communication made “for the purpose of seeking, obtaining, or providing legal advice.”**
2. The case involves a law firm that refused to turn-over communications (approximately 50 total, after producing some 20,000 pages of other documents) with its client to a grand jury that was investigating allegedly criminal conduct related to payment of taxes during expatriation.
3. Question presented: “Whether a communication involving both legal and non-legal advice is protected by attorney-client privilege where obtaining or providing legal advice was one of the significant purposes behind the communication.”

Privilege: Recent Developments

In re Grand Jury

1. The district court held that the “dual-purpose” tax communications at issue were not privileged and should be produced. The Ninth Circuit affirmed.
2. The Ninth Circuit determined that the “**primary purpose test**” should be used to assess dual-purpose communications in the attorney-client privilege context, not the broader “because of” test applicable to attorney work product because the privileges are animated by different policy goals.
 - Attorney-client privilege is primarily concerned with “providing a sanctuary for candid communication about any legal matter, not just impending litigation.”
 - “Applying a broader ‘because of’ test to attorney-client privilege might harm our adversarial system if parties try to withhold key documents as privileged by claiming that they were created ‘because of’ litigation concerns.”

Privilege: Recent Developments

Circuit split (Ninth Circuit vs. D.C. Circuit) to be addressed by *In re Grand Jury*

1. **Primary purpose test:** Ninth Circuit considers “whether the *predominant* purpose of the communication is to render or solicit legal advice.”
2. **Significant purpose test:** D.C. Circuit considers whether “obtaining or providing legal advice [was] a primary purpose of the communication, meaning one of the *significant* purposes of the communication” (per then Judge Kavanaugh, now Justice Kavanaugh).



Privilege: Recent Developments

Potential Outcomes of *In re Grand Jury*:

Primary Purpose Test

Significant Purpose Test

Hybrid Test

Privilege: Recent Developments

In re Grand Jury Oral Argument – January 9, 2023

“We’ve had the attorney-client privilege for a long time, and until 2014, nobody ever suggested that the test that you’re proposing is the right one. . . . **Everybody instead used the primary purpose test.**”

~ *Justice Elena Kagan*

“If you have **a purpose that is admittedly significant but also admittedly subsidiary**, then how would you handle that? How would you analyze that?” ~ *Justice Clarence Thomas*

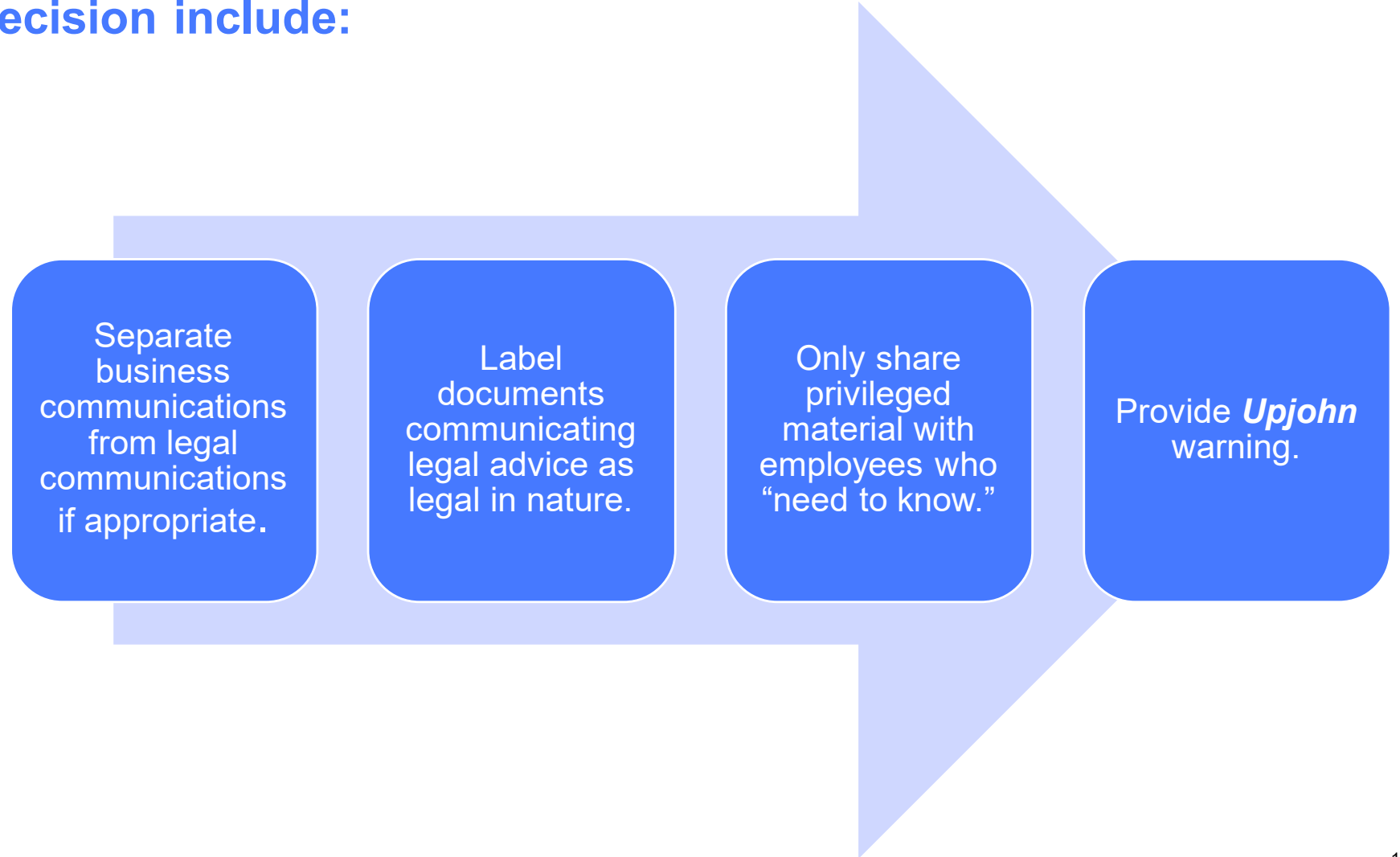
“I think you're trying to have it both ways. **Significance concerns importance**. Maybe it's a lot lower perhaps than primary, but it does involve a -- a certain quantum of importance.” ~ *Justice Samuel Alito*

“I’ll be honest, I’m **struggling** this morning.” ~ *Justice Neil Gorsuch*

“It seems to me that your approach really **puts a lot of work on the judge.**” ~ *Justice John Roberts*

Privilege: Best Practices

General principles for protecting privilege pre-*In Re Grand Jury* decision include:



Privilege: Best Practices



In addition to those general principles, in the specific context of an internal investigation, it is also important to:

- Avoid a situation in which the **sufficiency of the investigation** could be at issue.
 - For example, if certain individuals' employment is terminated as a result of an investigation, do not put the investigation at issue (or potentially at issue down the road) by offering a termination reason that necessarily implicates privileged materials in the reason for termination.
- Preserve or **create sufficient documentation** that provides the factual bases for company actions, but that does not include privileged materials and/or attorney work product.
 - Following an investigation, a company should preserve key documentary evidence supporting termination decisions (e.g., emails from a terminated employee evidencing their misconduct, etc.).
- For certain jurisdictions outside of the U.S., consider **relying on outside, not in-house counsel**, because the EU and other jurisdictions limit the extent to which communications with in-house counsel are privileged.

Privilege: Best Practices

- Discuss only **factual findings** during voluntary disclosures to the government.
 - Provide downloads that **only disclose underlying factual information** and do not reveal communications or exchanges between company counsel and the witnesses.
 - Emphasize and memorialize caveats, such as couching statements in terms of “general conclusions,” and deliver downloads in a **hypothetical format** that provides fewer details of what the witness said.
 - Paraphrase and present the factual content **thematically**, rather than as a complete recounting of the witness’s statements.
 - Provide factual proffers based on **documents** created solely for the purpose of providing the information.

Privilege: Upjohn Warnings

Model *Upjohn* warning

- I am an attorney with the law firm Gibson, Dunn & Crutcher, and represent the company. As you know, Jane Doe is the General Counsel of the Company. Each of us represents the Company only, not you. We are not your lawyers.
- As part of our investigation, we need to gather information. We do so by speaking with employees. We gather this information for the purpose of providing legal advice to our client, the company. As such, this means that our conversation with you is protected by the attorney-client privilege.
- However, the privilege is between the lawyers and the company, not you. The privilege is controlled by the company, and the company may decide to share any information it learns through this interview with third parties, including the government, without your permission or notice.
- Finally, keep everything discussed here confidential. Please do not share this conversation with anyone, including other employees. This is what keeps the conversation privileged.
- Do you understand?

Privilege: *Upjohn* Warnings

- Courts may not find a “**watered down**” *Upjohn* warning sufficient.
 - Counsel must make clear that they represent the company, not the witness, and that the company may choose to disclose information, including to the government, without notice or the witness’s permission.
- Risks of an **absent or insufficient *Upjohn* warning**:
 - Losing the ability to choose to disclose information.
 - Potential ethical violations.
 - Complicates employee discipline or prosecution.

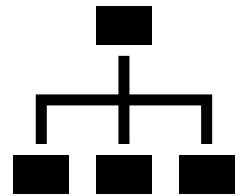
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Key Strategic Considerations in Investigations

Who at the Company to Involve in Investigation

Companies must determine who should be involved with, and oversee, an investigation.

- Companies should determine early-on whether there is a need for **independence**.
 - Regulators and auditors may afford more deference if investigation overseen by independent body (e.g. special committee of the board).
 - In some cases, independence may mean limiting the involvement of General Counsel or in-house legal team.
- Depending on the nature of the investigation, it may be appropriate to report findings to **senior management**, the **board of directors**, or both.
 - Where misconduct implicates senior management or critical governance issues, it is important to ensure that directors direct the investigation or receive updates to assist them in fulfilling fiduciary oversight duties.
- Depending on the nature of the investigation and the likelihood of litigation, it may be appropriate to wall-off **percipient witnesses** to maintain integrity of investigation.



Investigation Timeline

Companies must consider the appropriate balance between completing a timely investigation versus thoroughness.

- It is imperative to avoid any implication that the investigation was short circuited or that critical facts were missed.
- There are important reasons to move quickly:
 - If the alleged misconduct puts the company or employees at risk, moving quickly can help ensure the company quickly mitigates risks.
 - The government increasingly expects that companies seeking cooperation credit should not delay disclosure of relevant, non-privileged facts.
 - Enforcers are emphasizing speed. Some companies have goals and create metrics re investigation duration.

Individual Counsel for Employees

Companies must consider whether, and to whom, to provide pool counsel or separate individual counsel.

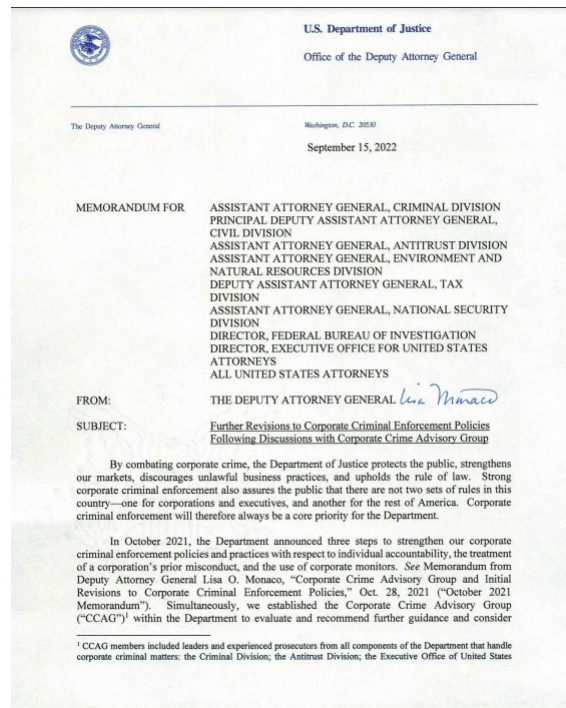
- What interests do the employees share?
- How likely are conflicts between current/former employees requiring representation?
 - What happens in the event a conflict arises during the representation?
- How segregable are the issues/charges?
- Can information learned by pool counsel be used for the benefit of all clients in the pool?
- Should executives receive individual counsel?
- Criminal investigation targets should receive individual counsel.
- Advancement/indemnification issues are determined by company bylaws.

Sharing Findings with the Government

Companies must carefully assess when, and what, to share with the government.

- In connection with every corporate resolution, prosecutors assess whether the company provided cooperation in a timely fashion and will consider whether a company promptly notified prosecutors of particularly relevant information once discovered or if disclosure was delayed.
 - To be eligible for cooperation credit, production of evidence most relevant for assessing individual culpability should be prioritized.
 - Companies that fail to produce relevant facts in a timely manner place cooperation credit in jeopardy.
- DOJ policy generally precludes them from asking for privileged material.

Monaco Memo

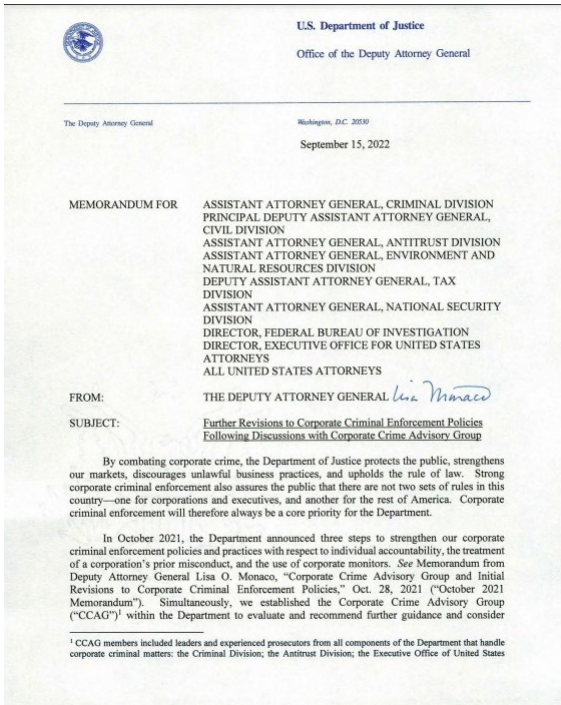


On September 15, 2022, Deputy Attorney General Lisa Monaco announced updates, new policies, and clarifications to the U.S. Department of Justice's corporate criminal enforcement policies.

• Voluntary Self-Disclosure

- DOJ will institute transparent policies and procedures ensuring that voluntary self-disclosure will result in more favorable resolutions than if DOJ learned of the misconduct through other means and that the benefit of such a disclosure is clear and predictable.
- To this end, every DOJ component that prosecutes corporate crime must have a formal written policy that incentivizes voluntary self-disclosure.
- Absent “aggravating factors,” prosecutors will not seek a guilty plea in instances where the company has voluntarily self-disclosed the misconduct, cooperated, and remediated the misconduct. The Department will not require an independent compliance monitor for such a corporation if, at the time of resolution, it has also implemented and tested an effective compliance program.

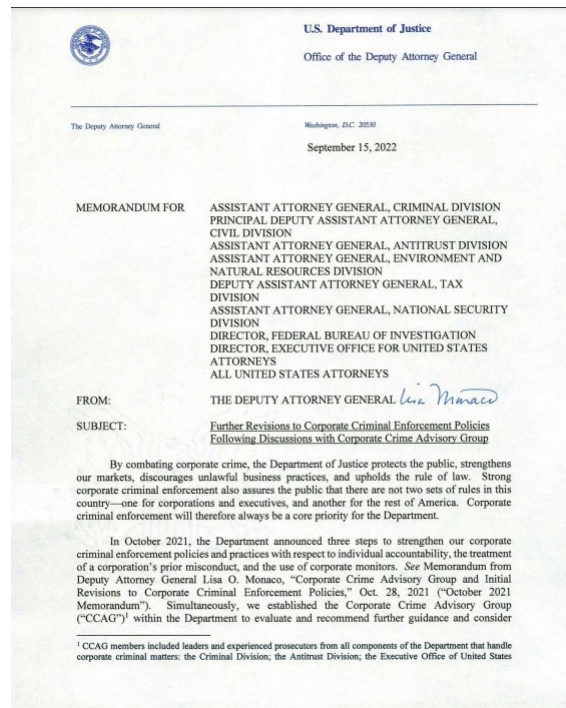
Monaco Memo



- **Cooperation Credit**

- DOJ will update its Justice Manual, a comprehensive collection of standards that guide prosecutors from the start of an investigation through prosecution, to ensure greater consistency across components regarding the standard to receive maximum cooperation credit.
- Regarding the 2021 Policy's reinstatement of a requirement that corporations must provide all non-privileged information about all culpable individuals to qualify for cooperation credit, DOJ now expects prompt delivery of such information.
- DOJ will provide cooperation credit to companies that find solutions to address data privacy laws, blocking statutes, and other foreign restrictions and may draw adverse inferences if companies improperly use such restrictions to prevent detection or hinder a DOJ investigation.
- In a speech, Principal Deputy Attorney General Marshall Miller underscored the importance of "timeliness" in obtaining cooperation credit, noting that "delay is the prosecutor's enemy."

Monaco Memo



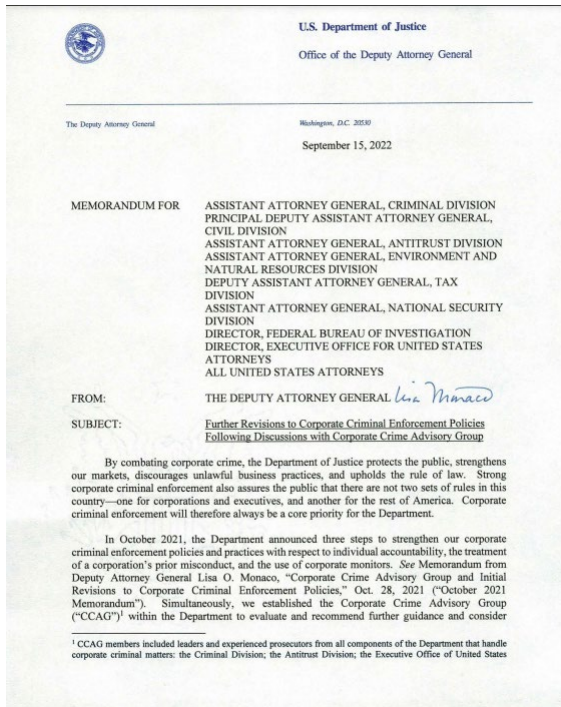
• Corporate Compliance Programs

- When assessing a company's compliance program, prosecutors must consider whether the company's compensation systems include clawback or deferred compensation provisions for bad actors and incentivize compliant behavior.
- The Department will scrutinize policies and procedures to ensure that business-related communications on employees' personal devices and third-party messaging platforms are preserved and provided to DOJ in an investigation.

• Prior Misconduct

- DOJ articulated standards regarding the kind of prior misconduct that will receive greater weight—for example, conduct involving the same personnel or management.
- Dated prior conduct, measured by the time that conduct was addressed in a resolution, will be afforded less weight—in the case of a criminal or civil/regulatory resolution, the timing is 10 years and 5 years, respectively.

Monaco Memo



- **Individual Prosecutions**

- In the Deputy Attorney General's speech, she noted that the "Department's number one priority is individual accountability" and linked expedited voluntary self-disclosures and production of key documents and information involving individuals to cooperation credit.
- Prosecutors must seek warranted criminal charges against individuals prior to or at the same time as entering a resolution against a corporation or, if it makes more sense to resolve the corporate case first, have a full investigation plan to bring individual charges.

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**Trends in
Government
Investigations**

Executive Branch Investigative Priorities

Executive branch investigative priorities will drive areas of potential risk, and in turn, internal investigations. Recent announcements from the Biden Administration show a focus on the following areas:

- Digital fraud and cyber crimes
 - Cryptocurrency schemes
 - Synthetic IDs
- Anti-Corruption
- ESG issues
- COVID-19 Fraud
- KleptoCapture (Russian Sanctions Taskforce)
- Healthcare, procurement, and government-program fraud
- Price-fixing and no poach agreements

DOJ Areas of Emphasis

DOJ has announced an emphasis on the following areas (including, but not limited, to in the Monaco memo).

- Heightened focus on enforcement actions against corporations (i.e., corporate liability and admission of wrongdoing) **and** individual accountability.
- Increased scrutiny on companies the government sees as repeat offenders (i.e., recidivism), and increased use of monitorships.
- Proactive investigations with sped up timelines and potentially heightened penalties and sanctions.
- Expectation that corporations produce key documents and evidence in real time.
- Need for robust policies around the use of personal devices, including protocols to preserve key data and information.
- Corporate compliance programs that are well designed, adequately resourced and empowered to function effectively, and work in practice.

United States Strategy on Countering Corruption

In December 2021, the Biden Administration released a comprehensive strategy on “countering corruption.”

- The strategy has an emphasis on “aggressive enforcement action.”
- Based around five pillars:
 - Modernizing, coordinating, and resourcing U.S. Government efforts to fight corruption
 - Curbing illicit finance
 - Holding corrupt actors accountable
 - Preserving and strengthening the multilateral anti-corruption architecture
 - Improving diplomatic engagement and leveraging foreign assistance to advance policy goals
- We expect to see a renewed DOJ emphasis on complex investigations into foreign bribery, misuse of cryptocurrency, and money laundering.
- There will be a focus on expanding successful asset recovery programs that rely on individual whistleblowers (e.g., Kleptocracy Asset Recovery Initiative).

Recommendations

Most companies have implemented policies consistent with what DOJ has emphasized. Companies should reassess and renew their efforts:

1. Examine compensation policies to more tightly align compliance goals with pay.

- DOJ has emphasized that the DOJ will look more favorably on companies that clawback compensation from employees involved in wrongdoing.
- We recommend instituting clawback (or similar) policies proactively.

2. Update compliance materials to ensure they are aligned with DOJ's new compliance certification policy.

- The new DOJ policy requires that chief compliance officers and CEOs certify that compliance programs have been "reasonably designed" to prevent future violations, as part of guilty pleas, deferred prosecution agreements, and nonprosecution agreements.
- The policy means that a knowing misrepresentation on the part of the CEO or CCO could lead to some form of personal liability, or prosecutors could deem it to be a breach of the corporation's obligations under a resolution with the Justice Department.
- We recommend updating materials to reflect an understanding of the new compliance certification policy.

Recommendations

3. **Develop and implement compliance procedures related to third-party messaging applications.**

- The DOJ and SEC have both expressed an interest in cracking down on the use of personal devices and ephemeral text applications.
- We recommend revisiting any applicable work-from-home policies and personal/work device policies in order to ensure that any communications that may be subject to confidentiality restrictions are adequately and appropriately protected.

4. **Develop policies and practices to ensure any executive agency requests are timely met.**

- DOJ is increasingly emphasizing proactive investigations with sped up timelines.
- We recommend taking affirmative steps to ensure processes are in place to meet the demands of regulators once an investigation begins.

Sample Clawback Provision

3. DEFINITIONS

For purposes of this Policy , the following terms shall have the meanings set forth below: “*Affected*

Officer” shall mean a current or former executive officer of the Company who was at

the relevant time designated by the Board as an officer for purposes of Section 16 of the Securities Exchange Act of 1934, as amended.

“*Incentive Compensation*” shall mean any compensation that is granted, earned or vested based in whole or in part on the attainment of a financial reporting measure.

“*Misconduct*” shall mean a knowing violation of Securities and Exchange Commission rules and regulations or Company policy or the willful commission of an act of fraud, dishonesty, gross recklessness or gross negligence in the performance of a person’s duties, as determined as a result of the final disposition of any related action, suit, arbitration, alternate dispute resolution mechanism, investigation, inquiry, administrative hearing or any other completed proceeding, whether brought by or in the right of the Company or otherwise and whether civil, criminal, administrative or investigative.

4. RECOUPMENT

If (a) the Company is required to prepare an accounting restatement for any fiscal quarter or year commencing after the adoption of this Policy due to the material noncompliance of the Company with any financial reporting requirement, and (b) it is determined that Misconduct contributed to the noncompliance that resulted in the obligation to restate the Company’s financial statements, the Company shall seek to recover and claw back from any Affected Officer whose Misconduct contributed to the noncompliance

which resulted in the obligation to restate the Company’s financial statements, the Incentive Compensation listed in A, B and C below to the extent received by the Affected Officer during the three fiscal years preceding the date on which the Company was required to prepare an accounting restatement:

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**Virtual
Investigations in
a Post-Covid
World**

Virtual Investigations in a Post-COVID World

Virtual investigation methods developed during the COVID-19 pandemic remain an important part of an investigations toolkit and offer significant advantages for clients with minimal downside:

- **Cost-effectiveness:** The pandemic has demonstrated that attorneys can be effective fact gatherers without spending time and money travelling to meet witnesses in person. This continues to result in significant savings for clients.
- **Flexibility:** Video interviews allow attorneys to conduct interviews across time zones and work environments, giving clients more control over the format and cadence of an investigation.
- **Efficient fact gathering:** Video interviews allow attorneys to gather and process facts quickly and effectively, increasing the pace of investigations.
- **Immediacy:** Increased flexibility allows attorneys to uncover facts while they are still fresh, minimizing the risk of lost recollections and confusion.
- **Expanded reach:** Video interviews allow attorneys to interview a wider range of employees and personnel, regardless of geographic location. This ensures attorneys are able to see issues from all sides and obtain a well-rounded perspective.

Virtual Investigations in a Post-COVID World

Videoconference interviews began as a necessity and have evolved into a cornerstone of an effective investigation. Thoughtful preparation can help ensure effective information gathering.



Environment

- Impact on rapport



Timing

- Status of the investigation; workday; time zones



Security

- Household members/third parties nearby; external intrusion/recording

Do's and Dont's refined during the pandemic:

- ❑ **Consider** how many will participate and their responsibilities (questions vs. notes) to ensure integrity of record without overwhelming witness
- ❑ **Address** potential recording issues (on both sides of the line)
 - Evaluate applicable anti-wiretapping laws in advance
- ❑ **Avoid** giving legal advice (see *Upjohn* admonitions)
- ❑ **Pay attention to** appropriate tone and building rapport
 - Allow time for rapport building
 - Plan on how to manage and control hostile interviewee
- ❑ **Stress** that while interview cannot be kept confidential, company will treat contents with discretion (but do not contradict *Upjohn* points)
- ❑ **Manage** participation of individual counsel and control “rules” of the interview

Virtual Investigations in a Post- COVID World

Work-from-home circumstances have blurred some lines between corporate and personal communications; but preservation obligations remain the same.

Same Requirements (Pandemic or Not)

1. **Retain** data and documents as required under applicable law
 2. **Maintain** attention to data retention (spoliation carries severe sanctions)
-

Additional Sources and Potential for Loss

1. **Consider** employee use of personal devices at home or new communication platforms (e.g., Slack, Teams, WeChat, WhatsApp)
 2. **Pursue** orders / subpoenas to prevent destruction of personally stored information
 3. **Implement** proactive BYOD policies discussing potential need for preservation
 4. **Consider** sandboxes (separate spaces for work apps) and required use of enterprise messaging apps
 5. **Obtain** and **retain** information from former employees
-

Virtual Investigations in a Post- COVID World

What has changed: *Hybrid Models*

1. Continue to evolve videoconference best practices
 - Remaining current on the latest communications technology and making adjustments to best practices accordingly will ensure that we are able to continue effective fact gathering via videoconferencing tools.
2. Introduce select in-person interviews when advantageous
 - While videoconferencing offers many advantages, there are instances when an in-person interview will accomplish objectives more effectively than a videoconference. We are mindful of areas in which in-person meetings can further client's goals.
3. Retain robust assessments of security issues
 - Hybrid investigations require staying apprised of information security challenges and selecting partners (for document collection or communications technology) with the goal of security in mind.
4. Understand evolving challenges of hybrid workplaces
 - Employees across industries are facing varying work place environments, impacting the logistics of videoconference interviews and document collection. An individualized investigation plan is critical to ensuring a successful investigation.
5. Take care to police appropriate attorney-client privilege/attorney work product bounds
 - Privilege considerations are constantly changing as workplaces and means of communication evolve. Staying on top of these developments and of accompanying ACP/AWP jurisprudence is critical to ensuring client's privacy is maintained.

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Attorney Bios



EDUCATION

[Georgetown University](#)
Juris Doctor

[Creighton University](#)
Bachelor of Arts

SELECTED RECOGNITION

[Securities: Regulation: Enforcement, FCPA, Litigation: White-Collar Crime & Government Investigations, Litigation: Securities](#)
- 2022 Chambers USA

F. Joseph Warin

Partner / Washington, D.C.

F. Joseph Warin is chair of the 250-person Litigation Department of Gibson Dunn's Washington, D.C. office, and he is co-chair of the firm's global White Collar Defense and Investigations Practice Group. Mr. Warin's practice includes representation of corporations in complex civil litigation, white collar crime and regulatory and securities enforcement – including Foreign Corrupt Practices Act investigations, False Claims Act cases, special committee representations, compliance counseling and class action civil litigation.

Mr. Warin has handled cases and investigations in more than 40 states and dozens of countries. His clients include corporations, officers, directors and professionals in regulatory, investigative and trials involving federal regulatory inquiries, criminal investigations and cross-border inquiries by dozens of international enforcers, including UK's SFO and FCA, and government regulators in Germany, Switzerland, Hong Kong and the Middle East. His credibility at DOJ and the SEC is unsurpassed among private practitioners – a reputation based in large part on his experience as the only person ever to serve as a compliance monitor or counsel to the compliance monitor in three separate FCPA monitorships, pursuant to settlements with the SEC and DOJ: Statoil ASA (2007-2009); Siemens AG (2009-2012); and Alliance One International (2011-2013). He has been hired by audit committees or special committees of public companies to conduct investigations into allegations of wrongdoing in a wide variety of industries including energy, oil services, financial services, healthcare and telecommunications.

Early in his career, Mr. Warin served as Assistant United States Attorney in Washington, D.C. As a prosecutor, he tried more than 50 jury trials and was awarded a Special Achievement award by the Attorney General. Mr. Warin was awarded the Best FCPA Client Service Award by Main Justice in 2013 and he joined the publication's FCPA Masters list. He was named a Special Prosecutor by the District of Columbia Superior Court in 1988.

Mr. Warin's full biography can be viewed [here](#).



Michael Bopp

Partner / [Washington, D.C.](#)

Michael Bopp is a partner in the Washington, D.C. office of Gibson, Dunn & Crutcher. He brings his extensive government and private-sector experience to help clients navigate through the most difficult crises, often involving investigations as well as public policy and media challenges. He chairs the Congressional Investigations Subgroup and he is a member of the White Collar Defense and Investigations Crisis Management Practice Groups. He also co-chairs the firm's Public Policy Practice Group and is a member of its Financial Institutions Practice Group.

Mr. Bopp's practice focuses on congressional investigations, internal corporate investigations, and other government investigations. He also advises clients on public policy and regulatory consulting in a variety of fields, and managing and responding to major crises involving multiple government agencies and branches. Mr. Bopp is one of only two attorneys in the country listed in Band 1 for Congressional Investigations by *Chambers*. Most recently, Mr. Bopp has been recognized by *The Hill* as a top lobbyist for 2022. BTI Consulting named Mr. Bopp to its 2018 BTI Client Service All-Stars list, recognizing the "lawyers who truly stand out as delivering the absolute best client service" as determined by a poll of corporate counsel.

A particular specialty is preparing people to testify at congressional hearings and for other high-profile, public, often contentious events. Mr. Bopp served as the debate coach for Senator Susan Collins in the 2020 election cycle. About the race, Politico noted that Senator Collins "staged one of the most remarkable Senate comebacks of the past decade."

Mr. Bopp received his law degree *cum laude* from Harvard Law School where he was Articles Editor on the *Journal of Law and Public Policy*. He graduated *magna cum laude*, with honors, in public policy from Brown University.

Mr. Bopp's full biography can be viewed [here](#).

EDUCATION

[Harvard University](#)

Juris Doctor

[Brown University](#)

Bachelor of Arts

SELECTED RECOGNITION

[Government Relations: Congressional Investigations](#)

- 2022 Chambers USA



EDUCATION

[University of Virginia](#)
Juris Doctor

[University of Oregon](#)
Bachelor of Arts

Laura J. Plack

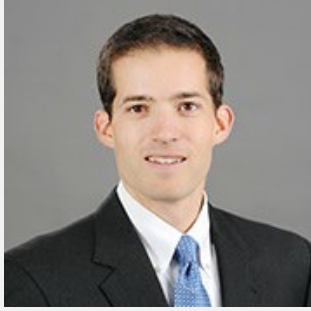
Associate / Denver

Laura Jenkins Plack is a senior associate in the Denver office of Gibson, Dunn & Crutcher. She previously practiced in the firm's Washington, DC and Orange County offices. Ms. Plack is a member of the firm's litigation department, with an emphasis on white collar defense and investigations and complex commercial litigation.

Ms. Plack represents companies and executives in federal and state court, and before the U.S. Department of Justice, the U.S. Securities and Exchange Commission, the U.S. Federal Trade Commission, congressional committees, and various international authorities. She also has experience guiding and advising businesses undertaking internal investigations. Prior to joining the Denver office, Ms. Plack was appointed an Associate Deputy Attorney General at the U.S. Department of Justice. In that role, Ms. Plack personally advised the Deputy Attorney General on significant legal and policy matters. She regularly provided strategic oversight on behalf of Department leadership relating to some of the Department's most complex and high profile actions. In this capacity, Ms. Plack worked closely with various components, including the Civil Division, the Civil Rights Division, the Federal Bureau of Investigation, the U.S. Trustees Program, the Office of Legal Policy, and the Office of Legislative Affairs.

Ms. Plack received her law degree from the University of Virginia, where she served as an Editor of the Virginia Law Review. She clerked for the Honorable Jerry E. Smith of the U.S. Court of Appeals for the Fifth Circuit. Prior to law school, Ms. Plack worked at the White House in the Chief of Staff's Office and the Office of Strategic Initiatives. She also served in the Office of the General Counsel at the U.S. Department of Homeland Security.

Ms. Plack's full biography can be viewed [here](#).



EDUCATION

[Georgetown University](#)
Juris Doctor

[University of Notre Dame](#)
Bachelor of Arts

Reid Rector

Associate / Denver

Reid Rector is an associate in the Denver office of Gibson, Dunn & Crutcher, where he is a member of the firm's Litigation Department. His practice focuses on litigation and government investigations for companies in the health care and technology industries, including health care and FDA compliance, enforcement, and related litigation, data security and consumer protection counseling and investigations, and complex civil litigation and class actions.

Mr. Rector has substantial experience representing health care, pharmaceutical, and medical device clients during investigations by the Department of Justice, the Food and Drug Administration, and the Department of Health and Human Services Office of Inspector General, including in-depth experience with the False Claims Act and Anti-Kickback Statute. Mr. Rector also represents a variety of clients on data security and consumer protection issues, including in investigations before the Department of Justice, Federal Trade Commission, and the Department of Health and Human Services Office for Civil Rights.

Mr. Rector received his J.D., magna cum laude, from Georgetown University Law Center in 2013, where he was elected to the Order of the Coif and was a member of the Trial Advocacy Team. Mr. Rector graduated cum laude from the University of Notre Dame in 2005 with a B.A. in the Program of Liberal Studies. After completing undergraduate work, Mr. Rector worked on human rights issues in Washington, D.C. and global health issues in Lesotho.

Mr. Rector is admitted to practice law in the State of Colorado, as well as in the U.S. District Court for the District of Colorado.

Mr. Rector's full biography can be viewed [here](#).