



December 3, 2025

Between DC and the Districts: Charting the U.S. Attorney Landscape

Presenters: Debra Wong Yang, Nicola Hanna, Matthew Axelrod, Douglas Fuchs

GIBSON DUNN

MCLE Credit

- Approved for 1.0 hour of General PP credit.
- CLE credit form must be submitted by ***Wednesday, December 10th***.
- Form Link: https://gibsondunn.qualtrics.com/jfe/form/SV_3atwB0XifiYW5xk
 - Most participants should anticipate receiving their certificate of attendance in four to eight weeks following the webcast.
- **Please direct all questions regarding MCLE to CLE@gibsondunn.com**

Today's Presenters



Matthew Axelrod

Partner; Washington, D.C.

Matthew S. Axelrod is a partner in Gibson Dunn's Washington, D.C. and Co-Chair of the firm's Sanctions & Export Enforcement practice. Matt is the only person to have previously served as both Principal Associate Deputy Attorney General at the U.S. Department of Justice and Assistant Secretary for Export Enforcement at the U.S. Department of Commerce's BIS. He also served as an Assistant United States Attorney in the Southern District of Florida, where he conducted nineteen felony jury trials and prosecuted some of the office's most high-profile cases. His over 25 years of government enforcement, white-collar defense, and crisis management experience are why clients consistently rely on Matt to help them navigate their most sensitive and complex matters.



Debra Wong Yang

Partner; Los Angeles

Debra Wong Yang is a partner in Gibson Dunn's Los Angeles office and Chair of the firm's Crisis Management Practice Group. Debra has a strong background in addressing and resolving problems across the white collar litigation spectrum, including through corporate and individual representations, internal investigations, crisis management and compliance. She previously served as the U.S. Attorney for the Central District of California, where she led significant criminal prosecutions and enforcement initiatives.



Nicola Hanna

Partner, Los Angeles

Nicola T. Hanna is a partner in Gibson Dunn's Los Angeles office and Co-Chair of the firm's White Collar Defense and Investigations Practice Group. He represents Fortune 500 companies and executives in high-stakes civil litigation, white collar crime, and regulatory and securities enforcement – including internal investigations, False Claims Act cases, and compliance counseling. A former United States Attorney for the Central District of California, Nick draws on his extensive government and trial experience to advise boards and senior executives in matters involving the DOJ, SEC, and other enforcement agencies.



Douglas Fuchs

Partner, Los Angeles

Douglas Fuchs is a partner in Gibson Dunn's Los Angeles office and Co-Chair of the firm's Los Angeles Litigation Department. He represents clients in white-collar and regulatory enforcement matters—including securities fraud, public corruption, antitrust, and FCPA issues—conducts internal investigations, develops compliance programs, and handles complex civil litigation arising from related criminal or regulatory actions. Prior to joining the firm, Doug was an Assistant U.S. Attorney for the Central District of California for seven years, and served as Deputy Chief of the Major Frauds Section.

AGENDA

01 DOJ Structure

02 Priorities and What to Expect

03 Appointment Authorities and Challenges to Recent Appointments

04 Other Personnel Challenges

05 Escalating to Main Justice

06 Takeaways

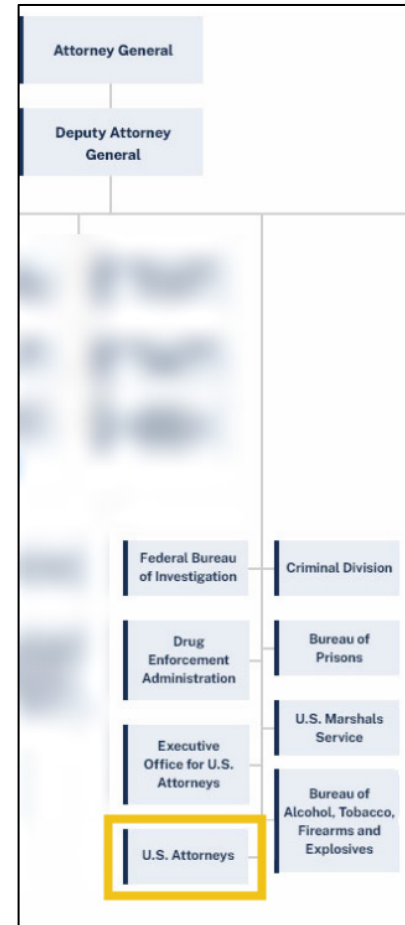
DOJ Structure

01

Department of Justice Structure: U.S. Attorney's Offices



- Typically, U.S. Attorneys are presidentially appointed and Senate-confirmed
- There are **93 U.S. Attorneys** throughout the United States and its territories
 - U.S. Attorney's Offices **report directly up to the Deputy Attorney General**, they do not report to the Criminal Division
- 28 U.S.C. § 547 imposes **three responsibilities** on US Attorneys:
 - The **prosecution of criminal cases** brought by the Federal Government;
 - The **prosecution and defense of civil cases** in which the United States is a party; and
 - The **collection of debts owed** to the Federal Government **that are administratively uncollectible**



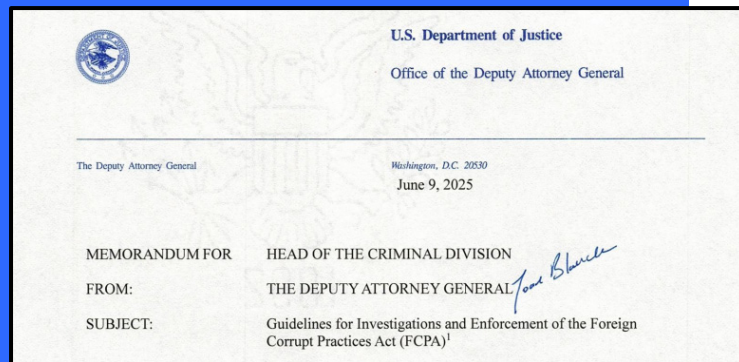
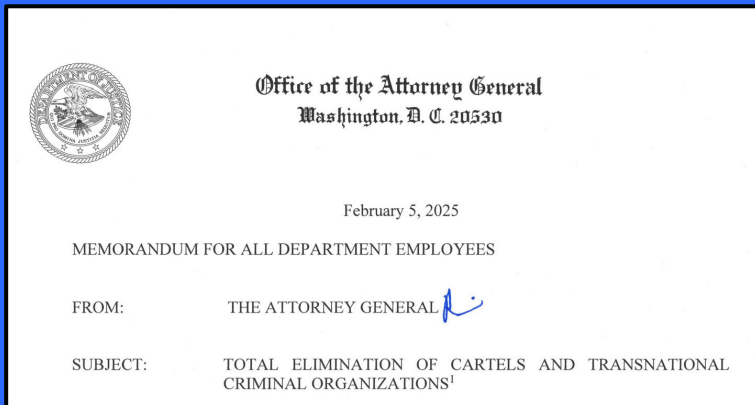
Interplay Between U.S. Attorney's Offices and Main Justice

- U.S. Attorneys **typically do not need to seek approval** from Main Justice to pursue an investigation or proceed with an enforcement action
- But there are **certain categories of cases** for which Main Justice approval is required, for example:
 - Cases implicating national security, including international terrorism;
 - Foreign Corrupt Practices Act cases; and
 - Criminal tax violations
- U.S. Attorney's Offices must also seek approval from Main Justice to employ **certain investigative techniques**, such as:
 - Interception of oral, wire, or electronic communications;
 - Obtaining evidence abroad through the issuance of an MLAT request; and
 - Issuing a subpoena to an attorney for information related to the attorney's representation of a client
- Policies issued by the Criminal or Civil Divisions **are not automatically applicable to U.S. Attorney's offices**. Only policies issued by the AG or DAG are automatically applicable

PRIORITIES AND WHAT TO EXPECT


02

DOJ Enforcement Priorities and Shifts



- Most notable priority of this Administration is **immigration enforcement**
- Administration is also focused on combatting **terrorism, violent crime, drug cartels**
 - February 2025 Memo from AG Bondi announced a plan to “pursue *total elimination* of Cartels and Transnational Criminal Organizations (TCOs)”
- Two Joint Task Forces created to target MS-13 and smuggling and trafficking have been **elevated** to the Office of the Attorney General and are now jointly supervised by the Office of the Deputy Attorney General
- Expanded enforcement in **trade and export controls**
 - In August, DOJ launched the Trade Fraud Task Force
- Narrowing of **FCPA enforcement**
 - In June, Head of DOJ’s Criminal Division issued the **Blanche Memorandum**, which ended the FCPA enforcement pause
 - Prosecutors must now consider **four non-exhaustive factors** in determining whether to pursue an FCPA investigation or enforcement action:
 - Cartel / Transnational Criminal Organization Nexus
 - Impact on U.S. Companies
 - National Security
 - Serious Misconduct
 - FCPA cases must now be authorized by **senior DOJ political appointees**⁹

DOJ Enforcement Priorities and Shifts (cont'd)

	U.S. Department of Justice Criminal Division
<i>Office of the Assistant Attorney General</i>	<i>Washington, D.C. 20530</i>
May 12, 2025	
MEMORANDUM	
TO:	All Criminal Division Personnel
FROM:	Matthew R. Galeotti Head of the Criminal Division
SUBJECT:	<u>Focus, Fairness, and Efficiency in the Fight Against White-Collar Crime¹</u>

- May 12, 2025 Memorandum outlines **White Collar and Corporate Enforcement priorities**. It identifies several “high-impact areas” and policy focuses:
 - Particular focus on offenses related to **China**, **cartels**, **transnational criminal organizations** (TCOs), and **immigration violations**
 - Waste, fraud, and abuse, including health care fraud and federal program and procurement fraud
 - Trade and customs fraud
 - Fraud cases with **individual victim losses**
 - **National security**, including terrorism and sanctions evasions
 - In February 2025, AG Bondi **suspended approval** by the National Security Division for terrorism and International Emergency Economic Powers Act (IEEPA) charges, seeking search warrants relating to such charges, and applying for material witness warrants in connection with investigations targeting members or associates of any Cartel or TCOs designated as a Foreign Terrorist Organization
 - This suggests these offenses will be charged through the **Criminal Division** or **U.S. Attorney's offices** more often
 - Material support to **foreign terrorist organizations**
 - Complex **money laundering**
 - Violations of **Controlled Substances Act** and **FDCA**, including manufacturing and distributing equipment used to create counterfeit pills laced with fentanyl
 - Prosecutors are instructed to consider the **impact of their investigations on business**

DOJ Enforcement Priorities and Shifts (cont'd)

- In contrast to criminal enforcement, there has been **expansion of False Claims Act** actions across the board
- There have been notable shifts in the areas of **cybersecurity** and **trade**
 - In July, DOJ announced a \$9.8 million settlement with **Illumina Inc.** over False Claims Act allegations of cybersecurity vulnerabilities with genomic sequencing systems sold to federal agencies
 - In August, DOJ announced a \$1.75 million settlement with **Gallant Capital Partners LLC** and **Aero Turbine Inc.** for liability under False Claims Act for knowingly failing to comply with cybersecurity requirements in a contract with the Department of the Air Force
 - In the press release, DOJ noted Aero Turbine and Gallant “took significant steps entitling them to credit for cooperating with the government”
 - DOJ uses the FCA to combat **customs fraud**, typically pursuing cases involving **false designation** of (i) country of origin; (ii) tariff classification; or (iii) value of imports
 - In an era of high tariffs, DOJ is ramping up its use of the FCA and Tariff Act to combat tariff evasion. Importers are the primary targets and **whistleblowers are often competitors** seeking to level the playing field

Recently Announced DOJ Task Forces



PRESS RELEASE

Justice Department Launches Anticompetitive Regulations Task Force

PRESS RELEASE

Departments of Justice and Homeland Security Partnering on Cross-Agency Trade Fraud Task Force

Homeland Security Task Force (January 20, 2025)

- Objective is to “end the presence of criminal cartels, foreign gangs, and transnational criminal organizations throughout the United States, dismantle-cross border human smuggling and trafficking, end the scourge of human smuggling and trafficking. . . and ensure the use of all available law enforcement tools to faithfully execute the immigration laws of the United States”

Anti-Competitive Regulations Task Force (March 27, 2025)

- Goal of eliminating anticompetitive state and federal laws and regulations that “undermine free market competition and harm consumers, workers, and businesses”
- Focus on several industries: Housing, Transportation, Food and Agriculture, Healthcare, and Energy

Trade Fraud Task Force (August 29, 2025)

- The task force is designed to “bring robust enforcement against importers and other parties who seek to defraud the United States”
- Enforcement by this task force will focus on ensuring compliance with trade laws, including tariffs and duties, such as antidumping and countervailing duties and Section 301 tariffs

What to Expect



- More resources devoted to prosecutions involved in the **elimination of cartels and TCOs, immigration violations, violent crime, and trade and customs fraud**
- Fewer corporate cases brought in traditional enforcement contexts (e.g., FCPA), but possible increased severity of allegations and criminal fines for cases brought
- **Fewer compliance monitorships** imposed as part of corporate resolutions
- More cases brought by the Civil Division under the **False Claims Act**

APPOINTMENT AUTHORITIES AND CHALLENGES TO RECENT APPOINTMENTS

03

Appointment Authorities

- Traditionally, U.S. Attorneys are appointed under **28 U.S.C. § 541**, which states the President shall appoint and the Senate shall confirm a U.S. Attorney for each judicial district
- To avoid rejection by a nominee's home state Senators under the “**blue slip process**,” the Trump Administration has employed other statutes to install their picks for U.S. Attorney:

➤ **28 U.S.C. § 546**: This statute allows the Attorney General to appoint an **Interim U.S. Attorney** to serve for **120 days** from the date of appointment.

➤ Once the 120-day period expires, the **District Court judges can reappoint** the Interim U.S. Attorney or **appoint a new** Interim U.S. Attorney until a permanent U.S. Attorney is appointed

➤ The Attorney General cannot appoint someone the Senate previously refused to confirm to the position

➤ **Federal Vacancies Reform Act, 5 U.S.C. § 3345**: Provides that upon vacancy of an office, the **First Assistant** to an office at the time of the vacancy becomes the “**Acting**” **officer** for a period of 210 or 300 days

➤ The FVRA includes a “nomination bar,” which states that a person may **not** serve as an acting officer if they’ve been nominated for the office

➤ Other subsections of the FVRA permit the appointment of someone already Senate-confirmed or a qualifying senior agency employee

UNITED STATES SENATE
Committee on the Judiciary

Date _____

Dear Senator _____:

Please give me your opinion concerning the following nomination now pending before the Senate Judiciary Committee:

Nominee Name, of State, to be (Position) _____

Please return this form as soon as possible to the Committee office in Dirksen _____.
Sincerely,
Signature _____

CHAIRMAN NAME
Chairman

Hand delivered to _____

REPLY

TO: Senator _____, Chairman

_____, I approve
_____, I oppose

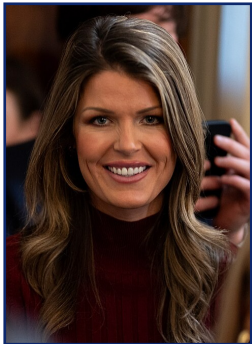
Comments: _____

United States Senator

Legal Challenges to Recent Appointments

Lindsey Halligan, E.D. Va.

- Installed on September 22nd under **28 U.S.C. § 546**
- Secured and signed indictments against **James Comey** and **Letitia James**
- On November 24, a District Court found that Halligan was **unlawfully appointed** and dismissed the indictments against Comey and James
- Court found that the Attorney General was limited to **one appointment** under Section 546, and the AG had previously appointed Erik Siebert in January 2025



GIBSON DUNN

Alina Habba, D.N.J.

- Initially installed under 28 U.S.C. § 546. AG later appointed Habba to First Assistant so she would be elevated to **Acting U.S. Attorney** under **FVRA**
- District Court judge ruled this maneuver was **unlawful**, because she was not First Assistant at the **time the vacancy occurred**
- On December 1, the Third Circuit **affirmed** the district court's disqualification order, finding: (1) she was not FAUSA **at the time of vacancy** and (2) she was barred under 3345(b)(1) because she had **previously been nominated for the position**



Bilal Essayli, C.D. Cal.

- Initially installed under 28 U.S.C. § 546 and then later appointed as First Assistant so he would become **Acting U.S. Attorney** under **FVRA**
- Similar to Habba's case, a District Court ruled this was **unlawful** because he was not First Assistant when the former U.S. Attorney resigned. However, district court found he could **continue to serve as First Assistant**
- Defendants challenging Essayli's authority recently filed a **motion for reconsideration** on the latter point



Sigal Chattah, D. Nev.

- Similar to Habba and Essayli, Chattah was initially installed under 28 U.S.C. § 546 and later designated First Assistant so that she would be elevated to **Acting U.S. Attorney** under the **FVRA**
- A District Court also found this maneuver was **unlawful** because she was not First Assistant at the time the vacancy occurred
- The government has appealed to the Ninth Circuit. The case will likely be heard in **February 2026**



Practical Consequences

- U.S. Attorneys deemed to have been appointed unlawfully may not be permitted to **oversee** or be **involved in** criminal prosecutions in their respective districts
- The validity of indictments or other criminal process will also be challenged
 - A District Court recently **dismissed the indictments** against James Comey and Letitia James because Halligan was the **only attorney** who presented to the grand jury and signed the indictments
- Other District Court judges have ruled that the unlawfully appointed U.S. Attorneys **may not participate or supervise criminal prosecutions** but have declined to dismiss defendants' cases
 - For example, the judge hearing the challenge to Sigal Chattah's appointment as U.S. Attorney in Nevada instructed the AUSAs to file statements on the docket confirming they are not being supervised by Ms. Chattah

OTHER PERSONNEL CHALLENGES

04

Personnel Loss

Loss of prosecutors

Normally, the U.S. Attorney's Office — historically one of the busiest in the country with a district extending from Key West to Fort Pierce — has employed about 240 prosecutors. But the roster is now down to 170, sources say, with economic crimes, public corruption and narcotics sections taking the hardest hit. There has also been a brain drain of more than a dozen veteran prosecutors who chose to retire or move to private practice as Trump took office for his second term in January.

US Attorney's Office in Chicago experiencing unprecedented leadership exodus, legal community says

- Many U.S. Attorney's Offices have seen a **dramatic reduction** in personnel:
 - According to news reports, the **Southern District of Florida** has reportedly lost nearly **70 prosecutors**, including many highly experienced prosecutors who have chosen to retire or transition to private practice
 - The **Northern District of Illinois** is reported to have undergone an “unprecedented leadership exodus,” including the resignation of **five section chiefs**
 - Jeanine Pirro, U.S. Attorney in **D.C.**, recently told Laura Ingraham on Fox News that her office was down **90 prosecutors** and **60 investigators and paralegals**



Personnel Challenges: Practical Effects

- Departures of so many Assistant U.S. Attorneys, combined with rulings that certain U.S. Attorneys have been unlawfully appointed, will make it more **difficult** for the Administration to **execute its stated policies and priorities**
- With fewer prosecutors working, and those remaining needing to focus on Administration priorities like immigration and violent crime, there will be **less bandwidth** to engage in **longer and more complex investigations**
- Loss of senior personnel and institutional expertise presents **increased opportunity** for defense counsel to challenge prosecutions and legal theories

Justice Department struggles as thousands exit — and few are replaced

The Justice Department has lost thousands of experienced attorneys and backfilled a fraction of the open jobs, in part because of a lack of qualified candidates.

November 10, 2025

ESCALATING TO MAIN JUSTICE

05

SHIFTS IN ESCALATING TO MAIN JUSTICE

SPEECH

Head of Justice Department's Criminal
Division Matthew R. Galeotti Delivers
Remarks at American Conference
Institute Conference

- Many examples during this Administration of attempts to resolve matters by escalating directly to **senior DOJ officials** and other **high-level members of the Administration**, without going through the usual process of appealing up through ranks at DOJ
- However, DOJ personnel have also issued **cautionary statements** about political escalation:

Let me make one other broad, related point. Be conscientious about what, when, and how you appeal the decisions of Trial Attorneys and AUSAs. White-collar and corporate defendants are fortunate to have sophisticated counsel. We do not begrudge defense counsel for zealously advocating for their clients. And we hold our prosecutors to the highest standards. These are central tenets of our system.

But seeking premature relief, mischaracterizing prosecutorial conduct, or otherwise failing to be an honest broker actively undermines our system. It also will be counter-productive to your appeals, coloring arguments that may carry more weight, especially when made judiciously at the appropriate time. Clients deserve your wise counsel about how to handle the most significant and sensitive matters, and in the overwhelming majority of cases, that's what they get. We should all strive to keep it that way.

- The question of when, to whom, and how to escalate is an increasingly **complex** and **fact-dependent** question
 - Political escalation could create long-term challenges, even if it offers a short-term opportunity
 - It is important to remember that “jump the line” approaches to escalation can be facially attractive but can sometimes backfire

TAKEAWAYS

06

TAKEAWAYS

- DOJ leadership has been clear and direct about their **enforcement priorities**, including immigration, violent crime, trade fraud, and drug cartels. These priorities impact how U.S. Attorney's Offices spend their time and deploy their resources
- Despite the clear articulation of priorities, certain **impediments** will challenge the ability of the U.S. Attorney's Offices to execute on them. These impediments include the **departure of so many experienced prosecutors** and questions about the **legality of certain U.S. Attorney appointments**
- One consequence of these dynamics is that **fewer prosecutorial resources** will be available for long-term **complex corporate investigations**
- Another consequence is that **new avenues** exist for defense counsel to **challenge the validity** of prosecutions and legal theories
- But deciding how and when to raise those challenges remains a **delicate strategic decision**. Political escalation may seem attractive, but can carry risks

Upcoming
December
Programs

2025/2026
White Collar
Webcast
Series

Date and Time	Program	Registration Link
Thursday, December 4, 2025 9:00 AM – 10:30 AM PT 12:00 PM – 1:30 PM ET	Understanding the Trump Administration’s Impact on Government Contractors and Grant Recipients Presenters: Stuart Delery, Lindsay Paulin, Jake Shields	Event Details
Tuesday, December 9, 2025 9:00 AM – 10:30 AM PT 12:00 PM – 1:30 PM ET	Protecting Your Executives – Enforcement Against Individuals in the Trump Administration Presenters: Jordan Estes, Doug Fuchs, Nicola Hanna, Dani James, Mike Martinez	Event Details
Thursday, December 11, 2025 9:00 AM – 10:00 AM PT 12:00 PM – 1:00 PM ET	Navigating DOJ’s M&A Safe Harbor: Policy, Practice, and Strategic Implications Presenters: Matthew Axelrod, Michael Farhang, Alex Fine, Patrick Stokes	Event Details



GIBSON DUNN

Attorney Advertising: These materials were prepared for general informational purposes only based on information available at the time of publication and are not intended as, do not constitute, and should not be relied upon as, legal advice or a legal opinion on any specific facts or circumstances. Gibson Dunn (and its affiliates, attorneys, and employees) shall not have any liability in connection with any use of these materials. The sharing of these materials does not establish an attorney-client relationship with the recipient and should not be relied upon as an alternative for advice from qualified counsel. Please note that facts and circumstances may vary, and prior results do not guarantee a similar outcome. © 2025 Gibson, Dunn & Crutcher LLP. All rights reserved. For contact and other information, please visit us at [gibsondunn.com](https://www.gibsondunn.com).