



The U.S. Attorney's Office and Corporate Compliance

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The U.S. Department of Justice

- Attorney General
 - “Main Justice”
 - Criminal Division etc.,
 - Fraud Section
 - FCPA
 - Computer Crime and Intellectual Property (CCIPS)
 - Money Laundering and Asset Recovery Section (MLARS)

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The U.S. Attorney's Office

- U.S. Attorney's Office
 - Headed by a U.S. Attorney
 - Chief Federal Law Enforcement Officer
 - 93 U.S. Attorneys covering 94 federal districts
 - District of Minnesota
 - 63 prosecutors
 - 140 employees and contractors
 - Minneapolis and St. Paul

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The U.S. Department of Justice

- U.S. Attorney's Office and "Main Justice"
- Federal Law Enforcement Agencies
- Enforcement Agencies
 - SEC
- State Law Enforcement and Regulatory Partners
 - Minnesota Attorney General's Office
 - Department of Commerce

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DOJ and Compliance?

- Justice Manual, 9-28.200: General Considerations of Corporation Liability: *Vigorous enforcement of the criminal laws against corporate wrongdoers, where appropriate, results in great benefits for law enforcement and the public...Indictment of corporations for wrongdoing enables the government to be a force for positive change of corporate culture, and a force to prevent, discover, and punish serious crimes.*

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DOJ and Compliance

- Why does compliance matter?
 - Impact on a company when faced with potential misconduct leading to DOJ involvement
 - First line of defense to prevent misconduct
 - If not able to prevent misconduct, allow for earlier detection.

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DOJ and Compliance

- Why does compliance matter?
 - DOJ is increasing its focus on compliance
 - Increasing transparency about how a compliance program will be evaluated

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DOJ and Compliance

- Effectiveness of a compliance program is a consideration that can affect:
 - Charging decisions
 - Prosecutorial discretion
 - Sentencing recommendations
 - Fines
 - Ongoing compliance testing/oversight

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Case Study - Airbus



- DOJ, SFO, PNF
- 2013-2015 bribery scheme involving payments to Chinese executives at controlled airlines
- FCPA, ITAR
- DPA
- Agreement reflects significant benefits of self-disclosure
- \$4 billion in penalties

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Case Study - Airbus



- Cooperation credit from DOJ
- Remediation: terminating employees
- Implementation of a strong compliance program
- No voluntary disclosure credit for FCPA violations
- Cooperation credit based on evidence collection and data analysis

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3 Questions for Compliance Program

- Is the compliance program well-designed?
- Is the program being applied earnestly and in good faith? (Effective implementation?)
- Does the compliance program work in practice?

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Compliance Program and the Company

- Has a company “incorporate[d] the culture of compliance into its day-to-day operations.”
- What tone is “set at the top”
- Commit at all management levels: “senior leaders and middle-management stakeholders”

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Compliance Program and the Company

- Demonstrate that commitment:
 - Management must lead by example:
 - Have managers
 - Allowed “greater compliance risks in pursuit of new business or greater revenues?”
 - “Encouraged employees to act unethically to achieve a business objective”

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Compliance Program and the Company

- Have managers
 - Impeded compliance personnel from effectively implementing their duties?
- DOJ does not want a “checklist” approach to compliance

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Transparency and Guidance

- Justice Manual, 9-28.000 – *Principles of Federal Prosecution of Business Organizations*
- “Evaluation of Corporate Compliance Program”
– April 2019

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DOJ and Compliance

- Thank you

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