

THE UNITED STATES ATTORNEY'S OFFICE
EASTERN DISTRICT *of* NEW YORK

[U.S. Attorneys](#) » [Eastern District of New York](#) » [News](#)

Department of Justice

U.S. Attorney's Office

Eastern District of New York

FOR IMMEDIATE RELEASE

Wednesday, February 22, 2023

Damian Williams and Breon Peace Announce New Voluntary Self-Disclosure Policy for United States Attorney's Offices

Policy Sets National Standard for Circumstances Under Which Companies May Receive Credit for Voluntarily Self-Disclosing Criminal Conduct, and Benefits of Self-Disclosure

Earlier today, Damian Williams, United States Attorney for the Southern District of New York and Chair of the Attorney General's Advisory Committee (AGAC) and Breon Peace, United States Attorney for the Eastern District of New York and the Chair of the White Collar Fraud Subcommittee of the AGAC, announced the implementation of the new United States Attorney's Offices' Voluntary Self-Disclosure Policy. The policy, which is effective immediately, details the circumstances under which a company will be considered to have made a voluntary self-disclosure (VSD) of misconduct to a United States Attorney's Office (USAO). The policy provides transparency and predictability to companies and the defense bar concerning the concrete benefits and potential outcomes in cases where companies voluntarily self-disclose misconduct, fully cooperate, and timely and appropriately remediate. The goal of the policy is to standardize how VSDs are defined and credited by USAOs nationwide, and to incentivize companies to maintain effective compliance programs capable of identifying misconduct, expeditiously and voluntarily disclose and remediate misconduct, and cooperate fully with the government in corporate criminal investigations. The policy was developed pursuant to the Deputy Attorney General's September 15, 2022 memorandum, "Further Revisions to Corporate Criminal Enforcement Policies Following Discussions with Corporate Crime Advisory Group" (Monaco Memo), which directed each Department of Justice (DOJ) component to develop and publish a VSD policy.

"The new Voluntary Self-Disclosure Policy sets a nationwide standard for how U.S. Attorney's Offices will determine whether a company has made a voluntary self-disclosure, and makes transparent the specific, tangible benefits to a company for making a voluntary self-disclosure, fully cooperating, and remediating the criminal conduct" stated United States Attorney Breon Peace. "As a result, no matter where in the country a company operates, it can rely on receiving the same treatment and benefits for voluntarily self-disclosing criminal conduct to a U.S. Attorney's Office. We hope and expect that companies, as good corporate citizens, will take advantage of this new policy to report criminal misconduct by employees and agents when they become aware of it, so that individual wrongdoers can be held accountable. When they do, they will have far better and more predictable outcomes under this policy."

U.S. Attorney Damian Williams said: “The new Voluntary Self-Disclosure Policy is an important step forward in encouraging corporate accountability. This transparent and clearly delineated policy allows for more predictable outcomes, and seeks to incentivize corporations to do the right thing by reporting wrongdoing before detected by regulators and law enforcement. We hope that this new policy has a long-lasting, nationwide effect in promoting honest corporate culture and leads to more companies getting ahead of financial malfeasance before authorities come to them.”

The Monaco Memo instructed that each DOJ component that prosecutes corporate crime review its policies on corporate voluntary self-disclosure and, if there was no formal written policy to incentivize self-disclosure, draft and publicly share such a policy. In response, the AGAC, under the leadership of U.S. Attorney Williams, requested that the White Collar Fraud Subcommittee, under the leadership of U.S. Attorney Peace, develop such a policy. The policy announced today was prepared by a Corporate Criminal Enforcement Policy Working Group comprised of U.S. Attorneys from geographically diverse districts, including U.S. Attorney Peace, as well as U.S. Attorney for the Eastern District of Virginia Jessica Aber, U.S. Attorney for the District of Connecticut Vanessa Avery, U.S. Attorney for the District of Hawaii Clare Connors, U.S. Attorney for the Eastern District of North Carolina Michael F. Easley, Jr., U.S. Attorney for the Northern District of California Stephanie Hinds, U.S. Attorney for the Western District of Virginia Christopher Kavanaugh, and U.S. Attorney for the District of New Jersey Philip Sellinger. Assistant U.S. Attorney Amanda Riedel, White Collar Crimes Coordinator for the Executive Office for U.S. Attorneys, also participated in the development of the policy.

Under the new VSD policy, a company is considered to have made a VSD if it becomes aware of misconduct by employees or agents before that misconduct is publicly reported or otherwise known to the DOJ, and discloses all relevant facts known to the company about the misconduct to a USAO in a timely fashion prior to an imminent threat of disclosure or government investigation. A company that voluntarily self-discloses as defined in the policy and fully meets the other requirements of the policy, by—in the absence of any aggravating factor—fully cooperating and timely and appropriately remediating the criminal conduct (including agreeing to pay all disgorgement, forfeiture, and restitution resulting from the misconduct), will receive significant benefits, including that the USAO will not seek a guilty plea; may choose not to impose any criminal penalty, and in any event will not impose a criminal penalty that is greater than 50% below the low end of the United States Sentencing Guidelines (USSG) fine range; and will not seek the imposition of an independent compliance monitor if the company demonstrates that it has implemented and tested an effective compliance program.

The policy identifies three aggravating factors that may warrant a USAO seeking a guilty plea even if the other requirements of the VSD policy are met: (1) if the misconduct poses a grave threat to national security, public health, or the environment; (2) if the misconduct is deeply pervasive throughout the company; or (3) if the misconduct involved current executive management of the company. The presence of an aggravating factor does not necessarily mean that a guilty plea will be required; instead, the USAO will assess the relevant facts and circumstances to determine the appropriate resolution. If a guilty plea is ultimately required, the company will still receive the other benefits under the VSD policy, including that the USAO will recommend a criminal penalty of at least a 50% and up to a 75% reduction off the low end of the USSG fine range, and that the USAO will not require the appointment of a monitor if the company has implemented and tested an effective compliance program.

In cases where a company is being jointly prosecuted by a USAO and another DOJ component, or where the misconduct reported by the company falls within the scope of conduct covered by VSD policies administered by other DOJ components, the USAO will coordinate with, or, if necessary, obtain approval from, the DOJ component responsible for the VSD policy specific to the reported misconduct when considering a potential resolution. Consistent with relevant provisions of the Justice Manual and as

allowable under alternate VSD policies, the USAO may choose to apply any provision of an alternate VSD policy in addition to, or in place of, any provision of its policy.

Attachment(s):

[Download USAO Voluntary Self Disclosure Policy.pdf](#)

Topic(s):

Office and Personnel Updates

Financial Fraud

Component(s):

[USAO - New York, Eastern](#)

Contact:

John Marzulli

Danielle Blustein Hass

United States Attorney's Office

(718) 254-6323

Updated February 22, 2023