

The Criminal Division's Pilot Program on Voluntary Self-Disclosures for Individuals¹

April 15, 2024

The Department of Justice (Department) is dedicated to vigorously investigating and prosecuting federal criminal offenses, including crimes by, through, or related to corporations. Use of cooperating witnesses in investigations and prosecutions, discretionary grants of immunity, and entry into non-prosecution agreements (NPAs) in return for a person's cooperation have long been a part of the federal criminal system and are addressed by the Department's Justice Manual, *see* JM 9-27.600 *et seq.* (explaining, *inter alia*, criteria for entry of non-prosecution agreements with cooperating witnesses, including supervisory approval and that any such agreement be in the public interest); U.S.S.G. §§ 5K1.1, 5K2.16; Rule 35 of the Federal Rules of Criminal Procedure; and 18 U.S.C. §§ 6001-6003.

The prospect of an NPA may provide a strong incentive for individuals to bring to the Criminal Division's and law enforcement's attention actionable, original information about criminal conduct that might otherwise go undetected or be impossible to prove. The Criminal Division's grant of an NPA to individuals who report misconduct to law enforcement in the context of corporate and white-collar criminal offenses also may be a particularly important incentive for companies to create compliance programs that encourage robust internal reporting of complaints, that help prevent, detect, and remediate misconduct before it begins or expands, and that allow companies to report misconduct when it occurs.

This Pilot Program provides transparency regarding the circumstances in which Criminal Division prosecutors will offer NPAs to individuals who voluntarily disclose original information about certain types of criminal conduct involving corporations, fully cooperate with authorities, and pay any applicable victim compensation, restitution, forfeiture, or disgorgement, including returning any ill-gotten gains.

The Pilot Program applies to Criminal Division investigations of the offenses outlined below and applies to disclosures made on or after April 15, 2024. The Pilot Program does not modify or amend existing Department or Division policies or directives, or provisions of the Justice Manual. While the Pilot Program is in effect, the Criminal Division will collect anonymized statistical data about relevant disclosures, for the purposes of determining whether to extend, modify, or end the Pilot Program.

¹ This memorandum is for internal use only and does not create or confer any privileges, benefits, or rights, substantive or procedural, enforceable by any individual, organization, party, or witness in any administrative, civil, or criminal matter.

Criteria

When an individual voluntarily self-discloses original information about criminal misconduct, including the complete extent of their own role in the misconduct, fully cooperates, and satisfies the other conditions set forth below, the reporting individual will receive an NPA.

1. The disclosure must be to the Criminal Division at NPA.Pilot@usdoj.gov.
2. The reporting individual must disclose **original information**, meaning non-public information not previously known to the Criminal Division or to any component of the Department of Justice, and the information provided must relate to at least one of the following:²
 - Violations by financial institutions, their insiders, or agents, including schemes involving money laundering, anti-money laundering, registration of money transmitting businesses, and fraud statutes, and fraud against or compliance with financial institution regulators;
 - Violations related to integrity of financial markets undertaken (1) by financial institutions, investment advisors, or investment funds, (2) by or through public companies or private companies with 50 or more employees, or (3) by any insiders or agents of any such entities;
 - Violations related to foreign corruption and bribery by, through, or related to public or private companies, including violations of the Foreign Corrupt Practices Act, violations of the Foreign Extortion Prevention Act, and violations of the money laundering statutes;
 - Violations related to health care fraud or illegal health care kickbacks committed by or through public companies or private companies with 50 or more employees;
 - Violations by or through public or private companies with 50 or more employees related to fraud against, or the deception of, the United States in connection with federally funded contracting, where such fraud does not involve health care or illegal health care kickbacks; and
 - Violations committed by or through public or private companies related to the payment of bribes or kickbacks to domestic public officials.
3. The disclosure must be **voluntary**, meaning (1) before any request, inquiry, or demand that relates to the subject matter of the submission is directed to the individual or anyone

² The Criminal Division cannot offer an NPA under this Pilot Program for offenses for which other components of the Department of Justice have charging approval authority, such as tax or sanctions offenses, without coordinating with and receiving required approval from the responsible component on the relevant charges.

representing the individual (e.g., his or her legal representative) by the Department in connection with any investigation, or by a federal law enforcement, regulatory, or civil enforcement agency regarding the same misconduct; (2) where the individual has no preexisting obligation pursuant to an agreement in connection with a criminal prosecution or civil enforcement action to report the information to the Criminal Division, any Department component, or any federal law enforcement, regulatory, or civil enforcement agency; and (3) in the absence of any government investigation or threat of imminent disclosure to the government or the public.

4. The disclosure must be **truthful and complete**, meaning it must include all information known to the individual related to any misconduct in which the individual has participated and/or of which the individual is aware, including the complete extent of the individual's own role in the misconduct, and all matters about which the Department may inquire.
5. The reporting individual **must agree to fully cooperate with and be willing and able to provide substantial assistance** to the Department in its investigation of related conduct and prosecution of equally or more culpable individuals or entities including, but not limited to, providing truthful and complete testimony and evidence, whether in interviews, before a grand jury, or at any trial or other court proceeding; producing documents, records, and other evidence when called upon by the Criminal Division; and, if requested, working in a proactive manner under the supervision of, and in compliance with United States law enforcement officers and agents.
6. The reporting individual must agree to forfeit or disgorge any profit from the criminal wrongdoing and pay restitution or victim compensation.
7. The reporting individual: (1) has not engaged in criminal conduct involving violence, use of force, threats, substantial patient harm, any sex offense involving fraud, force, or coercion, or relating to a minor, or any offense involving terrorism; (2) is not the Chief Executive Officer (or equivalent) or Chief Financial Officer (or equivalent) of a public or private company or is not the organizer/leader of the scheme; (3) is not an elected or appointed foreign government official; (4) is not a domestic government official at any level, including any employee of a law enforcement agency; and (5) does not have a previous felony conviction or a conviction of any kind for conduct involving fraud or dishonesty.

Separate and apart from this Pilot Program, Criminal Division prosecutors retain discretion to offer an NPA to individuals in appropriate circumstances, including where individuals come forward pursuant to the Pilot Program but the criteria above are not met in full, in accordance with the Justice Manual and Criminal Division procedures.