

New DOJ Guidance on Personal Devices and Third-Party Messaging Applications Applies to Any Company DOJ May Scrutinize

Here's the intro from [this memo](#) by Perkins Coie's Margaret Winterkorn Meyers and April Goff: "The U.S. Department of Justice (DOJ) recently released new guidance announcing several policy changes to further strengthen and clarify its approach to prosecuting corporate crime. The guidance, released through a memorandum by Deputy Attorney General Lisa Monaco (the [Monaco Memo](#)), instructs prosecutors about factors to consider when evaluating corporate cooperation and compliance programs in the context of potential criminal resolutions.

Notably, the Monaco Memo advises that "prosecutors should consider whether the corporation has implemented effective policies and procedures governing the use of personal devices and third-party messaging platforms to ensure that business-related electronic data and communications are preserved." This guidance is applicable to all third-party text and social media messaging platforms, and it is especially significant given the recent proliferation of business use of ephemeral messaging applications that provide an option to have messages automatically disappear from a recipient's conversation history.

Companies would be wise to promptly review their business communications policies and procedures, in light of both possible DOJ oversight, as well as emerging privacy, security, and employment law scrutiny."

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