

# “Government Investigations”

Labor and Employment-Related Perspective

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# Process

- It is critical to have a central communication channel with the governmental authorities in the course of an investigation so as to hopefully avoid employees providing inaccurate or damaging evidence
  - This likewise applies to employees who may be approached by media for information
- Certain employees may need to be subject to a litigation hold in order to, among other things, minimize the risk of employees altering or destroying evidence, including emails
- Employees, when interviewed by the governmental authorities, should know in advance to cooperate with the authorities per the law and not, among other things, guess, to the extent possible
- It is not uncommon for the authorities, particularly during a raid, to confiscate employee laptops, hard drives, mobile phones, notes and diaries
  - Take notes as to what has been confiscated



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# Status of employees

- Depending on the employee's degree of involvement in the activity subject to the governmental investigation, companies may consider placing the employee on paid administrative leave
  - Please kindly note that undertaking this option may lead to the employee refusing to cooperate with the company, including during its internal investigation
- An internal investigation of certain employees may be necessary but only to the extent it is not being perceived as interfering with the government's investigation
  - Results may be basis for possible disciplinary action
- Employees who are deemed an accused by the authorities may seek legal counsel to be provided by the company
- Be aware of vicarious liability issues that could result in the CEO being subject to criminal sanctions

