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Rooney, JMD  
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MEMORANDUM FOR CECIL C. McCALL  
Chairman  
United States Parole Commission

Re: Proposed Justice Management Division  
Internal Audit of Parole Commission

This responds to your request of September 8, 1980, for our views on the question whether the Justice Management Division (JMD), exercising powers delegated to it by the Attorney General, 28 C.F.R. 0.75(h), has the authority to conduct an internal audit of the Parole Commission.

Attached is a copy of the memorandum dated December 18, 1980, that we received from William J. Snider in response to our request for JMD's comments on your inquiry. We agree with Mr. Snider's conclusion, based on the legislative history of the Parole Commission and Reorganization Act (the Act), 18 U.S.C. 4201 et seq., that Congress did not intend to sever the Commission from this Department completely. We also agree that 31 U.S.C. 66a(3), which charges the head of an agency with conducting "appropriate internal audit[s]," is to be read as a grant of authority for the Attorney General to conduct such audits of the Commission.

The Act gives the Chairman of the Commission substantial administrative authority, including, among other things, directing the Commission's use of its funds, 18 U.S.C. 4204(a)(4). If the Chairman's control over and accountability for funds and other assets of the Commission is exclusive of the Attorney General's authority to conduct an internal audit, the exclusion no doubt stems from § 4204(a)(4). Since 31 U.S.C. 66a(3) explicitly grants power to the Attorney General to conduct internal audits with respect to "funds, property, and other assets for which [his or her] agency is responsible," we are faced with a seeming clash of statutory powers--31 U.S.C. 66a(3) against 18 U.S.C. 4204(a)(4).

Efficiency and fiscal integrity within the components of the Department are prime responsibilities of the Attorney General

because he must necessarily answer to the President, the Congress and the citizenry for any shortcomings of a departmental unit in this area of its own responsibilities. That the Commission is granted independence from the Attorney General in decisional matters relating to parole is emphasized and reemphasized in the legislative history of the Act, but there is nothing in that history to suggest that Congress was minded to immunize the Commission's fiscal and related operations from the Attorney General's scrutiny. The numerous expressions in the committee reports relative to the administrative ties between the Commission and the Department suggest the contrary. In any event, it seems clear to us that the responsibility conferred on the Attorney General by 31 U.S.C. 66a(3) is of such magnitude that, in the absence of a Congressional expression to the contrary, it has not been set aside by the Chairman's power under the Act to direct the expenditures of the Commission's funds and carry on whatever audits he deems appropriate. Thus, we agree with JMD that it is permissible for its staff to conduct the internal audit of which you received notice.

Leon Ulman  
Deputy Assistant Attorney General  
Office of Legal Counsel

Attachment

cc: Kevin Rooney  
Assistant Attorney General  
Justice Management Division