



U.S. Department of Justice

Office of the Deputy Attorney General

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Washington, DC 20530

May 8, 2015

MEMORANDUM FOR HEADS OF DEPARTMENT OFFICES, BOARDS, DIVISIONS  
AND COMPONENTS  
ALL UNITED STATES ATTORNEYS

FROM: Sally Q. Yates   
Acting Deputy Attorney General

Subject: Gathering Information in Response to Congressional Inquiries

This memorandum updates the prior memorandum issued by Deputy Attorney General James Cole on January 26, 2012. The Attorney General and I want to take this opportunity to remind each of you that ensuring the accuracy and completeness of information that the Department provides to Congress is a matter of utmost importance. While the Assistant Attorney General for Legislative Affairs signs most communications to Members of Congress and congressional committees, the content of those communications usually originates with the Department's Offices, Boards, Divisions, and Components (collectively "components"). Incoming congressional correspondence is circulated to components identified as likely to have responsive information and/or equities in the subject matter in order to develop a response. The Office of Legislative Affairs (OLA) works with component leadership to ensure that our letters are responsive to congressional requests and consistent with the Department's responsibilities, but we must rely upon each of you to ensure the accuracy and completeness of the information they contain. This is true whether the letters to Congress are signed by component heads or by the Assistant Attorney General for Legislative Affairs.

It is essential that each component promptly undertake rigorous efforts to obtain accurate and complete information from employees with the best knowledge of the matters relevant to the congressional inquiry. It is also incumbent upon the component to work with OLA to ensure the accuracy and completeness of the information provided to Congress. In particular, components must:

- Assign ultimate responsibility for submitting or reviewing a draft response to OLA to an appropriate policy level official, such as a Deputy Assistant Attorney General or comparable official within the component's leadership office, who shall be identified to OLA and can ensure the component's response is properly fact-checked and vetted before it is provided to OLA. For the law enforcement components, this policy level official can be from the component's front office or its congressional affairs office. This official will also be responsible for responding to questions raised by OLA and

other Departmental components during the internal clearance process, and for ensuring that all appropriate units and sections within the component provide the necessary information and have the opportunity to raise relevant questions or concerns about the response. When the component clears the final draft response, this official should send an email notifying OLA of the accuracy and completeness of the information contained in the response.

- Solicit information directly from employees with detailed personal knowledge of the subject matter at issue and collect any records relevant to the response. Components should work with OLA to ensure that any such records are reviewed and pertinent information incorporated into the response. Components also should maintain the relevant materials used to draft the response. Components should be ready to provide these materials to OLA if requested, although OLA may not need these materials for every response.
- Recognize that in some instances, the employees with the most relevant information may already have made protected disclosures on the subject to Congress or others. The Department is committed to protecting the rights of whistleblowers (*i.e.*, employees or applicants for employment who have made a protected disclosure),<sup>1</sup> and to complying both with the letter and spirit of the Whistleblower Protection Act, 5 U.S.C. § 2302(b)(8) (the Act). The Act does not, however, prohibit seeking relevant information directly from employees who have made protected disclosures and it is your responsibility to do so when necessary to ensure the accuracy and completeness of our responses to Congress. In communicating with such employees, however, it should be made clear that the reason for seeking information from them is to learn the relevant facts in order to enable the Department to respond accurately to a congressional inquiry.
- If the congressional inquiry pertains to the actions of particular individuals, those individuals should be asked for factual information but should not participate in the questioning of employees who are believed to have made protected disclosures. If any employee expresses concern that the questioning may lead to retaliatory personnel actions, then the employee should be assured that the Department does not tolerate retaliation in response to protected disclosures, as set forth in federal law. The employee also should be advised that s/he can contact the Office of Special Counsel if the employee believes that s/he has been the subject of a retaliatory personnel action.
- Recognize that while the Department strives to answer congressional inquiries promptly, our top priority must be to ensure the accuracy and completeness of the information provided to Congress. Regardless of any applicable deadline, components should not clear a proposed response until it has been thoroughly fact-

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<sup>1</sup> A protected disclosure is generally any lawful disclosure of information by an employee, which the employee reasonably believes evidences a violation of any law, rule, or regulation, or gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

checked and vetted within the component, its leadership is satisfied that the response is accurate and complete, and the appropriate official notifies OLA of the information's accuracy and completeness.

- If in the course of preparing a response, you receive information that raises significant management concerns or evidence of misconduct, in addition to raising the matter promptly with the leadership of your component and with OLA, you should bring the information to the attention of a member of my staff, or to me, as appropriate.

**Thank you for your attention to this important matter.**