



Office of the Attorney General
Washington, D. C. 20530

December 30, 2020

MEMORANDUM FOR THE ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION

FROM: THE ACTING ATTORNEY GENERAL 

SUBJECT: Clarification to JM 9-13.420 – Searches of Premises of Subject Attorneys: Consultation Requirement

Justice Manual (JM) Section 9-13.420 – *Searches of Premises of Subject Attorneys* concerns situations when Justice Department prosecutors intend to apply for a search warrant for an attorney who is a subject of an investigation. Subsection (B), entitled *Authorization by United States Attorney or Assistant Attorney General*, states: “No application for such a search warrant may be made to a court without the express approval of the United States Attorney or pertinent Assistant Attorney General.” Subsection (C), *Prior Consultation*, adds the following requirement: “In addition to obtaining approval from the United States Attorney or the pertinent Assistant Attorney General, and before seeking judicial authorization for the search warrant, the federal prosecutor must consult with the Criminal Division.” Subsection (C) identifies the Office of Enforcement Operations (OEO) as the Criminal Division unit responsible for receiving information from prosecutors.

Within OEO, the Policy and Statutory Enforcement Unit (PSEU) is the section that provides this consultation. *See Office of the Deputy Attorney General Guidance on Attorney-Client Privilege and Attorney Work Product Filter Protocols for Search Warrants* (July 2020). In many cases – particularly those involving significant investigations and high-profile matters – proposed searches are separately reported in urgent reports to the Attorney General and the Deputy Attorney General. To ensure more uniform notification procedures going forward, PSEU should notify the Office of the Deputy Attorney General (ODAG) of proposed searches involving subject attorneys. ODAG will assign an attorney to handle this responsibility who has the requisite knowledge and experience to provide meaningful input to PSEU. That attorney will provide updates to the Deputy Attorney General as necessary. Absent exigent circumstances, the OEO/PSEU consultation in Section 9-13.420 shall not be concluded until after ODAG has been notified and provided with an opportunity to provide input.

Thank you in advance for your cooperation in this important area.