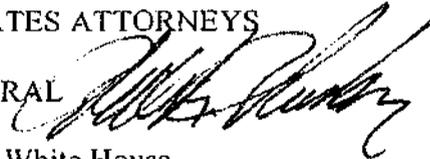




Office of the Attorney General
Washington, D.C.

MEMORANDUM FOR HEADS OF DEPARTMENT COMPONENTS
AND UNITED STATES ATTORNEYS

FROM: THE ATTORNEY GENERAL 
SUBJECT: Communications with the White House
DATE: December 19, 2007

Last year, the Attorney General issued a memorandum outlining procedures that govern communications between the Department of Justice and the White House.¹ I am issuing this memorandum to update those procedures and to ensure that everyone is aware of the rules and of their importance.

On many subjects, the White House and the Department must be able to communicate freely in order to carry out efficiently the Administration's policies and programs. Therefore, all communications between the Department and the White House that concern policy, legislation, budgeting, political appointments, personnel matters related to political appointees, public affairs, informal legal opinions, intergovernmental relations, administrative matters, or similar matters may be handled directly by the parties concerned. Such communications should take place, however, with the knowledge of the Department's lead contact regarding the subject under discussion.

Similarly, well-established procedures exist for communications with certain components. For example, all requests for formal legal opinions from the Department of Justice shall come from the Counsel to the President or Deputy Counsel to the President and be directed to the Attorney General or the Assistant Attorney General for OLC. Additionally, the Office of the Pardon Attorney may communicate directly with the Counsel to the President and the Deputy Counsel to the President concerning Presidential clemency matters.

Communications with respect to pending criminal or civil-enforcement matters, however, must be limited. Therefore, the Department will advise the White House about such criminal or civil-enforcement matters only where it is important for the performance of the President's duties and where appropriate from a law enforcement perspective. This limitation recognizes the President's ability to perform his constitutional obligation to "take care that the laws be faithfully

¹ For purposes of this policy, department personnel should consider the "White House" to include the White House Office, the components within the Executive Office of the President and the Office of the Vice President.

executed” while ensuring that there is public confidence that the laws of the United States are administered and enforced in an impartial manner. Therefore, all components of the Department, including federal law enforcement agencies and the United States Attorneys’ Offices, shall abide by the following limitations:

With the exception of national security related matters, which are discussed below, all initial communications between the White House staff and the Justice Department regarding any specific pending Department investigation or criminal or civil-enforcement matter should involve only the Counsel to the President or Deputy Counsel to the President and the Attorney General or Deputy Attorney General. Initial communications regarding civil-enforcement matters may also involve the Associate Attorney General. Initial communications regarding a matter on appeal may also involve the Solicitor General.

To the extent subsequent contact is required or necessary, the Attorney General, Deputy Attorney General, Associate Attorney General, or Solicitor General may designate others within the Department to communicate with the White House staff. In all such circumstances, this designation will be limited to the fewest number of people practicable.

It is critically important to have frequent and expeditious communications relating to national security matters, including counter-terrorism and counter-espionage issues. Since September 2001, departments within the Executive Branch have made substantial efforts to remove barriers to information sharing and communication. Communications that relate to a national security matter and concern a litigation issue for a specific, pending case are not subject to the limitations delineated above so as not to reestablish those barriers or limit necessary communication. Nevertheless, such communications must be made known to the Office of the Attorney General, the Office of the Deputy Attorney General or the Office of the Associate Attorney General so that senior officials can monitor the communications and consider whether any additional limitations or safeguards are necessary.