



Office of the Attorney General

Washington, D.C. 20530

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ESTABLISHMENT OF AN OFFICE OF JUSTICE FOR VICTIMS OF OVERSEAS TERRORISM

Section 126 of the Department of Justice Appropriations Act, 2005, Pub. L. No. 108-447, Div. B, Title I (Dec. 8, 2004), requires the Department to establish an "Office of Justice for Victims of Overseas Terrorism" ("Office"). This memorandum implements that legislative mandate.

Statement of Department Policy

According to the conference report accompanying section 126, the purpose of the new Office is "to ensure that the investigation and prosecution of [terrorist] deaths of American citizens overseas are a high priority within the Department of Justice." H.R. Conf. Rep. No. 108-792, at 780 (Nov. 20, 2004). **Such investigations and prosecutions are and shall continue to be a high priority of the Department.**

Establishment of Office

The Congressional mandate can best be satisfied through appropriate oversight of operational components by high ranking officials with expertise in criminal investigation and prosecution. **The Office shall therefore be established within the Office of the Assistant Attorney General for the Criminal Division.** The Assistant Attorney General for the Criminal Division shall appoint a senior official with the requisite expertise as Director of the Office. The Director shall be accountable for the performance of the Office and shall report directly to the Assistant Attorney General for the Criminal Division.

Because of the importance of the Office and its mission, and as part of his oversight responsibilities, **the Deputy Attorney General shall identify an official within the Office of the Deputy Attorney General (ODAG) to serve as a point of contact on issues relating to terrorist incidents against American citizens overseas.** The point of contact in ODAG shall receive regular updates on the activities of the Office.

The FBI, the Criminal Division's Counterterrorism Section, and the Criminal Division's Office of International Affairs shall also designate one or more liaisons to assist the Office in the fulfillment of its responsibilities. In addition, the Criminal Division's Office of Enforcement Operations (OEO) shall designate one or more liaisons, including OEO's Victim-Witness Coordinator, to assist the Office in the fulfillment of its responsibilities.

Responsibilities of the Office

The Office shall be responsible for the following:

- monitoring the investigation and prosecution of terrorist attacks against Americans abroad;
- working with the Criminal Division's Victim-Witness Coordinator, the FBI, the United States Attorneys' Offices, and other pertinent components to ensure that the rights of victims and their families are honored and respected;
- establishing a Joint Task Force with the Department of State, as described below;
- compiling pertinent data and statistics;
- responding to Congressional and citizen inquiries on the Department's response to such attacks; and
- filing any necessary reports with Congress.

The Assistant Attorney General for the Criminal Division shall designate personnel for the Office, as needed, to assist the Director in carrying out these tasks.

The Office shall not have operational responsibility for the investigation and prosecution of terrorist attacks against Americans overseas. The FBI will continue to serve as the lead investigative agency in these cases. The Counterterrorism Section of the Criminal Division will have primary responsibility for the institution and coordination of prosecutions, in conjunction with the United States Attorneys' Offices, as appropriate, consistent with the January 2005 "Interim Guidance Concerning Terrorism Matters" issued by the Deputy Attorney General and any successor guidance.

Pursuant to the legislation and the conference report, the scope of the Office is limited to *terrorist attacks against Americans abroad*. Thus, the Office will not have any responsibilities relating to 1) terrorist attacks against Americans within the U.S.; or 2) terrorist attacks abroad in which none of the victims are American. On the other hand, the geographic scope of the Office will not be limited to the Middle East or to any other specific region but, instead, will extend more generally to terrorist attacks against Americans abroad.¹

Finally, the legislation does not appear intended to apply to attacks against American members of the armed forces or National Guard in a war zone. Thus, the new Office will not consider attacks against American members of the armed forces or National Guard in war zones

¹ Although Congress used the term "overseas," the Department believes that Congress also intended to cover terrorist attacks against Americans in foreign countries such as Canada or Mexico.

such as Iraq or Afghanistan so long as active hostilities persist in those countries. The Office may promulgate additional guidelines pertaining to which acts of violence against Americans abroad are within its purview.

Creation of Joint Task Force

Pursuant to the Conference Report cited above, the Office will create a Joint Task Force consisting of Department of Justice and Department of State personnel to be activated in the event of a terrorist incident against American citizens overseas. **The Office will commence discussions promptly with appropriate components within the Department of State on the creation of this Task Force, with a view toward concluding a Memorandum of Understanding (MOU).** Other components of the Department, including the Criminal Division's Counterterrorism Section and appropriate units of the FBI (including the FBI Office of Victim Assistance), will also participate in these discussions.

It is anticipated that the specific personnel serving on a Joint Task Force may vary from incident to incident, in accordance with pre-existing staffing protocols, so as to draw on appropriate expertise within the investigative, prosecutive, and foreign affairs components. However, barring exceptional circumstances, a Joint Task Force should include a victim-witness coordinator and one or more representatives from the following entities: the Criminal Division's Counterterrorism Section, the FBI's Counterterrorism Division, State Counterterrorism, and State Consular Affairs. The FBI's Counterterrorism Division will ensure coordination with any appropriate FBI field office, and the Criminal Division's Counterterrorism Section will ensure coordination with any appropriate U.S. Attorney's Office.



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