



Office of the Attorney General
Washington, D.C.

May 4, 2006

MEMORANDUM FOR HEADS OF DEPARTMENT COMPONENTS
AND UNITED STATES ATTORNEYS

FROM: THE ATTORNEY GENERAL *[Signature]*
SUBJECT: Communications with the Executive Office of the President

Four years ago, Attorney General Ashcroft issued a memorandum outlining the procedures that govern communications between the Department of Justice and the White House. I write today to reiterate those procedures (with some minor revisions and clarifications) in order to ensure that new personnel are aware of these rules and to remind everyone of their importance. It is imperative that there be public confidence that the laws of the United States are administered and enforced in an impartial manner. I ask that all components of the Department of Justice, including federal law enforcement agencies and the United States Attorneys' Offices, abide by the following procedures on communications between the Department and the Executive Office of the President (EOP).*

1. Criminal Investigations and Cases

The Department shall provide EOP officials and staff with information about a criminal investigation or case only when doing so is important for the performance of the President's duties and appropriate from a law enforcement perspective. Except with respect to national security matters, all initial communications that concern or may concern such an investigation or case pending at the trial level should take place only between the Office of the Counsel to the President and the Office of the Deputy Attorney General (ODAG), and all initial communications that concern or may concern a criminal case pending at the appellate level should take place only between the Office of the Counsel to the President and either ODAG or the Office of the Solicitor General (OSG). If appropriate with regard to a particular case or investigation, the Office of the Counsel to the President and the senior Justice Department

*As used in this memorandum, the term "EOP" means the White House Office, the Office of Policy Development, the Executive Residence, the Office of Administration, the National Security Council staff, the Homeland Security Council staff, the Council of Economic Advisers, the Office of Management and Budget, the Office of National Drug Control Policy, the Office of Science and Technology Policy, the Office of the U.S. Trade Representative, the Council on Environmental Quality, the President's Foreign Intelligence Advisory Board, and the Privacy and Civil Liberties Oversight Board. For convenience, the executive functions of the Vice Presidency are referred to in this document as the "Office of the Vice President" or "OVP," and the provisions of this memorandum that apply with respect to communications with the EOP will apply in parallel fashion to communications with the OVP.

official with whom the EOP is dealing will design and monitor a process for ongoing contact between staff at the EOP and the Justice Department concerning that particular matter.

2. Civil Investigations and Cases

The Department shall provide EOP officials and staff with information about a civil investigation or case only when doing so is important for the performance of the President's duties and appropriate from a law enforcement and litigation perspective. Except with respect to national security matters, all initial communications that concern or may concern such an investigation or case pending at the trial level should take place only between the Office of the Counsel to the President and either ODAG or the Office of the Associate Attorney General (OASG). All initial communications that concern or may concern a civil case pending at the appellate level should take place only between the Office of the Counsel to the President and ODAG, OASG, or OSG. If appropriate with regard to a particular case or investigation, the Office of the Counsel to the President and the senior Justice Department official with whom the EOP is dealing will design and monitor a process for ongoing contact between staff at the EOP and the Justice Department concerning that particular matter.

3. National Security and Homeland Security Matters

ODAG may communicate directly with the National Security Council (NSC) and the Homeland Security Council (HSC) concerning investigations and cases involving national security or homeland security, and OASG may do so with respect to any such investigation or case that has become the subject of civil litigation. If appropriate with regard to a particular case or investigation, ODAG will design and monitor a process for ongoing contact between staff at the NSC or HSC and the Justice Department concerning that particular matter.

4. Requests for Legal Advice

The Office of Legal Counsel (OLC) may communicate directly with counsel for each component within the EOP (including, for example, the Office of the Counsel to the President or the General Counsel of the Office of Management and Budget) concerning requests for legal advice. It may be advisable to copy an appropriate attorney from the Office of the Counsel to the President on communications with other EOP components. All requests for formal legal opinions from the Department of Justice shall be directed to the Attorney General or the Assistant Attorney General for OLC.

5. Presidential Clemency Matters

The Office of the Pardon Attorney may communicate directly with the Counsel to the President and the Deputy Counsel to the President (and their designee) concerning Presidential clemency matters.

6. Other Communications Not Relating to Investigations or Criminal or Civil Cases

All communications between the Department of Justice and the EOP that are limited to policy, legislation, budgeting, appointments, public affairs, intergovernmental relations, administrative or personnel matters, or similar matters that do not relate to an investigation or a criminal or civil case may be handled directly by the parties concerned. Such communications should take place with the knowledge of the Department's lead contact regarding the subject under discussion.

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Notwithstanding any procedures or limitations set forth above, the Attorney General may communicate directly with the President, Vice President, their Chiefs of Staff, Counsel to the President or Vice President, Assistant to the President for National Security Affairs, Assistant to the President and Homeland Security Advisor, or the head of any office within the EOP regarding any matter within the jurisdiction of the Department of Justice. Staff members of the Office of the Attorney General, if so designated by the Attorney General, may communicate directly with officials and staff of the White House Office, the Office of the Vice President, the National Security Council, the Homeland Security Council, and the Office of Management and Budget.