



**U.S. Department of Justice**

Office of Legislative Affairs

---

Office of the Assistant Attorney General

*Washington, D.C. 20530*

June 5, 2007

The Honorable Patrick J. Leahy  
Chairman  
Committee on the Judiciary  
United States Senate  
Washington, DC 20515

Dear Mr. Chairman:

This supplements our May 8, 2007, response to your letter, dated May 2, 2007, which requested documents pertaining to an order by the Attorney General that delegated authorities relating to certain personnel matters to the Chief of Staff and White House Liaison. We are sending similar letters to the other Members who joined in your request to us.

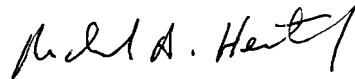
Enclosed are documents provided by the Department's Justice Management Division regarding the development of this order. Several of them bear redactions of text that is wholly unrelated to this order; the unredacted versions of those documents and others, such as drafts of the order, have not been produced here because they implicate certain Department confidentiality interests, but we are prepared to make them available for review by Members and Committee staff.

We have also identified a limited number of responsive documents from within the Office of Legal Counsel (OLC). We are not making these documents available because they implicate substantial Executive Branch interests in preserving the confidentiality of the internal deliberations and legal advice within the Department. They do not address the purpose or policy underlying the delegation order. As you know, we have already produced the formal OLC advice on this matter, which was a memorandum approving the order for form and legality.

The Honorable Patrick J. Leahy  
Page Two

I hope that this information is helpful. Please do not hesitate to contact this office if you would like additional assistance regarding this matter.

Sincerely,



Richard A. Hertling  
Principal Deputy Assistant Attorney General

cc: The Honorable Arlen Specter  
Ranking Minority Member

The Honorable John Conyers, Jr.  
Chairman  
The Honorable Lamar Smith  
Ranking Minority Member  
Committee on the Judiciary  
U.S. House of Representatives

[ ]  
**From:** Corts, Paul R  
**Sent:** Tuesday, January 10, 2006 5:52 PM  
**To:** Goodling, Monica  
**Subject:** AG delegations

Monica -

If the AG wants to delegate this within his immediate office staff, he may do so and should do it by position (or, can be by person specific). Let us know what he wants and our folks can draft the delegation. It doesn't change the chart or the paperwork I showed you revising the Departmental orders on these personnel authorities - the document currently in process - as this delegation is permissible with that written the way it is.

Let me know if you have questions.

Thx  
Paul

---

Paul R. Corts  
Assistant Attorney General for Administration  
U. S. Department of Justice  
950 Pennsylvania Ave., NW  
Washington, DC 20530  
Phone: 202-514-3101  
Fax: 202-616-6695

JMD000000001

**From:** Goodling, Monica  
**Sent:** Thursday, January 19, 2006 7:15 PM  
**To:** Corts, Paul R  
**Subject:** RE: AG delegations

Please do a delegation from AG to his Chief of Staff and White House Liaison, by position titles.

Ok to send directly up to me, outside of system. Thank you.

---

**From:** Corts, Paul R  
**Sent:** Tuesday, January 10, 2006 5:52 PM  
**To:** Goodling, Monica  
**Subject:** AG delegations

Monica -

If the AG wants to delegate this within his immediate office staff, he may do so and should do it by position (or, can be by person specific). Let us know what he wants and our folks can draft the delegation. It doesn't change the chart or the paperwork I showed you revising the Departmental orders on these personnel authorities - the document currently in process - as this delegation is permissible with that written the way it is.

Let me know if you have questions.

Thx  
Paul

---

Paul R. Corts  
Assistant Attorney General for Administration  
U. S. Department of Justice  
950 Pennsylvania Ave., NW  
Washington, DC 20530  
Phone: 202-514-3101  
Fax: 202-616-6695

JMD000000002

C J

**From:** Corts, Paul R  
**Sent:** Friday, January 20, 2006 8:45 AM  
**To:** Goodling, Monica  
**Subject:** RE: AG delegations

Will do. Thanks.

---

**From:** Goodling, Monica  
**Sent:** Thursday, January 19, 2006 7:15 PM  
**To:** Corts, Paul R  
**Subject:** RE: AG delegations

Please do a delegation from AG to his Chief of Staff and White House Liaison, by position titles.

Ok to send directly up to me, outside of system. Thank you.

---

**From:** Corts, Paul R  
**Sent:** Tuesday, January 10, 2006 5:52 PM  
**To:** Goodling, Monica  
**Subject:** AG delegations

Monica -

If the AG wants to delegate this within his immediate office staff, he may do so and should do it by position (or, can be by person specific). Let us know what he wants and our folks can draft the delegation. It doesn't change the chart or the paperwork I showed you revising the Departmental orders on these personnel authorities - the document currently in process - as this delegation is permissible with that written the way it is.

Let me know if you have questions.

Thx

Paul

---

Paul R. Corts  
Assistant Attorney General for Administration  
U. S. Department of Justice  
950 Pennsylvania Ave., NW  
Washington, DC 20530  
Phone: 202-514-3101  
Fax: 202-616-6695

JMD000000003

C ]

---

**From:** Corts, Paul R  
**Sent:** Friday, January 20, 2006 8:46 AM  
**To:** Frisch, Stuart  
**Cc:** Santangelo, Mari (JMD); Allen, Michael (JMD)  
**Subject:** FW: AG delegations

Stu -  
Please prepare as we've discussed in accord with Monica's direction below.  
Thx  
Paul

---

**From:** Goodling, Monica  
**Sent:** Thursday, January 19, 2006 7:15 PM  
**To:** Corts, Paul R  
**Subject:** RE: AG delegations

Please do a delegation from AG to his Chief of Staff and White House Liaison, by position titles.

Ok to send directly up to me, outside of system. Thank you.

---

**From:** Corts, Paul R  
**Sent:** Tuesday, January 10, 2006 5:52 PM  
**To:** Goodling, Monica  
**Subject:** AG delegations

Monica -  
If the AG wants to delegate this within his immediate office staff, he may do so and should do it by position (or, can be by person specific). Let us know what he wants and our folks can draft the delegation. It doesn't change the chart or the paperwork I showed you revising the Departmental orders on these personnel authorities - the document currently in process - as this delegation is permissible with that written the way it is.  
Let me know if you have questions.  
Thx  
Paul

---

Paul R. Corts  
Assistant Attorney General for Administration  
U. S. Department of Justice  
950 Pennsylvania Ave., NW  
Washington, DC 20530  
Phone: 202-514-3101  
Fax: 202-616-6695

JMD000000004

C }  
[REDACTED]  
**From:** Allen, Michael (JMD)  
**Sent:** Friday, March 03, 2006 5:19 PM  
**To:** Corts, Paul R  
**Subject:** A couple of items

We didn't get a chance to talk about a couple of things.

1. C

}  
2. Do you know if Kyle ever had the conversation with Mercer about the changed delegation for personnel. Stu has been asked for a copy of the memo and doesn't want to release it until we know for sure that the DAG's office is fully aware. I thought we also needed to do a briefing for them.

3. C }

4. C }

Mike

JMD000000005

2  
3  
From: Corts, Paul R  
Sent: Monday, March 06, 2006 8:13 AM  
To: Allen, Michael (JMD)  
Subject: Re: A couple of items

- 1 - [ ]
- 2 - No, he has never said. I'll write him an email.
- 3 - [ ]
- 4 - [ ]

I should be available on BB most of the day except when in the plane or in the prison facility.  
Paul

-----Original Message-----

From: Allen, Michael (JMD) <Michael.Allen@SMOJMD.USDOJ.gov>  
To: Corts, Paul R <Paul.R.Corts@SMOJMD.USDOJ.gov>  
Sent: Fri Mar 03 17:19:11 2006  
Subject: A couple of items

We didn't get a chance to talk about a couple of things.

- 1. [ ]
- 2. Do you know if Kyle ever had the conversation with Mercer about the changed delegation for personnel. Stu has been asked for a copy of the memo and doesn't want to release it until we know for sure that the DAG's office is fully aware. I thought we also needed to do a briefing for them.

- 3. [ ]
  - 4. [ ]
- Mike



C >

---

**From:** Jones, Phyllis S  
**Sent:** Wednesday, February 15, 2006 2:52 PM  
**To:** Allen, Michael (JMD)  
**Subject:** Emailing: AG's Delegation of Authority.wpd

**Attachments:** AG's Delegation of Authority.wpd



AG's Delegation of  
Authority.w...

The message is ready to be sent with the following file or link attachments:

AG's Delegation of Authority.wpd

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

**MEMORANDUM**

TO: Monica Goodling  
Counsel to the Attorney General

FROM: Michael H. Allen  
Deputy Assistant Attorney General  
Policy, Management and Planning  
Justice Management Division

SUBJECT: Attorney General's Delegation of Authority

Enclosed is an Attorney General delegation of authority to his Chief of Staff and to the White House Liaison to take final action on personnel actions now proposed to be reserved to the Attorney General by regulation.<sup>1</sup> OLC indicates that permitting the Attorney General's delegates to approve appointments (or removals) of constitutionally "inferior officers," which may include some appointed offices the Attorney General wants to reserve to himself such as certain DAAGs, might be inconsistent with this Clause. OLC has not definitively ruled on the question. OLC does recommend, however, that the delegates exercising the authority of this delegation submit appointments to the Attorney General (individually or in groups) and that each appointment be made in the Attorney General's name.<sup>2</sup>

---

<sup>1</sup>The Excepting Clause of the Constitution provides that "Congress may by law vest the appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Department." U.S. Const. art. II, §2, cl.2.

<sup>2</sup>*Memorandum for Jennifer G. Newstead, General Counsel, Office of Management and Budget, Assignment of Functions Related to Certain Military Appointments, at 3-4 (July 28, 2005).*

JMD000000008

[  
] )  
**From:** Allen, Michael (JMD)  
**Sent:** Thursday, February 16, 2006 2:26 PM  
**To:** Goodling, Monica  
**Subject:** Delegation

Monica-

I have the AG delegation for personnel actions that you requested. I need a few minutes to explain one piece of it. I can come up at your convenience anytime except 3:30 - 4:30.

Mike

---

Stu -  
Please prepare as we've discussed in accord with Monica's direction below.  
Thx  
Paul

---

**From:** Goodling, Monica  
**Sent:** Thursday, January 19, 2006 7:15 PM  
**To:** Corts, Paul R  
**Subject:** RE: AG delegations

Please do a delegation from AG to his Chief of Staff and White House Liaison, by position titles.

Ok to send directly up to me, outside of system. Thank you.

---

JMD000000009

From: Santangelo, Mari (JMD)  
Sent: Wednesday, February 22, 2006 4:44 PM  
To: Allen, Michael (JMD)  
Subject: Re Monica

Mike,

Monica said to pass this on.

Re: the delegation of SES from AG's office - COS and WH liaison. We had given her two options - one formal w/order number, one with informal - no number -- they decided to go w/informal unnumbered. She said the cover memo needs to go thru OLC, not DAG or OASG.

Let's discuss so I fully understand this? Is this what Stu did?

JMD000000010

**From:** Allen, Michael (JMD)  
**Sent:** Wednesday, February 22, 2006 4:47 PM  
**To:** Santangelo, Mari (JMD)  
**Subject:** RE: Re Monica

I took it up to her since she had asked for it to come directly to her. I'll get Stu to redo a cover memo and I'll bring you up to speed.

---

**From:** Santangelo, Mari (JMD)  
**Sent:** Wednesday, February 22, 2006 4:44 PM  
**To:** Allen, Michael (JMD)  
**Subject:** Re Monica

Mike,

Monica said to pass this on.

Re: the delegation of SES from AG's office - COS and WH liaison. We had given her two options - one formal w/order number, one with informal - no number -- they decided to go w/informal unnumbered. She said the cover memo needs to go thru OLC, not DAG or OASG.

Let's discuss so I fully understand this? Is this what Stu did?

JMD000000011

C }  
**From:** Santangelo, Mari (JMD)  
**Sent:** Wednesday, February 22, 2006 5:38 PM  
**To:** Allen, Michael (JMD)  
**Subject:** RE: Re Monica

Thanks

*Mari*

---

**From:** Allen, Michael (JMD)  
**Sent:** Wednesday, February 22, 2006 4:47 PM  
**To:** Santangelo, Mari (JMD)  
**Subject:** RE: Re Monica

I took it up to her since she had asked for it to come directly to her. I'll get Stu to redo a cover memo and I'll bring you up to speed.

---

**From:** Santangelo, Mari (JMD)  
**Sent:** Wednesday, February 22, 2006 4:44 PM  
**To:** Allen, Michael (JMD)  
**Subject:** Re Monica

Mike,

Monica said to pass this on.

Re: the delegation of SES from AG's office - COS and WH liaison. We had given her two options - one formal w/order number, one with informal - no number -- they decided to go w/informal unnumbered. She said the cover memo needs to go thru OLC, not DAG or OASG.

Let's discuss so I fully understand this? Is this what Stu did?

JMD000000012

From: Allen, Michael (JMD)  
Sent: Friday, March 03, 2006 5:19 PM  
To: Corts, Paul R  
Subject: A couple of items

We didn't get a chance to talk about a couple of things.

1. [

2. Do you know if Kyle ever had the conversation with Mercer about the changed delegation for personnel. Stu has been asked for a copy of the memo and doesn't want to release it until we know for sure that the DAG's office is fully aware. I thought we also needed to do a briefing for them.

3. [

4. [ ]

Mike

JMD000000013





---

**Santangelo, Mari (JMD)**

**From:** Allen, Michael (JMD)  
**Sent:** Wednesday, February 22, 2006 4:47 PM  
**To:** Santangelo, Mari (JMD)  
**Subject:** RE: Re Monica

I took it up to her since she had asked for it to come directly to her. I'll get Stu to redo a cover memo and I'll bring you up to speed.

---

**From:** Santangelo, Mari (JMD)  
**Sent:** Wednesday, February 22, 2006 4:44 PM  
**To:** Allen, Michael (JMD)  
**Subject:** Re Monica

Mike,

Monica said to pass this on.

Re: the delegation of SES from AG's office - COS and WH liaison. We had given her two options - one formal w/order number, one with informal - no number -- they decided to go w/informal unnumbered. She said the cover memo needs to go thru OLC, not DAG or OASG.

Let's discuss so I fully understand this? Is this what Stu did?

---

JMD000000015

**Santangelo, Mari (JMD)**

**From:** Santangelo, Mari (JMD)  
**Sent:** Wednesday, February 22, 2006 5:38 PM  
**To:** Allen, Michael (JMD)  
**Subject:** RE: Re Monica

Thanks

*Mari*

---

**From:** Allen, Michael (JMD)  
**Sent:** Wednesday, February 22, 2006 4:47 PM  
**To:** Santangelo, Mari (JMD)  
**Subject:** RE: Re Monica

I took it up to her since she had asked for it to come directly to her. I'll get Stu to redo a cover memo and I'll bring you up to speed.

---

**From:** Santangelo, Mari (JMD)  
**Sent:** Wednesday, February 22, 2006 4:44 PM  
**To:** Allen, Michael (JMD)  
**Subject:** Re Monica

Mike,

Monica said to pass this on.

Re: the delegation of SES from AG's office - COS and WH liaison. We had given her two options - one formal w/order number, one with informal - no number -- they decided to go w/informal unnumbered. She said the cover memo needs to go thru OLC, not DAG or OASG.

Let's discuss so I fully understand this? Is this what Stu did?

JMD000000016