



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

April 15, 2002

MEMORANDUM FOR HEADS OF DEPARTMENT COMPONENTS
AND UNITED STATES ATTORNEYS

FROM:

THE ATTORNEY GENERAL

SUBJECT:

Department of Justice Communications with the White House

It is imperative that there be public confidence that the laws of the United States are administered and enforced in an impartial manner. To that end, all components of the Department of Justice, including United States Attorneys' Offices, shall abide by the following procedures governing communication between the Department of Justice and the White House.

1. Pending Criminal Investigations and Cases

The Department shall provide the White House with information about pending criminal investigations or cases 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 a pending criminal investigation or a criminal case pending at the trial level should take place only between the Office of the Deputy Attorney General and the Office of the Counsel to the President, 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 the Office of the Deputy Attorney General or the Office of the Solicitor General. 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 White House is dealing will design and monitor a process for ongoing contact between the White House and Justice Department concerning that particular matter.

2. Pending Civil Investigations and Cases

The Department shall provide the White House with information about pending civil investigations or cases only when doing so is important for the performance of the President's duties and appropriate from a law enforcement or litigation perspective. Except with respect to national security matters, all initial communications that concern or may concern a pending civil investigation or a

civil case pending at the trial level should take place only between the Office of the Counsel to the President and either the Office of the Deputy Attorney General or the Office of the Associate Attorney General. 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 the Office of the Deputy Attorney General, the Office of the Associate Attorney General, or the Office of the Solicitor General. 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 White House is dealing will design and monitor a process for ongoing contact between the White House and the Justice Department concerning that particular matter.

3. National Security Matters

The Office of the Deputy Attorney General may communicate directly with the National Security Council and the Office of Homeland Security concerning investigations and cases involving national security issues. Pursuant to Department of Justice policies and procedures, the Criminal Division and the FBI also may communicate directly with the National Security Council and the Office of Homeland Security concerning investigations and cases involving national security issues. Such communications should be limited to those aspects of the matter that implicate national security or homeland security.

4. White House Requests for Legal Advice

The Office of Legal Counsel and the Office of the Counsel to the President may communicate directly concerning requests from the White House for legal advice. All requests for formal legal opinions from the Department of Justice shall be directed to the Assistant Attorney General for the Office of Legal Counsel or the Attorney General.

5. Presidential Clemency Matters

The Office of the Pardon Attorney and the Office of the Counsel to the President may communicate directly concerning Presidential clemency matters.

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

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

Notwithstanding any procedures or limitations set forth above, the Attorney General may communicate directly with the President, Vice President, Counsel to the President, Assistant to the President for National Security Affairs, or Assistant to the President for Homeland Security regarding any matters 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 Office of the President, Office of the Vice President, Office of the Counsel to the President, the National Security Council, and the Office of Homeland Security.