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Supervisory Paralegal
Office of Legal Counsel
Room 5515, 950 Pennsylvania Avenue, NW
Department of Justice
Washington, DC 20530-0001
Email: usdoj-officeoflegalcounsel@usdoj.gov

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U.S. Department of Justice

Office of Legal Counsel

Washington, D.C. 20530

July 8, 2014

Re: FOIA Tracking No. FY14-056

This letter responds to your June 21, 2014, Freedom of Information Act ("FOIA") request to the Office of Legal Counsel, in which you sought "a copy of the DOJ Office of Legal Counsel Style Manual." We received your request on June 25, 2014, and it was assigned tracking number **FY14-056**.

Enclosed is a copy of the manual you have requested. We have redacted portions of the document pursuant to FOIA Exemption Five, 5 U.S.C. § 552(b)(5), because the material is protected by the deliberative process and attorney-client privileges. The material is not appropriate for discretionary release.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. *See* 5 U.S.C. § 552(c). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

You have the right to file an administrative appeal. You must submit any administrative appeal within 60 days of the date of this letter by mail to the Office of Information Policy, United States Department of Justice, 1425 New York Avenue, N.W., Suite 11050, Washington, D.C. 20530; by fax at (202) 514-1009; or through OIP's e-portal at <http://www.justice.gov/oip/oip-request.html>. Both the letter and the envelope, or the fax, should be clearly marked "Freedom of Information Act Appeal."

Sincerely,

A handwritten signature in black ink, appearing to read "Paul P. Colborn".

Paul P. Colborn
Special Counsel

Enclosure



U.S. Department of Justice
Office of Legal Counsel

Office of the Assistant Attorney General

Washington, D.C. 20530

October 23, 2013

MEMORANDUM TO THE OFFICE

Re: Rules of Form and Style

This memorandum sets forth the official updated rules of form and style for the Office of Legal Counsel ("OLC").

I.

OLC uses the current edition of *The Bluebook: A Uniform System of Citation*, as amplified, modified, or supplanted by the following rules:

- 1.1 Whenever available, cite the book-published version of an OLC opinion, as follows:

Proposed Tax Assessment Against the United States Postal Service, 1 Op.
O.L.C. 79 (1977).

- 1.2 Opinions in volumes 1-3 whose captions contain awkward groups of key words and phrases may be cited using only the most pertinent key word or phrase.

For example,

Federal Improvements to Real Property Owned by a Former President, 3 Op.
O.L.C. 440 (1979),

is preferable to

(1) Presidential Protection Assistance Act (18 U.S.C. § 3056 note)—Retroactive Effect (2) Federal Improvements to Real Property Owned by a Former President—Title Thereto—Removal Of, 3 Op. O.L.C. 440 (1979).

- 1.3 When citing volume 4 of the OLC opinions, cite volume 4A or 4B.
- 1.4 If the OLC opinion has not been published in a book, cite the version that has been published on the OLC website, as follows:
- (a) Full general citation:

State and Local Deputation of Federal Law Enforcement Officers During Stafford Act Deployments, 35 Op. O.L.C. __ (Mar. 5, 2012) (“*State and Local Deputation*”), available at <http://www.justice.gov/olc/opinions.htm>.

(b) Full pinpoint citation:

State and Local Deputation of Federal Law Enforcement Officers During Stafford Act Deployments, 35 Op. O.L.C. __, at *7 (Mar. 5, 2012) (“*State and Local Deputation*”), available at <http://www.justice.gov/olc/opinions.htm> (“state deputation laws may provide FLEOs with the express authority to make arrests for violations of state criminal laws”).

(c) Subsequent short citation:

State and Local Deputation at *7.

The number of the bound volume where the opinion will ultimately be published is indicated on the even-page header of the slip opinion.

Note the use of the full date, not just the year, of issuance, in contrast to the citation of a book-published opinion. This will help readers find the slip opinion on our website, which has pages with links to our published opinions sorted both by title and by date.

Note also that, in a departure from *Bluebook* form, we do not cite the precise URL of the opinion, just the URL of our opinions front page. This is because the URL of particular opinions can change over time as the Department reorganizes its website. It also enables us to avoid the space-consuming *Bluebook* convention of stating when the particular URL was “last visited” by the author who is citing the opinion.

1.5 If the OLC opinion has not been published at all, cite it as you would any other OLC memorandum:

Memorandum for [REDACTED] (b) (5)
[REDACTED]

Note the absence of a comma before the page citation and one space after the colon.

1.6 Cite unpublished correspondence to or from OLC as if it were an unpublished OLC memorandum, except that the citation need not include the title or “*Re.*” line of the letter, facsimile, or other document:

Letter for [REDACTED] (b) (5)
[REDACTED]

In special cases, a “*Re.*” line can be constructed that appropriately describes the body of the letter.

- 1.7 Cite OLC e-mails also like unpublished memoranda, with the exact subject line of the e-mail (as artless as it may be) following the “Re:” and with a parenthetical that includes both the date and time the e-mail was sent:

See, e.g., E-mail for [REDACTED] (b) (5)

Generally, due to the informal nature of the e-mail, indicating the department to which the sender or recipient belongs will be sufficient. The formal title or position held by the sender or recipient need not be included and should not be included unless it is clearly indicated by the e-mail. In the case of multiple recipients in the “To:” line of the e-mail, cite the lead recipient with an “et al.” Recipients in the “Cc:” line need not be mentioned and do not warrant an “et al.”

- 1.8 Do not use the section symbol (§) to refer to sections of the United States Code in a sentence unless the reference includes both the title and section (for example, 28 U.S.C. § 511):

“The rule codified at section 511,” not “the rule codified at § 511.”

“The rule codified at 28 U.S.C. § 511,” not “the rule codified at 28 U.S.C. section 511.”

- 1.9 Refer to a public law in text as “Public Law __ - __,” not “Pub. L. No. __ - __.”

- 1.10 As indicated by the previous examples, do not capitalize “section” or “title” or “chapter” or “rule” when referring to a statute or regulation in text, unless the statute or regulation is regularly capitalized (Title VII, Rule 10b-5).

- 1.11 Call a statutory provision in text by the first item in the citation string, not the last:

“Section 1603(a)” or “subsection (a),” not “subsection 1603(a).”

“Section 1603(a)(3)” or “subsection (a)(3)” or “paragraph (3),” not “paragraph 1603(a)(3).”

“Section 1604(a)(3)(C)” or “subsection (a)(3)(C)” or “paragraph (3)(C)” or “subparagraph (C),” not “subparagraph 1604(a)(3)(C).”

“Section 1604(a)(3)(C)(ii)” or “subsection (a)(3)(C)(ii)” or “paragraph (3)(C)(ii)” or “subparagraph (C)(ii)” or clause (ii), not “clause 1604(a)(3)(C)(ii).”

This is the citation form used by the United States Code. See Office of the Legislative Counsel, U.S. House of Representatives, *House Legislative Counsel’s Manual on Drafting Style*, HLC 104-1, at 52 (Nov. 1995), available at http://www.llsdc.org/attachments/files/94/Manual_on_Drafting_Style.pdf (last visited June 7, 2012).

1.12 When citing U.S. Code or C.F.R. sections for the first time in the document, include the year (and publisher or supplement number, if appropriate) of the statutory compilation only if it is not clear in context that you are citing the most recent available compilation.

1.13 The *Bluebook* notwithstanding, it is permissible and sometimes preferable to cite a segment of the U.S. Code with an “*et seq.*” (italicized), especially when the codification of the statute is discontinuous or the statute is frequently amended:

Homeland Security Act, Pub. L. No. 107-296, 116 Stat. 2135 (Nov. 25, 2002),
codified at 6 U.S.C. §§ 101 et seq.

Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. No.
100-707, 102 Stat. 4689 (1988), *codified as amended at 42 U.S.C. §§ 5121 et
seq.* (“Stafford Act”).

But: Vacancies Reform Act, 5 U.S.C. §§ 3345-3349d.

1.14 Capitalize the shorthand for constitutional provisions (First Amendment, Article III, Privileges and Immunities Clause).

1.15 Do not use a comma in Executive Order numbers:

Exec. Order No. 12531 (1985).

1.16 A short form should appear in parentheses with quotation marks the first time it is used, preferably in text. Do not use “hereinafter” to introduce it. Short form titles of OLC memoranda and opinions typically are italicized, unless they include the word “Memorandum” or “Opinion” in the title:

Department of Justice (“DOJ”).

The Constitutional Separation of Powers Between the President and Congress,
20 Op. O.L.C. 124 (1996) (“Dellinger Memorandum”).

Memorandum for [REDACTED] (b) (5)
[REDACTED]

Memorandum for [REDACTED] (b) (5)
[REDACTED]

1.17 Do not use superscript ordinals, particularly in court names:

Lee v. Clinton, 209 F.3d 1025 (7th Cir. 2000).

1.18 Avoid “*see supra*” and “*see infra*” cross-references to pages in the body of an opinion. If a cross-reference is absolutely necessary, cross-refer footnotes (and accompanying text) or parts of the opinion instead.

As indicated above, *see supra* notes 11-12 and accompanying text,

As we discuss in more detail below, *see infra* Part III.C,

This helps to avoid inaccurate cross-references if the text of the document is later resized or the page numbering of the document is changed when the opinion is published online or in a bound volume.

II.

To resolve questions not addressed in the *Bluebook* relating to style, usage, punctuation, and grammar, we employ the latest editions of *The Chicago Manual of Style* and *The Elements of Style* (“Strunk & White”). The following are some unique OLC style conventions that amplify, modify, or supplant these authorities:

- 2.1 “Attorney-Adviser,” not “Attorney-Advisor” or “Attorney Adviser.”
- 2.2 Form the possessive singular of singular nouns that end in “s” by adding “’s”:

“Justice Thomas’s dissent.”

“Texas’s flag.”

“Congress’s confusion.”

- 2.3 Avoid constructions that require the possessive form of “United States”:

“United States Constitution.”

“Constitution of the United States.”

Not “United States’ Constitution.”

Not “United States’s Constitution.”

- 2.4 Capitalize “Executive Branch” in all its usages, “Legislative Branch” when referring to Congress, and “Judicial Branch” when referring to the federal courts.

Capitalize the “Executive” when used as a noun to refer to the President or an agent of the President. Similarly, capitalize the “Legislature” or the “Judiciary” when referring specifically to Congress or the federal courts.

Capitalize “Congress” but not “congressional,” “President” but not “presidential.”

Capitalize “State” when used as a proper noun to refer to one of the United States but not when used as an adjective (“state government”) or a generality (“a state,” “various states”).

- 2.5 Both *The Chicago Manual of Style* (rules 7.82-7.90) and Strunk & White (ch. III) address the use of hyphens. Our general disposition is to limit their use. In particular, we do not hyphenate the phrase “separation of powers” when used as an adjective, e.g., “separation of powers principles.”
- 2.6 When using dashes to amplify, explain, or indicate a sudden break, use em dashes (with no space before or after the dash), not en dashes.

This sentence employs an em dash—the most versatile of all dashes—correctly.

This sentence employs an en dash – a most inappropriate dash – incorrectly.

The Chicago Manual of Style (rules 6.80-6.96) provides additional detail on hyphens and dashes in general and on em and en dashes in particular.

- 2.7 Within a quotation, put one space after the ellipsis, including when it replaces the end of a sentence or an entire sentence. Put one space before the ellipsis to indicate that the sentence just quoted is incomplete. Replace a single word that you are omitting with an ellipsis, not brackets (“[]”).

For example, if the original text is as follows:

Melissa just finished reading a book of short stories. She greatly enjoyed it and immediately went to the library to find something similar. Tomorrow, she will begin reading another book.

Then the following quotations would all be appropriate:

Melissa just finished reading a book of short stories. She greatly enjoyed it and . . . went to the library to find something similar.

Melissa just finished reading a book of short stories. . . . Tomorrow, she will begin reading another book.

Melissa just finished reading a book . . . She greatly enjoyed it and immediately went to the library to find something similar.

Melissa, it has been established beyond cavil, “greatly enjoyed [the book].”

- 2.8 Put hard spaces in front of the periods in ellipses (“°.°.°.” or “°.°.°.°.”), so that a new line does not begin with an ellipsis:
- 2.9 It is unnecessary to insert an ellipsis at the end of an incomplete sentence fragment (note the absence of a period in the parenthetical quotation):

The Board found that Smith “was aware of the politically motivated recommendations.” *Special Counsel v. Smith*, 30 M.S.P.R. 344, 348 (1988).

Special Counsel v. Smith, 30 M.S.P.R. 344, 348 (1988) (concluding that “Smith was aware of the politically motivated recommendations”).

- 2.10 Avoid passive voice, unless it reflects genuine ambiguity, improves readability, or provides helpful emphasis. *See* Strunk & White ch. II.14.
- 2.11 Be restrained in the use of adverbs and adjectives, especially modifiers that invite the reader to accept the proposition in text without scrutiny (“simply,” “clearly,” “obvious”). If a modifier seems necessary to convey nuance, first hunt for a more precise or vivid verb or noun. *See* Strunk & White chs. V.4 & V.8.
- 2.12 Do not italicize common Latin phrases or abbreviations in sentences of text (“e.g.,” “i.e.,” “de facto,” “habeas corpus,” “bona fide”). “Among other things” is preferable to the lawyer-ish phrase “*inter alia*,” but italicize “*inter alia*” when it used.
- 2.13 Avoid long string citations in text, especially in the middle of a sentence. If numerous authorities support the point, pick the best two or three and use “e.g.” absent a special reason to cover the waterfront. In parentheticals, a cursory explanation may suffice, such as “same” or “similar.”

III.

The following are some style or citation forms that are preferred but not set in stone. You will likely find conflicting examples in past OLC writings. The forms below reflect editorial choices made during our most recent publications. Common sense may dictate variation:

- 3.1 In large opinions with many footnotes, make the first citation of a source in the text of the document a full citation, even if it comes after a footnote with a full citation of the same source. Alternatively, make a “*supra*” reference to the footnote in which the source was first cited.

For example, if a citation appears initially in a footnote as:

⁹ Joseph Story, *Commentaries on the Constitution of the United States* § 1485 (1833) (“Story”) (in military matters, “[u]nity of plan, promptitude, activity, and decision, are indispensable to success; and these can scarcely exist, except when a single magistrate is entrusted exclusively with the power”).

Then either of the following subsequent citations in text would be appropriate:

Joseph Story, *Commentaries on the Constitution of the United States* § 1485 (1833) (“[t]he command and application of the public force . . . to maintain peace, and to resist foreign invasion” are executive powers) (“Story”).

Story, *supra* note 9, § 1485 (“[t]he command and application of the public force . . . to maintain peace, and to resist foreign invasion” are executive powers).

- 3.2 Cite the unpublished opinions assembled during the Assistant Solicitor General, Executive Adjudications Division, and early OLC eras (available as bound volumes in our library) by combining the form for unpublished memoranda and letters with the form for published opinions:

- (a) Volumes 1-14 (the Assistant Solicitor General era, 1933-48):

Memorandum for [REDACTED] (b) (5)

- (b) Volumes 15-16 (spanning the Assistant Solicitor General, Office of Executive Adjudication s, and Office of Legal Counsel eras, 1948-53):

Letter for [REDACTED] (b) (5)

3.3 There is no perfect way to cite the GPO editions of the Public Papers of the Presidents, whose volume numbers usually (but not always) start over at “1” each year and which sometimes combine multiple years into a single volume. Because the exact date of the particular speech or paper being cited within the volume is often important, we have tried in recent publications to include the full date in a parenthetical, which along with the volume number should be enough information to permit the reader to find the correct book:

- (a) For years with a single volume:

Letter Accepting the Resignation of Oliver Wendell Holmes as an Associate Justice of the Supreme Court of the United States (Jan. 12, 1932), *Pub. Papers of Pres. Herbert Hoover* 20, 20 (1932).

- (b) For years with multiple volumes:

Statement on Signing the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (Jan. 12, 2007), 1 *Pub. Papers of Pres. George W. Bush* 29, 29 (2007) (“The executive branch shall construe these provisions in a manner consistent with the Appointments Clause.”).

- (c) For a volume with multiple years:

Remarks at a Fundraising Brunch for Rich Williamson in Rosemont, Illinois (Aug. 2, 1992), 2 *Pub. Papers of Pres. George Bush* 1291, 1292 (1992–93) (“Remarks at a Fundraising Brunch”).

- (d) For subsequent short citations:

Remarks at a Fundraising Brunch, 2 *Pub. Papers of George Bush* at 1292 (1992–93).

Note the mention of the year again in the subsequent short citation, without which the reader will not know which volume 2 of the Bush 41 administration is being cited except by going back to the original full citation.

- 3.4 Cite the editor(s)/contributing author(s) of a constantly-updated treatise as if they were the original authors, and insert the name(s) of the original author(s) into the title of the treatise if they are not otherwise credited:

18A Charles Alan Wright, Arthur R. Miller, & Edward H. Cooper, *Federal Practice and Procedure* § 4434 (2d ed. 2002).

3 Norman J. Singer, *Sutherland on Statutes and Statutory Construction* § 59.03 (5th ed. 1992).

John W. Strong et al., *McCormick on Evidence: Hornbook Series* § 32 (5th ed. 1999).

- 3.5 Other unique sources:

- (a) Congressional Research Service reports:

“[E]very President has taken the position that [the WPR] is an unconstitutional infringement by the Congress on the President’s authority as Commander-in-Chief.” Richard F. Grimmet, Cong. Research Serv., IB81050, *War Powers Resolution: Presidential Compliance 2* (updated Sept. 10, 2002).

- (b) GAO Redbook:

2 Government Accountability Office, *Principles of Federal Appropriations Law* 5-12 (3d ed. 2006) (“*Federal Appropriations Law*”).

3 *Federal Appropriations Law* at 3-13 (3d. ed. 2008).

- (c) OGE advisory opinions (give a parallel citation to an online source):

Office of Government Ethics, *Compensation Arrangements for Former Federal Government Employees and 18 U.S.C. § 203*, Informal Advisory Letter 93x31, 1993 WL 721251 (Oct. 26, 1993).

Office of Government Ethics, *Compensation Arrangements for Former Federal Government Employees and 18 U.S.C. § 203*, Informal Advisory Op. 93x31 (Oct. 26, 1993), available at <http://www.oge.gov/OGE-Advisories/Legal-Advisories/Legal-Advisories/> (last visited Aug. 4, 2012).

- (d) Revised Statutes: There were two editions—the first in 1875; the second, making technical corrections and incorporating subsequent amendments, in 1878. What is confusing is that both were published in volume 18, parts 1 and 2 of the Statutes at Large. The second edition was simply published as a replacement for volume 18. The OLC library has the replacement volume 18 in its collection of the Statutes at Large; HeinOnline has the original volume 18.

To avoid any confusion as to whether you are citing the original or the replacement volume 18, it is advisable to specify which edition of the Revised Statutes you are citing *and* to indicate in a parenthetical if you are citing the replacement volume 18:

Rev. Stat. § 1044 (1st ed. 1875), 18 Stat. pt. 1, at 193 (“No person shall be prosecuted, tried, or punished for any offense not capital, except as provided in section one thousand and forty-six, unless the indictment is found or the information is instituted within two years next after such offense is committed.”).

Rev. Stat. § 1044 (2d ed. 1878), 18 Stat. pt. 1, at 193 (repl. vol.) (“No person shall be prosecuted, tried, or punished for any offense, not capital, except as provided in section one thousand and forty-six, unless the indictment is found, or the information is instituted within three years next after such offense shall have been committed. But this act shall not have effect to authorize the prosecution, trial or punishment for any offense, barred by the provisions of existing laws.”).

IV.

The following are formatting conventions, not addressed in *The Bluebook*, that apply to most written work product, such as opinions or letters, that this Office produces. Book publications follow a different set of rules.

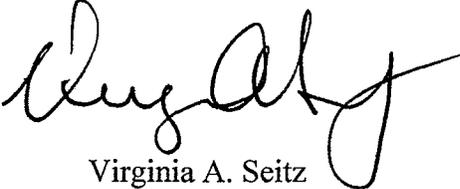
- 4.1 Opinions and most other OLC documents are single-spaced, using 12-point font for the text and 10-point font for footnotes.
- 4.2 Footnote numbers in the text and in the footnote should be in 10-point font. In footnotes, indent the footnote number one-half inch, the same indent required for paragraphs in the text. Insert two spaces between the footnote number and the text of the footnote.
- 4.3 Left-justify documents so that the text has a ragged right edge.
- 4.4 Use 12-point spacing between paragraphs in text and 6-point spacing between paragraphs in footnotes and between footnotes.
- 4.5 Use a hard space between section signs and section numbers, paragraph signs and paragraph numbers, and months and dates, so that they stay on the same line.
- 4.6 Use one-inch margins at the top, bottom, left, and right of the page (except for the first page of documents with the OLC letterhead, *see infra* rule 4.7). We rarely use headers and footers, but set the footer position to one-half inch so that the page number appears one-half inch from the bottom of the page. The page number should be in 12-point font and should not appear on the first page.
- 4.7 The letterhead at the top of this memorandum is the preferred form for most official OLC documents: (a) the embedded image of the DOJ seal is one inch in diameter and is flush to the left and top margins (do not use earlier versions with a smaller seal); (b) the identifications of the author’s office and the office location are in 9-point font, one-half line (6 points) below the horizontal bar; and (c) the body of the document begins two lines (24 points) below the date.

- 4.8 The signature lines (author and office) at the end of an opinion or memorandum should be centered at a tab point $4\frac{1}{8}$ inches from the left margin. If the author will not be signing the document by hand above the signature line, insert two blank lines (24 points) between the end of the text and the signature. If the author will be signing the document by hand, insert four blank lines (48 points).
- 4.9 For formal opinions, our usual practice is to put section headings in boldface type, with a period after the number or letter, and no explanatory language in the headings. The subdivisions proceed from Roman numerals (I, II, III) to capital letters (A, B, C) to Arabic numerals (1, 2, 3) to lower-case letters (a, b, c).

There are times, however, when explanatory headings can be useful, especially in opinions that are long and subdivided down to the level of Arabic numerals or lower-case letters. *See, e.g.,* the Dellinger Memo; *Legality of the Use of Military Commissions to Try Terrorists*, 25 Op. O.L.C. 240 (2001).

V.

Please let me know if you have questions about any of the rules set forth above. As always, we are open to suggestions for changes or additions to the rules of form and style.



Virginia A. Seitz
Assistant Attorney General