

### governmentattic.org

"Rummaging in the government's attic"

Description of document: List of Department of Justice Office of Legal

Counsel Opinions 1998 - 2007

Requested date: 15-September-2007

Released date: 29-October-2007

Posted date: 30-November-2007

Title of Document 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005,

2006, 2007 LIST OF OPINIONS

Date/date range of document: January 1998 – October 2007

Source of document: Supervisory Paralegal

Office of Legal Counsel

Room 5515, 950 Pennsylvania Avenue, NW

Department of Justice

Washington, DC 20530-0001

(202) 514-2038

The governmentattic.org web site ("the site") is noncommercial and free to the public. The site and materials made available on the site, such as this file, are for reference only. The governmentattic.org web site and its principals have made every effort to make this information as complete and as accurate as possible, however, there may be mistakes and omissions, both typographical and in content. The governmentattic.org web site and its principals shall have neither liability nor responsibility to any person or entity with respect to any loss or damage caused, or alleged to have been caused, directly or indirectly, by the information provided on the governmentattic.org web site or in this file.



#### U.S. Department of Justice

#### Office of Legal Counsel

Washington, D.C. 20530

October 29, 2007

This responds to your Freedom of Information Act request dated September 15, 2007. A search of the files of the Office of Legal Counsel has identified ten documents that are responsive to your request. The documents are enclosed in redacted form. We redacted portions of the documents pursuant to Exemptions Five and Six of the Act, 5 U.S.C. § 552(b)(5) & (6). The material withheld pursuant to Exemption Five is protected by the deliberative process, attorney-client and attorney work product privileges. Material, the release of which would constitute a clearly unwarranted invasion of the personal privacy of third parties, has been redacted pursuant to Exemption Six.

If you are not satisfied with my action on this request, you may administratively appeal this partial denial by writing to the Director, Office of Information and Privacy, United States Department of Justice, Flag Building, Suite 570, Washington, D.C. 20530-0001, within 60 days of your receipt of this letter. Your envelope and letter should be clearly marked "Freedom of Information Act Appeal."

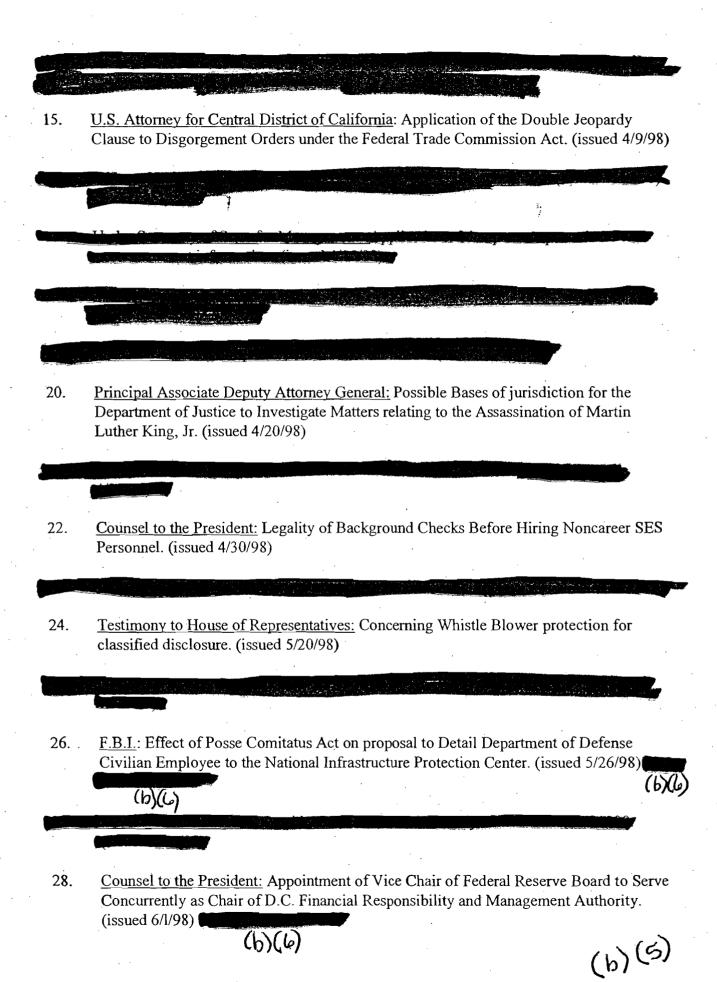
Sincerely,

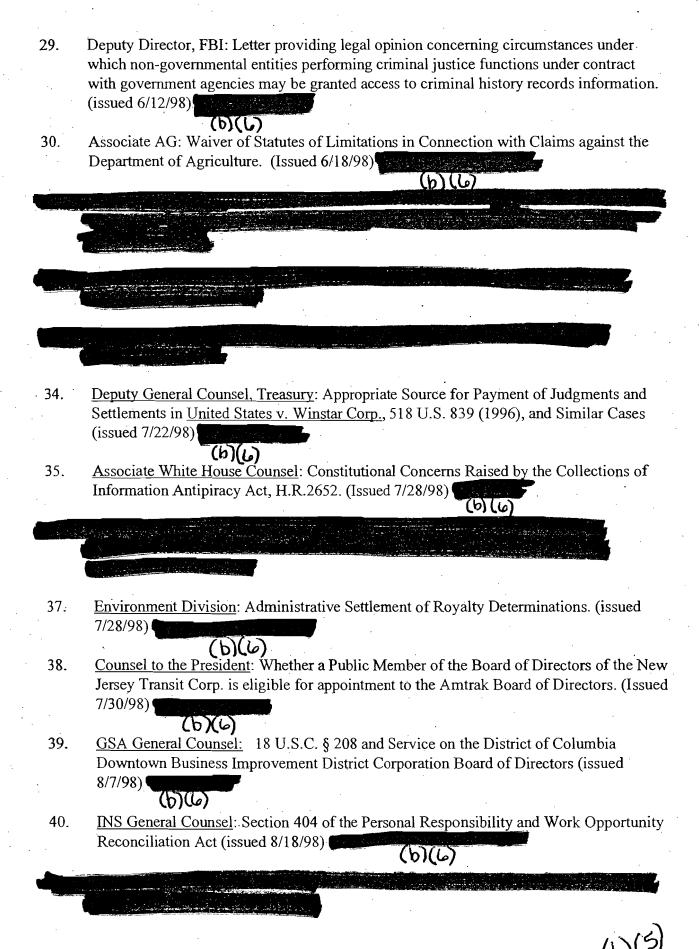
Bradley T. Smith Attorney-Adviser

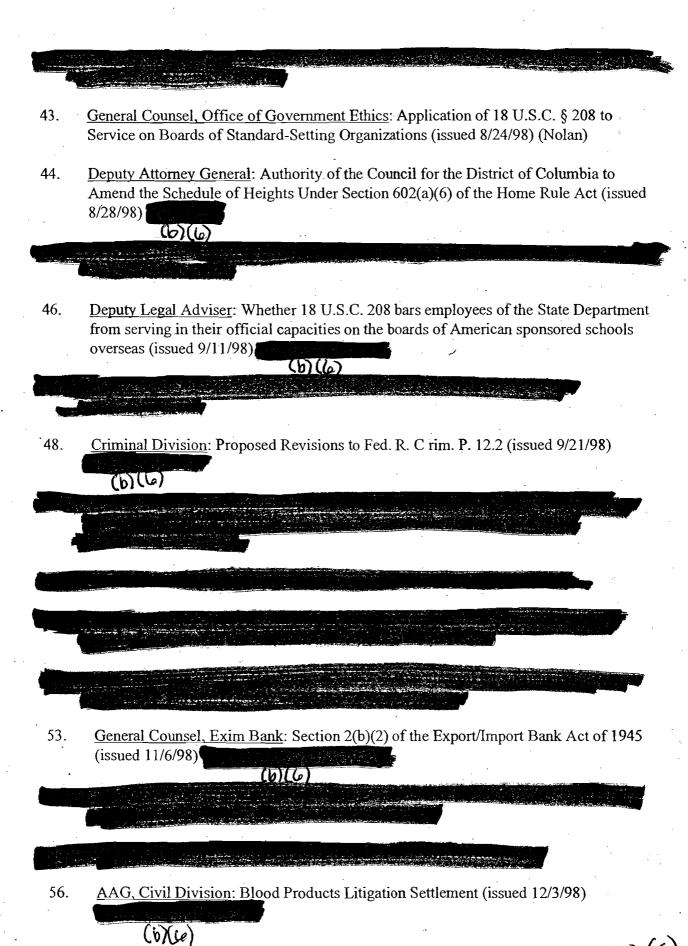
**Enclosures** 

1998 LIST OF OPINIONS
January 1998 through December 1998

2.	Counsel to the President: Memorandum regarding Proposed nomination of an issued 1/28/98)
3.	Associate Attorney General: Memorandum regarding Statute of Limitations and settlement of ECOA discrimination Claims against the Department of Agriculture. (issued 1/29/98)
4.	Counsel to the President: Memorandum regarding Application of 5 USC § 5503(a) to Board of Director of the Civil Litigation Public Education Fund  (issued 2/2/98)
8.	GSA <u>General Counsel</u> : Memorandum regarding Applicability of 18 USC § 431 to Limited Partnership interests in Government Leases Under proposed Modified Transaction. (issued 3/13/98)
10.	Committee on Governmental Affairs: Testimony of Dan Koffsky concerning Vacancies Act. (issued 3/18/98)
11.	Assistant Attorney General for Administration: Interpretation of phrase "Recommendation that funds be put to better use" in Inspector General Act. (issued 3/20/98)

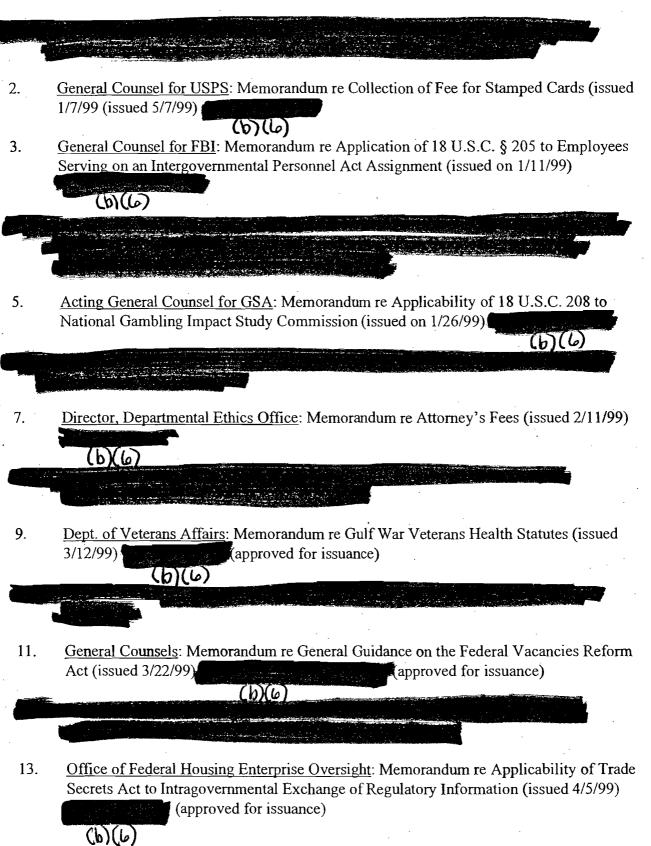






57. General Counsel, HHS: Proposed Settlement of Diamond v. Dept. of HHS (issued 12/4/98)

# 1999 LIST OF OPINIONS January 1999 through December 1999





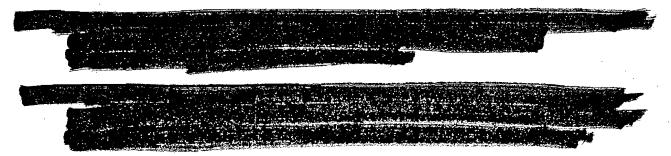
15. <u>Department of Commerce</u>: Memorandum re Whether Government Reproduction of Copyrighted Materials Invariably is a "Fair Use" under Section 107 of the Copyright Act of 1976 (issued 4/30/99) (approved for issuance)



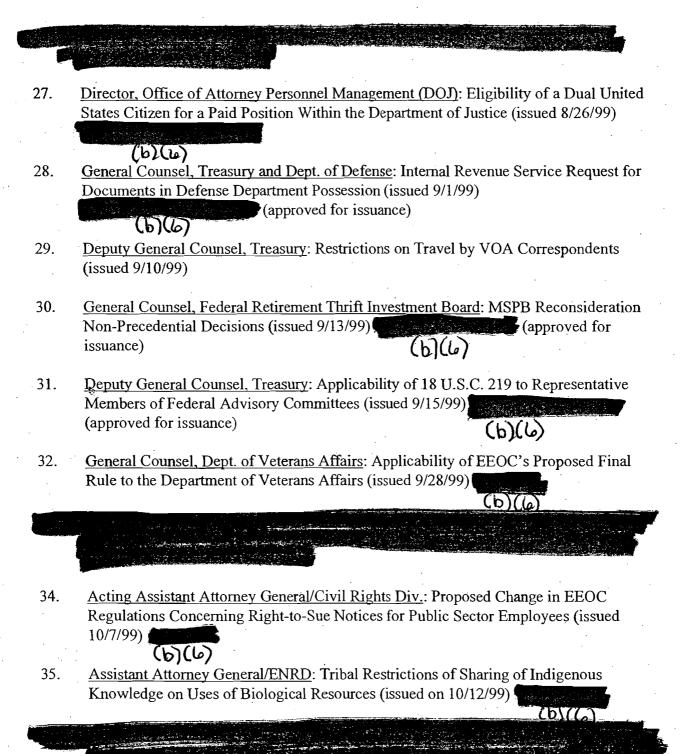
17. <u>U.S. Marshals Service</u>: Memorandum re USMS Obligation to Avoid Anticipated Violation of the Antideficiency Act Before Seeking to Invoke Various Statutory Exceptions (issued 5/11/99)



- 19. <u>US Architectural and Transportation Barriers Board</u>: Memorandum re Accessibility Guidelines and Federal Lease Renewals (issued 5/26/99) (approved for issuance)
- 20. <u>Executive Clerk</u>: Memorandum re Term of a Member of the Mississippi River Commission (issued 5/27/99) (approved for issuance)
- 21. <u>Associate Attorney General</u>: Constitutional and Statutory Restrictions on the Authority of the United States to Enter Settlements Limiting the Future Exercise of Executive Branch Discretion (issued 6/15/99) (approved for issuance)



- 24. <u>Senate Committee on Governmental Affairs</u>: Testimony of Randolph Moss concerning S.1214, the Federalism Accountability Act of 1999 (issued 7/14/99)
- 25. <u>General Counsel for OMB</u>: Reporting Obligation under the Federal Vacancies Řeform Act for PAS Officers Serving Under Statutory Holdover Provisions (issued 7/30/99) (approved for issuance)



37. <u>General Counsel of Dept. of Commerce:</u> Participation by Processor-Owned Catcher Vessels in Inshore Cooperatives Under the American Fisheries Act of 1998 (issued 12/10/99)

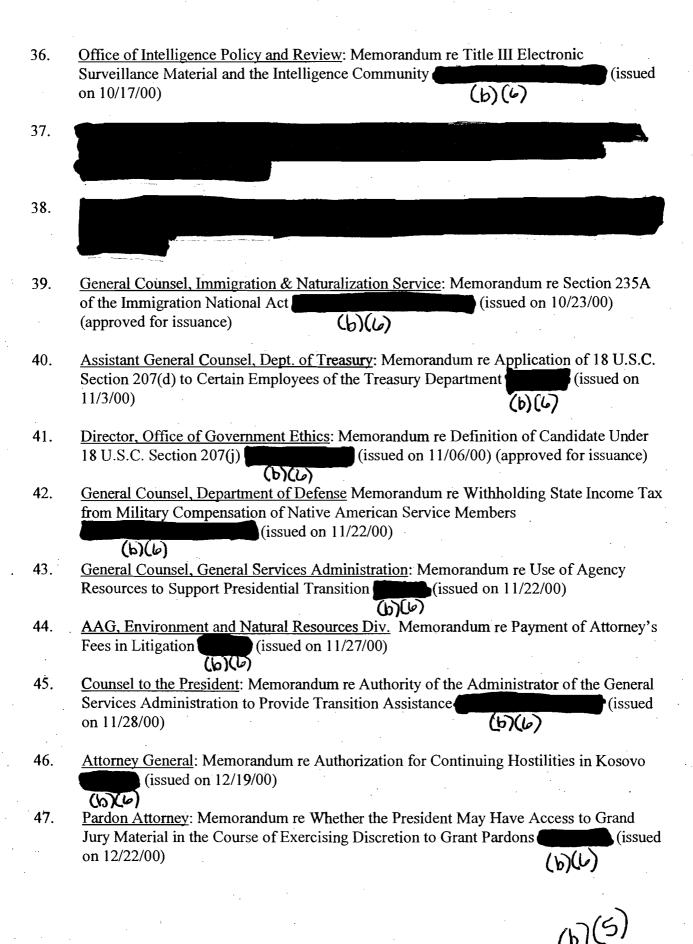
(b)(5)

### 2000 LIST OF OPINIONS January 2000 through December 2000

1.	<u>Director, Departmental Ethics Office DOJ</u> : Memorandum re Applicability of 18 U.S.C. § 205(a)(2) to Representation Before Non-Federal Agencies	
	(issued 1/3/2/00) (approved for issuance) (b)(6)	
2.	Advisory Board for Cuba Broadcasting: Memorandum re Authority of the Advisory Board for Cuba Broadcasting to Act in the Absence of a Presidentially Designated Chairperson (issued 1/4/00) (approved for issuance)	
3.	Counsel for the President: Memorandum re Legal Effectiveness of a Presidential Directive, as Compared to an Executive Officer (issued 1/29/00) (approved for issuance)	
4.		-
5.		
6.	Deputy Attorney General: Memorandum re Starting Date for Calculating the 120-day Term of an Interim United States Attorney Appointed by the Attorney General Under 28 U.S.C. § 546 (issued on 3/10/00) (approved for issuance)	
7.	General Counsel for INS: Memorandum re Enforcement of INA Employer Sanctions Provisions Against Federal Government Entities  (issued on 3/15/00) (approved for issuance)	
8.		Đ
9.	Deputy Attorney General: Date of Appointment for Purposes of Calculating the 120-Day Term of an Interim United States Attorney Appointed by the Attorney General under 28 U.S.C. § 546 (issued on 3/16/00) (approved for issuance)	
10.		
11.		

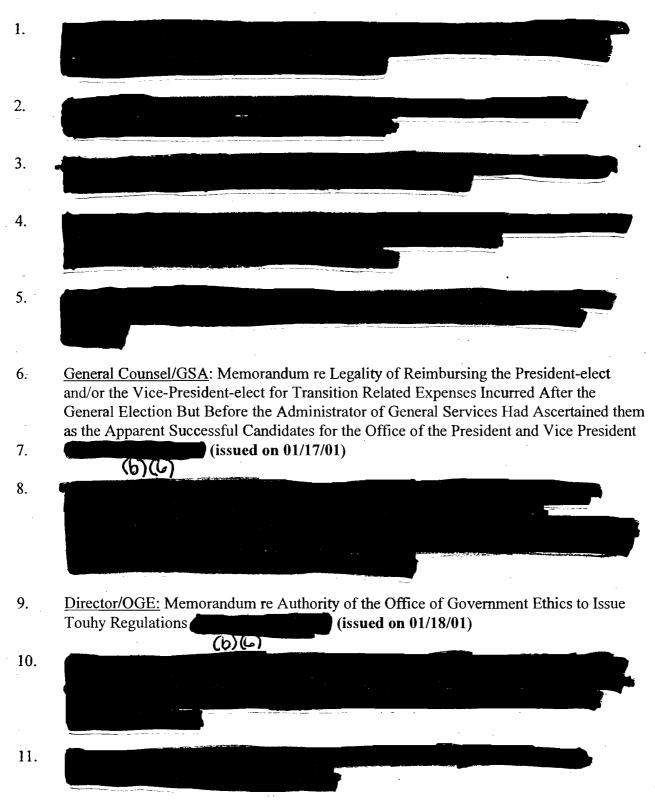
12.	Prisoner Detention Efforts in the Face of a USMS Appropriation Deficiency  (issued on 4/5/00)
3.	
4.	General Counsel Dept. of Treasury: Memorandum re Applicability of the Federal Vacancies Reform Act to the United States Executive Director and Alternate Executive Director at the International Monetary Fund and the World Bank (issued on 5/11/00)
15.	
16.	Deputy General Counsel, DOD: Memorandum re Authority for Military Police to Issue Traffic Citations to Civilians on Bolling Air Force Base (issued on 6/5/00)
17.	General Counsel Dept. of Defense: Memorandum re EPA Assessment Against Federal Agencies for Violation of the Underground Storage Tank Requirements of the Resource Conservation and Recovery Act (issued on 6/14/00) (approved for issuance)
18.	General Counsel Chemical Safety and Hazard Board: Memorandum re Division of Powers and Responsibilities Between the Chairperson of the Chemical Safety and Hazard Investigation Board (issued on 6/26/00) (approved for issuance)
19.	General Counsel for Dept. of Energy: Memorandum re Applicability of the Post- Employment Restrictions of 18 U.S.C. § 207(c) to Assignees Under the Intergovernmental Personnel Act (issued on 6/26/00) (approved for issuance)
20.	
21.	
22.	

23.	
24.	Attorney General: Memorandum re Whether a Former President May Be Indicted and Tried for the Same Offenses for Which He Was Impeached by the House and Acquitted by the Senate (issued on 8/18/00)
25.	AAG, Criminal Division: Memorandum re Constitutionality of 18 U.S.C.A Section 1120 (issued on 8/31/00)
26.	
27.	Acting Director, Office of Government Ethics: Memorandum re Application of 18 U.S.C. Section 209 to Employee-Inventors Who Receive Outside Royalty Payments)  (issued on 9/7/00)
28.	Testimony: Testimony of William Treanor re the Application of the Privacy Act to the White House (b)(6) (reanor) (issued on 9/8/00)
29.	Interior/NOAA/Council on ENRD Quality: Memorandum re Coral Reef Resources in the Northwest Hawaiian Islands (issued on 9/15/00)
30.	NASA/OMB: Memorandum re Applicability of Government Corporation Control Act to Gain Sharing Benefit Agreement (issued on 9/18/00) (approved for issuance)
31.	Hastert, House: Memorandum re the Enforceability of 18 U.S.C. 1302-Information Concerning Lawful Gambling Operations-AG Opinion (issued on 9/25/00) (approved for issuance)
32.	<u>Testimony</u> : Testimony of William Treanor re H.R.4751, Entry of the Commonwealth of Puerto Rico into Permanent Union with the U.S.
33.	
34.	
35.	Attorney General: Memorandum re A Sitting President's Amenability to Indictment and criminal Prosecution (issued 10/16/00)

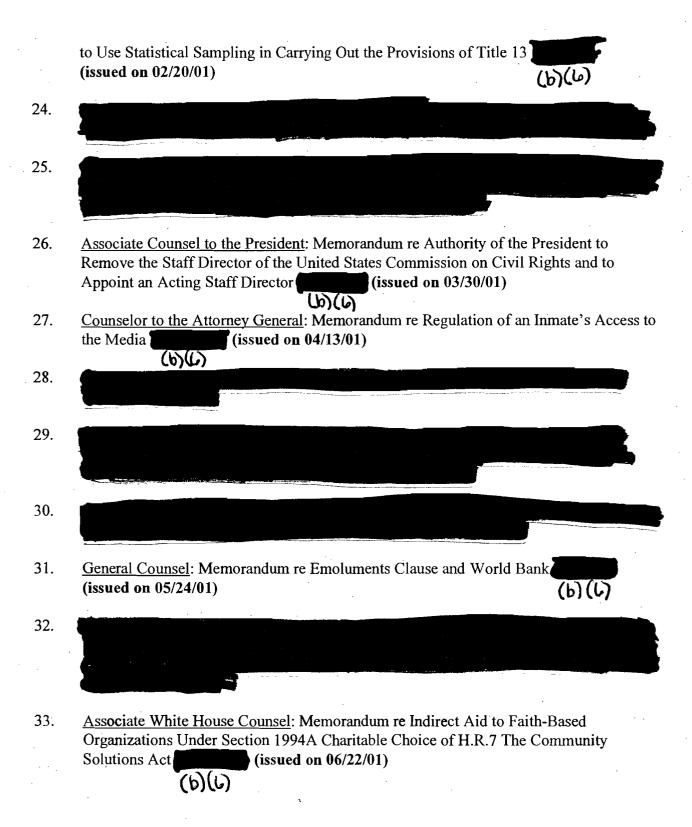




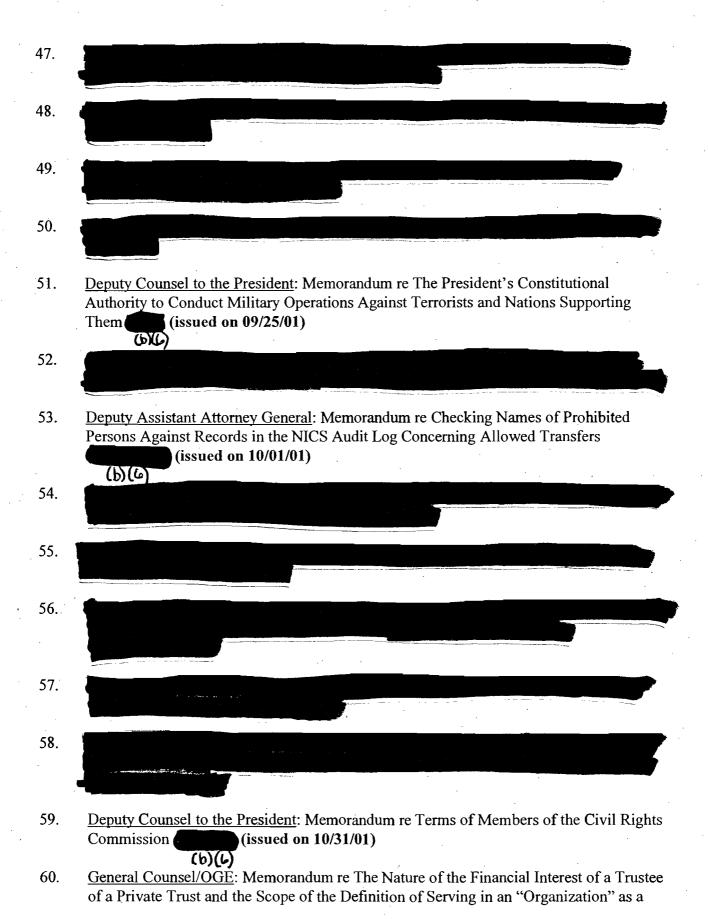
# 2001 LIST OF OPINIONS January 2001 through December 2001



12.	
13.	
4.	
5.	General Counsel/DOC: Memorandum re NOAA Corps Eligibility for Professional Liability Costs Reimbursement (issued on 01/19/01)
6.	General Counsel/TREAS: Memorandum re Investment of Federal Trust Funds for Cheyenne River and Lower Brule Sioux  (b)(6)
7.	Acting General Counsel/GSA: Memorandum re Legality of Obligating Government Funds for Advertising by the General Services Administration (issued on 01/19/01)
8.	
9.	
20.	
1.	
2.	
23.	Acting General Counsel/DOC: Memorandum re Discretion of the Secretary of Commerce



Associate White House Counsel: Memorandum re Section 1994A Charitable Choice of
H.R.7, The Community Solutions Act (issued on 06/25/01)
Senior Associate Counsel to the President: Memorandum re Congressman Rohrabacher'
Amendment to H.R.2500, The Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, FY 2002 (issued on 07/25/01)
Counsel to the President: Memoradum re President's Authority to Remove the Chair of the CPSC (issued on 07/31/01)
Appointment to the National Labor Relations Board (issued on 08/31/01)
General Counsel/TREAS and Chief Counsel/Thrift: Memorandum re Post-Employment Restriction of 12 U.S.C. § 1812(e) (issued on 09/04/01)

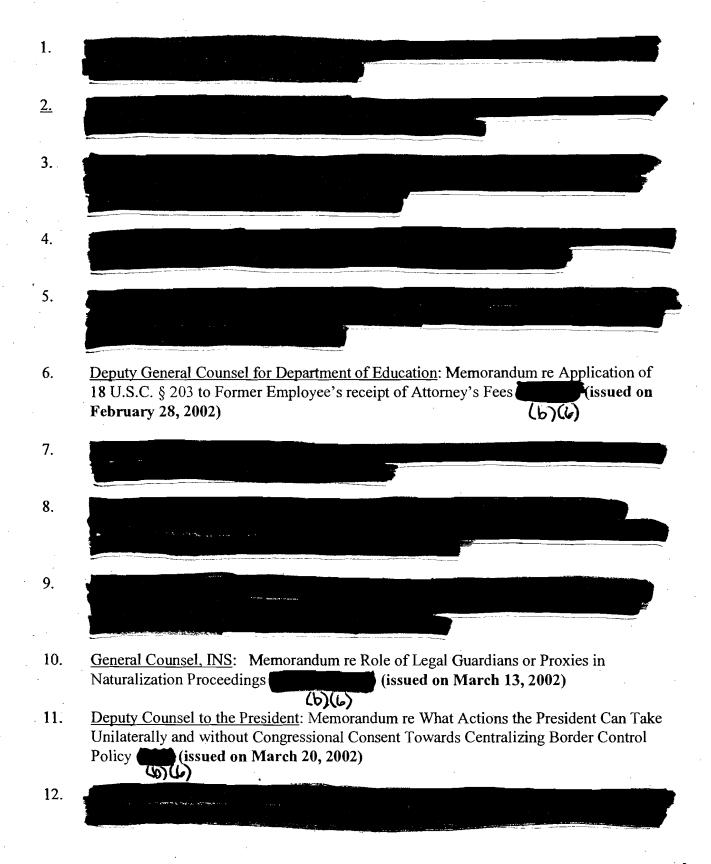


"Trustee" Under 18 U.S.C. 208(a) (issued on 11/02/01) (b)(b) 61. AAAG/OLC: Testimony on Edward Whelan III re Oversight of the Presidential Records 62. Act (11/06/01) 63. 64. 65. Deputy Counsel to the President: Memorandum re Commerce, Justice and State 66. Appropriations Bill (issued on 11/20/01) (b)(b) 67. 68. AAG/OLC: Testimony of Jay Bybee on Settlement of the "Nextwave" Case (12/6/01) 69. 70. · 71. 72. 73.

(b)(5)

-7-

### 2002 LIST OF OPINIONS January 2002 through December 2002

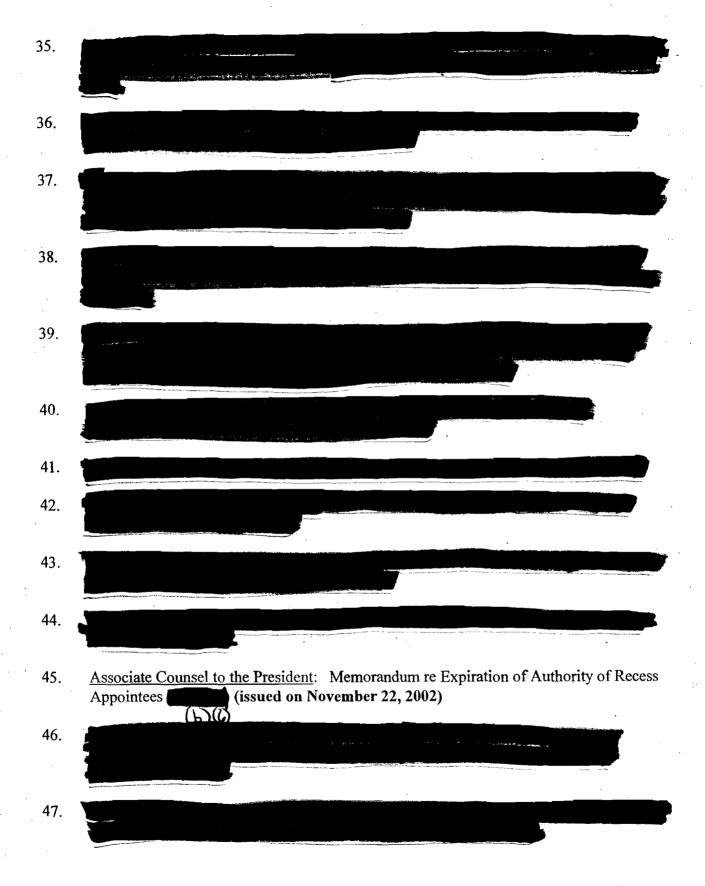


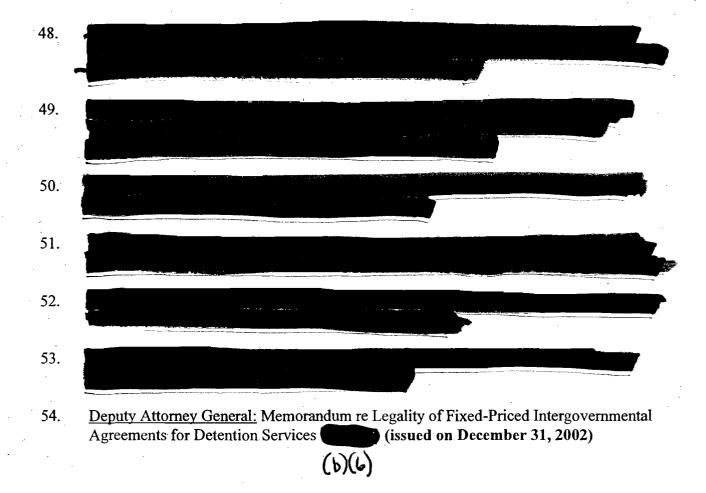
13. Testimony by John Yoo: Testimony for Senate Committee on the Judiciary re Applying the War Powers Resolution to the War on Terrorism (April 17, 2002) 14. U.S. Chemical Safety and Hazard Investigation Board: Memorandum re Whether the Board May Delegate Executive and Administrative Authority, Previously Exercised by its Chairperson, to a Single Member While the Position of Chairperson is Vacant (issued on April 19, 2002) (b)(b) 15. General Counsel/OGE: Memorandum re Application of Conflict-of-Interest Rules to Appointees Who Have Not Begun Service (issued on May 8, 2002) (b)(b) Deputy Counsel to the President: Memorandum re Applicability of Ineligibility Clause to 16. Appointment of Congressman Tony P. Hall (issued on May 30, 2002) Solicitor General: Memorandum re Survey of the Law of Expatriation (issued on 17. June 12, 2002) (b)(b) Chief Counsel/DEA: Memorandum re Authority of Federal Judges and Magistrates to 18. Issue "No-Knock" Warrants (issued on June 12, 2002) (b)(b) 19. 20. 21. General Counsel for the Board of Governors: Memorandum re Permissibility of federal 22. Reserve Board Efforts to Control Access to Buildings and Open Meetings (b)(b) (issued on July 9, 2002) 23.

24.

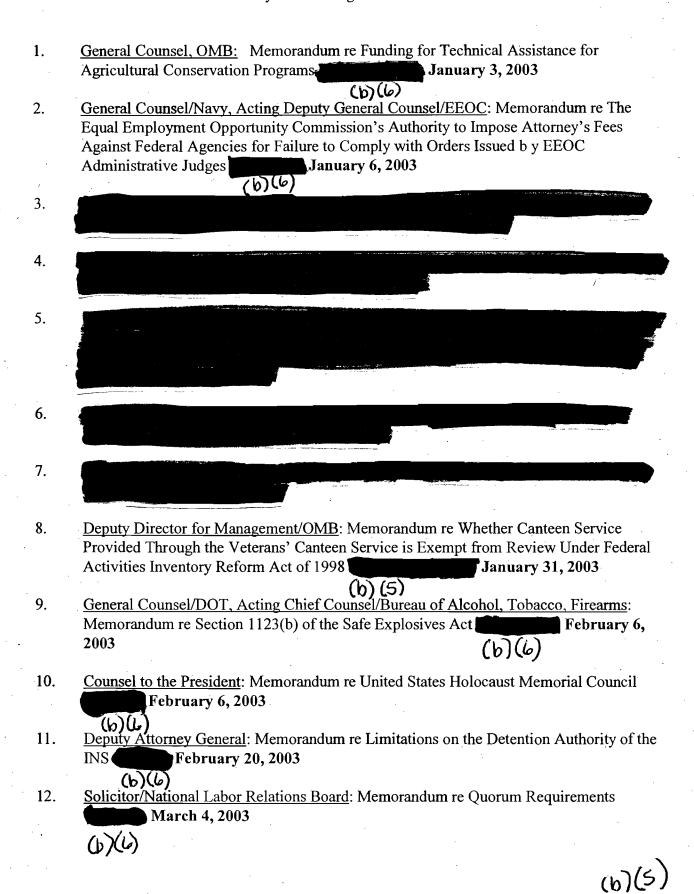
25.

26. 27. 28. 29. Administrator for Federal Procurement Policy/OMB: Memorandum re What Limitations 30. 44 U.S.C. § 1903 May Place on Executive Agencies Procuring the Printing of Government Publications issued on August 22, 2002) (b) (b) 31. 32. 33. General Counsel/FEMA: Memorandum re Authority of FEMA to Provide Disaster Assistance to Seattle Hebrew Academy (issued on September 25, 2002) (b)(b) 34.





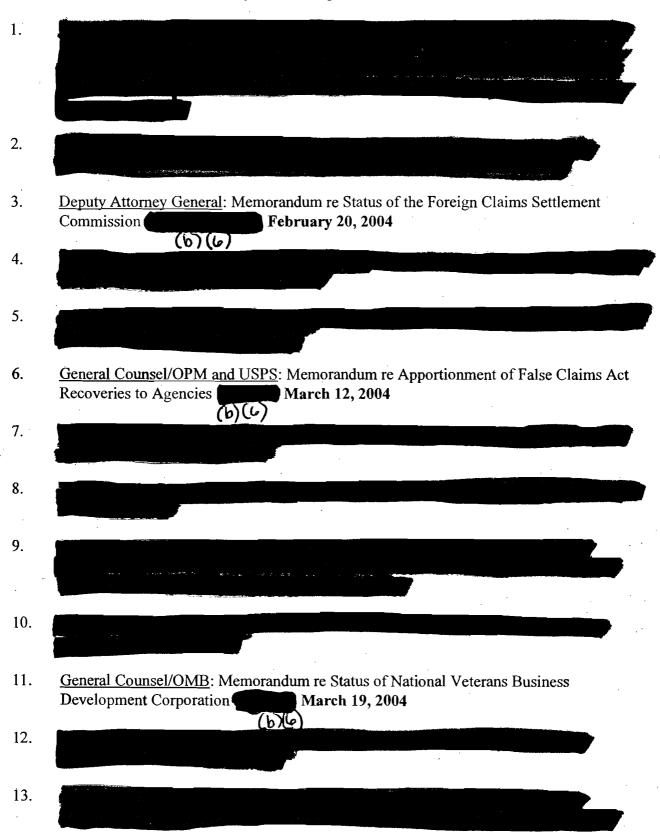
#### 2003 LIST OF OPINIONS January 2003 through December 2003



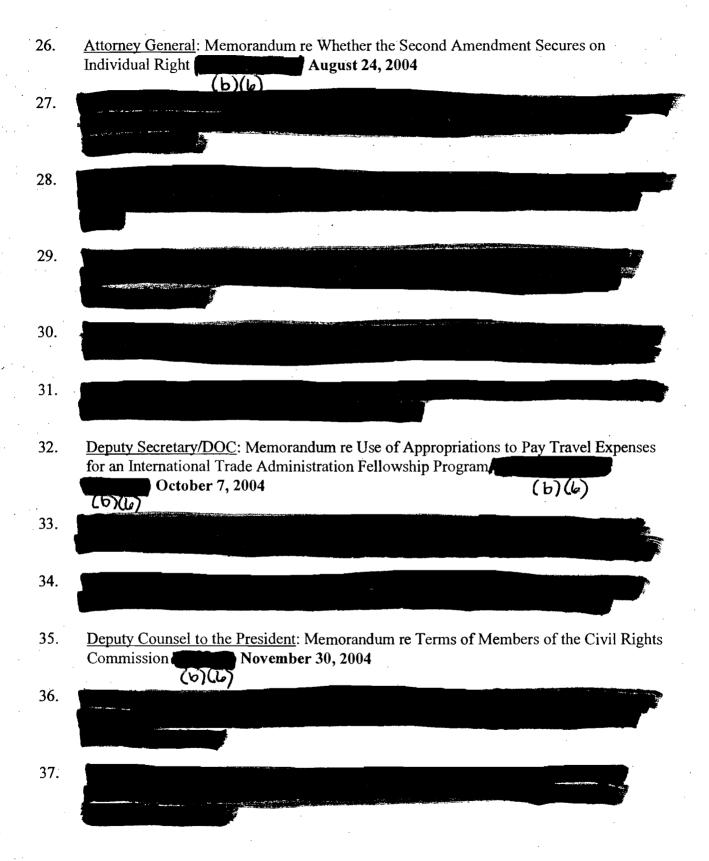
13.	Deputy Attorney General: Memorandum re Scope of the Attorney General's Authority to Assign Duties Under 21 U.S.C. Section 878(a)(5)  March 24, 2003  (b) (b)
14.	
15.	
16.	Attorney General: Memorandum In re David Joseph (A73 213 378)  April 17, 2003  (b) (b)
17.	
18.	Solicitor: Memorandum re Authority of the Department of the Interior to Provide Historic Preservation Grants to Historic Religious Properties Such as the Old North Church  April 30, 2003  (b)(6)
19.	
20.	
21.	
22.	
23.	And the state of t
24.	Deputy Counsel to the President: Memorandum re Designation of Acting Director of the Office of Management and Budget June 12, 2003
25.	General Counsel/Veterans Affairs: Memorandum re VA's Authority to Fill Certain Prescriptions Written by Non-VA Physicians (b)(c)

26.	
27.	
28.	Acting Principal Legal Advisor/Dept. Of Homeland Security: Memorandum re Eligibility of Unlegitimated Children for Derivative Citizenship  (b)(c)  July 24, 2003
29.	
30.	General Counsel/OMB: Revised Memorandum re Authority of Chief Financial Officer under FY 2003 HUD Appropriations August 12, 2003
31.	Director, Executive Office for United States Attorneys: Q's and A's re Temporary Filling of Vacancies in the Office of United States Attorney  September 5,  2003
32.	
33.	AAG/Civil Rights Division: Memorandum re Employment Opportunity Commission's Authority to Initiate Actions Against Public Employers to Enforce Settlement or Conciliation Agreements September 8, 2003
34.	Counsel to the President: Memorandum re Amtrak Board of Directors  September 22, 2003  (6)(6)
35.	Principal Deputy Assistant Attorney General/CRTS: Memorandum re Whether Certain Direct Recording Electronic Voting Systems Comply With the Help America Vote Act and the Americans with Disabilities Act October 10, 2003
36.	

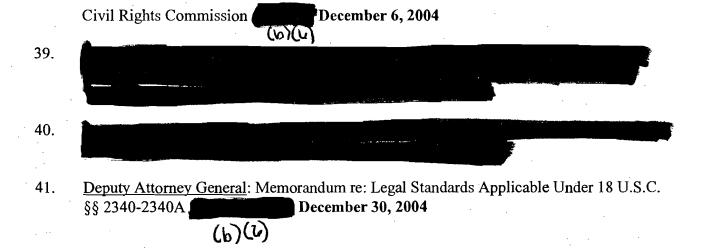
# 2004 LIST OF OPINIONS January 2004 through December 2004



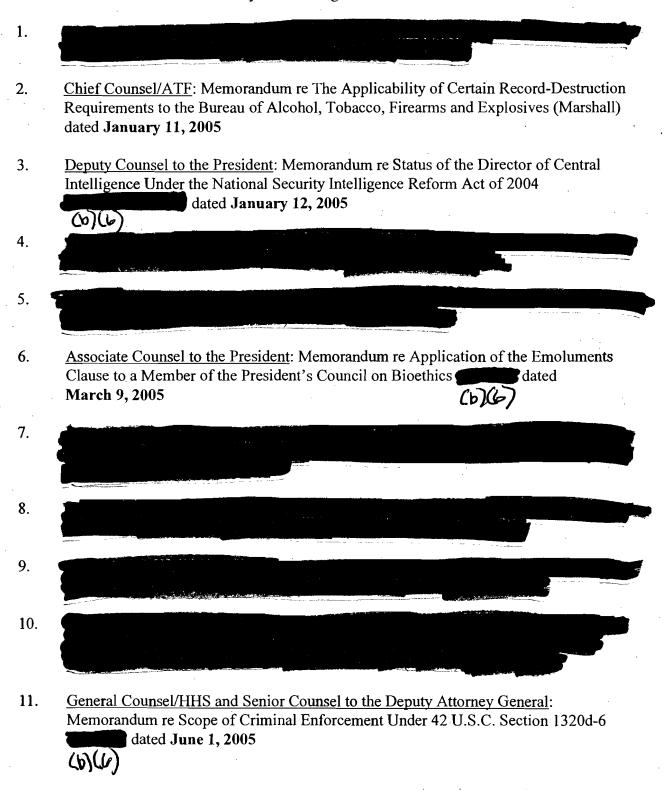
14.	General Counsel/HHS: Letter re OLC's response to memorandum from the Congressional Research Service re Agency Prohibiting a Federal Officer from Providing Accurate Cost Information to the United States Congress May 21, 2004
15.	(b)(b)
16.	
17.	
18.	
19.	
20.	
21.	General Counsel/OGE: Memorandum re Application of 18 U.S.C § 207(f) to a Former Senior Employee of the Department of Commerce,  June 22, 2004
22.	
23.	Acting General Counsel/DOC: Memorandum re Whether the Department of Commerce May Prescribe Regulations Limiting the Partisan Political Activities of the Commissioned Officers Corps in the National Oceanic and Atmospheric Administration (NOAA)  July 29, 2004
24.	General Counsel/HHS: Memorandum re Whether Appropriations May be Used for Informational Video News Release July 30, 2004
25.	



38. Deputy Counsel to the President: Memorandum re Political Balance Requirement for the

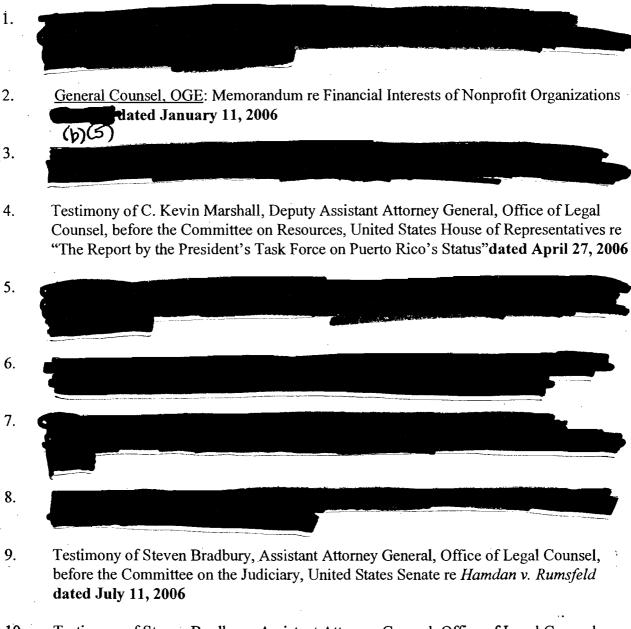


## 2005 LIST OF OPINIONS January 2005 through December 2005



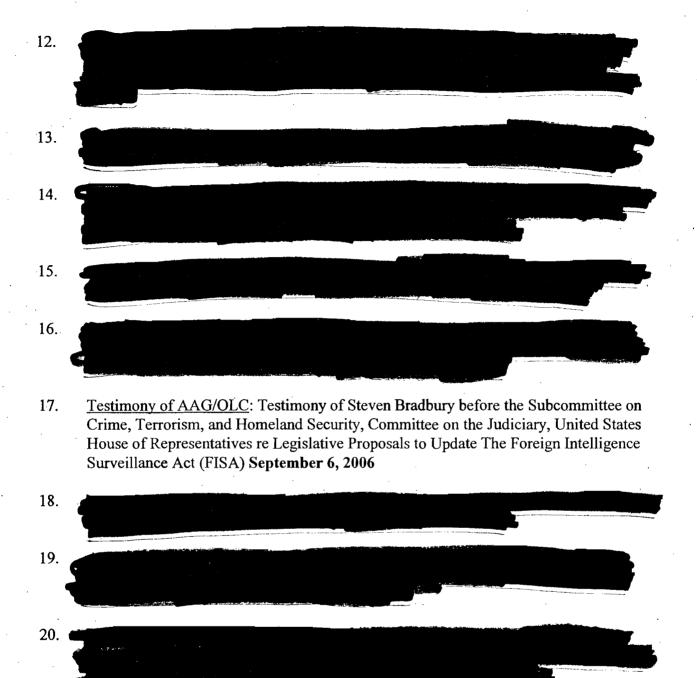
12.	
13.	
14.	Counsel to the President: Memorandum re Whether the President May Sign a Bill by Directing that his Signature be Affixed to It dated July 7, 2005
15.	
16.	Chairman, Defense Base Closure and Realignment Commission: Memorandum re Authority under the Defense Base Closure and Realignment Act to Close or Realign National Guard Installations Without the Consent of State Governors dated August 10, 2005
17.	General Counsel, DOD: Memorandum re Proposed Amendments to Military Commission Order No. 1 dated August 12, 2005
18.	
19.	
20.	
21.	
22.	
23.	

#### 2006 LIST OF OPINIONS January, 2006 through December, 2006



- 10. Testimony of Steven Bradbury, Assistant Attorney General, Office of Legal Counsel, before the House Armed Services Committee, United States House of Representatives re *Hamdan v. Rumsfeld* dated July 12, 2006
- 11. Testimony of Steven Bradbury, Assistant Attorney General, Office of Legal Counsel, before the Committee on the Judiciary, United States Senate re FISA for the 21<sup>st</sup> Century dated July 26, 2006

(b)(S)



### 2007 LIST OF OPINIONS January, 2007 through December, 2007

1.	General Counsel, DOD: Memorandum re Days of Service by Special Government Employees dated January 26, 2007
2.	General Counsel, HHS: Memorandum re Legality of Alternative Organ Donation Practices Under 42 U.S.C. § 274e  (b)(b)
3.	
4.	
5.	General Counsels of Executive Branch: Memorandum re Officers of the United States Within the Meaning of the Appointments Clause  (b)(6)
6.	Testimony before the Subcommittee on Insular Affairs of committee on Natural Resources U.S. House of Representatives: Re H.R.900 "Puerto Rico Democracy Act of 2007" and "H.R. 1230, The Puerto Rico Self Determination Act of 2007" (Marshall) dated April 25, 2007
7.	Chief Counsel, ATF: Memorandum re When a Conviction Qualifies as a "Misdemeanor Crime of Domestic Violence dated May 17, 2007
8.	
9.	Testimony before Committee on the Judiciary U. S. Senate: re "Ending Taxation Without Representation" The Constitutionality of S.1257, The District of Columbia House Voting Rights Act of 2007" (Bradbury) dated May 23, 2007
10.	<u>Testimony of Steve Bradbury/American Civil Liberties Union v. DOJ/OLC re FOIA</u> <u>Exemptions</u> : dated <b>June 7, 2007</b>
11.	General Counsel, FBI: Memorandum re Application of the Emoluments Clause to a Member of the Federal Bureau of Investigation Director's Advisory Board dated June 15, 2007  (b)(b)
12.	

13. 14. 15. 16. 17. 18. 19. 20. 21. 22.