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Source of document: FOIA Contact
Justice Management Division
Department of Justice
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U.S. Department of Justice
Office of Information Policy
Suite 11050
1425 New York Avenue, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

September 22, 2016

Re: AG/11-00628 (F)
DAG/11-00689 (F)
VRB:LAD:JKD

This responds to your Freedom of Information Act (FOIA) request dated April 9, 2011, and received in this Office on April 12, 2011, for a copy of Senior Management Office memoranda posted on the DOJNET. The cut-off date for the search was May 5, 2011. This response is made on behalf of the Offices of the Attorney General and Deputy Attorney General.

Please be advised that a search of the DOJNET has been conducted, and 168 pages were located that are responsive to your request. I apologize for the delay of this response which was the result of the extensive consultations that were required.

I have determined that 161 pages are appropriate for release without excision, and copies are enclosed. Also enclosed are five pages which I have determined are appropriate for release with excisions some made on behalf of the Drug Enforcement Administration, the Executive Office for United States Attorneys, United States Marshals Service, and Criminal Division, pursuant to Exemptions 6 and 7(C) of the FOIA, 5 U.S.C. § 552(b)(6) and (b)(7)(C). Exemption 6 pertains to information the release of which would constitute a clearly unwarranted invasion of the personal privacy of third parties. Exemption 7(C) of the FOIA, pertains to records or information compiled for law enforcement purposes, the release of which could reasonably be expected to constitute an unwarranted invasion of the personal privacy of third parties.

Finally, because two pages originated with the Justice Management Division (JMD), we have referred that material to JMD for processing and direct response to you. You may contact JMD as follows:

Karen McFadden
FOIA Contact
Justice Management Division
Room 1111 RFK
950 Pennsylvania Avenue NW
Washington, DC 20530-0001
JMDFOIA@usdoj.gov

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) (2012). 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 may contact our FOIA Public Liaison at the telephone number listed above for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy, United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001, or you may submit an appeal through OIP's FOIAonline portal at <https://foiaonline.regulations.gov/foia/action/public/home>. Your appeal must be postmarked or electronically submitted within ninety days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

Sincerely,



for


Vanessa R. Brinkmann
Senior Counsel

Enclosures



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

MEMORANDUM FOR ROBERT F. DIEGELMAN
ACTING ASSISTANT ATTORNEY GENERAL
FOR ADMINISTRATION

FROM: THE ATTORNEY GENERAL 
SUBJECT: Selection for the Chief Information Officer

Based upon the unique managerial and technical qualifications possessed by Vance E. Hitch, I have selected him as the superior candidate to fill the career Senior Executive Service position of Chief Information Officer in the Justice Management Division at the ES-5 pay level (\$138,200 per annum). Please take the necessary action to obtain Office of Personnel Management Qualification Review Board approval of Mr. Hitch's executive qualifications and effect his appointment to the Chief Information Officer position as soon as possible.



Office of the Attorney General

Washington, D.C. 20530

April 1, 2002

MEMORANDUM FOR DIRECTOR, FEDERAL BUREAU OF INVESTIGATION

DIRECTOR, FEDERAL BUREAU OF PRISONS

DIRECTOR, EXECUTIVE OFFICE FOR UNITED STATES
ATTORNEYS

ALL UNITED STATES ATTORNEYS

FROM:

The signature of John Ashcroft, Attorney General, is written over the word "ATTORNEY GENERAL".

SUBJECT:

The Victim Notification System (VNS)

After several years of planning and hard work by everyone involved, the Department's Victim Notification System (VNS) is now fully operational. Pursuant to the Attorney General Guidelines for Victim and Witness Assistance 2000 and statute (42 U.S.C. §§ 10606, 10607), the Federal Bureau of Investigation (FBI), the United States Attorneys' offices (USAOs), and the Federal Bureau of Prisons (BOP) are each responsible for notifying victims at various stages of the criminal justice process. VNS significantly enhances our ability to comply with these statutory obligations. In addition, VNS will be the primary method for notifying the victims in the prosecution of United States v. Moussaoui and the events of September 11. As a result, VNS is and will continue to be a priority program for the Department.

Now that the VNS is up and running, I urge all United States Attorneys (USAs), FBI-Special Agents in Charge (SACs), and BOP managers to personally ensure it is being used effectively. As with any new endeavor, some procedural change will likely be required within each component in order to fully use the new notification system. Management from each of the participating components should provide their staff with the necessary support to ensure victims are receiving the appropriate notifications from VNS in a timely fashion.

VNS reinforces the Department's strong commitment to victims of crime. With the combined efforts of the FBI, USAOs, and BOP, I am confident VNS will be a success and will increase victims' confidence in the federal criminal justice system.



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

March 5, 2002

MEMORANDUM FOR HEADS OF DEPARTMENT COMPONENTS

FROM: THE ATTORNEY GENERAL

A handwritten signature in black ink, appearing to read "John Ashcroft", is written over the word "GENERAL" in the "FROM" line.

SUBJECT: Establishment of the National Security Coordination Council

Nearly five months after the devastating terrorist attacks of September 11, 2001, the Department of Justice stands at the forefront of President Bush's efforts to secure the American homeland. Throughout the Department, we have made great strides toward fully deploying the arsenal of justice to combat terrorism, and we have done so without compromising our commitment to the rule of law. But there is much work to be done.

The assaults on America that occurred on September 11, and the supreme imperative to prevent further terrorist attacks, mandate a more coordinated effort to combat terrorism and address other national security challenges, both within the Department of Justice, and in the Department's interaction with other law enforcement and intelligence agencies.

Therefore, effective immediately, I hereby establish the National Security Coordination Council (NSCC) of the Department of Justice, which shall be chaired by the Deputy Attorney General. It shall be the principal mission of the NSCC to ensure a more seamless coordination of all functions of the Department relating to national security, particularly the Department's efforts to combat terrorism directed against the United States.

Under the Deputy Attorney General's leadership, the Council will:

- (1) Centralize and coordinate policy, resource allocation, operations, and long-term planning of DOJ components regarding counter-terrorism, counter-espionage, and other major national security issues;
- (2) Monitor the implementation of Department policy to ensure that components are taking all necessary and appropriate actions to prevent and disrupt the occurrence of terrorist attacks in the United States;
- (3) Provide an institutionalized Department forum for crisis management;

MEMORANDUM FOR HEADS OF DEPARTMENT COMPONENTS

Subject: Establishment of the National Security Coordination Council

Page 2

- (4) Promote coordination and information-sharing within the Department, between DOJ and other federal agencies and interagency bodies, and between DOJ and state and local law enforcement authorities, to prevent, prepare for, and respond to terrorist attacks within the United States;
- (5) Frame national security issues for resolution by the Deputy Attorney General or the Attorney General; and
- (6) Ensure that positions advanced by the Deputy Attorney General on behalf of DOJ at interagency meetings of the National Security Council, the Homeland Security Council, and other interagency forums reflect input from DOJ national security components.

In addition to the Deputy Attorney General, the NSCC's members will include the following Department officials with responsibility for national security matters:

- Chief of Staff to the Attorney General;
- FBI Director (with appropriate participation by the Executive Assistant Director for Counter-Terrorism/Counter-Intelligence);
- Assistant Attorney General, Criminal Division (with appropriate participation by the Terrorism and Violent Crime Section, the Office of International Affairs, and other Division components);
- Commissioner of the Immigration and Naturalization Service;
- Assistant Attorney General, Office of Justice Programs; and
- Counsel, Office of Intelligence Policy and Review.

The NSCC will meet on a bi-weekly basis or more frequently as needed. In addition to the Deputy Attorney General and the permanent members listed above, other senior Department officials -- as well as senior officials from the Central Intelligence Agency and other government agencies -- will be invited to attend NSCC meetings when appropriate. The NSCC will receive staff support from attorneys in the Office of the Deputy Attorney General with expertise in national security matters, and from ODAG administrative personnel. The functions and personnel of the Executive Office of National Security will henceforth be incorporated into the NSCC's operations.

The establishment of the NSCC marks a new chapter in the Department of Justice's commitment to protecting the safety and well-being of the American people. I call upon all Department officials and employees to dedicate themselves to the success of this vital effort.



Office of the Attorney General

Washington, D.C. 20530

March 4, 2002

MEMORANDUM FOR HEADS OF DEPARTMENT COMPONENTS

FROM: THE ATTORNEY GENERAL

A handwritten signature in black ink, which appears to be "John Ashcroft", is written over the word "GENERAL" in the "FROM:" line.

SUBJECT: National Women's History Month, March 2002

March 2002 commemorates National Women's History Month. During this month, the Department will sponsor and present various programs and activities that recognize the contributions women have made to this nation and to the Department of Justice. "Women Sustaining the American Spirit" is the National Women's History Month theme.

This observance was inspired by women textile and garment workers in New York who went on strike on March 8, 1857, to protest their low wages and poor working conditions. As a result, March 8 was celebrated annually as American Women's Day. In the 1970's, the celebration was expanded to a full week, and since 1987 the entire month of March has been proclaimed as National Women's History Month. Women continue to make vital contributions to American society and we are honored to recognize their achievements. These achievements and contributions will be highlighted through programs and other activities.

I invite your staff, managers, and employees to join in studying this rich history which has played a vital role in the development of our nation. In view of the special significance of National Women's History Month, please inform your employees in the Washington metropolitan area of scheduled activities and grant them reasonable official time to participate.



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

March 1, 2002

MEMORANDUM FOR ALL UNITED STATES ATTORNEYS
ALL FIRST ASSISTANT UNITED STATES ATTORNEYS
ALL CRIMINAL CHIEFS
ALL CRIMINAL DIVISION SECTION CHIEFS AND
OFFICE DIRECTORS

FROM: THE ATTORNEY GENERAL

A handwritten signature in black ink, appearing to read "John Ashcroft", is written over the text "THE ATTORNEY GENERAL".

SUBJECT: Renewal of Approval Requirement Under The Economic Espionage
Act of 1996

Recognizing the increasingly important role of intellectual property in ensuring national security and the well-being of our economy, Congress enacted the Economic Espionage Act of 1996 ("EEA"). Codified at 18 U.S.C. §§ 1831-1839, the EEA criminalizes the theft or misappropriation of trade secrets for the benefit of a foreign government, instrumentality or agent (§ 1831) or for commercial or economic gain (§ 1832). Pursuant to 28 C.F.R. § 0.64-5, all prosecutions brought under §§ 1831 and 1832 must be approved by the Attorney General, the Deputy Attorney General, or the Assistant Attorney General of the Criminal Division for 5 years after the enactment of the EEA. This requirement expired on October 11, 2001.

I am pleased to report that since the passage of the EEA, federal prosecutors have effectively used the statute to protect against the criminal misappropriation of trade secrets while avoiding intervening in commercial disputes best handled through civil litigation. Federal criminal charges have been filed in 29 cases of commercial trade secret theft, resulting in guilty pleas or verdicts in 25 cases. Sentences of as much as 77 months imprisonment have been imposed. There have been two EEA trials under § 1832, both leading to guilty verdicts against all the defendants. The remaining § 1832 cases are currently pending trial. This year, the first indictment charging foreign economic espionage in violation of § 1831 was returned.

As one indication of the measured and thorough approach the Department has taken with respect to investigating and charging theft of trade secrets, there has not been an acquittal under the EEA since passage of the legislation. Additional information about EEA prosecutions may be found at CCIPS' website, www.cybercrime.gov.

Memorandum for all United States Attorneys
All First Assistant United States Attorneys
All Criminal Chiefs
All Criminal Division Section Chiefs and Office Directors

Page 2

I have decided to revive the prior approval requirement for initiating prosecutions under § 1831, and thus, such approval should be obtained from the Assistant Attorney General for the Criminal Division, through the Internal Security Section (ISS). I have decided not to extend the approval requirement for cases under § 1832. Nevertheless, I strongly urge prosecutors to consult with the Computer Crime and Intellectual Property Section (CCIPS) regarding § 1832 prosecutions prior to filing charges. ISS can be reached at 202-514-1187 and CCIPS can be reached at 202-514-1026. Both sections have developed an expertise in handling these complex cases and would be a valuable source of information to any office seeking charges under the EEA.

The United States Attorneys' Manual (§ 9-59.000) will be amended to reflect this change.



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

February 14, 2002

MEMORANDUM FOR HEADS OF DEPARTMENT COMPONENTS

FROM:

THE ATTORNEY GENERAL

A handwritten signature in black ink, appearing to read "John Ashcroft", is written over the text "THE ATTORNEY GENERAL".

SUBJECT:

National African American (Black) History Month

During the month of February 2002, the Department of Justice will present programs to increase our awareness of the contributions African Americans have made to our nation. "Heritage and Horizons: The African American Legacy and the Challenges of the 21st Century" is the Department's theme for our programs.

Established in 1926 by Dr. Carter G. Woodson, a historian and founder of the Association for the Study of Afro-American Life and History, Black History Month is a time to remember and reflect upon the heritage, culture and accomplishments of African Americans. This history reveals a long record of courage, commitment and achievements that are benchmarks in this country's movement toward justice, freedom and equality for all. Some of these achievements and contributions will be highlighted during our African American (Black) History Commemorative Program on Wednesday, February 20, 2002, at 11 a.m. in the Great Hall, Main Justice Building.

I invite your staff, managers, and employees to join in studying this rich history, which has played a vital role in the development of our nation. In view of the special significance of African American (Black) History Month, please notify your employees in the Washington metropolitan area of the programs, and grant them reasonable official time to participate.



Office of the Attorney General

Washington, D.C. 20530

February 13, 2002

MEMORANDUM TO THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION

FROM:

THE ATTORNEY GENERAL 

SUBJECT: Increasing the NICS Immediate Determination Rate

On June 28, 2001, I directed the Federal Bureau of Investigation (FBI) to increase, to the fullest extent practicable, the percentage of National Instant Criminal Background Check System (NICS) checks resulting in an immediate response of "proceed" or "denied" to Federal Firearms Licensees (FFLs)

You have reported that such an improvement can be effected through two possible options. The first, the Transfer Option, would allow the contract call centers, which currently receive all FFL inquiries, to transfer to a NICS Legal Instruments Examiner (Examiner) those calls that would, under current procedures, receive a delay. The Examiner would review the records immediately and advise the FFL whether the transaction can proceed, is denied, or must still be delayed for further review or research. The second option, the Full In-House Call Center option, would discontinue the contract call centers and require that all FFL inquiries go directly to the NICS. You recommended that the Transfer Option be implemented.

I hereby direct you to implement as soon as practicable the Transfer Option in order to increase the immediate determination rate of NICS checks. The Transfer Option immediately routes to an Examiner any calls to the contracted call centers that receive a delay. The Examiner who receives this call will be able to retrieve the transaction from the delay queue and review the information while still on the phone with the FFL to make a determination about the potential firearms purchase. The Examiner can issue a proceed or deny response while on the phone, and if the Examiner believes additional review or research is needed, he or she will advise the FFL that the transaction remains delayed. The Transfer Option is recommended because it can be implemented at base level funding while increasing the immediate determination rate to approximately 90%.

I further direct you to analyze in detail and report to me the short- and long-term costs and benefits of bringing all NICS calls directly to a Full In-House Call Center. The report should be submitted to me as soon as practicable and should assess the viability of the In-House Call Center Option as a long-term solution for increasing the NICS immediate determination rate. Your analysis and report may serve as the basis for compliance with OMB Circular A-76, which sets forth the procedures to be followed when the government proposes to perform a service currently contracted to an outside vendor.



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

June 16, 2000

MEMORANDUM FOR HEADS OF DEPARTMENT COMPONENTS
FOR ALL UNITED STATES ATTORNEYS

FROM: THE ATTORNEY GENERAL *[Signature]*
SUBJECT: Eight-Point Plan to Enhance Diversity

As lawyers for the nation, the Department of Justice has a responsibility to recruit, hire, and retain the best lawyers. The most effective way to do this is to search widely for talented attorneys, and to create a work environment where good lawyers will thrive.

To assist the Department in this task, I am issuing with this memorandum the Department's Eight-Point Plan to Enhance Diversity. The principles and action items in this plan are designed to increase access to career opportunities with the Department for both new and experienced attorneys. Implementation of this plan will help attract a talented and diverse pool of applicants. We can only hire talented attorneys if we identify and communicate with them, wherever they may be.

As our workforce becomes increasingly diverse, we must be alert to ways to retain good lawyers after we hire them. Toward this end, the Eight-Point Plan emphasizes the importance of training for managers on diversity issues, and requests that Department components take steps to ensure that staff attorneys are provided opportunities, as appropriate, to acquire critical professional skills needed for career advancement.

Please take all steps necessary to implement this plan in your office or component. While we have made great strides in building a vigorous and diverse workforce at the Department, we can do more. I look forward to continuing to work with you on this vital endeavor.

Attachment



U.S. DEPARTMENT OF JUSTICE

EIGHT POINT PLAN TO ENHANCE DIVERSITY IN THE DEPARTMENT OF JUSTICE

I. Increase Commitment to DOJ Attorney Recruiting and Hiring.

Principle: The Department of Justice (Department) should devote greater resources to attorney, law clerk and summer law intern recruiting. All components¹ should work to ensure that individuals from all diverse groups² in our society can participate to the fullest degree in employment and advancement opportunities in the Department, and to ensure that the Department does not inadvertently, or through lack of effort, discourage such opportunity. Such efforts should include the following recruiting methods:

Action Items: A) Minority bar and prosecutors' associations, as well as minority law school associations each conduct annual job fairs which provide opportunities for recruiting persons who traditionally have been under-represented in the legal profession. At the urging of the Attorney General, several Department components and USAOs send lawyers to these conferences. Each component should consider sending one or more representatives to appropriate bar association conventions to recruit individuals from diverse groups by participating in job fairs. To notify conventioners of employment opportunities in the Department, consideration should be given to purchasing advertising space in convention programs of such bar associations. **(All Components);**

Each summer and winter, the Office of Attorney Personnel Management (OAPM) issues a semi-annual Attorney Personnel Memorandum (APM) describing upcoming recruitment events for the following six months. The APM provides information on events which have an emphasis on diversity. Each component should use this information as a recruiting tool. **(All Components);**

The Department should consider placing recruiting advertisements in bar journals, legal newspapers, convention programs, and other periodicals of appropriate bar associations. **(OAPM and JMD);**

¹ The word "component" is used to mean Department of Justice agencies, divisions, boards, executive offices, and the United States Attorneys' Offices (USAOs).

² As used throughout this document, the terms "diverse groups," "diversity," and "diverse workforce" include, but are not limited to, persons of different races, colors, ethnic backgrounds, national origins, religions, genders, sexual orientations, and persons with disabilities.

All components should engage in active recruiting at American Bar Association-accredited law schools with significant populations of students who traditionally have been underrepresented in the legal profession. Targeted outreach efforts should be undertaken at these schools, including initiating visits to career counseling offices and conducting career opportunity presentations to the student body. **(All Components);**

OAPM should develop a best practices manual and other instructional material on recruiting attorneys, law clerks and summer law interns. Relevant training should be provided to all attorney supervisors and hiring officials within the Department. **(OAPM);**

Department components should be strongly encouraged, where practicable, to form recruiting teams to promote employment within the Department and USAOs. These specially trained teams could be comprised of both local Assistant United States Attorneys and out of district Department lawyers who will visit local minority and disability bar associations, law schools, and other entities within the local legal community to encourage local bar members to seek employment in the Department. These recruiting teams should also be dispatched to job fairs conducted during conventions of bar associations. **(All Components);**

USAOs should consider recruiting recent law graduates for Assistant United States Attorney positions. This can be accomplished by including participating USAOs, collectively, as one of the components which applicants may select when applying to the Attorney General's Honor Law Graduate Program. As is the case with all components participating in the Honor Law Graduate Program, the participating USAOs would retain full control over the screening, interviewing and hiring of the candidates for their offices. A committee should be formed (of representatives from OAPM, EOUSA, the Attorney General's Advisory Committee, and selected USAOs which are likely to participate) to explore this proposal. **(EOUSA, OAPM, and JMD/EEO).**

2. *Create an On-Line System of Attorney Vacancy Notification.*

Principle: Given the increased access to the World Wide Web by the vast majority of attorneys and law clerks, the use of the Internet to post attorney and law clerk employment opportunities should result in an increase in the number of attorney and law clerk applications received by all components, and should necessarily result in additional attorney applications.

Action Item: All components should post their attorney, law clerk, and summer law intern vacancies and other employment opportunities on a Web page accessible via link through the Department's Web site. In addition,

components with their own Web pages should consider posting their attorney vacancies on those Web pages as well. All electronic employment postings must be accessible to persons with disabilities. (All Components).

3. *Enhance Leadership Accountability by Requiring Periodic Reporting of Attorney Hiring and Advancement Activity within all Sections, Divisions, and Agencies.*

Principle: The importance of a diverse workforce can be consistently reinforced by a system which requires periodic reporting of hiring and advancement activity in all sections, divisions, agencies, and USAOs. Periodic reporting can provide an opportunity to remind all supervisors of the value of diversity in our ranks. Accordingly, the following should be considered:

Action Item: EOUSA and JMD/EEO should develop policies and procedures requiring the periodic reporting of hiring and advancement activity in all USAOs and litigating components. (EOUSA, JMD/EEO, and relevant components).

4. *Provide Enhanced Diversity Training for All Department Supervisors and Hiring Officials.*

Principle: Meaningful diversity in the federal workforce can only be achieved if all hiring officials learn to value diversity and develop a sensitivity to the experiences of people of various cultures. Diversity training for all Department supervisors and hiring officials can go far in creating a positive work environment where the differences among all personnel are recognized, understood and valued. Such an environment can enable all employees to achieve their full professional potential and maximize their contributions to the Department. It can also provide an opportunity for all employees to learn how to create dialogue and improve communications across diverse lines. Supervisors can learn to build partnerships that lead to healthy dialogue, greater productivity by employees, and a more positive work environment.

Action Item: EOUSA's Office of Legal Education, together with JMD/EEO, should develop an ongoing program of training to address diversity in the workplace. The training should be given to all new and current Department supervisors and hiring officials, and integrated into the standard training curricula for such personnel. For USAOs, EOUSA's management team training seminars and annual supervisory training seminars for United States Attorneys, First Assistant United States Attorneys, and division chiefs should be revised to include such training.

Features of the course should include lectures, participatory workshops, and group exercises. (EOUSA and JMD/EEO).

5. *Develop New Attorney Mentor Programs in All Components.*

Principle: The importance of mentor programs to the development of essential lawyering skills for new attorneys is widely recognized throughout the legal profession. An increasing number of litigating sections, divisions, and USAOs now feature such programs as a part of the orientation and training of new attorneys. In addition to enabling new attorneys to acquire the basic skills necessary to succeed in the Department, such programs can often enable less experienced attorneys to learn key skills from more experienced attorneys in a component and can assist them in acquiring skills necessary to advance in their careers.

Mentor programs can aid diversity in the workplace by ensuring that all attorneys receive appropriate attention and guidance from experienced attorneys. Accordingly, such mentor programs should feature the following:

Action Items: A) Each Department component should develop a mentor program that is tailored to the size, needs and responsibilities of the component and that takes into careful consideration the varied experience and skills of attorneys who join the Department. (All Components);

Informal mentoring programs, such as "brown bag luncheons" on topics of interest to new attorneys should be encouraged by component leadership.

6. *Encourage All Attorney Supervisors to Closely Monitor Caseloads, Other Assignments and Training to Ensure Appropriate Advancement Opportunities for All Section Attorneys.*

Principle: The manner in which cases and other assignments are allocated among the attorney staff affects the development of critical professional skills needed for career advancement, including supervisory positions. Ideally, all attorneys should be given a fair opportunity to handle assignments of moderate to high complexity, depending on each lawyer's experience, skill level and current caseload. As funding allows, all attorneys should also be provided with appropriate opportunities to participate in training relevant to the successful performance of their duties.

Accordingly, all components should implement the following:

Action Items: A) Supervisors should strive for equity in the distribution of assignments and should make assignments in a manner which will ensure that each attorney

has a fair opportunity to handle matters of moderate to high complexity, as appropriate to the attorney's experience and skill level. (All Components);

Supervisors should make training opportunities available to all attorneys in a fair and equitable manner. (All Components).

7. *Involve the Department's Attorney Organizations in Recruiting and Professional Skills Development Programs.*

Principle: Several organizations founded by Department attorneys have been sanctioned by the Department. These organizations serve an important role in assisting the Department in fulfilling several goals and facilitating ongoing communications between Department managers and employees. These organizations also serve to promote productive and amicable working relations by providing insight into social, cultural and other differences that may affect manager/employee relationships.

All such organizations should be requested to undertake the following:

Action Items: A) Assist the Department in its efforts to identify, recruit, and hire a diverse workforce by identifying participants to attend minority job fairs or appear at appropriate events on behalf of the Department. (All Attorney Associations);

Promote a better understanding of various cultures, heritages, persons with disabilities, and other diverse groups within the Department by co-sponsoring, and encouraging its members to participate in annual events which celebrate cultural heritage and diversity of various groups. The organizations should identify a member to serve as a point of contact with Department components for this purpose. (All Attorney Associations);

Encourage members to participate in mentoring programs for new attorneys within the Department. (All Attorney Associations);

Support, encourage and participate in any diversity training within the Department. (All Attorney Associations);

Notify appropriate leadership officials of patterns or practices occurring within the Department that may have a discriminatory impact. (All Attorney Associations);

Notify its membership of managerial/executive training and career developmental opportunities. The organizations should ensure that the organizations' members

at the GS-13 through GS-15 level are aware of and have an equal opportunity to attend training programs such as those offered at OPM's Federal Executive Institute and Management Development Centers. (JMD and All Attorney Associations).

8) ***Intensify Efforts to Increase Representation of Individuals from Diverse Groups in the Senior Executive Service (SES).***

Principle: Most of the Department's management and litigation policies are created or implemented by SES members. Efforts should be made to ensure that opportunities to apply for SES positions are made available to all eligible individuals, both within the Department and throughout the federal sector.

- Action Items:***
- A) Ensure that all SES positions are widely advertised through appropriate recruiting sources (e.g., DOJ and OPM web sites). Require such vacancies to be advertised for a minimum of three weeks. (All Components);
 - B) Encourage diverse selection panels for SES and senior level positions. (All Components).



Office of the Attorney General

Washington, D. C. 20530

March 16, 2011

MEMORANDUM TO: ALL EMPLOYEES

FROM:  THE ATTORNEY GENERAL

SUBJECT: Launching of the DOJ Diversity Webpage

Last April, I issued a Department-wide Diversity Management Plan ("Plan") to improve the effectiveness of the Justice Department's recruitment, hiring, retention, and professional development efforts. Providing transparency, ensuring sustainability, and sharing best practices are important components of the Plan. To advance these critical areas, the Diversity Management Advisory Council and its Executive Staff have been working hard over the past eight months to, among other things, develop a user-friendly mechanism for all employees to keep pace with the implementation of the Plan. In that regard, I am happy to announce the launching of the DOJ Diversity Webpage, which can be accessed through the DOJNet at the following link: <http://dojnet.doj.gov/diversity>.


This creative effort will chronicle and reflect the great work that is being done to promote diversity throughout the Department. The webpage will give you access to DOJ diversity-related policies, plans, and reports; numerous training resources; information about what other components are doing to promote diversity; and enable you to read about programs and events related to DOJ's diversity initiative. The webpage will be updated regularly with new and useful information, so I encourage you to use this valuable resource.



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

April 30, 2010

MEMORANDUM: FOR HEADS OF DEPARTMENT COMPONENTS
FOR ALL UNITED STATES ATTORNEYS

FROM:  THE ATTORNEY GENERAL

SUBJECT: Diversity Management Plan for the Department of Justice

I am issuing this Diversity Management Plan to improve the effectiveness of the Justice Department's recruitment, hiring, retention, and professional development efforts. This plan and the action items it mandates reflect a critical fact. Based on my experience as Attorney General, and on my experience as a long-time career employee within the Department of Justice, I am convinced that the Justice Department is stronger, more credible, and more effective when its workforce includes qualified individuals whose backgrounds reflect our nation's rich diversity, and when its work environment encourages all of its employees to develop and to thrive professionally. This plan creates a framework for managing diversity across the Department of Justice, and sustaining our progress over time. In addition to focusing on the Justice Department's attorney employees, this diversity management plan will address efforts to foster diversity among the Justice Department's non-lawyers, particularly among the Department's law enforcement personnel. Moreover, it stresses improving coordination among components that have already undertaken diversity initiatives in order to better share best practices for improving diversity management. The Diversity Management Plan will ensure that the Department's standard operating procedures encourage diversity within the Department's workforce and that the Department's components actively recruit the best qualified employees.

Over the last twelve months, I have met with many of the Department's employees, and with many of the Department's employee organizations. I have listened to their concerns that the Justice Department was not doing all it could to ensure that its employees – attorneys and non-attorneys alike – were given an opportunity to excel in their work, and to advance in their organizations. Last year, I convened two working groups to advise me regarding the initial steps the Department should take to move closer to the goals enumerated in the Eight-Point Plan issued by the Attorney General more than 10 years ago. Some of those suggestions are reflected in the attached Diversity Management Plan. Others will be considered in the weeks and months ahead.

Today is an important milestone in our efforts to build a more diverse Justice Department. The management structure and action items implemented here will ensure that the Department's commitment to diversity is reflected enduringly in its organizational culture and in its institutional practices. I look forward to working with each of you on this critically important task.

Attachment

DIVERSITY MANAGEMENT PLAN FOR THE DEPARTMENT OF JUSTICE

As an institution, the Department of Justice is stronger, more credible, and more effective when it recruits, hires, develops, and retains qualified professionals from diverse backgrounds. This Diversity Management Plan for the Department of Justice is designed to ensure that the Justice Department's management practices and organizational culture reflect the Department's commitment to building and maintaining a workplace environment in which we effectively carry out our mission while ensuring that all employees have the opportunity to thrive professionally, to excel as public servants, and to advance in their careers.

This plan is divided into four sections, each focusing on a different aspect of managing and promoting diversity in an organization as large and complex as the Justice Department. These sections are: (1) leadership commitment and organizational infrastructure; (2) outreach, recruitment, and hiring; (3) professional development and retention; and (4) transparency, sustainability and best practices. Although the action items outlined here are the next steps in building a more effective, more inclusive Justice Department, they will not be the last. As the Department works to implement this plan, it will take additional steps as necessary to ensure that the Department's commitment to diversity is reflected in its management practices. Every member of the Department's workforce has a role to play in this effort and I look forward to working with each of you as we make this goal a reality.

Leadership Commitment and Organizational Infrastructure

Action Items:

1. Diversity Management Advisory Council

By May 31, 2010, the Attorney General will form a Diversity Management Advisory Council ("the Council"). The Council will coordinate department-wide diversity management efforts, monitor implementation of each component's diversity management plan, and meet biannually with the Attorney General to report on the status of the Department's diversity management efforts.

The Council will also recommend policies to promote effective diversity management practices in the Department of Justice. Specifically, the Council will recommend: (1) strategies to increase diversity among the department's managers, supervisors, and the Senior Executive Service; (2) options for measuring the Department's diversity management efforts; (3) hiring and management best practices; (4) training programs to promote effective diversity management; and (5) strategies to promote accountability for diversity management among the Department's managers and supervisors.

The Associate Attorney General will serve as Chairperson for the Council. The Attorney General will designate an Assistant Attorney General (“AAG”) to serve as Vice-Chairperson. The Attorney General will also designate AAG- or Director-level representatives to serve on the Council as necessary. The Deputy Associate Attorney General for Diversity Management and the Departmental Selective Placement Coordinator for Disability Hiring will also serve on the Council. The Justice Management Division (“JMD”) will provide administrative support to the Council.

2. Deputy Associate Attorney General for Diversity Management

The Attorney General will appoint a Deputy Associate Attorney General for Diversity Management (“the DAAG”), who will serve as the Executive Director to the Council and as the Department’s day-to-day coordinator for diversity-management issues. The DAAG will serve as the Department’s point of contact with internal and external organizations regarding diversity management issues. The DAAG will communicate regularly with the leaders of the Department’s components on behalf of the Council. The DAAG will monitor and study best practices in diversity management and evaluate their potential applicability to the Department. The DAAG shall prepare an annual report to the Attorney General, which shall be available publicly, describing the Department’s diversity management efforts and the status of those efforts.

3. Departmental Placement Coordinator for Disability Hiring

The Department will establish a Departmental Placement Coordinator for Disability Hiring, a dedicated position in JMD to ensure appropriate consideration of qualified persons with disabilities for employment vacancies within the Department. The Departmental Selective Placement Coordinator for Disability Hiring will also work with the Department’s components to achieve the Department’s 2% hiring goal of persons with disabilities. I am confident we can attract qualified individuals and meet this goal.

4. Component Diversity Management Committees

Each component will establish a diversity committee (“Committee”), chaired by a senior leader selected by the head of the component. Each Committee will prepare a preliminary diversity management plan for its component. Each preliminary plan will be signed by the component head and submitted to the Council through the DAAG by June 30, 2010. Each preliminary plan will describe the component’s compliance with the Eight-Point Plan to Enhance Diversity (issued by Attorney General Reno on June 16, 2000), as well as current diversity-management efforts with respect to: (1) recruitment; (2) hiring; (3) retention; and (4) professional development.

The component plans should identify strategies for accomplishing the following goals:

- Broadening the component’s applicant pool.

- Creating and administering mandatory and developmental diversity training for supervisors.
- Promoting diversity in higher-level positions.
- Informing employees of the component's diversity goals and efforts.
- Ensuring that progress is sustainable and continuing.

Each component's plan should incorporate existing strategies and practices for hiring and employing competitive and excepted service employees. Components must ensure that their budgets support proposals contained in their respective diversity management plans.

Outreach, Recruitment, and Hiring

Action Items:

1. OARM Detailee

The Attorney General will establish a detail position to OARM that will work closely with the DAAG and components to develop and implement focused recruitment strategies to broaden the Department's applicant pool to attract applicants from under-represented populations or communities. The detailee will be responsible for identifying and building new networks to reach a more diverse set of candidates, with a focus on experienced attorney outreach. The detailee, in conjunction with the components and in consultation with the employee organizations, will develop and train a cadre of Department recruiting ambassadors who will conduct outreach efforts to law schools and law student organizations.

2. Training on Interview Skills

The Department will institute mandatory training on merit systems principles and best practices for conducting interviews for all supervisors and individuals participating in the hiring process. JMD, EOUSA, and OARM will coordinate this effort.

3. New Hire Materials

Components shall coordinate with JMD to include information regarding the Department's employee affinity organizations in the components' new-hire orientation materials.

4. Post Vacancies on OARM Website

To enhance access to the Department's employment opportunities, components must post all excepted service attorney positions on OARM's website, the component's website, and with USAJobs. All other excepted service positions and competitive service positions must be posted on the component's website and with USAJobs.

5. Outreach Efforts

JMD, EOUSA, and OARM will work with the Department's components to develop and implement their outreach strategies, and explore additional ways to use technology to broaden their outreach efforts. JMD, EOUSA and OARM will assess their current recruitment and outreach practices and submit a report by June 30, 2010, to the Council, through the DAAG, that describes the Department's current outreach efforts and recommends specific actions to improve those efforts and to broaden the Department's applicant pool.

Professional Development and Retention

Action Items:

1. Attorney Skill Development Coordinator

By June 30, 2010, all components with more than 100 lawyers will designate an attorney professional development director, an experienced attorney, who will be responsible for working with attorney managers to develop competencies and skill-based training, maximizing the use of assignments as a professional development tool, and implementing a professional development process.

2. Training on Case Assignments

By June 30, 2010, EOUSA's Office of Legal Education will develop a module for attorney managers on the use of case assignments as a professional development tool which can be adapted for use by individual components throughout the Department.

3. Diversity Training

By June 30, 2010, in coordination with the Council, JMD and EOUSA will institute a mandatory, periodic training program for supervisors and personnel involved in the hiring process. The training will emphasize skills and strategies for recruiting, managing, and retaining a diverse workforce. The training will make use of all available technology and be integrated into the Department's various learning management systems ("LMSs") curricula. The LMSs include LearnDOJ, FBI Virtual Academy, JUSTLearn, Learn-ATF, and BOPLearn.

Transparency and Best Practices

Action Items:

1. **Publish Diversity Management Plans and Policy Statements**

By June 30, 2010, the Department will develop and display its diversity management policy statement on the DOJ website and each component will submit to the Council a diversity management policy statement that will be displayed on the component's website once approved by the Council.

In coordination with Open Government Plan activities, the following information will be posted on the Department's website: The DOJ EEO Policy Statement; The DOJ Diversity Policy Statement; and the DOJ Diversity Management Plan. The following information will be posted on the intranet: each component's diversity management plan; a description of each component's attorney hiring processes; and an annual summary of the Council's activities.



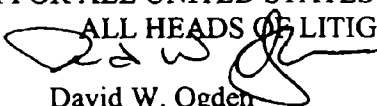
U.S. Department of Justice

Office of the Deputy Attorney General

Washington, D.C. 20530

December 10, 2009

MEMORANDUM FOR ALL UNITED STATES ATTORNEYS
ALL HEADS OF LITIGATING COMPONENTS

FROM: 
David W. Ogden
Deputy Attorney General

SUBJECT: Department of Justice Support to Iraq and Afghanistan

Continued support to the Governments of Iraq and Afghanistan remains among the highest national security priorities for the United States. As you know, the Department of Justice (DOJ) has sent some of its best attorneys to help implement reconstruction efforts, and we will continue to do so for the foreseeable future. We have a continuous need for highly motivated candidates to fill these important positions.

Department of Justice Mission in Iraq

On February 27, 2009, the President declared his strategy for achieving an Iraq that is sovereign, stable, and self-reliant. The strategy depends upon a strong civilian effort as the military begins to draw down and requires strengthening Iraqi institutions and their capacity to uphold and protect the Rule of Law. The Department has and will continue to support this important mission. The United States Embassy has described the Department's role as indispensable in the effort to assist the Government of Iraq to develop a fair and impartial legal system, an essential part of the transition to a stable and secure Iraq.

The Department's team in Iraq consists of several experienced attorneys and dozens of law enforcement agents. A number of DOJ attorneys are engaged in building the capacity of the Iraqi courts as Resident Legal Advisors detailed to the Provincial Reconstruction Teams by the Overseas Prosecutorial Development Assistance and Training (OPDAT) program managed by the Criminal Division. DOJ attorneys are also working in the Embassy in Baghdad. One of these attorneys is the Justice Attaché, who represents the law enforcement and counterterrorism interests of the Department. The Justice Attaché works closely with DOJ investigative components, including the FBI-led Major Crimes Task Force, which guides and mentors Iraqi investigators on terrorism, public corruption and other high profile cases.

Still more attorneys serve in the Rule of Law Coordinator Office, which was charged by the Ambassador with providing leadership to the Embassy's Rule of Law mission, including legal and law enforcement efforts by the Departments of Justice, State, Homeland Security, and Defense. The office is responsible for representing the United States in bilateral engagements with the Government of Iraq on law enforcement and judicial matters and coordinates closely with the Criminal Division's International Criminal Investigation Training Assistance Programs (ICITAP) managed corrections advisory program, which provides policy guidance and training to ensure the humane treatment of prisoners and detainees.

OPDAT is seeking additional Assistant United States Attorneys or attorneys from the litigating divisions with criminal prosecution experience. The Justice Attaché is also seeking Assistant United States Attorneys with criminal prosecution experience. The Rule of Law Coordinator seeks experienced attorneys from all backgrounds, including criminal, civil, civil rights, and national security law and policy. The attorney positions with these offices are rotating in nature and require service for a minimum of one year in-country.

We are making a difference in Iraq, and DOJ's successes are inspiring. But work remains to be done. We cannot lose the gains of the past by failing to see the mission through these important final steps. Our support of these efforts is critical to the mission's success and represents one of our largest international commitments. This effort is a priority for the Department.

Department of Justice Mission in Afghanistan

On December 2, 2009, the President affirmed the overarching goal for Afghanistan: to disrupt, dismantle, and defeat al Qaeda in Afghanistan and Pakistan, and to prevent its capacity to threaten America and our allies in the future. To meet this goal requires strengthening the capacity of Afghanistan's security forces and government. DOJ will play a vital role in the success of this strategy. Our DOJ team in Afghanistan currently consists of six experienced Assistant United States Attorneys and is led by the Department's Justice Attaché. We anticipate this team to expand in the next twelve months to further support Rule of Law activities. Our prosecutors live at the United States Embassy and travel throughout Kabul and the Afghan provinces. Positions are rotating in nature and each must serve a minimum of one year in-country.

Presently, our attorneys are responsible for mentoring and training the Afghan Criminal Justice Task Force/ Central Narcotics Tribunal and the Afghan Attorney General's Anti-Corruption Unit. We are helping to establish a Major Crimes Task Force and are expanding efforts to confront the threats from illicit financing. The DOJ team works closely on Rule of Law issues with our colleagues from the Department of State,

U.S. Agency for International Development, the Department of Defense and Coalition partners. The team also works in coordination with the DEA, FBI, U.S. Marshals, and other United States law enforcement entities on operational matters involving prosecutions both in Afghanistan and the United States. Our continued support for these efforts in Afghanistan is critical to our national security.

The Department's National Security Division (NSD), in conjunction with U.S. Attorneys Offices throughout the country, works with the FBI and our attorneys stationed in Afghanistan to support our overall counterterrorism mission of preventing and disrupting terrorism before it occurs. NSD can provide subject matter expertise, when needed, to our Afghan counterparts to help them develop terrorism cases in their country, conduct counterterrorism training for attorneys and judges, and assist in the drafting of Afghan counterterrorism and terrorist financing laws.

Similarly, the Department's Criminal Division supports our efforts in Afghanistan by making subject matter experts available in areas such as procurement fraud, public corruption, counternarcotics, and the Military Extraterritorial Jurisdiction Act (MEJA). The Division works closely with our deployed prosecutors to assure a unity of effort in both capacity building and protecting national security interests. The Office of International Affairs (OIA) also assists with extradition or lawful removal questions and overseas evidence collection.

As we expand our cadre of deployed prosecutors and broaden the scope of our rule of law and justice sector capacity building efforts we seek prosecutors with diverse and cross-cutting backgrounds. Prosecutors with counter terror, narcotics, asset forfeiture and money laundering, fraud, and public corruption experience will be needed to support our continued and growing mission.

I understand that these deployments to Iraq and Afghanistan strain the resources of your offices at a time when you are dedicating your efforts to other high priority matters. Nevertheless, the Department's role in Iraq and Afghanistan is among the most important it has ever taken to advance the Rule of Law in support of our national security interests. I encourage you to support these efforts.

Additional information regarding these opportunities may be obtained by contacting the following:

Office of Prosecutorial Development Assistance and Training – Iraq

(b)(6), (b)(7)(C) per CRM

Iraq Program Manager, OPDAT

(b)(6), (b)(7)(C) per CRM @usdoj.gov

Office: (b)(6), (b)(7)(C) per CRM Mobile: (b) (6) Fax: 202-616-6670

Office of the Rule of Law Coordinator or Justice Attaché – Iraq

Mr. Joseph M. Jones

Senior Counsel for Rule of Law

Office of the Deputy Attorney General

Joseph.Jones3@usdoj.gov

Office: 202-514-9340 Mobile: (b) (6) Fax: 202-307-0097

Office of the Rule of Law – Afghanistan

Mr. Brian M. Tomney

Counsel for Rule of Law - Afghanistan

Office of the Deputy Attorney General

Brian.Tomney2@usdoj.gov

Office: 202-305-8657 Mobile: (b) (6) Fax: 202-307-0097

Interested attorneys should submit their application, including written support from their U.S. Attorney or Component head, to the following:

Rule of Law – Afghanistan: DAGrolafq@usdoj.gov

Rule of Law – Iraq:

OPDAT positions to (b)(6), (b)(7)(C) per CRM @usdoj.gov

Offices of Rule of Law Coordinator or Justice Attache to

Phil.Lynch@usdoj.gov



U.S. Department of Justice

Office of the Deputy Attorney General

The Deputy Attorney General

Washington, D.C. 20530

March 19, 2007

MEMORANDUM FOR ALL UNITED STATES ATTORNEYS
HEADS OF LITIGATING COMPONENTS

FROM:

Paul J. McNulty

Deputy Attorney General

A handwritten signature in dark ink, appearing to be "PM", written over the printed name of Paul J. McNulty.

SUBJECT:

Department of Justice Support to Iraq and Afghanistan

Continued support to the Governments of Iraq and Afghanistan remain among the highest national security priorities for the United States. As you know, the Department of Justice (DOJ) has sent some of its best prosecutors to help implement reconstruction efforts and we will continue to do so for the foreseeable future. In addition, Attorney General Gonzales himself has made two trips to Iraq to meet with the brave men and women from the Department serving in Iraq and to express his support for their mission.

Eight prosecutors now serve in Iraq as Resident Legal Advisors, six of whom serve as Rule of Law Coordinators on Provincial Reconstruction Teams (PRTs). In addition, 10 prosecutors serve with the Regime Crimes Liaison Office, which the Attorney General established pursuant to National Security Presidential Directive 37 to assist the Iraqi Higher Tribunal in the investigation and prosecution of Saddam Hussein and other officials of his regime for crimes specified in the Tribunal's Statute.

With the President's announcement of the "New Way Forward" in Iraq, we are engaged in interagency planning for an expansion of the Iraq PRT mission. In the end, we may be called upon to staff 20 or more PRTs total throughout the country in support of the new strategy. In addition, the Ambassador in Baghdad has announced the reorganization of the Rule of Law Component within the Embassy, and he asked the Attorney General for his personal support in staffing that office. Finally, we anticipate that additional attorney positions will be requested to staff a new Law and Order Task Force task force in Baghdad. The National Security Council has placed a high priority on these initiatives, and has asked the Department to fill the positions by mid-summer at the latest. As for the RCLO in Iraq, the mission will eventually be reduced, but we may still require prosecutor support for at least the next two years.

In Afghanistan, the Department's criminal justice assistance programs focus on counter-narcotics investigations and prosecutions of narcotics-related and corruption offenses. The DOJ "Senior Federal Prosecutors Program" provides assistance by: (1) drafting proposed criminal laws and procedures; (2) establishing, training, and mentoring (along with international

counterparts) the Criminal Justice Task Force (CJTF) of Afghan prosecutors and police investigators who investigate and prosecute mid- and high-level narcotics-trafficking and narcotics-related offenses before the Central Narcotics Tribunal (CNT), a court with exclusive nationwide jurisdiction over these crimes; and (3) providing, upon request, criminal law advice to U.S. Embassy and Afghan officials and to U.S. law enforcement. The Senior Federal Prosecutors Program also provides advice to the American Ambassador and Deputy Chief of Mission at the Embassy in Kabul, to the Afghanistan Attorney General's Office, and on anti-corruption matters. Working with the Department of State, the Government of Afghanistan, and our coalition partners, DOJ is already planning to expand the CJTF and CNT. I fully expect that our support for the Afghanistan mission will continue to grow over time.

I know that these deployments strain the resources of your offices at a time when you are dedicating your efforts to other high priority programs. Nevertheless, the President has asked that we support these missions for without establishing the foundations and institutions for the rule of law in both countries, other efforts toward establishing security, economic and political stability, and respect for individual rights cannot succeed. The Department's role is among the most important that it has ever undertaken to advance the rule of law in support of our urgent national security interests. To the extent permissible through available appropriations and interagency agreements, supporting components will be reimbursed for all costs of supporting these initiatives.

Interested Assistant United States Attorneys and staff attorneys can obtain additional information about the programs in Iraq and Afghanistan from, or send a resume and cover letter via e-mail to:

Iraq, Rule of Law. (b)(6), (b)(7)(C) per CRM, Headquarters Program Manager for Iraq, U.S. Department of Justice, Criminal Division, Office of Overseas Prosecutorial Development, Assistance and Training (OPDAT), 1331 F ST NW., Fourth Floor, Washington, DC 20530. Ms. O'Connor's email address is (b)(6), (b)(7)(C) per CRM icrm.usdoj.gov.

Iraq, Regime Crimes Liaison Office. Mr. Stephen J. Campbell, Office of the Deputy Attorney General, 950 Constitution Avenue NW, Washington, DC 20530. Mr. Campbell's e-mail address is stephen.j.campbell@usdoj.gov.


Afghanistan. Deputy Assistant Attorney General Mary Lee Warren, Criminal Division, Department of Justice, 950 Constitution Avenue NW, Washington, DC 20530-0001. Ms. Warren's e-mail address is mary.lee.warren@usdoj.gov.



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

August 17, 2009

MEMORANDUM FOR HEADS OF DEPARTMENT COMPONENTS

FROM:  THE ATTORNEY GENERAL

SUBJECT: Department of Justice Mediator Corps Program

Federal regulations require agencies to "establish or make available an Alternative Dispute Resolution (ADR) Program" for both the pre-complaint and the formal EEO complaint processes. (See 29 C.F.R. Part 1614.102(b)(2).) The Department has long required management participation in ADR proceedings, understanding that any agency decision to resolve the dispute is voluntary. Some of our components already have an established ADR Program, but now we are making a new Mediator Corps program available for all components.

The Department's Equal Employment Opportunity (EEO) community has recently created the "DOJ Mediator Corps." This pool of qualified collateral-duty mediators is composed of a cross-section of Department employees, and they are available to you at no cost (except, if required, for travel).

The DOJ Mediator Corps will offer 60 additional trained employees beyond the existing mediator pool of 15. Although the program focuses on EEO issues, the mediators are available to help resolve any type of dispute. I encourage you to use informal resolution to address and, when possible, resolve workplace disputes. This program is one of the management tools the Department has developed to help fulfill its goal of creating a model EEO Program and being a leader in the use of ADR.

Thank you for your support of the Mediator Corps Program and the use of ADR to better resolve workplace disputes. For more information, please have your staff contact your EEO Officer or Nicole Swann, the Mediator Corps Administrator, at Nicole.Swann@ic.fbi.gov.



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

May 27, 2009

MEMORANDUM FOR HEADS OF DEPARTMENT COMPONENTS

FROM:  THE ATTORNEY GENERAL

SUBJECT: Hiring Goals for Persons with Targeted Disabilities

President Barack Obama has a comprehensive agenda to empower individuals with disabilities and enhance access to employment for all Americans. As Attorney General, I am committed to making the Department of Justice (DOJ) a model employer with a diverse workforce that includes people with disabilities.

The Department, like other Federal agencies, must comply with the Equal Employment Opportunity Commission's Management Directive 715, which requires hiring goals to increase employment and advancement of people with disabilities. While I recognize that DOJ's workforce is comprised of many law enforcement positions that have physical requirements, I ask that managers, supervisors, and hiring officials assist me in working toward a Department-wide two-percent hiring goal of people with disabilities. If achieved, this goal will align DOJ with the most successful agencies in employing individuals with severe disabilities.

The Justice Management Division's (JMD) Human Resources and Equal Employment Opportunity Staffs are available to assist you and to provide information on special hiring authorities and accommodations for people with disabilities. These offices also will report quarterly to me on the Department's progress. If you have any questions you may contact Rod Markham, Director, Human Resources Staff, JMD or Vontell D. Frost-Tucker, Director, Equal Employment Opportunity Staff, JMD.

President Obama has said, "We must build a world free of unnecessary barriers, stereotypes, and discrimination. Policies must be developed, attitudes must be shaped, and buildings and organizations must be designed to ensure that everyone has a chance to get the education they need and live independently as full citizens in their communities." I am asking the DOJ leadership for its pledge to incorporate talented persons with disabilities into the workplace.



Office of the Attorney General

Washington, D.C. 20530

May 21, 2009

MEMORANDUM FOR ALL DEPARTMENT OF JUSTICE EMPLOYEES

FROM:  THE ATTORNEY GENERAL

SUBJECT: 2009 "Best Places to Work" in the Federal Government—
Results for DOJ

I am pleased to announce that DOJ is ranked as the 7th *Best Place to Work* in the Federal Government. This ranking is based on the Partnership for Public Service and American University's Institute for the Study of Public Policy Implementation analysis of DOJ employees' responses to the 2008 Federal Human Capital Survey. I am also pleased to report that seven DOJ components ranked in the top 30 of 216 Federal subcomponents:

- ENRD #1
- CIV #3
- EOUSA/USA #6
- TAX #9
- ATR #11
- ATF #20
- FBI #22

Several DOJ components also improved their rankings from 2006 and I am encouraging my senior leadership to use the results of the survey to build upon our successes and to make adjustments in areas that need improvements. For more information about the "Best Places to Work" rankings, please visit www.bestplacetowork.org. A full copy of the Department-wide survey results can be found at http://www.usdoj.gov/jmd/ps/2008FHCS_department.pdf.

As we work together toward a government that is more transparent and accountable, one of my personal priorities is to foster a culture of open and honest dialogue. DOJ is indeed a great place to work, and know that it is because we can count on you for the work you do every day on behalf of Justice. I encourage you to continue to provide regular feedback to your managers, senior leaders and human resources staff so that we can work to ensure a productive and balanced workplace. Please remember that you may contact me directly with your suggestions via the AG's suggestion box <http://dojnet.doj.gov/ag/ag-suggestion-box.php>. I want to hear your comments, suggestions, and concerns.

Thank you for your loyalty and commitment to the Department of Justice.



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

May 11, 2009

MEMORANDUM FOR HEADS OF DEPARTMENT COMPONENTS
ALL UNITED STATES ATTORNEYS

FROM:  THE ATTORNEY GENERAL.

SUBJECT: Communications with the White House and Congress

The rule of law depends upon the evenhanded administration of justice. The legal judgments of the Department of Justice must be impartial and insulated from political influence. It is imperative that the Department's investigatory and prosecutorial powers be exercised free from partisan consideration. It is a fundamental duty of every employee of the Department to ensure that these principles are upheld in all of the Department's legal endeavors.

In order to promote the rule of law, therefore, this memorandum sets out guidelines to govern all communications between representatives of the Department, on the one hand, and representatives of the White House and Congress, on the other, and procedures intended to implement those guidelines. (The "White House," for the purposes of this Memorandum, means all components within the Executive Office of the President.) These guidelines have been developed in consultation with, and have the full support of, the Counsel to the President.

1. Pending or Contemplated Criminal or Civil Investigations and Cases

The Assistant Attorneys General, the United States Attorneys, and the heads of the investigative agencies in the Department have the primary responsibility to initiate and supervise investigations and cases. These officials, like their superiors and their subordinates, must be insulated from influences that should not affect decisions in particular criminal or civil cases. As the Supreme Court said long ago with respect to United States Attorneys, so it is true of all those who exercise the Department's investigatory and prosecutorial powers: they are representatives "not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done." *Berger v. United States*, 295 U.S. 78, 88 (1935).

a. In order to ensure the President's ability to perform his constitutional obligation to "take care that the laws be faithfully executed," the Justice Department will advise the White House concerning pending or contemplated criminal or civil investigations or cases when—but only when—it is important for the performance of the President's duties and appropriate from a law enforcement perspective.

b. Initial communications between the Department and the White House concerning pending or contemplated criminal investigations or cases will involve only the Attorney General or the Deputy Attorney General, from the side of the Department, and the Counsel to the President, the Principal Deputy Counsel to the President, the President or the Vice President, from the side of the White House. If the communications concern a pending or contemplated civil investigation or case, the Associate Attorney General may also be involved. If continuing contact between the Department and the White House on a particular matter is required, the officials who participated in the initial communication may designate subordinates from each side to carry on such contact. The designating officials must monitor subsequent contacts, and the designated subordinates must keep their superiors regularly informed of any such contacts. Communications about Justice Department personnel in reference to their handling of specific criminal or civil investigations or cases are expressly included within the requirements of this paragraph. This policy does not, however, prevent officials in the communications, public affairs, or press offices of the White House and the Department of Justice from communicating with each other to coordinate efforts.

c. In order to ensure that Congress may carry out its legitimate investigatory and oversight functions, the Department will respond as appropriate to inquiries from Congressional Committees consistent with policies, laws, regulations, or professional ethical obligations that may require confidentiality and consistent with the need to avoid publicity that may undermine a particular investigation or litigation. Outside the context of Congressional hearings or investigations, all inquiries from individual Senators and Members of Congress or their staffs concerning particular contemplated or pending criminal investigations or cases should be directed to the Attorney General or the Deputy Attorney General. In the case of particular civil investigations or cases, inquiries may also be directed to the Associate Attorney General.

d. These procedures are not intended to interfere with the normal communications between the Department and its client departments and agencies (including agencies within the Executive Office of the President when they are the Department's clients) and any meetings or communications necessary to the proper conduct of an investigation or litigation.

2. National Security Matters

It is critically important to have frequent and expeditious communications relating to national security matters, including counter-terrorism and counter-espionage issues. Therefore communications from (or to) the Deputy Counsel to the President for National Security Affairs, the staff of the National Security Council and the staff of the Homeland Security Council that relate to a national security matter are not subject to the limitations set out above. However, this exception for national security matters does not extend to pending adversary cases in litigation that may have national security implications. Communications related to such cases are subject to the guidelines for pending cases described above.

3. White House Requests for Legal Advice

All requests from the White House for formal legal opinions shall come from the President, the Counsel to the President, or one of the Deputy Counsels to the President, and shall be directed to the Attorney General and the Assistant Attorney General for the Office of Legal Counsel. The Assistant Attorney General for the Office of Legal Counsel shall report to the Attorney General and the Deputy Attorney General any communications that, in his or her view, constitute improper attempts to influence the Office of Legal Counsel's legal judgment.

4. Communications Involving the Solicitor General's Office.

Matters in which the Solicitor General's Office is involved often raise questions about which contact with the Office of the Counsel to the President is appropriate. Accordingly, the Attorney General and Deputy Attorney General may establish distinctive arrangements with the Office of the Counsel to govern such contacts.

5. Presidential Pardon Matters

The Office of the Pardon Attorney may communicate directly with the Counsel to the President and the Deputy Counsels to the President, concerning pardon matters. The Counsel to the President and the Deputy Counsels to the President may designate subordinates to carry on contact with the Office of the Pardon Attorney after the initial contact is made.

6. Personnel Decisions Concerning Positions in the Civil Service

All personnel decisions regarding career positions in the Department must be made without regard to the applicant's or occupant's partisan affiliation. Thus, while the Department regularly receives communications from the White House and from Senators, Members of Congress, and their staffs concerning political appointments, such communications regarding positions in the career service are not proper when they concern a job applicant's or a job holder's partisan affiliation. Efforts to influence personnel decisions concerning career positions on partisan grounds should be reported to the Deputy Attorney General.

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

All communications between the Department and the White House or Congress that are limited to policy, legislation, budgeting, political appointments, public affairs, intergovernmental relations, or administrative matters that do not relate to a particular contemplated or pending investigation or 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

Memorandum for Head of Department Components
All United States Attorneys
Subject: Communications with the White House and Congress

Page 4

under discussion. In the case of communications with Congress, the Office of the Deputy Attorney General and Office of the Assistant Attorney General for Legislative Affairs should be kept informed of all communications concerning legislation and the Office of the Associate Attorney General should be kept informed about important policy communications in its areas of responsibility.

As Attorney General Benjamin Civiletti noted in issuing a similar memorandum during the Carter Administration, these guidelines and procedures are not intended to wall off the Department from legitimate communication. We welcome criticism and advice. What these procedures are intended to do is route communications to the proper officials so they can be adequately reviewed and considered, free from either the reality or the appearance of improper influence.

Decisions to initiate investigations and enforcement actions are frequently discretionary. That discretion must be exercised to the extent humanly possible without regard to partisanship or the social, political, or interest group position of either the individuals involved in the particular cases or those who may seek to intervene against them or on their behalf.

This memorandum supersedes the memorandum issued by Attorney General Mukasey on December 19, 2007, titled *Communications with the White House*.



Office of the Attorney General

Washington, D.C. 20530

April 20, 2009

MEMORANDUM FOR ALL DOJ EMPLOYEES

FROM:  Eric H. Holder, Jr.
Attorney General

SUBJECT: Attorney General's Suggestion Box

As I noted on my first day back here on February 3rd, the Department of Justice is the crown jewel of the Federal government because of the quality, integrity, and dedication of its employees. I spoke of the honor of serving the Department and the responsibility that accompanies it. And I pledged to you that through all the days and months ahead, I will work with you, listen to you, and learn from you.

Consistent with that pledge, I have directed that an "Attorney General's Suggestion Box" be created. Right now you can access it on the homepage of DOJNet, but in the coming days and weeks we also will be posting it on the homepages of those divisions, offices, and components that have their own separate homepages. I want to be sure that every single Department employee has immediate and ready access to this link. If you go to the DOJNet homepage now, you will see a red mailbox and a link for sending your message to me.

President Obama has spoken often about the importance of government being more open, transparent, and accountable, and I wholeheartedly support that aim. The AG's Suggestion Box is just the most visible way for me to let you know how much I value your questions, comments, suggestions and concerns.



Office of the Attorney General

Washington, D.C.

August 4, 2008

MEMORANDUM FOR DEPARTMENT NON-CAREER EMPLOYEES

FROM: THE ATTORNEY GENERAL *[Signature]*

SUBJECT: RESTRICTIONS ON OFFICIAL AND POLITICAL EVENTS

On March 5, 2008, I sent a memorandum to all Department of Justice employees reminding them of certain election year considerations, including Hatch Act restrictions and sensitivities related to the investigation and prosecution of election-related crimes.¹ This memorandum sets forth additional limitations on official events and further restricts attendance at political events.²

An official event is one that a Department employee attends in his or her official capacity, and includes such events as a speech, grant announcement, or appearance with a candidate for a partisan office, as defined by the Hatch Act. Given the upcoming federal elections, Department employees must be vigilant to prevent the appearance that any of our official duties are an effort to influence the outcome of an election. In determining whether an appearance could be construed as inappropriately partisan, please consider, among other factors, the identity of the sponsor of an event, the group being addressed, the other participants, the timing of the event, and the subject of any speech to be given. If there is any doubt about whether an appearance may be inappropriate, please consult with David Margolis, Associate Deputy Attorney General, or the Principal Deputy Associate Attorney General (currently Carl Nichols).

In general, I make an effort not to make any public appearances in any state within 30 days of a primary or general election within that state. I urge all Presidentially-appointed officials or those acting in such positions, to adopt a similar practice to the greatest extent practicable. This memorandum, however, is not meant to restrict the normal, day-to-day activities of political appointees. For example, United States Attorneys may still make public appearances related to a verdict, indictment, or investigation, and should still meet with the Department's law enforcement partners as they normally would.

As you know, the Department's policy prohibits non-career appointees from attending partisan political events, e.g., fundraisers and campaign events, in their official capacity. Department policy permits non-career appointees to attend such events in their personal capacity if their participation in the event is passive and they obtain approval prior to attending the event.

¹ The memorandum is available at <http://10.173.2.12/jmd/ethics/hatch-act-materials.php>.

² This memorandum, in conjunction with my March 5, 2008 memorandum, supplements the August 8, 2000 memorandum issued by Attorney General Reno regarding "Restrictions on Political Activities," available at <http://www.usdoj.gov/jmd/ethics/docs/agpolactpol.html>.

Memorandum for Department Non-Career Employees
Subject: Restrictions on Official and Political Events
Page 2


In this Presidential election year, I have determined that approval will not be given for attendance at a political event not open to the general public during the period beginning with the first of the two national party conventions, August 25, 2008, through the general election on November 4, 2008. The only exceptions are if a non-career appointee has a close family member who is running for partisan office, or a similar exceptional situation. In these circumstances, approval must be sought from David Margolis, Associate Deputy Attorney General, or the Principal Deputy Associate Attorney General (currently Carl Nichols). During this period, non-career appointees may continue to seek approval to attend events that are open to the general public, such as a speech by a candidate for public office, as long as their attendance is passive. Non-career appointees may attend events on the evening of November 4, Election Day, without prior approval.

Thank you.



Office of the Attorney General
Washington, D.C.

March 5, 2008

TO: ALL DEPARTMENT EMPLOYEES
FROM: THE ATTORNEY GENERAL. 
RE: ELECTION YEAR SENSITIVITIES

Department of Justice employees are entrusted with the authority to enforce the laws of the United States and with the responsibility to do so in a neutral and impartial manner. This is particularly important in an election year. Now that the election season is upon us, I want to remind you of the Department's existing policies with respect to political activities.

I. INVESTIGATION AND PROSECUTION OF ELECTION CRIMES

The Department of Justice has a strong interest in the prosecution of election fraud and other election-related crimes, such as those involving federal and state campaign finance laws, federal patronage laws, and corruption of the election process. As Department employees, however, we must be particularly sensitive to safeguarding the Department's reputation for fairness, neutrality and nonpartisanship.

Simply put, politics must play no role in the decisions of federal investigators or prosecutors regarding any investigations or criminal charges. Law enforcement officers and prosecutors may never select the timing of investigative steps or criminal charges for the purpose of affecting any election, or for the purpose of giving an advantage or disadvantage to any candidate or political party. Such a purpose is inconsistent with the Department's mission and with the Principles of Federal Prosecution.

If you are faced with a question regarding the timing of charges or overt investigative steps near the time of a primary or general election, please contact the Public Integrity Section of the Criminal Division for further guidance. Please remember also that consultation with the Public Integrity Section of the Criminal Division is required at various stages of all criminal matters that focus on violations of federal and state campaign-finance law, federal patronage crimes, and corruption of the election process. More detailed guidance is available in sections 1-4 and 9-85 of the United States Attorneys' Manual, which can be accessed on line at http://www.usdoj.gov/usao/eousa/foia_reading_room/usam/.

II. HATCH ACT

As you are aware, the Hatch Act generally prohibits Department employees from engaging in partisan political activity while on duty, in a federal facility or using federal property. Please note that this prohibition includes using the internet at work for any political

activities. The Act also prohibits us from using our authority for the purpose of affecting election results; soliciting (or discouraging) political participation; soliciting, accepting or receiving political contributions; and generally from running as a candidate in a partisan election.

In addition to restrictions on what Department employees may and may not do while on duty, using government property, and in off-duty activities, certain employees are further restricted from engaging in certain political activity even while not on duty. The degree to which an employee is restricted in his or her off-duty activities depends on his or her position, *i.e.* career, further restricted, or noncareer appointee. Further restricted employees are members of the career SES, administrative law judges, employees of the Criminal Division, National Security Division and the Federal Bureau of Investigation, Criminal Investigators and Explosives Enforcement Officers of the Bureau of Alcohol, Tobacco and Firearms, and noncareer appointees in the Department. If you are unclear on these restrictions or the classification of your position, please consult with your component's designated ethics official about the limits of permissible activity *prior* to engaging in any political activity. You can also visit the Justice Management Division's Ethics page at www.usdoj.gov/jmd/ethics/politic.html for more detailed information.

It is critical that each one of us comply with this Act. For one, it contributes to maintaining a work environment free of political pressure and ensures the public retains its confidence that we are adhering to our responsibility to administer justice in a neutral manner. For another, violations of the Act carry strict penalties, including presumptive removal from federal service.

Thank you.



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

November 22, 2004

MEMORANDUM FOR HEADS OF DEPARTMENT COMPONENTS

FROM: THE ATTORNEY GENERAL 
SUBJECT: Component Reviews and Reports

The partnership forged by the men and women of the Justice Department with the American people has not only seen our nation through the worst attack in its history, but has also ushered in an historic era of safety and security. Violent crime is at its lowest rate in three decades. Gun crime prosecutions are at an all-time record high and violent crimes committed with guns are at an all-time record low. Drug use among the nation's youth is declining. Civil rights laws are being vigorously enforced and the Department has set new records for prosecuting human traffickers. Corporate criminals are facing justice, and integrity has been restored to the nation's marketplace. With the help of our partners in state and local law enforcement and our fellow Americans, we have done what so many said could not be done: We have safeguarded both the security and liberty of our fellow Americans in a time of war.

While we are grateful for these accomplishments, we understand that in the war on terror and our other critical responsibilities, complacency breeds failure. With vigilance in pursuit of our mission and an unwavering dedication to integrity, we must learn from our accomplishments and translate the results achieved into a framework for future success. Continuous improvement is our goal, and excellence is our standard.

To that end, I am asking each of you to undertake a thorough review of policies, administrative practices, and regulations relevant to the work of your component in an effort to identify recommendations for potential improvement. Recommendations may include, but should not be limited to, options for structural and organizational change, operational reform, and regulatory and legislative proposals. I urge you to think expansively – but always within the bounds of the Constitution – about ways to strengthen our efforts in the war on terror, fight the scourge of illegal drug use, and enforce the laws more vigorously and effectively. For example, the U.S. Attorneys recently prepared comprehensive reports assessing their various Project Safe Neighborhoods strategies, providing an opportunity for best practices to be shared with other districts. The FBI, too, has undertaken exhaustive evaluations of the '04 Threat Task Force and is working to build upon that successful model in other areas of their operation.

Memorandum for Heads of Department Components
Subject: Component Reviews and Reports
Page 2

Please submit your reports, together with recommendations, to the Deputy Attorney General no later than January 7, 2005. All reports should be structured as follows:

- I. Executive Summary**
- II. Policy Review**
- III. Regulatory Review**
- IV. Administrative Practices Review**
- V. Recommendations**

As we move forward into the next term of President Bush's administration, we must remain focused intensely on the task at hand, relentless in our efforts to safeguard the lives and liberties of all Americans. In a recent statement, President Bush captured the imperative of our mission best: "We are fighting a continuing war on terror, and every American has a stake in the outcome of this war ... We will persevere until the enemy is defeated. We will stay strong and resolute. We have a duty, a solemn duty to protect the American people, and we will." Thank you for your continued service to the President, and to America.




Office of the Attorney General

Washington, D. C. 20530

November 9, 2004

MEMORANDUM FOR HEADS OF DEPARTMENT COMPONENTS

FROM: THE ATTORNEY GENERAL 

SUBJECT: Performance Management Work Plans for General Schedule and Wage Grade Employees

In August, I asked for your support in ensuring that SES and manager performance work plans be put in place by September 17. The following week, each of you certified to me that you had accomplished that important action. Now, I am pleased to tell you that our Department has been elevated to "yellow" status in both Human Capital and Budget/Performance Integration on the most recent President's Management Agenda scorecard. Your personal involvement and attention to this effort was instrumental in accomplishing this goal, and I am pleased that the Department has achieved this recognition.

It is now important to take the next step, expanding this initiative to our front-line General Schedule (GS) and Wage Grade (WG) employees. Consequently, I am asking that you implement new individual performance work plans that cascade from established SES and manager performance work plans, for all non-bargaining unit GS and WG employees by **December 30, 2004**. Components should work with employee representatives to meet your labor obligations prior to implementing individual performance work plans for bargaining unit employees. JMD will continue to assist you in this effort. I also am requesting that each of you certify to me by **January 7, 2005**, that 100 percent of your non-bargaining unit GS and WG employees' performance work plans are in place, and appropriate labor management interactions are underway for remaining GS and WG employees.

Thank you again for your support of this important initiative of the President's Management Agenda. Our Department will be stronger, and produce results that align with our goals and objectives, because of the actions you are taking to improve our performance management system.



Office of the Attorney General

Washington, D. C. 20530

August 10, 2004

MEMORANDUM FOR HEADS OF DEPARTMENT COMPONENTS

FROM: THE ATTORNEY GENERAL *John Ashcroft*

SUBJECT: Performance Management Plans for SES Members and Managers

Throughout this Administration President Bush has called for government to be "results-oriented." With that call in mind, and consistent with the President's Management Agenda (PMA) and the ten management goals I outlined for the Department early in my tenure, the Department will be putting in place new performance plans for our Senior Executive Service (SES) members and managers.

Over the course of the past three years we have made good progress in meeting the objectives of the PMA. I monitor the scorecard issued by OMB and OPM on a quarterly basis. Although we have enjoyed an all green record on the "progress" side of the scorecard, we have not been as successful on the "status" side. I was pleased that we progressed to a yellow "status" score for E-gov last quarter, but disappointed that two other areas where we had expected scoring to improve, Human Capital and Performance/Budget Integration, remained red on "status."

Our discussions with OMB and OPM have made it clear that there is one action we must take this current quarter to achieve an improved score for both of these areas at the end of September, and that is to implement new SES performance plans. This action will tie individual performance plans to the Department's Strategic Plan, helping to ensure that our resources are mission-focused and results-oriented.

Since March, there has been an SES Performance Management Working Group, led by the Justice Management Division but with participation from around the Department, discussing these issues and making recommendations for implementing the new plans. Thanks to their hard work we will meet this challenging goal.

JMD will be providing more detailed guidance and instructions, including a day-long training session, to assist components in implementing the new plans. Assistant Attorney General Corts will send a memorandum to our SES members during this same time period to ensure they understand and are able to participate in the process of creating their individual plans. Because of my interest in a rapid and sound implementation of this important initiative, I am asking that all plans be completed and signed by **September 17, 2004**. I also am requesting that each of you certify to me by **September 22** that 100% of your executives' and managers' plans are in place. Thank you for your commitment to the Department and to this effort.



Office of the Attorney General

Washington, D.C. 20530

April 26, 2004

MEMORANDUM FOR HEADS OF DEPARTMENTAL COMPONENTS

FROM:

THE ATTORNEY GENERAL

SUBJECT:

Guidance for Preparing FY 2006 Budgets

This memorandum provides you with guidance regarding the FY 2006 budget development process. My goal for this process is to present a well-crafted Department of Justice performance budget to the President consistent with our mission and mindful of the appropriate fiscal constraints. Although we have not yet received FY 2006 guidance from the Office of Management and Budget (OMB), the FY 2005 President's budget proposes holding discretionary spending growth below four percent and spending unrelated to defense and homeland security at below one percent growth.

You should use the Department of Justice Strategic Plan for Fiscal Years 2003 – 2008 as your general blueprint to guide the formulation of the FY 2006 component performance and budget plans.

Performance and Budget Integration

This Administration is committed strongly to linking resources and performance at every phase of the financial management process, from reporting on how resources were used to planning for future resource needs. Budget requests should reflect our best investment of taxpayer dollars, and the program impact we anticipate from that investment.

Your budget proposal must be presented in a format that highlights performance and anticipated results. This information will be provided to policy officials so that budget recommendations and decisions will be informed by performance measures at every stage of the budget formulation process. In addition, requests for funding (base as well as enhancements) must clearly articulate the expected results of the resources.

Programmatic Guidance

Each component budget should be developed consistent with the Administration's priorities and cognizant of the President's goal to limit overall government-wide budgetary growth. Thus, your internal component budget processes should, as necessary, refocus current dollars on emerging priorities.

Subject: Guidance for Preparing FY 2006 Budgets

My priorities for FY 2006 are listed below in the current Strategic Plan format. The Department's counterterrorism budget will continue to be our top budgetary priority as we continue our critical work to prevent additional terrorist attacks. It is possible that other programs and activities may be reduced so that we may further support our number one priority of counterterrorism. While you are not precluded from requesting resources related to other priorities and initiatives, each component must first look at current efforts and the potential for re-prioritizing and shifting resources to meet new and existing needs.

Strategic Goal 1: Prevent Terrorism and Promote the Nation's Security

Strategic Goal 1 includes those activities for which the primary mission is counterterrorism. As in FY 2005, protecting America against the threat of terrorism is the cornerstone of our budget in FY 2006, and preventing all terrorist acts committed by foreign nationals against U.S. interests within our borders is our key outcome goal. The Department's National Security Coordination Council, chaired by the Deputy Attorney General, will review and coordinate the requests in this area.

Strategic Goal 2: Enforce Federal Laws and Represent the Rights and Interests of the American People

Strategic Goal 2 includes important Departmental priorities such as enforcement of the nation's drug and gun laws, combating corporate fraud and crimes against children, and protecting the civil rights of all Americans. The Department will continue its efforts toward the outcome goal of dismantling targeted major organized criminal groups.

Strategic Goal 3: Assist State, Local, and Tribal Efforts to Prevent or Reduce Crimes of Violence

Strategic Goal 3 includes our efforts to support state, local, and tribal efforts to prevent and reduce crimes of violence. Additionally, this goal supports the Department's work on behalf of victims of crime.

Strategic Goal 4: Ensure the Fair and Efficient Operation of the Federal Justice System

Strategic Goal 4 includes fugitive apprehension and protection of the judiciary as well as federal prisoner detention and inmate confinement. Program increases for incarceration and detention capacity should be consistent with anticipated population growth and overcrowding reduction goals. Additional opportunities for contracting detention and incarceration space should be explored and discussed in the budget as a cost-effective alternative to new federal construction. All detention-related requests must be coordinated through the Office of the Federal Detention Trustee, and should be included in the Detention Trustee's budget request.

Subject: Guidance for Preparing FY 2006 Budgets

In addition, your budget proposals should reflect requirements to meet the priorities represented in my November 8, 2001, memorandum, entitled Comprehensive Review and Reorganization of the Department of Justice to Meet Counterterrorism Mission. As in FY 2005, you should focus especially on improved information technology, sharing, and security. The Department's CIO will review and make recommendations regarding all information technology requests as part of his oversight role, and his recommendations will influence strongly the development of the FY 2006 request.

Specifically, your budget request should support two top priority management initiatives: the Unified Financial Management System (UFMS) and a common enterprise solution to case management. The effective implementation of the UFMS is critical to our continued clean audit, and your request should include appropriate resources to ensure elimination of the remaining weaknesses cited in the financial audit reports and preparation for your component's participation in the UFMS. The Department's Chief Information Officer (CIO) is leading the e-government initiative on case management for the President's Management Agenda as the Department of Justice is to be the leader of this transformation. I am directing the investigating, litigation, and appropriate administrative components to work with the Justice Management Division to drive toward a common enterprise solution to case management, and you should include the appropriate resource request. Duplicative, stove-piped systems will give way to a solution that shares information efficiently and seamlessly, within and between components and partners.

Format, Process, and Timeline

The Assistant Attorney General for Administration and his staff will provide you with detailed information about the budget format, process, and timeline. Budget requests are to be submitted at two levels: (1) within the general parameters laid out in this guidance; and (2) at 95 percent of the estimated FY 2006 current services level. The estimated FY 2006 current services level is defined for budget development purposes as the President's FY 2005 request as adjusted by annualizations, non-recurring items, and pay raises. Budget submissions are **due to the Justice Management Division on May 28, 2004**.

The Department continues to review savings opportunities and implement budget redirections to offset higher priority budget initiatives. Each component, therefore, must examine its entire budget, including base programs, to develop its 95 percent budget. Components should examine data from a variety of sources when developing savings plans, including performance information, General Accounting Office studies, audit results, and Program Assessment Rating Tool (PART) process results to identify under-performing programs.

Thank you for your cooperation in this budget development effort, and for your continued diligence in the pursuit of our critical mission.



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

ORDER NO. 2708-2004

ESTABLISHING THE DEPARTMENT OF JUSTICE
INTELLIGENCE COORDINATING COUNCIL

By virtue of the authority vested in the Attorney General by law, including 28 U.S.C. §§ 509 and 510, and in light of the war on terrorism and the need for improved coordination among all the intelligence elements and activities of the Department of Justice, I hereby order as follows:

1. Establishment. There is established the Department of Justice Intelligence Coordinating Council ("JICC"), which shall serve as the senior-level coordinating mechanism for the Department of Justice for all intelligence activities conducted by the Department and its components.

2. Purpose and Scope. (a) The JICC is established to assist and advise the Attorney General in the exercise of the Attorney General's full authorities and responsibilities in the intelligence area as assigned by law, policy, and practice. Those authorities include those set forth in the National Security Act, as amended; sections 509, 510, 533 and 534 of title 28 of the United States Code; sections 501 and 503-508 of title V, sections 901, 905, and 908 of title LX, and sections 1005, 1008, and 1009 of title X of the USA PATRIOT Act of 2001; and Executive Order 12333 of December 4, 1981, as amended. The Attorney General's intelligence responsibilities include intelligence requirements, collection management, analysis and production of intelligence, and the training of intelligence professionals.

(b) Important goals of the JICC are, through collaborative processes, to increase coordination among the Department's intelligence activities and to improve the integration of intelligence activities among Department headquarters management and Department components with intelligence responsibilities. The JICC is also designed to provide the Department a unified voice in communications with the Intelligence Community, and assist the Department in its role in leading federal coordination with state, local, and tribal law enforcement. Any sharing of intelligence shall be in accordance with applicable law and guidelines.

INTERNAL ORDER -- NOT PUBLISHED IN F.R.

3. Membership. The JICC shall be composed of the heads of the Department of Justice components with intelligence responsibilities, or their designees, and other Department employees designated by the Attorney General. Any designees to the JICC must be *empowered to represent and, as appropriate, to commit the resources of their respective intelligence organizations.* The heads of the following Department components, or their designees, shall serve on the JICC:

- (a) The Bureau of Alcohol, Tobacco, Firearms, and Explosives;
- (b) The Bureau of Prisons;
- (c) The Drug Enforcement Administration;
- (d) The Federal Bureau of Investigation;
- (e) The National Central Bureau (INTERPOL);
- (f) The Office of Intelligence Policy and Review;
- (g) The Office of Tribal Justice; and
- (h) The United States Marshals Service.

Members of the JICC shall support the JICC and JICC Chair with timely access to resource information and data related to Departmental intelligence activities, and with *knowledgeable personnel.* The members also shall ensure that any of their respective designees on the JICC are senior officials with the authority to actively seek constructive, collaborative solutions to complex intelligence problems.

4. Chair. (a) The Attorney General shall designate, from time to time, the Chair of the JICC *from among its members.* The first official to serve as the JICC Chair shall be the Director of the Federal Bureau of Investigation, or his designee.

(b) The JICC Chair will establish the agenda for the JICC and may invite other Department components to participate in JICC activities as appropriate. These additional Department components may include, but are not limited to, the Criminal Division; Executive Office for Immigration Review; Executive Office for United States Attorneys; Office of Information and Privacy; and Office of Intergovernmental and Public Liaison. To the extent consistent with applicable laws and regulations, the JICC Chair may establish subcommittees, working groups, and panels of Department officers and employees, and may consult with outside experts as appropriate, to fulfill its responsibilities.

5. Responsibilities. The JICC shall assist the Attorney General by guiding and overseeing the Department's intelligence resources and capabilities. The JICC shall, through collaborative processes:

- (a) Ensure that the Attorney General is kept apprised of key issues examined by the JICC, and of imminent, current, and long-term intelligence activities, and of any deficiencies in intelligence capabilities;

(b) Identify common challenges across Department intelligence activities (such as *electronic connectivity, collaborative analytic tools, maintaining professional intelligence cadres, and intelligence skills training*) that the Department components can address together in order to achieve results that serve the entire Department;

(c) Maintain awareness of information needs and intelligence priorities of the Intelligence Community;

(d) Identify sound intelligence practices to be applied across the Department and for broader application;

(e) Keep members informed of intelligence activities across the Department, and articulate Department intelligence concerns and issues to the Attorney General for review and action; and

(f) Identify and recommend opportunities for investment in intelligence infrastructure.

5. Review. The Attorney General shall review this order for continued applicability within five years.

Feb. 25, 2004
Date

John Ashcroft
John Ashcroft
Attorney General



Office of the Attorney General

Washington, D. C. 20530

February 23, 2004

MEMORANDUM FOR HEADS OF DEPARTMENT COMPONENTS

FROM: THE ATTORNEY GENERAL *[Signature]*

SUBJECT: Component Head Personal Action - 2004 Financial Audit Readiness

On January 16, 2004, the Department received its third consecutive clean audit opinion -- an unprecedented accomplishment in the history of the Department of Justice. This accomplishment demonstrates the integrity of our financial management and ensures accountability to the taxpayers. It is vitally important that we continue this success in 2004, and we will, with your help.

The Fiscal Year (FY) 2004 financial reporting and audit effort begins this month. The financial audits have high public visibility, they demonstrate the financial integrity of our operations, and they are a stated priority of the President. The due date for the FY 2004 Performance and Accountability Report (PAR), which includes our full financial statements and the completed audit opinion, has been accelerated by nearly 75 days over the time needed to finish the recently completed FY 2003 financial audit. I am asking each component head to take immediate steps to ensure that his or her component is positioned to earn an unqualified ("clean") audit opinion on the FY 2004 reports and enable the Department to meet this year's submission deadline.

The FY 2004 Department-wide report is due to OMB on or before November 15, 2004. There is no flexibility in that due date; in fact, failure to meet this deadline means that the Department will lose its unqualified audit opinion and receive a "disclaimed opinion" on our financial reports. Further, to meet the Departmentwide due date, component audits must be completed by mid-October. Meeting the new due dates will require more than just working faster; we must start to immediately reexamine our fundamental accounting practices and process times to ensure that our operations are capable of meeting the FY 2004 due dates.

The FY 2004 report acceleration is a major challenge, one faced by other agencies as well, but it is a challenge which must be met. Please meet with your senior financial managers and ensure that they have sufficient resources to meet this year's deadlines, have the means to provide the auditors with necessary financial data and supporting documentation in a timely manner, and that they are resolving the weaknesses reported in our financial operations and systems. Further, if you anticipate any impediments which would prevent us from earning another unqualified audit opinion, completing promised corrective actions, or meeting this year's early due date, please advise our Chief Financial Officer, Paul R. Cortis, by February 27, 2004.

Memorandum for Heads of Department Components

Page 2

Subject: Component Head Personal Action - 2004 Financial Audit Readiness

Again, allow me to express my appreciation for the hard work done by your financial staffs and supporting offices during the FY 2003 financial audits as the Department earned its third consecutive unqualified audit opinion. I realize the tremendous dedication that went into this effort, and our financial staffs are to be commended for their accomplishments. With your help and the help of our dedicated financial staffs, I am confident we can meet this year's new challenges and continue our success.



Office of the Attorney General

Washington, D.C. 20530

December 23, 2003

Dear United States Attorneys:

Allow me to take the opportunity this holiday season to express my appreciation for your extraordinary service over the past year. It has been a year of great accomplishments as we have worked together to devote all resources necessary to continue our anti-terrorism efforts by working to eliminate terrorist networks and to prevent terrorist attacks. In addition to this primary mission, you have continued to work to enforce vigorously federal laws; deter, investigate and prosecute federal crimes, including gun, drug, and civil rights violations; partner with state, local and community groups to prevent crime, and represent the United States in a variety of civil actions with professionalism and integrity.

Your efforts to educate citizens in your communities on the USA PATRIOT Act were tremendously successful. Those efforts included your leadership and involvement in over four hundred (400) community meetings and dozens of Opinion-Editorials written by you and your fellow United States Attorneys for newspapers all across the country. Thank you for a job well done. I am grateful for your continuing, effective efforts to educate the public about the USA PATRIOT Act.

I also want to thank you for your strong commitment to Project Safe Neighborhoods over the past year. When President Bush launched Project Safe Neighborhoods, our goal was to work aggressively to prosecute gun crime in America. I am happy to report that your hard work is paying off. Since Project Safe Neighborhoods was implemented, federal firearms prosecutions have increased dramatically and record numbers of defendants have been charged and convicted of federal firearms laws. Not only are these defendants being charged and convicted at record levels, they are also serving significant sentences in federal prison. You have taken every aspect of the Project Safe Neighborhoods initiative seriously and have focused on developing strategic plans that work best for the gun crime problems in your district. You have understood the importance of community outreach and have worked to get the word out into the community that offenders can and will be prosecuted to the fullest extent of the law. You have worked closely with local law enforcement to make Project Safe Neighborhoods not just a federal initiative, but a true partnership among federal, state, and local governments. I thank you for the progress you are making and ask that you continue to use the strategies you have developed in your districts to fight gun crime and to make America safer.

United States Attorneys

Page 2

Over the past two years, our financial markets have been shaken by the revelation of significant criminal conduct at the highest levels of some American corporations. You have worked to ensure swift and decisive action in many of the complex matters under investigation. You have succeeded at "real time enforcement" by working to bring charges only months after investigations have commenced in a manner marked by professionalism and fairness. In doing so, you have helped to restore integrity in our financial markets.

You have also effectively dismantled many national and international drug trafficking organizations by obtaining lengthy prison terms for their leaders. Consistent with the President's priority of drug use reduction, you are leading the fight against drug use by participating in the national demand reduction initiative. Your efforts to seize and forfeit assets acquired by drug profits contributed significantly to reducing the supply of drugs in this country by breaking the financial backbone of drug trafficking organizations. I commend you for your efforts as innovative leaders in our war on drugs.

Finally, in addition to expressing appreciation to you, I would like to express my thanks to your family members. As United States Attorneys, you make many sacrifices to carry out the important responsibilities of your job. Likewise, your families make equally significant sacrifices as they support you in your mission. I hope each of you and your families have a wonderful holiday season. May God bless each of you and may God bless the United States of America.

Sincerely,

A handwritten signature in black ink, appearing to read "John Ashcroft", with a large, stylized loop at the end.

John Ashcroft
Attorney General



Office of the Attorney General

Washington, D. C. 20530

December 8, 2003

MEMORANDUM FOR THE HEADS AND INSPECTORS GENERAL OF EXECUTIVE DEPARTMENTS AND AGENCIES

ASSISTANT ATTORNEYS GENERAL

UNITED STATES ATTORNEYS

DIRECTOR, FEDERAL BUREAU OF INVESTIGATION

FROM:

THE ATTORNEY GENERAL

A handwritten signature in cursive script, reading "John Ashcroft", is written over the printed name "THE ATTORNEY GENERAL".

SUBJECT:

Guidelines for Offices of Inspector General
with Statutory Law Enforcement Authority

I have today signed the attached Guidelines for Offices of Inspector General with Statutory Law Enforcement Authority to guide the exercise of criminal law enforcement authority by the presidentially appointed Inspectors General. These guidelines are the product of the hard work of many members of the law enforcement community engaged in the investigation and prosecution of crimes against government programs.

These guidelines govern the exercise of new statutory police powers by the Inspectors General, the coordination of overlapping responsibilities by federal law enforcement components, and the important role of federal prosecutors in providing guidance in the use of sensitive criminal investigative techniques. United States Attorneys and Assistant United States Attorneys should use these guidelines in working with Inspectors General to achieve fruitful investigations and prosecutions.

Crimes against government programs result in some of the most complicated and sensitive of criminal investigations and prosecutions. I want to emphasize that the American people expect the highest standards to be met by their government, and they expect us to aggressively investigate and prosecute those who would abuse or otherwise tarnish the public trust. As we go forward, I would like all of the participants in this great task to renew their commitment to the rule of law and the dignity of our mutual endeavor. I expect the combined efforts of the Inspectors General and the Federal Bureau of Investigation to root out corruption with the guidance of the United States Attorneys and the Criminal Division. Each of us has a role in this team effort and we must all be committed to that teamwork to make it succeed.

Attachment



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

**ATTORNEY GENERAL GUIDELINES
FOR OFFICES OF INSPECTOR GENERAL WITH
STATUTORY LAW ENFORCEMENT AUTHORITY**

I. PURPOSE

These guidelines, required by section 6(e)(4) of the Inspector General Act of 1978 (the "Act"), as amended in 2002, govern the exercise of law enforcement authorities for those Offices of Inspector General that have been granted statutory law enforcement authorities pursuant to that Act. These Guidelines replace the Memoranda of Understanding under which the Department of Justice deputized certain Office of Inspector General investigators as Special Deputy United States Marshals and that described the training and operational requirements applicable to the deputized Office of Inspector General investigators.

II. BACKGROUND

The Department of Justice has primary responsibility for enforcement of violations of federal laws by prosecution in the United States district courts. The Federal Bureau of Investigation is charged with investigating violations of federal laws. Offices of Inspector General have primary responsibility for the prevention and detection of waste and abuse, and concurrent responsibility for the prevention and detection of fraud and other criminal activity within their agencies and their agencies' programs. The Inspector General Act of 1978, 5 U.S.C. app. 3, established criminal investigative jurisdiction for the offices of presidentially appointed Inspectors General. However, prior to enactment of section 812 of the Homeland Security Act of 2002 (Pub. L. No. 107-296), the Inspector General Act did not provide firearms, arrest, or search warrant authorities for investigators of those offices.¹ The Inspectors General of the various executive agencies relied on Memoranda of Understanding with the Department of Justice that provided temporary grants of law enforcement powers through deputations. As the volume of investigations warranting such police powers increased, deputations were authorized on a "blanket" or office-wide basis.

With the enactment of section 6(e) of the Inspector General Act, the Attorney General, after an initial determination of need, may authorize law enforcement powers for eligible personnel of each of the various offices of presidentially appointed Inspectors General. The determination of

¹ Certain Offices of Inspector General had (prior to 2002) and continue to have OIG-specific grants of statutory authority under which they exercise law enforcement powers.

need hinges on the respective office meeting the three prerequisites enumerated in section 6(e)(2). Those Offices of Inspector General listed in section 6(e)(3) of the Act are exempt from the requirement of an initial determination of need by the Attorney General.

Offices of Inspector General receiving law enforcement powers under section 6(e) must exercise those authorities in accordance with Guidelines promulgated by the Attorney General. This document sets forth the required Guidelines.

III. APPLICATION OF GUIDELINES

These Guidelines apply to qualifying personnel in those offices of presidentially appointed Inspectors General with law enforcement powers received from the Attorney General under section 6(e) of the Inspector General Act of 1978, as amended. Qualifying personnel include the Inspector General, the Assistant Inspector General for Investigations under such Inspector General, and all special agents supervised by the Assistant Inspector General for Investigations, provided that those individuals otherwise meet the training and qualifications requirements contained in these Guidelines. These mandatory guidelines do not limit Offices of Inspector General from exercising any statutory law enforcement authority derived from a source other than section 6(e). These Guidelines may be revised by the Attorney General, as appropriate. These Guidelines may be supplemented by agency-specific agreements between an individual Office of Inspector General and the Attorney General.

If the Attorney General determines that an Office of Inspector General exercising law enforcement powers under section 6(e), or any individual exercising such authorities, has failed to comply with these Guidelines, the Attorney General may rescind or suspend exercise of law enforcement authorities for that office or individual.

IV. LAW ENFORCEMENT TRAINING AND QUALIFICATIONS

A. Basic and Refresher Training

Each Office of Inspector General must certify completion of the Basic Criminal Investigator Training Program at the Federal Law Enforcement Training Center by each Inspector General, Assistant Inspector General of Investigations, and Special Agent/Investigator who will be exercising powers under these Guidelines. As an alternative, this training requirement may be satisfied by certification of completion of a comparable course of instruction to the Federal Law Enforcement Training Center Basic Criminal Investigator Training Program. Additionally, the Office of Inspector General will provide periodic refresher training in the following areas: trial process; federal criminal and civil legal updates; interviewing techniques and policy; law of arrest, search, and seizure; and physical conditioning/defensive tactics. The specifics of these programs should conform as much as

practicable to standards such as those set at the Federal Law Enforcement Training Center or the Federal Bureau of Investigation Training Academy at Quantico, Virginia.

B. Firearms Training and Qualification Requirements

All individuals exercising authorities under section 6(e) must receive initial and periodic firearms training and qualification in accordance with Federal Law Enforcement Training Center standards. This training will focus on technical proficiency in using the firearms the Special Agent will carry, as well as the policy and legal issues involved in the use of deadly force. The initial training for this requirement must be met by successful completion of an appropriate course of training at the Federal Law Enforcement Training Center or an equivalent course of instruction (that must include policy and law concerning the use of firearms, civil liability, retention of firearms and other tactical training, and deadly force policy).

In addition to basic firearms training, each covered Office of Inspector General will implement a program of quarterly firearms qualifications by all individuals exercising authorities under section 6(e). Such program will be conducted in accordance with recognized standards.

C. Deadly Force Policy

The Offices of Inspector General will abide by the deadly force policy established by the Department of Justice.

V. RANGE OF LAW ENFORCEMENT POWERS

Section 6(e) of the Act provides that the Attorney General may authorize covered individuals to:

1. carry a firearm while engaged in official duties as authorized under this Act or other statute, or as expressly authorized by the Attorney General;
2. make an arrest without a warrant while engaged in official duties as authorized under this Act or other statute, or as expressly authorized by the Attorney General, for any offense against the United States committed in the presence of such individual, or for any felony cognizable under the laws of the United States if such individual has reasonable grounds to believe that the person to be arrested has committed or is committing such felony; and
3. upon probable cause to believe that a violation has been committed, seek and execute warrants for arrest, search of a premises, or seizure of evidence issued under the authority of the United States.

Individuals exercising law enforcement authorities under section 6(e) may exercise those powers only for activities authorized under the Inspector General Act of 1978 or other statute, or as expressly authorized by the Attorney General.²

The Inspector General of each agency covered by these Guidelines, any Assistant Inspector General for Investigations under such Inspector General, and any special agent supervised by such an Assistant Inspector General are authorized to carry their firearms while off-duty when the Inspector General determines that they need to do so for operational or safety reasons.

The possession of firearms on aircraft while on official duty shall be governed by Transportation Security Administration guidelines and common carrier regulations applicable to the transport of firearms.

VI. ADHERENCE TO ATTORNEY GENERAL GUIDELINES

In addition to any other Department of Justice directives or guidance referenced in these Guidelines, Offices of Inspector General will adhere to the Attorney General's Guidelines on General Crimes, Racketeering Enterprise, and Terrorism Enterprise Investigations; the Attorney General's Guidelines Regarding the Use of Confidential Informants; the Attorney General's Memorandum on Procedures for Lawful, Warrantless Monitoring of Verbal Communications; any other Attorney General Guidelines applicable to criminal investigative practices; and updated or amended versions of any of the aforementioned documents.

VII. NOTIFICATION AND CONSULTATION REQUIREMENTS WITH RESPECT TO ALLEGATIONS OF CRIMINAL VIOLATIONS

The Inspector General Act directs expeditious reporting to the Attorney General whenever an Office of Inspector General has reasonable grounds to believe there has been a violation of federal criminal law.

A. Offices Of Inspector General/Federal Bureau of Investigation Mutual Notification Requirements

As the primary investigative arm of the Department of Justice, the Federal Bureau of Investigation has jurisdiction in all matters involving fraud against the Federal Government, and shares jurisdiction with the Offices of Inspector General in the

² Section 6(e) does not, of itself, provide plenary authority to make arrests for non-federal criminal violations. Legal authority for officers to respond to such offenses generally depends on state law. A federal agency may, however, as a matter of policy, permit its officers to intervene in serious criminal conduct that violates state law under certain circumstances.

investigation of fraud against the Office of Inspector General's agency. In areas of concurrent jurisdiction, the Offices of Inspector General and the Federal Bureau of Investigation must promptly notify each other in writing upon the initiation of any criminal investigation. The notification requirement is a continuing obligation when new subjects are added to an investigation. Absent exigent circumstances, "promptly" shall be considered to be within 30 calendar days. Notification by the Offices of Inspector General shall be in writing and addressed to the Federal Bureau of Investigation in the district in which the investigation is being conducted. Notification by the Federal Bureau of Investigation shall be in writing and shall be addressed to the appropriate regional office of the Office of Inspector General. Notifications shall include, at a minimum and where available, (a) subject name, date of birth, social security number, and (b) any other case-identifying information including, but not limited to, (i) the date the case was opened or the allegation was received, and (ii) the allegation that predicated the case. For investigations in which allegations arise that are beyond the scope of the Office of Inspector General's jurisdiction, the Office of Inspector General will immediately notify the appropriate investigative agency of the allegations.

B. Consultation with Prosecutors

In criminal investigations, a federal prosecutor must be consulted at an early stage to ensure that the allegations, if proven, would be prosecuted. Such consultation will also ensure coordination of investigative methods.

VIII. USE OF SPECIALIZED INVESTIGATIVE PROCEDURES AND TECHNIQUES

A. Court-Ordered Electronic Surveillance

Court-authorized interceptions of wire, oral, or electronic communications are among the most intrusive investigative techniques currently available to law enforcement. The rigors of the approval process, expenditures of financial and manpower resources, and the probability of challenges by the defense bar make this technique subject to intense scrutiny. Surreptitious electronic surveillance using closed-circuit television presents similar considerations. Accordingly, any investigation involving the interception of communications pursuant to 18 U.S.C. §§ 2510, *et seq.*, electronic surveillance using closed-circuit television in situations where a warrant is required, or any other court-ordered electronic surveillance, shall be conducted only after consulting with the Federal Bureau of Investigation and appropriate United States Attorney's Office (or Criminal Division litigating component). Subsequent to such notification, the Federal Bureau of Investigation may choose to join the investigation, but is not required to do so. However, in an instance in which the Office of Inspector General intends to engage in court-authorized electronic surveillance without the participation of the Federal Bureau of

Investigation, one of the following federal investigative agencies must participate in the investigation and supervise the application for and use of the surreptitious electronic surveillance: the Drug Enforcement Administration; Bureau of Alcohol, Tobacco, Firearms, and Explosives; Bureau of Immigration and Customs Enforcement; United States Postal Service; United States Secret Service; or Internal Revenue Service.

B. Undercover Investigative Operations

The Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations (the "Undercover Guidelines") ensure that the Federal Bureau of Investigation considers the efficacy, as well as the legal and policy implications, of every proposed undercover operation, and ensure that the use of the undercover investigative technique is subject to a management on-site review and oversight on a regular basis. It is the intent of this provision that undercover operations conducted by the Offices of Inspector General be subject to the same standards that govern the use of this investigative technique by the Federal Bureau of Investigation.

Accordingly, the community of Inspectors General granted law enforcement powers under section 6(e) of the Inspector General Act shall establish an Undercover Review Committee (the Committee) composed of 6 senior headquarters managers selected by the community of Inspectors General, with no two members of the Committee being employed by the same Office of Inspector General, for the purpose of reviewing undercover operations involving sensitive circumstances³ in investigations that are not being conducted jointly with the Federal Bureau of Investigation. The Committee shall also include such representatives from the litigating sections of the Criminal Division of the Department of Justice as are designated by the Assistant Attorney General of the Criminal Division. If an undercover investigation being reviewed by the Committee is being conducted by an Office of Inspector General that is not represented on the Committee, a representative of that Office of Inspector General who is a senior management official shall be added as a full member of the Committee to review that undercover operation. The Federal Bureau of Investigation may designate a representative to participate in the Committee in a consultative role.

Before conducting an undercover operation lasting longer than six months, or involving any of the sensitive circumstances set forth in the Undercover Guidelines, the Office of Inspector General must first notify the Federal Bureau of Investigation. The Federal Bureau of Investigation may choose to join the investigation, in which case the

³ "Sensitive circumstances" are set forth in the Undercover Guidelines, and include investigations involving certain public officials, a significant risk of violence, authorized criminal activity, operation of a proprietary business, the risk for significant civil liability, and other circumstances as defined in those Guidelines.

undercover operation would be subject to review by the Criminal Undercover Operations Review Committee of the Federal Bureau of Investigation. If the Federal Bureau of Investigation opts not to join the case, the undercover operation will be reviewed by the Committee. No undercover operation involving sensitive circumstances may be conducted without the approval of one of these committees.

The approval for each undercover operation involving sensitive circumstances must be renewed for each six-month period, or less, during which the undercover operation is ongoing. The standards of the Committee for approval of the undercover operation shall be the same as those set forth in the Undercover Guidelines. The Committee shall operate in the same fashion as the Criminal Undercover Operations Review Committee as outlined in the Undercover Guidelines.

Each Office of Inspector General whose law enforcement effort contemplates the use of the undercover investigative technique in investigations not involving the sensitive circumstances set forth above shall establish procedures that are consistent with the procedures established for such undercover investigations not involving sensitive circumstances as are set forth in the Undercover Guidelines.

C. Especially Sensitive Targets

- (1) Upon notification pursuant to Part VII, Subpart A of these Guidelines, or otherwise, the Federal Bureau of Investigation may choose to join, but would not be required to join, any investigation that involves:
 - (a) especially sensitive targets, including a member of Congress, a federal judge, a member of the executive branch occupying a position for which compensation is set at Executive Level IV or above, or a person who has served in such capacity within the previous two years;
 - (b) a significant investigation of a public official for bribery, conflict of interest, or extortion relating to the official's performance of duty;
 - (c) a significant investigation of a federal law enforcement official acting in his or her official capacity; or
 - (d) an investigation of a member of the diplomatic corps of a foreign country.
- (2) Investigations involving certain other classes of persons may result in serious security concerns, especially regarding the operation of the Federal Witness Security Program. Therefore, an Office of Inspector General investigation will be coordinated with the

Office of Enforcement Operations of the Criminal Division, Department of Justice,
when the investigation:

- (a) involves a person who is or has been a member of the Witness Security Program if that fact is known by the Office of Inspector General;
- (b) involves a public official, federal law enforcement officer, or other government employee or contract employee who is or has been involved in the operation of the Witness Security Program;
- (c) involves the use or targeting, in an undercover capacity, of a person who is in the custody of the Federal Bureau of Prisons or the United States Marshals Service, or is under Federal Bureau of Prisons' supervision; or
- (d) involves the use or targeting, in an undercover capacity, of a Federal Bureau of Prisons employee, if any part of the activity will occur within the confines of, or otherwise would be likely to affect the security of, a Bureau of Prisons-administered facility.

Investigations that require coordination with the Office of Enforcement Operations pursuant to Part VIII, Subpart C.(2)(a)-(d) may be conducted without the participation of the Federal Bureau of Investigation. In such instances, notification of the investigation should not be made to any other agency without the explicit approval of the Office of Enforcement Operations.

D. Consensual Monitoring in Certain Situations

Consensual monitoring of conversations in some circumstances can present unusual problems. Accordingly, if the Office of Inspector General contemplates the use of consensual monitoring involving a consenting or non-consenting person in the custody of the Bureau of Prisons or the United States Marshals Service, the use of any type of consensual monitoring in the investigation, whether telephonic or non-telephonic, must be coordinated with the Office of Enforcement Operations at the Department of Justice.

Consistent with the Attorney General's Memorandum on Procedures for Lawful, Warrantless Monitoring of Verbal Communications, the use of any non-telephonic consensual monitoring in an Office of Inspector General investigation requires the prior approval of the Director or an Associate Director of the Office of Enforcement Operations if any of the following sensitive circumstances are present:

- (a) the monitoring relates to an investigation of a member of Congress, a federal judge, a member of the Executive Branch occupying a position for which compensation is set at Executive Level IV or above, or a person who has served in such capacity within the previous two years;
- (b) the monitoring relates to an investigation of the Governor, Lieutenant Governor, or Attorney General of any State, or Territory, or a judge or justice of the highest court of any State or Territory, and the offense investigated is one involving bribery, conflict of interest, or extortion relating to the performance of his or her official duties;
- (c) any party to the communication is a member of the diplomatic corps of a foreign country;
- (d) any party to the communication is or has been a member of the Witness Security Program and that fact is known to the agency involved or its officers;
- (e) the consenting or non-consenting person is in the custody of the Bureau of Prisons or the United States Marshals Service; or
- (f) the Attorney General, Deputy Attorney General, Associate Attorney General, any Assistant Attorney General, or the United States Attorney in the district where an investigation is being conducted has requested the investigating agency to obtain prior written consent before conducting consensual monitoring in a specific investigation.

IX. PROSECUTOR CONCURRENCE FOR CERTAIN TECHNIQUES

The use and control of informants, sources, and cooperating witnesses is recognized by the courts as lawful and often essential to the effectiveness of properly authorized law enforcement investigations. However, certain guidelines must be applied because the use of informants and cooperating witnesses may involve intrusion into the privacy of individuals, or cooperation with individuals whose reliability and motivation can be open to question. In the following situations, *inter alia*, the prior concurrence of a federal prosecutor must be obtained to avoid problems such as entrapment, danger to the public, and abuse of police authority:

1. when an informant is authorized to participate in criminal activities;
2. when an informant or cooperating witness is a person entitled to claim a federally recognized legal privilege of confidentiality, such as an attorney, member of the clergy, or psychiatrist;

3. when aggregate payments for services or expenses to be made to a source who could be a witness in a legal proceeding exceed \$25,000; or
4. when the use of any member of the news media as a source is planned (and in such a situation the prior written approval of a federal prosecutor must be obtained).

X. RELATIONS WITH THE NEWS MEDIA

The Department of Justice has issued guidelines that prescribe policy and instructions concerning the release of information by Department of Justice employees relating to criminal and civil proceedings (*see* 28 C.F.R. § 50.2). Office of Inspector General personnel must familiarize themselves with and follow these guidelines. In addition, in the course of joint investigations between an Office of Inspector General and the Federal Bureau of Investigation, wherever a “news release” would be permitted pursuant to the guidelines noted above, the Office of Inspector General must coordinate the release with the Federal Bureau of Investigation and the Department of Justice.

XI. REPORTING REQUIREMENTS

Each Office of Inspector General shall make an annual written report to the Attorney General due on November 1 of each year, detailing the investigative and prosecutive activities of that Office of Inspector General. The report shall, at a minimum, contain information on the number of (1) federal criminal investigations initiated, (2) undercover operations undertaken, and (3) times any type of electronic surveillance was used. Additionally, the report shall provide information on all significant and credible allegations of abuse of authorities conferred by section 6(e)(1) of the Inspector General Act by Office of Inspector General investigative agents and what, if any, actions were taken as a result. The names of the agents need not be included in such report.

XII. PEER REVIEWS

In accordance with section 6(e)(7) of the Inspector General Act, covered Offices of Inspector General must implement a collective memorandum of understanding, in consultation with the Attorney General, under which each Office of Inspector General will be periodically reviewed by another Office of Inspector General or a committee of Offices of Inspector General. Reviews should occur no less often than once every 3 years. The purpose of the review is to ascertain whether adequate internal safeguards and management procedures exist to ensure that the law enforcement powers conferred by the 2002 amendments to the Inspector General Act are properly exercised. Results of the review will be communicated to the Attorney General, as well as to the applicable Inspector General.

XIII. NO THIRD-PARTY RIGHTS CREATED

These Guidelines are adopted for the purpose of the internal management of the Executive Branch. These Guidelines are not intended to, do not, and may not be relied upon to, create any rights, substantive or procedural, enforceable at law or in equity by any party in any matter civil or criminal, nor do these Guidelines place any limitations on otherwise lawful investigative or litigation prerogatives of the Department of Justice or otherwise lawful investigative prerogatives of the covered Offices of Inspector General.

Dec. 8, 2003
Date

John Ashcroft
John Ashcroft
Attorney General



Department of Justice

MONDAY, SEPTEMBER 22, 2003

AG

THE BELOW MEMO WAS DISTRIBUTED TO U.S. ATTORNEYS ON SEPTEMBER 22, 2003, AND THE ATTORNEY GENERAL ANNOUNCED THE POLICY IN MILWAUKEE, WI. REMARKS FROM HIS SPEECH THERE ARE AVAILABLE ON THE ATTORNEY GENERAL'S SPEECHES PORTION OF THE DOJ WEBSITE.]

Memo Regarding Policy On Charging Of Criminal Defendants

TO:All Federal Prosecutors

FROM:John Ashcroft

Attorney General

SUBJECT:Department Policy Concerning Charging Criminal Offenses, Disposition of Charges, and Sentencing

INTRODUCTION

The passage of the Sentencing Reform Act of 1984 was a watershed event in the pursuit of fairness and consistency in the federal criminal justice system. With the Sentencing Reform Act's creation of the United States Sentencing Commission and the subsequent promulgation of the Sentencing Guidelines, Congress sought to "provide certainty and fairness in meeting the purposes of sentencing." 28 U.S.C. § 991(b)(1)(B). In contrast to the prior sentencing system – which was characterized by largely unfettered discretion, and by seemingly severe sentences that were often sharply reduced by parole – the Sentencing Reform Act and the Sentencing Guidelines sought to accomplish several important objectives: (1) to ensure honesty and transparency in federal sentencing; (2) to guide sentencing discretion, so as to narrow the disparity between sentences for similar offenses committed by similar offenders; and (3) to provide for the imposition of appropriately different punishments for offenses of differing severity.

With the passage of the PROTECT Act earlier this year, Congress has reaffirmed its commitment to the principles of consistency and effective deterrence that are embodied in the Sentencing Guidelines. The important sentencing reforms made by this legislation will help to ensure greater fairness and to eliminate unwarranted disparities. These vital goals, however, cannot be fully achieved without consistency on the part of federal prosecutors in the Department of Justice. Accordingly, it is essential to set forth clear policies designed to ensure that all federal prosecutors adhere to the principles and objectives of the Sentencing Reform Act, the PROTECT Act, and the Sentencing Guidelines in their charging, case disposition, and sentencing practices.

The Department has previously issued various memoranda addressing Department policies with respect to charging, case disposition, and sentencing. Shortly after the constitutionality of the Sentencing Reform Act was sustained by the Supreme Court in 1989, Attorney General Thornburgh issued a directive to federal prosecutors to ensure that their practices were consistent with the principles of equity, fairness, and uniformity. Several years later, Attorney General Reno issued additional guidance to address the extent to which a prosecutor's individualized assessment of the proportionality of particular sentences could be considered.

The recent passage of the PROTECT Act emphatically reaffirms Congress' intention that the Sentencing Reform Act and the Sentencing Guidelines be faithfully and consistently enforced. It is therefore appropriate at this time to re-examine the subject thoroughly and to state with greater clarity Department policy with respect to charging, disposition of charges, and sentencing. One part of this comprehensive review of Department policy has already been completed: on July 28, 2003, in accordance with section 401(l)(1) of the PROTECT Act, I issued a Memorandum that specifically and clearly sets forth the Department's policies with respect to sentencing recommendations and sentencing appeals. The determination of an appropriate sentence for a convicted defendant is, however, only half of the equation. The fairness Congress sought to achieve by the Sentencing Reform Act and the PROTECT Act can be attained only if there are fair and reasonably consistent policies with respect to the Department's decisions concerning what charges to bring and how cases should be disposed. Just as the sentence a defendant receives should not depend upon which particular judge presides over the case, so too the charges a defendant faces should not depend upon the particular prosecutor assigned to handle the case.

Accordingly, the purpose of this Memorandum is to set forth basic policies that all federal prosecutors must follow in order to ensure that the Department fulfills its legal obligation to enforce faithfully and honestly the Sentencing Reform Act, the PROTECT Act, and the Sentencing Guidelines. This memorandum supersedes all previous guidance on this subject.

I. Department Policy Concerning Charging and Prosecution of Criminal Offenses

A. General Duty to Charge and to Pursue the Most Serious, Readily Provable Offense in All Federal Prosecutions

It is the policy of the Department of Justice that, in all federal criminal cases, federal prosecutors must charge and pursue the most serious, readily provable offense or offenses that are supported by the facts of the case, except as authorized by an Assistant Attorney General, United States Attorney, or designated supervisory attorney in the limited circumstances described below. The most serious offense or offenses are those that generate the most substantial sentence under the Sentencing Guidelines, unless a mandatory minimum sentence or count requiring a consecutive sentence would generate a longer sentence. A charge is not "readily provable" if the prosecutor has a good faith doubt, for legal or evidentiary reasons, as to the Government's ability readily to prove a charge at trial. Thus, charges should not be filed simply to exert leverage to induce a plea. Once filed, the most serious readily provable charges may not be dismissed except to the extent permitted in Section B.

B. Limited Exceptions

The basic policy set forth above requires federal prosecutors to charge and to pursue all charges that are determined to be readily provable and that, under the applicable statutes and Sentencing Guidelines, would yield the most substantial sentence. There are, however, certain limited exceptions to this requirement:

1. Sentence would not be affected. First, if the applicable guideline range from which a sentence may be imposed would be unaffected, prosecutors may decline to charge or to pursue readily provable charges. However, if the most serious readily provable charge involves a mandatory minimum sentence that exceeds the applicable guideline range, counts essential to establish a mandatory minimum sentence must be charged and may not be dismissed, except to the extent provided elsewhere below.

2. "Fast-track" programs. With the passage of the PROTECT Act, Congress recognized the importance of early disposition or "fast-track" programs. Section 401(m)(2)(B) of the Act instructs the Sentencing Commission to promulgate, by October 27, 2003, a policy statement authorizing a downward departure of not more than 4 levels "pursuant to an early disposition program authorized by the Attorney General and the United States Attorney." Pub. L. No. 108-21, § 401(m)(2)(B), 117 Stat. 650, 675 (2003) (emphasis added). Although the PROTECT Act requirement of Attorney General authorization only applies by its terms to fast-track programs that rely on downward departures, the same requirement will also apply, as a matter of Department policy, to any fast-track program that relies on "charge bargaining" — i.e., an expedited disposition program whereby the Government agrees to charge less than the most serious, readily provable offense. Such programs are intended to be exceptional and will be authorized only when clearly warranted by local conditions within a district. The specific requirements for establishing and implementing a fast-track program are set forth at length in the Department's "Principles for Implementing An Expedited or Fast-Track Prosecution Program." In those districts where an approved "fast-track" program has been established, charging decisions and disposition of charges must comply with those Principles and with the other requirements of the approved fast-track program.

3. Post-indictment reassessment. In cases where post-indictment circumstances cause a prosecutor to determine in good faith that the most serious offense is not readily provable, because of a change in the evidence or some other justifiable reason (e.g., the unavailability of a witness or the need to protect the identity of a witness until he testifies against a more significant defendant), the prosecutor may dismiss the charge(s) with the written or otherwise documented approval of an Assistant Attorney General, United States Attorney, or designated supervisory attorney.

4. Substantial assistance. The preferred means to recognize a defendant's substantial assistance in the investigation or prosecution of another person is to charge the most serious readily provable offense and then to file an appropriate motion or motions under U.S.S.G. § 5K1.1, 18 U.S.C. § 3553 (e), or Federal Rule of Criminal Rule of Procedure 35(b). However, in rare circumstances, where necessary to obtain substantial assistance in an important investigation or prosecution, and with the written or otherwise documented approval of an Assistant Attorney General, United States Attorney, or designated supervisory attorney, a federal prosecutor may decline to charge or to pursue a readily provable charge as part of plea agreement that properly reflects the substantial assistance provided by the defendant in the investigation or prosecution of another person.

5. Statutory enhancements. The use of statutory enhancements is strongly encouraged, and federal prosecutors must therefore take affirmative steps to ensure that the increased penalties resulting from specific statutory enhancements, such as the filing of an information pursuant to 21 U.S.C. § 851 or the filing of a charge under 18 U.S.C. § 924(c), are sought in all appropriate cases. As soon as reasonably practicable, prosecutors should ascertain whether the defendant is eligible for any such statutory enhancement. In many cases, however, the filing of such enhancements will mean that the statutory sentence exceeds the applicable Sentencing Guidelines range, thereby ensuring that the defendant will not receive any credit for acceptance of responsibility and will have no incentive to plead guilty. Requiring the pursuit of such enhancements to trial in every case could therefore have a significant effect on the allocation of prosecutorial resources within a given district. Accordingly, an

Assistant Attorney General, United States Attorney, or designated supervisory attorney may authorize a prosecutor to forego the filing of a statutory enhancement, but only in the context of a negotiated plea agreement, and subject to the following additional requirements:

a. Such authorization must be written or otherwise documented and may be granted only after careful consideration of the factors set forth in Section 9-27.420 of the United States Attorneys' Manual. In the context of a statutory enhancement that is based on prior criminal convictions, such as an enhancement under 21 U.S.C. § 851, such authorization may be granted only after giving particular consideration to the nature, dates, and circumstances of the prior convictions, and the extent to which they are probative of criminal propensity.

b. A prosecutor may forego or dismiss a charge of a violation of 18 U.S.C. § 924(c) only with the written or otherwise documented approval of an Assistant Attorney General, United States Attorney, or designated supervisory attorney, and subject to the following limitations:

(i) In all but exceptional cases or where the total sentence would not be affected, the first readily provable violation of 18 U.S.C. § 924(c) shall be charged and pursued.

(ii) In cases involving three or more readily provable violations of 18 U.S.C. § 924(c) in which the predicate offenses are crimes of violence, federal prosecutors shall, in all but exceptional cases, charge and pursue the first two such violations.

6. Other Exceptional Circumstances. Prosecutors may decline to pursue or may dismiss readily provable charges in other exceptional circumstances with the written or otherwise documented approval of an Assistant Attorney General, United States Attorney, or designated supervisory attorney. This exception recognizes that the aims of the Sentencing Reform Act must be sought without ignoring the practical limitations of the federal criminal justice system. For example, a case-specific approval to dismiss charges in a particular case might be given because the United States Attorney's Office is particularly over-burdened, the duration of the trial would be exceptionally long, and proceeding to trial would significantly reduce the total number of cases disposed of by the office. However, such case-by-case exceptions should be rare; otherwise the goals of fairness and equity will be jeopardized.

II. Department Policy Concerning Plea Agreements

A. Written Plea Agreements

In felony cases, plea agreements should be in writing. If the plea agreement is not in writing, the agreement should be formally stated on the record. Written plea agreements will facilitate efforts by the Department of Justice and the Sentencing Commission to monitor compliance by federal prosecutors with Department policies and the Sentencing Guidelines. The PROTECT Act specifically requires the court, after sentencing, to provide a copy of the plea agreement to the Sentencing Commission. 28 U.S.C. § 994(w). Written plea agreements also avoid misunderstandings with regard to the terms that the parties have accepted.

B. Honesty in Sentencing

As set forth in my July 28, 2003 Memorandum on "Department Policies and Procedures Concerning Sentencing Recommendations and Sentencing Appeals," Department of Justice policy requires honesty in sentencing, both with respect to the facts and the law:

Any sentencing recommendation made by the United States in a particular case must honestly reflect the totality and seriousness of the defendant's conduct and must be fully consistent with the Guidelines and applicable statutes and with the readily provable facts about the defendant's history and conduct.

This policy applies fully to sentencing recommendations that are contained in plea agreements. The July 28 Memorandum further explains that this basic policy has several important implications. In particular, if readily provable facts are relevant to calculations under the Sentencing Guidelines, the prosecutor must disclose them to the court, including the Probation Office. Likewise, federal prosecutors may not "fact bargain," or be party to any plea agreement that results in the sentencing court having less than a full understanding of all readily provable facts relevant to sentencing.

The current provision of the United States Attorneys' Manual that addresses charging policy and that describes the circumstances in which a less serious charge may be appropriate includes the admonition that "[a] negotiated plea which uses any of the options described in this section must be made known to the sentencing court." See U.S.A.M. § 9-27.300(B); see also U.S.A.M. § 9-27.400(B) ("it would be improper for a prosecutor to agree that a departure is in order, but to conceal the agreement in a charge bargain that is presented to a court as a *fait accompli* so that there is neither a record of nor judicial review of the departure"). Although this Memorandum by its terms supersedes prior Department guidance on this subject, it remains Department policy that the sentencing court should be informed if a plea agreement involves a "charge bargain." Accordingly, a negotiated plea that uses any of the options described in Section I(B)(2), (4), (5), or (6) must be made known to the court at the time of the plea hearing and at the time of sentencing, i.e., the court must be informed that a more serious, readily provable offense was not charged or that an applicable statutory enhancement was not filed.

C.Charge Bargaining

Charges may be declined or dismissed pursuant to a plea agreement only to the extent consistent with the principles set forth in Section I of this Memorandum.

D.Sentence Bargaining

There are only two types of permissible sentence bargains.

1.Sentences within the Sentencing Guidelines range. Federal prosecutors may enter into a plea agreement for a sentence that is within the specified guideline range. For example, when the Sentencing Guidelines range is 18-24 months, a prosecutor may agree to recommend a sentence of 18 or 20 months rather than to argue for a sentence at the top of the range. Similarly, a prosecutor may agree to recommend a downward adjustment for acceptance of responsibility under U.S.S.G. § 3E1.1 if the prosecutor concludes in good faith that the defendant is entitled to the adjustment.

2.Departures. In passing the PROTECT Act, Congress has made clear its view that there have been too many downward departures from the Sentencing Guidelines, and it has instructed the Commission to take measures "to ensure that the incidence of downward departures [is] substantially reduced." Pub. L. No. 108-21, § 401(m)(2)(A), 117 Stat. 650, 675 (2003). The Department has a duty to ensure that the circumstances in which it will request or accede to downward departures in the future are properly circumscribed.

Accordingly, federal prosecutors must not request or accede to a downward departure except in the limited circumstances specified in this memorandum and with authorization from an Assistant Attorney General, United States Attorney, or designated supervisory attorney. Likewise, except in

such circumstances and with such authorization, prosecutors may not simply stand silent when a downward departure motion is made by the defendant.

An Assistant Attorney General, United States Attorney, or designated supervisory attorney may authorize a prosecutor to request or accede to a downward departure at sentencing only in the following circumstances:

a. Substantial assistance. Section 5K1.1 of the Sentencing Guidelines provides that, upon motion by the Government, a court may depart from the guideline range. A substantial assistance motion must be based on assistance that is substantial to the Government's case. It is not appropriate to utilize substantial assistance motions as a case management tool to secure plea agreements and avoid trials.

b. "Fast-track" programs. Federal prosecutors may support a downward departure to the extent consistent with the Sentencing Guidelines and the Attorney General's "Principles for Implementing An Expedited or Fast-Track Prosecution Program." The PROTECT Act specifically recognizes the importance of such programs by requiring the Sentencing Commission to promulgate a policy statement specifically authorizing such departures.

c. Other downward departures. As set forth in my July 28 Memorandum, "[o]ther than these two situations, however, Government acquiescence in a downward departure should be, as the Sentencing Guidelines Manual itself suggests, a "rare occurenc[e]." See U.S.S.G., Ch. 1, Pt. A, ¶ (4)(b). Prosecutors must affirmatively oppose downward departures that are not supported by the facts and the law, and must not agree to "stand silent" with respect to such departures. In particular, downward departures that would violate the specific restrictions of the PROTECT Act should be vigorously opposed.

Moreover, as stated above, Department of Justice policy requires honesty in sentencing. In those cases where federal prosecutors agree to support departures, they are expected to identify departures for the courts. For example, it would be improper for a prosecutor to agree that a departure is warranted, without disclosing such agreement, so that there is neither a record of nor judicial review of the departure.

In sum, plea bargaining must honestly reflect the totality and seriousness of the defendant's conduct, and any departure must be accomplished through the application of appropriate Sentencing Guideline provisions.

CONCLUSION

Federal criminal law and procedure apply equally throughout the United States. As the sole federal prosecuting entity, the Department of Justice has a unique obligation to ensure that all federal criminal cases are prosecuted according to the same standards. Fundamental fairness requires that all defendants prosecuted in the federal criminal justice system be subject to the same standards and treated in a consistent manner.

cc: The Acting Deputy Attorney General

The Associate Attorney General

The Solicitor General

The Assistant Attorney General, Criminal Division

The Assistant Attorney General, Antitrust Division

The Assistant Attorney General, Civil Rights Division

The Assistant Attorney General, Environment and Natural Resources Division

The Assistant Attorney General, Tax Division

The Assistant Attorney General, Civil Division

The Director, Executive Office of United States Attorneys

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03-516



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

September 22, 2003

TO: All United States Attorneys

FROM: John Ashcroft
Attorney General

A handwritten signature of John Ashcroft in black ink, written over the printed name and title.

SUBJECT: Department Principles for Implementing an Expedited Disposition or "Fast-Track" Prosecution Program in a District

Section 401(m)(2)(B) of the 2003 Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act ("PROTECT Act") instructs the Sentencing Commission to promulgate, by October 27, 2003, a policy statement authorizing a downward departure of not more than 4 levels "pursuant to an early disposition program *authorized by the Attorney General and the United States Attorney.*" Pub. L. No. 108-21, § 401(m)(2)(B), 117 Stat. 650, 675 (2003). Although the PROTECT Act requirement of Attorney General authorization only applies by its terms to fast-track programs that rely on downward departures, the Memorandum I have issued on "Department Policy Concerning Charging Criminal Offenses, Disposition of Charges, and Sentencing" likewise requires Attorney General approval for any "fast-track" program that relies upon "charge bargaining" — *i.e.*, a program whereby the Government agrees to charge less than the most serious, readily provable offense. This memorandum sets forth the general criteria that must be satisfied in order to obtain Attorney General authorization for "fast-track" programs and the procedures by which U.S. Attorneys may seek such authorization.¹

I. REQUIRED CRITERIA FOR ATTORNEY GENERAL AUTHORIZATION OF A "FAST-TRACK" PROGRAM.

Early disposition or "fast-track" programs are based on the premise that a defendant who promptly agrees to participate in such a program has saved the government significant and scarce resources that can be used in prosecuting other defendants and has demonstrated an acceptance of responsibility above and beyond what is already taken into account by the adjustments contained in U.S.S.G. § 3E1.1. These programs are properly reserved for exceptional circumstances, such as where the resources of a district would otherwise be significantly strained by the large volume of a particular category of cases. Such programs are not to be used simply to avoid the ordinary application of the Guidelines to a particular class of cases.

¹ The requirement that a fast-track program be approved by the "Attorney General" under the PROTECT Act or under these Principles may also be satisfied by obtaining the approval of the Deputy Attorney General. See 28 U.S.C. § 510; 28 C.F.R. § 0.15(a).

In order to obtain Attorney General authorization to implement a “fast track” program, the United States Attorney must submit a proposal that demonstrates that —

- (A) (1) the district confronts an exceptionally large number of a specific class of offenses within the district, and failure to handle such cases on an expedited or “fast-track” basis would significantly strain prosecutorial and judicial resources available in the district; or
- (2) the district confronts some other exceptional local circumstance with respect to a specific class of cases that justifies expedited disposition of such cases;
- (B) declination of such cases in favor of state prosecution is either unavailable or clearly unwarranted;
- (C) the specific class of cases consists of ones that are highly repetitive and present substantially similar fact scenarios; and
- (D) the cases do not involve an offense that has been designated by the Attorney General as a “crime of violence.” *See* 28 C.F.R. § 28.2 (listing offenses designated by the Attorney General as “crimes of violence” for purposes of the DNA collection provisions of the USA PATRIOT Act).

These criteria will ensure that “fast-track” programs are implemented only when warranted. Thus, these criteria specify more clearly the circumstances under which a fast-track program could properly be implemented based on the high incidence of a particular type of offense within a district — one of the most commonly cited reasons for justifying fast-track programs. Paragraph (A)(2), however, does not foreclose the possibility that there may be some other exceptional local circumstance, other than the high incidence of a particular type of offense, that could conceivably warrant “fast-track” treatment.

II. REQUIREMENTS GOVERNING UNITED STATES ATTORNEY IMPLEMENTATION OF FAST-TRACK PROGRAMS.

Once a United States Attorney has obtained authorization from the Attorney General to implement a fast-track program with respect to a particular specified class of offenses, the United States Attorney may implement such program in the manner he or she deems appropriate for that district, provided that the program is otherwise consistent with the law, the Sentencing Guidelines, and Department regulations and policy. Any such program must include the following elements:

- A. *Expedited disposition.* Within a reasonably prompt period after the filing of federal charges, to be determined based on the practice in the district, the Defendant must agree to plead guilty to an offense covered by the fast-track program.

B. *Minimum requirements for "fast-track" plea agreement.* The Defendant must enter into a written plea agreement that includes at least the following terms:

- i. The defendant agrees to a factual basis that accurately reflects his or her offense conduct;
- ii. The defendant agrees not to file any of the motions described in Rule 12(b)(3), Fed. R. Crim. P.
- iii. The defendant agrees to waive appeal; and
- iv. The defendant agrees to waive the opportunity to challenge his or her conviction under 28 U.S.C. § 2255, except on the issue of ineffective assistance of counsel.

C. *Additional provisions of plea agreement.* In exchange for the above, the attorney for the Government may agree to move at sentencing for a downward departure from the adjusted base offense level found by the District Court (after application of the adjustment for acceptance of responsibility) of a specific number of levels, not to exceed 4 levels. The plea agreement may commit the departure to the discretion of the district court, or the parties may agree to bind the district court to a specific number of levels, up to four levels, pursuant to Rule 11(c)(1)(C), Fed. R. Crim. P. A "charge bargaining" fast-track program should provide for sentencing reductions that are commensurate with the foregoing. The parties may otherwise agree to the application of the Sentencing Guidelines consistently with the provisions of the Sentencing Guidelines and Rule 11.

III. PROCEDURES WITH RESPECT TO IMPLEMENTATION OF FAST-TRACK PROGRAMS.

Procedures for Attorney General approval. Before implementing a fast-track program, a district must submit to the Director of the Executive Office for United States Attorneys (EOUSA), for Attorney General approval, its proposal to implement a fast-track program. Likewise, any such program in existence on the date of this Memorandum may not be continued after October 27, 2003, unless a fast-track proposal has been submitted and approved. Any fast-track proposal must contain the following elements:

- A. An identification of the specific category of violations to be covered by the fast-track program.
- B. A detailed explanation of why the criteria described in Section I are satisfied with respect to such offenses. If the district has previously implemented a fast-track program for such offenses (*i.e.*, prior to the date of this memorandum), the explanation should include a detailed discussion of the experience under such program in the district.

Notice to EOUSA of compliance with additional requirements for fast-track programs.
The district must notify EOUSA of any fast-track programs it adopts. The district must also identify in the Case Management System any case disposed of pursuant to an approved fast-track program, so that the number of cases and their dispositions may be determined for reporting or other statistical purposes.

cc: The Acting Deputy Attorney General
 The Associate Attorney General
 The Solicitor General
 The Assistant Attorney General, Criminal Division
 The Director, Executive Office for United States Attorneys



Office of the Attorney General
Washington, D.C. 20530
September 8, 2003

MEMORANDUM FOR ALL DEPARTMENT OF JUSTICE EMPLOYEES
IN THE METROPOLITAN WASHINGTON AREA

FROM: THE ATTORNEY GENERAL

SUBJECT: 2003 Commemoration of National Hispanic Heritage Month

Each year, the President issues a proclamation, designating September 15 through October 15, as National Hispanic Heritage Month. The theme for this year's commemoration is "Hispanic Americans: Honoring Our Past, Surpassing Our Present, and Leading Our Future." During this month, the commemorative observances held throughout federal agencies offer a unique opportunity for the American people to honor and recognize the significant contributions to our nation and our culture made by Americans of Hispanic descent.

To meet the challenge of the 21st century, we must create a society that offers opportunity to all Americans, requires responsibility from all Americans, and nurtures a diverse community comprised of all Americans. Hispanic Americans across the country are dedicated to building such a society. Here at the Department, Hispanic employees embrace the best values and traditions that are the hallmark of great public service.

I am pleased to announce this Department's forthcoming National Hispanic Heritage Month observance which is being co-sponsored with the Bureau of Prisons. The program will be held on September 24, 2003, at 2 p.m., in the Great Hall of the RFK Main Justice Building. The keynote speaker will be Cari Dominguez, Chair of the Equal Employment Opportunity Commission (EEOC). The program will also feature a musical performance by Alexa Osorio Kuhn, a young soprano from the Duke Ellington School for the Performing Arts. The observance will be immediately followed by an ethnic food sampling.

I encourage all managers and supervisors of the Department to support the National Hispanic Heritage Month commemoration by allowing their employees reasonable official time to participate in this important observance.



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

April 11, 2003

MEMORANDUM FOR ALL DEPARTMENT OF JUSTICE EMPLOYEES
IN THE METROPOLITAN WASHINGTON AREA

FROM:

THE ATTORNEY GENERAL

A handwritten signature in black ink, appearing to read "John Ashcroft", is written over the text "THE ATTORNEY GENERAL".

SUBJECT:

Observance of the Days of Remembrance for the
Victims of the Holocaust, April 27-May 4, 2003

Thursday, April 29 is Yom Hashoah, the International Day of Remembrance for the Victims of the Holocaust. For the entire week April 27-May 4, 2003, the world will remember the individual lives lost under Nazi tyranny. Yom Hashoah is also an opportunity for citizens around the world to commemorate the bravery and compassion of the survivors, rescuers, and liberators. During this time of remembrance and reflection, every precious life lost and every sacrifice made during the Holocaust reminds us that the right to life and liberty are given by God to every human being and must be safeguarded and defended at all times by the good and the just.

Our nation has long united to defend liberty, and stand firm against the forces of tyranny and terror. On September 11, 2001, the world was reminded again of the cost of hatred and violence, as well as the strength and determination of our nation united to fight and overcome terror. Even as we commemorate the International Day of Remembrance for the Victims of the Holocaust, we rededicate ourselves to continue to seek justice for the Holocaust's victims of terror. Last year the Office of Special Investigations set a new record by commencing 10 new prosecutions against alleged Nazi persecutors who fraudulently gained citizenship in the United States. Since OSI began operations in 1979, 71 Nazi persecutors have been stripped of U.S. citizenship and 57 such individuals have been removed from this country.

America's National Day of Remembrance Ceremony will be held on April 30 at the Capitol Rotunda. At the United States Holocaust Memorial Museum visitors can explore the theme, "For Your Freedom and Ours," an exhibition on those courageous individuals in the Warsaw ghetto who valiantly rose up against their Nazi oppressors.

The Department will also co-sponsor an interagency program, which will be held on Thursday, May 1, 2003, at 12 noon, at the Lincoln Theater, 1215 U Street, NW (U St./Cardozo Metro Stop), Washington, DC. Program highlights include:

- The Bulgarian Ambassador to the United States, Elena Borislavova Poptodorova, will present the inspiring story of Bulgarian citizens, backed by the Bulgarian Orthodox Church and their national government, acted to save 48,000 Jews from death in Poland's death camps.

- The keynote speaker for this event will be Israel Borouchoff, who was an eyewitness to these heroic actions.
- Peter Masters will also speak about his escape from Germany as a teenager and his life in the British Army where he infiltrated and fought the German forces occupying Europe.
- Finally, television commentator Ted Koppel will be the Master of Ceremonies for this important event. Managers and supervisors are encouraged to allow employees official time to attend these events.

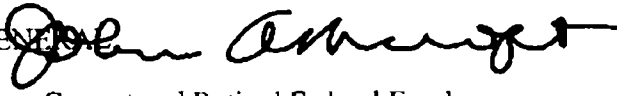
For additional information, please contact Linda Sackie, Equal Employment Opportunity Staff, Justice Management Division, at 202-616-4807 or by e-mail to Linda.P.Sackie@usdoj.gov.



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

April 7, 2003

MEMORANDUM FOR HEADS OF DEPARTMENT COMPONENTS

FROM: THE ATTORNEY GENERAL 
SUBJECT: Tax Compliance Among Current and Retired Federal Employees

This memorandum is to ask for your assistance in promoting tax compliance among Department employees.

Tax delinquency among federal employees can damage the credibility of the tax administration system. If the public perceives that federal employees do not maintain the highest level of tax compliance, public confidence in government will suffer.

The rate of compliance among federal employees and retirees continues to be better than that of the general public. However, recent data still shows a significant number of potentially noncompliant federal employees and retirees.

In order to assist Department employees in meeting their tax obligations, employees may call 1-800-829-1040 for assistance with filing their tax returns or resolving any balance owed. Employees may also visit the IRS web site at www.irs.gov to find available forms, publications, and information.

Please encourage your employees to maintain the highest level of tax compliance in order to help foster public confidence in government. Your assistance in this matter is very much appreciated.



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

April 4, 2003

MEMORANDUM FOR HEADS OF ALL FEDERAL DEPARTMENTS AND AGENCIES,
INCLUDING THE FEDERAL BUREAU OF INVESTIGATION (see attached distribution list)

FROM: THE ATTORNEY GENERAL

A handwritten signature in black ink, appearing to read "John Ashcroft", is written over the text "THE ATTORNEY GENERAL".

SUBJECT: Implementation of Section 586 of the Foreign Operations, Export Financing, and
Related Programs Appropriations Act, Pub. L. No. 108-7, 117 Stat. 11, 215-16
(February 20, 2003), Concerning Information Relevant to Murders of American
Churchwomen and Other American Citizens in El Salvador and Guatemala

Section 586 of Public Law 108-7 provides in pertinent part that "the President shall order all Federal agencies and departments, including the Federal Bureau of Investigation, that possess relevant information" concerning certain murders that occurred in El Salvador and Guatemala, "to expeditiously declassify and release to the victims' families such information, consistent with existing standards and procedures on classification." Section 586 further provides that "[i]n making determinations concerning declassification and release of relevant information, all Federal agencies and departments should use the discretion contained within such existing standards and procedures on classification in support of releasing, rather than withholding, such information." A copy of section 586 is attached to this memorandum at Tab 1.

The President's signing statement on Public Law 108-7 provides that "the duty of the President under section 586 * * * to issue and provide copies of an order relating to consideration of the release of information is assigned to the Attorney General, who shall ensure that the section is implemented in a manner consistent with the President's constitutional authority to withhold information, the disclosure of which could impair foreign relations, national security, the deliberative processes of the Executive, or the performance of the Executive's constitutional duties." A copy of the President's signing statement is attached to this memorandum at Tab 2.

This memorandum implements the statutory directive set forth in section 586 in accordance with the President's signing statement. Section 586 identifies three categories of murders to which it applies: "the December 2, 1980, murders of four American churchwomen in El Salvador"; "the May 5, 2001, murder of Sister Barbara Ann Ford"; and "the murders of other American citizens in Guatemala since December 1999." On or before 30 days from the date of this memorandum, the Department of State shall submit to me, through the Department of Justice

point of contact specified below, a list of the names and other identifying information concerning any American citizens murdered in Guatemala between December 1, 1999, and February 20, 2003 (the date of enactment of section 586); the Department of State shall also submit a list of the names and other identifying information concerning the four American churchwomen murdered in El Salvador on December 2, 1980. This information will be used to assist other departments and agencies in conducting searches for relevant information.

Also within 30 days from the date of this memorandum, all departments and agencies shall submit to me, through the Department of Justice point of contact specified below, the names, telephone and fax numbers, e-mail addresses, and mailing addresses of their points of contact on this matter. The Department of Justice point of contact is Melanie Ann Pustay, Deputy Director, Office of Information and Privacy. Ms. Pustay can be reached by telephone at 202-514-3642, by fax at 202-514-1009, and by e-mail at <<Melanie.A.Pustay@usdoj.gov>>. Her mailing address is Department of Justice, Flag Building, Suite 570, Washington, D.C. 20530.

On or before 120 days from the date of this memorandum, the heads of all Federal departments and agencies, as well as the Director of the FBI, shall report to me in writing, through Ms. Pustay, on whether each such government entity possesses information relevant to the murders specified in section 586 and identified by the State Department. For any department or agency that does possess such information, the report shall also set forth a written plan for expeditious review of the information for possible release to the victims' families. The plan shall include an estimate of the date by which the review and possible release of information to the victims' families is expected to be completed, and a statement that supports and justifies the estimate. If any plan estimates that this review process will not be completed by 210 days from the date of this memorandum, the plan shall provide for submission of a written progress report to me through Ms. Pustay on or before 210 days from the date of this memorandum. As indicated in the President's signing statement, the review process shall be conducted in a manner consistent with the President's constitutional authority to withhold information, the disclosure of which could impair foreign relations, national security, the deliberative processes of the Executive, or the performance of the Executive's constitutional duties. In that regard, please note that Executive Order 12958, governing classification and declassification of national security information, was amended on March 25, 2003.

A copy of this memorandum is being provided to the Committees on Appropriations of the House of Representatives and the Senate.

Distribution List:

Department of Agriculture
Department of Commerce
Department of Defense
Department of Education
Department of Energy
Department of Health and Human Services
Department of Homeland Security
Department of Housing and Urban Development
Department of the Interior
Department of Labor
Department of State
Department of Transportation
Department of the Treasury
Department of Veterans Affairs

Federal Bureau of Investigation

Broadcasting Board of Governors
Central Intelligence Agency
Commission on Civil Rights
Commodity Futures Trading Commission
Consumer Product Safety Commission
Corporation for National and Community Service
Defense Nuclear Facilities Safety Board
Environmental Protection Agency
Equal Employment Opportunity Commission
Export-Import Bank of the United States
Farm Credit Administration
Federal Communications Commission
Federal Deposit Insurance Corporation
Federal Election Commission
Federal Emergency Management Agency
Federal Housing Finance Board
Federal Labor Relations Authority
Federal Maritime Commission
Federal Mediation and Conciliation Service
Federal Mine Safety and Health Review Commission
Federal Reserve System
Federal Retirement Thrift Investment Board
Federal Trade Commission
General Services Administration

Institute of Museum and Library Services
Inter-American Foundation
International Broadcasting Bureau
Merit Systems Protection Board
National Aeronautics and Space Administration
National Archives and Records Administration
National Capital Planning Commission
National Council on Disability
National Credit Union Administration
National Endowment for the Arts
National Endowment for the Humanities
National Labor Relations Board
National Mediation Board
National Railroad Passenger Corporation
National Science Foundation
National Transportation Safety Board
Nuclear Regulatory Commission
Occupational Safety and Health Review Commission
Office of Compliance
Office of Government Ethics
Office of Personnel Management
Office of Special Counsel
Overseas Private Investment Corporation
Panama Canal Commission
Peace Corps
Pension Benefit Guaranty Corporation
Postal Rate Commission
Railroad Retirement Board
Securities and Exchange Commission
Selective Service System
Small Business Administration
Social Security Administration
Tennessee Valley Authority
Trade and Development Agency
United States Agency for International Development
United States International Trade Commission
United States Postal Service

Tab 1: Section 586 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, Pub. L. No. 108-7, 117 Stat. 11, 215-16 (February 20, 2003)

AMERICAN CHURCHWOMEN AND OTHER CITIZENS
IN EL SALVADOR AND GUATEMALA

Sec. 586

(a) Information relevant to the December 2, 1980, murders of four American churchwomen in El Salvador, and the May 5, 2001, murder of Sister Barbara Ann Ford and the murders of other American citizens in Guatemala since December 1999, should be investigated and made public.

(b) Not later than 45 days after enactment of this Act, the President shall order all Federal agencies and departments, including the Federal Bureau of Investigation, that possess relevant information, to expeditiously declassify and release to the victims' families such information, consistent with existing standards and procedures on classification, and shall provide a copy of such order to the Committees on Appropriations.

(c) In making determinations concerning declassification and release of relevant information, all Federal agencies and departments should use the discretion contained within such existing standards and procedures on classification in support of releasing, rather than withholding, such information.

(d) All reasonable efforts should be taken by the American Embassy in Guatemala to work with relevant agencies of the Guatemalan Government to protect the safety of American citizens in Guatemala, and to assist in the investigations of violations of human rights.

This division may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003".

Tab 2: President's signing statement on Section 586 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, Pub. L. No. 108-7, 117 Stat. 11, 215-16 (February 20, 2003)

Today I have signed into law H.J. Res. 2, the "Consolidated Appropriations Resolution, 2003," which contains the remaining 11 annual appropriations acts for fiscal year 2003. The funds appropriated by this bill will provide valuable resources for priorities such as homeland security, military operations, and education.

* * * *

In addition, a number of provisions of H.J. Res. 2 are inconsistent with the constitutional authority of the President to conduct foreign affairs, command the Armed Forces, supervise the unitary executive branch, protect sensitive information, and make recommendations to the Congress. Other provisions unconstitutionally condition execution of the laws by the executive branch upon approval by congressional committees.

* * * *

Furthermore, the duty of the President under section 586 of the Foreign Operations Appropriations Act to issue and provide copies of an order relating to consideration of the release of information is assigned to the Attorney General, who shall ensure that the section is implemented in a manner consistent with the President's constitutional authority to withhold information, the disclosure of which could impair foreign relations, national security, the deliberative processes of the Executive, or the performance of the Executive's constitutional duties.

* * * *

George W. Bush
The White House,
February 20, 2003.



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

March 12, 2003

MEMORANDUM FOR HEADS OF DEPARTMENT COMPONENTS

FROM:

THE ATTORNEY GENERAL

A handwritten signature in cursive script, reading "John Ashcroft", is written over the text "THE ATTORNEY GENERAL".

SUBJECT:

National Women's History Month, March 2003

March 2003 commemorates National Women's History Month. During this month, the Department of Justice will be sponsoring and presenting a wide variety of programs that formally recognize the substantial contributions women have made to the Department and to America.

This annual observance was originally inspired by female textile and garment workers in New York who went on strike on March 8, 1857, to protest their low wages and poor working conditions. Soon thereafter, March 8 was celebrated each year as American Women's Day. In the 1970s, the tribute was expanded to a full week, and since 1987, the entire month of March has been proclaimed as Women's History Month. This year, as we honor the integral role that women have consistently played in the development and sustained progress of our great nation, we will be highlighting many of their most important achievements and contributions through a series of exhibits, programs, and other activities.

I invite your staff, managers, and employees to join in studying this rich history. In view of the special significance of National Women's History Month, please inform your employees in the Washington Metropolitan area of scheduled activities and grant them reasonable, official time to participate.



Office of the Attorney General

Washington, D.C. 20530

January 29, 2003

MEMORANDUM FOR ALL UNITED STATES ATTORNEYS, THE ACTING DIRECTOR
OF THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND
EXPLOSIVES (ATF), ALL ATF SPECIAL AGENTS IN CHARGE, AND
THE DIRECTOR OF THE EXECUTIVE OFFICE FOR UNITED STATES
ATTORNEYS

FROM: THE ATTORNEY GENERAL

A handwritten signature in black ink, appearing to read "John Ashcroft", is written over the text "THE ATTORNEY GENERAL".

SUBJECT: Coordinating Department of Justice Efforts to Combat Gun Crime

Reducing gun crime is a top priority of the Department of Justice. Vigorous enforcement of existing gun laws reduces gun crime and provides greater safety and security for Americans in their homes and neighborhoods. Through Project Safe Neighborhoods, the Administration is pursuing a comprehensive national strategy to enforce vigorously Federal and state gun laws. A central element to the success of Project Safe Neighborhoods is the coordination of the efforts of Federal, state, and local investigators and prosecutors in responding to every crime involving a gun, ensuring that criminals violating gun laws receive the toughest possible punishment.

On January 24, 2003, the law enforcement functions and missions of the Treasury Department's Bureau of Alcohol, Tobacco, and Firearms were transferred to the Department of Justice (Department) as the new Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF). ATF takes its place along side the Department's other law enforcement components, reporting to me through the Deputy Attorney General. ATF is unique among Federal law enforcement agencies in its focus on the enforcement of Federal firearms and explosives laws. For that reason, ATF plays a key role in Project Safe Neighborhoods.

ATF's integration into the Department allows for increased coordination of firearms investigations and prosecutions between ATF and Department prosecutors and law enforcement components. To take immediate advantage of these new opportunities, I am hereby directing you to undertake further action to coordinate and enhance the Department's efforts to combat gun crime.

1. Coordinating ATF Investigations with U.S. Attorney Referral Criteria

As part of Project Safe Neighborhoods, all United States Attorneys have developed a plan individually tailored to the gun crime problem of each of their districts. An important part of those plans is the referral criteria established by each U.S. Attorney's Office for the types of gun

cases that should be referred by investigators for Federal prosecution. To make the most of ATF's investigative resources, it is crucial that the U.S. Attorneys and ATF have a clear understanding of the guidelines for cases to be referred for Federal prosecution and cases that should be referred for state prosecution. Accordingly, I hereby direct all United States Attorneys and corresponding ATF Special Agents in Charge to meet within the next 30 days and confer on prosecution referral guidelines and criteria to ensure that prosecutors and ATF investigators are fully coordinated on the investigation and prosecution of gun cases. United States Attorneys shall also coordinate with local prosecutors to ensure that a case developed by ATF that does not meet the criteria for Federal prosecution, is immediately referred to state prosecutors when it satisfies standards for state prosecution.

2. Coordinating the ATF and U.S. Attorney Referral Systems

Keeping accurate and integrated information on gun case investigations, referrals, and prosecutions is critical to identifying the nature of gun crime in particular districts, making possible connections to other cases, and measuring the success of our enforcement efforts. The Executive Office of United States Attorneys will implement by the end of this year its new Enterprise Case Management System and the ATF has its own system for case management and tracking. Historically, the Department and ATF referral systems have had different ways of counting cases. These systems must be made compatible and coordinated so that information on gun cases investigated and referred corresponds to information on declinations and prosecutions. Doing so will allow us to make the most of the information as an analytical tool supporting our enforcement goals. Therefore, I hereby direct the Executive Office for United States Attorneys and ATF to integrate their case referral systems so that the Department has a fully coordinated system for tracking and recording firearm case referrals and prosecutions.



Office of the Attorney General

Washington, D.C. 20530

January 29, 2003

MEMORANDUM FOR THE ASSISTANT ATTORNEY GENERAL FOR THE CRIMINAL DIVISION, THE ASSISTANT ATTORNEY GENERAL FOR LEGAL POLICY, ALL UNITED STATES ATTORNEYS, THE ACTING DIRECTOR OF THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES, THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION, THE ACTING ADMINISTRATOR OF THE DRUG ENFORCEMENT ADMINISTRATION, THE DIRECTOR OF THE EXECUTIVE OFFICE OF UNITED STATES ATTORNEYS, AND THE CHAIRMAN OF THE ATTORNEY GENERAL'S ADVISORY COMMITTEE

FROM:

THE ATTORNEY GENERAL

A handwritten signature in black ink, appearing to read "John Ashcroft", is written over the text "THE ATTORNEY GENERAL".

SUBJECT:

Strengthening Department Efforts to Combat Gun Trafficking

The illegal diversion of guns into the hands of criminals and other prohibited persons is a major cause of gun crime and a threat to public safety. The investigation and prosecution of illegal gun trafficking is a priority for Project Safe Neighborhoods, the Department of Justice's comprehensive national strategy to enforce vigorously Federal and state gun laws. To better coordinate these efforts and strengthen the tools available to combat gun trafficking, I am directing you to take the following actions.

1. Prosecuting Those Who Lie to Avoid Brady Checks

Preventing gun crime starts with keeping guns out of the hands of criminals and other prohibited persons. The Brady Act plays an important role in such prevention by requiring Federally licensed firearms dealers to obtain a background check on gun buyers prior to transferring a firearm, and that system has resulted in approximately 600,000 denials to date. To deter efforts by prohibited persons from obtaining guns, on June 28, 2001, I directed all United States Attorneys to make it a priority to prosecute persons who illegally attempt to circumvent the background check system by lying on the required forms. I hereby direct all United States Attorneys, in consultation with the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) and the Executive Office of United States Attorneys, to audit and report to me on the cases being brought pursuant to my directive of June 28, 2001.

2. Tougher Penalties for Gun Traffickers

Gun trafficking occurs notwithstanding Brady background checks through persons who circumvent the law and unlawfully divert guns from commerce. An example is the "straw purchase." A straw purchase occurs when the actual buyer of a firearm, frequently a prohibited person such as a felon, uses another person without a prohibiting record to execute the paperwork to buy a gun from a gun dealer. Straw purchasers often profit from the resale of guns to criminals on the street, including violent gang members.

While the penalties for gun trafficking in the Federal Sentencing Guidelines were increased effective November 2001, the sentences available for violations involving smaller numbers of guns are still relatively low. For example, the enforcement tool used for straw purchases cases, 18 U.S.C. 922(a)(6) (making it unlawful to lie to a gun dealer about the lawfulness of the sale), carries a maximum penalty of 10 years imprisonment. Under the Sentencing Guidelines, sections 2K2.1 and 3E1.1, however, in cases involving three to seven guns, a gun trafficker with a minimal criminal record who accepts responsibility by pleading guilty is subject to a sentence range from 10 to 16 months. Even at the high end of the guidelines the sentences may not provide adequate deterrence to large scale gun trafficking – in cases involving 200 or more guns, a similar offender is subject to a sentence range of 33-41 months.

Given the fact that trafficking even a few guns into the hands of a criminal can cause serious violence in our neighborhoods, the punishment for such crime should be sufficient to deliver the message of deterrence that makes Project Safe Neighborhoods a success. These cases should not all be viewed as mere paper offenses. I am therefore directing the Criminal Division, in consultation with the Office of Legal Policy, ATF, the Federal Bureau of Investigation (FBI), the Drug Enforcement Administration (DEA) and the Attorney General's Advisory Committee, to review the experience under existing Federal Sentencing Guidelines for firearms trafficking cases and to make appropriate recommendations for seeking an increase in the Guidelines.

3. Coordinating Gun Trafficking Cases That Cross State and District Boundaries

Trafficking in firearms frequently crosses state and district boundaries. Such cases benefit from close coordination. Last summer's arrest of dozens of college students purchasing guns in southern states for illegal resale on the streets of New York City and elsewhere demonstrates the success that can be achieved from the coordination of interstate trafficking cases. I therefore direct the Criminal Division, the Executive Office of United States Attorneys, ATF, DEA, and the FBI to establish procedures for coordinating the investigation and prosecution of illegal gun trafficking cases that cross state and district boundaries.



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

January 24, 2003

MEMORANDUM FOR ALL BUREAU OF ALCOHOL, TOBACCO, FIREARMS
AND EXPLOSIVES EMPLOYEES

FROM: The Attorney General

A handwritten signature in black ink, which appears to be "John Ashcroft", is written over the "FROM:" line and extends into the "SUBJECT:" line.

SUBJECT: Welcome to the Department of Justice

On behalf of the Department of Justice, allow me to be the first to welcome you to our team. Your reputation as highly skilled law enforcement professionals is well recognized among your peers in the law enforcement community, and by the public in general. I am pleased for the opportunity to work with you.

I recently spent time with Director Buckles at the annual Department of Justice Leadership Retreat. It was an excellent opportunity to discuss our shared goals as ATF joins the Department of Justice. The partnership between Justice and ATF will strengthen America's ability to fight gun crime, the illegal use of explosives, and arson.

On our shoulders rests the responsibility of upholding the American justice tradition that strives to bring protection to the weak, freedom to the restrained, liberty to the oppressed, and security to all. Our cause is justice, our foundation is firm, and our commitment is unwavering. Let us all be dedicated to ensuring that the Justice Department, including ATF, fulfills its promise and honors its heritage by enforcing the rule of law and protecting the security of all Americans.

Thank you in advance for your dedicated service to America as part of the Department of Justice.



Office of the Attorney General
Washington D.C. 20530
 November 21, 2002

MEMORANDUM FOR ALL DEPARTMENT EMPLOYEES

FROM: THE ATTORNEY GENERAL

This week, the United States Congress, in a bipartisan majority vote, gave final approval to President Bush's proposal to create a new Department of Homeland Security. The creation of the Department of Homeland Security begins a new era of cooperation and coordination in the nation's homeland defense. The President's plan will allow us to improve our efforts to work together to identify and assess threats to our homeland, match these threats to our vulnerabilities, and act to ensure the safety and security of the American people.

Understandably, many will have questions about what the creation of this new department will mean for you and other employees at the Department of Justice. A team of federal employees, including representatives from Justice, has been developing plans to ensure a smooth and effective transition. Once the President signs the legislation into law, there will be a 60-day period before the new department is formally established. Agencies that will become part of the Department of Homeland Security will be transferred some time during a one-year transition period. In the interim, I ask each of you to remain focused daily on your critical mission: to protect Americans against future acts of terrorism and to bring terrorists to justice.

While the transition to the new department will undoubtedly present new challenges, it also presents outstanding new opportunities. From the beginning, the President has regarded this new department as a critical component of our nation's efforts to protect itself against terrorism. He is committed to making it both an effective part of our government and an excellent place to work for federal employees. A website has been set up specifically to provide you with transition updates. It may be found at www.dhs.gov/employees. In addition, do not hesitate to direct questions to your human resources representative.

The security of our homeland depends on our continued vigilance and dedication to our critical mission. Thank you for your continued service to all Americans.



The Attorney General
Washington, D.C.

November 2002

Dear DOJ Family,

As Americans prepare to celebrate Thanksgiving, I am reminded of the many blessings made possible by the sacrifice of generations that have gone before us. In their first years in the New World, the Pilgrims suffered and sacrificed, paving the way for the America that now exists.

During one particularly harsh time, known as "The Starving," each Pilgrim was allocated a mere five (5) kernels of corn per day. Nothing more was eaten except the seafood which was caught. That disciplined, sacrificial hardship protected the seedcorn that was necessary for future plenty.

This Thanksgiving in America, as I thank God for His blessings and the sacrifices of those who have gone before me, I also give thanks for you. I am grateful for our opportunity to work together to promote freedom around the world. May God bless and protect you, your family and America.

Sincerely,


John Ashcroft


Have a great
THANKSGIVING!!



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

October 16, 2002

MEMORANDUM FOR DEPARTMENT OF JUSTICE EMPLOYEES

FROM: THE ATTORNEY GENERAL 
SUBJECT: Domestic Violence Awareness Month

October is Domestic Violence Awareness Month. The Department of Justice joins with others across the nation who are working to raise awareness of the devastating effects of domestic violence for individual victims, their children, and their communities.

Domestic violence is perpetrated in all types of relationships and crosses all economic, educational, cultural, racial, and religious lines. According to the Bureau of Justice Statistics, nearly one-third of women murdered each year are killed by their current or former partners. In response to such grim statistics, the Department is partnering with tribes, states, and local communities to implement coordinated community responses to domestic violence. We are fulfilling the promise of the Violence Against Women Act of 2000, and U.S. Attorneys are enforcing federal criminal laws related to domestic violence by prosecuting appropriate cases under both the Violence Against Women Act and other related statutes.

Violent crime, while on the decline, still devastates the lives of too many women. Domestic violence still accounts for 20% of all violent crimes against women, and over one million women are stalked each year. Domestic violence harms children, as well; in addition to the psychological harm suffered by children living in violent environments, it is estimated that in 30-60% of domestic violence cases, children are actively maltreated. Clearly, we have much more work to do.

As Attorney General, I remain committed strongly to acting with the full force of the law to eradicate this crime. With continued collaboration within communities, we can build effective, responsive criminal and civil justice systems. All domestic violence crimes, whether assault with a deadly weapon or violation of a protection order, must be taken seriously and responded to as threats to the safety of the entire community. We must continue to develop and share successful methods of keeping victims safe and holding perpetrators accountable. Together, we can work to ensure that the legal system provides victims of domestic violence with equal and safe access to justice and protection.

There are many resources available for victims, including the U.S. Office of Personnel Management's guidebook online entitled "Responding to Domestic Violence: Where Federal Employees Can Find Help" at: <http://www.opm.gov/ehs/workplac/html/domestic.html>, and the National Domestic Violence Hotline, 1-800-799-SAFE (voice) or 1-800-787-3224 (TTY).



Office of the Attorney General

Washington, D. C. 20530

October 10, 2002

MEMORANDUM FOR HEADS OF DEPARTMENT COMPONENTS

FROM:

THE ATTORNEY GENERAL

A handwritten signature in cursive script, reading "John Ashcroft", is written over the text "THE ATTORNEY GENERAL".

SUBJECT:

Unified Financial Management System Project

The Unified Financial Management System Project (Unified Project) is a major Department-wide initiative to improve significantly the efficiency and integrity of our financial management and accounting functions. We must move swiftly away from the widely different systems and business practices we have today, and adopt a true enterprise-wide financial management operation that is based on industry and government best practices. A unified financial system is one way in which we will achieve this important goal. The Unified Project will result in more timely and meaningful financial and performance information for our managers, and provide a more reliable, standardized, and effective means of producing Department-level information.

The Department now has a comprehensive plan that will deliver a Unified Financial Management System for the FBI, DEA, USMS, and the INS between Fiscal Years 2003 and 2005. The OBDs, OJP, and BOP are scheduled to move to the new core system between Fiscal Years 2005 and 2007. The plan incorporates significant Business Process Re-engineering (BPR) activities beginning early in Fiscal Year 2003 to develop and implement uniform financial management policies and procedures. In addition, opportunities for implementation of shared financial services will be explored.

Our success depends directly on the ability to bring the right mix of functional and technical resources to the Unified Project. We must be judicious, but aggressive, in the allocation of our key personnel in order to strike a reasonable balance between operation/maintenance of our current financial systems and the critical needs of the Unified Project. As the Unified Project management office identifies key project tasks, I request that you make available the appropriate personnel necessary for project success.

An Advisory Board composed of all bureau Chief Financial Officers will provide executive leadership to the Unified Project. Chaired by the Department's CFO, the Assistant Attorney General for Administration, the Board will meet on a periodic basis to address significant policy issues and to ensure Unified Project goals are met.

While the Department earned its first clean audit opinion on its annual financial statements last year, the auditors found that only two of the Department's seven accounting systems were compliant with federal standards. It is also evident that outdated accounting systems will impede our ability to meet the Office of Management and Budget's greatly accelerated due dates for future financial audits. The Unified Project represents a singular opportunity to develop true Department-wide business practices which are supported by a federally compliant core financial system, and I look forward to seeing the progress we can make on this important initiative for the Department. Thank you for your commitment to this critical project.



Office of the Attorney General

Washington, D.C. 20530

October 8, 2002

MEMORANDUM FOR HEADS OF DEPARTMENT COMPONENTS ALL UNITED STATES ATTORNEYS

FROM:

THE ATTORNEY GENERAL 

SUBJECT:

Review of Department of Justice Law Enforcement
Initiatives, Programs and Points of Contact Involving
The United States Attorneys' Offices

As Attorney General, it is my job to delineate and communicate the law enforcement priorities of this Administration. Since assuming office, I have made it a practice to cite the Administration's priorities whenever I speak to Department of Justice employees or candidates for leadership positions. I do this because I believe that the Department of Justice best serves the American people when we all share a clear vision of our common mission.

I have found, however, that the clarity of our purpose has been somewhat obscured by the myriad initiatives and programs that have developed over the years. Historically, Department initiatives and programs have been adopted in a piecemeal fashion, without any structure or process to prevent redundancy or to ensure consistency with the Department's Strategic Plan. The result has been a patchwork of initiatives and programs, many of which have been superseded or have grown obsolete or inconsistent with the law enforcement needs of the country. Nonetheless, these initiatives and programs remain on the books; imposing reporting requirements, requiring each United States Attorney's Office to designate dozens of different coordinators and points of contact, and generally diluting the focused enforcement strategy of this Administration.

To address this situation, I asked the Executive Office for United States Attorneys and several other Department components to undertake a comprehensive review of these initiatives and programs. I specifically asked them to identify all Department law enforcement initiatives and programs that involve the United States Attorneys' Offices; to determine which should be maintained, which should be consolidated and which should be eliminated; to devise an organizational scheme which ensures that every practice area in a United States Attorney's Office is covered by a coordinator, regardless whether that practice area is the subject of a particular program or initiative; and to develop a more rational and streamlined network of points of contact in the United States Attorneys' Offices.

Pursuant to my request, the Executive Office for United States Attorneys and the component heads identified 119 Department law enforcement initiatives, programs and points of contact that involve liaison between the Department's litigating divisions and the United States

Attorneys' Offices. The component heads reviewed the list and identified those initiatives, programs and points of contact that were obsolete, inoperative, duplicative or otherwise no longer needed. Members of the Executive Office for United States Attorneys then presented me with a series of recommendations based on the results of this review process. They recommended: (1) that I reduce the number of Department law enforcement initiatives, programs and points of contact involving the United States Attorneys' Offices from 119 to 23; (2) that I group them under the "Core Mission Areas" of Anti-Terrorism, Criminal Enforcement, Civil Rights Enforcement, Environmental Law Enforcement, Civil Litigation, and Border and Immigration Law Enforcement, which represent the Department's primary areas of enforcement responsibility and align with the Strategic Goals and Objectives listed in the Department's Strategic Plan for Fiscal Years 2001-2006; (3) that I designate separate categories within the Core Mission Area of Criminal Enforcement for the Administration's Enforcement Priorities of Violent Crime, Narcotics Enforcement, Corporate and Economic Crime, Computer and Telecommunications Crime, and Child Exploitation and Obscenity; and (4) that I ask the United States Attorneys to assign Coordinators for each Core Mission Area and Enforcement Priority.

I agree that these recommended changes will help us clarify our mission and focus our resources and attention on the country's most pressing law enforcement needs. I therefore adopt them in full, and I hereby direct each United States Attorney to assign coordinators and points of contact in accordance with the process detailed in the accompanying memorandum from the Executive Office for United States Attorneys.

I would like to express my gratitude to the members of the Executive Office for United States Attorneys, the Attorney General's Advisory Committee, the Office of Legislative Affairs, the Department's litigating divisions, the Office of Justice Programs, and the Immigration and Naturalization Service who participated in this important review process. Thanks to their cooperative efforts, the Department will now have a more streamlined and focused national strategy to pursue our mission of protecting the rights and safety of the American people.




Office of the Attorney General

Washington, D.C. 20530

October 2, 2002

MEMORANDUM FOR ASSISTANT ATTORNEY GENERAL
OFFICE OF JUSTICE PROGRAMS

ACTING ASSISTANT ATTORNEY GENERAL
FOR ADMINISTRATION

FROM: THE ATTORNEY GENERAL 
SUBJECT: Designation as National AMBER Alert Coordinator

Pursuant to President Bush's directive today instructing me to designate a National AMBER Alert Coordinator at the Department of Justice, I hereby designate the Assistant Attorney General for the Office of Justice Programs to this important position.

As described by the President, the National Coordinator's primary duties shall be:

1. Serving as a nationwide point of contact to assist state and local officials with developing and enhancing AMBER Alert Plans, and to promote statewide and regional coordination among Plans to create a seamless network of communication;
2. Establishing recommended, voluntary criteria for issuing and disseminating AMBER Alerts to ensure that the system is reserved for rare instances of serious child abductions; and
3. Providing resources to develop AMBER-related training and education programs, and to upgrade emergency alert programs.

The Department of Justice is steadfastly committed to safeguarding America's children, and will move swiftly to expand the life-saving AMBER network nationwide.



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

October 1, 2002

MEMORANDUM FOR ALL UNITED STATES ATTORNEYS

FROM: THE ATTORNEY GENERAL

A handwritten signature in black ink, appearing to read "John Ashcroft", is written over the word "GENERAL" in the "FROM" line.

SUBJECT: VOTING INTEGRITY INITIATIVES

The right of citizens to vote and to have their vote count is a cornerstone of our democracy. Democratic elections ensure that the people rule by selecting their own leaders and by holding those leaders accountable at the voting booth. Any activity that disrupts or undermines the electoral process attacks democracy at its roots. The Justice Department, therefore, must take steps to ensure the integrity of the vote in federal elections, including the upcoming general election on November 5, 2002.

To that end, I have ordered the creation of a Department-wide Voting Integrity Initiative to spearhead our efforts to combat election fraud and civil rights offenses involving voting. This Initiative will be under the supervision of the Assistant Attorneys General of the Civil Rights Division and the Criminal Division.

As a part of this effort, I have decided that the following steps should be taken before the upcoming November 2002 general election to enhance the Department's ability to deter and prosecute aggressively election voting rights and election fraud offenses:

- **Coordination with State Officials.** Each United States Attorney should meet, prior to the November 2002 elections, with the Secretary of State, State Attorney General, or other state official responsible for handling election violations in his or her District. The purpose of this meeting is two-fold: 1) to underscore the Department's commitment to investigate, and, where appropriate, prosecute election fraud and voting rights offenses; and 2) to explore ways in which the Department and state and local election and law enforcement authorities can work together to deter electoral corruption and bring violators to justice. I am holding similar meetings before the November elections with the leadership of several national organizations whose memberships are essential to the election administration process.
- **Training Symposium.** The Department will host a day-long symposium on election and voting rights offenses for all Assistant United States Attorneys who have been appointed to serve as District Election Officers for the 2002 election cycle. The symposium will take place in Washington, D.C., on October 8, 2002. It will consist of presentations from senior Department officials, the Civil Rights and Criminal Divisions,

- and Assistant United States Attorneys who have prosecuted cases involving civil rights violations and corruption. Please ensure that the District Election Officers in your District come to Washington to participate in this event. You are, of course, also invited to attend.

Finally, on election day in November, the Department will once again have its nationwide Election Day Program in place. This Program was established over 25 years ago to respond to public concerns about the integrity of the electoral process. The goal of the Program is to have federal prosecutors and investigators readily available to the public for the purpose of receiving complaints during the period when the polls are open. The Program also ensures that the federal response to election fraud and voting rights allegations is both warranted and consistent nationally. You will receive additional information about this year's program shortly.

I know that each of you shares my belief that election fraud and voting rights abuses should not go unnoticed, or unpunished. Election crimes and civil rights offenses involving voting, along with other forms of public corruption, should be among the Department's highest priorities. I ask for your assistance in the efforts that the Department is undertaking to enhance our ability to deter election fraud and voting rights offenses, and to prosecute these serious crimes vigorously and effectively when they occur.

PDF version

Portable Document Format (PDF) files may be viewed with a free copy of Adobe Acrobat Reader.

**Office of the Attorney General
Washington D.C. 20530
September 10, 2002**

MEMORANDUM FOR ALL DEPARTMENT EMPLOYEES

FROM: THE ATTORNEY GENERAL

On September 11, 2001, America came under attack by enemies of freedom -terrorists who aimed to inflict irreparable harm upon our nation and our beliefs. The determination of the terrorists has not deterred the determination of the American people.

Under the leadership of President George W. Bush, America is devoting all resources necessary to prevent, disrupt and defeat terrorism, not just for ourselves but for all peace-loving people. We will not hesitate in this pursuit, nor will we be thwarted. In this war we have acted boldly and decisively. We have done, and will continue to do, whatever it takes to overcome the evil that seeks to destroy us. We will work to turn tragedy into triumph, and we will prevail.

Among the high honors of my life has been the opportunity to witness the many ways in which the men and women of the Department have risen to meet the challenge that history has placed before us. This year has reminded us that each of us holds the power and bears the responsibility for defending our values. Members of the Department of Justice family have sacrificed untold hours in this pursuit. There have been many times, I'm sure, when you had to call your family to say that you would be home late for dinner, or would have to miss the Little League game or the concert at school. Your sacrifice, and that of your family, is recognized and appreciated deeply.

President Bush has declared September 11 Patriot Day, a day to honor the memory and the sacrifice of those who were lost. At this time when we are all pausing to reflect on what September 11 means to our country, I have enclosed a speech given recently by Solicitor General Ted Olson who eloquently captures the indomitable American spirit facing the horrors of September 11. As Ted points out, September 11 reminds us all that "our values and our principles are neither self-executing nor self-sustaining, and that we must sacrifice and fight to maintain what our forebears sacrificed and fought to bequeath to us."

Tens of thousands of Americans, including those in the Department of Justice family, lost loved ones on September 11. Hundreds more have suffered debilitating injuries and long, painful rehabilitation. But we need not have suffered a personal loss to have learned the lessons of that day. Thank you for all that you have done in the past year to honor the sacrifice of the heroes of September 11. May their spirit continue to inspire us in the months and years to come.

It is an honor to serve with you in these difficult times. God bless you all, and God bless America.



Office of the Attorney General
Washington, D. C. 20530
September 5, 2002

MEMORANDUM FOR HEADS OF DEPARTMENT COMPONENTS

FROM:

THE ATTORNEY GENERAL

A handwritten signature in black ink, appearing to be "John Ashcroft", is written over the text "THE ATTORNEY GENERAL".

SUBJECT:

Actions to Complete The Department's Financial Statement Audit

The Department is now entering the critical final stages of the audit of our Fiscal Year (FY) 2002 financial statements, and I want to bring your personal attention to bear on this highly important and publicly visible initiative. In particular, I am asking that you assure that your component is accomplishing two specific tasks: first, that every measure is being taken to ensure a clean audit opinion is earned on this year's public financial statements, and second, that your component is on target with promised corrective actions so that we continue to comply with the financial management improvement plans in the President's Management Agenda.

For FY 2001, we earned the first-ever clean opinion on our consolidated Department-wide financial statements. This was a tremendous accomplishment and one to which every component of the Department contributed. The importance of the clean opinion demonstrates to the public and oversight agencies that our financial reports are fairly stated and reliable and reinforces the value of the statements as a management tool. Moreover, given the recent incidents with multi-billion dollar misstatements of corporate financial reports, it is more important than ever to demonstrate the Department's own finances are trustworthy and that our operations and reports can withstand the scrutiny of an independent financial audit by the Office of the Inspector General (OIG) and its auditors.

Financial statement preparation and audit activities are now underway in each component. This year the Office of Management and Budget (OMB) due date for agency financial statement submission has been advanced by over thirty days from last year's due date. Accordingly, your financial staffs should be working closely with the Justice Management Division (JMD), the OIG, and your component's auditors to ensure that this year's statements meet the December 2, 2002, due date and support the timely submission of the consolidated Department-wide financial statements to the OMB and Congress.

While we earned a clean opinion last year, the OIG audit report identified three material weaknesses across Department components. The weaknesses included a variety of instances of noncompliance with federal accounting standards (including weaknesses related to accurate

Subject: Actions to Complete The Department's Financial Statement Audit

reporting of obligation balances, deferred revenue, and reimbursable earnings), noncompliance with system security standards, and weaknesses in our financial statement preparation practices. Our goal as a Department is for each component to earn a repeat clean opinion while also demonstrating a measurable reduction in the number of weaknesses reported by the auditors. To ensure we are well positioned to do this, I am asking that you meet with your senior financial managers, and key managers in program areas impacting the audits, and review your plans for completing this year's audits. In particular, the following should be reviewed:

- Ensure that sufficient resources are available in your financial management operations to support and/or prepare this year's statements and meet the December 2nd due date;
- Verify that your offices are ensuring that their year-end financial status is accurately reflected in our accounting systems. This means that all obligations must be reviewed prior to September 30th, that obligations are accurately classified, and that revenue/deferred revenue earnings are accurately stated;
- Ensure that auditors are given necessary financial data and supporting documentation in a timely manner in accordance with the JMD/OIG issued Consolidated Department Timeline;
- Confirm that your offices are completing promised improvements to eliminate and/or diminish the severity of the internal control weaknesses cited in your component audit reports last year.

Our Acting Chief Financial Officer, Robert F. Diegelman, and his senior financial management staff met on August 30th with senior officials from OMB and the General Accounting Office on the status of our corrective actions. OMB emphasized the importance of setting aggressive timetables for accomplishing our financial management corrective actions and for replacing noncompliant financial systems in order to meet the improvement goals in the President's Management Scorecard. I appreciate your action, and that of your staff, to ensure that we are on target with our action plans, both within financial management and within the key program areas which directly impact the quality and timeliness of our financial reporting. Please communicate the importance of this critical Department effort to your key managers. Questions may be directed to the Acting Chief Financial Officer, Robert Diegelman, by September 12, 2002.




Office of the Attorney General

Washington, D.C. 20530

August 14, 2002

MEMORANDUM FOR ASA HUTCHINSON
ADMINISTRATOR
DRUG ENFORCEMENT ADMINISTRATION

FROM: THE ATTORNEY GENERAL 
SUBJECT: 2002 Combined Federal Campaign

The President recently announced his support of the 2002 Combined Federal Campaign (CFC or Campaign) and has asked me to appoint high-level Department officials to serve in the role of Vice Chair for the Department's Campaign. The Department's 2001 Campaign raised more than \$3 million, exceeding our goal for the first time.

Traditionally, the Department's outgoing Vice Chairpersons recommend the following year's appointees. But, due to the terrorist attacks of September 11th and the expedited need for charitable contributions, Vice Chairs were not selected last year. This year, we are returning to the Department's tradition of having two senior leaders serve in this role. Vice Chairs serve as my representative at speaking engagements at Department components and work closely with the Department's Campaign Manager to monitor Campaign progress.

It is my pleasure to appoint you as one of the Department's CFC Vice Chairpersons for 2002. You have already demonstrated strong support for CFC and will be able to work closely with the Department's bureaus. I am appointing Associate Attorney General Jay B. Stephens as the Department's other Vice Chairperson.

If you are unable to serve in this capacity, please notify the Acting Assistant Attorney General for Administration, Robert F. Diegelman, who will work to identify an alternate. Your office will be contacted by Vince Micone, the Department's Campaign Manager, to brief you on the Campaign and the Vice Chair's role. Thank you for your commitment to the Combined Federal Campaign.



Office of the Attorney General

Washington, D.C. 20530

August 14, 2002

MEMORANDUM FOR JAY B. STEPHENS
ASSOCIATE ATTORNEY GENERAL

FROM: THE ATTORNEY GENERAL

A handwritten signature in black ink, appearing to read "John Ashcroft", is written over the word "GENERAL" in the "FROM:" line.

SUBJECT: 2002 Combined Federal Campaign

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It is my pleasure to appoint you as one of the Department's CFC Vice Chairpersons for 2002. Your appointment represents the Department's strong support for CFC. Also, you will be able to work closely with the Department's litigating divisions. I am appointing Administrator Asa Hutchinson, Drug Enforcement Administration, as the Department's other Vice Chairperson.

If you are unable to serve in this capacity, please notify the Acting Assistant Attorney General for Administration, Robert F. Diegelman, who will work to identify an alternate. Your office will be contacted by Vince Micone, the Department's Campaign Manager, to brief you on the Campaign and the Vice Chair's role. Thank you for your commitment to the Combined Federal Campaign.



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

August 6, 2002

MEMORANDUM FOR ROBERT S. MUELLER, III
DIRECTOR
FEDERAL BUREAU OF INVESTIGATION

FROM: THE ATTORNEY GENERAL 
SUBJECT: Foreign Terrorist Tracking Task Force

The Foreign Terrorist Tracking Task Force (FTTTF) was established by Homeland Security Presidential Directive-2 (HSPD-2) on October 29, 2001, as a premier component of the President's initiative to combat terrorism. Despite substantial funding and logistics challenges, the FTTTF already has achieved significant success in establishing and coordinating programs to deny entry into the United States of aliens associated with, suspected of being engaged in, or supporting terrorist activity.

In order to sustain and build upon this success, the Department of Justice must continue to commit the necessary budget and personnel resources in a timely manner. To enable the FTTTF to continue its current level of operations through the end of the current fiscal year, I am directing the Immigration and Naturalization Service to reallocate \$10 million from its budget for FY 2002 to the FTTTF as soon as possible. I would like the FBI to contribute \$13 million from currently available no-year funds to support the FTTTF FY 2003 funding needs (the Department is working with OMB to identify other non-FBI sources for additional FY 2003 requirements). Please coordinate the allocation of these funds to the FTTTF with the Controller of the Department of Justice.

The FTTTF has been providing vital operational support for the Bureau's counterterrorism mission. In that regard, I commend your plan, as reflected in "Phase II" of the FBI's reorganization, to formally consolidate the FTTTF within the Counterterrorism Division. Please move forward as quickly as possible to formalize this element of the reorganization. Consistent with HSPD-2, the Director of the FTTTF will continue to report to the Deputy Attorney General as well as the FBI Director.

Finally, it is imperative that we move forward as quickly as possible to identify a new Director of the FTTTF in the wake of Steve McCraw's departure, and that the Bureau continue to assign high-performing personnel to the FTTTF to serve in critical positions. I appreciate your work toward that objective.

Thank you for your attention to these matters and for your continued leadership in the war against terrorism.



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


August 5, 2002

MEMORANDUM FOR: THE DIRECTOR OF THE FEDERAL BUREAU OF
INVESTIGATION

THE ADMINISTRATOR OF THE DRUG ENFORCEMENT
ADMINISTRATION

THE DIRECTOR OF THE UNITED STATES MARSHALS
SERVICE

THE DIRECTOR OF THE BUREAU OF PRISONS

MEMORANDUM FROM: THE ATTORNEY GENERAL 

SUBJECT: Improving the inventory controls of weapons and laptop
computers.

In July 2001, I asked Department of Justice Inspector General Glenn Fine to conduct audits of the inventory controls of weapons and laptop computers in the Federal Bureau of Investigation, the Drug Enforcement Administration, the United States Marshals Service, and the Bureau of Prisons. The loss of weapons and laptop computers exposes the public to significant potential danger. Firearms may end up in the hands of criminals, and the misappropriation of classified or confidential computer files may compromise national security or jeopardize criminal investigations. It is critically important that losses of these sensitive items be minimized. When such losses do occur, it is equally important that rigorous property accounting procedures be followed in order to ensure prompt reporting and individual accountability.

The Inspector General's audits, announced today, reveal vulnerabilities in the property accounting systems of all four components. During the two-year period from October 1999 through November 2001, an unacceptably high number of weapons were lost, stolen, or otherwise reported as missing. In a few isolated cases, missing weapons were found in the possession of criminal suspects by law enforcement personnel. Moreover, the reporting of missing weapons was deficient in all four components. Reporting was frequently untimely, incomplete, or both.

The Inspector General's conclusions regarding inventory controls on laptop computers highlight similar deficiencies. Numerous laptop computers in all four components have gone unaccounted for. Although the Inspector General was unable to identify specific instances in which sensitive information was disclosed, he was unable to determine that such instances had not occurred. His audits indicate that property management procedures regarding laptop computers are inadequate to control such risks; substantial reforms are therefore needed.

The law enforcement agencies of the United States government perform their missions extremely well, enhancing the security of the American public and bringing criminals to justice. It is critically important that in performing these missions, such agencies do not inadvertently create conditions that may allow weapons or laptop computers to fall into the wrong hands. Accordingly, I hereby direct you to undertake the following actions as soon as practicable:


1. Reiterate to employees the relevant guidelines for the security, safety, and storage of weapons and laptop computers.
2. Reiterate to employees the policies governing the reporting of weapons and laptop computers that are lost, stolen, or otherwise missing.
3. Ensure that missing weapons are promptly entered into the NCIC system.
4. Establish or adhere to firm deadlines for employees to report the loss or theft of weapons and computers to supervisors, and for supervisors to report losses or thefts to headquarters units.
5. Ensure that weapons and laptop computers are annually inventoried. Develop internal controls to monitor the reliability of inventory data.
6. Ensure that perpetual lists of lost, stolen, or otherwise missing sensitive items are maintained and that investigative procedures are performed in a timely manner.
7. Implement the recommendations that are specific to your component contained in the relevant audit report of the Inspector General.



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

August 1, 2002

MEMORANDUM FOR THE DIRECTOR, THE FEDERAL BUREAU OF INVESTIGATION
THE DIRECTOR, EXECUTIVE OFFICE OF UNITED STATES
ATTORNEYS
ALL UNITED STATES ATTORNEYS
ALL SPECIAL-AGENTS-IN-CHARGE

FROM: THE ATTORNEY GENERAL 
SUBJECT: Implementation of the Sarbanes-Oxley Act of 2002

The President this week signed into law the Sarbanes-Oxley Act of 2002 (the "Act"). The Act provides tough new tools to expose and punish acts of corporate corruption, promote greater accountability by financial auditors, and protect small investors and pension holders. I hereby direct you to review the enclosed "Field Guidance on New Criminal Authorities Enacted in the Sarbanes-Oxley Act of 2002 (H.R. 3763) Concerning Corporate Fraud and Accountability" and take all appropriate steps to implement fully and expeditiously the provisions of the Act.

The United States Department of Justice will play a critical role in implementing the Act and in helping to restore confidence in America's corporations and financial markets. The Act equips the Department of Justice with new tools to hold white collar criminals accountable and imposes tough, consistent penalties for those who would threaten the integrity of our financial markets. Among other important provisions, the Act imposes new criminal penalties for securities fraud, attempts or conspiracies to commit fraud, certifying false financial statements, and document destruction or tampering. The Act also contains enhanced penalties for mail and wire fraud and ERISA violations.

As the President has emphasized, it is vital that all components of the Department of Justice, including our United States Attorneys' Offices and Federal Bureau of Investigation Field Offices, work together to ensure that we take full advantage of the provisions of this new law to enhance our prosecution of significant financial crimes.

I thank you for your active participation in our continuing effort to expose and punish corporate fraud and to restore confidence in America's financial system.

**Field Guidance on New Criminal Authorities
Enacted in the Sarbanes-Oxley Act of 2002 (H.R. 3763)
Concerning Corporate Fraud and Accountability**

Section 802. Criminal Penalties for Altering Documents

Previous law: Prior to the Sarbanes-Oxley Act of 2002, anyone who “corruptly persuades” others to destroy, alter or conceal evidence can be prosecuted under 18 U.S.C. § 1512. Section 1512 reaches destruction of evidence with intent to obstruct an official proceeding which may not yet have been commenced. However, Section 1512 does not reach the “individual shredder.” While prosecution of obstruction under 18 U.S.C. § 1505 does not require “corrupt persuasion,” it does require the existence of a pending proceeding. In addition, existing law does not explicitly address the retention of accounting work papers for a fixed period of time.

Amendment: Section 802 adds two new criminal provisions, 18 U.S.C. §§ 1519 and 1520. Section 1519 expands existing law to cover the alteration, destruction or falsification of records, documents or tangible objects, by any person, with intent to impede, obstruct or influence, the investigation or proper administration of any “matters” within the jurisdiction of any department or agency of the United States, or any bankruptcy proceeding, or in relation to or contemplation of any such matter or proceeding. This section explicitly reaches activities by an individual “in relation to or contemplation of” any matters. No corrupt persuasion is required. New Section 1519 should be read in conjunction with the amendment to 18 U.S.C. 1512 added by Section 1102 of this Act, discussed below, which similarly bars corrupt acts to destroy, alter, mutilate or conceal evidence, in contemplation of an “official proceeding.”

Accountants who fail to retain the audit or review workpapers of a covered audit for a period of 5 years will violate Section 1520, which creates a new felony, with a maximum period of incarceration of ten years. Under rulemaking authority granted in Section 1520(b), the SEC will promulgate rules relating to the retention of workpapers and other audit or review documents.

New 18 U.S.C. § 1519 provides:

Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any case filed under title 11, or in relation to or contemplation of any such matter or case, shall be fined under this title, imprisoned not more than 20 years, or both.

New 18 U.S.C. § 1520 provides:

(a)(1) Any accountant who conducts an audit of an issuer of securities to which

section 10A(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1(a)) applies, shall maintain all audit or review workpapers for a period of 5 years from the end of the fiscal period in which the audit or review was concluded.

(2) The Securities and Exchange Commission shall promulgate, within 180 days, after adequate notice and an opportunity for comment, such rules and regulations, as are reasonably necessary, relating to the retention of relevant records such as workpapers, documents that form the basis of an audit or review, memoranda, correspondence, communications, other documents, and records (including electronic records) which are created, sent, or received in connection with an audit or review and contain conclusions, opinions, analyses, or financial data relating to such an audit or review, which is conducted by any accountant who conducts an audit of an issuer of securities to which section 10A(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1(a)) applies. . . .

(b) Whoever knowingly and willfully violates subsection (a)(1), or any rule or regulation promulgated by the Securities and Exchange Commission under subsection (a)(2), shall be fined under this title, imprisoned not more than 10 years, or both.

(c) Nothing in this section shall be deemed to diminish or relieve any person of any other duty or obligation imposed by Federal or State law or regulation to maintain, or refrain from destroying, any document.

Sec. 805. Review of Federal Sentencing Guidelines for Obstruction of Justice and Extensive Criminal Fraud

Previous Law: Questions have arisen whether the Sentencing Guidelines sufficiently address obstruction of justice crimes.

Amendment: This section directs the Sentencing Commission to undertake an expedited review of these issues, particularly in light of the two new obstruction of justice statutes, described above. It also directs the Sentencing Commission to consider a number of factors, such as destruction of a large amount of evidence, participation of a large number of individuals, or destruction of particularly probative or essential evidence, which might be considered sufficiently aggravating as to warrant additional enhancements or inclusion as offense characteristics. The Attorney General has advised the Sentencing Commission of this provision and asked the Commission to implement it fully and expeditiously.

Sec. 807. Criminal Penalties for Defrauding Shareholders of Publicly Traded Companies

Previous Law: Title 18 does not have a specific crime directly prohibiting securities fraud schemes. Prosecutors have found it necessary to reach many securities fraud schemes through the mail and wire fraud statutes. Securities fraud has also been prosecuted as a violation of provisions of title 15.

Amendment: New 18 U.S.C. § 1348 creates a specific felony for securities fraud punishable by up to 25 years incarceration. This provision complements existing securities law. The statute requires a nexus to certain types of securities, no proof of the use of the mails or wires is required. The text of the new section provides:

Whoever knowingly executes, or attempts to execute, a scheme or artifice--

(1) to defraud any person in connection with any security of an issuer with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)); or

(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any money or property in connection with the purchase or sale of any security of an issuer with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d));

shall be fined under this title, or imprisoned not more than 25 years, or both.

Sec. 902. Attempts and Conspiracies to Commit Criminal Fraud Offenses

Previous Law: Under Chapter 63 (Mail Fraud) of Title 18, conspiracies to violate the mail fraud statute (§ 1341), the wire fraud statute (§ 1343), the bank fraud statute (§ 1344) and the health care fraud statute (§ 1347) are punishable by a maximum 5 year sentence. The wire fraud offense did not explicitly reach “attempts” to commit the substantive offense. However, this was not an impediment in practice, because proof of a scheme to defraud did not necessarily require proof that the scheme was successful.

Amendment: New 18 U.S.C. § 1349 provides that attempts and conspiracies to commit the substantive Federal fraud offenses listed above, as well as the new securities fraud offense, will have the same maximum punishment as the substantive crime. This section also effectively adds an “attempt” to commit the wire fraud offense as a federal crime. The remainder of the fraud statutes listed above already include “attempts.”

New 18 U.S.C. § 1349 provides:

Any person who attempts or conspires to commit any offense under this chapter shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

Sec. 903. Criminal Penalties for Mail and Wire Fraud

Previous Law: The maximum term of imprisonment for violations of the mail and wire fraud statutes (18 U.S.C. §§ 1341, 1343) is 5 years, with the exception of fraud affecting a financial institution, which has a maximum term of incarceration of up to 30 years.

Amendment: This section amends 18 U.S.C. §§ 1341 and 1343 by increasing the maximum 5 year penalty for mail or wire fraud to 20 years. The maximum term of incarceration for fraud affecting a financial institution remains at a maximum of 30 years.

Sec. 904. Criminal Penalties for Violations of the Employee Retirement Income Security Act of 1974

Previous Law: Under 29 U.S.C. § 1131, any person who willfully violates the reporting and disclosure requirements concerning employee benefit plans as set forth in 29 U.S.C. §§ 1021-1031, or any regulation or order issued thereunder, is punishable by a fine, and/or a term of imprisonment not to exceed 1 year.

Amendment: This amendment increases the fines in Section 1131 to \$100,000 (for an individual person), \$500,000 (for persons other than an individual). Section 1131 also increases the maximum term of imprisonment from 1 year (a misdemeanor) to a maximum term of imprisonment of 10 years. The increase in the fine for individuals will have no limiting effect insofar as individuals convicted of violating Section 1131 will now be subject to the alternative fine provisions of 18 U.S.C. § 3571 for felony convictions. In the absence of restrictive language in Section 904 of the Act, individuals will be subject to the maximum fine of \$250,000, or fine based on the defendant's gain or the victims loss, under § 3571. While the amendment also increases the fine in § 1131 to \$500,000 for persons other than an individual, this change has merely increased the fine to the level of the maximum fine for an organization already set forth in § 3571.

Section 905. Amendment to the Sentencing Guidelines Relating to Certain White Collar Offenses

Previous Law: Questions have arisen whether the Sentencing Guidelines sufficiently address white collar offenses.

Amendment: This Section reaches beyond Section 803 of this Act, which addresses sentencing guidelines solely for obstruction of justice, to require that the Sentencing Commission study the existing guidelines and consider expedited issuance of amended guidelines within 180 days after enactment of this Act, which would address all the new criminal provisions and increased criminal penalties in this Act. This section also requires the Sentencing Commission to consider the broader issues of whether the white collar crime guidelines provide for sufficient deterrence and punishment, and assure reasonable consistency with other relevant directives and guidelines. The Attorney General has advised the Sentencing Commission of this provision and asked the Commission to implement it fully and expeditiously.

Section 906. Corporate Responsibility for Financial Reports

Previous Law: There are no statutory requirements that the chief executive officer or the chief financial officer certify certain periodic corporate financial statements. By instructions issued by the SEC for periodic and other filings, there was a general requirement that the forms had to be signed by officers, and in the case of annual reports, by a majority of the directors as well. These signing requirements did not include any type of certification or other attestation regarding the accuracy or completeness of the report. On June 20, 2002, the SEC published a Notice of Proposed Rulemaking, contemplating a requirement that a company's chief executive officer and chief financial officer certify that the information contained in its financial reports is complete and true in all important respects. See 67 Fed. Reg. 41877 (2002). More recently, the SEC issued an order requiring that the principal executive officer and principal financial officer of the largest 947 companies whose securities are registered with the SEC certify the completeness, truth and accuracy of the most recent annual report, subsequent 10-Q and 8-K reports, and proxy materials filed with the Commission.

Amendment: This section enacts new 18 U.S.C. § 1350, which creates a requirement that the chief executive officer and the chief financial officer (or the equivalent thereof) of the "issuer" provide a statement which certifies that the periodic reports containing the financial statements, filed by an issuer with the SEC, fully comply with the requirements of Sections 13(a) and 15(d) of the Securities Exchange Act of 1934, and that the information contained in the periodic reports fairly presents, in all material respects, the financial condition and results of operations of the issuer. Certifying a report, knowing that it does not comport with all of the requirements of § 1350, is punishable by a fine of not more than \$1,000,000 and imprisonment of up to 10 years. A willful violation is punishable by a fine of not more than \$5,000,000 and imprisonment of up to 20 years.

New Section 1350 provides:

(a) CERTIFICATION OF PERIODIC FINANCIAL REPORTS.- Each periodic report containing financial statements filed by an issuer with the Securities Exchange Commission pursuant to section 13(a) or 15(d) of the Securities Exchange Act of

1934 (15 U.S.C. 78m(a) or 78o(d)) shall be accompanied by a written statement by the chief executive officer and chief financial officer (or equivalent thereof) of the issuer.

(b) *CONTENT.*- The statement required under subsection (a) shall certify that the periodic report containing the financial statements fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of [sic] 1934 (15 U.S.C. 78m or 78o(d)) and that information contained in the periodic report fairly presents, in all material respects, the financial condition and results of operations of the issuer.

(c) *CRIMINAL PENALTIES.*- Whoever-

(1) certifies any statement as set forth in subsections (a) and (b) of this section knowing that the periodic report accompanying the statement does not comport with all the requirements set forth in this section shall be fined not more than \$1,000,000 or imprisoned not more than 10 years, or both; or

(2) willfully certifies any statement as set forth in subsections (a) and (b) of this section knowing that the periodic report accompanying the statement does not comport with all the requirements set forth in this section shall be fined not more than \$5,000,000, or imprisoned not more than 20 years, or both.

Sec. 1102. Tampering with a Record or Otherwise Impeding an Official Proceeding.

Previous Law: Title 18 U.S.C. § 1512, in part, provides a 10 year maximum term of incarceration for an offender who corruptly persuades another person with the intent to, in part, destroy or alter evidence.

Amendment: The amendment adds new subsection (c) to Section 1512 and renumbers existing subsections (c) through (i) as (d) through (j). New subsection (c) imposes a fine and/or a term of imprisonment of up to 20 years on any person who corruptly alters, destroys, mutilates or conceals a record, document or other object with the intent to impair the object's integrity or availability for use in an official proceeding, or who corruptly otherwise obstructs, influences or impedes an official proceeding. Section 1512, as amended, should be read in conjunction with the new Section 1519, added by section 802 of this Act, which criminalizes certain acts intended to impede, obstruct or influence "any matter" within the jurisdiction of any Department or agency of the United States, or in relation to or contemplation of any such matter. The term "corruptly" shall be construed as requiring proof of a criminal state of mind on the part of the defendant.

New Section 1512 (c) provides:

(c) Whoever corruptly--

(1) alters, destroys, mutilates, or conceals a record, document, or other object, or attempts to do so, with the intent to impair the object's integrity or availability for use in an official proceeding; or

(2) otherwise obstructs, influences, or impedes any official proceeding, or attempts to do so,

shall be fined under this title or imprisoned not more than 20 years, or both.

Section 1104. Amendment to the Federal Sentencing Guidelines

Previous Law: Questions have arisen whether the current Sentencing Guidelines sufficiently address securities, accounting, and pension fraud, and related offenses.

Amendment: This section requests the Sentencing Commission to study existing guidelines and consider expedited issuance of amended guidelines within 180 days after enactment of this Act, which address securities, accounting, and pension fraud, and related offenses. The Attorney General has advised the Sentencing Commission of this provision and asked the Commission to implement it fully and expeditiously.

Section 1106. Increased Penalties Under Securities Exchange Act of 1934

Previous Law: Section 78ff of Title 15, Sec. 32(a) of the Securities Exchange Act of 1934, provides for a criminal fine of \$1,000,000 for individuals and/or imprisonment of up to 10 years, or a fine of \$2,500,000 for anyone other than an individual.

Amendment: This amendment increases the fine amounts to \$5,000,000 and \$25,000,000 respectively, and raises the maximum term of imprisonment to 20 years.

Section 1107. Retaliation Against Informants

Previous Law: There is no explicit protection from retaliation for an individual who provides truthful information to a law enforcement officer concerning the commission or possible commission of a Federal offense.

Amendment: New subsection (e) of 18 U.S.C. § 1513 creates a felony offense for any person knowingly to take any action, with intent to retaliate, harmful to a person who provides such information concerning a federal offense.

New subsection (e) of § 1513 provides:

(e) Whoever knowingly, with the intent to retaliate, takes any action harmful to any person, including interference with the lawful employment or livelihood of any person, for providing to a law enforcement officer any truthful information relating to the commission or possible commission of any Federal offense, shall be fined under this title or imprisoned not more than 10 years, or both.

Retroactive Application of the New Provisions:

The Ex Post Facto Clause prohibits, *inter alia*, punishing as a crime an act previously committed that was innocent when done and increasing the punishment for a crime after its commission. See, e.g., Carmell v. Texas, 520 U.S. 513, 522 (2000); Collins v. Youngblood, 497 U.S. 37, 42 (1990). The Act adds several new criminal provisions: 18 U.S.C. 1519 and 1520 (added by Section 802); 18 U.S.C. 1350 (added by Section 906); 18 U.S.C. 1512(c) (added by Section 1102); and 18 U.S.C. 1513(e) (added by Section 1107). Those new criminal provisions will apply only to criminal conduct committed after the effective date of the Act. The Act also includes criminal provisions increasing the punishment for some existing criminal offenses: 29 U.S.C. 1131 (added by Section 904) and 15 U.S.C. 78ff (added by Section 1106). The increased penalties set forth in those provisions will apply only to criminal conduct committed after the effective date of the Act.

Section 807 adds a new criminal provision, 18 U.S.C. 1348, that creates a felony for securities fraud punishable by up to 25 years' imprisonment. Section 903 amends the existing mail and wire fraud statutes, 18 U.S.C. 1341 and 1343, to increase the maximum term of imprisonment for schemes to defraud not affecting financial institutions to 20 years' imprisonment. Those provisions will apply to any criminal conduct committed after the effective date of the Act. It is unclear, however, whether those provisions can be applied to schemes to defraud that straddle the effective date of the Act, *i.e.*, schemes begun before the effective date of the Act but continuing after the effective date of the Act. Generally, mail and wire fraud offenses are complete upon the use of the mails or wires. See, e.g., United States v. Barger, 178 F.3d 844, 847 (7th Cir. 1999). Similarly, the new securities fraud offense will likely be considered complete upon the execution of the scheme. Cf. United States v. De La Mata, 266 F.3d 1275, 1287 (11th Cir. 2001) (bank fraud statute, 18 U.S.C. 1344), cert. denied, 122 S. Ct. 1543 (2002). The Ex Post Facto Clause likely bars applying the new provisions to schemes to defraud that extend beyond the effective date of the Act if the use of the mails or wire in a mail or wire fraud scheme occurred before the effective date of the Act or the execution of a securities fraud scheme occurred before the effective date of the Act. On the other hand, the Ex Post Facto Clause should pose no bar to applying the new provisions to schemes to defraud that began before the effective date of the Act if the use of the mails or wire in a mail or wire fraud scheme occurred after the effective date of the Act or the execution of a securities fraud scheme occurred after the effective date of the Act.

Finally, Section 902 adds a new criminal provision, 18 U.S.C. 1349, that punishes attempts and conspiracies to commit fraud offenses, including the new securities fraud offense. The Ex Post Facto Clause should pose no bar to applying that provision to a conspiracy that straddles the effective date of the Act because conspiracy is considered a continuing offense. See, c.g., United States v. Hersh, No. 00-14592, 2002 WL 1574990 (11th Cir. July 17, 2002).

July 10, 2002

MEMORANDUM FOR ALL DEPARTMENT OF JUSTICE EMPLOYEES

FROM: The Attorney General

SUBJECT: Proposed Department of Homeland Security

As you know, President Bush has proposed the creation of a new Department of Homeland Security to strengthen the nation's effort to prepare for and prevent terrorist attacks. Leaders of the U.S. Congress have committed to acting on the President's proposal this session, and FBI Director Mueller has already testified in support of the legislation.

Employees from components proposed for transfer to the new department may have a number of questions. Although many issues cannot be worked out until Congress takes final action on the legislation, we want to provide you with as much information available right now. A new web site has been established specifically for federal employees that would become part of the new department. The new site, www.dhs.gov/employees, contains answers to questions about the proposed department and will be continually updated as new information becomes available.

In remarks to federal workers at Constitution Hall this morning, President Bush thanked employees of the Department of Justice and others for their service to the nation and urged that we all continue our efforts to secure the homeland. A video of the President's remarks will be playing in the lobby of Main Justice in the next few days. The text of his message is also available on the new DHS employees web site. In addition, a copy of the President's letter to federal workers is attached.

Allow me to add my thanks to that of the President's. As he said, "Public service is not just a job. It is an act of citizenship." Thank you for your continued dedication to America and to the Justice Department's critical mission.



THE WHITE HOUSE

WASHINGTON

July 9, 2002

To Federal Employees:

All Americans owe a great debt of gratitude to Federal workers like you who have devoted themselves to helping us recover from the attacks of September 11. Now, as we work together to prevent a future attack on our homeland and to defeat terrorism, I want you to know how valuable — and valued — your efforts have been.

You have an important understanding of the strengths and shortcomings of the Federal Government. I believe no one is more committed than you to making our Government work more effectively.

As you know, I have proposed a new Department of Homeland Security. We need this Department because today more than 100 separate Federal agencies and organizations play some role in homeland security. The creation of a single, unified Cabinet-level Department with a single, overriding mission — the protection of our homeland — will improve our effectiveness, enhance our readiness to respond to threats, and increase accountability.

The Department of Homeland Security will bring a great variety of people and responsibilities together, under one roof, working toward one mission, with one clear line of authority for getting the job done. It will involve the best people, provide them the resources they need to perform their duties successfully, and reward their best efforts accordingly.

Public service is not just a job. It is an act of citizenship and a noble calling. Our Nation is stronger today than it was before the attacks, and much of the credit for that belongs to you. As we move forward to create the new Department of Homeland Security, I know that America can continue to rely on your devotion to duty, your dedication to excellence, and your commitment to this important mission. Our challenges are great, but our determination to succeed is even greater. Thank you for all that you have done and will continue to do to help America prevail over terrorism.

GEORGE W. BUSH



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

July 3, 2002

Dear Fellow Justice Worker:

Independence Day is a time for us to gather with our families and friends and reflect on the value of freedom – a value that is under assault in the world today. In the months since September 11th, we have developed a deeper appreciation for the freedoms and liberties America affords her citizens.

Freedom is the opportunity to reach the maximum of the potential that is in each of us. The pledge of allegiance, so familiar to us all, captures it best: “with liberty and justice for all.” Liberty and justice are inextricably entwined; one cannot exist without the other. Together, they define the community we know as the United States of America.

This Independence Day, let’s join together to rededicate ourselves to our critical mission: to protect Americans against future acts of terrorism and to bring terrorists to justice. *Fulfilling our mission means preserving for future generations the freedoms we hold so dear.*

May you enjoy a happy, safe and meaningful Independence Day. God bless you, and God bless America.

Most sincerely,


John Ashcroft

Have a great 4th!



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

June 7, 2002

MEMORANDUM FOR ALL DEPARTMENT EMPLOYEES

FROM: THE ATTORNEY GENERAL

A handwritten signature in black ink, which appears to be "John Ashcroft", is written over the printed name of the Attorney General.

Last night, President Bush announced his proposal for the creation of a new cabinet agency: the Department of Homeland Security. I applaud the President for seizing this historic moment and I stand firmly by him as he reorganizes the federal government to win the War on Terrorism and protect Americans from future attacks.

We are facing the greatest threat to our nation and our way of life since World War II. The President's plan recognizes that, when terrorists threaten the very ground beneath our feet, we must build even stronger foundations for freedom's defense.

This plan represents the most extensive reorganization of the federal government since the 1940s. When enacted by Congress, the proposal will charge the Department of Homeland Security with four primary tasks.

- Border and Transportation Security;
- Emergency Preparedness and Response;
- Chemical, Biological, Radiological and Nuclear Countermeasures; and
- Information Analysis and Infrastructure Protection.

As the proposal develops and is finalized by Congress, we will communicate further details to you regarding the changes to be made here at the Department of Justice. In the interim, I ask you to remain focused daily on our critical mission: to protect Americans against future acts of terrorism and to bring terrorists to justice.

In the months since September 11th, we have been vigilant in our mission, determined in our resolve, and confident in America's victory. As the President stated last night, "America is leading the civilized world in a titanic struggle against terror. Freedom and fear are at war -- and freedom is winning." I join each of you with confidence as we continue to fight this war with every measure of our strength, our resources and our commitment. Thank you for your continued service to America.



Office of the Attorney General

Washington, D. C. 20530

May 17, 2002

MEMORANDUM FOR HEADS OF DEPARTMENT COMPONENTS

FROM: THE ATTORNEY GENERAL *John Ashcroft*

SUBJECT: The Attorney General's Advisory
Committee on Disability Employment Issues

On February 1, 2001, President Bush announced the New Freedom Initiative to tear down barriers to equality facing many people with disabilities. Among its goals, the initiative will assist Americans with disabilities to increase their access to assistive technologies and improve their opportunities to integrate into the workforce. Subsequently, on November 8, 2001, a series of goals and management initiatives contained in the Comprehensive Review and Reorganization of the Department of Justice (Comprehensive Review) were announced reflecting the changed priorities of the Department of Justice (Department) in the wake of the September 11, 2001 tragedy. Goal 9 of the Comprehensive Review seeks to "strengthen policies to attract a highly qualified, diverse workforce."

The Attorney General's Advisory Committee on Disability Employment Issues (Committee) has a well-established history of working with the Department's management to hire, promote, and accommodate employees and applicants with disabilities. The Committee will help implement President Bush's New Freedom Initiative and assist the Department in meeting its goals of diversifying its workforce by developing and helping implement initiatives to hire, successfully employ, and promote increased numbers of qualified Americans with disabilities at the Department. In addition, the Committee helped develop the recently implemented program plan for ensuring accessibility of the Department's electronic and information technology under Section 508 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794(d), and helped prepare the proposed reasonable accommodation policies and procedures for the Department required by the Equal Employment Opportunity Commission. The Committee will monitor implementation of the plans to assist the Department in meeting its legal obligations and avoiding law suits and administrative complaints.

Memorandum for the Attorney General
The Attorney General's Advisory
Committee on Disability Employment Issues

Page 2

The Committee is mostly comprised of Departmental attorneys with disabilities from several components, primarily legal divisions. It is Co-chaired by Fred Parmenter, a Senior Trial Attorney in the Antitrust Division. Advisors to the Committee include representatives of the Justice Management Division's Equal Employment Opportunity Staff (EEOS), the Office of Attorney Recruitment and Management, and the Executive Office for United States Attorneys.

To enable the Committee to carry out its work and better address the issues involving all occupations and components, additional Committee members need to be appointed. In doing this, we want to broaden the Committee's membership to include non-attorneys and all Department components.

The Committee's second co-chair position is vacant. Today, I am appointing Minh Vu, a Counselor to the Assistant Attorney General for Civil Rights, to that position. In addition, I would like each component to identify individuals who can make a valuable contribution to the Committee and submit their nomination within 30 days to Ted McBurrows, Director, EEOS, Room 7543, Main Building, 950 Pennsylvania Avenue, N.W., Washington D.C. 20530-0001.



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

May 14, 2002

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MEMORANDUM FOR ROBERT S. MUELLER, III
DIRECTOR
FEDERAL BUREAU OF INVESTIGATION

FROM:

THE ATTORNEY GENERAL

A handwritten signature in black ink, appearing to read "John Ashcroft", is written over the text "THE ATTORNEY GENERAL".

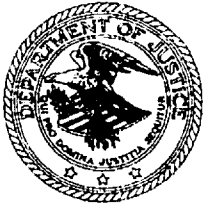
SUBJECT:

FINANCIAL STATEMENTS CLEAN OPINION AND
APPRECIATION FOR FINANCIAL MANAGEMENT STAFF

The recently concluded audit of the Department's Fiscal Year (FY) 2001 financial statements resulted in a Departmentwide unqualified ("clean") opinion on all our financial statements. This is the first time we have earned a clean opinion on all the required federal statements. I am extremely pleased with this important achievement, and it would not have been possible without the hard work and dedication of your financial managers and other supporting staffs.

The clean audit opinion was the direct result of the sustained effort made by each Department component to improve their accounting practices and produce timely and accurate financial reports. This took tremendous work and a year long effort, but it was clear from the beginning that we had the total commitment of the financial managers at the Federal Bureau of Investigation. Our success was made possible because of their dedication, and I want to extend my personal appreciation to several individuals on your staff for their work during the FY 2001 financial statement process. In particular, the efforts of James G. Cole, James F. Reynolds, Katie M. Southern-Kelley, Steven H. Gumenick, Martha A. Russ, Rhonda L. Meyer and Steven W. McPeak stood out when it came time for the consolidated Departmentwide statements to be prepared.

Our goal for FY 2002 is to see each component move beyond their clean opinions and eliminate the financial management material weaknesses and other findings which were cited in the reports of the Inspector General and the independent auditors. In addition, we also face greatly accelerated governmentwide audit due dates this year. While we continue to have significant challenges ahead, your financial managers have created a strong foundation for the Department's financial reporting future. I greatly appreciate what your team has accomplished, and I look forward to seeing the progress we make this coming year.



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

May 14, 2002

MEMORANDUM FOR DEBORAH J. DANIELS
ASSISTANT ATTORNEY GENERAL
OFFICE OF JUSTICE PROGRAMS

FROM: THE ATTORNEY GENERAL

A handwritten signature in dark ink, appearing to read "John Amodeo", is written over the printed name "THE ATTORNEY GENERAL".

SUBJECT: FINANCIAL STATEMENTS CLEAN OPINION AND
APPRECIATION FOR FINANCIAL MANAGEMENT STAFF

The recently concluded audit of the Department's Fiscal Year (FY) 2001 financial statements resulted in a Departmentwide unqualified ("clean") opinion on all our financial statements. This is the first time we have earned a clean opinion on all the required federal statements. I am extremely pleased with this important achievement, and it would not have been possible without the hard work and dedication of your financial managers and other supporting staffs.

The clean audit opinion was the direct result of the sustained effort made by each Department component to improve their accounting practices and produce timely and accurate financial reports. This took tremendous work and a year long effort, but it was clear from the beginning that we had the total commitment of the financial managers at the Office of Justice Programs. Our success was made possible because of their dedication, and I want to extend my personal appreciation to several individuals on your staff for their work during the FY 2001 financial statement process. In particular, the efforts of Cynthia Schwimer, James McKay, Robert Balin, Jocelyn Walker, Arlene Helm, Maria Thomason, Drena McDaniel, Kim Orben and Jack Gallagher stood out when it came time for the consolidated Departmentwide statements to be prepared.


Our goal for FY 2002 is to see each component move beyond their clean opinions and eliminate the financial management material weaknesses and other findings which were cited in the reports of the Inspector General and the independent auditors. In addition, we also face greatly accelerated governmentwide audit due dates this year. While we continue to have significant challenges ahead, your financial managers have created a strong foundation for the Department's financial reporting future. I greatly appreciate what your team has accomplished, and I look forward to seeing the progress we make this coming year.



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

May 14, 2002

MEMORANDUM FOR KATHLEEN HAWK SAWYER
DIRECTOR
BUREAU OF PRISONS

FROM: THE ATTORNEY GENERAL 
SUBJECT: FINANCIAL STATEMENTS CLEAN OPINION AND
APPRECIATION FOR FINANCIAL MANAGEMENT STAFF

The recently concluded audit of the Department's Fiscal Year (FY) 2001 financial statements resulted in a Departmentwide unqualified ("clean") opinion on all our financial statements. This is the first time we have earned a clean opinion on all the required federal statements. I am extremely pleased with this important achievement, and it would not have been possible without the hard work and dedication of your financial managers and other supporting staffs.

The clean audit opinion was the direct result of the sustained effort made by each Department component to improve their accounting practices and produce timely and accurate financial reports. This took tremendous work and a year long effort, but it was clear from the beginning that we had the total commitment of the financial managers at the Bureau of Prisons. Our success was made possible because of their dedication, and I want to extend my personal appreciation to several individuals on your staff for their work during the FY 2001 financial statement process. In particular, the efforts of Bradley T. Gross, Denise Class and Loneryl Burns stood out when it came time for the consolidated Departmentwide statements to be prepared.

Our goal for FY 2002 is to see each component move beyond their clean opinions and eliminate the financial management material weaknesses and other findings which were cited in the reports of the Inspector General and the independent auditors. In addition, we also face greatly accelerated governmentwide audit due dates this year. While we continue to have significant challenges ahead, your financial managers have created a strong foundation for the Department's financial reporting future. I greatly appreciate what your team has accomplished, and I look forward to seeing the progress we make this coming year.



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

May 14, 2002

MEMORANDUM FOR ASA HUTCHINSON
ADMINISTRATOR
DRUG ENFORCEMENT ADMINISTRATION

FROM: THE ATTORNEY GENERAL *John Ashcroft*
SUBJECT: FINANCIAL STATEMENTS CLEAN OPINION AND
APPRECIATION FOR FINANCIAL MANAGEMENT STAFF

The recently concluded audit of the Department's Fiscal Year (FY) 2001 financial statements resulted in a Departmentwide unqualified ("clean") opinion on all our financial statements. This is the first time we have earned a clean opinion on all the required federal statements. I am extremely pleased with this important achievement, and it would not have been possible without the hard work and dedication of your financial managers and other supporting staffs.

The clean audit opinion was the direct result of the sustained effort made by each Department component to improve their accounting practices and produce timely and accurate financial reports. This took tremendous work and a year long effort, but it was clear from the beginning that we had the total commitment of the financial managers at the Drug Enforcement Administration. Our success was made possible because of their dedication, and I want to extend my personal appreciation to several individuals on your staff for their work during the FY 2001 financial statement process. In particular, the efforts of (b)(6) per DEA (b)(6) per DEA stood out when it came time for the consolidated Departmentwide statements to be prepared.

Our goal for FY 2002 is to see each component move beyond their clean opinions and eliminate the financial management material weaknesses and other findings which were cited in the reports of the Inspector General and the independent auditors. In addition, we also face greatly accelerated governmentwide audit due dates this year. While we continue to have significant challenges ahead, your financial managers have created a strong foundation for the Department's financial reporting future. I greatly appreciate what your team has accomplished, and I look forward to seeing the progress we make this coming year.



Office of the Attorney General

Washington, D.C. 20530

May 14, 2002

MEMORANDUM FOR KATHY HAWK SAWYER
DIRECTOR
BUREAU OF PRISONS

FROM: THE ATTORNEY GENERAL

A handwritten signature in dark ink, appearing to read "John Ashcroft", is written over the printed name "THE ATTORNEY GENERAL".

SUBJECT: FINANCIAL STATEMENTS CLEAN OPINION AND
APPRECIATION FOR FINANCIAL MANAGEMENT
STAFF FEDERAL PRISON INDUSTRIES

The recently concluded audit of the Department's Fiscal Year (FY) 2001 financial statements resulted in a Departmentwide unqualified ("clean") opinion on all our financial statements. This is the first time we have earned a clean opinion on all the required federal statements. I am extremely pleased with this important achievement, and it would not have been possible without the hard work and dedication of your financial managers and supporting staffs.

The clean audit opinion was the direct result of the sustained effort made by each Department component to improve their accounting practices and produce timely and accurate financial reports. This took tremendous work and a year long effort, but it was clear from the beginning that we had the total commitment of the financial managers at Federal Prison Industries. Our success was made possible because of their dedication, and I want to extend my personal appreciation to several individuals on your staff for their work during the FY 2001 financial statement process. In particular, the efforts of Steve Schwab, Bruce Long, Cathy Hawkins, Dave Motl, Roger Korby, Ray Wiley, Brian Brouillette, Craig Henderson, Shirley Holm, Bill Frohlich, Steria Payne, Ed Smith and Linda Wagner stood out when it came time for the consolidated Departmentwide statements to be prepared.


Our goal for FY 2002 is to see each component move beyond their clean opinions and eliminate the financial management material weaknesses and other findings which were cited in the reports of the Inspector General and the independent auditors. In addition, we also face greatly accelerated governmentwide audit due dates this year. While we continue to have significant challenges ahead, your financial managers have created a strong foundation for the Department's financial reporting future. I greatly appreciate what your team has accomplished, and I look forward to seeing the progress we make this coming year.



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

May 14, 2002

MEMORANDUM FOR CARL PEED
DIRECTOR
COMMUNITY ORIENTED POLICING SERVICES

FROM: THE ATTORNEY GENERAL 
SUBJECT: FINANCIAL STATEMENTS CLEAN OPINION AND
APPRECIATION FOR FINANCIAL MANAGEMENT STAFF

The recently concluded audit of the Department's Fiscal Year (FY) 2001 financial statements resulted in a Departmentwide unqualified ("clean") opinion on all our financial statements. This is the first time we have earned a clean opinion on all the required federal statements. I am extremely pleased with this important achievement, and it would not have been possible without the hard work and dedication of your financial managers and other supporting staffs.

The clean audit opinion was the direct result of the sustained effort made by each Department component to improve their accounting practices and produce timely and accurate financial reports. This took tremendous work and a year long effort, but it was clear from the beginning that we had the total commitment of the financial managers at the Community Oriented Policing Services. Our success was made possible because of their dedication, and I want to extend my personal appreciation to individuals on your staff for their work during the FY 2001 financial statement process. In particular, the efforts of Wendy Miller and Vivian Perry stood out when it came time for the consolidated Departmentwide statements to be prepared.


Our goal for FY 2002 is to see each component move beyond their clean opinions and eliminate the financial management material weaknesses and other findings which were cited in the reports of the Inspector General and the independent auditors. In addition, we also face greatly accelerated governmentwide audit due dates this year. While we continue to have significant challenges ahead, your financial managers have created a strong foundation for the Department's financial reporting future. I greatly appreciate what your team has accomplished, and I look forward to seeing the progress we make this coming year.



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

May 14, 2002

MEMORANDUM FOR BENIGNO G. REYNA
DIRECTOR
UNITED STATES MARSHALS SERVICE

FROM: THE ATTORNEY GENERAL 
SUBJECT: FINANCIAL STATEMENTS CLEAN OPINION AND
APPRECIATION FOR FINANCIAL MANAGEMENT STAFF

The recently concluded audit of the Department's Fiscal Year (FY) 2001 financial statements resulted in a Departmentwide unqualified ("clean") opinion on all our financial statements. This is the first time we have earned a clean opinion on all the required federal statements. I am extremely pleased with this important achievement, and it would not have been possible without the hard work and dedication of your financial managers and other supporting staffs.

The clean audit opinion was the direct result of the sustained effort made by each Department component to improve their accounting practices and produce timely and accurate financial reports. This took tremendous work and a year long effort, but it was clear from the beginning that we had the total commitment of the financial managers at the United States Marshals Service. Our success was made possible because of their dedication, and I want to extend my personal appreciation to several individuals on your staff for their work during the FY 2001 financial statement process. In particular, the efforts of (b)(6) per USMS
(b)(6) per USMS
stood out when it came time for the consolidated Departmentwide statements to be prepared.

Our goal for FY 2002 is to see each component move beyond their clean opinions and eliminate the financial management material weaknesses and other findings which were cited in the reports of the Inspector General and the independent auditors. In addition, we also face greatly accelerated governmentwide audit due dates this year. While we continue to have significant challenges ahead, your financial managers have created a strong foundation for the Department's financial reporting future. I greatly appreciate what your team has accomplished, and I look forward to seeing the progress we make this coming year.



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

May 14, 2002

MEMORANDUM FOR ROBERT F. DIEGELMAN
ACTING CHIEF FINANCIAL OFFICER
JUSTICE MANAGEMENT DIVISION

FROM:

THE ATTORNEY GENERAL

A handwritten signature in black ink, appearing to read "John Ashcroft", is written over the text "THE ATTORNEY GENERAL".

SUBJECT:

FINANCIAL STATEMENTS CLEAN OPINION AND
APPRECIATION FOR FINANCIAL MANAGEMENT STAFF

The recently concluded audit of the Department's Fiscal Year (FY) 2001 financial statements resulted in a Departmentwide unqualified ("clean") opinion on all our financial statements. This is the first time we have earned a clean opinion on all the required federal statements. I am extremely pleased with this important achievement, and it would not have been possible without the hard work and dedication of your financial managers and other supporting staffs.

The clean audit opinion was the direct result of the sustained effort made by each Department component to improve their accounting practices and produce timely and accurate financial reports. This took tremendous work and a year long effort, but it was clear from the beginning that we had the total commitment of the financial managers at the Justice Management Division. Our success was made possible because of their dedication, and I want to extend my personal appreciation to several individuals on your staff for their work during the FY 2001 financial statement process. In particular, the efforts of Gail Jenkins, Christopher C. Alvarez, Katherine M. Drew, Florence F. Liu, Lynn B. Poyner, Valerie D. Grant, David M. Bethea, Marcia K. Paull, Letitia Bing, Angela Wood, Amanda Byrd, Lorine Alston, Kevin Derouin, Holley O'Brien, Valeria Dungee, Chester Buster and Mary DeaVone stood out when it came time for the consolidated Departmentwide statements to be prepared.

Our goal for FY 2002 is to see each component move beyond their clean opinions and eliminate the financial management material weaknesses and other findings which were cited in the reports of the Inspector General and the independent auditors. In addition, we also face

Memorandum for Robert F. Diegelman

Page 2

Subject: Financial Statements Clean Opinion and
Appreciation for Financial Management Staff

greatly accelerated governmentwide audit due dates this year. While we continue to have significant challenges ahead, your financial managers have created a strong foundation for the Department's financial reporting future. I greatly appreciate what your team has accomplished, and I look forward to seeing the progress we make this coming year.

cc: Eugene H. Schied
Deputy Chief Financial Officer

Lee J. Lofthus
Director, Finance Staff



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

May 14, 2002

MEMORANDUM FOR JAMES W. ZIGLAR
COMMISSIONER
IMMIGRATION AND NATURALIZATION SERVICE

FROM: THE ATTORNEY GENERAL *John Ashcroft*
SUBJECT: FINANCIAL STATEMENTS CLEAN OPINION AND
APPRECIATION FOR FINANCIAL MANAGEMENT STAFF

The recently concluded audit of the Department's Fiscal Year (FY) 2001 financial statements resulted in a Departmentwide unqualified ("clean") opinion on all our financial statements. This is the first time we have earned a clean opinion on all the required federal statements. I am extremely pleased with this important achievement, and it would not have been possible without the hard work and dedication of your financial managers and other supporting staffs.

The clean audit opinion was the direct result of the sustained effort made by each Department component to improve their accounting practices and produce timely and accurate financial reports. This took tremendous work and a year long effort, but it was clear from the beginning that we had the total commitment of the financial managers at the Immigration and Naturalization Service. Our success was made possible because of their dedication, and I want to extend my personal appreciation to several individuals on your staff for their work during the FY 2001 financial statement process. In particular, the efforts of George H. Bohlinger III, Judy Harrison, Bud Rubenstein, Patrick Martinez, Edward Bain, John McNamara, Don Lowry, Tommy Dodson, Robert Bevilacqua, Anita Parent, Billy Stimmel, Angela Winstead, Georgia Mayers, Carlene Mackey, Nancy Kennedy, David Yonce, Cindy Cole, Larry Stoller, Peter VanDeventer, Ken Hass, Annie Lopez, Alicia Saars, Cathaleen Moore, Michael Mattice, Rochelle McPhaul, Katherine Ripley-French, David Yentzer, Lisa Tremblay, Rhonda Mueller, Christopher Quimby, Joel Alvarey, Kathy A. Hill, Gary Zaleski, Rufus Johnson and Gene Kupferer stood out when it came time for the consolidated Departmentwide statements to be prepared.

Memorandum for James W. Ziglar
Subject: Financial Statements Clean Opinion and
Appreciation for Financial Management Staff

Page 2

Our goal for FY 2002 is to see each component move beyond their clean opinions and eliminate the financial management material weaknesses and other findings which were cited in the reports of the Inspector General and the independent auditors. In addition, we also face greatly accelerated governmentwide audit due dates this year. While we continue to have significant challenges ahead, your financial managers have created a strong foundation for the Department's financial reporting future. I greatly appreciate what your team has accomplished, and I look forward to seeing the progress we make this coming year.



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

May 14, 2002

MEMORANDUM FOR DISTRIBUTION LIST

FROM: THE ATTORNEY GENERAL *John Ashcroft*

SUBJECT: FINANCIAL STATEMENTS CLEAN OPINION AND
APPRECIATION FOR FINANCIAL MANAGEMENT STAFF

The recently concluded audit of the Department's Fiscal Year (FY) 2001 financial statements resulted in a Departmentwide unqualified ("clean") opinion on all our financial statements. This is the first time we have earned a clean opinion on all the required federal statements. I am extremely pleased with this important achievement, and it would not have been possible without the hard work and dedication of your financial managers and other supporting staffs.

The clean audit opinion was the direct result of the sustained effort made by each Department component to improve their accounting practices and produce timely and accurate financial reports. In particular, earning a clean opinion for the Asset Forfeiture Fund (AFF) requires support from staff across several components and I want to extend my personal appreciation to individuals in your organization for their work on the AFF statement this past year. In particular, the efforts of Michael A. Perez, Tim Virtue, Wanda Bossa, Olga Sylvia, Ann Highsmith-Lisbon (Justice Management Division), (b)(6) per DEA (Drug Enforcement Administration), Lorraine Castain, Martha Russ (Federal Bureau of Investigation), (b)(6) per EOUSA (Executive Office for United States Attorneys), (b)(6) per USMS, and (b)(6) per USMS (United States Marshals Service) stood out when it came time for the consolidated Departmentwide statements to be prepared.

Our goal for FY 2002 is to see each component move beyond their clean opinions and eliminate the financial management material weaknesses and other findings which were cited in the reports of the Inspector General and the independent auditors. In addition, we also face greatly accelerated governmentwide audit due dates this year. While we continue to have significant challenges ahead, your financial managers have created a strong foundation for the Department's financial reporting future. I greatly appreciate what your team has accomplished, and I look forward to seeing the progress we make this coming year.

DISTRIBUTION LIST:

Robert F. Diegelman
Acting Assistant Attorney General
for Administration

Asa Hutchinson
Administrator
Drug Enforcement Administration

Robert S. Mueller, III
Director
Federal Bureau of Investigation

Benigno G. Reyna
Director
United States Marshals Service

Kenneth L. Wainstein
Director
Executive Office of the United States Attorney



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

May 7, 2002

MEMORANDUM FOR ALL UNITED STATES ATTORNEYS

FROM: THE ATTORNEY GENERAL

A handwritten signature in black ink, appearing to read "John Ashcroft", is written over the printed name of the Attorney General.

SUBJECT: Obscenity Law Enforcement Symposium

As I am sure you are aware, the proliferation of obscenity, both via the Internet as well as through more traditional channels, has become a pervasive and destructive element in our society. I am committed fully to dedicating the resources necessary to combat this burgeoning problem.

To that end, I am pleased to announce an initiative aimed at developing a national obscenity strategy for aggressive federal prosecutions of such cases. On June 6-7, 2002, at the Department's National Advocacy Center in Columbia, South Carolina, the Executive Office of U.S. Attorneys and the Criminal Division's Child Exploitation and Obscenity Section are sponsoring an Obscenity Law Enforcement Symposium. This symposium will provide a forum to discuss the current state of the sex industry, the legal challenges in investigating and prosecuting obscenity cases, and the policies and guidelines necessary to develop our strategies in a thoughtful and deliberate way.


I encourage you and your staff to support and participate in this initiative and the upcoming symposium. I look forward to our partnership in launching and sustaining this important endeavor.



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

May 6, 2002

MEMORANDUM FOR HEADS OF DEPARTMENT COMPONENTS
COMPONENT CHIEF INFORMATION OFFICERS

FROM: THE ATTORNEY GENERAL 
SUBJECT: Selection of Chief Information Officer

I am pleased to announce the selection of Vance Hitch as the Chief Information Officer (CIO) and Deputy Assistant Attorney General for Information Resources Management. He will be responsible for leading and implementing the effective and efficient acquisition and management of information technology across the Department.

Improving and expanding the Department's use of information technology is a key component of the Department-wide wartime reorganization and restructuring plan I announced on November 8, 2001. In laying out the top ten management goals for the Department, I called for developing an Information Technology (IT) Strategic Plan that will provide direction for the Department's future IT investments. The new CIO is leading that effort and, in fact, has recently developed an Integrated Border Control Systems Strategy for the Department.

Prior to coming to the Department of Justice, Mr. Hitch was a Senior Partner with Accenture. He has 28 years of experience in leading government organizations successfully through major change initiatives. His recent projects at Accenture included the development of the IT Strategic Plan for the State of Maryland and a comprehensive re-engineering and automation of the City of Philadelphia's Records Department. Other government organizations that Mr. Hitch has worked with include the Department of State, the National Security Agency, the Central Intelligence Agency, the Department of Defense, the Department of Justice, and multiple state and local governments.

Mr. Hitch earned a Masters of Systems Management from George Washington University in 1973 and a Bachelor of Science in Physics from Muhlenberg College in 1967. He served as a lieutenant in the United States Navy from 1969-1973.

Please join me in welcoming him in his new position. He can be reached on (202) 514-0507.



Office of the Attorney General

Washington, D.C. 20530

May 1, 2002

MEMORANDUM FOR HEADS OF DEPARTMENTAL COMPONENTS

FROM: The Attorney General

A handwritten signature in black ink, reading "John Ashcroft", is written over the name "The Attorney General".

SUBJECT: Guidance for Preparing FY 2004 Budgets

This memorandum provides you with guidance regarding the FY 2004 budget development process. Our goal for this process is to present a sound, reasonable Department of Justice budget to the President consistent with our mission:

"... to enforce the law and defend the interests of the United States according to the law; to ensure public safety against threats foreign and domestic; to provide federal leadership in preventing and controlling crime; to seek just punishment for those guilty of unlawful behavior; to administer and enforce the nation's immigration laws fairly and effectively; and to ensure fair and impartial administration of justice for all Americans."

The Justice Department's Strategic Plan for 2001-2006 is your blueprint to guide the formulation of the FY 2004 component program budget estimates and performance planning. Consistent with the Department's top priority, the focus of our budget growth in FY 2004 will be counterterrorism and border security. We will devote all the resources necessary to eliminate terrorist networks, to prevent terrorist attacks, and to bring to justice those who kill Americans in the name of terrorism.

Although our Strategic Plan has eight goals and thirty-eight objectives that constitute our many responsibilities, new resources are not required in every area to meet these goals and objectives. The budget process requires that we make difficult choices about new funding. As we shift more resources to counterterrorism, some components may not receive program enhancements. An essential part of the budget process requires that you consider how current resources could be redirected to meet new needs. The baseline for the FY04 budget process is the FY03 President's request for the Department.

Our budget request, both for ongoing base resources and new program increases, must present a plan that meets our critical mission while ensuring good stewardship of taxpayer dollars. Components must provide measurable results as delineated in the departmental Performance Plan and Report and in the performance information provided in your own budget submissions. The President has made clear that this Administration is results-oriented; performance evaluation and assessments will weigh heavily in

the decision-making process. Specifically, every request for new funding must make clear the anticipated effects of the requested resources upon performance. In this way, budget and performance linkages will be established throughout the budget formulation process, furthering the President's management agenda and ensuring that budget decisions are made with a focus on results.

Programmatic Guidance for the FY 2004 Budget

Particular programmatic areas of focus for the FY 2004 budget are outlined below, consistent with our Strategic Plan format. This list reflects the priority areas for the FY 2004 budget, but does not preclude you from requesting resources related to other objectives.

Strategic Goal #1: Protect Americans Against the Threat of Terrorism.

Strategic Goal #5: Fairly and Effectively Administer the Immigration and Naturalization Laws of the United States (portions that cover border security).

Objectives:

- 1.1 Prevent, disrupt, and defeat terrorist operations before they occur.
- 1.2 Develop and implement the full range of resources available to investigate terrorist incidents, bringing their perpetrators to justice.
- 1.3 Vigorously prosecute those who have committed, or intend to commit, terrorist acts in the United States.
- 5.1 Secure America's borders, especially to reduce the incidence of alien smuggling.
- 5.2 Promote public safety by combating immigration-related crimes and removing individuals, especially criminals, who are unlawfully present in the United States.
- 5.6 Improve the efficiency of the inspections process for lawful entry of persons and goods.

Protecting America against the threat of terrorism will be the cornerstone of the FY 2004 budget. As part of this budget process, I am asking the National Security Coordination Council, chaired by the Deputy Attorney General, to review and coordinate the requests in this area to develop a counterterrorism funding package within the range of \$1.0 billion to \$1.5 billion.

Strategic Goal #2: Enforce Federal Criminal Laws.

Objectives:

- 2.2 Reduce the threat, trafficking, and related violence of illegal drugs by identifying, disrupting, and dismantling drug trafficking organizations.
- 2.3 Combat espionage against the United States by strengthening counterintelligence capabilities.

For Strategic Goal #2, please pay special attention to resources affecting objectives 2.2 and 2.3, as they have clear links to counterterrorism and homeland security. Components' budget requests should reflect no more than a 10 percent program increase in Goal #2 programs over the FY 2003 resources reflected for this goal in the President's Budget.

Strategic Goal #3: Prevent and Reduce Crime and Violence by Assisting States, Tribal, Local and Community-Based Programs.

Strategic Goal #4: Protect the Rights and Interests of the American People by Legal Representation, Enforcement of Federal Laws, and Defense of U.S. Interests.

Program increases within Strategic Goals #3 and #4 should not exceed 10 percent. For program increases in this area, components' requests must explain how they would use existing resources, including reallocation internally, if new resources are not available.

Strategic Goal #5: Fairly and Effectively Administer the Immigration and Naturalization Laws of the United States.

Guidance pertaining to the objectives of Goal #5 related to border security are paired with Goal #1, above. Remaining Goal #5 objectives should adhere to the overall 10 percent limit on program increases. For fee-funded programs, increases should be consistent with the growth in workload and the fees this workload will generate.

Strategic Goal #6: Protect American Society by Providing for the Safe, Secure, and Humane Confinement of Persons in Federal Custody.

Program increases requested for incarceration and detention capacity should be consistent with crowding reduction goals and population growth. Non-capacity requests should be limited to not more than a 10 percent increase. All detention-related requests should be coordinated through the Office of the Detention Trustee. Budget requests should carefully consider the availability of surplus detention and prison beds around the country as an alternative to new construction.

Strategic Goal #7: Protect the Federal Judiciary and Provide Critical Support to the Federal Justice System to Ensure it Operates Effectively.

Increase requests should reflect necessary resources to meet the expansion in the federal judiciary and courthouses. Other requests should be limited to not more than a 10 percent increase. For fee funded activities, such as bankruptcy activities, requests should relate to workload growth.

Strategic Goal #8: Ensure Professionalism, Excellence, Accountability, and Integrity in the Management and Conduct of Department of Justice Activities and Programs.

Requests under this goal should reflect requirements to meet the priorities represented in my November 8, 2001 memo, with special emphasis on information technology, which supports all Justice Department programs. Components migrating to the new unified financial management system in

FY 2004 should include appropriate implementation costs. A separate memorandum from the Department's Chief Information Officer with additional direction regarding your information technology requests will be sent to all component heads this week.

Savings and Streamlining

We must continue to reexamine our base resources and look for opportunities to redirect resources to higher priorities. Two goals included in the November 8 guidance are to identify a 10 percent budget savings that can be realigned to support our counterterrorism mission, and to redirect 10 percent of headquarters positions to front line activities. As part of the Department's leadership team, each of you has valuable experience and insight to offer to help us meet these goals. Your initial budget submissions should include information on what actions you have taken to accomplish these savings and redirection goals, and any future plans you have to achieve them. **All requests for new program increases must also propose matching funding offsets from your component.**

In addition, components will also submit as part of the budget process a 95 percent of base resources budget, as described below.

Process & Timeline

The process for the FY 2004 budget will include a two-phase review by the Strategic Management Council (SMC). First, the components will submit conceptual **budget request summaries** by key initiative, including rough "ballpark estimates" of positions and funding needed (see format in Attachment A). **All funding request for new initiatives must include proposed offsets.** This summary information should include the impact on performance of the resources requested and is **due to the Justice Management Division on May 23, 2002. Your actions and plans related to the budget savings and redirection goals should be addressed in your May 23, 2002 requests to the SMC.** Using these submissions, the SMC will determine which of the requests meet the criteria established in its guidance instructions and will indicate which initiatives should be further fleshed out for inclusion in the Office of Management and Budget (OMB) request.

Components will then concentrate their efforts on developing detailed, fully justified budget proposals. **This will be a collaborative process between the components and the JMD Budget Staff, and among components themselves.** The goal of this process is to develop budget proposals that (1) meet our funding priorities; (2) include persuasive justifications that include concrete performance information; (3) are fully coordinated internally, with crosscutting issues identified and addressed; and (4) address any Administration-wide issues or initiatives identified in guidance from OMB. **These submissions will be due to JMD on July 2, 2002.**

In addition, also due on July 2, 2002, with the final Spring Call submission is your **95 percent of base resources budget.** This statement should list and explain the actions necessary for

your component to operate in FY 2004 if you took a 5 percent reduction to your FY 2003 budget. The savings you proposed for program increase offsets may also be used to meet this 95 percent budget.

The SMC will meet in July to review the completed budget request proposals, develop a Department-wide ranking for all 2004 enhancements requested, and develop plans for the final proposal to OMB. After my review, these decisions will then be provided to the components, and they will develop the detailed formal budget request documents and schedules required for the budget submission to OMB due on **September 9, 2002**.

Additional information and instructions pertaining to this process are attached to this memorandum. A detailed timeline of this process is contained in Attachment B. In addition, JMD will issue further instructions as necessary during the process. Thank you for your cooperation in this effort, and for your continuing efforts in pursuing vigorously our critical mission.

Attachments

Justification

Description/Justification for Enhancement:

What is the enhancement being proposed? Provide general description and justification.

Impact of Enhancement on Performance:

What impact will this have on performance? Tie this to immediate workload and output indicators if possible, and also to the broader outcome goals that are identified in the Department's FY 2003 Performance Plan.

What impact will this have on the performance of other DOJ components?

You may use a table to display this information, but you MUST describe the impacts in a concise, brief narrative.

Description/Justification for Offset:

What is the offset being proposed?

Impact of Offset on Performance:

Department of Justice
FY 2004 Spring Call
Budget Enhancement/Offset Summary by Item
May 23rd Submission

Enhancement:

Decision Unit: _____
Strategic Goal/Objective: _____
Program: _____
Item Name: _____

Component Ranking: _____
(#1 means this item would be the most essential)

Positions _____ FTE _____ Dollars _____

Offset:

Decision Unit: _____
Strategic Goal/Objective: _____
Program: _____
Item Name: _____

Positions _____ FTE _____ Dollars _____

Attachment A

What impact will this offset have on performance? Tie this to immediate workload and output indicators if possible, and also to the broader outcome goals that are identified in the Department's FY 2003 Performance Plan.

What impact will this have on the performance of other DOJ components?

You may use a table to display this information, but you **MUST** describe the impacts in a concise, brief narrative.

**U.S. Department of Justice
FY 2004 Budget Development Process**

Timeline

Date	Event/Product
4/30/02	Guidance issued to component heads.
5/23/02	<p>Component concept papers due to JMD. Concept papers will include a brief explanation of and justification for request, ballpark estimates on positions and dollars, and program performance information. All increases must be matched with proposed decreases.</p> <p>Components also describe actions taken regarding the goals to realign resources to support <i>counterterrorism</i>, and to redirect headquarters support employees to front line activities.</p>
6/4/02	Components get response to concept papers from the SMC.
6/4/02 - 7/03/02	Collaboration between the components and with JMD on preparation of budget requests and performance information.
7/03/02	<p>Components submit budget requests, which include performance charts, to Budget Staff.</p> <p>Components also submit 95 percent of base budgets.</p>
Week of 7/22/02	SMC meets to determine rank order of requests, total request levels.
Week of 7/29/02	Budget Decisions provided to components.
8/16/02	Draft budget submissions provided to JMD.
9/9/02	Budget Due to OMB.



Office of the Attorney General

Washington, D.C. 20530

May 1, 2002

MEMORANDUM FOR ALL DEPARTMENT OF JUSTICE EMPLOYEES IN THE METROPOLITAN WASHINGTON AREA

FROM: THE ATTORNEY GENERAL *John Ashcroft*

SUBJECT: Commemoration of Asian/Pacific American Heritage Month

Each year the President issues a proclamation designating the month of May as Asian/Pacific American Heritage Month. The theme for this year's national observance is "*Unity in Freedom*." Throughout the month, the American people have a unique opportunity to honor the accomplishments of Asian Pacific Americans and to recognize their many contributions to our Nation and its communities.

The first Asian and Pacific Island immigrants left their homeland to come to America in the 19th century like millions of others who left their homelands seeking a better life. Although many were poor and had suffered oppression, they were strengthened by a rich cultural heritage. These brave new Americans prevailed, despite the obstacles of prejudice, in their struggle to make a living and establish a home in their adopted country. Whether constructing the transcontinental railway, working in the gold fields of California, on the pineapple plantations of Hawaii, or establishing their own businesses, Asian and Pacific Americans succeeded in building new lives for themselves and their families.

As leaders in a variety of fields which include, among others, science, medicine, labor, business and the arts, these sons and daughters of Asian and Pacific ancestry have enriched our national life and culture with their energy, talents and with their commitment to family and community. Through their enduring reverence for freedom, Americans of Asian/Pacific descent are inspiring us to appreciate the blessing of America's great tradition of diversity.

The Department, in co-sponsorship with the Executive Office of U.S. Attorneys, the Federal Bureau of Investigation and the Bureau of Prisons, will commemorate Asian/Pacific American Heritage Month with a kick-off program on Wednesday, May 15, 2002, at 10:30 a.m., in the Great Hall of the Main Justice Building, 950 Pennsylvania Avenue, NW, Washington, DC. The keynote speaker will be Viet Dinh, Assistant Attorney General for the Office of Legal Policy.

I urge all managers and supervisors to allow their employees reasonable official time to participate.



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

April 16, 2002

TO: Holders of United States Attorneys' Manual Title 9

FROM:

John Ashcroft
Attorney General

A handwritten signature of John Ashcroft, written in dark ink, is placed over the printed name and title.

United States Attorneys' Manual Staff
Executive Office for United States Attorneys

RE: Revised Policy Re Coordination of Cases and Investigations

AFFECTS: USAM 9-75.030

The following text changes the prior approval requirement to notification when the Child Exploitation and Obscenity Section (CEOS), Criminal Division, initiates any activity related to an investigation or prosecution in a district.

USAM 9-75.030 Coordination of Cases and Investigations

CEOS and USAOs will work together to ensure that crimes involving child pornography, child sexual abuse, child sexual exploitation and obscenity are vigorously enforced throughout the nation. Generally, such crimes are prosecuted by the USAO in the relevant district. However, CEOS attorneys have substantial experience in prosecuting these types of crimes and they are available to assist in the investigative stage and/or to handle trials as chair or co-chair.

Prior to initiating any activity related to an investigation or prosecution in a district, CEOS shall notify the United States Attorney for that district. If the United States Attorney objects to CEOS initiating the activity, the matter shall be resolved by the Deputy Attorney General. USAOs shall inform CEOS of all significant investigations and cases being prosecuted in the district as well as all significant judicial decisions issued in such cases.



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.

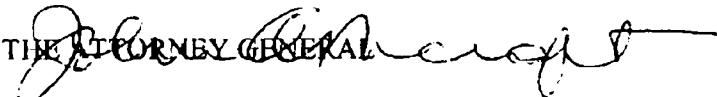


Office of the Attorney General
Washington, D.C. 20530

April 12, 2002

MEMORANDUM FOR DEPARTMENT OF JUSTICE EMPLOYEES

FROM:

THE ATTORNEY GENERAL 

SUBJECT:

Duty to Report Misconduct and
Cooperate with Investigators

As employees of the U.S. Department of Justice, we share a responsibility to hold ourselves to the highest standards of conduct. In this regard, I want to remind all Department employees of their obligation to report allegations of criminal or administrative misconduct, waste, fraud, and abuse involving Department of Justice employees or programs.

In July 2001, I expanded the Office of the Inspector General's (OIG's) jurisdiction to include investigating allegations made against employees in the Federal Bureau of Investigation and the Drug Enforcement Administration. (See A.G. Order No. 2492-2001.) Consequently, the OIG now has the authority to conduct criminal and administrative investigations throughout the Department.

Department employees have a duty to report to their supervisor, to their component's internal affairs office for referral to the OIG, or to the OIG any matters involving:

- allegations of waste, fraud, or abuse in a Department program or activity; and
- allegations of criminal or serious administrative misconduct on the part of Department of Justice employees (except for allegations described in the next paragraph).

With regard to allegations of criminal or serious administrative misconduct, the OIG will determine whether it will investigate such allegations or refer them back to the component for appropriate handling.

Department employees should continue to report allegations of professional misconduct against attorneys to the Department's Office of Professional Responsibility (OPR). That office has jurisdiction to investigate allegations of misconduct involving Department attorneys or law enforcement personnel where the allegations relate to the exercise of the attorneys' authority to investigate, litigate, or provide legal advice. By contrast, the OIG has jurisdiction to investigate other allegations of misconduct against Department attorneys. For example, if a Department attorney commits prosecutorial misconduct, that would be within OPR's jurisdiction, if an attorney commits travel fraud, that would be within OIG's jurisdiction.

Department employees are obligated to cooperate fully with the OIG, OPR, or their internal affairs office if the employees are informed that their statements will not be used to incriminate them in any criminal proceeding. Refusal to cooperate could lead to disciplinary action.

If you have any questions concerning to whom an allegation should be reported, please contact the OIG, OPR, or your component's internal affairs office. Those offices coordinate with each other to determine which office should handle a specific allegation of misconduct. The most important thing, however, is for Department employees to report allegations of misconduct in a timely way and to cooperate with misconduct investigations. I ask all Department of Justice employees to protect the integrity of the Department and its mission by recognizing and acting on this duty.




Office of the Attorney General

Washington, D.C. 20530

April 11, 2002

MEMORANDUM FOR THE DEPUTY ATTORNEY GENERAL, THE ASSISTANT ATTORNEY GENERAL FOR THE CRIMINAL DIVISION, THE ASSISTANT ATTORNEY GENERAL FOR LEGAL POLICY, THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION, THE COMMISSIONER OF THE IMMIGRATION AND NATURALIZATION SERVICE, THE ADMINISTRATOR OF THE DRUG ENFORCEMENT ADMINISTRATION, THE DIRECTOR OF THE EXECUTIVE OFFICE OF UNITED STATES ATTORNEYS, THE DIRECTOR OF THE MARSHALS SERVICE, AND THE DIRECTOR OF THE FOREIGN TERRORIST TRACKING TASK FORCE.

FROM: THE ATTORNEY GENERAL 
SUBJECT: Coordination of Information Relating to Terrorism

The prevention of terrorist activity is the overriding priority of the Department of Justice. By memoranda dated November 8 and 13, 2001, I directed Department components to review their policies and procedures to ensure information sharing, information analysis, and coordination of activities with federal, state and local agencies to prevent acts threatening public safety and national security. The Deputy Attorney General has reported to me the specific actions taken to implement those directives. I commend you on the substantial progress the Department has achieved in analyzing information, sharing intelligence, and coordinating activities in the multi-front effort to combat terrorism.

I am hereby directing you to undertake further action to institutionalize the Department's ongoing efforts to coordinate information and activities to prevent and disrupt terrorist activities.

1. Expand Terrorist Information in Law Enforcement Databases.

The Federal Government maintains a number of databases that provide real-time information to officials in foreign diplomatic outposts, at border points of entry, and for interior domestic law enforcement. Expansion of information in such databases relating to known and suspected terrorists will greatly enhance the ability of federal, state, and local officials to prevent terrorists from obtaining visas to enter the United States, to deny them entry into our borders, to detect and apprehend those already in the country, and to gather

intelligence on the plans and activities of terrorist conspiracies. Accordingly, I hereby direct all investigative components within the Department of Justice to establish procedures to provide, on a regular basis and in electronic format, the names, photographs (if available), and other identifying data of all known or suspected terrorists for inclusion in the following databases:

- The Department of State TIPOFF System. This system is designed to detect known or suspected terrorists who are not U.S. citizens as they apply for visas overseas or as they attempt to pass through U.S., Canadian, and Australian border entry points. Expanding terrorist information in the database will preclude the issuance of visas to known terrorists; warn U.S. diplomatic posts of the security risk posed by certain applicants; and alert intelligence and law enforcement agencies of the travel plans of suspected terrorists.
- The FBI National Crime Information Center (NCIC). The NCIC is the nations principal law enforcement automated information sharing tool. It provides on-the-street access to information to over 650,000 U.S. local, state, and federal law enforcement officers. The inclusion of terrorist information in this powerful database will assist in locating known foreign terrorists who have entered the U.S. undetected, warn law enforcement officers of a potential security risk, and alert intelligence and law enforcement agencies of the presence of a suspected terrorist at a specific location and time. Agencies contributing terrorist information should establish procedures and protocols for direct electronic input of the data into NCIC, observing applicable restrictions on the entry of classified information into the system. To expand further local and state law enforcement access to relevant terrorist information, the FBI shall establish procedures with the Department of State that will enable, on a recurring basis, the inclusion of qualifying TIPOFF data into NCIC. The FBI shall establish procedures that inform law enforcement officers what action should be taken when encountering suspected terrorists. Furthermore, the NCIC must properly characterize individuals as either suspected terrorists or known terrorists, with the latter designation reserved for individuals against whom sufficient evidence exists to justify such a determination.
- The U.S. Customs Service Interagency Border Inspection System (IBIS). This system is the primary automated screening tool used by both the Immigration and Naturalization Service (INS) and U.S. Customs Service at ports-of-entry. The inclusion of terrorist data in this integrated database will help preclude the entry of known and suspected terrorists into the U.S., warn inspectors of a potential security threat, and alert intelligence and law enforcement agencies that a suspected terrorist is attempting to enter the U.S. at a specific location and time. Such information on known or suspected

foreign terrorists must be placed in IBIS unless it is already accessible through an automated IBIS query of NCIC.

The procedures established for providing information to the databases listed above may allow for case-by-case exceptions where the component head or his responsible designee determines that disclosure would compromise classified information, jeopardize an investigation, or compromise a confidential source.

2. Coordinate Foreign Terrorist Information.

The international response to the September 11th attacks has been defined by multilateral cooperation and resolve to restore security and liberty to freedom-loving people of the world. The success of the response has depended in large part on improved sharing among governments of information relating to terrorists, their associates, and their activities. Continued vigilance against international terrorist conspiracies requires procedures to institutionalize such information coordination. Accordingly, I hereby direct the FBI, through its Legal Attaches, to establish procedures to obtain on a regular basis the fingerprints, other identifying information, and available biographical data of all known or suspected foreign terrorists who have been identified and processed by foreign law enforcement agencies. The FBI shall also coordinate with the Department of Defense to obtain, to the extent permitted by law, on a regular basis the fingerprints, other identifying information, and available biographical data of known or suspected foreign terrorists who have been processed by the U.S. Military. Such information shall be placed into the Integrated Automated Fingerprint Identification System (IAFIS) and other appropriate law enforcement databases to assist in detecting and locating foreign terrorists.

3. Establish Secure System for Information Coordination with State and Local Partners.

The various information systems described above are databases, triggered by a name query, that serve as an alert mechanism and pointer index. Effective information coordination requires more sophisticated mechanisms for expanded searches, multipoint information flow, and integrated analysis. Federal agencies have the benefit of classified systems that enable keyword searches of relevant documents, secure e-mail, and other important collaborative information sharing tools. However, there is no corresponding national system with comparable capability for integrated information coordination on counterterrorism with and among state and local law enforcement agencies.

By memorandum of November 13, 2001, I directed all U.S. Attorneys to develop protocols for coordinating information to, from, and among our state and local partners in law enforcement. I encouraged the use, where practicable, of technologies already available and currently in use by the Department to facilitate information-sharing. I hereby direct the Deputy Attorney General to coordinate among the applicable components the development of a secure but unclassified web-based system to enable local, state, and federal users to post,

retrieve, and read information, restrict access to certain products, send secure e-mail, and receive automatic e-mail notifications when new items are posted. This integrated system should allow for future capabilities, such as imagery and photographs, instant messaging and database access and restricted access to classified information at least at the Secret level and ideally in higher classifications.

4. Analyze Foreign Terrorist Data.

On October 30, 2001, the President directed that the Department establish the Foreign Terrorist Tracking Task Force (FTTTF). The mission of the FTTTF is to keep foreign terrorists and their supporters out of the United States by providing critical and timely information to border control and interior enforcement agencies and officials. To do so requires electronic access to large sets of data, including the most sensitive material from law enforcement and intelligence sources. Analyzing such data will enable the FTTTF to discern patterns and probabilities of terrorist activities.

I hereby direct the FTTTF to identify the agency information systems and data sets needed to fulfill its mission. Each agency is to provide to the FTTTF unfiltered, timely and electronic access to the information systems and data sets deemed relevant by the Director of the FTTTF, subject to any legal restrictions on the sharing of such information.

5. Standardize Procedures for Sharing of Sensitive Information.

Section 203 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001, Pub. L. 107-56, authorizes the sharing of foreign intelligence and counterintelligence information obtained as part of a criminal investigation, including through grand jury proceedings and Title III electronic surveillance, with relevant Federal officials to assist in the performance of their duties. The officials receiving such information may use it only as necessary in the conduct of their official duties and subject to any limitations on the unauthorized disclosure of such information. The Criminal Division has developed and distributed model forms to be used to notify the supervising court when grand jury information has been shared pursuant to section 203.

Section 905 of the USA PATRIOT Act requires the Department and other Federal agencies with law enforcement responsibilities to share expeditiously foreign intelligence obtained in the course of a criminal investigation with the Director of Central Intelligence, subject to limitations otherwise provided by law and exceptions delineated in regulations to be issued by the Department. In the types of criminal cases in which foreign intelligence information is commonly encountered -- including terrorism, drug trafficking, and organized crime investigations -- strong relationships for information-sharing and coordination with the Intelligence Community are already in place.

I hereby direct the Assistant Attorney General for Legal Policy, in consultation with the Criminal Division, FBI, and other relevant components, to draft, for my consideration and promulgation, procedures, guidelines, and regulations to implement sections 203 and 905 of the USA PATRIOT Act in a manner that makes consistent and effective the standards for sharing of information, including sensitive or legally restricted information, with other Federal agencies. Those standards should be directed toward, consistent with law, the dissemination of all relevant information to Federal officials who need such information in order to prevent and disrupt terrorist activity and other activities affecting our national security. At the same time, the procedures, guidelines, and regulations should seek to ensure that shared information is not misused for unauthorized purposes, disclosed to unauthorized personnel, or otherwise handled in a manner that jeopardizes the rights of U.S. persons, and that its use does not unnecessarily affect criminal investigations and prosecutions. The standards adopted will govern the coordination of information directed by this memorandum, and well as other voluntary or mandated sharing of criminal investigative information.

* * *


The September 11 attacks demonstrate that the war on terrorism must be fought and won at home as well as abroad. To meet this continuing threat, law enforcement officials at all levels of government -- federal, state, and local -- must work together, coordinating information and leveraging resources in the joint effort to prevent and disrupt terrorist activity. You have worked hard and accomplished much in this common fight, but more remains to be done to help secure America and protect her people. I thank you for your continued service, dedication, and cooperative spirit in this time of continuing national need.



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

April 10, 2002

MEMORANDUM FOR ALL DEPARTMENT OF JUSTICE EMPLOYEES
IN THE METROPOLITAN WASHINGTON AREA

FROM: THE ATTORNEY GENERAL 
SUBJECT: Observance of the Days of Remembrance for the
Victims of the Holocaust, April 8-13, 2002

The week of April 8-13, 2002, has been designated as the annual observance of the Days of Remembrance for the Victims of the Holocaust. The International Day of Remembrance known as **Yom Hashoah** and the National Day of Remembrance Ceremony will be observed on April 9, 2002, in the United States Capitol Rotunda. Throughout this annual observance, we, as citizens of this nation, should remember the many victims, the survivors, rescuers, and liberators; and should strive to overcome intolerance and indifference through learning and recognizing the need for respect of all peoples.

The United States Holocaust Memorial Museum theme for this year is "**Memories of Courage.**" The interagency committee's theme is "**Escape from Turkey.**" Since the events of September 11, 2001, Americans have become acutely aware of the senselessness that drives hatred and violence. We know that we can defy hatred by seeking justice and building solidarity. These themes reflect our convictions that without a call to conscience, remembrance is incomplete.


The Department is a co-sponsor of an interagency program, which will be held on Thursday, April 11, 2002, at 12 noon, at the Lincoln Theater, 1215 U Street, NW (U St./Cardozo Metro Stop), Washington, DC. The keynote speaker is Bernard Turiel, from the island of Rhodes. Mr. Turiel is one of 42 Jews saved by the Turkish Consul from deportation to one of the death camps by the Nazis who controlled the island. Managers and supervisors are encouraged to allow employees administrative time to attend these events.

For additional information, please contact Linda Sackie, Equal Employment Opportunity Staff, Justice Management Division, on 616-4807 or by e-mail to Linda.P.Sackie@usdoj.gov.



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

MEMORANDUM FOR ROBERT F. DIEGELMAN
ACTING ASSISTANT ATTORNEY GENERAL
FOR ADMINISTRATION

FROM: THE ATTORNEY GENERAL 
SUBJECT: Selection for the Chief Information Officer

Based upon the unique managerial and technical qualifications possessed by Vance E. Hitch, I have selected him as the superior candidate to fill the career Senior Executive Service position of Chief Information Officer in the Justice Management Division at the ES-5 pay level (\$138,200 per annum). Please take the necessary action to obtain Office of Personnel Management Qualification Review Board approval of Mr. Hitch's executive qualifications and effect his appointment to the Chief Information Officer position as soon as possible.



Office of the Attorney General

Washington, D.C. 20530

April 1, 2002

MEMORANDUM FOR DIRECTOR, FEDERAL BUREAU OF INVESTIGATION

DIRECTOR, FEDERAL BUREAU OF PRISONS

DIRECTOR, EXECUTIVE OFFICE FOR UNITED STATES
ATTORNEYS

ALL UNITED STATES ATTORNEYS

FROM:


THE ATTORNEY GENERAL

SUBJECT:

The Victim Notification System (VNS)

After several years of planning and hard work by everyone involved, the Department's Victim Notification System (VNS) is now fully operational. Pursuant to the Attorney General Guidelines for Victim and Witness Assistance 2000 and statute (42 U.S.C. §§ 10606, 10607), the Federal Bureau of Investigation (FBI), the United States Attorneys' offices (USAOs), and the Federal Bureau of Prisons (BOP) are each responsible for notifying victims at various stages of the criminal justice process. VNS significantly enhances our ability to comply with these statutory obligations. In addition, VNS will be the primary method for notifying the victims in the prosecution of United States v. Moussaoui and the events of September 11. As a result, VNS is and will continue to be a priority program for the Department.

Now that the VNS is up and running, I urge all United States Attorneys (USAs), FBI-Special Agents in Charge (SACs), and BOP managers to personally ensure it is being used effectively. As with any new endeavor, some procedural change will likely be required within each component in order to fully use the new notification system. Management from each of the participating components should provide their staff with the necessary support to ensure victims are receiving the appropriate notifications from VNS in a timely fashion.

VNS reinforces the Department's strong commitment to victims of crime. With the combined efforts of the FBI, USAOs, and BOP, I am confident VNS will be a success and will increase victims' confidence in the federal criminal justice system.



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

March 5, 2002

MEMORANDUM FOR HEADS OF DEPARTMENT COMPONENTS

FROM: THE ATTORNEY GENERAL *John Ashcroft*

SUBJECT: Establishment of the National Security Coordination Council

Nearly five months after the devastating terrorist attacks of September 11, 2001, the Department of Justice stands at the forefront of President Bush's efforts to secure the American homeland. Throughout the Department, we have made great strides toward fully deploying the arsenal of justice to combat terrorism, and we have done so without compromising our commitment to the rule of law. But there is much work to be done.

The assaults on America that occurred on September 11, and the supreme imperative to prevent further terrorist attacks, mandate a more coordinated effort to combat terrorism and address other national security challenges, both within the Department of Justice, and in the Department's interaction with other law enforcement and intelligence agencies.

Therefore, effective immediately, I hereby establish the National Security Coordination Council (NSCC) of the Department of Justice, which shall be chaired by the Deputy Attorney General. It shall be the principal mission of the NSCC to ensure a more seamless coordination of all functions of the Department relating to national security, particularly the Department's efforts to combat terrorism directed against the United States.

Under the Deputy Attorney General's leadership, the Council will:

- (1) Centralize and coordinate policy, resource allocation, operations, and long-term planning of DOJ components regarding counter-terrorism, counter-espionage, and other major national security issues;
- (2) Monitor the implementation of Department policy to ensure that components are taking all necessary and appropriate actions to prevent and disrupt the occurrence of terrorist attacks in the United States;
- (3) Provide an institutionalized Department forum for crisis management;

MEMORANDUM FOR HEADS OF DEPARTMENT COMPONENTS

Subject: Establishment of the National Security Coordination Council

Page 2

- (4) Promote coordination and information-sharing within the Department, between DOJ and other federal agencies and interagency bodies, and between DOJ and state and local law enforcement authorities, to prevent, prepare for, and respond to terrorist attacks within the United States;
- (5) Frame national security issues for resolution by the Deputy Attorney General or the Attorney General; and
- (6) Ensure that positions advanced by the Deputy Attorney General on behalf of DOJ at interagency meetings of the National Security Council, the Homeland Security Council, and other interagency forums reflect input from DOJ national security components.

In addition to the Deputy Attorney General, the NSCC's members will include the following Department officials with responsibility for national security matters:

- Chief of Staff to the Attorney General;
- FBI Director (with appropriate participation by the Executive Assistant Director for Counter-Terrorism/Counter-Intelligence);
- Assistant Attorney General, Criminal Division (with appropriate participation by the Terrorism and Violent Crime Section, the Office of International Affairs, and other Division components);
- Commissioner of the Immigration and Naturalization Service;
- Assistant Attorney General, Office of Justice Programs; and
- Counsel, Office of Intelligence Policy and Review.

The NSCC will meet on a bi-weekly basis or more frequently as needed. In addition to the Deputy Attorney General and the permanent members listed above, other senior Department officials -- as well as senior officials from the Central Intelligence Agency and other government agencies -- will be invited to attend NSCC meetings when appropriate. The NSCC will receive staff support from attorneys in the Office of the Deputy Attorney General with expertise in national security matters, and from ODAG administrative personnel. The functions and personnel of the Executive Office of National Security will henceforth be incorporated into the NSCC's operations.

The establishment of the NSCC marks a new chapter in the Department of Justice's commitment to protecting the safety and well-being of the American people. I call upon all Department officials and employees to dedicate themselves to the success of this vital effort.



Office of the Attorney General

Washington, D.C. 20530

March 4, 2002

MEMORANDUM FOR HEADS OF DEPARTMENT COMPONENTS

FROM:

THE ATTORNEY GENERAL

A handwritten signature in black ink, which appears to be "John Ashcroft", is written over the printed name "THE ATTORNEY GENERAL".

SUBJECT:

National Women's History Month, March 2002

March 2002 commemorates National Women's History Month. During this month, the Department will sponsor and present various programs and activities that recognize the contributions women have made to this nation and to the Department of Justice. "Women Sustaining the American Spirit" is the National Women's History Month theme.

This observance was inspired by women textile and garment workers in New York who went on strike on March 8, 1857, to protest their low wages and poor working conditions. As a result, March 8 was celebrated annually as American Women's Day. In the 1970's, the celebration was expanded to a full week, and since 1987 the entire month of March has been proclaimed as National Women's History Month. Women continue to make vital contributions to American society and we are honored to recognize their achievements. These achievements and contributions will be highlighted through programs and other activities.

I invite your staff, managers, and employees to join in studying this rich history which has played a vital role in the development of our nation. In view of the special significance of National Women's History Month, please inform your employees in the Washington metropolitan area of scheduled activities and grant them reasonable official time to participate.



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

March 1, 2002

MEMORANDUM FOR ALL UNITED STATES ATTORNEYS
ALL FIRST ASSISTANT UNITED STATES ATTORNEYS
ALL CRIMINAL CHIEFS
ALL CRIMINAL DIVISION SECTION CHIEFS AND
OFFICE DIRECTORS

FROM: THE ATTORNEY GENERAL

A handwritten signature in black ink, appearing to read "John Ashcroft", is written over the text "THE ATTORNEY GENERAL".

SUBJECT: Renewal of Approval Requirement Under The Economic Espionage
Act of 1996

Recognizing the increasingly important role of intellectual property in ensuring national security and the well-being of our economy, Congress enacted the Economic Espionage Act of 1996 ("EEA"). Codified at 18 U.S.C. §§ 1831-1839, the EEA criminalizes the theft or misappropriation of trade secrets for the benefit of a foreign government, instrumentality or agent (§ 1831) or for commercial or economic gain (§ 1832). Pursuant to 28 C.F.R. § 0.64-5, all prosecutions brought under §§ 1831 and 1832 must be approved by the Attorney General, the Deputy Attorney General, or the Assistant Attorney General of the Criminal Division for 5 years after the enactment of the EEA. This requirement expired on October 11, 2001.

I am pleased to report that since the passage of the EEA, federal prosecutors have effectively used the statute to protect against the criminal misappropriation of trade secrets while avoiding intervening in commercial disputes best handled through civil litigation. Federal criminal charges have been filed in 29 cases of commercial trade secret theft, resulting in guilty pleas or verdicts in 25 cases. Sentences of as much as 77 months imprisonment have been imposed. There have been two EEA trials under § 1832, both leading to guilty verdicts against all the defendants. The remaining § 1832 cases are currently pending trial. This year, the first indictment charging foreign economic espionage in violation of § 1831 was returned.

As one indication of the measured and thorough approach the Department has taken with respect to investigating and charging theft of trade secrets, there has not been an acquittal under the EEA since passage of the legislation. Additional information about EEA prosecutions may be found at CCIPS' website, www.cybercrime.gov.

Memorandum for all United States Attorneys
All First Assistant United States Attorneys
All Criminal Chiefs
All Criminal Division Section Chiefs and Office Directors

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I have decided to revive the prior approval requirement for initiating prosecutions under § 1831, and thus, such approval should be obtained from the Assistant Attorney General for the Criminal Division, through the Internal Security Section (ISS). I have decided not to extend the approval requirement for cases under § 1832. Nevertheless, I strongly urge prosecutors to consult with the Computer Crime and Intellectual Property Section (CCIPS) regarding § 1832 prosecutions prior to filing charges. ISS can be reached at 202-514-1187 and CCIPS can be reached at 202-514-1026. Both sections have developed an expertise in handling these complex cases and would be a valuable source of information to any office seeking charges under the EEA.

The United States Attorneys' Manual (§ 9-59.000) will be amended to reflect this change.



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

February 14, 2002

MEMORANDUM FOR HEADS OF DEPARTMENT COMPONENTS

FROM:

THE ATTORNEY GENERAL

A handwritten signature in black ink, appearing to read "John Ashcroft", is written over the text "THE ATTORNEY GENERAL".

SUBJECT:

National African American (Black) History Month

During the month of February 2002, the Department of Justice will present programs to increase our awareness of the contributions African Americans have made to our nation. "Heritage and Horizons: The African American Legacy and the Challenges of the 21st Century" is the Department's theme for our programs.

Established in 1926 by Dr. Carter G. Woodson, a historian and founder of the Association for the Study of Afro-American Life and History, Black History Month is a time to remember and reflect upon the heritage, culture and accomplishments of African Americans. This history reveals a long record of courage, commitment and achievements that are benchmarks in this country's movement toward justice, freedom and equality for all. Some of these achievements and contributions will be highlighted during our African American (Black) History Commemorative Program on Wednesday, February 20, 2002, at 11 a.m. in the Great Hall, Main Justice Building.

I invite your staff, managers, and employees to join in studying this rich history, which has played a vital role in the development of our nation. In view of the special significance of African American (Black) History Month, please notify your employees in the Washington metropolitan area of the programs, and grant them reasonable official time to participate.



Office of the Attorney General

Washington, D.C. 20530

February 13, 2002

MEMORANDUM TO THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION

FROM:

THE ATTORNEY GENERAL 

SUBJECT: Increasing the NICS Immediate Determination Rate

On June 28, 2001, I directed the Federal Bureau of Investigation (FBI) to increase, to the fullest extent practicable, the percentage of National Instant Criminal Background Check System (NICS) checks resulting in an immediate response of "proceed" or "denied" to Federal Firearms Licensees (FFLs)

You have reported that such an improvement can be effected through two possible options. The first, the Transfer Option, would allow the contract call centers, which currently receive all FFL inquiries, to transfer to a NICS Legal Instruments Examiner (Examiner) those calls that would, under current procedures, receive a delay. The Examiner would review the records immediately and advise the FFL whether the transaction can proceed, is denied, or must still be delayed for further review or research. The second option, the Full In-House Call Center option, would discontinue the contract call centers and require that all FFL inquiries go directly to the NICS. You recommended that the Transfer Option be implemented.

I hereby direct you to implement as soon as practicable the Transfer Option in order to increase the immediate determination rate of NICS checks. The Transfer Option immediately routes to an Examiner any calls to the contracted call centers that receive a delay. The Examiner who receives this call will be able to retrieve the transaction from the delay queue and review the information while still on the phone with the FFL to make a determination about the potential firearms purchase. The Examiner can issue a proceed or deny response while on the phone, and if the Examiner believes additional review or research is needed, he or she will advise the FFL that the transaction remains delayed. The Transfer Option is recommended because it can be implemented at base level funding while increasing the immediate determination rate to approximately 90%.

I further direct you to analyze in detail and report to me the short- and long-term costs and benefits of bringing all NICS calls directly to a Full In-House Call Center. The report should be submitted to me as soon as practicable and should assess the viability of the In-House Call Center Option as a long-term solution for increasing the NICS immediate determination rate. Your analysis and report may serve as the basis for compliance with OMB Circular A-76, which sets forth the procedures to be followed when the government proposes to perform a service currently contracted to an outside vendor.



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

June 16, 2000

MEMORANDUM FOR HEADS OF DEPARTMENT COMPONENTS
FOR ALL UNITED STATES ATTORNEYS

FROM: THE ATTORNEY GENERAL *[Signature]*
SUBJECT: Eight-Point Plan to Enhance Diversity

As lawyers for the nation, the Department of Justice has a responsibility to recruit, hire, and retain the best lawyers. The most effective way to do this is to search widely for talented attorneys, and to create a work environment where good lawyers will thrive.

To assist the Department in this task, I am issuing with this memorandum the Department's Eight-Point Plan to Enhance Diversity. The principles and action items in this plan are designed to increase access to career opportunities with the Department for both new and experienced attorneys. Implementation of this plan will help attract a talented and diverse pool of applicants. We can only hire talented attorneys if we identify and communicate with them, wherever they may be.

As our workforce becomes increasingly diverse, we must be alert to ways to retain good lawyers after we hire them. Toward this end, the Eight-Point Plan emphasizes the importance of training for managers on diversity issues, and requests that Department components take steps to ensure that staff attorneys are provided opportunities, as appropriate, to acquire critical professional skills needed for career advancement.

Please take all steps necessary to implement this plan in your office or component. While we have made great strides in building a vigorous and diverse workforce at the Department, we can do more. I look forward to continuing to work with you on this vital endeavor.

Attachment



U.S. DEPARTMENT OF JUSTICE

EIGHT POINT PLAN TO ENHANCE DIVERSITY IN THE DEPARTMENT OF JUSTICE

I. Increase Commitment to DOJ Attorney Recruiting and Hiring.

Principle: The Department of Justice (Department) should devote greater resources to attorney, law clerk and summer law intern recruiting. All components¹ should work to ensure that individuals from all diverse groups² in our society can participate to the fullest degree in employment and advancement opportunities in the Department, and to ensure that the Department does not inadvertently, or through lack of effort, discourage such opportunity. Such efforts should include the following recruiting methods:

Action Items: A) Minority bar and prosecutors' associations, as well as minority law school associations each conduct annual job fairs which provide opportunities for recruiting persons who traditionally have been under-represented in the legal profession. At the urging of the Attorney General, several Department components and USAOs send lawyers to these conferences. Each component should consider sending one or more representatives to appropriate bar association conventions to recruit individuals from diverse groups by participating in job fairs. To notify conventioners of employment opportunities in the Department, consideration should be given to purchasing advertising space in convention programs of such bar associations. **(All Components);**

Each summer and winter, the Office of Attorney Personnel Management (OAPM) issues a semi-annual Attorney Personnel Memorandum (APM) describing upcoming recruitment events for the following six months. The APM provides information on events which have an emphasis on diversity. Each component should use this information as a recruiting tool. **(All Components);**

The Department should consider placing recruiting advertisements in bar journals, legal newspapers, convention programs, and other periodicals of appropriate bar associations. **(OAPM and JMD);**

¹ The word "component" is used to mean Department of Justice agencies, divisions, boards, executive offices, and the United States Attorneys' Offices (USAOs).

² As used throughout this document, the terms "diverse groups," "diversity," and "diverse workforce" include, but are not limited to, persons of different races, colors, ethnic backgrounds, national origins, religions, genders, sexual orientations, and persons with disabilities.

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All components should engage in active recruiting at American Bar Association-accredited law schools with significant populations of students who traditionally have been underrepresented in the legal profession. Targeted outreach efforts should be undertaken at these schools, including initiating visits to career counseling offices and conducting career opportunity presentations to the student body. **(All Components);**

OAPM should develop a best practices manual and other instructional material on recruiting attorneys, law clerks and summer law interns. Relevant training should be provided to all attorney supervisors and hiring officials within the Department. **(OAPM);**

Department components should be strongly encouraged, where practicable, to form recruiting teams to promote employment within the Department and USAOs. These specially trained teams could be comprised of both local Assistant United States Attorneys and out of district Department lawyers who will visit local minority and disability bar associations, law schools, and other entities within the local legal community to encourage local bar members to seek employment in the Department. These recruiting teams should also be dispatched to job fairs conducted during conventions of bar associations. **(All Components);**

USAOs should consider recruiting recent law graduates for Assistant United States Attorney positions. This can be accomplished by including participating USAOs, collectively, as one of the components which applicants may select when applying to the Attorney General's Honor Law Graduate Program. As is the case with all components participating in the Honor Law Graduate Program, the participating USAOs would retain full control over the screening, interviewing and hiring of the candidates for their offices. A committee should be formed (of representatives from OAPM, EOUSA, the Attorney General's Advisory Committee, and selected USAOs which are likely to participate) to explore this proposal. **(EOUSA, OAPM, and JMD/EEO).**

2. *Create an On-Line System of Attorney Vacancy Notification.*

Principle: Given the increased access to the World Wide Web by the vast majority of attorneys and law clerks, the use of the Internet to post attorney and law clerk employment opportunities should result in an increase in the number of attorney and law clerk applications received by all components, and should necessarily result in additional attorney applications.

Action Item: All components should post their attorney, law clerk, and summer law intern vacancies and other employment opportunities on a Web page accessible via link through the Department's Web site. In addition,

components with their own Web pages should consider posting their attorney vacancies on those Web pages as well. All electronic employment postings must be accessible to persons with disabilities. (All Components).

3. *Enhance Leadership Accountability by Requiring Periodic Reporting of Attorney Hiring and Advancement Activity within all Sections, Divisions, and Agencies.*

Principle: The importance of a diverse workforce can be consistently reinforced by a system which requires periodic reporting of hiring and advancement activity in all sections, divisions, agencies, and USAOs. Periodic reporting can provide an opportunity to remind all supervisors of the value of diversity in our ranks. Accordingly, the following should be considered:

Action Item: EOUSA and JMD/EEO should develop policies and procedures requiring the periodic reporting of hiring and advancement activity in all USAOs and litigating components. (EOUSA, JMD/EEO, and relevant components).

4. *Provide Enhanced Diversity Training for All Department Supervisors and Hiring Officials.*

Principle: Meaningful diversity in the federal workforce can only be achieved if all hiring officials learn to value diversity and develop a sensitivity to the experiences of people of various cultures. Diversity training for all Department supervisors and hiring officials can go far in creating a positive work environment where the differences among all personnel are recognized, understood and valued. Such an environment can enable all employees to achieve their full professional potential and maximize their contributions to the Department. It can also provide an opportunity for all employees to learn how to create dialogue and improve communications across diverse lines. Supervisors can learn to build partnerships that lead to healthy dialogue, greater productivity by employees, and a more positive work environment.

Action Item: EOUSA's Office of Legal Education, together with JMD/EEO, should develop an ongoing program of training to address diversity in the workplace. The training should be given to all new and current Department supervisors and hiring officials, and integrated into the standard training curricula for such personnel. For USAOs, EOUSA's management team training seminars and annual supervisory training seminars for United States Attorneys, First Assistant United States Attorneys, and division chiefs should be revised to include such training.

Features of the course should include lectures, participatory workshops, and group exercises. (EOUSA and JMD/EEO).

5. *Develop New Attorney Mentor Programs in All Components.*

Principle: The importance of mentor programs to the development of essential lawyering skills for new attorneys is widely recognized throughout the legal profession. An increasing number of litigating sections, divisions, and USAOs now feature such programs as a part of the orientation and training of new attorneys. In addition to enabling new attorneys to acquire the basic skills necessary to succeed in the Department, such programs can often enable less experienced attorneys to learn key skills from more experienced attorneys in a component and can assist them in acquiring skills necessary to advance in their careers.

Mentor programs can aid diversity in the workplace by ensuring that all attorneys receive appropriate attention and guidance from experienced attorneys. Accordingly, such mentor programs should feature the following:

Action Items: A) Each Department component should develop a mentor program that is tailored to the size, needs and responsibilities of the component and that takes into careful consideration the varied experience and skills of attorneys who join the Department. (All Components);

Informal mentoring programs, such as "brown bag luncheons" on topics of interest to new attorneys should be encouraged by component leadership.

6. *Encourage All Attorney Supervisors to Closely Monitor Caseloads, Other Assignments and Training to Ensure Appropriate Advancement Opportunities for All Section Attorneys.*

Principle: The manner in which cases and other assignments are allocated among the attorney staff affects the development of critical professional skills needed for career advancement, including supervisory positions. Ideally, all attorneys should be given a fair opportunity to handle assignments of moderate to high complexity, depending on each lawyer's experience, skill level and current caseload. As funding allows, all attorneys should also be provided with appropriate opportunities to participate in training relevant to the successful performance of their duties.

Accordingly, all components should implement the following:

Action Items: A) Supervisors should strive for equity in the distribution of assignments and should make assignments in a manner which will ensure that each attorney

has a fair opportunity to handle matters of moderate to high complexity, as appropriate to the attorney's experience and skill level. (All Components);

Supervisors should make training opportunities available to all attorneys in a fair and equitable manner. (All Components).

7. *Involve the Department's Attorney Organizations in Recruiting and Professional Skills Development Programs.*

Principle: Several organizations founded by Department attorneys have been sanctioned by the Department. These organizations serve an important role in assisting the Department in fulfilling several goals and facilitating ongoing communications between Department managers and employees. These organizations also serve to promote productive and amicable working relations by providing insight into social, cultural and other differences that may affect manager/employee relationships.

All such organizations should be requested to undertake the following:

Action Items: A) Assist the Department in its efforts to identify, recruit, and hire a diverse workforce by identifying participants to attend minority job fairs or appear at appropriate events on behalf of the Department. (All Attorney Associations);

Promote a better understanding of various cultures, heritages, persons with disabilities, and other diverse groups within the Department by co-sponsoring, and encouraging its members to participate in annual events which celebrate cultural heritage and diversity of various groups. The organizations should identify a member to serve as a point of contact with Department components for this purpose. (All Attorney Associations);

Encourage members to participate in mentoring programs for new attorneys within the Department. (All Attorney Associations);

Support, encourage and participate in any diversity training within the Department. (All Attorney Associations);

Notify appropriate leadership officials of patterns or practices occurring within the Department that may have a discriminatory impact. (All Attorney Associations);

Notify its membership of managerial/executive training and career developmental opportunities. The organizations should ensure that the organizations' members

at the GS-13 through GS-15 level are aware of and have an equal opportunity to attend training programs such as those offered at OPM's Federal Executive Institute and Management Development Centers. (JMD and All Attorney Associations).

8) ***Intensify Efforts to Increase Representation of Individuals from Diverse Groups in the Senior Executive Service (SES).***

Principle: Most of the Department's management and litigation policies are created or implemented by SES members. Efforts should be made to ensure that opportunities to apply for SES positions are made available to all eligible individuals, both within the Department and throughout the federal sector.

- Action Items:***
- A) Ensure that all SES positions are widely advertised through appropriate recruiting sources (e.g., DOJ and OPM web sites). Require such vacancies to be advertised for a minimum of three weeks. (All Components);
 - B) Encourage diverse selection panels for SES and senior level positions. (All Components).