



The Deputy Attorney General

Washington, D.C. 20530

March 28, 2022

MEMORANDUM FOR ALL DEPARTMENT PERSONNEL

FROM: THE DEPUTY ATTORNEY GENERAL *Cia Munce*

SUBJECT: COMMUNICATIONS WITH THE WHITE HOUSE CONCERNING
NATIONAL SECURITY MATTERS

The Attorney General's memorandum "[Department of Justice Communications with the White House](#)" emphasizes the Department's "adherence to the longstanding Departmental norms of independence from inappropriate influences, the principled exercise of discretion, and the treatment of like cases alike." Such communication policies "are designed to protect our criminal and civil law enforcement decisions, and our legal judgments, from partisan or other inappropriate influences, whether real or perceived, direct or indirect."

Section B of the Attorney General's memorandum discusses "Communications Concerning National Security Matters" and notes the following:

1. It is critically important to have frequent and expeditious communications between the Department and the White House in matters relating to foreign relations and national security, including counterterrorism and counterespionage. Therefore, communications from or to the Assistant to the President for National Security Affairs, the Principal Deputy National Security Advisor, the Deputy Counsel to the President for National Security Affairs, and the staff of the National Security Council that relate to such matters are not subject to the limitations set out in Part A above or Part F below. However, the Office of the Attorney General or Deputy Attorney General, and the Office of the White House Counsel, must be kept advised of such communications. **Such communications may also be subject to further supervisory guidance designed by those Offices to safeguard both the Department's independence and national security responsibilities. [emphasis added]**

2. This exception for foreign relations and national security related matters does not extend to domestic matters unrelated to foreign actors or foreign influences when there are no exigent circumstances that would render infeasible the initial communication requirement of Part A. Nor does the exception extend to pending adversary cases in litigation that may have national security implications. Communications related to such domestic matters and pending cases are subject to the guidelines for pending or contemplated law enforcement investigations or cases described in Part A. If communications occur in the exigent circumstances described in this paragraph, the Office of the Attorney General or Deputy Attorney General, and the Office of the White House Counsel, must be notified as soon as feasible.

This memorandum provides further supervisory guidance referenced above and addresses communications by Department personnel with National Security Council staff relating to foreign relations and national security, including counterterrorism and counterespionage.

A. Communications Related to the Interagency Policy Committee Process Coordinated by the National Security Council Staff

To facilitate policy formulation, the National Security Council staff has developed a robust interagency process to include the views of subject matter experts, including legal and operational expertise resident in the Department. The interagency process therefore necessitates regular communication between certain components of the Department and the National Security Council staff. It is in the interest of the Department that its relevant experts participate in that process.

Accordingly, the Office of the Deputy Attorney General will approve participation of the National Security Division in all standing Interagency Policy Committees and functionally equivalent recurring meetings, consistent with the role assigned to the National Security Division in the Department's regulations (28 CFR § 0.72). Other Department components may participate in Interagency Policy Committee and other functionally equivalent standing or recurring meetings convened by National Security Council staff where their subject matter expertise is needed with the advance approval of the Office of the Deputy Attorney General. Typically, participation by these Department components in such meetings will occur in conjunction with the participation of, or in close coordination with, National Security Division representatives. Relevant component leadership shall ensure that the Office of the Deputy Attorney General is kept timely informed of significant developments and issues on which leadership guidance is requested. The Office of the Deputy Attorney General can be contacted at ODAGNationalSecurity@jmd.usdoj.gov.

If Department components are contacted by National Security Council staff to participate in an Interagency Policy Committee or other functionally equivalent standing meetings and have not received approval referenced above, they must obtain advance approval to attend from the Office of the Deputy Attorney General.

B. Other Communications

Litigation Risk Analysis Relating to Pending or Anticipated Civil Litigation: The Civil Division is at times asked to provide litigation risk assessments and other written analysis relating to potential or anticipated civil litigation to inform National Security Council meetings and deliberations. To the extent such requests for litigation risk analysis are conveyed to other Department components, they should be timely provided to the Civil Division and notified to the Office of the Deputy Attorney General for awareness. Consistent with the preceding paragraph, participation by Civil Division personnel in ongoing discussions involving the National Security Council staff relating to such matters shall occur in coordination with the Office of the Deputy Attorney General and the Office of the Associate Attorney General.

The Interagency Lawyers' Group: The Office of Legal Counsel regularly participates in standing Interagency Lawyers' Group meetings in coordination with the Office of the Deputy Attorney General. Department personnel participating in such meetings and related communications do not require advance approval, provided that the Office of the Deputy Attorney General is kept generally and timely informed of the substance of such meetings and communications.

Briefings By Department Law Enforcement Components for National Security Council Staff: All such briefings require advance approval by the Office of the Deputy Attorney General unless occurring in the context of previously approved Interagency Policy Committee and sub-Interagency Policy Committee meetings (and other functionally equivalent recurring meetings). Absent advance approval by the Office of the Deputy Attorney General, the Department's practice shall be that relevant Department of Justice attorneys are present whenever representatives of law enforcement components attend briefings and meetings with the National Security Council staff.

Exigent Circumstances: The Office of the Deputy Attorney General shall designate one or more individuals within relevant components who may serve as points of contact with the National Security Council staff in exigent circumstances where approval or coordination within the Department otherwise required by this memorandum is infeasible. Designees must provide notice of such discussions at the earliest time practicable to the Associate Deputy Attorney General for National Security Affairs at ODAGNationalSecurity@jmd.usdoj.gov.

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As outlined in the Attorney General's memorandum, it is critically important to have frequent and expeditious communication between the Department and the White House in matters relating to foreign policy and national security. The above process is designed to ensure that the Department's subject matter expertise is an integral part of critical national security and foreign policy development while at the same time ensuring that our law enforcement decisions and legal judgments remain grounded in longstanding Departmental norms of independence.

Thank you for the work you do every day to serve the Department's mission.