

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

COMMITTEE ON THE JUDICIARY,
UNITED STATES HOUSE OF
REPRESENTATIVES,
2138 Rayburn House Office Building
Washington, D.C. 20515,

Plaintiff,

v.

DONALD F. MCGAHN II,
51 Louisiana Avenue, N.W.
Washington, D.C. 20001,

Defendant.

Case No. 1:19-cv-2379

Exhibit Q

THE WHITE HOUSE

WASHINGTON

January 27, 2017

MEMORANDUM TO ALL WHITE HOUSE STAFF

FROM: Donald F. McGahn II – Counsel to the President

SUBJECT: Communications Restrictions with Personnel at the Department of Justice

This Memorandum outlines important rules and procedures regarding communications between the White House (including all components of the Executive Office of the President) and the Department of Justice. These rules exist to ensure both efficient execution of the Administration's policies and the highest level of integrity with respect to civil or criminal enforcement proceedings handled by DOJ. *In order to ensure that DOJ exercises its investigatory and prosecutorial functions free from the fact or appearance of improper political influence, these rules must be strictly followed.*

A. Limitations on discussing ongoing or contemplated cases or investigations

DOJ currently advises the White House about contemplated or pending investigations or enforcement actions under specific guidelines issued by the Attorney General. As a general matter, only the President, Vice President, Counsel to the President, and designees of the Counsel to the President may be involved in such communications. These individuals may designate subordinates to engage in ongoing contacts about a particular matter with counterparts at DOJ similarly designated by DOJ. Any ongoing contacts pursuant to such a designation should be handled in conjunction with a representative of the Counsel's office.

The White House often coordinates more broadly with DOJ (including its Office of Legal Counsel, Office of the Solicitor General, and Civil Division) where the government is or may be a defendant in litigation. These communications must first be cleared by the Counsel's Office.

If DOJ requests the views of the White House on any litigation, you must consult with the Counsel's Office before responding, and any response must be made in consultation with the Counsel's Office. This ensures that the White House provides a coherent response that takes account of both the Counsel's Office legal views and the President's broader policy objectives.

Communications with DOJ about individual cases or investigations should be routed through the Attorney General, Deputy Attorney General, Associate Attorney General, or Solicitor General, unless the Counsel's Office approves different procedures for the specific case at issue. In their discretion, and as appropriate for the handling of individual cases, those DOJ officials may authorize additional DOJ attorneys to discuss individual cases or investigations with members of the Counsel's Office. The President, Vice President, Counsel to the President, and Deputy Counsel to the President are the only White House individuals who may initiate a conversation with DOJ about a specific case or investigation.

These rules recognize the President's constitutional obligation to take care that the laws of the United States are faithfully executed, while ensuring maximum public confidence that those laws are administered and applied impartially in individual investigations or cases.

B. Limitations on discussing other matters

The White House may communicate with DOJ about matters of policy, legislation, budgeting, political appointments, public affairs, intergovernmental relations, administrative matters, or other matters that do not relate to a particular contemplated or pending investigation or case. You must route these communications through the offices of the Attorney General, Deputy Attorney General, or Associate Attorney General unless you have received clearance from the Counsel's office to follow different procedures.

C. Restrictions on soliciting an OLC opinion

The White House often relies upon the Office of Legal Counsel to issue formal legal opinions. Requests for such opinions must be limited to specific legal questions impacting particular matters before the Executive Branch. Such requests must be authorized by the President, the Vice President, the Counsel to the President, or a Deputy Counsel to the President. These individuals may also designate others who may engage in ongoing contacts with OLC where a request for a formal legal opinion has been authorized. If this designation extends to individuals outside the Counsel's Office, it should be in writing, and the ongoing contacts should be handled in conjunction with a member of the Counsel's office. All requests for an OLC opinion shall be directed to the Attorney General, the Assistant Attorney General for OLC, or one of their designees.

D. National Security Exceptions

Frequent communications between the White House and DOJ will be necessary on matters of national security and intelligence, including counter-terrorism and counter-espionage issues. Accordingly, communications that relate to urgent and ongoing national-security matters may be handled by specifically designated individuals. This exception does not relate to a particular contemplated or pending investigation or case absent written authorization from the Counsel to the President. In emergencies for which application of these procedures would pose a serious threat to national security, White House personnel may receive from DOJ communications necessary to protect against such threats. The Counsel to the President shall be informed about any such contacts as promptly as is practicable.

E. Consultation

If you have any questions or do not believe that a potential contact with DOJ fits neatly into any of these categories, you must consult the Counsel's office for guidance. Moreover, unless you are certain that the particular contact is permissible, you must consult with the Counsel's Office before proceeding.