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2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

(202) 225-3951

<http://www.house.gov/judiciary>

October 5, 2007

The Honorable Peter D. Keisler
Acting Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530

Dear Mr. Attorney General:

We are writing with respect to a statement in an editorial in the *Washington Post* entitled "Depoliticizing Justice" which indicates that the Department of Justice is changing its policy on who at the Department may speak with the White House about ongoing criminal and civil law enforcement cases.¹

As you may know, in 1993, Attorney General Janet Reno put in writing a policy that, with limited exceptions, authorized only four people in the White House (the President, Vice President, White House Counsel, and Deputy White House Counsel) to have initial communications regarding pending investigations and cases with only three people at the Department (the Attorney General, Deputy Attorney General, and Associate Attorney General). If continuing contact was required on a particular matter, the White House Counsel's Office and the Department were authorized to design, and required to monitor, a process for that to occur.

During the tenures of Attorneys General John D. Ashcroft and Alberto Gonzales, dozens of Department employees were authorized to speak with hundreds of White House officials about these sensitive matters. In 2002, Attorney General Ashcroft authorized at least 42 people at the Department to have initial communications with more than 400 people at the White House regarding pending Department investigations and cases.² In 2006, Attorney General Gonzales changed the policy yet again to authorize almost 900 people in the White House to have such communications with at least 42 Department officials.³

¹Editorial, *Depoliticizing Justice*, WASH. POST, Sept. 30, 2007, at B6.

²Memorandum from Attorney General John D. Ashcroft to Heads of Dept. Components and United States Attorneys (Apr. 15, 2002) (on file with the House Committees on the Judiciary).

³Memorandum from Attorney General Alberto Gonzales to Heads of Dept. Components and United States Attorneys (May 12, 2006) (on file with the House Committee on the Judiciary).

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The Senate Judiciary Committee recently passed, with broad bipartisan support, a bill to require the Department and the White House to make separate, semi-annual reports to the House and Senate Judiciary Committees detailing who – beyond the people authorized by the Reno-Cutler policy – had communications regarding ongoing Department investigations or cases. The House Judiciary Committee may soon take action on a companion bill.

According to the *Post* editorial, the Department will change the policy to reflect the Reno-Cutler approach in which “only the very top leadership of the department would be permitted to speak about pending law enforcement matters with top White House officials.”⁴ While we welcome the news that the Department intends to change this internal policy, we were surprised to learn of it through a newspaper editorial rather than through notice to the House and Senate Judiciary Committees. Reducing the number of contacts between the Department and the White House about ongoing investigations is one important step forward in the effort to restore the Department’s integrity and to remove partisan politics from the administration of justice.

We ask that you confirm and explain the policy change regarding contacts between Department and White House employees, including providing copies of documents reflecting the change and notice of precisely when the change will take effect and how it will be communicated to Department and White House personnel.

We would appreciate it if you would provide this information to the House Judiciary Committee by October 12, 2007. Thank you for your attention to this matter.

Sincerely,



John Conyers, Jr.
Chairman



Linda T. Sánchez
Chair, Subcommittee on Commercial and
Administrative Law



Steve Cohen
Member of Congress

cc: Hon. Brian A. Benczkowski
Hon. Lamar S. Smith
Hon. Chris Cannon

⁴Editorial, *Depoliticizing Justice*, WASH. POST, Sept. 30, 2007, at B6; Letter from Janet Reno, Attorney General, Dept. of Justice, to Lloyd N. Cutler, Special Counsel to the President, White House (Sept. 29, 1994) (on file with the House Committee on the Judiciary).