



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

July 17, 2006

The Honorable Arlen Specter
Chairman
United States Senate
Committee on the Judiciary
Washington, D.C. 20510

Dear Mr. Chairman:

This responds to your letter, dated May 10, 2006, to the Attorney General last month, and is a follow-up to the conversation you had with him over lunch several weeks ago, regarding the determination of the Office of Professional Responsibility (OPR) to close its investigation into the involvement of Department of Justice attorneys in the President's Terrorist Surveillance Program (TSP). OPR investigates allegations that Department lawyers have engaged in professional misconduct; as you know, OPR closed its investigation into whether Department lawyers involved in TSP somehow engaged in professional misconduct because OPR was not granted access to classified information about the TSP.

As the Attorney General advised you over lunch, decisions to provide access to classified information about the TSP for non-operational purposes are made by the President of the United States. With regard to TSP, the President decided that protecting the secrecy and security of the program requires that a strict limit be placed on the number of persons granted access to information about the program for non-operational reasons. Every additional security clearance that is granted for the TSP increases the risk that national security may be compromised.

Notwithstanding the sensitivity of the information involved, the Department of Justice has been extremely forthcoming in providing information about the well-established legal authorities that support the Program, which were set forth in detail in a 42-page paper released to the public on January 19, 2006. I would further note that the TSP has been, and continues to be, the subject of extensive oversight both by the Executive Branch and by the Congress:

- Congressional leaders, both Republican and Democrat, including the leaders of the Intelligence Committees, have been given regular, extensive briefings since the Program's inception. In addition, all of the members of the Senate Select Committee on Intelligence and all of the members of the House Permanent Select Committee on Intelligence have been briefed on the Program.

The Honorable Arlen Specter
Page Two

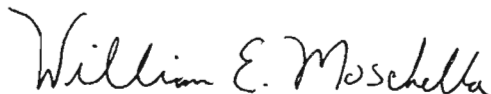
- This year, the Attorney General has appeared at three congressional hearings (and, as you know, will appear before your Committee again on July 18); senior Administration officials have participated in numerous congressional briefings and discussions; and Department of Justice officials have written over thirty letters to Congress and answered over 250 questions for the record about the Program.
- The Program is reviewed approximately every 45 days by officials at the highest levels of government, including the Office of the Director of National Intelligence, and the Department of Justice, as well as career lawyers and officials at the National Security Agency. That review includes scrutiny by the National Security Agency's Office of the General Counsel and by the agency's Inspector General, who is specifically charged with overseeing the lawfulness of employees' actions in implementing National Security Agency programs.

These steps, among others, have ensured strong and continuing Executive Branch and Congressional oversight of the TSP.

Finally, enclosed are documents responsive to your request regarding OPR's requests for clearance into the TSP, including OPR memoranda about the requests and a document that sets forth OPR's policies and procedures. The names of OPR employees have been redacted, in accordance with our usual practice. Also, and consistent with long-standing Executive Branch practice, documents that reflect internal deliberations about these matters have not been produced and there also is a redaction in one document for that reason. The Executive Branch has significant confidentiality interests in those materials but we believe that the enclosed documents, coupled with the above information regarding the President's decision, provide a comprehensive response to the Committee's interests in this matter.

We hope that this information is helpful. Please do not hesitate to contact this Office if we may be of assistance with other matters.

Sincerely,


William E. Moschella
Assistant Attorney General

Enclosures

cc: The Honorable Patrick J. Leahy
Ranking Minority Member



U.S. Department of Justice

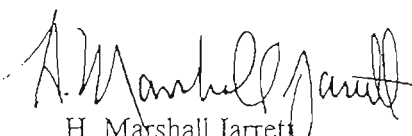
Office of Professional Responsibility

Washington, D.C. 20530

JAN 26 2006

MEMORANDUM

TO: William W. Mercer
Principal Associate Deputy Attorney General

FROM: 
H. Marshall Jarrett
Counsel

SUBJECT: Investigation into the Role of Department Attorneys in the Authorization and Oversight of Warrantless Electronic Surveillance by the National Security Agency and in Compliance with the Foreign Intelligence Surveillance Act

This Office is investigating the role of Department attorneys in the authorization and oversight of warrantless electronic surveillance by the National Security Agency (the NSA program) and in compliance with the Foreign Intelligence Surveillance Act (FISA). As a preliminary matter, we have asked the Office of Legal Counsel to provide information and documents in its possession relating to the NSA program. We have also asked James Baker, Counsel of the Office of Intelligence Policy and Review, to submit to an interview concerning the NSA program and its relationship to the Department's dealings with the FISA court.

I am writing to request that the attorneys who are conducting and supervising this Office's investigation be authorized to receive the necessary security clearances for access to documents and information concerning the NSA program and its relationship to the Department's compliance with FISA. Those attorneys are Senior Assistant Counsel [], Assistant Counsel [], Associate Counsel [], Deputy Counsel [] and myself. In addition, I request that essential support employees assisting the attorneys in this investigation be authorized to receive the necessary security clearances. Those employees are Executive Officer [] and Administrative Support Specialist [].

Thank you for your assistance in this matter, and please do not hesitate to call me at (202) 514-3365 if you have any questions.



U.S. Department of Justice

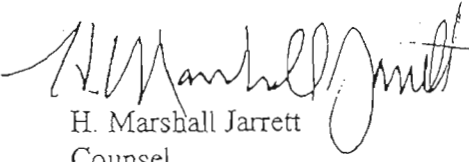
Office of Professional Responsibility

950 Pennsylvania Avenue, NW
Washington, D.C. 20530

MEMORANDUM

FEB 16 2006

TO: Paul J. McNulty
Acting Deputy Attorney General

FROM: 
H. Marshall Jarrett
Counsel

SUBJECT: Investigation into the Role of Department Attorneys in the Authorization and Oversight of Warrantless Electronic Surveillance by the National Security Agency and in Compliance with the Foreign Intelligence Surveillance Act

On January 11, 2006, in response to complaints from more than forty Members of Congress, the Office of Professional Responsibility (OPR) initiated an investigation into the Department's role in the authorization and oversight of a program of warrantless electronic surveillance by the National Security Agency (the NSA program) and in compliance with the Foreign Intelligence Surveillance Act. In a memorandum dated January 20, 2006 to Principal Associate Deputy Attorney General (PADAG) William W. Mercer (copy attached), we requested that certain OPR attorneys and support staff be authorized to receive security clearances for access to documents and information relating to the NSA program. PADAG Mercer has informed me in response to my inquiry that he forwarded our request to the authorizing agency, but that the request has not been approved and that he did not know when it would be considered.

As you know, the Criminal Division recently opened a criminal investigation into possible unauthorized disclosures to the news media regarding the NSA program. The Criminal Division's request for security clearances for a large team of attorneys and agents assigned to the case (the same clearances we have requested) was promptly granted, and that investigation is moving forward.

OPR cannot proceed with its investigation if the clearances we have requested are not approved. I therefore request that you take all appropriate action to expedite our request for security clearances so that OPR's investigation can move forward.

Thank you for your attention to this matter, and please do not hesitate to call me at (202) 514-3365 if you have any questions.

Attachment



U.S. Department of Justice

Office of Professional Responsibility

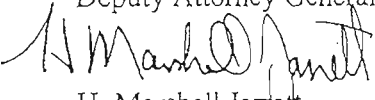
950 Pennsylvania Avenue, N.W., Room 3266

Washington, D.C. 20530

MAR 21 2006

MEMORANDUM

TO: Paul J. McNulty
Deputy Attorney General

FROM: 
H. Marshall Jarrett
Counsel

SUBJECT: Investigation into the Role of Department Attorneys in the Authorization and Oversight of Warrantless Electronic Surveillance by the National Security Agency and in Compliance with the Foreign Intelligence Surveillance Act

As you know, on January 11, 2006 the Office of Professional Responsibility (OPR) initiated an investigation into the Department's role in the authorization and oversight of a program of warrantless electronic surveillance by the National Security Agency (the NSA program) and in compliance with the Foreign Intelligence Surveillance Act. Attorney General Gonzales, in a February 17, 2006 letter, advised Senator Charles E. Schumer that OPR's investigation was in progress.

You should be aware that apart from gathering some very general background information, most of which has appeared in the press, OPR has in fact been unable to move forward with its investigation because we have not received authorization for the necessary security clearances. In my January 20, 2006 memorandum to Principal Associate Deputy Attorney General William W. Mercer and in my February 16, 2006 memorandum to you, I requested that certain OPR attorneys and support staff be authorized to receive security clearances for access to documents and information relating to the NSA program. On March 3, 2006, I made the same request to Courtney Elwood, Deputy Chief of Staff and Counselor to the Attorney General. To my knowledge, none of the requests has been acted upon. We note, however, that the Criminal Division's request for the same security clearances for a large team of attorneys and FBI agents was promptly granted, and that their investigation of certain news leaks about the NSA program is moving forward. We have also learned that individuals involved in the Civil Division's response to legal challenges to the NSA program and response to FOIA litigation have received the same clearances. And, according to recent press reports, the five private individuals who make up the Privacy and Civil Liberties Oversight Board have been briefed on the NSA program and have been granted authorization to receive the clearances in question.

In contrast, our repeated requests for access to classified information about the NSA program have not been granted. As a result, this Office, which is charged with monitoring the integrity of the Department's attorneys and with ensuring that the highest standards of professional ethics are

maintained, has been precluded from performing its duties. I therefore again request that you take all appropriate action to expedite our request for security clearances so that OPR's investigation can move forward. Thank you for your attention to this matter, and please do not hesitate to call me at (202) 514-3365 if you have any questions.

cc: Courtney Elwood
Deputy Chief of Staff and Counselor to the Attorney General



U.S. Department of Justice

Office of Professional Responsibility

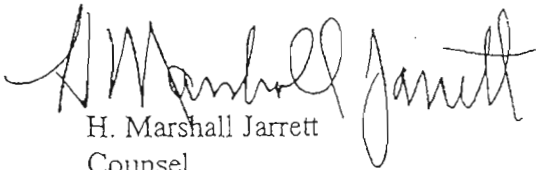
950 Pennsylvania Avenue, N.W., Room 3266

Washington, D.C. 20530

April 21, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: Paul J. McNulty
Deputy Attorney General

FROM: 
H. Marshall Jarrett
Counsel

SUBJECT: Status of OPR Investigation into the Role of Department Attorneys in the Authorization and Oversight of Warrantless Electronic Surveillance by the National Security Agency and in Compliance with the Foreign Intelligence Surveillance Act

As you know, in response to letters we received in early January 2006 from more than 40 Members of Congress, we initiated an investigation into the Department's role in the authorization and oversight of a program of warrantless electronic surveillance by the National Security Agency (the NSA program) and in compliance with the Foreign Intelligence Surveillance Act. On February 2, 2006, we wrote to four of those Members and advised them that we had initiated an investigation. In addition, in a letter dated February 17, 2006, you informed Senator Charles E. Schumer that OPR's investigation was under way.

OPR first requested the security clearances necessary to conduct the investigation in a January 20, 2006 memorandum to Principal Associate Deputy Attorney General William W. Mercer. We reiterated that request in memoranda to Deputy Attorney General (DAG) Paul J. McNulty on February 16, 2006 and again on March 21, 2006. More recently, we discussed the issue with your Deputy Chief of Staff and your Chief of Staff.

We note that the Criminal Division's request for the same security clearances for a large team of attorneys and FBI agents investigating certain news leaks about the NSA program was granted several months ago. We have also learned that individuals involved in the Civil Division's responses to legal challenges to the NSA program and to FOIA litigation received the same clearances. According to press reports, the five private individuals who make up the Privacy and Civil Liberties Oversight Board have been briefed on the NSA program and have been granted authorization to receive the clearances. More recently, Inspector General (IG) Glenn Fine and two members of his

staff received the clearances we requested. As you know, and as IG Fine informed certain Members of Congress on January 4, 2006, the jurisdiction of the Office of Inspector General (OIG) is not coextensive with that of OPR, and that Office does not have the authority to investigate the role of Department attorneys in providing legal advice regarding the NSA program. Nor does the OIG have the authority to investigate whether Department attorneys appearing before the Foreign Intelligence Surveillance Court have complied with their legal and ethical obligations.

OPR was created in 1975 by order of the Attorney General to ensure that Department attorneys perform their duties in accord with the professional standards expected of the nation's principal law enforcement agency. Since its creation some 31 years ago, OPR has conducted many highly sensitive investigations involving Executive Branch programs and has obtained access to information classified at the highest levels. In all those years, OPR has never been prevented from initiating or pursuing an investigation.

Because OPR cannot proceed with its investigation without the requested security clearances, and because those security clearances have not been granted, we intend to close our investigation. Consistent with our normal practice, we will notify the appropriate Members of Congress of our decision. Accordingly, on Wednesday, April 26, 2006, I will write to the following Members of Congress: Congressman Maurice Hinchey; Congressman John Lewis; Congresswoman Lynn Woolsey; Congressman Henry Waxman; and Congresswoman Zoe Lofgren. In my letters, I will state that we have closed our investigation because our request for security clearances for access to documents and information relating to the NSA program has not been granted.

[Redacted

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**U.S. Department of Justice
Office of Professional Responsibility
Policies and Procedures**

1. History of the Office of Professional Responsibility

The Department of Justice Office of Professional Responsibility (OPR) was created in 1975 as one response to the revelations of ethical abuses and misconduct by Department of Justice officials in the Watergate scandal. Pursuant to 28 C.F.R. § 0.39a, OPR reports directly to the Attorney General and Deputy Attorney General. The Office is headed by a Counsel and Deputy Counsel, and is staffed by Associate Counsel and Assistant Counsel.

2. The Role and Authority of OPR

OPR has jurisdiction to investigate allegations of misconduct involving Department attorneys that relate to the exercise of their authority to investigate, litigate or provide legal advice, as well as allegations of misconduct by law enforcement personnel when they are related to allegations of attorney misconduct within the jurisdiction of OPR.¹ Other allegations of misconduct by Department attorneys that do not fall within the jurisdiction of OPR are investigated by the Office of the Inspector General (OIG).² OIG is required to notify OPR of the existence and results of any OIG investigation that reflects upon the professional ethics, competence or integrity of a Department attorney. In such cases, OPR is directed to take appropriate action.

In addition to reporting its findings and conclusions in individual investigations, OPR is also charged with providing advice to the Attorney General and Deputy Attorney General concerning the need for changes in policies and procedures which become evident during the course of OPR's investigations.

3. Allegations that Must be Reported to OPR

Chapter 1-4.100 of the United States Attorneys' Manual (USAM), entitled "Allegations of Misconduct by Department of Justice Employees - Reporting Misconduct Allegations," provides that:

¹ OPR's authority and jurisdiction derive from the Attorney General's authority under 5 U.S.C. § 301, 28 U.S.C. §§ 509-510, 28 C.F.R. § 0.39, Attorney General Order 1931-94, and USAM § 1-4.100, et seq. For clarity, this outline describes OPR's policies and procedures as they apply to Department attorneys. The same policies and procedures generally apply to investigators and law enforcement personnel.

² See 5 U.S.C. Appendix 3, § 8E (b)(3).

- All Department employees must report to their United States Attorney, Assistant Attorney General, or other appropriate supervisor any evidence or non-frivolous allegation of misconduct. An employee who wishes to report directly to OPR or OIG may do so.
- The supervisor must evaluate whether the misconduct at issue is serious. If so, the supervisor must report it to OPR or OIG, as appropriate. If the supervisor is uncertain, he or she may contact OPR or OIG to determine what action to take. If the supervisor was involved in the alleged misconduct, she or he must bring it to the attention of a higher ranking official.
- Any statement by a judge or magistrate indicating a belief that a Department attorney has engaged in misconduct, or taking under submission a claim of misconduct, must be reported to a supervisor. The supervisor must report to OPR immediately any evidence or non-frivolous allegation of serious misconduct.
- Judicial findings of attorney misconduct and judicial requests for an inquiry into possible misconduct must immediately be reported to OPR and the attorney's supervisor, regardless of whether the matter is regarded as frivolous or non-serious. Judicial findings of misconduct are, except in extraordinary cases, expeditiously investigated by OPR, without awaiting further judicial or appellate proceedings.

4. **Receipt and Initial Review of Allegations of Misconduct**

OPR receives allegations against Department attorneys from a variety of sources, including self-referrals and referrals of complaints by officials in U.S. Attorneys' offices and litigating divisions, private attorneys, defendants and civil litigants, other federal agencies, state or local government officials, judicial and congressional referrals, and media reports. OPR also conducts periodic searches of legal databases to identify opinions containing judicial findings of misconduct.

Information provided to OPR may be confidential. In appropriate cases, OPR will disclose that information only to the extent necessary in order to resolve the allegation.

Upon receipt, OPR reviews each allegation and determines whether further investigation is warranted. The determination whether to conduct an inquiry and/or full investigation in a specific case is a matter of investigative judgment. Many factors are weighed, including the nature of the allegation, its apparent credibility, its specificity, its susceptibility to verification, and the source of the allegation. OPR ordinarily completes investigations relating to the actions of attorneys who have resigned or retired in order to better assess the litigation impact of the alleged misconduct and to permit the Attorney General and Deputy Attorney General to judge the need for changes in Department policies or practices.

A decision to conduct an inquiry or full investigation in a matter does not give rise to a presumption of professional misconduct nor does it shift the burden of proof to the person being investigated.

5. **Judicial Findings of Misconduct and Allegations in the Course of Litigation**

Judicial findings of misconduct are, except in extraordinary cases, expeditiously investigated by OPR regardless of any planned appeal. Depending on the circumstances, magistrate judges' recommendations may result in an inquiry prior to review by the District Court. Oral statements by judges are not usually considered "findings" resulting in an automatic OPR investigation, but should be reported to the U.S. Attorney or appropriate supervisor for a determination of whether an OPR referral is required.

If an allegation of misconduct made during the course of litigation is not summarily denied or overruled by the court, it must be brought to the supervisor's attention. If the supervisor determines that the allegation is non-frivolous and would constitute serious misconduct if true, it must be reported to OPR.

6. **The Investigative Process in a Typical Matter**

OPR's investigations involve a wide range of allegations, and the investigative methods used vary accordingly. The vast majority of complaints received by OPR each year are reviewed and determined not to warrant investigation because, for example, the complaint is frivolous on its face, it is vague and unsupported by any evidence, or it is not within OPR's jurisdiction. If OPR closes a matter without investigation this fact is recorded in OPR's files, and the attorney alleged to have engaged in misconduct receives no notice of the complaint.

In some cases, OPR determines that further information is needed to resolve the matter. The first step is usually to request a written response from the attorney involved in the allegation. Requests for responses to allegations should be answered promptly and thoroughly. Supporting documentation and any other relevant material should be included with the response, and other individuals with relevant information should be identified. However, in order to avoid any appearance of attempting to coordinate accounts, the attorney involved should not interview other witnesses or ask them to prepare written statements. The response should not be edited or revised by any other Department attorney or official. If an attorney's trial schedule or other professional commitments preclude a response within the period requested, an extension of time may be arranged by contacting OPR.

In requesting a written response, OPR asks the attorney involved to provide pertinent information regarding his or her professional background and experience including his length of service and positions held with the Department. In order to determine what state bar rules may apply to the matter, OPR also asks the attorney involved to list each jurisdiction in which he or she maintains bar membership, regardless of his category of membership (*e.g.*, active, inactive, associate, or some other membership category). In addition, OPR asks if the allegation has been reported in the public media, and if so, that copies of any such stories or broadcasts be provided to OPR. This information is necessary in order to determine, when the matter is concluded, whether preparation of a public summary is appropriate (see 12, below).

In the case of a self-referral or referral by a supervisor, it is not necessary to await OPR's request before sending explanatory material. A written response to an allegation may be sent in

anticipation of OPR's request -- either at the time the allegation is reported to OPR, or as soon thereafter as it can be prepared.

In cases that cannot be resolved based on the written response and relevant documents, OPR conducts a full on-site investigation. Case files, investigative files, or other relevant documents may be reviewed. Interviews of witnesses with information relevant to the matter are conducted. Interviews are ordinarily conducted by two OPR attorneys. The complainant is usually interviewed first. Witnesses identified by the complainant and by OPR may be interviewed next. An employee being interviewed may take notes but may not tape record the interview. If OPR determines that it would be in the interest of the investigation, a witness interview may be recorded or transcribed by a court reporter. In that event, a copy of the recording or transcript is ordinarily not made available to the witness.

All Department employees have an obligation to cooperate with OPR investigations, and to give information that is complete and candid. Employees who refuse to cooperate with OPR investigations may be subject to formal discipline, including removal. See Attorney General's Memo of April 12, 2002, "Duty to Report Misconduct and Cooperate with Investigators."

7. Interview of the Person Alleged to have Committed Misconduct

In cases in which OPR determines that on-site interviews are necessary, OPR ordinarily interviews the attorney alleged to have engaged in misconduct at or near the end of its investigation, when the allegations have been fully developed. Most investigations are administrative in nature; in the instances in which the allegations involve criminal conduct, the attorney is so advised. In such cases, the subjects are not required to participate in an investigation unless they are informed that their statements will not be used to incriminate them in any criminal proceeding.

An attorney alleged to have engaged in misconduct is interviewed alone unless counsel is permitted to attend (see below). At OPR's discretion in the interest of the investigation, the attorney may be sworn pursuant to 5 U.S.C. § 303. The interview is ordinarily transcribed by a court reporter. At the conclusion of the interview, the attorney will be given an opportunity, subject to a confidentiality agreement, to review the transcript and to provide a supplemental written response and additional documents relevant to the investigation. The confidentiality agreement requires return of the transcript and any copies together with any supplemental materials and the agreement will become an attachment to the transcript.

In the interview, the attorney alleged to have committed misconduct will be asked to address each of the outstanding issues and allegations. He or she may suggest witnesses to be interviewed, but such interviews are discretionary with OPR. Ordinarily, OPR does not disclose who has already been interviewed or whom it plans to interview.

8. Assistance of Counsel

If the matter involves alleged illegality, the attorney alleged to have committed misconduct is entitled to have counsel present to assist him or her. In the majority of investigations, however, the allegations are administrative in nature, and employees are not entitled to counsel as a matter of

law. However, counsel may be permitted if OPR is satisfied that counsel will not interfere with or delay the interview. Counsel must be actually retained by the employee as his or her legal representative, not attending informally or as an observer. Coworkers are not permitted to attend as observers.

9. **Post-investigation Procedures**

At the conclusion of the investigation, OPR makes findings of fact and reaches conclusions as to whether professional misconduct has occurred. OPR may find professional misconduct in two types of circumstances: (1) where an attorney **intentionally** violated an obligation or standard imposed by law, applicable rule of professional conduct, or Department regulation or policy, or (2) where an attorney acted in **reckless disregard** of his or her obligation to comply with that obligation or standard. OPR may also find that the attorney used poor judgment or made a mistake; such findings do not constitute findings of professional misconduct.

If OPR determines that no misconduct or poor judgment occurred, the attorney who was investigated, the complainant, and other appropriate parties are notified of that result.

If OPR determines that professional misconduct or poor judgment occurred, it prepares a report containing its findings and conclusions, and provides that report to the Deputy Attorney General as well as the appropriate Assistant Attorney General, the Director of EOUSA, or other appropriate component head. In addition, if OPR finds professional misconduct, it will also recommend an appropriate range of disciplinary actions for consideration by the attorney's supervisors (see further discussion below). In cases of poor judgment, the attorney's supervisors may consider training, reassignment, or disciplinary action.

OPR may include in its report information relating to management and policy issues noted in the course of the investigation for consideration by Department officials.

10. **Formal Disciplinary Action Based on OPR Findings**

While OPR recommends an appropriate range of discipline in cases of professional misconduct, the decision whether to propose discipline and the nature of the action to be taken rests with the attorney's supervisors. Disciplinary actions against DOJ attorneys are governed by the DOJ Human Resources Order, chapter 1200, and include written reprimand, suspension, demotion, or removal. If a proposed disciplinary action is based on material included in an OPR report, that material must be disclosed to the attorney. Otherwise, the attorney involved in the allegation does not have a right to review the entire OPR report, which often contains confidential information regarding other employees or findings regarding management issues noted during the investigation.

11. **Referral of Findings of Professional Misconduct to Bar Disciplinary Authorities**

In cases in which it finds professional misconduct (either intentional misconduct or conduct in reckless disregard of an applicable standard or obligation), OPR ordinarily advises bar disciplinary authorities in the jurisdiction where the attorney is licensed of its finding. Such a referral is not made if OPR determines that the matter involves purely federal or Department concerns and no bar disciplinary rule appears to be implicated. OPR's investigative information may be disseminated

to assist state bar disciplinary authorities to meet their responsibilities. 63 Fed. Reg. 68299 (12/10/98)

12. **Public Disclosure of OPR Findings**

OPR's findings in certain cases may be publicly disclosed. The Department will disclose the final disposition, after all available administrative reviews have been completed, of any matter in the following categories:

a. A finding of intentional or knowing professional misconduct in the course of litigation or investigation where the Attorney General or Deputy Attorney General finds that the public interest in disclosure outweighs the privacy interest of the attorney and any law enforcement interests;

b. Any case involving an allegation of serious professional misconduct where there has been a demonstration of public interest, including referrals by a court or bar association, where the Attorney General or Deputy Attorney General finds that the public interest in disclosure outweighs the privacy interest of the attorney and any law enforcement interests;

c. Any case in which the attorney requests disclosure, where law enforcement interests are not compromised by the disclosure.

If a matter appears to meet these criteria, OPR prepares a summary of the matter including the attorney's name, sufficient facts to explain the context of the allegation, and the final disposition. This summary is submitted to the Department's Office of Information and Privacy ("OIP"), which determines whether the Privacy Act permits disclosure of the included information and whether revisions should be made to the summary prior to disclosure. If OIP advises that the statement is appropriate for disclosure, the summary is sent to the attorney and the appropriate supervisory official, and both are given the opportunity to make written comments and objections to the proposed disclosure on grounds of privacy or law enforcement concerns. Any such objections are reviewed by OIP.

OPR forwards the proposed summary to the Deputy Attorney General with its recommendation regarding release and attaches all comments that were received. The final decision as to whether to release a summary is made by the Attorney General. If the Attorney General decides that disclosure is appropriate, the summary is forwarded to the Office of Public Affairs for release.

13. **Routine Uses of OPR's Investigative Information**

In addition to the internal uses by Department officials described above and disclosures to state bar disciplinary authorities, OPR information may be disseminated for the routine uses published in their entirety at 63 Fed. Reg. 68299 (12/10/98), and amended at 67 Fed. Reg. 70967 (11/27/02) and 69 Fed. Reg. 21160 (4/20/04). These uses include disclosures to other government agencies and officials for law enforcement purposes; to individuals or agencies in order to elicit information relevant to the investigation or another pending proceeding; in court, grand jury, regulatory or administrative proceedings; to other federal agencies when requested in connection with the hiring or retention of an employee, the issuance of a security clearance, or the reporting of

an investigation of an employee; to complainants to the extent necessary to inform them of the progress or results of OPR's review of their complaints; and to the subject of an investigation or inquiry conducted by OPR to further the investigation or inquiry, or to give notice of the status or outcome of the matter.

14. OPR Review of Proposals to Refer Non-DOJ Attorneys to Bar Disciplinary Authorities

Prior to reporting to the bar any alleged unethical conduct by an attorney not employed by the Department of Justice, a DOJ attorney must discuss the matter with the U.S. Attorney or other component head, who in turn should consult with OPR about the matter. In appropriate cases, it may be desirable for such a complaint to be referred to the bar by OPR rather than by an attorney in the component in which the dispute arose.