




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

February 5, 2020

MEMORANDUM FOR ALL UNITED STATES ATTORNEYS
ALL DEPARTMENT COMPONENT HEADS
ALL LAW ENFORCEMENT AGENCY HEADS

FROM: THE ATTORNEY GENERAL 
SUBJECT: ADDITIONAL REQUIREMENTS FOR THE OPENING OF CERTAIN SENSITIVE INVESTIGATIONS

The Department of Justice, along with other federal agencies, is charged with the responsibility of protecting the integrity of our elections and democratic system of government against improper influences. While the Department must respond swiftly and decisively when faced with credible threats to our democratic processes, we also must be sensitive to safeguarding the Department's reputation for fairness, neutrality, and nonpartisanship. In certain cases, the existence of a federal criminal or counter-intelligence investigation, if it becomes known to the public, may have unintended effects on our elections. For this reason, the Department has long recognized that it must exercise particular care regarding sensitive investigations and prosecutions that relate to political candidates, campaigns, and other politically sensitive individuals and organizations – especially in an election year.¹

As we enter the 2020 election year, the Department remains committed to ensuring that this fall's elections are conducted in a fair manner that is free from inappropriate influences. Accordingly, I am establishing the following requirements to govern the opening of criminal and counter-intelligence investigations by the Department, including its law enforcement agencies, relating to politically sensitive individuals and entities. These requirements are intended to operate in addition to all existing policies governing the opening of sensitive investigations, including all notice, consultation, and approval requirements currently found in the Justice Manual and those in place at the Department's law enforcement agencies.

¹ See, e.g., Loretta Lynch, Attorney General, U.S. Department of Justice, Mem. for all Department Employees, Election Year Sensitivities, April 11, 2016; Eric Holder, Attorney General, U.S. Department of Justice, Mem. for all Department Employees, Election Year Sensitivities, March 9, 2012; Michael Mukasey, Attorney General, U.S. Department of Justice, Mem. for all Department Employees, Election Year Sensitivities, March 5, 2008.

No investigation (including any preliminary investigation)² may be opened or initiated by the Department or any of its law enforcement agencies:

1. Of a Declared candidate for president or vice president, a presidential campaign, or a senior presidential campaign staff member or advisor³ absent prior (i) written notification to and consultation with the Assistant Attorney(s) General and U.S. Attorney(s) with jurisdiction over the matter and (ii) written approval of the Attorney General, through the Deputy Attorney General;
2. Of a Declared candidate for U.S. Senate or U.S. House of Representatives, or his or her campaign, absent prior written notification to and consultation with the Assistant Attorney(s) General and U.S. Attorney(s) with jurisdiction over the matter;
3. Relating to illegal contributions, donations, or expenditures by foreign nationals to a presidential or congressional campaign absent prior written notification to the Assistant Attorney(s) General and U.S. Attorney(s) with jurisdiction over the matter.

Department law enforcement agencies are directed to adopt appropriate internal policies and procedures to ensure that the agency head reviews and approves any matter covered by this memorandum before the matter is presented to Department leadership for consultation or approval.

As a general matter, it is often good practice to notify the Office of the Deputy Attorney General (ODAG) concerning any sensitive or high-profile investigation to ensure that the Department can effectively coordinate its resources and efforts. Accordingly, once an investigation covered by this memorandum has been opened, component and law enforcement agency heads should make arrangements to provide ODAG with regular updates. Per the Justice Manual, U.S. Attorneys and component heads also should provide updates to Department leadership via Urgent Reports when appropriate.

The scope of this memorandum should be broadly construed to ensure that Department leadership is made aware of the opening of matters that could potentially be disruptive to our democratic processes if publicly disclosed prior to an election. You should err on the side of consulting or seeking approval if there could be any question as to whether such actions are required under this policy.

² Upon opening an assessment of, or taking exploratory investigative steps relating to, any person or campaign covered by this memorandum, law enforcement agencies shall promptly notify in writing the Assistant Attorney(s) General and U.S. Attorney(s) with jurisdiction over the matter.

³ This includes any person who has been publicly announced by a campaign as a staffer or member of an official campaign advisory committee or group.

The requirements set forth in this memorandum shall remain in effect through the 2020 elections and until withdrawn or amended by further order of the Attorney General. Following the 2020 elections, the Department will study its experiences and consider whether changes to these requirements are necessary. In addition, I am directing that Department components and law enforcement agencies review their existing policies governing notification, consultation, and/or approval of politically sensitive investigations and that each submit a report to ODAG within sixty (60) days summarizing their existing policies and making recommendations for any necessary changes or updates.

As noted, the Department has a strong interest in the prosecution of election-related crimes, including those involving corruption of the election process. Yet we must investigate and prosecute those matters with sensitivity and care to ensure that the Department's actions do not unnecessarily advantage or disadvantage any candidate or political party. As always, I rely on you to exercise your sound judgment in pursuing all meritorious cases while at the same time maintaining our duty to protect the First Amendment rights of our citizens and their right to participate in a democratic electoral process free from improper activity or influences.