



URGENT

U. S. Department of Justice

Office of the Deputy Attorney General

Executive Office for National Security

Washington, D.C. 20530

July 24, 1995

MEMORANDUM FOR THE DEPUTY ATTORNEY GENERAL

FROM: Michael Vatis *MV*

SUBJECT: Criminal Division Procedures for Handling Crimes
Reports Received from Intelligence Agencies

One of the actions you directed me to take in response to the draft IG report on Guatemala was to develop a procedure to govern Crim. Div.'s receipt, dissemination, and tracking of crimes reports it receives from the IC. I met last week with Geoff Greiveldinger and Jim McAdams to determine precisely what elements the procedures should contain. Attached is a draft memo from Jo Ann to Crim. Div. DAAGs, Section Chiefs, etc., that would implement the procedures. Jo Ann is ready to sign the memo (her own changes are in boldface), but is awaiting any further comments from ODAG.

Please let me know if you have any comments on the draft memo.

cc: Merrick Garland *✓*
Paul Fishman
Glen Fine

Attachment

URGENT



U. S. Department of Justice

Criminal Division

Office of the Assistant Attorney General

Washington, D.C. 20530

MEMORANDUM FOR DEPUTY ASSISTANT ATTORNEYS GENERAL
SECTION CHIEFS
OFFICE DIRECTORS
SPECIAL ASSISTANTS

FROM: Jo Ann Harris
Assistant Attorney General

SUBJECT: Crimes Reporting by Agencies of the Intelligence
Community

By statute (*e.g.*, 28 U.S.C. § 535 and various Inspector General statutes), or by Executive Order (E.O. 12333), or both, agencies of the Intelligence Community (IC) are required to report to the Attorney General federal crimes committed by their employees and certain federal crimes committed by other persons. Within the Department, reports of such criminal activity are to be received, and initially acted upon, by the Criminal Division. It is therefore incumbent on the Criminal Division to accord all such reports thorough and expeditious attention, to ensure their appropriate disposition. To that end, I expect all of you to comply with the following guidance.

First, it is critical that we continue to maintain in the Criminal Division front office a central repository and control point for such reports. Although IC agency reports of criminal activity may take several forms, and may come from a variety of sources (such as the head of the agency, the Office of the General Counsel, the Office of the Inspector General, and field activities), such reports will normally be clearly designated, whether in the text or in a subject line. Should any of your offices come into possession of what appears to be a report of criminal activity, a copy should be forwarded immediately to Deputy Assistant Attorney General Mark M Richard, or to Geoffrey R. Greiveldinger, Counsel for National Security Matters, who will be responsible for these matters in the Division's front office. If your office has any doubts whether a document constitutes such a report, the document should be treated as one and forwarded on.

Second, it is also critical that we maintain a thorough, reviewable record of our processing of all such reports. The front office records regarding IC agency reports of criminal activity will reflect, at a minimum:

- the originating agency of the report;
- the date of receipt in the Criminal Division (and, if different, the date of receipt in the Division's front office);
- a sufficient description of the offense(s) involved;
- the section or office (or other DOJ division) to which the report is sent for further action; and
- the final disposition by the cognizant section, office or other DOJ division, and the date of that disposition.

Third, because it is critical that we act expeditiously on IC agency reports of criminal activity, I expect that Criminal Division sections and offices to which such reports are sent for further action will advise the Division's front office of their action on the reports within 30 days of receipt and every 30 days thereafter, until final disposition. The front office will monitor actions on reports and will query the assigned sections and offices when they do not provide the required 30-day advisories.

Fourth, it is most important that we accord each such report the attention and action warranted by all relevant factors, including the timeliness and apparent reliability of the information on which the report is based, the amount of additional investigative activity likely to be required, and the gravity of the offenses alleged. A section or office's final disposition of a particular matter must, therefore, reflect the exercise of a certain amount of sound prosecutorial discretion.

In a case where, for example, the statute of limitations has run or the offense is clearly de minimis or the United States clearly does not have jurisdiction, the judgment that no further action is required may be the appropriate final disposition. For some cases that may be prosecutable after further investigation by a federal law enforcement agency, an appropriate final disposition may be referral to the cognizant law enforcement agency for such an investigation. Some cases that require further investigation may be of such gravity, however, that final disposition must await completion of that investigation and either a referral to a United States Attorney's Office, or a decision by the Criminal Division to prosecute or decline prosecution. Cases in this last category would include, for example, specific and credible allegations relating to murders

over which the United States has jurisdiction, espionage against the United States, and attempted corruption of United States officials.

I expect all of you to handle reports of criminal activity submitted by intelligence community agencies promptly and with sound exercise of discretion. If you have questions about whether a particular document constitutes a report of criminal activity, or about the appropriate action on any such report, you should direct them to Mr. Richard or any other Deputy Assistant Attorney General, or to Mr. Greiveldinger.

Copy to:

Assistant Attorney General, Antitrust Division
Assistant Attorney General, Civil Division
Assistant Attorney General, Civil Rights Division
Assistant Attorney General, Environment and Natural Resources
Division
Assistant Attorney General, Tax Division
Counsel for Intelligence Policy