



U. S. Department of Justice

Office of the Deputy Attorney General

The Deputy Attorney General

Washington, D.C. 20530

July 27, 2015

MEMORANDUM FOR HEADS OF ALL DEPARTMENT COMPONENTS

From: The Deputy Attorney General *SDJ*
Subject: Updated Procedures Regarding Document Requests from the Office of the Inspector General

In a memorandum dated April 23, 2015, I implemented a new procedure that permits you to disclose information protected by the Federal Wiretap Act, Title III of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 18 U.S.C. §§ 2510-2522 (2012) (Title III); Federal Rule of Criminal Procedure 6(e) (Rule 6(e)); or 15 U.S.C. § 1681u (Section 626 of the Fair Credit Reporting Act) (FCRA) to DOJ Office of the Inspector General (OIG) personnel in connection with qualifying OIG investigations or reviews. On July 23, 2015, the Office of Legal Counsel (OLC) published a memorandum (OLC Opinion) detailing when the Department of Justice (Department) may grant OIG access, in connection with OIG audits, investigations, and reviews, to information protected by Title III, Rule 6(e), and FCRA. This memorandum supersedes the guidance I issued on April 23, 2015, by setting forth guidance consistent with the OLC Opinion.

Responding to OIG's requests is of the highest priority. It is important that all Department components and agencies promptly provide information to OIG. The purpose of this memorandum is to ensure that the Inspector General receives the documents he needs to complete his reviews in a timely manner, consistent with the law. Once you have verified that OIG may receive Title III, Rule 6(e), or FCRA information pursuant to the procedures set forth below, you shall produce all such materials to OIG without delay.

Title III Wiretap Information

The OLC Opinion concludes that Department investigative and law enforcement officers may disclose to OIG the contents of intercepted communications protected by Title III when doing so could aid the disclosing official or OIG in the performance of their duties related to law enforcement. Such duties could include OIG's duty to assist Department leadership in its supervision of law enforcement activities on a programmatic or policy basis. Consistent with this conclusion, any investigative or law enforcement officer within the Department may disclose the contents of such intercepted communications directly to OIG in connection with any investigation or review that meets this standard. OIG may receive the contents of intercepted

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When you provide grand jury material to OIG, you must additionally advise the OIG personnel working on the review of their obligation of secrecy under Rule 6(e). Upon obtaining materials protected by Rule 6(e), OIG personnel will provide my office—or, in the case of disclosures authorized by another attorney for the government, that attorney's office—with a list of the names of the persons who will have access to those materials. The Department then will promptly inform the court that impaneled the grand jury or juries of the names of all persons to whom a disclosure has been made, as Rule 6(e) requires. That notice will also certify, as required by Rule 6(e)(3)(B), that OIG personnel working on the review have been advised of their obligation of secrecy under Rule 6(e).

FCRA Material

The OLC Opinion concludes that the FBI may disclose to OIG consumer information obtained pursuant to section 626 of FCRA if such disclosure could assist in the approval or conduct of foreign counterintelligence investigations, including in the supervision of such investigations on a programmatic or policy basis. Consistent with this conclusion, any employee within the FBI may disclose information protected by FCRA directly to OIG in connection with any investigation or review that meets this standard. OIG may receive consumer information obtained pursuant to section 626 of FCRA in connection with OIG investigations or reviews that concern, or are designed to develop recommendations about, Department decisions regarding the approval or conduct of foreign counterintelligence investigations, including programmatic or policy reviews concerning the approval or conduct of such investigations (but not in connection with reviews that are unrelated to, or have only an attenuated relationship with, the approval or conduct of foreign counterintelligence investigations, such as routine financial or administrative audits). Any assessment whether an OIG investigation or review qualifies for disclosure shall be conducted in cooperation with OIG. Consultation with ODAG is necessary only where you and the OIG cannot resolve a request for this material.

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If questions arise any time during this process, please contact my office for assistance. Thank you for your attention to this important matter.