



GC


Federal Emergency Management Agency

Washington, D.C. 20472

March 14, 1986

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MEMORANDUM FOR: Deputy Director
Associate Directors
Administrators
Deputy Chief of Staff
Regional Directors
Office Directors

FROM: 
Julius W. Tecton, Jr.
Director

SUBJECT: Contact With The Department of Justice

This is to establish that the Federal Emergency Management Agency's (FEMA's) sole point of contact with the Department of Justice is the Office of General Counsel (OGC). The establishment of a single point of contact within FEMA is essential to avoid confusion and duplication of effort. This pertains not only to matters in litigation, but also to any contact with Justice involving program issues. Contacts between the Office of Inspector General and Justice are not covered by this memorandum, and their present arrangements are to be continued.

Please understand that, while enthusiasm and initiative are appreciated, this channeling of contact is necessary to ensure that a fully coordinated presentation of the entire range of FEMA's positions on legal matters is provided to the Department of Justice.

Your attention to this matter is much appreciated.

Distribution: B(HqDivChiefs)
E(FldDivChiefs)



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AUG 27 1984

cc: GC-Perry
GC-Jett
EA-Martin
DIR-Giuffrida
CF (2)

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MEMORANDUM FOR: Bernard A. Maguire
Associate Director
National Preparedness Programs

GC:SWPerry:jvf:287-0370:8/24/84

FROM: *ST-2002* George Jett
General Counsel

SUBJECT: Legal Clearance of FEMA Executive Orders and Federal
Agency Guidance (including Federal Preparedness Circulars)

A serious difference of view apparently exists between this agency and the Department of Justice (DOJ) as to FEMA's role in national security.

DOJ has refused to clear FEMA's proposed revisions to Executive Order 11490 at the highest level. Justice, in refusing to concur in these amendments, indicates that its concerns reach beyond any readily correctable legal technicality and go to the very basis of the policy that underlies FEMA's national security programs and which is set out in its basic legal charters. I am also informed that DOJ is refusing clearance for some proposed FEMA Federal Preparedness Circulars unless changes are made that OGC regards as inconsistent with the style of operation envisioned for FEMA in Executive Order 12148 and the Reorganization Plan which created the agency.

My conversations with DOJ and with the Office of General Counsel at the Office of Management and Budget cause me to believe that FEMA should not circulate at this time any proposed documents for interagency clearance which relate to FEMA's legal authority for national security preparedness planning or programs. Until the present policy impasse with DOJ can be resolved, FEMA runs the grave risk of seeing its prerogatives diminished rather than enhanced, through amendments imposed in the clearance process upon such proposals by agencies or individuals who are concerned about the scope of FEMA's mission. The potential for mischief created by the present atmosphere is especially serious for FEMA because so much of its legal authority in the national security preparedness area consists of inherent presidential authority or statutory authority granted to the agency through Executive Order delegation. The content of these orders can be changed with relative ease, and can be influenced by temporary forces at work in the system in a way that the content of statutory authorities normally cannot. No resolution to the present situation appears possible prior to early 1985.

Because of the potential threat to the integrity of FEMA's legal charters, OGC will not clear documents for DOJ review such as proposed revisions to Executive Orders, (including E.O. 10480) or FPC's until such time as it becomes feasible for such reviews to be focused on strict questions of legal sufficiency. I would strongly recommend that as a general proposition, no such documents be submitted to the interagency clearance process on any basis until the present policy differences are resolved. If it is necessary to obtain interagency coordination of such documents due to immediate operational requirements, the approval for circulation of such documents should be obtained on a case-by-case basis from the Director after full staff analysis of the risks and benefits presented by a given case.