



U.S. Department of Justice

Office of Legal Counsel

Office of the Principal Deputy Assistant Attorney General

Washington, D.C. 20530

July 20, 2007

J. William Leonard
Director
Information Security Oversight Office
National Archives and Records Administration
700 Pennsylvania Avenue, N.W.
Washington, D.C. 20408

Dear Mr. Leonard:

The Attorney General has asked me to respond to your letter to him dated January 9, 2007, requesting an opinion addressing whether the Office of the Vice President is an "agency" for purposes of Executive Order 12958, as amended ("the Order").

On July 12, 2007, the Counsel to the President wrote a letter to Congress stating that "[t]he President has asked me to confirm to you that . . . the Office of the Vice President . . . is not an 'agency' for purposes of the Order." Letter to the Honorable Sam Brownback, United States Senate, from Fred F. Fielding, Counsel to the President (copy enclosed). That statement on behalf of the President directly resolves the question you presented to the Attorney General. Therefore, the Department of Justice will not be providing an opinion addressing this question.

Please let me know if we may be of further assistance.

Sincerely,

Steven G. Bradbury

Principal Deputy Assistant Attorney General

Enclosure

Cc: David S. Addington
Assistant to the President and
Chief of Staff to the Vice President

Gary M. Stern
General Counsel
National Archives and Records Administration

THE WHITE HOUSE
WASHINGTON

July 12, 2007

Dear Senator Brownback:

I understand that the Financial Services Appropriations Bill under consideration in the Senate Appropriations Committee today restricts the Vice President's use of otherwise available funds for special assistance to the President, unless the Vice President observes certain provisions of Executive Order 12958, as amended, that apply to agencies.

The President has asked me to confirm to you that, as was made clear by the President's spokespersons on June 22 and June 25, 2007, the Executive Order deals with the President and the Vice President separately from agency heads and thus the Office of the Vice President, like the President's office, is not an "agency" for purposes of the Order.

We would ask that the Senate join the House of Representatives in appropriating the requested funds for the Vice President, to enable him to provide special assistance to the President, as has been the custom for a number of decades.

Respectfully yours,



Fred F. Fielding
Counsel to the President

The Honorable Sam Brownback
United States Senate
Washington, DC 20510

cc: The Honorable Robert C. Byrd
The Honorable Thad Cochran
The Honorable Richard J. Durbin