



FOR IMMEDIATE RELEASE

August 25, 2021

**DOJ OIG Releases Management Advisory Memorandum of Concerns Regarding Lack of Department of Justice Policy Requiring Express Authorization for Department of Justice Attorneys to Participate in the Criminal or Civil Investigation or Prosecution of Former Clients**

Department of Justice (DOJ) Inspector General Michael E. Horowitz announced today the release of a Management Advisory Memorandum to the Deputy Attorney General identifying concerns with DOJ attorneys participating in the criminal or civil investigation or prosecution of former clients.

The DOJ Office of the Inspector General (OIG) found that the DOJ does not have a specific policy requiring express authorization for DOJ attorneys to participate in the criminal or civil investigation or prosecution of former clients. Although DOJ policy tracks federal ethics regulations applicable to Executive Branch employees with respect to conflicts arising from personal or business relationships, and DOJ attorneys are bound by their state bar rules of professional conduct, these policies and bar rules do not sufficiently address circumstances that can arise in connection with DOJ investigations and prosecutions of former clients.

The OIG found that the absence of such a policy has negatively impacted the outcome of criminal prosecutions. For example, a recent OIG investigation found that the absence of such a requirement may have contributed to a U.S. Attorney's (USA) failure to disclose to the Executive Office for United States Attorneys (EOUSA) a prior representation while in private practice of a subject of a criminal case in which the USA subsequently participated. The USA's failure to disclose this potential conflict, as well as another potential conflict in the same criminal case, resulted in significant reductions in the sentences of two defendants after post-conviction appeals were filed.

The DOJ OIG made two recommendations to the Department to address the concerns we identified.

**Memorandum:** Today's memorandum is available on our website at the following link:

<https://oig.justice.gov/reports/management-advisory-memorandum-notification-concerns-regarding-lack-department-policy>

###