

Calendar No. 438

110TH CONGRESS
1ST SESSION

S. 1845

[Report No. 110-203]

To provide for limitations in certain communications between the Department of Justice and the White House Office relating to civil and criminal investigations, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 23, 2007

Mr. WHITEHOUSE (for himself, Mr. LEAHY, and Mr. CORNYN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

OCTOBER 23, 2007

Reported by Mr. LEAHY, with an amendment and an amendment to the title
[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To provide for limitations in certain communications between the Department of Justice and the White House Office relating to civil and criminal investigations, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. DEFINITIONS.**

2 In this Act—

3 (1) the term “covered communication”—

4 (A) means any communication relating to
5 an ongoing investigation conducted by the De-
6 partment of Justice in any civil or criminal
7 matter (regardless of whether a civil action or
8 criminal indictment or information has been
9 filed); and

10 (B) does not include any communication
11 relating to policy, appointments, legislation,
12 budgets, public relations, programmatic mat-
13 ters, intergovernmental relations, administrative
14 or personnel matters, or requests for legal ad-
15 vice;

16 (2) the term “covered Department of Justice
17 officer” means—

18 (A) the Attorney General;

19 (B) the Deputy Attorney General;

20 (C) the Associate Attorney General; and

21 (D) any officer or employee designated
22 under section 2(a); and

23 (3) the term “covered White House officer”
24 means—

25 (A) the President;

26 (B) the Vice President;

- 1 (C) the Counsel to the President;
 2 (D) the Counselor to the President; and
 3 (E) any officer or employee designated
 4 under section 2(b).

5 **SEC. 2. DESIGNATION OF OTHER COVERED OFFICERS.**

6 (a) DEPARTMENT OF JUSTICE.—

7 (1) IN GENERAL.—The Attorney General may
 8 designate any officer or employee of the Department
 9 of Justice as a covered Department of Justice offi-
 10 cer.

11 (2) NONDELEGABLE AUTHORITY.—The Attor-
 12 ney General may not delegate the authority under
 13 paragraph (1) to any officer or employee of the De-
 14 partment of Justice.

15 (b) WHITE HOUSE.—The President may designate
 16 any officer or employee of the White House Office as a
 17 covered White House officer.

18 (c) NOTIFICATION TO CONGRESS.—Not later than 3
 19 days after making a designation under this section, the
 20 Attorney General or the President, as the case may be,
 21 shall submit a notification of that designation, with an ex-
 22 planation of the necessity of that designation, to the Com-
 23 mittee on the Judiciary of the Senate and the Committee
 24 on the Judiciary of the House of Representatives.

1 **SEC. 3. LIMITATIONS ON COMMUNICATIONS.**

2 ~~Any covered communication between an officer or em-~~
3 ~~ployee of the Department of Justice and an officer or em-~~
4 ~~ployee of the White House Office may only be made be-~~
5 ~~tween a covered Department of Justice officer and a cov-~~
6 ~~ered White House officer.~~

7 **SEC. 4. RULE OF CONSTRUCTION.**

8 ~~Nothing in this Act shall be construed as affecting~~
9 ~~any limitation on covered communications by the Depart-~~
10 ~~ment of Justice or the White House Office that is more~~
11 ~~restrictive than the limitations under this Act.~~

12 **SECTION 1. SHORT TITLE.**

13 ~~This Act may be cited as the “Security from Political~~
14 ~~Interference in Justice Act of 2007”.~~

15 **SEC. 2. DEFINITIONS.**

16 ~~In this Act—~~

17 ~~(1) the term “covered communication”—~~

18 ~~(A) means any communication relating to~~
19 ~~an ongoing investigation conducted by the De-~~
20 ~~partment of Justice in any civil or criminal~~
21 ~~matter (regardless of whether a civil action or~~
22 ~~criminal indictment or information has been~~
23 ~~filed); and~~

24 ~~(B) does not include any communication re-~~
25 ~~lating to policy, appointments, legislation, rule-~~
26 ~~making, budgets, public relations, programmatic~~

1 *matters, intergovernmental relations, adminis-*
 2 *trative or personnel matters, appellate litigation,*
 3 *or requests for legal advice;*

4 (2) *the term “covered Department of Justice offi-*
 5 *cer” means—*

6 (A) *the Attorney General;*

7 (B) *the Deputy Attorney General; and*

8 (C) *the Associate Attorney General; and*

9 (3) *the term “covered White House officer”*
 10 *means—*

11 (A) *the President;*

12 (B) *the Vice President;*

13 (C) *the Counsel to the President; and*

14 (D) *the Counselor to the President.*

15 **SEC. 3. REPORTS TO CONGRESS.**

16 (a) *DEPARTMENT OF JUSTICE REPORT.—Not later*
 17 *than 30 days after each January 1 and July 1 of each cal-*
 18 *endar year, the Attorney General shall submit to the Com-*
 19 *mittee on the Judiciary of the Senate and the Committee*
 20 *on the Judiciary of the House of Representatives a report*
 21 *with the name and title of each officer or employee of the*
 22 *Department of Justice who made a covered communication*
 23 *during the 6-month period preceding that January 1 or*
 24 *July 1 with any officer or employee of the Executive Office*

1 *of the President. The report need not include any covered*
2 *Department of Justice officer.*

3 **(b) WHITE HOUSE REPORT.**—*Not later than 30 days*
4 *after each January 1 and July 1 of each calendar year,*
5 *the Counsel to the President shall submit to the Committee*
6 *on the Judiciary of the Senate and the Committee on the*
7 *Judiciary of the House of Representatives a report with the*
8 *name and title of each officer or employee of the Executive*
9 *Office of the President who made a covered communication*
10 *during the 6-month period preceding that January 1 or*
11 *July 1 with any officer or employee of the Department of*
12 *Justice. The report need not include any covered White*
13 *House officer.*

Amend the title so as to read: “To provide for a reporting requirement regarding communications between the Department of Justice and the White House relating to civil and criminal investigations, and for other purposes.”.

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