



United States
General Accounting Office
Washington, D.C. 20548

Office of the General Counsel

B-235836

August 9, 1989

The Honorable Carol T. Crawford
Assistant Attorney General
Department of Justice

Dear Ms. Crawford:

By letter of June 26, 1989, you advised us that the executive branch would not participate in our review of executive branch compliance with congressional requests for documents related to the Iran/Contra affair because, in the opinion of the Justice Department, the review exceeds our authority and conflicts with the responsibilities of Congress' intelligence committees. We do not share the Department's view of our authority or its belief that this review would conflict with the authority of the intelligence committees.

In May 1989, we received a congressional request to determine if certain government agencies had complied adequately with document requests made by the Iran/Contra committees and others in connection with Congress' investigation of the Iran/Contra affair. By letters of June 1, we notified the Departments of Defense (DOD) and State, the U.S. Information Agency, the Agency for International Development, and the National Security Council (NSC) of this assignment. The White House was similarly notified on June 11. Subsequently, we received responses from representatives of the White House, NSC, DOD, and State explaining that the Department of Justice would provide a response on behalf of the executive branch.

In your letter of June 26, you question our authority to conduct this review based on the Department's view that our authority is limited to reviewing "statutorily created programs and activities." In addition, you note that the Senate and House intelligence committees are currently investigating the matter we proposed to review, and that in the Department's view, when Congress seeks confidential intelligence information, Congress' intelligence committees, not this Office, are the exclusive means of access to such information.

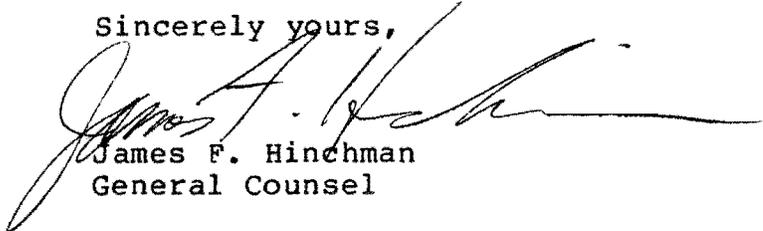
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We do not agree with the Department's interpretation of our investigative authority. Section 717(b) of title 31, United States Code, authorizes us to "evaluate the results of a program or activity the Government carries out under existing law." Although the Department reads this authority as extending only to "statutorily created programs and activities," we do not read the provision as narrowly. In our view, our authority is not restricted to some limited group of programs and activities that are specifically created by particular statutes. With certain limited, constitutionally mandated exceptions, the authority of section 717(b) extends to any activity of the government--such as responding to a congressional request for information--that is carried out under existing law.

Further, we do not believe that the assignment, as formulated, conflicts with the authority of the congressional intelligence committees or with the scope of their investigations. We were requested to review the process for responding to a congressional request for documents; we were not required to obtain confidential intelligence information. Moreover, we do not believe that the confidentiality of documents constitutes a sufficient basis to decline to cooperate in our review.

We have informed the appropriate congressional committees that the position taken by the Department prevents us from completing the work they requested. Regardless of how the committees may decide to proceed, we think it is important for the Department to know that we do not share its view of our authority to conduct the proposed review.

Sincerely yours,



James F. Hinchman
General Counsel