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# USABulletin

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## Church Arsons and Hate Crimes

### In This Issue

Interview with Assistant Secretary for Enforcement Jim Johnson

Overview of the National Church Arson Task Force

Interview with ATF Deputy Assistant Director Mark Logan

The Community Relations Service—A Task Force Partner

Interview with Captain William F. Graham, SLED

The Anatomy of a Church Arson

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## Letter from the Editor-in-Chief

As we approach the millennium, our greatest national asset, our diverse human talent pool, presents us with one of our greatest challenges—to regard each other with dignity and respect. Once again, we, as Federal prosecutors, are privileged to play a role in this national challenge. The Attorney General has called on us to establish and expand working groups to both prosecute and prevent hate crimes. She has backed us wholeheartedly in this endeavor because hate crimes tear at the fabric of our rich national mosaic of human resources. One form of hate crime has been the burning of houses of worship. Though not all of these arsons have been racially or religiously motivated, the result of these crimes has been devastating both to the religious community as a whole and to the individual members of the congregations. The house of worship marks many of the most important moments in our lives. The destruction of that sanctuary and the irreplaceable personal history vaporized in the ashes leave deep wounds.

To that end, the National Church Arson Task Force (NCATF), a mix of agents and Federal prosecutors from the field and from Washington, has worked hard at addressing the investigation and prosecution of these cases, and has taken substantial steps to repair the hurt and prevent the recurrence of these crimes by creating community dialogs to build new bridges.

From a more personal perspective to the AUSA community, you will be pleased to know that a former AUSA from the Southern District of New York, Jim Johnson, now the Treasury Department's Assistant Secretary for Enforcement, is the cochair of the NCATF and the subject of our featured interview. Mr. Johnson is a terrific example of the talent that can be found in United States Attorneys' offices throughout the country.

The success of this issue is largely due to the contributions of Ms. Angela Williams, an AUSA from the Middle District of Florida assigned to the NCATF. We thank her for her hard work and for sharing her expertise with all of us.

Many thanks to all of you who continue to give us your comments, criticisms, and suggestions for the *Bulletin* and our publications program. In keeping with your oft-repeated request, we will no longer publish a Special Commendations issue and will focus totally on *Bulletin* issues of substance. Please call me with your comments. This is your magazine.

DAVID MARSHALL NISSMAN

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## Contents

### **Interview with Assistant Secretary for Enforcement Jim Johnson, Treasury Department**

Overview of The National Church Arson Task Force  
The ATF and its Role in Church Arson Investigations  
Church Arson Investigation Insights—Interview with ATF Deputy Assistant Director Mark Logan  
The FBI's Response to Civil Rights Violations  
The Community Relations Service—A Task Force Partner  
Church Arson Investigations: An Officer's Perspective—Interview with Captain William F. Graham  
The Anatomy of a Church Arson  
Church Arsons: A Prosecutor's Perspective  
Things I Learned from Those Who Play with Matches  
The Do's And Don'ts of Investigating Racially or Religiously Motivated Crimes Against Churches  
Interstate Commerce Checklist  
Juvenile Prosecutions in Federal Court  
Victim-Witness Response to Church Arsons  
United States Attorneys' Hate Crimes Conference  
An Ounce of Prevention is Worth a Pound of Cure  
GIS and the National Church Arson Task Force

### **Attorney General Highlights**

Acting Pardon Attorney  
AG Announces 1998 AG Advisory Committee  
Attorney General's Advisory Committee Meetings  
Meeting of the Eight Ministers  
Nicaraguan Adjustment and Central American Relief Act  
Targeting Cash Proceeds of Money Laundering  
Hate Crimes Web Site

### **United States Attorneys' Offices/Executive Office for United States Attorneys**

Honors and Awards  
Significant Issues/Events  
EOUSA Staff Update  
Office of Legal Education  
Computer Tips

### **DOJ Highlights**

Appointments  
Antitrust Division  
Civil Rights Division  
Criminal Division  
Office of Justice Programs  
Immigration and Naturalization Service

### **Career Opportunities**

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United States Attorney's Office, Criminal Division, Public Corruption Section—  
Experienced Attorney  
Criminal Division, Terrorism and Violent Crime Section—GS-13 to GS-15 Experienced  
Attorneys  
Drug Enforcement Administration, Office of Chief Counsel—GS-11 to GS-14 Experienced  
Attorneys  
Immigration and Naturalization Service, Dallas—GS-11 to GS-14 Experienced Attorney  
Immigration and Naturalization Service, El Paso—GS-11 to GS-14 Experienced Attorney  
Immigration and Naturalization Service, Harlingen—GS-11 to GS-14 Experienced Attorney  
Justice Management Division, Personnel Staff—GS-13 to GS-14 Experienced Attorney  
United States Trustee's Office, San Francisco, San Jose, and Sacramento—GS-11 to GS-15  
Experienced Attorneys  
Government of the District of Columbia, Office of the Corporation Counsel—DS-16 Deputy  
for Management

Appendix A—Office of Personnel Management Guidelines for Settlement of Federal Personnel  
Actions Involving Civil Service Retirement Benefits  
Appendix B—OLE Course Nomination Form  
Appendix C—OLE Videotapes

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## Interview with Assistant Secretary for Enforcement Jim Johnson Treasury Department

James E. Johnson has served as the Treasury Department's Assistant Secretary for Enforcement since March 1996. He received his Bachelor of Arts degree from Harvard College and his Juris Doctor degree from Harvard Law School. From 1986 to 1987 he was a law clerk for United States District Judge Robert E. Keeton in Boston. From 1987 to 1990 he served as a litigation associate with the law firm of Debevoise & Plimpton in New York City. From March 1990 until his appointment at Treasury he served as an Assistant United States Attorney for the Southern District of New York. There, he worked a variety of cases, including narcotics, financial fraud, organized crime, bankruptcy fraud, and Medicare fraud. He also served as one of the Deputy Chiefs of the District's Criminal Division for two years. From November 1994 to March 1995, Mr. Johnson was Assistant Director of the White House Security Review, conducted by the Treasury's Office of the Under Secretary for Enforcement.

As Assistant Secretary for Enforcement, Mr. Johnson assists in oversight of day-to-day operations of the Treasury's law enforcement bureaus, which include the United States Secret Service; the Bureau of Alcohol, Tobacco and Firearms; the United States Customs Service; the Federal Law Enforcement Training Center; and the Financial Crimes Enforcement Network. He also assists with the Department's tariff and trade enforcement. Mr. Johnson is the Cochair of the National Church Arson Task Force (NCATF).

Assistant Secretary James Johnson (JJ) was interviewed by Assistant United States Attorneys David Nissman (DN), Editor-in-Chief, and Jennifer Bolen (JB), Managing Editor, *United States Attorneys' Bulletin*.

**DN:** You have an interesting career track for an AUSA. Did you have any clues or inclinations that this would be something you'd want to do one day?

**JJ:** No. In fact, had someone suggested to me before the summer of '95 that I would be considered for this job, I would have suggested they were nuts.

**DN:** Does your experience as an AUSA give you a good foundation for the challenges you face at Treasury?

**JJ:** At Treasury Enforcement we have a wide array of responsibilities that include oversight of the ATF, the Secret Service, the Customs Service, the Financial Crimes Enforcement Network, and the Office of Foreign Assets Control. As an AUSA, I oversaw cases brought by all of the agencies for which the Office of the Under Secretary of the Treasury for Enforcement has oversight responsibility. As a person who is assisting him with oversight, I found my experience as an AUSA was very useful. It does make the job easier.

**DN:** How did you come to be appointed the Cochair of the National Church Arson Task Force?

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**JJ:** The President saw there was a problem that needed an immediate response and clearly saw that there was some benefit in having a dual-headed structure. He named Deval Patrick and me to be the Cochairs of the task force. The President made the announcement on June 8, 1996.

**DN:** This must have been an easy thing for the DOJ community to absorb because that was your background up until three months before that, right?

**JJ:** There were growing pains for the task force. I think we benefitted at least with respect to the dual structure. Deval Patrick is and was tremendously generous. The instincts of many would have been to say there's got to be one person in charge and I'm going to be that one person. But when we talked about the structure, we emphasized that both of us would be held accountable and that it was going to be very important going forward for there to be a perception as well as a reality that agents and prosecutors—the investigative side and the prosecutorial side—would march together, joined at the hip. “Joined at the hip” is a phrase he and I used very often because that was in fact the case. Early on, we were on the phone on this issue on a daily basis, if not multiple times a day.

**DN:** At the time of your appointment, what was the mission of the task force?

**JJ:** When the President announced the formation of the task force, he announced a three-part strategy. One was to investigate the arsons and bring the arsonists to justice. Two was to rebuild the burned churches. And three was to prevent additional fires. The NCATF's piece of the puzzle was the first problem—the investigation and prosecution of these fires. We had a large role to play in the prevention effort. We had a liaison with the Federal Emergency Management Agency and an ongoing liaison with the Department of Housing and Urban Development. Our main focus was law enforcement. We had to make sure our resources were used as effectively as possible. We also had to establish or reestablish the credibility of Federal law enforcement within the community initially most affected by these fires, which was the African-American community. There was a great deal of scepticism about our agents' ability to investigate with any sort of compassion. So part of our job required us to make sure there was outreach.

**DN:** Has the perception changed? How does the victim community feel toward Treasury and DOJ agents?

**JJ:** My sense is that it's much better. It's better because we made a commitment to do our level best to prosecute and investigate these fires. Our arrest rate is double the national average. The arson clearance rate is somewhere around 16 percent and we're somewhere around 35 percent. Law enforcement has been successful, and that success gave many a fair amount of assurance. The other piece of the puzzle was that our agents themselves were reaching out to the communities. There were some tremendous stories. Take, for example, the story of an ATF agent by the name of Dewey Webb, who was investigating a fire at a church in Enid, Oklahoma. Special Agent Webb called me at 11:00 p.m. to tell me about the fire. He was obviously moved because ten years before, as a student, he had helped move benches and pews into the church. There were stories like that all around the nation. Mark Logan, the ATF SAC for North and South Carolina, made a point of visiting virtually every church that was being investigated by his troops. There were similar stories in the FBI.

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**DN:** Did the scope of the work of the NCATF change at all in the last year and a half?

**JJ:** One of the things we did and had to do when we got the task force underway was develop an investigative protocol. Our protocol set forth the scope of the work. Generally, there were fires that occurred at churches throughout the nation after January 1995. We were investigating fires at all houses of worship. We did not limit it to fires at African-American churches. That scope of work became our touchstone by the end of the summer of 1996, I believe. By August 1996 that was pretty much set in stone. We continue to refer to that scope of work. We have not modified it at all.

**DN:** One of the task force's prerequisites is to develop motive evidence. How did that come about and why?

**JJ:** That was part of our protocol. We promised Congress and the public that we would pursue all possible leads. Well, if you're developing a civil rights case and you're not pursuing motive evidence, then you're really not developing a civil rights case. We made it very explicit in our guidance to the field that, among other things, motive evidence was going to have to be pursued.

**DN:** Were media releases problematic before the development of the protocol?

**JJ:** Yes. We had many law enforcement voices speaking out on these fires, including state and local authorities, the ATF or FBI SAC, representatives here at headquarters, the Treasury Department and the Justice Department. And one of the things we needed to do was enforce discipline about what we would say about cases generally. In the Southern District of New York, and I'm sure it applied throughout the country, there's not a lot to say about ongoing investigations. So to say we've reached conclusions about certain aspects of ongoing investigations long before the investigation was finished was not helpful.

There were many reasons people were discussing the investigations publicly. In part, because there was concern about whether or not these crimes were racially motivated. There may have been the effort on the part of some to reassure the community by saying, "Well, there's nothing here. That's not our problem." There may have been some that were in denial about the existence of problems within their community. Whatever the motivation, it was inappropriate for anyone to be saying, before the investigations had concluded, that there wasn't any evidence touching on any element of the case.

**DN:** What is the protocol now? Who can make a statement and what restrictions are there?

**JJ:** Usually it's the public information officers in the field, but they tend to be coordinated with the U.S. Attorney's office if it's going to be a Federal prosecution. The presentations tend to be more of a bare bones recitation of the facts contained in the charging instrument. We do indicate, from the task force and in the field, whether or not there was a determination that the fire was caused by arson. That is one finding that is put out in the public domain pretty early on. It's done for a number of reasons. A lot of people look to our tabulations of arsons to get a picture of what's going on nationwide. Two, there is a loan guarantee program that is run by the Department of Housing and Urban Development, and they

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often defer to us on the determination as to whether or not there has been an accidental fire, rather than an arson.

**DN:** Is there advice you'd give to U.S. Attorneys' offices in terms of how to respond, media-wise?

**JJ:** In the last year everyone has been pleased with the way agencies and U.S. Attorneys' offices have handled public relations.

**DN:** Were there any specific obstacles that had to be overcome to make this task force function? If so, how were they overcome?

**JJ:** Some of them we already touched upon. This is an investigation that proceeded in a climate unlike the vast majority of other investigations. We were faced with congressional scrutiny; public outcry; overlapping, potentially-conflicting jurisdictions. We had a wide array of Federal agencies that also were tasked with being part of the effort. Our main obstacle was coordinating all of the good will that we were trying to harness to get this effort underway. The second obstacle was reassuring the public and Congress that we were up to the task.

**DN:** One of the best things about being an AUSA is that when a national tragedy occurs, AUSAs are asked to step up and deal with the fallout. From our perspective and our work on these national tragedies, we come up with a lot of information and ideas on prevention or add to the fund of knowledge to structure things in the future to make things work better. Have we learned things from this particular type of hate crime that we can use to further a positive exchange or improve relations?

**JJ:** This effort is instructive on a number of fronts. You used the term "hate crime." Some of the church fires were hate crimes. Some of them were clearly not hate crimes in the traditional sense. About a third of the arsons of African-American churches were committed by African-Americans. Obviously two-thirds were not, and in many of those cases we were able to bring civil rights charges clearly indicating that we were able to establish evidence of hate crime. There are some cases where we have a sense of a bias-motivated crime, but we aren't able to prove it. If we can't prove it, we're not in a position to assert it. What we did see in areas where there were clear tensions within the community was the value of strong leadership from the top on down. From President Clinton making it clear that this was wrong, to national leaders in the faith community making it clear that this was wrong and it had to be stopped, to prominent civil rights organizations making it clear that this was wrong, and then a coalescence around the issue by both parties in Congress—bipartisan support for stamping this out. At the grass roots what you saw were members of the faith communities, regardless of ethnicity, reaching out to other members of different faith communities in ways that hadn't been done before. There were certain states where black and white ministers weren't communicating, let alone worshipping together. As a result of the outpouring of concern, there were gatherings of these ministers and their congregations. That's really important. The open dialogue is something that can be transported to other contexts. An ongoing dialogue is very important and can be used profitably in other contexts.



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**DN:** What role has the task force played in educating the communities who were victims of church arsons?

**JJ:** We had several. As part of the prevention effort, we published a prevention manual for churches and through FEMA we distributed that information. FEMA and ATF representatives also gave some prevention talks to different affected communities. Additionally, we knew we had to reestablish trust. We needed to explain to a victim congregation why we had to ask the questions we were asking. Very often in an arson investigation you look first for motive. The motive in a typical arson investigation is, “Who stands to benefit from the burning? Who had an insurance policy out on the store front, on the business, on the warehouse?” We asked some of those same sorts of questions and tried to let the congregation know that these questions were part of our approach. The third element of our investigative approach concerns our need to count people out as well as count people in. Again, we needed to address all possible theories. The churches needed to understand that. When they understood that, it made a difference in their approach, their sense of our integrity, their sense of our compassion.

**DN:** In a church burning case there are different kinds of victim-witness issues because you’re dealing with an issue of great sensitivity in terms of religious belief and conviction and membership in an organization and because you’re dealing with people that have been affected differently than one-on-one type crimes. You’re dealing with a very large group of victims. Can you give us your personal perspective on these issues?

**JJ:** It’s true there are very large groups of victims and categories of victims. We took two approaches: One, when the Attorney General sent her memo to the field, she wanted to make sure victim-witness coordinators and the U.S. Attorneys’ offices were also brought in to work with the task forces that were going to be formed in the U.S. Attorneys’ offices. Two, at the most recent conference in June 1997, one of the ministers from Greeleyville, South Carolina, Reverend Terrence Mackey, who is the President of the South Carolina Burned Churches Coalition, raised with the Attorney General the possibility of addressing the concerns of the children. He told the very poignant story of taking his daughter to the site of his church when it had burned to the ground and the tears that were in her eyes as she was clearly grieving over the loss of this beautiful church. The church was over 100 years old. The pews were hewn by former slaves. It was irreplaceable history. He told the Attorney General that there needs to be a more systematic approach for dealing with the children’s sense of hurt and loss. The Attorney General directed the Office for Victims of Crime to work with the South Carolina Burned Churches Coalition. On October 30, they had a two-day conference attended by 150 kids ranging from youngsters, around six or seven, to teenagers, whose churches were burned. This was in Columbia, South Carolina. CRS was there, OVC representatives were there. The conference was well-received by the youngsters. Talking about it was, for some, cathartic. In this instance, it was the Attorney General’s desire to respond to a specific concern.

**DN:** For children, religion sets a sense of order in their lives. To burn down their house of worship can be terribly unsettling in terms of their whole view of life. Have we started to accumulate information about how to repair this?

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**JJ:** I think the conference was part of that. I don't know if there's been a systematic report out on how we'd repair that. I'm not so sure we're in the best position to deal with it. We can flesh out the issues, provide an avenue for them to express their concerns, and then help direct them to other areas where they can get more counseling to deal with their concerns. One of the things the President said in his radio address was that one of the founding principles of the nation was the principle of religious freedom. When you're talking about the African-American community, the church was the primary communal institution. Going back to slavery, it was the only institution that was permitted. It was the institution that enabled people to read, it was the institution that formed the backbone for a tremendous amount of political activism. If you look at many of the critical events of the civil rights movement you will see that their genesis was in the church, whether or not you're talking about the Montgomery bus boycott or other major events. If you look at the leaders within the African-American community, many of them—if they didn't grow up in the church and leave—remain ministers of the church. So, for the African-American community, it was decidedly disturbing to see the number of churches being burned. A church or any house of worship is often vital to the fabric of the community. As ATF Director Magaw testified, houses of worship are where the significant initiation rights occur, whether or not it's a baptism or a bar mitzvah, it is often where one does one's first public speaking. It's where one starts to ask some of the important questions, the existential questions in our lives, "Why are we here? What are we doing?" It's where people are married and where relationships are sanctified and where we say goodbye to our loved ones when they die. So, when these churches are burned, history is lost. Whether you're talking about pews that were lost, pews that were hewn by former slaves, or about Torahs with centuries of history behind them. When they're destroyed, that cuts to the heart of the community. We are duty-bound to respond in a very forceful way.

**JB:** Could you give us a list of things that an AUSA should think about and do if one of these cases lands in their lap?

**JJ:** There are many questions to ask. One, and this is a theme that runs throughout communications, ask: "Who am I talking to? Have I spoken to the ATF SAC or the ATF agent on duty? If not, have I spoken to the FBI agent on duty? If not, is there a state component here? Have I spoken to the police? Who's working the fire scene?" Two: "Do my bosses know? Have I bumped this up the chain of command to the U.S. Attorney and then notified the task force? Have I utilized the urgent report mechanism?" Then, "Have I made sure everyone knows about the fire? Have I spoken to the agents either by phone or in a meeting subsequent to the fire to talk about our investigative strategy? Are we asking all the questions we need to ask about this fire? Are we looking for racial motivation? Are we also reaching out to the community? We've got a church that's been burned, there are a lot of conclusions that are going to be drawn by people who don't have access to law enforcement information about why this church was burned and who did it. Have I reached out either to CRS or to the victim-witness coordinator to make sure they're reaching out to the ministers? Has the SAC gone to see the minister of the church? Are we going to have a sit down with the congregation to talk through these issues?" Most fires replicate the same sorts of issues that were salient early in the investigation. There's a question of trust, there's a question of responsiveness of Federal law enforcement. The victims of the fire are our witnesses. If we don't have their trust then they won't provide us with information. We're going to have a whale of a time

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trying to solve these crimes. Those are the sorts of questions I would ask, those are the sorts of things I think an Assistant should be doing when they first get the call.

**DN:** What is your evaluation of the performance of Assistant United States Attorneys around the country who have been handling these cases?

**JJ:** I've been proud of their responses, from Assistant United States Attorneys who have come in from the field to the Assistant United States Attorneys who are working on cases with members of the task force, that is, detailees to the task force, as well as people who are permanently on staff here in Washington who work with people out in the field. I've been really proud of the way the agents have responded. I've been tremendously proud of the way the ATF has responded. ❖

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## **Overview of The National Church Arson Task Force**\*

*Assistant United States Attorney Angela F. Williams  
Middle District of Florida; assigned to the NCATF*

### **Task Force Inception**

In early 1996, law enforcement officials were confronted with an increase in the number of reported arsons at our nation's houses of worship, especially African-American churches in the South. In June 1996, President Clinton formed the National Church Arson Task Force (NCATF or Task Force), made the investigation of these fires a top priority of Federal law enforcement, and called on all Americans to come together in a spirit of respect and reconciliation. Specifically, the President directed his Administration to implement a strategy to (1) identify and prosecute the arsonists, (2) help communities rebuild the burned houses of worship, and (3) offer assistance to the communities and victim congregations in an effort to prevent more fires.

While it was the number of fires at African-American churches that brought these crimes to national attention, the NCATF was empowered to and does investigate and prosecute arsons and bombings of all houses of worship, regardless of their denomination or congregational, racial composition.

### **Task Force Structure**

On June 19, 1996, in a memorandum to United States Attorneys, Attorney General Janet Reno detailed the specifics of the NCATF's formation and directed that it would be chaired by then Assistant Attorney General for Civil Rights, Deval L. Patrick, and the Assistant Treasury Secretary for Enforcement, James E. Johnson. Director Louis Freeh, Federal Bureau of Investigation (FBI), and Director John Magaw, Bureau of Alcohol, Tobacco and Firearms (ATF), were also designated to sit on the NCATF. The Attorney General directed all districts to form local task forces comprised of Federal, state, and local law enforcement personnel to investigate these incidents.

Karla Dobinski, Deputy Chief of the Civil Rights Division's Criminal Section, was named Director of the Operations Team and given the responsibility of directing NCATF's investigations and prosecutions. To do so, Ms. Dobinski brought in experienced prosecutors from across the country to oversee a steadily increasing caseload of church arson investigations. These prosecutors were co-located with agents detailed to the NCATF from the ATF and FBI in Washington, D.C.

### **The Task Force in Operation**

To ensure completeness and efficiency in the NCATF's fulfillment of the Presidential directive, Cochairs Patrick and Johnson defined the scope of the NCATF's investigative and prosecutive authority to be:

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\*Source Document: *The National Church Arson Task Force's First Year Report for the President*, June 1997. Updated and revised by AUSA Angela F. Williams, NCATF Prosecutor.

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any fire, bombing, or attempted bombing incident that occurs on, at, or near a house of worship (or property belonging to a house of worship) after January 1, 1995.

Further, the NCATF was empowered to investigate incidents that come within this definition and which occurred prior to January 1, 1995, if there is evidence to suggest that incidents occurring prior to January 1, 1995, are related to other NCATF investigations. However, accidental fires or hoax bombs are specifically excluded from this exception.

## **The Task Force Protocol**

On September 11, 1996, the NCATF cochairs issued a protocol for NCATF investigations and prosecutions. The protocol is structured to ensure the exchange of information between law enforcement agencies and various components of the Department of Justice, which is critical to the success of these investigations. Because church arsons and related investigations are of national interest, coordination, notification, and approval requirements are somewhat different. For example, the Assistant Attorney General for Civil Rights has the ultimate declination authority in these matters. Because of this requirement, AUSAs are required to consult with attorney-members of the NCATF prior to making any decision to prosecute or decline a case involving an attack on a house of worship. This “consultation” requirement has been simplified by the fact that the Attorney General has directed that the investigations and prosecutions of church arsons and related cases be staffed jointly by AUSAs and NCATF attorneys. See *USAM* 8-3.000 through 8-3.150. It is NCATF’s goal to have its members work closely with AUSAs to ensure that the requisite paperwork (i.e., prosecution memoranda, indictments, and plea agreements) is efficiently reviewed. Finally, because the NCATF is responsible for reporting to the Attorney General and her staff as well as the Secretary of the Treasury and for maintaining accurate data regarding the number of attacks on houses of worship, the NCATF remains involved in the investigation and/or prosecution of a case even when the investigation determines there is no civil rights violation. For these reasons, the USAO is required to:

[s]end an “Urgent Report” regarding the nature of the church arson (or related offense) to EOUSA as soon as possible after being informed of the incident. The report should contain general background information regarding the victim church and the incident, such as: location, denomination, and racial composition of the church congregation; general description of the alleged incident; and contact information regarding law enforcement agencies participating in the investigation.

See *USAM* 1-10.210 and 8-3.00 through 8-3.150.

## **Federal Statutes**

Federal prosecutors use several statutes to prosecute arson cases. For instance, the Anti-Arson Act of 1982 permits the prosecution of a defendant who uses fire to destroy property involved in interstate commerce (18 U.S.C. § 844(i)). Criminal civil rights statutes permit prosecutors to charge

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defendants who conspired to deprive persons of their civil rights or who have desecrated religious property or a house of worship (18 U.S.C. §§ 241 and 247). Because the majority of church arson cases involve the use of fire or explosives, additional provisions of Title 18, United States Code, Section 844 are applicable.

To date, the majority of the church cases have been prosecuted using 18 U.S.C. § 844(h)(1) or § 844(i). Section 844(h)(1) applies when a defendant uses “fire or explosives to commit any felony which may be prosecuted in a court of the United States.” The underlying felonies most likely to be used are §§ 241 (civil rights conspiracy) or 247, as amended (damage to religious property).

Section 241 is the civil rights conspiracy statute. It prohibits persons from forming agreements directed at interfering with rights guaranteed by the Constitution or laws of the United States. In the case of church burnings or vandalism, the underlying right is found in the civil statute 42 U.S.C. § 1982, which reads in pertinent part: “All citizens shall have the same right as is enjoyed by white citizens to hold real and personal property.”

Section 247 was enacted in 1988 to cover both damage to religious property and obstruction of persons in the free exercise of their religious beliefs by force or threat of force. The statute was used only once, due to its high threshold for use of an interstate facility and a minimum \$10,000 damage. However, on July 3, 1996, President Clinton signed a revised law, which amended 18 U.S.C. § 247. Now, Federal prosecutors have two avenues for prosecution of crimes against religious property with the distinction being whether the crime is motivated by religion, 18 U.S.C. § 247(a), or race, 18 U.S.C. § 247(c). To prove a violation of § 247(a), the Government must show that the religious property was used in interstate commerce or in an activity affecting interstate commerce. If the motivation was race, however, the Government is not required to prove the interstate element. Additionally, the Church Arson Prevention Act of 1996 removed the \$10,000 minimum damage requirement.

The NCATF is concerned about the motivations behind these attacks on houses of worship. Indeed, it is the evidence of a hate-based motive that can increase the sentences. Therefore, early in the investigation, NCATF prosecutors are responsible for identifying the motivation for the attack. Mere identification of the suspect(s) is not sufficient; prosecutors and investigators must go one step further to identify the motive.

## **Caseload**

Based on NCATF statistics, arsons investigated to date—at both African-American and other houses of worship—were motivated by a wide array of factors, including not only blatant racism or religious hatred, but also financial profit, burglary, vandalism, and personal revenge. Of the 40 incidents charged federally, 12 have resulted in hate crime convictions (18 U.S.C. § 241 or § 247). These convictions occurred in the Northern and Southern Districts of Alabama, Nevada, Western District of North Carolina, South Carolina, Western District of Tennessee, and Northern District of Texas. Ten of the 12 cases involve African-American churches and Caucasian defendants. One church arson was committed by an African-American defendant against a church with a Caucasian congregation. Additionally, one Caucasian defendant was charged with burning a Caucasian church, because he intended to obstruct the members in the enjoyment of their free exercise of religious beliefs.

While there have been several cases in which members and former members of hate groups, such as the Ku Klux Klan, have been convicted for arsons at houses of worship, most of the defendants were

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not found to be members of hate groups. However, prosecutors need not show that a defendant belongs to a particular hate group in order to obtain a conviction.

The NCATF continues to explore the question of whether there are connections between the fires in particular regions. While the data obtained from closed cases and pending cases do not support a belief that the fires were the product of a “nationwide” conspiracy, the NCATF has found that a few of the fires are linked by common defendants. In those instances, conspiracy charges have been filed. These conspiracies, however, have been confined to the small geographic areas. ❖

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## National Church Arson Task Force Prosecutors

Once the formation of the National Church Arson Task Force (NCATF) was announced, the search began for attorneys willing to be detailed to Washington, D.C. These attorneys came from United States Attorneys' offices as well as other agencies within the Department of Justice. The following is a list of prosecutors that have been or are currently detailed to the NCATF.

Karla Dobinski	Director, NCATF (Deputy Chief, Civil Rights Division's Criminal Section)
David Allred	Civil Rights Division, Criminal Section (formerly an AUSA in the Middle District of Alabama)
AUSA Jennifer Anderson	District of Columbia
Barbara (Bobbi) Bernstein	Civil Rights Division, Criminal Section
AUSA Charles Holman	Eastern District of Michigan
AUSA Lawrence Middleton	Central District of California
AUSA Paul Naman	Eastern District of Texas
Wendy Olson	Civil Rights Division, Criminal Section (now an AUSA in the District of Idaho)
AUSA Cynthia Tompkins	Eastern District of North Carolina
Odessa Vincent	Associate Chief Counsel, DEA
AUSA Angela F. Williams	Middle District of Florida

Prior to the formation of the NCATF, a number of cases required immediate attention. Trial attorneys from the Civil Rights Division, Criminal Section, were assigned to these cases and contributed to the successful investigation and prosecution of these cases. The Chief of the Criminal Section is Richard W. Roberts. The Criminal Section prosecutors are Roy Austin, Francesca Freccero, Mary Healy, Gerald Hogan, William Ho-Gonzalez, Peggy Kuo, Cecil Lynn, Jim Oliver, Nelson Thayer, and Caroline Wittcoff. ❖

**Front to Back: First Row (left/right):** Kimberly Kennedy, Secretary; Abe Weinstein, Paralegal; Diana Thompson, Paralegal **ATF:** Special Agent Debbie Bullock, Project Officer; Special Agent Greg Holley, Section Chief, Intelligence Division; Special Agent Tamra Bilik, Project Officer; Brenda Bennett, Inspector; Gema Crowell, Intelligence Research Specialist

**Second Row (left/right):** AUSA Jennifer Anderson, NCATF Trial Attorney (detailed from District of Columbia United States Attorney's office (USAO)); Isabelle Katz Pinzler, Former Acting Assistant Attorney General/NCATF Cochair; Karla Dobinski, Director, NCATF/Deputy Chief, Civil Rights Division/Criminal Section; Richard Roberts, Chief, Civil Rights Division/Criminal Section; Special Agent Suzanne Bailliere, Unit Chief, Hate Crimes Unit, FBI Headquarters; Janet Reno, Attorney General; James E. Johnson, Assistant Treasury Secretary for Enforcement; Special Agent Donnie Carter, Deputy Assistant Director, Criminal Enforcement East, ATF Headquarters; AUSA Angela F. Williams, NCATF Trial Attorney (detailed from Middle District of Florida USAO); Martha Price, NCATF Secretary; Terri Garvin, NCATF Paralegal

**Third Row (left/right):** Greg Schiller, ATF Inspector, NCATF; David Allred, NCATF Trial Attorney (DOJ Civil Rights Division/Criminal Section); AUSA Cynthia Tompkins, NCATF Trial Attorney (detailed from Eastern District of North Carolina USAO); Odessa Vincent, Associate Chief Counsel, DEA (detailed to the Task Force from August 1996 to August 1997); AUSA Charles Holman, NCATF Trial Attorney (detailed from Eastern District of Michigan USAO); Pam Carter, Civil Rights Analyst, Hate Crimes Unit, FBI Headquarters; Special Agent Owen Harris, Supervisory Special Agent, Hate Crimes Unit, FBI Headquarters; Brenda J. Venable, NCATF Secretary

**Not pictured:** Barbara "Bobbi" Bernstein, NCATF Trial Attorney; Lee Jarmon, NCATF Paralegal; and Brenda Baldwin-White, EOUSA

## The ATF and its Role in Church Arson Investigations

*Special Agents and NCATF Project Officers Tamra Bilik and Debbie D. Bullock  
Bureau of Alcohol, Tobacco and Firearms*

Since the inception of the National Church Arson Task Force (NCATF), hundreds of Bureau of Alcohol, Tobacco and Firearms (ATF) agents have worked on church arson investigations in different capacities. Certified fire investigators/special agents have responded to fire scenes to conduct the origin and cause determinations. Case agents working jointly with other Federal, state, and local officers have conducted the follow-up investigations. Agents staffed in Washington, D.C., monitor all the investigations across the country and serve as the liaison between ATF, the Federal Bureau of Investigation (FBI), the Department of Justice, and the Department of the Treasury. ATF inspectors



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work jointly with the task force agents by maintaining all statistical data regarding the arson and bombing incidents, arrest information, and yearly analytical totals.

From January 1, 1995, through December 31, 1997, ATF and the NCATF conducted 553 church arson/bombing investigations nationwide. These arson/bombing investigations include 192 African-American churches and 349 non-African-American churches. Since January 1995, 154 persons have been arrested for church arson/bombings in the Southern United States—75 were arrested for burning/bombing African-American churches, 75 were arrested for burning/bombing non-African-American churches, and 4 were arrested for burning both an African-American and a non-African-American church.

The church arson/bombing investigations currently being monitored throughout the United States appear to have a variety of criminal motives. The motive with the highest profile, but not necessarily the most frequency, is racism. Many arson/bombings have been attributed to the concealment of burglary and other crimes. In some instances, the arson/bombings are the result of vandals seeking revenge. Surprisingly, the arson-for-profit motive has surfaced in several investigations.

ATF participates in the training of law enforcement personnel in many areas related to arson/bombing cases. Two of these are highlighted in the box below. If anyone has any suggestions for training in related areas, please contact the ATF office in your district or the NCATF in Washington, D.C. ❖

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## **ATF Training Initiatives Available to Prosecutors**

**Arson/Explosives for Prosecutors**, a two-week course designed to educate prosecutors at both the Federal and state level on arson and explosives crimes. The course acquaints the prosecutor with the origin and cause examination of fire and postblast scenes, as well as the legal considerations necessary to successfully prosecute these types of cases.

### **Advanced Arson for Profit Investigative Techniques Training Program**

Arson is one of the most devastating crimes confronting our society. It destroys property, disrupts human lives, and places an ever-increasing economic burden upon our nation's citizens. In its continuing endeavor to upgrade training programs for state and local investigators, ATF coordinated the development of the Advanced Arson for Profit Investigative Techniques Training Program (AAPITP). This state-of-the-art program was designed to enhance the professional skills of those who investigate profit-motivated and other complex arson schemes.

During this program, discussions will range from fire scene analysis to prosecution of the case. Since this is an advanced program, the arson investigator will be taught specialized skills for perfecting criminal cases. Instruction will be presented in the classroom and in practical exercise areas. Some of the topics presented include the Arson Task Force, interviewing, legal aspects, analytical techniques, laboratory capabilities, insurance, and arson profiling.

Because of the advanced level of this program, student selection is considered vital to the overall effectiveness of the program. To meet the minimum background prerequisites, the applicant must be a full-time public service employee whose workload is primarily focused upon the investigation/management of arson-related crimes, and should be familiar with cause determination.

The next AAPITP is scheduled for April 20-24, 1998. The cost is \$770.58 if student stays off base and \$531.78 if student stays on base. Tuition includes meals, lodging, and miscellaneous expenses. For additional information or a registration form, contact the Federal Law Enforcement Training Center, Glynco, Georgia, (912) 267-2345 or (800) 743-5382. ❖

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## Church Arson Investigation Insights—Interview with ATF Deputy Assistant Director Mark Logan

On January 7, 1998, Mark Logan (ML), Deputy Assistant Director for the Bureau of Alcohol, Tobacco and Firearms' (ATF) Enforcement Division, provided the following insights regarding his experience with church arsons in North and South Carolina to Jennifer Bolen (JB). Prior to being named a Deputy Assistant Director, Mr. Logan, a 14-year ATF veteran, was ATF's Special Agent in Charge of the Charlotte, North Carolina, field division. Logan and his agents served as investigators for the National Church Arson Task Force (NCATF).

**JB:** What was the biggest hurdle the NCATF faced in its efforts to investigate church arsons and related hate crimes?

**ML:** Obtaining the trust of the community.

**JB:** What did the NCATF do to address that problem?

**ML:** NCATF made a point of responding to the crime scene with the specific goal of demonstrating to the community that the task force was genuinely dedicated to solving these crimes. More often than not, I made it a point to actually go out to each church arson scene to talk to the church pastor and the congregation. Not necessarily to question them, but to assure them that everything possible would be done to resolve the situation. To let them know that we were available to them if they had questions regarding the logistics of the arson investigation. From time to time, I even participated as a speaker at various church programs on spiritual healing. To me, that's how you build trust between the Government and the victim-congregation. Because the NCATF took this approach, we found that people were more likely to come forward with information relating to the crime. We even built trust in the area of "anonymity." Sometimes, members of a congregation wanted to remain anonymous in their provision of information. I would tell them, "Sure, if you don't want to be known, fine. But please give up the information." The NCATF credits the community with solving many of these fires by stepping forward and providing significant information to law enforcement officers.

**JB:** What other factors contributed to the initial lack of trust for the Government, and how did the NCATF attempt to repair the trust?

**ML:** Simply the fact that Government is Government—period. Also, past racial histories. A lot of law enforcement officials have gone out and talked to groups of people. When you do so, remember they're not dumb. Don't try to beat around the bush. If you can answer a question, give them the answer. If you can't, tell them you cannot provide this answer at this time and why. Often, congregation members will ask questions about motive—why someone would do this to their church? I tell them, "Motive is a particular factor in solving this crime and is significant in court. What you may perceive as motive might be totally different from what gets explained in court based on the evidence gathered during the investigation. So we would not like to address motive at this time." Tell them that. They understand. I

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had a crowd of a couple of thousand people and I told them, "If I gave you any opinion in reference to motive, it would be spread all over the country in the next hour." Sometimes we were asked questions like, "Why do we polygraph ministers, members of the congregation?" I tell them, "I will polygraph a minister if I see that it's necessary. When we're doing these investigations, we cover all the bases. We do not want to show favoritism in any way. If I get information and we want to clear something up and the only way we can do it is by polygraph, why should a pastor be treated any differently?" So you have to be complete and uncover everything possible so that when it's all said and done, nobody can come back and say, "Why didn't you do this? Why didn't you do that?" For the most part, the church congregation and its leader understand this approach, if you tell them straight up. If you try to beat around the bush, they're going to wonder, "What are you hiding? I don't trust you anymore."

**JB:** What do you see as the single key element in gaining a community's trust?

**ML:** Ensuring that the key person in the investigative process is the local sheriff or police chief because the victim-congregation has been depending on him or her for years for their answers. You don't want to destroy that relationship or give any appearance that you're attempting to do so. This attitude makes a lot of difference as far as getting cooperation from state and local law enforcement agencies, and from the community because that key figure has talked with people, knows them, and can relate to them. I call it, "It's their neighborhood. You're just visiting. They've got to live there." Same thing with the local sheriff or police chief. That's their neighborhood. You're just visiting. You need to show some respect. In a similar vein, it's really important not to argue over whether a case will be prosecuted in state or Federal court. Let the facts of the case, the status of the defendant(s), and the best interests of the public decide where the case is best prosecuted. It has made a big difference in the success of these investigations to have representatives from the state Solicitor's (District Attorney's) office and the U.S. Attorney's office present at the scene to oversee these issues as they are raised by members of the victim-congregation.

**JB:** In what way has the presence of prosecutors at a church arson scene contributed to the successes enjoyed by the NCATF?

**ML:** The presence of prosecutors at a church arson scene helps the public see our commitment right from the beginning. It also helps the prosecutor see how we work. When a prosecutor comes to the fire scene, they can see the damage first hand. They can sit in on agent briefings and understand how the investigative team works, and understand the mechanics of conducting an arson investigation. I understand that the U.S. Attorney's office is limited on personnel, but if somebody from the U.S. Attorney's office could respond to a scene that would make it all the better. Especially, for those cases when we need a search warrant or criminal complaint right away. Having the U.S. Attorney's office and the State Attorney's office there makes it so much easier. In fact, it puts the investigators more at ease.

**JB:** Based on your experience with the NCATF, what suggestions do you offer to AUSAs and agents about working together in a task force atmosphere?

**ML:** Be honest and up-front. Avoid hidden agendas, they can destroy everything. Be willing to learn. Remember that just because you're in a certain position doesn't mean you know more about conducting

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an investigation than another person. That type of attitude can cause problems. Work together and everyone will look good. If problems arise, talk them out. The biggest reason for this is to preserve “teammanship” when we get out in the public. It’s important to show the public that we know what we’re doing and that we’re not confused about what is to be done. If we keep arguing with one another, nothing is going to get accomplished. We need more trust between the U.S. Attorney’s office and the investigator. We’re all in this together. We cannot afford any embarrassment because we have not covered the bases. If everybody understands that, we’ll get a lot more done.

**JB:** Has ATF implemented any cross training efforts with the FBI and state and local law enforcement agencies to improve Government response to church arsons and related catastrophes?

**ML:** Yes. In North and South Carolina we’ve designed a “First Responder School” which is geared toward improving law enforcement response to major catastrophes and events such as church arsons. This school also focuses on improving the working relationship among Federal, state and local law enforcement agencies. More specifically, this course focuses on the “what to do’s” and the “what not to do’s” when you are the first agency on a fire scene. It also teaches agencies how to maximize the efforts of the available personnel and how to ensure that the general public is safe. The school also provides instruction on how to properly handle the investigation to avoid contamination of evidence problems and the like.

**JB:** Are AUSAs permitted to attend a school like the First Responder School or related arson schools?

**ML:** Absolutely. In fact, across the country we sponsor similar schools within the various field divisions and invite representatives from state and local offices, other Federal agencies, and the U.S. Attorney’s office to attend. We also have arson investigation guides that provide a great deal of insight into an arson investigation. These, too, are available to AUSAs. All they have to do is ask. ❖

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## The FBI's Response to Civil Rights Violations

*Special Agent Owen Harris*

*Federal Bureau of Investigation Headquarters*

*Washington, D.C.*

### Hate Crimes and Domestic Terrorism

The FBI has primary jurisdiction in investigating the following civil rights related matters: racial/religious discrimination; police misconduct (crimes committed "under color of law"); violations of the Civil Rights Act of 1964, the Voting Rights Act, the Equal Credit Opportunity Act, the Discrimination in Housing Act, and the Civil Rights of Institutionalized Person Act; involuntary servitude and slavery; and violations of the Freedom of Access to Clinic Entrances (FACE) Act.

The FBI has three distinct programs that address hate crimes: (1) the Civil Rights Program, which focuses on individuals or small groups acting out hate violence and violating Federal civil rights statutes; (2) the Domestic Terrorism Program, which focuses on crimes that are committed by organized groups for political or social reasons; and (3) the Criminal Justice Information Services (CJIS), a division in the FBI responsible for the collection of hate crime data as mandated by the Hate Crimes Statistic Act of 1990.

As one might imagine, hate crimes present a particularly difficult challenge to enforcement efforts because they are more violent, socially disruptive, random, and serial in nature than ordinary crimes, and are generally more difficult to solve. This is because there is a terroristic component associated with hate/bias crimes, whereby even a relatively minor incident can breed fear and distrust across already fragile intergroup lines. To exacerbate this aspect, over recent years, a substantial amount of media attention has been given to groups espousing racial hatred, particularly violent white

### Hate Crime Statistics

On January 8, 1998, the FBI released the following hate crime statistics for 1996:

During 1996, 8,759 bias-motivated criminal incidents were reported to the FBI by 11,354 law enforcement agencies in 49 states and the District of Columbia which voluntarily participated under the Hate Crimes Statistics Act of 1990. These agencies represent 223 million United States inhabitants, or 84 percent of the population. The number of participating agencies which submitted statistical data for 1996 represents an increase of more than 18 percent over the 1995 agency participation level. Of the 8,759 incidents reported, a total of 10,706 offenses occurred, with a reported number of 11,039 hate crime victims.

Of the 8,759 reported incidents, 5,396 were motivated by racial bias; 1,401 by religious bias; 1,016 by sexual-orientation bias; 940 by ethnicity/ national origin bias; and 6 by multiple biases.

Crimes against persons composed 69 percent of the 10,706 offenses reported. Intimidation was the single most frequently reported hate crime among all offenses measured, accounting for 39 percent of the total. Destruction/damage/vandalism of property accounted for 27 percent of the total, followed by simple assault at 16 percent and aggravated assault at 13 percent.

Eight of every 10 of the 11,039 reported hate crime victims were individuals, while the remaining victims were businesses, religious organizations, or other targets. Six of every 10 victims were attacked because of their race, with bias against blacks accounting for 42 percent of the total. Of the total number of victims of religious bias crimes, 66 percent of victims were targets of crimes against property.

The majority of hate crime incidents, 31 percent, occurred in/on residential properties. Incidents perpetrated on highways/roads/alleys/streets accounted for 21 percent, while 9 percent occurred at schools or colleges. The remaining incidents were widely distributed among various locations. ❖

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supremacist right-wing terrorist groups. A basic tenet in these groups is a belief in the superiority of the white race. These groups believe that African-Americans, Jews, and other ethnic minorities are inferior racially, mentally, physically, and spiritually.

The FBI often receives telephone inquiries regarding the activities of hate groups, particularly when the groups announce they are going to hold rallies or public demonstrations. The FBI does not monitor the activities of hate groups; instead, they initiate investigations of the groups once they meet certain criteria established by the United States Attorney General Guidelines. Those guidelines are: (1) the group has made a threat or advocates the use of force, (2) the group has the apparent ability to carry out the proclaimed act, and (3) the act is a potential violation of Federal law.

## **Church Arsons**

Another area of concern is damage or defacement to houses of worship and other religious property. In 1996, incidents of church arsons became so prevalent that President Clinton established the National Church Arson Task Force (NCATF) to pool law enforcement resources together to investigate these matters. The NCATF has been a successful endeavor, in part because it brought together the investigative resources of the FBI and the Bureau of Alcohol, Tobacco and Firearms (ATF). The ATF's expertise in arsons and explosives has been critical in the successful resolution of numerous church arson cases. Similarly, the FBI's expertise in conducting civil rights investigations was considered vital in determining if offenders were destroying houses of worship because of a racial or religious animus.

Prior to the formation of the NCATF, the FBI was responsible for investigating crimes involving damage to religious property under Title 18, United States Code, Section 247. However, this statute was difficult to enforce because, prior to 1996, it was necessary to prove that an offender either traveled in interstate or foreign commerce to commit the crime or used a facility or instrumentality that was itself in interstate commerce. The statute also required that the Government prove a loss of more than \$10,000 resulting from the damage of the religious property. The passage of the "Church Arson Prevention Act of 1996" facilitated the FBI's investigative response to church arsons and other types of damage to religious property by (1) simplifying the interstate element, requiring only that the circumstances of the crime "affect" interstate commerce, and (2) eliminating the \$10,000 damage requirement. Additionally, among other provisions, the Act added the words "racial or ethnic" in subsection (a)(1) of Section 247, which now, in part, reads: "Whoever . . . intentionally defaces, damages, or destroys any religious real property, because of the religious, racial or ethnic character of that property, or attempts to do so . . ." Prior to this amendment, the actions of an arsonist motivated by racial animus would not have constituted a violation of Section 247. The racial composition of a church congregation was, therefore, neither an element of the offense, nor a factor essential to the FBI undertaking a Section 247 civil rights investigation. Relaxing the interstate commerce aspects and waiving the monetary damage requirement also enhanced the FBI's investigative response in addressing non-arson types of damage or defacement to religious property if the act or attempted act was committed because of racial, ethnic, or religious bias.

## **Conclusion**

As the number of reported incidents of civil rights violations increase, the FBI continues to implement initiatives to address these matters. In 1995, the FBI opened more than 800 hate crime

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investigations. Last year, that number increased to over 900. To address this dramatic increase, the FBI developed a three-year plan to enhance its Civil Rights Program. The first step of the plan has already been implemented: the division of the FBI's Civil Rights Unit into two new units within the Bureau's Criminal Investigative Division. The creation of the Hate Crimes Unit and the Color of Law Unit allows for greater oversight of civil rights investigations conducted by the FBI nationwide. The Hate Crimes Unit deals primarily with hate crimes (including church arsons), involuntary servitude/slavery allegations, and violations of the Civil Rights Act of 1964. The Color of Law Unit deals primarily with violations of the Civil Rights of Institutionalized Person Act. Key parts of the three-year plan also include working with national civil rights groups, educating communities on civil rights matters, establishing a fellowship position in the Hate Crimes Unit for a law enforcement professional or an expert in the hate crimes field, and analyzing reported incidents of hate crimes to detect possible trends and involvement of organized hate groups.

In addition to the above, the Hate Crimes Unit and the units responsible for administering the FBI's Domestic Terrorism Program will work closer together since hate crimes and domestic terrorism incidents frequently overlap. These initiatives, among others, will be instrumental to the FBI's continued enforcement of the Federal civil rights statutes. ❖



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## The Community Relations Service—A Task Force Partner\*

The National Church Arson Task Force (NCATF) represents a coordinated and comprehensive Federal response to the burning of houses of worship. Appropriately, the Community Relations Service (CRS) was called upon to be a partner in the NCATF. CRS, a unique agency of the U.S. Department of Justice, is the Federal Government's "peacemaker" for community conflicts and tensions arising from differences of race, color, and national origin. Created by the Civil Rights Act of 1964, CRS is the only Federal agency authorized to prevent and resolve racial and ethnic tensions, conflicts, and civil disorders. When called upon, CRS assists state and local units of government, schools, and community groups in restoring community racial stability and harmony.

In 1996, CRS responded to requests from governors, mayors, and other community leaders in more than 800 cases of community racial conflict. CRS conciliation specialists responded to the deadly violence and costly disturbances in Los Angeles, California; Crown Heights, New York; and St. Petersburg and Miami, Florida. In these and many other cities, CRS was "in the streets" helping police, local officials, and community leaders to end the violence and begin constructive dialogue. Once stability was restored, CRS provided technical assistance and training to avert new violence and improve police-community relations.

The mission of CRS took on a special relevance as the number of church burnings increased, heightening fears and apprehensions of a new escalation in racial intolerance and violence. The fires created suspicions in the communities that Government officials were indifferent to the burnings and slow to investigate or prosecute and that investigating law enforcement officers were insensitive to or had unfairly targeted black suspects.

As a partner of the NCATF, CRS has performed three important roles:

- CRS chaired the Community Outreach Working Group, ensuring communication and coordination among the various agencies, officials, groups, and individuals who respond to church burnings and those affected by them.
- CRS's skilled conflict resolution professionals have provided analysis and assessment of underlying racial tensions and conflicts, helped develop strategies to prevent further incidents, and contributed expertise and guidance on certain "best practices" to ameliorate community fears and concerns.
- CRS conciliators have served on and advised local church arson task forces established by the Attorney General. The local task forces, headed by United States Attorneys, are responsible for coordinating the investigations and prosecutions of cases in conjunction with state and local law enforcement agencies. The Attorney General urged United States Attorneys to include CRS conciliators to ensure good communication and cooperation between the task force and local ministers in troubled communities.

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\*This excerpt was taken from the Community Relations Service, U.S. Department of Justice, Church Burning Response Program, First Year Report, dated June 1997.

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## CRS Church Burning Response Team

As part of the efforts of the NCATF, CRS Director Rose Ochi mobilized a CRS Church Burning Response Team (CBRT).

### Mission of the CRS Church Burning Response Program

Director Ochi established four goals for the CBRT:

- To resolve racial conflicts and reduce racial tensions in those communities in which the fires occurred;
- To create healthy relationships between law enforcement agencies and minority communities affected by the burnings;
- To reduce the likelihood of new church burnings in vulnerable communities through multiracial cooperative efforts; and
- To support the NCATF, as chair of the Community Outreach Working Group, by keeping lines of communication open among all agencies, groups, and individuals working on the church burnings.

### Community Racial Tension Assessment

More than 150 local communities received conciliation services from CBRT in the aftermath of a church burning. In addition, more than 50 other communities asked CRS to conduct proactive arson prevention activities.

### CRS Methodology

For each CRS activity, the level and nature of CBRT intervention in a church burning case are based on the results of an *Assessment*\*\* of racial tensions in a community. An Assessment provides CRS conciliation specialists with an overview of race relations in the community where the fires occurred and considers the impact of the church fire on community relations. CRS's Assessment focuses on three distinct areas: the history of the community's race relations, the relevance of the church fire to this history and future race relations, and the willingness and interest by local officials and community leaders to engage in joint activities to improve race relations. Based on the analysis, CRS may initiate a conciliation

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\*\*The *Assessment Phase* is the second of four Conflict Resolution Phases. An Assessment is conducted to determine whether CRS services are likely to be effective, the willingness of the parties to use CRS Conciliation services, and how likely are resources currently addressing the problem to be successful. Case objectives are identified and an implementation plan is developed during the *Assessment Phase*.

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process of engaging interested and responsible parties in finding the ways and means for improving race relations.

For the CBRT, the findings of the Assessments varied from community to community, but generally fell into eight categories, as follows:

1. In some communities, the burning of a house of worship served to unite the residents, regardless of race, color, and national origin. Words and deeds of sympathy for a congregation's loss were received from throughout the community. Black and white residents joined together to raise rebuilding funds and then physically raised a new church building.
2. In other communities, there was little reaction. Low levels of suspicion quickly subsided when the act of arson or vandalism was deemed minor by blacks and whites alike.
3. In some communities, racial tensions and suspicions quickly subsided when officials declared the fires accidental, caused by lightning, or electrical or mechanical failure.
4. In some communities, the citizens and agencies joined to reduce tensions or prevent conflicts from arising, and CRS services were not requested.
5. In some communities, racial tensions and suspicions increased when church burning victims and others accused law enforcement officials of indifference or bias in their investigation and prosecution.
6. When several African-American and Caucasian church burnings occurred in the same community, tensions and suspicions escalated when accusations were made that the fires resulted from racial retaliation.
7. In a few communities, the building of a new church led to questions about the source and accountability of funds. A marked improvement in the size and quality of the new structure elicited criticism from some quarters and resulted in racial animosity.
8. In some communities, racial animosities were heightened by public statements that included emotionally-charged language.

## **CRS Services**

There are five services which the CRS CBRT has provided local communities, with selected case examples, as follows:

### **1. Mediation of Racial Conflicts**

The first service is to mediate community racial conflicts. In the aftermath of two church burnings in Alabama, CRS learned of jurisdictional conflicts between the Sheriff's Department and the Police

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Department. CRS invited the two agencies to sit down and discuss the disputed issues and a mediated mutual assistance agreement was reached by the Sheriff and the Chief of Police.

## **2. Race Relations Dialogues**

The second service is to ease racial tensions by facilitating dialogue between concerned officials and citizens. In early July 1996, CRS joined the efforts of the Chamber of Commerce and Common Cause in Rocky Mount, North Carolina, in bringing together religious, business, education, law enforcement, and community leaders to discuss race relations strategies. The July 22-23, 1996, meeting, titled "Honest Conversation – Positive Change: A Strategy Session on Race Relations," included CRS presentations on law enforcement and race relations.

The Rocky Mount meeting set an example for community dialogue and led to plans for similar meetings throughout the state, including an ongoing dialogue at North Carolina Wesleyan College, chaired by the college president. CRS is a facilitator of these discussions between black and white clergy. Discussions have centered around how the church community can serve as a vehicle to reduce racial tension using the study circles approach to facilitate race-related dialogues.

At the request of the Governor, CRS and the South Carolina Human Affairs Commission are working together to host a series of town meetings which will assemble a diverse group of citizens to talk about race relations. The national "study circle" is a small group of people who meet several times to discuss an issue and use a facilitator to keep the discussions focused. CRS and the Study Circle Resource Center are training facilitators in this approach. The most recent training was held in Aiken, South Carolina, on May 12, 1997. Those participating included law enforcement, clergy, and other members of the community.

## **3. Training**

The third service is to design and present training programs for law enforcement and other public agencies. CBRT assessments revealed that state and local law enforcement agencies needed training programs to improve their management of community conflicts and to strengthen their relationships with local minority organizations and communities. CRS offers training for law enforcement agencies on responding to bias-motivated crimes and sound community relations practices. In a six-month period, the CBRT staff has been involved in several training initiatives, including design and presentation of training programs.

In Alabama, Tennessee, and South Carolina, CRS is working with the respective governors' offices, Sheriffs' Associations, state and local law enforcement agencies, and various state and local human relations organizations in designing a statewide law enforcement training program in arson prevention.

CRS conducted a four-hour training session for citizens and law enforcement officers in Greene County, Alabama, on the subject of "Law Enforcement in a Diverse Community." Training focused on understanding the impact of bias-motivated crimes, an overview of the Hate Crimes Statistics Act, and the use of problem solving policing by law enforcement officers.

## **4. Information Dissemination**

The fourth service is to provide information about programs and services available to rebuild the churches.

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## **5. Technical Assistance in Arson Prevention**

The fifth service is to provide technical assistance on the establishment of church arson prevention programs. For example, in Houston and San Antonio, Texas, CRS helped establish community education seminars on church arson prevention. Community and religious leaders, and representatives from the United States Attorneys' offices, FBI, ATF, police and fire departments, and insurance companies joined the programs. Local police departments in both cities have instituted church arson prevention patrols as a result of these seminars.

With CRS encouragement, the Magnolia Police Officers' Association, an organization of African-American law enforcement officers in Louisiana, began patrolling black and white churches in an effort to discourage further arson and vandalism, and they have developed and disseminated a manual on policy, practices, and procedures for patrolling and other prevention activities to other agencies.

## **Conclusion**

The well-being of a community can be measured by how Government and citizens come together during times of crisis. Crimes motivated by racial animosity require a special response. CRS takes pride in the important work it has rendered over the past several months to more than 150 communities affected by church burnings. As devastating as these attacks have been, they have proven to be challenges for these communities to discover their own strengths. They have shown us how people of good will can come together, joining hands in rebuilding not merely the physical structure of the church, but weaving a new community fabric with the threads of trust and faith. ❖

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## **Church Arson Investigations: An Officer's Perspective—Interview with Captain William F. Graham**

On January 6, 1998, Captain William F. Graham (BG) of the South Carolina Law Enforcement Division (SLED) provided the following insight regarding an officer's perspective on church arson investigations to Jennifer Bolen (JB).

**JB:** What is SLED?

**BG:** SLED is an organization that assists Federal, state, and local law enforcement in a variety of criminal cases throughout the state of South Carolina. We have many functions. We run our own lab here. We have blood hounds, we have an air unit, we have criminal agents, we have narcotics agents, we take care of all the data processing for all law enforcement in the state.

**JB:** How many arson investigative agents work for SLED?

**BG:** Fifteen. We serve 46 counties in South Carolina with a population of about three million.

**JB:** On an average, how many calls does SLED respond to on a yearly basis?

**BG:** Based on our year-end report, we ended up with 323 arson requests and 189 explosives requests.

**JB:** Out of those requests, how many were actual arson cases?

**BG:** Of the 323 requests, not all were arson. Some were initially suspected to be arson and we later determined they were not arson. Of the 323, we cleared 97 cases by arrest. We cleared about 41 percent of all the cases we knew to be arson.

**JB:** Of those 323 requests, how many were church-related arsons?

**BG:** In 1997, we had five—three African-American churches and two white churches.

**JB:** What do you perceive to be the greatest challenge of investigating an arson case?

**BG:** Gathering information from crime scenes situated in rural areas. In South Carolina, so many of our churches are located in very rural settings. We've had several that were not even reported when they initially caught fire. It could have been the following Sunday or some days later when someone discovered the church had burned. So many of these churches are well over 100 years old and they're made out of pine or things like that. They're very combustible and usually there's nothing left when we're finally called to the scene. Nothing except for a set of steps or the bell. We treat these cases as "undetermined" and continue to canvas the neighborhood for clues; we continue to interview church members to see if there have been any problems with graffiti or harassing phone calls.

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**JB:** What are the first things agents and prosecutors should do when they're assigned a church arson investigation?

**BG:** The first thing is to get all the information you can. You may be dealing with a preacher or reverend who is not full time. He may have another job and live someplace else. You need to get those people to the scene and have them stay there until the agents get there and the investigative and crime teams get set up. Then, get all the information you can—who, what, when, where, how, why—have you had problems in the past? Anything at all? Secondly, get all the investigative agencies together. Work out a plan of attack—who's going to do what, make assignments. We've developed a major case file and every lead that comes in is assigned a lead sheet and then it is assigned out to an investigator—whether it's SLED, FBI, ATF, or local. That lead is run down, that sheet is filled out, it's brought back in, and it's kept alphabetically as well as numerically. We meet every afternoon and every morning to discuss what's been done that day and the progress we've made. We keep the prosecutor(s) apprised of investigative developments and expect them to stay up to date with the case in order to more efficiently provide necessary legal support. Then we determine what needs to be done the next day and stay at it. You need to hit these things as quickly as you can with as much manpower as you can because, as the days drag on, the case becomes more difficult to solve.

**JB:** What tips can you offer for developing motive evidence?

**BG:** We don't focus on any one thing. If a very strong motive comes up that this is a hate crime or it is racially motivated, then we're going to assign agents to run those leads down. If someone calls in and says it's devil worship or something else, we run those leads down as well and keep compiling information. In South Carolina, we've only had a few church arsons that were racially motivated. Most cases involve vandalism-related arsons. We've had members of the church who were caught stealing money from the church and to destroy records or other material in the church they burned the church. Many have been people who I would classify as being mentally ill. We had a man who said God told him to burn the church because of where it was located. The Klansmen that were caught in South Carolina for burning churches were actually burglarizing them and stealing items from the church and that's how we caught them.

**JB:** What do you see as an investigator's or prosecutor's role in working with the public and the congregation of these victim-churches?

**BG:** SLED has a unit that does community service. We call them to the scene and they immediately start working with the church folks and try to determine the needs of the church and how best they can help them find another place to worship. This allows investigators to concentrate on finding the offenders.

**JB:** Are there preventative steps a community can take to try to stop these church arsons?

**BG:** Our public group at SLED has developed a pamphlet and they've given speeches and presentations in an effort to increase community awareness in this area. They're telling folks to be aware of their surroundings; make a point to drive by their church, especially if it's in a very isolated area.

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Congregations are instructed to make note of vehicles that are not supposed to be there, to notify the police of any unusual traffic or beer cans found behind the church. Often, when someone wants to burn a church, it's not specific to that one church. They're just looking for a church to burn. If it's well-lit, they may go someplace else. So many of our churches have a driveway in and a driveway out. It's very simple to put a chain up which would require unwanted visitors to get out and walk or go to some effort to access the church. This simple measure may influence would-be vandals to leave your church and go someplace else. Of course, the church should have fire/burglar alarms and a sprinkler system. Unfortunately, such protection devices are so expensive that it's usually out of the reach of most folks. Establish crime watch areas. Get your sheriff involved, especially if you've had a threat or if you've had graffiti. Let the sheriff know if you've got a problem and that you want your church checked. The Governor has mandated that SLED agents, highway patrolmen, and game wardens—as they're doing their daily routine—check behind churches because of the frequency of outside traffic in church parking lots. Officers are also instructed to pull in and check them at night. Be aware that your church can be a target even though you may not have had past problems. We arrested a volunteer fireman who tried to burn a church because he was bored. As we were collecting evidence, the church members were sitting there crying saying, "Why us? We've never done anything to anybody. We've reached out to this community. We've tried to help people." When you find out the cause of the fire, how do you tell folks, "Well, this guy was bored. He was looking to go put a fire out."?

**JB:** What recent changes have been made to South Carolina's state law that impact church arsons?

**BG:** Effective June 13, 1997, South Carolina Code law section (B) 16-11-110 was amended to specifically include churches, and now provides "that a person who willfully and maliciously causes an explosion, sets fire to, burns, or causes to be burned, or aids, counsels or procures the burning of a dwelling, house, **church, or place of worship**, public or private school facility, a manufacturing plant or warehouse, a building where business is conducted, an institutional facility, or any structure designed for human occupancy to include local and municipal buildings, whether the property of himself or another, is guilty of arson in the second degree and, upon conviction, must be imprisoned for not less than 5, no more than 25 years." Prior to this change, churches were not covered under Section B because they were not defined as a "dwelling."

**JB:** What has been the biggest hurdle SLED has faced in its church arson investigations?

**BG:** The biggest hurdle is that we still had to respond to our normal case load even though the church fires demanded a lot of our resources.

**JB:** What is SLED's greatest accomplishment in the area of the church arsons?

**BG:** Our clearance record is 66 percent right now. We've had 38 confirmed church arsons, we've cleared 25 by arrest. We're extremely proud of that. I'd love to solve 100 percent, but when you compare our clearance record to the national average, which is less than 15 percent, then I think we've done fairly well.



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**JB:** What do you owe that to?

**BG:** Absolute team effort. It's where the investigators, prosecutors, and local authorities all come together with one objective. When you get those resources all going in the same direction then your ability to be successful is going to increase dramatically.

**JB:** What number would an AUSA or an agent call to get some basic information about SLED and then, specifically, to get in touch with somebody at the arson unit if they had a question?

**BG:** (803) 896-7003 for the arson unit, or the main number, (803) 737-9000. ❖

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## The Anatomy of a Church Arson

*Assistant United States Attorney Angela F. Williams  
Middle District of Florida; assigned to the NCATF*

At 2:00 a.m., on the corner of FM 780 and James Road, it is pitch black. The only sounds that can be heard are those of the insects and animals that reside in the “Bottoms” just a few miles down the road. The Bottoms is a place where locals take their cars or trucks four-wheeling in the mud. It’s where young people go to drink beer and entertain themselves. Across the field, one can just make out a single porch light hung near the neighboring farmer’s front door. Suddenly, the sound of screeching tires breaks the silence of the night. Two vehicles leaving the Bottoms suddenly come to a stop in front of a 100-year old frame structure known as the Macedonia Baptist Church. Two white men jump out of the first vehicle, a 1989 Mustang, and approach the driver of the second vehicle. The driver of the Mustang (Defendant #1) looked at the other driver (Witness #1) and said, “You need to get out of here because we’re getting ready to burn that n\_\_\_\_\_ church.”

What followed next was a series of events that ended in devastation to a small African-American congregation and a small town community. Defendant #1 and his associate (Defendant #2) entered the church. Once inside, Defendant #1 set fire to the tablecloth lying on a table inside the church vestibule. As the fire began, Defendant #2 looked up and saw what he thought were headlights. He became scared and yelled at Defendant #1, telling him that a car was coming down the road. Defendant #1 extinguished the fire, both men ran out of the church, and sped away in the Mustang. It was a false alarm. Discovering this, Defendant #1 said, “let’s go back to my house, get a gasoline can, and go back to that church and finish the job.” They did just that and headed back to the small country church.

The two arsonists finished the deed and caused a small, innocent congregation, with no insurance, to suffer over \$64,000 in damages, and the total destruction of their little wood frame church. But, what Macedonia Baptist Church really lost cannot be valued and can never be replaced. Macedonia church was over 100 years old. It housed the history of that rural African-American community, the records of births, deaths, and marriages; a Bible that was as old as the church; and the memories of a group of people that at one time had no other place to go to school or to fellowship.

As you recall, Defendants #1 and #2 committed this arson in the dark of the night. There were no witnesses and the church was totally destroyed. So you may ask, how were they discovered. They were discovered and convicted by their words. Within minutes of setting the fire, the two criminals drove to a local gas station. There, they saw Witness #1 and another friend. Defendants #1 and #2 jumped out of the Mustang saying, “We did it. We did it.” At that point, Witness #1 knew that Macedonia Baptist Church had been burned to the ground.

Weeks later, the case remained unsolved by investigators. Finally, there was a break in the case. Someone came forward to reveal the secret. Yet, the question remained, how could investigators obtain additional evidence sufficient to sustain an arson conviction? Logically, attention turned to Witness #1 and his friend, both whom agreed to wear a wire. One afternoon, under the direction of Federal and local agents, Witness #1 and his friend drove to Defendant #1’s house. Defendant #1 walked out of his duplex and leaned over the hood of Witness #1’s truck. The three men began talking about Defendant #1’s actions the night of the church fire. The friend asked Defendant #1 why he set the church on fire. Defendant #1 replied, “Because it was a n\_\_\_\_\_ church.” Defendant #1 then explained in detail how he

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and Defendant #2 set the church on fire and revealed the location where they disposed of the gasoline can. The meeting was audio and video recorded.

Defendants #1 and #2 were promptly indicted by a Federal grand jury. At the detention hearing, Defendant #1 brought in his co-workers to testify that he was not a racist and they had never heard him use the “N” word. The Government overcame this testimony by playing the videotape in open court which highlighted the violent nature of the crime. Defendant #1 pled guilty to one count of Arson, in violation of 18 U.S.C. § 844(i), and one count of Damage to Religious Property, in violation of 18 U.S.C. § 247(c). Defendant #1 is now serving a 60-month term of imprisonment. Defendant #2 pled guilty to one count of Arson, in violation of 18 U.S.C. § 844(i) and one count of Conspiracy against Rights, in violation of 18 U.S.C. § 241. Defendant #2 is now serving a 70-month term of imprisonment. This case was prosecuted by AUSA Christopher Stokes, Northern District of Texas, Dallas Division, and AUSA Angela F. Williams, NCATF.

## **Investigating and Prosecuting an Arson**

One of the first lessons a prosecutor learns when handling an arson case is that most evidence is circumstantial. The investigative team is faced with a jigsaw puzzle; the church building is completely destroyed and there are no eyewitnesses. This article is intended to be a short-overview of the steps to take in the investigation and prosecution of arson cases. It is by no means exhaustive and only serves as a guide to those who might one day find themselves with the challenge of prosecuting church arson cases.

### **Visit the Crime Scene**

The first step for law enforcement and the prosecutor is to visit and inspect the crime scene. Agents must determine whether the fire was intentional or accidental. This is done by going through the charred debris and searching the surrounding area for evidence. For example, investigators look at fire burn patterns. Fire burn patterns often provide information on the various factors which led to or caused a fire. A detailed study of the burn patterns generally helps in determining the point of origin, direction of travel, and degree of damage of a fire which may contain clues to possible arson. The term “point of origin” is widely used to identify the place where a given fire began. The cause of a fire can usually be found at or near the point of origin.

In a number of cases, trained fire investigators can identify the fire’s point of origin(s) and the method in which it was started. According to the Bureau of Alcohol, Tobacco and Firearms (ATF), some of the most common methods used in setting fires are (1) multiple separate fires in different spots and rooms; (2) trailers between fires—the most commonly used materials are toilet paper, clothing, straw, and ignitable liquids; and (3) incendiary devices—examples are matchbooks, cigarettes, candles, wiring systems on electrical heating appliances, Molotov cocktails, and timing devices.

Physical evidence from the fire scene should be collected and sent to a laboratory for analysis. State fire marshals and ATF agents are trained in how to properly collect the physical evidence.

The following is an excerpt from a training outline prepared by William R. Dietz, Chief, Forensic Section, San Francisco Laboratory Center, and updated by the Firearms, Explosives and Arson Programs Division, ATF Headquarters. It is entitled “Physical Evidence of Arson, Part I: Accelerants.”

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“The physical evidence that most often helps corroborate the fire investigator’s theory that a fire was intentionally set is the presence of foreign flammable or combustible liquids (ignitable liquids). While electronic sniffers and, more recently, canines have become useful tools for locating the unconsumed (not totally burned away) residues of these liquids, their true detection and possible identification can only be accomplished in a laboratory that is properly equipped and staffed. Because the detection of the ignitable liquids remaining at the fire scene can be so critical to the investigation, it is important that the person collecting this type of evidence can accurately recognize it, properly package it, and submit it to the laboratory in a timely, safe, and secure manner.

Charred **debris** is evidence that is most frequently submitted to the laboratory in order to determine the presence of an unconsumed ignitable liquid. The following is a summary of the best ways to locate debris samples for laboratory testing:

- Ignitable liquids are most often found remaining in materials that have **absorbed** them easily and retained them well (carpeting, padding, soft woods, fabrics, paper, and soil).
- Sometimes, but seldom, it may even absorb into concrete which may result in spalding (crater effect).
- Ignitable liquids may be trapped in protected areas (under furniture, edge of a burn pattern, or melted plastic jug).

Ignitable liquids may still be found at a fire scene in the form of a **liquid** rather than as a residue. As a liquid, they are most often found in the container in which they were originally transported to the scene by the arsonist. Even when the containers are found charred and melted at the scene, the laboratory can still analyze their interior surfaces for trapped liquids or residues.

Once the debris is tested at the laboratory, you could receive a laboratory report stating that no ignitable liquids have been detected. There are several reasons for this statement:

- An ignitable liquid was not used;
- An ignitable liquid was used but: (1) was below detectable limits due to (a) combustion, (b) evaporation either prior to packaging or after packaging improperly, (c) overhaul, or (d) contamination; OR (2) ignitable liquids were not in that sample of debris.”

## **Interview the Witnesses**

The second phase of the investigation is conducting witness interviews. While the crime scene is being evaluated, other agents are canvassing the neighborhood and interviewing the person who discovered the fire, fire department personnel who were on the scene, church members, and insurance company representatives. As with any investigation, different people may recall a piece of information that, when placed with other information, gives the arson investigators a lead to pursue.

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A good example of this principle is the Hopewell United Methodist Church investigation in Centerville, Texas. ATF agents were called to the scene of a church fire. Along with the Texas Ranger, numerous people were interviewed, including the woman that made the 911 call. According to this witness, as she was driving down the country road, she saw a church on fire. She immediately drove into the front yard of the trailer next to the church and attempted to get the neighbor's attention by honking her car horn. She noticed the lights on inside the trailer. After honking her car horn for a short period of time, the neighbor finally came out of his house. That neighbor, when interviewed stated that he was sound asleep when he heard the car horn in his front yard. The neighbor also told the investigators that all of the lights were off in his trailer. This neighbor's mother was interviewed and said that her son did not find out about the fire until she woke him up and told him about it. Needless to say, the conflicting statements focused attention on the neighbor. Eventually, he admitted to setting the church on fire to cover up his prior burglaries of the church. The neighbor pled guilty in Federal court to arson.

According to the ATF training outline, "one of the main objectives of an arson investigation is to uncover the arsonists and their motives." Often, motive is one of the circumstantial pieces of evidence that assists the jury in reaching a verdict. Unfortunately, when a suspect cooperates with law enforcement and admits to committing the arson, the proper questions are not asked of the suspect in order to ascertain his or her motive. Prosecutors and investigators must be persistent in identifying the motive for the arson, particularly in church cases. The reason is that at sentencing, victim-related adjustments can be made where there is a hate crime motivation.\*

This excerpt from Dietz's training outline lists some common motives for arsonists:

- Financial Frauds (Profit)—a common motive for arson is financial gain. The financial gain is usually the money collected on a fire insurance policy.
- Crime Concealment—fires are sometimes set to cover a criminal act.
- Excitement
  - a. Thrills—commonly juveniles that like the disruption caused by fire.
  - b. Recognition
    - Police or fireman who wants to be a hero by finding or extinguishing a fire.
    - Volunteer fireman who desires a chance to make a run.
    - Wants to be a "hero" to save a particular individual or the entire population of the building.
  - c. Attention
    - Juveniles—"abandoned" or "latch key" kids.
    - Private citizens who want attention.
- Revenge—in some cases, fires are maliciously set in response to some real or imaginary injustice. Several types of revenge include:
  - a. Personal
  - b. Institutional (school, Government)
  - c. Groups (religion or race)

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\*If the case is tried, consider providing the jury with a special verdict form because U.S.S.G. § 3A1.1 has special evidentiary requirements. The trier of fact must find beyond a reasonable doubt that "the defendant intentionally selected any victim . . . because of the . . . race, color, religion . . . of any person."

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- d. Societal (society in general)
  - e. Extremist
  - Act of Violence—fires may be set during riots, as one of several forms of group violence.
  - Vandalism—vandalism fires are most often set by groups of juveniles.
    - a. Usually boys.
    - b. Intent is an important consideration.
    - c. The goal is generally excitement rather than destruction.
    - d. The target usually is a school, church, or other symbol of authority.

### **Prepare for Trial**

The final step in the investigative process is trial preparation. The prosecutor should present the case in several phases: (1) the fire—establish that the fire occurred at a specific time and within the jurisdiction of the court, describe the building, and introduce testimony of firefighters and eyewitnesses such as the person who discovered the fire; (2) the origin of the fire—establish that the fire was incendiary and not accidental, through direct, physical, and circumstantial evidence, show specific intent to commit the arson; (3) motive—it is important, but not necessary to prove motive; and (4) proof of guilt—use every fact or circumstance tending to establish the guilt of the accused; establish opportunity and foreclose alibis. Finally, don't forget to investigate and prepare for the defense's case.

### **Conclusion**

Investigating and prosecuting an arson is both unique and challenging. The average arrest rate in arson cases is 16 percent. Encouragingly, NCATF has a 35 percent arrest rate. The tenacity with which law enforcement and prosecutors pursue these cases should be given much credit. Achieving a conviction is rewarding not only for law enforcement, but also for the victims—a church congregation and its community. ❖

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## Church Arsons: A Prosecutor's Perspective

*Assistant United States Attorney David C. Keesler  
Western District of North Carolina*

On May 3, 1997, the John's River Missionary Baptist Church in rural Caldwell County, North Carolina, burned to the ground. All that remained after the fire had been extinguished were a few blackened timbers and the church's charred bell. In one night, the sanctuary that had been home to this predominantly white congregation's worship for over 100 years was lost. Two young white men have since pled guilty in Federal court to setting the fire while on a drunken vandalism spree. They are awaiting sentencing.

On June 6, 1996, fire destroyed the historic sanctuary of the Matthews-Murkland Presbyterian Church, a predominantly African-American church built in 1903 in Charlotte, North Carolina. The church has occupied the same site since the Civil War. A 13-year old white female suffering from psychological problems was ultimately charged with the arson. In her confession, she referred to satanic and racist beliefs. She was prosecuted as a juvenile in state court and was ultimately sentenced to one year of supervised probation and 200 hours of community service.

On April 6, 1996, and May 19, 1996, two male callers placed telephone calls to Flora Williams Ministries and the China Grove AME Zion Church, respectively, both in Charlotte. When no one answered, the callers left messages on answering machines containing vile, racist language implying threats to burn the churches. The two predominantly African-American congregations were placed in great fear. Two young white men were ultimately apprehended and charged. Both defendants pled guilty to Federal civil rights conspiracy charges and were sentenced to active terms of imprisonment.

Successful investigation and prosecution of crimes like these, of course, involve some of the same sound techniques as do other types of Federal prosecutions. However, there are a few things that are particularly important to success. While this treatment is by no means exhaustive, here are a few observations.

### **Work as a Team**

Effective teamwork is critical in church arson cases. First, the law enforcement effort in such cases tends to be multi-agency in nature, and good coordination from the early stages is key. If your district has a local multi-agency church arson task force, all the better. At the very least, it is important to form a solid investigative team as soon as possible after the fire occurs. In the rural Caldwell County case referred to above, initial response to the fire was of course local. The Caldwell County Sheriff's Department and the local volunteer fire department responded to the fire. Shortly thereafter, the State Bureau of Investigation (SBI), the Bureau of Alcohol, Tobacco and Firearms (ATF), and the Federal Bureau of Investigation (FBI) joined the team. Each team member brings special expertise to the table: the locals know the area and its people, SBI and ATF have expertise in arson cases, and the FBI has experience working civil rights cases. This is a potent combination—take advantage of it.

Likewise, Federal prosecutors also must work as a team. Assistant United States Attorneys (AUSAs) should immediately give notice of church arsons to the National Church Arson Task Force (NCATF) and partner with one of the trial attorneys on the NCATF staff. This kind of partnership can be very effective. In my own experience, the AUSA brings a fair amount of trial experience and a knowledge

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of the area and the local court systems to the equation. NCATF trial attorneys bring, among other things, a strong substantive knowledge of the statutes and of the nationwide context of the battle against church arsons. They may also be experienced trial attorneys in their own right. This can be a very effective Federal “one-two punch.”

Federal prosecutors also need to coordinate conscientiously with their state partners. Church arson cases will often give rise to state charges, and the state prosecutor will have an interest in seeing that the case is handled properly. My suggestion is to make it easy by contacting the state prosecutor early on to discuss the case. If your state prosecutors have the kind of caseloads that ours do in North Carolina, once the state prosecutor is satisfied that you are pursuing the matter vigorously, he or she will be only too happy to have one less file to worry over.

## **Reach Out to Victims**

In seven combined years as a state and Federal prosecutor, I have not encountered victims quite like those in church arson cases. The hurt they feel is different, as evidenced by the following excerpt from one recent victim’s impact statement:

“The greatest impact was the loss of a place where several members had received salvation [and] where loved ones had their funeral. One member told of seeing horses and buggies tied to a hitching rail [and] of lanterns going different directions after revival meeting. Also [there is] the loss of a place you are used to meeting friends and feeling the spirit of God, which we pray will be present in the new building. The loss of a landmark can never be replaced.”

In my experience, it is extremely important to make a special effort to reach out to the victims of a church arson as soon after the fire as possible. Have your law enforcement team provide all relevant victim information to your Victim-Witness Coordinator as soon as possible so that contact can be initiated. Contact the pastor of the church right away. Telephone contact is better than nothing, but there is no substitute for a face-to-face visit. Offer to meet with the congregation to explain what is happening as the investigation proceeds. In whatever form you can, keep information flowing to the victims to show both your concern for their loss and your vigilance in trying to do something about it. Obviously, consult with the victims as the law requires about the terms of any plea negotiation.

Making the extra effort to work with the victims in church arson cases is not only the right and sensitive thing to do, it will also benefit your investigation. Any thorough investigation will include questioning church members about, among other things, the possibility that a church member was involved. This questioning, if not explained beforehand, can be offensive to church members. Understandably, they do not want to confront the possibility that a member of the congregation may have burned the church. We know from experience, however, that this is one possibility that must be investigated. Reaching out to the victims early will give you the opportunity to forecast what will be done—and why. You will be amazed what a better reception your law enforcement team will get if you take advantage of this opportunity.



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## Investigate Thoroughly

There is no substitute for a conscientious and thorough investigation. Leave no stone unturned. First, keep an open mind and follow the investigative trail wherever it leads, even if the direction surprises you. Nationally, church arsonists run the gamut in terms of motivation. Obviously, there are terribly heinous cases in which the fire was set out of racial hatred. I have also seen cases where a husband may have set a fire at the church because he did not like the marital counseling his wife was getting from the pastor; where one family member set a fire because he did not agree with another family member that an addition should be put on the front of the church; and as related at the outset of this article, where young subjects set fires that were acts of pure vandalism without any racial motive. Follow the facts where they lead.

Second, particularly in light of the foregoing, make sure your investigation of a possible racial motivation is thorough. Determining that the fire was arson and identifying the subject who set the fire is not enough in these cases—we must also ask and answer the question, “Why?” By consent or pursuant to a search warrant, you may want to search the subject’s residence for signs of racial or religious motivation. You may find nothing—or you may find evidence of Satanic worship, as we did in the telephone threat case described at the outset. Have your investigative team interview family and friends of the subject to learn of any possible animus. You never know what you may learn. In the Caldwell County case, investigators spoke to jailmates of one defendant and learned that he admitted that he had been drinking and felt “ten-foot tall and bullet proof” when he set the fire. Find the subject’s motivation.

Third, do not forget to develop sufficient evidence to satisfy the commerce element of whatever statute you choose to charge. Review the case law in your own circuit, of course. In the Fourth Circuit, we have relied on such things as the church’s membership in national or regional religious organizations like the Southern Baptist Convention; use of accounts at a federally insured financial institution; purchase of electrical power or heating oil from interstate cooperatives; payment of telephone bills for interstate long distance telephone calls; contracts with insurance companies doing business in other states; and the church’s purchase of other items, such as hymnals, from companies in another state.

Finally, go to the scene of the fire yourself early in the investigation and see the devastation first hand. Photographs will not give you the “feel” of the crime like being there yourself. Flick some of the ashes with your foot and smell the burnt wood. If my own experience is any indication, such a visit will serve as a great motivator. It will also provide you with a great mental picture of the crime that will carry you through the investigation and into the negotiation and trial of the case.

## Conclusion

There is so much more to church arson cases, of course, but these are a few observations based on my experience. Church arsons are indeed devastating crimes. That is why the President has declared the investigation of fires and other attacks on houses of worship as a top priority of Federal law enforcement. If your experience is anything like my own, you will enjoy working these important cases and will find great satisfaction at the end of the day. ❖

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## Things I Learned from Those Who Play with Matches

*Assistant United States Attorney Fred Godwin*

*Western District of Tennessee*

People who burn things are different. People who burn places of worship are more standard deviations off the mean than any other criminal I have ever confronted. Not surprisingly, the investigation and prosecution of these crimes are as unique as the perpetrators.

In early 1996, the media, in the midst of a presidential election year, focused the public's attention on church arsons occurring across the nation. The nation feared that these arsons were racially motivated. Some were. Others defied categorization. The Western District of Tennessee suffered a high number of these crimes, and United States Attorney Veronica F. Coleman, Western District of Tennessee, assigned me the responsibility of handling those church arsons that occurred in our Western Division. The Civil Rights Division Attorney and the agents and officers I worked with on these cases had some successes, but many more frustrations. Here, briefly, are some of the things we learned. This is not meant to be a technical article but only reflections on some quite different cases.

As the Department of Justice has publicly recognized, multiple motivations exist for church burnings. Church arsons in our district fell into three categories. First, there were those that everyone feared, those motivated by the race or religion of those associated with the burned church. Second, some appeared to be motivated by money. This was the group with whom I felt most familiar, as they shared the motivation that moves the vast majority of the criminals I have prosecuted. Finally, and most inexplicably, there were those who fell into the category that we came to refer to as "mad at God."

Even our racially motivated crimes had unexpected facets. The Western District of Tennessee prosecuted the first case to be brought under the new (July 3, 1996) version of 18 U.S.C. § 247(c), racially motivated church arson. The defendant, who pled guilty, was a young African-American male and self-described Satan worshiper. He burned a church with a white congregation. He stated a desire to create racial chaos. He was identified by several African-American residents of a housing project near the church. The people who identified him also confirmed his racial motivation. At sentencing, the congregation of the burned church, which suffered approximately \$100,000 damage, through its minister, sought mercy for the defendant. I was placed in the position of arguing for a maximum amount of prison time, as a deterrent to would-be church burners, despite the wishes of the victims. Expect the unexpected.

Those motivated by money posed fewer problems because they were more familiar to us; however, even these were unique. The possibility of trying to convince a jury that someone burned a modest church that was in disrepair, so that a subsequent out-pouring of money, material, and labor from people of goodwill would result in a far better place of worship is not one most prosecutors would cherish. That someone would burn a failing but overinsured business is a concept jurors will accept. Excess of insurance was not a problem suffered by any burned church.

The most puzzling group, though, were those angry at their deity. Some of those "mad at God" cited a litany of complaints. Some of these complaints were substantial, others petty. None of the complaints rose to the level of a legally recognized disability. One individual prosecuted for several fires at churches, schools, and church schools claimed to have been sexually molested at a church school as a juvenile. Thus, his targets were not surprising. This district also prosecuted a priest who started a fire in the sanctuary of his own church during the height of the media attention to church fires. He cited, among other things, disappointment over the progress of his ministry as a reason. We often commented that

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some who fell into this category should be required to read the Book of Job everyday of their supervised release.

We came upon another phenomenon investigating church arsons. Those who claim they burned a church when evidence would not otherwise lead to that conclusion. We scratched our heads numerous times over these incidents. Obviously, ethical and legal considerations do not allow the prosecution of one who, without corroboration, claims responsibility for a crime no one believes they committed. We speculated that this phenomenon may occur because in some groups, one's status may be elevated by claiming responsibility.

I have over 21 years in law enforcement. Save child abuse and molestation cases, no crime I have ever investigated or prosecuted involves more demons dancing in the recesses of troubled minds than church arsons. We thought perpetrators would be easy-to-dislike bigots. What we found more frequently in this district were perpetrators whose personal demons dwarfed the blasphemy and illegality of burning a place of worship.

With regard to church arson investigations, we initially encountered a lack of coherency in the stream of paperwork. Various state and Federal law enforcement agencies have distinctly different systems for generating written documentation of investigations. The FBI, ATF, and other agencies working in our district agreed to modify their reporting format so that prosecutors could receive written reports in a single format. This helped a great deal.

Another investigative difficulty we encountered involved the lack of a lead agency. At the outset of each investigation, an agency should be designated as lead agency on that particular investigation. The lead agency could be alternated from one case to the next, or it can be assigned based on which agency would be better equipped to investigate the problems arising from a specific church burning. Some call for the forensic experience of the ATF in arsons. Others may need extensive information gathering capabilities from the FBI. It may be difficult for an individual AUSA to make such a designation. It helps to involve the United States Attorney.

The next issue which arose early in these investigations was Washington involvement. There is both good news and bad news in this area. The media scrutiny of these events created an intense desire for information in Washington. My contact person in the Civil Rights Division was Nelson Thayer. Nelson did an outstanding job of organizing the information regarding the fires for transmission up the chain of command. He kept us informed of Washington's concerns in specific cases. He served as a single contact for our concerns. Nelson and Karla Dobinski, also at Civil Rights, did a great job of obtaining the required authorizations for our 18 U.S.C. § 247(c) prosecution. A § 247 prosecution requires authorization of the Attorney General. Because agents arrested the culprit the day of the fire, we needed everything done within 30 days. Nelson and Karla greatly facilitated this process.

Duplicate requests for information from different people in the Department can become intrusive on the investigative process. On several occasions I received calls from individuals who apparently had been left out of the loop in Washington and wanted to know the investigative details of a given case. The Church Arson Task Force protocols were designed to avoid this problem. AUSAs in the field were to make reports to one person, their Civil Rights Division contact on the Church Arson Task Force. That individual relayed the information up the chain of command.

I cannot overstate the usefulness of having a single point of contact. When multiple cases are being simultaneously investigated, there is little time in the field for repeated written reports which

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contain little new information. The system of prosecutors in the field giving oral updates to a single contact at Civil Rights, who disseminated information upward, worked well.

Another pitfall a person prosecuting these crimes needs to be aware of is Congressional changes in the law. It is a good idea and practice to check penalties and statutory language on Westlaw before every indictment, especially after major legislative enactments such as there have been in the area of civil rights violations.

Fortunately, church arsons and media scrutiny have both declined. The most straightforward cases have been successfully prosecuted; it will take perseverance and luck to solve and prosecute those that remain. The agents and officers I have worked with have perseverance. All we need is luck. ❖

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## The Do's And Don'ts of Investigating Racially or Religiously Motivated Crimes Against Churches\*

*Assistant United States Attorney Angela F. Williams*

*Middle District of Florida; assigned to the NCATF*

*Research by: Paralegals Alexandra Curran and Terri Garven, NCATF*

### Introduction

In early 1996, law enforcement officials were confronted with an increase in the number of reported arsons on our nation's houses of worship, especially African-American churches in the South. The arsons at African-American churches raised significant fears about an increase in racially motivated crimes. Consequently, in every case, in order to determine the full extent of the Federal jurisdiction, prosecutors and investigators must make every attempt to identify the motive behind crimes committed against religious property.

In cases where a racial or religious motivation has been identified, prosecutors may charge a violation of 18 U.S.C. § 247, Damage to Religious Property. This section provides two avenues for prosecution of church cases, depending on whether the arson or vandalism is motivated by religion, 18 U.S.C. § 247(a), or race, 18 U.S.C. § 247(c).\*\* If two or more persons are involved in the commission of the crime, consider using 18 U.S.C. § 241, Conspiracy Against Rights.

To prove a violation of § 247(a)(1), the Government must show that the:

- defendant defaced, damaged, or destroyed religious real property;
- defendant acted intentionally;
- defendant acted as he/she did because of the religious character of the property; and
- offense is in or affects interstate commerce.

To prove a violation of § 247(a)(2), the Government must show that the:

- defendant used force or threat of force to obstruct a victim in the free exercise of the victim's religious beliefs,
- defendant acted intentionally, and
- offense is in or affects interstate commerce.

To prove a violation of § 247(c), the Government must show that the:

- defendant defaced, damaged, or destroyed religious real property;

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\* Although the references in this outline assume that a church is the victim, the recommendations are still applicable for investigating any hate crime, regardless of who the victim may be.

\*\* 18 U.S.C. § 247(c) was enacted on July 3, 1996.

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- defendant acted intentionally; and
  - defendant acted as he did because of the race, color, or ethnic characteristics of any individual associated with that religious property.

## **Do's and Don'ts of the Investigation**

### **Do's**

1. Recognize that the law allows broad and circumstantial evidence to be included as proof of motivation. During the investigative stage, include mention of all evidence in the reports, even if, standing alone, a specific item does not meet the standard of "beyond a reasonable doubt."
2. Look at the case in a geographical context, not as a single incident.
  - a. Have any racial or religious incidents happened in the area (not just church arsons)?
  - b. Has any hate literature been distributed in the area within the last year?
  - c. Contact local law enforcement for information on hate crime activity; identify local hate groups and determine whether rallies or other gatherings have taken place, including in nearby states.
3. When the suspect is of a different race from that of the church congregation, consider that there might be a racial motive, and seek evidence relevant to that possibility.
4. When the suspect is the same race as the church congregation, explore the existence of any religious motivation. Was the suspect's intent to deface or damage the church building because it was a church building? (18 U.S.C. § 247(a)(1)). Was the suspect's intent to stop people from being able to worship in that building? (18 U.S.C. § 247(a)(2)).
5. Develop a thorough picture of your suspect which will be sufficient to accurately assess the suspect's background and biases.
6. Determine whether there was any media publicity just before the church burned about arsons of African-American churches.

### **Don'ts**

1. Do not view these cases with skepticism.
2. Do not automatically rule out racial or religious motivation.

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- a. Just because a number of the suspect's closest friends and even co-workers claim that the suspect is not a racist, do not shut down the investigation. Look into motive.
  - b. The law does not require the Government to prove that the person is a racist, only that the defendant committed the crime because of race or religion.<sup>†</sup>
3. Do not let the suspect slide by with questionable excuses such as, "When I use the word 'n---r,' I don't mean it in a derogatory manner." "The pentagram and satanic messages that were spray painted on the walls were just something I did for fun. I really am not a Satanist." or "I was drunk." Each of these excuses can be probed to determine why the defendant really chose the hate-based behavior.
  4. Each local task force must speak with one voice. Avoid any media disclosure that will result in premature statements concerning any evidentiary matter or the progress of the investigation, or other public statements the local task force has not agreed upon in advance. Do not issue press releases that state there is no racial or religious motivation, the presence or absence of accelerants, a conspiracy is or is not apparent, and the likelihood of solving a case or developing leads. Develop a standard answer for the press; i.e., "It is too early in the investigation to make that determination."

## **Recommended Investigative Techniques—Delving into the Suspect's Background or Relevant Evidence**

### **Witness Interviews**

1. Interview family members, friends, and co-workers of the suspect. They can provide insight into the defendant's background, associates, and biases. While obtaining information about the suspect's interaction with other people, the agent can determine the sex, race, and age of the

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<sup>†</sup>Section 3A1.1 of the United States Sentencing Guidelines allows the court to give a three-level upward adjustment if "the finder of fact at trial or . . . the court at sentencing determines beyond a reasonable doubt that the defendant intentionally selected any victim or any property as the object of the offense of conviction because of the actual or perceived race, color, religion, national origin, ethnicity, gender, disability, or sexual orientation of any person." The 1997 amendment of § 3A1.1 broadened the application of the statute so that in cases of a guilty plea or nolo contendere, the court would have clear authority to apply the hate crime sentencing enhancement levels.

The Commentary to § 3A1.1(a) was also amended in Note 2. "For purposes of subsection (b), victim includes any person who is a victim of the offense of conviction and any conduct for which the defendant is accountable under 1.3 (Relevant Conduct)." The purpose of this amendment is to clarify the conflict that arose in various circuits as to the exact definition of "victim." Some circuits construed the term "victim" narrowly, to include only direct victims of the defendant's offense, while others construed the term "victim" more broadly, including victims of any relevant conduct. The amendment adopts the view that the sentencing court should "consider the defendant's relevant conduct when determining whether the vulnerable victim enhancement applies." U.S.S.G. § 3A1.1, Note 2.

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suspect's friends in a manner that does not raise the race or religion "red flag." Identify where the suspect spends his time.

2. School teachers and guidance counselors should be interviewed for juvenile and young adult suspects to identify the suspect's friends and whether he had any problem with a specific group of people.
3. Identify whether the suspect associated with a group of people that espouse a certain belief.
4. Contact local law enforcement to obtain information about the suspect, in addition to his criminal record.
5. Contact the local librarian to see if the defendant has an active account. Try to determine whether or not the defendant obtained literature which might evidence a religious or racial motive.
6. If applicable, obtain Internet account information relating to the defendant.

### **Observation of the Suspect**

1. Does the suspect have any tattoos?
2. What type of haircut does he have?
3. What statements or actions has he made to indicate a possible religious or racial motive?
4. Does the suspect wear any type of symbols?
5. Does the suspect carry any type of religious or racial pamphlets on his person?

### **Suspect(s) Interview**

1. Ask open-ended questions. The minute the suspect knows that the agent is looking for race or religious motive, he will deny, deny, deny. If asked directly at the outset, "Did you burn the church because it was an African-American church?" the suspect will be alerted and falsely deny the motivation.
2. During the initial interview, ask how the crime was committed and why the crime was committed. Often, after the first interview, the door is closed for additional interviews. Therefore, it is important to focus on motive as well as means.
3. Try to identify the motive by asking questions in the following areas:



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- a. Describe the planning that led to the church arson.
  - b. Whose idea was it to burn the church?
  - c. How did you decide which church to burn?
  - d. Elicit details of the conversation preceding the arson—who said what? What were the actual words used?
  - e. Why do you think Mr. X made that statement?
  - f. What route did you take to get to the church?
  - g. Did you pass any other churches along the way?
  - h. Have you ever passed the church before?
  - i. Have you ever seen people going into the church?
  - j. What do you know about the church?

### **Search Warrants/Consent to Search<sup>††</sup>**

Develop probable cause to search the suspect's home. You want to look at his home surroundings; what books, papers, or magazines he reads; and what information he downloads from the Internet onto his computer or disks.

### **Consensual Wires/Videotapes<sup>‡</sup>**

Once a cooperator is developed, use him to develop the motivation. For example, special agents in Chicago; Dallas; Elko, Georgia; and Maysville, North Carolina, have successfully used confidential informants in these cases. Not only were the informants wearing wires, but in some instances, there was a creative use of video and audio technology. In one instance, agents set up video cameras outside and were able to capture the entire conversation between the confidential informants and the suspect. In

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<sup>††</sup>Warrantless entries are acceptable when exigent circumstances exist, such as a burning building. However, after the fire has been extinguished, law enforcement should obtain written consent that allows unrestricted access. In *Michigan v. Tyler*, 436 U.S. 499, 98 S.Ct. 1942 (1978), the Supreme Court held that “[f]or police or firefighters to remain upon the defendant’s premises, once the fire has been suppressed, and after the expiration of a reasonable amount of time (during which the fire scene is examined for cause and origin and to prevent recurrence) requires consent, a search warrant, or an administrative warrant.”

<sup>‡</sup>18 U.S.C. § 2511(2)(c) is the Federal law enforcement exception which allows “a person acting under color of law to intercept a wire, oral, or electronic communication, where such person is a party to the communication or one of the parties to the communication has given prior consent to such interception.”

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another case, ATF agents set up a video camera inside a car. The video and audio equipment in the car captured the suspect discussing how he wired a destructive device in the church to blow it up. ❖

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## **Interstate Commerce Checklist**

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Several Federal criminal statutes apply to the arson or vandalism of religious property. The two primary statutes, 18 U.S.C. § 844(i) – Arson and 18 U.S.C. § 247 – Damage to Religious Property, require the Government to prove that the building was used in an activity in or affecting interstate commerce. Section 247 was enacted in 1988 to cover both damage to religious property and obstruction of persons in the free exercise of their religious beliefs by force or threat of force. However, the suspect's actions had to be religiously motivated. On July 3, 1996, the new law, which amended 18 U.S.C. § 247, provides Federal prosecutors with two avenues for prosecution of crimes against religious property, depending on whether the crime is motivated by religion, 18 U.S.C. § 247(a), or race, 18 U.S.C. § 247(c).

### **Proving a Section 247(a) Violation**

To prove a violation of § 247(a), the Government must show that the religious property was used in interstate commerce or in an activity affecting interstate commerce. However, the Government is not required to prove interstate nexus if the motivation was race. Recognize that the law varies in different circuits concerning sufficiency of proof for satisfying the interstate commerce nexus. The evidence necessary to establish that a church is involved in interstate commerce is evolving. Courts have viewed the extent to which churches are involved in interstate commerce as being somewhere between that of residences and commercial properties. The following areas of evidence have been used successfully to prove the interstate commerce element in church cases.

#### **Church Denominational Affiliation**

1. Determine whether the church is affiliated with a national denomination or connected with other churches through any type of organizational structure (church convention). For example, the Catholic Church is part of a diocese and part of a worldwide organization. Baptist churches may be part of the Southern Baptist Conference, the National Baptist Convention, the Missionary Baptist, etc.
2. If there is an affiliation, does the denomination or organization have a regional or national office?
3. What is the relationship between the local church and the national body?
4. Does the local church send representatives or the pastor to conventions or meetings held by the denominational structure or organization?
5. Does the local church receive materials from the denominational structure or organization?

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6. Does the local church send money that is ultimately received by a regional or national body? For example, all United Methodist churches belong to a state conference. All churches belonging to this conference must set aside approximately 16 percent of the monies collected by that congregation as apportionments. These apportionments are paid annually for the support of the denomination. Some of the money remains within the bounds of the conference. However, the majority of the funds are forwarded by the conference to the United Methodist Church's General Counsel on Finance and Administration in Evanston, Illinois.
  7. Is the pastor selected by the local church congregation or is the pastor assigned to the church by the denomination?

### **Church Financial Records**

1. Obtain copies of church financial ledgers
  - a. Did the church purchase property or materials from an out-of-state manufacturer or from an in-state manufacturer who distributes out-of-state?

Examples: Bibles, Sunday school books, vacation bible school materials, communion sacraments/Eucharist, choir robes, musical instruments, sound system, pews, etc.

Obtain copies of purchase orders/invoices/receipts for these items from either the church or the supplier.
  - b. Does the church receive money from people that live out of state?
  - c. Did the church pay for the pastor or any member to attend a conference/convention or training out of state?
  - d. Did the church send any money to the national organization?
  - e. Does the church support foreign missions?
  - f. Does the church provide scholarships for students to attend out-of-state schools?
2. Obtain names and account numbers of church bank accounts.

### **Church Property**

Did the church purchase any property that was manufactured out of state?\*

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\*The property can be purchased from a local vendor who can testify that his merchandise was manufactured out-of-state.

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Examples: Bibles, Sunday school materials, choir robes, musical instruments, office furniture, pews, etc.

### **Insurance Coverage**

1. Is the church insured by an insurance company whose underwriter is out-of-state?
2. If so, obtain information about the policy, dates in effect, etc.

### **Utilities**

1. Electricity: Does the church use electricity? Does the electric company have a power sharing grid which shows that it receives electricity across state lines?
2. Natural Gas: Does the church use natural gas? Contact the company to determine where the gas is shipped from.
3. Long Distance Telephone Service.
4. Obtain the business records for the church's accounts.

### **Key Witness Interviews**

1. The pastor and assistant pastors
2. Church financial secretary
3. Church treasurer
4. Person(s) with signature authority for church checks
5. Members of Trustee Board and Deacon Board

## **Survey of Circuit Case Law**

### **First Circuit**

*United States v. Disanto*, 86 F.3d 1238, 1244 (1st Cir. 1996): The court held that “[r]ental property is per se sufficiently connected to interstate commerce to confer Federal jurisdiction. . . .” 86 F.3d at 1244. Additional support for Federal jurisdiction was that the food supplies and natural gas provided to the restaurant were from outside sources.

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## Second Circuit

*United States v. Barton*, 647 F.2d 224 (2d Cir. 1981): According to the jury instructions, a nexus exists if the food and drink come from out of state, the oil and gas are from out of state, and the insurance is from out of state.

## Fourth Circuit

*United States v. Ramey*, 24 F.3d 602 (4th Cir. 1994): The court found an interstate nexus using an electric bill, because the electric company was connected to an interstate power grid.

*United States v. Grossman*, 608 F.2d 534 (4th Cir. 1979): The court found an interstate commerce nexus, based on damaged property manufactured out of state. Furthermore, the property was owned by a non-resident, insured by an out-of-state company, and advertised for sale to the general public.

## Fifth Circuit

*United States v. Corona*, 108 F.3d 565 (5th Cir. 1997): The defendants argued that because they did not intend to burn the commercial establishment that was next door to their private residence (which burned), the Federal arson statute did not apply. The defendants argued that there were no activities taking place in their private residence that would provide the required interstate nexus. The court agreed with the defendant's reasoning regarding the private home, but held that the unintentional, but wilful disregard for the likelihood of burning the commercial establishment next door, brought their activity within behavior proscribed by the Federal arson statute.

*United States v. Shively*, 927 F.2d 804 (5th Cir. 1991): A nexus was found because the defendant ran his business out of the house, and the defendant admitted that the business affected interstate commerce. Other evidence included mortgage payments from a company checking account and business records stored at the house.

*United States v. Patterson*, 792 F.2d 531 (5th Cir. 1986): The court determined that the unfinished condominium had a sufficient nexus to interstate commerce activities. The court found that if there were sufficient interstate connections, private homes and not just commercial buildings could come within the ambit of Federal jurisdiction. The court also stated that the Federal arson statute may [also] cover some churches as well as private homes.

*Feminist Women's Health Center, Inc. v. Mohammad*, 586 F.2d 530 (5th Cir. 1978): The court found that there was a substantial impact on interstate commerce where an abortion clinic purchased \$4,000 or \$5,000 worth of out-of-state supplies a year and received \$12,000 worth of yearly business from out-of-state.

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*United States v. Corbo*, 555 F.2d 1279 (5th Cir. 1977): Materials shipped to a bookstore came from out of state, therefore affected interstate commerce and created a sufficient nexus.

### **Sixth Circuit**

*United States v. Sherlin*, 67 F.3d 1028 (6th Cir. 1995): The college dormitory was a building that was covered by the Federal arson statute. The dormitory housed out-of-state students, advertised out of state, and purchased supplies from out-of-state sources.

### **Seventh Circuit**

*United States v. Lack*, 129 F.3d 403 (7th Cir. 1997): As a part of the defendant's scheme to defraud his employer, he opened a bank account in Wisconsin where he deposited illegally obtained checks. During the execution of his scheme he received 11 checks drawn on out-of-state banks. The court found that the defendant's banking activity, along with the bank's regular business activities, which included sending the deposited checks to the depository bank, was sufficient to meet the interstate nexus requirement of the statute.

*United States v. Hicks*, 106 F.3d 187 (7th Cir. 1997): The court held that the restaurant engaged in activities that provided an interstate nexus. The court cited the following in support of its holding: the restaurant's supply of natural gas and food came from out-of-state sources and the restaurant also held fire insurance policies from two different out-of-state companies.

*United States v. Martin*, 63 F.3d 1422 (7th Cir. 1995): Rental property was considered to be connected to interstate commerce, even though vacant and not hooked up to utilities.

*United States v. Russell*, 471 U.S. 858 (1985): Rental property substantially affects interstate commerce.

### **Eighth Circuit**

*United States v. Melina*, 101 F.3d 567 (8th Cir. 1996): Prior to trial, the defendant stipulated that the restaurant was heated with natural gas which was purchased from sources outside of the state. The court found that this stipulation also satisfied the interstate commerce element.

### **Ninth Circuit**

*United States v. Pappadopoulos*, 64 F.3d 522, 526-27 (9th Cir. 1995): Purchase of natural gas for a private residence wasn't enough to be a substantial affect on interstate commerce. The residence was considered "purely private." 64 F.3d at 526-27. The court ruled that you can't aggregate and use the out-of-state gas as nexus. This type of arson only has a "remote and indirect effect on interstate commerce." 64 F.3d at 526-27.

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*United States v. Gomez*, 87 F.3d 1095, 1094 (9th Cir. 1996): “Class of activities regulated substantially affects commerce in the aggregate.” 87 F.3d at 1094 (quoting *United States v. Russell*, 471 U.S. 858, 862 (1985)). Rental apartment building is a commercial establishment and one must look at the broader commercial market. 87 F.3d at 1094. However, the Ninth Circuit doesn’t use this aggregate approach for private residences. *Id.*

### **Tenth Circuit**

*United States v. Milton*, 966 F.Supp. 1038, 1041 (10th Cir. 1997): The court found that “at least some, if not most, churches would satisfy this [interstate] nexus requirement. Churches generally receive various supplies from out of state, as well as transfer funds across state lines. The court finds that the burning of a church can constitute the possible commission of a Federal offense pursuant to 18 U.S.C. § 844(i).” 966 F.Supp. at 1041. The court held that after Lopez “[n]umerous courts . . . have found that buildings which receive either utilities, food, or other supplies are covered by the Federal arson statute.” *Id.*

### **Eleventh Circuit**

*United States v. Utter*, 97 F.3d 509, 516 (11th Cir. 1996): The court held that the destruction of the restaurant provided the interstate nexus required in the Federal arson statute. In making this determination they found that the nature of a public restaurant is to serve “interstate travelers.” 97 F.3d at 516. The court also found that the restaurant served alcohol and used natural gas, items that both came from out of state. *Id.*

*United States v. McMasters et al.*, 90 F.3d 1394, 1399 (11th Cir. 1996): A bomb was detonated in the driveway of a private home that was being used as rental property. The court held “that the rental status of [the defendant’s] residence provided the necessary nexus to interstate commerce for Federal jurisdiction over the defendants’ conspiracy to commit arson.” 90 F.3d at 1399. The court also cited as further support for the interstate nexus requirement the fact that the rental property received its utilities from out of state. *Id.*

*United States v. Denalli*, 73 F.3d 328 (11th Cir. 1996): The court reversed a conviction pursuant to the Federal arson statute, holding that the evidence did not satisfy the jurisdictional element required. The court held that although the homeowner occasionally used his personal computer to accomplish tasks for his company, a company that engaged in international and interstate business, his home computer usage did not have a substantial effect on interstate commerce. ❖



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## Juvenile Prosecutions in Federal Court

*Bobbi Bernstein*

*Civil Rights Division, Criminal Section Attorney detailed to the NCATF*

The National Church Arson Task Force (NCATF) seeks to maximize the number of church fires solved and prosecuted, regardless of the motivation for the arson or the status of the defendant. The Department of Justice has neither the ability nor the desire to prosecute every church arson federally, but guarantees that all of these cases are investigated fully so that those cases which implicate Federal interests are accurately identified and pursued. Even in cases that initially appear unlikely to end up in Federal court, the NCATF aims to ensure that the investigation identifies a perpetrator and fully explores the motive for the crime.

Unfortunately, NCATF prosecutors have come across a misconception that threatens to hinder the goal of maximum resolution of these cases: local and Federal agents often believe that the Federal Government either cannot or will not prosecute juvenile defendants. In a number of cases, this misconception has led agents to completely abandon those investigations involving juvenile perpetrators. As Federal prosecutors, we need to get the word out that we are interested in prosecuting juveniles who commit racial or religious hate crimes, and that we need the benefit of extensive investigations in order to assess whether a juvenile defendant acted out of a prohibited animus. Particularly since young males (primarily Caucasian) are responsible for a high percentage of hate crimes, failure to investigate juvenile crimes fully will undoubtedly result in a large number of hate crimes remaining unrecognized.

Many—if not most—AUSAs will spend their entire careers without ever prosecuting a juvenile. For that reason, this article briefly outlines the process by which the Department can move against a juvenile, either through a delinquency adjudication or through prosecution as an adult.

When faced with a case involving a juvenile defendant, the reviewing attorney first must decide if the case is one that the Federal Government should pursue. This question requires the balancing of two often-competing interests of the legal system: the goal of providing a rehabilitative environment for young offenders and the duty to protect society from violent and dangerous individuals. The law presumes that, in most cases, juveniles should be tried in state court, and the Juvenile Delinquency Act (18 U.S.C. § 5031, et seq.) therefore requires a prosecutor to obtain special certification to proceed against a juvenile in Federal court. This certification procedure should not be confused with the process by which a juvenile is charged as an adult. To charge an underage defendant as an adult, a prosecutor must first get the case certified into Federal court and then must move to transfer the juvenile to adult status in accordance with the requirements of § 5032. These two procedures are separately discussed below.

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## Step 1: Certification of a Juvenile, as a Juvenile, in Federal Court

In every Federal adjudication against a juvenile defendant,<sup>\*</sup> the Attorney General (usually through the United States Attorney) must certify that at least one of the following three qualifying prongs has been satisfied:

1. The state has no jurisdiction or refuses to assume jurisdiction;
2. The state has no adequate programs to meet the needs of juveniles; or
3. The following three conditions are met:
  - a. The offense charged is a felony (or one of the offenses specifically enumerated in 18 U.S.C. § 5032),
  - b. The offense charged is a crime of violence,<sup>\*\*</sup> and
  - c. There is a substantial Federal interest in the case or the offense justifying Federal involvement.

The third prong provides the most common grounds for certification in church fire cases. A church arson is a felony (whether charged as a violation of 18 U.S.C. § 844 or as the underlying offense for 18 U.S.C. § 247); it involves a crime of violence as defined by the statute; and the President and Attorney General have declared the investigation and prosecution of church fires a national law enforcement priority.<sup>†</sup>

## Step 2: Transfer to Adult Status

Once the court has accepted the certification and found jurisdiction in Federal district court, the prosecution may then move to transfer the juvenile to adult status. In certain limited situations, the court

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<sup>\*</sup>The statute defines a juvenile as “a person who has not yet attained his eighteenth birthday, or for the purpose of proceedings and disposition under this chapter for an alleged act of juvenile delinquency, a person who has not attained his twenty-first birthday.” 18 U.S.C. § 5031. In other words, if the crime was committed while the suspect was 18 years old, he can be prosecuted in Federal court for that crime between his 18th and 21st birthdays.

<sup>\*\*</sup>A “crime of violence,” as defined in 18 U.S.C. § 16, includes either: (1) “an offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or (2) a felony that by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.” 18 U.S.C. § 16.

<sup>†</sup>The question has arisen as to what type of documentation, if any, a prosecutor should attach to the certification submitted to the court. In recent years, defendants in several circuits have asked the courts to overrule the factual determinations contained in the Attorney General’s certification, and at least one circuit has held that the court has the power to review the substance of the AG’s declaration that a case involves a “substantial Federal interest.” *United States v. Juvenile Male*, 86 F.3d 1314 (4th Cir. 1996). To the contrary, the Second and Eleventh Circuits have held that the district court lacks the power to review the substance of the certification at all. *United States v. Vancier*, 515 F.2d 1378, 1381 (2d Cir.), *cert. denied*, 423 U.S. 857 (1975); *United States v. C.G.*, 736 F.2d 1474, 1477-78 (11th Cir. 1984). However, even in the Fourth Circuit, where the certification is reviewable by the court, reference to the Department of Justice’s June 1996 Blue Sheet declaring church arsons a Federal priority should suffice as proof of the “substantial Federal interest” implicated by the case.

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is required to grant the prosecution's motion, but in most cases the decision lies within the court's discretion.

### **Mandatory Transfer**

Section 5032 calls for mandatory transfer in a limited number of cases involving repeat offenders. The statute specifies that the court shall grant a motion to transfer if the following four conditions exist:

1. The juvenile is over 16;
2. The offense is a felony;
3. The offense is a crime of violence (or one of many enumerated drug and firearms offenses); and
4. The juvenile has previously been found guilty of one of the aforementioned crimes.

### **Discretionary Transfer**

In most church arsons—at least in the experience of NCATF—the prosecution will move for a discretionary transfer rather than a mandatory one. If the requirements allowing for a mandatory transfer have not been met, the court may nevertheless grant a transfer if the following four-part test is satisfied:

1. The juvenile is over 15 (13 for certain enumerated offenses);
2. The offense is a felony;
3. The offense is a crime of violence; and
4. After a hearing, the court finds that the transfer is in the interest of justice.

The fourth prong of the discretionary transfer test requires that the court hold a hearing and consider evidence on the question of whether transfer would serve the “interest of justice.” The statute requires that the court, in making this determination, make findings in the record with respect to each of the following six factors:

1. The age and social background of the juvenile;
2. The nature of the alleged offense;
3. The extent and nature of the juvenile's prior delinquency record;
4. The juvenile's present intellectual development and psychological maturity;
5. The nature of past treatment efforts and the juvenile's response to such efforts; and
6. The availability of programs designed to treat the juvenile's behavioral problems.

A review of the Juvenile Delinquency Act reveals that the provision requiring the court to issue findings related to the six enumerated factors does not specify the manner in which each factor should affect the final balance. For example, a juvenile's advanced maturity and psychological development might indicate that he or she is psychologically like an adult and thus should be transferred; on the other hand, the same evidence might mitigate against transfer because the defendant's maturity suggests that he or she is capable of one day functioning as a contributing member of society.

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Because the juvenile justice system stresses rehabilitation over punishment, attorney arguments (and witness presentations) at the transfer hearing should focus on how each factor affects the defendant's prospects for rehabilitation. If the prosecution can show that there is little (or no) prospect for the defendant to mend his or her ways by age 21, the court should grant transfer of the juvenile to adult status "in the interest of justice." ❖

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## **Victim-Witness Response to Church Arsons**

*Kathi West*

*Victim/Witness Coordinator*

*Western District of Texas, Austin, Texas*

On December 7, 1996, a middle-aged man who lived near the Hopewell United Methodist Church in Centerville, Texas, and his friends burglarized the small community church for the third and last time. This man had been pawning the stolen church property to support his crack habit. Unfortunately, this time he decided to torch the church to destroy any evidence law enforcement might find to link him to the burglaries. Bureau of Alcohol, Tobacco and Firearms (ATF) Special Agent Jim Rose from the Waco field office, along with Texas Ranger Jim Huggins, worked the case diligently and brought to fruition the Federal arson prosecution.

Assistant United States Attorney Angela Williams, of the National Church Arson Task Force, prosecuted the case. Even though the Western District of Texas was not prosecuting the case, the ATF agent had requested victim-witness (VW) assistance from the United States Attorney's office (USAO) early in the case. Specifically, Agent Rose requested that the USAO's VW Coordinator be permitted to work as a liaison and contact person with the victim congregation for the purpose of answering case status questions, organizing verbal and written victim impact statements, accompanying victims to court, and assisting the congregation with its effort to locate rebuilding resources.

The Hopewell United Methodist Church had a congregation consisting of about 12 regular members who were extremely devoted to their church. Since the arson, two church members have worked tirelessly to rebuild the church. They have devoted all of their time to working with the insurance company, contractors, and potential funding sources. Immediately after the fire, various people and groups pledged to assist with different phases of the rebuilding, but very few actually followed through. The congregation's faith never faltered in the pursuit of their goal to rebuild their church.

### **The Role of a VW Coordinator in Church Arson Cases**

Congregations of burned churches have two primary concerns in the aftermath of an arson. First, the congregation's most important concern is to rebuild their house of worship to help reestablish a sense of normalcy in their community. Second, the church members are often concerned that the guilty parties be found and prosecuted. Naturally, church members are traumatized by the fact that someone in their community could harbor so much hatred toward their group that they would want to burn down their house of worship. The VW Coordinator can assist prosecutors in addressing these concerns by keeping the church contact person updated on the case status, disposition, victim rights, etc.

While there are many other functions of the VW Coordinator in a church arson case, one of the most important is to be a resource to victim congregations who are searching for sources to back the rebuilding of their church. The VW Coordinator may assist the congregation in the compilation of a packet to send to the potential funding sources so they can open a file on the church fire for funding consideration, if and when funds become available. This packet should include newspaper clippings about the fire, documentation showing what the insurance company has paid the church, and bid estimates for rebuilding the church. This estimate does not always include replacing furniture, office and kitchen

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equipment, organs, pews, hymnals, parking lots, security systems, landscaping, etc. Consider also the following suggestions:

- Encourage the congregation to periodically put an article in the local newspaper (with a photo of the rebuilding progress) thanking those who have contributed time, funds, and in-kind donations. After thanking the contributors, the article should attach a “wish list” of the items and labor still needed to complete the project.
- Encourage the congregation to write letters to other churches in their town asking them to help support the rebuilding effort.

By way of example, the Hopewell United Methodist Church members also wrote letters to other Texas Methodist churches in populated urban cities. Learning of their plight, several churches came through with substantial donations.

One of the best sources for rebuilding funds is the National Council of the Churches of Christ (NCCC)—Burned Church Project, at (212) 870-2251. The NCCC is the oldest and largest national ecumenical and interfaith organization in America. It is comprised of 33 national Protestant and Orthodox bodies. For churches to be considered for funding by the Project, the church must have been destroyed or damaged by fire that was the result of an act of hatred, religious and/or racial. The NCCC staff carefully assess the circumstances of each fire, each congregation’s profile and plans, and other resources available for rebuilding, including fire insurance payouts and other donations.

The NCCC has retained Habitat for Humanity International to create the Project’s Office in Murfreesboro, Tennessee, and to coordinate volunteers from all over the country to organize work camps to erect buildings. Other in-kind donations to the NCCC-Burned Churches Project have included lumber and wood products needed to rebuild 124 churches, and portable modular units for use as temporary offices or as places of worship while the rebuilding is underway. Other donations include Bibles, hymnals, pews, robes, and office equipment.

The Congress of National Black Churches, at (404) 582-0003, is another resource that can fund security alarms for the newly rebuilt churches. Additional funds may be requested from the Samaritan Project—Save the Churches, at (800) 226-5526.

## **Conclusion**

The AUSA or DOJ attorney working the case should be sure the USAO VW Coordinator in the district where the fire occurred is made aware of the arson and given the church contact names and phone numbers. It is important that the VW Coordinator get the referral as soon as possible because the congregation is usually quite traumatized and searching for answers, confused by the criminal justice system, and looking for resources to help rebuild as soon as possible. The USAO should advise the ATF offices in their district that the USAO VW Coordinator should be notified as soon as possible whenever a church arson occurs since the ATF is usually the first Federal agency to respond.

If the arson is prosecuted federally, the VW Coordinator can assist the prosecution by acting as a liaison between the church and the criminal justice system, organizing the verbal and/or written Victim Impact Statements, helping collect restitution figures, keeping the church leadership apprised of the case

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status, enrolling representatives of the church congregations in the Bureau of Prisons Notification Program, and providing the congregation with referrals to the programs and organizations that can assist with their rebuilding efforts. Even though church arson cases are very time consuming and labor intensive, they are very rewarding cases to work on and are well worth the effort. ❖

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## United States Attorneys' Hate Crimes Conference

*Brenda Baldwin-White*

*Executive Office for United States Attorneys*

Hate crimes are variously defined in Federal and state laws as acts (or threats) of force directed against people or property because of a particular characteristic of the victim, such as the victims' race, ethnicity, religion, gender, disability, or sexual orientation. Hate crimes are also acts of violence against the group of people who share the characteristic, and they often have devastating and lasting psychological and emotional effects. Hate crimes can exacerbate tensions between different groups in the community and with law enforcement.

The data on the level of hate crimes by public and private sources is incomplete, but does reflect a serious national problem that may be getting worse. Fewer than half of the states require data collection and, even where collection is mandatory, complete reporting is rare. Data is often under-reported because the most likely targets of hate crime are often the least likely to report incidents to the police because of fear of an insensitive or hostile response. Some jurisdictions may also be reticent to compile hate crime data because acknowledging such activity may exacerbate racial tensions in the community and embarrass the community.

Since 1997, a working group comprised of representatives from components across the Department of Justice—including the Executive Office for United States Attorneys and three United States Attorneys' offices—has examined five principal areas related to hate crime: legislative initiatives, data collection, community outreach, prosecution and enforcement, and coordination. The centerpiece of the Department's initiative on hate crimes is the formation of a working group in each United States Attorney's office which consists of Federal, state, and local law enforcement agencies, as well as local community leaders and educators. The goal of these working groups is to develop a comprehensive approach to hate crime. As the President explained at the recent White House Conference on Hate Crimes, "[s]tarting today, every United States Attorney in our country will establish or expand working groups to develop enforcement practices, and educate the public about hate crimes. This national hate crimes network will marshal the resources of Federal, state, and local law enforcement, community groups, educators, [and] antiviolenace advocates, to give us another powerful tool in the struggle against hate crimes." Transcript of the President's Remarks, White House Conference on Hate Crimes, November 10, 1997.

The local working groups were asked to address the problem of hate crime with four goals in mind:

- to draw on the resources of Federal, state, and local law enforcement agencies, as well as community leaders, in a coordinated fashion to ensure a complete and effective response to hate crime cases;
- to use a community outreach approach to help ensure effective reporting, investigation, prosecution and, ultimately, prevention of hate crime, as well as to heal wounds in the community caused by hate crimes;



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- to aggressively expand hate crime education and training to include programs geared toward training Federal, state, and local law enforcement officers in hate crime enforcement, classroom-based education programs targeted at young people, and others; and
  - to improve data collection so that the scope of the hate crime problem can be understood and resources effectively deployed to combat it.

To kick off the hate crime initiative, the Department, under the leadership of United States Attorney Zachary W. Carter, Eastern District of New York, and the Executive Office for United States Attorneys, hosted a conference for the hate crime coordinators from each of the districts. The conference took place on February 18, 1998, and focused on enforcement strategies, available Department resources, and other issues that will be important as the initiative is implemented. It also brought to the attention of the local hate crime working groups information and lessons learned from the President's November 10th conference, as well as the experience of the United States Attorneys' offices, which currently have model hate crime working groups in place.

## Statistics

**Church Burnings:** The National Church Arson Task Force reported over 500 arsons, bombings, and attempted bombings at houses of worship since January 1995.

**Private Statistics:** Several private organizations also track hate crimes. The statistics reported by these groups varies from the statistics reported by the FBI because many incidents are not reported to the police, and several of the organizations report verbal harassment as hate crime incidents even though they are not considered crimes in most states. Outlined below are highlights of some of the more recent surveys by private organizations.

**Cross Burnings:** Klanwatch documented 51 cases of cross-burnings in the United States in 1996, up from 29 in 1995. The targets of the incidents included black families, interracial couples, and homosexuals/lesbians.

**Anti-Semitic Incidents:** The Anti-Defamation League reported 1,722 incidents in 1996, a decline for the second straight year. The data showed a rise in vandalism and a decline in acts of harassment.

**Sexual Orientation:** The National Coalition of Anti-Violence Programs cited 2,529 incidents of hate crime based on sexual orientation in 1996, up 134 incidents from 1995.

**Asian Americans:** The National Asian Pacific American Legal Consortium reported 534 incidents against Asian Pacific Americans in 1996, an increase of 17 percent from 1995.

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## Offenders

According to a 1993 Northeastern University study, almost 58 percent of offenders committed their crimes for the “thrill.” Offenders were predominantly white teenage males; 91 percent did not know the person they were attacking; and a majority of these attacks were spontaneous, and not the result of a planned incident. A second category, called “reactive” hate crimes, accounted for 41 percent of incidents. Offenders perceive themselves as protecting their neighborhood, workplace, or college campus from outsiders. Most such offenders were white males, often acting alone, who did not know their victims. The third category involves offenses committed by offenders who perceive themselves to be on a mission. These offenders are likely to join a hate group and commit violent acts.

## Characteristics of Hate Crimes

A review of hate crimes data reveals certain characteristics:

- Hate crimes involve a higher level of assaults against persons than crimes generally. Forty-five to fifty-five percent of bias crimes are personal assaults, whereas only ten percent of overall crimes are assaults.
- Hate crimes are more violent than crimes generally. Assaults causing physical injury occur in 74 percent of bias crimes, versus 29 percent of non-bias crimes. Hospitalization is required in 30 percent of bias crimes versus only 7 percent of non-bias crimes.
- Attacks are often preceded by a series of confrontations and incidents that escalate in severity.
- Hate crimes are more likely than other criminal activity to be committed by groups of perpetrators.
- Most crimes against persons are committed by someone the victim knows; hate crimes, however, are more likely to be committed by strangers.
- The majority of hate crimes are committed by young males against persons of other races. It is estimated that about one-half of all hate crimes are committed by persons younger than 20.
- Only a small minority of offenders are members of a hate group, but the involvement of hate groups is still significant. Members of such groups have been involved in some of the most violent crimes. Moreover, the encouragement of violence against minority groups can provide the justification for hate crimes.

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## Hate Crime Statutes in the States

Roughly 40 states have enacted laws that address various aspects of bias-motivated violence and intimidation. These laws generally fall into three categories: prohibiting specified intimidating actions, prohibiting behavior motivated by certain types of bias, and enhancing penalties for criminal acts motivated by certain types of bias.

## Federal Investigations and Prosecutions

There are several Federal statutes providing jurisdiction to prosecute hate crimes. The Federal criminal civil rights statutes provide for prosecution of conspiracies to interfere with federally protected rights (18 U.S.C. § 241); the use of force or threat of force to injure or intimidate someone in the enjoyment of specific rights (such as voting, employment, education, use of public facilities) (18 U.S.C. § 245);\* and criminal housing interference (42 U.S.C. § 3631). In addition, the Church Arson Protection Act of 1996 amended the criminal civil rights statutes to facilitate prosecutions of racially motivated arsons and other acts of desecration against houses of worship (18 U.S.C. § 247). Federal prosecutors can also seek enhanced penalties against persons who commit Federal criminal offenses motivated by bias. ❖

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\*Senators Ted Kennedy and Arlene Specter recently introduced legislation amending § 245 to include gender and eliminate the federally protected activity requirement.

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## **“An Ounce of Prevention Is Worth a Pound of Cure”**

The saying that “an ounce of prevention is worth a pound of cure” became most applicable for churches in 1996 because of a dramatic increase in church fires. As a result, on June 19, 1996, President Clinton announced the National Arson Prevention Initiative (NAPI). Federal agencies were directed to coordinate available resources for arson prevention. These resources are now available to individuals and communities throughout the country. Below are excerpts from The Federal Emergency Management Agency’s (FEMA) National Arson Prevention Initiative Fact Sheet and *The National Church Arson Task Force Church Threat Assessment Guide*:

### **National Arson Prevention Clearinghouse**

A Clearinghouse for arson prevention resources has been established. By calling the Clearinghouse, you can obtain arson prevention publications and information about available grants, training, and public education campaigns. Through the Clearinghouse, you can request free on-site fire safety inspections of houses of worship or arson prevention workshops for your community.

**Call the Clearinghouse toll free at: (888) 603-3100.**

### **Federal Resources for Arson Prevention**

#### **Arson Training Grants:**

FEMA has released \$774,000 in funding to states for the purpose of enhancing the capability of state and local governments to train fire, law enforcement, and other personnel in arson prevention, investigation, and prosecution. Nationwide, all states will receive some portion of the funding.

#### **HUD Crime Prevention Funding:**

The Department of Housing and Urban Development (HUD) has authorized the use of two existing program funding sources to help prevent arson or other crimes directed against churches. Public Housing Assistance funds may be used for training residents and staff in the development of place-based crime prevention strategies. Community Development Block Grants (CDBG) funding can be also used to help prevent crime or arson directed against churches.

#### **Problem-Solving Partnership Grants:**

The Department of Justice’s existing Problem-Solving Partnership Grants, administered by the Community Oriented Policing Services (COPS), can provide assistance to state and local governments for use in connection with church and arson prevention. These grants are intended to promote cooperative efforts between law enforcement and community institutions to solve local crime issues. Up to \$40 million in grants will be awarded.

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### **Church Security and Protection:**

President Clinton has made available \$6 million from the Department of Justice through the Bureau of Justice Assistance to 1,291 communities in 13 targeted southern states. These funds can be used to support efforts to enhance law enforcement, intensify surveillance of churches and other religious properties, hire additional employees, or reimburse overtime expenses. Applications have been mailed to eligible local governments.

### ***Church Threat Assessment Guide***

The *Church Threat Assessment Guide* is a quick guide to assessing church vulnerability to arson and bombing attacks. It also provides valuable information on the steps that a church can take to prevent fires.

#### **AREAS OF VULNERABILITY**

- Churches located in isolated or rural areas.
- Churches left unattended for extended periods of time.
- Churches with unsecured doors and/or uncovered windows leave weak points for forced entry by intruders.
- The absence of an adequate burglar alarm system provides a determined criminal with additional time for criminal activity.
- Heavy shrubs and outside vegetation, and/or the absence of sufficient perimeter lighting, provides security for criminals, not victims.

#### **AFFIRMATIVE ACTIONS TO REDUCE VULNERABILITY**

- Install perimeter floodlights outside the building.
- Install an adequate fire and burglar alarm system.
- Solid wood or sheet metal faced doors provide extra integrity that a hollow core wooden door cannot. Metal security grates or screens that cover the entire door and frame also provide added security. A steel door frame that properly fits the door is as important as the construction of the door.
- Install burglar-proof bars on screens and large roof vents to prohibit access through them.

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- Heavy shrubs and vines should be kept low to the ground to reduce their potential to conceal criminals or incendiary or explosive devices. Large trees or vines should be removed to prevent criminals from climbing to upper windows, large vents, or onto the roof.
  - Participate in formal Neighborhood Watch type programs organized by local authorities.
  - Meet with your neighbors and security personnel assigned to your neighboring businesses. Explain your situation and ask them to keep an eye on your church.
  - Educate personnel on methods to deal with telephoned threats and conducting bomb searches. Develop a written protocol for threats and keep it posted.
  - Document any strange or threatening phone calls. Talk with the phone company about tracing your lines or installing Caller ID to identify your callers if you are receiving threats.
  - If a suspicious package or letter is received, immediately call your local police or sheriff's department. Do not touch or manipulate the object in any manner. Be alert for letters or packages that display an excessive amount of postage, contain grease stains, or have unfamiliar or missing return addresses.
  - Keep the handling of threatening correspondence, once identified, to an absolute minimum. Place envelopes, letters, or the packages in clear plastic bags and do not compress the bag. Store them in another location until they can be turned over to law enforcement.
  - On a rotating basis, have a member of the congregation, who is at least 18 years of age, check on the church daily. Evaluate the need for a security guard for nights and weekends.
  - Obtain as detailed a physical description as possible of any suspicious person(s) noticed in or around your facility, including a description of vehicles and license numbers.
  - Duplicate all documents, computer disks, and records that are stored at the church. Complete a comprehensive inventory of all furniture and equipment, to include serial numbers and value. Evaluate insurance coverage frequently.
  - Remove all potential fire hazards from the church grounds, such as trash, lawn clippings, and debris. Store all combustible materials in a locked room, shed, etc.

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## CAUTIONARY NOTES

- DO NOT allow watch persons to sleep inside the church.
- The carrying of firearms, night sticks, mace, or any type of weapon while conducting surveillance or participating in church watch programs should not be permitted.
- DO NOT approach a suspicious person, challenge anyone, or otherwise place yourself in jeopardy. If a suspicious situation is found, report it to the nearest law enforcement agency. Take detailed, legible notes of the activity, which may be used later for court or police purposes.
- DO NOT pursue vehicle or suspects.
- Remember, you do not possess police powers and you are liable as an individual for civil and criminal charges should you exceed your authority. The key is to OBSERVE and REPORT.
- DO NOT allow anyone to check on the church after having consumed alcohol. Do not allow anyone to stand watch and consume alcohol.
- If possible, conduct the watch patrol in pairs.
- Conduct watches in a random fashion and not in an observable pattern. ❖

### NATIONAL CHURCH ARSON TASK FORCE RESOURCE PHONE NUMBERS

ATF National Arson Hotline (Operational 24 Hours a Day)	Toll Free (888) ATF-FIRE
ATF National Bomb Hotline (Operational 24 Hours a Day)	Toll Free (888) ATF-BOMB
Clearinghouse for Arson Prevention Resources (8:00 – 5:00 Eastern Time, M-F)	Toll Free (888) 603-3100
National Church Arson Task Force	(202) 633-1130

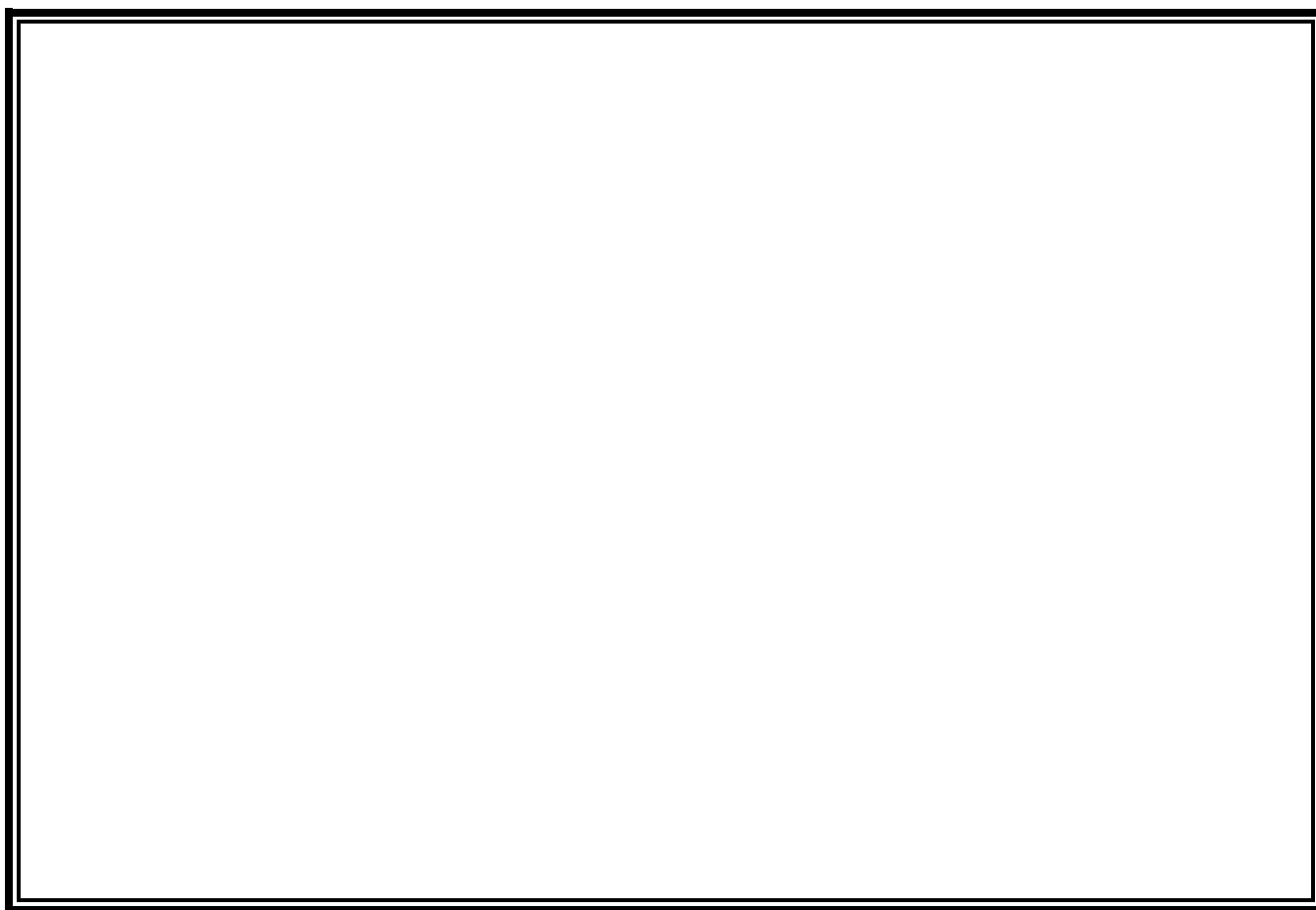
### **GIS and the National Church Arson Task Force**

*Lee Jarmon, Diane Thompson, and Abe Weinstein, NCATF Paralegals and Gerald Hamilton and Deserene Worsley, GIS Unit*

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The National Church Arson Task Force (NCATF) is in the process of adapting Geographic Information Systems (GIS) computer technology as a tool for solving previously unsolved crimes against houses of worship. GIS allows task force members to visually identify trends and patterns in tabular data using maps. NCATF uses this system to map the locations of houses of worship that are tracked in its database. The next step will be to identify houses of worship that are in close geographic proximity to one another where crimes, both solved and unsolved, have occurred. In this context, a “solved” crime is one where an arrest has been made, while an “unsolved” crime is one where an arrest has not yet been made. It is possible that unsolved crimes against houses of worship may be related to solved crimes that have been committed at nearby religious institutions. Using GIS technology is a preliminary step in determining relatedness between crimes that have occurred near one another, including those that are located just across a jurisdictional boundary, such as a county or state border. ❖





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## Attorney General Highlights

### Acting Pardon Attorney

On November 16, 1997, Deputy Attorney General Eric Holder appointed Roger C. Adams, Senior Counsel in the Criminal Division, to be the Acting Pardon Attorney. ❖

### AG Announces 1998 AG Advisory Committee

On December 18, 1997, the Attorney General announced the new members of her 1998 Advisory Committee. The following new members will serve two-year terms beginning January 1, 1998:

**Mark T. Calloway**, Western District of North Carolina  
**Robert P. Crouch, Jr.**, Western District of Virginia  
**Stephen L. Hill, Jr.**, Western District of Missouri  
**Faith S. Hochberg**, District of New Jersey  
**Eddie J. Jordan, Jr.**, Eastern District of Louisiana  
**Katrina C. Pflaumer**, Western District of Washington  
**Thomas E. Scott**, Southern District of Florida  
**Emily M. Sweeney**, Northern District of Ohio

The remaining members are:

**Donald K. Stern**, District of Massachusetts, Chair  
**Karen Schreier**, District of South Dakota, Vice Chair  
**Alan Bersin**, Southern District of California  
**Zachary W. Carter**, Eastern District of New York  
**Veronica Coleman**, Western District of Tennessee  
**Harry D. Dixon, Jr.**, Southern District of Georgia  
**Paul M. Gagnon**, District of New Hampshire  
**Kristine Olson**, District of Oregon  
**William D. Wilmoth**, Northern District of West Virginia  
**Charles R. Wilson**, Middle District of Florida

The outgoing members are:

**J. Michael Bradford**, Eastern District of Texas  
**Peg Lautenschlager**, Western District of Wisconsin  
**Steve Lewis**, Northern District of Oklahoma  
**Don Nickerson**, Southern District of Iowa  
**Shirah Neiman**, Deputy United States Attorney, Southern District of New York, ad hoc member  
**Terry Derden**, First Assistant United States Attorney, District of Idaho, ad hoc member

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Attorney General Reno has extended until June 30, 1998, the terms of United States Attorney Donald K. Stern, District of Massachusetts, Chair of her Advisory Committee, and United States Attorney Karen Schreier, District of South Dakota, Vice Chair. Both terms were due to expire on December 31, 1997. In addition, the Attorney General has appointed Brian A. Jackson (First Assistant United States Attorney, Middle District of Louisiana) and Janet Craig (Civil Chief, Southern District of Texas) to serve one-year terms as ad hoc members on the 1998 AGAC. United States Attorney Wilma A. Lewis, District of Columbia, will serve as an ex officio member of the AGAC. Finally, Chris Droney, United States Attorney, District of Connecticut, was elevated to the Federal Bench on September 22, 1997, and Janet Napolitano, United States Attorney, District of Arizona, ex officio member, resigned November 1, 1997.



## **Attorney General's Advisory Committee Meetings**

The Attorney General's Advisory Committee (AGAC) met in Washington, D.C., on November 18-19, 1997. The main issues discussed were the budget update, including the increases provided in the FY 98 appropriations; Government Performance Results Act; illegal alien exploitation; health care fraud; Internet gambling; Anti-terrorism and Effective Death Penalty Act; IRS Restructuring and Reform Act; National Drug Strategy; and legislative updates.

At the December 16-17, 1997, meeting, items discussed included the United States Attorneys' Conference, which is scheduled to be held in Memphis, Tennessee, the week of May 3, 1998; the creation of the Criminal Chiefs Working Group; a one-day Hate Crimes Conference tentatively scheduled for February; the Hyde Amendment; a National Drug Strategy; the Electronic Brief Bank; and child exploitation and obscenity. ❖

## **Meeting of the Eight Ministers**

On December 10, 1997, Attorney General Janet Reno hosted the Ministers and Deputy Ministers from the Justice and Interior Ministries from seven nations—the United Kingdom, Germany, Japan, Italy, Canada, France, and Russia. The Group of Seven Industrialized Nations (the G-7) was created by the Heads of State and Government of these countries at the Summit of Versailles about 20 years ago. Originally focusing on economic issues, the group began discussing international political matters as well. After the collapse of communism, Russia was invited to participate in part of the annual Summit meeting of the G-7, so it became known as the G-7/P-8 (with the "P" standing for political). This year, the term "The Eight" has been used to describe the group.

At the December 10 meeting, The Eight reached agreements to boost their ability to combat international high-tech and computer-related crime and to better assist each other in a broad range of law enforcement matters. To keep up with cybercrime, The Eight agreed to:

- Ensure that a sufficient number of trained and equipped law enforcement personnel are allocated to the task of fighting high-tech crime.
- Establish high-tech crime contacts that will be available on a 24-hour basis.

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- Develop faster ways to trace attacks coming through computer networks.
  - Devote the same commitment of time and resources (as the victim-nation would) to cases where extradition of a criminal is not possible because of his/her nationality.
  - Take steps to preserve important information on computer networks.
  - Review their legal systems to ensure they appropriately criminalize computer wrongdoing and that they facilitate the investigation of high-tech crimes.
  - Work jointly and cooperatively with industry to devise new solutions making it easier to detect, prevent, and punish computer crimes.

They also agreed to intensify their efforts to use new technologies, such as video links, which will enable them to obtain testimony from witnesses located thousands of miles away. ❖

## **Nicaraguan Adjustment and Central American Relief Act**

On November 19, 1997, President Clinton signed into law legislation that provides various forms of immigration benefits and relief from deportation to certain Central Americans, Cubans, and nationals of former Soviet bloc countries. The benefits will apply to individuals in all stages of the immigration proceedings. The Department will develop the forms and procedures required for implementing this legislation during the next several months. In the interim, INS will not deport any individual who may be eligible for benefits under this new legislation. However, individuals who have certain criminal convictions or are otherwise ineligible will still be subject to deportation. ❖

## **Targeting Cash Proceeds of Money Laundering**

On October 30, 1997, Attorney General Janet Reno sent a memo to United States Attorneys concerning targeting and ultimately dismantling the money laundering capabilities of organized criminals. Attached to her memo was a June 10, 1997, memo from Acting Assistant Attorney General John C. Keeney and Deputy Assistant Attorney General Mary Lee Warren, Criminal Division, concerning the May 29-30, 1997, Nationwide Anti-Money Laundering Financial Sector Strategy Conference. ❖

## **Hate Crimes Web Site**

On November 14, 1997, as part of President Clinton's Conference on Hate Crimes, Attorney General Janet Reno announced a new web site for children devoted to issues of prejudice and discrimination. The site is located at <http://www.usdoj.gov> through the KidsPage link. The web page, "Hateful Acts Hurt Kids," is interactive. Children are presented with scenarios and asked how they would respond. They learn possible consequences of each response and are given questions to stimulate further thought.

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At the conference, President Clinton announced initiatives to improve hate crime reporting, to establish local working groups on hate crimes based out of United States Attorneys' offices, and to develop and distribute a model law enforcement training curriculum. ❖

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# **United States Attorneys' Offices/Executive Office for United States Attorneys**

## **Honors and Awards**

### **1997 Stratospheric Ozone Award**

Representatives from the United States Attorney's office for the Southern District of Texas, U.S. Customs Service, Environmental Protection Agency, Federal Bureau of Investigation, and Internal Revenue Service, were presented the EPA's 1997 Stratospheric Ozone Award. The agencies, which made up "Operation Frio Tejas," were recognized for their aggressive investigation and prosecution of illegal Freon smuggling at the International Stratospheric Ozone Protection Conference in Baltimore, Maryland, on November 13, 1997. "Frio Tejas" is the South Texas initiative formed in the effort to curtail the dramatic increase in the illegal trafficking resulting from the ban on domestic production and importation of chlorofluorocarbons. ❖

## **Significant Issues/Events**

### **Criminal and Civil**

#### **Violence Against Women Act Updates**

On October 20, 1997, then-EOUSA Director Carol DiBattiste sent a memo to United States Attorneys and Violence Against Women Act (VAWA) Points of Contact containing significant VAWA case updates and supplemental materials. Attached to the memo is the second installment of documents provided to assist in the evaluation and prosecution of VAWA cases and in the establishment of state and local partnerships. ❖

#### **Implementation of the Hate Crime Initiative**

On December 23, 1997, EOUSA Director Donna A. Bucella forwarded to United States Attorneys and First Assistant United States Attorneys a memo from the Attorney General regarding the implementation of the Hate Crime Initiative. The Department hosted a conference on February 18, 1998, in Washington, D.C., to kick off the Hate Crime Initiative. The conference was for Hate Crime Coordinators from each district and focused on establishing hate crime working groups, enforcement strategies, resources available within the Department, and other issues relating to hate crimes. ❖

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## **Activities to Enhance Environmental Protection and Awareness**

On December 18, 1997, EOUSA forwarded to United States Attorneys a memo from Assistant Attorney General Lois J. Schiffer, Environment and Natural Resources Division, regarding activities to enhance environmental protection and awareness. The Attorney General's Advisory Committee and USAOs in the Mississippi River basin met to discuss a number of activities that individual USAOs might undertake to enhance environmental protection and awareness in their area. The activities discussed included Environmental Task Forces, communication with environmental agencies, community meetings, Weed and Seed program, pleas and settlements, Earth Day, American Heritage Rivers Initiative, and environmental awareness. These activities are summarized in Ms. Schiffer's memo. ❖

## **Community Restitution Provision**

On November 7, 1997, then-EOUSA Director Carol DiBattiste sent a memo via Email to United States Attorneys, First Assistant United States Attorneys, and Criminal Chiefs concerning the use of the Community Restitution Provision of the Mandatory Victims Restitution Act of 1996. An amendment to the Sentencing Guidelines, effective November 1, 1997, allows community restitution in certain drug cases pursuant to 18 U.S.C. § 3663(c). EOUSA is working with the Criminal Division to provide USAOs with criteria for requesting community restitution and guidelines for determining the amount. Community restitution will only apply to offenses completed on or after November 1, 1997. ❖

## **Administrative and Office Operations**

### **1998 United States Attorneys' National Conference**

The Attorney General's Advisory Committee has approved the location and dates of the next United States Attorneys' National Conference. The conference will be held in Memphis, Tennessee, during the week of May 3-10, 1998. ❖

### **Electronic Brief Bank**

On December 16, 1997, EOUSA Director Donna A. Bucella sent a via Email to United States Attorneys, Criminal Chiefs, and Civil Chiefs in all circuits other than the Ninth concerning the establishment of an electronic brief bank in each circuit. The brief bank will contain copies of appellate briefs prepared by AUSAs and Department attorneys who are experts in their fields. In the latter grouping are tort monographs prepared by the Torts Branch, Title VII briefs prepared by the Federal Programs Branch, briefs filed by the Department's Civil and Criminal Appellate Sections, and briefs prepared by attorneys in the Environment and Natural Resources Division. By accessing these briefs as a starting point in research, AUSAs will avoid duplicating work already done, and will begin with high caliber briefs. The briefs will be accessible through a private directory established by Westlaw. A pilot project was established in the Ninth Circuit, and over the next few months EOUSA will refine the program. It is

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anticipated that all circuits will be on line by the end of next year. The procedures and protocol that should be established in each USAO are described in Ms. Bucella's memo. ❖

### **Ethical Standards of Conduct and Outside Activities**

On October 17, 1997, then-EOUSA Director Carol DiBattiste sent to Employees of the United States Attorneys' offices and EOUSA an addendum to her April 30, 1997, memo on the same subject. This addendum describes three additional outside activities for which employees may receive up to 40 hours of administrative leave per calendar year. The three activities are (1) uncompensated law-related teaching, (2) law-related pro bono activities, and (3) certain community services. This addendum was approved by the AGAC on October 15, 1997. ❖

### **Civil Service Retirement Benefits Guidelines**

On December 23, 1997, EOUSA Director Donna A. Bucella forwarded to United States Attorneys and Administrative Officers, the "Office of Personnel Management Guidelines for Settlement of Federal Personnel Actions Involving Civil Service Retirement Benefits." The U.S. Office of Personnel Management (OPM) has the statutory responsibility for management of the two Federal employee retirement programs: the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS). OPM frequently receives inquiries from agencies about settling lawsuits or administrative appeals by increasing retirement benefits under these programs. Often, these proposed settlements establish eligibility to an annuity, or increase the amount of an annuity for which a litigant is eligible, as the sole or primary financial basis of the settlement. Such proposed settlements are inconsistent with civil service law, impose unacceptable costs on the Civil Service Retirement and Disability Fund, or fail to provide for implementing applicable procedural requirements. In early 1994, OPM began working with DOJ on this matter. In July 1994, a summary of some of the issues arising out of these settlement concerns was published in the *USAB*. A more comprehensive version of that guidance was made available to the General Counsels of Federal departments and agencies in the Fall of 1994. OPM continues to update the guidance in an effort to provide assistance to agencies, USAOs, and DOJ. **Appendix A** is a copy of OPM's recently updated guidelines. The Guidelines are on the Internet at <http://www.opm.gov/legal/html/guidelns.htm>. ❖

### **Official and Personal Use of the Internet and Intranet**

On December 29, 1997, EOUSA Director Donna A. Bucella sent a memo via Email to United States Attorneys, First Assistant United States Attorneys, Administrative Officers, and EOUSA Supervisors, for distribution to all employees, defining internet and intranet issues. The five principles discussed are (1) summary of important internet issues, (2) guidelines on official use of the internet, (3) guidelines on personal use of the internet, (4) summary of intranet issues, and (5) guidelines on use of the intranet. ❖

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## District of Oregon Relocates

The District of Oregon office has moved. The new address is:

Mark O. Hatfield U.S. Courthouse  
1000 SW Third Ave, Suite 600  
Portland, OR 97204-2902

Their telephone and facsimile numbers did not change. ❖

## Northern District of Texas

Mail for the Administrative Section for the Northern District of Texas located in Fort Worth should be sent to:

801 Cherry Street, Suite 1700  
Fort Worth, TX 76102-6897 ❖

## Domestic Violence Resource Book

The District of Oregon has compiled a resource book to assist in the prosecution of domestic violence cases. The book describes state and Federal legislation; identifies available resources, legal challenges, and technical support; and lists local organizations that may be of assistance. For a copy of the book, contact Pam Heimuller or Diane Peterson in the District of Oregon. ❖

## EOUSA Staff Update

On September 22, 1997, AUSA Brenda Baldwin White, District of Columbia, began a detail with the Counsel to the Director's Staff. Ms. White is working with the AGAC on Civil Rights matters, the Hate Crimes Initiative, and White Collar Crime, and she is EOUSA's liaison to the Church Arson Task Force.

On October 1, 1997, AUSA Jennifer Bolen, Northern District of Texas, began a detail with OLE's Publications Section. Ms. Bolen will work on the *United States Attorneys' Manual*, the new *Federal Criminal Practice Manual*, and the *United States Attorneys' Bulletin*.

On October 22, 1997, AUSA William Sullivan, District of Columbia, began a detail with the Legal Counsel's office. Mr. Sullivan replaced AUSA Rob Pitman, Western District of Texas, who returned to his district on November 30, 1997.

On October 31, 1997, AUSA Jacqueline Chooljian, Central District of California, completed her detail at OLE and returned to her district.

On November 8, 1997, Bernie Delia, EOUSA's Counsel to the Director, transferred to the Deputy Attorney General's office. Mr. Delia will serve as the Department's Liaison to the White House.

On November 8, 1997, Tracey Lankler, a staff attorney with the Legal Counsel's office, departed EOUSA and joined the USAO for the District of Columbia as an AUSA.



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On November 9, 1997, AUSA Kelly Shackelford, District of South Carolina, joined the OLE staff as Assistant Director for Instructor Training and Course Development.

On December 7, 1997, EOUSA Director Carol DiBattiste became Deputy United States Attorney for the Southern District of Florida. EOUSA's Principal Deputy Director, Donna Bucella, became Director. Deputy Director for Legal Programs, Iden Martyn, became the Principal Deputy Director, and Legal Programs' Associate Director Lynne Solien became Deputy Director for that staff.

Acting Assistant Director Bonnie Gay, EOUSA's Freedom of Information and Privacy Staff, (FOIA) became the permanent Assistant Director for FOIA. ❖

## Office of Legal Education

### USABook Corner

The Publications Unit of the Office of Legal Education distributes a computer program called USABook. USABook is easy to use, and allows you to search and read a library of books, forms, and monographs. These materials can be saved as WordPerfect files so that they can be edited, dropped into court documents, and printed.

The USABook library contains a number of publications of special interest to Department professionals working with victims and witnesses. These publications include:

- The September 1997 edition of *Child Victims and Witnesses: A Handbook for Criminal Justice Professionals*, by Kathryn Turman and Jane Dinsmore.
- *The Attorney General's Victim/Witness Guidelines*.
- A collection of victim/witness forms to assist with victim/witness notification prepared by the LECC/Victim/Witness Office.
- The complete text of the *United States Attorneys' Manual*.

The USABook program was distributed to all United States Attorneys' offices and all Department of Justice components and divisions. You can access the USABook program by double clicking on the USABook icon, which is usually located in your "Legal Research" windows program group. If you have any difficulty locating this useful program on your computer, you should consult your system manager.

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### OLE Projected Courses

OLE Director Michael W. Bailie is pleased to announce projected course offerings for March through June 1998 for the Attorney General's Advocacy Institute (AGAI) and the Legal Education Institute (LEI). On April 23-24, 1998, OLE will host its first course in Columbia, South Carolina, at the

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new National Advocacy Center. This course is an orientation session for First Assistant United States Attorneys.

## **AGAI**

AGAI provides legal education programs to Assistant United States Attorneys (AUSAs) and attorneys assigned to DOJ Divisions. The courses listed are tentative; however, OLE Emails course announcements to all United States Attorneys' offices (USAOs) and DOJ Divisions approximately eight weeks prior to courses.

## **LEI**

LEI provides legal education programs to Executive Branch attorneys (except AUSAs), paralegals, and support personnel. LEI also offers courses designed specifically for paralegal and support personnel from USAOs. OLE funds all costs for paralegals and support staff personnel from USAOs who attend LEI courses. Please note that OLE does not fund travel or per diem costs for students who attend LEI courses. Approximately eight weeks prior to each course, OLE Emails course announcements to all USAOs and DOJ Divisions requesting nominations. Nominations are to be returned to OLE via Fax, and then student selections are made.

Other LEI courses offered for Executive Branch attorneys (except AUSAs), paralegals, and support personnel are officially announced via quarterly mailings to Federal departments, agencies, and USAOs. Nomination forms are available in your Administrative Office or attached as **Appendix B**. They must be received by OLE at least 30 days prior to the commencement of each course. Notice of acceptance or non-selection will be mailed to the address typed in the address box on the nomination form approximately three weeks prior to the course.

## **Videotape Lending Library**

A list of videotapes offered through OLE and instructions for obtaining them are attached as **Appendix C**. ❖

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**Office of Legal Education Contact Information**

Address: Bicentennial Building, Room 7600  
600 E Street, NW  
Washington, DC 20530-0001

Telephone: (202) 616-6700  
FAX: (202) 616-6476

Director ..... Michael W. Bailie  
Deputy Director ..... Kent Cassibry, FAUSA, SDTX  
Assistant Director (AGAI-Criminal) ..... Carolyn Adams, AUSA, NDGA  
Assistant Director (AGAI-Criminal) ..... Stewart Robinson, AUSA, NDTX  
Assistant Director (AGAI-Civil and Appellate) ..... Patricia Kerwin, AUSA, MDFL  
Assistant Director (AGAI-Asset Forfeiture and  
Financial Litigation) ..... Johnny Griffin, AUSA, EDCA  
Assistant Director (LEI) ..... Donna Preston  
Assistant Director (LEI) ..... Elizabeth Woodcock, AUSA, Maine  
Assistant Director (LEI-Paralegal and Support) ..... Nancy McWhorter  
Assistant Director (Publications) ..... David Marshall Nissman, AUSA, Virgin Islands

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## AGAI Courses

Date	Course	Participants
<b>March</b>		
5-6	Professional Responsibility Officers' Conference	Professional Responsibility Officers
10-12	Asset Forfeiture for Criminal Prosecutors	AUSAs, DOJ Attorneys
10-13	Advanced Criminal Practice	AUSAs, DOJ Attorneys
16-18	Advanced Bankruptcy	AUSAs, DOJ Attorneys
17-19	Civil Civil Rights	AUSAs, DOJ Attorneys
17-20	United States Attorneys' Office Management	USAO Management Teams
24-25	Enhanced Negotiations/Mediation	AUSAs
24-26	Financial Litigation Team Training	USAO Fin. Lit. Personnel
<b>April</b>		
1-3	Archeological Resource Protection	AUSAs, DOJ Attorneys
6-10	Civil Federal Practice	AUSAs, DOJ Attorneys
7-9	Basic Affirmative Civil Enforcement	AUSAs, DOJ Attorneys
14-17	Public Corruption Symposium	AUSAs, DOJ Attorneys
14-17	Civil Health Care Fraud	AUSAs, DOJ Attorneys
21-22	Enhanced Negotiations/Mediation Advanced	AUSAs, DOJ Attorneys
23-24	First Assistant United States Attorneys' National Advocacy Center Orientation	FAUSAs
27-5/1	White Collar Crime	AUSAs, DOJ Attorneys
28-5/1	Appellate Chiefs' Conference	Appellate Chiefs
<b>May</b>		
4-7	Environmental Crimes	AUSAs, DOJ Attorneys
4-7	Child Exploitation	AUSAs, DOJ Attorneys
5-8	Immigration Litigation	AUSAs, DOJ Attorneys
12-14	Asset Forfeiture—10th Circuit Component	AUSAs, DOJ Attorneys
12-14	Medical Malpractice	AUSAs, DOJ Attorneys
12-15	Advanced Criminal Trial Advocacy	AUSAs, DOJ Attorneys
18-21	United States Attorneys' Office Management	USAO Management Teams
19-22	Advanced Employment Discrimination	AUSAs, DOJ Attorneys
27-28	Enhanced Negotiations/Mediation Advanced	AUSAs, DOJ Attorneys
<b>June</b>		
1-5	Appellate Advocacy	AUSAs, DOJ Attorneys
8-11	Computer Crimes	AUSAs, DOJ Attorneys
9-11	Advanced Affirmative Civil Enforcement	AUSAs, DOJ Attorneys
16-19	Information Technology in Litigation and Investigation	AUSAs, DOJ Attorneys
22-26	Advanced Civil Trial Advocacy	AUSAs, DOJ Attorneys
23-25	Asset Forfeiture/Advanced Money Laundering	AUSAs, DOJ Attorneys
29-7/1	Enhanced Negotiations/Mediation Advanced	AUSAs, DOJ Attorneys
29-7/2	Criminal Tax	AUSAs, DOJ Attorneys

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### LEI Courses

<b>Date</b>	<b>Course</b>	<b>Participants</b>
<b>March</b>		
10-11	Evidence	Agency Attorneys
16-20	Legal Research and Writing—DOJ	USAO and DOJ Support Staff
24-25	FOIA for Attorneys and Access Professionals	Agency Attorneys and Support Staff
26	Privacy Act	Agency Attorneys and Support Staff
27	Legal Writing	Agency Attorneys, Paralegals
30-4/3	Support Staff Supervisors	USAO Support Staff Management
31-4/1	National Environmental Policy Act	Agency Attorneys
<b>April</b>		
6-10	Experienced Legal Secretary—DOJ	DOJ Legal Secretaries
8-10	Law of Federal Employment	Agency Attorneys
21-23	Negotiation Skills	Agency Attorneys
22	Ethics for Litigators	Agency Attorneys
27-5/1	Basic Paralegal—DOJ	USAO/DOJ Paralegals
<b>May</b>		
5-6	Federal Administrative Process	Agency Attorneys
11-15	Experienced Legal Secretary—Agency	Agency Legal Secretaries
19	Appellate Skills	Agency Attorneys
20	Advanced Freedom of Information Act	Agency Attorneys
21	Administrative Forum	Agency Attorneys
<b>June</b>		
2-4	Discovery	Agency Attorneys
5	Ethics and Professional Conduct	Agency Attorneys
8-12	Legal Support—Agency	Agency Support Staff
9-10	Agency Civil Practice	Agency Attorneys
12	Legal Writing	Agency Attorneys
16-18	Attorney Supervisors	Agency Attorneys
22-26	Criminal Paralegal	Agency Paralegals
23-24	Freedom of Information Act for Attorneys and Access Professionals	Agency Attorneys
25	Privacy Act	Agency Attorneys

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## Computer Tips

### WordPerfect 6.1 Tips and Techniques—Tables

Judy Johnson

EOUSA's Financial Litigation Staff

I use tables a great deal every day, and I love WordPerfect 6.1 Tables. They have thought of almost everything. No more confusing menus and, with the mouse, you can manipulate columns easily.

To begin, let's create a simple table. If you have the Power Bar on your screen and you know how many columns and rows you want, you can click and drag to create a table with as many columns and rows as you wish. Most people, however, use the Tool Bar to create a new table (**Table, Create** or **F12**). This calls up a menu that allows you to select the numbers of rows and columns you will need. You can also click on **Table Expert** from here to receive another menu that lists many options for formatting your table. This will save you a great deal of formatting time and shows you many different options for setting up a table. If, for example, you select **Header Fill Title** from the available styles, it shades the top row, formats every cell for centering, and also shades the first column.

Even if you don't use the **Table Expert** initially to set up a table (I don't always know what my final product will look like when I first set up a table), formatting is a snap. With your cursor on the cell you want to format, right click on the table to obtain a table formatting menu (you can also enter the **Table** menu from the Tool Bar). To change the way a cell looks (to center text, for example), choose **Format**. From here you can bold text, italicize it (plus many other options), and change the justification (center, left, right, etc.). I always right justify numbers to align the decimal points (or you can choose **Decimal Align**). If you click on **Row**, you can designate a Header Row to ensure your heading row appears on every page. If you click on **Table**, you can choose the table position. I like to center mine (the default is anchor it to the left margin) or, if it's a very large table (or I've changed the margins after starting my table), I can choose **Full** to have the table span the full width of the left and right margins.

You can also enter the **Number Type** menu to change the way numbers are displayed. WP's default is **General** to allow for the entry of text and numbers. If you're working with dollars, choose **Currency** or **Accounting** to ensure dollar signs are inserted automatically (all you have to type are the numbers and the decimal, if applicable). If you choose **Accounting**, it will even display negative numbers in parenthesis for you. If you're working with regular numbers, you can choose **Comma** to have thousands and up separated automatically with commas. This keeps you from accidentally entering a period where a comma should go. You can choose **Percentage** to have them formatted correctly. You can also select the number of decimal places from here.

Then you can enter the **Lines/Fill** menu to change the way the lines are displayed in your table. You can also choose fill styles from here.

What I like most about working in tables, however, is the ability to use the mouse to change the sizes of columns. Put your cursor on a column until it changes to a straight line with left and right arrows and then just move it to the left or right until it's the exact size you want. You can even move the cursor beyond the left and right margin this way.

Another feature I really like is that you can move rows around. Block and select rows and when you select your scissors from the Tool Bar (or do **Ctrl-X**), you get a menu asking you if you want to cut the rows or just the text contained therein. If you select **Row**, you can then paste them in another part of

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the table. The secret here is to have the shading solid for the entire area of the row or column to make sure you're not just selecting the text.

Adding rows or columns is also very easy (either with the right mouse button or from the **Table** menu). The really nice feature here is that you can choose to insert the row or column before or after your cursor.

You delete rows or columns the same way by right clicking the mouse or clicking on **Table** and selecting **Delete**. You can delete an entire table by putting your cursor just before the table definition code (through Reveal Codes—ALT-F3) and pressing delete. When you do that, you can choose to delete the table or just its contents. You can delete the structure and leave the text. You can delete formulas only. OR, you can convert the data in your table to a MERGE DATA FILE! You couldn't do that with 5.1!

One of the things I haven't discussed in this article is FORMULAS, because I think it would be difficult to do in an article. If you have any questions or problems working with formulas, I would be glad to help you but your best bet is probably a manual. The *Que* book I talked about in the September issue is an excellent resource.

Finally, in my last issue of *WordPerfect for Windows* magazine, I learned that Corel is introducing WordPerfect 8! So learn your new program (WP 6.1) because you never know when they are going to upgrade us again! ❖

## **WordPerfect Shortcuts and Special Features**

*Vernon Grimes*

*EOUSA's Office Automation Staff*

WordPerfect is designed to make your workload as easy as possible, but you have to learn how the shortcuts and special features in the program work in order to take advantage of them.

The toolbar (a.k.a. button bar) can be edited to meet your needs. Put your mouse pointer on the toolbar and click the right mouse button, then select edit.

The Toolbar Editor – Power Bar window opens. It allows you to place a button on the toolbar in different ways:

1. “Activate a Feature” creates a button that activates features that are found on the WP Menu Bar (e.g., the Bold button on the Toolbar is a feature button). To create your own buttons, select one from the Feature Categories, then one from Features, and then click on Add Button and OK.
2. “Play a Keyboard Script” allows you to type in text (a script). Select this feature and then type the text into the box provided. Click on Add Button and then OK. When you want the text in your documents, just click on the new button you have created.
3. “Launch a program” allows you to create a button to start a program. Select “Launch a Program,” and then click on Select File. Then select the executable file for the program and click on OK.

4. "Play a Macro" allows you to store a macro for later use. Click on Add a Macro, then select a macro, (i.e., pagexofy.wcm), and then click on OK. When you click on this new button, you can insert page numbers in this format:

"Page x of y," "x" being the current page and "y" being the total number of pages in your document.

To contact Vernon Grimes by Email or Internet, please use "**GroupWiser**" as the subject and address the Email to aex11.po.vgrimes or vernon.grimes@usdoj.gov. ❖





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## **DOJ Highlights**

### **Appointments**

#### **Acting United States Trustee**

On October 6, 1997, the Executive Office for United States Trustees announced that William T. Neary, United States Trustee for the Northern and Eastern Districts of Texas, was appointed to serve as Acting United States Trustee for the Central District of California, known as Region 16, which has United States Trustee offices in Los Angeles, Santa Ana, and Santa Barbara, California. Mr. Neary replaces Marcy J.K. Tiffany, who resigned September 19 to become general counsel for Hughes Electronics Corp. ❖

#### **Associate Attorney General**

On December 1, 1997, Raymond C. Fisher was appointed Associate Attorney General. He replaces John C. Dwyer who served as Acting Associate Attorney General since John R. Schmidt left on January 20, 1997. ❖

### **Antitrust Division**

#### **New Chief of Staff**

On December 16, 1997, the Department announced the appointment of Adam Golodner as Chief of Staff and Counselor to Joel I. Klein, Assistant Attorney General (AAG), Antitrust Division. Mr. Golodner replaces Michael Powell who joined the Federal Communications Commission in October as a Commissioner. As Chief of Staff, Mr. Golodner will counsel the AAG on policy matters, help the Division enforce the antitrust laws in the new economy, and work to ensure the Division operates effectively. ❖

### **Civil Rights Division**

#### **New Acting Assistant Attorney General**

On December 15, 1997, Bill Lan Lee was appointed Acting Assistant Attorney General. He replaces Isabelle Katz Pinzler who served as Acting Assistant Attorney General since Deval L. Patrick left on January 20, 1997. ❖

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## **Child Care Centers and the Americans with Disabilities Act**

In October 1997, the Disability Rights Section of the Civil Rights Division issued a memo entitled, "Commonly Asked Questions About Child Care Centers and the Americans with Disabilities Act." The memo addresses 30 questions including questions concerning general information, personal services, tax provisions, the Department's enforcement efforts, and additional resources. ❖

## **Criminal Division**

### **Front Office Restructuring**

On October 27, 1997, Acting Assistant Attorney General John C. Keeney sent a memo to Criminal Division Personnel announcing the temporary restructuring of the Criminal Division as a result of Robert Litt's move to the Deputy Attorney General's Office, and Marshall Jarrett's move to the Criminal Division. Frances Fragos Townsend has become Acting Deputy Assistant Attorney General and will be in charge of International Affairs, OPDAT, and ICITAP. The supervisory responsibilities of the Deputies in the Criminal Division are:

Jack Keeney: Public Integrity, Organized Crime and Racketeering, Enforcement Operations,  
Appellate, Policy and Legislation

Mark Richard: Terrorism and Violent Crime, Internal Security, Campaign Finance Task Force

Mary Lee Warren: Narcotics and Dangerous Drugs, Asset Forfeiture and Money Laundering,  
OCDEF

Kevin DiGregory: Child Exploitation and Obscenity, Computer Crime and Intellectual Property,  
Fraud ❖

## **Office of Justice Programs**

### **Creating a Web of Safety for Victims of Domestic Violence**

*Assistant Attorney General Laurie Robinson*

Since the passage of the Violence Against Women Act (VAWA) in 1994, a number of new legislative provisions and grant programs are providing victims of domestic violence with more protection and places to turn for help than ever before. As the primary source for grants to prevent violence against women and help victims, as well as the home of the Violence Against Women Office (VAWO), led by Bonnie Campbell, the Office of Justice Programs (OJP) is deeply involved in the Department's efforts to protect victims of domestic violence.

Through the Full Faith and Credit provision of the VAWA (Title IV of the Violent Crime Control and Law Enforcement Act of 1994), states and tribal governments are working together to establish an unprecedented level of cross-jurisdictional coordination in enforcing protection orders. Domestic violence

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victims can now cross state lines to flee their abusers, or for any other reason, without fearing that their abusers will be out of reach of protection orders.

The Full Faith and Credit provision requires that civil protection orders issued by one state or tribal government be accorded full faith and credit by the courts of another state or tribe, and be enforced as if they were the order of the court of the second state or tribe, as long as the issuing court met certain due process requirements. Specifically, the issuing court must have subject matter and personal jurisdiction, and the respondent must have received reasonable notice and an opportunity to be heard.

This provision presents a number of new challenges to state judicial and law enforcement personnel: judges must craft protection orders so that they comply with the Full Faith and Credit provision, and police officers, faced for the first time with an extrajurisdictional protection order, must know how to respond. In October 1997, VAWO, the Violence Against Women Grants Office (VAWGO), and the Office for Victims of Crime (OVC) joined with court organizations and domestic violence advocacy groups to sponsor a four-day conference entitled “Full Faith and Credit: A Passport to Safety.” Over 450 participants representing state, tribal, and territorial governments learned about full faith and credit and designed regional plans to deal with the complex issues generated by this provision. The conference highlighted the need for collaboration and partnerships among the judiciary, victims, prosecutors, advocates, law enforcement, court administrators, and health care professionals in carrying out the Full Faith and Credit provision of VAWA.

United States Attorneys play an integral role in the web of support that we are working to establish for victims of domestic violence across the country, particularly on tribal lands. United States Attorneys are the sole prosecutors of domestic violence cases involving a felony on tribal lands, and the only authority in tribal areas with the power to impose sentences exceeding one year. In addition, United States Attorneys are responsible for prosecuting all domestic violence offenses—felony or misdemeanor—committed by non-natives on tribal lands. In such cases, it is particularly important that United States Attorneys understand the sometimes complicated relationships among tribal, state, and Federal authorities in enforcing the Full Faith and Credit provision, as well as other domestic violence statutes.

Federal domestic violence laws under the VAWA and the Gun Control Act provide another level of protection to victims of domestic violence. United States Attorneys, as the enforcers of these laws, can join resources with state officials to craft protection orders that are valid under state and Federal law—strengthening enforcement on both levels.

OJP and EOUSA are working to educate United States Attorneys and staff on their role in helping these victims and working with their state counterparts to ensure that Federal and state efforts complement each other. Through an OVC grant, EOUSA has created the position of VAWA Specialist to provide training and technical assistance on domestic violence issues to prosecutors and victim/witness coordinators in every United States Attorney’s office. Margaret Groban, a former AUSA based in the United States Attorney’s office in Maine, holds this position. Two training sessions for United States Attorney staff were conducted last year, and follow-up training is expected. In addition, Ms. Groban provides regular updates to all offices on changes in the law and recent cases. OJP also provides regular updates to United States Attorneys and staff, helping to make the most of Federal and state laws to help victims of domestic violence. Ms. Groban may be reached at (207) 780-3293, extension 55.

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For more information on OJP's work in this area, please contact the Department of Justice Response Center at (800) 421-6770, or visit OJP's home page, <http://www.ojp.usdoj.gov>. From OJP's home page, you can link to individual pages of both VAWO and VAWGO. ❖

## **\$400 Million to Build Prisons and Promote Truth-in-Sentencing**

On October 17, 1997, forty-nine states, the District of Columbia, and three territories received over \$400 million from the Department to help them build or expand correctional facilities for adult and juvenile violent offenders. This includes over \$235 million provided under the Truth-in-Sentencing Incentive Program to those states where sentencing reform has been enacted to ensure that violent offenders serve longer portions of their sentences. Included in the October 17, 1997, announcement are three charts which reflect how much money each state and territory received in Fiscal Years 1996 and 1997 and under which parts of the program. ❖

## **Drug Courts**

On November 24, 1997, the Department reported that the number of drug courts tripled during 1997. Drug courts provide intensive judicial supervision, treatment, and graduated sanctions for non-violent offenders to help them break the cycle of addiction and crime. The report entitled "1997 Drug Court Survey Report" was prepared by the American University's Drug Court Clearinghouse and includes data related to drug courts, implementation issues, and comments from over 250 law enforcement and criminal justice professionals involved with drug courts. It is a four-volume set which provides a comparative profile of 93 of the 204 existing drug courts nationwide. To obtain a copy of the report, contact the National Criminal Justice Reference Service, (800) 851-3420. For additional information about the drug court program or OJP and its programs, visit OJP's web site at <http://www.ojp.usdoj.gov>. ❖

## **1.4 Million Stalking Victims Annually**

On November 13, 1997, the Department, in its second annual report to Congress on domestic violence and stalking, reported that 1,006,970 American women are stalked annually and one out of every 12 women is stalked during her lifetime. The report, "Domestic Violence and Stalking," also shows that an estimated 370,992 men are stalked annually. The report includes preliminary findings from the first national stalking survey conducted by the Center for Policy Research and jointly sponsored by the Department's National Institute of Justice and the Centers for Disease Control. It provides information about the incidence of stalking, including who is being stalked and by whom, how many people have been stalked, and the characteristics of stalking victims. It also contains information on stalking-related programs, strategies and protocols for law enforcement and prosecutors to better investigate and prosecute stalking cases, the Department's response to stalking and domestic violence, data collection, evaluation of stalking-related programs, and stalking in cyberspace.

Also announced on November 13, 1997, was the availability of "Stalking: Prosecutors Convict and Restrict," a report developed by the American Prosecutors Research Institute (APRI) funded by the Department's Bureau of Justice Assistance. It describes initiatives used by local prosecutors to

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successfully prosecute, convict, and sentence stalkers. It contains tips for prosecutors who work with stalking victims, information on Federal and state anti-stalking statutes, and other strategies to implement anti-stalking programs. The APRI report offers prosecutors a guide to using the Interstate Stalking Punishment and Prevention Act of 1996 and provides a summary of case law from states in which issues involving stalking legislation have arisen.

To obtain either report or the NIJ Bulletin, contact the National Criminal Justice Reference Service, (800) 851-3420, or visit <http://www.ncjrs.org> on the Internet. For more information about Violence Against Women or Bureau of Justice Assistance programs, visit their respective home pages, <http://www.ojp.usdoj.gov/vawo> or <http://www.ojp.usdoj.gov/bja>, or the Office of Justice Programs web page, <http://www.ojp.usdoj.gov>. ❖

## **Bureau of Justice Assistance**

### **Bulletin**

The Bureau of Justice Assistance (BJA) bulletin, “The BJA Firearms Trafficking Program: Demonstrating Effective Strategies to Control Violent Crime,” is available. For a copy, contact the BJA Clearinghouse, (800) 688-4252, or write, P.O. Box 6000, Rockville, MD 20849-6000. ❖

## **Bureau of Justice Statistics**

### **Violent Crimes and Property Crimes Decrease**

On November 15, 1997, the Bureau of Justice Statistics (BJS) announced that the nation’s violent crime rate fell 10 percent last year and was 16 percent lower than in 1993. Property crime was down more than 8 percent last year and was 17 percent lower than in 1993. Certain personal crimes were down dramatically during the 1993-1996 period: rape, including attempted rape, fell 44 percent; other sexual assaults dropped 37 percent; and aggravated assault declined 27 percent. Some property crimes also fell substantially during the 1993-1996 period: household burglary, down 19 percent; motor vehicle theft, down 29 percent; and personal theft (pocket picking, purse snatching, and attempted purse snatching), down 35 percent. The data is from the Bureau’s National Crime Victimization Survey, which interviews approximately 100,000 people 12 years old and older in a representative sample of the national population and measures both crimes reported to police and those that are unreported. To obtain copies of the report, “Criminal Victimization 1996—Changes 1995-96 with Trends 1993-96” (NCJ-165812), use one of the following: BJS’s home page on the Internet, <http://www.ojp.usdoj.gov/bjs/>; their fax-on-demand system, (301) 519-5550; call them at (800) 732-3277; or fax your order for mail delivery to (410) 792-4358. ❖

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## Publication

The Bureau of Justice Statistics (BJS) publication, "Prisoner Petitions in Federal Courts, 1980-1996," is available. For a copy, contact the BJS Clearinghouse, (800) 732-3277, or write, P.O. Box 179, Dept. BJS-236, Annapolis Junction, MD 20701-0179. ❖

## Special Report

The BJS Special Report, "Characteristics of Adults on Probation, 1995," is available. For a copy, contact the BJS Clearinghouse, (800) 732-3277, or write, P.O. Box 179, Dept. BJS-236, Annapolis Junction, MD 20701-0179. ❖

## National Institute of Justice

### Three Strikes Law

On October 8, 1997, the National Institute of Justice (NIJ) stated that a review of the "three strikes and you're out" laws passed in 24 states between 1993 and 1995 found that the impact of these laws varied considerably from state to state. The study assesses each state's provisions on repeat offender sentencing and specifically evaluates three-strikes legislation in Washington and California, the first states to enact such laws, for impact on local courts, jails, and state prisons. In Los Angeles County, which has the largest number of two-and three-strikes inmates, the number of two-and three-strikes cases filed has been declining. In Washington, 40 to 75 persons were expected to fall under three-strikes provisions each year, but 85 three-strikes offenders have been admitted to the Washington State prison system since the law took effect in December 1993. This early evidence suggests that three-strikes laws may have minimal impact on their respective criminal justice systems, possibly because these laws primarily apply to violent repeat offenders who already received lengthy sentences under pre-existing statutes.

No common definitions exist for the terms "three," "strike," or "out" across the states. Generally, a strike offense is a violent felony, but some states add other charges, such as the sale of drugs or other drug-related offenses.

While three strikes are required to be "out" in 20 states, 7 also have enhanced sentences for two strikes. In South Carolina, a person convicted for the second time of a strike offense is sentenced to life without parole—there is no third strike. Sanctions imposed for accumulated strikes also differ among states. Mandatory life sentences without the possibility of parole are imposed when a person is "out" in 12 states, while parole is possible in three states, but only after serving a 25- to 40-year prison term.

All three-strikes laws examined in this study authorize or mandate longer periods of incarceration for those convicted of violent crimes. All of the three-strikes statutes increased the period of incarceration for violent crime, expanded the number of crimes included in the violent crime category, or did both. With the exception of Kansas, all states reviewed in the study had enacted provisions for enhanced penalties for repeat offenders before they passed three-strikes legislation.

For copies of the report, contact the National Criminal Justice Reference Service (NCJRS), (800) 851-3420. ❖

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## **Publication**

The following National Institute of Justice (NIJ) publications are available: "The Crime of Stalking: How Big Is the Problem?"; "Measuring What Matters: Part Two: Developing Measures of What the Police Do"; "National Evaluation of G.R.E.A.T."; and "A Study of Homicide in Eight U.S. Cities: An NIJ Intramural Research Project." For copies, contact the National Criminal Justice Reference Service (NCJRS), (800) 851-3420, or write, Box 6000, Rockville, MD 20849-6000. ❖

## **Office of Juvenile Justice and Delinquency Prevention**

### **Youth in Crime Prevention**

On December 18, 1997, at a ceremony in New York City, Attorney General Janet Reno announced a new public service education campaign to help youth get involved in crime prevention and community service. The campaign is a joint effort of the Department's Office of Juvenile Justice and Delinquency Prevention (OJJDP) and the Bureau of Justice Assistance (BJA), along with the National Crime Prevention Council and the Advertising Council, Inc. The advertising agency Saatchi and Saatchi developed the campaign pro bono. The new public service education campaign, "Investing in Youth for a Safe Future," features print and radio public service announcements (PSAs) that challenge young people to prove adults wrong by doing something right through activities such as neighborhood watches, neighborhood beautification, and mentoring. The radio PSAs also challenge adults to recognize teens for their positive actions. The PSAs will be displayed in newspapers, magazines, billboards, and shopping malls, and will be distributed to nearly 8,000 radio stations nationwide. Television PSAs will begin in March.

PSAs offer a toll-free number, (800) 722-TEENS, and a web site, <http://www.weprevent.org>, which young people can use to obtain information on crime prevention-related projects, resources, and other materials.

For additional information about OJJDP or BJA and their programs, visit their web sites at <http://www.ncjrs.org/ojjhome.htm> and <http://www.ojp.usdoj.gov/bja>, or contact the National Criminal Justice Reference Service, (800) 851-3420.

Information about other Office of Justice Programs (OJP) bureaus and program offices is available at <http://www.ojp.usdoj.gov>. Media should contact OJP's Office of Congressional and Public Affairs, (202) 307-0703. ❖

### **Bulletin**

The Office of Juvenile Justice and Delinquency Prevention Bulletin, "Juvenile Arrests 1996," is available. For a copy, contact the Juvenile Justice Clearinghouse, (800) 638-8736, or write, P.O. Box 6000, Rockville, MD 20849. ❖

### **Report**

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The Office of Juvenile Justice and Delinquency Prevention (OJJDP) Program Report, "Juvenile Justice Reform Initiatives in the States: 1994-1996," is available. For a copy, contact the Juvenile Justice Clearinghouse, (800) 638-8736, or write, P.O. Box 6000, Rockville, MD 20849. ❖

## **Immigration and Naturalization Service**

### **Operation Gatekeeper**

On October 7, 1997, the Immigration and Naturalization Service (INS) announced it is expanding Operation Gatekeeper to include California's Imperial Valley. This next step of Gatekeeper is aimed at crippling the major alien smuggling rings which have moved their operations to the El Centro area in response to increased enforcement pressure in San Diego. It is also aimed at safeguarding the lives of the border crossers who often become victims of the smugglers and the harsh desert conditions. The expansion involves the temporary redeployment of 133 additional immigration officers to the Imperial Valley. The added resources include 62 Border Patrol agents, 40 Special Agents, 20 Immigration Inspectors, and 10 Detention personnel. Those officers are being reassigned to El Centro for up to 60 days. INS's October 7 announcement includes details concerning the disruption of alien smuggling, the enhancement of public safety, deterrence at the border, and a summary of Operation Gatekeeper's progress over the last three years. ❖



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## Career Opportunities

**The U.S. Department of Justice is an Equal Opportunity/Reasonable Accommodation Employer. It is the policy of the Department of Justice to achieve a drug-free workplace, and persons selected for the following positions will be required to pass a drug test to screen for illegal drug use prior to final appointment. Employment is also contingent upon the satisfactory completion of a background investigation adjudicated by the Department of Justice.**

**The following announcements can be found on the Internet at <http://www.usdoj.gov/careers/oapm/jobs>.**

**Experienced Attorney  
United States Attorney's Office  
District of Columbia  
Chief, Public Corruption Section  
Criminal Division**

The United States Attorney's office for the District of Columbia is seeking an experienced attorney to serve as the Chief of the Public Corruption/Government Fraud Section, Criminal Division, in Washington, D.C. The incumbent of this position will report directly to the Chief of the Criminal Division. The Section is responsible for conduct which undermines the integrity of the Government and/or its procurement and contracting functions at the Federal and local (District of Columbia) levels, and assumes direct litigation responsibilities in all cases. The Chief supervises and coordinates the conduct of investigations and litigation carried on by Section attorneys and support staff; manages, develops, and litigates Federal and local criminal cases and initiatives; deals with complex legal and policy issues; establishes and maintains harmonious relationships with the public and other Federal and local officials involved in public corruption related matters; and serves as spokesperson for the Section.

Applicants must possess a J.D. degree; be duly licensed and authorized to practice law as an attorney under the laws of a state, territory, or the District of Columbia; and have at least five years post-J.D. experience. The position also requires word processing and considerable interpersonal skills. Applicants must submit a current resume, OF-612 (Optional Application for Federal Employment), or SF-171 (Application for Federal Employment) and current performance appraisal (if applicable) to:

United States Attorney's Office  
District of Columbia  
Attn: Sherri Evans Harris, Executive Assistant United States Attorney for Management  
555 4th Street, NW  
Washington, DC 20001

Applications must be postmarked no later than February 28, 1998. No telephone calls please. ❖

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**GS-13 to GS-15 Experienced Attorneys**  
**Criminal Division**  
**Terrorism and Violent Crime Section**

The Terrorism and Violent Crime Section (TVCS) of the Criminal Division is seeking several experienced attorneys in Washington, D.C. TVCS has a broad range of responsibilities in the areas of terrorism and violent crime including prosecutions concerning domestic and extraterritorial terrorism, firearms prosecutions, death penalty reviews, legislation, crisis response, the Alien Terrorist Removal Court, criminal immigration matters, and support and advice to Assistant United States Attorneys in prosecutions in areas of TVCS expertise.

Applicants must possess a J.D. degree; be an active member of the bar in good standing (any jurisdiction); and have at least five years of post-J.D. legal experience, preferably as a prosecutor. Applicants must also have a strong academic background, as well as excellent research and writing skills. Some travel may be required.

Applicants must submit a current resume, OF-612 (Optional Application for Federal Employment), or SF-171 (Application for Federal Employment), along with a writing sample and performance appraisals for the last three years to:

US Department of Justice  
Criminal Division  
Terrorism and Violent Crime Section  
Attn: Ronnie L. Edelman, Principal Deputy Chief  
950 Pennsylvania Avenue, NW, Room 2513  
Washington, DC 20530

Current salary and years of experience will determine the appropriate salary level. The possible range is GS-13 (\$52,876-\$68,729) to GS-15 (\$73,486-\$95,531). This position is open until filled. ❖

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**GS-11 to GS-14 Experienced Attorneys**  
**Drug Enforcement Administration**  
**Office of Chief Counsel**

DOJ's Drug Enforcement Administration (DEA), Office of Chief Counsel, is seeking three experienced attorneys to work in the Civil Litigation Section (1 position) and Diversion/Regulatory Section (2 positions), in DEA Headquarters located in Arlington, Virginia.

**Civil Litigation Section:** The incumbent will provide legal counsel in civil, personnel, and environmental matters; litigation support in Bivens, Title VII, FTCA; and other civil matters in the Federal courts involving DEA and its employees. The incumbent will also represent DEA before the Equal Employment Opportunity Commission and the Merit Systems Protection Board. Excellent research, writing, and analytical skills, and strong oral and written advocacy skills and academic credentials are required; prior litigation experience or experience in Federal personnel law is desirable; proficiency in computer-aided legal research and computer word processing is preferred.

**Diversion/Regulatory Section:** The incumbents will represent DEA in administrative proceedings relating to drug and chemical control, review legislative and regulatory amendments, and provide legal advice relating to the administration and enforcement of the Controlled Substances Act. Excellent research, writing, and analytical skills, and strong oral and written advocacy skills and strong academic credentials are essential; prior litigation or administrative law experience is preferred; a background or degree in nursing, pharmacology, or a related-scientific or medical field is highly desirable; proficiency in computer-aided legal research and computer word processing is preferred.

Applicants must possess a J.D. degree; be duly licensed and authorized to practice as an attorney under the laws of a state, territory, or the District of Columbia; and have at least 2 years of post- J.D. legal experience. Applicants must submit a detailed resume and a legal writing sample to:

Drug Enforcement Administration  
Deputy Chief Counsel  
700 Army Navy Drive  
Arlington, VA 22202

Current salary and years of experience will determine the appropriate salary level. Possible salary range is GS-11 (\$39,270-\$51,049) to GS-14 (\$66,138-\$85,978). No telephone calls please. Applications must be postmarked no later than March 6, 1998. ❖

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**GS-11 to GS-14 Experienced Attorney**  
**Immigration and Naturalization Service**  
**Dallas, Texas**

DOJ's Immigration and Naturalization Service is seeking an experienced attorney for the position of General Attorney in Dallas, Texas. The incumbent represents the INS in removal proceedings before immigration judges, represents the INS in employer sanctions and civil document fraud cases before administrative law judges, provides legal counsel to the INS's operating units, and provides litigation support to the United States Attorney's office in immigration-related matters.

Applicants must possess a J.D. degree; be duly licensed and authorized to practice as an attorney under the laws of a state, territory, or the District of Columbia; and have at least one year of post-J.D. experience. Applicants must submit a current resume, law school transcript (if the J.D. degree was received within the past five years), and a writing sample to:

Office of the District Counsel  
Attn: James T. Reynolds  
8101 North Stemmons Freeway  
Dallas, TX 75247

Current salary and years of experience will determine the appropriate salary level. Possible salary range is GS-11 (\$39,135-\$50,873) to GS-14 (\$65,910-\$85,681). No phone calls please. The position is open until filled, but no later than April 15, 1998. ❖

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**GS-11 to GS-14 Experienced Attorney**  
**Immigration and Naturalization Service**  
**El Paso, Texas**

DOJ's Immigration and Naturalization Service is seeking an experienced attorney for the position of General Attorney in El Paso, Texas. The incumbent represents the INS in removal proceedings before immigration judges, represents the INS in employer sanctions and civil document fraud cases before administrative law judges, provides legal counsel to the INS's operating units, and provides litigation support to the United States Attorney's office in immigration-related matters.

Applicants must possess a J.D. degree; be duly licensed and authorized to practice as an attorney under the laws of a state, territory, or the District of Columbia; and have at least one year of post-J.D. experience. Applicants must submit a current resume, a law school transcript (if the J.D. degree was received within the past five years), and a writing sample to:

Office of the District Counsel  
Attn: Guadalupe R. Gonzalez  
1545 Hawkins Boulevard, Room 275  
El Paso, TX 79925

Current salary and years of experience will determine the appropriate salary level. Possible salary range is GS-11 (\$38,593-\$50,168) to GS-14 (\$64,998-\$84,495). No phone calls please. The position is open until filled, but no later than April 15, 1998. ❖

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**GS-11 to GS-14 Experienced Attorney  
Immigration and Naturalization Service  
Harlingen, Texas**

DOJ's Immigration and Naturalization Service is seeking an experienced attorney for the position of General Attorney in Harlingen, Texas. The incumbent represents the INS in removal proceedings before immigration judges, represents the INS in employer sanctions and civil document fraud cases before administrative law judges, provides legal counsel to the INS's operating units, and provides litigation support to the United States Attorney's office in immigration-related matters.

Applicants must possess a J.D. degree; be duly licensed and authorized to practice as an attorney under the laws of a state, territory, or the District of Columbia; and have at least one year of post-J.D. experience. Applicants must submit a current resume, a law school transcript (if the J.D. degree was received within the past five years), and a writing sample to:

Office of the District Counsel  
Attn: Mike Ochoa  
2102 Teege Avenue  
Harlingen, TX 78551

Current salary and years of experience will determine the appropriate salary level. Possible salary range is GS-11 (\$38,593-\$50,168) to GS-14 (\$64,998-\$84,495). No phone calls please. The position is open until filled, but no later than April 15, 1998. ❖

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**GS-13 to GS-14 Experienced Attorney**  
**Justice Management Division**  
**Personnel Staff**

DOJ's Office of Attorney Personnel Management is seeking an experienced attorney for the Justice Management Division, Personnel Staff, Workforce Relations Group. The incumbent is primarily responsible for providing advice to component Labor and Employee Relations staffs in two separate areas: (1) Federal sector labor-management relations and (2) Federal employment issues involving adverse/disciplinary actions. With respect to the former, the incumbent provides advice on negotiability issues, bargaining impasses, grievance arbitrations, unfair labor practice (ULP) and representation cases, and the Departmental Order on Labor-Management Relations. The incumbent will be called upon to conduct agency-head review of collective-bargaining agreements, and draft exceptions to arbitration awards, exceptions to the ULP decisions of Federal Labor Relations Authority (FLRA) Administrative Law Judges, and briefs in response to negotiability appeals. The incumbent will also represent the Department in matters before the FLRA. With respect to Federal employment issues, the incumbent will provide advice and/or representation in matters involving adverse and disciplinary actions. The incumbent must be knowledgeable about the policies and practices of the Merit Systems Protection Board (MSPB). The incumbent will be called upon to provide support to the Civil Division in actions before the Federal courts of appeals involving labor and employment issues.

Applicants must possess a J.D. degree; be duly licensed and authorized to practice as an attorney under the laws of a state, territory, or the District of Columbia; and have at least four years of post-J.D. experience. Applicants must have experience in practicing before the FLRA and the MSPB. Experience in alternative dispute resolution (ADR) and/or mediation is desirable. Applicants should submit a detailed resume and/or OF-612 (Optional Application for Federal Employment) and, if applicable, a copy of the latest SF-50 (Notice of Personnel Action) and a supervisory performance appraisal issued within the last 12 months. Resume or cover letter should describe experience in handling Federal sector labor relations and employment matters, as well as ADR or mediation background. Application materials should be sent to:

US Department of Justice  
JMD Personnel Staff-WRG  
1331 Pennsylvania Avenue, NW, Room 1150  
Washington, DC 20530

Current salary and years of experience will determine the appropriate salary level from the GS-13 (\$55,969-\$72,758) to GS-14 (\$66,138-\$85,978) range. No telephone calls please. Application materials must be received by close of business on March 13, 1998. **Note: Applicants who applied under previous announcements need not reapply.** ❖

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**GS-11 to GS-15 Experienced Attorneys  
United States Trustee's Office  
San Francisco, San Jose, and Sacramento, California**

DOJ's Office of Attorney Personnel Management, United States Trustee's Office, U.S. Department of Justice, is seeking experienced attorneys for the San Francisco, San Jose, and Sacramento offices. The incumbent assists with the administration of cases filed under Chapters 7, 11, 12, and 13 of the Bankruptcy Code; drafts motions, pleadings, and briefs; and litigates cases in the Bankruptcy Court and the United States District Court.

Applicants must possess a J.D. degree; be duly licensed and authorized to practice as an attorney under the laws of a state, territory, or the District of Columbia; and have at least two years of post-J.D. experience. Outstanding academic credentials are essential, and familiarity with bankruptcy law and the principles of accounting is preferred. Applicants must submit a current resume, OF-612 (Optional Application for Federal Employment), or SF-171 (Application for Federal Employment) and law school transcript to:

Department of Justice  
Office of the United States Trustee  
Attn: Administrative Officer, United States Trustee  
250 Montgomery Street, Suite 910  
San Francisco, CA 94104

Current salary and years of experience will determine the appropriate salary level. The possible range for San Francisco and San Jose is GS-11 (\$41,024-\$53,328) to GS-15 (\$81,272-\$105,658) and the possible range for Sacramento is GS-11 (\$39,406 -\$51,225) to GS-15 (\$78,066-\$101,491). No telephone calls please. These positions are open until filled, but no later than March 6, 1998. ❖



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**DS-16 Deputy for Management**  
**Government of the District of Columbia**  
**Office of the Corporation Counsel**

The Office of the Corporation Counsel (OCC) is creating a new, top-level position for an experienced manager to assume overall responsibility for managing the OCC. The OCC is the District of Columbia's legal office, advising and representing all local government agencies and conducting all litigation on behalf of the District. The OCC is about to install a new \$1.4 million computer network, assume full responsibility for operating the District's child support program, relocate approximately 40 employees into the central office from a satellite location, and hire up to 40 new staff members. Applicants, therefore, must demonstrate considerable experience with computer management, program development, space planning, personnel management, budget preparation, financial management, and procurement. Legal training would be useful but is not required. Possible salary range is \$75,599 to \$95,039. Applicants must submit a cover letter and resume to:

Attn: John M. Ferren  
Corporation Counsel  
441 4th Street, N.W., Suite 1060N  
Washington, DC 20001 ❖

## Procedures for Requesting Formal Videotape Showings

Departments and agencies requesting Continuing Legal Education (CLE) credit for videotape showings should follow these procedures:

1. Submit your requests for videotape showings in writing to:

Tawana Fobbs  
Department of Justice  
Legal Education Institute, Room 7600  
600 E Street, N.W.  
Washington, D.C. 20530-0001

**Please include a telephone number. Responses will be via telephone only.**

2. Reserve a room that will accommodate at least 30 attorneys.
3. Open the course to Federal attorneys from outside your agency, and be sure that the room will accommodate at least 10 outside attorneys in addition to your agency's attorneys.
4. Arrange for an attorney commentator to be present during the showing to answer questions regarding the videotape lecture. In order for attendees to be able to receive CLE credit, provide the attorney's name to the Legal Education Institute (LEI).
5. Use a VCR-VHS tape machine and a TV monitor.

**Site selections for videotape showings will be based on the room capacity and the number of attorneys from your agency who are planning to attend; i.e., if you should reserve a room that accommodates 50 attorneys and 25 from your agency are planning to attend, OLE will select no more than 25 attorneys from other agencies. Videotape lectures are announced every four months. Please submit your request by December 1, 1997, if you would like it to be included in the next course schedule.**

There is no charge for formal videotape showings. LEI includes with the videotapes an express mail label for mailing the tapes back to OLE, and CLE forms to be completed by the attendees.

## Videotapes Available for Formal Showings

The following videotape programs are available on loan to Executive Branch agencies and to United States Attorneys' offices for formal showings.

**The Art of Advocacy: Selecting and Persuading the Jury**—This two-day series of tapes brings together experienced trial lawyers, communications experts, and social scientists to explore basic advocacy techniques for the jury trial. It will help litigators evaluate potential jurors; develop effective themes for their cases; and present their cases in a persuasive way. The series consists of nine programs. The program commences with trial lawyers sharing their insights on jury selection and persuasion techniques followed by demonstrations, interviews, and discussions to allow viewers to examine in detail effective strategies for jury selection and persuasive advocacy in both civil and criminal cases. In addition, the program also looks at how focus groups can be used to enhance the trial lawyer's understanding of how lay persons will react to a case. The series concludes with a program developed with the assistance of a jury research organization which explains how they identify important issues in the case; analyze the impact of group dynamics on verdict discussions; prepare effective demonstrative exhibits; evaluate witnesses; and develop voir dire questions.

**Discovery Techniques**—This half-day videotape lecture series by Irving Younger focuses on discovery strategies and devices. Topics include: discovery as a litigation technique; purposes of discovery; strategy and priority; informal discovery; discovery limitations; use of discovery at trial; and proposed remedies for the abuse of discovery.

**Effective Appellate Advocacy**—In this half-day videotape lecture, Judge Myron Bright explains, as experienced lawyers demonstrate, how to prepare and argue a case on appeal. Topics include: when to appeal a case; how to write briefs in presenting the best case; how to avoid pitfalls that commonly defeat appeals; using parts of your brief to your advantage; 10 commandments of oral argument; effective oral argument demonstration; and how an appellate judge views a brief.

**Effective Negotiation Techniques**—In this half-day videotape showing, Professor Norbert S. Jacker explains the benefits of getting background information, holding practice negotiation sessions, and creating the proper atmosphere for negotiation participants. Topics include: preparing for negotiations; strategy and tactics in negotiations; and psychological factors in negotiations.

**Introduction to the Freedom of Information Act (FOIA)**—This videotape of a one-day course provides a basic overview of FOIA for individuals who do not specialize in access law. It is designed for those who require a working familiarity with the law and current issues in order to recognize and handle FOIA-related problems that may arise in other aspects of agency practice. Topics include resource materials, background and legislative history, disclosure mandates, exemptions to mandatory disclosure, administrative considerations, and the relationship of FOIA to the Privacy Act of 1974.

**Jury Trials for Employment Discrimination Lawyers**—Moderated by the Honorable Marion E. Aspen, an experienced Federal judge who served on an ABA special committee examining jury comprehension in complex cases, this half-day series teaches employment litigators the techniques and strategies of jury trials. The faculty includes skilled trial lawyers and employment litigators. The topics

covered include: legislative changes increasing the availability of jury trials; shaping the case for trial to a jury; jury selection and jury comprehension; motion practice in jury trials; jury instructions; and proving compensatory and punitive damages.

**The Law of Evidence**—This two-day videotape course by Irving Younger is a comprehensive discussion of the critical areas of evidence law. This is professor Younger's latest program and supersedes all previous editions. Topics include: judicial notice, types of evidence, competence, relevance and materiality, and hearsay.

**Legal Ethics in an Unethical World**—This two-volume, half-day series provides a thought-provoking and engaging discussion of a dilemma all practitioners face: how to make ethical decisions. Thomas V. Morris, a popular professor at the University of Notre Dame known for his energetic lecture style, begins by acknowledging the current ailing public perception of lawyers. After identifying four common pressures against ethical decision making, he argues convincingly for a shift from the constraining vision these pressures engender to a broader way of thinking that recognizes that the good life is not always a good life. Morris discusses the role that rules can play in making ethical decisions and issues a call to move beyond the rules to a more promising, if sometimes more elusive, basis for making decisions.

**Medical Malpractice Litigation: New Strategies for a New Era**—This one-day videotape series brings together an experienced faculty to discuss and demonstrate innovative litigation strategies and techniques. The seven programs include demonstrations by skilled trial lawyers, probing interviews of those conducting the demonstrations, and lively panel discussions.

**The Strategy and Art of Negotiating**—This one-day program is presented by expert panelists who give practical information and new insights on effective negotiating approaches, strategies, and methods. They analyze various dramatized negotiating styles and present proven techniques. They discuss how to establish a positive climate and philosophy for negotiating, how to distinguish between positions and interests, when to take control, and how to avoid misrepresentation.

**Taking Depositions**—This half-day series is intended to teach the fundamental skills involved in preparing for, taking, and defending depositions. The series includes demonstrations of preparing and deposing both lay and expert witnesses.

**Training the Advocate: Pretrial Stage**—This unique two-day series can be used to provide basic training for newly qualified lawyers and to help more experienced lawyers refine their skills in the area of pretrial practice. It includes demonstrations by skilled litigators and probing interviews of those conducting the demonstrations. Critique panels, moderated by Professor James McElhaney, analyze performances and suggest alternative approaches to specific problems.

**Trial Evidence: Making and Meeting Objections**—This one-day series consists of 62 direct and cross examination vignettes, each providing at least one opportunity for the viewer to raise an evidentiary objection. The vignettes cover subsequent remedial measures, character, the original document rule, illustrative evidence, demonstrative evidence, authentication, forms of questions, refreshing recollection, lay opinions, expert opinions, relevance, impeachment, and hearsay.

**Trial Techniques**—This one-day videotape lecture by Irving Younger presents every important element, technique, and strategy for winning trial conduct. Topics include: jury selection; opening statements; witness preparation; planning the trial; direct examination; objections and motions to strike; cross examination; expert witnesses; the ethics of trial advocacy; and closing arguments.

**Trying Cases to Win: Advanced Course and Trying the Civil Case**—This one and one-half day videotape lecture series by Herbert J. Stern examines, in detail, the theory and strategy of successful trial lawyering. Topics include: principals of opening statements; four ways to construct an opening statement; demonstrations of openings for the prosecution and the defense; direct examination and demonstration; cross examination and demonstration; and trying the civil case.

**Trying Cases to Win: the Basic Building Blocks**—This one and one-half day videotape lecture series by Herbert J. Stern presents an introduction to the theory and strategy of successful trial lawyering. This program analyzes the basic components of trying cases, including the opening statement, direct examination, cross-examination, and summation. Topics also include rules and laws; methodologies; techniques; demonstration; order, preparation, and questioning of witnesses; proving conversations; exhibits as evidence; and voir dire of witnesses.

**Trying Cases to Win: Evidence at Trial I and II**—This half-day lecture series by Herbert J. Stern examines evidence problems. Judge Stern discusses how an effective advocate uses the rules of evidence. Topics include: laying a foundation for exhibits; photographs; charts, diagrams, and conversations; Federal Rules of Evidence - Rules 104, 403, 602, 613, 803, and 901; motions in limine; and voir dire of witnesses.

**What Every Litigator Should Know about Mediation**—This half-day program is a practical guide for litigators. It includes discussions and demonstrations addressing: what mediation is and when you should use it; how to prepare your client and yourself for mediation; and how to represent your client during mediation.

**Winning Your Case with Computers**—This one-day videotape series shows those with or without the big resources, how to take advantage of advances in technology. It will show you how to use computers to do the litigation tasks typically associated with automation, to organize, manage, and access documents and depositions. It will also demonstrate how to automate your practice from start to finish, from the moment your client walks in the door to a convincing presentation of your evidence in court. It is a program with a very practical emphasis explaining how this technology can make you a more effective litigator without requiring an encyclopedic knowledge of the technology itself.

## **Procedures for Requesting Informal Videotape Showings**

LEI schedules informal videotape showings in advance to make the tapes available to as many Federal employees as possible. **LEI does not provide CLE credit for informal showings.** If you are interested in arranging an informal videotape program please write to:

Tawana Fobbs  
Department of Justice, Room 7600  
Legal Education Institute  
600 E Street, N.W.  
Washington, D.C. 20530-0001

**Please include your telephone number on your request.**

## Videotapes Available for Informal Showings

**Effective Discovery Techniques**—This half-day series provides a basic understanding of all aspects of discovery prior to depositions. It is designed to provide practical information for the attorney with minimal litigation experience.

**Legal Ethics: Applying the Model Rules**—This five-part series brings together some of the country's foremost authorities on legal ethics and the Model Rules. Each of the five programs begins with a dramatic vignette, depicting an attorney making ethical—and sometimes not-so-ethical choices. (Running Time: 3 hours 4 minutes)

**Litigation Management and Organization: The Winning Edge**—This videotape lecture by Mark Dombroff offers a lively discussion of a series of organization and management techniques that have proven effective. Topics include Litidex (a computer-compatible manual litigation organization system); the effective transition of litigation; the effective use of videotaped depositions in litigation; the effective use of summaries in litigation; using computers as a courtroom tool; the trial lawyer as a manager of litigation; the judicial panel for multi-district litigation; trial notebooks; the discovery, pleading, and practice memorandum; techniques for streamlining trial presentation; and contingency planning for large case management. (Running Time: 7 hours)

**McElhaney's Introduction and Use of Demonstrative Evidence**—This is a lecture on the introduction and use of demonstrative evidence. Among the materials discussed are charts, graphs, and radiation detection devices. (Running Time: 56 minutes)

**McElhaney's Laying Foundation for Exhibits and Witnesses at Trial**—Professor James McElhaney establishes a basic checklist for the advocate to follow in laying foundations. The list includes: witness qualification, authentication, relevance, the best evidence rule, the hearsay rule, procedural prerequisites and “magic words.” (Running Time: 49 minutes)

**Negotiation Demonstrations**—This videotape lecture by professors Roger Haydock and John Sonsteng was developed by the National Institute of Trial Advocacy so that knowledgeable attorneys could share their insights about this difficult area of practice. Topics include basic negotiation with comparative techniques. (Running Time: 2 hours, 8 minutes)

**Opening Statements: A Modern Approach**—This program gives viewers advice on how to make effective and persuasive opening statements which will make a lasting impression on jurors. It also addresses common mistakes made during openings and how to remedy them. (Running Time: 1 hour, 9 minutes)

**Understanding Modern Ethical Standards**—This National Institute of Trial Advocacy (NITA) series analyzes the ABA model rules of professional conduct. The set consists of two volumes and three videotapes. Volume I provides an overview of what the Rules of Evidence require, while Volume II applies to the work of lawyers and paralegals. (Running Time: 1 hour, 28 minutes)

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**The  
USABulletin  
Wants You**

Below is our schedule for the next four issues. In order for us to continue to bring you the latest, most interesting, and useful information, please contact us with your ideas or suggestions for future issues. If there is specific information you would like us to include in the *USABs*, please contact David Nissman at AVIC01(DNISSMAN) or (340) 773-3920. Articles, stories, or other significant issues and events should be Emailed to Jennifer Bolen at AEX12(BULLETIN).

**April 1998**

**June 1998**

**August 1998**

**October 1998**

**Tax Prosecutions**

**Trial Techniques I (Pre-Trial Matters)**

**Trial Techniques II (Trial Matters)**

**Victim-Witness Issues**

Articles for the June issue on Trial Techniques (Pre-Trial Matters) are due March 11.

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