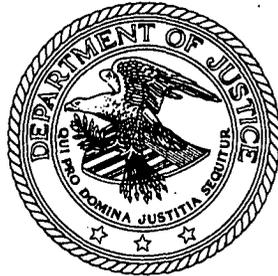


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Executive Office for U.S. Attorneys
William P. Tyson, Acting Director

Clearinghouse

Criminal Contempt Case Summary

The following was submitted by Assistant United States Attorney Joseph F. McSorley of the Major Crimes Division in the District of Columbia, FTS 633-4986.

On November 20, 1979, Alvin Kotz entered a factual plea of guilty to criminal contempt (18 U.S.C. § 401 (3)) before Judge John Pratt of the United States District Court for the District of Columbia.

The basis of the contempt was that Kotz wilfully and intentionally failed to promptly pay a \$5,000 fine which Judge Pratt imposed in September 1973. Kotz was incarcerated from September 1973 to February 1976. Upon his release from a federal penitentiary, the Civil Division of the United States Attorney's Office made arrangements with Kotz to pay a monthly amount of \$10. He made four \$10 payments in succession and upon his arrest in August 1977 for gambling charges in Montgomery County, Maryland, he abruptly discontinued further payments. Despite repeated efforts by the civil collection clerk to collect the balance of the fine, Kotz steadfastly refused to make restitution. In July 1979 a motion was filed with the Court to have Kotz adjudged in criminal contempt for wilful disobedience of and resistance to a lawful court order (18 U.S.C. § 401 (3)). About three weeks after the criminal contempt motion was filed, Kotz paid the balance of his fine: \$4,960. Notwithstanding that the balance had been paid, the case was set down for trial. On the day of trial, Kotz entered his factual plea of guilty to criminal contempt. Sentencing has been deferred to a later date.

This represents the first time that the United States Attorney's Office in the District of Columbia has sought to have a criminal judgment debtor adjudged in criminal contempt for wilful disobedience of and resistance to a lawful court order where such order is the judge's sentence to pay a fine. In fact, according to Ronald Roos, head of the Criminal Fine Collection Unit of DOJ, it is the first time that criminal contempt has been used against a recalcitrant criminal judgment debtor who has the means to pay.

Executive Office for U.S. Attorneys
William P. Tyson, Acting Director

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Executive Office for U.S. Attorneys
William P. Tyson, Acting Director

Commendations

Assistant United States Attorney WHITNEY ADAMS, District of Columbia has been commended by the Interstate Commerce Commission, for her efforts on behalf of the ICC in CSA Reporting Corporation v. A. Daniel O'Neal, et. al. This was an action which would have had the effect of halting all administrative proceedings nationwide.

Assistant United States Attorney MARILYN GAINNEY BARNES, Eastern District of New York, has been commended by William H. Webster, Director of the Federal Bureau of Investigation, for her successful prosecution of Columbani, Murray and Mulligan for conspiracy to violate the Hobbs Act.

Assistant United States Attorney SUZANNE CONLON, Central District of California, has been commended by Herbert D. Clough, Jr., Special Agent in Charge, Federal Bureau of Investigation, for her successful prosecutions of a 1972 Pacific Southwest Airlines skyjacking perpetrated by Allen Gordon Sims and a Hobbs Act violation involving Larry Donald Smith.

Assistant United States Attorneys DONA GOLDSTEIN and KATHRINE TOOKS, Central District of California, have been commended by James V.P. Conway, United States Postal Service, for their diligent work and successful outcome in Ashford v. Bailar, et. al.

Assistant United States Attorney FREDERIK A. JACOBSEN, Central District of California, has been commended by Herbert D. Clough Jr., Special Agent in Charge, Federal Bureau of Investigation, for his high quality of professionalism exhibited in a recent trial concerning Theft from Interstate Shipment.

Assistant United States Attorney DAVID M. JONES, Southern District of New York, has been commended by Carin Ann Clauss, Solicitor of Labor, for his display of the highest degree of professionalism throughout the district court and the court of appeals proceedings in Lead Industries v. OSHA.

Assistant United States Attorney STEVEN KRAMER, Central District of California, has been commended by Myron S. K. Chang, Acting Chief, Criminal Investigation Division, Internal Revenue Service, for his outstanding work and successful conviction of Wanda Dayle for filing a false U.S. Estate Tax Return.

Assistant United States Attorney ELIZABETH MEDAGLIA and Civil Division Attorney ROBERT L. ASHBAUGH, District of Columbia, have been commended by R.G. Freeman III, Administrator of General

Services Administration, for their efforts in the case of Art Metal v. Freeman, et. al.

Assistant United States Attorney STEVE NELSON, Eastern District of New York, has been commended by Albert W. Seeley, Special Agent in Charge, Department of Treasury, for his hard work and successful prosecution of a case involving stolen electronics communications network in United States v. Ajlouny.

Assistant United States Attorney MARCY NORTON, Central District of California, has been commended by Larry B. Sheafe, Acting Special Agent in Charge, Department of Treasury, for her fine job in a recent counterfeit case of United States v. Erbacher.

Assistant United States Attorneys PETER R. OSINOFF and DZINTRA I. JANAVS, Central District of California, have been commended by Abraham I. Kleks, District Director, Department of Health, Education and Welfare, for their successful litigation of a civil case brought on behalf of the Food and Drug Administration against a veterinary drug product in United States of America v. An article of drug...Adrenal Cortex Injection.

United States Attorney BARRY E. TEAGUE and Assistant United States Attorney JAMES E. WILSON, Middle District of Alabama, have been commended by R.C. Pierce, Postal Inspector in Charge, Chattanooga Division, for their outstanding performance in the recent success of the criminal prosecution of Christopher J. Blasi, President of National Developers, Inc.

United States Attorney JAMES R. WILLIAMS and First Assistant United States Attorney WILLIAM J. EDWARDS, Northern District of Ohio, have been commended by William H. Webster, Director of the Federal Bureau of Investigation, for their outstanding work in the prosecution of Melvin Bay Guyon for the murder of Special Agent Johnnie Oliver.

Executive Office for U.S. Attorneys
William P. Tyson, Acting Director

Points To Remember

ERRATUM

In Vol. 27, October 26, 1979 (No. 21) edition of the U.S. Attorneys Bulletin, the Office of Legislative Affairs stated that George W. Proctor had been nominated as U.S. Attorney for the Eastern District of Oklahoma, which is not correct. George Proctor has been court-appointed and confirmed by the Senate to be U.S. Attorney for the Eastern District of Arkansas. Julian Fite is the U.S. Attorney in the Eastern District of Oklahoma.

(Executive Office)

SECOND ANNUAL TRIAL ADVOCACY SEMINAR

On January 9 and 10, the Tax Division, in association with the Attorney General's Advocacy Institute, will sponsor the second annual two-day seminar on trial advocacy by Professor Irving Younger, Samuel S. Leibowitz, Professor of Trial Techniques, Cornell University.

The full seminar is open to all Department of Justice attorneys. Part of the seminar will be coordinated with an AGAI trial advocacy course being held at that time. The seminar will be in the Great Hall and a schedule of topics will be posted.

(Executive Office)

REVISED FORM 792 (REPORT ON CONVICTED PRISONERS BY U.S. ATTORNEY)

In volume 27, number 14 of the United States Attorneys' Bulletin, dated July 20, 1979, an item was published advising all United States Attorneys and all attorneys in the Criminal Division that they are required to prepare and submit a completed Form 792 as soon as a defendant has been sentenced to a prison term of one year or more.

The Department has issued a revised Form 792 for completion by prosecuting attorneys in cases where a defendant is given a sentence of more than one year (and is thus eligible for parole). Completion of the form ensures that the Parole Commission is given a concise, accurate account of the offense behavior which led to the conviction, and of any other circumstance (mitigating or aggravating) which should be made

known to the Commission. It is especially important that the commission be apprised of the specific data it needs for decisionmaking under its guidelines (dollar values involved, drug amounts, extent of a conspiracy, etc.). In addition, the new form contains precise instructions permitting a decision as to pre-hearing disclosure of this form under Title 18 U.S. Code, section 4208(c). All Assistant United States Attorneys are urged to complete the report as an essential, concluding step in a just prosecutorial effort.

All copies of the old Form 792 (dated November 1978) should be disposed of at once and the new form (dated 9/79) used exclusively.

(Executive Office)

CIVIL DIVISION DESIGNATIONS OF ASSISTANT BRANCH DIRECTORS

Mark C. Rutzick has been selected to be the Assistant Branch Director for Foreign and Domestic Commerce (Area 8) of the Civil Division.

William P. Arnold will be the Assistant Branch Director responsible for providing general supervisory assistance in all areas of litigation handled by the Branch. Mr. Arnold will continue to act as a contact point for Assistant United States Attorneys on questions of Department operations and procedures.

(Civil Division)

Executive Office for U.S. Attorneys
William P. Tyson, Acting Director

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27 USAB 73 (No. 3)

*There was no issue No. 4

CIVIL DIVISION
Acting Assistant Attorney General Alice Daniel

United States v. Kubrick, No. 78-1014 (Sup. Ct., November 28, 1979) DJ 157-62-993

Torts: Supreme Court Sets Standard
For Determining When A Cause Of
Action For Medical Malpractice Accrues

The Supreme Court has just reversed a decision of the Third Circuit, accepting our position in this important statute of limitations case under the Federal Tort Claims Act. The Court held that a cause of action for medical malpractice accrues for purposes of 28 U.S.C. 2401(b) when a claimant knows both the existence and the cause of his injury, and not at a later date when he also knows that the injury may constitute medical malpractice.

Attorneys: William Kanter (Civil Division)
FTS 633-3354

Patricia Reeves (Civil Division)
FTS 633-3341

Barton v. United States, No. 79-1346 (10th Cir., November 20, 1979) DJ 157-77-345

FTCA: Tenth Circuit Holds That
Discretionary Function Exception
Applies To Decisions Of BLM Range
Managers

The Bartons were ranchers who held grazing rights on federal land in Utah. The Bureau of Land Management is responsible for the administration and management of these lands. Because of severe drought in the area where the Bartons grazed their cattle, BLM range managers determined that further use of the land would cause serious and probable permanent damage to the range. Accordingly, the Bartons were ordered to remove their cattle from the land. Subsequently, the Bartons filed suit under the Tort Claims Act alleging that the land was adequate to support their cattle and that, as a result of the BLM action, they were required to sell their cattle at an alleged substantial loss. The court of appeals has just ruled that the discretionary function exception applied to the decision of the range managers and affirmed the dismissal of the action.

Attorney: Howard S. Scher (Civil Division)
FTS 633-5055

Goldwater v. Carter, No. 79-2246 (D.C. Cir., November 30, 1979)
DJ 145-1-711

Treaty Termination: The D.C. Circuit
Upholds President Carter's Termination
Of The Mutual Defense Treaty With Taiwan

For thirty years, since the Chinese revolution, the United States had no diplomatic relations with the People's Republic of China (PRC), while maintaining such relations and a Mutual Defense Treaty with the Republic of China on Taiwan. In December 1978, in order to effectuate the transfer of diplomatic relations to the PRC, President Carter exercised the right of the United States to terminate the Mutual Defense Treaty upon one year's notice. Plaintiff-Congressman brought suit, and the district court concluded that such termination was constitutionally ineffective absent approval by either two-thirds of the Senate or a majority of both Houses.

On our expedited appeal, the D.C. Circuit has just reversed. The per curiam majority opinion sustained the President's constitutional power to terminate this specific treaty because of its termination clause, and as an incident to his recognition power. Although limiting its decision to this narrow holding the court acknowledged the constitutional allocation of foreign affairs power to the President and his primary role in Treaty formation and the exercise of diplomacy.

Judges Wright and Tamm declined to reach the merits. Their concurrence in the reversal accepted our argument that individual standing to litigate the scope of Congressional powers.

Attorneys: John M. Harmon (Office of Legal Counsel)
FTS 633-2041

Robert E. Kopp (Civil Division)
FTS 633-3389

William Kanter (Civil Division)
FTS 633-3354

Michael F. Hertz (Civil Division)
FTS 633-4096

Linda M. Cole (Civil Division)
FTS 633-3337

St. Joseph's Hospital v. Blue Cross, etc., No. 79-6140 (2d Cir., November 26, 1979) DJ 137-50-194

FOIA: Second Circuit Upholds Release
Of Hospital Cost Reports

In this case, HEW attempted to release hospital cost reports, regarding a hospital providing Medicare services, to a labor union which had requested the reports under the FOIA. The court of appeals affirmed the holding by the district court that these reports were properly releasable under HEW regulations, which had been promulgated pursuant to the authority granted to the Secretary of HEW in 42 U.S.C. 1306(a). Because of this authority, release of the reports was "authorized by law" and thus not barred by the Trade Secrets Act, 18 U.S.C. 1905. In so holding, the Court agreed with a parallel decision by the Fifth Circuit in St. Mary's Hospital v. Harris, No. 79-1421 (5th Cir., Oct. 12, 1979), and criticized an opposing ruling by the district court in Washington Hospital Center v. Mutual of Omaha, No. 78-2485 (D. D.C., May 16, 1979, and June 25, 1979).

Attorney: Eloise Davies (Civil Division)
FTS 633-3425

LAND AND NATURAL RESOURCES DIVISION
Assistant Attorney General James W. Moorman

Oceola v. Kuykendall, _____ F.2d _____, No. 78-1440 (D.C.
Cir. October 18, 1979) DJ 90-1-23-2272

Rule 60(b)(1) motion for relief from judgment

Osceola appealed from the denial of relief from judgment under Rule 60(b), F.R.Civ.P. Osceola sought to have judgment vacated and re-entered to permit a timely appeal to the court of appeals on grounds that his right to appeal was lost through negligence of his counsel. The district court found this alleged ground insufficient to warrant relief under either Rule 60(b)(1) or (6). The court of appeals affirmed without opinion.

Attorneys: Larry A. Boggs and Jacques B. Gelin
(Land and Natural Resources Division)
FTS 633-2956/2762

United States v. 0.78 Acres in Berks County, Pa., Moyer Beef Co. (Blue Marsh Lake Project), _____ F.2d _____, No. 79-1449
(3rd Cir. October 15, 1979) DJ 33-39-932-25

Rule 49; Submission of Amended interrogatories
to Jury

In connection with the imposition of a flowage easement over its parking lot (plus a minute amount taken in fee), the landowner claimed that the value of the remainder of its property had been substantially diminished. In contrast, the government contended that the landowner's property had sustained no severance damage. The jury returned a general verdict and gave answers to interrogatories which raised the question whether the jury had considered the evidence in accordance with the court's instructions. Instead of entering judgment upon the verdict forthwith, the district court submitted amended interrogatories to the jury. The jury's answers returned the same verdict as before, and revealed that it had in fact followed the court's instructions. The district court denied the landowner's motion for a new trial. 81 F.R.D. 618.

On appeal the landowner argued that where (as here) the answers to the first interrogatories were harmonious with the general verdict, Rule 49, F.R.Civ.P., required the court to enter judgment on the verdict, even where (as was also the case here) doubt existed whether the jury had followed the court's instructions. The Third Circuit, without hearing oral argument, and without writing an opinion, affirmed.

Attorneys: Jacques B. Gelin and Dirk D. Snel
(Land and Natural Resources Division)
FTS 633-4400/2762, and Assistant
United States Attorney Bruce J. Chasan
(E.D. Pa.) FTS 597-9482

Getty Oil v. Andrus, _____ F.2d _____, No. 77-3157 (9th
Cir. October 22, 1979) DJ 90-1-1-77

Geothermal Steam Act of 1970; Exhaustion of
Administrative Remedies

The Secretary of the Interior approved an application by Geothermal Resources International (GRI) to convert certain mining claims to geothermal steam leases under the Geothermal Steam Act of 1970, 30 U.S.C. 1001-1025. Getty Oil, which was otherwise the high bidder for the leases, claimed that the conversion was improper since (1) the mining claims had been purchased from a third party just prior to the conversion and had no relation to geothermal exploration that GRI had done on adjacent land, as also required by the Act, and overriding royalty interest, supposedly as required by the Secretary's regulations. The district court upheld the Secretary's action, and the court of appeals affirmed on the basis of the district court opinion. The court of appeals also ruled that Getty Oil had exhausted its administrative remedies, and treated that topic in its opinion for publication.

Attorneys: Edward J. Shawaker and Carl Strass
(Land and Natural Resources Division)
FTS 633-2813/4427

Navajo Tribal Utility Authority v. Arizona, _____ F.2d _____,
 No. 76-2895 (9th Cir. October 26, 1979) DJ 90-6-4-7

Indians; State taxation of

Without reaching the merits of NUTA's claims regarding Arizona's authority to tax on-reservation transactions between non-Indians and a tribal enterprise, the Ninth Circuit affirmed the district court's dismissal of the action for lack of jurisdiction. The court held that 28 U.S.C. 1341, which bars federal district courts from enjoining the assessment of state taxes where an adequate state remedy exists, barred NTUA's action to enjoin the assessment of Arizona's privilege transaction tax on the on-reservation sale of electricity between Arizona Public Service Company and NTUA. (The question of Arizona's authority to assess taxes on on-reservation business activities involving a tribal enterprise is currently pending before the Supreme Court. Central Machinery v. Arizona, 48 U.S.L.W. 3217.) The court held that under the rationale of Moe v. Confederated Salish and Kootenai Tribes, 425 U.S. 463 (1976), the tribe would not have been barred by 28 U.S.C. 1341 from bringing this action, because under 28 U.S.C. 1362 federal district courts have jurisdiction over all actions brought by a "Tribe or Band" including those involving the assessment of a state tax. The court concluded, however, that NTUA, "a semi-autonomous," tribal enterprise, is not a "Tribe" within the meaning of Section 1362.

Attorneys: Nancy B. Firestone and Carl Strass
 (Land and Natural Resources Division)
 FTS 633-2757/4427

United States v. Northern Colorado Water Conservancy District,
 _____ F.2d _____ (10th Cir. October 29, 1979) DJ 90-1-2-454

Water; Priority of Use

Affirming the district court, the court of appeals held that, under prior stipulations and decrees, that Denver

was not entitled to divest for its use any of the water from the annual runoff of the Blue River before the Green Mountain Reservoir (a Bureau of Reclamation facility) fills or is assured of filling to its capacity each year.

Attorneys: Robert L. Klarquist, John J. Zimmerman (Land and Natural Resources Division) FTS 633-2731 and John R. Little, Regional Solicitor, Department of the Interior FTS 234-3175

Commonwealth of Massachusetts v. Andrus, _____ F.2d _____,
No. 79-1585 (1st Cir. November 6, 1979), _____ U.S. _____,
No. A 381 (S. Ct. November 8-9, 1979) DJ 90-1-4-1768

OCS; Preliminary injunction against holding sale

Following the district court's denial of the state's request for a preliminary injunction to halt OCS Sale No. 42 scheduled for November 6, 1979, the Commonwealth and others sought an injunction pending appeal from the court of appeals. Following oral argument which was held in the court of appeals on Monday, November 5 (two hours after issuance of the district court opinion), the appellate court denied the request for interim relief in the Supreme Court from the Circuit Justice who that same afternoon granted their request for a stay of indefinite duration. On November 9, the full court dissolved the stay issued by the Circuit Justice and denied the Commonwealth's application for interlocutory relief against the sale.

Attorneys: Peter R. Steenland, Jr.,
Maryann Walsh, Michael A. Reed,
William M. Cohen (Land and
Natural Resources Division)
FTS 633-2748/4168/2779/2704

Sierra Club v. Andrus (NEPA Budgetmaking case), _____ F.2d
_____, (No. 75-1871, October 29, 1979) DJ 90-1-4-974 .

National Environmental Policy Act of 1969

The Supreme Court had previously concluded that appropriations requests to fund agency programs did not constitute proposals either for legislation or for major federal action under Section 102(2)(C) of NEPA, 42 U.S.C. 4332(2)(C), as would require an accompanying environmental impact statement. On remand, the Sierra Club moved to "modify" the district court's judgment (which by that time had been reversed in its entirety by the combined acts of the court of appeals and Supreme Court) so as to require federal agencies to prepare EIS's in connection with agency budget requests for new environmental programs or major changes in existing programs. The D.C. Circuit denied the motion and remanded to the district court for further proceedings in conformity with its judgment of May 15, 1978, as reversed in part by the Supreme Court.

Attorney: Dirk D. Snel (Land and Natural
Resources Division) FTS 633-4400

Doria Mining and Engineering Corp. v. Morton, _____ F.2d _____,
No. 77-1163 (9th Cir. November 2, 1979)

Administrative law; Allegation of fraud allowing
consideration of evidence extrinsic to administrative record

The IBLA of the Department of the Interior determined that 18 unpatented mining claims owned by Doria, covering 720 acres in the Cajon Pass within the San Bernardino National Forest in California, were void for lack of a discovery. Doria filed a complaint in the U.S. district court to review Interior's determination. Thirteen months later Doria sought leave to amend its complaint, alleging that Interior's decision had been procured by fraud and perjury. The district court, saying it lacked jurisdiction to hear Doria's fraud and perjury charges, denied the motion, and granted summary judgment affirming the IBLA's decision. The court also denied a motion under Rule 60(b)(3) by Doria seeking relief from judgment.

The Ninth Circuit, holding that, when a party seeking review alleges that it has discovered new evidence showing that the decision before the court for review was obtained by a fraud on the administrative proceeding, the court may consider evidence extrinsic to the record in determining whether such allegations are meritorious. Thus, the court of appeals held it was error for the district court to deny, for lack of jurisdiction, Doria's motion for leave to amend its complaint, vacated the summary judgment and remanded so that the district court could consider the merits of Doria's motion.

Attorneys: Jacques B. Gelin, Edmund B. Clark, Robert L. Klarquist
(Land and Natural Resources
Division) FTS 633-2762/2731

Fitzgerald v. United States Department of Agriculture, _____
F.2d _____ (opinion not for publication), No. 79-148
(1st Cir. November 1, 1979)

Mootness

The plaintiffs attacked the legality of the Forest Service's decision to grant federal funds to the State of Maine for part of the cost of aerial spraying of insecticides for a 30-day period to suppress spruce budworms. They also attacked the adequacy of the environmental impact statement accompanying the Forest Service's decision to fund the project. The district court denied a preliminary injunction against spraying and the plaintiffs took no appeal under 28 U.S.C. 1292(a)(1). After the 30-day spraying period expired and the spraying had been completed, the plaintiffs unsuccessfully sought to prevent payment of the federal grant to the State. The district court dismissed the case as moot, and the federal grant was paid. On appeal, the plaintiffs sought an order directing the State to pay back the federal grant and that a hearing be held on the adequacy of the EIS. All appellees, including the Forest Service, moved to dismiss the appeal as moot. After full briefing, but before oral argument, the First Circuit granted the motions to dismiss the appeal.

Attorneys: Dirk D. Snel and Edward J. Shawaker (Land and Natural Resources Division) FTS
633-4400/2813

People of the State of California v. Andrus, _____ F.2d _____,
No. 76-1431 (9th Cir. October 31, 1979) DJ 90-1-4-1023

Standing; No injury to plaintiff; Dismissal
for lack of jurisdiction

California filed suit against the Secretary of the Interior seeking declaratory and injunctive relief to enjoin the Secretary from implementing the President's decision to accelerate oil and gas leasing on the outer continental shelf and from conducting the first OCS sale (No. 35) under that program. The State challenged the adequacy and timing of the Secretary's programmatic impact statement (PEIS). The district court ruled in favor of the Secretary and dismissed the action. California ex rel Younger v. Morton, 404 F.Supp. 26. In December 1975 the sale was held and leases were issued. During the pendency of the appeal the Ninth Circuit requested California to demonstrate its standing in this case (as to the PEIS). California's reply stated that it did not wish to "undo" the OCS leasing activity which had occurred. Since the State failed to show any injury the court of appeals concluded that the State lacked standing and that the court had no jurisdiction over this case. Accordingly, it vacated the judgment of the district court and remanded for consideration of dismissal for lack of jurisdiction.

Attorneys: Jacques B. Gelin, William M. Cohen,
Peter R. Steenland, Jr. (Land and
Natural Resources Division) FTS
633-2762/2704/2748

Sierra Club v. Andrus, _____ F.2d _____, No. 76-1464 (9th
Cir. October 31, 1979) DJ 90-1-4-294

Section 10 of the Rivers and Harbors Act

The district court held that operations of the Tracy Pumping Plant, which pumps water from the California Delta for the Central Valley Project, were in violation of Section 10 of the 1899 Rivers and Harbors Act because the Bureau of Reclamation had not obtained a permit from the Corps of Engineers for the plant. The district court also found that a similar pumping plant owned by the State of California was also in violation of Section 10. Finally, the

district court ordered the federal and state defendants to attempt to secure Section 10 permits from the Corps and ruled that the permits must be preceded by an EIS. The court of appeals affirmed in part and reversed in part. First, the court held that private parties may bring civil actions seeking enforcement of the 1899 Act. Second, it found that some of the plaintiffs had standing to bring this action. Third, the court held that Section 10 is not applicable to projects affirmatively authorized by Congress and that Congress had affirmatively authorized the Tracy Pumping Plant by a series of authorization and appropriation statutes. Interestingly, the Ninth Circuit distinguished its recent holding in Libby Rod and Gun Club v. Poteat, 594 F.2d 742 (1979), on the basis that, in Libby the legislative history of the appropriation acts relied upon by the government was not clear enough to show that Congress intended to approve the construction of the project at issue. Finally, the court ruled that the State was required to secure a Section 10 permit.

Attorneys: Robert L. Klarquist and Jacques B. Gelin (Land and Natural Resources Division) FTS 633-2731/2762

United States v. 320.0 Acres in Monroe County, Florida (Ciccone), 605 F.2d 762, No. 76-2725 (5th Cir. October 31, 1979)
DJ 33-10-76-2788

Condemnation; Scope of the project rule; Highest and best use; Admissibility of comparable sales and admissibility prior appraisals

The Fifth Circuit accorded 53 landowners new trials in condemnation proceedings for the Everglades National Park, finding that due process had been denied, attributable in part to government counsel, which resulted in severe restrictions on presentation of the landowners' cases. The 70-page opinion by Chief Judge Brown treats a myriad of eminent domain principles, including the (1) scope-of-the-project doctrine, (2) highest and best use, (3) comparable sales, (4) admissibility of appraisals made prior to the proceedings pursuant to the Uniform Relocation Act, and (5) use of commissions to determine just compensation.

The court of appeals found no basis in the record for the government's contention that the simple legislative determination to complete acquisition of all private lands in the Everglades somehow created an additional increment of value in the landowners' property, and therefore, all sales within the Everglades following 1958 legislative determination were inadmissible as tainted by enhancement due to the project. Also, the court found no basis in the record for the district court's ruling that the highest and best use of these tracts could not encompass dwellings built on stilts. The government had asserted that various federal, state and county restrictions would preclude construction of any dwellings existed, it was to ascertain just compensation as if those dwellings did not exist.

Attorneys: Peter R. Steenland, Jr. (Land and
Natural Resources Division)
FTS 633-2748, ex-Assistant United
States Attorney, David McIntosh
S.D. Fla.

OFFICE OF LEGISLATIVE AFFAIRS
Assistant Attorney General Alan A. Parker

SELECTED CONGRESSIONAL AND LEGISLATIVE ACTIVITIES

NOVEMBER 27 - DECEMBER 11, 1979

Motor Vehicle Theft. On November 27 the Senate Governmental Affairs Subcommittee on Permanent Investigations conducted the first of five days of oversight hearings on motor vehicle theft. The hearings will trace the growth of professional vehicle theft, discuss its impact on insurance rates, and cover organized crime's interest in chop shop operations.

By increasing public awareness of the auto theft problem, these oversight hearings could provide important impetus for the Department's proposed Motor Vehicle Theft Prevention Act, (S. 1214, H.R. 4178). This legislation would authorize the Secretary of Transportation to issue new regulations to prevent auto theft. The new antitheft regulations would require car manufacturers to adopt improved ignition locking systems and better locks for doors, trunks and hoods. In addition, auto makers would have to place identification numbers on key parts so as to aid law enforcement officials in identifying body shops that deal in stolen parts. The bill would also revise Federal criminal penalties, forfeiture provisions, and customs procedures governing auto exports.

On the House side, Congressman Green (R. N.Y.) has introduced the legislation and has lined up dozens of cosponsors.

Bottlers Bill. On November 27 the Antitrust Subcommittee of the Senate Judiciary Committee reported favorably (8-1) S. 598, the Soft Drink Interbrand Competition Act. Reported without amendment, the bill would confer a special antitrust exemption on exclusive territorial agreements between soft drink manufacturers and bottlers, freeing such agreements from the "rule of reason" normally applied. The Department strongly opposes this legislation. The House has held two hearings on this subject but at this point has not yet scheduled any markup.

Railroad Deregulation. On November 27 the Senate Commerce Committee reported favorably S. 1946, the Railroad Transportation Policy Act of 1979. In its introduced form, S. 1946 was a substantially weaker attempt at railroad deregulation than that proposed by the Administration. The bill was further weakened during markup. With regard to the issues of central interest to the Department, the Committee refused to change the existing standards controlling mergers of major railroads. Further, the Committee amended the bill so that general rate increase authority is not phased out. Instead, there would be a study of the

abolition of that authority. Finally, rate bureau meetings would not be opened to the public. Instead, transcripts of such meetings would be made and deposited with the ICC, would be available for inspections by other government agencies, but would otherwise be treated as confidential and not subject to FOIA disclosure.

Coal Slurry Pipelines. On November 27 Donald Flexner, Deputy Assistant Attorney General for Antitrust, testified before the Subcommittee on Surface Transportation of the House Public Works Committee on H.R. 4370, the Coal Pipeline Act of 1979. Mr. Flexner concentrated on the anticompetitive implications of ownership of coal slurry lines by sellers of coal. Accompanying him was Nancy Stanley, of the Lands Division, who answered questions concerning the impact of H.R. 4370 on state water rights.

Regulatory Reform. The House Judiciary Subcommittee on Administrative Law and Governmental Relations held further hearings on regulatory reform proposals, including those of the Administration. Senator Dale Bumpers testified on the subject of his amendment eliminating the presumption of validity of all agency regulations, as adopted by the Senate. The Senator is now suggesting some adjustments in the amendment to clarify its intent, and to bring the standard of proof required into line with some of the comments and criticisms that have been received. However, the basic Executive Branch difficulty with that amendment still remains.

Department witness, Harold Bruff, testified on December 10.

Trucking Deregulation. On December 3 John Shenefield, Assistant Attorney General for Antitrust, testified before the Senate Commerce Committee in favor of S. 1400, the Administration's trucking deregulation bill. Specifically, he argued for abolition of collective rate making authority.

Right to Financial Privacy Act Amendments. Further meetings to work out agreeable language have been held, and the Administration is expected to move forward on these once final language is arrived at.

Criminal Code Reform. On December 4 the Senate Judiciary Committee reported out its criminal code reform bill, S. 1722, on a 14-1 vote, with Senator Mathias voting against it. The vote was delayed by a Republican boycott based on opposition to the Leahy amendment which preserved the Enmons decision. However, Chairman Kennedy drew them back with an amendment to Leahy's amendment and a promise to Senator Thurmond that the Committee would also vote on the death penalty bill. (The death penalty bill passed 7-6).

The House Subcommittee on Criminal Justice is continuing markup on its bill. Recent decisions include adoption of DOJ language on program bribery and program fraud which allows local officials to be reached, but with the Attorney General certifying cases before prosecution. The Subcommittee rejected a provision on obstruction of official proceedings by fraud which DOJ had supported.

Indian Claims Bills. On December 4 Anthony Liotta, Deputy Assistant Attorney General, Lands Division, testified before the Senate Select Committee on Indian Affairs on three bills which would allow various tribes to pursue land claims before the Court of Claims. The bills, as drafted, waive the statute of limitations of the Indian Claims Commission Act and appear to allow the tribes to pursue all claims, res judicata and previous payments notwithstanding. In discussing these bills, DOJ stated to OMB and Interior that we would testify only if there were one Administrative position. The DOJ testified against the bills as drafted deferring to Interior on whether alternative proposals would be supported by the Administration. The Interior Department, which had supported the bills or at least their possible result of payment of interest to the Indians, did not testify.

Refugee Bill. On December 4 the Rules Committee granted an open rule on H.R. 2816, with one hour of general debate. It is anticipated that the bill could come up on the floor of the House as early as December 11. However, an extension of the current refugee parole programs beyond the December 15 expiration date will be required since the legislation must also go through the conference committee process. Accordingly, Secretary Vance will send the Attorney General a letter recommending such an extension. Hopefully, formal consultations with the Judiciary Committees on this extension will not be required, although no one is yet certain on that point.

False Claims Act Amendments. S. 1981 amending the False Claims Act should be reported out of the Subcommittee on Judicial Machinery of the Senate Judiciary Committee during the week of December 10. Meanwhile, Representative Rodino introduced the bill in the House and it was referred to the Subcommittee on Administrative Law of the House Judiciary Committee.

Swine Flu. The Senate companion to the Mazzoli bill in the House was introduced by Senator Durenberger. The bills establish a commission to compensate victims of Guillain-Barre Syndrome who show their illness was within twenty weeks of receiving the swine flu immunization. Both bills were recently referred to subcommittees.

GAO. The Department testified in opposition of S. 1878 which would give the GAO power to go to court against the Executive

Branch for the production of information. The full Committee on Governmental Affairs is tentatively set to markup the bill on December 11. The companion bill, H.R. 24, has already passed the House.

NOMINATIONS:

On November 30, 1979, the Senate received the following nominations:

Charles B. Renfrew, of California, to be Deputy Attorney General;

Sanford M. Litvack, of New York, to be an Assistant Attorney General;

Richard A. Enslin, to be U.S. District Judge for the Western District of Michigan;

Diana F. Murphy, and Robert G. Renner, each to be a U.S. District Judge for the District of Minnesota;

Gilberto Gierbolini-Ortiz, to be U.S. District Judge for the District of Puerto Rico;

William M. Kidd, to be U.S. District Judge for the Southern District of West Virginia; and

Stephen R. Reinhardt, of California, to be U.S. Circuit Judge for the Ninth Circuit.

On December 3, 1979, the Senate received the following nominations:

Ira M. Schwartz, of Washington, to be Associate Administrator of Law Enforcement Assistance;

Helen J. Frye, James A. Redden, Jr., and Owen M. Panner, each to be a U.S. District Judge for the District of Oregon; and

Barbara J. Rothstein, to be U.S. District Judge for the Western District of Washington.

On December 6, 1979, the Senate received the following nomination:

Harry T. Edwards, of Michigan, to be U.S. Circuit Judge for the District of Columbia Circuit.

On December 7, 1979, the Senate received the following nomination:

Earl B. Gilliam, to be U.S. District Judge for the Southern District of California.

CONFIRMATIONS:

On November 26, 1979, the Senate confirmed the following nominations:

Warren J. Ferguson, and Cecil F. Poole, both of California, each to be a U.S. Circuit Judge for the Ninth Circuit;

Dudley H. Bowen, Jr., to be U.S. District Judge for the Southern District of Georgia;

Milton L. Schwartz, to be U.S. District Judge for the Eastern District of California;

William O. Bertelsman, to be U.S. District Judge for the Eastern District of Kentucky;

Peter H. Beer, to be U.S. District Judge for the Eastern District of Louisiana;

James T. Giles, to be U.S. District Judge for the Eastern District of Pennsylvania;

Lucius D. Bunton, III, to be U.S. District Judge for the Western District of Texas;

Harry L. Hudspeth, to be U.S. District Judge for the Western District of Texas;

Alice Daniel, of the District of Columbia, to be an Assistant Attorney General;

George W. Proctor, to be U.S. Attorney for the Eastern District of Arkansas; and

Frederick A. Rody, Jr., of Florida, to be Deputy Administrator of Drug Enforcement.

On December 4, 1979, the Senate confirmed the following nomination:

David K. Winder, to be U.S. District Judge for the District of Utah.

On December 5, 1979, the Senate confirmed the following nominations:

Juan M. Perez-Gimenez, to be U.S. District Judge for the District of Puerto Rico;

Horace T. Ward, to be U.S. District Judge for the Northern District of Georgia;

Jose A. Cabranes, to be U.S. District Judge for the District of Connecticut;

Robert J. McNichols, to be U.S. District Judge for the Eastern District of Washington; and

Charles F.C. Ruff, to be U.S. Attorney for the District of Columbia.

Federal Rules of Criminal Procedure

Rule 11. Pleas.

Defendant was charged with one felony and one misdemeanor and pled guilty to the lesser offense, stating that he thought a jury would convict him. Upon questioning by the trial judge, however, defendant steadfastly maintained his innocence. The judge rejected the plea. Defendant was convicted by a jury of the felony charge and acquitted of the misdemeanor charge. He appeals, contending that the trial judge abused his discretion under Rule 11 in rejecting the guilty plea to the lesser offense.

The Court declined to adopt the rule urged by the defendant making it an abuse of discretion to reject a guilty plea when a defendant refuses to admit guilt. A trial court has discretion under Rule 11 to accept or reject a guilty plea. It may accept a guilty plea of one who protests his innocence, but is not required to do so. The trial judge here did not abuse his discretion in rejecting the guilty plea.

(Affirmed.)

United States v. James Barry O'Brien, 601 F.2d 1067
(9th Cir., August 2, 1979)

Federal Rules of Criminal Procedure

Rule 23(b). Trial by Jury or by the Court.
Jury of Less than Twelve.

Defendant was convicted following a trial by an eleven person jury. After the twelve person jury had been impaneled and one juror was excused for a physical disability (deafness), the Government and defense counsel, evidently unaware of Rule 23(b)'s requirement of a written stipulation approved by the court, entered into an oral stipulation to proceed with the eleven person jury. After the conviction, the judge questioned the defendant at the sentencing hearing to verify that the defendant had agreed to his counsel's stipulation to the eleven person jury. On appeal the defense contends that this was insufficient to satisfy the requirements of Rule 23(b).

Noting that precedent establishes that an oral stipulation may, under certain circumstances, satisfy Rule 23(b), where it appears from the record that the defendant personally gave express consent in open court, intelligently and knowingly, to the stipulation, the Court held that to satisfy this requirement the defendant's expression of consent on the record must appear at the time the stipulation is made, not at some subsequent point such as a sentencing hearing. Expressing no great satisfaction in the result, the Court held that reversal was appropriate in this case, and emphasized that counsel have the obligation to call all appropriate procedural rules to the attention of the trial judge before offering stipulations such as this one.

(Reversed.)

United States v. Danuario Reyes, 603 F.2d 69, (9th Cir., July 30, 1979)

Federal Rules of Criminal Procedure

Rule 5(a). Initial Appearance Before the Magistrate. In General.

Defendant appealed from his conviction of assaulting an immigration officer with a deadly weapon, contending that his conviction should be reversed because of unreasonable delay in bringing him before a magistrate, in violation of Rule 5(a) and the McNabb-Mallory rule.

The Government conceded that the delay was unnecessary, but argued that Rule 5(a) and the McNabb-Mallory rule are inapplicable in this case, because a person who has been arrested and is being held pending a determination of his deportability does not have the right to be brought promptly before a magistrate, citing 8 U.S.C. 1252(b), which describes the proceedings before a special inquiry officer to determine deportability, and does not prescribe a right to be brought promptly before a federal officer.

The Court first indicated that the Government relied on the wrong statute. The statute specifically defining the treatment of aliens after arrest is 8 U.S.C. 1357(a)(2), which provides that, following a warrantless arrest of an alien by an INS agent, the alien arrested shall be taken without unnecessary delay for examination before an officer of the Service having authority to examine aliens as to their right to enter or remain in the United States. The Court then held that, "nothing in section 1357(a)(2) purports to deprive an alien who is detained on a criminal charge, or against whom criminal charges are going to be lodged, in addition to any deportation proceedings that may be conducted against him, of his rights secured by Rule 5(a) . . . and the McNabb-Mallory rule. On the contrary, section 1357(a)(2) relaxed Rule 5(a) only for the examination of an alien's right to remain in the United States. Federal officers must comply with Rule 5(a) if the alien is being charged with a non-status offense."

(Reversed.)

United States v. Edit Sotoj-Lopez, 603 F.2d 789 (9th Cir., Sept. 4, 1979)

LISTING OF ALL BLUESHEETS IN EFFECT

<u>DATE</u>	<u>AFFECTS USAM</u>	<u>SUBJECT</u>
	TITLE 1	
5-23-78	1 thru 9	Reissuance and Continuation in Effect of BS to U.S.A. Manual
Undtd	1-1.200	Authority of Manual; A.G. Order 665-76
9-30-76	1-2.200	Advisory Committee of U.S. Attorneys; Subcommittee on Indian Affairs
6-21-77	1-3.100	Assigning Functions to the Associate Attorney General
6-21-77	1-3.102	Assignment of Responsibility to DAG re INTERPOL
6-21-77	1-3.105	Reorganize and Redesignate Office of Policy and Planning as Office for Improvements in the Administration of Justice
4-22-77	1-3.108	Selective Service Pardons
6-21-77	1-3.113	Redesignate Freedom of Information Appeals Unit as Office of Privacy and Information Appeals
6-21-77	1-3.301	Director, Bureau of Prisons; Authority to Promulgate Rules
6-21-77	1-3.402	U.S. Parole Commission to replace U.S. Board of Parole
Undtd	1-5.000	Privacy Act Annual Fed. Reg. Notice; Errata
12-5-78	1-5.400	Searches of the News Media
8-10-79	1-5.500	Public Comments by DOJ Emp. Reg., Invest., Indict., and Arrests
4-28-77	1-6.200	Representation of DOJ Attorneys by the Department: A.G. Order 633-77
8-30-77	1-9.000	Case Processing by Teletype with Social Security Administration

DATE	AFFECTS USAM	SUBJECT
11-8-78	1-11.901	New Request Form for Authorization to Apply for Compulsion Order (Immunity)
7-14-78	1-14.210	Delegation of Authority to Conduct Grand Jury Proceedings
1-03-78	TITLE 2 2-3.210	Appeals in Tax Case
Undtd	TITLE 3 3-4.000	Sealing and Expungement of Case Files Under 21 U.S.C. 844
11-27-78	TITLE 4 4-1.200	Responsibilities of the AAG for Civil Division
9-15-78	4-1.210- 4-1.227	Civil Division Reorganization
4-1-79	4-1.300- 4-1.313	Redelegations of authority in Civil Division Cases
5-5-78	4-1.313	Addition of "Direct Referral Cases" to USAM 4-1.313
4-1-79	4-2.110- 4-2.140	Redelegation of Authority in Civil Division Cases
2-22-78	4-2.320	Memo Containing the USA's Recommendations for the Compromising or Closing of Claims Beyond his Authority
11-13-78	4-2.433	Payment of Compromises in Federal Tort Claims Act Suits
8-13-79	4-3.000	Withholding Taxes on Backpay Judgments
5-05-78	4-3.210	Payment of Judgments by GAO
6-01-78	4-3.210	New telephone number for GAO office handling payment of judgments
5-14-79	4-4.230	Attorneys' Fees in EEO Cases
11-27-78	4-4.240	Attorney fees in FOI and PA suits
4-1-79	4-4.280	New USAM 4-4.280, dealing with attorney's fees in Right To Financial Privacy Act suits

<u>DATE</u>	<u>AFFECTS USAM</u>	<u>SUBJECT</u>
4-1-79	4-4.530	Addition to USAM 4-4.530 (costs recoverable from United States)
4-1-79	4-4.810	Interest recoverable by the Gov't.
4-1-79	4-5.229	New USAM 4-5.229, dealing with limitations in Right To Financial Privacy Act suits.
4-1-79	4-5.921	Sovereign immunity
4-1-79	4-5.924	Sovereign immunity
9-24-79	4-9.200	McNamara-O'Hara Service Contract Act cases
9-24-79	4-9.700	Walsh-Healy Act cases
4-1-79	4-11.210	Revision of USAM 4-11.210 (Copyright Infringement Actions).
4-1-79	4-11.850	New USAM 4-11.850, discussing Right To Financial Privacy Act litigation
6-4-79	4-12.250; 4-12.251	Priority of Liens (2410 cases)
5-22-78	4-12.270	Addition to USAM 4-12.270
4-16-79	4-13.230	New USAM 4-13.230, discussing revised HEW regulations governing Social Security Act disability benefits
11-27-78	4-13.335	News discussing "Energy Cases"
7-30-79	4-13.350	Review of Government Personnel Cases under the Civil Service Reform Act of 1978
4-1-79	4-13.361	Handling of suits against Gov't Employees
6-25-79	4-15.000	Subjects Treated in Civil Division Practice Manual
	TITLE 5	
9-14-78	5-1.110	Litigation Responsibility of the Land & Natural Resources Division
9-14-78	5-1.302	Signing of Pleadings by AAG

<u>DATE</u>	<u>AFFECTS USAM</u>	<u>SUBJECT</u>
9-7-78	5-1.310	Authority of U.S. Attorneys to Initiate Actions Without Prior Authorization to Initiate Action
9-14-78	5-1.321	Requirement for Authorization to Initiate Action
1-3-79	5-1.325; 5-1.326	Case Weighting System, Case Priority System, Procedures
9-7-78	5-1.620	Settlement Authority of Officers within the Land and Natural Resources Division
9-7-78	5-1.630	Settlement Authority of U.S. Attorneys
9-14-78	5-2.130	Statutes administered by Pollution Control Section
9-06-77	5-2.310(a) and (b); 5-2.312	Representation of the Environmental Protection Agency
9-14-78	5-2.312	Cooperation and Coordination with Environmental Protection Agency
9-14-78	5-2.321	Requirement for Authorization to Initiate Action
9-06-77	5-3.321; 5-3.322	Category 1 Matters and Category 2 Matters-Land Acquisition Cases
9-14-78	5-4.321	Requirement for Authorization to Initiate Action
9-14-78	5-5.320	Requirement for Authorization to Initiate Action
9-14-78	5-7.120	Statutes Administered by the General Litigation Section
9-14-78	5-7.314	Cooperation and Coordination with the Council on Environmental Quality
9-14-78	5-7.321	Requirement for Authorization to Initiate Action
9-14-78	5-8.311	Cooperation and Coordination with the Council on Environmental Quality

<u>DATE</u>	<u>AFFECTS USAM</u>	<u>SUBJECT</u>
TITLE 7		
6-21-77	7-2.000	Part 25-Recommendations to President on Civil Aeronautic Board Decisions, Procedures for Receiving Comments by Private Parties
TITLE 8		
6-21-77	8-2.000	Part 55-Implementation of Provisions of Voting Rights Act re Language Minority Groups (interpretive guidelines)
6-21-77	8-2.000	Part 42-Coordination of Enforcement of Non-discrimination in Federally Assisted Programs
10-18-77	8-2.220	Suits Against the Secretary of Commerce Challenging the 10% Minority Business Set-Aside of the Public Works Employment Act of 1977 P.L 95-28 (May 13, 1977)
10-16-79	8-3.130	Authorizations for Grand Jury Proceedings, Arrests and Indictments
TITLE 9		
7-11-79	9-1.000	Criminal Division Reorganization
11-13-79	9-1.160	Requests for Grand Jury Authorization Letters for Division Attorneys
Undtd	9-1.215	Foreign Corrupt Practices Act of 1977-15 U.S.C. 78m(b)(2)-(3); 15 U.S.C. 78dd-1; and 15 U.S.C. 78dd-2
6-22-79	9-2.000	Cancellation of Outstanding Memorandum
5-11-79	9-2.025	Trade Secrets Act-Prosecution Under 18 U.S.C. 1905
12-13-78	9-2.133	Policy Limitations on Institution of Proceedings: Harboring
5-11-79	9-2.133	Criminal Division Consultation Required Before Distribution of Proceedings: Trade Secret Act
4-16-79	9-2.168	State and Territorial Prisoners Incarcerated in Federal Institutions

<u>Date</u>	<u>AFFECTS USAM</u>	<u>SUBJECT</u>
6-28-79	9-4.600	Hypnosis
9-26-77	9-4.950; 9-4.954	New Systems Notice. Requirements Privacy Act--Safeguard Procedures of the Tax Reform Act of 1976
Undated	9-7.000; 9-7.317	Defendant Overhearings and Attorney Overhearings Wiretap Motions
8-16-79	9-7.230	Pen-Register Surveillance
6-17-77	9-8.100	Diversion of Juvenile Cases to State Authorities
12-13-78	9-11.220	Use of Grand Jury to Locate Fugitives
5-31-77	9-11.230	Grand Jury Subpoena for Telephone Toll Records
8-13-79	9-11.230	Fair Credit Reporting Act and Grand Jury Subpoenas
12-13-78	9-11.255	Grand Jury Practice
5-22-79	9-16.210	Explanation of "Special Parole" in Entry of Pleas Pursuant to Rule 11 F.R.Crim. P.
6-7-79	9-21.000	Witness Security Program
9-15-77	9-27.000	Federal Telephone Search Warrant System
11-13-79	9-34.220	Preparation of Reports on Convicted Prisoners for the Parole Commission
2-18-77	9-42.000	Coordination of Fraud Against the Government Cases (non-disclosable)
7-19-77	9-42.450	H.E.W. Project Integrity
9-06-77	9-42.450	Fraud Against the Government - Medicaid Fraud
9-06-77	9-42.450	Fraud Against the Government; 18 U.S.C. 287
6-08-78	9-42.450	Plea Bargaining
8-10-78	9-42.500	Referral of Food Stamp Violations
4-13-77	9-42.510	Referral of Social Security Violations

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AFFECTS USAM

SUBJECT

6-29-79	9-60.291	Forfeiture of Devices Illegally Used to Intercept Wire or Oral Communications
5-22-79	9-61.132 and 9-61.133	Steps to be Taken to Assure the Serious Consideration of All Motor Vehicle Theft Cases for Prosecution
5-22-79	9-63.165	Revision of Prosecutive Policy to Reflect Availability of Civil Penalty for Processing Individuals who Attempt to Carry a Firearm Aboard a Carrier Aircraft
8-08-79	9-69.260	Perjury: False Affidavits Submitted in Federal Court Proceedings Do Not Constitute Perjury Under 18 USC 1623
11-8-78	9-75.040	Broadcasting Obscene Language
3-12-79	9-79.260	Access to Information Filed Pursuant to the Currency & Foreign Transactions Reporting Act
5-11-78	9-120.160	Fines in Youth Corrections Act Cases
4-05-79	9-123.000	Costs of Protection (28 U.S.C. 1918(b))
5-05-77	9-131.030	Hobbs Act: Authorizing Prosecution
5-25-78	9-131.200	Proof of "Racketeering" Involvement is not an Element of a Hobbs Violation

(Revised 12-13-79)

Note: The following Bluesheets are obsolete and should be removed in accordance with Title 9 - Transmittal No. 25.

Bluesheet 9-7.181 dated 6-21-79 -- Order Requiring Assistance of Commun. Carrier, Landlord, Custodian and Other Persons Nec. to Accomp. Interception.

Bluesheet 9-7.550 dated 5-24-79 -- Authorization to Disclose the Contents of Intercepted Communications

UNITED STATES ATTORNEYS' MANUAL--TRANSMITTALS

The following United States Attorneys' Manual Transmittals have been issued to date in accordance with USAM 1-1.500. This monthly listing may be removed from the Bulletin and used as a check list to assure that your Manual is up to date.

<u>TRANSMITTAL AFFECTING TITLE</u>	<u>NO.</u>	<u>DATE MO/DAY/YR</u>	<u>DATE OF Text</u>	<u>CONTENTS</u>
1	1	8/20/76	8/31/76	Ch. 1,2,3
	2	9/03/76	9/15/76	Ch. 5
	3	9/14/76	9/24/76	Ch. 8
	4	9/16/76	10/01/76	Ch. 4
	5	2/04/77	1/10/77	Ch. 6,10,12
	6	3/10/77	1/14/77	Ch. 11
	7	6/24/77	6/15/77	Ch. 13
	8	1/18/78	2/01/78	Ch. 14
	9	5/18/79	5/08/79	Ch. 5
	10	8/22/79	8/02/79	Revisions to 1-1.400
	11	10/09/79	10/09/79	Index to Manual
2	1	6/25/76	7/04/76	Ch. 1 to 4
	2	8/11/76	7/04/76	Index
3	1	7/23/76	7/30/76	Ch. 1 to 7
	2	11/19/76	7/30/76	Index
	3	8/15/79	7/31/79	Revisions to Ch. 3
	4	9/25/79	7/31/79	Ch. 3
4	1	1/03/77	1/03/77	Ch. 3 to 15
	2	1/21/77	1/03/77	Ch. 1 & 2

	3	3/15/77	1/03/77	Index
	4	11/28/77	11/01/77	Revisions to Ch. 1-6, 11-15 Index
5	1	2/04/77	1/11/77	Ch. 1 to 9
	2	3/17/77	1/11/77	Ch. 10 to 12
	3	6/22/77	4/05/77	Revisions to Ch. 1-8
	4	8/10/79	5/31/79	Letter from Attorney General to Secretary of Interior
6	1	3/31/77	1/19/77	Ch. 1 to 6
	2	4/26/77	1/19/77	Index
	3	3/01/79	1/11/79	Complete Revision of Title 6
7	1	11/18/77	11/22/76	Ch. 1 to 6
	2	3/16/77	11/22/76	Index
8	1	1/04/77	1/07/77	Ch. 4 & 5
	2	1/21/77	9/30/77	Ch. 1 to 3
	3	5/13/77	1/07/77	Index
	4	6/21/77	9/30/76	Ch. 3 (pp. 3-6)
	5	2/09/78	1/31/78	Revisions to Ch. 2
9	1	1/12/77	1/10/77	Ch. 4,11,17, 18,34,37,38
	2	2/15/78	1/10/77	Ch. 7,100,122
	3	1/18/77	1/17/77	Ch. 12,14,16, 40,41,42,43
	4	1/31/77	1/17/77	Ch. 130 to 139
	5	2/02/77	1/10/77	Ch. 1,2,8,10, 15, 101, 102, 104 120,121

6	3/16/77	1/17/77	Ch. 20,60,61,63, 64,65,66,69,70, 71,72,73,75,76,77, 78,79,85,90,110
7	9/08/77	8/01/77	Ch. 4 (pp. 81- 129) Ch. 9, 39
8	10/17/77	10/01/77	Revisions to Ch. 1
9	4/04/78	3/18/78	Index
10	5/15/78	3/23/78	Revisions to Ch. 4,8,15, and new Ch. 6
11	5/23/78	3/14/78	Revisions to Ch. 11,12,14, 17,18, & 20
12	6/15/78	5/23/78	Revisions to Ch. 40,41,43, 60
13	7/12/78	6/19/78	Revisions to Ch. 61,63,64, 65,66
14	8/02/78	7/19/78	Revisions to Ch. 41,69,71, 75,76,78, & 79
15	8/17/78	8/17/78	Revisions to Ch. 11
16	8/25/78	8/02/78	Revisions to Ch. 85,90,100, 101, & 102
17	9/11/78	8/24/78	Revisions to Ch. 120,121,122, 132,133,136,137, 138, & 139
18	11/15/78	10/20/78	Revisions to Ch. 2
19	11/29/78	11/8/78	Revisions to Ch. 7
20	2/01/79	2/1/79	Revisions to Ch. 2

21	2/16/79	2/05/79	Revisions to Ch. 1,4,6,11, 15,100
22	3/10/79	3/10/79	New Section 9-4.800
23	5/29/79	4/16/79	Revisions to Ch. 61
24	8/27/79	4/16/79	Revisions to 9-69.420
25	9/21/79	9/11/79	Revision of Title 9 Ch. 7
26	9/04/79	8/29/79	Revisions to 9-14.112
27	11/09/79	10/31/79	Revisions to Ch. 1, 2, 11, 73, and new Ch. 47

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