



U.S. Department of Justice
Executive Office for United States Attorneys

United States Attorneys' Bulletin

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EXECUTIVE OFFICE FOR U. S. ATTORNEYS
William P. Tyson, Director

CLEARINGHOUSE

Pursuant to a request from the Chiefs of the Civil Divisions, United States Attorneys' offices, a list has been compiled of Department of Justice Civil Division attorneys with expertise in certain areas to help expedite finding one from whom Assistant U. S. Attorneys can seek advice and counsel when required.

This list has been published as an appendix to this issue of the USAB.

(Executive Office)

COMMENDATIONS

Assistant United States Attorney THOR ANDERSON, District of Minnesota, has been commended by C. D. Switzer, District Director, Internal Revenue Service in St. Paul, Minnesota, for the skillful and successful prosecution involving a highly complex method of tax evasion in the Hecht case.

Assistant United States Attorney WILLIAM C. CARPENTER, District of Delaware, has been commended by J. E. Rahming, Postal Inspector in Charge, Philadelphia Division, United States Postal Service, for his excellent abilities which were instrumental in the mail fraud conviction of James A. Whritner, a successful prosecution of a non-union member in a counterfeit labor union membership scheme.

Assistant United States Attorney FREDERIK A. JACOBSEN, Central District of California, has been commended by L. O. Poindexter, Postal Inspector in Charge, United States Postal Service in Los Angeles, California, for his performance in investigating and handling the mail fraud case of United States v. Schaflander and Wright.

Assistant United States Attorney PETER ROBINSON, Northern District of California, has been commended by Mr. William D. Neumann, Special Agent in Charge, Federal Bureau of Investigation in San Francisco, California, for his thorough preparation and brilliant presentation of a case dealing with fraud against the Government involving defendant, Jacqueline Sharpe.

Assistant United States Attorney HENRY ROSSBACHER, Central District of California, has been commended by Mr. Roger M. Olsen, Deputy Assistant Attorney General, Criminal Division, for his outstanding professional work and success in several complicated extradition cases, most notably the Tian and Kraus and Witte requests from the Federal Republic of Germany, and for his preparation of an "extradition case packet" for the convenience of Assistants handling extradition cases for the first time or sporadically.

EXECUTIVE OFFICE FOR U. S. ATTORNEYS
William P. Tyson, DirectorPOINTS TO REMEMBERProcedures to be Followed by Government Attorneys Prior to Filing Recusal or Disqualification Motions

On May 12, 1982, the Attorney General signed Order No. 977-82 establishing procedures to be followed by government attorneys who during the course of litigation seek to recuse or disqualify a justice, judge, or magistrate. According to the procedures, no motion to recuse or disqualify can be made without prior authorization by the Assistant Attorney General or his appropriate designee.

These regulations may be found in 28 C.F.R. § 50.19. A copy is attached as an appendix to this issue of the USAB.

(Executive Office)

Special Award

Assistant United States Attorney, ALBERT R. MURRAY, JR., Middle District of Pennsylvania, was presented the "1982 Chief Postal Inspector's Special Award For Excellence In The Administration of Justice." This award was presented by C.E. Michaelson, Regional Chief Postal Inspector, on behalf of Chief Postal Inspector Kenneth H. Fletcher.

The Chief Inspector's Award is presented annually to one person in the United States for excellence in the successful prosecution of federal criminal offenses involving the U.S. Mail.

(Executive Office)

Filing of Unlawful Flight to Avoid Prosecution (UFAP)
Complaints in Parental Abduction Cases

A number of United States Attorneys have been advised that the state parental abduction or custodial interference statute in force in their Districts can not serve as a predicate for the filing of complaints charging unlawful flight to avoid prosecution in violation of 18 U.S.C. 1073. Typically, those statutes provide that the offense does not become a felony until the child has been removed from the state. The states which have this type of statute include the following: Georgia, Missouri, North Carolina, Oregon, South Carolina, Texas and Virginia.

The Criminal Division has reconsidered the issue and has determined that there is an appropriate legal basis for concluding that a parent violates section 1073 when he or she removes their child from such a state with intent to violate a custody decree of that state. A detailed memorandum of law supporting this conclusion may be obtained from the General Litigation and Legal Advice Section of the Criminal Division. Accordingly, prior advice to the contrary should be disregarded. However, when a UFAP complaint is based on this type of state statute, the complaint should quote words of the statute and spell out exactly what the state accuses the defendant of having done, so that the magistrate may make an independent assessment of whether 18 U.S.C. 1073 has been violated. UFAP complaints based on parental kidnapping are, of course, not to be filed until Criminal Division authorization has been obtained. USAM 9-69.421.

(Criminal Division)

CIVIL DIVISION
Assistant Attorney General J. Paul McGrath

Army and Air Force Exchange Service v. Sheehan, Supreme Court No. 80-1437 (June 1, 1982). D.J. # 35-73-64.

TUCKER ACT: SUPREME COURT HOLDS THAT A
DISCHARGED ARMY AND AIR FORCE EXCHANGE
SERVICE EMPLOYEE HAS NO CAUSE OF ACTION
FOR BACK PAY.

Respondent Arthur Sheehan was first employed in 1962 as a data processor by the Army and Air Force Exchange Service. Five years later he was designated as a participant in the AAFES Executive Management Program. In 1975, while serving as a shopping center manager at Fort Jackson, S.C., he was arrested off the base for possession of controlled substances and pleaded guilty to four state law misdemeanor charges. The AAFES separated him for cause for "conduct off the job which reflects discredit on the AAFES * * *." After exhausting his administrative remedies, he sued in a district court alleging that his discharge was in violation of AAFES regulations and seeking reinstatement and back pay. Because AAFES employees are expressly excluded from the Back Pay Act, the district court dismissed his complaint for lack of discernible subject matter jurisdiction. The Fifth Circuit reversed, concluding that the Tucker Act, 28 U.S.C. 1346(a)(2), provided jurisdiction on the basis of an implied-in-fact contract between Sheehan and the AAFES that the AAFES would adhere to its regulations in dealing with him. After a petition for rehearing en banc was denied, we sought certiorari.

The Supreme Court granted certiorari and reversed 9-0. The Court reasoned that the AAFES, as an "arm of the government," enjoys traditional sovereign immunities; that, as was held in Testan, a waiver of those immunities "cannot be implied but must be unequivocally expressed" (424 U.S. at 399); that no statute provided for monetary damages here; and that Sheehan was foreclosed from asserting Tucker Act jurisdiction on the basis of an implied-in-fact contract because he served by appointment. The Court reaffirmed its holding in Testan (424 U.S. at 398) that the Tucker Act "is itself only a jurisdictional statute [which] does not create any substantive right enforceable against the United States for money damages," and noted that the Fifth Circuit's approach would render superfluous many statutes, such as the Back Pay Act, which permit employees to recover lost wages for unjustified removals only in limited circumstances.

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

CIVIL DIVISION
Assistant Attorney General J. Paul McGrath

Fox v. HUD, D.C. Circuit No. 82-1039 and 82-1063 (June 1, 1982).
D.J. # 145-17-764.

CONSENT DECREE: THIRD CIRCUIT VACATES
DISTRICT COURT ORDER ENFORCING AND
MODIFYING A CONSENT DECREE TO REQUIRE HUD
TO PROVIDE \$11 MILLION IN GNMA TANDEM
FINANCING.

Residents of the Washington West area of Philadelphia challenged certain urban renewal activities of HUD, the City of Philadelphia and the Redevelopment Authority. The parties ultimately agreed to a settlement, which was approved and entered by the district court as a consent decree in 1979. The court decree obligated HUD to provide Section 8 rental subsidies for 131 units to be rehabilitated or newly constructed by a private developer. The decree specifically provided that no defendant was admitting liability for any violation of law.

In June 1981, the private developer announced that the project could not go forward unless HUD guaranteed the availability of approximately \$11 million in Government National Mortgage Association (GNMA) Tandem financing at 7.5% interest. Plaintiffs then argued that HUD was required to provide this GNMA financing under a general "best efforts" clause of the consent decree. HUD disagreed and encouraged the developer to seek other financing, but advised that the developer could compete for the limited GNMA Tandem funds in the same manner as all other qualified applicants.

Plaintiffs then moved for enforcement or, in the alternative, modification of the decree to compel HUD to supply the requested financing. HUD opposed on the grounds that the existing decree did not include any obligation to provide GNMA financing, the circumstances did not justify modification of the decree to impose such a requirement, and the GNMA anti-injunction statute (12 U.S.C. 1723a(a)) deprived the court of authority to order that kind of relief. The district court ruled against HUD on all counts, holding that the existing decree could be read to include the GNMA financing obligation and that, in addition, the decree would be modified to impose this duty on HUD.

CIVIL DIVISION
Assistant Attorney General J. Paul McGrath

The Third Circuit granted our motion for a stay and, on June 1, reversed the district court's judgment. Accepting our argument that the existing decree does not impose the GNMA financing obligation on HUD, the court of appeals turned to the question of the propriety of modifying the decree to impose this new and substantial requirement. The court adopted our view that such a modification was not appropriate and, in so holding, announced a previously unarticulated general principle of law: "in the usual case a court may not impose additional duties upon a defendant party to a consent decree without an adjudication or admission that the defendant violated the plaintiffs' legal rights reflected in the consent decree and that modification is essential to remedy the violation." Slip op. 16-17. In view of this disposition of the case, the court of appeals found it unnecessary to reach the GNMA anti-injunction statute issue.

Attorney: Michael Jay Singer (Civil Division)
FTS (633-3159)

Navy Public Works Center, Pearl Harbor v. FLRA, Ninth Circuit No. 80-7640 (May 25, 1982). D.J. # 145-192-3.

FEDERAL EMPLOYMENT RELATIONS: NINTH
CIRCUIT REJECTS FEDERAL LABOR RELATIONS
AUTHORITY POSITION AND HOLDS THAT NAVY
NEED NOT NEGOTIATE WITH UNION OVER PRO-
POSAL THAT WOULD GIVE CIVILIAN EMPLOYEES
A CONTRACTUAL RIGHT TO REMAIN SILENT
DURING DISCIPLINARY INVESTIGATIONS.

The Federal Labor Relations Authority held that the Navy had to negotiate over a union proposal that would give civilian employees a contractual right to remain silent during disciplinary questioning and would require management to advise employees of that right before each such interview. The Authority characterized the proposal as procedural and held that it was negotiable because its adoption would not prevent management from "acting at all" to discipline employees, since information could be obtained from other employees or sources.

CIVIL DIVISION
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The Ninth Circuit refused to enforce the Authority's decision, finding its characterization of the proposal as purely procedural "a disingenuous attempt to sidestep the central issue raised by Navy's challenge" (fn. 4). That issue was whether the proposal would grant employees a substantive right that would infringe upon management's non-negotiable rights. The court held that it would: To give employees such a right would "severely erode, if not destroy, the employer's nonnegotiable authority under [5 U.S.C. 7106](a)(2)" to discipline employees and to assign work. The Authority's decision to the contrary was held to be not "reasoned and supportable." Although employees retain their Fifth Amendment and other civil rights, "the right to negotiate for contractual immunity from discipline for refusing to account to a superior during disciplinary investigations is not one of those rights."

Attorney: Marc Richman (Civil Division)
FTS (633-5735)

LAND AND NATURAL RESOURCES DIVISION
Assistant Attorney General Carol E. Dinkins

People Against Nuclear Energy v. United States Nuclear Regulatory Commission, ___ F.2d ___, No. 81-1131 (D.C. Cir., May 14, 1982)
D.J. # 90-1-4-2298.

NEPA requires NRC to consider allegations of psychological stress as "environmental impacts."

In an unfavorable decision the court held, 2-1, that the NRC cannot restart the undamaged Unit 1 reactor at Three-Mile Island until it assesses the psychological stress to neighboring residents. The majority opinion, written by Judge Wright, concluded that NEPA requires the NRC to consider the effects of a restart on the community's psychological health, but that the Atomic Energy Act does not. The majority concluded two things: one, that PANE's "allegation -- in the wake of a unique and traumatic nuclear accident -- that renewed operation of TMI-1 may cause medically-recognized impairment of the psychological health of neighboring residents is cognizable under NEPA" and two, that "deterioration of a community's economic base or social stability * * * is a cognizable 'secondary impact' under NEPA."

At the time of the accident at Unit 2 on March 28, 1979, Unit 1 was out of operation for refueling. In December 1980, while a vacancy on the Commission existed, the Commission was divided, 2-2, on whether to include the psychological distress issue in the restart proceedings. This effectively rejected the Licensing Board's recommendation to reconsider that issue. PANE, an intervenor, filed a petition for review of the Commission's order challenging the exclusion of two issues: psychological stress and community deterioration on the basis of NEPA and the Atomic Energy Act.

On January 7, 1982, the court of appeals, by a 2-1 vote, issued an interim judgment, with an opinion to follow, ordering the NRC to prepare an environmental assessment of the effects of the proposed restart on the psychological health of the neighboring residents, and ordering the Commission to determine whether to prepare a supplemental EIS. On April 2, 1982, based on new problems involving leaks and corrosion in the steam generator tubes at TMI-1 which would probably delay restart for 6 to 12 months, the court issued an amended judgment giving the Commission discretion to choose its procedures for studying the significance of the alleged psychological health impacts arising from the proposed restart of TMI-1. This opinion followed:

Judge Wilkey filed a 39-page dissent to the decision calling it a "court-imposed paralysis of nuclear power at Three Mile Island, and potentially elsewhere as well." He stated that "the extension of NEPA to encompass psychological stress is unwarranted, unprecedented, and inconsistent with relevant decisions in this and other circuits." He added: "This novel hurdle, well designed to delay the development of nuclear power * * * is thoroughly consistent with this Court's track record of using NEPA to delay the development of important energy resources," noting his dissent on April 27 in N.R.D.C. v. U.S. N.R.C., from a ruling that invalidated a NRC rule in nuclear licensing. "To adopt the majority view," he wrote, "would be to let any special interest group effectively repeal an act of Congress if it could whip up sufficient hysteria." Judge Wilkey also criticized the majority's view that NRC's continuing close supervision over nuclear power plants means that NEPA remains applicable, instead of limiting NEPA to "proposed actions." This ruling, he wrote, "may significantly increase the NEPA burden on all regulatory agencies in the future." Judge Wright filed a dissent on the Atomic Energy Act issue.

Attorneys: Peter G. Crane, NRC; Jacques B. Gelin and Peter R. Steenland, Jr.
(Land and Natural Resources Division)
FTS(633-2762/2748)

White Earth Band of Chippewa Indians v. Alexander, _____ F. 2d _____, Nos. 81-1805, 81-1833, 81-1861, 81-1862 (10th Cir., May 14, 1982) D.J. # 90-2-0-765.

Indians held entitled to hunt and fish on reservation free of state regulation.

The court upheld the right of the Chippewa to hunt and fish, free of state regulation, on 32 townships of the White Earth Reservation. This result followed from the court's finding that the State of Minnesota and several Minnesota counties were collaterally estopped from relitigating the issue of whether the 32 townships had been disestablished by the Nelson Act, an issue resolved favorably to the Indians in State v. Clark, 282 N.W. 2d 902 (Minn. 1979).

The court also upheld the district court's determinations on two other issues which the Indians appealed but in which appeals the United States did not join. The court held that four townships, ceded by the Chippewa in 1889, had not been restored to the Reservation and that the state

may require non-members hunting and fishing on Indian lands to adhere to state, as well as tribal, limits and regulations.

Attorneys: Kay L. Richman and Edward J.
Shawaker (Land and Natural
Resources Division)
FTS (633-2956/2813)

United States v. Tulare Lake Canal Company, _____ F.2d _____,
Nos. 72-2322, 78-1378, 78-1422 (9th Cir., May 19, 1982)
D.J. # 90-1-2-727.

Reclamation Law; Enforcement of acreage limitations sustained.

In 1963, the United States filed this action against certain landowners in the Tulare Lake area of California who receive irrigation water from the federal Pine Flat Project. The government sought an injunction enforcing the acreage limitations of the reclamation laws; in response, the landowners asserted that the statute authorizing the Pine Valley Project exempted them from the acreage limitations and, in the alternative, that enforcement of the acreage limitations against them was unconstitutional. The district court initially held for the landowners on statutory grounds, United States v. Tulare Lake Canal Company, 340 F.Supp. 1185 (E.D. Calif. 1972), but the court of appeals reversed, United States v. Tulare Lake Canal Company, 535 F.2d 1092 (9th Cir. 1976), and the Supreme Court denied certiorari. 429 U.S. 1121 (1971).

The case was then remanded to the district court for a determination of the constitutional issues. The district court found that the application of the acreage limitations to the landowners was not in violation of the Due Process and Equal Protection Clauses. The landowners appealed this ruling. In addition, the landowners petitioned the Ninth Circuit to recall its mandate issued in its previous ruling on the statutory issues, contending that the soundness of the 1976 opinion had been undermined by the Supreme Court's subsequent rulings in California v. United States, 438 U.S. 645 (1978) and Bryant v. Yellen, 447 U.S. 353 (1980).

In its latest ruling, the court of appeals rejected all of the landowners' contentions. The court first held that nothing in the Supreme Court's subsequent opinions concerning the reclamation laws undermined the validity of the Ninth Circuit's 1976 ruling on the statutory issues. Next, the court found the landowners' constitutional arguments

to be without merit. In so holding, the court noted that the government was attempting to enforce the acreage limitations against only those landowners who elected to take advantage of the government's project and that landowners holding previously perfected water rights remained free to forego project benefits and retain their excess land along with the preexisting water supplies.

Attorneys: Robert L. Klarquist, Scott
McElroy and Peter R. Steenland,
Jr. (Land and Natural Resources
Division)
FTS (633-2731/2748)

OFFICE OF LEGISLATIVE AFFAIRS
Assistant Attorney General Robert A. McConnell

SELECTED CONGRESSIONAL AND LEGISLATIVE ACTIVITIES

MAY 26, 1982 - JUNE 9, 1982

ABSCAM. The Department is in the process of determining the documents and other material to be provided pursuant to the congressional committee's requests. The goal is to assist the committee's inquiry as much as is absolutely possible without jeopardizing ongoing investigations or prosecutions.

Agents' Identities Protection. The House and Senate have agreed to the conference report on the Intelligence Identities Protection Act, H.R. 4. This clears the measure for Executive action.

S. 2575 - EPCA Extension. Both the House and the Senate have passed H.R. 2575, a bill which extends the expiration date of section 252 of the Energy Policy and Conservation Act until July 1, 1982. Section 252 provides for a limited antitrust defense for those companies which participate in the International Energy Agency. While the Department supports this bill, the Administration has previously testified in favor of an extension longer than one month.

Exclusionary Hearing. Congressman Conyer's Subcommittee on Criminal Justice held an oversight hearing on problems with application of the Exclusionary Rule. Assistant Attorney General Jensen testified for the Department setting out problems with the Rule as presently construed and the need for reform legislation proposed by the Administration. Other witnesses were the Attorney General of Rhode Island in support of Rule reform and a representative of the American Bar Association who opposed any change in the Exclusionary Rule.

Gambling Ships. Deputy Assistant Attorney General John C. Keeney testified before the Merchant Marine Subcommittee of the House Merchant Marine and Fisheries Committee on Wednesday, June 9, with respect to H.R. 5035 to authorize gambling on U.S. flag ships. Mr. Keeney stated the Administration's opposition to the bill was based on the fact that (1) the bill would alter the longstanding federal policy against gambling except as authorized by particular states and (2) the bill would require significant expenditures of tax dollars to provide for federal regulation of gambling ships to prevent skimming, cheating and organized crime involvement.

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June 25, 1982

NO. 12

Federal Rules of Evidence

Rule 501. Privileges. General Rule.

Defendant was arrested for drug offenses after police officers in a hidden surveillance location observed him engaging in a drug transaction. On appeal from his conviction, defendant contended, inter alia, that the district court erred when it sustained the government's objection to a question calling for disclosure of the police department's surveillance location.

Acting under its authority to develop common law privileges of witnesses pursuant to Rule 501, the court found that policy justifications analogous to those underlying the well-established informer's privilege support a qualified privilege protecting police surveillance locations from disclosure, and recognized what it termed a "surveillance location privilege".

(Affirmed.)

United States v. Gary Barrett Green, 670 F.2d 1148 (D.C. Cir. December 24, 1981)

List of Subjects in 25 CFR Part 11

Courts; Indian law; Law enforcement; and Penalties.

PART 11—LAW AND ORDER ON INDIAN RESERVATIONS

Section 11.1 of Part 11 of Subchapter B, Chapter 1 of Title 25 of the Code of Federal Regulations is amended by adding (a)(31) to read as follows:

§ 11.1 Application of regulations.

(a) Except as otherwise provided in this part, §§ 11.1-11.87 of this part apply to the following Indian reservations:

- (31) Red Lake (Minnesota)

Kenneth Smith,
Assistant Secretary, Indian Affairs.
(FR Doc. 82-13879 Filed 5-20-82; 8:45 am)
BILLING CODE 4310-03-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 50

[Order No. 977-82]

Procedures To Be Followed by Government Attorneys Prior To Filing Recusal or Disqualification Motions

AGENCY: Justice Department.
ACTION: Final rule.

SUMMARY: The issue of the government requesting that a judge not participate in a particular case is a sensitive question, requiring the assessment of all facts and circumstances. This notice sets forth the Department's rules to be followed by government attorneys who during the course of litigation seek to recuse or disqualify a justice, judge, or magistrate. According to the procedures, no motion to recuse or disqualify can be made without prior authorization by the Assistant Attorney General or his appropriate designee.

EFFECTIVE DATE: May 12, 1982.

FOR FURTHER INFORMATION CONTACT: Dennis Linder, Civil Division, Room 3744, 10th & Pennsylvania Avenue, NW., Washington, D.C., 20530 (202-633-3314).

SUPPLEMENTARY INFORMATION: The requirements of Executive Order No. 12291 (improving government regulations) do not apply to these procedures because they do not constitute a "major rule" within the meaning of Section 1(b) of E.O. 12291. Additionally, the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., do not apply because these

procedures are not a "rule" under Section 601(2) of that Act.

List of Subjects in 28 CFR Part 50

Courts, Judges, Law, Lawyers.

PART 50—STATEMENTS OF POLICY

Accordingly, by the authority vested in me as Attorney General by 5 U.S.C. 301 and 28 U.S.C. 509, 510, and 516, a new § 50.19 to be read as follows, is added to Chapter I of Title 28, Code of Federal Regulations:

§ 50.19 Procedures to be followed by Government attorneys prior to filing recusal or disqualification motions.

The determination to seek for any reason the disqualification or recusal of a justice, judge, or magistrate is a most significant and sensitive decision. This is particularly true for government attorneys, who should be guided by uniform procedures in obtaining the requisite authorization for such a motion. This statement is designed to establish a uniform procedure.

(a) No motion to recuse or disqualify a justice, judge, or magistrate (see, e.g., 28 U.S.C. 144, 455) shall be made or supported by any Department of Justice attorney, United States Attorney (including Assistant United States Attorneys) or agency counsel conducting litigation pursuant to agreement with or authority delegated by the Attorney General, without the prior written approval of the Assistant Attorney General having ultimate supervisory power over the action in which recusal or disqualification is being considered.

(b) Prior to seeking such approval, Justice Department lawyer(s) handling the litigation shall timely seek the recommendations of the United States Attorney for the district in which the matter is pending, and the views of the client agencies, if any. Similarly, if agency attorneys are primarily handling any such suit, they shall seek the recommendations of the United States Attorney and provide them to the Department of Justice with the request for approval. In actions where the United States Attorneys are primarily handling the litigation in question, they shall seek the recommendation of the client agencies, if any, for submission to the Assistant Attorney General.

(c) In the event that the conduct and pace of the litigation does not allow sufficient time to seek the prior written approval by the Assistant Attorney General, prior oral authorization shall be sought and a written record fully reflecting that authorization shall be subsequently prepared and submitted to the Assistant Attorney General.

(d) Assistant Attorneys General may delegate the authority to approve or deny requests made pursuant to this section, but only to Deputy Assistant Attorneys General or an equivalent position.

(e) This policy statement does not create or enlarge any legal obligations upon the Department of Justice in civil or criminal litigation, and it is not intended to create any private rights enforceable by private parties in litigation with the United States.

Dated: May 12, 1982.
William French Smith,
Attorney General.
(FR Doc. 82-13897 Filed 5-20-82; 8:45 am)
BILLING CODE 4410-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

706 Agencies; Handling of Employment Discrimination Charges

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: The Equal Employment Opportunity Commission amends its regulations designating certain State and local fair employment practices agencies (706 Agencies) so that they may handle employment discrimination charges, within their jurisdictions, filed with the Commission. Publication of this amendment effectuates the designation of the York (PA.) Human Relations Commission as a 706 Agency.

EFFECTIVE DATE: May 21, 1982.

FOR FURTHER INFORMATION CONTACT: Franklin F. Chow, Equal Employment Opportunity Commission, Office of Field Services, State and Local Division, 2401 E. St., N.W., Washington, D.C. 20506, telephone 202/634-6905.

SUPPLEMENTARY INFORMATION:

List of Subjects in 29 CFR Part 1601

Administrative practice and procedure, Equal employment opportunity, Intergovernmental relations.

PART 1601—PROCEDURAL REGULATIONS

In Title 29, Chapter XIV of the Code of Federal Regulations, § 1601.74(a) is amended by adding in alphabetical order the following agency:

- § 1601.74 Designated and notice agencies.
- (a) . . .

U.S. ATTORNEY'S LIST AS OF June 17, 1982

UNITED STATES ATTORNEYS

<u>DISTRICT</u>	<u>U.S. ATTORNEY</u>
Alabama, N	Frank W. Donaldson
Alabama, M	John C. Bell
Alabama, S	J. B. Sessions, III
Alaska	Michael R. Spaan
Arizona	A. Melvin McDonald
Arkansas, E	George W. Proctor
Arkansas, W	W. Asa Hutchinson
California, N	Joseph P. Russoniello
California, E	Donald B. Ayer
California, C	Stephen S. Trott
California, S	Peter K. Nunez
Colorado	Robert N. Miller
Connecticut	Alan H. Nevas
Delaware	Joseph J. Farnan, Jr.
District of Columbia	Stanley S. Harris
Florida, N	K. M. Moore
Florida, M	Robert W. Merkle, Jr.
Florida, S	Stanley Marcus
Georgia, N	James E. Baker
Georgia, M	Joe D. Whitley
Georgia, S	Hinton R. Pierce
Guam	David T. Wood
Hawaii	Daniel A. Bent
Idaho	Guy G. Hurlbutt
Illinois, N	Dan K. Webb
Illinois, S	Frederick J. Hess
Illinois, C	Gerald D. Fines
Indiana, N	R. Lawrence Steele, Jr.
Indiana, S	Sarah Evans Barker
Iowa, N	Evan L. Hultman
Iowa, S	Richard C. Turner
Kansas	Jim J. Marquez
Kentucky, E	Louis G. DeFalaise
Kentucky, W	Ronald E. Meredith
Louisiana, E	John Volz
Louisiana, M	Stanford O. Bardwell, Jr.
Louisiana, W	Joseph S. Cage, Jr.
Maine	Richard S. Cohen
Maryland	J. Fredrick Motz
Massachusetts	William F. Weld
Michigan, E	Leonard R. Gilman
Michigan, W	John A. Smietanka
Minnesota	James M. Rosenbaum
Mississippi, N	Glen H. Davidson
Mississippi, S	George L. Phillips
Missouri, E	Thomas E. Dittmeier
Missouri, W	Robert G. Ulrich

UNITED STATES ATTORNEYS

<u>DISTRICT</u>	<u>U.S. ATTORNEY</u>
Montana	Byron H. Dunbar
Nebraska	Ronald D. Lahners
Nevada	Lamond R. Mills
New Hampshire	W. Stephen Thayer, III
New Jersey	W. Hunt Dumont
New Mexico	William L. Lutz
New York, N	Gustave J. DiBianco
New York, S	John S. Martin, Jr.
New York, E	Edward R. Korman
New York, W	Salvatore R. Martoche
North Carolina, E	Samuel T. Currin
North Carolina, M	Kenneth W. McAllister
North Carolina, W	Charles R. Brewer
North Dakota	Rodney S. Webb
Ohio, N	J. William Petro
Ohio, S	Christopher K. Barnes
Oklahoma, N	Francis A. Keating, II
Oklahoma, E	Gary L. Richardson
Oklahoma, W	William S. Price
Oregon	Charles H. Turner
Pennsylvania, E	Peter F. Vaira, Jr.
Pennsylvania, M	David D. Queen
Pennsylvania, W	J. Alan Johnson
Puerto Rico	Raymond L. Acosta
Rhode Island	Lincoln C. Almond
South Carolina	Henry Dargan Mc Master
South Dakota	Philip N. Hogen
Tennessee, E	John W. Gill, Jr.
Tennessee, M	Joe B. Brown
Tennessee, W	W. Hickman Ewing, Jr.
Texas, N	James A. Rolfe
Texas, S	Daniel K. Hedges
Texas, E	Robert J. Wortham
Texas, W	Edward C. Prado
Utah	Brent D. Ward
Vermont	George W.F. Cook
Virgin Islands	Ishmael A. Meyers
Virginia, E	Elsie L. Munsell
Virginia, W	John P. Alderman
Washington, E	John E. Lamp
Washington, W	Gene S. Anderson
West Virginia, N	William A. Kolibash
West Virginia, S	David A. Faber
Wisconsin, E	Joseph P. Stadtmueller
Wisconsin, W	John R. Byrnes
Wyoming	Richard A. Stacy
North Mariana Islands	David T. Wood

LIST OF CIVIL DIVISION ATTORNEYS WITH EXPERTISE IN
DESIGNATED AREAS*

APPELLATE STAFF

Robert E. Kopp Director 633-3311	Constitutional Torts Against Federal Officials
William G. Kanter Deputy Director 633-1597	Personnel Law (Including MSPB Cases), Federal Labor Relations, Social Security, Equal Access to Justice
Leonard Schaitman Assistant Director 633-3388	Freedom of Information & Privacy
Anthony J. Steinmeyer Assistant Director 633-3388	Housing, Medicare, Banking, Mili- tary Law, Government Procurement
Barbara Herwig Assistant Director 633-5425	Constitutional Torts, <u>Bivens</u> , and Immunity
Robert S. Greenspan Assistant Director 633-5428	Torts, Social Security, Title VII (Civil Rights Act)

*/ All telephone numbers are FTS numbers.

COMMERCIAL LITIGATION BRANCHDeputy Assistant Attorney General:

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Branch Directors:

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(Court of Claims and International
Trade Litigation) 724-7691

Jane Restani
(Fraud Litigation) 724-7179

Vito J. DiPietro (Acting)
(Patent, Trademark and Copyright
Litigation) 724-7223

J. Christopher Kohn
(Bankruptcy, Foreclosures and
General Commercial Litigation) 724-7450

Chief, Judgment Enforcement Unit:

C. William Lengacher 724-7303

Director, Office of Foreign Litigation:

David Epstein 724-7455

AREAS OF EXPERTISE

Bankruptcy:

- | | |
|---------------------------|---|
| a. Generally | Tracy Whitaker (724-7154)
Stephanie Wickouski (724-7448) |
| b. Government Procurement | Ken Oestreicher (724-7447)
Bill White (724-7160) |
| c. Student Loans | Carmen Shepard (724-7446) |
| d. Chapter 13 | Stephanie Wickouski (724-7448) |

Affirmative Contract Actions: Dwight D. Meier (724-7329)
James G. Bruen, Jr. (724-7453)

Court of Claims Jurisdiction
and Transfer of Cases to the
Court of Claims: George Beasley (724-7232)
Donnie Hoover (724-7233)
Tom Petersen (724-7228)

Civilian Personnel Cases: George Beasley (724-7332)
Donnie Hoover (724-7233)
Robert Reutershan (724-7253)

Military Pay Cases: George Beasley (724-7232)
Donnie Hoover (724-7233)
Lou Davis (724-7300)

Government Contracts: George Beasley (724-7232)
Tom Petersen (724-7228)
David Cohen (724-7691)
Donnie Hoover (724-7233)

False Claims Act, Fraud,
Bribery, Official Corruption
and Conflict of Interest
(Civil Actions): Jane Restani (724-7179)
Robert Ashbaugh (724-7158)
Paul Blaine (724-7342)
Alexander Younger (724-6780)

Civil Use of Grand
Jury Materials: Robert Ashbaugh (724-7158)
Paul Blaine (724-7342)
Steve Altman (724-7210)

Federal Priorities Statutes
(31 U.S.C. §§ 191 and 192): C. William Lengacher (724-7303)
James J. Brown (724-7314)

Foreclosures and Related Matters: Bill White (724-7160)
J. Christopher Kohn (724-7450)

Foreign Litigation: David Epstein (724-7455)

Fraudulent Transfers: C. William Lengacher (724-7303)
James J. Brown (724-7314)

Garnishments: Alfreda Bennett (724-7452)

International Trade Litigation: David Cohen (724-7691)

Judgment Enforcement: C. William Lengacher (724-7303)
James J. Brown (724-7314)

Medicare Overpayment: Dwight D. Meier (724-7329)

National Service Life Insurance,
Servicemen's Group Life Insurance,
Federal Employees' Group Life
Insurance: David V. Seaman (724-7296)

Actions Affecting Property
On Which United States Has
A Lien (28 U.S.C. § 2410): Robert Mandel (724-7298)

Patent, Trademark and
Copyright Law: Vito J. DiPietro (724-7223)
Thomas J. Byrnes (724-7221)

Student Loan Defaults: Carmen Shepard (724-7446)
Dwight D. Meier (724-7329)

Transportation Claims
(Elkins Act; I.C.C. Reparations): Richmond McKay (724-7332)

Veterans Reemployment: George Beasley (724-7232)

DOJ COLLECTIONS
POLICIES AND PROCEDURES

Robert N. Ford
Deputy Assistant Attorney General
633-3309

FEDERAL PROGRAMS BRANCH

AREA 1: Regulatory Enforcement (Affirmative Litigation)

David J. Anderson, Branch Director, 633-3354
Larry Moloney, Assistant Branch Director, 633-3331

Surell Brady 633-5302	National Highway Transportation Safety Act
Peter Waldmeir 633-2809	Interstate Land Sales Full Disclosure Act
Penny Seaman 633-4096	DOE Subpoena Litigation
Stephen Hart 633-3313	Affirmative Agriculture Litigation
Tom Millet 633-2815	Gas-Pipeline Safety Cases
Larry Moloney 633-3331	FEMA Flood Insurance Affirmative Cases
Richard Levie 633-3428	
Ray Larizza 633-2786	Mine Safety Cases

AREA 2: Defense of Claims Arising from Federal Regulation
of Government Employees (includes discrimination
cases, adverse personnel actions)

Brook Hedge, Branch Director, 633-3501
Paul Blankenstein, Assistant Branch Director, 633-4651

Mark Chavez 633-4107	Labor-Management Relations Questions Under Title VII of the Civil Service Reform Act
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Mark Chavez
633-4107

Rehabilitation Act, Section 504

AREA 3: Government Information (FOIA, Privacy Act)

David J. Anderson, Branch Director, 633-3354
Barbara Gordon, Assistant Branch Director, 633-3178

Surell Brady
633-5302

Sunshine Act

Alan Ferber
633-4770

Privacy Act

Catherine Coleman
633-4710

Alan Ferber
633-4770

FOIA

David Glass
633-3403

Reverse FOIA Cases

Tom Peebles
633-3963

Right to Financial Privacy
Act

Surell Brady
633-5302

Federal Advisory Committee Act

Tom Peebles
633-3693
Richard Levie
633-3428

Third-Party Subpoena Matters

AREA 4: Human Resources (principally HHS, Department of
Education litigation)

Brook Hedge, Branch Director, 633-3501
Lewis Wise, Assistant Branch Director, 633-633-3786

Brian Kennedy
633-2071

Food Stamp Litigation

Shalom Brilliant
633-2205

Hill-Burton Program Litigation

Ray Larizza
633-2786
Stan Alderson
633-4336

Black Lung Benefits

Linda Cromwell
633-3146

AFDC Cases

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 Anne Sobol (Appellate Staff) Social Security Litigation
 633-4214

AREA 5: Housing and Community Development

Dennis G. Linder, Branch Director, 633-3314
 Keith Werhan, Assistant Branch Director, 633-4783

Brenda Goranflo 633-4671	National Flood Insurance Program Litigation
Paul Gaukler 633-3492	Flood Elevation Determination Litigation
Brenda Goranflo 633-4671	General HUD Litigation
June Carbone 633-3495	HUD Operating Subsidy Cases
Surell Brady 633-5302	Section 8 Eviction Cases
Barbara Gordon 633-3178	HUD Utility Allowance Litigation
Sheila Lieber 633-3378	Fair Housing Cases

AREA 6: National Security and Foreign Relations

David J. Anderson, Branch Director, 633-3354
 Vincent Garvey, Assistant Branch Director, 633-3449

Stan Alderson 633-4336	Military Discharge Litigation
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AREA 7: Agriculture, Energy and Interior

Dennis G. Linder, Branch Director, 633-3314
 Stephen Hart, Assistant Branch Director, 633-3313

Dina Lassow 633-3424	General DOE Litigation
Stephanie Golden 633-4782	
Richard Greenberg 633-4775	DOE Consent Order Litigation

AREA 8: Foreign and Domestic Commerce (includes Commerce,
Labor, Treasury and Transportation Departments.)

Dennis G. Linder, Branch Director, 633-3314
Robert Damus, Assistant Branch Director, 633-4785

Robert Damus 633-4785	Bureau of Census Litigation
Sheila Lieber 633-3378	
Peter Waldmeir 633-2809	Unemployment Compensation
Raphael Gomez 633-5534	Farm Labor Contractors Regis- tration Act
Dina Lassow 633-3424	4-R Act, Section 306
Ray Larizza 633-2786	Occupational Safety and Health Act
Robert Nesler 633-2205	ERISA
Richard Levie 633-3428	Federal Aid Highway Act
Mark Rutzick 633-3315	
Mary Goetten 633-3336	Class Actions
Ted Hirt 633-3770	Execution of Judgments, Set Off

AREA 9: Government Corporations and Regulatory
Agencies (includes VA, GSA, NMB

Brook Hedge, Branch Director, 633-3501
Sandra Schraibman, Assistant Branch Director, 633-3527

Anne Gulyassy 633-4263	Comptroller of the Currency Branch Banking Cases
Shalom Brilliant 633-2205	Veterans Educational Benefits Litigation
Ted Grossman 633-2336	ACTION-VISTA Defunding Cases
Paul Gaukler 633-3492	Independent Litigating Authority of Federal Agencies

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Gary W. Allen Assistant Director 724-8238	Aviation
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Thomas J. Jones Senior Admiralty Counsel 724-6837	
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Barbara Ballin 724-6819	Aviation/Admiralty
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Larry S. Craig 724-6824	Admiralty
Rosemary Denson 724-6844	Admiralty
Kathlynn Fadely 724-6830	Aviation
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Richard E. Peyser 556-4479	Admiralty
Marlin <u>Dave</u> Sieders 556-3142	Admiralty

FEDERAL TORT CLAIMS ACT LITIGATION

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Susan Engelman Assistant Director 724-6820	FTCA, generally
James P. Klapps Assistant Director 724-6696	Regulatory torts and independent contractor issues
Walter A. Oleniewski Assistant Director 724-6731	Medical malpractice
Lawrence A. Klinger Assistant to the Director 724-6801	General FTCA
Joan M. Bernott 724-6808	Complex litigation
M. Faith Burton 724-6806	Medical malpractice
Mark S. Feldheim 724-6800	Medical malpractice and regulatory torts
Paul F. Figley 724-6703	Radiation
Betsy Ginsberg 724-6706	Swine Flu

William R. Herman 724-6725	Radiation
Donald E. Jose 724-6795	Radiation
Cynthia J. Larsen 724-6735	Radiation
Delsia Marshall 724-7954	No specialty
Mary L. McElroy 724-7462	Swine Flu
Roxanne McKee 724-6724	No specialty
Laura D. Millman 724-6807	Swine Flu
Mary Ann Murphy 724-6727	Swine Flu
Debra D. Newman 724-6720	Swine Flu
Leslie C. Ohta 724-7461	Swine Flu
Paula M. Potoczak 724-6751	Swine Flu
Phyllis J. Fyles 724-6817	No specialty
Thelma L. Quince 724-6817	No specialty
Deborah C. Fatner 724-6888	Radiation
Alan Rubin 724-6773	Swine Flu
Karen M. Shichman 724-7953	Swine Flu
Leon B. Taranto 724-6747	Swine Flu
Pamela L. Wood 724-6734	Radiation

CONSTITUTIONAL TORTS, BIVENS SUITS, IMMUNITY
AND ASBESTOS LITIGATION

John J. Farley, III Director 724-6805	Personal Representation, <u>Bivens</u> , asbestos
John L. Euler Assistant Director 724-6729	Personal Representation, FTCA Amendments
Gordon W. Daiger 724-6794	Constitutional tort, <u>Bivens</u> , Immunity
Esther I. Estryn 724-6730	Asbestos
Scott L. Gorland 724-7404	Asbestos
Larry L. Gregg 724-6732	Constitutional tort, <u>Bivens</u> , Immunity
Paul M. Honigberg 724-7405	Asbestos
Robert Kelly 724-6739	Asbestos
Nicki L. Koutsis 724-6733	Constitutional tort, <u>Bivens</u> , Immunity
Mark J. Kurzmann 724-6726	Constitutional tort, <u>Bivens</u> , Immunity
Alan Mishael 724-7460	Constitutional tort, <u>Bivens</u> , Immunity
Peter A. Nowinski 724-8246	Asbestos
Perry M. Rosen 724-6802	Constitutional tort, <u>Bivens</u> , Immunity
Orlando R. Ruiz 724-6748	Constitutional tort, <u>Bivens</u> , Immunity
R. Joseph Sher 724-6746	Constitutional tort, <u>Bivens</u> , Immunity