



United States Attorneys' Bulletin



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STATES
ATTORNEYS

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COMMENDATIONS

Assistant United States Attorney KAREN L. ATKINSON, Southern District of Florida, was commended by Mr. Joseph V. Corless, Special Agent-in-Charge, Federal Bureau of Investigation, for her successful preparation of the case and prosecution of Robert Alan Litchfield.

Assistant United States Attorney EVE D. BIRMINGHAM, Southern District of California, was commended by Mr. William H. Webster, Director, Federal Bureau of Investigation, for her remarkable ability as both a prosecuting attorney and negotiator during the final stage of the investigation of fraud within the United States Navy supply system.

Assistant United States Attorney WILLIAM BRANIFF, Southern District of California, was commended by Mr. William H. Webster, Director, Federal Bureau of Investigation, for his outstanding work during the investigative and prosecutive stages of the undercover operation "Sandfish."

Assistant United States Attorneys FRANK J. CLARK III and JOSEPH B. MISTRETT, Western District of New York, were commended by Mr. Joseph R. Davis, Assistant Director, Legal Counsel Division, Federal Bureau of Investigation, for their impressive and invaluable participation as defense counsel in the New Agents Moot Court Training Program, September 16-17, 1985, in Quantico, Virginia.

Assistant United States Attorney CHARLES S. CRANDALL, Southern District of California, was commended by Mr. Richard W. Cameron, Special Agent-in-Charge, United States Secret Service, Department of the Treasury, for his successful prosecution of the Mario Zaporta counterfeiting case.

Assistant United States Attorney E. L. ROBERT EATON, District of Columbia, was commended by Mr. George Jett, General Counsel, Federal Emergency Management Agency (FEMA), for his fine efforts in representing the FEMA in Holley v. FEMA.

Assistant United States Attorneys RAYMOND EDWARDS, HERBERT B. HOFFMAN, JOHN A. HOUSTON, and STEPHEN W. PETERSON, Southern District of California, were commended and presented with Drug Enforcement Administration Certificates of Appreciation by Mr. Diogenes K. Galanos, Special Agent-in-Charge, San Diego Field Division, Drug Enforcement Administration in recognition of their outstanding contributions to narcotics law enforcement.

Assistant United States Attorney CHARLES F. GORDER, JR., Southern District of California, was commended by Mr. William H. Webster, Director, Federal Bureau of Investigation, for his remarkable work during the investigation and subsequent prosecution of individuals in the VICON case.

Assistant United States Attorneys DOUGLAS G. HENDRICKS and JOHN W. KENNEDY, Eastern District of California, were commended by Mr. Ronald Tepper, District Attorney, County of El Dorado, for their cooperation and willingness to help local law enforcement efforts by lending their expertise and counsel to the District Attorney's Office, County of El Dorado.

Assistant United States Attorney HERBERT B. HOFFMAN, Southern District of California, was commended by Mr. Richard J. Wuerth, Chief, Criminal Investigation Division, Internal Revenue Service, for his successful assistance on the Sonido trial.

Assistant United States Attorney GREGORY G. HOLLOWS, Eastern District of California, was commended by Mr. Richard J. Riseberg, Assistant General Counsel for Public Health, Department of Health and Human Services, for his vigorous and unstinting efforts in the vindication of a former Public Health Service commissioned officer from state and bar prosecutions. Also, Assistant United States Attorney HOLLOWS has been invited by the Office of Personnel Management to participate as an instructor in a series of advanced seminars in EEO law to provide preventive training to federal agency officials on Title VII actions.

Assistant United States Attorney CATHERINE H. KILLAM, Northern District of Ohio, was commended by Mr. Joseph E. Griffin, Special Agent-in-Charge, Federal Bureau of Investigation, for her successful and dedicated prosecution of a complex insurance fraud case.

Assistant United States Attorneys TOMMY E. MILLER and ROBERT J. SEIDEL, JR., Eastern District of Virginia, were commended by Attorney General Edwin Meese III for their efforts in the successful prosecution of Arthur James Walker.

Assistant United States Attorney STEPHEN V. PETIX, Southern District of California, was commended by Mr. Renn C. Fowler, Regional Counsel, Region 9, General Services Administration, for his outstanding job in Felix v. United States.

Assistant United States Attorney JOAN B. SAFFORD, Northern District of Illinois, was presented the Director's Award of the Bureau of Alcohol, Tobacco and Firearms, for her extensive contributions in the areas of arson, explosives, and firearms.

Assistant United States Attorney ROBERT C. SELDON, District of Columbia, was commended by Mr. John M. Mason, Chief Counsel, Federal Railroad Administration, Department of Transportation, for his outstanding work in defending and resolving the matter of Furphy v. Dole.

Assistant United States Attorney KAREN M. SHICHMAN, Southern District of California, was commended by Mr. Jeffrey Axelrad, Director, Torts Branch, Civil Division, Department of Justice, for her highly professional and effective advocacy in Wolfe v. United States.

Assistant United States Attorney HEIDI M. SOLOMON, District of South Carolina, was commended by Mr. Gary W. Allen, Director, Torts Branch, Civil Division, Department of Justice, for her outstanding assistance in Smith v. United States.

Assistant United States Attorney NITA L. STORMES, Southern District of California, was commended by Mr. Jeffrey Axelrad, Director, Torts Branch, Civil Division, Department of Justice, for her excellent work in Cisneros v. Carrier Systems.

Assistant United States Attorney ROBERT J. WASHKO, Middle District of Tennessee, was commended by Mr. Benjamin S. Purser, Jr., Supervisory Special Agent, Federal Bureau of Investigation, for his dedicated efforts in the successful prosecution of Kenneth Crozier Ford.

CLEARINGHOUSE

National Health Service Corps Scholarship Program

The Bureau of Health Care Delivery and Assistance, Department of Health and Human Services, filed suit against a recipient of scholarship funds under the National Health Service Corps Scholarship Program, 42 U.S.C. §2541. United States v. Swanson, No. 84-2985 (E.D. Mich., Sept. 30, 1985). The Bureau claimed that the defendant breached his contract with the government by failing to begin his service obligation in the Public Health Service Corps. However, the defendant contended that the government, through its agent, misrepresented that he could obtain deferment from his service obligation to pursue a surgical residency. The government filed for summary judgment to recover triple damages plus interest for the alleged breach of contract by the defendant.

On September 30, 1985, Judge Ralph M. Freeman, United States District Court for the Eastern District of Michigan, issued a memorandum opinion on the motion for summary judgment which affirms the requirement that a scholarship recipient must fulfill his/her contractual obligations by serving where and how the

Secretary finds his/her services are most needed. The opinion also affirms the reasonableness and enforceability of the triple damages provision of the Public Health Services Act (PHS §751) for breach of contract.

Please contact Kate Conaboy, Office of Management Information Systems and Support, FTS 673-6379, for copies of the opinion.

(Executive Office)

Misrepresentations Made In Forma Pauperis Applications Are A Basis to Dismiss A Freedom Of Information Act Appeal

On September 16, 1985, Judge Stanley S. Harris, United States District Court for the District of Columbia, granted the government's motion in Antonelli v. Drug Enforcement Administration, et al., (Civil Action No. 84-2483 (D.C.)) to dismiss with prejudice twenty-three Freedom of Information Act lawsuits filed by Mr. Michael C. Antonelli. The dismissal was based upon a finding that misrepresentations were made by the plaintiff in his application to proceed in forma pauperis. Mr. Antonelli, although claiming poverty, had paid, or promised to pay, search and/or reproduction fees for processing of FOIA requests made to various federal agencies totalling more than three thousand dollars. Additionally, a review of the "Inmate's Personal Funds Ledger," indicated that during the time period in which most of the forma pauperis applications were filed, plaintiff had deposited over \$800 in his account. The availability of these funds was clearly inconsistent with the representation made in the forma pauperis application.

For copies of the United States' motion to dismiss with supporting memorandum of points and authorities, contact the Office of Legal Services at FTS 633-4024. Please request item number CH-23.

(Executive Office)

POINTS TO REMEMBER

Bluesheets and Transmittals, United States Attorneys' Manual

Updated lists of United States Attorneys' Manual Bluesheets and Transmittals are appended to this Bulletin.

(Executive Office)

Foreign Agents Registration Act - Federal Jury Service Problem

Section 1116 of the recently enacted Comprehensive Crime Control Act of 1984, Pub. L. No. 98-473, amended 18 U.S.C. §219 to clarify the class of persons for whom a conflict of interest would arise should they act as an agent of a foreign principal required to register with the Attorney General under the provisions of the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. §611 et seq. The amended statute replaces the term "an officer or employee"--of the United States in the executive, legislative, or judicial branch of the [g]overnment or in any agency of the United States, including the District of Columbia--with the term "a public official," and adds a paragraph defining the new term. The class of persons, i.e., "public officials," for whom a conflict of interest would arise under the amended statute includes, inter alia, a juror.

Although the primary purpose of the amendment is to define more adequately the class of individuals to whom the conflict of interest provisions of 18 U.S.C. §219 are to apply, an apparently unintentional effect of the definition of "public official" is to make it a felony for a person to serve as a juror if he is an agent of a foreign principal required to register.

Although efforts have been undertaken to resolve this matter, there does remain, until such time as the relevant portion of 18 U.S.C. §219 regarding jurors is changed, a statutory prohibition against any registrant or any person required to file a short form registration statement pursuant to Rule 202 (partners, officers, directors, associates, and employees - other than clerical, secretarial and those acting in a related or similar capacity - who engage directly in activity in furtherance of the interests of the registrant's foreign principal) from performing jury service in federal court.

The Administrative Office of the United States Courts is aware of the new statutory provision and has undertaken to advise all chief judges and clerks of the United States district courts of its bar to jury service. Concomitantly, the Internal Security Section has sent an advisory notice to all persons currently registered as agents of foreign principals under the provisions of the Foreign Agents Registration Act. For further information please contact Attorney James V. Katz (FTS 724-6996) of the Internal Security Section's Registration Unit.

(Criminal Division)

JURIS Data Base List

Appended to this issue of the Bulletin is the most recent revised JURIS Data Base List, dated November 1985.

(Justice Management Division)

Personnel

Effective November 15, 1985, W. Asa Hutchinson resigned as United States Attorney for the Western District of Arkansas.

Effective November 15, 1985, Joe M. Fitzhugh was court appointed United States Attorney for the Western District of Arkansas.

Pretrial Detention Reporting Requirements

Since October 1984, the Department has required each Assistant United States Attorney to report to the Criminal Division in Washington by telephone each time he or she request a pretrial detention hearing. This information has been used to respond to Congressional and other inquiries regarding the implementation of the pretrial detention provisions of the Bail Reform Act of 1984. Because of ongoing concern over pretrial detention, the Department must continue to monitor its use. However, we no longer need detailed information immediately after each hearing. Therefore, we are changing the pretrial detention reporting requirements to make them more efficient and less burdensome for Assistant United States Attorneys.

As of October 1, 1985, Assistant United States Attorneys are no longer requested to consult with the Criminal Division before making motions for pretrial detention hearing. Nor are they required to telephone the Narcotics Section or the General Litigation and Legal Advice Section each time a pretrial detention hearing is concluded.

Instead, United States Attorneys' offices must provide the Department the following information each month: the number of pretrial detention hearings requested by the government and court; the results of the hearings; the basis for the judicial rulings; the results of district court reviews of Magistrate Orders; and any additional comments describing particularly significant rulings. Noteworthy cases, or special problems in obtaining detention orders, at your discretion.

The method for collecting the above information is your prerogative, although a single person should be designated responsible for collecting and transmitting the information, typically an administrative assistant or supervising secretary. To make the reporting process as easy as possible, appended to this Bulletin is an optional tally sheet and a standard reporting form for his/her use. A supervising Assistant United States Attorney should decide whether to add any optional comments.

Using the attached or a similar reporting form, mail monthly totals during the first week or each month (beginning with October and November totals mailed the first week of December) to:

Pretrial Detention, Office of Policy and Management Analysis, Criminal Division, Room 2216-Main Building, U.S. Department of Justice, 10th and Constitution Avenue, N.W., Washington, D. C. 20530. Please include any additional comments.

Finally, appended to this Bulletin is a one-page summary of the changes, outlined above, in the pretrial detention hearing reporting requirements, which may be detached from this Bulletin for your use. If you have questions about any of the above, please call Ms. Mikki Atsatt in the Criminal Division on FTS 633-5746.

(Criminal Division)

Teletypes to All United States Attorneys

A listing of recent teletypes sent by the Executive Office is appended to this Bulletin. If a United States Attorney's office has not received one or more of these teletypes, copies may be obtained by contacting Ms. Theresa Bertucci, Chief of the Communications Center, Executive Office for United States Attorneys, at FTS 633-1020.

(Executive Office)

CASENOTES

OFFICE OF THE SOLICITOR GENERAL

The Solicitor General has authorized the filing of:

A petition for certiorari in Baldrige v. American Cetacean Society, 768 F.2d 426 (D.C. Cir. 1985). The question presented is whether the Pelly and Packwood amendments, which impose drastic economic sanctions on countries that the Secretary of Commerce certifies are "conducting fishing operations in a manner which diminishes the effectiveness of an international fishery conservation program," requires automatic certification of any country that harvests whales in excess of international quotas.

A petition for certiorari in Selby v. Securities Industry Ass'n, No. 84-5026 (D.C. Cir.). The question presented is whether the McFadden Act permits national banks to operate discount brokerage businesses through offices other than their central offices and chartered branches.

A protective petition for certiorari in United States v. Paradise, No. 84-7053 (11th Cir.). The question presented is whether a state agency's employee promotion plan, which applies

racial preferences to persons who are not the actual victims of discrimination, is inconsistent with Title VII of the Civil Rights Act and the Equal Protection Clause.

CIVIL DIVISION

SIXTH CIRCUIT HOLDS THAT DISTRICT COURT LACKED JURISDICTION TO INVALIDATE POSTAL REGULATION FIXING RATES.

This was a suit brought by a weekly newspaper in rural Tennessee which is distributed free of charge. Under Postal Service regulations, second-class mail rates are available only to publications which distribute at least half their copies to paid subscribers. The district court held that this regulation was a violation of the First Amendment, on the ground that it imposed a burden on the distribution of a newspaper.

On appeal, we argued (1) that the district court had no jurisdiction, since Postal Service determinations are governed by a statute (39 U.S.C. §3628) providing for direct review in the courts of appeals, and (2) that a subsidized postal rate limited to publications with paid subscribers is a rational way to avoid subsidizing newspapers distributed for advertising purposes (i.e., "shoppers").

The court of appeals agreed that the district court lacked jurisdiction, holding that the direct review statute is applicable even where the suit raises constitutional issues.

The Enterprise, Inc. v. Bolger, ___ F.2d ___ (6th Cir. Oct. 9, 1985). D. J. # 145-5-5818.

Attorneys: William Kanter (Civil Division) FTS 633-1597;
Robert Zener (Civil Division) FTS 633-4027.

EIGHTH CIRCUIT HOLDS THAT SIMPLE NEGLIGENCE DOES NOT RISE TO THE LEVEL OF "AFFIRMATIVE MISCONDUCT" FOR ESTOPPEL PURPOSES.

Plaintiff, an employee of the Postal Service, was severely injured in an accident at a postal facility. He received almost \$95,000 in workers' compensation benefits for his wage loss and medical expenses under the Federal Employees' Compensation Act (FECA), 5 U.S.C. §8101 et seq. Plaintiff also recovered approximately \$450,000 in damages for pain and suffering in an action against the third party tortfeasor, the General Electric Company (GE), but he did not recover for his lost wages and medical expenses in this action.

After plaintiff prevailed in his action against GE, the government sought recoupment of plaintiff's FECA benefits under 5 U.S.C. §8132. The district court initially held that the government could not recover the FECA benefits because plaintiff had not recovered his lost wages and medical expenses in the action against GE, but the court reversed itself after the Supreme Court held the nature of the recovery in a third-party tort action irrelevant to the government's recoupment rights under FECA. See United States v. Lorenzetti, 104 S. Ct. 2284 (1984). The court also rejected plaintiff's argument that the government should be estopped from recouping the FECA benefits because it had not provided him in a timely fashion with necessary information regarding wage loss and medical expenses for use in his action against GE.

Plaintiff appealed, and the Eighth Circuit has now affirmed. The court of appeals held that this case is squarely controlled by Lorenzetti, and that plaintiff's efforts to distinguish it on the basis of state law were contrary to Lorenzetti's central holding that the federal government's FECA recoupment rights do not depend on the vagaries of state law. The court also rejected plaintiff's estoppel argument, holding that the Department of Labor's alleged failure to supply plaintiff with records constituted at most negligence, and that negligence does not rise to the level of "affirmative misconduct" for purposes of estopping the federal government.

Green v. Department of Labor, ___ F.2d ___, Nos. 84-5217 and 84-5230 (8th Cir. Oct. 18, 1985). D. J. # 83-39-9.

Attorneys: William Kanter (Civil Division) FTS 633-1597;
John S. Koppel (Civil Division) FTS 633-5459.

EN BANC ELEVENTH CIRCUIT HOLDS THAT SECTION 2412(b) OF THE EQUAL ACCESS TO JUSTICE ACT DOES NOT AUTHORIZE AWARDS OF ATTORNEYS' FEES IN ACTIONS "ANALOGOUS TO" ACTIONS BROUGHT UNDER 42 U.S.C. §1983.

Plaintiffs brought this action against the State of Florida and the Department of Health and Human Services (HHS) to challenge a new method used by the State for computing AFDC benefits. After the State agreed to rescind the new policy, the district court dismissed the action as moot. Plaintiffs then sought attorney's fees under the EAJA. The en banc Eleventh Circuit has now rejected plaintiffs' claim that they are entitled to attorney's fees under Section 2412(b) of the EAJA on the basis that their action is "analogous to" an action brought under 42 U.S.C. §1983, for which fees are available under 42 U.S.C. §1988. The court noted that it found plaintiffs' reading of the statute persuasive but in conflict with the construction adopted by four other

circuits. Reasoning that "harmony among the circuits should be a goal," the court joined the D.C., Seventh, Eighth, and Ninth Circuits in adopting the government's reading of the statute. The court's ruling avoids a split among the circuits, and eliminates the need to seek Supreme Court review.

Martin v. Heckler, ___ F.2d ___, No. 83-3058 (11th Cir. Oct. 15, 1985). D. J. # 137-42M-452.

Attorneys: William Kanter (Civil Division) FTS 633-1597;
Nicholas Zeppos (Civil Division) FTS 633-5431.

FIFTH CIRCUIT UPHOLDS CONSTITUTIONALITY OF 18 U.S.C. §112 (RESTRICTION ON EMBASSY PICKETING THAT THREATENS FOREIGN OFFICIALS).

A Salvadoran activist group brought this action against the FBI after the Bureau ordered it to curtail protests outside the Honduran consulate on the grounds that the picketing violated 18 U.S.C. §112. The group sought injunctive relief, a declaratory judgment as to the statute's constitutionality and damages. The district court granted summary judgment to the FBI and dismissed all plaintiffs' claims.

On appeal, the Fifth Circuit upheld the constitutionality of the statute, which restricts picketing within 100 feet of an embassy that threatens or obstructs foreign officials. It is intended to protect foreign officials and diplomats from terrorist acts and was enacted pursuant to the United States' agreement to international conventions on this topic. The court rejected plaintiffs' claim of vagueness and overbreadth, holding that the legislative history demonstrated Congress' concern for and desire to protect First Amendment rights and thus validated a construction of the statute that avoided constitutional infirmities. The court held that the statute "does not prevent simple peaceable assembly for the purpose of lawful discussion" but "merely prohibits an assembly of persons with the specific intent to commit the offenses" of intimidating, coercing, threatening or harassing a foreign official or obstructing him in performing his duties.

CISPES (Committee in Solidarity with the People of El Salvador v. FBI, ___ F.2d ___ (5th Cir. Sept. 9, 1985). D. J. # 145-12-5278.

Attorneys: Michael Singer (Civil Division) FTS 633-4815;
William F. Baity (Assistant United States Attorney, Eastern District of Louisiana) FTS 682-2921.

LAND AND NATURAL RESOURCES DIVISION

CORPS ORDERED TO ANALYZE WHETHER CUMULATIVE IMPACTS OF WEST GALVESTON ISLAND PROJECT CAN BE ANALYZED BY FONSI.

The district court had invalidated on NEPA grounds, the issuance of a permit by the Corps which allowed Mitchell Development Corporation (Mitchell) to go forward with a venetian canal residential development on West Galveston Island, Texas. The permit had been issued following an environmental assessment (EA) which concluded with a FONSI. On appeal, the Fifth Circuit affirmed in part, reversed in part, and remanded to the Corps for further proceedings. The court affirmed the district court's finding that the EA was inadequate for failure to give proper consideration of cumulative impacts. Although Mitchell had argued on appeal that the EA was adequate, we took no position on this issue. The court reversed the district court's order requiring the Corps to prepare a comprehensive EIS on all of West Galveston Island and its adjacent waters. The court agreed that because the district court made no finding that the project might cause significant cumulative impacts, the proper remedy is a remand to the Corps to complete its EA with further analysis of cumulative impacts and re-evaluate the FONSI. Finally, the Fifth Circuit vacated the district court's injunction insofar as it barred the Corps from granting any permits on West Galveston Island, pending completion of the comprehensive EIS, and affirmed the injunction insofar as it prohibits Mitchell from development activities and the Corps from issuing any permits for that specific site, pending supplementation of the EA and re-evaluation of the FONSI.

Fritiofson v. Alexander, F.2d _____, No. 84-2592 (5th Cir. Oct. 7, 1985). D. J. # 90-5-1-6-128.

Attorneys: William B. Lazarus (Land and Natural Resources Division) FTS 633-4168; David C. Shilton (Land and Natural Resources Division) FTS 633-5580.

INTERIOR'S VIOLATION OF SUBSISTENCE PROTECTION PROCEDURES OF ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT WARRANTS INJUNCTION AGAINST EXPLORATORY DRILLING.

The district court in this case had refused to grant a preliminary injunction against exploratory drilling in two lease sale areas offshore of Alaska. The district court found that the plaintiff villages had established a strong likelihood of success on the merits of their claim that Interior had failed, in connection with these lease sales, to comply with the subsistence protection procedures of the Alaska National Interest Lands

Conservation Act (ANILCA). That court, nevertheless, denied the requested injunction because it found that exploratory drilling would not significantly restrict subsistence resources, and because the public interest, as expressed in the Outer Continental Shelf Lands Act (OCSLA), favored expedited exploration of the OCS.

The court of appeals majority ruled that the district court had failed to heed the Ninth Circuit rule that an injunction must follow from a finding of a statutory violation except in "unusual circumstances." The majority defined "unusual circumstances" to include only those instances where issuance of an injunction would cause environmental harm or would belatedly interrupt the performance of a long-term contract. The majority found that the policy of the OCSLA favoring expedited exploration had been overcome, in this instance, by the policy of ANILCA which favors subsistence uses. On the merits, the majority found that Interior could not have substantially complied with ANILCA with respect to these lease sales because Interior's environmental analyses took place before the court had ruled in Gambell I that ANILCA applied to the OCS, and thus at a time when Interior did not have ANILCA "firmly in mind." The court also rejected Interior's attempt to comply with ANILCA by following the "phased" approach of Secretary of the Interior v. California. The majority rejected our contention that Gambell I should not be given retroactive effect. It also rejected our claim that plaintiffs, who waited until after Lease Sale 83 to file suit, were guilty of laches.

Judge Dimmick, in dissent, characterized the majority's refusal to weigh the equities as contrary to Weinberger v. Romero-Barcelo, 456 U.S. 305 (1982). She also stated that Gambell I should not be applied retroactively. Finally, the dissent criticized the majority's refusal to resolve such legal issues as whether post-sale compliance with ANILCA is possible, and predicted that "Because this issue has not been resolved, we will, in all probability, see Gambell III before Rambo III."

People of the Village of Gambell v. Hodel (Gambell II),
F.2d _____, No. 85-3877 (9th Cir. Oct. 25, 1985). D. J. #
90-4-180.

Attorneys: David C. Shilton (Land and Natural Resources Division) FTS 633-5580; Jacques B. Gelin (Land and Natural Resources Division) FTS 633-2762.

BAD FAITH OF STATE DEFENDANTS FORMS BASIS OF EAJA AWARD.

Plaintiffs applied for attorneys fees after prevailing on claims that the 1977 EIS on the Westway project was inadequate. Judge Greisa granted \$290,000 in fees against New York, Department

of Transportation, the Federal Highway Administration, and the Corps of Engineers, under the "bad faith" exception to the American Rule. He denied fees under EAJA because one plaintiff out of twelve had a net worth of over \$1 million. The court of appeals upheld awarding fees against the State, finding that the State's defenses were "entirely without color" and asserted for improper purposes. The Eleventh Amendment was found not to bar such an award. The court found that the bad faith exception could not be used against the Corps since its defenses, though entirely without color, were not asserted for any improper purpose. The court ruled, however, that the Corps' defenses were not substantially justified under EAJA. Judges Kearse and Oakes ruled that the presence of one ineligible plaintiff did not bar an award under EAJA, but simply called for a proportional reduction in the award. Judge Meskill dissented from this holding.

The court went on to rule that the district court erred in awarding fees for the prior appeal in this case since only the court of appeals could do that. The district court was also faulted for having given inadequate scrutiny to the plaintiffs' claimed hours and hourly rates. The district court's denial of fees for preparing the fee request was upheld.

Sierra Club v. United States Corps of Engineers (Westway),
F.2d _____, Nos. 84-6287 et seq. (2d Cir. Oct. 28, 1985).
D. J. # 90-5-1-3-139.

Attorneys: David C. Shilton (Land and Natural Resources Division) FTS 633-5580; Dirk D. Snel (Land and Natural Resources Division) FTS 633-4400.

FEDERAL RULES OF EVIDENCE

Rule 801(d)(2)(E). Definitions. Statements Which Are Not Hearsay. Admission by Party-Opponent.

On appeal from his conviction for conspiracy to defraud the insurance company by committing arson of defendant's home, defendant contends that the tape-recorded conversation between a former conspirator and a coconspirator should not have been admissible at trial under the coconspirator exception to the hearsay rule, Rule 801(d)(2)(E). The taped conversation occurred after the arson had been committed and thus, he claimed, had no purpose or effect of furthering any object of an alleged conspiracy as required by the Rule.

The court of appeals held that attempts to conceal the conspiracy are made in furtherance of the conspiracy for the purpose of the coconspirators exception to the hearsay rule where,

as here, the main objective has not been attained or abandoned and concealment is essential to the purpose of that objective. Since the insurance company had not paid the insurance claim at the time of the taped conversation and was still investigating the cause of the fire, the taped conversations were made in furtherance of the conspiracy to defraud the insurance company and therefore were admissible against the defendant, the third conspirator.

(Affirmed).

[Dissenting opinion filed.]

United States v. Howard, 770 F.2d 57 (6th Cir. Aug. 12, 1985).

OFFICE OF LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS

SELECTED CONGRESSIONAL AND LEGISLATIVE ACTIVITIES OCTOBER 16, 1985 - NOVEMBER 12, 1985

HIGHLIGHTS

Criminal Justice Issues on the Hill. We continue to see more congressional interest in the Department's handling of particular criminal cases than in our legislative proposals but there are some bright spots. Our designer drug bill seems to be progressing well and interest remains relatively high in our "Money Laundering and Related Crimes Act." Some parts of our Anti-Fraud Enforcement Initiative seem likely to pass next year and a number of our minor proposals have a good prospect for enactment.

Death Penalty. On November 14 the Senate Judiciary Committee began marking-up Chairman Thurmond's death penalty bill, S. 239. Senator Metzenbaum offered an amendment which would preclude imposition of this penalty upon anyone who was under the age of 18 at the time the capital offense was committed. This amendment carried 10 to 6. Senator Hatch began to offer a series of technical amendments which would attempt to conform the language of the bill with the existing constitutional boundaries set forth by the Supreme Court. His first and second amendments providing for the threshold criteria of "beyond a reasonable doubt" standard were adopted. We are optimistic that the mark-up will be completed soon and that the Committee can then proceed to take up habeas corpus amendments, S. 237, which, like the capital punishment bill, was specifically endorsed by the President in his 1985 State of the Union Address.

Indian Gambling. The Departments of Justice and Interior have arrived at a compromise position on how to respond to the growing problem of unregulated gambling on Indian reservations. Such gambling now occurs without meaningful regulation due to a loophole in the law; this is a major source of concern to state and local law enforcement officials in many parts of the nation. The compromise position, as articulated by Deputy Assistant Attorney General Victoria Toensing and a representative of Interior before the House Committee on Interior and Insular Affairs on November 14 was generally well received even though there are wide differences of opinion among Committee members as to how to approach this difficult issue. In short, we propose to permit bingo on Indian reservations to be supervised by a federal commission financed out of license fees. Other forms of gambling on Indian reservations would be permitted only as authorized by the State in which the reservation is located.

Common Carrier Operators. On November 14, the Senate Judiciary Committee approved by unanimous consent S. 850 creating a federal criminal offense for operation of a common carrier while intoxicated or under the influence of drugs. The Department supports enactment of the bill.

PRETRIAL DETENTION REPORTING REQUIREMENTS

Summary of changes in the Pretrial Detention Hearing Reporting Requirements, as of October 1, 1985.

1. Assistant United States Attorneys are no longer requested to consult with the Criminal Division before making motions for pretrial detention hearings, although they should feel free to do so in making close decisions or when they encounter unusual problems.
2. Assistant United States Attorneys are no longer required to telephone the Narcotics Section or the General Litigation and Legal Advice Section each time a pretrial detention hearing is concluded.
3. Instead, to make data collection less burdensome and more efficient, the Department is establishing a monthly reporting requirement to collect the following information:
 - A. Number of pretrial detention hearings requested by the government and court;
 - B. Results of hearings (motion granted or denied);
 - C. Basis for rulings by judicial officer (risk of flight, dangerousness, or both);
 - D. Results of district court reviews of Magistrate Orders (defendant detained or released). Note: Appeals should continue to be reported as required to the Appellate Section; and
 - E. Additional comments describing particularly significant rulings, noteworthy cases, or special problems in obtaining detention orders, at the option of the United States Attorney. Although the method for collecting the above information is the prerogative of the United States Attorney, each United States Attorney should designate a single person responsible for collecting and transmitting the information (typically an Administrative Assistant or supervising secretary). An optional tally sheet is attached, along with a standard reporting form for their use. A supervising Assistant United States Attorney should decide whether to add any optional comments.

PRETRIAL DETENTION REPORTING FORM

DISTRICT: _____
MONTH: _____

DETENTION MOTIONS: INITIALS MOTIONS. DO NOT INCLUDE MOTIONS FOR TEN-DAY HOLDS, MOTIONS THAT WERE WITHDRAWN BEFORE FINAL RULING, OR MOTIONS OF REVOCATION OF RELEASE.

A. BY GOVERNMENT _____
BY COURT _____

B.* GRANTED _____
DENIED _____

C.* BASIS FOR RULINGS BY JUDICIAL OFFICER:
1. RISK OF FLIGHT _____
2. DANDEROUSNESS _____
3. BOTH _____

TOTALS

*NOTE: THE TOTAL NUMBER OF DETENTION MOTIONS GRANTED AND DENIED IN B MUST EQUAL THE TOTAL NUMBER OF MOTIONS MADE IN A. THE TOTAL NUMBER GRANTED IN B MUST EQUAL THE TOTAL BASES LISTED IN C.

DISTRICT COURT REVIEWS OF MAGISTRATE ORDERS

A. REQUESTED BY GOVERNMENT TO DETAIN:
1. DETAINED _____
2. NOT DETAINED _____

B. REQUESTED BY DEFENSE TO RELEASE:
1. RELEASED _____
2. NOT RELEASED _____

COMMENTS (OPTIONAL)

PLEASE ATTACH BRIEF NARRATIVE SUMMARIES OF PARTICULARLY SIGNIFICANT RULINGS, NOTEWORTHY CASES, OR SPECIAL PROBLEMS IN OBTAINING DETENTION ORDERS.

JURIS DATA BASE LISTING
Revised November 1985

CASELAW

U.S. Supreme Court	178 U.S. (1900) - Slips
Federal Reporter, 2d Series	300 F.2d (1962) - Slips
Federal Supplement	332 F.Supp (1970) - Slips
Court of Claims	134 Ct. Cl. - 231 Ct. Cl. (1956 - February 1982)
Claims Court	1 Cl. Ct. (1982) - Slips
Federal Rules Decisions	73 F.R.D. (1976) - Slips
Court of Military Review	1 C.M.R. - 50 C.M.R. (1951-1975)
Military Justice Reporter	1 M.J.R. - Slips (1974 - Present)
Atlantic 2d Reporter	370 A.2d (1977) - Present (D.C. cases only)
Bankruptcy Reporter	1 B.R. (1979) - Slips

SHEPARD'S CITATIONS

United States Reports	1944 - Present
Supreme Court Reporter	1944 - Present
Lawyer's Edition (1st & 2d Series)	1944 - Present
Federal Reporter	1970 - Present
Federal Reporter Second Series	1970 - Present
Federal Supplement	1970 - Present
Federal Rules Decisions	1970 - Present
Court of Claims	1970 - Present
Court Martial Reports	1951 - Present
Military Justice Reporter	1975 - Present

STATLAW - STATUTORY LAW

Public Laws	93rd - 98th Congress (1-149 and 473)
United States Code	1982 Edition
Executive Orders	12/31/47 - 7/1/85
Civil Works Laws	Vols. 1-4, (1790 - 1966) and Selected Public Laws to September, 1983

* New JURIS File
** Major File Additions

STATLAW - STATUTORY LAW (Cont'd)

Comprehensive Crime Control Act of 1984

Pub. L. No. 98-473 (CCCA),
 Pub. L. No. 98-573
 (Tariff Act), Pub. L. No.
 98-596 (Fine Enforcement
 Act) and Criminal
 Division Handbook on the
 Comprehensive Crime
 Control Act of 1984

DIGEST - WEST HEADNOTES

Supreme Court Reporter
 Federal Reporter, 2d Series
 Federal Supplement
 Federal Rules Decisions
 Regional Reporters (State Cases)

1961 - advance sheets
 1960 - advance sheets
 1960 - advance sheets
 1960 - advance sheets
 1967 - advance sheets

TAX

U.S. Tax Court Decisions
 U.S. Board of Tax Appeals Decisions
 Enforcement Decisions

Vols 1-66 (11/42 - 9/76)
 Vols 19 - 47 (2/30-11/42)
 Tax Division's Summons
 Enforcement Decisions
 Current to 3/1/84

Tax Protesters

Tax Division Tax Protester
 Decision List

BRIEFS - DEPARTMENT OF JUSTICE BRIEFS

Office of the Solicitor General Briefs

Briefs since the 10/1982
 Term

Civil Division Briefs

Selected Appellate Briefs
 (11/81 - Present)

Civil Division Trial Briefs

Selected Trial Briefs (1977
 - Present)

Civil Rights Division Briefs

Selected Appellate Briefs
 (1/80 - Present)

Land and Natural Resources
 Division Briefs

Selected Appellate Briefs
 (12/83 - Present)

* U.S. Attorneys' Offices Briefs

Selected Criminal Appellate
 Briefs (1980-Present)

MANUAL - UNITED STATES ATTORNEYS' MANUAL

Titles 1-7 and 10

Latest Paragraph Text

WRKPRDT - DEPARTMENT OF JUSTICE WORK PRODUCTS

Criminal Division Monographs	Selected Monographs
Civil Division Monographs	Selected Monographs
Criminal Division Narcotics Newsletter	July 1979 - Present

LEGHIST - Legislative Histories of Federal Laws

Equal Access to Justice Act (EAJA) Legislative History

ADMIN - ADMINISTRATIVE LAW

Published Comptroller General Decisions	Vols. 1-63 (1921-Sept. 1984)
Unpublished Comptroller General Decisions	(1/5/51 - 9/28/84)
Opinions of the Attorney General	Vols. 1-43 (1791-1980)
O.L.C. Memorandums	Vols. 1-3 (1977-1979)
Board of Contract Appeals	Vols. 56-2 to 85-2 (7/56-4/85)
Federal Labor Relations Authority Decisions & Reports on Rulings of the Asst. Sec. of Labor for Labor Management Relations	Vols. 1-15 (1/79-8/84)
Federal Labor Relations Council Rulings on Requests of the Asst. Sec. of Labor for Labor Management Relations	1 A/SLMR - 8 A/SLMR (1/73-12/78)
HUD Administrative Law Decisions	Vols. 1-6 (1/70-12/78)
Merit Systems Protection Board	Volume 1 (2/70-6/75)
Board of Immigration Appeals Decisions	Selected Decisions
	Vols. 1-13 (2/79 - 3/83)
	Vols. 1 (1940)-18 (1984) and Slips

REGS - FEDERAL REGULATIONS

** Code of Federal Regulations	1984 Edition, Titles 5, 29-34, 36, 38-50
	1985 Edition, Titles 1-4, 6-28, 35, 37
** Unified Agenda of Federal Regulations	October, 1985 Edition

TREATIES

Bevans: Treaties and Other International Agreements of the United States	Vols. 1-12 (1776-1949)
United States Treaties and Other International Agreements	Vols. 1-32 (1/50 - 12/81)
Department of Defense Unpublished International Agreements	(6/47 - 1/84)

FOIA - FREEDOM OF INFORMATION ACT

- ** FOIA Update Newsletter Vol. 1, No. 1 - Vol. 6,
No. 3 (Fall 1979 -
Summer 1985)
- ** FOIA Short Guide FOIA Case List Publication
(September 1985 Edition)

FORENS - Mid-Atlantic Association of Forensic Scientists Newsletter

- ** Scientific Sleuthing Newsletter July, 1976 - Spring, 1985

INDLAW - INDIAN LAW

- Opinions of the Solicitor (Interior) Vols. 1 and 2 (1917 - 1974)
Ratified Treaties 1778 - 1880
Unratified Treaties 1801 - 1868
Presidential Proclamations 1879 - 1968
Executive Orders and Other Orders
Pertaining to Indians 1871 - 1971

REFERENZ - TRAINING AIDS FOR JURIS USERS

- JURIS Reference Manual, Parts I - IV November 1984 Edition

LISTING OF ALL BLUESHEETS IN EFFECT
NOVEMBER 22, 1985

<u>AFFECTS USAM</u>	<u>TITLE NO.</u>	<u>DATE</u>	<u>SUBJECT</u>
1-11.240*	TITLE 1	7/31/84	Immunity for the Act of Producing Reports
1-11.400*	TITLE 1	6/21/84	Immunity
1-12.020*	TITLE 1	6/29/84	Pre-Trial Diversion Program
1-12.400*	TITLE 1	10/12/84	PTD Agreement
***1-12.602*	TITLE 1	10/12/84	Letter to Offender--(USA Form 185)
***1-12.603*	TITLE 1	10/12/84	Agreement--(USA Form 186)
9-2.133*	TITLE 9	4/09/84	Policy Limitations on Institution of Proceedings, Consultation Prior to Institution of Criminal Charges
9-2.142(1) (c)(2)(c)*	TITLE 9	10/26/84	Dual and Successive Federal Prosecution Policy
9-2.144*	TITLE 9	10/26/84	Interstate Agreement on Detainers
9-2.147*	TITLE 9	10/26/84	Extradition and Deportation
9-2.149*	TITLE 9	10/26/84	Revocation and Naturalization
9-2.160	TITLE 9	7/18/85	Policy with Regard to Issuance of Subpoenas to Attorneys for Information Relating to the Representation of Clients
***9-2.172*	TITLE 9	10/26/84	Appearance Bond Forfeiture Judge

* Approved by Advisory Committee, being permanently incorporated.

** In printing.

*** Bluesheet extended until October 1, 1985.

LISTING OF ALL BLUESHEETS IN EFFECT
NOVEMBER 22, 1985

<u>AFFECTS USAM</u>	<u>TITLE NO.</u>	<u>DATE</u>	<u>SUBJECT</u>
***9-2.173*	TITLE 9	10/26/84	Arrest of Foreign Nationals
9-4.543*	TITLE 9	8/10/84	Subpoenas to Obtain Records Located in Foreign Countries
***9-7.1000*	TITLE 9	5/02/84	Video Surveillance
9-8.250*	TITLE 9	8/16/85	Policy Concerning Application of Youth Corrections Act to Offenses Committed before Oct. 12, 1984
***9-11.280*	TITLE 9	3/28/85	Extraterritorial Effect of the All Writs Act, 28 U.S.C. §1651
9-18.280*	TITLE 9	8/09/85	Policy Concerning Application of Insanity Defense Reform Act of 1984 Offenses. Committed Before Date of Enactment
9-21.340 to 9-21.350	TITLE 9	3/12/84	Psychological/Vocational Testing; Polygraph Examinations for Prisoner-Witness Candidates
9-27.510*	TITLE 9	5/25/84	Opposing Offers to Plead Nolo Contendere
9-34.600	TITLE 9	8/16/85	Policies Concerning the New Sentencing Scheme Scheduled to Take Effect in November 1986
9-38.000*	TITLE 9	4/06/84	Forfeitures
9-40.400*	TITLE 9	7/15/85	Policy Concerning Prosecution Under New Bank Bribery Statute (18 U.S.C. §215)
9-42.530*	TITLE 9	10/9/84	Dept. of Defense Memorandum of Understanding
9-46.130; 9-46.140*	TITLE 9	5/06/85	Program Fraud and Bribery-- Policy Considerations; Criminal Division Contact

LISTING OF ALL BLUESHEETS IN EFFECT
NOVEMBER 22, 1985

<u>AFFECTS USAM</u>	<u>TITLE NO.</u>	<u>DATE</u>	<u>SUBJECT</u>
***9-48.120*	TITLE 9	3/07/85	Computer Fraud-Reporting Requirements
***9-49.150; 9-49.160*	TITLE 9	3/22/85	18 U.S.C. §1029-Reporting Requirements; Fraudulent Use of Credit Cards and Debit Instruments-Prosecutions under 18 U.S.C. §1029 Statutes in Title 15
9-60.134; 9-60.135*	TITLE 9	12/14/84	Allegations of "Mental Kidnapping" or "Brain-washing" by Religious Cults; "Deprogramming" of Religious Sect Members
9-60.291; 9-60.292	TITLE 9	8/16/85	Interception of Radio Communications: Unauthorized Reception of Cable Service
9-60.400*	TITLE 9	12/31/84	Criminal Sanctions Against Illegal Electronic Surveillance - the Foreign Intelligence Surveillance Act (FISA), 50 U.S.C. §1809
9-60.730*	TITLE 9	8/16/85	Prosecutive Policy
***9-60.830*	TITLE 9	2/20/85	Special Forfeiture of Collateral Profits of Crime ("Son of Sam")
***9-63.251*	TITLE 9	2/25/85	Policy Concerning Prosecution - 18 U.S.C. §32(b)
9-63.271*	TITLE 9	2/25/85	Policy Concerning Prosecution - 18 U.S.C. §33
9-63.1130*	TITLE 9	2/25/85	Policy Concerning Prosecution - 18 U.S.C. §1365
9-64.212*	TITLE 9	2/20/85	Prosecution Policy Concerning Robbery of Persons Possessing Non-Postal Service Money or Property of the United States

LISTING OF ALL BLUESHEETS IN EFFECT
NOVEMBER 22, 1985

<u>AFFECTS USAM</u>	<u>TITLE NO.</u>	<u>DATE</u>	<u>SUBJECT</u>
***9-65.940*	TITLE 9	3/28/85	Policy Concerning Prosecution - 18 U.S.C §115
9-71.260*	TITLE 9	8/16/85	Prosecution of Criminal Copyright Infringement Under 18 U.S.C. §2314
9-71.400*	TITLE 9	4/26/85	Prosecutive Policy
9-75.000*	TITLE 9	12/10/84	Obscenity
9-75.084*	TITLE 9	10/12/84	Comment-Child Pornography Statutes
***9-75.621*	TITLE 9	10/12/84	Exception-Child Pornography Cases
9-90.330*	TITLE 9	5/06/85	Computer Espionage
9-90.600*	TITLE 9	5/06/85	Registration
***9-103.130; 9-103.140*	TITLE 9	3/28/85	Controlled Substances Registrant Protection Act of 1984-Investigative & Prosecutive Guidelines; Criminal Division Approval
***9-103.230*	TITLE 9	3/28/85	Policy Consideration -- Aviation Drug Trafficking Control Act
9-110.800	TITLE 9	9/20/85	Murder-For-Hire and Violent Crimes in Aid of Racketeering Activity
9-111.000	TITLE 9	9/18/85	Policy with Regard to Forfeiture of Assets Which Have Been Transferred to Attorneys As Fees For Legal Services

LISTING OF ALL BLUESHEETS IN EFFECT
NOVEMBER 22, 1985

<u>AFFECTS USAM</u>	<u>TITLE NO.</u>	<u>DATE</u>	<u>SUBJECT</u>
9-130.300*	TITLE 9	4/09/84	Prior Authorization Generally
9-131.030*	TITLE 9	4/09/84	Consultation Prior to Prosecution
9-131.110*	TITLE 9	4/09/84	Hobbs Act Robbery
***9-133.010*	TITLE 9	2/20/85	Investigative Jurisdiction: 29 U.S.C. §501(c) and 18 U.S.C. §664
9-134.010*	TITLE 9	2/20/85	Investigative Jurisdiction: 18 U.S.C. §1954
9-136.020*	TITLE 9	2/20/85	Investigative Jurisdiction: 18 U.S.C. §1027
***9-138.030*	TITLE 9	3/28/85	Consultation Prior to Prosecution
10-2.186	TITLE 10	9/27/85	Grand Jury Reporters
10-2.512*	TITLE 10	7/22/85	Compensation of Court Appointed U.S. Attorneys
10-2.655*	TITLE 10	5/28/85	Quality Step Increases
***10-3.530*	TITLE 10	01/07/85	Advances to Non-Department of Justice Employees
10-3.560*	TITLE 10	12/13/84	Relocation
10-4.350*	TITLE 10	7/31/84	Use By United States Attorneys Offices of Forfeited Vehicles and Other Property
10-4.418*	TITLE 10	7/20/84	Maintenance of Attorney-Client Information
10-8.110;111; 10-8.112*	TITLE 10	4/13/85	Judgment Policy

UNITED STATES ATTORNEYS' MANUAL--TRANSMITTALS

The following United States Attorneys' Manual Transmittals have been issued to date in accordance with USAM 1-1.500.

<u>TRANSMITTAL AFFECTING TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>
TITLE 1	(Transmittals A2 through A10 have been superseded.)			
	A11	2/22/84	2/10/84	Complete revision of Ch. 1, 2
	A12	3/19/84	2/17/84	Complete revision of Ch. 4
	A13	3/22/84	3/9/84	Complete revision of Ch. 8
	A14	3/23/84	3/9 & 3/16/84	Complete revision of Ch. 7, 9
	A15	3/26/84	3/16/84	Complete revision of Ch. 10
	A16	8/31/84	3/02/84	Complete revision of Ch. 5
	A17	3/26/84	3/26/84	Complete revision of Ch. 6
	A18	3/27/84	3/23/84	Complete revision of Ch. 11, 13, 14, 15
	A19	3/29/84	3/23/84	Complete revision of Ch. 12
	A20	3/30/84	3/23/84	Index to Title 1, Table of Contents to Title 1
	A21	4/17/84	3/23/84	Complete revision of Ch. 3
	A22	5/22/84	5/22/84	Revision of Ch. 1-6.200
	AAA1	5/14/84		Form AAA-1

*Transmittal is currently being printed.

<u>TRANSMITTAL AFFECTING TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>
TITLE 2		(Transmittals A2 through A4 have been superseded.)		
	A5	2/10/84	1/27/84	Complete revision of Title 2-replaces all previous transmittals
	A11	3/30/84	1/27/84	Summary Table of Contents to Title 2
	AAA2	5/14/84		Form AAA-2
TITLE 3		(Transmittal A2 has been superseded.)		
	A3	10/11/83	8/4/83	Complete revision of Title 3-replaces all previous transmittals
	AAA3	5/14/84		Form AAA-3
TITLE 4		(Transmittals A2 through A6 have been superseded.)		
	A7	4/16/84	3/26/84	Complete revision of Ch. 7, 8, 12
	A8	4/16/84	3/28/84	Complete revision of Ch. 2, 14, 15
	A9	4/23/84	3/28/84	Complete revision of Ch. 3
	A10	4/16/84	3/28/84	Complete revision of Ch. 10
	A11	4/30/84	3/28/84	Complete revision of Ch. 1, 9, Index to Title 4
	A12	4/21/84	3/28/84	Complete revision of Ch. 6
	A13	4/30/84	3/28/84	Complete revision of Ch. 4
	A14	4/10/84	3/28/84	Complete revision of Ch. 13

TRANSMITTAL
AFFECTING
TITLE

<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>Contents</u>	
TITLE 4	A15	3/28/84	3/28/84	Complete revision of Ch. 5
	A16	4/23/84	3/28/84	Complete revision of Ch. 11
	AAA4	5/14/84		Form AAA-4
TITLE 5	(Transmittal A2 has been superseded.)			
	A3	3/22/84	3/5/84	Complete revision of Ch. 1, 2, 3 (was 2A)
	A4	3/28/84	3/12/84	Complete revision of Ch. 12 (was 9C)
	A4	undated	3/19/84	Complete revision of Ch. 5 (was Ch. 4), 6, 8
	A5	3/28/84	3/20/84	Complete revision of Ch. 9, 11 (was 9B)
	A6	3/28/84	3/22/84	Complete revision of Ch. 7
	A7	3/30/84	3/20/84	Complete revision of Ch. 10 (was 9A)
	A8	4/3/84	3/22 & 3/26/84	Complete revision of Ch. 13, 14, 15, Table of Contents to Title 5
	A9	12/06/84	11/01/84	Revisions to Chapter 1
	A11	4/17/84	3/28/84	Complete revision of Ch. 4 (was Ch. 3)
	A12	4/30/84	3/28/84	Index to Title 5
	AAA5	5/14/84		Form AAA-5
	B1	6/03/85	5/01/85	Revisions to Ch. 1 and Ch. 4

<u>TRANSMITTAL AFFECTING TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>
TITLE 6	A2	3/23/84	3/2/84	Complete revision of Title 6-replaces all prior transmittals
	A3	12/19/84	12/14/84	Revision to Ch. 4 and Index
	AAA6	5/14/84		Form AAA-6
TITLE 7	(Transmittals A2 and A3 have been superseded.)			
	A4	1/6/84	11/22/83	Complete revision to Title 7-replaces all prior transmittals
	A12	3/3/84	12/22/83	Summary Table of Con- tents to Title 7
	AAA7	5/14/84		Form AAA-7
TITLE 8	A1	4/2/84	2/15/84	Ch. 1, 2, Index to Title 8
	A2	6/21/82	4/30/82	Complete revision to Title 8
	A12	3/30/84	2/15/84	Summary Table of Con- tents to Title 8
	AAA8	5/14/84		Form AAA-8
TITLE 9	(Transmittals A5 through A12, A14, A47, A49 A50, A56 and A61 have been superseded.)			
	A13	1/26/84	1/11/84	Complete revision of Ch. 132, 133
	A14	2/10/84	1/27/84	Revisions to Ch. 1 (Superseded by A78)
	A15	2/1/84	1/27/84	Complete revision of Ch. 8
	A16	3/23/84	2/8/84	Complete revision of Ch. 135, 136

TRANSMITTAL
AFFECTING
TITLE

<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>	
TITLE 9	A17	2/10/84	2/2/84	Complete revision of Ch. 39
	A18	2/3/84	2/3/84	Complete revision of Ch. 40
	A19	3/26/84	2/24/84	Complete revision of Ch. 21
	A20	3/23/84	2/8/84	Complete revision of Ch. 137, Ch. 138
	A21	3/19/84	2/13/84	Complete revision of Ch. 34
	A22	3/30/84	2/01/84	Complete revision of Ch. 14
	A23	8/31/84	2/16/84	Revisions to Ch. 2
	A24	3/23/84	2/28/84	Complete revision of Ch. 65
	A25	3/26/84	3/7/84	Complete revision of Ch. 130
	A26	3/26/84	2/8/84	Complete revision of Ch. 44
	A27	3/26/84	3/9/84	Complete revision of Ch. 90
	A28	3/29/84	3/9/84	Complete revision of Ch. 101
	A29	3/26/84	3/9/84	Complete revision of Ch. 121
	A30	3/26/84	3/19/84	Complete revision of Ch. 9
	A31	3/26/84	3/16/84	Complete revision of Ch. 78
	A32	3/29/84	3/12/84	Complete revision of Ch. 69

<u>TRANSMITTAL AFFECTING TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>
TITLE 9	A33	3/29/84	3/9/84	Complete revision of Ch. 102
	A34	3/26/84	3/14/84	Complete revision of Ch. 72
	A35	3/26/84	2/6/84	Complete revision of Ch. 37
	A36	3/26/84	2/6/84	Complete revision of Ch. 41
	A37	4/6/84	2/8/84	Complete revision of Ch. 139
	A38	3/29/84	2/28/84	Complete revision of Ch. 47
	A39	3/30/84	3/16/84	Complete revision of Ch. 104
	A40	4/6/84	3/9/84	Complete revision of Ch. 100
	A41	4/6/84	3/9/84	Complete revision of Ch. 110
	A42	3/29/84	3/14/84	Complete revision of Ch. 64
	A43	4/6/84	3/14/84	Complete revision of Ch. 120
	A44	4/5/84	3/21/84	Complete revision of Ch. 122
	A45	4/6/84	3/23/84	Complete revision of Ch. 16
	A46	2/30/84	2/16/84	Complete revision of Ch. 43
	A47	4/16/84	3/28/84	Revisions to Ch. 7 (Superseded by A63)

TRANSMITTAL
AFFECTING
TITLE

<u>TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>
TITLE 9	A48	4/16/84	3/28/84	Complete revision of Ch. 10
	A49	4/16/84	3/28/84	Revisions to Ch. 63 (Superseded by A74)
	A50	4/16/84	3/28/84	Revisions to Ch. 66 (Superseded by A60)
	A51	4/6/84	3/28/84	Complete revision of Ch. 76, deletion of Ch. 77
	A52	4/16/84	3/30/84	Complete revision of Ch. 85
	A53	6/6/84	3/28/84	Revisions to Ch. 4
	A54	7/25/84	6/15/84	Complete revision of Ch. 11
	A55	4/23/84	4/6/84	Complete revision of Ch. 134
	A56	4/30/84	3/28/84	Revisions to Ch. 42 (Superseded by A87)
	A57	4/16/84	3/28/84	Complete revision of Ch. 60, 75
	A58	4/23/84	4/19/84	Summary Table of Contents of Title 9
	A59	4/30/84	4/16/84	Entire Index to Title 9
	A60	5/03/84	5/03/84	Complete revision of Ch. 66 (Supersedes A50)
	A61	5/03/84	4/30/84	Revisions to Ch. 1, section .103 (Superseded by A78)
	A62	12/31/84	12/28/84	Revisions to Ch. 123
	A63	5/11/84	5/9/84	Complete revision to Ch. 7 (Supersedes A47)

<u>TRANSMITTAL AFFECTING TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>
TITLE 9	A64	5/11/84	5/11/84	Revision to Ch. 64, section .400-700
	A65	5/17/84	5/17/84	Revisions to Ch. 120
	A66	5/10/84	5/8/84	Complete revision to Ch. 131
	A67	5/11/84	5/09/84	Revisions to Ch. 121, section .600
	A68	5/28/84	5/08/84	Revisions to Ch. 104
	A69	5/09/84	5/07/84	Revisions to Ch. 21, section .600
	A70	5/17/84	5/16/84	Revisions to Ch. 43, section .710
	A71	5/21/84	5/21/84	Complete revision of Ch. 20
	A72	5/25/84	5/23/84	Complete revision of Ch. 61
	A73	6/18/84	6/6/84	Complete revision of Ch. 17
	A74	6/18/84	6/7/84	Complete revision of Ch. 63 (Supersedes A49)
	A75	6/26/84	6/15/84	Complete revision of Ch. 27
	A76	6/26/84	6/15/84	Complete revision of Ch. 71
	A77	7/27/84	7/25/84	Complete revision of Ch. 6
	A78	9/10/84	8/31/84	Complete revision of Ch. 1 (Supersedes A14 and A61)
	A79	8/02/84	7/31/84	Complete revision of Ch. 18
	A80	8/03/84	8/03/84	Complete revision of Ch. 79

TRANSMITTAL
AFFECTING
TITLE

<u>TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>
TITLE 9	A81	8/06/84	7/31/84	Revisions to Ch. 7
	A82	8/02/84	7/31/84	Revisions to Ch. 75
	A83	8/02/84	7/31/84	Revisions to Ch. 90
	A84	9/10/84	9/7/84	Complete revision of Ch. 2
	A85	7/25/84	2/17/84	Revisions to Ch. 136
	A86	8/02/84	7/31/84	Revisions to Ch. 60
	A87	11/14/84	11/09/84	Revisions to Ch. 42 (Supersedes A56)
	A88	8/31/84	8/24/84	Complete revision of Ch. 12
	A89	12/31/84	12/31/84	Complete revision of Ch. 4
	A90	10/10/84	10/01/84	Complete revision of Ch. 73
	A91	12/12/84	11/23/84	Revisions to Ch. 70
	A92	12/14/84	11/09/84	Revisions to Ch. 75
	A93	12/31/84	12/06/84	Revisions to Ch. 7
	A94	12/20/84	12/14/84	Correction to Ch. 27
	AAA9	5/14/84		Form AAA-9
	B1	3/15/85	01/31/85	Revisions to Ch. 60
	B2	3/29/85	01/31/85	Revisions to Ch. 61
	B3	3/29/85	01/31/85	Revisions to Ch. 71
	B4	6/24/85	4/01/85	Revisions to Ch. 63
	B5	6/24/85	4/04/85	Revisions to Ch. 11
	B6	6/27/85	4/01/85	Revisions to Ch. 139
	B7	6/27/85	5/01/85	Revisions to Ch. 12

TRANSMITTAL
AFFECTING
TITLE

<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>
TITLE 10	(Transmittals A2 through A7 have been superseded.)		
A8	4/5/84	3/24/84	Complete revision of Ch. 1
A9	4/6/84	3/20/84	Complete revision of Ch. 7
A10	4/13/84	3/20/84	Complete revision of Ch. 5
A11	3/29/84	3/24/84	Complete revision of Ch. 6
A12	4/3/84	3/24/84	Complete revision of Ch. 8
A13	9/4/84	3/26/84	Complete revision of Ch. 10
A14	4/23/84	3/28/84	Complete revision of Ch. 4
A15	4/17/84	3/28/84	Complete revision of Ch. 3, 9
A16	5/4/84	3/28/84	Index and Appendix to Title 10
A17	3/30/84	3/28/84	Summary Table of Con- tents to Title 10
A18	5/4/84	4/13/84	Complete revision to Ch. 2
A19	5/02/84	5/01/84	Revisions to Ch. 4
A20	8/31/84	5/24/84 & 7/31/84	Revisions to Ch. 2
A21	6/6/84	5/1/84	Corrected TOC, Ch. 4 and pages 23, 24
A22	7/30/84	7/27/84	Revision to Ch. 2
A23	8/02/84	7/31/84	Revision to Ch. 2
A24	11/09/84	10/19/84	Revision to Ch. 2

<u>TRANSMITTAL AFFECTING TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>
TITLE 10	A25	11/09/84	10/19/84	Revision to Ch. 2
	A26	11/28/84	11/28/84	Revision to Ch. 2
	A27	12/07/84	11/01/84	Revision to Ch. 2
	AAA10	5/14/84		Form AAA-10
	B1	3/15/85	1/31/85	Revision to Ch. 2
	B2	5/31/85	5/01/85	Revision to Ch. 2
	B3	6/27/85	4/01/85	Revision to Ch. 2
TITLE 1-10	A1	4/25/84	4/20/84	Index to USAM

If you have any questions regarding the above please contact Judy Beeman at FTS 673-6348.

EXECUTIVE OFFICE FOR UNITED STATES ATTORNEYS
TELETYPES TO ALL UNITED STATES ATTORNEYS

- 11-08-85 From William P. Tyson, Director, Executive Office for United States Attorneys, by Thomas G. Schrup, Acting Director, Office of Legal Education, re: "Civil Trial Advocacy Course, December 9-20, 1985, Washington, D.C."
- 11-14-85 From C. Madison Brewer, Director, Office of Management Information Systems and Support, by Tim Murphy, Assistant Director, Debt Collection Staff, re: "Agency Letters to Debtors Regarding: (1) IRS Tax Refund Offset, and (2) Reporting Debt Information to Consumer Credit Reporting Agencies."
- 11-15-85 From William P. Tyson, Director, Executive Office for United States Attorneys, by Susan A. Nellor, Director, Office of Legal Services, re: "Unauthorized Survey of United States Attorneys."
- 11-20-85 From William P. Tyson, Director, Executive Office for United States Attorneys, by Susan A. Nellor, Director, Office of Legal Services, re: "Requests for the Publications, "Prior Approval Requirements" and "Prior Consultation Requirements"."

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Arizona	Stephen M. McNamee
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