



United States Attorneys' Bulletin



**EXECUTIVE
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STATES
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COMMENDATIONS

The following Assistant United States Attorneys have been commended:

DANIEL A. CLANCY, DEVON L. GOSNELL and United States Attorney WILLIAM HICKMAN EWING, JR., (Tennessee, Western) by District Director Alvin H. Kolak, Internal Revenue Service, for their diligent efforts in prosecuting numerous tax cases on behalf of the Criminal Investigation Division.

FRANK A. CONFORTI and MARIANNE K. TOMECEK (Texas, Southern) by Regional Attorney W. J. Weltler, Department of Agriculture, for their excellent assistance in a TRO hearing involving the Forest Service.

JAMES T. COWDERY and HOLLY B. FITZSIMMONS (Connecticut) by Special Agent-in-Charge John J. Coleman, Drug Enforcement Administration, for their skillful assistance in the development and successful litigation of a Continuing Criminal Enterprise heroin case.

LOUIS DEMAS (California, Eastern) by Regional Forester Zane G. Smith, Jr., Forest Service, Department of Agriculture, for his outstanding support, tenacity and professionalism in a debt collection case.

NATHAN DODELL (District of Columbia) by Director Frederick D. Hess, Office of Enforcement Operations, Criminal Division, Department of Justice, for his fine representation rendered in a Freedom of Information Act case.

JOHN C. EARNEST, JR. (Alabama, Northern) by Assistant Inspector General for Investigations Stephen Marica, Small Business Administration, for his efforts in the successful conclusion of a SBA case.

ROBERT E. L. EATON (District of Columbia) by Associate General Counsel C. J. Turnquist, Department of the Navy, for his exemplary defense of two false civil claims against federal officials; and by Counsel for Labor Relations Barton S. Widom, Department of Labor, for his superb advice and guidance in an employment discrimination case.

ELGIN C. EDWARDS (California, Central) by Assistant Attorney General F. Henry Habicht II, Land and Natural Resources Division, for his excellent work in a complicated multi-defendant lawsuit filed under Section 211 of the Clean Air Act.

NANCY L. HOLLEY (Texas, Southern) by Assistant Attorney General F. Henry Habicht II, Land and Natural Resources Division, for her fine work on the successfully completed series of criminal environmental enforcement prosecutions for the illegal importation of non-conforming motor vehicles.

THOMAS J. HOPKINS (California, Eastern) by Chief Probation Officer Charles E. Varnon, United States District Court, Eastern District of California, for his representation of the Probation Office in a complicated probation revocation hearing.

TERRY W. LEHMANN (Ohio, Southern) by Director William H. Webster, Federal Bureau of Investigation, for his outstanding efforts in the prosecution of major FBI cases involving several organized criminal groups who perpetrated commercial vehicle thefts, regional burglaries, and interstate cargo thefts.

CHARLES E. LEWIS, JR. and TODD A. FOSTER (Texas, Southern) by Special Agent-in-Charge Marion W. Hambrick, Drug Enforcement Administration, for their successful investigation and prosecution of the largest and most successful drug investigation in the State of Texas, resulting in \$7.3 million dollars to the United States.

ROBERT C. SELDON (District of Columbia) by Assistant Commissioner John M. Rankin, Internal Revenue Service, for his outstanding efforts in the trial preparation and presentation of an equal employment opportunity case.

LELAND L. SMITH (Illinois, Central) by District Director J. R. Starkey, Internal Revenue Service, for his successful prosecution of five individuals involved in a complex, money laundering and kickback scheme.

DIANE M. SULLIVAN (District of Columbia) by General Counsel Howard M. Fry and Marc Scott (Honduras), Agency for International Development, for her successful defense of A.I.D.'s implementation of the limited-appointment provisions of the Foreign Assistance Act.

KENNETH E. VINES (Alabama, Middle) by the General Counsel, Atlanta Regional Counsel, and the Nashville District Counsel, Small Business Administration, for his superb legal representation and mastery of an extremely complicated SBA case.

CLEARINGHOUSE

Peremptory Jury Challenges.

United States Attorney Robert Q. Whitwell, Northern District of Mississippi, prepared a paper on the effects of Batson v. Kentucky, 476 U.S. ____, 90 L.Ed. 2d 69, 106 S. Ct. 1712 (1986) on current jury selection practices and procedures.

A copy of the paper, "Peremptory Jury Challenges After Batson v. Kentucky," can be obtained from Legal Counsel (EOUSA) at FTS 633-4024. Please request item number CH-45.

(Executive Office)

POINTS TO REMEMBER

Attorney General's Advisory Committee

Attorney General Edwin Meese III recently appointed the following new members to the Attorney General's Advisory Committee of United States Attorneys:

Helen M. Eversberg, Western District of Texas (San Antonio)
Andrew J. Maloney, Eastern District of New York (Brooklyn)
Stephen M. McNamee, District of Arizona (Phoenix)
J. B. Sessions III, Southern District of Alabama (Mobile)

Other members of the Committee are:

Chairman, Robert G. Ulrich, Western District of Missouri (Kansas City)

Vice-Chairmen:

Joe B. Brown, Middle District of Tennessee (Nashville)
John D. Tinder, Southern District of Indiana (Indianapolis)

Daniel A. Bent, District of Hawaii (Honolulu)
James W. Diehm, District of the Virgin Islands (St. Croix)
Frank W. Donaldson, Northern District of Alabama (Birmingham)
Frederick J. Hess, Southern District of Illinois (East St. Louis)
J. Alan Johnson, Western District of Pennsylvania (Pittsburgh)
John Volz, Eastern District of Louisiana (New Orleans)
Brent D. Ward, District of Utah (Salt Lake City)
Rodney S. Webb, District of North Dakota (Fargo)
Joseph E. diGenova (ex officio), District of Columbia (Washington, D.C.)

(Executive Office)

Expiration of Section 3, Public Law No. 98-460, Social Security Disability Benefits Reform Act of 1984--Evaluation of Pain in Social Security Disability Cases.

A provision of the 1984 Social Security Disability Benefits Reform Act, Pub. L. No. 98-460, which established a standard for evaluating pain in Social Security Disability cases, expired December 31, 1986. Section 3(A)(1) of Pub. L. No. 98-460, codified at 42 U.S.C. §423(D)(5)(A), is applicable only to administrative "determinations made prior to January 1, 1987." See, 98 Stat. 1799. Further congressional consideration of this provision may occur, but an extension of the Section 3 provisions is not currently in effect. Therefore, Social Security Disability cases involving allegations of pain in which a final decision of the Secretary was made prior to January 1, 1987, should be defended in reliance on the statutory standard in Section 3. In cases where a final decision of the Secretary is made after December 31, 1986, and allegations of pain are involved, controlling authority continues to be the Secretary's existing regulations codified at 20 C.F.R. §404.1529 and §416.929. It is the position of the Departments of Health and Human Services (HHS) and Justice that no substantive difference exists between the temporary statutory provision and current HHS regulations. See, S. Rep. No. 466, 98th Cong., 2d Sess. 24 (1984), where the Senate Finance Committee stated the statutory provision "should be seen as a codification of the regulations and policies currently followed by the [Social Security] Administration." The Committee also noted "the termination of the provision [does] not modify the rules governing the program." *Id.* The Conference Committee further noted that "[t]he statutory language providing for an interim standard for evaluation of pain is amended to more accurately reflect current policies." H.R. Rep. No. 1039, 98th Cong., 2d Sess. 29 (1984), reprinted in 1984 U.S. Code Cong. & Admin. News 3087.

In defending Social Security Administration decisions involving the evaluation of pain under either the statute or the regulations, it is important to note that allegations of pain, and other subjective symptoms, do not by themselves constitute conclusive evidence of disability. Rather, both the statute and the regulations require that there be objective medical evidence showing the existence of a physical or mental impairment which could reasonably be expected to provide the pain. Also, the severity of the claimant's alleged pain may be measured by statements from the individual or his or her physician, which must be reasonably consistent with the objective medical evidence of record which must be considered at all times in reaching a conclusion as to whether the individual is disabled.

Recent case law developed on the proper standard for evaluating pain under the 1984 statute and the existing Social Security regulations include: Avery v. Secretary of Health and Human Services, 797 F.2d 19, 22 (1st Cir. 1986); Green v. Schweiker, 749 F.2d 1066, 1069-70 (3d Cir. 1984); Foster v. Heckler, 780 F.2d 1125, 1129 (4th Cir. 1986); Hampton v. Bowen, 785 F.2d 1308, 1310 (5th Cir. 1986); Duncan v. Secretary of Health and Human Services, 801 F.2d 847, 852-53 (6th Cir. 1986); Ward v. Heckler, 786 F.2d 844, 847-48 (8th Cir. 1986); Green v. Heckler, 803 F.2d 528, 532 (9th Cir. 1986); Fierro v. Bowen, 798 F.2d 1351, 1355 (10th Cir. 1986); Brown v. Bowen, 801 F.2d 361, 363 (10th Cir. 1986); Landry v. Heckler, 782 F.2d 1551, 1553 (11th Cir. 1986); Kelley v. Heckler, 761 F.2d 1538, 1541 N.5 (11th Cir. 1986); and Brown v. Bowen, 794 F.2d 703, 706 (D.C. Cir. 1986). The decisions in these cases are in accord with the agency's policy on the evaluation of pain.

Careful consideration must be given to Social Security cases involving pain under the differently articulated, but substantively equivalent, formulations of the various circuits. In addition, a number of class action lawsuits challenging the evaluation of pain in Social Security disability determinations are also pending before the courts. Because the disposition of these class actions after the expiration of the statute may raise more complex issues, please consult Sheila Lieber (FTS 633-3786) of the Federal Programs Branch before filing motions on the merits in cases applying the standard for evaluating pain. Also, the Department of Health and Human Services' Office of General Counsel, when it is preparing briefs to assist United States Attorneys in the defense of Social Security disability cases involving pain, will include materials explaining the effect of the lapse of the 1984 pain amendment. As appropriate, please contact either the HHS Regional Chief Counsel's office or the Social Security Division in Baltimore for additional information, if your office is handling a Social Security disability case involving allegations of pain which does not require coordination with the Civil Division.

(Civil Division)

Presence at Solicitor General's Table on Matters Occurring Before the Supreme Court.

An Assistant United States Attorney, who has a case to be argued in the Supreme Court, may arrange to be present at the Solicitor General's table by submitting a written request to the assigned Deputy Solicitor General at the same time the draft brief is submitted. However, please note that all individuals sitting at the counsel's table must be members of the Supreme Court Bar.

(Executive Office)

CASENOTES

OFFICE OF THE SOLICITOR GENERAL

The Solicitor General has authorized the filing of:

A jurisdictional statement in Lyng v. International Union, 648 F. Supp. 1234 (D.D.C. 1986). The question presented is whether 7 U.S.C. §2015(d)(3), which denies food stamps to households that become eligible because a member of the household is on strike, violates the First Amendment or the Due Process Clause.

A petition for a writ of certiorari in Cooper v. Kotarski, 799 F.2d 1342 (9th Cir. 1986). The question presented is whether Bush v. Lucas, 462 U.S. 367 (1983), precludes a Bivens action by probationary federal employees to enforce constitutional rights.

A petition for a writ of certiorari in Underwood v. Pierce, No. 83-2773 (9th Cir. 1986). The questions presented are (1) whether the government's position in the underlying litigation was "substantially justified" under the Equal Access to Justice Act; and (2) whether a court may award fees in excess of the \$75 per hour rate specified in 28 U.S.C. §2412(d)(2)(A).

A brief amicus curiae in Gwaltney of Smithfield v. Chesapeake Bay Foundation, 791 F.2d 304 (4th Cir. 1986). The issue is whether private parties may maintain a citizens' enforcement action under Section 505 of the Clean Water Act when the defendant has a long history of past discharge permit violations prior to the initiation of the citizen suit, but there are no further violations after the suit is filed.

A brief amicus curiae in Rockford Life Insurance Co. v. Department of Revenue, 492 N.E.2d 1278 (Ill. 1986). The question is whether mortgage-backed certificates conveying an interest in a pool of mortgages owned by the issuer are exempt from state taxation as "obligations of the United States" under Rev. Stat. §3701 by virtue of the fact that they are guaranteed by the Government National Mortgage Association.

OFFICE OF LEGISLATIVE AFFAIRS

SELECTED CONGRESSIONAL AND LEGISLATIVE ACTIVITIES

FEBRUARY 4 - MARCH 20, 1987

HIGHLIGHTS

Indian Gambling Legislation. In Cabazon, the Supreme Court held that Indians may operate bingo games on tribal land without regard to state gambling laws. In light of the Supreme Court's decision, the Department will review the issue to see whether adjustments to the Administration's Indian gambling bill are needed.

House Appropriations Subcommittee Hearing. On March 17, Immigration and Naturalization Service Commissioner Alan Nelson testified before the House Appropriations Subcommittee. The \$185 application fee for legalization under the terms of the 1986 Immigration Reform and Control Act, and the \$420 cap for family units were questioned.

The Subcommittee also heard testimony from Bureau of Prisons Director Norman Carlson on the Department's FY 1988 appropriations for the Federal Prison System. The major issue was the threat of AIDS in the various prison systems and particularly, what the federal role could be in this area. Chairman Smith asked the Bureau of Prisons to think about housing AIDS prisoners from state prisons in federal facilities. Chairman Smith also questioned the impact of the 1984 Crime Control Act and the recently-passed 1986 Anti-Drug Abuse Act on the federal

prisons' inmate population. Director Carlson stated that the majority of AIDS cases to date were at the state prison level but that he would consider the Chairman's suggestion. With regard to the impact of the cited Acts on federal inmate populations, Director Carlson indicated that an evaluation was underway and that the greatest impact would probably be from the 1986 Anti-Drug Abuse Act.

Independent Counsel Statute. On Thursday, March 19, 1987, the Senate Governmental Affairs Subcommittee on Oversight of Government Management conducted one of two hearings on the Independent Counsel Statute, as part of its examining process of the Ethics in Government Act prior to its scheduled expiration in January 1987. Assistant Attorney General John Bolton, Office of Legislative Affairs, was the first witness. Present were Senators Levin, Cohen and Bingaman, later joined at various times by Senators Mitchell and Heinz.

Mr. Bolton expressed the Administration's grave doubts about the constitutionality of the statute, while assuring the Subcommittee of the Department's willingness to work with them to draft a sound statute.

The major issues discussed during the testimony were:

(1) Constitutionality. Assistant Attorney General Bolton testified that there was strong agreement within the Department that the control and removal aspects of the statute were constitutionally infirm, and that, while he personally considered the appointment aspect also to be unconstitutional, the feeling within the Department on that issue was not universal.

(2) The Department's practice of conducting inquiries leading up to decisions about whether to initiate preliminary investigations. Senator Levin was concerned that Congress is not notified when the Department has decided whether or not to begin or to terminate an inquiry to initiate a 90-day preliminary inquiry. Mr. Bolton said that non-disclosure of such inquiries was required for privacy reasons.

(3) The Intent Issue. A final concern voiced by Senator Levin was whether the Department should determine whether the information it receives comprises a crime, especially with respect to the existence of intent, as part of a decision to go forward with a preliminary investigation. Mr. Bolton illustrated that the requirement that the complained of conduct was a crime was a necessary prerequisite to the initiation of a preliminary investigation.

Drug Coordination. On March 18, Admiral Yost of the Coast Guard and Commissioner von Raab of the Customs Services testified before the Senate Permanent Subcommittee on Investigations regarding the newly authorized C-31 centers (Command, Control and Intelligence Centers) for drug interdiction. These new centers, approved as part of the 1986 Anti-Drug Abuse Act, are a Customs Service-Congressional initiative not requested by the Administration. The Department sought to place the development of these centers under the National Drug Enforcement Policy Board and the Senate approved this change. The final drug bill, however, deleted the reference to the Board with the result that the Board has limited ability to coordinate the development of the C-31 centers.

Feres Doctrine and Atomic Testing Program Veterans. On March 19, 1987, Assistant Attorney General Richard K. Willard testified at a hearing of the House Judiciary Subcommittee on Administrative Law and Governmental Relations in

opposition to H.R. 1054, a bill to allow suits against the government by military service members for medical malpractice. Department of Defense representatives joined Mr. Willard in explaining that the proposed waiver of sovereign immunity would open litigation floodgates and establish an undesirable and unnecessary precedent, particularly insofar as existing benefits and compensation systems are adequate. Mr. Willard also testified in opposition to H.R. 1341, a bill to allow suits against the government for injuries allegedly arising from the atomic weapons testing program. Department of Energy witnesses agreed with the Department's view that this bill would provide preferential relief to a special class of litigants and undermine the protections of the Federal Tort Claims Act.

Illegal Alien Felons. On March 12, 1987, Assistant Immigration and Naturalization Service Commissioner Jack Shaw appeared before the Senate Committee on Governmental Affairs Subcommittee on Federal Spending, Budget, and Accounting. The hearing concerned the incarceration and deportation of illegal aliens. Florida law enforcement officials' representatives outlined their problems experienced with illegal aliens. The Assistant Commissioner discussed the Administration's efforts to improve federal-state cooperation in this regard, pointing to increased resources provided for in the Immigration Reform and Control Act of 1986. He highlighted the Alien Criminal Apprehension Program with pilot projects now underway in several large American cities, including Miami, to foster federal, state and local cooperation to deal with the problem. The Department of Justice must report the results of the pilot program to Congress in October.

ANTITRUST DIVISION

EIGHTH CIRCUIT HELD THAT ERRONEOUS BURDEN SHIFTING JURY INSTRUCTIONS DO NOT REQUIRE AUTOMATIC REVERSAL AND MUST BE EXAMINED IN THE CONTEXT OF THE ENTIRE RECORD.

In a prior decision, the court of appeals reversed Hogan's conviction for bid-rigging in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1, on the ground that the district court's jury instruction on the per se rule contained an unconstitutional evidentiary presumption concerning the interstate commerce element of the offense. While the court acknowledged that the error probably was harmless, it believed that harmless error analysis could not be applied to evidentiary presumptions. The Supreme Court subsequently granted the government's petition for a writ of certiorari and remanded the case for reconsideration in light of Rose v. Clark, 106 S. Ct. 3101 (1986). On remand, the court of appeals interpreted Rose to hold that erroneous burden shifting jury instructions do not require automatic reversal and must be examined in the context of the entire record in order to determine whether the error was harmless. Therefore, the court affirmed Hogan's Sherman Act conviction, finding the error in the per se instruction harmless because the jury was correctly instructed concerning the interstate commerce element of the offense and the evidence was plainly sufficient.

United States v. Ben M. Hogan Co., Inc., ___ F.2d ___, No. 84-1757EA (8th Cir. Jan. 12, 1987). D. J. # 60-206-264. Attorneys: Mary Coleen Sewell (FTS 729-8051), Antitrust Division, Dallas, and John J. Powers, III (FTS 633-2414), Antitrust Division.

CIVIL DIVISION

FIRST CIRCUIT HOLDS THAT CONFIDENTIAL INFORMANTS WHO ARE WILLING TO TESTIFY ARE PROTECTED FROM DISCLOSURE UNDER EXEMPTION 7(D) OF THE FOIA.

The district court ordered the release of the identities of confidential informants and other identifying information appearing in the course of a 6,000 page criminal investigatory file. The court rejected the FBI's claims of Freedom of Information Act Exemption 7(D), (C) as a basis to withhold this information because the informants had indicated a willingness to testify, and this constituted a waiver of the confidentiality afforded to informants under Exemption 7(D). It also ruled that the public interest in the disclosure of such information (investigations regarding Smith Act violations during the McCarthy era) outweighed the individuals' privacy interests under Exemption 7(C). The First Circuit reversed, holding that the bare willingness to testify does not constitute a waiver, and that, therefore, all such informants on the basis of the record before it were protected from disclosure under Exemption 7(D). In the first decision on this issue, the court reaffirmed the breadth of Exemption 7(D)'s protection vis-a-vis confidential informants based on the statutory scheme and purposes of the FOIA, its legislative history, the FBI's critical law enforcement functions, and the unequivocal language of the 1986 FOIA amendments. It also held that there was appellate jurisdiction over the immediate disclosure order, even though the order was not a final one, since to hold otherwise would effectively deprive the government of all review.

Irons v. Federal Bureau of Investigation, ___ F.2d ___, No. 86-1446, (1st Cir. Feb. 5, 1987). D. J. # 145-12-5158. Attorneys: Leonard Schaitman (FTS 633-3441) and Deborah R. Kant (FTS 633-4825), Civil Division.

FIFTH CIRCUIT AFFIRMS MEDICAL MALPRACTICE JUDGMENTS IN EXCESS OF STATUTORY "CAP" ON DAMAGES BECAUSE THE STATUTE WAS NOT PLEADED AS AN AFFIRMATIVE DEFENSE.

Five medical malpractice cases decided by Texas district courts involved judgments which exceed the Texas malpractice "cap" of \$500,000 for pain and suffering and loss of earnings. In three cases, including these two, the government failed to plead the Texas statute as an affirmative defense in answering the complaint. The court of appeals rejected the government's arguments that the limitation on the judgment did not have to be pleaded pursuant to Federal Rules of Civil Procedure 8(c). It held, moreover, that the failure to raise the matter until after the entry of final judgment was prejudicial to plaintiffs and could not be excused, see, Lucas v. United States, (5th Circuit). The court also held, alternatively, that the government should have appealed separately from the district courts' denial of post-judgment motions.

The court rejected two issues raised with respect to the measure of damages in Bonds: The victim of the malpractice was injured during childbirth and will need extensive medical care for the rest of her life. The district court based its award upon home care. The court dismissed the government's argument that the proper measure should be less costly institutional care, noting that the measure of cost as advocated by plaintiffs was "amply supported" by the record. It also found reasonable an award of \$750,000 to the child's mother for loss of consortium,

noting recent Texas decisions that approved parental awards of \$500,000 and \$600,000.

Ingraham v. United States, ___ F.2d ___, No. 83-1154, D. J. # 157-76-754; and Bonds v. United States, ___ F.2d ___, No. 83-1160, D. J. # 157-76-813, (5th Cir. Jan. 16, 1987). Attorneys: Robert S. Greenspan (FTS 633-5428), Bruce G. Forrest (FTS 644-2542), and Sandra W. Simon (FTS 633-4557), Civil Division.

SIXTH CIRCUIT HOLDS THAT HHS'S NEW MEDICARE MALPRACTICE RULE CANNOT BE APPLIED RETROACTIVELY.

Six hospitals claimed that the 1979 Medicare rule governing reimbursement of their malpractice insurance expenses was invalid as applied to their 1980 cost year. Following the uniform precedents, the district court found the rule invalid. Noting the Secretary had published a notice of proposed rulemaking to supersede the 1979 rule retroactively, the district court remanded the case to Health and Human Services's (HHS) Provider Reimbursement Review Board.

On appeal, the Sixth Circuit reversed and ordered the hospitals paid under the pre-1979 rule. The court acknowledged that the Medicare Act broadly authorizes the Secretary to "prescribe such regulations as may be necessary . . ." and explicitly provides that these regulations shall "provide for the making of suitable retroactive corrective adjustments . . ." The court held that this authority to issue retroactive rules was limited by the Supreme Court's general directives against retroactive regulations. Noting that HHS was attempting to make its rule retroactive to 1979, the court developed a three-part test to determine its validity: (1) "the degree of capriciousness or abuse of discretion exhibited by the agency in the promulgation of the initial rule;" (2) "the existence and duration of a prior settled regulation or practice, and the extent to which the initial invalidated rule constituted a substantial change in such settled practice;" and (3) "the extent to which the change embodied in the initial invalidated rule was integral to the effectuation of the statutory purpose." The court held that all three factors weighed against retroactivity here.

HHS has attempted to correct the defects in its 1979 rule since June, 1985. This is the first appellate decision that invalidates the proposed corrective rule. (An interim final rule, issued on April 1, 1986, has not been issued in final form.)

Mason General Hospital v. Secretary of HHS, ___ F.2d ___, No. 86-1011 (6th Cir. Jan. 21, 1987). D. J. # 145-16-2311. Attorney: Anthony J. Steinmeyer (FTS 633-3388), Civil Division.

EIGHTH CIRCUIT EXTENDS ABSOLUTE PROSECUTORIAL IMMUNITY TO FEDERAL OFFICIALS AND PEER REVIEW PHYSICIANS INVOLVED IN SUSPENSION OF DOCTOR FROM ELIGIBILITY FOR MEDICARE REIMBURSEMENT.

Health and Human Services (HHS) suspended a doctor for ten years from eligibility for Medicare reimbursement, based on the recommendations of the local and state peer review organizations. A year later, an HHS administrative law judge reversed it, excoriating both the HHS officials and the peer review committee, stating that the charges against the doctor had so little basis that there must have been some other motivation involved. The doctor then sued for damages,

alleging that racial motivation was involved (the doctor is a Korean). The Eighth Circuit upheld the district court's dismissal of the action, holding that despite the allegations of due process violations, the federal officials were entitled to absolute immunity as administrative prosecutors under Butz v. Economou, 438 U.S. 478 (1978). The court also held that the peer review physicians were absolutely immune, by analogy to cases conferring immunity on members of professional disciplinary organizations. Judge Heaney dissented. As to the federal officials, he would have remanded for further fact-finding by the district court. As to the peer review physicians, he concluded that a federal statute conferring qualified immunity on them precluded any absolute immunity.

Kwoun v. Southeast Missouri Professional Standards Review Organization,
F.2d ____, No. S-84-0259-C (8th Cir. Feb. 4, 1987). D. J. # 145-16-2675.
Attorneys: Barbara L. Herwig (FTS 633-5425) and Robert V. Zener (FTS
633-3542), Civil Division.

FEDERAL RULES OF EVIDENCE

Rule 615. Exclusion of Witnesses.

Defendant was convicted of making false statements before a grand jury which was investigating possible tax violations by the defendant's employer. Two investigating case agents interviewed the defendant prior to grand jury. Defendant's grand jury testimony denied certain statements made to the agents. On appeal, defendant asserted the district court's refusal to sequester the second case agent during the testimony of the first denied him a fair trial. The government suggested that the technical violation of Rule 615 was harmless error because prejudice could not be proven. Rule 615 requires the trial court, at the party's request, to sequester witnesses so that they cannot hear the testimony of other witnesses. Subsection (2) provides an exception for "an officer or employee of a party which is not a natural person designated as its representative by its attorney."

Relying on the mandatory language of Rule 615 and the singular phrasing of the exception embodied in 615(2), the court held that the trial court erred in refusing to sequester the second agent during the testimony of the first. The language of Rule 615 was intended to discourage fabrication and collusion, the court points out, and scrupulous adherence to the rule is especially necessary where, as here, the result of the trial hinges on the relative credibility of the parties' witnesses. No showing of prejudice by the defendant is required, the court adds, inasmuch as it would be nearly impossible for someone in his position to prove the negative inference that the second agent's testimony would have differed had he been sequestered. Although Rule 615 does not require that the defendant show prejudice, the court remained bound by the harmless error rule.

(Reversed in part and remanded in part.)

United States v. Farnham, 791 F.2d 331 (4th Cir. May 27, 1986).

LISTING OF ALL BLUESHEETS IN EFFECT
MARCH 27, 1987

<u>AFFECTS USAM</u>	<u>TITLE NO.</u>	<u>DATE</u>	<u>SUBJECT</u>
1-11.350*	TITLE 1	5/06/86	Policy with Regard to Defense Requests for Jury Instruction on Immunized Witnesses
2-3.110	TITLE 2	2/03/86	Prompt Notification of Contrary Recommendations
9-1.177	TITLE 9	12/31/85	Authorization for Negotiated Concessions in Organized Crime Cases
9-2.132*	TITLE 9	12/31/85	Policy Limitations on Institution of Proceedings - Internal Security Matters
9-2.133*	TITLE 9	4/09/84	Policy Limitation on Institution of Proceedings, Consultation Prior to Institution of Criminal Charges
9-2.136	TITLE 9	6/04/86	Investigative and Prosecutive Policy for Acts of International Terrorism
9-2.136	TITLE 9	10/24/86	Investigative and Prosecutive Policy for Acts of International Terrorism
9-2.151*	TITLE 9	12/31/85	Policy Limitations - Prosecutorial and Other Matters, International Matters
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
9-11.220 C.8.*	TITLE 9	4/14/86	All Writs Act Guidelines
9-11.368(A)*	TITLE 9	2/04/86	Amendment to Rule 6(e) Federal Rules of Criminal Procedure Permitting Certain Disclosure to State and Local Law Enforcement Officials
9-20.215*	TITLE 9	2/11/86	Policy Concerning State Jurisdiction Over Certain Offenses in Indian Reservations
9-100.280	TITLE 9	11/10/86	Consultation Prior to Institution or Dismissal of Criminal Charges Under Continuing Criminal Enterprise Statute

* Approved by Advisory Committee, being permanently incorporated.

LISTING OF ALL BLUESHEETS IN EFFECT
MARCH 27, 1987

<u>AFFECTS USAM</u>	<u>TITLE NO.</u>	<u>DATE</u>	<u>SUBJECT</u>
9-103.132; 9-103.140	TITLE 9	6/30/86	Revisions to the Prosecutive Guidelines for the Controlled Substance Registrant Protection Act Concerning Consultation Prior to Prosecution
9-105.000	TITLE 9	11/10/86	Money Laundering
9-110.800*	TITLE 9	7/07/86	Murder-for-Hire and Violent Crimes in Aid of Racketeering Activity
9-111.800	TITLE 9	11/10/86	Forfeiture of Substitute Assets
9-131.030*	TITLE 9	5/13/86	Consultation Prior to Consultation
9-131.040; 9-131.180	TITLE 9	10/06/86	Hobbs Act Approval
9-131.110*	TITLE 9	5/13/86	Hobbs Act Robbery
10-2.186	TITLE 10	9/27/85	Grand Jury Reporters
10-2.315	TITLE 10	11/17/86	Veterans Readjustment Appointment (VRA) Authority
10-2.534*	TITLE 10	3/20/86	Compensatory Time
10-2.614*	TITLE 10	7/10/86	Non-Attorney Performance Rating Grievance Procedure
10-2.615*	TITLE 10	10/24/86	Performance Rating Grievance by Assistant U.S. Attorneys and Attorneys within the Executive Office for U.S. Attorneys
10-2.650	TITLE 10	1/07/87	Awards
10-6.213*	TITLE 10	11/22/85	Reporting of Immediate Declinations of Civil Referrals
10-8.120*	TITLE 10	1/31/86	Policy Concerning Handling of Agency Debt Claim Referrals Where the Applicable Statute of Limitations has Run

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
	B1	7/01/85	8/31/85	Revision to Ch. 1-12.000
	B2	8/31/85	7/01/85	Revisions to Ch. 11
	B3	4/15/86	4/01/86	New Ch. 16
	B4	11/01/86	10/31/86	Revisions to Chs. 1,2,4,6, 10 and 13
	B5	6/23/86	12/31/85	Revisions to Ch. 5
	B7	9/26/86	8/04/86	Revisions to Ch. 15

*Transmittal is currently being printed.

TRANSMITTAL
AFFECTING
TITLE

<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
B1	6/10/86	12/31/85	Revisions to Ch. 3
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
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
B1	11/05/85	8/01/85	Revisions to Chapters 1-8, and 11-15
TITLE 5 (Transmittal A2 has been superseded.)			
A3	3/22/84	3/5/84	Complete revision of Ch. 1, 2, 3 (was 2A)

<u>TRANSMITTAL AFFECTING TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>
TITLE 5	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
	B2	6/30/86	12/31/85	Revisions to Chs. 1-10
	TITLE 6	A2	3/23/84	3/2/84
A3		12/19/84	12/14/84	Revision to Ch. 4 and Index
AAA6		5/14/84		Form AAA-6
B1		2/14/86	10/01/85	Revisions to Chapters 1-4, 6
B2		10/31/86	8/01/86	Revisions to Chapters 4 and 6
TITLE 7	(Transmittals A2 and A3 have been superseded.)			
TITLE 7	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 Contents to Title 7
	AAA7	5/14/84		Form AAA-7
	B1	3/24/86	3/05/86	Revision to Chapters 1-5
TITLE 8	AAA8	5/14/84		Form AAA-8

<u>TRANSMITTAL AFFECTING TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>
TITLE 8	B1	10/01/85	6/01/85	Complete revision to Title 8 (Supersedes A1, A2, and A12)
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
	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, 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
	A33	3/29/84	3/9/84	Complete revision of Ch. 102
	A34	3/26/84	3/14/84	Complete revision of Ch. 72

<u>TRANSMITTAL AFFECTING TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>
TITLE 9	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)
	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

<u>TRANSMITTAL AFFECTING TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>
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)
	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
	A81	8/06/84	7/31/84	Revisions to Ch. 7
	A82	8/02/84	7/31/84	Revisions to Ch. 75

<u>TRANSMITTAL AFFECTING TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>
TITLE 9	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
	B8	7/01/85	4/01/85	Revision to Ch. 4
	B9	7/31/85	7/31/85	Revision to Ch. 130
	B11	9/27/85	7/01/85	Revision to Ch. 27 and Ch. 38
	B12	9/27/85	7/01/85	Revision to Ch. 2
	B13	10/01/85	7/01/85	Revision to Ch. 60

<u>TRANSMITTAL AFFECTING TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>
TITLE 9	B14	11/29/85	8/01/85	Revision to Ch. 2
	B15	10/21/85	7/01/85	Revision to Ch. 75
	B16	10/22/85	7/01/85	Revision to Ch. 64
	B17	10/21/85	8/30/85	Revision to Ch. 136
	B18	10/21/85	8/01/85	Revision to Ch. 63
	B19	11/05/85	8/01/85	Revision to Ch. 133
	B20	11/01/85	8/30/85	Revision to Ch. 134
	B21	11/05/85	8/01/85	Revision to Ch. 11
	B22	11/01/85	8/01/85	Revision to Ch. 61
	B23	11/20/85	11/05/85	Revision to Ch. 71
	B24	11/20/85	11/05/85	Revision to Ch. 46
	B25	11/01/85	8/01/85	Revision to Ch. 90
	B26	11/29/85	8/01/85	Revision to Ch. 138
	B27	11/01/85	8/01/85	Revision to Ch. 48
	B28	11/29/85	8/01/85	Revision to Ch. 65
	B29	11/01/85	11/05/85	Revision to Ch. 103
	B30	11/29/85	11/05/85	Revision to Ch. 49
	B31	11/01/85	8/01/85	Revision to Ch. 7
	B32	12/01/85	8/01/85	Revision to Ch. 40
	B33	11/01/85	8/01/85	Revision to Ch. 69
	B34	02/14/86	12/31/85	Revision to Ch. 20
	B35	12/31/85	8/01/85	Revision to Ch. 132
	B36	11/29/85	8/01/85	Revision to Ch. 110
	B37	02/12/86	11/05/85	Revision to Ch. 8
	B38	3/20/86	12/31/85	Revision to Ch. 18

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TITLE 9

B39	11/29/85	11/05/85	Revision to Ch. 60
B40	02/12/86	11/05/85	Revision to Ch. 34
B42	05/07/86	12/01/85	Revision to Ch. 15
B43	04/08/86	3/01/86	Revision to Ch.6
B44	04/18/86	03/01/86	Revision to Ch. 111
B45	04/08/86	3/01/86	Revision to Ch. 21
B46	02/14/86	12/31/85	Revision to Ch. 42
B47	04/08/86	3/01/86	Revision to Ch. 60
B53	10/1/86	7/31/86	Revision to Ch. 1
B56	10/10/86	10/1/86	Revision to Ch. 21
B57	10/17/86	3/01/86	Revision to Ch. 111

TITLE 10

(Transmittal 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 Contents 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

<u>TRANSMITTAL AFFECTING TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>
TITLE 10	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
	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
	B4	7/23/85	4/01/85	Revision to Ch. 4
	B5	02/20/86	01/27/86	Revision to Ch. 3
	B7	7/31/85	5/01/85	Revision to Ch. 2 Appendix--Form Index
	B8	11/01/85	8/16/85	Revisions to Ch. 2 and Ch. 8
	B9	11/01/85	8/16/85	Revision to Ch. 2
	B10	11/29/85	8/21/85	Revision to Ch. 2
	B11	11/29/85	8/16/85	Revision to Ch. 2
	B12	11/29/85	8/01/85	Revision to Ch. 2
	B14	11/29/85	8/01/85	Revision to Ch. 2
	B15	01/14/86	12/17/85	Revision to Ch. 2
	B17	03/01/86	12/31/85	Revision to Ch. 7
	B18	9/10/86	07/31/86	Revision to Ch. 9
	B19	03/20/86	12/31/85	Revision to Ch. 5
	B21	04/15/86	04/01/86	Revision to Ch. 3

<u>TRANSMITTAL AFFECTING TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>
TITLE 10	B24	06/24/86	06/01/86	Revision to Ch. 6
TITLE 1-10	A1	4/25/84	4/20/84	Index to USAM
TITLE 11	B1	6/02/86	4/30/86	New Title 11

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

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

- 03-02-87 From: Jason P. Green, Legal Counsel, Executive Office for United States Attorneys, re: "Asset Forfeiture Survey."
- 03-03-87 From: Annette Perkins, Personnel Officer, Executive Office for United States Attorneys, re: "DOJ Paralegal Training, March 23-April 14, 1987."
- 03-04-87 From: William P. Tyson, Director, Executive Office for United States Attorneys, by Laurence S. McWhorter, Deputy Director, re: "Drug Sentencing Briefs Project."
- 03-05-87 From: Laurence S. McWhorter, Acting Director, Executive Office for United States Attorneys, re: "Waiver of Completion of Background Investigation for the Purpose of a 91-Day Temporary Appointment for Assistant United States Attorney Applicants."
- 03-06-87 From: C. Madison Brewer, Associate Director, Information Management, by Tim Murphy, Assistant Director, Debt Collection Staff, re: "Bureau of Prisons Inmate Financial Responsibility Program."
- 03-20-87 From: Laurence S. McWhorter, Acting Director, Executive Office for United States Attorneys, re: "United States Attorney Position, District of New Jersey."

UNITED STATES ATTORNEYS' LIST

<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	Stephen M. McNamee
Arkansas, E	George W. Proctor
Arkansas, W	J. Michael Fitzhugh
California, N	Joseph P. Russoniello
California, E	David F. Levi
California, C	Robert C. Bonner
California, S	Peter K. Nunez
Colorado	Robert N. Miller
Connecticut	Stanley A. Twardy, Jr.
Delaware	William C. Carpenter, Jr.
District of Columbia	Joseph E. diGenova
Florida, N	K. Michael Moore
Florida, M	Robert W. Merkle
Florida, S	Leon B. Kellner
Georgia, N	Robert L. Barr, Jr.
Georgia, M	Samuel A. Wilson
Georgia, S	Hinton R. Pierce
Guam	K. William O'Connor
Hawaii	Daniel A. Bent
Idaho	Maurice O. Ellsworth
Illinois, N	Anton R. Valukas
Illinois, S	Frederick J. Hess
Illinois, C	J. William Roberts
Indiana, N	James G. Richmond
Indiana, S	John D. Tinder
Iowa, N	Charles W. Larson
Iowa, S	Christopher D. Hagen
Kansas	Benjamin L. Burgess, Jr.
Kentucky, E	Louis G. DeFalaise
Kentucky, W	Joseph M. Whittle
Louisiana, E	John Volz
Louisiana, M	P. Raymond Lamonica
Louisiana, W	Joseph S. Cage, Jr.
Maine	Richard S. Cohen
Maryland	Breckinridge L. Willcox
Massachusetts	Robert S. Mueller III
Michigan, E	Roy C. Hayes
Michigan, W	John A. Smietanka
Minnesota	Jerome G. Arnold
Mississippi, N	Robert Q. Whitwell
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	William A. Maddox
New Hampshire	Richard V. Wiebusch
New Jersey	Samuel A. Alito, Jr.
New Mexico	William L. Lutz
New York, N	Frederick J. Scullin, Jr.
New York, S	Rudolph W. Giuliani
New York, E	Andrew J. Maloney
New York, W	Roger P. Williams
North Carolina, E	Samuel T. Currin
North Carolina, M	Robert H. Edmunds, Jr.
North Carolina, W	Charles R. Brewer
North Dakota	Rodney S. Webb
Ohio, N	Patrick M. McLaughlin
Ohio, S	D. Michael Crites
Oklahoma, N	Layn R. Phillips
Oklahoma, E	Roger Hilfiger
Oklahoma, W	William S. Price
Oregon	Charles H. Turner
Pennsylvania, E	Edward S. G. Dennis, Jr.
Pennsylvania, M	James J. West
Pennsylvania, W	J. Alan Johnson
Puerto Rico	Daniel F. Lopez-Romo
Rhode Island	Lincoln C. Almond
South Carolina	Vinton DeVane Lide
South Dakota	Philip N. Hogen
Tennessee, E	John W. Gill, Jr.
Tennessee, M	Joe B. Brown
Tennessee, W	W. Hickman Ewing, Jr.
Texas, N	Marvin Collins
Texas, S	Henry K. Oncken
Texas, E	Robert J. Wortham
Texas, W	Helen M. Eversberg
Utah	Brent D. Ward
Vermont	George J. Terwilliger III
Virgin Islands	James W. Diehm
Virginia, E	Henry E. Hudson
Virginia, W	John P. Alderman
Washington, E	John E. Lamp
Washington, W	Gene S. Anderson
West Virginia, N	William A. Kolibash
West Virginia, S	Michael W. Carey
Wisconsin, E	Joseph P. Stadtmueller
Wisconsin, W	John R. Byrnes
Wyoming	Richard A. Stacy
North Mariana Islands	K. William O'Connor