



United States Attorneys' Bulletin

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COMMENDATIONS

The following *Assistant United States Attorneys* have been commended:

Arenda W. Allen, Kevin Comstock and Robert J. Seidel, Jr. (Virginia, Eastern District), by Larry E. Torrence, Special Agent in Charge, FBI, Norfolk, for their successful prosecution of Operation Intimidation, a violent drug trafficking gang responsible for a number of heinous crimes committed solely to intimidate and control all persons associated with their organization.

John Bennett (North Carolina, Eastern District), by Joseph W. Smith, Chief Ranger, Cape Hatteras National Seashore, Department of the Interior, Manteo, for his excellent presentation on search and seizure at the second 40-hour In-Service Refresher Training course. **Retha Lee**, Victim/Witness Coordinator, also provided valuable instruction on the responsibilities of officers to victims and witnesses of crime.

John Broadwell (Louisiana, Western District), by Robert P. Petersen, Acting District Engineer, U.S. Army Corps of Engineers, Vicksburg District, Mississippi, for his successful resolution of an action which resulted in the collection of the largest civil penalty ever in Louisiana for violation of Section 404 of the Clean Water Act, and for his special interest in the protection of our environment.

James Brunson (Michigan, Eastern District), by James S. Dempster, Chief Operating Officer, Manufacturers Credit Cooperative, Plano, Texas, for his outstanding success in the prosecution of 8 individuals that conspired to defraud a Texas financial institution. Also, by Julia L. Scotton, Attorney, Claims Division, Law Department, U.S. Postal Service, Washington, D.C., for his professionalism and legal skill in a civil case which resulted in the plaintiffs' voluntary dismissal of the action.

J. Matthew Cain (Ohio, Northern District), by Charles R. Sekerak, Acting Inspector General, U.S. Railroad Retirement Board, Chicago, for his outstanding support and cooperation over the past three years in the successful prosecution of program fraud cases in the unemployment insurance program, resulting in a dramatic reduction of these types of cases in the Northern District of Ohio.

Alleen S. Castellani and Gay L. Tedder (Missouri, Western District), by Max L. Geiman, Principal Legal Advisor, FBI, Kansas City, for their outstanding assistance in responding to a subpoena for deposition testimony and production of documents in a homicide case, which involved producing voluminous material on short notice, and providing appropriate protection for the material being disclosed.

Robert S. Cessar (Pennsylvania, Western District), by Thomas P. Gleason, Supervisory Special Agent, FBI, Pittsburgh, for his successful efforts in obtaining guilty pleas in a bank fraud case involving the loan of \$1.6 million by a bank official to his brother-in-law for a speculative business venture which eventually lost \$700,000.

Rick Cooper, Dan Krauss, and Roger Duncan (District of Arizona), by Colin M. Dunnigan, Director of Security, Great American Bank, Phoenix, for their successful efforts in the prosecution of a bank employee on embezzlement charges.

David J. Debold (Michigan, Eastern District), by Joseph D. Martinolich, Jr., Special Agent in Charge, FBI, Detroit, for his outstanding prosecutorial efforts in a bank fraud case which involved over \$2 million in losses to a Milwaukee bank, and significant losses to other banks and contractors in the Detroit area.

Elizabeth L. de la Vega (District of Minnesota), by Kenneth G. Cloud, Special Agent in Charge, Drug Enforcement Administration, Chicago, for her outstanding contribution to the success of a complex conspiracy case involving 24 defendants indicted for the importation/distribution of 15,000 pounds of marijuana from Colombia.

Ruth Morris Force (Louisiana, Eastern District), by Kenneth R. Human, Chief Counsel, John C. Stennis Space Center, National Aeronautics and Space Administration, Stennis Space Center, Mississippi, for her excellent representation and professional skill in resolving a civil action in the U.S. Government's favor.

Eric R. Havian (California, Northern District), by Paul M. Snabel, Special Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, San Francisco, for his success in obtaining a guilty jury verdict of a drug lord for cocaine distribution, pipe bombings, shooting 8 Richmond residents, and attempting to harm federal witnesses. (The defendant faces a mandatory life sentence without possibility of parole.)

Paul Hess (Oklahoma, Eastern District), by Colonel Otis Williams, District Engineer, Tulsa District, U.S. Army Corps of Engineers, for his success in obtaining a felony conviction for a violation of the Archaeological Resources Protection Act on Corps-managed lands within the Tulsa District.

Jon M. Hopeman (District of Minnesota), by Kenneth G. Cloud, Special Agent in Charge, Drug Enforcement Administration, Chicago, for his outstanding prosecutive efforts and professional legal skill in the area of narcotics law as well as many other high profile federal cases during the past 11 years in the United States Attorney's office.

James Jennings (Texas, Western District), by Logan A. Slaughter, District Counsel, Department of Veterans Affairs, Houston, for his excellent representation and support in a tort-medical malpractice case which was ultimately dismissed voluntarily by plaintiff's counsel.

Ronald J. Kurpiers (Indiana, Northern District), by Louis J. Freeh, Director, FBI, Washington, D.C., for his outstanding prosecutorial efforts in a criminal case in which one defendant was eventually found guilty on 70 counts of receiving a bribe, and the nine remaining defendants entered into plea agreements and have been sentenced to various terms of incarceration.

Stephen Learned (Virginia, Eastern District), by Timothy P. McNally, Special Agent in Charge, Criminal Division, FBI, Washington, D.C., for his successful prosecution of a contract administrator for defrauding his employer and the Department of Commerce out of \$1.1 million, which resulted in a guilty plea and a substantial prison sentence.

Susan Lindquist (District of Alaska) by John H. VanderMolen, Assistant General Counsel, Department of Housing and Urban Development, Northwest/Alaska Area, Seattle, for her valuable assistance during the past months in arranging for housing for low and moderate income persons in accordance with HUD requirements.

Allen E. Litchfield (Oklahoma, Northern District), by Sergeant Jim Clark, Street Crimes Unit, Office of the Chief of Police, Tulsa, for serving as a speaker at a recent training session for members of the Tulsa Police Department's Uniform Division North Street Crimes Unit and Foot Patrol officers.

Thomas A. Lloyd (District of South Dakota), by the Honorable Irvin N. Hoyt, Chief Bankruptcy Judge, U.S. Bankruptcy Court, Pierre, for serving as Chairperson of the Local Bankruptcy Committee, and for simplifying the rules while insuring that essential procedures are covered adequately.

Dan Lynn (Mississippi, Southern District), by Robert P. Petersen, Acting District Engineer, U.S. Army Corps of Engineers, Vicksburg District, for his successful resolution of a casino permit violation which resulted in the largest civil penalty ever collected by the Vicksburg District for violating Section 404 of the Clean Water Act.

Beth McGarry (California, Northern District), by William H. Reed, Director, Defense Contract Audit Agency, Department of Defense, Alexandria, Virginia, for her excellent representation of the Secretary of Defense in a civil case, and for bringing the matter to a successful conclusion.

Michael W. Magner (Louisiana, Eastern District), by Robert A. Stellingworth, Special Agent in Charge, Bureau of Alcohol, Tobacco and Firearms (BATF), New Orleans, for his valuable assistance in developing various violent crime initiatives over the past year, and for his outstanding efforts in the prosecution of other cases on behalf of BATF.

John G. Malcolm (Georgia, Northern District), by John J. Adair, Inspector General, Resolution Trust Corporation, Washington, D.C., for his successful prosecution of three cases involving complex schemes to defraud, resulting in appropriate probation or prison terms, and the forfeiture of property and absconded funds.

John Martin (Virginia, Eastern District), by John J. Pogash, Director of Federal Programs and Project Director, National Victim Center, Arlington, for his participation and significant contribution to the success of a recent conference entitled "Focus on the Future: Victim Assistance in the Federal Criminal Justice System."

James Mitchell and Sam Hutchings, LECC Manager (Michigan, Eastern District), were presented Certificates of Appreciation from Dennis Mickel, District Director, Federal Protective Service, General Services Administration (GSA), Detroit, for their outstanding services, professional advice, and valuable assistance in carrying out their mission of law enforcement and security services to owned and leased spaces under the control of GSA.

Pamela Pepper (Illinois, Northern District), by Kenneth G. Cloud, Special Agent in Charge, Drug Enforcement Administration, Chicago, for her valuable assistance and support during the past four years in the prosecution of narcotics cases, especially the prosecution of the Latin Kings street gang which involved over 30 defendants and overt acts in three separate states. (The leader was convicted and received a prison sentence of life without parole.)

David Rosado and Deborah Kanof (Texas, Western District), by Randal A. Wolverton, Special Agent, FBI, Wichita, Kansas, for their professionalism and outstanding legal skill in the prosecution of a difficult and complex white collar crime case.

Ron Sievert (Texas, Western District), by Gerald W. Orndorff, Unit Chief, Economic and Financial Crimes Training Unit, FBI Academy, Quantico, Virginia, for his excellent presentation at a specialized training seminar in Cleveland, Ohio to address major financial institution fraud cases.

Philip P. Simon (Indiana, Northern District), by Louis J. Freeh, Director, FBI, Washington, D.C., for his outstanding success in bringing to justice those involved in conducting a continuing criminal enterprise for the purpose of defrauding banks and insurance companies, and committing arson.

Phillip J. Tripl and James L. Morford (Ohio, Northern District), by Charles E. Wallace, Special Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Middleburg Heights, for their success in obtaining a guilty verdict and a 10-year sentence in a criminal case involving an individual who attempted murder using a home-made bomb.

Robert G. Trusiak (Ohio, Northern District), by L. J. Klaus, Manager, Inspection Service Operations Support Group, U.S. Postal Inspection Service, Bala Cynwyd, Pennsylvania, for his successful resolution of a case involving a grants-by-mail fraud scheme by which consumers were deceived into sending varying amounts of money based upon the false representation that they would receive Government grants.

Dan Stewart and Pat McInerney (Missouri, Western District), by Colonel Richard H. Goring, District Engineer, U.S. Army Corps of Engineers, Kansas City, for their professionalism and legal skill in successfully resolving a case involving the wrongful cutting and destruction of trees at the Harry S. Truman Dam and Reservoir.

John Ware and Jim Crowe (Missouri, Eastern District), by Kevin T. Foley, Special Agent in Charge, Asset Forfeiture Program, Office of Investigations, U.S. Secret Service, Washington, D.C., for their excellent presentations on asset forfeiture and money laundering for agents of the St. Louis Field Office of the U.S. Secret Service.

Gina S. Washington (Alabama, Southern District), by Paula W. Steadham, Manager, Human Resources, U.S. Postal Service, Birmingham, for her successful prosecution of two Postal Service employees in Mobile engaged in the distribution of controlled substances.

James R. Wooley (Ohio, Northern District), by Louis J. Freeh, Director, FBI, Washington, D.C., for his outstanding contributions to the many successes of the RICO case involving Cleveland La Cosa Nostra (LCN) Organized Crime Family Capo Anthony Liberatore and two of his associates, and for his assistance in bringing to justice the most powerful, dangerous, and influential LCN member in the Cleveland area.

SPECIAL COMMENDATION FOR THE EASTERN DISTRICT OF MICHIGAN

Diane Marion, Assistant United States Attorney for the Eastern District of Michigan, was commended by Colonel Clarence Edwards, Chief of Police, Montgomery County Government, Rockville, Maryland, for her valuable assistance and cooperative efforts in the successful resolution of a brutal murder investigation in Montgomery County, Maryland. On March 3, 1993, in one of the most heinous crimes in the history of the County, a mother, her 8-year-old disabled son, and the nurse attending the child's medical needs were murdered, leaving the community with a deep sense of loss and a great public outcry to bring the perpetrators to justice. A 16-month in-depth investigation followed which focused on a number of cities throughout the country and which required extensive help in such areas as surveillance, data research, legal document preparation, and warrant service. Ms. Marion's assistance and commitment to excellence helped the investigators greatly in this massive undertaking. [The husband and father was arrested in a murder-for-hire scheme and is presently being held without bond at the Montgomery County Detention Center. It is suspected that the motive was to recover a large insurance claim placed on the disabled boy at the time of his birth.]

* * * * *

SPECIAL COMMENDATION FOR THE DISTRICT OF ARIZONA

Daniel R. Drake, Michael J. Bidwill, Mary H. Murguia, and Charles M. Steele, Assistant United States Attorneys for the District of Arizona, were commended by Jeffrey N. Taylor, Special Agent in Charge, Office of Inspector General, Railroad Retirement Board, Houston, Texas, for their outstanding assistance and professional efforts in a number of cases involving program fraud, false claims, forgery, and theft of government money initiated in the District of Arizona. **Debra Massey** provided valuable legal secretarial assistance and support. The identified suspects were charged through the use of felony criminal complaints, and the results were guilty pleas by all of the defendants. Since the initiation of the program, nearly 15 subjects have been prosecuted for defrauding the Railroad Retirement Board and the Federal Government, of approximately \$175,000.00.

* * * * *

SPECIAL COMMENDATION FOR THE DISTRICT OF ALASKA

Joseph W. Bottini, Assistant United States Attorney for the District of Alaska, was commended by Robert J. Standish, Senior Special Agent, Branch of Investigations, Fish and Wildlife Service, Department of the Interior, Arlington, Virginia, for his outstanding efforts in bringing about the successful outcome of "Operation Whiteout," an investigation into the nature and extent of the illegal wildlife marine mammal trade. The Pacific walrus has been protected by the provisions of the Marine Mammal Protection Act (MMPA) since the Act's inception in 1972. The walrus herd in Alaskan waters is considered healthy by game managers and the mammal is not listed as threatened or endangered. Alaskan natives have hunted the walrus for many years and they presently take about 10,000 animals each year. The MMPA created a general moratorium on the taking of marine mammals, but allows Alaskan natives to continue hunting the animals for subsistence or handicraft purposes, so long as the hunting is not done in a wasteful manner. This means that Alaskan natives must take all the usable parts of each walrus they kill, not just the commercially saleable ivory tusks. The MMPA also prohibits Alaskan natives from selling uncarved ivory to non-natives.

The objectives of the investigation were to determine if the trade was centrally organized, the major players, and if raw walrus tusks are being collected illegally for export to the international ivory market. The investigation revealed that 1) there was apparently no systematic, well-organized effort in Alaska aimed at collecting and exporting walrus ivory for the international market; 2) illegal trafficking in marine mammal parts, especially walrus ivory and polar bear hides, was extensive and was carried out by many small, loose-knit groups of natives and non-natives; 3) marijuana is a serious problem in many native villages and is often traded for walrus ivory; and 4) headhunting for walrus is probably widespread. (The agents were able to document only one case because the hunts take place far offshore and hunters do not usually allow non-native strangers to accompany them.)

By late 1991 the agents had identified over 70 natives and non-natives who were potential subjects for prosecution on drug and wildlife charges, of which 29 individuals were selected as the "first wave" of defendants for prosecution. In January, 1992, the grand jury returned 14 separate indictments on charges of conspiracy, felony Lacey Act violations, MMPA misdemeanor violations, and drug distribution felonies. Approximately half of the defendants were Alaskan natives, and half were non-natives. Charges against four of the 29 defendants were dismissed shortly after the indictments were returned. Of the remaining 25 "first wave" defendants, all were subsequently convicted. Most pleaded guilty to multiple felony counts. In 1992 and 1993, eight "second wave" defendants were charged, and three were convicted. Prosecution of these cases appears to have had a positive impact on the wildlife resource by removing many abusers of the resources, providing a deterrent to future violators, and encouraging the Alaskan native groups to acknowledge and address a problem affecting their communities.

* * * * *

HONORS AND AWARDS

Western District of Missouri

Ronda R. Reems, Assistant United States Attorney for the Western District of Missouri, was presented a "Fraud Fighter Commendation Award" by Dieter H. Harper, Special Agent-in-Charge, Office of the Inspector General (OIG), Department of Transportation, Chicago, for her outstanding support of OIG in fighting fraud in Department of Transportation programs.

In February 1992, OIG initiated an investigation of the alleged sale of substandard aircraft parts by RSBI Aerospace, Incorporated, an aviation parts broker. The investigation started with little concrete evidence, other than a fire of suspicious origins. With the investigative assistance of OIG, Ms. Reems tirelessly pursued potential targets throughout the United States. In the end, five individuals were indicted and prosecuted. Ms. Reems used 12 unindicted co-conspirators to make this devastating case against the purchasing agents of four major airlines and three major aircraft repair stations. The culmination of the prosecution was the guilty plea of an organized crime figure. The target admitted that he, and at least one other person, intentionally set fire to the headquarters of RSBI by pouring gasoline throughout the interior office and warehouse areas, and igniting the gasoline with a time-delayed device. Although there was no independent evidence to prosecute this arson, Ms. Reems' solid bribery/payoff case caused the defense attorneys to capitulate, and the target agreed to cooperate in the investigation. Ms. Reems developed this case into a major prosecution of white collar crime in the airline industry, and her personal efforts in achieving these results are worthy of special commendation.

* * * * *

District of Arizona

Patrick Schneider, Assistant United States Attorney for the District of Arizona, was presented the Gil Amoroso Memorial Award at the 20th Annual International Outlaw Motorcycle Gang Investigator's Conference in San Diego for his outstanding prosecution of "Operation Desert Run," a complex Title III investigation into the narcotics operations of the Dirty Dozen Motorcycle Gang. One of the original targets was a violent gang member who repeatedly slipped through the criminal justice system. As a result of Mr. Schneider's professionalism and legal skill, the gang leader pled guilty to 4 of the 6 counts contained in the indictment one week before trial was scheduled to begin. AUSA Schneider is also involved in prosecuting other Dirty Dozen members, including the Chapter President and another member who has been indicted on 86 counts.

Gil Amoroso was a former agent with the Drug Enforcement Administration in Virginia, and was well known as an authority on outlaw motorcycle gangs. Mr. Amoroso passed away in 1988 at an early age. Because of his dedication to law enforcement, his commitment to investigating Outlaw Motorcycle Gangs and his service to the International Outlaw Motorcycle Gang Investigator Conference Steering Committee, the Gil Amoroso Memorial Award was established, and honorary plaques are presented on an annual basis.

* * * * *

Northern District of Texas

Richard Roper, Assistant United States Attorney for the Northern District of Texas, was presented the Chief Inspector's Award by B. L. Smith, Inspector in Charge, U.S. Postal Inspection Service, Fort Worth Division, for his outstanding assistance and support in the investigation of fraudulent telemarketing operations in the Fort Worth and Arlington, Texas, areas. This award is the highest honor bestowed by the U.S. Postal Inspection Service.

As a result of a task force formed by Mr. Roper, three cases have been completed and others are currently under investigation. Thus far, over 100,000 postal customers have been defrauded in excess of \$50 million. In addition, approximately 30 financial institutions lost in excess of \$5 million from the laundering of credit card charges through fraudulently obtained merchant accounts. Mr. Roper successfully prosecuted 18 individuals in the National Awards Center case on charges of conspiracy; mail, bank, and wire fraud; and money laundering. The 18 indicted defendants, a corporation, and another individual were convicted. The 32-defendant indictment of the Multicorp fraudulent telemarketing operation in June 1992 was also a significant case in the Dallas/Fort Worth metroplex area. This successful prosecution resulted in guilty pleas of seven individuals prior to indictment. All other defendants in this case pleaded guilty except two who died, and three who were convicted in a jury trial in January 1993. One of the three was a licensed Pennsylvania attorney who was convicted on a money laundering charge and sentenced to 97 months imprisonment.

The United States Attorney's office, the Internal Revenue Service, the Criminal Investigation Division, and the Postal Inspection Service have served postal customers nationwide, and have virtually eliminated fraudulent telemarketing in the Arlington and Fort Worth, Texas, areas because of the personal sacrifice, diligence, and outstanding prosecutive skills of Mr. Roper.

* * * * *

Rose Romero, Deputy Criminal Chief of the Northern District of Texas, was named "Prosecutor of the Year" for her successful prosecution of numerous narcotics trafficking organizations, including Felix Munoz; Jose Ortiz; and most recently, the Castillo organization. Ms. Romero received this honor at the annual Texas Narcotics Officers Association conference in Corpus Christi, Texas. United States Attorney Paul E. Coggins stated, "The Northern District of Texas is fortunate to have someone with Rose's expertise and dedication working to remove narcotics traffickers from our communities. I congratulate Rose on receiving this well earned award."

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PERSONNEL

United States Attorneys

On October 6, 1994, **Steven Scott Alm** was named Interim United States Attorney for the District of Hawaii.

On October 4, 1994, **Walter Braswell** was named Interim United States Attorney for the Northern District of Alabama.

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IN MEMORIAM***Claude Harris, Jr.*****United States Attorney For The Northern District Of Alabama**

On October 2, 1994, Claude Harris, Jr., United States Attorney for the Northern District of Alabama, died of lung cancer at the age of 54. Mr. Harris, appointed by President Clinton, assumed his post in Birmingham, Alabama, almost one year ago to the day -- October 4, 1993. During his tenure, he served as a member of the Attorney General's Advisory Committee of United States Attorneys, and was regarded by Attorney General Janet Reno as "a champion in the war against crime." Prior to his becoming United States Attorney, Mr. Harris served in the U.S. House of Representatives from 1987 to 1993. Attorney General Reno issued the following statement:

The Department of Justice has lost a champion in the war against crime. Claude Harris was not only a man who made significant contributions in law enforcement as United States Attorney in Birmingham, Alabama, and as a Congressman, but also for his active involvement in helping the community. His dedication to helping others is an inspiration to all of us. The Justice Department and all those he has touched through his volunteer efforts will miss him greatly. My thoughts and prayers go out to Claude's wife Barbara, his sons Jeff and Trip, daughter-in-law Kathy, and two grandchildren.

Carol DiBattiste, Director, Executive Office for United States Attorneys, expressed condolences as follows:

On behalf of the Executive Office for United States Attorneys, I express our deepest sympathy for the loss of Claude Harris. Not only was he a distinguished Congressman, but he demonstrated outstanding leadership in his home state of Alabama. His service as United States Attorney for the Northern District of Alabama is greatly appreciated by me and the staff of the Executive Office for United States Attorneys. We will miss our friend and colleague at the Department of Justice.

* * * * *

Timothy Evans**Assistant United States Attorney For The Southern District Of Florida**

On July 31, 1994, Timothy Evans, Assistant United States Attorney for the Southern District of Florida, age 30, collapsed and died suddenly during a Sunday morning handball game with fellow AUSAs Larry Rosen and Pat Sullivan. He leaves his wife, Christine, a son Christian-John, 2 years old, and a daughter, Adrianna Rosa, 2 months old. Mr. Evans served as a trial attorney in the Asset Forfeiture Section since 1991. United States Attorney Kendall Coffey has established the Timothy C. Evans Memorial Award in his honor. The award will be presented quarterly to a prosecutor in the Southern District of Florida.

* * * * *

Blanton B. Allen
Assistant United States Attorney For the Southern District Of Florida

On September 30, 1994, Blanton B. Allen, Assistant United States Attorney for the Southern District of Florida, died at the age of 54. Mr. Allen served as an Assistant United States Attorney in the Southern District since 1981. During his tenure, he set up and organized the Financial Litigation Unit, which eventually developed into the Asset Forfeiture Division. Mr. Allen, an Army Captain and Bronze Star recipient, also served as Assistant United States Attorney for the District of New Jersey from 1970 to 1974, and was an attorney advisor in the Department of Justice in 1970. He is survived by his wife, Mimi.

* * * * *

ATTORNEY GENERAL'S ADVISORY COMMITTEE OF UNITED STATES ATTORNEYS

On September 21, 1994, Attorney General Janet Reno named Michael R. Stiles, United States Attorney for the Eastern District of Pennsylvania, to serve as Chair of the Attorney General's Advisory Committee of United States Attorneys. Mr. Stiles replaces Mary Jo White, United States Attorney for the Southern District of New York, who will continue to serve on the Committee. Lynn Battaglia, United States Attorney for the District of Maryland, will serve as Vice Chair.

The committee, composed of 21 United States Attorneys, advises the Attorney General on important law enforcement matters such as violent crime, drugs, and law enforcement cooperation in working to implement the national anticrime goals of the President and the Department of Justice. Committee members serve staggered terms of one to two years, while the chair serves one year. The following is a list of the members:

Michael Stiles, Chair, Eastern District of Pennsylvania
Lynne Battaglia, Vice Chair, District of Maryland

Members:

Kent Alexander, Northern District of Georgia
James Burns, Northern District of Illinois
Zachary Carter, Eastern District of New York
Paul Coggins, Northern District of Texas
Gaynelle Griffin Jones, Southern District of Texas
Vicki Miles-LaGrange, Western District of Oklahoma
Nora Manella, Central District of California
Jay P. McCloskey, District of Maine
Janet Napolitano, District of Arizona
Katrina Pflaumer, Western District of Washington
Randall Rathbun, District of Kansas
Henry Solano, District of Colorado
J. Preston Strom, Jr., District of South Carolina
Emily Sweeney, Northern District of Ohio
Michael Troop, Western District of Kentucky
Mary Jo White, Southern District of New York
Michael Yamaguchi, Northern District of California
Eric Holder, District of Columbia, Ex Officio
Russ Dedrick, Eastern District of Tennessee, Ex Officio

* * * * *

UNITED STATES ATTORNEY HIGHLIGHTS

Building Justice in Our Communities

On October 11 through 14, 1994, the United States Attorneys' Conference, "Building Justice in our Communities," was held in San Diego, California. The conference, hosted by Alan D. Bersin, United States Attorney for the Southern District of California, was attended by all 93 United States Attorneys, Attorney General Janet Reno, Deputy Attorney General Jamie S. Gorelick, and Associate Attorney General John R. Schmidt, as well as a number of other Department of Justice and state and local law enforcement officials. The purpose of the conference was to examine ways in which the Department can use its law enforcement tools to assist communities across the country in the fight against violent crime. Some of the topics of discussion were: building coalitions in the community, national anti-violence strategy, juvenile violence, and community policing.

The Attorney General stated, "We relied on lessons learned from programs and listened to particular needs and problems of our citizens to develop effective crime legislation to empower your community. Now I encourage you to work together to find solutions that avoid duplication in services and build upon the successes people have already accomplished. Ask yourself, 'How can we accomplish our goals together?' Through the United States Attorneys' offices, we will help build justice in our communities."

* * * * *

The Signing of the Violent Crime Control and Law Enforcement Act of 1994

On September 13, 1994, at a special ceremony on the South Lawn of the White House, President Clinton signed the Violent Crime Control and Law Enforcement Act of 1994. In attendance were the Vice President, Attorney General Janet Reno and other members of the Cabinet, Members of Congress, Mayors and other city officials, the United States Attorneys, local police officials, law enforcement groups, representatives of victims' groups and citizens' groups, and many government officials and employees who worked laboriously for passage of the bill. The following is an excerpt of the President's remarks:

When I sign this crime bill, we together are taking a big step toward bringing the laws of our land back into line with the values of our people, and beginning to restore the line between right and wrong. There must be no doubt about whose side we're on. People who commit crimes should be caught, convicted and punished. This bill puts government on the side of those who abide by the law, not those who break it; on the side of the victims, not their attackers; on the side of the brave men and women who put their lives on the line for us every day, not the criminals or those who would turn away from law enforcement. That's why police and prosecutors and preachers fought so hard for this bill, and why I am so proud to sign it into law today.

* * * * *

President Clinton Addresses the United States Attorneys

Following the signing ceremony, President Clinton met with Attorney General Janet Reno, the United States Attorneys, and others to thank them for helping to pass the bill. The President stated, "The hard work of passing the Crime Bill. . . was only the beginning. It's up to those of us who are charged with executing the laws to roll up our sleeves and put the Crime Bill to work as quickly as possible."

A copy of the President's remarks is attached as Appendix C.

* * * * *

Two United States Attorneys Receive Special Recognition by the President

At the close of the meeting at the White House, the President introduced Mary Jo White, United States Attorney for the Southern District of New York, and Michael R. Stiles, United States Attorney for the Eastern District of Pennsylvania. The President stated:

. . . We have worked very hard here at the White House and in the Justice Department, in the appointment of United States Attorneys, in the appointment of federal judges, and we are proud of the job that we have done because of the job that you are doing and the job you will do. I want you to know that that is also, to me, a very important part of the President's job, and I spend a great deal of time on it. So I want to emphasize again, as I ask Mary Jo and Michael to come up here, that one of the things that I have been so pleased that the Attorney General is bringing you here on a regular basis and involving you in a regular way in making the policy of the Justice Department. Because for most Americans, the policy of the Justice Department is not the decisions we make about what appeals to enter into, or what position to take on appeals. For most Americans, the policy of the Justice Department is what you do all day every day, and we thank you for that.

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ATTORNEY GENERAL HIGHLIGHTS

First Round of Police Hiring Grants

On October 12, 1994, at a ceremony at the White House, President Clinton and Attorney General Janet Reno announced the first round of police hiring grants under the new Crime Bill, an important step toward the President's goal of putting 100,000 police on America's streets. More than \$200 million in grants were awarded to communities in all 50 states and Puerto Rico, including 332 police departments, 46 sheriffs' departments, six Indian tribal groups, and several other law enforcement agencies. The Crime Bill authorizes money to increase the number of police in America by 20 percent. The grants will help jurisdictions hire 2,770 new officers. Coupled with previous police hiring grants, these awards bring the total number of new officers funded under President Clinton to nearly 4,900 in more than 600 communities across America. Over the next year, up to 10,000 additional officers will be funded. The crime bill's Cops on the Beat Program, signed into law by President Clinton, provides \$8.8 billion in competitive grants for state and local law enforcement agencies to hire community policing officers and to implement community policing. Community policing is designed to complement traditional policing by forging effective, innovative crime prevention partnerships between law enforcement and the community. Attorney General Reno stated, "This money is a down payment on a safer America. These officers will help America's communities, large and small, to increase their police forces and create problem-solving partnerships to fight crime."

Three hundred and ninety-two jurisdictions, located in all 50 states and Puerto Rico, received awards in this phase. Sixty-eight awards totaling almost \$104 million were made to jurisdictions with populations of 150,000 or above. These included \$3 million grants to the Los Angeles County Sheriff's Department and the Honolulu Police, \$2.5 million to the Puerto Rico Police, a \$2.1 million grant to the New York City Transit Authority Police, and awards of \$2 million or less to 64 cities and counties. Three hundred twenty-four awards totaling more than \$96 million were made to jurisdictions with populations of less than 150,000. These included 19 grants to jurisdictions with populations of 100,000 to 150,000; 62 to jurisdictions of 50,000 to 99,999; 83 to jurisdictions between 25,000 and 49,999; and 84 to jurisdictions of under 25,000 population.

The law enforcement agencies that received funds demonstrated a significant public safety and economic need, along with a sound strategy to explain how hiring additional sworn officers would develop or expand community policing. These agencies also outlined how they planned to use additional resources from the community to support their efforts, as well as how they intended to continue community policing and retain the new positions after the grant expires in three years. The applicants were chosen from the 2,506 not funded under the Department of Justice's 1993-94 Police Hiring Supplement Program or from the Bureau of Justice Assistance earlier this year. Although the money was drawn primarily from Crime Bill appropriations, the Department used the Supplement Program's selection process to determine who would receive awards.

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Implementation of the Violent Crime Control and Law Enforcement Act of 1994

On September 12, 1994, Attorney General Janet Reno participated in a panel discussion, led by New York City Mayor Rudolph Giuliani at Police Headquarters in New York City, on the Violent Crime Control and Law Enforcement Act of 1994. Other panel members were: Congressman Charles Schumer; Mary Jo White, United States Attorney, Southern District of New York; Laurie Robinson, Assistant Attorney General, Office of Justice Programs; District Attorneys Robert Morgenthau, Judge Richard Brown, and Charles Hynes, and Robert Johnson; Jack Balles, Special Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, New York Division; and a number of other police and law enforcement officials. The following are excerpts from the transcript:

Attorney General Reno: Together we've been able to work on this bill, draft a bill that I think can have a real impact on the crime in this country. It is the most comprehensive crime bill passed in this nation's history. We have tried to fashion it and draft it based on the experience of the people who are on the front lines, prosecutors, mayors, police officers, police officer administrators, so that we provide you the support you need to get the job done. The bill provides for \$10.8 billion for law enforcement, including \$8.8 billion to put 100,000 new community police officers on our streets, \$7.9 million to grants and states, to local governments to operate prisons, and \$6.1 million for prevention programs that can make a difference.

Congressman Schumer: The war against violent crime isn't over. And it's going to be a long, tough fight. It's going to take years to win our streets back. But this crime bill provides a good solid set of basic tools to do that job. People in New York and all over America have to pick up those tools . . . I would urge every local official, every community group to scour the crime bill. There are many, many things in there, many tools to fight crime. . . This is the most comprehensive approach in prevention that I think any government in this country has ever tried.

Mayor Giuliani: This bill, now law, offers us a tremendous amount of practical help. We're going to make that point over and over again. But there is something else that it does, that I think is equally, if not more, important. It offers us a model for the way in which we should be thinking about how to approach the problem of crime. Clearly, the Crime Bill cannot solve all of the crime problems in New York City or in America. But the model, if implemented throughout the United States, might very well do that. It's a model of stricter enforcement, but a statement recognizing that you can't solve the problem of crime just through enforcement. You also have to offer hope to the young people. If you do both better, and you do many more things to offer hope to young people, then maybe, just maybe, we can make the reductions in crime that we've experienced so far. We can have them continue and we can make them permanent.

DEPARTMENT OF JUSTICE HIGHLIGHTS

Weed and Seed Program

On September 21, 1994, the Department of Justice announced that 15 cities will receive funds totalling \$10.3 million under the Weed and Seed Program, a federal initiative that supports community and neighborhood efforts to reduce crime and drug-related violence. The cities to receive funding are:

Mobile, Alabama	-	\$ 701,316	Bradenton, Florida	-	\$ 750,000
Phoenix, Arizona	-	727,389	Savannah, Georgia	-	673,211
San Jose, California	-	642,495	Indianapolis, Indiana	-	621,992
Hartford, Connecticut	-	683,424	Shreveport, Louisiana	-	750,000
Riviera Beach, Florida	-	747,389	Holland City and Ottawa County,		
Tampa, Florida	-	702,007	Michigan	-	678,421
Ocala, Florida	-	684,729	Las Vegas, Nevada	-	638,000
Hillsborough County, Florida	-	681,581	Milwaukee, Wisconsin	-	616,617

During the last four years, 21 cities have received \$44.7 million under Weed and Seed, bringing the total funding initiative to \$55 million. In all, 36 cities will now be receiving funds under the Weed and Seed Program. The awards will support a wide variety of programs, such as recreation, after-school programs, community policing, community revitalization, jobs programs, and drug prevention and education.

Under the Weed and Seed initiative, the United States Attorney works with community leaders and law enforcement agencies to focus public and private resources and encourage public participation in anti-crime efforts within a targeted neighborhood. The Weed and Seed strategy integrates federal, state and local law enforcement and criminal justice efforts with corresponding human service, private, and community resources to maximize the impact of existing programs. Other government agencies involved in the program include: the Departments of Agriculture, Education, Health and Human Services, Housing and Urban Development, Labor, Transportation, Treasury, and the Small Business Administration. Funding for the Weed and Seed Program is provided by the Executive Office for Weed and Seed, the Asset Forfeiture Fund, and the Bureau of Justice Assistance.

Deputy Attorney General Jamie S. Gorelick stated, "These funds will provide the stimulus to encourage the communities to develop and implement a comprehensive program to attack crime in high crime neighborhoods."

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State Criminal Alien Assistance Program

On October 6, 1994, Attorney General Janet Reno announced that the Federal Government will, for the first time ever, provide funds to reimburse states for the costs of incarcerating criminal aliens who are in the United States illegally. The funds, authorized by the 1995 Department of Justice Appropriation Act, provides \$130 million for FY 1995, and \$1.67 billion for FY 1996-2000, and is administered by the Bureau of Justice Assistance (BJA) of the Department of Justice. Seven states have met the eligibility requirements to receive a preliminary award. These states account for more than 80 percent of the incarcerated criminal alien population, according to a recent Urban Institute Study. They are:

Arizona	-	\$ 991,900	New Jersey	-	\$ 600,000
California	-	33,460,700	New York	-	4,085,900
Florida	-	1,073,800	Texas	-	2,120,300
Illinois	-	564,200			

The initial round of funding awards are based on findings presented in a BJA commissioned study entitled "Fiscal Impacts of Undocumented Aliens: Selected Estimates for Seven States," conducted by the Urban Institute. The report indicates that there are more than 20,000 criminal aliens incarcerated in the selected seven states, and that California alone is coping with over 70 percent of that population. The report also provides estimates of costs incurred by each state to incarcerate criminal aliens.

The 1995 Appropriations Act requires that one-third of the total amount appropriated be distributed within 120 days of the start of the Federal Fiscal year (by January 27, 1995). The award announced by the Attorney General beats the one-third requirement and substantially beats the 120-day deadline. Regulations were published in the Federal Register on October 6, 1994.

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National Service Program Initiative

On September 12, 1994, at a special ceremony at the White House, President Clinton launched the National Service Program initiative. Approximately 15,000 AmeriCorps members from across the country were sworn in simultaneously via satellite video or audio transmission. Included in the group were participants in the Department of Justice JustServe AmeriCorps program in which 228 full-time and part-time AmeriCorps members are working on community policing and conflict resolution in seven Weed and Seed areas: Seattle, San Antonio, Fort Worth, Trenton, Philadelphia, Los Angeles, and Madison.

In Trenton, New Jersey, hundreds of AmeriCorps members gathered to be sworn in by the President via satellite. Thirty JustServe AmeriCorps members took part in the ceremony. In Fort Worth, Texas, the program was held at the Police Training Academy with satellite link-up to the President's swearing-in ceremony.

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Executive Office For National Security

On October 3, 1994, the Department of Justice announced the establishment of the Executive Office for National Security within the Office of the Deputy Attorney General. The Executive Office, to be headed by Mark Steinberg, most recently the Counselor on International Law to the Legal Adviser of the State Department, will have a permanent staff of five professionals. Michael Vatis, currently Counsel to the Deputy Attorney General, will be the Deputy Director. Drew Arena, Director of the Office of International Programs, will serve as Counsel for International Programs, and will continue to be responsible for preparing top officials of the Department for meetings with their foreign counterparts.

The Executive Office for National Security will coordinate activities of the Justice Department involving national security issues, act as a forum for developing national security policy, and serve as a primary focal point for contacts between the Justice Department and other agencies on national security matters. The Director of the Executive Office will chair regular meetings of an Executive Committee whose membership includes representatives of each of the Justice Department components with significant national security involvement. These meetings will identify and recommend action on national security issues of immediate and long-term concern to the Department, and serve as a point of information exchange.

Secretary of State Warren Christopher praised the formation of the Executive Office for National Security as "a creative response to the challenges posed by the growing internationalization of crime." He added, "I applaud the wisdom of creating the Office and of naming Mark Steinberg as its Director. He is a talented lawyer who contributed significantly at the State Department and is a strong choice for the new post."

[NOTE: Deputy Director Michael Vatis is a former law clerk to Judge Ruth Bader Ginsburg and Justice Thurgood Marshall. He also served as Special Counsel to Deputy Attorney General Jamie S. Gorelick when she was General Counsel at the Department of Defense.]

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New Department of Justice Customer Service Initiatives

On September 20, 1994, Attorney General Janet Reno demonstrated the Immigration and Naturalization Service's new INSPASS technology and released information on five other Justice Department customer service initiatives to help fulfill the Administration's pledge to reinvent government. The initiative is part of the Administration's campaign to implement the recommendations of the National Performance Review on "reinventing government." Every Cabinet member held an event highlighting the Administration's customer service initiative, which the President and the Vice President announced from the White House.

The INSPASS system is designed to process frequent international travelers through the inspection process in less than a minute. It uses state-of-the-art "hand biometric" identification technology to help international travelers bypass the normal inspection procedures as they arrive in the United States. Currently being tested at JFK Airport and in Toronto by certain frequent business travelers, diplomats, and flight crews, INSPASS is being tested for expansion to other U.S. ports-of-entry. The Attorney General stated, "INSPASS serves two critical INS missions. It makes legal entry into the United States more convenient, while helping the INS crack down on document fraud and deter illegal entries."

The Department of Justice also released information on six ongoing projects as part of its customer service campaign:

- **U.S. Attorneys -- Victim-Witness Assistance:** Victims and witnesses are among the Department's most important customers, and U.S. Attorneys have provided comprehensive, easy to understand information for victims and witnesses. Their handbook has been revised to clarify and emphasize victims' rights to obtain current information on the detention status of an offender and the charges filed against them, plea agreements, and sentencing information. The Government will also make sure that victims and witnesses understand their rights to courtroom waiting areas separate from defendants, emotional assistance, travel and lodging assistance, and referrals to other agencies for assistance.

- **FBI - Integrated Automated Fingerprint Identification System (IAFIS):** IAFIS will provide law enforcement agencies across America with rapid response to fingerprint identification requests. Current requests take an average of 21 days to process; IAFIS will ultimately process arrestee fingerprints in 2 hours and employment and licensing fingerprints in 24 hours.

- **FBI - National Crime Information Center (NCIC 2000 and Uniform Crime Reports):** When fully operational in 1996, NCIC 2000 will provide police cruisers with photograph and fingerprint images and customers with 24-hour access to crime information. Updated Uniform Crime Reports will provide dramatically more information and statistics on crime in America. These services were designed in consultation with state and local law enforcement officials across the country.

- **INS - Traveller Assistance:** The INS will reduce entry inspection time through INSPASS and other reforms, vastly simplify its "Ask Immigration" telephone service, schedule naturalization interviews within 4 months, and review permanent residence applications within 90 days of filing.

• CRS - Conflict Prevention and Resolution Program: The Department's Community Relations Service (CRS), which works on the ground in troubled communities to help prevent and mediate potentially violent situations, will now guarantee on-site response to major racial and ethnic conflicts within 24 hours of notification.

• DOJ - Expedited Freedom of Information Act Requests: The Department guarantees prompt acknowledgement of FOIA requests, "first-come, first-serve" processing, phone calls returned within three working days, clear responses, and customer surveys to ensure standards are met.

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CRIMINAL DIVISION

Anti-Violent Crime Initiative

On September 27, 1994, Jo Ann Harris, Assistant Attorney General for the Criminal Division, forwarded to all United States Attorneys an analysis of the Anti-Violent Crime Initiative received from the Districts. The analysis contains a sampling of some of the anti-violent crime strategies or ideas that have been implemented. It also contains guidance in the form of the following principles for implementing the strategy in the districts. The strategy should:

1. Take into account the most serious violent crime problems in the community and focus on creative solutions to address them.
2. Streamline or redirect task force efforts when feasible in order to maximize the use of all available law enforcement resources.
3. Involve a true partnership with state and local prosecutors that will facilitate the exercise of coordinated, sound prosecutive judgment.
4. Involve the community in a partnership with federal, state, and local officials to address violence and restore quality of life to our neighborhoods.
5. Identify and work to address all issues that may impact on the effective prosecution of violent crime.

A copy of Ms. Harris' analysis is attached as Appendix D.

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Federal Firearms Prosecutions

On September 20, 1994, Jo Ann Harris, Assistant Attorney General for the Criminal Division, testified before the Subcommittee on Crime and Criminal Justice, House Committee on the Judiciary, concerning federal firearms prosecutions. Ms. Harris stated that there is no higher priority for the Department of Justice than the prevention and prosecution of violent crime. New initiatives have been undertaken, and existing ones strengthened, that target our law enforcement resources on those violent, armed and recidivist offenders who constitute the greatest threat to the safety and security of our communities. Identifying these violent predators and removing them from the streets is the best strategy for protecting our citizens.

Among the most important federal law enforcement tools are the federal firearms statutes. Many of these statutes provide for lengthy periods of incarceration. For example, the Armed Career Criminal statute mandates a minimum 15-year sentence for felons in possession of firearms if they have three previous convictions for a violent felony or serious drug offense, 18 U.S.C. §924(e). Another mandatory sentencing provision requires a 5-year consecutive term for carrying or using a firearm during or in relation to a crime of violence or drug trafficking crime. 18 U.S.C. §924(c). This sentence is increased for second or subsequent convictions and for certain types of firearms involved. Ms. Harris also discussed Project Triggerlock, and other important weapons in the federal law enforcement arsenal, including electronic surveillance, investigative grand juries, the Witness Protection Program, pretrial detention, RICO, the Continuing Criminal Enterprise statutes and cross-designation of prosecutors. Used in combination, these tools enable us to undertake proactive joint investigations to identify and convict the leadership of violent criminal organizations, as well as other violent and recidivist offenders, especially when state and local criminal justice systems are unable to impose adequate sanctions on their own.

Ms. Harris stated the best way to prevent crime with guns is to stop criminals before they get the guns, and the Department of Justice is working closely with other federal, as well as local law enforcement agencies, to enhance our prevention capabilities. As a result of the Brady Act, we now have a tool that will enable us to detect convicted felons and prevent them from obtaining firearms unlawfully. We already know that the Brady law is working to keep guns out of the hands of felons and other prohibited persons. For example, according to a report issued by the Department of the Treasury on August 1 of this year, the Brady law prevented approximately 5 percent of handgun purchases from licensees.

Under the National Anti-Violent Crime Initiative, some United States Attorneys are undertaking other strategies to disarm violent offenders before they commit new crimes. The Bureau of Alcohol, Tobacco and Firearms, in conjunction with the FBI and the NCIC system, has initiated a program under which it has identified particularly violent offenders nationwide who would qualify for armed career criminal treatment if arrested in possession of a firearm. Finally, implementation of the Youth Handgun Safety provisions of the crime bill -- prohibiting handgun possession by and transfer to juveniles -- is a priority for the Department that will enable us to keep guns away from youths before they use them to commit crimes.

The federal firearms prosecutions are, and will continue to be, an invaluable part of the Department's efforts to fight violent crime. The solution to the nation's violent crime problem lies in the forging of a coalition of federal, state, and local law enforcement entities which draws on the particular strengths of each component agency. Firearms prosecutions represent one vital aspect of a number of substantive and procedural strengths which federal law enforcement can contribute to the effort against violent crime.

If you would like a copy of Ms. Harris' testimony, please call the United States Attorneys' Bulletin staff, (202) 514-3572.

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Money Laundering Legislation

On September 23, 1994, Jo Ann Harris, Assistant Attorney General for the Criminal Division, advised all United States Attorneys, and other Department of Justice officials, that President Clinton signed into law important new legislation concerning money laundering. These provisions appear in the Money Laundering Suppression Act of 1994, located in Title IV of the Community Development, Credit Enhancement and Regulatory Improvement Act of 1994, Pub. L. 103-____. The money laundering provisions of the statute incorporate both substantive and technical amendments to Titles 18 and 31 suggested by the Departments of Justice and Treasury. Attached as Appendix E of this Bulletin is a summary of the provisions of this legislation by the Money Laundering Section. Of particular importance are the following sections:

- 411 - legislatively overturning the January 1994 Supreme Court decision (Ratzlaf v. United States) concerning the proof required to establish a 31 U.S.C. § 5324(a)(3) structuring violation;
- 413 - correcting the citation for food stamp fraud as money laundering specified unlawful activity; and
- 413 - redesignating money laundering conspiracy as a violation of 18 U.S.C. § 1956(h) (previously it was cited as 18 U.S.C. § 1956(g)).

With respect to the last two amendments, please note that they duplicate the amendments made in Title XXXIII, Section 330019, of the Violent Crime Control and Law Enforcement Act signed into law on September 13, 1994.

Section 20415 of the Violent Crime Control and Law Enforcement Act, also signed into law on September 13, 1994, amended 26 U.S.C. § 6050l to require, subject to regulations to be promulgated by the Department of the Treasury, that federal and state clerks of criminal courts file Form 8300s with both the IRS and the appropriate United States Attorney(s) whenever bail is posted in a cash amount exceeding \$10,000, and the crime charged involves 18 U.S.C. §§ 1956, 1957 money laundering; federal criminal controlled substances offenses; or 18 U.S.C. §§ 1951, 1952, 1955 racketeering offenses or analogous state violations. The report will identify not only the defendant, but also the individual(s) posting the bail.

If you would like a copy of 18 U.S.C. §§ 1956, 1960 and 31 U.S.C. §§ 5321, 5322, and 5324 as amended by the new legislation, or would like additional information concerning the recently enacted money laundering provisions, please call Jeff Ross, Deputy Chief, Money Laundering Section, or Kim Wherry, Trial Attorney, Money Laundering Section, (202) 514-1758.

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Independent Counsel Act - Allegations Against Covered Persons

On October 6, 1994, Jo Ann Harris, Assistant Attorney General for the Criminal Division, issued a memorandum to all United States Attorneys and Department of Justice Components, concerning allegations against covered persons of the Independent Counsel Act. The Independent Counsel Reauthorization Act of 1994, 28 U.S.C. §§ 591-599, was signed into law by the President on June 30, 1994. The Act, with certain amendments, revives the previous Independent Counsel Act, which lapsed on December 15, 1992.

Ms. Harris reminded all attorneys of the procedures that apply to information received concerning current and former Executive Branch and campaign officials covered under the new law. She stated that it is important that all attorneys be aware of the Act because it dictates procedures the Department must follow when receiving information suggesting that covered persons may have violated federal criminal law. While the Independent Counsel ramifications of allegations of criminality against well-known covered individuals usually are recognized promptly, the significance of information suggesting minor violations, such as failure to file tax forms when due or erroneous financial disclosure forms, or of information suggesting a violation by a lesser-known but nonetheless covered official, is sometimes overlooked. All investigations under the Act are conducted by the Public Integrity Section. Due to the special procedures required by the Act, it is imperative that each office review all of its current and new investigations for matters which may fall under the provisions of the new Act. Any allegation concerning a covered person must be brought immediately to the attention of Lee J. Radek, Chief, Public Integrity Section, P.O. Box 27518, Central Station, Washington, D.C. 20038; (202) 514-1412; Fax: (202) 514-3003.

A copy of Ms. Harris' memorandum, without the amendments, is attached as Appendix F. Copies of the new amendments, which are not yet codified, are available by calling Mr. Radek.

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OFFICE OF INTERNATIONAL AFFAIRS

Modern Extradition Treaty With The Bahamas

On September 22, 1994, the United States and the Commonwealth of the Bahamas exchanged instruments of ratification on a modern extradition treaty that supersedes the 1931 Extradition Treaty (except for pending requests) between the United States and the United Kingdom. This new treaty is significant for a number of reasons. It is the first bilateral treaty into which the Commonwealth of the Bahamas has entered with a foreign government since the Bahamas gained its independence in 1973. Of great significance to law enforcement, the new treaty covers narcotics conspiracies and Continuing Criminal enterprise violations that postdate entry into force. Copies of the new treaty and the technical analysis have been forwarded via E-mail to the designated International and National Security Coordinators in each United States Attorneys' office.

If you have any questions or require further information, please contact Senior Trial Attorney Beverly Hadley, Office of International Affairs, (202) 514-0015.

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ANTITRUST DIVISION

Senator Howard Metzenbaum Receives First Antitrust Award

On September 13, 1994, at a special award ceremony in the Great Hall of the Department of Justice, Attorney General Janet Reno and Anne K. Bingaman, Assistant Attorney General for the Antitrust Division, presented the John Sherman Award to Senator Howard M. Metzenbaum for his contributions to the antitrust laws of the United States. Senator Metzenbaum is the first recipient of this award which will be given annually by the Antitrust Division to an individual who has made substantial contributions to the protection of American consumers and the preservation of economic liberty. The Senator is Chairman of the Senate Antitrust Subcommittee, and is planning retirement at the end of this Congress after having served in the Senate for 19 years.

John Sherman was the father of the Sherman Act of 1890, an act that prohibits all contracts and conspiracies that unreasonably restrain interstate trade. This includes agreements among competitors to fix prices, rig bids, and allocate customers. The act also makes it a crime to monopolize any aspect of interstate commerce. The Sherman Act remains today one of the two most important statutes enforced by the Antitrust Division of the Department of Justice.

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New Antitrust Guidelines For Health Care Providers

On September 27, 1994, Anne K. Bingaman, Assistant Attorney General for the Antitrust Division; Janet D. Steiger, Chairman of the Federal Trade Commission; and Senator Howard Metzenbaum, Chairman of the Senate Judiciary's Subcommittee on Antitrust, Monopolies and Business Rights, unveiled new antitrust guidelines for health care providers designed to encourage agreements that promote efficiency in the health care industry and lower health care costs to consumers. The nine statements contain the following provisions:

- Detail new antitrust enforcement policies and principles for health care and significantly expand and replace six similar statements issued a year ago;
- Provide antitrust guidance to the health care industry on mergers, joint ventures, and other activities. (Their intent is to alleviate antitrust uncertainty in these areas.);
- Provide guidance in new areas such as forming hospital joint ventures, providing fee-related information to purchasers, and creating new health care networks that include several categories of providers;
- Provide additional guidance on topics the 1993 statements addressed.

Most of the statements describe antitrust safety zones that define circumstances under which the Department and FTC will not challenge mergers, joint ventures, and other procompetitive, cost-savings activities. The nine statements cover:

- Mergers among hospitals;
- Hospital joint ventures involving high-technology or other expensive health care equipment;
- Hospital joint ventures involving specialized clinical or other expensive health care services;
- Providers' collective provision of non-fee-related information to purchasers of health care services;
- Providers' collective provision of fee-related information to purchasers of health care services;
- Provider participation in exchanges of price and cost information;
- Joint purchasing arrangements among health care providers;
- Physician network joint ventures; and
- Analytical principles relating to multiprovider networks.

The Department of Justice and the FTC also vowed to continue an expedited procedure to respond, generally within 90 days, to parties seeking additional guidance on proposed health care joint ventures and other activities. If you would like a copy of the guidelines entitled "Statements of Enforcement Policy and Analytical Principles Relating to Health Care and Antitrust," please call the United States Attorneys' Bulletin staff, (202) 514-3572.

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CIVIL DIVISION

Record-Breaking \$1.9 Billion In Civil Fraud Awards

On October 11, 1994, Frank W. Hunger, Assistant Attorney General for the Civil Division, and Christopher Droney, United States Attorney for the District of Connecticut and Chair of the Subcommittee on Civil Issues of the Attorney General's Advisory Committee, announced a record-breaking \$1.09 billion in civil settlements and judgments in the last fiscal year. The amount was almost three times greater than the previous year, which was a record as well. United States Attorney Droney, whose presence reflected the important work of the United States Attorneys' offices in making the record recovery possible, stated,

"Today's recoveries are the culmination of many months of aggressive investigations and prosecutions of defense contractors, health care providers, and others who attempt to cheat the government. The record amount signals that each of the 94 U.S. Attorneys' offices will continue in the pursuit of contractors who do not provide full value on their Federal contracts." Mr. Hunger added, "This extraordinary achievement resulted from the dedicated efforts of the Civil Division and the United States Attorneys and their staffs, and investigators, auditors, and Federal agency personnel around the country."

While recoveries for fraud by military contractors continued to be the biggest item, health care fraud rapidly gained ground as the second largest category. Defense procurement fraud totalled over \$578 million. Health care fraud resulted in the recovery of \$411 million, compared with \$180 million the year before. Mr. Hunger noted the significant size of many of the recoveries, including a \$324 million settlement with a chain of psychiatric hospitals for overcharging Medicare, Medicaid, and other Federal health care programs, and recoveries in excess of \$100 million from two defense contractors, United Technologies and Teledyne Inc. The \$1.09 billion total includes record settlements in qui tam cases filed under the whistleblower provisions of the False Claims Act which allows private citizens to file suit in the name of the Government against those who defraud the Government and share in any recovery. This year, \$378 million of the total \$1.09 billion recovery was obtained in qui tam cases, more than double the qui tam recoveries in FY '93.

Mr. Hunger stated that the increase in health care fraud recoveries reflected the Administration's emphasis on health care fraud as a top law enforcement priority, as well as the commitment of the Department of Health and Human Services and other Federal agencies. Defense procurement fraud spanned a wide range of misbehavior, from the supply of defective military equipment and components and deficiencies in operating defense plants, to systematic mischarging and manipulation of cost accounting practices in order to inflate bills submitted to the Government. Also noteworthy is that civil recoveries have come to exceed the receipt of criminal fines and forfeitures obtained by the United States. The value of forfeitures was approximately \$500 million in the last fiscal year. A total of about \$400 million was collected in criminal fines. The \$1.09 billion in civil recoveries include:

- A \$324 million agreement with National Medical Enterprises, a multinational corporation that owns a nationwide chain of psychiatric hospitals, to resolve claims that it systematically over billed Medicare, Medicaid, and other federal programs.
- A \$150 million agreement with United Technologies Corporation to settle a qui tam lawsuit filed by a former Vice President of Finance alleging that the company had overstated progress payments submitted by its Sikorsky Aircraft Division, and had misrepresented the facts in reporting the fraud to the Government through the Department of Defense's Voluntary Disclosure Program.
- A \$112.5 million agreement with Teledyne Inc. to settle two qui tam cases involving Teledyne's former Relays Division and Teledyne Systems Company in which the government had charged the company with fraud in its testing of military components and in its cost accounting practices.
- An \$82 million settlement with Litton Systems Inc. which resolved a 1988 qui tam lawsuit filed in Los Angeles that accused Litton of defrauding the government by overcharging for computer services.
- An agreement with the Boeing Company for \$75 million that resolved allegations that the company mischarged millions in independent research and development costs to government contracts, as well as millions in foreign, direct selling costs and hazardous waste disposal costs that should have been borne by Boeing.

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Civil Fraud Cases

On September 13, 1994, Gerald M. Stern, Special Counsel for Health Care Fraud, Office of the Deputy Attorney General, reported a significant step in ongoing efforts to ensure adequate investigative resources for health care fraud cases, including civil actions. Mr. Stern advised that FBI Director Louis Freeh approved a modification of FBI policy on August 18, 1994, which is designed to allow Agents to claim credit for the accomplishments achieved in civil investigations. The category of "civil accomplishments" includes civil forfeitures, restitution, and pre-filing settlements. A copy of Director Freeh's directive is attached as Appendix G.

Mr. Stern applauded the FBI's recognition of the importance of civil fraud cases and expressed appreciation for their willingness to implement a new policy which should eliminate obstacles to FBI agents addressing these important cases. Mr. Stern also encouraged the United States Attorneys to share with him their experiences in implementing this policy.

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CIVIL RIGHTS DIVISION

Americans With Disabilities Act Grants

On October 5, 1994, the Department of Justice announced 10 grants aimed at reminding the nation's construction industry, business owners, law enforcement agencies, courts and others of their obligation to make buildings and services accessible to people with disabilities. The grants, totaling \$1.6 million, will help fund projects by various organizations to increase awareness of the Americans with Disabilities Act (ADA). Since 1991, the Department has awarded \$8.2 million to over 30 non-profit organizations under the ADA Technical Assistance Grant Program. The program, which is designed to provide information, education, and technical assistance, seeks to foster voluntary compliance with the ADA through an increased understanding of the law. The grants were awarded to:

Access Video Fund, Washington, D.C. -- to develop, produce, and distribute a 30-minute documentary on the significance of the ADA. Drawing parallels between the civil rights and disability rights movements, the documentary will educate the public on the ADA, dispel myths and stereotypes about people with disabilities, and illustrate the positive impact of the ADA on the lives of people with disabilities. The documentary, to be broadcast nationally, will offer first-hand evidence of discrimination based on disability.

The Arc (formerly the Association for Retarded Citizens), Arlington, Texas -- to produce about 35,000 educational materials for police departments and courts about the rights of persons with mental retardation in the law enforcement and judicial systems. Materials will include a brochure for people with mental retardation explaining their rights under the ADA; a guide for law enforcement officers describing mental retardation, and an information guide for court systems, attorneys, and judges.

Home Builders Institute, Washington, D.C. -- to distribute ADA educational materials to 190,000 local building contractors, construction tradespeople, and individuals in construction training programs. This information will assist builders trying to comply with the law and increase the likelihood that new construction and alterations will adhere to ADA regulations.

Key Bridge Foundation, Arlington, Virginia -- to train 90 professional mediators in Dallas-Fort Worth, Detroit, Los Angeles, New York, and Orlando-Tampa on the ADA, and develop a procedure for referring ADA complaints to the mediators. The project also will develop a consumer guide to mediation services and a mediators' guide to mediating ADA complaints. It is estimated that 650 complaints will be mediated through this project.

Special Counsel William Ho-Gonzalez stated, "We must not only enforce antidiscrimination laws, but ensure that victims of discrimination know their rights and that employers know their responsibilities. This grant program will tap into the expertise and credibility of community-based organizations and employer groups, which are ideally suited for implementing effective public education efforts."

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ENVIRONMENT AND NATURAL RESOURCES DIVISION

Major Hazardous Waste Settlement in the Northeast

On October 7, 1994, the Department of Justice and the Environmental Protection Agency announced that Eastman Kodak, the largest manufacturing facility in the Northeast, has agreed to upgrade miles of industrial sewers and reduce the discharge of hazardous wastes. Eastman Kodak, whose 104-year-old Rochester, New York, facility accommodates over 20,000 workers in 400 buildings, has agreed to an \$8 million civil penalty and will spend millions of dollars more to inspect, repair, and upgrade an estimated 31 miles of industrial sewers at the facility, and to correct a series of other violations. The lawsuit is the first to employ the nation's primary hazardous waste law to attack ongoing pollution from leaking sewers. The settlement includes a number of environmental projects that will have a significant beneficial impact on the water quality of the Genessee River and on air quality in northwestern New York.

The Resource Conservation and Recovery Act (RCRA) is the nation's primary law regulating hazardous waste. Kodak violated RCRA by failing to identify hazardous wastes at its Kodak Park facility, and by allowing the unlawful disposal of various hazardous wastes through leaks in the facility's industrial sewer system. Kodak will be permitted to satisfy up to \$3 million of the penalty by implementing six environmental projects worth at least \$12 million to reduce hazardous wastes in its 2,200 acre Kodak Park. The aggregate reduction is expected to exceed 2.3 million pounds of pollutants by the year 2001.

The settlement also requires Kodak to implement a state-of-the-art database system to classify and track all hazardous wastes, which will enable Kodak to reduce the discharge of such wastes into the sewer system. Kodak will also upgrade and obtain a permit for one incinerator that treats the sludge from Kodak Park's industrial wastewater. Two other incinerators have been closed. The settlement further signals the kind of cooperation that the Government seeks to achieve with other companies. The settlement resolves claims raised by the complaint filed on October 7, 1994, with the consent decree in the U.S. District Court for the Western District of New York.

Lois Schiffer, Assistant Attorney General for the Environment and Natural Resources Division, stated, "Our nation's aging manufacturing plants pose new challenges to environmental enforcement. Today's settlement shows how Government and industry can address the problem without forcing plants to close or jobs to move. We encourage companies to step forward when the invitation comes to resolve violations through discussion rather than litigation."

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IMMIGRATION AND NATURALIZATION SERVICE

Commission On Immigration Reform Report

On September 30, 1994, the Commission on Immigration Reform forwarded a report to Congress which represents an important contribution to the continuing debate on the future direction of our immigration policies. Doris Meissner, Commissioner, Immigration and Naturalization Service (INS), has worked very closely and cooperatively with the Commission as it gathered information and prepared its interim report, and will continue this relationship as the Commission works towards a final report. Ms. Meissner stated as follows:

The National Trust for Historic Preservation, Washington, D.C. -- to develop and distribute an ADA self-study course for 1,863 local historic preservation commissions and boards. This self-study course will teach how to analyze accessibility issues and identify practical solutions to provide access without destroying a building's historic character.

The Department also extended five grants for another year. These continuation grants were awarded to:

Adaptive Environments, Boston -- to continue a project incorporating universal design concepts into the curricula of architecture, interior design, industrial design, and landscape architecture schools and programs. It also will create specific ADA "how-to" materials to be used in these educational programs and other programs throughout the country.

The Arc, Arlington, Texas -- to continue to reach out to small businesses across the country, to conduct ADA training sessions, and to operate a toll-free ADA technical assistance line which provides information to Spanish-speaking entities and individuals.

Chief Officers of State Library Agencies (COSLA), Topeka, Kansas -- to continue to create a single source collection of ADA materials to be publicized and placed in 15,000 libraries throughout the country. With the continuation grant, COSLA will expand upon materials already placed in libraries, with an emphasis on ADA videotapes, Spanish translations of ADA material, and additional documents developed by the Department's prior grantees.

Disability Rights Education and Defense Fund, Berkeley, California -- to continue to operate a toll-free ADA information line to assist persons with disabilities and covered entities with inquiries about the requirements of the ADA. Keeping this line in existence will increase the availability of technical assistance throughout the country, especially for citizens living in the Mountain and Pacific time zones.

Police Executive Research Forum, Washington, D.C. -- to expand materials used to train police officers throughout the country about persons who are deaf, persons with epilepsy, and persons with mental illness.

If you have any questions, or require further information, the toll-free ADA Information line is: 1-800-514-0301 or 1-800-514-0383 (TDD).

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Immigration-Related Employment Discrimination Grants

On October 5, 1994, the Department of Justice announced that nine community-based organizations across the nation will receive nearly \$1 million in grants to educate workers and employers about immigration-related employment discrimination. The grants, awarded by the Office of Special Counsel for Immigration-Related Unfair Employment Practices of the Civil Rights Division, will educate employers about their responsibilities and workers about their rights under the Immigration and Nationality Act (INA), also known as the Immigration and Reform Control Act (IRCA). The funds total \$900,000 and range from \$54,000 to \$150,000, and will be used to conduct a multi-lingual educational program for workers and employers both at worksites and within outlying neighborhoods. The recipients will use the funds to educate persons through individual counseling, community presentations, and seminars which will be open to the public.

The recipients selected from a national pool of 115 community-based organizations are: American Counsel on International Personnel, New York City; Asian Pacific American Legal Center, Los Angeles; Catholic Charities, Dallas, Texas; Catholic Charities, San Diego; La Raza Centro Legal, Inc., San Francisco; Little Havana Development Authority, Inc., Miami; Mexican American Grocers Association Foundation, Los Angeles; National Immigration Law Center, Los Angeles; and Organization of Chinese Americans, Washington, D.C.

• INS is particularly pleased that the Commission strongly supports the idea that illegal immigration must be deterred so that our nation can continue to welcome newcomers who come here legally. This has been the central tenet of this Administration's immigration policy.

• INS agrees with the Commission's deep concerns about anti-immigrant sentiment in parts of this country. This is a disturbing trend because it harms the very people we want to support, those who come here legally and continue to make enormous contributions to our society.

• INS is pleased that the Commission has expressed support and encouragement for the efforts and accomplishments in reinventing and modernizing INS, especially with regard to enforcement effectiveness and improvements in automated databases and other technology.

• INS is interested in reviewing more fully the Commission's recommendations and proposals regarding employment verification, and supports the Commission's view that employer verification methods must be made simpler and more dependable.

• INS has an ambitious program underway to upgrade the INS databases that support employer verification. With FY '95 funding provided by Congress, INS will be making substantial additional improvements in FY '95 to these databases and the employment verification processes they support.

• INS endorses the Commission's call for pilot programs to test various additional enhanced employer verification methods. With its enhanced funding, INS is expanding their pilot Telephone Verification System from 9 to 200 employers, and hopes to expand it even further. INS looks forward to exploring ideas for additional pilots with the Commission.

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Operation Gatekeeper

On September 17, 1994, Attorney General Janet Reno announced Operation Gatekeeper, a new initiative for controlling illegal immigration along the border of the San Diego sector. On September 29, 1994, as part of a comprehensive plan to test the overall effects of deploying enhanced manpower along the San Diego border, the Immigration and Naturalization Service announced the temporary closing of the San Clemente traffic checkpoint. The new border checkpoint strategy will consist of a 5-month test of the checkpoint, during which it will be closed down for a period of time beginning in October, reopened, and then closed during a third period. The ongoing assessments are part of the overall design to measure noticeable changes in illegal immigrant routes to the immediate border; changing patterns in illegal immigrant flow further into the interior of the United States; overall statistical impact from Operation Gatekeeper; and the deterrent effect of enhanced resources along the border.

Specifically, the new checkpoint border strategy will allow INS the opportunity to compile data on indicators such as apprehensions and drug seizures in target areas, surveillance and electronic monitoring technology, the impact on the undocumented labor market, modes and transportation utilized by smugglers, and the operational impact on the local community. The test will concentrate on enhancing manpower along the border with agents from the checkpoint, along with some newly acquired agents from the Border Patrol Academy. By the end of January, the full strength of 300 new agents is scheduled to be on duty in the San Diego sector. INS anticipates that the actual results will form the basis for conclusions regarding the overall effectiveness of the checkpoint at different levels of acquired border resources.

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DISTRICT HIGHLIGHTS

Eastern District of Virginia

On September 13, 1994, Helen F. Fahey, United States Attorney for the Eastern District of Virginia, and Loretta C. Argrett, Assistant United States Attorney for the Tax Division, announced a 71-count indictment against former top officials of United Way of America (UWA) and also an Alexandria-based corporation, the Partnership Umbrella, Inc. (PUI). The individuals named in the indictment are: William Aramony, President of UWA between 1970 and 1992, of Alexandria, Virginia; Stephen J. Paulachak, UWA Executive between 1971 and 1988 and President of PUI between 1988 and the present, of Alexandria, Virginia; and Thomas J. Merlo, Chief Financial Officer of UWA between 1990 and 1992, of Pompano Beach, Florida. The indictment charges Aramony, Paulachak, Merlo, and PUI with conspiracy to defraud UWA, and multiple counts of mail fraud, wire fraud, interstate transportation of fraudulently-acquired property, and money laundering. Aramony, Paulachak, and Merlo are also charged with the filing of false personal and corporate tax returns and Merlo is also charged with perjury. Aramony is charged in 53 felony counts, Merlo in 35 felony counts, Paulachak in 35 felony counts and PUI in 24 felony counts. The following are some of the charges in the indictment:

- The defendants defrauded UWA in two ways: first, by fraudulently using the financial resources of UWA for their personal use and benefit; and, second, by fraudulently using money in the possession of PUI, which was established with UWA money at the direction of UWA's Board of Governors and which was heavily subsidized by UWA. In December, 1986, the UWA Board of Governors approved the establishment of PUI for the purpose of assisting not-for-profit organizations through the establishment of national pricing agreements with major vendors of equipment and other products.
- In order to fund PUI for both its legitimate and illegitimate purposes, approximately \$2.74 million in funds that would otherwise have been paid to UWA, were diverted to PUI.
- PUI in turn paid Merlo \$320,000 between 1989 and 1991 in the form of fraudulent consulting fees. Merlo routed almost \$80,000 of this money to Aramony's girlfriend.
- The money routed from PUI to Merlo to Aramony's girlfriend included: \$4,800 in PUI funds to pay for construction of a sunroom on her Gainesville, Florida, home; \$5,000 in PUI funds so that she could make a personal income tax payment; \$2,500 in PUI funds to reimburse her for a San Diego vacation and other personal expenditures; 32 "consulting" payments of \$1,833 each, even though the girlfriend did no work for the money; over \$10,000 for Aramony's girlfriend to fly to New York, Las Vegas, San Francisco, Miami, Key West, and numerous other locations; and thousands of dollars in chauffeuring charges for personal driving expenses for Aramony and his girlfriend, including two trips to Atlantic City, and other driving expenses in and around New York.
- Aramony and Paulachak used \$383,000 in PUI funds, most of which came from money diverted from UWA, to buy an apartment in New York City for Aramony's exclusive use and expended an additional \$72,000 to decorate it to Aramony's specifications. Aramony's girlfriend routinely used the apartment as her New York residence during more than 15 trips to New York City.
- When Aramony came under internal investigation in December 1991 and January 1992, he caused records to be destroyed at UWA. He also fraudulently removed his expense reports and receipts for 1988 to 1990 shortly before UWA investigators sought to review them. In addition, he made numerous false statements when interviewed by UWA investigators.

• In addition, Aramony, Paulachek, and Merlo each filed false personal income tax returns; Paulachak filed false PUI corporate tax returns; Merlo and Aramony aided the filing of false PUI corporate tax returns; Aramony aided the filing of false UWA tax returns; Merlo caused the filing of a false UWA tax return; and each of the defendants conspired to defraud the IRS.

The prosecution in this matter is being handled by: **Assistant United States Attorneys Randy I. Bellows, Charles P. Rosenberg, and Gordon D. Kromberg.**

If you would like a copy of the indictment or the press release, please call the United States Attorneys' Bulletin staff, (202) 514-3572.

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Two Major Cases in the District of Massachusetts

Nazi War Criminal Aleksandras Lileikis

On September 21, 1994, the Office of Special Investigations of the Criminal Division, and Donald K. Stern, United States Attorney for the District of Massachusetts, commenced denaturalization proceedings to revoke the United States citizenship of a Norwood, Massachusetts, man charging that he concealed his involvement in the mass murder and other persecution of Jews and others while serving during World War II as the head of the Nazi-sponsored Lithuanian Security Police for the city and province of Vilnius, Lithuania.

The complaint filed in the U.S. District Court in Boston alleges that the defendant, Aleksandras Lileikis, a retired publishing company employee, was the chief of the Lithuanian Security Police (Saugumas) for all of Vilnius Province during the German occupation. The Saugumas was a component of Einsatzkommando 3 (Operational Detachment 3), a unit of the German Security Police and Security Service (Sipo and SD) responsible for the physical destruction of the Jews of Lithuania, among other tasks. During much of the 19th century and continuing in the 20th century until the Nazi invasion, Vilnius and Warsaw were Europe's two preeminent centers of Jewish cultural, intellectual, religious and political life. In June 1941, at the start of the German occupation, approximately 30 percent of Vilnius' 200,000 residents were Jews. Acting Director Eli M. Rosenbaum, Office of Special Investigations, described the case as "one of the most important Nazi cases brought anywhere in the world in recent history."

The prosecutors handling this case are: **United States Attorney Donald K. Stern** and **Assistant United States Attorney David S. Mackey.**

If you would like a copy of the Complaint, please call the United States Attorneys' Bulletin staff, (202) 514-3572.

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Massachusetts Blue Cross, Blue Shield

On September 28, 1994, Frank W. Hunger, Assistant Attorney General for the Civil Division, and Karen Green, Deputy United States Attorney for the District of Massachusetts, announced that Blue Cross and Blue Shield of Massachusetts Inc. will pay the United States \$2.75 million to settle allegations that the company submitted false Medicare reports in processing Medicare claims for Massachusetts, Maine, New Hampshire and Vermont. The settlement resolves a qui tam lawsuit filed in U.S. District Court in Boston in 1993, by Mary Jane Backman, a former employee of C & S Administrative Services for Medicare. C & S is a subsidiary of Massachusetts Blue Shield that contracted with the Health Care Financing Administration (HCFA) to process Medicare claims.

In her suit, Backman alleged that Massachusetts Blue Shield, based in Boston, misrepresented and inflated the number of claims and reviews it processed in periodic reports submitted to HCFA. Since the federal agency used the information to determine the company's costs in administering Medicare, the false data resulted in larger reimbursements than Massachusetts Blue Shield was entitled to in 1991, 1992 and 1993, according to the suit. As part of the settlement agreement, Massachusetts Blue Shield agreed to hire more workers to detect and investigate allegations of fraud and abuse by Medicare providers. Massachusetts Blue Shield also agreed to cap the reimbursement it will seek from the Medicare program for the coming year. HCFA expects to realize cost savings of approximately \$3.3 million as a result of this separate agreement. The Department estimated the Government suffered single damages of \$1.4 million. Ms. Backman filed her suit under a provision of the False Claims Act that allows private parties to sue companies and individuals that have submitted false claims to the Federal Government. Of the amount paid to the United States, Ms. Backman will receive \$550,000. The False Claims Act permits the recovery of three times the amount of actual loss to the government plus civil penalties of \$5,000 to \$10,000 for each act in violation of the law.

If you would like a copy of the Complaint, please call the United States Attorneys' Bulletin staff, (202) 514-3572.

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Northern District of Georgia

On September 9, 1994, Kent B. Alexander, United States Attorney for the Northern District of Georgia, announced the unsealing of a Federal grand jury indictment charging four defendants with wire fraud violations and one defendant with money laundering violations in connection with an advance fee scheme. According to the indictment, David E. Graham and Jesse A. Coley, Jr., began operating an advance fee telephone solicitation company, Sprint Specialties, located in Chattanooga, Tennessee. Graham and Coley purchased customer lists, commonly known as lead sheets, of names of individuals to target for telephone solicitation. They also hired telemarketers, including defendants Charles R. Leirer, II and Edward Englehardt, Jr. The telemarketers telephoned victims throughout the United States outside the States of Tennessee and Georgia and falsely led them to believe that they had won major awards, such as a new automobile, a free vacation, or a large cash award. The indictment also alleges that to claim their award, the victims first had to become a customer of Sprint Specialties by "purchasing" various items sold by Sprint Specialties, including pen and pencil sets, pocket calculators, magnetic business cards, cameras, and television sets, when in truth, the victims had not won a major award. Victims were informed that they had to promptly send in an advance fee in amounts varying from approximately \$90.00 to \$10,000.00 or they would lose their award.

The indictment further charges that after victims paid an initial advance fee, telemarketers recontacted the victims and falsely told them that to receive the major award they would have to pay an additional advance fee. Certain victims were contacted multiple times to solicit additional advance fees for the same "major award." After receiving victims' advance fees, Sprint Specialties mailed various low-cost items to victims. According to the indictment, the vast majority of Sprint Specialties' customers never received the major award they were promised or a refund of the advance fees which they had paid. The indictment states that Sprint Specialties received more than \$1 million from hundreds of victims.

The prosecutors handling this case are: ***United States Attorney Kent B. Alexander and Criminal Division Chief John S. Davis.***

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Southern District of New York

On September 28, 1994, Mary Jo White, United States Attorney for the Southern District of New York; Robert B. Morgenthau, District Attorney of New York County; and Commissioner William Bratton, New York City Police Department, announced that state and Federal criminal charges arising out of their joint investigation into police corruption in Manhattan's 30th Precinct have been brought against 14 more members of the New York City Police Department, including two sergeants. The two sergeants, the first supervising officers to be charged in the investigation, and seven police officers were arrested on criminal complaints charging them with perjury, federal civil rights violations, and extortion. Five other police officers pled guilty to state and Federal criminal informations charging perjury, grand larceny, narcotics trafficking, possession of narcotics, Federal civil rights violations, and income tax evasion. The latest charges bring to 28 the total number of present and former members of the 30th Precinct now facing criminal charges. Charges against 14 officers from the 30th Precinct have previously been announced in connection with this investigation. Five of those officers have pled guilty to Federal and/or state charges.

The Federal criminal complaints charge that, since at least 1992, the two sergeants and three police officers were involved in thefts of money from individuals and apartments in the 30th Precinct. As charged in the complaint, Sergeant Nannery was the head of a group known as "Nannery's Raiders." Sergeant Richard McGauley currently is the Assistant Integrity Control Officer for the 30th Precinct. All five have been charged with Federal civil rights violations for conducting unlawful searches and seizures. A sixth officer is charged under the Federal Extortion Statute with receiving cash payments from neighborhood narcotics dealers for "protection" from arrest.

United States Attorney Mary Jo White stated, "Today's charges are a significant step in our continuing battle to eradicate the police corruption which undermines the courageous efforts of the vast majority of honest, decent police officers."

The prosecutors handling this matter are: **Assistant United States Attorneys Michael Horowitz and Sarah Chapman.**

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Western District of Oklahoma

On October 7, 1994, Vicki Miles-LaGrange, United States Attorney for the Western District of Oklahoma, announced the unsealing of a Federal grand jury superseding indictment charging seven individuals operating out of Oklahoma City, New York City, and Nigeria with allegedly conspiring to defraud the owner of a German computer software company out of more than \$330,000. Four of the defendants also allegedly used a total of 10 different aliases to carry out the crimes.

The indictment alleges the seven defendants used interstate and international telephone wire communications in an elaborate scheme to defraud their target, Roland Woschny, owner of Hard and Softwarevertrieb of Ronsberg, Germany, a computer supply company. Allegedly, after a person initially approached Woschny at a trade fair in Munich, Germany, in September 1993, the defendants made a series of telephone and facsimile contacts with Woschny in an effort to convince him he was dealing with representatives of the Nigerian Government and the Central Bank of Nigeria. Between January and May 1994, these contacts allegedly led Woschny to believe he would receive about \$22.3 million, described to him as money which was "derived from an over-estimated contract with a Yugoslavian firm." This money allegedly was to have been paid to Woschny for his "assistance and cooperation" in an alleged "top secret project," and upon Woschny's payments of various expenses, "gifts," "tender fees," "cable and communications fees," and other fees. In total, Woschny had paid over \$816,000 to the defendants, without receiving any money in return. Over \$330,000 of this sum was wire transferred to an Oklahoma City bank account designated and controlled by Peter I. Philips, a Nigerian citizen.

Special Agents of the Criminal Investigation Division of the Internal Revenue Service tracked the flow of money from Luxembourg into an Oklahoma City bank account, which led to the discovery of the alleged scheme. Some of the money was then transferred to various accounts in Hong Kong, London and Washington, D.C. Other portions of the money were used to purchase, among other things, two Lincoln automobiles and an Oklahoma City nightclub named "Dreams." The cars and the nightclub have been seized by the IRS for forfeiture in the case.

One of the defendants was arrested in Washington, D.C., and is out on bond. Another defendant, a Nigerian citizen, currently being held in the Oklahoma County Jail, was arraigned and pleaded not guilty. The remaining defendants are citizens of Nigeria and are believed to be residing there at this time. The Department of Justice's Office of International Affairs is seeking the extradition of these defendants to the United States to stand trial.

The prosecutors handling this case in the Western District of Oklahoma are: **James K. Robinson** and **Mary M. Smith**.

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Eastern District of Louisiana

On September 19, 1994, Eddie J. Jordan, Jr., United States Attorneys for the Eastern District of Louisiana, and Michael Skinner, United States Attorney for the Western District of Louisiana, attended a meeting with Dr. Lee Brown, Director, Office of National Drug Control Policy, who was presiding at the Southern Regional Strategy Development Conference in New Orleans. Also in attendance was Brian Jackson, First Assistant United States Attorney for the Middle District of Louisiana, appearing on behalf of United States Attorney L. J. Hymel. The purpose of the meeting was to discuss implementation of national drug control policies and other issues, including drug and violent crime initiatives, as well as funding, and to coordinate policy and planning in all three of Louisiana's federal districts.

As one of his first official acts as United States Attorney for the Eastern District of Louisiana, Mr. Jordan established a Federal Violent Crimes Task Force to coordinate various Federal, state and local investigative agencies and metro area District Attorneys, using resources from the United States Attorney's office, to assure the most effective prosecution of selected violent crimes. These violent crime cases will be evaluated and prosecuted in the most appropriate forum, whether Federal or state, following evaluation and consideration of such factors as available federal/state statutes; severity of penalties; and investigative/prosecutive resources. Mr. Jordan has previously stated that his two top priorities as United States Attorney are violent crime and public corruption.

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EXECUTIVE OFFICE FOR UNITED STATES ATTORNEYS

Communications With Represented Persons

On September 22, 1994, Carol DiBattiste, Director, Executive Office for United States Attorneys (EOUSA), and Steven E. Zipperstein, Chief Assistant United States Attorney for the Central District of California, issued a memorandum to all United States Attorneys, which included a videotape concerning the proposed regulation on contacts with represented persons. The memorandum clarified 28 C.F.R. § 77.6(c).

When a represented party initiates contact with the Government, 28 C.F.R. § 77.6(c) requires that, before any substantive discussions occur, the Government attorney must advise the represented party of the right to have an attorney present, and to speak through that attorney. If the represented party indicates the "waiver of counsel for the communication is voluntary, knowing and informed, and if willing to do so, signs a written statement to this effect," then the Government attorney must go to court and either:

(i) Ask the court to find the represented party waived counsel, and the waiver was voluntary, knowing and informed; or

(ii) Ask the court to appoint substitute counsel for the represented party, and obtain substitute counsel's consent for the communication.

The videotape gave the impression that the Government must always take the represented party before the court. While in most cases the represented party should personally be taken before the court, the commentary to the regulation states there are exceptional circumstances which may make this impractical or unsafe:

This paragraph does not require, however, that the waiver must always take place before the judge or magistrate judge. In exceptional circumstances, it may be impractical or unsafe to bring the defendant before a judge or magistrate judge to secure the waiver. In such circumstances, the government attorney may secure a waiver from the defendant outside the court, and, before any substantive discussion between the defendant and the government takes place, bring evidence of the waiver to the court so that the court can determine whether the waiver was made knowingly, intelligently, and voluntarily.

59 Fed. Reg. at 39921 (1994).

If you have any questions, contact Charysse L. Alexander, EOUSA Office of Legal Counsel, (202) 514-5340.

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Hatch Act Restrictions

On October 11, 1994, Attorney General Janet Reno issued a memorandum to all Department of Justice employees concerning restrictions on political activities. A copy of the memorandum, together with Parts I and II pertaining to specific statutory restrictions for all employees, is attached as Appendix H.

Ms. Reno advised that all Department employees must take care that their activities do not compromise the integrity of the Department in enforcing the law, or create a conflict or apparent conflict of interest with the neutral and impartial administration of justice. To ensure these goals, Department employees may not:

- Use their official authority or influence to interfere with or affect the result of an election;
- Solicit, accept, or receive a political contribution; solicit, accept, or receive uncompensated volunteer services from an individual who is a subordinate; or allow their official titles to be used in connection with fundraising activities;
- Run for nomination or election to public office in a partisan election;
- Solicit or discourage the political activity of any person who is a participant in any matter before the Department;

- Engage in political activity (including wearing political buttons) while on duty, while in a government occupied office or building, while wearing an official uniform or insignia, or while using a government vehicle; or

- Make a political contribution to their employer or employing authority.

Additional restrictions apply to all career SES, Criminal Division, and FBI employees; and to all Presidential, Senate-Confirmed Presidential, Non-Career SES, and Schedule C Appointees. These individuals may not:

- Distribute fliers printed by a candidate's campaign committee, a political party, or a partisan political group;

- Serve as an officer of a political party; a member of a national, state, or local committee of a political party; an officer or member of a committee of a partisan political group; or be a candidate for any of these positions;

- Organize or reorganize a political party organization or partisan political group;

- Serve as a delegate, alternate, or proxy to a political party convention;

- Address a convention, caucus, rally, or similar gathering of a political party or partisan political group in support of or in opposition to a candidate for partisan political office or political party office, if such address is done in concert with such a candidate, political party, or partisan political group;

- Organize, sell tickets to, promote, or actively participate in a fundraising activity of a candidate for partisan political office or of a political party or partisan political group;

- Canvass for votes in support of or in opposition to a candidate for partisan political office or a candidate for political party office, if such canvassing is done in concert with such a candidate, political party, or partisan political group;

- Endorse or oppose a candidate for partisan political office or a candidate for political party office in a political advertisement, broadcast, campaign literature, or similar material if such endorsement or opposition is done in concert with such a candidate, political party, or partisan political group;

- Initiate or circulate a partisan nominating petition;

- Act as recorder, watcher, challenger, or similar officer at polling places in consultation or coordination with a political party, partisan political group, or a candidate for partisan political office; or

- Drive voters to polling places in consultation or coordination with a political party, partisan political group, or a candidate for partisan political office.

If you would like a copy of the Rules and Regulations as reprinted in the Federal Register dated September 23, 1994, or any other materials relating to this matter, or if you require assistance or advice, please contact your component's ethics official, or Charysse L. Alexander, EOUSA Office of Legal Counsel, Executive Office for United States Attorneys, (202) 514-5340.

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CASE NOTES**CIVIL DIVISION****Justice Department Withdraws Brief In Religious Freedom Restoration Act Case**

On September 15, 1994, the Department of Justice announced that it was withdrawing its brief in the case of Christians v. Crystal Evangelical Free Church. The Department had supported the actions of a bankruptcy trustee in seeking to recoup under the Bankruptcy Code contributions made by an insolvent couple to their church during the year prior to their filing for bankruptcy. The Justice Department withdrew its brief because the President concluded that it adopted a narrower view of the Religious Freedom Restoration Act (RFRA) than his understanding of the meaning of the new statute.

The Justice Department filed a brief in March in the Eighth Circuit Court of Appeals after the court invited the Department to give its views on the issues involved in the case. The Department took the position that the trustee's actions did not violate the First Amendment or the Religious Freedom Restoration Act passed by Congress late last year with the support of the Administration.

The Religious Freedom Restoration Act, which was intended to enhance protection of religious freedom in the United States, provides that any statute that imposes a "substantial burden on the exercise of religion" is valid only if it serves a "compelling governmental interest" and is "the least restrictive means" of carrying out that interest. The RFRA issue presented in the Christians case is whether the voiding by a bankruptcy trustee of religious contributions is a "substantial burden on the exercise of religion" and, if it is such a burden, whether the Bankruptcy Code serves a "compelling governmental interest" in this connection and is "the least restrictive means" of carrying out that interest.

Attorneys: Michael Jay Singer - (202) 514-5432
Lowell Sturgill, Jr. - (202) 514-3427

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Seventh Circuit Upholds Right Of Veterans Administration To Obtain Indemnification From Veterans Who Defaulted Under Loan Guarantee Program

This class action involves veterans whose loans were guaranteed by the Veterans Administration (VA) pursuant to a home loan guaranty program. Following foreclosure, the VA reimbursed the lenders for the difference between the loan amount and the amount received from the foreclosure sale. The VA then sought recovery of the money from Charles Davis, the lead plaintiff, under its federal indemnity right. The district court initially concluded that the VA was estopped from asserting its indemnity right. On the first appeal of this case, the Seventh Circuit held for the VA, determining that the VA could exercise its right to collect from the veteran the amounts paid to the lender pursuant to the VA's guaranty. The court remanded the case for a determination whether any of the lenders had refused to comply with the VA's instructions regarding the method of foreclosure. On remand, the district court concluded that the lenders had, in all cases, followed the VA's instructions regarding foreclosure.

The Seventh Circuit (Cudahy, Eschbach, Kanne) has now affirmed, concluding that the district court had correctly found that the VA had given prior approval to the method of foreclosure used by the lenders through its course of dealing with the lenders. The court of appeals concluded that the VA therefore preserved its right to seek indemnification from the veterans.

United States v. Davis, No. 93-3104 (August 24, 1994)
[7th Cir.; E.D. Wis.]. DJ # 151-85-526.

Attorneys: Mark B. Stern - (202) 514-5089
Jennifer H. Zacks - (202) 514-1265

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Eighth Circuit Holds Former Federal Employee's Retirement Benefits Are Excluded From His Bankruptcy Estate

During the 30 years L.D. Alderson worked for the Federal Government, he contributed approximately \$35,000 towards retirement benefits. He filed for bankruptcy and attempted to claim an exemption for his civil service retirement benefits. However, the bankruptcy judge denied his motion because of his various acts of bad faith. Several creditors then sought an order directing the Office of Personnel Management, holder of the retirement funds, to turn over the money to the bankruptcy estate. OPM intervened on behalf of the debtor, arguing that the money was excluded from the bankruptcy estate because of federal law restrictions on assignment of retirement benefits. The bankruptcy court rejected the government's argument, and the district court affirmed, concluding that because the debtor had an "unfettered right" to demand payment of the benefits as a lump sum, the money must be included in the bankruptcy estate.

The Eighth Circuit (Loken, Bright, Weis) has now reversed, adopting our position that the anti-alienation provisions applicable to federal retirement benefits exclude such benefits from the bankruptcy estate. This decision extends to federal employees the reasoning of Patterson v. Shumate, 112 S. Ct. 2242 (1992), which excludes private sector ERISA-qualified pension plans from the bankruptcy estate. It will be helpful in shielding the retirement benefits of federal employees from creditors.

Whetzel v. OPM, No. 93-2582 (August 19, 1994) [8th Cir.; D.S.D.].
DJ # 77-69-358.

Attorneys: Mark B. Stern - (202) 514-5089
Jennifer H. Zacks - (202) 514-1265

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Tenth Circuit Joins Two Other Circuits In Adopting Title VII Statute Of Limitations As Appropriate Limitations Period For Federal Employee Age Discrimination Suits Under The ADEA

In this case alleging race and age discrimination against a Postal Service employee, plaintiff's original complaint was dismissed without prejudice for lack of proper service (plaintiff had repeated notice and opportunity to cure the service defect prior to dismissal). Within 30 days after that ruling was upheld on appeal, but nearly five years after the alleged discrimination and over one year after the final adverse administrative decision, plaintiff refiled his complaint. The district court granted the Government's motion to dismiss the suit as time-barred on the basis that the 30-day (now 90-day) limitation period for filing federal employee Title VII suits, 42 U.S.C. 2000e-16(c), applied not only to bar his Title VII race discrimination claim but also, by analogy, bars his age discrimination claims under the ADEA, which does not specify a time limit for filing federal employee age discrimination suits. Plaintiff appealed only as to the age discrimination claim. The Tenth Circuit has now joined the First and Second Circuits in accepting the Title VII statute of limitations as the appropriate period to borrow for federal employee age discrimination suits. In so doing, the court soundly rejected plaintiff's argument (now accepted only by the Ninth Circuit) that the residual 6-year period for filing non-tort civil actions against the United States, 28 U.S.C. 2401(a), should apply.

Jones v. Runyon, No. 93-1230 (August 17, 1994) [10th Cir.; D. Colo.]. DJ # 35-13-417.

Attorneys: Robert S. Greenspan - (202) 514-5428
Wendy M. Keats - (202) 514-0265

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ENVIRONMENT AND NATURAL RESOURCES DIVISION

The following is an update of recently decided cases worked on jointly by the Environmental Crimes Section of the Environment and Natural Resources Division and the United States Attorneys' offices:

U.S. v. Roland E. Heinze And LDI Of San Antonio, Inc. (W.D. Tex.) (CWA) (9/21/94)

A federal grand jury indicted Roland Heinze and LDI of San Antonio, Inc. (LDI), for conspiracy to violate the CWA and 14 felony CWA pretreatment violations. Heinze, vice president of LDI, and LDI are engaged in the business of cleaning industrial and commercial grease, mud, and sand traps of liquid waste and the removal and transportation of this waste in tank trucks for disposal. The indictment charges that the defendants, on numerous occasions from 1991 to 1993, illegally disposed of industrial and commercial waste by discharging it into the City of San Antonio POTW. The San Antonio POTW prohibits the discharge of the type of waste handled by LDI into the POTW and requires that such waste be landfilled.

Attorney: AUSA Demetrius Bivensa - (210) 308-3500

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U.S. v. David William Pendleton (M.D. Fla.) (CWA) (9/21/94)

A one-count CWA misdemeanor information was filed against David William Pendleton for illegally filling a wetland. The information states that between late 1993 and May 1994, Pendleton filled a wetland on his property in order to build a gazebo. The fill consisted of, among other things, bags of friable asbestos. Pendleton had no permit from the Army Corps of Engineers authorizing the fill.

Attorney: AUSA Michelle Heldmyer - (813) 274-6000

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U.S. v. American Global Lines, Inc., Peter Bianchi, Jr., Lloyd Richard Haugh, And Robert Elder White, III (N.D. Calif.) (Ocean Dumping Act) (9/19/94)

Pursuant to a plea agreement, American Global Lines (AGL) and three individuals entered guilty pleas to violations of the Ocean Dumping Act, and were sentenced. For a felony violation, AGL was sentenced to a \$100,000 fine. For misdemeanor violations, the three individuals were each sentenced to a \$5,000 fine. AGL owns and operates cruise ships based in Hawaii.

In May 1992, one of its cruise ships, the SS Independence, sailed from Hawaii to San Francisco, California, to be renovated in a dry-dock. Before the ship sailed, the company hired contractors to start demolition of the ship's galley while en route. Pursuant to existing company practice, the contractors and ship's personnel dumped the demolition material overboard into the ocean. Although the material contained no plastics, asbestos, or other hazardous waste, it amounted to over five tons of junk, including concrete, metal, upholstery, paneling, a dishwasher, and a refrigerator.

In May 1993, another AGL ship, the SS Constitution, sailed from Hawaii to Portland, Oregon, to be renovated. On this voyage, approximately 160 square feet of material was dumped overboard, mostly consisting of stainless steel galley fixtures. Again, no plastics, asbestos, or other hazardous materials were dumped. The illegal dumping from the SS Constitution constituted a felony since the statutory penalties were increased by the time that violation occurred.

The three company officials, Lloyd Haugh, captain of the SS Independence; Robert White, vice president for marine operations of AGL; and Peter Bianchi, senior vice president for AGL operations, were guilty of directing the dumping of the material from the SS Independence.

Attorneys: Neal McAliley, ECS, ENR - (202) 272-9851
AUSA D. Michael Nerney - (415) 556-1126

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U.S. v. William P. Reilly and J. Patrick Dowd (D.Del.) (Ocean Dumping Act) (9/27/94)

The district court in Wilmington, Delaware, entered orders directing William P. Reilly and John Patrick Dowd to surrender to the Bureau of Prisons on October 12, 1994, and October 10, 1994, respectively, to begin serving prison sentences. Reilly was sentenced to serve 37 months in prison and Dowd was sentenced to 5 months.

Reilly was convicted by a jury of two counts of perjury and one count of ocean dumping. The same jury convicted Dowd on one count of perjury. The convictions arose out of the voyage of the ship Khian Sea, and the discharge of 13,000 tons of incinerator ash into the Atlantic and Indian Oceans in 1988.

Attorneys: Howard Stewart - (202) 272-9849
Tina Steck - (202) 272-9847

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TAX DIVISION

Lane Bryant, Inc. and The Limited, Inc. v. United States (Federal Circuit) 9/21/94

On September 21, 1994, in Lane Bryant, Inc. and The Limited, Inc. v. United States, the Federal Circuit affirmed the Claims Court's grant of summary judgment in favor of the Government, thus denying Lane Bryant's claim for a refund of approximately \$2 million in tax, plus assessed interest paid. In 1980, corporate raiders bought blocks of stock in Lane Bryant. To remove the unwelcome shareholders, Lane Bryant agreed to buy back its Lane Bryant stock at a price that exceeded the market trading price of the stock on the repurchase date by approximately \$5.3 million. The stock purchase agreements between Lane Bryant and the hostile shareholders explicitly allocated the entire price to the stock being repurchased. Lane Bryant, in its tax return for its 1982 fiscal year sought to deduct that \$5.3 million "premium" over the market trading price of the stock as an ordinary and necessary business expense under the theory that the "premium" had been paid for the raiders' standstill covenant, the termination of litigation with the raiders, and other non-stock items. The Claims Court held that Lane Bryant was precluded from allocating its greenmail payments other than as provided in its stock purchase agreements.

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Fulani v. Bentsen (2nd Circuit) (9/6/94)

On September 6, 1994, the Second Circuit issued a published opinion in Fulani v. Bentsen, holding that Lenora B. Fulani, a candidate for president in 1988 and 1992, lacked standing to sue the Secretary of the Treasury and the Commissioner of Internal Revenue to compel them to evoked the tax exemption of the League of Women Voters Education Fund. Fulani sought to participate in a televised debate among Democratic presidential candidates cosponsored by the League of Women Voters Education Fund and CNN on February 16, 1992. The League turned Fulani down on the ground that she was not a "significant candidate" for the Democratic presidential nomination. Fulani then sought to compel the Treasury to revoke the League's tax exemption. The District Court for the Southern District of New York ruled that Fulani had standing to sue, but dismissed her complaint on the ground that the relief she sought would have been equivalent to granting mandamus over matters committed to the Treasury's discretion. The Second Circuit held that Fulani lacked standing to sue.

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Estate Of Albert F. Metzger v. Commissioner (4th Circuit) (9/1/94)

On September 1, 1994, the Fourth Circuit (over a dissent) affirmed the adverse decision of the Tax Court in Estate of Albert F. Metzger v. Commissioner. At issue was the year in which a noncharitable gift was made, when the taxpayer delivered the gift in the form of a check in one year and the drawee bank honored the check the following year. In this case, the donor delivered one \$10,000 check each to his son and daughter-in-law on December 14, 1985. The donees deposited the checks into their joint bank account on December 31, 1985, but the checks did not clear the donor's account until January 2, 1986. The donor then made additional \$10,000 gifts to his son and daughter-in-law in 1986, and claimed the benefit of the \$10,000 per-donee annual exclusion for each gift on the theory that the first set were completed in 1985 and the second set in 1986. The Commissioner treated both sets of gifts as having been completed in 1986, and, thus, allowed the benefit on the annual exclusion for only one set. Notwithstanding a regulation issued under the estate and gift tax provisions conclude that a gift is not complete until the donor parts with dominion and control over the property deduction for the year in which they write and mail a check to charity. The IRS has declined to extend this "relation back" doctrine to noncharitable gifts on the ground that it could lead to abuse.

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Richard J. Putnam and Dorethea Putnam v. United States (5th Circuit) (9/8/94)

On September 8, 1994, the Fifth Circuit reversed the adverse decision of the District Court and awarded judgment to the Government in Richard J. Putnam and Dorethea Putnam v. United States. This refund suit involved the deductibility of certain travel and subsistence expenses incurred by a federal district judge while serving on senior status. Taxpayer here served as an active District Court Judge for 14 years at the federal courthouse in Lafayette, Louisiana, commuting there daily from his long-time home in Abbeville. He retired in 1975, and was recalled to serve on senior status in 1985 and 1986, again serving primarily out of chambers provided in the courthouse in Lafayette. Upon his retirement, Judge Putnam's residence became his official duty station for purposes of expense reimbursement under 28 U.S.C. Sections 374 and 456. Accordingly, Judge Putnam was reimbursed, in part, for the cost of commuting by automobile between Abbeville and Lafayette and for the cost of lunches that he took on the days he was on duty. In computing his tax liability, Judge Putnam excluded the amounts of his reimbursements from gross income, and he took deductions for the amounts by which his claimed deductions exceeded the amounts reimbursed. The IRS, however, concluded that the expenses in question were non-deductible commuting and living expenses. The court of appeals, reversing the contrary judgment of the District Court, upheld the position of the IRS. It noted that "if Judge Putnam is

subject to the same tax laws as any other citizen, his transportation and meal expenses are not deductible." Since a person's tax home is his place of business, the court held that Judge Putnam's commuting expenses were not travel expenses incurred while away from home. The court also held that neither the travel expenses nor the subsistence expenses in issue were incurred in pursuit of a trade or business, so they could not qualify as ordinary and necessary business expenses. The court of appeals concluded, finally, that while Section 374 and 456 authorized the reimbursement of certain expenses incurred by senior status judges, they did not reflect any congressional intent to change the tax treatment otherwise applicable to the expenses and reimbursements.

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Horton v. Commissioner (6th Circuit) (8/29/94)

On August 29, 1994, the Sixth Circuit affirmed the unfavorable decision of the Tax Court in Horton v. Commissioner. The issue here was whether punitive damages received in personal injury litigation were "received on account of personal injuries" and therefore excludable from gross income under Section 104(a)(2) of the Internal Revenue Code. The Sixth Circuit, relying on United States v. Burke, agreed with the Tax Court holding that the plain meaning of Section 104(a)(2) establishes that punitive damages are excludable from gross income. This decision is in conflict with decisions of the Fourth, Ninth, and Federal Circuits.

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Downey v. Commissioner (7th Circuit) (8/30/94)

On August 30, 1994, the Seventh Circuit reversed the unfavorable decision of the Tax Court in Downey v. Commissioner, and the Ninth Circuit affirmed the Tax Court's unfavorable decision on the same issue in Schmitz v. Commissioner. The issue in these cases was whether back pay and liquidated damages received under the Age Discrimination in Employment Act (ADEA) were "received on account of personal injuries" and, therefore, excludable from gross income under Section 104(a)(2) of the Internal Revenue Code. In its original decision in Downey, the Tax Court held that all ADEA damages are excludable under Section 104(a)(2). The Tax Court reevaluated this decision following the Supreme Court's ruling in United States v. Burke that back pay received under the pre-1991 version of Title VII was not excludable, but adhered to its view that all ADEA damages are excludable, even under the Burke framework. The Seventh Circuit reversed Downey, finding that the ADEA does not provide compensatory damages for intangible injuries. The Ninth Circuit, however, affirmed the adverse Tax Court decision in Schmitz, concluding that ADEA damages are excludable from gross income.

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Baptiste v. Commissioner (11th Circuit) (8/29/94)

On August 29, 1994, the Eleventh Circuit affirmed the holding of the Tax Court in Baptiste v. Commissioner that a transferee of property from an estate which had not paid its overdue estate tax is personally liable not only for the unpaid estate tax, up to the amount of the value of the property received, but also for interest on the amount of that personal liability. Section 6324(a)(2) of the Internal Revenue Code provides that if the estate tax is not paid when due, then the transferee who receives certain property (including insurance proceeds) from the estate shall be personally liable for the tax "to the extent of the value" of the transferred property. In this case, Richard Baptiste had received \$50,000 in insurance proceeds for his father's estate, which had not paid its \$62,000 estate tax liability. The Commissioner asserted that Baptiste was liable as a transferee in the principal amount of \$50,000, and also asserted that Baptiste was liable for interest on that \$50,000, running from the time Baptiste received the property or the time the state tax return was due, whichever was later. The Eleventh Circuit affirmed the Tax Court, holding that the provision limiting the amount of personal liability to the value of the transferred property applied only to the amount of the estate tax for which the transferee was initially liable, and not to post-transfer interest arising on what the court found to be the transferee's independent personal liability.

In a separate appeal from the same Tax Court case by the transferee's brother, Gabriel Baptiste, the Eighth Circuit reversed as to Gabriel's personal liability for interest on transferred amounts, holding that the provision limiting the liability applied to post-transfer interest as well as to the principal amount of the liability.

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Weyerhaeuser Company v. United States (Court Of Federal Claims) (9/1/94)

On September 1, 1994, the Court of Federal Claims issued an opinion in Weyerhaeuser Company v. United States. The court rejected Weyerhaeuser's contention that, as a matter of fact and law, the "single identifiable property damaged or destroyed" for purposes of calculating casualty loss deductions for damaged or destroyed trees (standing timber and young growth) is the timber depletion block. Instead, the court accepted the Government's contention that, as a matter of fact, in this case the "single, identifiable property damaged or destroyed" was the much smaller timber "stand." Adoption of this narrower definition of the unit of property damaged in a casualty will significantly reduce the losses timber companies can claim as casualty deductions since such deductions are subject to an overall limitation related to taxpayer's basis in the damaged properties. Since depletion blocks encompass enormous tracts of land held by timber companies (one of Weyerhaeuser's depletion blocks covers virtually the entire Pacific Northwest), an isolated casualty such as the volcanic eruption at Mount St. Helens could otherwise have permitted a casualty loss deduction equal to Weyerhaeuser's investment in all properties in these vast timber holdings (e.g., the Pacific Northwest).

The court did, however, accept Weyerhaeuser's contention that it could recognize casualty losses for damaged or destroyed timber stands even though it salvaged millions of board feet of old growth timber from those stands. Under Code Section 631(a) (election to consider cutting as sale or exchange), Weyerhaeuser realized enormous gains from that salvage, the recognition of which it was permitted to defer pursuant to a letter ruling based on Code Section 1033 (involuntary conversion).

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National Taxpayers' Union v. United States (District Court For The District Of Columbia) (8/31/94)

On August 31, 1994, the District Court for the District of Columbia dismissed on jurisdictional grounds a broad-based constitutional challenge to Section 13208 of the Omnibus Budget Reconciliation Act of 1993, which retroactively increased the estate and gift tax rates on certain transfers of property made between January 1, 1993, and August 10, 1993. National Taxpayers' Union v. United States. The National Taxpayers' Union (NTU), a large non-profit organization allegedly concerned with the proper application of the tax laws, claimed that Section 13208 violated the requirement in Article I of the Constitution that any direct tax shall be apportioned among the States according to their populations, as well as the Due Process and Taking Clauses of the Fifth Amendment.

The District Court granted the Government's motion to dismiss on jurisdictional grounds, holding that the Anti-Injunction Act, 26 U.S.C. Section 7421(a), and the Tax Exception to the Declaratory Judgment Act, 28 U.S.C. Section 2201(a), barred maintenance of this suit. Since plaintiff's members could bring individual actions challenging Section 13208, no exception to the jurisdictional bars found in these statutes was applicable.

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OFFICE OF LEGAL EDUCATION**COMMENDATIONS**

OLE Director James A. Hurd, Jr., and the members of the OLE staff thank the following Assistant United States Attorneys (AUSAs) and Department of Justice officials and personnel for their outstanding teaching assistance and support during courses conducted from August 15 - September 15, 1994. Persons listed below are AUSAs unless otherwise indicated:

**Overview Of Archeological Resources Protection Act
(Yellowstone National Park, Wyoming)**

Jo Ann Harris, Assistant Attorney General, Criminal Division; **Sherry S. Matteucci**, United States Attorney, District of Montana; **James Crane**, Middle District of Georgia; **Larry Mackey**, Southern District of Indiana; **Guy W. Blackwell**, Eastern District of Tennessee; **Cam Jones**, Western District of Tennessee; **Dennis Kennedy**, Eastern District of Virginia; **Terry Lord**, Principal Deputy Chief, and **Daniel Fromstein**, Trial Attorney, General Litigation and Legal Advice Section, Criminal Division.

**Executive Session On Financial Management For United States Attorneys
(Philadelphia, Pennsylvania)**

Judge Timothy Murphy, Deputy Associate Attorney General for Financial Litigation, Office of the Associate Attorney General; **Gerald M. Stern**, Special Counsel, Financial Institution Fraud, Office of the Deputy Attorney General; **Carl Kirkpatrick**, United States Attorney, Eastern District of Tennessee; **Michael R. Stiles**, United States Attorney, Eastern District of Pennsylvania; **Emily M. Sweeney**, United States Attorney, Northern District of Ohio; **Robert Jaspen**, Chief, Civil Division, Eastern District of Virginia; **Kristin Tolvstad**, Northern District of Iowa; **Carolyn Hightower**, Acting Director, Office for Victims of Crime, Office of Justice Programs; **Kathleen Haggerty**, Director, Debt Collection Management, and **Diane Miller**, Program Manager, Central Intake Facility, Justice Management Division. From the Executive Office for United States Attorneys, Financial Litigation Staff: **Richard W. Sponseller**, Deputy Director; **Judith Benderson**, Assistant Director; **Leslie Bournes**, Management Analyst; **Lynne Solien**, Attorney Advisor.

Ethics for Litigators (Washington, D.C.)

Larry Gregg, Eastern District of Virginia. From the Civil Division: **Lawrence A. Klinger**, Assistant to the Director, and **Charles R. Gross**, Assistant Director, Torts Branch; **Anne L. Weismann**, Assistant Director, Federal Programs Branch.

Criminal Tax Institute (Clearwater, Florida)

From the Tax Division: **Loretta C. Argrett**, Assistant Attorney General; **Mark E. Matthews**, Deputy Assistant Attorney General; **Stanley F. Krysa**, Director, Criminal Enforcement Section; **Robert E. Lindsay**, Chief, Criminal Appeals and Tax Enforcement Policy Section; **Ronald A. Cimino**, Chief, **Carolyn Bell** and **Floyd Miller**, Senior Trial Attorneys, Western Criminal Enforcement Section; **J. Randolph Maney, Jr.**, Chief, **Susan B. Menzer**, **Jennifer E. Ihlo**, **Michael Nicrosi**, and **David Farnham**, Senior Trial Attorneys, Southern Criminal Enforcement Section; **E. Ralph Pierce**, Chief, **Jerrold Kluger** and **Curtis Nash**, Assistant Chiefs, **Dana Boente** and **Karen Wehner**, Senior Trial Attorneys, Northern Criminal Enforcement Section; **James Springer**, Senior Counsel for International Tax Matters; **William A. Whittedge**, Senior Trial Attorney, Criminal Appeals and Tax Enforcement. **Charles A. Tamuleviz**, District of Rhode Island; **Robert Mosakowski**, Middle District of Florida; **David Barger**, Eastern District of Virginia; **Ross Silverman**, Northern District of Illinois; **Michael Emmick**, Central District of California.

Attorney Supervisors (Annapolis, Maryland)

Donna A. Bucella, United States Attorney, Middle District of Florida; **Kristin Tolvstad**, Northern District of Iowa. From the Executive Office for United States Attorneys: **Patrick Malloy**, Acting Principal Deputy Director; **Judy Johnson**, Program Manager, Evaluation and Review Staff; **Paul Ross**, Chief, and **Tracey Lankler**, Attorney Advisor, Labor and Employee Relations Branch; **Linda Schwartz**, Chief, Personnel Management Team LS, and **Gary Wagoner**, Chief, Policy, Programs and Evaluation Branch, Personnel Staff; **Eileen Menton**, Assistant Director, Case Management Staff; **Carol Sloan**, Assistant Director, Office Automation Staff; **Yvonne Makell**, Equal Employment Opportunity Officer, Equal Employment Opportunity Staff; **Charlotte Saunders**, Deputy Assistant Director, Financial Management Staff.

Evidence (Washington, D.C.)

Blanche L. Bruce and **Thomas J. Motley**, District of Columbia; **Richard Parker**, Deputy Chief, Civil Division, and **John G. Douglas**, Eastern District of Virginia; **Douglas Coleman**, Trial Attorney, Torts Branch, Civil Division; **Scott Glick**, Trial Attorney, Terrorism and Violent Crime Section, Criminal Division.

Financial Litigation Paralegal Seminar (Washington, D.C.)

Judge Timothy Murphy, Deputy Associate Attorney General for Financial Litigation, Office of the Associate Attorney General; **Mary Dooley**, Financial Litigation Chief, Northern District of California; **Kathleen Connors**, Regional Financial Litigation Specialist, District of New Jersey; **Brenda Hinkson**, Financial Litigation Unit Supervisor, Eastern District of New York; **Alex Rokakis** and **Patricia Gober**, Regional Financial Litigation Specialists, Northern District of Ohio; **Henry Knight**, District of South Carolina; **Randi Russell**, Eastern District of Texas; **Debra Prillaman**, Eastern District of Virginia. From the Executive Office for United States Attorneys: **Richard Sponseller**, Deputy Director, and **Lynne Solien**, Attorney Advisor, Financial Litigation Staff; **Louis DeFalaise**, Counsel to the Director; and **Yvonne Makell**, Equal Employment Opportunity Officer. **Ben Elliott**, Director, and **Heather Kocher**, Counselor, Employee Assistance Program, Justice Management Division.

In-House Criminal Asset Forfeiture (Des Moines, Iowa)

Esteban Sanchez, Central District of Illinois; **Kevin Vanderschel** and **John Griffith**, Southern District of Iowa.

Introduction to the Freedom Of Information Act (Washington, D.C.)

Thomas J. McIntyre, Senior Attorney, **Carol S. Hebert**, **Kirsten J. Moncada**, Attorney-Advisors, Office of Information and Privacy.

Law Of Federal Employment (Washington, D.C.)

R. Joseph Sher, Senior Trial Attorney, Torts Branch, and **Susan K. Rudy**, Assistant Branch Director, Federal Programs Branch, both from the Civil Division; **Ted McBurrows**, Director, Equal Employment Opportunity Staff, Justice Management Division.

Medical Malpractice (Washington, D.C.)

Juliet Eurich, Chief, Civil Division, District of Maryland; **Julie Zatz**, Assistant Chief, Civil Division, Central District of California; **Gil P. Beck**, Middle District of North Carolina; **Whitney Schmidt**, Middle District of Florida. **Paul Figley**, Deputy Director, **Roger D. Einerson**, Assistant Director, **Lawrence Klingler**, Assistant to the Director, **Mary M. Leach**, Senior Trial Counsel, **Patricia Reedy** and **Colette Winston**, Trial Attorneys, and **Steve Forjohn**, Special Trial Attorney, Torts Branch, Civil Division.

Civil Federal Practice (San Diego, California)

Marina Utgoff Braswell, District of Columbia; **Mary Catherine Frye**, Chief, Civil Division, and **Andrew Quinn**, Middle District of Pennsylvania; **William F. Larkin**, Northern District of New York; **Paul Madgett**, District of Nebraska; **Beth McGarry**, Northern District of California; **Steven K. Mullins**, Western District of Oklahoma; **Roann Nichols**, District of Maryland; **Tomson T. Ong**, Central District of California; **John Seibert**, Chief, Organized Crime Strike Force Unit, District of Hawaii; **Judith Whetstine**, Senior Litigation Counsel, Northern District of Iowa. From the Civil Division, Torts Branch: **R. Joseph Sher**, Senior Litigation Counsel; **Lawrence A. Klinger**, Assistant to the Director; and **Mary McElroy Leach**, Senior Trial Counsel. **Charles Brooks**, Trial Attorney, Wildlife and Marine Resources Section, Environment and Natural Resources Division. **Michael Baillie**, Deputy Director, Administrative Services, Executive Office for United States Attorneys.

AGAI COURSES

The courses listed below are tentative only. OLE will send an announcement via Email approximately eight weeks prior to the commencement of each course to all United States Attorneys' offices and DOJ divisions officially announcing each course and requesting nominations.

November 1994

<u>Date</u>	<u>Course</u>	<u>Participants</u>
1-4	Evidence for Experienced Litigators	AUSAs, DOJ Attorneys
8	In-House Criminal Asset Forfeiture	AUSAs, DOJ Attorneys
14-16	Native American Issues	AUSAs, DOJ Attorneys
14-18	Appellate Advocacy	AUSAs, DOJ Attorneys
15-16	Environmental Law/ Military Base Closures	AUSAs, DOJ Attorneys
29-30	Criminal Enforcement of Child Support (East)	AUSAs, DOJ Attorneys
29-12/1	Bankruptcy Fraud	AUSAs, DOJ Attorneys
29-Dec. 1	Attorney Supervisors	USAO Supervisors

December 1994

1-2	Criminal Enforcement of Child Support (West)	AUSAs, DOJ Attorneys
5-16	Civil Trial Advocacy	AUSAs, DOJ Attorneys
6-8	Basic Financial Institution Fraud	AUSAs, DOJ Attorneys

December 1994 (Cont'd.)

<u>Date</u>	<u>Course</u>	<u>Participants</u>
12-16	Criminal Federal Practice	AUSAs, DOJ Attorneys
13-15	Asset Forfeiture for Criminal Prosecutors	AUSAs, DOJ Attorneys

January 1995

9-13	Advanced Criminal Trial Advocacy	AUSAs, DOJ Attorneys
10-13	Medical Malpractice	AUSAs, DOJ Attorneys
18-20	Attorney Supervisors	AUSAs
23-27	Civil Federal Practice	AUSAs, DOJ Attorneys
24-27	Child Sexual Abuse	AUSAs, DOJ Attorneys
31-2/3	Evidence for Experienced Litigators	AUSAs, DOJ Attorneys

February 1995

7-9	Alternative Dispute Resolution	AUSAs, DOJ Attorneys
7-9	Advanced Asset Forfeiture	AUSAs, DOJ Attorneys
13-17	Appellate Advocacy	AUSAs, DOJ Attorneys
14-17	Complex Prosecutions	AUSAs, DOJ Attorneys
22-24	First Assistant United States Attorneys (Large)	FAUSAs, Large Offices
22-24	Special Problems in Bankruptcy	AUSAs, DOJ Attorneys
27-3/10	Civil Trial Advocacy	AUSAs, DOJ Attorneys
27-3/3	Computer Crimes	AUSAs, DOJ Attorneys

LEI COURSES

LEI offers courses designed specifically for paralegal and support personnel from United States Attorneys' offices (indicated by an * below). Approximately eight weeks prior to each course, OLE will send an Email to all United States Attorneys' offices announcing the course and requesting nominations. The nominations are sent to OLE via FAX, and student selections are made. OLE funds all costs for paralegals and support staff personnel from United States Attorneys' offices who attend LEI courses.

Other LEI courses offered for all Executive Branch attorneys (except AUSAs), paralegals, and support personnel are officially announced via mailings, sent every four months to federal departments, agencies, and USAOs. Nomination forms must be received by OLE at least 30 days prior to the commencement of each course. A nomination form for LEI courses listed below (except those marked by an *) is attached as Appendix I. Local reproduction is authorized and encouraged. Notice of acceptance or non-selection will be mailed to the address typed in the address box on the nomination form approximately three weeks before the course begins. **Please note: OLE does not fund travel or per diem costs for students attending LEI courses (except for paralegals and support staff from USAOs for courses marked by an *).**

November 1994

<u>Date</u>	<u>Course</u>	<u>Participants</u>
1-3	Basic Bankruptcy	Attorneys
8-9	Freedom of Information Act for Attorneys and Access Professionals	Attorneys, Paralegals
14-18*	Experienced Paralegal	USAO, DOJ Paralegals
21	Legal Writing	Attorneys
29-12/1	Agency Civil Practice	Attorneys
29-12/1	Bankruptcy Fraud	Attorneys

December 1994

5-9	Research and Writing Refresher for Paralegals	USAO, DOJ Paralegals
7	Advanced Freedom of Information Act	Attorneys, Paralegals
12	Appellate Skills	Attorneys
13-16	Examination Techniques	Attorneys

January 1995

<u>Date</u>	<u>Course</u>	<u>Participants</u>
4-6	Environmental Law	Attorneys
9-13*	Legal Support Staff	USAO Support Staff
9-13*	Basic Financial Litigation Support Staff	USAO FLU Support Staff
17	Legal Writing	Attorneys
17	Ethics for Litigators	Attorneys
18-19	Freedom of Information Act for Attorneys and Access Professionals	Attorneys, Paralegals
20	Privacy Act	Attorneys, Paralegals
23-27*	Civil Paralegal	USAO Paralegals
30-2/1	Negotiation Skills	Attorneys

February 1995

6-10*	Appellate for Paralegals	USAO, DOJ Paralegals
13-14	Federal Acquisition Regulations	Attorneys
21	Freedom of Information Act Forum	Attorneys, Paralegals
22-24	Discovery	Attorneys
23-24	National Environmental Protection Act	Attorneys
27-3/3*	Criminal Paralegal	USAO, DOJ Paralegals

OFFICE OF LEGAL EDUCATION CONTACT INFORMATION

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600 E Street, N.W.; Washington, D.C. 20530

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

Director.....	James A. Hurd, Jr.
Assistant Director (AGAI-Criminal).....	Amy Lederer
Assistant Director (AGAI-Criminal).....	Angel Moreno
Assistant Director (AGAI-Civil & Appellate).....	Tom Majors
Assistant Director (AGAI-Asset Forfeiture & Financial Litigation).....	Nancy Rider
Assistant Director (LEI).....	Donna Preston
Assistant Director (LEI-Paralegal & Support).....	Donna Kennedy
Assistant Director (LEI).....	Chris Roe

* * * * *

ADMINISTRATIVE ISSUES**Executive Office For United States Attorneys**

On October 4, 1994, Carol DiBattiste, Director, Executive Office for United States Attorneys (EOUSA), announced the following changes within the office:

Donna Bucella returned to her position as Principal Deputy Director, after serving as Interim United States Attorney for the Middle District of Florida.

Patrick Molloy, who served as Principal Deputy Director during Ms. Bucella's absence, has returned to the Eastern District of Kentucky as Chief, Special Prosecutions Division.

Yvonne Makell has been designated Assistant Director of the Equal Employment Opportunity Staff.

Juliet Eurich, formerly Civil Chief of the District of Maryland, has become the Legal Counsel for EOUSA.

Joan Benson, has been designated Assistant Director of the Facilities Management and Support Services Staff. Ms. Benson replaces Dean Campbell, who served in this position at EOUSA for several years.

Bernie Delia has joined EOUSA as a Special Assistant to the Director. For the past year he has been Senior Counsel in the Office of Policy Development, Department of Justice, and has assisted in the nomination and confirmation process for United States Attorneys and federal district judges.

Linda Hoffa, Assistant United States Attorney for the Eastern District of Pennsylvania, has joined the Office of Counsel to the Director for a 3-month detail.

James Hurd, Jr., First Assistant United States Attorney for the District of the Virgin Islands, has become the Director of the Office of Legal Education for a 1-year detail.

Angel Moreno, Assistant United States Attorney for the Southern District of Texas, has become Assistant Director of the Office of Legal Education, in charge of criminal programs, for a 1-year detail.

Amy Lederer, Assistant United States Attorney for the District of Connecticut, is also an Assistant Director for the Office of Legal Education, in charge of criminal programs, for a 1-year detail.

Vic Conrad, Assistant United States Attorney for the Eastern District of Texas, has joined the Priority Program Team for a 3-month detail.

Connie Frogale, Assistant United States Attorney for the Eastern District of Virginia, has joined the Financial Litigation Staff for a 6-month detail.

Lynne Lamprecht, Assistant United States Attorney for the Southern District of Florida, has joined the Evaluation and Review Staff in Fort Myers, Florida, as Deputy Assistant Director and Program Manager for Legal Management.

Susan Eastwood, formerly the EOUSA Deputy Director's secretary, has assumed responsibility for the United States Attorney Appointment Process, the Supervisory Assistant United States Attorney Program, and One-Time Salary Increases for Assistant United States Attorneys. This position was previously held by Glen Stafford, who retired after 17 years of service at EOUSA.

Jack Summers has been reassigned to supervise the EOUSA Communications Center. In his 9 years of experience at EOUSA, he has served as Personnel Officer, Employee Relations Specialist, Program Manager in the Office of Legal Education, and Special Projects Officer.

Wanda Morat has joined EOUSA as a Writer/Editor, and will establish a Correspondence and Publications Unit. Prior to her transfer, Ms. Morat worked for the Department of the Navy at the Naval Surface Warfare Center, where she managed a staff of 14 technical writers located in Virginia and Maryland.

C. Madison "Brick" Brewer, has been appointed Assistant Director for the newly created Information and Privacy Staff. **Bonnie Gay** will continue in the capacity of Attorney-in-Charge of the FOIA/Privacy Act activities.

Connie Kozlusky has joined EOUSA as secretary to the Director, Executive Office for United States Attorneys. Ms. Kozlusky previously served as secretary to the General Counsel for the Department of the Navy, and was also the Protocol Coordinator/Administrative Assistant to the Commander at Joint Task Force FIVE, the Department of Defense's counternarcotics unit responsible for the Pacific area for three years.

Gerilyn Dowling has joined the Office of the Deputy Director, Administrative Services (Operations), where she will continue to be responsible for the tracking of FTE requests and allocations. Additionally, Ms. Dowling has responsibility for the coordination, tracking, and follow-up of all audits, surveys, inspections and other inter-and-intra agency requests of the United States Attorneys' offices.

* * * * *

Career Opportunities**Antitrust Division**

The Antitrust Division of the Department of Justice is seeking experienced trial attorneys for positions in Washington, D.C., to handle civil litigation. Some travel is required.

Applicants for general antitrust litigation positions must possess a J.D. degree, with superior academic credentials; be an active member of the bar in good standing; have 6 or more years of legal experience, including significant litigation experience; have demonstrated superior performance as lead attorney or second chair on significant litigation; and have experience in antitrust litigation, civil litigation, or white collar crime. An educational or professional background in economics is desired. A few attorneys will also be hired specifically to handle telecommunications matters. Individuals who wish to be considered for these positions must clearly demonstrate specialized, recent experience dealing with complex telecommunications issues.

Please submit a resume and/or SF-171 (Application for Federal Employment) and a description of all litigation experience to: Attorney Hiring Committee, Antitrust Division, Room 3234, Department of Justice, 10th and Pennsylvania Avenue, N.W., Washington, D.C. 20530.

Grade and salary range is GS-12 to GS-15 (\$42,003 to \$90,252), depending on current salary and experience. Applications must be received no later than November 30, 1994. Applications will be acknowledged by mail. Offers of employment are scheduled to be made by February 1995. Telephone calls concerning the status of applications are discouraged.

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Executive Office For Immigration Review

The Executive Office for Immigration Review, Department of Justice, Falls Church, Virginia, is recruiting an experienced attorney for the Office of the Counsel to the Director. Responsibilities include litigation, regulation writing, legal advice to the agency, FOI/Privacy Act adjudications, legislative, press/public liaison and research and writing assignments. Applicants should have excellent research and writing skills. A thorough knowledge of immigration law is mandatory. Applicants must have at least two years post-J.D. legal experience and be an active member of the bar in good standing (any jurisdiction). Current salary and years of experience will determine the appropriate salary level from the GS-13 (\$49,947 to \$64,928) to GS-15 (\$69,427 to \$90,252) range.

Applicants should submit a copy of their current SF-171 (Application for Federal Employment) or resume, as well as a writing sample, by November 16, 1994, to: U.S. Department of Justice, Executive Office for Immigration Review, Office of Management and Administration, 5107 Leesburg Pike, Suite 2300, Falls Church, Virginia - Attn: Judy Berryhill.

* * * * *

[The Department of Justice is an Equal Opportunity/Reasonable Accommodation Employer. It is the policy of the Department to achieve a drug-free workplace, and persons selected will be required to pass a urinalysis test to screen for illegal drug use prior to final appointment.]

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CUMULATIVE LIST OF
CHANGING FEDERAL CIVIL POSTJUDGMENT INTEREST RATES

(As provided for in the amendment to the Federal postjudgment interest statute, 28 U.S.C. §1961, effective October 1, 1982)

<u>Effective Date</u>	<u>Annual Rate</u>						
10-21-88	8.15%	05-04-90	8.70%	11-15-91	4.98%	05-28-93	3.54%
11-18-88	8.55%	06-01-90	8.35%	12-13-91	4.41%	06-25-93	3.54%
12-16-88	9.20%	06-29-90	8.09%	01-10-92	4.02%	07-23-93	3.58%
01-13-89	9.16%	07-27-90	7.88%	02-07-92	4.21%	08-19-93	3.43%
02-15-89	9.32%	08-24-90	7.95%	03-06-92	4.58%	09-17-93	3.40%
03-10-89	9.43%	09-21-90	7.78%	04-03-92	4.55%	10-15-93	3.38%
04-07-89	9.51%	10-27-90	7.51%	05-02-92	4.40%	11-17-93	3.57%
05-05-89	9.15%	11-16-90	7.28%	05-29-92	4.26%	12-10-93	3.61%
06-02-89	8.85%	12-14-90	7.02%	06-26-92	4.11%	01-07-94	3.67%
06-30-89	8.16%	01-11-91	6.62%	07-24-92	3.51%	02-04-94	3.74%
07-28-89	7.75%	02-13-91	6.21%	08-21-92	4.41%	03-04-94	4.22%
08-25-89	8.27%	03-08-91	6.46%	09-18-92	3.13%	04-01-94	3.51%
09-22-89	8.19%	04-05-91	6.26%	10-16-92	3.24%	05-27-94	5.28%
10-20-89	7.90%	05-03-91	6.07%	11-18-92	3.76%	06-24-94	5.31%
11-17-89	7.69%	05-31-91	6.09%	12-11-92	3.72%	07-22-94	5.49%
12-15-89	7.66%	06-28-91	6.39%	01-08-93	3.67%	08-19-94	5.67%
01-12-90	7.74%	07-26-91	6.26%	02-05-93	3.45%	09-16-94	5.69%
02-14-90	7.97%	08-23-91	5.68%	03-05-93	3.21%		
03-09-90	8.36%	09-20-91	5.57%	04-07-93	3.37%		
04-06-90	8.32%	10-18-91	5.42%	04-30-93	3.25%		

Note: For a cumulative list of Federal civil postjudgment interest rates effective October 1, 1982 through December 19, 1985, see Vol. 34, No. 1, p. 25, of the United States Attorney's Bulletin, dated January 16, 1986. For a cumulative list of Federal civil postjudgment interest rates from January 17, 1986 to September 23, 1988, see Vol. 37, No. 2, p. 65, of the United States Attorneys Bulletin, dated February 15, 1989.

UNITED STATES ATTORNEYS

<u>DISTRICT</u>	<u>U.S. ATTORNEY</u>
Alabama, N	Walter Braswell
Alabama, M	Redding Pitt
Alabama, S	Edward Vulevich, Jr.
Alaska	Robert C. Bundy
Arizona	Janet Ann Napolitano
Arkansas, E	Paula Jean Casey
Arkansas, W	Paul Kinloch Holmes, III
California, N	Michael J. Yamaguchi
California, E	Charles J. Stevens
California, C	Nora M. Manella
California, S	Alan D. Bersin
Colorado	Henry L. Solano
Connecticut	Christopher F. Droney
Delaware	Gregory M. Sleet
District of Columbia	Eric H. Holder, Jr.
Florida, N	Patrick M. Patterson
Florida, M	Charles R. Wilson
Florida, S	Kendall B. Coffey
Georgia, N	Kent B. Alexander
Georgia, M	James L. Wiggins
Georgia, S	Harry D. Dixon, Jr.
Guam	Frederick A. Black
Hawaii	Steven Scott Alm
Idaho	Betty H. Richardson
Illinois, N	James B. Burns
Illinois, S	W. Charles Grace
Illinois, C	Frances C. Hulin
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Indiana, S	Judith A. Stewart
Iowa, N	Stephen J. Rapp
Iowa, S	Don C. Nickerson
Kansas	Randall K. Rathbun
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Kentucky, W	Michael Troop
Louisiana, E	Eddie E. Jordan, Jr.
Louisiana, M	L. J. Hymel
Louisiana, W	Michael Skinner
Maine	Jay P. McCloskey
Maryland	Lynne Ann Battaglia
Massachusetts	Donald K. Stern
Michigan, E	Saul A. Green
Michigan, W	Michael H. Dettmer
Minnesota	David L. Lillehaug
Mississippi, N	Alfred E. Moreton, III
Mississippi, S	George L. Phillips
Missouri, E	Edward L. Dowd, Jr.
Missouri, W	Stephen L. Hill, Jr.

DISTRICT

U.S. ATTORNEY

Montana	Sherry S. Matteucci
Nebraska	Thomas J. Monaghan
Nevada	Kathryn Landreth
New Hampshire	Paul M. Gagnon
New Jersey	Faith S. Hochberg
New Mexico	John J. Kelly
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New York, S	Mary Jo White
New York, E	Zachary W. Carter
New York, W	Patrick H. NeMoyer
North Carolina, E	Janice McKenzie Cole
North Carolina, M	Walter C. Holton, Jr.
North Carolina, W	Mark T. Calloway
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Ohio, N	Emily M. Sweeney
Ohio, S	Edmund A. Sargus, Jr.
Oklahoma, N	Stephen C. Lewis
Oklahoma, E	John W. Raley, Jr.
Oklahoma, W	Vicki Miles-LaGrange
Oregon	Kristine Olson Rogers
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Pennsylvania, M	David M. Barasch
Pennsylvania, W	Frederick W. Thieman
Puerto Rico	Guillermo Gil
Rhode Island	Sheldon Whitehouse
South Carolina	J. Preston Strom, Jr.
South Dakota	Karen E. Schreier
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Tennessee, M	John M. Roberts
Tennessee, W	Veronica F. Coleman
Texas, N	Paul E. Coggins
Texas, S	Gaynelle Griffin Jones
Texas, E	J. Michael Bradford
Texas, W	James H. DeAtley
Utah	Scott M. Matheson, Jr.
Vermont	Charles R. Tetzlaff
Virgin Islands	W. Ronald Jennings
Virginia, E	Helen F. Fahey
Virginia, W	Robert P. Crouch, Jr.
Washington, E	James P. Connelly
Washington, W	Katrina C. Pflaumer
West Virginia, N	William D. Wilmoth
West Virginia, S	Rebecca A. Betts
Wisconsin, E	Thomas P. Schneider
Wisconsin, W	Peggy Ann Lautenschlager
Wyoming	David D. Freudenthal
North Mariana Islands	Frederick Black

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

September 14, 1994

REMARKS BY THE PRESIDENT
TO U.S. ATTORNEYS

State Dining Room

2:40 P.M. EDT

THE PRESIDENT: Thank you very much, General Reno, ladies and gentlemen. Welcome to the White House, and I want to begin by just thanking you -- all of you -- for the work you did to help us pass the Crime Bill. It was one of the more interesting and rigorous legislative exercises we've had around here in a long time. (Laughter.) I believe that you fought for this Crime Bill because you knew that there was so much in it that would actually work for this country.

And I'm encouraged as I saw some of the coverage on the Crime Bill last night that people are finally beginning to look at a lot of the provisions that weren't so hotly debated during the campaign for and against the Crime Bill that are really going to help us to make a difference to lower the crime rate and make the American people safer.

We know that some of these things will work. We have example after example in America that more police, properly deployed in community policing settings, will actually lower the crime rate. We have example after example that if you can figure out how to lock up the repeat offenders and give the first-time folks a chance to build a better life, you can lower the crime rate. We know that if you can keep guns out of the hands of schoolchildren, you can make the schools and the streets safer, you can save a lot of victims, and you can save a lot of potential criminals, too, for a more constructive life.

But the hard work of passing the Crime Bill, as I said yesterday when I signed it, was only the beginning. It's up to those of us who are charged with executing the laws to roll up our sleeves and put the Crime Bill to work as quickly as we possibly can.

One of the most important provisions of this Crime Bill is one which has been largely overlooked, I think, in this debate. I want to discuss it with you today because I think it can make a huge difference. And that is the ban on juvenile possession of handguns. Except when hunting or target shooting with a parent or other responsible adult, young people simply shouldn't be carrying guns. Period.

This provision is critical to our ability to make our

schools and neighborhoods safer. It is so critical that I am directing you today, each of you, to prepare a plan in your districts for enforcing this law over the next 100 days. We need to work with local law enforcement officials and other local officials as you have been doing.

And I want to compliment all of you and compliment the Attorney General for bringing this group in on a repeated disciplined basis and working closely with you on policy. And then I want to thank you for the work you've done with state and local officials.

But we have to make this work. If this law turns out to be just a law on the books that is widely ignored and never enforced, it will be a terrible shame because this law can save children's lives. This law can make a huge difference, but we obviously have to have a strategy to enforce it, and the means by which it is enforced may not be the same as a practical matter in every district in the country.

So I want to urge you to do that. By January the 1st, we should have a strategy in every community to get guns out of the hands of violent teens and away from young criminals.

Anybody can talk tough on crime; this law gives you a chance to be both tough on criminals and successful in making your community safer. We must -- we must -- implement it vigorously and promptly.

I also want to discuss the penalties which are in the laws, which are now available to you -- to make sure that people who do commit serious crimes are punished, people who commit violent crimes are punished severely, people who repeat their offenses are punished even more severely.

This Crime Bill gives you the ultimate punishment -- capital punishment -- for most heinous crimes, including murdering a police officer. It makes it possible to keep repeat violent offenders off the street for good with the so-called "three-strikes-and-you're-out" law. It stiffens the penalty for criminals who lure children into the drug trade. And from now on, if you use a child to sell drugs, the penalty will automatically be tripled.

It tells young people that if you commit a serious crime or belong to a gang, you can get more time in jail automatically. It not only helps to protect communities by notifying them of people who have committed crimes which qualify them as sexual predators, but from now on, the penalty for these offenses has doubled. The bill has some remarkable provisions in the violence against women section, which I urge all of you to read, become familiar with, and use. Violence in and around the home is still a terrible problem in this country, and it gives us the tools to do something about it.

It has some innovative provisions for boot camps and drug courts, and other innovations which we know have worked to lower the crime rate and to give people the chance to live a safer and more secure life.

These are just some of the examples of what is in the Crime Bill. Much of America does not know everything that's in the

Crime Bill yet, but many people in the law enforcement community don't know everything that's in the Crime Bill yet. The penalties for selling drugs to residents of public housing are doubled. There are increased penalties for felons who commit crimes with guns. For criminals who use assault weapons, for those who sell guns to minors.

All of these things have to be implemented in order to work. The most important thing I want to emphasize today is the sweeping ban on handgun possession by minors. If we can enforce this, it will make a massive difference in the problem of youth violence. So let's come back here in 100 days with a plan to do it, and let's start the next year, 1995, with a system in place that will prove that the confidence of the people in this Crime Bill is not misplaced, and that we are going to lower crime, reduce violence and increase security in the United States with your leadership.

Thank you very much. (Applause.)

IMPLEMENTING THE ANTI-VIOLENT CRIME INITIATIVE

"This initiative is different because it focuses on the establishment of a process connecting various law enforcement, governmental, and charitable organizations, and providing a mechanism for the development of a shared vision ... to address not only violent crime, but also its root cause. The initiative is different because the process begun here allows flexibility in crafting solutions as well as allowing for community input in the development of new goals and ways of meeting those goals. This allows for an evolutionary process for the development of new visions and new approaches." - East St. Louis Violent Crime Initiative

Without doubt, the development of strategies to address violent crime is an evolutionary process, dependent at any given time on changes in statutes, rules, and resources, and subject to the need to continually reassess and refocus efforts to address the most serious violent crime problems in a community. Given the need to be flexible in developing and implementing community-based strategies, five guiding principles should be observed as the strategy is implemented in each district:

1. *The strategy should take into account the most serious violent crime problems in the community and focus on creative solutions to address them.*
2. *The strategy should streamline or redirect task force efforts when feasible in order to maximize the use of all available law enforcement resources.*
3. *The strategy should involve a true partnership with state and local prosecutors that will facilitate the exercise of coordinated, sound prosecutive judgment.*
4. *The strategy should involve the community in a partnership with federal, state, and local officials to address violence and restore quality of life to our neighborhoods.*
5. *The strategy should identify and work to address all issues that may impact on the effective prosecution of violent crime.*

The strategies submitted by the districts exemplify how these guiding principles may be carried out effectively.

1. The strategy should take into account the most serious violent crime problems in the community and focus on creative solutions to address them.

In identifying the most serious violent crime problems in their communities, the districts developed approaches to address them. For instance:

Targeting Violent Individuals and Organizations

In many of the districts, task force efforts aim at the identification of major violent offenders, whether individuals or criminal organizations, and using legitimate law enforcement activity, including probation violations, weapons and drug offenses, and proactive investigations to take them off the street.

- In several districts, the target is the most violent offenders. In several other districts, investigative efforts are aimed at violent gangs and criminal organizations.
- In Los Angeles, where it is impossible to take out an entire gang, the focus is on the most dangerous gang offenders.
- In the District of Columbia and New Orleans, the focus is on individuals responsible for homicides and shootings.
- In the Eastern District of Missouri, the target is the top ten violent fugitives.
- In East St. Louis, the focus is on neighborhoods where significant drug trafficking and violence occur.
- In Boston, using asset forfeiture, the focus is on a list of "Ten Most Wanted Properties" used as drug distribution locales that pose the greatest threats to inner city neighborhoods.

Gun violence

Most districts identified the ready availability of firearms, firearms trafficking, and gun violence as serious violent crime problems in their communities. Many districts mentioned their continued involvement in Project Triggerlock as a key component of their violent crime strategies. Some districts are enhancing their Triggerlock programs as a result of the initiative. A number of districts have joined ATF and other agencies in programs directed at firearms violence in public housing, tracing all weapons that have been seized from juveniles, and other firearms initiatives.

- As a result of the initiative, the Southern District of Florida, the Eastern District of Wisconsin, Maryland, Delaware, and Puerto Rico have placed increased emphasis on Triggerlock as a means of taking violent criminals off the street.

- As a component of its strategy, the Northern District of Atlanta proposes to establish a Violent Crime Rapid Response Team, headed by the violent crime coordinator, to ensure expedited handling of cases involving violent repeat offenders through Triggerlock and the Anti-Violent Crime Initiative.

- In Detroit, a new level of cooperation between the USAO and the local police is expected to increase substantially the number of firearms referrals for federal prosecution.

Witness Intimidation

In the investigation and prosecution of violent crime cases, the cooperation of witnesses is essential. Increasingly, witness intimidation, by violence that includes murder, frustrates cooperation and seriously impedes the prosecution of violent crime cases.

- As a strategy to address witness intimidation in the District of Columbia, the USAO assigns violent crime prosecutors to handle cases in particular neighborhoods in order to increase the prosecutor's familiarity with the neighborhood, build relationships with potential witnesses, and enhance the prosecutor's knowledge of criminal activity in the area.

- Similarly, in Arizona, where violent crime in Indian country is a priority, specific AUSAs are assigned to specific reservations in an effort to enhance witness cooperation, expand cultural awareness, and facilitate the effective prosecution of violent crime cases.

Juvenile Violence

Approximately one-third of the districts identified violence committed by juveniles as one of the most serious violent crime problems in their districts. Most of the other districts noted the increasing use of violence by juveniles as a contributing factor to violent crime in their communities.

The districts do not appear to be consistent in their approach to juvenile prosecutions. Some districts prosecute violent juveniles federally whenever feasible.

- In the Eastern District of Texas, the USAO aggressively seeks adult certification of juvenile offenders involved in violent crime and drug trafficking. The federal response to juvenile crime has the support of local officials who note the failure of the state juvenile system to address juvenile violence adequately.

- The USAO in the Western District of Pennsylvania prosecutes violent juveniles federally.

- Prosecuting violent juveniles is a priority under the initiative in Idaho and the Eastern District of Tennessee.

Many other districts generally defer prosecution to the states. This approach is often unsatisfactory, however, due to weaknesses in the states' juvenile justice systems.

Violence in Public Housing

In many districts, gangs and narcotic traffickers who operate in public housing projects engage in violence that is devastating to the quality of life in public and assisted housing. Increasingly, coordinated federal, state, and local efforts are being brought to bear in this area.

- In New York City, the USAOs work with multiple task forces aimed at violent gangs and drug organizations in public housing. Components of the task forces include federal agents, New York Housing police, and INS agents assigned to the Homicide Investigation Unit of the New York County District Attorney's Office, the INS component to focus on gangs that have a large proportion of illegal or excludable aliens as members.

- In Chicago, the USAO is involved in a number of multi-agency programs focused on public housing violence.

- In the Eastern District of California, a rotating Anti-Violent Crime Strike Team has been asked by a district attorney to focus its efforts on two public housing projects in the county.

- In the Eastern District of Tennessee, drug task forces focus on local gangs operating within housing projects, where ATF has been particularly successful in developing informants.

Many districts have incorporated an Operation Safe Home component into their strategies to address violence in public and assisted housing.

- In the Eastern District of Wisconsin, the Safe Home strategy aims to prohibit gun dealers from operating in public housing, assist in witness relocation, and provide incentives to police officers to live in public and assisted housing.

- In Arizona, Operation Safe Home is to focus on public housing on Indian reservations, as well as in metropolitan areas.

- In Kansas, the strategy includes HUD's assistance in

restricting the ability of drug dealers to easily relocate their trafficking operations from one public housing site to another.

Violent Crime in Indian Country

U.S. Attorneys in districts having Indian reservations have varying degrees of statutory jurisdiction to prosecute violent crimes in Indian country. In those districts, the coordination of efforts among the FBI, BIA, and tribal law enforcement authorities poses unique challenges.

- In the Northern District of New York, violence in Indian country is targeted through a Joint Working Group For the Akwasasne Reservation, that includes representatives of the USAO, DEA, ATF, Customs, Border Patrol, INS, IRS, and the New York State Police.

- In Arizona, the USAO is involved in Operation Safe Trails, a cooperative effort between tribal and federal law enforcement agencies, including the FBI, BIA, and the Navajo Department of Public Safety, designed to enhance investigative capabilities related particularly to homicides, sexual offenses, and gang crimes in Indian country.

- The Eastern District of Wisconsin has undertaken a Menominee Reservation Violent Crime Initiative to foster a closer working relationship with tribal police, more expeditious review of all cases presented for prosecution, joint participation in a Multi-Jurisdictional Task Force aimed at community-based prevention strategies, and regular presence on the reservation of an AUSA and federal law enforcement authorities.

- In South Dakota, the level of violent crime committed by juveniles, including homicide, is increasing in Indian country. Through Multidisciplinary Teams, the USAO, FBI, and tribal law enforcement officials meet regularly to discuss the status of pending violent crime investigations, especially those involving child sex abuse. Under the initiative, the groups plan to work more closely to target violent crimes in Indian country.

Violent Crime in Rural Areas

Special efforts are required to address violent crime in rural areas where there is often a scarcity of law enforcement resources in combination with an expansive geographical area.

- Because of the emphasis on violent crime in metropolitan areas, the U.S. Attorney in the Eastern District of Tennessee is giving special attention to expanding the initiative into rural areas of the district. In implementing a violent crime task force, ATF and other federal agencies are setting up a "buddy system" so that law enforcement officers in rural areas can contact pertinent federal agencies immediately, when needed.

The "buddy system" is to include the availability of an AUSA and an assistant district attorney for round-the-clock consultation.

- In rural areas, local officers are often hampered in conducting undercover investigations because everyone knows them. In the Eastern District of Arkansas, the strategy includes a proposal to create a "Roving Undercover Drug Investigation" program in which officers from other localities in the state may be detailed to conduct undercover investigations in a rural area.

Domestic Violence

At least eighteen districts reported domestic violence as one of their most serious violent crime problems. Others noted domestic violence as a factor related to, or fueled by, narcotics and other violence-related crimes in their communities. While federal involvement in this area most often entails the funding of domestic violence programs, such as community policing, community coalitions, and social service programs, many federal prosecutors are designing strategies to exercise federal jurisdiction when appropriate in these cases.

- In Vermont, which identified child abuse and domestic abuse as its most serious violent crime problem, the USAO assists state and local officials by prosecuting offenders whenever possible under federal firearms laws. In determining whether to charge such cases, the USAO's intake guidelines for firearms cases weigh domestic or child abuse histories heavily.

- In the Southern District of Indiana, the USAO charges federal firearms charges when feasible in domestic violence cases.

- In the Northern District of Oklahoma, fines and penalties that are collected from convicted federal criminals go back to the community for distribution to victims of violent crime and to agencies that provide services to victims, including domestic violence intervention services.

2. The strategy should streamline or redirect task force efforts when feasible in order to maximize the use of all available law enforcement resources.

"This Violent Crime Initiative invites the law enforcement community and the larger community to seek new ways to communicate and cooperate." --
Idaho Violent Crime Initiative

At the time the Anti-Violent Crime Initiative was announced, nearly every district had in place one or more task forces, such as OCDETF, Triggerlock, and any number of gang or fugitive task forces. As a result of the initiative, some districts have consolidated the number of task forces to address their priority violent crime problems.

- In the Southern District of California, existing task forces were streamlined into one Violent Crime Task Force having three components, each targeting a priority violent crime problem: a Gang Group, a Fugitive Group, and a Major Offenders Group.

- In the Northern District of Texas, the strategy is implemented through two groups, an Habitual Offenders Initiative and a Violent Gangs/Youth Initiative, with a focus on avoiding duplication of effort.

Other districts noted that their ability to generate a cohesive, integrated response to violent crime is limited by geography and resources. Those districts are using their existing task forces and community coalitions, often refocusing the investigative priority of those efforts to violent crime. Of the latter group, a number of districts have established a violent crime task force or working group that coordinates the investigative activity of the multiple task forces in the district.

- In the District of Columbia, the strategy includes the implementation of a Violent Crime and Drug Coordinating Committee, with the U.S. Attorney as the Chief Law Enforcement Officer in charge, to coordinate violent crime cases generated by various task forces. Of highest priority are cases involving the District's two most serious problems, violence committed by major offenders and witness intimidation.

- The Southern District of Florida plans to channel the initiative through the South Florida Investigative Support Center, an intelligence-sharing mechanism that is funded by the South Florida HIDTA and coordinated by the Florida Department of Law Enforcement. The Center, which has extensive federal, state, and local intelligence databases, will facilitate intelligence-driven targeting of major violent offenders.

- In Puerto Rico, the strategy includes a single unified working group created to avoid duplication in the efforts of multiple task forces.

- The Northern District of West Virginia has set up a Violent Crimes Task Force Coordinating Committee to coordinate the investigative efforts of multiple task forces.

Most districts noted the scarcity of adequate federal, state, and local resources needed to undertake this initiative.

Some districts devised particularly creative ways to maximize the use of their limited resources.

- In the Eastern District of California, the U.S. Attorney has organized an Anti-Violent Crime Strike Team consisting of federal, state, and local agents, officers, and prosecutors. The team conducts two to three-month operations throughout the district on a rotating basis, concentrating in each locality on quality targets who are actively committing violent crimes.

- Throughout Mississippi, the strategy includes use of "Roving Undercover Operations." This mechanism, established by state statute, allows municipalities to contract with one another to exchange officers to work on undercover operations. If needed, a participating city may have the use of the entire team of officers to assist in an operation.

- In the Eastern District of Tennessee, the entire OCDETF unit in the U.S. Attorney's Office is designated to assist in appropriate violent crime task force prosecutions in order to enhance the federal response time to violent crime cases.

3. *The strategy should involve a true partnership with state and local prosecutors that will facilitate the exercise of coordinated, sound prosecutive judgment.*

In response to the initiative, a number of state and local prosecutors have designated violent crime counterparts in their offices to interrelate with the violent crime coordinator in the U.S. Attorney's Office.

- As a spinoff of the initiative, the District Attorney General's Office in Knoxville is creating a new Career Criminal Unit to focus on violent crime and homicides. The U.S. Attorney's violent crime coordinator will function as an adjunct ADA, assisting in prosecutive decisionmaking.

- In New Orleans, the district attorney appointed violent crime coordinators to interact with the USAO's violent crime coordinator.

- Six district attorneys in Alabama have designated coordinators in their offices to handle matters arising under the initiative.

Cross-designation and enhanced cooperation are increasingly effective tools to investigate and prosecute violent crime.

- In Arizona, the USAO and the county attorney each assign a senior prosecutor to investigations of violent street gangs.

- In Cleveland, the assignment of an AUSA and a county

prosecutor to a multi-agency gang task force aims at making better use of federal and state forfeiture provisions.

- In the Northern Mariana Islands, an Assistant Attorney General has been cross-designated to the USAO to aid federal officials in crimes falling under concurrent jurisdiction.

- In Waco, AUSAs are working with local prosecutors to develop a crime scene response team to enhance violent crime prosecutions.

4. *The strategy should involve the community in a partnership with federal, state, and local officials to address violence and restore quality of life to our neighborhoods.*

- As a result of this initiative, the U.S. Attorney in the Southern District of Illinois has galvanized community groups in East St. Louis into collaborative efforts to assist in reclaiming violence and drug-ridden neighborhoods. A "Seed Core Group" of citizens plans to create and improve recreational space and programs in targeted neighborhoods, and remove burned-out and boarded-up buildings in those neighborhoods.

- In the District of Arizona, the strategy includes the establishment of a Citizen's Advisory Board to provide input on prioritizing violent crime problems and to suggest potential solutions.

- In Oregon, the violent crime working group includes federal and state court judges, as well as members of the defense bar, to assist in reaching agreement on a rational allocation of cases among federal and state courts.

- In the Central District of California, the FBI has teamed up with the NFL in a prevention strategy called "Join Our Gang - Not Theirs." Under this strategy, conceived by a Special Agent assigned to street gang investigations in Los Angeles, NFL football players and FBI agents present substance abuse prevention and anti-violence programs to young people in the community.

- In the Northern District of New York, an AUSA is the director of a Youth Courts Program in an Albany-area school district designed to utilize peer pressure to divert youngsters from more serious criminal behavior.

5. *The strategy should identify and work to address all issues that may impact on the effective prosecution of violent crime.*

A number of districts highlighted issues that impact on their ability to prosecute violent crime cases effectively. Some of those issues include:

Need for Policy Guidance

A number of districts noted the need for a clearer understanding of the Department's policies on prosecuting juveniles who commit violent crimes. We are in the process of reviewing our policies in this area in order to provide guidance to federal prosecutors in coordination with the AGAC and the violent crime coordinators.

Some districts highlighted the cost to states of transporting fugitives and have asked that we review and clarify our policies related to the arrest of fugitives pursuant to 18 U.S.C. § 1073, Unlawful Flight to Avoid Prosecution (UFAP). This is a significant issue for many districts that have focused on violent fugitives as a component of their strategies.

Inadequate Law Enforcement Resources

Many districts reported a need for enhanced law enforcement support in federal, state, and local agencies, particularly in rural areas and in districts that cover broad geographical areas.

- The problem is particularly acute in Indian country.
 - ▶ The increase in violent crime on Indian reservations has seriously taxed the resources of the USAOs in Nevada and New Mexico, which have exclusive jurisdiction over those cases.
 - ▶ There are insufficient FBI resources to respond quickly to crimes on tribal land in the Western District of Washington, since many reservations are in outlying areas.
 - ▶ Since there is no BIA presence on the Menominee Reservation in Wisconsin, tribal officers there are in need of additional training to meet standards set by recent legislation, the Indian Law Enforcement Reform Act.
- Border states have insufficient resources to address adequately the problem of criminal aliens.
- Many districts reported a need for enhanced computer database resources to track violent criminals and organizations.
- In the Eastern District of Tennessee, crowded court dockets have caused ATF to reduce by 50% its referral of firearms cases for federal prosecution. In other districts, Triggerlock is impacted by scarce ATF resources.
- A significant impediment to the effective implementation of Triggerlock in Puerto Rico has been the absence of a local database to provide criminal history information at

the time of an arrest involving a firearm.

Lack of Juvenile Facilities

- With the level of juvenile violence increasing in Indian country, South Dakota and Idaho note that the lack of federal juvenile detention facilities hampers their ability to address the problem adequately.

- In the Western District of Washington, the lack of federal juvenile facilities impedes the effort to prosecute the increasing number of juvenile illegal aliens in the district who are committing drug-related violent crimes.

- There also is a desire for the ability to communicate juvenile criminal history information more easily within a state and between states.

Need for Legislation

A number of districts cited state law provisions that impact on the ability of state and local prosecutors to address violent crime effectively. In some instances, state law provisions impede federal law enforcement. In Montana, for instance, the state civil rights restoration provision has diminished the ability of the U.S. Attorney to prosecute felons in possession of firearms to the degree that 18 U.S.C. 922(g) "is no longer effective in Montana as a tool to minimize violent crime by keeping firearms out of the hands of known criminals."

The input of the districts on these and other issues provides a sharper focus on issues affecting and affected by Department policy. As strategies evolve and additional issues assume importance to the initiative, communication from the field is essential to the sharing of information and the resolution of common concerns.

**PUB. L. 103-
COMMUNITY DEVELOPMENT, CREDIT ENHANCEMENT AND
REGULATORY IMPROVEMENT ACT OF 1994**

Effective September 23, 1994

TITLE IV--MONEY LAUNDERING SUPPRESSION ACT OF 1994

For questions concerning these recently enacted money laundering provisions, call Jeff Ross, Deputy Chief, Money Laundering Section, or Kim Wherry, Trial Attorney, Money Laundering Section, at 202/514-1758.

Section 402 - Reform of Currency Transaction Report (CTR) Exemption Requirements to Reduce Number and Size of Reports Consistent with Effective Law Enforcement.

Requires the Secretary of the Treasury to create a two-tier exemption system (mandatory and discretionary) with respect to CTRs filed by depository institutions. The Secretary of the Treasury is required pursuant to the bill to set as a minimum goal the reduction of the number of CTRs filed by at least 30 percent.

Mandatory Exemptions.

Mandatory exemptions would be designated by the Department of the Treasury ("Treasury") and would include transactions conducted by a depository institution with the following entities: (1) another depository institution; (2) a governmental department or agency, or any political subdivision; or (3) any business where the CTRs have little or no value for law enforcement purposes.

Discretionary Exemptions.

The discretionary exemption list would include transactions between a depository institution and a "qualified business customer" who frequently engages in currency transactions subject to the reporting requirements under the Bank Secrecy Act ("BSA"). The "qualified business customer" would be required to meet certain criteria set out by the Secretary of the Treasury. The Department of Justice anticipates working closely with Treasury to assist them in defining mandatory and discretionary exemptions.

Section 403 - Single Designee for Reporting of Suspicious Transactions.

Requires the Secretary of the Treasury to streamline suspicious transaction reports by designating a single government

officer or agency to receive suspicious transaction reports and to coordinate the distribution of those reports to appropriate law enforcement or supervisory agencies.

Section 404 - Improvement of Identification of Money Laundering Schemes.

Requires the Office of the Comptroller of the Currency and the Federal Reserve System to establish a pilot program designed to test the feasibility of examiners employed by the agency to identify money laundering schemes involving depository institutions.

Section 405 - Negotiable Instruments Drawn on Foreign Banks Subject to Recordkeeping and Reporting Requirements.

Expands, subject to the promulgation of new regulations to be issued by the Secretary of the Treasury, the definition of Title 31 § 5312 monetary instruments issued by foreign financial institutions. This provision provides, pursuant to the promulgation of new regulations, that checks, drafts, notes and other similar instruments which are drawn on a foreign financial institution and are not in bearer form are to be included for purposes of triggering the filing of a Currency and Monetary Instruments Reporting Form.

Section 406 - Imposition of Civil Money Penalties by Appropriate Federal Banking Agencies.

Requires the Secretary of the Treasury to delegate authority to assess civil money penalties on depository institutions under the BSA.

Sections 407 - Uniform State Licensing and Regulation of Check Cashing, Currency Exchange, and Money Transmitting Businesses.

Expresses the sense of the Congress that states should develop and adopt uniform laws to license and regulate money transmitting businesses which provide check cashing, currency exchange, money transmitting or remittance services, or issue or redeem money orders, traveler's checks, and other similar instruments.

Section 408 - Registration of Money Transmitting Businesses to Promote Effective Law Enforcement.

Subject to regulations to be promulgated by the Secretary of the Treasury, this section creates a new BSA provision, codified at 31 U.S.C. § 5330, requiring any person who owns or controls a money transmitting business to register such business with the Secretary of the Treasury, regardless of state business licensing requirements. Existing businesses must register within 180 days after the statute's enactment, and new businesses within 180 days

from establishment. Knowing violations of Treasury's regulatory requirements are punishable under 18 U.S.C. § 1960 (b)(1). Treasury must promulgate regulations instructing the businesses how to register, and Treasury further must maintain a list of agents of the businesses.

Sections 409 - Uniform Federal Regulation of Casinos.

Expands the definition of a financial institution subject to BSA reporting requirements to include a gaming establishment with an annual gaming revenue of more than \$1,000,000 and Indian gaming operations. As a result of this provision, Indian gaming operations would be subject to CTR reporting requirements, instead of reporting under Section 6050I of the Internal Revenue Code.

Section 410 - Authority to Grant Exemptions to States with Effective Regulation and Enforcement.

Gives the Secretary of the Treasury⁺ the authority to except from the BSA reporting requirements casinos which are under substantially similar state casino regulation.

Section 411 - Criminal and Civil Penalty for Structuring Domestic and International Transactions.

This provision legislatively overturns the adverse Supreme Court decision in United States v. Ratzlaf, 114 S. Ct. 655 (1994) by creating a new criminal penalties section for structuring cases under 31 U.S.C. § 5324. Punishment under 31 U.S.C. § 5322 for structuring cases is no longer applicable.

The Ratzlaf decision held that in order to prove a willfull violation of the anti-smurfing statute (31 U.S.C. § 5324(3))¹, the "jury had to find [the defendant] knew the structuring in which he was engaged was illegal." Ratzlaf v. United States, 114 S. Ct. at 663. In issuing this opinion, the court directly affected the prior rulings in every other circuit but one which had held that the use of the term "willfully" in 31 U.S.C. § 5322, Criminal Penalties, required the United States to prove only two elements in a 31 U.S.C. § 5324(3) case, that the defendant was aware of the financial institution's CTR reporting requirement, and that he/she took actions to avoid that result.

The new criminal penalty section for structuring eliminates the term "willfully" and adds an enhanced penalty for structuring amounts in excess of \$100,000 during a one year period. The equivalent of this change was also made in the civil penalty

¹For violations committed before October 27, 1992. Offenses committed after that date would be charged under 31 U.S.C. § 5324(a)(3).

provision under 31 U.S.C. § 5321 by striking the term "willfully" from the statute. Consistent with this legislation, the United States should again be able to establish a violation of 31 U.S.C. § 5324 by proving that the defendant was aware of the financial institution's obligation to file a CTR, and that he/she took steps to avoid the report being filed.

Section 412 - Cashier's Checks Study.

Requires the Secretary of the Treasury to study the extent to which cashier's checks are vulnerable to money laundering schemes and the extent to which additional recordkeeping requirements should be imposed on financial institutions which issue cashier's checks.

Section 413 - Technical Amendments and Corrections.

This section provides a number of technical amendments and corrections, the most important of which are listed below:

--redesignates money laundering conspiracies to be charged under 18 U.S.C. § 1956(h), rather than 1956(g). Note that this amendment duplicates the amendment made in Title XXXIII, Section 330019 of the Violent Crime Control and Law Enforcement Act signed into law on September 13, 1994. As a result of this provision, necessitated by the erroneous duplicate (g) designations in the 1992 Annunzio-Wylie Anti-Money Laundering Act, all money laundering conspiracy cases indicted after the above date, which otherwise would have been indicted under the former 1956(g), should be charged as 1956(h) conspiracies;

--provides the correct predicate for food stamp fraud to read Section 15 of the Food Stamp Act of 1977. (This section is codified at 7 U.S.C. § 2024). Note that this amendment duplicates the amendment made in Title XXXIII, Section 330019 of the Violent Crime Control and Law Enforcement Act which was signed into law on September 13, 1994;

--adds to the civil penalty provision of 18 U.S.C. § 1956(b), a violation of the money laundering sting provision, 18 U.S.C. § 1956(a)(3). Note that cases brought against a business entity under 18 U.S.C. § 1956(b) require prior consultation with the Money Laundering Section pursuant to USAM 9-105.000.

U. S. Department of Justice
Criminal Division

Office of the Assistant Attorney General

Washington, D.C. 20530

October 6, 1994

MEMORANDUM FOR HEADS OF DEPARTMENT COMPONENTS
AND ALL UNITED STATES ATTORNEYS

FROM: Jo Ann Harris *J. Harris*
Assistant Attorney General

SUBJECT: Allegations Against Covered Persons -- Independent
Counsel Act

The Independent Counsel Reauthorization Act of 1994, 28 U.S.C. §§ 591-599, was signed into law by the President on June 30, 1994. The Act, with certain amendments, revives the previous Independent Counsel Act, which lapsed on December 15, 1992. I am writing to remind all attorneys of the procedures that apply to information received concerning current and former executive branch and campaign officials covered under the new law. It is important that all attorneys be aware of the Act because it dictates procedures the Department must follow when the Department receives information suggesting that covered persons may have violated federal criminal law. While the Independent Counsel ramifications of allegations of criminality against well-known covered individuals usually are recognized promptly, the significance of information suggesting minor violations, such as failure to file tax forms when due or erroneous financial disclosure forms, or of information suggesting a violation by a lesser-known but nonetheless covered official, is sometimes overlooked.

All investigations under the Act are conducted by the Public Integrity Section. Due to the special procedures required by the Act, it is imperative that each office review all of its current and new investigations for matters which may fall under the provisions of the new Act. Any allegation concerning a covered person must be brought immediately to the attention of Lee J. Radek, Chief, Public Integrity Section, Post Office Box 27518, Central Station, Washington, D.C. 20038; (202) 514-1412; Fax Number (202) 514-3003.

Pertinent sections of the Act are summarized below. The new Act is not yet codified; for your convenience, a copy of the new amendments, integrated into the reauthorized Act, is attached.

1. Covered Persons Under the Act

Under the Act, the following persons are considered covered persons:

(1) the President and Vice President;

(2) any individual serving in a position listed in 5 U.S.C. § 5312, which includes the Secretary of State, Secretary of the Treasury, Secretary of Defense, Attorney General, Secretary of the Interior, Secretary of Agriculture, Secretary of Commerce, Secretary of Labor, Secretary of Health and Human Services, Secretary of Housing and Urban Development, Secretary of Transportation, United States Trade Representative, Secretary of Energy, Secretary of Education, Secretary of Veteran Affairs, Director of the Office of Management and Budget and Director of National Drug Control Policy;

(3) any individual working in the Executive Office of the President who is compensated at a rate of pay at or above level II of the Executive Schedule under 5 U.S.C. § 5313;

(4) any Assistant Attorney General and any individual working for the Department of Justice who is compensated at a rate of pay at or above level III of the Executive Schedule under 5 U.S.C. § 5314;

(5) the Director and Deputy Director of Central Intelligence, and the Commissioner of Internal Revenue;

(6) the chairman and the treasurer of the principal national campaign committee seeking the election or reelection of the President, and any officer of that committee exercising authority at the national level during the incumbency of the President; and

(7) any individual who held an office or position described in paragraph (1), (2), (3), (4), or (5) for 1 year after leaving the office or position.

Thus, in addition to current officials in covered positions, the Act reaches former covered officials for one year after they leave office. Certain national campaign officers are covered as well. The list of covered persons is constantly changing; the Federal Bureau of Investigation maintains an updated list of covered persons, and the FBI or the Public Integrity Section should be consulted if you have any doubt as to whether an individual is subject to the Act.

A person also may come within the scope of the Act if the Attorney General determines that an investigation or prosecution of that person by the Department of Justice may result in a personal, financial, or political conflict of interest. 28 U.S.C. § 591(c). Furthermore, a Member of Congress may come within the scope of the Act if the Attorney General determines that utilization of the procedures of the Act would be in the public interest.

2. Procedures Under the Act

Once allegations against a covered person are received by the Department of Justice, the Public Integrity Section handles the subsequent analysis, and if necessary, investigation, and prepares a recommendation to the Attorney General. The Act specifies that after receiving information of a potential violation of federal criminal law other than a Class B or C misdemeanor by a covered person, the Attorney General must determine whether the information is specific and from a credible source, and if so initiate a preliminary investigation. This determination must be made no later than 30 days after the information is first received. If the Attorney General determines that the information is not specific or is not from a credible source, then the matter can be closed. If she cannot so determine, or if she determines that the information is credible and specific, the Attorney General must initiate what the Act calls a preliminary investigation, and must promptly notify a special Division of the United States Court of Appeals for the District of Columbia Circuit that such an investigation has been initiated. The purpose of the preliminary investigation, not to exceed 90 days, is to determine whether there are reasonable grounds to believe that further investigation is warranted. In conducting a preliminary investigation, the Department has no authority to convene a grand jury, plea bargain, grant immunity or issue subpoenas. 28 U.S.C. § 592(a)(2).

In the event that an independent counsel is appointed following a preliminary investigation, the Act requires the Department to suspend all investigations and proceedings into matters within the jurisdiction of the independent counsel, except to the extent the independent counsel agrees the Department may continue to work on such matters. 28 U.S.C. § 597(a). Moreover, the Department must accommodate requests from an independent counsel for assistance, such as access to

4

records within his jurisdiction and the use of resources and personnel necessary to the performance of his duties. 28 U.S.C. § 594(d).

As noted above, these special mandatory procedures make it imperative that each office review its current and new investigations for matters which may fall under the provisions of the new Act. Any allegation concerning a covered person must be brought immediately to the attention of Lee J. Radek, Chief, Public Integrity Section, at the address and telephone number provided.

Attachment



U.S. Department of Justice
Federal Bureau of Investigation

Washington, D.C. 20535

August 18, 1994

MEMORANDUM TO ALL SPECIAL AGENTS IN CHARGE

RE: CLAIMING CIVIL ACCOMPLISHMENTS ON THE FD-515

It has become apparent that civil remedies are increasingly utilized by federal courts as punishment for individuals and corporate entities in cases originating as, or paralleling criminal matters. Although this is particularly true in White-Collar Crime cases, civil remedies have been realized across program lines. Currently, an Agent may expend a significant amount of time and effort in pursuing a criminal matter, only to have civil remedies administered as punishment. As it currently exists, Agents have no means of claiming accomplishments in these situations.

In order to correct this shortcoming, the FD-515 is being amended to reflect credit for civil accomplishments. This will include civil forfeitures, restitution and pre-filing settlements realized due to investigative efforts by the Agent. The current form only captures accomplishments relating to Civil/RICO matters and limits these to fines. The revised FD-515 will include a category for "Other Civil Matters" and will also contain a place for filling in the appropriate amount of the claimed accomplishment. This accomplishment may be claimed if the FBI's investigative efforts significantly contributed to the successful civil recovery.

Manual changes are forthcoming.

Louis J. Freeh
Director

8-18-94
MEMORANDUM 21-94



Office of the Attorney General
Washington, D. C. 20530

October 11, 1994

MEMORANDUM FOR ALL DEPARTMENT OF JUSTICE EMPLOYEES

FROM: THE ATTORNEY GENERAL *[Signature]*
SUBJECT: Restrictions on Political Activities

As employees of the Department of Justice, we have been entrusted with the authority to enforce the laws of the United States, and with the responsibility to do so in a neutral and impartial manner. For the public to retain its confidence that we are adhering to our responsibility, we must ensure that politics -- both in fact and appearance -- does not compromise the integrity of our work.

Congress has recently amended the Hatch Act, 5 U.S.C. 7321-7326, to remove certain restrictions on political participation by most government employees. All Department of Justice employees, however, must continue to take care that their activities do not compromise the integrity of the Department in enforcing the law, or create a conflict or apparent conflict of interest with the neutral and impartial administration of justice.

Specific statutory restrictions on political participation applicable to all employees are set forth in Part I of the attachment to this memorandum.

In addition, under the new law, certain Justice Department employees continue to be subject to greater statutory restrictions, similar to those imposed by the pre-1994 law. These employees include career members of the Senior Executive Service (SES), and employees of the Criminal Division and Federal Bureau of Investigation (FBI). The additional restrictions applicable to these employees are set forth in Part II of the attachment.

Finally, although the additional restrictions of Part II cannot be imposed on career employees other than those specified in the previous paragraph, they can be imposed on political appointees. Under authority delegated by the President, I have determined as a policy matter that the Department should continue its practice of imposing these kinds of additional restrictions on its political appointees. The need to ensure the appearance and reality of the neutral enforcement of the law requires that our appointees be subject to the additional restrictions set forth in Part II. These restrictions, therefore, also will apply

to all Presidential appointees, Senate-confirmed Presidential appointees, non-career members of the SES, and Schedule C appointees.

The specific restrictions that apply to each category of Department of Justice employees are detailed in the attachment, which was prepared by the Office of Legal Counsel and the Department's Designated Agency Ethics Official. Please contact your component's ethics official for advice on applying these restrictions to particular cases.

**I. Restrictions Applicable to
All Department of Justice Employees**

As noted above, all Department employees must take care that their activities do not compromise the integrity of the Department in enforcing the law, or create a conflict or apparent conflict of interest with the neutral and impartial administration of justice. To ensure these goals, Department employees may not:

- A. use their official authority or influence to interfere with or affect the result of an election, 5 U.S.C. 7323(a)(1);
- B. solicit, accept or receive a political contribution, 5 U.S.C. 7323(a)(2);¹ solicit, accept, or receive uncompensated volunteer services from an individual who is a subordinate, 5 CFR 734.303(d); or allow their official titles to be used in connection with fundraising activities, 5 CFR 734.303(c);
- C. run for nomination or election to public office in a partisan election, 5 U.S.C. 7323(a)(3);²
- D. solicit or discourage the political activity of any person who is a participant in any matter before the Department, 5 U.S.C. 7323(a)(4);
- E. engage in political activity (to include wearing political buttons), while on duty, while in a government occupied office or building, while wearing an official uniform or insignia, or while using a government vehicle, 5 U.S.C. 7324(a); or
- F. make a political contribution to their employer or employing authority, 18 U.S.C. 603.

¹The only statutory exception is for soliciting, accepting or receiving a political contribution to a multi-candidate political committee from a fellow member of a federal labor organization or certain other employee organizations, as long as the solicited employee is not a subordinate and the activity does not violate E infra.

²In certain designated communities, including Washington, D.C. and its suburbs, an employee may run for office in a local partisan election but only as an independent candidate and may receive, but not solicit, contributions. 5 U.S.C. 7325.

**II. Additional Restrictions Applicable to
All Career SES, Criminal Division and FBI Employees; and to
All Presidential, Senate-Confirmed Presidential, Non-Career SES
and Schedule C Appointees**

Under the new law, members of the career SES, and employees of the Criminal Division and FBI, remain subject to additional prohibitions similar to those imposed by the prior law against taking an active part in political management or partisan political campaigns. See 5 CFR 734.402-412. Further, under authority delegated by the President, I have determined as a policy matter that these additional prohibitions should also apply to all political appointees.

This means that in addition to the restrictions set forth in Part I above, these individuals may not do such things as:

- G. distribute fliers printed by a candidate's campaign committee, a political party, or a partisan political group;
- H. serve as an officer of a political party, a member of a national, state, or local committee of a political party, an officer or member of a committee of a partisan political group, or be a candidate for any of these positions;
- I. organize or reorganize a political party organization or partisan political group;
- J. serve as a delegate, alternate, or proxy to a political party convention;
- K. address a convention, caucus, rally, or similar gathering of a political party or partisan political group in support of or in opposition to a candidate for partisan political office or political party office, if such address is done in concert with such a candidate, political party, or partisan political group;
- L. organize, sell tickets to, promote, or actively participate in a fundraising activity of a candidate for partisan political office or of a political party or partisan political group;

- M. canvass for votes in support of or in opposition to a candidate for partisan political office or a candidate for political party office, if such canvassing is done in concert with such a candidate, political party, or partisan political group;
- N. endorse or oppose a candidate for partisan political office or a candidate for political party office in a political advertisement, broadcast, campaign literature, or similar material if such endorsement or opposition is done in concert with such a candidate, political party, or partisan political group;
- O. initiate or circulate a partisan nominating petition;
- P. act as recorder, watcher, challenger, or similar officer at polling places in consultation or coordination with a political party, partisan political group, or a candidate for partisan political office; or
- Q. drive voters to polling places in consultation or coordination with a political party, partisan political group, or a candidate for partisan political office.

Legal Education Institute
 600 E Street, NW
 Room 7600
 Washington, D.C. 20530

Telephone: (202) 616-6700

FAX: (202) 616-6476
 (202) 616-6477

LEI COURSE CONTACT:

Return Mailing Address: Must be typed and fit into the box below

	LEI USE ONLY	
	ACCEPTED	NOT SELECTED

C O U R S E	Course Name	Course Date(s)	Course Location
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N O M I N E E	Name	Title
	Office, Agency, or Department	Phone Number

Q U E S T I O N N A I R E	<p>1. Has the nominee applied for this course in the past and not been selected?</p> <p style="text-align: center;">Yes No (please circle) If yes, how many times?</p>
	2. What percentage of nominee's work involves the subject(s) of the course?
	3. Indicate the level of skill or knowledge nominee has in this area:
	Novice Intermediate Advanced (please circle)
	4. How many years has the nominee worked in this area?
	5. What training/prerequisite courses has the nominee had in this area?
	6. If necessary, please indicate any special considerations:

S U P E R V I S O R	Name	Title
	Phone Number	Order of Preference of this Nominee
	Number of Nominees Submitted	