



# United States Attorneys' Bulletin

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changes to:

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## ATTORNEY GENERAL HIGHLIGHTS

### UNITED STATES ATTORNEYS' CONFERENCE

On April 10 through 14, 1995, Attorney General Janet Reno, Deputy Attorney General Jamie S. Gorelick, and other Department officials attended the United States Attorneys' National Conference in San Antonio, Texas. The focus of the Conference was management issues.

#### Town Hall Meeting

The Attorney General's Town Hall meeting was the highlight of the conference. The United States Attorneys met with Attorney General Janet Reno and voiced their concerns, some of which follow:

- streamlining the personnel process;
- detailing Department attorneys to the field, and AUSAs to Main Justice;
- having the Attorney General visit their offices and attend press events in the field;
- simplifying the Weed and Seed application process;
- streamlining the area of health care fraud including resources, enforcement, and compliance;
- evaluating our Border resources;
- focusing on bankruptcy fraud;
- studying jurisdictional and sovereignty issues concerning Native Americans;
- addressing County Supremacy concerns;
- developing a protocol for Crisis Management;
- handling OPR issues; and
- encouraging joint training with the investigative agencies.

Referring to the United States Attorneys as the face of justice in this nation, Ms. Gorelick thanked them for their contributions to the Anti-Violent Crime Initiative. The Anti-Violent Crime Initiative presents a true picture of how our law enforcement communities are pulling together without arguing over turf. Ms. Gorelick noted how proud she was of this effort.

Ms. Gorelick reported on some of the issues the United States Attorneys together with the Department have successfully resolved, such as:

- An increase in the United States Attorneys' settlement authority to \$1 million to settle civil cases.

- Resolution of the shared credit issue.
- Issuance of a regulation on contact with represented persons – United States Attorneys are living by a narrow rule which honors their responsibility.
- Opposition to a proposed change to Rule 16 of the Federal Rules of Criminal Procedure. United States Attorneys must now work with their judges to ensure compliance with the Department's position.
- Delegation of disciplinary authority to the United States Attorneys to issue reprimands. United States Attorneys will soon be granted more authority to give awards.

The Deputy Attorney General asked for the United States Attorneys' assistance in the following areas:

- Advising the Executive Office for National Security when there may be implications of national security concerns in a case.
- Encouraging Assistant United States Attorneys to participate in local and State Bar activities.
- Strengthening District Debt Collection and ACE Programs.
- Encouraging the referral of antitrust cases to the Assistant Attorney General, Antitrust Division.
- Working with the Environment and Natural Resources Division on the Department's Environmental Justice Initiative.
- Participating with the IRS and the Tax Division on a new tax initiative which focuses on legal source income.
- Working with the Department to further reduce the number of prior approvals which are contained in the *United States Attorneys' Manual*.
- Developing a Youth Violence Initiative.
- Strengthening the Department's Asset Forfeiture Program.

On the management side, Ms. Gorelick complimented the Attorney General on the creation of the Office of Investigative Policy and the FBI's redeployment of 600 FBI agents to the field.

On the horizon, she discussed the area of reinvention and asked for the United States Attorneys' support as they try out ideas. She advised that United States Attorneys will be given the tools to handle delicate personnel matters, and that they would be given a case management system that will enable them to better track their cases.

### Special Presentations

Special presentations at the Conference included:

- Goals and Initiatives of the Attorney General's Advisory Committee by Michael R. Stiles, United States Attorney, Eastern District of Pennsylvania;
- Initiatives and Goals of the Executive Office for United States Attorneys, by Carol DiBattiste, Director, Executive Office for United States Attorneys (EOUSA);
- Open Discussion, Facilitator Lynne Battaglia, Vice Chair Attorney General's Advisory Committee, United States Attorney, District of Maryland;
- Security of Our Offices, by Randy Rathbun, Chair, Security Working Group, United States Attorney, District of Kansas and Russ Dedrick, First Assistant United States Attorney, Eastern District of Tennessee;
- The Roles of the Office of the Inspector General and the Office of Professional Responsibility, by Mike Bromwich, Inspector General, and Mike Shaheen, Counsel, Office of Professional Responsibility;
- Personnel Matters: A Report on the Progress to Streamline the Processes, by Carol DiBattiste, Director, EOUSA;
- Initiatives in Technology, by Kent Alexander, Chair, Computer Working Group, United States Attorney, Northern District of Georgia.

Special presentations were also given by Stephen Chitwood, J.D., Ph.D. Professor of Public Administration, George Washington University, on motivation; and by Herbert Cohen, Performance Management, Inc., Power Negotiations Institute, Washington, D.C., on negotiations.

### Breakout Sessions by EOUSA

EOUSA presented the following breakout sessions: Adverse Actions, Grievances, and Performance Management; Litigation Support, Case Management, and Video Teleconferencing Demonstrations; Handling of EEO Complaints, and Prevention of Sexual Harassment; and Discussions with the Office of Professional Responsibility and the Inspector General.

\* \* \* \* \*

### INCREASED SETTLEMENT AUTHORITY FOR UNITED STATES ATTORNEYS IN CIVIL MATTERS

Effective April 6, 1995, Attorney General Janet Reno and Assistant Attorney General Frank W. Hunger, Civil Division, increased United States Attorneys' settlement authority in civil matters from \$500,000 to \$1,000,000. The Attorney General signed an Order to revise the United States Code of Federal Regulations (CFR) to increase the United States Attorneys' authority to settle matters and cases to \$1,000,000, and the Assistant Attorney General for the Civil Division signed a revised Civil Division Directive to reflect this change. The *United States Attorney's Manual* will be revised to reflect these changes in the CFR. If you would like a copy of the policy memorandum, please call the *United States Attorneys' Bulletin* staff, (202)514-3572.

### ANTI-VIOLENT CRIME INITIATIVE

On March 27, 1995, Attorney General Janet Reno reported to President Clinton on the success of the Anti-Violent Crime Initiative. The Administration kicked off its Anti-Violent Crime Initiative in March 1994, with a teleconference in which President Clinton and the Attorney General called upon United States Attorneys and other Federal law enforcement officials to work with key community leaders to develop coordinated strategies and address the most serious kinds of violent crimes in their Districts.

The Attorney General announced that United States Attorneys will receive \$15 million for 145 separate anti-violence projects, and that 72 United States Attorneys' offices will use these funds to work with State and local law enforcement agencies to investigate and prosecute violent and drug trafficking crimes in their communities.

Ms. Reno noted that between March 1 and December 31, 1994, as part of the initiative, United States Attorneys filed 5,270 criminal cases against 7,109 violent and repeat offenders.

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

\* \* \* \* \*

### CRIME BILL FUNDING

On March 21, 1995, President Clinton announced grants to all 50 states totaling \$26 million that will help communities fund shelters for women and crisis centers, hire prosecutors, and pay for rape crisis therapists, victim's advocates, and domestic violence hotlines. Each state can receive up to \$426,000 to add law enforcement, prosecutors, and victims' services that address violence against women. Depending on how the grants are used, the \$26 million could provide more than 100 crisis centers serving 40,000 victims a year; 400 new prosecutors to specialized domestic violence or sexual assault units; 400 rape crisis therapists and victim advocates; nearly 600 volunteer coordinators to help run domestic violence hotlines; or states can also use STOP funds for important discretionary items like lighting for unsafe streets, parks, and paths.

\* \* \* \* \*

### ATTORNEY GENERAL OPPOSES CRIME CONTROL TRUST FUND CUTS

Attorney General Janet Reno and police representatives sharply attacked Congressional proposals to cut the Crime Control Trust Fund by \$5 billion – a cut of one-sixth from the total that Congress promised police and the American people in last year's Crime Bill. On March 16, 1995, the House Budget Committee voted to cut discretionary spending by \$500 billion over five years. The Trust Fund was established last year to pay for the costs of implementing the Crime Bill over six years. It is paid for by cuts in the Federal Government.

### NEW VIOLENCE AGAINST WOMEN OFFICE

On March 27, 1995, Bonnie Campbell, former Iowa Attorney General, was named by Attorney General Janet Reno to serve as Director of the Office of Violence Against Women of the Office of Justice Programs, Department of Justice. Ms. Campbell will oversee efforts to combine tough new Federal criminal laws with assistance to states and localities to fight violence against women.

\* \* \* \* \*

### NEW SEXUAL OFFENDER POLICY

On April 7, 1995, Attorney General Janet Reno signed Federal guidelines that should lead to laws in all 50 states requiring sexual offenders and child molesters to register with the authorities. The proposed guidelines implement the 1994 Crime Bill's Jacob Wetterling Act, which encourages states to require convicted child molesters and sexually violent offenders to notify law enforcement of their whereabouts for 10 years after they are released, or longer if they are adjudicated as "sexually violent predators." States that do not comply could forfeit up to 10 percent of their annual Byrne Grant anti-crime grants. The guidelines provide minimum national standards and will help State law enforcement agencies communicate with each other regarding sex offenders who cross State lines. If you have questions, please call the Office of Violence Against Women, (202)307-6026.

\* \* \* \* \*

### ALTERNATIVE DISPUTE RESOLUTION PROGRAM

On April 6, 1995, Attorney General Janet Reno signed an order establishing an Alternative Dispute Resolution (ADR) program in the Department of Justice. The program will make the Department more efficient in handling the 170,000 civil justice matters it is involved in each year. A copy is attached as **Appendix A**.

ADR is an alternative to litigation to resolve legal disputes through the use of arbitration, mediation, mini-trials and early neutral evaluation, among other methods. ADR mechanisms have been employed successfully by the Army Corps of Engineers, Army Materiel Command, the Environmental Protection Agency, and the Federal Deposit Insurance Corporation. National Performance Review recommendations call for agencies to make greater use of ADR in resolving disputes.

Each Department component will develop criteria to identify cases suitable for ADR. Congress will be asked to create a special fund to pay for services of mediators and arbitrators in appropriate cases. Ms. Reno stated that a Senior Counsel will be appointed to head the program and the Government would, in the future, agree to be bound by arbitration rulings in appropriate cases. Ms. Reno also announced that she has authorized the delegation of authority to each United States Attorney to settle civil suits up to \$1 million. Previously such settlement authority was capped at \$500,000.

**AG SIGNS ASSET SHARING AGREEMENT WITH CANADIAN GOVERNMENT**

On March 22, 1995, in Ottawa, Canada, a sharing agreement was signed by Attorney General Janet Reno, on behalf of the United States, and the Minister of Justice and Attorney General of Canada, the Honorable Allan Rock, on behalf of the Government of Canada. The agreement will allow for a mutual sharing of crime forfeiture proceeds when the two countries participate in the investigation of an enterprise crime or drug case.

\* \* \* \* \*

**FREEDOM OF ACCESS TO CLINIC ENTRANCES ACT (FACE)**

On March 23, 1995, Attorney General Janet Reno issued a memorandum to all United States Attorneys concerning the enforcement of the Freedom of Access to Clinic Entrances Act (FACE). A copy is attached as **Appendix B**.

Ms. Reno stated that it is imperative that the United States Attorneys report all abortion clinic-related violence, threats, and obstruction to the Task Force on Violence Against Abortion Providers. The Task Force may have information about targets or witnesses that may assist in devising investigative steps and in conducting interviews. She also requested that the United States Attorneys and the Civil Rights Division communicate closely when deciding whether to proceed in such cases, and during the development and litigation of these cases. The points of contact are:

<u>Criminal Division</u>	Tom Burrows	Telephone: (202)307-3200
<u>Civil Rights Division</u>		
Criminal matters	Barry Kowalski	Telephone: (202)514-4067
Civil matters	Mellie Nelson	Telephone: (202)514-6221

\* \* \* \* \*

**ATTORNEY GENERAL TESTIFIES ON IMMIGRATION ISSUES**

On March 14, 1995, Attorney General Janet Reno and Commissioner Doris Meissner of the Immigration and Naturalization Service testified before the Subcommittee on Immigration of the Senate Judiciary Committee on proposals to reduce illegal immigration and to control costs to taxpayers. Ms. Reno stated that both proposals are priorities of the Administration. If you would like a copy of Ms. Reno's testimony, please contact the *United States Attorneys' Bulletin* staff, (202)514-3572.

## **\$10 MILLION RESTORED FOR DRUG COURT PROGRAM**

In a unanimous consent vote on March 30, 1995, the Senate moved in bipartisan fashion to restore \$10 million in funding this fiscal year for the drug court program included in the Crime Bill. This will enable cities to set up specialized courts to help break the link between substance abuse and criminal activity. The Attorney General praised the United States Senate for their efforts, and also commended Senators Joseph Biden (D-Del.) and Ernest Hollings (D-S.C.) for their outstanding leadership. The 1994 Crime Bill provided \$1 billion in funding for drug courts, but the House of Representatives voted in February to defund the program after this fiscal year. In March, the House voted to eliminate this year's \$28 million in Federal drug court funding.

\* \* \* \* \*

## **D.C. DRUG COURT**

On March 15, 1995, Attorney General Janet Reno and Director Lee Brown of the Office of National Drug Control Policy visited a D.C. drug court as prosecutors, police, and former drug addicts explained how drug courts can help drug criminals through an intensive, coerced abstinence treatment program and return them to society clean and sober. The D.C. drug court is acknowledged as one of the Nation's most innovative. The event featured several participants who have successfully completed the program.

\* \* \* \* \*

## **OFFICIALLY RECOGNIZED WEED AND SEED SITES**

On April 5, 1995, Deputy Attorney General Jamie Gorelick announced that 14 sites have developed local, comprehensive strategies for "weeding out" violent crime, gang activity, drug trafficking and drug use, and for "seeding" neighborhood revitalization. Official Recognized sites will each receive \$35,000 grants to acknowledge this achievement and boost strategy implementation.

The 14 applicants receiving official recognition are:

City of Birmingham, Alabama  
United Way of Fresno County, California  
City of New Britain, Connecticut  
City of Fort Myers, Florida  
City of Gainesville, Florida  
City of Orlando, Florida  
Polk County Board of Commissioners, Florida

Volusia County, Florida  
Northwest Austin Council, Illinois  
Grand Rapids, Michigan  
City of Akron, Ohio  
City of Lima, Ohio  
Oklahoma City, Oklahoma  
City of Corpus Christi, Texas

**UNITED STATES ATTORNEYS' OFFICES****COMMENDATIONS**

The following **Assistant United States Attorneys** received commendations:

**M. Kent Anderson** and Paralegal Specialist **Sheila Hendrix** (Tennessee, Eastern District), by Lester J. West, Director, Debt Management Center, Department of Housing and Urban Development, Albany, for their professionalism and legal skill in the successful resolution of a complex bankruptcy matter.

**Dan Bach** (Wisconsin, Western District), by Gail M. Groleau, Assistant Vice-President, Operations, AnchorBank, Madison, for his success in obtaining the conviction of a bank employee on four counts of misapplication of bank funds.

**Jimmie Baxter** (Tennessee, Eastern District), by Virgil L. Young, Jr., Special Agent in Charge, FBI, Knoxville, for obtaining the conviction of a former commercial loan bank officer for misapplying bank funds, and the bank officer's father for aiding and abetting the bank fraud scheme.

**Leland E. Beck** (Ohio, Northern District), by L. J. Klaus, Manager, Operations Support Group, U.S. Postal Inspection Service, Bala Cynwyd, for his valuable assistance and expeditious response to an Inspector General subpoena challenge in a recent Postal Service case.

**Barbara Bisno** (Florida, Southern District), by Lt. Col. James A. Connell, Acting District Engineer, and Bill Baxter, Office of Counsel, Jacksonville District Corps of Engineers, Department of the Army, for her professional skill in successfully resolving a Clean Water Act case in which fill material was unlawfully placed in five acres of freshwater wetlands on Big Pine Key, Florida.

**Carolyn J. Bloch** (Pennsylvania, Western District), by S. B. Billbrough, Special Agent in Charge, Drug Enforcement Administration, Philadelphia, for her outstanding efforts in the prosecution of a series of physician/pharmacy violators in the Pittsburgh metropolitan area.

**Roy Blondeau** and **Alan Burrow** (Florida, Northern District), by K. Sue Meyer, District Counsel, Department of Veterans Affairs, Bay Pines, for their success in obtaining the dismissal of a case involving allegations of negligence against the VA Medical Center in Gainesville.

**Carlton R. Bourne, James L. Coursey, Joseph D. Newman, Frederick W. Kramer, and Paralegal Assistant and Grand Jury Clerk Cheyney Johnston** (Georgia, Southern District), by Ben C. DeVane, Resident Agent in Charge, U.S. Customs Service, Savannah, for their outstanding assistance and support in a marijuana smuggling/distribution operation which resulted in the indictment of 20 individuals, 11 arrests, and 10 convictions.

**Robert S. Cessar** (Pennsylvania, Western District), by Christian H. Stickan, Deputy Chief, Economic Crimes Unit, United States Attorney's Office, Cleveland, for his prompt response to a request for assistance following the arrest of two individuals on bank fraud charges in the Western District of Pennsylvania.

**Randy Chartash** (Georgia, Northern District), by Ray A. Shaddick, Special Agent in Charge, U.S. Secret Service, Atlanta, for his successful prosecution of a complex credit card fraud case.

**Patrick J. Chesley** (Illinois, Central District), by Eugene L. Carlson, Chief, Criminal Investigation Division, Internal Revenue Service, Springfield, for his success in obtaining the convictions of several individuals involved in illegal gambling.

**Julie Copeland and Tom Roche** (New York, Eastern District), by L. A. Wansley, Managing Director, Corporate Security, American Airlines, Dallas/Fort Worth Airport, Texas, for their successful efforts in obtaining indictments of four individuals who established travel agencies with the expressed intent of selling large blocks of discounted tickets, then closing the agencies without paying for the tickets.

**David Cortes** (North Carolina, Eastern District), by Lawrence A. Bonney, Supervisory Special Agent, FBI, Charlotte, for his success in obtaining a jury conviction of an individual in a bank robbery case.

**Robert K. Coulter** (Virginia, Eastern District), by Martin Jefferson Davis, Senior Trial Attorney, Office of Thrift Supervision, Department of the Treasury, Washington, D.C., for his valuable assistance and cooperative efforts in the successful resolution of a bankruptcy matter that surfaced in the course of a savings association investigation.

**Teresa J. Davenport** (Florida, Southern District), by Thomas M. Walsh, Assistant General Counsel, Regulatory Division, Department of Agriculture, Washington, D.C., for her successful efforts in a forfeiture and torts claim action involving over 1,000 orchids imported from Peru, a violation of the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

**Terry Derden** (District of Idaho), by Henry L. Solano, United States Attorney, District of Colorado, for his excellent presentation on criminal and civil forfeiture at the in-house asset forfeiture conference held recently in Denver. Also, by P. M. Renzulli, Special Agent in Charge, Office of Criminal Investigations, Food and Drug Administration, Rockville, Maryland, for his valuable instruction on settlements and plea agreements in forfeiture cases at their first national asset forfeiture training program.

**Faith Devine and Christine Ewell** (California, Central District), by Robert W. Russell, Senior Counsel, Criminal Unit, Federal Deposit Insurance Corporation, Washington D.C., for their valuable contribution to the success of the Fourth Annual Fraud and Enforcement Training Conference held in Atlanta.

**Anita Eve** (Pennsylvania, Eastern District), by Jon E. Novak, Regional Inspector General for Investigations, Department of Agriculture, Riverdale, Maryland, for providing valuable assistance and in executing an arrest warrant for a food stamp trafficker.

**J. Benedict Garcia and Ken Fimberg** (District of Colorado), received a Certificate of Appreciation from Dennis F. Hoffman, Chief Counsel, Drug Enforcement Administration (DEA), Washington, D.C., for his prompt assistance and guidance in responding to a subpoena served on a DEA Diversion investigator to appear at a hearing on short notice.

**John J. Gaupp and Lyman E. Thornton III** (Louisiana, Middle District), by Michael Joel Bloom, Director, Federal Trade Commission (FTC), New York, for their valuable assistance and guidance to the FTC and its attorney staff in a securities fraud case before the U.S. District Court and the Fifth Circuit Court of Appeals.

**Wayne Gross, Jean Kawahara, and Stephen Wolfe** (California, Central District), by Thomas M. Keeled, Special Agent in Charge, Office of Criminal Investigations, Food and Drug Administration, San Diego, for their outstanding assistance and support during the investigation of a case involving the manufacture, sale, and distribution of counterfeit Similac infant formula.

**Christine Hamilton** (North Carolina, Eastern District), by Judge Malcolm J. Howard, U.S. District Court, Greenville, for her success in the prosecution of a multi-defendant drug conspiracy case involving continuing criminal enterprises and murder.

**Brenda Hinckson** (New York, Eastern District), by Thomas R. Hoffman, Office of the General Counsel, Department of Health and Human Services (HHS), Washington, D.C., for her enforcement efforts in recovering a debt owed by a physician to HHS.

**Mary Houghton, Robert S. Cessar, and Stephen R. Kaufman** (Pennsylvania, Western District), by Daniel E. Mayer, Special Agent in Charge, U.S. Secret Service, Pittsburgh, for their participation and instruction at a recent Asset Forfeiture Training Class for Secretary Service personnel.

**Sharon M. Jackson** (Indiana, Southern District), by Louis J. Freeh, Director, FBI, Washington, D.C., for her successful prosecution of three individuals involved in an embezzlement scheme.

**W. Ronald Jennings, United States Attorney, and Susan Via** (District of Virgin Islands), by Roy D. Nedrow, Director, Naval Criminal Investigative Service, Department of the Navy, Washington, D.C., for their assistance and support during the joint investigation of an individual who pled guilty to the slaying of a Navy Lieutenant and wounding of two other U.S. servicemen.

**Jeffrey W. Johnson** (California, Central District), by Charlie J. Parsons, Special Agent in Charge, FBI, Los Angeles, for his efforts and successful resolution of three drug cases. Also, for his presentation on gang enterprise investigations at the Safe Streets Gang Seminar held recently in Los Angeles.

**Dennis M. Kennedy** (Virginia, Eastern District), by Dr. Francis P. McManamon, Departmental Consulting Archeologist, National Park Service, Department of the Interior, Washington, D.C., for the successful prosecution nationally of a trafficking case involving archeological resources and Native American human remains in violation of the Native American Graves Protection and Repatriation Act, 18 U.S.C. 1170(a).

**Dexter Lee** (Florida, Southern District), by Rear Admiral W. P. Leahy, Commander, Seventh Coast Guard District, U.S. Coast Guard, Miami, for his outstanding representation and support in multiple lawsuits filed to block or impede migrant alien interdiction operations since the fall of 1991.

**D. Michael Littlefield** (Oklahoma, Eastern District), by Floyd W. Ratliff, Jr., Supervisory Special Agent, FBI, Oklahoma City, for his successful prosecution of several individuals responsible for the failure of First State Bank of Seminole.

**Michael Magner** (Louisiana, Eastern District), by Ronald J. Caffrey, Special Agent in Charge, Drug Enforcement Administration, Metairie, for his efforts in the successful prosecution of several members of the "Scorpions," a violent Vietnamese street gang.

**Christina McKee** (Indiana, Southern District), by Louis J. Freeh, Director, FBI, Washington, D.C., for her efforts in a fraud case involving individuals from the Directorate for Retired Military and Annuitant Section of the Defense Finance and Accounting Service.

**Emily McKillip** (Pennsylvania, Eastern District), by Bruce R. Chambers, Postal Inspector in Charge, U.S. Postal Inspection Service, Philadelphia; for successfully prosecuting a postal clerk in a complex mail theft case.

**Timothy M. Morrison** (Indiana, Southern District), by Stephen J. Thomas, Supervisory Special Agent, FBI, Indianapolis, for his efforts in bringing a complex computer crime case to a successful conclusion.

**Dixie Morrow** (Georgia, Middle District), by Major Gregory E. Pavlik, Chief Circuit Trial Counsel, Air Force Legal Services Agency, Travis Air Force Base, California, for her presentations on pretrial preparation, cross examination, demonstrative evidence, and direct examination at the 1995 Western Circuit Trial Counsel Workshop.

**Michael W. Mosman** (District of Oregon), by Leroy M. Teitsworth, Special Agent in Charge, FBI, Portland, for his efforts in successfully resolving a child abuse case which occurred on an Indian Reservation.

**Patrick T. Noonan** (Pennsylvania, Western District), by William E. Perry, Special Agent in Charge, FBI, Pittsburgh, for his professionalism and legal skill in obtaining the conviction of a drug trafficker on numerous violations of Title 21, which represented a significant milestone for the Organized Crime Drug Enforcement Task Force in Johnstown.

**Steve Parker** (Tennessee, Western District), by Richard L. Garner, Special Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Brentwood, for his successful prosecution of an arsonist responsible for the Regis Tower tragedy in which two fire fighters lost their lives.

**William G. Pharo** (District of Colorado), was presented a Certificate of Appreciation by Dennis F. Hoffman, Chief Counsel, Drug Enforcement Administration, Washington, D.C., for his valuable assistance to the Pueblo County Sheriff who was subpoenaed to produce documents which would have impeded law enforcement activities on a nationwide basis.

**Joseph A. Plummer and Janis C. Gordon** (Georgia, Northern District), by Louis J. Freeh, Director, FBI, Washington, D.C., for their contributions to a successful FBI/IRS investigation which dismantled a major cocaine-trafficking organization in the Northern District of Georgia.

**Richard Pomeroy** (District of Alaska), by Gary J. Thorgeson, Assistant Regional Counsel, Office of General Counsel, Department of Health and Human Services, Seattle, for his success in obtaining a favorable decision in a Federal Tort Claims Act case.

**Scott Ray** (Florida, Southern District), by K. J. Hunter, Chief Postal Inspector, U.S. Postal Service, Washington, D.C., for his presentation on the Asset Forfeiture Program at the Atlanta Division Basic Asset Forfeiture Training Course for Postal Inspectors and agents.

**Rudolf A. Renfer, Jr.** (North Carolina, Eastern District), by James G. Deignan, Acting Resident-in-Charge, Drug Enforcement Administration, Greensboro, for his valuable assistance and support in bringing a lengthy investigation of a major drug store chain to a successful conclusion.

**Sara R. Robinson** (California, Central District), by Captain M. M. Oudekerk, USN Commander, Defense Contract Management Command, Defense Logistics Agency, Van Nuys, for her representation of the Department of Defense, and for bringing an equal employment opportunity case to a successful conclusion.

**Lynn Rosenthal** (Florida, Southern District), by Jorge E. Picon, Senior Resident Agent, Fish and Wildlife Service, Division of Law Enforcement, Department of the Interior, Miami, for her professionalism and legal skill in the prosecution of a Lacey Act case in which a pet dealership sold cougars in several states in violation of state laws.

**Barry M. Sabin** (Florida, Southern District), by Steven G. Keenley, Manager, Investigations Division, Federal Aviation Administration (FAA), Washington, D.C., for his successful prosecution of four defendants involved in aircraft registration fraud.

**Eugene A. Seidel** (Alabama, Southern District), by Nicholas J. Walsh, Special Agent in Charge, FBI, Mobile, for his representation and professional legal support of FBI agents in various suits filed against them.

**Eric W. Sitarchuk and John N. Joseph** (Pennsylvania, Eastern District), by Raisa Otero-Cesario, Assistant Inspector General for Investigations, Department of Transportation, Washington, D.C., for their successful resolution of a contract fraud case involving a Federally funded highway project.

**Michael Stein** (West Virginia, Northern District), by Richard F. Healing, Director, Safety and Survivability, Office of the Secretary, Department of the Navy, Washington, D.C., for his excellent representation and successful prosecution of a case involving the construction and delivery of substandard life boats to the Navy.

**Sandra E. Strippoli** (Georgia, Northern District), by Richard C. Fox, Special Agent in Charge, Bureau of Alcohol, Tobacco and Firearms, Atlanta, for her successful prosecution of two career criminals involved in the gun theft of over 600 firearms and other criminal activity in the Northern District of Georgia.

**James Swain** (Florida, Southern District), by Suzanne M. Warner, Assistant Director for Asset Forfeiture, Executive Office for United States Attorneys, for his major contribution to the success of the In-House Criminal Asset Forfeiture Training Seminar held in St. Thomas, Virgin Islands.

**Shaun Sweeney** (Pennsylvania, Western District), by Michael J. Fisher, Field Operations Supervisor, Border Patrol Tactical Unit, Immigration and Naturalization Service, El Paso, for his valuable assistance and guidance on various immigration issues while on a special assignment in Washington, D.C.

**Holly Sydlow-Taft** (Ohio, Northern District), by Donald M. Robiner, United States Trustee, Ohio/Michigan Region 9, Cleveland, for her professional skill in successfully resolving a case involving alleged violations of Federal, statutory, and constitutional rights.

**Russell Vineyard** (Georgia, Northern District), by Donald R. Kronenberger, Jr., Regional Attorney, Office of General Counsel, Department of Agriculture, Atlanta, for his outstanding legal skill in obtaining a Court decision in favor of the Forest Service and its judicial review of Forest plans.

**Seth Weber and Special Assistant United States Attorney Frederick A. Tecce** (Pennsylvania, Eastern District), by Todd J. Zinser, Deputy Assistant Inspector General for Investigations, Department of Transportation, Washington, D.C., for their trial skills in obtaining guilty pleas from eight co-conspirators who violated Federal Aviation Administration regulations.

**J. Gaston Williams** (North Carolina, Eastern District), by Lawrence A. Bonney, Supervisory Special Agent, FBI, Charlotte, for his success in obtaining a conviction in a bank robbery case involving the Southern National Bank in Spring Lake, North Carolina.

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## HONORS AND AWARDS

### Mary Jo White Recipient of Magnificent Seven Award

Mary Jo White, United States Attorney for the Southern District of New York, was honored by the National Federation of Business and Professional Women of America as one of its outstanding women of achievement for 1995. Ms. White was presented the prestigious Magnificent Seven award by Representative Nita M. Lowey (NY).

The Magnificent Seven Awards are given to those individuals and companies who are leading advocates for women in the workplace and, who through their professional accomplishments as trailblazers in their chosen fields, have demonstrated their leadership and commitment to equity in the workplace.

Other 1995 recipients were Shiela Jackson Lee, U.S. Representative from Texas; Kathleen Matthews, Host and Executive Director of the TV show "Working Woman" and co-anchor of WJLA-TV's (Washington, D.C.) 5 p.m. news; Elaine L. Chao, President and Chief Executive Officer of the United Way of America; Dee Dee Myers, former Press Secretary to President Clinton; Irene Natividad, Executive Director of the Philippine American Foundation and Chair of the National Commission on Working Women; Shella Raviv, President and Chief Executive Officer for Burson-Marstelle, Washington; and the firm of Deloitte and Touche LLP.

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### Crime Victims' Fund Awards

On April 26, 1995, at a ceremony commemorating National Crime Victims' Rights Week, Attorney General Janet Reno honored the following Federal employees for their outstanding efforts to improve debt collection and increase deposits into the Crime Victims' Fund:

Middle District of Alabama  
Marsha Tunnell, Debt Collection Agent,  
Financial Litigation Unit

Middle District of Georgia  
Bernard Snell,  
Assistant United States Attorney  
Becky Sanders, Paralegal Specialist  
Mary Weber, Financial Litigation Agent

District of Hawaii  
Marshall H. Silverberg,  
Assistant United States Attorney

Western District of Washington  
Eugene F. Kolbe,  
Supervising United States Probation  
Officer

Lei Castillo, Paralegal Specialist

Federal Correctional Institution,  
Florence, Colorado  
Charles R. Gilkey, Associate Warden  
Richard Engel, Case Manager  
Delia Rios, Case Manager

**SIGNIFICANT ISSUES/EVENTS****Relocations of United States Attorneys' Offices**

The following are new addresses, telephone, and fax numbers for United States Attorney's offices that have recently relocated:

United States Attorney's Office  
Western District of Texas  
700 E. San Antonio Street  
El Paso, Texas 79901  
(915)534-6884  
Fax: (915)534-6891

United States Attorney's Office  
Northern District of Illinois  
308 W. State Street, Suite 300  
Rockford, Illinois 61101  
(815)987-4277  
Fax: (815)987-4236

United States Attorney's Office  
Western District of Pennsylvania  
100 State Street  
Erie, Pennsylvania 16501  
(814)452-1906  
Fax: (814)452-1906

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**Divisional Office in Rock Island, Illinois  
Central District of Illinois and Southern District of Iowa**

The United States Attorney's Offices for the Central District of Illinois and the Southern District of Iowa have opened a divisional office in Rock Island, Illinois. The office has one Assistant United States Attorney from each District and each Assistant United States Attorney has been designated as a Special Assistant United States Attorney for the opposite District. This configuration will enable the Department of Justice to provide better service to the growing Quad Cities area (Davenport, Bettendorf, Rock Island, and Moline). The address, telephone, and fax numbers are 1830 Second Avenue, Suite 320, Rock Island, Illinois 61201; telephone (309)793-5884; and fax (309)793-5895.

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**New Branch Office  
Western District of Virginia**

The Western District of Virginia recently added a branch office in Charlottesville, Virginia. The address, telephone, and fax numbers are 225 W. Main Street, Suite 104, Charlottesville, Virginia 24210; telephone (804)293-4283; and fax (804)293-4910.

**Border Research Technology Center  
Southern District of California**

On March 17, 1995, representatives of Federal, State, and local government announced the establishment of a Border Research Technology Center (BRTC) in San Diego, to identify, develop, demonstrate, and evaluate law enforcement technologies directed at improving border access without sacrificing border integrity. The BRTC mission includes advising law enforcement agencies of the availability and feasibility of technologies, coordinating fast-paced research and development, and addressing legal and societal implications of technologies under consideration. Two new technologies at the Center include an INS identification system based on facial recognition technology and a new technology that disables vehicles. The BRTC will be run by a consortium of the Department of Justice, the Office of National Drug Control Policy, and the Treasury Department.

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**United States Attorney's Office Collects \$7.4 Million in FY 1994  
District of Montana**

United States Attorney Sherry Scheel Matteucci of the District of Montana announced that the Financial Litigation Unit and Asset Forfeiture Unit collected \$7.4 million during the fiscal year ending September 30, 1994. This amount includes payments from defaulted Government loans, asset forfeiture, Government over payment, civil penalties, foreclosure actions, bankruptcy claims, criminal fines, restitution, and assessments. Monies collected on civil debts are used by the collecting agencies or given to the United States Treasury. Criminal fines and assessments are deposited in the Crime Victim Fund to aid victims of crime. Seized criminal assets are given to the Asset Forfeiture Unit and shared with state and local law enforcement agencies to enhance law enforcement efforts.

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**Equitable Sharing Presentation  
Southern District of Iowa**

United States Attorney Don C. Nickerson of the Southern District of Iowa, and the District Director of the Internal Revenue Service presented checks totalling \$262,051.23 to the Polk County Sheriff's office, the Des Moines Police Department, and other local law enforcement agencies, which represents the second round of forfeitures to the Government stemming from the convictions of two owners and operators of a drug paraphernalia store in Des Moines, and seizure of several million dollars in assets, from U.S. vs. Posters N'Things, Ltd. This case produced the first jury trial in the United States in which the Drug Paraphernalia Act was the primary charge. Because it was the first of its kind, the case was appealed to the United States Supreme Court where it was affirmed in May 1994. Assistant United States Attorneys Lester Paff and Kevin VanderSchel prosecuted this case.

**SIGNIFICANT CASES****Company Pleads Guilty to Environmental Crimes  
District of Alaska**

On March 6, 1995, Ketchikan Pulp Company agreed to pay \$3 million in fines for dumping harmful sludge and wastewater into Alaska's Ward Cove for three years. The waters near the plant have been classified as "impaired" by the Environment Protection Agency because of the adverse cumulative effect from waste discharges, including solids, toxic chemicals, alkaline substances, and oxygen-depleting materials that deprived the cove of its potential as a marine habitat.

AUSA Tim Burgess, District of Alaska  
Charles DeMonaco, ECS  
Rick Filkins, ECS

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**Forfeiture Verdict of Over \$7 Million  
Southern District of California**

After the conviction of Ophthalmologist Jeffrey Rutgard in mid-March on 132 counts of mail fraud, money laundering, false claims, and false statements in a Medicare fraud case, the jury forfeited \$7,564,441.22 which the defendant had moved to offshore accounts one week after the Government executed search warrants at his home and offices. In the midst of the trial, the Court granted the Government's motion to have the money repatriated. The defendants' motion for an emergency stay was denied and the money is available for seizure now that the forfeiture verdict has been returned.

AUSA Mary C. Lundberg  
AUSA Stephen P. Clark  
AUSA George D. Hardy  
AUSA Carol C. Lam

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**Indictment for Bribery of Public Official  
Eastern District of California**

On March 22, 1995, a Federal grand jury returned a 9-count indictment charging an Inglewood resident with bribery of a public official. The indictment alleges that John J. Willis paid an INS clerk more than \$29,000 for various INS documents, including work permits and green cards, over a five-month period.

AUSA Christopher A. Nuechterlein  
SAUSA George Z. Toscas

**Drug Executive Convicted of Perjury  
District of Columbia**

On March 10, 1995, Jeffrey M. Levine of Woodcliff Lake, New Jersey, was sentenced in U.S. District Court to 18 months imprisonment and fined \$40,000 following his November 8, 1994 conviction for perjury and false statements. Levine was one of several corporate executives who participated in a scheme to pay Food and Drug Administration (FDA) chemists to obtain preferential treatment for generic drug products. Levine conspired with other executives to conceal their involvement both from the FDA and from the United States Attorney's office in the District of Maryland, which had launched a grand jury investigation.

AUSA Christopher B. Mead, District of Maryland  
AUSA William J. Birney, District of Columbia

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**Violation of Freedom of Access to Clinic Entrances Act (FACE)  
Southern District of Florida**

On March 15, 1995, a one-count information was filed charging two Palm Beach County men with violating the Freedom of Access to Clinic Entrances Act (FACE). The information alleges that the defendants chained themselves to the front door of the Aware Women Medical Clinic in Lake Clark Shores for over four hours, chanting and calling clinic workers "assassins." They were eventually removed by fire rescue personnel.

AUSA Michael McAuliffe

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**Unauthorized Access to Consumer Credit Files  
Northern District of Georgia**

On March 30, 1995, an information was filed charging that Ted Wayne Viator obtained information contained in the computer files of a consumer reporting agency without authorization and under false pretenses. The criminal information charges that on September 26, 1994, the defendant provided an "Opposition Research Report" containing personal information, including a credit history on Curt Thompson, the Democratic candidate for the 78th House District in Georgia. Access to the credit file was through Georgia Recovery, Inc., a "skip-tracing" and automobile repossession business, a licensed subscriber of a credit information service. The credit information service did not authorize access to the credit file of Mr. Thompson.

AUSA Randy S. Chartash

**Penitentiary Inmate Threatens the President  
Southern District of Illinois**

On March 28, 1995, Rodney Curtis Hamrick, an inmate at the U.S. Penitentiary in Marion, Illinois, was arraigned on an 8-count indictment, two of which pertained to making threats on the life of the President. Two other counts related to his mailing a device to a Special Assistant United States Attorney which purported to be a mail bomb. Other counts related to his possession of contraband in the penitentiary and mailing bomb threats. As a result of his threatening letters, the Federal buildings in Cleveland and Cincinnati were vacated and searched in January. Hamrick has previous convictions for threatening the President and a U.S. District Court Judge, along with mailing a destructive device to the United States Attorney for the District of West Virginia. He also has a conviction for manufacturing four destructive devices in a Federal penitentiary.

AUSA Joel V. Merkel

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**Permanent Injunction Under Freedom of Access to Clinic Entrances Act  
Western District of Missouri**

On March 22, 1995, a Federal Court in Kansas City, Missouri issued the first permanent injunction under the Freedom of Access to Clinic Entrances Act (FACE) against a Kansas City woman, Regina Rene Dinwiddie. The injunction prohibits her from using force or threats to intimidate or interfere with the staff and clients of any clinic, and from coming within 500 feet of the entrance of any clinic in the country, except for the purpose of engaging in legitimate personal activity. Last month, the Justice Department obtained a preliminary injunction against her pending a hearing on the request for the permanent injunction.

AUSA Alleen Castellani

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**Defense Contract Fraud  
Eastern District of New York**

On March 10, 1995, Hughes-Treitler Manufacturing Corporation, its President and CEO, of Garden City, New York, pleaded guilty to falsifying the costs they incurred on various defense contracts, and agreed to pay \$7.5 million to the United States Government in fines and civil penalties. According to the charges, the defendants fraudulently increased the number of work hours charged to various defense-related contracts by altering time cards and utilizing a computer program to transfer hours from other jobs to the defense-related contracts. They then used this fraudulent information, which they certified as true and accurate, to negotiate new contracts with the United States Government, prime contractors, and other subcontractors holding defense contracts. On the basis of this false information, the defendants were able to secure higher contract prices than the actual work hour statistics would have supported.

AUSA Peter J. Romano and  
AUSA Charles S. Kleinberg

**Bogus "Who's Who" Directories  
Eastern District of New York**

On March 30, 1995, 29 people were arrested for participating in a \$22 million mail and wire fraud scheme involving the operation of a bogus "Who's Who" publishing company in Lake Success and Manhattan, New York. Since July 1989, Bruce W. Gordon directed a large-scale telemarketing operation, employing dozens of managers and salespeople who used high-pressure sales techniques and made false and fraudulent statements to induce unsuspecting customers into paying up to \$1,400 each for various items commemorating their inclusion in Gordon's purported organization and its "Who's Who" directories.

AUSA Ronald G White  
AUSA Seth L. Marvin

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**Consent Judgment Filed Between U.S. and the Teamsters' Union  
Eastern District of New York**

On March 23, 1995, a Consent Judgment was filed in Federal District Court between the United States and Local 282 of the International Brotherhood of Teamsters (IBT), representing approximately 3,500 truck drivers and transporters of building materials and other necessary equipment to New York City and Long Island. Under the terms of the Consent Judgment, a Federal judge will appoint two court officers with broad investigative and disciplinary powers to monitor the operations of Local 282. The Consent Judgment is a partial resolution of a civil RICO complaint filed by the Government in June 1994 against Local 282, its Executive Board, and five former local officials. The complaint alleges a pattern of racketeering activity, including extortion and accepting illegal payments, by employers in return for labor peace and the relaxation or non-enforcement of terms of collective bargaining agreements. According to the complaint, for more than 25 years Local 282 has been infiltrated and controlled by the Gambino Organized Crime Family. The Consent Judgment is aimed at eliminating the influence of organized crime and corruption over Local 282 while preserving the Local's authority to serve as the collective bargaining representative of its membership.

AUSA Jody Kasten  
AUSA Stephen J. Riegel

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**Investment Banking Services Fraud  
Eastern District of New York**

On March 23, 1995, the President and CEO of Caserta Group, an investment banking firm, and nine former employees were indicted on 102 counts of mail and wire fraud. Caserta Group engaged in telephone and mail solicitation to small and medium size companies offering assistance in raising equity financing for high technology, emerging growth companies. During the period 1988 to February 1994, it is alleged that the defendants defrauded hundreds of victim companies of more than \$6 million.

AUSA Sean F. O'Shea

**Heroin Kingpin Extradited from Pakistan  
Eastern District of New York**

The head of one of the largest heroin smuggling organizations in the world, and a high ranking heroin kingpin, both natives of Pakistan, were extradited to the United States from Pakistan. Haji Mirza Mohammed Oqbal Baig was charged in 1992 in a nine-count sealed superseding indictment, charging him with importing heroin and hashish into the United States since March 1983. Mohammed Anwar Khan Khattak was charged with conspiracy to import and distribute hashish in the United States, and transporting narcotics proceeds from the United States.

AUSA Cheryl L. Pollak  
AUSA Jodi Avergun

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**Medicare Fraud Case \$4.9 Million Settlement  
Southern District of Ohio**

The Department of Justice announced on March 20, 1995, that it reached an agreement with Allied Clinical Laboratories to accept \$4.9 million to settle claims that Allied submitted false claims for reimbursement of laboratory tests to the Medicare Program from 1991 through 1994. The case was conducted jointly by the Civil Division of the Department of Justice and the United States Attorney's office for the Southern District of Ohio, as well as a number of other Federal agencies.

AUSA Gerald F. Kaminski  
James E. Ward IV, Civil Division, (202)307-0958

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**Undercover On-Duty Police Officer Murdered  
District of Puerto Rico**

In a four-count indictment, four co-defendants were charged with cocaine possession and distribution, carjacking, and the murder of Ivan Mejia, a local undercover on-duty police officer. It is alleged that the four defendants became suspicious of the police officer while he was investigating an alleged drug distribution point and brutally murdered him.

AUSA Jeanette Mercado-Rios

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**Former INS Inspector Under Arrest  
Southern District of Texas**

On March 15, 1995, a former Immigration and Naturalization Service Inspector was arrested on bribery charges. The indictment alleges that the INS Inspector received at least \$33,000 in exchange for allowing loads of marijuana to cross the border from Reynosa, Mexico, into the United States at Hidalgo, Texas.

AUSA Don DeGabrielle

**Houston Businesswoman Convicted of Fraud  
Southern District of Texas**

On March 23, 1995, a Federal jury convicted Teresa Rodriguez of all 32 counts of wire and mail fraud, and money laundering. Ms. Rodriguez represented herself as a Small Business Administration-certified 8(a) minority contractor and promised guaranteed returns to hundreds of investors of up to 40 percent in approximately 30 days. She used money from investors to pay "profits" to other investors and diverted millions of dollars to finance her lavish life style.

AUSA Larry Eastep

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**Prosecution for Trafficking in Native American Human Remains  
Eastern District of Virginia**

Richard Maniscalco pled guilty to a two-count charge of violating both the Native American Graves Protection and Repatriation Act (NAGPRA; 18 U.S.C. 1170(a)), and the Archaeological Resources Protection Act (ARPA; 16 U.S.C. 470ee). He pled guilty to trafficking in archeological resources and Native American human remains illegally removed from Federal and tribal lands in Montana, after he sold a leg bone of a Cheyenne Indian and various artifacts to an undercover Bureau of Land Management agent.

AUSA Dennis Kennedy

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**Ex-United Way Chief Guilty  
Eastern District of Virginia**

On April 3, 1995, William Aramony, head of United Way of America for 22 years, was convicted of 25 felony counts, including conspiracy, fraud, money laundering, and filing false tax returns. Two former associates were also convicted of conspiring to cheat United Way of hundreds of thousands of dollars.

AUSA Randy Bellows  
AUSA David Barger  
AUSA Gordon Kromberg

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**Bogus Money Order Scheme  
Eastern District of Wisconsin**

On March 8, 1995, a seven-count indictment was returned charging three defendants with operating a nationwide scheme to defraud individuals and financial institutions by distributing bogus money orders. It is alleged that the defendants operated an entity known as "Family Farm Preservation," which mailed over 900 instructional packets nationwide, including bogus money orders and instructions on how to pay off debts.

AUSA Stephen J. Liccione

**First Fair Housing Act Suit Against an Insurance Company  
Eastern District of Wisconsin**

In the first Justice Department action against an insurance company under the Federal Fair Housing Act, American Family Mutual Insurance Company has agreed to pay over \$16 million for allegedly providing blacks with inferior policies than those offered to whites and for refusing to insure homes of African Americans in the Milwaukee area. The agreement provides that the company will issue a non-discrimination statement, continue to recruit qualified customers from the State's insurance plan, conduct random testing, no longer exclude homes solely on the basis of the age or sales price of the home, and provide a new custom value policy that will make replacement cost-type coverage more widely available.

AUSA Charles Guadagnino  
AUSA James Santelle  
First AUSA Barbara B. Berman  
Civil Rights Division Attorneys:  
Robert S. Berman  
Susan Barbosa Fisch  
Timothy J. Moran  
Paul F. Hancock

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**\$11 Million in Government Commodities Destroyed  
Western District of Wisconsin**

Crown Equipment Corporation (Crown) and their insurers have agreed to the entry of a judgment against them and in favor of the United States in the amount of \$10,688,133.99. The United States alleged that Crown negligently designed and manufactured a defective forklift which resulted in the forklift igniting at Central Storage & Warehouse Company, Inc., Madison. The fire destroyed commodities totalling approximately \$11 million dollars. In addition to recovering for the lost commodities, the parties agreed that the Government was entitled to recover \$200,000 for reimbursement of its clean-up expenses.

AUSA Mark A. Carnell  
AUSA Leslie K. Herje

## EXECUTIVE OFFICE FOR UNITED STATES ATTORNEYS

### EOUSA STAFF CHANGES

**Sandra Bower**, Assistant United States Attorney for the Middle District of Florida, has joined the Legal Counsel's Office of EOUSA and is serving on a detail.

**Dixie Morrow**, Assistant United States Attorney for the Middle District of Georgia, will be joining the staff of the Office of Legal Education as an Assistant Director for Criminal Programs on May 4, 1995, on a detail. She will be replacing Amy Lederer, Assistant United States Attorney from the District of Connecticut, who will continue on her detail assisting Iden Martyn, Deputy Director for Programs.

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### NATIONAL ADVOCACY CENTER

The National Advocacy Center (NAC) will be located on the campus of the University of South Carolina in Columbia, and is scheduled to begin construction in 1996. The Executive Office for United States Attorneys and the National District Attorneys Association (NDAA) employees will take occupancy in late 1997. Approximately one-third of the NAC staff will be employees of NDAA, and about 20 percent of the course participants will be assistant district attorneys. The Center will be an intergovernmental training facility for public sector attorneys from all levels of Government.

The first courses are scheduled to be offered in March 1998, and most will be one or two-week courses. EOUSA is encouraging all of their expert teams of Assistant Directors, Program Managers, and support staff to consider transferring to the new office in Columbia in 1997.

The NAC will be oriented to the business traveler, with 260 guest rooms, food service, a student lounge, and a fitness facility. The Center will be equipped with classrooms designed to simulate Federal courtrooms, a video production studio, 12 breakout or case study rooms, three lecture halls, a large subdividable lecture hall, a computer laboratory, instructors' offices, and a print shop. Please call Dick DeHaan, EOUSA, Project Manager of the National Advocacy Center, (202)616-6772, for further information.

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### PROCEDURES FOR HANDLING MONETARY RECOVERIES

On March 22, 1995, Carol DiBattiste, Director, Executive Office for United States Attorneys (EOUSA), forwarded to all United States Attorneys a memorandum and New Cash Deposit Instructions issued by Stephen R. Colgate, Assistant Attorney General for Administration, concerning the allocation of credit in cases shared between United States Attorneys' offices and the Litigating divisions of the Department of Justice. Attorney General Janet Reno directed that the allocation of credit for all monetary recoveries should be by District, whether a litigation division attorney or an Assistant United States Attorney handles the litigation. In order to implement the Attorney General's directive, Mr. Colgate has established new procedures for handling monetary recoveries. A copy of Mr. Colgate's memo is attached as **Appendix C**. Please contact Iden Martyn, EOUSA, Deputy Director of Programs, for further information.

**DETAILING DEPARTMENT EMPLOYEES OUTSIDE DOJ**

On March 23, 1995, Deputy Attorney General Jamie S. Gorelick issued supplemental guidance concerning procedures for detailing Department employees to other agencies or departments outside the Department of Justice. A previous memorandum on this subject was issued by Carol DiBattiste, EOUSA Director, on February 3, 1995. In an effort to coordinate and track future details, Ms. Gorelick has requested that a memorandum signed by the component head be submitted to the Justice Management Division, setting forth the employee's name and the reason for the proposed detail. EOUSA will process all United States Attorneys' offices' requests for approval to detail. A copy of Ms. Gorelick's memorandum is attached as **Appendix D**. Please call Susan Eastwood, (202)514-4295, for additional information.

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**PERSONAL COMPUTER UPGRADE**

In Fiscal Year 1994, EOUSA upgraded 4,750 model 286 personal computers (PCs) in the United States Attorneys' offices. Late in Fiscal Year 1994, upgrade of the remaining 6,500 model 386 PCs was ordered, and installation began in October 1995. These upgrades enable United States Attorneys' office personnel to use software enhancements that were not accessible from the older machines. By the end of February 1995, 2,621 of the 6,500 PC upgrades were installed in 35 Districts. Another 2,197 are scheduled through the end of April, and all installations should be completed by early July. A reduction in the cost of the upgrades has enabled EOUSA to acquire sufficient PCs for the recently allocated Affirmative Civil Enforcement positions.

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**CASE MANAGEMENT CODES LIST**

The Case Management Staff has mailed a revised Case Management Codes List to all United States Attorneys. This is the first major revision of the Codes list in more than ten years. New civil causes of action, criminal program categories, designations, dispositions, disposition reasons, litigating responsibilities, and defendant status codes were added to the system. Some obsolete codes were deleted and other code changes reflect current caseload information. Please contact Eileen Menton, (202)616-6919, for further information.

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**FREEDOM OF INFORMATION ACT REQUESTS**

The EOUSA Freedom of Information/Privacy Act staff is responsible for responding to Freedom of Information Act (FOIA) requests for the Offices of the United States Attorneys and EOUSA. Please refer all requests to EOUSA, Assistant Director of Information and Privacy C. Madison Brewer, (202)616-6757. The FOIA Staff will work with assistants in resolving release of information issues, and the staff is available for consultation about all aspects of FOIA and privacy.

### PREMIUM CLASS TRAVEL

Carol DiBattiste, Director, EOUSA, issued a reminder to all United States Attorneys and Ethics Advisors that it is the general policy of the Government that only coach class (i.e., less than premium class) accommodations may be authorized with limited exceptions, such as employee disability or physical impairment, security reasons, or if no other accommodations are available. The Government now will permit employees to upgrade to premium class provided there is no cost to the Government, and the upgrade is not offered because of an employee's official position. Employees may pay for upgrades out of their own personal funds or may use personal frequent flyer miles. The redemption of frequent flyer miles earned while on Government travel represents a potential cost to the Government and, therefore, may not be used.

**Appendix E** is a memorandum dated February 24, 1995, prepared by Assistant Attorney General for Administration Stephen R. Colgate, clarifying the policy on the authorization and use of premium class travel. If you have any questions, please call Donna Henneman, Ethics Program Manager, Legal Counsel's Office, EOUSA, (202)514-4024.

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### TELECOMMUNICATIONS AND TECHNOLOGY DEVELOPMENT STAFF

The Telecommunications and Technology Development (TTD) staff is receiving inquiries from other Government agencies concerning the results of the Video Teleconferencing (VTC) Pilot conducted among seven United States Attorneys' offices and the VTC Lab in the Bicentennial Building. The most recent visit was by the VTC Director of the Office of Personnel Management. Another inquiry and request for information included the Chief Judge of the U.S. Court of Appeals for the Southern District of New York. Please contact Harvey Press, TTD Staff, (202)616-6439, for further information.

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### OFFICE OF LEGAL EDUCATION

James A. Hurd, Jr., Director, Office of Legal Education (OLE), is pleased to announce OLE's projected course offerings for the months of May through September 1995 for the **Attorney General's Advocacy Institute (AGAI)** and the **Legal Education Institute (LEI)**. A list of the AGAI and LEI courses is on the following pages.

#### AGAI

AGAI provides legal education programs to Assistant United States Attorneys (AUSAs) and attorneys assigned to Department of Justice (DOJ) divisions. Courses listed on the following page are tentative; however, OLE sends Email announcements to all United States Attorneys' offices (USAOs) and DOJ divisions approximately eight weeks prior to the courses.

LEI

LEI provides legal education programs to all Executive Branch attorneys, paralegals, and support personnel. LEI also offers courses designed specifically for paralegal and support personnel from USAOs (indicated by an \*). Approximately eight weeks prior to each course, OLE sends Email announcements to all USAOs and DOJ divisions requesting nominations for each course. Nominations are to be returned to OLE via FAX, and then student selections are made. OLE funds all costs for paralegals and support staff personnel from USAOs who attend LEI courses.

Other LEI courses offered for all Executive Branch attorneys (except AUSAs), paralegals, and support personnel are officially announced via mailings to Federal departments, agencies, and USAOs every four months. Nomination forms are available in your Administrative Office or attached as Appendix F. They must be received by OLE at least 30 days prior to the commencement of each course. 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 that 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 \*).

Office of Legal Education Contact Information

Address: Bicentennial Building, Room 7600 Telephone: (202)616-6700  
600 E Street, N.W. FAX: (202)616-7487  
Washington, D.C. 20530

Director ..... James A. Hurd, AUSA, Virgin Islands  
Deputy Director ..... David W. Downs  
Assistant Director (AGAI-Criminal) ..... Dixie Morrow, AUSA, MDGA  
Assistant Director (AGAI-Criminal) ..... Angel Moreno, AUSA, SDTX  
Assistant Director (AGAI-Civil and Appellate) ..... Tom Majors, AUSA, WDOK  
Assistant Director (AGAI-Asset Forfeiture and  
Financial Litigation ..... Kathy Stark, AUSA, SDFL  
Assistant Director (LEI) ..... Donna Preston  
Assistant Director (LEI) ..... Janet Craig, AUSA, SDTX  
Assistant Director (LEI-Paralegal and Support) ..... Donna Kennedy

## AGAI COURSES

<b>May 1995</b>		
<u>Date</u>	<u>Course</u>	<u>Participants</u>
1-5	Appellate Advocacy	AUSAs, DOJ Attorneys
2-5	Capital Litigation in the Federal Courts	AUSAs, DOJ Attorneys
9-12	Complex Prosecutions	AUSAs, DOJ Attorneys
16-19	Environmental Crimes	AUSAs, DOJ Attorneys
22-25	Asset Forfeiture Federal Practice	AUSAs, DOJ Attorneys
24-26	Prison Litigation	AUSAs, DOJ Attorneys
<b>June 1995</b>		
5-9	Advanced Civil Trial	AUSAs, DOJ Attorneys
6-8	Advanced Bankruptcy	AUSAs, DOJ Attorneys
6-9	Advanced Narcotics	AUSAs, DOJ Attorneys
12-20	Criminal Trial Advocacy	AUSAs, DOJ Attorneys
13-15	Affirmative Civil Enforcement	AUSAs, DOJ Attorneys
19-23	Criminal Federal Practice	AUSAs, DOJ Attorneys
20-22	Ninth Circuit Asset Forfeiture Component	AUSAs, DOJ Attorneys
27-30	Public Corruption	AUSAs, DOJ Attorneys
<b>July 1995</b>		
11-14	Violent Crime	AUSAs, DOJ Attorneys
17-21	Advanced Criminal Trial	AUSAs, DOJ Attorneys
18-20	Second Circuit Asset Forfeiture Component	AUSAs, DOJ Attorneys
18-21	Advanced Evidence (Civil)	AUSAs, DOJ Attorneys
24-29	Asset Forfeiture Advocacy	AUSAs, DOJ Attorneys
25-28	Complex Prosecutions	AUSAs, DOJ Attorneys
31-8/4	Advanced Civil Trial	AUSAs, DOJ Attorneys
<b>August 1995</b>		
1-3	Evaluator Training	Attorneys, Support Staff
1-4	Evidence for Experienced Litigators	AUSAs, DOJ Attorneys
7-15	Criminal Trial Advocacy	AUSAs, DOJ Attorneys
9-11	Attorney Supervisors	AUSAs
15-17	Alternative Dispute Resolution	AUSAs, DOJ Attorneys
16-18	Criminal Chiefs (Large)	USAO Criminal Chiefs
21-9/1	Civil Trial Advocacy	AUSAs, DOJ Attorneys
22-24	Third Circuit Asset Forfeiture Component	AUSAs, DOJ Attorneys
23-25	Criminal Chiefs (Small and Medium)	USAO Criminal Chiefs
29-31	First Assistant United States Attorneys	USAO First Assistants
<b>September 1995</b>		
6-8	Civil Rights	AUSAs, DOJ Attorneys
7-8	ARPA - Asset Forfeiture	AUSAs, DOJ Attorneys
12-15	Civil Federal Practice	AUSAs, DOJ Attorneys
11-19	Criminal Trial Advocacy	AUSAs, DOJ Attorneys
19-22	Basic Employment Discrimination	AUSAs
26-29	Basic Asset Forfeiture	AUSAs, DOJ Attorneys

## LEI COURSES

<u>Date</u>	<u>Course</u>	<u>Participants</u>
<b>May 1995</b>		
8-10	Law of Federal Employment	Attorneys
8-12	Research and Writing Refresher for Paralegals	Paralegals
11	Freedom of Information Act Forum	Attorneys, Paralegals
16-18	Negotiation Skills	Attorneys
22	Ethics for Litigators	Attorneys
25	Computer Assisted Legal Research	Attorneys, Paralegals
31/6/2	Natural Resources	Attorneys
<b>June 1995</b>		
1-2	Agency Civil Practice	Attorneys
5	Statutes and Legislative Histories	Attorneys, Paralegals
6-7	Freedom of Information Act for Attorneys and Access Professionals	Attorneys, Paralegals
8	Privacy Act	Attorneys, Paralegals
6-8	Advanced Bankruptcy	Attorneys
12-16	Civil Paralegal *	USAO Paralegals
20-22	Discovery	Attorneys
23	Advanced Freedom of Information Act	Attorneys, Paralegals
27	Legal Writing	Attorneys
28-30	USA Secretaries Seminar	USA Secretaries
28-30	Attorney Supervisors	Attorneys
<b>July 1995</b>		
6-7	Alternative Dispute Resolution	Attorneys
10-14	Basic Paralegal (USAOs) *	USAO Paralegals
11-12	Federal Acquisition Regulations	Attorneys
12-13	Freedom of Information Act for Attorneys and Access Professionals	Attorneys, Paralegals
14	Privacy Act	Attorneys, Paralegals
21	Legal Writing	Attorneys
24	Ethics and Professional Conduct	Attorneys
24-28	Appellate Paralegal *	USAO, DOJ Paralegals
31-8/8	Financial Litigation Paralegal Seminar *	USAO Paralegals
<b>August 1995</b>		
14	Fraud, Debarment and Suspension	Attorneys
14-18	Legal Support Staff *	USAO Paralegals
17-18	Evidence	Attorneys
21-22	Federal Administrative Process	Attorneys
23	Introduction to Freedom of Information Act	Attorneys, Paralegals
28-9/1	Experienced Legal Secretary *	USAO Legal Secretaries
<b>September 1995</b>		
6	Appellate Skills	Attorneys
11	Statutes and Legislative Histories	Attorneys
12-14	Environmental Law	Attorneys
13-15	Attorney Supervisors	Attorneys
13-15	Bankruptcy for Support Staff *	USAO Paralegals
18-22	Basic Paralegal (Agency)	Paralegals
26	Computer Assisted Legal Research	Attorneys, Paralegals
27	Computer Acquisitions	Attorneys, Paralegals
28	Ethics and Professional Conduct	Attorneys
28	Computer Law	Attorneys
29	Legal Writing	Attorneys

**DEPARTMENT OF JUSTICE HIGHLIGHTS****SPECIAL COUNSEL FOR FINANCIAL INSTITUTION FRAUD**

On March 17, 1995, the Department of Justice issued a Financial Litigation Report for Fiscal Year 1994 indicating that new techniques used by the Federal Government to collect fines and debts have led to record collections in the last fiscal year. Payments from civil and criminal defendants totalled nearly \$4 billion, double the previous high, and \$1 billion more than estimated at the close of Fiscal Year 1994.

Examples of the new techniques include a test program called ACE (Affirmative Civil Enforcement) involving United States Attorneys' offices in California, Pennsylvania, and New York, which recovered over \$130 million last year, compared to \$18 million the year before. In another pilot program, a United States Marshals Service Judgment Enforcement Team located 312 of 389 debtors -- a success rate of 81 percent. The report also included the following items:

- A record amount, \$3,877,669, was collected from Federal prison inmates from wages they earned in prison industries.
- Awards to the Civil Rights Division, primarily as the result of employment and housing discrimination cases, reached \$12.5 million, more than ten times the previous year.
- Criminal collection efforts by United States Attorneys' offices and Federal courts resulted in the deposit of \$178.9 million into the Crime Victims Fund, \$34 million more than in Fiscal Year 93.

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

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**OFFICE OF TRIBAL JUSTICE**

On March 22, 1995, Herbert Becker, Director, Office of Tribal Justice, testified before the Committee on Indian Affairs of the United States Senate concerning the Indian Child Protection and Family Violence Prevention Act, which seeks to improve law enforcement investigations and fund crucial services for victimized children and their families. Mr. Becker emphasized that the Act must be reauthorized to fully accomplish the goals of identifying the extent of child abuse and family violence in Indian country, reducing such incidents, and providing funds for mental health treatment for victims of child abuse and family violence. He stated that a good foundation is in place, and that key relationships have been established to ensure effective prosecution and victim services in Indian country. If you would like a copy of Mr. Becker's testimony, please call the *United States Attorneys' Bulletin* staff, (202)514-3572.

**ANTITRUST DIVISION****Licensing of Intellectual Property**

On April 6, 1995, the Department of Justice and the Federal Trade Commission (FTC) jointly issued Antitrust Guidelines for the Licensing of Intellectual Property. The Guidelines address antitrust issues concerning licensing of intellectual property protected by patent, copyright, and trade secret laws, and the licensing of know-how. They supersede the Department's draft guidelines that were published in the *Federal Register* for public comment on August 11, 1994.

The Guidelines clarify the agencies' approach to market definition for technology and innovation markets; provide additional examples illustrating the application of the guidelines; and explicitly recognize that the principles in these guidelines apply equally to international and domestic intellectual property licensing agreements. Copies of the Guidelines may be obtained from the Legal Procedure Unit of the Antitrust Division, (202)514-2481.

\* \* \* \* \*

**Telecommunications Reform Legislation**

On March 23, 1995, the Telecommunications Reform legislation was voted out of the Senate Commerce Committee. This was a significant advance in the effort to guarantee open and competitive telecommunications markets. The Administration is concerned that the legislation approved by the Committee falls short of the steps needed to open local telecommunications markets to real competition. The Administration will work with Congress to assure that this legislation gives consumers choice and low prices in local telephone service, long distance, and cable service.

\* \* \* \* \*

**Case Summary****Stiff Penalty in Plasticware Price Fixing Conspiracy**

The President of Comet Products, Inc., Clement Izzi, of Chelmsford, Massachusetts, was sentenced on March 16, 1995, to 21 months in prison and a fine of \$90,000 for his participation in a nationwide price fixing conspiracy involving major U.S. manufacturers in the \$100 million a year disposable plastic dinnerware industry. Mr. Izzi is the last of seven defendants to be sentenced in connection with this case. (For further details, see *United States Attorneys' Bulletin*, Vol. 42, No. 7, dated July 15, 1994, page 264.)

Attorney: Scott Hammond, (202)307-1044

## CIVIL DIVISION

**On Camera Cigarette Advertising Banned at Madison Square Garden**

On April 4, 1995, the Department of Justice reached an agreement with Madison Square Garden in New York City to remove cigarette signs from locations that the Department contends were strategically selected to be seen on televised sports coverage. This is the first lawsuit to prevent the circumventing of Congress' 1971 ban on broadcast advertising of cigarettes. Although Madison Square Garden did not admit wrongdoing, it did agree to the consent decree.

Office of Consumer Litigation Attorneys:

Brian N. Eisen, (202)616-0364

Jeffrey B. Chasnow, (202)307-0101

\* \* \* \* \*

**United States Intervenes in Fuel Price Fraud Case**

The United States Government has intervened in a qui tam suit filed in U.S. District Court in Washington, D.C., alleging that a New York and Washington, D.C., oil company fraudulently overcharged the Government more than \$18 million for marine fuel supplied at ports in the United States and overseas. According to the suit, the Defense Fuel Supply Center awarded two-year contracts to Med-Atlantic for fuel purchases by the Navy and other Federal agencies at such ports as Oakland, California; Bayonne, New Jersey; Singapore; and Gibraltar. The contracts permitted a weekly modification of fuel delivery prices because of fluctuations in the market price of fuel. The suit was filed by an attorney with Trans-Tec Co. of Alexandria, Virginia, a Med-Atlantic competitor.

Attorney: Tony Alexis, (202)616-1435

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**\$414,911 Recovered in Medicare Fraud Case**

On March 27, 1995, the Department of Justice entered into a settlement agreement with CHR Associates, Inc., a Miami, Florida, health care provider. This was based on allegations that CHR had falsely billed the Federal Medicare program for supplies for nursing home patients. Under terms of the settlement, the United States will recover \$414,911.

Attorney: Steven Y. Koh, (202)307-1087

**CIVIL RIGHTS DIVISION****Civil Rights Division and United States Attorneys' Offices**

On March 17, 1995, Assistant Attorney General Deval L. Patrick of the Civil Rights Division issued a memorandum to all Civil Rights Division attorneys concerning the relationship between the Civil Rights Division and the United States Attorneys' offices (USAOs) across the country. In an effort to improve Division communication with United States Attorneys, Mr. Patrick stressed that it is the policy of the Civil Rights Division to contact and confer with the USAO before beginning an investigation or filing a complaint in their district. A list of designated contact persons for general civil rights matters in each USAO was attached. If you have any questions, please Email Poli Marmolejos (A\$MARMOL).

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**Court Rules Against Dentist Who Refused to Treat AIDS Patients**

On March 23, 1995, a Federal court in New Orleans ruled that a Louisiana dentist who refused to treat patients with AIDS violated Title III of the Americans with Disabilities Act (ADA). In its order, the Court held that (1) HIV-positivity and AIDS are protected disabilities under the ADA; (2) the "referral" of an individual with HIV or AIDS to another dentist, on the basis of the patient's HIV-positive status alone, is discriminatory; (3) the treatment of persons with HIV or AIDS does not pose a "direct threat" to health or safety of others; and (4) the ADA is constitutional as applied in the instant case. This is the first decision in a suit brought by the Justice Department under the Americans with Disabilities Act.

Attorneys: AUSA Glenn Schreiber, Eastern District of Louisiana  
Civil Rights Division:  
Sharon Perley, (202)514-6016  
Sheila Delaney, (202)307-0663  
Allison Nichol, (202)307-0663

\* \* \* \* \*

**Employment Discrimination Suit Against Illinois State University**

On March 3, 1995, the Department of Justice sued Illinois State University for refusing to hire job applicants because of their race and sex. The complaint, filed in U.S. District Court in Springfield, alleged that Illinois State University discriminated on the basis of race, national origin, and sex by refusing to hire white men in violation of Title VII of the Civil Rights Act of 1964. The complaint asserted that the University engaged in a pattern of discrimination when it considered only minority and female applicants for the Building Service Worker Learner program.

Attorneys: Elizabeth I. Hack, (202)514-4073

**CRIMINAL DIVISION****Rewards in Telemarketing Fraud Prosecutions**

On March 23, 1995, Jo Ann Harris, Assistant Attorney General for the Criminal Division, forwarded a memorandum to all United States Attorneys concerning rewards in telemarketing fraud prosecutions under the recently enacted Violent Crime Control and Law Enforcement Act of 1994. Ms. Harris advised that while the Act authorizes such payments in limited instances, it does not provide specific funding for the program. A copy of the memorandum is attached as **Appendix G**.

The FBI has authority under current appropriations legislation to expend funds for this purpose, as in any other case in which the FBI may lawfully pay rewards. If you have a criminal case in which a reward under 18 U.S.C. 3059(c)(1) may be appropriate, please contact the Special Agent in Charge of the FBI Division or Resident Agency responsible for the investigation.

Fraud Section Attorney: Deputy Chief Karen A. Morrissette, (202)514-0640

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**First Year Accomplishments: The Anti-Violent Crime Initiative**

On March 16, 1995, Assistant Attorney General Jo Ann Harris of the Criminal Division forwarded to all United States Attorneys a report summarizing the first-year accomplishments of the Anti-Violent Crime Initiative. The report notes that the United States Attorneys' offices have identified two important results of the initiative:

- Many districts report unprecedented cooperation among Federal, State, and local officials in addressing violent crime.
- Many communities describe a decrease in violent crime following the successful conclusion of multi-agency investigations.

Ms. Harris expressed her appreciation for the tremendous response she received following her request for the reports, and stated that they reflected that we have accomplished a great deal in the past year.

### Religious Freedom Restoration Act

On March 10, 1995, Assistant Attorney General Jo Ann Harris of the Criminal Division advised United States Attorneys and Criminal Division Section Chiefs of the potential for litigation due to the recent enactment of the Religious Freedom Restoration Act (RFRA). Public Law No. 103-141, 107 Stat. 1488, codified at 42 U.S.C. § 2000bb *et seq.* It provides that Government officials may not "substantially burden" an individual's exercise of religion, even if the burden results from a rule of general applicability, unless the Government shows that application of the burden to the person "is in furtherance of a compelling governmental interest" and "is the least restrictive means of furthering" that interest. It is anticipated that criminal defendants will invoke RFRA as a defense to prosecution under the controlled substance statutes.

The Department of Justice established a Task Force to examine and resolve issues involving RFRA. In the event that you learn of any criminal case in which RFRA has been invoked by a defendant, please contact David S. Kris of the Criminal Division, Appellate Section, (202)514-9111, Email CRM04(KRIS), or Fax (202)514-8232. If you learn that RFRA is being invoked or challenged in a civil case, whether in Federal or State court, please contact one of the following Civil Division attorneys: in the Federal Programs Branch, Director Dennis G. Linder, (202)514-3314; Assistant Director Ted Hirt, (202)514-4785; or Janis Kestenbaum, (202)514-4504; in the Appellate Staff, Assistant Director Michael Singer, (202)514-5432; Lowell Sturgill, (202)514-3427; or Patricia Millett, (202)514-3688.

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### "Three Strikes" Law

On March 13, 1995, Assistant Attorney General Jo Ann Harris of the Criminal Division forwarded a memorandum to all United States Attorneys concerning the "Three Strikes" law, a provision that should play a key role in every District's anti-violent crime strategy. Ms. Harris requested that Districts ensure that State and local prosecutors are aware of the provision and willingly coordinate prosecutive decisions in these cases. A copy of Ms. Harris' memorandum is attached as **Appendix H**.

To assist in evaluating how the provision is being used, please continue to notify Mary Incontro, Deputy Chief of the Terrorism and Violent Crime Section, (202)514-0849, concerning potential "Three Strikes" cases. When these cases are filed, please forward an urgent report to the attention of the Director of the Executive Office for United States Attorneys.

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### Federal Habeas Corpus Reform

On March 28, 1995, Kevin Di Gregory, Deputy Assistant Attorney General, Criminal Division, testified before the Senate Judiciary Committee concerning Federal Habeas Corpus Reform. The Department is on record as supporting the reform proposed in Title III of S. 1607 of the 103rd Congress which would reduce delay and redundancy in collateral litigation, primarily by imposing time limits for Federal habeas filing, and by limiting successive habeas filings following the Federal courts' rejection of an initial petition. S. 1607, unlike S. 3 and S. 623, includes provisions that will improve this process, promoting both fairness and finality by ensuring qualified legal representation for defendants. If you would like a copy of Mr. Di Gregory's testimony, please call the *United States Attorneys' Bulletin* staff, (202)514-3572.

**ENVIRONMENT AND NATURAL RESOURCES DIVISION****\$1.5 Million Settlement Against Burlington Northern Railroad Co.**

On April 4, 1995, the Department of Justice and the Environmental Protection Agency announced a \$1.5 million civil settlement of Oil Pollution Act claims against the Burlington Northern Railroad Company. This is the largest single penalty to date awarded under that statute in a single case. The claims arose from three separate oil and hazardous waste spills—caused by train derailments—including one that forced the evacuation of approximately 50,000 people from nearby Wisconsin and Minnesota towns. The consent decree also calls for Burlington Northern to spend \$1.2 million for derailment prevention technology.

Attorneys: AUSA Mark Cameli, Western District of Wisconsin  
Nancy Spencer, ECS, (202)514-1308  
Richard Hong, ECS, (202)616-6521

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**Case Summaries**

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. Quemetco, Inc.** (D.Ind.)(Mar 10, 1995)(CWA)

On March 10, 1995, RSR Corporation and its subsidiary, Quemetco, Inc., operators of a secondary lead smelter in Indianapolis, pled guilty to conspiracy to defraud the Government by interfering with its function of enforcing the Clean Water Act. Quemetco also pled guilty to a substantive violation of the CWA for knowingly filing false information on a monthly discharge monitoring report that was required for submission to the City of Indianapolis. The corporations agreed to pay \$500,000 per violation, the statutory maximum, for a total of \$1.5 million. On March 13 and 15, respectively, Donald Eby, Executive Vice President of RSR Corporation, and Quemetco Vice President and Indianapolis Plant Manager Stephen Bitner, each pled guilty to conspiracy to violate CWA and agreed to a one-year sentence. William Mobley, Quemetco's maintenance foreman, pled guilty to misprision of a felony in connection with the failure to report his knowledge of the CWA violations. Stephen Summers, a maintenance worker who discharged lead-contaminated runoff at the site (at the direction of Bitner), pled guilty to a CWA misdemeanor.

Attorneys: AUSA Charles Goodloe, District of Indiana  
James Morgulec, ECS, (202) 272-9895

**U.S. v. Percy King** (D.Kans.) (Feb 10, 1995) (CWA)

On February 10, 1995, Percy King pled guilty to three CWA counts of a four count indictment for discharging methyl acrylate, a highly flammable and toxic material, from his commercial truck wash into the Park City, Kansas, sewer system. As part of the plea agreement, King has agreed to reimburse Kansas Department of Health and Environment, the Sedgewick County Fire Department, and Park City for expenses. He will also pay \$15,000 restitution.

Attorneys: USA Randall K. Rathbun, District of Kansas  
Marty Woelfle, ECS, (202) 272-9891

\* \* \* \* \*

**U.S. v. Roland Heinze & LDI of San Antonio** (W.D.Tex.)(Mar 13, 1995) (CWA)

Roland Heinze entered guilty pleas on behalf of his company, LDI, and himself, to two CWA counts for illegal discharge of pollutants (restaurant grease and grit trap waste) into the San Antonio sewer system) in violation of permit pretreatment requirements. The plea agreement recommends the maximum fine of \$30,000 for Heinze, 12 months in a halfway house, and two years of supervised release. The defendant will be required to notify the public of his and LDI's criminal conduct. LDI will be sentenced to a \$470,000 fine (\$150,000 suspended).

Attorneys: AUSA Demetrius Bivins, Western District of Texas  
Rick Filkins, ECS, (202) 272-5799

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**U.S. v. William Dorst, Matthew Humble and Audie Harris** (W.D.Ark.) (Feb 24, 1995) (CAA)

Three defendants pled guilty to knowingly violating several work practice standards during the demolition of the former MacMillan Petroleum Refinery, Norphlet, Arkansas. William Dorst and Matthew Humble were sentenced to three years probation, a \$1,000 fine, and a \$25 special assessment. Audie Harris was sentenced to three years probation, a \$2,000 fine, and a \$25 special assessment.

Attorneys: AUSA Mark Webb, Western District of Arkansas  
Rick Filkins, ECS, (202) 272-5799

\* \* \* \* \*

**U.S. v. Ron Greenwood and Barry Milbauer** (D.S.D.) (Jan 6, 1995) (CWA)

On January 6, 1995, John Morrell and Company plant managers Ron Greenwood and Barry Milbauer pled guilty to one count of conspiracy to violate the Clean Water Act. From the fall of 1991 until 1993, Morrell repeatedly violated its NPDES permit by excessively discharging ammonia at the Company's South Dakota meat processing facility. DMRs were falsified by Greenwood and Milbauer whenever permit violations occurred.

Attorneys: AUSA Dennis Holmes, District of South Dakota  
David Uhlmann, ECS, (202)272-9854

**IMMIGRATION AND NATURALIZATION SERVICE****"Green Card" Extended for Another Year**

The so-called "Green Card" (Form I-151), due to expire March 20, 1995, has been extended for a year and employers must continue to accept the I-151 until next year. According to the Immigration and Naturalization Service, the extension was made to ensure that lawful permanent residents will have acceptable identification until they receive new, counterfeit-resistant documents. In addition, employers need not reverify or fill out a new Employment Eligibility Verification Form (Form I-9) for workers who previously presented the I-151 card. In order to assist employers in complying with the statute, or to obtain information, the Office of Special Counsel for Immigration-Related Unfair Employment Practices operates an Employer Hotline, 1-800-255-8155 or (TDD) 1-800-362-2735.

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**Visa Waiver Program Extended to Ireland**

Since April 1, 1995, most visitors from Ireland have been able to visit the United States without a visa. The Administration designated Ireland for inclusion in the nonimmigrant Visa Waiver Pilot Program for an initial period of up to three years. At the end of the three years, the arrangement can be made permanent, although the legislation which authorized the waiver program must be renewed next year. The program permits nationals of designated countries to apply for admission to the United States as visitors for business or pleasure for up to 90 days without having to obtain nonimmigrant visas from United States embassies and consulates. Since its inception in 1988, permanent waivers have been granted for 22 nations, including Japan, New Zealand, Brunei, and all of Western Europe except Portugal. The programs are reciprocal. Nations are chosen to participate in the program on the basis of a low visa refusal rate and a determination that nationals of those countries generally pose no threat to the health, safety, welfare, or security of the United States.

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**OFFICE OF JUSTICE PROGRAMS**

Assistant Attorney General Laurie Robinson, Office of Justice Programs (OJP), is pleased to provide United States Attorneys and their staffs information about resources available through the OJP.

- OJP forms partnerships with other Federal, State, and local governments, national organizations, researchers, and others to develop and implement initiatives to prevent and control violent and drug-related crime and delinquency, improve knowledge about crime and what works in preventing and controlling it, and improve the nation's response to crime victims.
- OJP focuses on fostering comprehensive approaches to fighting crime that include early intervention and prevention, system-wide planning and funding decision making, and improved outreach and coordination among law enforcement, social services, public health, schools, and other agencies. For example, at the direction of the Attorney General, OJP is playing a key role in coordinating the state and local programs of the Department with the implementation of the Empowerment Zones/Enterprise Community Initiative.
- OJP is comprised of three policy offices that oversee implementation and administration of the Drug Courts, Corrections, and Violence Against Women grant programs authorized by the Crime Law and five program bureaus, as follows.

The **Bureau of Justice Assistance (BJA)**, **Director Nancy Gist**, administers the Edward Byrne Memorial State and Local Law Enforcement Assistance formula and discretionary grants programs. BJA provides funding, training, and technical assistance to state and local governments to combat crime and improve the criminal justice system.

The **Bureau of Justice Statistics (BJS)**, **Director Jan Chaiken**, collects and disseminates statistical data on criminal justice issues.

The **National Institute of Justice (NIJ)**, **Director Jeremy Travis**, sponsors crime-related research, evaluation, and technology.

The **Office of Juvenile Justice and Delinquency Prevention (OJJDP)**, **Administrator Shay Bilchik**, awards funds to state and local governments, develops innovative programs, and sponsors research to prevent and control juvenile crime.

The **Office for Victims of Crime (OVC)**, **Director Aileen Adams**, provides funding to the states to support victim compensation and state and local victim assistance programs. OVC also works closely with the Victim-Witness Coordinators in the United States Attorneys' offices to provide information, training, and other assistance.

In addition, the Attorney General has sought Congressional approval to transfer the Executive Office for Weed and Seed to OJP. This realignment will increase coordination between the Department and neighborhoods served by Weed and Seed. Programs and resources available through each OJP bureau will be described in future issues of the *United States Attorneys' Bulletin*.

OJP will soon be publishing a resource guide for United States Attorneys' offices. It will describe programs authorized by the Violent Crime Control Act that are being implemented by OJP; OJP-sponsored training and technical assistance available to United States Attorney personnel, as well as state and local officials; the various OJP grant programs; conferences and conference support services; and OJP publications and other products.

OJP has designated Marlene Beckman, Special Counsel to the OJP Assistant Attorney General, to serve as the contact for United States Attorneys with questions or issues regarding OJP. Please contact Ms. Beckman at (202)307-5933. The OJP Office of Congressional and Public Affairs can be reached at (202)307-0703.

\* \* \* \* \*

## OFFICE OF PUBLIC AFFAIRS

### *JUSTICE FOR ALL*

The Office of Public Affairs has assumed responsibility for "Justice For All," the monthly Department of Justice Newsletter. It features a message from the Attorney General or other top leadership, and other items of interest. Please send any significant events, developments, and/or accomplishments occurring in your District to Caroline Adelman, Editor, Email: SMO02(ADELMANC), or Fax: (202)514-5331. Ms. Adelman's telephone number is (202)616-2771.

## TAX DIVISION

## Case Summaries

**Principal Mut'l Life Ins. Co. v. United States** [Fed.Cir.](Mar 20, 1995)

On March 20, 1995, the Federal Circuit affirmed the judgment of the Court of Federal Claims in Principal Mut'l Life Ins. Co. v. United States. The case, appealed by both the taxpayer and the Government, presented the primary question whether the taxpayer's "disabled lives reserves" for periodic income benefit payments under its cancelable long-term disability (health and accident) policies qualify for favorable tax treatment as "life insurance reserves" under the pre-1994 version of Internal Revenue Code Section 801(b). The court of appeals agreed with the Government that the reserves did not qualify as "life insurance reserves" because the health and accident contracts for which they were set aside were not "concancelable." The favorable resolution of this issue has considerable administrative importance, not only because approximately \$2 million in tax and interest was at stake in this case, but because an adverse resolution on it would have been controlling in refund litigation pending in the Court of Federal Claims that involves over \$100 million.

Attorneys: Robert Metzler, (202)514-3938  
David Pincus, (202)514-2913

\* \* \* \* \*

**In Re: First Truck Lines, Inc.** [6th Cir.] (Mar 2, 1995)

On March 2, 1995, the Sixth Circuit published an opinion affirming the unfavorable decision of the District Court in In Re: First Truck Lines, Inc. The issue was whether the Government's claim for post-petition tax penalties incurred by a bankruptcy estate, which is expressly awarded first priority in distribution by the Bankruptcy Code, may be equitably subordinated to general unsecured claims in the absence of governmental misconduct. The Sixth Circuit held that it could, stating that it would be "unfair" to pecuniary loss creditors to have the Government's claim satisfied before these creditors' claims.

Attorneys: Edward Perelmuter, (202)514-3769  
Gary Gray, (202)514-3005

\* \* \* \* \*

**Citrus Valley Estates, Inc. v. Commissioner** [9th Cir.](Mar 8, 1995)

On March 8, 1995, the Ninth Circuit affirmed in large part the adverse decision of the Tax Court in Citrus Valley Estates, Inc. v. Commissioner. This case involved the Commissioner's challenge to actuarial assumptions used to compute deductible contributions to individual defined benefit pension plans. The taxpayer sought to maximize the amount of contributions to reduce current taxable income. The primary issue was whether the actuarial assumptions used were "reasonable," and offered the actuary's "best estimate of anticipated experience under the plan," as required by Section 412(c)(3) of the Internal Revenue Code. The Government argued on appeal that the Tax Court erred by allowing the actuaries to incorporate actuarial principles of conservatism into their assumptions. The Ninth Circuit rejected that argument, and held that the statute only requires that the actuary's assumptions fall within a wide range of reasonableness.

Attorneys: Tom Clark, (202)514-9084  
Kenneth Greene, (202)514-3573

## ETHICS AND PROFESSIONAL RESPONSIBILITY

### OVERVIEW OF THE OFFICE OF PROFESSIONAL RESPONSIBILITY

The Office of Professional Responsibility (OPR) was created in 1975 in the wake of Watergate, as one response to the ethical abuses and misconduct by Department of Justice (DOJ) officials. The Office, with its staff of 19, including 15 attorneys, reports directly to the Attorney General and Deputy Attorney General. OPR's Assistant Counsel are experienced senior attorneys, most of whom have substantial backgrounds in the Department.

OPR investigates allegations of misconduct against Assistant United States Attorneys (AUSAs) and Department lawyers that affect the core functions of the Department – investigations, criminal prosecutions, and civil litigation – and recommends disciplinary action when allegations of professional misconduct are substantiated. The office also oversees investigations conducted by the FBI and DEA's OPRs.

Allegations of misconduct are received from numerous sources, including from United States Attorneys offices or other DOJ components; self-referrals; private parties and attorneys; anonymous sources; judges; Federal, State, or local agencies; Congress; and media reports. The vast majority of matters reported to OPR result in findings of no misconduct.

A new bluesheet, which replaced Chapter 1-4.100 of the *United States Attorneys' Manual*, "Allegations of Misconduct by Department of Justice Employees," details Department employees' obligations to refer allegations to OPR. All Department employees are required to report non-frivolous allegations of misconduct that may violate a law, rule, regulation, order, or professional standard to their supervisor. Employees may report directly to OPR. Supervisors are required to report non-frivolous allegations of serious professional misconduct by attorneys they supervise to OPR. Information provided to OPR is confidential and cannot be revealed unless the source agrees or OPR determines that disclosure is necessary to resolve the allegation. Disclosure may also result from a court order or when necessary to prevent a manifest injustice.

Allegations of misconduct are carefully reviewed by OPR, and a file is opened only if it is determined that an investigation is warranted. Many factors are weighed, including the nature of the allegation, its apparent credibility, its specificity, its susceptibility to verification, and the source of the allegation. A decision to open a matter does not give rise to a presumption of misconduct, and it does not shift the burden of proof to the attorney being investigated.

Judicial findings of misconduct result in an OPR inquiry, regardless of whether the United States appeals the findings. Oral statements by judges are not usually considered "findings" leading to an OPR inquiry, but they should be reported to the United States Attorney or a supervisor.

Not all allegations result in an "on-site" OPR investigation; many are resolved by sending a copy of the complaint to the attorney being investigated and obtaining a detailed response. Attention to detail and complete, thorough responses help resolve allegations quickly. Supporting documentation and other relevant material should be included with responses.

When an initial review of the allegations reveals that the matter cannot be resolved by a written response or the written response shows that further inquiry is required, OPR will conduct an on-site investigation. Interviews are ordinarily done by two OPR attorneys. Depending on the allegations and the nature of the inquiry, interviews may be informal or formal. The complainant is usually interviewed first, alone. The subject is ordinarily interviewed after all other witnesses have been interviewed and all relevant

files and other materials have been examined to ensure that the allegations are fully defined. Most investigations are administrative, that is, non-criminal. The attorney being investigated will be advised if the interview is part of a criminal investigation. DOJ employees must cooperate with OPR inquiries. Those who do not could be disciplined.

After OPR has concluded its investigation, it will notify the attorney who is alleged to have committed the misconduct, the complainant, and other appropriate parties in writing if no misconduct was found. If OPR determines that misconduct did occur, it will submit a report containing findings, conclusions, and a recommended range of discipline to EOUSA Legal Counsel, or the appropriate office that handles these matters. Disciplinary action may include written reprimands, suspensions, removals, and demotions.

OPR also participates in a number of conferences and seminars designed to alert AUSAs and Department lawyers to potential problems in the professional responsibility area. By identifying trends as they arise, the office is able to help attorneys prevent misconduct before it occurs.

## OPR CASE SUMMARIES

### Settlement Negotiations – Good Faith

A United States District Court judge entered an order sanctioning two Assistant United States Attorneys for failing to engage in good faith settlement negotiations in a suit brought by a Federal prisoner, who had injured himself in a softball game on prison grounds.

The prisoner filed suit against the United States under the Federal Tort Claims Act for the injuries, seeking \$900,000 in damages. Several months later, the Court entered an order requiring that the parties engage in settlement discussions. At the first of two settlement conferences, the prisoner asked that the Government make a settlement offer. The Assistants advised the prisoner that the United States would provide all additional necessary medical care. They declined, however, to make a monetary offer because they believed that the prisoner's negligence was the primary cause of the accident.

A week later, the Court entered an order requiring that the parties have additional settlement discussions before the pretrial conference. The United States filed a motion to dismiss, arguing that the plaintiff had failed to state a cause of action under state law. During the second conference, the plaintiff asked for \$10,000 to settle his claim. The Assistants still believed that the plaintiff's negligence was the primary cause of his accident and that the United States had a meritorious dispositive motion pending. Thus, they refused to settle the case.

The plaintiff advised the Government attorneys that there had been other accidents on the playing field. They asked the plaintiff for details, which he failed to provide. They told the plaintiff that they would not discuss a financial settlement until they had determined the accuracy of his belated claim of prior accidents. To this date, the Government has not discovered any other accidents on the playing field where the plaintiff was hurt.

At a pretrial conference, the Court denied the Government's motion to dismiss and asked why the Government had not made a settlement offer. An Assistant stated that he thought that his dispositive motion was meritorious and that the Government did not want to open the floodgates to frivolous prison litigation. The Court expressed surprise that the Assistant thought the case was frivolous and stated that the Assistant had acted in bad faith. The Court scheduled a hearing for the Government to show cause why it should not be sanctioned for failing to engage in good-faith settlement discussions.

At the show cause hearing, the Assistants testified that they did not offer a monetary settlement at the first conference because they believed that the prisoner's negligence was the primary cause of the accident and that additional discovery was necessary. They also testified that they did not make a monetary offer at the second conference because the Government (1) believed that it had a meritorious motion to dismiss, (2) felt that the prisoner was responsible for his own injuries, (3) did not wish to open the floodgates to frivolous prisoner litigation, (4) did not think that the plaintiff was serious about his claims or that he could prove them, and (5) needed to investigate plaintiff's claim that there had been prior similar accidents. At the conclusion of the sanctions hearing, the Court found that Government counsel had acted in bad faith because (1) they knew that state law was inapplicable to the case, and (2) they had decided not to engage in good-faith negotiations. More than a year later, the Court entered an order sanctioning the Government attorneys for failing to make good-faith efforts to settle the case.

OPR found that the Government attorneys did engage in good-faith discussions. They met with the plaintiff twice. They asked him what he was seeking and considered his requests. They attempted to verify his claims of prior accidents. They also believed that the plaintiff was unable to state a cause of action against the Government and that he would not follow through with his case following his release. Accordingly, they refused to offer a monetary settlement. OPR found the Government's actions to be in keeping with sound practice. OPR also found that the argument contained in the motion to dismiss was defensible and that it should not have led to sanctions.

### **Misrepresentation – Candor Toward Tribunal**

OPR received allegations that an Assistant United States Attorney (AUSA) had misrepresented the position of another Federal investigative agency to the court in a drug case. The defendant in the case had pled guilty to a conspiracy to smuggle and distribute controlled substances. In response to a defense motion for a reduced sentence, the AUSA represented to the court that the defendant had been fully cooperative and that he had consulted with the investigative agency, which had no objection to the proposed reduction.

In fact, the AUSA had not consulted with any official at the agency. When an agency official learned through press accounts about the proposed sentence, he sent a letter to the court stating that he strongly disagreed with the proposed reduction. After learning about the letter, the prosecutor spoke with the official and agreed to convey the official's views to the judge. The AUSA then unsuccessfully attempted, through an acquaintance, to intercept the official's letter to the court.

OPR concluded that the AUSA acted unprofessionally for which he was disciplined.

### **First Circuit Approves District Court's Local Rule Requiring Prior Judicial Approval of Subpoenas to Attorneys**

Whitehouse v. United States District Court for the District of Rhode Island, Nos. 94-1776, 94-1777, 94-1889, 1995 WL 225455 (1st Cir., April 20, 1995)

On April 20, 1995, the First Circuit Court of Appeals held that a United States District Court has the power to adopt a local rule that requires Federal prosecutors to obtain judicial approval before they serve a subpoena on an attorney to compel evidence concerning a client. The First Circuit rejected the Third Circuit's rationale for striking down a virtually identical local rule in Baylson v. Disciplinary Board of the Supreme Court of Pennsylvania, 975 F.2d 102 (3d Cir., 1992), *cert. denied*, 113 S. Ct. 1578 (1993) (Local Rule inconsistent with Rules 17 and 57 of the Federal Rules of Criminal Procedure).

The Department of Justice is considering whether to petition the First Circuit for rehearing en banc or to petition for writ of certiorari.

## SENTENCING GUIDELINES

### GUIDELINE SENTENCING UPDATE

**Appendix I** is the *Guideline Sentencing Update*, Volume 7, No. 6, dated February 17, 1995. It is distributed periodically by the Federal Judicial Center, Washington, D.C., to inform judges and other judicial personnel of selected Federal court decisions on the sentencing reform legislation of 1984 and 1987 and the Sentencing Guidelines.

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## CAREER OPPORTUNITIES

### U.S. DEPARTMENT OF JUSTICE EXPERIENCED ATTORNEY GS-12/13

The Office of Attorney Personnel Management, U.S. Department of Justice, is seeking an experienced attorney for the Executive Office for United States Attorneys (EOUSA), Office of Legal Counsel. Incumbent serves as an Attorney Advisor in the Office of Legal Counsel, and reports directly to the Legal Counsel or Deputy Legal Counsel. Responsibilities include providing legal advisory and research services to the Director and other managers of EOUSA, United States Attorneys, Assistant United States Attorneys, and other staff in United States Attorneys' offices. This frequently involves independent and original legal research and analysis, consultation with other Department of Justice components, and the preparation of informal opinions, interpretive summaries, and formal memoranda covering the subject area. Responsibilities also include conducting legal review and analysis of certain personnel matters, including disciplinary/adverse actions, performance rating grievances and other grievances, and suitability determinations, with respect to both substantive and procedural sufficiency.

Applicants must possess a J.D. degree, be an active member of the bar in good standing (any jurisdiction), and have at least 3-1/2 years post J.D. experience. Must have knowledge of the laws, rules, regulations, and case law relating to utilization, evaluation, discipline, and removal of Federal employees. Experience with Government ethics and standards of conduct is desirable. Applicants must submit, postmarked by May 12, 1995, a resume, or OF 612 (Optional Application for Federal Employment), writing sample, and current performance appraisal to the address below. The SF-171 (Application for Federal Employment) will still be accepted as well.

U.S. Department of Justice  
Executive Office for United States Attorneys  
Office of the Director  
Administrative and Personnel Staff  
Attn: B. Marie Blackmon, Personnel Management Specialist  
Bicentennial Building  
600 E Street, N.W., Room 8104  
Washington, D.C. 20530

No telephone calls please. The salary range is GS-12 (\$43,356 to \$56,362) to GS-13 (\$51,557 to \$67,021). The United States Department of Justice is an Equal Opportunity/Reasonable Accommodation Employer. It is the policy of the Department of Justice to achieve a drug-free workplace and persons selected will, therefore, be required to pass a urinalysis test to screen for illegal drug use prior to final appointment.

U.S. DEPARTMENT  
OF JUSTICE

## Order

[ OBD 1160.1 ]

**Subject:** PROMOTING THE BROADER APPROPRIATE USE OF ALTERNATIVE  
DISPUTE RESOLUTION TECHNIQUES

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1. PURPOSE. The purpose of this order is to promote the broader use of alternative dispute resolution (ADR) in appropriate cases to improve access to justice for all citizens and to lead to more effective resolution of disputes involving the government.
2. SCOPE. The provisions of this order shall apply to all Departmental litigating divisions and to all U.S. Attorneys. This order is applicable to civil matters only. It is not intended to affect criminal matters, including enforcement of criminal fines or judgments of forfeiture.
3. MODIFICATION. This order expands upon but does not otherwise modify the Department of Justice's Memorandum of Guidance on Implementation of the Litigation Reforms of Executive Order No. 12778, notice of which was published at 58 Fed. Reg. 6015-03.
4. AUTHORITY. In addition to the general authority conferred upon the Attorney General by law, specific authority to provide ADR guidance is provided by section 3 of the Administrative Dispute Resolution Act of 1990, Pub. Law 101-552, 104 Stat. 2736-37.
5. DEFINITION. As used in this order, "formal ADR techniques" include, but are not limited to, arbitration, mediation, early neutral evaluation, neutral expert evaluation, mini-trials and summary jury trials.
6. CREATION OF POSITION OF SENIOR COUNSEL FOR ALTERNATIVE DISPUTE RESOLUTION. There shall be created within the Department of Justice, the position of "Senior Counsel for Alternative Dispute Resolution." The Associate Attorney General shall designate a career employee of the Department of Justice at the Senior Executive Service level to fill this position. The Senior Counsel shall develop policy on, and promote aspects of ADR, and in furtherance of that goal shall:
  - a. Assist senior management in developing policies for the use of ADR, including revising the Department Guidance on the Use of Alternative Dispute Resolution for Litigation in the Federal Courts.

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Distribution: OBD/H-1  
OBD/F-2

Initiated By: Office of the Associate Attorney General

- b. Assist with the design and execution of ADR-related training, recordkeeping, program evaluation and reporting functions.
- c. Provide advice and assistance to Department supervisors and employees on selecting appropriate cases for using ADR and on the application of particular ADR techniques.
- d. Report regularly to the Attorney General, through the Associate Attorney General, on the status of the Department's ADR activities.
- e. Represent the Department in government-wide ADR activities, including programs and projects with the Administrative Conference of the United States, the Office of Management and Budget, the National Performance Review, and the federal courts.
- f. Advise senior management on legislation, rulemaking, and other policy matters relating to ADR.
- g. Serve as the Dispute Resolution Specialist for the Department of Justice as defined in Section 3(b) of the Administrative Dispute Resolution Act, 104 Stat. at 2737.
- h. Perform such other duties and functions related to the promotion of ADR as may be assigned by the Attorney General, the Deputy Attorney General and the Associate Attorney General.

7. COMPONENT ADR GUIDANCE. By September 11, 1995, each litigating division and the Executive Office for United States Attorneys acting on behalf of the United States Attorneys shall provide its attorneys with ADR guidance containing the following provisions:

- a. A policy statement by the head of the component indicating that attorneys are expected to use ADR in appropriate cases as an alternative to litigation and are to cooperate with court-annexed or court-sponsored ADR programs and with efforts to develop and evaluate such programs.
- b. A set of criteria to be used in identifying specific cases appropriate for resolution through settlement negotiations or the use of a formal ADR technique. The component guidance should also identify ADR methods most suitable to resolving certain categories of cases, and criteria for the selection of ADR providers.
- c. A requirement that any attorneys whose practices are substantially civil attend a comprehensive basic training program in negotiation and ADR and that all experienced attorneys handling civil matters be required to participate in periodic supplemental ADR training. The content and nature of such training shall be determined by the Senior Counsel for Alternative Dispute Resolution in consultation with the Department's training components.

- d. A complete explanation of the internal procedures attorneys should follow in obtaining authorization and funding for the use of formal ADR techniques.

8. FURTHER RESPONSIBILITIES OF PERFORMING COMPONENTS.

- a. The components subject to this order shall coordinate with the Senior Counsel for Alternative Dispute Resolution the development of the ADR guidance, as well as their performance of related recordkeeping, program evaluation and reporting functions.
- b. The components subject to this order shall review their ADR guidance at least annually and, in conjunction with the Senior Counsel for Alternative Dispute Resolution, shall make any necessary changes.
- c. The components subject to this order, in consultation with the Senior Counsel for ADR, shall designate a person or persons with primary responsibility for coordinating the component's ADR efforts so that a network of individuals with ADR expertise is established throughout the Department. This network shall assist the Senior Counsel for ADR in developing and implementing Department ADR policies.
- d. The components subject to this order shall maintain statistics regarding its use of ADR and report those statistics annually to the Associate Attorney General. These statistics should demonstrate both the component's compliance with this order and the full extent of its overall use of informal and formal ADR techniques.

9. NO PRIVATE RIGHTS CREATED. This order is intended only to improve the internal management of the Justice Department in resolving disputes and conducting litigation. This order shall not be construed as creating any right or benefit, substantive or procedural, enforceable at law or in equity, by a party against the United States, its agencies, its officers, or any other person. This order shall not be construed to create any right to judicial review involving the compliance or noncompliance of the United States, the Justice Department, its officers, or any other person with this order. Nothing in this order shall be construed to obligate the United States to offer funds to settle any case, accept a particular settlement or resolution of a dispute, to alter its standards for accepting settlements, to submit to binding arbitration or to alter any existing delegation of settlement or litigating authority.

10. FURTHER GUIDANCE. The Associate Attorney General shall have the authority to issue further guidance regarding the scope of this order, consistent with the purposes of this order.

7  
  
Janet Reno  
Attorney General



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

March 23, 1995

MEMORANDUM FOR ALL UNITED STATES ATTORNEYS

FROM: THE ATTORNEY GENERAL

SUBJECT: ENFORCEMENT OF THE FREEDOM OF ACCESS TO CLINIC  
ENTRANCES ACT (FACE)

Since the President and I have declared that the effort to combat violence against abortion providers and obstruction of women's access to reproductive health services is a high priority, I have been very pleased with the vigor and spirit of cooperation with which each of you has responded. The purpose of this memorandum is to lay out for you more fully how we expect this activity to proceed. I am confident that through your efforts and those of the Criminal and Civil Rights Divisions, we can make significant progress in curtailing violence and protecting the access of women to reproductive health services.

Our effort will be conducted on two fronts. The Task Force on Violence Against Abortion Providers will continue its investigation to determine whether acts of violence against providers are linked. Simultaneously, the Civil Rights Division, in conjunction with United States Attorneys, is undertaking an aggressive FACE enforcement program to curb violent and obstructive interference with the provision of reproductive health services.

It remains imperative that you report all abortion clinic-related violence, threats and obstruction to the Task Force, which is composed of attorneys from both the Criminal and Civil Rights Divisions. The Task Force may have information about your targets or witnesses that may assist you in devising investigative steps and in conducting interviews. In addition, the Task Force will determine whether the information is relevant to its investigation. For these reasons, please advise the Task Force of all significant developments in cases in your district, such as the initiation of pen registers, applications for search warrants and planned interviews of key witnesses. It is important that we all share information to ensure that our efforts are properly coordinated.

Because of the participation of Civil Rights Division Attorneys on the Task Force, notice to the Task Force is also notice to the Civil Rights Division. If the matter appears appropriate for a FACE criminal prosecution or civil action, attorneys from the Civil Rights Division will contact you quickly

to discuss the matter and assist you in the development of cases that you handle.

As you know, the work of the Task Force is highly sensitive. In addition, FACE enforcement is very visible and constitutional challenges can still be expected. For these reasons, it is important that you and the Civil Rights Division stay in close communication when deciding whether to proceed in such cases and during the development and litigation of these cases. The Civil Rights Division will make every effort to keep you informed of developments in your districts. The Division stands ready to provide information, model pleadings, legal briefs and litigation assistance and will keep you advised of all activities that we are aware of in your district.

Both criminal and civil actions pursuant to FACE must be key components in our effort to curb violence and obstruction directed at abortion providers. The criminal provisions, of course, can be used to combat violence, but they are also important in the effort to address nonviolent physical obstruction. The penalties for nonviolent physical obstruction increase for repeat offenders and should not be neglected. The tools available through civil enforcement, including TRO's, injunctions, damages and civil penalties can be particularly effective in protecting the right of access to reproductive health services. It is especially important that we move quickly for injunctive relief when there are threats of force or conduct that physically obstructs the access of women to reproductive health services.

The Task Force and the Civil Rights Division have cooperated with United States Attorneys Offices in prosecuting criminal and civil violations of FACE. Joint AUSA/DOJ trial teams successfully prosecuted Paul Hill in Pensacola, Florida, and six abortion clinic blockaders in Milwaukee, Wisconsin. Another AUSA/DOJ team is handling charges against six different clinic blockaders in Milwaukee. In a ruling that is under review for appeal, the district court declared unconstitutional the portion of the statute that prohibits physical obstruction. In Huntsville, Alabama, a mentally unstable woman was charged under FACE with threatening a doctor. On the recommendation of the AUSA/DOJ attorneys handling the case, the Assistant Attorney General for Civil Rights authorized pre-trial diversion. In Albuquerque, New Mexico, a man has been charged for committing several acts against a clinic, including starting fires, in violation of FACE and 18 U.S.C. 844. Recently, two men were charged with obstructing access to a clinic in West Palm Beach, Florida, and two more were charged with obstructing a clinic in Wichita, Kansas. AUSA's and DOJ attorneys have several more matters under active investigation.

To date, four civil actions have been brought pursuant to FACE by United States Attorneys Offices and the Civil Rights Division. FACE civil actions are in various stages of litigation in Milwaukee, Wisconsin, Kansas City, Missouri, Fargo, North Dakota, and Youngstown, Ohio. Several other civil matters are under investigation.

Points of contact on the Task force are as follows:

Criminal Division -- Tom Burrows ((202)307-3200, FAX (202)514-0544);

Civil Rights Division --

Criminal matters -- Barry Kowalski ((202)514-4067, FAX (202)514-8336)

Civil matters -- Mellie Nelson ((202)514-6221, FAX (202)514-6273)

The overall coordinator for FACE enforcement in the Civil Rights Division is Bill Yeomans ((202)514-4127, FAX (202)307-2839), who serves as Counsel to Assistant Attorney General Deval Patrick.



U. S. Department of Justice

Washington, D. C. 20530

MAR 13 1995

MEMORANDUM

TO: Anne K. Bingaman, Assistant Attorney General  
Antitrust Division  
Frank W. Hunger, Assistant Attorney General  
Civil Division  
Deval L. Patrick, Assistant Attorney General  
Civil Rights Division  
Lois J. Schiffer, Assistant Attorney General  
Environment & Natural Resources Division  
Loretta C. Argrett, Assistant Attorney General  
Tax Division  
Carol DiBattiste, Director  
Executive Office for U.S. Attorneys

FROM: Stephen R. Colgate *Stephen R Colgate*  
Assistant Attorney General for Administration

SUBJECT: New Procedures for Handling Monetary Recoveries

On January 24, 1995, the Attorney General directed that the Department change the way it has been allocating credit for money recovered for the United States in litigation being handled by Department lawyers. The change that the Attorney General directed us to implement is to:

Allocate credit for all monetary recoveries by district without regard to whether a litigating division attorney or an Assistant United States Attorney handles the litigation.

This new procedure goes into effect on April 1, 1995. It should solve the problems that arose in the past when lawyers from one of the litigating divisions, and one or more Assistant U.S. Attorneys, worked on the same case and later tried to allocate credit for any cash recovered, among their respective offices, according to the amount of effort expended by each.

To help us implement the Attorney General's directive, please see that everyone in your components, who may be responsible for sending cash to the Department's lockbox, receives a copy of the attached instructions for making cash deposits.

Attachment

## NEW CASH DEPOSIT INSTRUCTIONS

EFFECTIVE APRIL 1, 1995

The Attorney General has directed that the Department change the way it has been allocating credit for money recovered for the United States in litigation being handled by Department lawyers. The change that the Attorney General directed us to implement is to:

Allocate credit for all monetary recoveries by district without regard to whether a litigating division attorney or an Assistant United States Attorney handles the litigation.

This new procedure goes into effect on April 1, 1995. It should solve the problems that arose in the past when lawyers from one of the litigating divisions, and one or more Assistant U.S. Attorneys, worked on the same case and later tried to allocate credit for any cash recovered, among their respective offices, according to the amount of effort expended by each.

The Justice Management Division's Debt Accounting Operations Group (DAOG) receives data on money sent to the Department's lockbox every day and is responsible for accounting for all of the funds collected by the Department. In order to implement the Attorney General's new directive, the litigating divisions must furnish the DAOG with the U.S. Attorney's two digit district code, for each payment, on the deposit slips sent to the Department's lockbox. The two digit district code, from the attached list, should be added as the fifth and sixth characters in the Cause of Action/Agency Program Code column on the Form OBD-230 deposit slip.

With respect to Electronic Funds Transfers (EFTs), the two digit district code should be added as the fifth and sixth characters in the Cause of Action/Agency Program Code on attachments B and C of the Fedwire Electronic Funds Transfer procedures.

If no U.S. Attorney's office was involved in the litigation, enter the two digit code for the district in which most of the acts giving rise to the claim occurred. If a component is depositing money from a case that originated in a court of appeals, it should enter the two digit code for the district where the court of appeals that decided the case sits.

Where the money being deposited comes from an action in a court of special jurisdiction, where U.S. Attorneys do not normally practice, such as the Court of Federal Claims, the Court of International Trade, or a foreign court, the division should enter the appropriate two digit code from the following list:

Court of Federal Claims & the Court  
of Appeals for the Federal Circuit = "92"

Court of International Trade = "96"

Foreign Courts = "99"

If the appropriate two digit code cannot be determined immediately, or is unavailable for any reason, do not delay the deposit or EFT. Just leave blank the spaces where you would otherwise put the fifth and sixth characters in the Cause of Action/Agency Program Code field. This will cause the payment to appear on DAOG's Error/Suspense Listing, and it will remain there until DAOG either receives a proper code, or for 30 days. Any payment not identified by the 31st day will automatically get a special internal DAOG code to: (1) enable DAOG to validate the debtor's payment and send it to the proper agency without further delay and, (2) record the sources of the payment as from an "Unidentified District" for reporting purposes.

Therefore, beginning April 1, 1995, every deposit slip accompanying a cash deposit sent to the Department's lockbox from a litigating division, and the paperwork required for all EFTs, must include the appropriate two digit district code, from the attached list, unless that code cannot be determined when the deposit is ready to be sent, as set forth above.

If you have any questions about this new procedure, please call Kathleen Haggerty or Imogene McCleary of our Office of Debt Collection Management (DCM) on 514-5343.

District Codes for Use on Deposit Tickets  
April 1, 1995

02	Alabama, Middle	49	New Hampshire
01	Alabama, Northern	50	New Jersey
03	Alabama, Southern	51	New Mexico
06	Alaska	53	New York, Eastern
08	Arizona	52	New York, Northern
09	Arkansas, Eastern	54	New York, Southern
10	Arkansas, Western	55	New York, Western
12	California, Central	56	North Carolina, Eastern
97	California, Eastern	57	North Carolina, Middle
11	California, Northern	58	North Carolina, Western
98	California, Southern	59	North Dakota
13	Colorado	60	Ohio, Northern
14	Connecticut	61	Ohio, Southern
15	Delaware	63	Oklahoma, Eastern
16	District of Columbia	62	Oklahoma, Northern
18	Florida, Middle	64	Oklahoma, Western
17	Florida, Northern	65	Oregon
04	Florida, Southern	66	Pennsylvania, Eastern
20	Georgia, Middle	67	Pennsylvania, Middle
19	Georgia, Northern	68	Pennsylvania, Western
21	Georgia, Southern	69	Puerto Rico
93	Guam/Northern Mariana Islands	70	Rhode Island
22	Hawaii	71	South Carolina
23	Idaho	73	South Dakota
26	Illinois, Central	74	Tennessee, Eastern
24	Illinois, Northern	75	Tennessee, Middle
25	Illinois, Southern	76	Tennessee, Western
27	Indiana, Northern	78	Texas, Eastern
28	Indiana, Southern	77	Texas, Northern
29	Iowa, Northern	79	Texas, Southern
30	Iowa, Southern	80	Texas, Western
31	Kansas	81	Utah
32	Kentucky, Eastern	82	Vermont
33	Kentucky, Western	83	Virginia, Eastern
34	Louisiana, Eastern	84	Virginia, Western
95	Louisiana, Middle	94	Virgin Islands
35	Louisiana, Western	85	Washington, Eastern
36	Maine	86	Washington, Western
37	Maryland	87	West Virginia, Northern
38	Massachusetts	88	West Virginia, Southern
39	Michigan, Eastern	89	Wisconsin, Eastern
40	Michigan, Western	90	Wisconsin, Western
41	Minnesota	91	Wyoming
42	Mississippi, Northern	92	Court of Federal Claims & Court of Appeals for the Federal Circuit
43	Mississippi, Southern		
44	Missouri, Eastern	96	Court of International Trade
45	Missouri, Western		
46	Montana	99	Foreign Courts
47	Nebraska		
48	Nevada		



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

APPENDIX  
D

March 23, 1995

MEMORANDUM FOR HEADS OF DEPARTMENT COMPONENTS

FROM: Jamie S. Gorelick, *JSG*  
Deputy Attorney General

SUBJECT: Procedure For Detailing Department Employees

A significant number of Department of Justice ("Department") employees have been detailed to other agencies or departments. The number of detailees has increased over the last few years. Because of a number of factors, including the President's National Performance Review, the federal government is downsizing. Hence, agencies and departments are seeking help to accomplish their tasks and are requesting that Department employees assist in various projects requiring legal and other types of expertise.

To assure our own requirements are met, it is imperative that we limit the number of employees we detail to other agencies or departments. While the Department always is willing to assist other agencies and departments, the number of detailees is far too high. The work of the Department must come first.

Therefore, in an effort to coordinate and track future details, no Department employee may be detailed without first receiving my approval. This need not be a cumbersome process. A short memorandum personally signed by the component head should be forwarded to my office, through the Justice Management Division, setting forth the employee's name and the reason for the proposed detail. It will be reviewed and returned with a decision as soon as practicable.

Your assistance in controlling the number of details is greatly appreciated.



FEB 24 1995

Washington, D.C. 20530

MEMORANDUM

TO: Heads of Department Components

FROM: Stephen R. Colgate  
Assistant Attorney General  
for Administration

SUBJECT: Policy on Authorization and Use of Premium Class Travel

This is to clarify policy on the authorization and use of premium class travel.

**General Policy.** It is the general policy of the government that only coach class (i.e., less than premium class) accommodations may be authorized with limited exceptions.

**Premium Class Exceptions:** Premium class travel may be authorized only if one of the following exceptions apply:

**Exceptions:**

- 1) Premium class may be authorized when **no other accommodations are reasonably available**. This means that no coach class accommodations are available which reasonably meet the scheduled departure and arrival time requirements of the traveler. This also includes exceptional security requirements which cannot be met if less than premium class is used.
- 2) Premium class may be authorized for an employee with a **disability or physical impairment**, when it is determined that less than premium class would not be practical under the circumstances.
- 3) Premium class may be used when an upgrade from coach is provided at no cost to the government and the upgrade is not offered due to the employee's position with the Department. Please note, the redemption of frequent flyer miles earned on government travel represents a potential cost to the government and therefore does not qualify as **no cost**.

4) Premium class other than first class, for example, business class may be authorized if one or more of the following conditions exist:

- a) the scheduled flight time is in excess of 14 hours,
- b) there is a clear cost savings to the government,
- c) the accommodations of a foreign carrier coach-class do not provide adequate health conditions and when the use of foreign flag air carrier service is approved in accordance with the Fly America Act, or
- d) the accommodations are by payment from a non-Federal source for attendance at a meeting or similar function if the same benefits are extended to all like participants. An employee must obtain specific prior approval in accordance with Department procedures before payment may be accepted from a non-Federal source.

The policies described above also apply to other modes of transportation, including train and ship. Please disseminate this information to all traveling employees. If your staff have any questions regarding this travel policy, they should contact James Williams, Director of the Finance Staff, Justice Management Division. If they have any ethics related travel questions, they should contact Mary Braden, Director of the Departmental Ethics 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

	<b>LEI USE ONLY</b>	
	<b>ACCEPTED</b>	<b>NOT SELECTED</b>

<b>C O U R S E</b>	Course Name	Course Date(s)	Course Location
----------------------------------------	-------------	----------------	-----------------

<b>N O M I N E E</b>	Name	Title
	Office, Agency, or Department	Phone Number

<b>Q U E S T I O N N A I R E</b>	<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:

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



U. S. Department of Justice  
Criminal Division

APPENDIX  
G

Office of the Assistant Attorney General

Washington, D.C. 20530

MAR 23 1995

MEMORANDUM FOR ALL UNITED STATES ATTORNEYS

FROM: Jo Ann Harris *JAH*  
Assistant Attorney General

SUBJECT: Rewards in Telemarketing Fraud Prosecutions

The recently enacted Violent Crime Control and Law Enforcement Act of 1994 (hereinafter "the Act") authorizes the payment of rewards in prosecutions involving the new telemarketing fraud provision, 18 U.S.C. § 2326.<sup>1</sup> Section 250004 of the Act adds a new subsection (c) to 18 U.S.C. § 3059. Subsection (c)(1) of 18 U.S.C. § 3059 authorizes the Attorney General, under certain circumstances and in her sole discretion, to pay rewards of not more than \$10,000 to individuals who provide information which is unknown to the government and which results in a conviction for telemarketing fraud under 18 U.S.C. § 2326.

The new subsection (c)(2) of 18 U.S.C. § 3059 states that a reward permitted under subsection 3059(c)(1) is not authorized if (1) the person furnishing the information is a current or former federal, state or local government employee who acquired the information in the course of his or her government employment; (2) the person knowingly participated in the offense; (3) the information consists of an allegation or transaction that has been disclosed to the public; or (4) in the judgment of the Attorney General, it appears that a person whose illegal activities are being prosecuted or investigated could benefit from the reward. Finally, subsection 3059(c)(4) makes clear that the decision of the Attorney General to authorize a payment, and the amount of any such payment, are not subject to judicial review.

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<sup>1</sup> Section 2326 is an enhancement provision which authorizes the imposition of additional time of imprisonment for a person convicted of an offense under 18 U.S.C. § 1028, 1029, 1341, 1342, 1343, or 1344 in connection with the conduct of telemarketing.

It should be noted that while the Act authorizes such payments in limited instances, it does not provide specific funding for the program. However, the FBI has authority under current appropriations legislation to expend funds for this purpose, as in any other case in which the FBI may lawfully pay rewards. Accordingly, if you have a criminal case in which it appears that a person has provided original information leading to a conviction under 18 U.S.C. § 2326, the FBI played a significant role in the investigation of the case, and you believe that a reward under 18 U.S.C. § 3059(c)(1) may be appropriate, you should contact the Special Agent-in-Charge (SAC) of the FBI Division or Resident Agency responsible for the investigation, and consult with the SAC on whether a reward may be appropriate in that situation and, if so, what amount would be appropriate for payment by the FBI. Because the FBI would have to draw on its own case funds to pay such rewards, the discretion to expend funds for a reward payment under section 3059(c) would rest with the FBI.

If you have further questions concerning Section 250004, please contact the office of Karen A. Morrissette, Deputy Chief of the Fraud Section of the Criminal Division (202/514-0640).



Assistant Attorney General

Washington, D.C. 20530

March 13, 1995

**MEMORANDUM FOR ALL UNITED STATES ATTORNEYS**

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

**SUBJECT:** "Three Strikes" Law

An important purpose of the Anti-Violent Crime Initiative is to work with our state and local counterparts to take violent criminals off the streets. When a firearm is involved, we have long used the Armed Career Criminal Act, 18 U.S.C. § 924(e), to achieve the prolonged incarceration of armed, violent offenders. Under the Violent Crime Control and Law Enforcement Act of 1994, we have a powerful new federal tool, the so-called "Three Strikes, You're Out" provision, to help us deal with violent repeat offenders.

This provision should play a key role in every district's anti-violent crime strategy. To help us make the most effective use possible of this potential tool, please ensure that state and local prosecutors are aware of the federal "Three Strikes" provision and your willingness to coordinate prosecutive decisions in cases that are "Three Strikes"-eligible. You should have in place a referral mechanism, perhaps through your violent crime working group, to ensure that appropriate "Three Strikes" cases are presented to you for potential prosecution.

In determining whether to bring prosecutions under this statute, you should be guided by the Principles of Federal Prosecution. Trial of an eligible defendant under "Three Strikes" will often provide a more effective punishment than a prosecution under other federal statutes. For the state prosecutor, "Three Strikes" provides a vehicle to take the most dangerous offenders out of the community and keep them out. This is particularly important in states where prison overcrowding results in early release even for violent criminals.

The "Three Strikes" statute is sufficiently important to our violence enforcement efforts that I want to underscore its key provisions. Under the federal "Three Strikes" provision, which is now codified at 18 U.S.C. § 3559(c), the defendant receives

mandatory life imprisonment if he or she:

- is convicted in federal court of a "serious violent felony" and
- has two or more prior convictions in federal or state courts, at least one of which is a "serious violent felony." The other prior offense may be a "serious drug offense."

Under the statute, a "serious violent felony" includes murder, manslaughter, sex offenses, kidnapping, robbery, and any offense punishable by 10 years or more which includes as an element the use of force or that, by its nature, involves a significant risk of force. The statute also enumerates certain nonqualifying felonies, including unarmed robbery offenses<sup>1</sup> and arsons that posed no threat to human life.<sup>2</sup>

A "serious drug offense" includes continuing criminal enterprise, violations of Title 21 involving distribution, manufacture, or possession with intent to distribute significant quantities of controlled substances, or equivalent state offenses.

There is a sequencing requirement in the statute: each offense relied upon, except the first, must have been committed after the conviction of the preceding serious violent felony or serious drug offense. The predicate convictions must be final. Sentencing under the statute is triggered by notice filed by the prosecutor with the court prior to trial or plea of guilty in accord with the procedures contained in 21 U.S.C. § 851(a).<sup>3</sup> We suggest that you file notice only after receiving certified

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<sup>1</sup> An unarmed robbery offense may serve as a basis for "Three Strikes" sentencing if the offense involved the threat of use of a firearm or other dangerous weapon or the offense resulted in death or serious bodily injury to any person. If the government files in such a case, the defendant must establish by clear and convincing evidence that neither of those factors existed.

<sup>2</sup> An arson will not serve as the basis for "Three Strikes" sentencing if the defendant establishes by clear and convincing evidence that the offense posed no threat to human life and the defendant reasonably believed that it posed no threat to human life.

<sup>3</sup> Section 851(a) of Title 21 requires the filing of an information with the court prior to trial or prior to the entry of a plea of guilty, stating in writing the convictions to be relied upon for sentencing. A copy must be served on the defendant or counsel for the defendant.

copies of the prior convictions or otherwise verifying the validity of the convictions on which you intend to rely.

The statute does not apply to persons subject to the criminal jurisdiction of an Indian tribal government for offenses committed in Indian country where federal jurisdiction is predicated solely on Indian country, unless the governing body of the tribe has elected that the provision have effect over land and persons subject to the criminal jurisdiction of the tribe.

Furthermore, you should aggressively use all available federal violent felony provisions, including the Hobbs Act, to achieve prolonged incarceration for "Three Strikes"-eligible defendants. Under 18 U.S.C. § 1951, the Hobbs Act covers a robbery that in any way affects interstate commerce, including the robbery of a convenience store or other commercial establishment.<sup>4</sup> While the Department has promoted use of the Hobbs Act robbery provision primarily in cases involving criminal organizations or gangs, you also should consider using it where a defendant's criminal history would support a life sentence under "Three Strikes." These decisions, of course, should be carefully coordinated with state and local prosecutors, taking into account the availability in each case of a state statute that will result in prolonged incarceration of the defendant.

To assist us in evaluating how the "Three Strikes" provision is being used, please continue to notify Mary Incontro, Deputy Chief of the Terrorism and Violent Crime Section, at (202) 514-0849, concerning potential "Three Strikes" cases. When you file a "Three Strikes" case, please send an urgent report to the attention of the Director of the Executive Office for United States Attorneys.

We also anticipate that there may be issues arising under the "Three Strikes" provision that will be litigated in district courts and U.S. courts of appeals. The Criminal Division is available to assist you in handling these matters. In any event, please coordinate your positions on issues that are less than clear-cut with the Terrorism and Violent Crime Section to ensure consistency and enable us to develop policy positions as needed.<sup>5</sup>

Attachment

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<sup>4</sup> The Hobbs Act also prohibits an attempt or conspiracy to commit such a robbery.

<sup>5</sup> The Eastern District of Virginia has developed an outline to assist in determining when a particular case is "Three Strikes"-eligible. A copy of that outline is attached for your convenience.

**THREE STRIKES: LIFE WITHOUT PAROLE**

**A. In General**

**A person,**

**previously convicted on two separate occasions of**  
**(1) two or more serious violent felonies, OR**  
**(2) one serious violent felony and one serious drug offense,**

**shall be sentenced to life imprisonment without parole**  
**(1) if that person is convicted of a federal serious violent offense,**  
**AND**  
**(2) if the United States Attorney files a criminal Information invoking the statutory sentencing enhancement.**

**B. Definitions**

**1. A "Serious Violent Felony" means ---**

**murder (§1111);**  
**manslaughter (other than involuntary manslaughter);**  
**assault with intent to commit murder (§113(a));**  
**assault with intent to commit rape; (defined)<sup>1</sup>**  
**aggravated sexual abuse and sexual abuse (§2241-2);**  
**abusive sexual contact (§2244(a)(1));**  
**kidnapping; (defined)**  
**aircraft piracy;**  
**robbery;<sup>2</sup>**  
**carjacking (§2119);**  
**extortion; (defined)**  
**arson; (defined)<sup>3</sup>**  
**firearms use; (defined)**  
**attempt/conspiracy/solicitation any above offense**

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<sup>1</sup> "(Defined)" indicates that the statute includes a separate definition for the crime listed.

<sup>2</sup> See Nonqualifying felonies.

<sup>3</sup> See Nonqualifying Felonies.

any other offense<sup>4</sup> if

(1) punishable by imprisonment for 10 years;

AND

(2) element of the use, attempted use, or threatened use of physical force against the person of another

OR

by its nature, involves a substantial risk that physical force against the person of another may be used in the course of committing the offense.

**2. Nonqualifying Felonies include the following:**

(a) ROBBERY in certain cases does NOT qualify as a strike if

(i) no firearm or other dangerous weapon was used in the offense AND if no threat of use of a firearm or other dangerous weapon was involved in the offense;

AND

(ii) the offense did not result in death of serious bodily injury.

\*\* Even if no weapon was used or threatened to be used, but death or serious bodily injury occurred, the robbery felony would count as a strike.

(b) ARSON does not count as a strike if there was no threat to human life and if the defendant through there was not threat to human life.

(c) the BURDEN OF PROOF is on the defendant to show by clear and convincing evidence that the above applies to his or her case.

**3. A "Serious Drug Offense" means ---**

a Federal drug distribution offense (or similar state offense) that would qualify for the ten year mandatory minimum sentence under 21 U.S.C. §841(b)(1)(A) or related statutes.

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<sup>4</sup> Since the VCCLEA raised the penalty for assault with a dangerous weapon (in violation of 18 U.S.C. §113(c)) from its previous five year maximum to a ten year maximum, then a conviction for ADW would trigger the statute.

**C. Procedures**

1. A Criminal Information, as required for sentencing enhancements for Title 21 drug offenses (see 18 U.S.C. §851), must be filed by the U.S. Attorney before a plea or trial if the life without parole provision is applied. The information must state the convictions upon which the United States is relying to enhance the sentence. If a Criminal Information is not filed, then the sentencing enhancement does not apply.

Preliminary Department of Justice policy provides that the mandatory life without parole enhancement should be invoked unless a supervisor determines to the contrary. The USAO must also consult with DOJ.

2. An Old Age Reprieve was included which provides that a defendant's life sentence may be reduced if the defendant ---

- (A) is at least 70 years old;
- (B) has served 30 years in prison;
- (C) is not a danger to the safety of any other person or the community.

**D. Analysis of Three Strikes**

1. Is the instant offense a federal crime committed after September 13, 1994?
2. Is the instant offense a serious violent felony as defined by statute? (strike three).
  - Assault w/ intent to murder
  - Assault resulting in serious bodily injury
  - Assault w/ intent to commit a felony
  - Assault w/ a dangerous weapon
  - Second degree murder
  - Manslaughter
  - Arson
  - Extortion
3. Does the defendant have a criminal history that includes two or more serious violent felonies or one serious violent felony and one serious drug offense? (strikes one and two).
  - Robbery w/ dangerous weapon
  - Murder, manslaughter
  - serious drug offense
  - ten year felony w/ element of use of physical force

# Guideline Sentencing Update

a publication of the Federal Judicial Center

volume 7, number 6, February 17, 1995

## Sentencing Procedure Procedural Requirements

Second Circuit holds that defendant was entitled to notice before sentencing hearing that district court planned to sentence her under harsher guideline than used in presentence report. Defendant pled guilty to assisting the filing of a false federal income tax return. The PSR based her sentence on §2T1.4(a), with an ultimate guideline range of 0–6 months. At the sentencing hearing, however, the district court took a different view of the facts and used §2T1.9, leading to a sentence of ten months. The appellate court remanded, concluding that because the factors that determined which guideline section to use were “reasonably in dispute,” see §6A1.3(a), defendant “was entitled to advance notice of the district court’s ruling and the guideline upon which it was based.”

*U.S. v. Zapatka*, No. 93-1805 (2d Cir. Dec. 29, 1994) (Van Graafeiland, J.). Cf. *U.S. v. Jackson*, 32 F.3d 1101, 1106–09 (7th Cir. 1994) (remanding sua sponte abuse of trust adjustment at sentencing hearing because defendant had no notice it was contemplated—“When the trial judge relies on a Guideline factor not mentioned in the PSR nor in the prosecutor’s recommendation, contemporaneous notice at the sentencing hearing . . . fails to satisfy the dictates of Rule 32”) (note: although concurring in the result, two judges on the panel did not join this part of the opinion).

See *Outline* at IX.E.

## Determining the Sentence Supervised Release

Sixth Circuit holds that Anti-Drug Abuse Act of 1986 did not limit district court discretion to end supervised release after one year. Defendant was sentenced under 21 U.S.C. §841(b)(1)(C), which requires a three-year term of supervised release. One year later, however, the district court terminated defendant’s supervised release early pursuant to 18 U.S.C. §3583(e)(1). The government argued that the requirement for a three-year term in §841(b)(1)(C), enacted as part of the Anti-Drug Abuse Act of 1986, overrode §3583(e)(1) and therefore the district court had no authority to end defendant’s supervised release early. The appellate court disagreed, conclud-

ing that when Congress enacted the ADAA “it only partially limited a court’s discretionary authority to impose the sentence. Congress did not alter the court’s separate authority to terminate a sentence of supervised release, under 18 U.S.C. §3583(e)(1), if the conduct of the person and the interest of justice warranted it. . . . [W]e hold that a district court has discretionary authority to terminate a term of supervised release after the completion of one year, pursuant to 18 U.S.C. §3583(e)(1), even if the defendant was sentenced to a mandatory term of supervised release under 21 U.S.C. §841(b)(1)(C) and 18 U.S.C. §3583(a).”

*U.S. v. Spinelle*, 41 F.3d 1056, 1059–61 (6th Cir. 1994).

See *Outline* generally at V.C.

## Fines

Second Circuit holds that imposition of punitive fine is not required before cost of imprisonment fine may be imposed. The district court did not impose a punitive fine under §5E1.2(a) and (c), but did impose a fine under §5E1.2(i) to cover the costs of defendant’s imprisonment and post-release supervision. The appellate court affirmed, holding “that §5E1.2 does not require the district court to impose a fine under §5E1.2(c) before it can impose a fine measured by the cost of imprisonment under §5E1.2(i). We read the word ‘additional’ in subsection (i) as an expression of the Sentencing Commission’s intention that a defendant’s total fine, including the cost of imprisonment, may exceed the relevant fine range listed in subsection (c). . . . [T]he total fine is the significant figure. . . . If the defendant is not able to pay the entire fine amount that the court would otherwise impose pursuant to subsections (c) and (i), the district court may exercise its sound discretion in determining which of the two subsections (or which combination of them) to rely upon in pursuing the goals of sentencing. . . . [T]he fine money goes into the Crime Victims Fund regardless of which subsection the district court selects.”

Three circuits now hold that a punitive fine is not required before a cost of imprisonment fine; four hold that it is.

*U.S. v. Sellers*, 42 F.3d 116, 119–20 (2d Cir. 1994).

See *Outline* at V.E.2.

## Adjustments

### Role in Offense

Seventh Circuit holds that if number of persons is sole basis for finding activity was "otherwise extensive," that number must be more than five. Defendant was convicted of extortion offenses and given a §3B1.1(a) enhancement for being the organizer of an "otherwise extensive" criminal activity. That finding was based solely on the fact that five persons were involved in the extortions—defendant, two other criminally responsible participants, and two "outsiders." The appellate court held that this was improper. "The involvement of five individuals, not all of whom are 'participants,' does not, without more, justify a finding that criminal activity was 'otherwise extensive.' . . . Although the meaning of 'otherwise extensive' is unclear, we must interpret that term in a manner that does no violence to the remainder of Section 3B1.1. Given the Section's five participant prong, it would be anomalous to conclude that the presence of five individuals—not all of whom are participants—warranted an increase. . . . If a district court intends to rely solely upon the involvement of a given number of individuals . . . , it must point to some combination of participants and outsiders equaling a number greater than five."

*U.S. v. Tai*, 41 F.3d 1170, 1174-75 (7th Cir. 1994).

See *Outline* at III.B.3.

Seventh Circuit holds that status as distributor, without more, did not warrant §3B1.1(a) enhancement. Defendant was convicted of conspiracy to distribute marijuana, possession of marijuana with intent to distribute, and money laundering. He purchased marijuana from coconspirators in Arizona and transported it back to Illinois for sale. He worked closely with several of the coconspirators, occasionally transported marijuana for one of them, and for a time subleased from one coconspirator a house used to process and store marijuana. The district court imposed a §3B1.1(a) enhancement, concluding that defendant was an organizer or leader of a criminal activity that involved five or more participants and was "otherwise extensive."

The appellate court remanded, concluding that defendant did not, in fact, organize or lead any other participants but operated within the conspiracy as an independent buyer and seller. The district court had reasoned that defendant "was at the top of a drug distribution network [and] exercised total decision making authority over his marijuana purchases." The appellate court held that "by itself, being a distributor, even a large distributor like Mustread, is not enough to support a §3B1.1 of-

fense level increase. . . . If the record does not show that he [was an organizer or leader], if the defendant maintained no real guiding influence or authority over the purchasers, a §3B1.1 adjustment is inappropriate. . . . And the record does not show that Mustread had influence or authority over anybody to whom he distributed. Similarly, that Mustread 'exercised total decision making authority over his marijuana purchases' cannot, by itself, support the conclusion that Mustread played an aggravated role. One can make decisions for oneself without having authority or influence over others. The trial judge's reasoning does support the conclusion that Mustread committed the crimes of which he was convicted, but it is a significant extension from that to the conclusion that Mustread had an aggravated role relative to other participants." Defendant "exercised no decision making authority over other participants. He made decisions for himself, but the record does not show that he decided anybody else's course of action."

*U.S. v. Mustread*, 42 F.3d 1097, 1103-05 (7th Cir. 1994).

See *Outline* at III.B.4.

## Offense Conduct

### Loss

Ninth Circuit holds that cost of committing crime is not subtracted from value of goods in calculating loss. Defendant was convicted of theft of government property for harvesting and selling federal timber taken from U.S. Forest Service land. In calculating the loss under §2B1.1(b)(1), the district court used the value of the stolen timber. Defendant argued that "this amount erroneously includes the portion of the profit that was spent to cover logging expenses," which he would subtract from the gross value to measure the loss as defendant's "net gain." The appellate court disagreed and affirmed the district court. "We do not subtract the costs of pulling off the caper when we calculate the value of stolen property. Although being cut and carted away is surely a significant event from the perspective of a tree, it is not an economically significant event" for purposes of §2B1.1(b)(1).

*U.S. v. Campbell*, 42 F.3d 1199, 1205 (9th Cir. 1994).

See *Outline* generally at II.D.1.

### Drug Quantity—Relevant Conduct

Eleventh Circuit holds that earlier drug sale was not part of relevant conduct. Defendant was convicted of conspiracy to distribute dilaudid plus one

count of cocaine distribution that was directly related to the dilaudid conspiracy. The district court included as relevant conduct another cocaine distribution that was not part of the dilaudid conspiracy. Adopting the test for "similarity, regularity, and temporal proximity" used by other circuits (and now in §1B1.3, comment. (n.9(B)) (Nov. 1994)), the appellate court remanded. "Maxwell's counts of conviction involve a dilaudid distribution scheme. The extrinsic offense, on the other hand, involved a cocaine distribution scheme. Other than Maxwell, the dilaudid distribution scheme and the cocaine distribution scheme did not involve *any* of the same parties." Also, the two cocaine transactions occurred more than a year apart, so "these acts are temporally remote." The court concluded that "we cannot say that there are any 'distinctive similarities' between the dilaudid distribution scheme and the cocaine distribution scheme that 'signal that they are part of a single course of conduct.' Rather, the two offenses appear to be 'isolated, unrelated events that happen only to be similar in kind.' We do not think that two offenses constitute a single course of conduct simply because they both involve drug distribution."

*U.S. v. Maxwell*, 34 F.3d 1006, 1010-11 (11th Cir. 1994).

See *Outline* at I.A.2 and II.A.1.

## Departures

### Aggravating Circumstances

**Eighth Circuit affirms departure for dangerous nature of weapon involved in weapons offense.** Defendant pled guilty to the possession of a firearm in a school zone. The district court held that an upward departure was warranted under §5K2.6 "due to the dangerousness of the weapon involved"—a semi-automatic pistol—in close proximity to a school. Defendant argued on appeal that §5K2.6 may only be used to enhance a non-weapons charge. The appellate court held that "this reading of section 5K2.6 is too narrow. . . . Even where the applicable offense guideline and adjustments take into consideration a factor listed in the policy statements, departure from the applicable guideline range is warranted if the factor is present to a degree substantially in excess of that which is ordinarily involved in the offense. . . . The base offense guideline for 18 U.S.C. §922(q) penalizes simply the possession of a firearm within a school zone. See U.S.S.G. §2K2.5. It does not take into account whether the firearm was loaded, semi-automatic, easily accessible, or had an obliterated serial num-

ber. See *id.* All of these aggravating facts appear here. For an especially serious weapon, the district court has leeway to enhance the sentence accordingly, even in a weapons charge."

*U.S. v. Joshua*, 40 F.3d 948, 951-52 (8th Cir. 1994). See also *U.S. v. Thomas*, 914 F.2d 139, 143-44 (8th Cir. 1990) (without reference to §5K2.6, affirmed departure based on dangerous nature of fully loaded weapons for defendant convicted of possession of firearms by a convicted felon).

See *Outline* generally at VI.B.1.a.

## Criminal History

**Tenth Circuit reverses upward departure because dissimilar remote criminal conduct was not sufficiently serious.** Defendant had 14 prior convictions, 13 of which were not counted in his criminal history score because they were too remote under §4A1.2(e). The district court departed because of "the very extensive prior adult criminal conviction record of this defendant," increasing his criminal history category from I to III. The prior convictions were not similar to the current offense, but the court did not specify that the remote convictions comprised "serious dissimilar" criminal conduct so as to warrant departure pursuant to §4A1.2, comment. (n.8).

The appellate court remanded. In light of Note 8, "the upward departure can only be valid if the record showed 'serious dissimilar' conduct by the defendant." The record showed that the prior conduct should not be considered "serious." First, "defendant had never before been given a sentence of imprisonment exceeding one year and one month, a standard used in the Guidelines in setting the number of points assigned to prior convictions," see §4A1.1(a), and thus an indication of seriousness. Second, "little, if any, weight should have been given to the eight misdemeanor convictions which occurred more than 30 years prior to defendant's arrest in the instant case." A 1970 conviction for "assault on a female" may or may not have been serious, but "no evidence was produced regarding Wyne's underlying prior criminal conduct other than the fact of conviction, the offense or offenses included, and the sentence imposed. This is significant because . . . 'assault on a female' in . . . the state of conviction, can consist of mere verbal accosting." The government did not meet its burden of providing evidence that "it was 'serious dissimilar' conduct, within the meaning of the Guidelines." Lastly, the court concluded that defendant's four remote DUI convictions (from 1974 to 1982) could not, when "distinguishing offenses to be regarded as

'serious' from within the realm of all criminal behavior, . . . qualify as serious criminal conduct justifying the decision to depart."

*U.S. v. Wyne*, 41 F3d 1405, 1408-09 (10th Cir. 1994).

See *Outline* at VI.A.1.b.

## General Application

### Double Jeopardy

Seventh Circuit affirms consecutive sentences for RICO offense and pre-Guidelines predicate act offenses. Defendants were convicted of a RICO violation, to which the Guidelines applied, and of several other offenses that served as the predicate acts supporting the RICO conviction and were sentenced under pre-Guidelines law. The district court made the Guidelines and pre-Guidelines sentences consecutive. Defendants appealed, arguing that separate consecutive sentences for the predicate acts—which were used to increase their Guidelines sentences for the RICO offense—subjected them to multiple punishment for the same offense in violation of the Double Jeopardy Clause.

The appellate court affirmed. "Perhaps the simple answer to this problem is, given that RICO and the predicate acts are not the same offense, Defendants clearly were never punished twice for the same crime: Defendants were punished once for racketeering and once (but separately) for extortion, gambling, and interstate travel. It just so happens the Sentencing Guidelines consider the predicate racketeering acts (i.e. extortion, gambling, and interstate travel) relevant to computing the appropriate sentence for racketeering. See U.S.S.G. §2E1.1(a). Though the commission of these acts increased the racketeering sentence, the Defendants were punished for racketeering—the predicate acts

were merely conduct relevant to the RICO sentence. . . . Provided Defendants could be convicted for both RICO and predicate act offenses (which they could) and provided the sentencing court could consider the predicate acts in assessing the RICO sentence insofar as they were conduct relevant to the RICO act (which it could) no double jeopardy problem portends."

*U.S. v. Morgano*, 39 F3d 1358, 1367 (7th Cir. 1994).

See *Outline* at I.A.4.

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**Certiorari granted:** *U.S. v. Wittie*, 25 F3d 250 (5th Cir. 1994), *cert. granted*, *Witte v. U.S.*, 115 S. Ct. 715 (Jan. 6, 1995) (note: spelling of name corrected in Supreme Court). Question presented: Does government prosecution and punishment for offense violate Double Jeopardy Clause if it already was included in relevant conduct for sentencing under federal sentencing guidelines in different and final prosecution? See summary of *Wittie* in 6 *GSU* #16 and *Outline* at I.A.4.

#### A note to readers

Issues in volume 7 of *Update* are now available electronically via the Federal Judicial Center's Internet home page. Issues from earlier volumes will be added in the future. Information on how to download files and necessary software is included. Issues will be placed there as soon as they are completed, so they will be available there approximately two weeks before you receive your paper copy.

The Internet address is <http://www.fjc.gov>. A Web browser like Mosaic or Netscape is required for access to the home page.

**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>						
01-12-90	7.74%	06-28-91	6.39%	12-11-92	3.72%	05-27-94	5.28%
02-14-90	7.97%	07-26-91	6.26%	01-08-93	3.67%	06-24-94	5.31%
03-09-90	8.36%	08-23-91	5.68%	02-05-93	3.45%	07-22-94	5.49%
04-06-90	8.32%	09-20-91	5.57%	03-05-93	3.21%	08-19-94	5.67%
05-04-90	8.70%	10-18-91	5.42%	04-07-93	3.37%	09-16-94	5.69%
06-01-90	8.24%	11-15-91	4.98%	04-30-93	3.25%	10-14-94	6.06%
06-29-90	8.09%	12-13-91	4.41%	05-28-93	3.54%	11-11-94	6.48%
07-27-90	7.88%	01-10-92	4.02%	06-25-93	3.54%	12-09-94	7.22%
08-24-90	7.95%	02-07-92	4.21%	07-23-93	3.58%	01-06-95	7.34%
09-21-90	7.78%	03-06-92	4.58%	08-20-93	3.43%	02-03-95	7.03%
10-27-90	7.51%	04-03-92	4.55%	09-17-93	3.40%	03-03-95	6.57%
11-16-90	7.28%	05-01-92	4.40%	10-15-93	3.38%	03-31-95	6.41%
12-14-90	7.02%	05-29-92	4.26%	11-17-93	3.57%		
01-11-91	6.62%	06-26-92	4.11%	12-10-93	3.61%		
02-13-91	6.21%	07-24-92	3.51%	01-07-94	3.67%		
03-08-91	6.46%	08-21-92	3.41%	02-04-94	3.74%		
04-05-91	6.26%	09-18-92	3.13%	03-04-94	4.22%		
05-03-91	6.07%	10-16-92	3.24%	04-01-94	4.51%		
05-31-91	6.09%	11-18-92	3.76%	04-29-94	5.02%		

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 Attorneys' 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. For a cumulative list of Federal civil postjudgment interest rates effective October 21, 1988 through December 15, 1989, see Appendix G of Vol. 43, No. 1, of the United States Attorneys' Bulletin, dated January 1, 1995.

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